

By: Representative Franks

To: Conservation and Water
ResourcesCOMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1296

1 AN ACT TO CREATE THE RECYCLING ACT OF 2005; TO AMEND SECTION
2 17-17-33, MISSISSIPPI CODE OF 1972, TO ADD RECYCLING TO THE
3 AUTHORIZATION TO PARTICIPATE IN REGIONAL SOLID WASTE DISPOSAL AND
4 RECOVERY SYSTEMS; TO AMEND SECTION 17-17-101, MISSISSIPPI CODE OF
5 1972, TO REVISE THE LEGISLATIVE INTENT OF SUCH FUND; TO AMEND
6 SECTION 17-17-203, MISSISSIPPI CODE OF 1972, TO CLARIFY THE INTENT
7 FOR THE NONHAZARDOUS SOLID WASTE PLANNING ACT; TO AMEND SECTION
8 17-17-217, MISSISSIPPI CODE OF 1972, TO CLARIFY THE PURPOSE OF THE
9 ENVIRONMENTAL PROTECTION TRUST FUND; TO AMEND SECTION 49-31-11,
10 MISSISSIPPI CODE OF 1972, TO REVISE THE RULES AND REGULATIONS OF
11 THE MULTIMEDIA POLLUTION PREVENTION ACT; TO AMEND SECTION
12 49-31-13, MISSISSIPPI CODE OF 1972, TO CLARIFY THE STATUS OF
13 POLLUTION ACTIVITIES; TO AMEND SECTION 49-31-15, MISSISSIPPI CODE
14 OF 1972, TO REVISE THE ESTABLISHMENT OF RECYCLING PROGRAMS AND
15 SOURCE REDUCTION PROGRAMS; TO AMEND SECTION 49-31-17, MISSISSIPPI
16 CODE OF 1972, TO PROMOTE THE RECYCLING INDUSTRY; TO AMEND SECTION
17 49-31-19, MISSISSIPPI CODE OF 1972, RELATING TO THE DEVELOPMENT OF
18 A WASTE MINIMIZATION AWARENESS PROGRAM; TO AMEND SECTION 49-31-21,
19 MISSISSIPPI CODE OF 1972, TO CLARIFY FILING REQUIREMENTS OF
20 GENERATORS OF HAZARDOUS WASTE FILING; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** Section 17-17-33, Mississippi Code of 1972, is
23 amended as follows:

24 17-17-33. Counties, municipal and private companies are
25 hereby authorized to participate in applicable approved regional
26 solid waste disposal, recycling and recovery systems.

27 **SECTION 2.** Section 17-17-101, Mississippi Code of 1972, is
28 amended as follows:

29 17-17-101. It is the intent of the Legislature by the
30 passage of Sections 17-17-101 through 17-17-135 to authorize
31 municipalities to acquire, own and lease a project for the purpose
32 of promoting the construction and installation of projects for the
33 sale, collection, treatment, processing, reprocessing, generation,
34 distribution, recycling, elimination, or disposal of solid and
35 hazardous waste products, as hereinafter defined, by inducing
36 manufacturing and industrial enterprises, qualified persons,

37 firms, or corporations to locate and construct said projects in
38 this state. It is intended that each project be self-liquidating.
39 Sections 17-17-101 through 17-17-135 shall be construed to conform
40 with its intent. Except as otherwise provided for projects to
41 recycle solid waste products, the powers hereby conferred upon the
42 municipalities shall be exercised only after such municipality has
43 obtained a certificate of public convenience and necessity from
44 the Mississippi Board of Economic Development as provided in
45 Sections 57-1-19, 57-1-21, 57-1-23 and 57-1-27; provided, however,
46 that if a project is constructed solely with revenue bonds the
47 board shall not be required to adjudicate that there are adequate
48 property values and suitable financial conditions so that the
49 total bonded indebtedness of the municipality, solely for the
50 purposes authorized by Sections 17-17-101 through 17-17-135, shall
51 not exceed twenty percent (20%) of the total assessed valuation of
52 the property in the municipality. The powers conferred in this
53 section to municipalities for projects to recycle or sell recycled
54 solid waste products shall be exercised only after such project
55 has been approved by the Department of Environmental Quality and
56 the Mississippi Board of Economic Development.

