

By: Senator(s) Gollott, Cuevas

To: Municipalities

SENATE BILL NO. 2682

1 AN ACT TO AMEND SECTION 19-5-109, MISSISSIPPI CODE OF 1972,
2 TO ALLOW A MUNICIPALITY TO USE CERTAIN SURPLUS FUNDS TO DEFRAY THE
3 COSTS OF GARBAGE COLLECTION; TO AMEND SECTION 21-19-2, MISSISSIPPI
4 CODE OF 1972, TO AUTHORIZE MUNICIPALITIES TO USE SURPLUS FUNDS FOR
5 GARBAGE COLLECTION AND DISPOSAL UNDER CERTAIN CONDITIONS; AND FOR
6 RELATED PURPOSES.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

8 SECTION 1. Section 19-5-109, Mississippi Code of 1972, is
9 amended as follows:

10 19-5-109. (1) Each county and municipality shall make a
11 good faith effort to estimate the cost of garbage and rubbish
12 collection and disposal services. These costs may be met, in
13 amounts necessary to defray the cost of the system, by any
14 combination of generator fees, ad valorem tax revenues as
15 authorized under Section 19-5-21 or Section 21-19-2, or county or
16 municipal special funds as authorized under Section 19-5-21 or
17 21-19-2. A municipality may also use surplus funds to defray the
18 costs of garbage collection and disposal services as provided in
19 Section 21-19-2.

20 (2) Nothing in Chapter 624, Laws of 1994, shall be construed
21 to abrogate or cancel any contract that a county or a municipality
22 has entered into for garbage or rubbish collection or disposal.
23 If a county or municipality entered into a contract before April
24 1, 1994, and the term or period of performance of that contract
25 does not exceed five (5) years, the county or municipality may
26 continue to levy the ad valorem tax assessment in effect before
27 April 1, 1994, to honor the contract for the term of that
28 contract.

29 SECTION 2. Section 21-19-2, Mississippi Code of 1972, is
30 amended as follows:

31 21-19-2. (1) (a) To defray the cost of establishing,
32 operating and maintaining the system provided for in Section
33 21-19-1, the governing authority of a municipality may develop a
34 system for the billing and/or collection of any fees or charges
35 imposed on each person furnished garbage and/or rubbish collection
36 and/or disposal service by the municipality or at the expense of
37 the municipality. The governing authority of the municipality
38 shall provide for the collection of the fees or charges.

39 (b) The governing authority of a municipality may enter
40 into a contract upon mutual agreement with a public or private
41 corporation, nonprofit corporation, planning and development
42 district or a public agency, association, utility or utility
43 district within the area receiving garbage and/or rubbish
44 collection and/or disposal services from the municipality for the
45 purpose of developing, maintaining, operating and administering a
46 system for the billing and/or collection of fees or charges
47 imposed by the municipality for garbage and/or rubbish collection
48 and/or disposal services. The entity with whom the governing
49 authority of a municipality contracts shall notify the governing
50 authority of the municipality monthly of any unpaid fees or
51 charges assessed under this section. Any entity that contracts to
52 provide a service to customers, within the area being served by
53 the municipality's garbage and/or rubbish collection and/or
54 disposal system, may provide a list of its customers to the
55 governing authority of the municipality upon the request of the
56 governing authority.

57 (2) (a) To defray the cost of establishing and operating
58 the system provided for in Section 21-19-1, the governing body of
59 a municipality may levy an ad valorem tax not to exceed four (4)
60 mills on all taxable property within the area served by the
61 municipality's garbage and/or rubbish collection and/or disposal

62 system. The service area may be comprised of incorporated and/or
63 unincorporated areas within a county; however, no property shall
64 be subject to this levy unless that property is within an area
65 served by a municipality's garbage and/or rubbish collection
66 and/or disposal system. The rate of the ad valorem tax levied
67 under this section shall be shown as a line item on the notice of
68 ad valorem taxes on taxable property owed by the taxpayer.

69 (b) In addition to or in lieu of any other method
70 authorized to defray the cost of establishing and operating the
71 system provided for in Section 21-19-1, the governing body of a
72 municipality that has established a garbage and/or rubbish
73 collection and/or disposal system may assess and collect fees or
74 charges to defray the costs of such services. The governing
75 authority may assess and collect the fees or charges from each
76 single family residential generator of garbage and/or rubbish.
77 The governing authority also may assess and collect such fees or
78 charges from each industrial, commercial and multi-family
79 residential generator of garbage and/or rubbish for any time
80 period that the generator has not otherwise contracted for the
81 collection of garbage and/or rubbish that is ultimately disposed
82 of at a permitted or authorized nonhazardous solid waste
83 management facility.

