

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1225: Individual On-site Wastewater Disposal Law; extend repealer and require performance bond for installers.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

11 SECTION 1. Section 41-67-1, Mississippi Code of 1972, is
12 reenacted as follows:

13 41-67-1. This chapter shall be known and may be cited as the
14 "Mississippi Individual On-Site Wastewater Disposal System Law."

15 SECTION 2. Section 41-67-2, Mississippi Code of 1972, is
16 reenacted as follows:

17 41-67-2. For purposes of this chapter, the following words
18 shall have the meanings ascribed herein unless the context clearly
19 indicates otherwise:

20 (a) "Board" means the Mississippi State Board of
21 Health.

22 (b) "Commission" means the Commission on Environmental
23 Quality.

24 (c) "Department" means the Mississippi State Department
25 of Health.

26 (d) "Generator" means any person whose act or process
27 produces sewage or other material suitable for disposal in an
28 individual on-site wastewater disposal system.

29 (e) "Individual on-site wastewater disposal system"
30 means an approved method of sewage disposal designed and installed
31 in accordance with this law, and regulations of the board and the

32 commission.

33 (f) "Person" means any individual, trust, firm,
34 joint-stock company, public or private corporation (including a
35 government corporation), partnership, association, state, or any
36 agency or institution thereof, municipality, commission, political
37 subdivision of a state or any interstate body, and includes any
38 officer or governing or managing body of any municipality,
39 political subdivision, or the United States or any officer or
40 employee thereof.

41 (g) "Professional engineer" means any person who has
42 met the qualifications required under Section 73-13-23(1) and who
43 has been issued a certificate of registration as a professional
44 engineer.

45 (h) "Property of the generator" means land owned by or
46 under permanent legal easement or lease to the generator.

47 (i) "Subdivision" means any land that is divided into
48 ten (10) or more lots, tracts, sites or parcels for the purpose of
49 residential development.

50 SECTION 3. Section 41-67-3, Mississippi Code of 1972, is
51 reenacted as follows:

52 41-67-3. (1) The State Board of Health shall have the
53 following duties and responsibilities:

54 (a) To exercise general supervision over the design,
55 construction, operation and maintenance of individual on-site
56 wastewater disposal systems with flows substantially equivalent to
57 a single family residential generator, except when the property
58 owner or lessee chooses to employ a professional engineer to
59 comply with this chapter. To effectively administer this law, the
60 department and the Department of Environmental Quality shall enter
61 into a memorandum of understanding, which at a minimum shall
62 clearly define the jurisdiction of each department with regard to
63 wastewater disposal and procedures for interdepartmental

64 interaction and cooperation;

65 (b) To adopt, modify, repeal and promulgate rules and
66 regulations, after due notice and hearing, and where not otherwise
67 prohibited by federal or state law, to make exceptions to, to
68 grant exemptions from and to enforce rules and regulations
69 implementing or effectuating the duties of the board under this
70 chapter to protect the public health. The board may grant
71 variances from rules and regulations adopted under this chapter,
72 including requirements for buffer zones, or from setbacks required
73 under Section 41-67-7 where the granting of a variance shall not
74 subject the public to unreasonable health risks or jeopardize
75 environmental resources;

76 (c) To provide or deny certification for persons
77 engaging in the business of the design, construction or
78 installation of individual on-site wastewater disposal systems and
79 persons engaging in the removal and disposal of the sludge and
80 liquid waste from those systems;

81 (d) To suspend or revoke certifications issued to
82 persons engaging in the business of the design, construction or
83 installation of individual on-site wastewater disposal systems or
84 persons engaging in the removal and disposal of the sludge and
85 liquid waste from those systems, when it is determined the person
86 has violated this chapter or applicable rules and regulations; and

87 (e) To require the submission of information deemed
88 necessary by the department to determine the suitability of
89 individual lots for individual on-site wastewater disposal
90 systems.