57 **SECTION 3.** Section 17-17-203, Mississippi Code of 1972, is
58 amended as follows:

59 17-17-203. (1) The Legislature finds that:

60 (a) Over one million five hundred thousand (1,500,000)
61 tons of municipal solid waste are generated in Mississippi each
62 year of which an estimated fifty thousand (50,000) tons is not
63 even collected for disposal;

64 (b) On the average, each Mississippian currently
65 discards approximately four (4) pounds of municipal solid waste
66 each day;

67 (c) There are currently ninety-eight (98) commercial
68 nonhazardous solid waste management facilities in this state;

69 (d) Most of the permitted sanitary landfill capacity
70 will be used within the next ten (10) years;

71 (e) Monthly household collection fees have increased
72 approximately fifteen percent (15%) in the last year. The costs
73 of nonhazardous solid waste management will increase significantly
74 due to decreased landfill capacity and more stringent federal
75 requirements for nonhazardous solid waste management facilities.
76 More stringent federal requirements may force an estimated eighty
77 percent (80%) of the existing permitted facilities to close;

78 (f) Mississippians are spending approximate Fifty-five
79 Million Dollars (\$55,000,000.00) on nonhazardous solid waste
80 management;

81 (g) Inefficient and improper methods of managing
82 nonhazardous solid waste create hazards to the public health,
83 cause pollution of air and water resources, constitute a waste of
84 natural resources, have an adverse effect on land values and
85 create public nuisances;

86 (h) Problems of nonhazardous solid waste management
87 have become a matter statewide in scope and necessitate state
88 action to assist local governments in identifying, financing, and
89 improving methods and processes for more efficient management and
90 collection of nonhazardous solid waste; and

91 (i) The economic and population growth of our state and
92 improvements in the standard of living enjoyed by our population
93 have resulted in a rising tide of unwanted and discarded
94 materials.

95 (2) It is the intent of the Legislature that the provisions
96 of Sections 17-17-201 through 17-17-235 shall:

97 (a) In order to protect the public health, safety and
98 well-being of its citizens and to protect and enhance the quality
99 of its environment, institute and maintain a comprehensive program
100 for state and local solid waste management planning which will
101 assure that solid waste management facilities * * * meet the needs

102 of the state and its localities, whether publicly or privately
103 operated, are planned, developed and constructed in a timely
104 manner;

105 (b) Reaffirm the state's policy of minimizing the
106 amount of nonhazardous solid waste being generated and managed at
107 facilities in the state and the commitment to reach the state's
108 goal of reducing and minimizing waste generated in Mississippi by
109 a minimum of twenty-five percent (25%) by January 1, 1996;

110 (c) Provide that a county shall have the power and its
111 duty shall be to ensure the availability of adequate permitted
112 management capacity for the nonhazardous solid waste which is
113 generated within its boundaries;

114 (d) Establish that a municipality shall have the power
115 and its duty shall be to assure the proper and adequate
116 collection, transportation and storage of the nonhazardous solid
117 waste generated or present within the area served by such
118 municipality and in cooperation with the county, to assure
119 adequate capacity for the processing, recycling and disposal of
120 nonhazardous solid waste generated or present within the area
121 served by such municipality; and

122 (e) Reaffirm that the state shall have the power and
123 its duty shall be to regulate the management of nonhazardous solid
124 waste and ensure that all nonhazardous solid waste management
125 planning results in strategies for environmentally sound
126 nonhazardous solid waste management systems.

127 (3) It is further the intent of the Legislature that, in
128 light of the impending issuance of the Final Subtitle D
129 regulations, the existing laws and regulations with regard to
130 permitted sanitary landfills should be consistently enforced.