84 (c) Before the adoption of any resolution or ordinance
85 to increase the ad valorem tax assessment or fees or charges
86 authorized by this section, the governing authority of a
87 municipality shall have published a notice advertising their
88 intent to increase the ad valorem tax assessment or fees or
89 charges authorized by this section. The notice shall specify the
90 purpose of the proposed increase, the proposed percentage increase
91 and the proposed percentage increase in total revenues for garbage
92 and/or rubbish collection and/or disposal services or shall
93 contain a copy of any resolution by the governing authority
94 stating their intent to increase the ad valorem tax assessment or

95 fees or charges authorized by this section. The notice shall be
96 published in a newspaper having general circulation in the
97 municipality for no less than three (3) consecutive weeks before
98 the adoption of the order. The notice shall be in print no less
99 than the size of eighteen (18) point and shall be surrounded by a
100 one-fourth (1/4) inch black border. The notice shall not be
101 placed in the legal section notice of the newspaper. There shall
102 be no language in the notice inferring a mandate from the
103 Legislature.

104 In addition to the requirement for publication of notice, the
105 governing authority of a municipality shall notify each person
106 furnished garbage and/or rubbish collection and/or disposal
107 service of any increase in the ad valorem tax assessment or fees
108 or charges authorized by this section. In the case of an increase
109 of the ad valorem tax assessment, a notice shall be conspicuously
110 placed on or attached to the first ad valorem tax bill on which
111 the increased assessment is effective. In the case of an increase
112 in fees or charges, a notice shall be conspicuously placed on or
113 attached to the first bill for fees or charges on which the
114 increased fees or charges are assessed. There shall be no
115 language in any notice inferring a mandate from the Legislature.

116 (d) The governing authority of a municipality may adopt
117 an ordinance authorizing the granting of exemptions from the fees
118 or charges for certain generators of garbage and/or rubbish. The
119 ordinance shall define clearly those generators that may be
120 exempted and shall be interpreted consistently by the governing
121 authority when determining whether to grant or withhold requested
122 exemptions.

123 (e) The governing authority may borrow money for the
124 purpose of defraying the expenses of the system in anticipation
125 of:

126 (i) The tax levy authorized under this section;

127 (ii) Revenues resulting from the assessment of any
128 fees or charges for garbage and/or rubbish collection and/or
129 disposal; or

130 (iii) Any combination thereof.

131 (f) In addition to the ad valorem taxes and fees
132 authorized in this section, if there are surplus funds or
133 unexpended funds in any fund and are not needed for the purposes
134 appropriated in the municipal budget, the governing authority of a
135 municipality, by order entered on its minutes, may transfer such
136 funds for use to defray the cost of operating the system provided
137 in 21-19-1.

138 (3) (a) Fees or charges for garbage and/or rubbish
139 collection and/or disposal shall be assessed jointly and severally
140 against the generator of the garbage and/or rubbish and against
141 the owner of the property furnished the service. However, any
142 person who pays, as a part of a rental or lease agreement, an
143 amount for garbage and/or rubbish collection and/or disposal
144 services shall not be held liable upon the failure of the property
145 owner to pay such fees.

146 (b) Every generator assessed the fees or charges
147 provided for and limited by this section and the owner of the
148 property occupied by that generator shall be jointly and severally
149 liable for the fees and/or charges so assessed. The fees or
150 charges shall be a lien upon the real property offered garbage
151 and/or rubbish collection and/or disposal service.

152 At the discretion of the governing body of the municipality,
153 fees or charges assessed for the service may be assessed annually.
154 If fees or charges are assessed annually, the fees or charges for
155 each calendar year shall be a lien upon the real property offered
156 the service beginning on January 1 of the next immediately
157 succeeding calendar year. The person or entity owing the fees or
158 charges, upon signing a form provided by the governing authority,
159 may pay the fees or charges in equal installments.

160 If fees or charges so assessed are assessed on a basis other
161 than annually, the fees or charges shall become a lien on the real
162 property offered the service on the date that the fees or charges
163 become due and payable.

164 No real or personal property shall be sold to satisfy any
165 lien imposed under this section.

166 The municipality shall mail a notice of the lien, including
167 the amount of unpaid fees or charges and a description of the
168 property subject to the lien, to the owner of the property subject
169 to the lien.

170 (c) The municipal governing body shall notify the
171 county tax collector of any unpaid fees or charges assessed under
172 this section within ninety (90) days after such fees or charges
173 are due. Upon receipt of a delinquency notice, the tax collector
174 shall not issue or renew a motor vehicle road and bridge privilege
175 license for any motor vehicle owned by a person who is delinquent
176 in the payment of fees or charges, unless such fees or charges, in
177 addition to any other taxes or fees assessed against the motor
178 vehicle, are paid.

179 (d) Liens created under this section may be discharged
180 as follows:

181 (i) By filing with the municipal tax collector a
182 receipt or acknowledgement, signed by the municipality, that the
183 lien has been paid or discharged; or

184 (ii) By depositing with the municipal tax
185 collector money equal to the amount of the claim, which money
186 shall be held for the benefit of the municipality.

187 SECTION 3. This act shall take effect and be in force from
188 and after July 1, 2001.