91 (2) Nothing in this chapter shall preclude a professional
92 engineer from providing services relating to the design,
93 construction or installation of an individual on-site wastewater
94 disposal system to comply with this chapter. Except as otherwise
95 required by subsection (4) of this section or Section 41-67-8, a

96 professional engineer shall notify the department in writing of
97 those services being provided. If a professional engineer
98 designs, constructs or installs or directly supervises the
99 construction or installation of a design-based individual on-site
100 wastewater disposal system consistent with this chapter and stamps
101 the appropriate documentation with that professional engineer's
102 seal, the department shall approve the design, construction or
103 installation of the system, if requested. Professional engineers
104 engaging in the design, construction or installation of individual
105 on-site wastewater disposal systems shall not require
106 certification under this chapter.

107 (3) To assure the effective and efficient administration of
108 this chapter, the board shall adopt rules governing the design,
109 construction or installation, operation and maintenance of
110 individual on-site wastewater disposal systems, including rules
111 concerning the:

112 (a) Review and approval of individual on-site
113 wastewater disposal systems in accordance with Section 41-67-6;

114 (b) Certification of installers of individual on-site
115 wastewater disposal systems and persons engaging in the removal
116 and disposal of the sludge and liquid waste from those systems;
117 and

118 (c) Registration and requirements for testing and
119 listing of manufacturers of aerobic treatment systems.

120 (4) In addition, the board shall adopt rules establishing
121 performance standards for individual on-site wastewater disposal
122 systems for single family residential generators and rules
123 concerning the operation and maintenance of individual on-site
124 wastewater disposal systems designed to meet those standards. The
125 performance standards shall be consistent with the federal Clean
126 Water Act, maintaining the wastes on the property of the generator
127 except as authorized under Section 41-67-8, and protection of the

128 public health. Rules for the operation and maintenance of
129 individual on-site wastewater disposal systems designed to meet
130 performance standards shall include rules concerning the
131 following:

132 (a) A standard application form and requirements for
133 supporting documentation;

134 (b) Application review;

135 (c) Approval or denial of authorization for proposed
136 systems;

137 (d) Requirements, as deemed appropriate by the board,
138 for annual renewal of authorization;

139 (e) Enforcement of the requirements and conditions of
140 authorization; and

141 (f) Inspection, monitoring, sampling and reporting on
142 the performance of the system.

143 Any system proposed for authorization in accordance with
144 performance standards must be designed and certified by a
145 professional engineer and must be authorized by the board before
146 installation. Appeals from a final decision of the board
147 regarding the authorization of an individual on-site wastewater
148 disposal system based upon performance standards shall be taken
149 using a procedure substantially equivalent to the procedure
150 specified for hospital licenses in Chapter 9 of Title 41.

151 (5) To the extent practicable, all rules and regulations
152 adopted under this chapter shall give maximum flexibility to
153 persons installing individual on-site wastewater disposal systems
154 and a maximum number of options consistent with the federal Clean
155 Water Act, consistent with maintaining the wastes on the property
156 of the generator except as authorized under Section 41-67-8, and
157 consistent with protection of the public health. In addition, all
158 rules and regulations, to the extent practicable, shall encourage
159 the use of economically feasible systems, including alternative

160 techniques and technologies for individual on-site wastewater
161 disposal.

162 (6) All regulations shall be applied uniformly in all areas
163 of the state and shall take into consideration and make provision
164 for different types of soil in the state when performing soil and
165 site evaluations.

166 SECTION 4. Section 41-67-4, Mississippi Code of 1972, is
167 reenacted as follows:

168 41-67-4. (1) The Commission on Environmental Quality shall
169 determine the feasibility of establishing community sewerage
170 systems upon the submission by the developer of a preliminary
171 design and feasibility study prepared by a professional engineer.
172 The developer may request and obtain a hearing before the
173 commission if the developer is dissatisfied with the commission's
174 determination of feasibility. The determination that a sewerage
175 system must be established shall be made without regard to whether
176 the establishment of a sewerage system is authorized by law or is
177 subject to approval by one or more state or local government or
178 public bodies.