131 **SECTION 4.** Section 17-17-217, Mississippi Code of 1972, is
132 amended as follows:

133 17-17-217. (1) There is created in the State Treasury a
134 fund designated as the Environmental Protection Trust Fund, to be
135 administered by the executive director of the department.

136 (2) The Commission on Environmental Quality shall promulgate
137 rules and regulations for the administration of the fund and for a
138 system of priorities for any related projects or programs eligible
139 for funding from the fund.

140 (3) The commission shall utilize any funds in the
141 Environmental Protection Fund only to defray the costs of the
142 Department of Environmental Quality for administering the
143 nonhazardous waste program, including the development of the state
144 nonhazardous solid waste management plan as authorized by law.
145 The commission may also use the fund to accomplish the purposes of
146 the multimedia pollution prevention program created under Section
147 49-31-11.

148 (4) Expenditures may be made from the fund upon requisition
149 by the executive director of the department only for the purposes
150 provided in this section.

151 (5) The fund shall be treated as a special trust fund.
152 Interest earned on the principal in the fund shall be credited by
153 the department to the fund.

154 (6) The fund may receive monies from any available public or
155 private source, including, but not limited to, collection of fees,
156 interest, grants, taxes, public and private donations, petroleum
157 violation escrow funds or refunds, and appropriated funds.

158 **SECTION 5.** Section 49-31-11, Mississippi Code of 1972, is
159 amended as follows:

160 49-31-11 (1) There is hereby created in the Department of
161 Environmental Quality, the Mississippi Multimedia Pollution
162 Prevention Program, herein referred to as "program," for the
163 following purposes:

- 164 (a) To compile, organize and make available for
165 distribution information on pollution prevention and recycling
166 technologies and procedures;
- 167 (b) To sponsor and conduct conferences and workshops on
168 pollution prevention and recycling;
- 169 (c) To facilitate and promote the transfer of pollution
170 prevention and recycling technologies and procedures among
171 business, industry, academic institutions and governmental
172 entities;
- 173 (d) To provide funds, as may be appropriated or
174 otherwise made available therefor, to business, industry,
175 academic institutions, private organizations and governmental
176 entities:
- 177 (i) To conduct demonstrations or pilot programs
178 utilizing innovative pollution prevention and recycling
179 technologies and procedures;
- 180 (ii) To defray costs of basic and applied research
181 on pollution prevention and recycling; and
- 182 (iii) To subsidize costs of conducting pollution
183 prevention potential analyses and studies, and developing,
184 purchasing and implementing pollution prevention and recycling
185 technologies and procedures or for other related purposes;
- 186 (e) To develop the necessary programs, information and
187 materials:
- 188 (i) To collect data to assist in establishing
189 program priorities and evaluation of the progress of pollution
190 prevention and recycling;
- 191 (ii) To train business, industry, academic
192 institutions and governmental entities to promote and provide
193 information about pollution prevention and recycling practices and
194 their applicability; * * *
- 195 (iii) To establish and implement waste exchange
196 programs;

197 (iv) To prioritize current state grant funding
198 assistance for local government recycling;

199 (v) To provide technical assistance programs
200 specific to the development of businesses that recycle;

201 (vi) To produce an annual report that shall be
202 available to the public with information on the amount of
203 unrecycled products within the state;

204 (f) To increase public education and public awareness
205 of waste management issues;

206 (g) To provide pollution prevention and recycling
207 technical assistance to industries, businesses and local
208 governments; and

209 (h) To participate in state, federal and industrial
210 networks of individuals and groups actively involved in pollution
211 prevention and recycling activities and promotion.

212 (2) The Commission on Environmental Quality may adopt,
213 modify, repeal and promulgate, after due notice and hearing, and
214 where not otherwise prohibited by federal or state law, to make
215 exceptions to and grant exemptions and variances from, and to
216 enforce rules and regulations implementing or effectuating the
217 powers and duties of the commission under this chapter.

