

By: Representatives Franks, Holland

To: Conservation and Water Resources; Ways and Means

HOUSE BILL NO. 816
(As Passed the House)

1 AN ACT TO AMEND SECTIONS 19-5-17, 21-19-1 AND 17-17-5,
2 MISSISSIPPI CODE OF 1972, TO PROHIBIT THE BOARD OF SUPERVISORS OF
3 ANY COUNTY OR THE GOVERNING AUTHORITIES OF ANY MUNICIPALITY FROM
4 CHARGING ANY TAX OR FEE, AS A CONDITION FOR ALLOWING ANY PERSON,
5 FIRM, CORPORATION OR OTHER LEGAL ENTITY TO BID ON ANY CONTRACT
6 WITH THE COUNTY FOR THE COLLECTING OR DISPOSING OF GARBAGE OR
7 RUBBISH; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 19-5-17, Mississippi Code of 1972, is
10 amended as follows:

11 19-5-17. After December 31, 1992, the board of supervisors
12 of any county in the state shall provide for the collection and
13 disposal of garbage and the disposal of rubbish, and for that
14 purpose is required to establish, operate and maintain a garbage
15 and/or rubbish disposal system or systems; to acquire property,
16 real or personal, by contract, gift or purchase, necessary or
17 proper for the maintenance and operation of such system; to make
18 all necessary rules and regulations for the collection and
19 disposal of garbage and/or rubbish and, if it so desires, to
20 establish, maintain and collect rates, fees and charges for
21 collecting and disposing of such garbage and/or rubbish; and, in
22 its discretion, to enter into contracts, in the manner required by
23 law, with individuals, associations or corporations for the
24 establishment, operation and maintenance of a garbage and rubbish
25 disposal system or systems, and/or to enter into contracts on such
26 terms as the board of supervisors thinks proper with any
27 municipality, other county or region, enabling the county to use
28 jointly with such municipality, other county or region any
29 collection system, authorized rubbish landfill or permitted

30 sanitary landfill operated by the municipality, other county or
31 region. The board of supervisors shall designate by order the
32 area to be served by the system. All persons in the county
33 generating garbage shall utilize a garbage collection and disposal
34 system. However, this provision shall not prohibit any person
35 from managing solid waste generated by such person in any
36 municipal solid waste management facility owned by the generator.

37 As a necessary incident to such county's power and authority
38 to establish, maintain and collect such rates, fees and charges
39 for collecting and disposing of such garbage and/or rubbish, and
40 as a necessary incident to such county's power and authority to
41 establish, operate and maintain a garbage and/or rubbish disposal
42 system or systems, the board of supervisors of such county shall
43 have the authority to initiate a civil action to recover any
44 delinquent fees and charges for collecting and disposing of such
45 garbage and/or rubbish, and all administrative and legal costs
46 associated with collecting such fees and charges, in the event any
47 person, firm or corporation, including any municipal corporation,
48 shall fail or refuse to pay such fees and charges for collecting
49 and disposing of garbage and/or rubbish; provided that such board
50 of supervisors may initiate such a civil action to recover such
51 delinquent fees and charges whether or not such county has
52 previously entered into a contract with such individual, firm or
53 corporation, including a municipal corporation, relating to the
54 establishment, operation and maintenance of such garbage and/or
55 rubbish disposal system or systems; provided, further, that in a
56 civil action to recover such delinquent fees and charges for
57 collecting and disposing of such garbage and/or rubbish, and all
58 administrative and legal costs associated with collecting such
59 fees and charges, the county shall in all respects be a proper
60 party to such suit as plaintiff and shall have the power to sue
61 for and recover such unpaid fees and charges and all
62 administrative and legal costs associated with collecting such

63 fees and charges, from any person, firm or corporation, including
64 a municipal corporation, as may fail, refuse or default in the
65 payment of such fees and charges.

66 The board of supervisors of any county may not charge,
67 collect or impose any tax or fee, as a condition for allowing any
68 person, firm, corporation or other legal entity to bid on any
69 contract with the county for the business of collecting or
70 disposing of garbage or rubbish.

71 **SECTION 2.** Section 21-19-1, Mississippi Code of 1972, is
72 amended as follows:

73 21-19-1. (1) The municipal governing authorities of any
74 municipality shall have the power to make regulations to secure
75 the general health of the municipality; to prevent, remove, and
76 abate nuisances; to regulate or prohibit the construction of privy
77 vaults and cesspools, and to regulate or suppress those already
78 constructed; to compel and regulate the connection of all property
79 with sewers and drains; to suppress hog pens, slaughterhouses and
80 stockyards, or to regulate the same and prescribe and enforce
81 regulations for cleaning and keeping the same in order; to
82 regulate and prescribe and enforce regulations for the cleaning
83 and keeping in order of warehouses, stables, alleys, yards,
84 private ways, outhouses, and other places where offensive matter
85 is kept or permitted to accumulate; and to compel and regulate the
86 removal of garbage and filth beyond the corporate limits. The
87 municipal governing authorities are further authorized to adopt
88 and enforce regulations governing the disposal of garbage and
89 rubbish in sanitary landfills owned or leased by the municipality,
90 whether located within or outside of the corporate limits of the
91 municipality, to the extent that such regulations are not in
92 conflict with or prohibited by regulations of the Commission on
93 Environmental Quality adopted under Section 17-17-27.