179 (2) Where residential subdivisions are proposed which are
180 composed of fewer than thirty-five (35) building sites, and no
181 system of sanitary sewers is available to which collection sewers
182 may be feasibly connected, the board may waive the requirement for
183 a feasibility study. If the feasibility study is waived, all
184 sites within the subdivision shall be approved, if a certified
185 installer attests that each site can be adequately served by an
186 individual on-site wastewater disposal system.

187 (3) No feasibility study or community sewerage system shall
188 be required for subdivisions designed, laid out, platted or
189 partially constructed before July 1, 1988, or for any subdivision
190 that was platted and recorded during the period from July 1, 1995
191 through June 30, 1996.

192 SECTION 5. Section 41-67-5, Mississippi Code of 1972, is
193 reenacted as follows:

194 41-67-5. (1) No owner, lessee or developer shall construct
195 or place any mobile, modular or permanently constructed residence,
196 building or facility, which may require the installation of an
197 individual on-site wastewater disposal system, without having
198 first submitted a notice of intent to the department. Upon
199 receipt of a notice of intent, the department shall provide the
200 owner, lessee or developer with complete information on individual
201 on-site wastewater disposal systems, including but not limited to
202 applicable rules and regulations regarding the design,
203 construction, installation, operation and maintenance of
204 individual on-site wastewater disposal systems and known
205 requirements of lending institutions for approval of the systems.

206 (2) No new permanent water service connection shall be
207 provided to any mobile, modular or permanently constructed
208 residence, building or facility unless the owner, lessee or
209 developer shows proof of the submission of the notice of intent
210 required by this section.

211 SECTION 6. Section 41-67-6, Mississippi Code of 1972, is
212 reenacted as follows:

213 41-67-6. (1) Within five (5) working days following receipt
214 of the notice of intent and plot plan by an owner, lessee or
215 developer of any lot or tract of land, the department shall
216 conduct a soil and site evaluation, except in cases where a
217 professional engineer provides services relating to the design,
218 construction or installation of an individual on-site wastewater
219 disposal system to comply with this chapter. Within ten (10)
220 additional working days, the department shall make recommendations
221 to the owner, lessee or developer of the type or types of
222 individual on-site wastewater disposal systems suitable for
223 installation on the lot or tract, unless there are conditions

224 requiring further investigation that are revealed in the initial
225 evaluation. In making recommendations on the type or types of
226 individual on-site wastewater disposal systems suitable for
227 installation on a lot or tract, personnel of the department shall
228 use best professional judgment based on rules and regulations
229 adopted by the board, considering the type or types of systems
230 which are installed and functioning on lots or tracts near the
231 subject lot or tract. If existing systems in the surrounding area
232 function properly, systems of that same type shall be approved.
233 To the extent practicable, the recommendations shall give the
234 owner, lessee or developer maximum flexibility and a maximum
235 number of options consistent with the federal Clean Water Act,
236 consistent with maintaining the wastes on the property of the
237 generator except as authorized under Section 41-67-8, and
238 consistent with protection of the public health. The system or
239 systems recommended shall be environmentally sound and
240 cost-effective. The department or a professional engineer shall
241 provide complete information, including all applicable
242 requirements and regulations on all systems recommended. The
243 owner, lessee or developer shall have the right to choose among
244 systems. The department shall provide the owner, lessee or
245 developer with a form that specifies all types of individual
246 on-site wastewater disposal systems that are suitable for
247 installation on the lot or tract and lists all installers of those
248 systems that are certified by the department. Approval of the
249 design, construction or installation of an individual on-site
250 wastewater disposal system by the department is not required. If
251 any property owner, lessee or the owner's or lessee's lending
252 institution requests the department to approve the design,
253 construction or installation of any system on the owner's or
254 lessee's property, the department shall approve the design,
255 construction or installation of that system, as requested, if the

256 system is designed, constructed and installed, as the case may be,
257 in accordance with the rules and regulations of the board. The
258 department shall not approve any individual on-site wastewater
259 disposal system that has a direct or point source discharge,
260 unless the Permit Board has issued a permit for that system under
261 Section 41-67-8.

262 (2) Evaluations and recommendations for a subdivision shall
263 not be subject to the time constraints in this section.