218 (3) The Commission on Environmental Quality shall coordinate
219 recycling activities among municipalities and local governing
220 authorities and promote pollution prevention, recycling, reuse of
221 wastes, in lieu of treatment and disposal of such wastes.

222 **SECTION 6.** Section 49-31-13, Mississippi Code of 1972, is
223 amended as follows:

224 49-31-13. (1) * * * The department shall complete an annual
225 comprehensive study of the status of pollution prevention and
226 recycling activities in Mississippi. The study shall address, but
227 not be limited to, the following:

228 (a) The types and quantities of wastes generated in the
229 state, the existing system for management of wastes, and pollution
230 prevention and recycling efforts to date in the state;

231 (b) The advisability, feasibility and potential impacts
232 of waste stream reduction through statutory restraints;

233 (c) The identification of key business, industry,
234 academic institutions and governmental entities which should
235 receive priorities in technical assistance;

236 (d) The establishment of the program priorities,
237 objectives, missions and goals for pollution prevention and
238 recycling in the state, including a methodology for assessing the
239 efficiency and effectiveness of the program in attaining program
240 goals and objectives;

241 (e) The development of a methodology to assess progress
242 in minimizing waste, preventing pollution and recycling in the
243 state; and

244 (f) Any other information deemed necessary by the
245 department to carry out the purposes of this chapter.

246 (2) The annual study shall be presented to the Chairman of
247 the Conservation and Water Resources Committee of the Mississippi
248 House of Representatives and the Environmental Protection,
249 Conservation and Water Resources Committee of the Mississippi
250 Senate by the second day of each legislative session.

251 **SECTION 7.** Section 49-31-15, Mississippi Code of 1972, is
252 amended as follows:

253 49-31-15. It shall be the duty of each state agency, the
254 judicial branch of state government, the state institutions of
255 higher learning and community colleges * * * to:

256 (a) Establish a program, in cooperation with the
257 Department of Environmental Quality and the Department of Finance
258 and Administration, for the collection of recyclable materials as
259 determined by the Department of Environmental Quality, generated
260 in state offices throughout the state.

261 (b) Provide procedures for collecting and storing
262 recyclable materials, containers for storing recyclable materials
263 and contractual arrangements with buyers of recyclable materials.

264 (c) Evaluate the amount of recyclable materials
265 recycled and make all necessary modifications to the recycling
266 program to ensure that recyclable materials, as determined by the
267 Department of Environmental Quality, are effectively and
268 practically recycled.

269 (d) Establish and implement, in cooperation with the
270 Department of Environmental Quality and the Department of Finance
271 and Administration, a source reduction program for materials, as
272 determined by the Department of Environmental Quality, used in the
273 course of agency operations. The program shall be designed and
274 implemented to achieve the maximum feasible source reduction of
275 waste as a result of agency operations.

276 **SECTION 8.** Section 49-31-17, Mississippi Code of 1972, is
277 amended as follows:

278 49-31-17. (1) The Mississippi Department of Environmental
279 Quality and the Mississippi Development Authority shall assist and
280 actively promote the recycling industry in the state. Assistance
281 and promotion of the recycling industry shall include, but is not
282 limited to:

283 (a) Identification and analysis, in cooperation with
284 the Department of Environmental Quality, of components of the
285 state's recycling industry and present and potential markets for
286 recyclable materials in the state or other states;

287 (b) Provision of information on the availability and
288 benefits of using recycled materials to business, industry,
289 academic institutions and governmental entities within the state;

290 (c) Distribution of any material prepared in
291 implementing this section to business, industry, academic
292 institutions, governmental entities and the general public upon
293 request; and

294 (d) Active promotion of the present markets and
295 development of the potential markets of recyclable materials
296 through the resources of the Mississippi Department of
297 Environmental Quality and the Mississippi Development Authority.