94 (2) After December 31, 1992, the governing body of any
95 municipality in the state shall provide for the collection and

96 disposal of garbage and the disposal of rubbish, and for that
97 purpose the governing body shall have the power to:

98 (a) Establish, operate and maintain a garbage and/or
99 rubbish collection and disposal system or systems;

100 (b) Acquire property, real or personal, by contract,
101 gift or purchase, necessary or proper for the maintenance and
102 operation of such system;

103 (c) Make all necessary rules and regulations for the
104 collection and disposal of garbage and/or rubbish not in conflict
105 with or prohibited by rules and regulations of the Commission on
106 Environmental Quality adopted under Section 17-17-27 and, if it so
107 desires, establish, maintain and collect rates, fees and charges
108 for collecting and disposing of such garbage and/or rubbish; and

109 (d) In its discretion, enter into contracts, in the
110 manner required by law, with individuals, associations or
111 corporations for the establishment, operation and maintenance of a
112 garbage or rubbish disposal system or systems, and/or enter into
113 contracts on such terms as the municipal governing body thinks
114 proper with any other municipality, county or region enabling the
115 municipality to use jointly with such other municipality, county
116 or region any authorized rubbish landfill or permitted sanitary
117 landfill operated by the other municipality, other county or
118 region.

119 As a necessary incident to such municipal governing
120 authority's power and authority to establish, maintain and collect
121 such rates, fees and charges for collecting and disposing of such
122 garbage and/or rubbish, and as a necessary incident to such
123 municipal governing authority's power and authority to establish,
124 operate and maintain a garbage and/or rubbish disposal system or
125 systems, the municipal governing authority of such municipality
126 shall have the authority to initiate a civil action to recover any
127 delinquent fees and charges for collecting and disposing of such
128 rubbish, and all administrative and legal costs associated with

129 collecting such fees and charges, in the event any person, firm or
130 corporation, including any municipal corporation, shall fail or
131 refuse to pay such fees and charges for collecting and disposing
132 of garbage and/or rubbish; provided that such municipal governing
133 authority may initiate such a civil action to recover such
134 delinquent fees and charges whether or not such municipality has
135 previously entered into a contract with such individual, firm or
136 corporation, relating to the establishment, operation and
137 maintenance of such garbage and/or rubbish disposal system or
138 systems; provided further, that in a civil action to recover such
139 delinquent fees and charges for collecting and disposing of such
140 garbage and/or rubbish, and all administrative and legal costs
141 associated with collecting such fees and charges, the municipality
142 shall in all respects be a proper party to such suit as plaintiff
143 and shall have the power to sue for and recover such unpaid fees
144 and charges, and all administrative and legal costs associated
145 with collecting such fees and charges from any person, firm or
146 corporation, as may fail, refuse or default in the payment of such
147 fees and charges.

148 The governing authorities of any municipality may not charge,
149 collect or impose any tax or fee, as a condition for allowing any
150 person, firm, corporation or other legal entity to bid on any
151 contract with the county for the business of collecting or
152 disposing of garbage or rubbish.

153 **SECTION 3.** Section 17-17-5, Mississippi Code of 1972, is
154 amended as follows:

155 17-17-5. (1) After December 31, 1992, the board of
156 supervisors and/or municipal governing body shall provide for the
157 collection and disposal of garbage and the disposal of rubbish.
158 The board of supervisors and/or municipal governing body may
159 provide such collection or disposal services by contract with
160 private or other controlling agencies, and the service may include
161 house-to-house service or the placement of regularly serviced and

162 controlled bulk refuse receptacles within reasonable distance from
163 the farthest affected household, and the wastes disposed of in a
164 manner acceptable to the department and within the meaning of this
165 chapter. The board of supervisors and/or municipal governing body
166 shall have the power to and are hereby authorized to enter into
167 contracts related in any manner to the collection and
168 transportation of solid wastes for a term of up to six (6) years
169 and to enter into contracts related in any manner to the
170 generation and sale of energy generated from solid waste, and
171 contracts for treatment, processing, distribution, recycling,
172 elimination or disposal of solid wastes for a term of up to thirty
173 (30) years. The municipal governing body of any municipality is
174 authorized to regulate the disposal of garbage and rubbish in
175 sanitary landfills, as provided in Section 21-19-1, Mississippi
176 Code of 1972.

177 (2) In the event an unincorporated area which is annexed by
178 a municipality is being provided collection and disposal of
179 garbage and rubbish under contract with private or other
180 controlling agencies, the municipality shall annex the area
181 subject to the contract for the remainder of the term of the
182 contract, but not to exceed five (5) years.

183 The board of supervisors of any county and/or the governing
184 authorities of any municipality may not charge, collect or impose
185 any tax or fee, as a condition for allowing any person, firm,
186 corporation or other legal entity to bid on any contract with the
187 county for the business of collecting or disposing of garbage or
188 rubbish.

189 **SECTION 4.** This act shall take effect and be in force from
190 and after July 1, 2005.