264 (3) If the department has been requested to approve the
265 design, construction or installation of an individual on-site
266 wastewater disposal system, an installer may not begin the design,
267 construction or installation of the individual on-site wastewater
268 disposal system, unless the installer notifies the department of
269 the date on which the installer plans to begin work on the system.

270 (4) A person may not design, construct or install, or cause
271 to be designed, constructed or installed an individual on-site
272 wastewater disposal system that does not comply with this chapter
273 and rules and regulations of the board.

274 (5) Any person who installs an individual on-site wastewater
275 disposal system shall sign and file with the department an
276 affidavit that the system was installed in compliance with all
277 requirements and regulations applicable to that type of system.
278 If any person or contractor fails to comply with all requirements
279 and regulations in the installation of the system, the board,
280 after due notice and hearing, may levy an administrative fine not
281 to exceed One Thousand Dollars (\$1,000.00).

282 (6) Any provisions of this chapter regarding the
283 department's approval of the design, construction and installation
284 of an individual on-site wastewater disposal system shall not
285 apply to a residence, building or facility that is located on a
286 land tract that is two (2) acres or larger.

287 SECTION 7. Section 41-67-7, Mississippi Code of 1972, is

288 reenacted as follows:

289 41-67-7. Individual on-site wastewater disposal systems
290 shall be considered acceptable on lots in areas or subdivisions
291 where prior to the sale of the lots, the following requirements
292 are met:

293 (1) Individual on-site wastewater disposal systems with
294 underground absorption fields shall be considered acceptable,
295 provided the following requirements are met:

296 (a) Sewers are not available or feasible;

297 (b) The existing disposal systems in the area are
298 functioning satisfactorily;

299 (c) Soil types, soil texture, seasonal water tables and
300 other limiting factors are satisfactory for underground
301 absorption; and

302 (d) Any private water supply is located at a higher
303 elevation and at least fifty (50) feet from the individual on-site
304 wastewater disposal system and at least one hundred (100) feet
305 from the disposal field of the system.

306 (2) Except for systems utilizing underground absorption,
307 alternative individual on-site wastewater disposal systems shall
308 be considered acceptable, provided the following requirements are
309 met:

310 (a) Sewers are not available or feasible;

311 (b) The systems meet applicable water quality
312 requirements of the federal Clean Water Act and also requirements
313 of the board and department; and

314 (c) Any discharge is confined within the boundaries of
315 the property of the generator except as authorized under Section
316 41-67-8.

317 SECTION 8. Section 41-67-8, Mississippi Code of 1972, is
318 reenacted as follows:

319 41-67-8. (1) This section shall be applicable only after

320 the department has determined that there is no type of individual
321 on-site wastewater disposal system authorized under subsection (3)
322 or (4) of Section 41-67-3 or rules or regulations of the board
323 that can maintain the wastes on the property of the generator.

324 (2) The owner of any individual on-site wastewater disposal
325 system from which effluent is discharged off the property of the
326 generator shall obtain a permit for that discharge, if required
327 under Section 49-17-29, from the Permit Board created under
328 Section 49-17-28.

329 (3) The Permit Board may issue general permits for
330 individual on-site wastewater disposal systems as provided in
331 Section 49-17-29.

332 (4) Any violation of this section shall be punished as
333 provided in Section 49-17-43.

334 SECTION 9. Section 41-67-9, Mississippi Code of 1972, is
335 reenacted as follows:

336 41-67-9. (1) Existing individual on-site wastewater
337 disposal systems shall be considered acceptable, provided the
338 following requirements are met:

339 (a) The lot is located in an area or subdivision where
340 individual on-site wastewater disposal systems are considered
341 acceptable under this chapter;

342 (b) The residence, building or facility has previously
343 been occupied for a period of time deemed by the department
344 necessary to determine the functioning capability of the
345 individual on-site wastewater disposal system;

346 (c) The system is functioning properly with no evidence
347 that any insufficiently treated effluent is or has been seeping to
348 the surface of the ground and any discharge of treated effluent is
349 confined within the boundaries of the property of the generator
350 except as authorized under Section 41-67-8; and

351 (d) If a private water supply well is present, the well

352 is located at a higher elevation than the disposal system and is
353 protected from surface contamination by a concrete slab of a
354 thickness of at least four (4) inches extending at least two (2)
355 feet in all directions from the well casing.