298 (2) By December 31, 2005, the Mississippi Development
299 Authority shall assist the Task Force on Recycling in preparing a
300 report assessing the recycling industry and recyclable materials
301 markets in the state for the Mississippi Legislature.

302 * * *

303 **SECTION 9.** Section 49-31-19, Mississippi Code of 1972, is
304 amended as follows:

305 49-31-19. (1) On or before July 1, 2006, the Department of
306 Education with the approval of the Department of Environmental
307 Quality is directed to develop or select curriculum, including
308 materials and resource guides, for a waste minimization awareness
309 program at the elementary and secondary levels of education.

310 (2) In order to orient students and their families to the
311 minimization of waste and to encourage the participation of
312 schools, communities and families in waste minimization programs,
313 the school board of each school district in the state shall
314 provide a program of student instruction in the minimization of
315 waste materials * * *. The instruction shall be provided at both
316 the elementary and secondary levels of education.

317 **SECTION 10.** Section 49-31-21, Mississippi Code of 1972, is
318 amended as follows:

319 49-31-21. (1) * * * The department shall require waste
320 minimization plans to be provided by each generator of hazardous
321 waste who is regulated as a large quantity generator or a small
322 quantity generator under Mississippi hazardous waste management
323 regulations and each facility operator required to file a report
324 under Section 313 of EPCRA. The generators and facility operators
325 shall provide a plan for each site where waste is generated or
326 chemicals are released.

327 (2) Waste minimization plans for large quantity generators
328 and for facility operators required to file a report under Section
329 313 of EPCRA, shall include, at a minimum:

330 (a) A written policy describing ownership and
331 management support for pollution prevention and waste minimization
332 and implementation of the plan;

333 (b) The scope and objectives of the plan, including the
334 evaluation of technologies, procedures and personnel training
335 programs to ensure waste minimization;

336 (c) An explanation and documentation of waste
337 minimization efforts completed or in progress before the first
338 reporting date;

339 (d) An analysis of waste streams, and identification of
340 opportunities to eliminate waste generation. The analysis shall
341 include review of individual processes and facilities and other
342 activities where wastes may be generated, evaluation of data on
343 the types, amounts and hazardous and toxic constituents of waste
344 generated, and potential waste minimization techniques applicable
345 to those wastes;

346 (e) An identification of waste management costs;

347 (f) An identification of employee awareness and
348 training programs to involve employees in waste minimization
349 planning and implementation to the maximum extent feasible;

350 (g) The establishment of performance goals for the
351 minimization of wastes which shall be expressed in numeric terms,
352 to the extent practicable.

353 (3) The department shall develop appropriate, but less
354 stringent, requirements for waste minimization plans to be
355 prepared by small quantity generators.

356 (4) All generators and facility operators required to
357 prepare a waste minimization plan shall update annually their
358 waste minimization plan. The annual update shall include at a
359 minimum:

360 (a) An analysis and quantification of progress made, if
361 any, in waste minimization, relative to each performance goal
362 established under subsection (2)(g) of this section; and

363 (b) Any amendments to the waste minimization plan and
364 an explanation of the need for the amendments.

365 (5) For purposes of this section, a generator or facility
366 operator shall permit the department or its designee to review the
367 waste minimization plan.

368 (6) From the waste minimization plan and each annual update,
369 the generator or facility operator shall submit to the department
370 a certified report of the types and quantities of wastes
371 generated, and the types and quantities of wastes minimized. To
372 the extent practicable, the department shall coordinate the
373 submission of this certified report with other reporting
374 requirements placed on large quantity and small quantity hazardous
375 waste generators and facility operators.

376 (7) The certified report shall include a narrative summary
377 explaining the waste generation and minimization data, a
378 description of goals and progress made in minimizing the
379 generation of wastes, and a description of any impediments to the
380 minimization of wastes.

381 **SECTION 11.** This act shall take effect and be in force from
382 and after July 1, 2005.