356 (2) If an existing residential individual on-site wastewater
357 disposal system is malfunctioning, the system should be replaced,
358 where possible, with a system meeting all requirements of this
359 chapter and rules and regulations of the board. If replacement of
360 the existing system is not possible, the existing system shall be
361 repaired to reduce the volume of effluent, to adequately treat the
362 effluent and to the greatest extent possible, to confine the
363 discharge to the property of the generator except as authorized
364 under Section 41-67-8. If repairs are made to significantly
365 upgrade the existing individual on-site wastewater disposal
366 system, the department shall approve the system, if requested.

367 SECTION 10. Section 41-67-10, Mississippi Code of 1972, is
368 reenacted as follows:

369 41-67-10. Aerobic treatment systems may be installed only
370 if they have been tested and listed by a third party certifying
371 program. Aerobic treatment systems shall be in compliance with
372 standards for a Class I system as defined by the most current
373 revision of American National Standards Institute/National
374 Sanitation Foundation (ANSI/NSF) International Standard Number 40,
375 hereby incorporated by reference. Beginning on October 1, 1996,
376 an approved third party certifying program shall comply with the
377 following provisions for systems which it has certified to be
378 installed in Mississippi:

379 (a) Be accredited by the American National Standards
380 Institute;

381 (b) Have established procedures which send
382 representatives to distributors in Mississippi on a recurring
383 basis to conduct evaluations to assure that distributors of

384 certified aerobic treatment systems are providing proper
385 maintenance, have sufficient replacement parts available and are
386 maintaining service records;

387 (c) Notify the department of the results of monitoring
388 visits to manufacturers and distributors within sixty (60) days of
389 the conclusion of the monitoring; and

390 (d) Submit completion reports on testing and any other
391 information as the department may require for its review.

392 SECTION 11. Section 41-67-11, Mississippi Code of 1972, is
393 reenacted as follows:

394 41-67-11. (1) Temporary individual on-site wastewater
395 disposal systems may be approved in otherwise unapprovable areas
396 only after a contract has been awarded for the construction of
397 municipal or community sewers that upon completion will adequately
398 serve the property. Temporary individual on-site wastewater
399 disposal systems shall only be approved under the following
400 conditions:

401 (a) When the municipal or community sewers shall not be
402 completed and available for use within six (6) months, a complete
403 individual on-site wastewater disposal system complying with all
404 requirements of the board may be installed. Upon completion of
405 the sewer construction all systems shall be abandoned and all
406 residences, buildings or facilities connected to the sewer.

407 (b) When the public sewers shall be available and ready
408 for use within a period not to exceed six (6) months, or where a
409 minor extension is to be made to a municipal system by the
410 municipality and no contract is to be awarded, an individual
411 on-site wastewater disposal system with a minimum capacity of
412 three hundred (300) gallons and at least sixty percent (60%) of
413 the required disposal field may be installed. The board shall not
414 approve a temporary system under this subsection unless the
415 professional engineer designing the sewer system has certified to

416 the board in writing that the public sewer or extension shall be
417 completed within six (6) months, and the owner of the temporary
418 system has certified in writing that connection to the public
419 sewer shall be made as soon as it becomes available.

420 (2) The board may approve the installation of sewage holding
421 tanks in districts created under Sections 19-5-151 through
422 19-5-207 for the purpose of providing sewage services. The
423 district shall be required to maintain or provide for the
424 maintenance of those holding tanks. The board shall require that
425 residences be connected to a municipal or community sewage system
426 when that system is available and ready to use.

427 SECTION 12. Section 41-67-12, Mississippi Code of 1972, is
428 reenacted as follows:

429 41-67-12. (1) The department shall assess fees in the
430 following amounts for the following purposes:

431 (a) A fee of Fifty Dollars (\$50.00) shall be levied for
432 soil and site evaluation and recommendation of individual on-site
433 wastewater disposal systems.

434 (b) A fee of Fifty Dollars (\$50.00) shall be levied
435 annually for the certification of installers and persons engaging
436 in the removal and disposal of the sludge and liquid wastes from
437 individual on-site wastewater disposal systems.

438 (c) A fee of One Hundred Dollars (\$100.00) shall be
439 levied annually for the registration of manufacturers.

440 (2) In the discretion of the board, a person shall be liable
441 for a penalty equal to one and one-half (1-1/2) times the amount
442 of the fee due and payable for failure to pay the fee on or before
443 the date due, plus any amount necessary to reimburse the cost of
444 collection.

445 (3) The fee authorized under this section shall not be
446 assessed for any system operated by state agencies or
447 institutions, including without limitation, foster homes licensed

448 by the State Department of Human Services. The fee authorized
449 under this section shall not be charged again after payment of the
450 initial fee for any system that has been installed in accordance
451 with this chapter, within a period of twenty-four (24) months
452 following the date that the system was originally installed.

453 SECTION 13. Section 41-67-15, Mississippi Code of 1972, is
454 reenacted as follows:

455 41-67-15. Nothing in this chapter shall limit the authority
456 of a municipality or board of supervisors to adopt similar
457 ordinances which may be, in whole or in part, more restrictive
458 than this chapter, and in those cases the more restrictive
459 ordinances will govern.

460 SECTION 14. Section 41-67-16, Mississippi Code of 1972, is
461 reenacted as follows:

462 41-67-16. (1) Before January 1, 1997, the department shall
463 conduct a study of all individual on-site wastewater disposal
464 systems currently being recommended for use in the state to
465 determine the suitability of using those systems on lots or tracts
466 in areas of the state given the various soil types and
467 classifications. In conducting the study, the department shall
468 consider the type of system, lot size, effluent quality and other
469 recommended limitations which should be placed on the use of each
470 system.

471 (2) The department shall prepare and submit a report to the
472 Governor and the Legislature describing the results of its study.

473 SECTION 15. Section 41-67-19, Mississippi Code of 1972, is
474 reenacted as follows:

475 41-67-19. Each authorized agent of the department
476 implementing this chapter shall demonstrate to the department's
477 satisfaction that the person:

478 (a) Is competent to review and provide any requested
479 approval of design, construction and installation of individual

480 on-site wastewater disposal systems, as well as the operation,
481 repair or maintenance of those systems, to make soil permeability
482 tests or soil and site evaluations, and to conduct inspections of
483 individual on-site wastewater disposal systems in accordance with
484 this chapter and rules and regulations adopted under this chapter;
485 and

486 (b) Has successfully completed the installer
487 certification training program provided by the department.

488 SECTION 16. Section 41-67-21, Mississippi Code of 1972, is
489 reenacted as follows:

490 41-67-21. (1) The board or the department may require a
491 property owner or lessee to repair a malfunctioning individual
492 on-site wastewater disposal system on the owner's or lessee's
493 property before the thirtieth day after the date on which the
494 owner or lessee is notified by the department of the
495 malfunctioning system.

496 (2) The property owner or lessee shall take adequate
497 measures as soon as practicable to abate an immediate health
498 hazard.

499 (3) The property owner or lessee may be assessed a civil
500 penalty not to exceed Five Dollars (\$5.00) for each day the
501 individual on-site wastewater disposal system remains unrepaired
502 after the thirty-day period specified in subsection (1) of this
503 section.

504 (4) The board may assess the property owner or lessee of an
505 individual on-site wastewater disposal system authorized pursuant
506 to Section 41-67-3(4) a civil penalty not to exceed Fifty Dollars
507 (\$50.00) for each day the system fails to meet the performance
508 standards of that system after the thirty-day period specified in
509 subsection (1) of this section.

510 (5) All penalties collected by the board under this section
511 shall be deposited in the State General Fund.

512 (6) Appeals from the imposition of civil penalty under this
513 section may be taken as provided in Section 41-67-29.

514 SECTION 17. Section 41-67-23, Mississippi Code of 1972, is
515 reenacted as follows:

516 41-67-23. The department or its authorized representative
517 may enter onto property and make inspections of any individual
518 on-site wastewater disposal system as necessary to ensure that the
519 system is in compliance with this chapter and the rules adopted
520 under this chapter. The department shall give reasonable notice
521 to any property owner, lessee or occupant prior to entry onto the
522 property. The owner, lessee, owner's representative, or occupant
523 of the property on which the system is located shall give the
524 department or its authorized representative reasonable access to
525 the property at reasonable times to make necessary inspections.

526 SECTION 18. Section 41-67-25, Mississippi Code of 1972, is
527 reenacted and amended as follows:

528 41-67-25. (1) A person may not operate as an installer in
529 this state unless that person is certified by the board except any
530 individual who installs an individual on-site wastewater disposal
531 system on his own property or a professional engineer.

532 (2) An installer of aerobic treatment plants or subsurface
533 drip disposal systems must be a factory-trained and authorized
534 representative. The manufacturer must furnish documentation to
535 the department certifying the satisfactory completion of factory
536 training and the establishment of the installer as an authorized
537 manufacturer's representative.

538 (3) The board shall issue a certification to an installer if
539 the installer:

540 (a) Completes an application form that complies with
541 this chapter and rules adopted under this chapter;

542 (b) Satisfactorily completes the training program
543 provided by the department; * * *

544 (c) Pays the annual certification fee; and
545 (d) Provides proof of having a valid public liability
546 insurance policy in effect with liability limits of at least Fifty
547 Thousand Dollars (\$50,000.00) per occurrence and at least One
548 Hundred Thousand Dollars (\$100,000.00) in total aggregate amount.

549 (4) Each installer shall furnish proof of certification to a
550 property owner, lessee, the owner's representative or occupant of
551 the property on which an individual on-site wastewater disposal
552 system is to be designed, constructed, repaired or installed by
553 that installer and to the department or its authorized
554 representative, if requested.

555 (5) The department shall provide for annual renewal of
556 certifications.

557 (6) (a) An installer's certification may be suspended or
558 revoked by the board after notice and hearing if the installer
559 violates this chapter or any rule or regulation adopted under this
560 chapter.

561 (b) The installer may appeal a suspension or revocation
562 under this section as provided by law.

563 (7) The department semiannually shall disseminate to the
564 public an official list of certified installers and provide to
565 county health departments a monthly update of the list.

566 SECTION 19. Section 41-67-27, Mississippi Code of 1972, is
567 reenacted as follows:

568 41-67-27. It is unlawful for a manufacturer of an individual
569 on-site wastewater disposal system to operate a business in or to
570 do business in the State of Mississippi without holding a valid
571 registration issued by the department.

572 SECTION 20. Section 41-67-28, Mississippi Code of 1972, is
573 reenacted as follows:

574 41-67-28. (1) Except as otherwise provided in this chapter,
575 any person who shall knowingly violate this chapter or any rule or

576 regulation or written order of the board in pursuance thereof is,
577 upon conviction, guilty of a misdemeanor and shall be punished as
578 provided in Section 41-3-59.

579 (2) Each day of a continuing violation is a separate
580 violation.

581 (3) (a) In addition to all other statutory and common law
582 rights, remedies and defenses, any person who purchases an
583 individual on-site wastewater disposal system and suffers any
584 ascertainable loss of money or property, real or personal, may
585 bring an action at law in the court having jurisdiction in the
586 county in which the installer or manufacturer has the principal
587 place of business, where the act allegedly occurred, to recover
588 any loss of money or damages for the loss of any property
589 resulting from any of the following:

590 (i) Improper installation of an individual on-site
591 wastewater disposal system due to faulty workmanship;

592 (ii) Failure of an individual on-site wastewater
593 disposal system to operate properly due to failure to install the
594 system in accordance with any requirements of the manufacturer or
595 in compliance with any rules and regulations of the board; or

596 (iii) Failure of an individual on-site wastewater
597 disposal system to operate properly due to defective design or
598 construction.

599 (b) Nothing in this chapter shall be construed to
600 permit any class action or suit, but every private action must be
601 maintained in the name of and for the sole use and benefit of the
602 individual person.

603 (4) A person who violates this chapter thereby causing a
604 discharge off the property of the generator shall be liable to the
605 party aggrieved or damaged by that violation for the actual
606 damages and additional punitive damages equal to a maximum of
607 twenty-five percent (25%) of the actual damages proven by the

608 aggrieved party, to be taxed by the court where the suit is heard
609 on an original action, by appeal or otherwise and recovered by a
610 suit at law in any court of competent jurisdiction. In addition,
611 the court may award the prevailing party reasonable attorneys fees
612 and court costs. Before filing suit, the party aggrieved or
613 damaged must give thirty (30) days' written notice of its intent
614 to file suit to the alleged violator.

615 SECTION 21. Section 41-67-29, Mississippi Code of 1972, is
616 reenacted as follows:

617 41-67-29. Any person who is aggrieved by any final decision
618 of the board may appeal that final decision to the chancery court
619 of the county of the situs in whole or in part of the subject
620 matter. The appellant shall give a cost bond with sufficient
621 sureties, payable to the state in a sum to be fixed by the board
622 or the court and to be filed with and approved by the clerk of the
623 court. The aggrieved party may, within thirty (30) days following
624 a final decision of the board, petition the chancery court for an
625 appeal with supersedeas and the chancellor shall grant a hearing
626 on the petition. Upon good cause shown the chancellor may grant
627 the appeal with supersedeas. The appellant shall be required to
628 post a bond with sufficient sureties according to law in an amount
629 to be determined by the chancellor. The chancery court shall
630 always be deemed open for hearing of appeals and the chancellor
631 may hear the appeal in termtime or in vacation at any place in his
632 district. The appeal shall have precedence over all civil cases,
633 except election contests. The chancery court shall review all
634 questions of law and of fact and may enter a final order or remand
635 the matter to the board for appropriate action as may be indicated
636 or necessary under the circumstances. Appeals may be taken from
637 the chancery court to the Supreme Court in the manner as now
638 required by law, but if a supersedeas is desired by the party
639 appealing to the chancery court, that party may apply therefor to

640 the chancellor, who shall award a writ of supersedeas, without
641 additional bond, if in the chancellor's judgment material damage
642 is not likely to result. If material damage is likely to result,
643 the chancellor shall require a supersedeas bond as deemed proper,
644 which shall be liable to the state for any damage.

645 SECTION 22. Section 41-67-31, Mississippi Code of 1972, is
646 amended as follows:

647 41-67-31. Sections 41-67-1 through 41-67-29 shall stand
648 repealed on July 1, 2002.

649 SECTION 23. This act shall take effect and be in force from
650 and after June 30, 2001.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO REENACT SECTIONS 41-67-1 THROUGH 41-67-29,
2 MISSISSIPPI CODE OF 1972, WHICH ARE THE MISSISSIPPI INDIVIDUAL
3 ON-SITE WASTEWATER DISPOSAL LAW; TO AMEND SECTION 41-67-25,
4 MISSISSIPPI CODE OF 1972, TO REQUIRE WASTEWATER DISPOSAL SYSTEM
5 INSTALLERS TO PROVIDE PROOF OF HAVING A PUBLIC LIABILITY INSURANCE
6 POLICY IN ORDER TO BE CERTIFIED; TO AMEND SECTION 41-67-31,
7 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER ON THE
8 MISSISSIPPI INDIVIDUAL ON-SITE WASTEWATER DISPOSAL LAW; AND FOR
9 RELATED PURPOSES.

CONFEREES FOR THE HOUSE

CONFEREES FOR THE SENATE

X_____
Bobby Moody

X_____
Alan Nunnelee

X_____
Jim Ellington

X_____
Charlie Ross

X_____
Joe S. Ellzey

X_____
Neely C. Carlton