

By: Senator(s) Burton

To: Municipalities

SENATE BILL NO. 2841

1 AN ACT TO AMEND SECTIONS 21-19-1 AND 21-19-2, MISSISSIPPI
2 CODE OF 1972, TO ALLOW MUNICIPALITIES TO CHARGE A REASONABLE FEE
3 FOR MOSQUITO ABATEMENT; TO PRESCRIBE THE METHOD BY WHICH
4 DELINQUENT ACCOUNTS SHALL BE COLLECTED; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 21-19-1, Mississippi Code of 1972, is
7 amended as follows:

8 21-19-1. (1) The municipal governing authorities of any
9 municipality shall have the power to make regulations to secure
10 the general health of the municipality; to prevent, remove, and
11 abate nuisances; to regulate or prohibit the construction of privy
12 vaults and cesspools, and to regulate or suppress those already
13 constructed; to compel and regulate the connection of all property
14 with sewers and drains; to suppress hog pens, slaughterhouses and
15 stockyards, or to regulate the same and prescribe and enforce
16 regulations for cleaning and keeping the same in order; to
17 regulate and prescribe and enforce regulations for the cleaning
18 and keeping in order of warehouses, stables, alleys, yards,
19 private ways, outhouses, and other places where offensive matter
20 is kept or permitted to accumulate; to provide mosquito abatement
21 services; and to compel and regulate the removal of garbage and
22 filth beyond the corporate limits. The municipal governing
23 authorities are further authorized to adopt and enforce
24 regulations governing the disposal of garbage and rubbish in
25 sanitary landfills owned or leased by the municipality, whether
26 located within or outside of the corporate limits of the
27 municipality, to the extent that such regulations are not in

28 conflict with or prohibited by regulations of the Commission on
29 Environmental Quality adopted under Section 17-17-27.

30 (2) After December 31, 1992, the governing body of any
31 municipality in the state shall provide for the collection and
32 disposal of garbage and the disposal of rubbish, and for that
33 purpose the governing body shall have the power to:

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

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

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

45 (d) In its discretion, enter into contracts, in the
46 manner required by law, with individuals, associations or
47 corporations for the establishment, operation and maintenance of a
48 garbage or rubbish disposal system or systems, and/or enter into
49 contracts on such terms as the municipal governing body thinks
50 proper with any other municipality, county or region enabling the
51 municipality to use jointly with such other municipality, county
52 or region any authorized rubbish landfill or permitted sanitary
53 landfill operated by the other municipality, other county or
54 region.

55 As a necessary incident to such municipal governing
56 authority's power and authority to establish, maintain and collect
57 such rates, fees and charges for collecting and disposing of such
58 garbage and/or rubbish, and as a necessary incident to such
59 municipal governing authority's power and authority to establish,
60 operate and maintain a garbage and/or rubbish disposal system or

61 systems, the municipal governing authority of such municipality
62 shall have the authority to initiate a civil action to recover any
63 delinquent fees and charges for collecting and disposing of such
64 rubbish, and all administrative and legal costs associated with
65 collecting such fees and charges, in the event any person, firm or
66 corporation, including any municipal corporation, shall fail or
67 refuse to pay such fees and charges for collecting and disposing
68 of garbage and/or rubbish; provided that such municipal governing
69 authority may initiate such a civil action to recover such
70 delinquent fees and charges whether or not such municipality has
71 previously entered into a contract with such individual, firm or
72 corporation, relating to the establishment, operation and
73 maintenance of such garbage and/or rubbish disposal system or
74 systems; provided further, that in a civil action to recover such
75 delinquent fees and charges for collecting and disposing of such
76 garbage and/or rubbish, and all administrative and legal costs
77 associated with collecting such fees and charges, the municipality
78 shall in all respects be a proper party to such suit as plaintiff
79 and shall have the power to sue for and recover such unpaid fees
80 and charges, and all administrative and legal costs associated
81 with collecting such fees and charges from any person, firm or
82 corporation, as may fail, refuse or default in the payment of such
83 fees and charges.

84 (3) Municipalities may charge a reasonable fee for mosquito
85 abatement. The governing authority of a municipality has the
86 authority to recover any delinquent fees and charges for mosquito
87 abatement on the same terms and conditions as are provided for the
88 collection of delinquent fees charged for the collecting and
89 disposing of garbage and rubbish as provided in subsection (2) of
90 this section.

91 **SECTION 2.** Section 21-19-2, Mississippi Code of 1972, is
92 amended as follows:

93 21-19-2. (1) (a) To defray the cost of mosquito abatement
94 and the cost of establishing, operating and maintaining the
95 garbage and rubbish collection system as provided * * * in Section
96 21-19-1, the governing authority of a municipality may develop a
97 system for the billing and/or collection of any fees or charges
98 imposed on each person furnished garbage and/or rubbish collection
99 and/or disposal service by the municipality or at the expense of
100 the municipality. The governing authority of the municipality
101 shall provide for the collection of the fees or charges.

102 (b) The governing authority of a municipality may enter
103 into a contract upon mutual agreement with a public or private
104 corporation, nonprofit corporation, planning and development
105 district or a public agency, association, utility or utility
106 district within the area receiving garbage and/or rubbish
107 collection and/or disposal services from the municipality for the
108 purpose of developing, maintaining, operating and administering a
109 system for the billing and/or collection of fees or charges
110 imposed by the municipality for garbage and/or rubbish collection
111 and/or disposal services. The entity with whom the governing
112 authority of a municipality contracts shall notify the governing
113 authority of the municipality monthly of any unpaid fees or
114 charges assessed under this section. Any entity that contracts to
115 provide a service to customers, within the area being served by
116 the municipality's garbage and/or rubbish collection and/or
117 disposal system, may provide a list of its customers to the
118 governing authority of the municipality upon the request of the
119 governing authority.

120 (2) (a) To defray the cost of establishing and operating
121 the system provided for in Section 21-19-1, the governing body of
122 a municipality may levy an ad valorem tax not to exceed four (4)
123 mills on all taxable property within the area served by the
124 municipality's garbage and/or rubbish collection and/or disposal
125 system. The service area may be comprised of incorporated and/or

126 unincorporated areas within a county; however, no property shall
127 be subject to this levy unless that property is within an area
128 served by a municipality's garbage and/or rubbish collection
129 and/or disposal system. The rate of the ad valorem tax levied
130 under this section shall be shown as a line item on the notice of
131 ad valorem taxes on taxable property owed by the taxpayer.

132 (b) In addition to or in lieu of any other method
133 authorized to defray the cost of establishing and operating the
134 system provided for in Section 21-19-1, the governing body of a
135 municipality that has established a garbage and/or rubbish
136 collection and/or disposal system may assess and collect fees or
137 charges to defray the costs of such services. The governing
138 authority may assess and collect the fees or charges from each
139 single family residential generator of garbage and/or rubbish.
140 The governing authority also may assess and collect such fees or
141 charges from each industrial, commercial and multi-family
142 residential generator of garbage and/or rubbish for any time
143 period that the generator has not otherwise contracted for the
144 collection of garbage and/or rubbish that is ultimately disposed
145 of at a permitted or authorized nonhazardous solid waste
146 management facility.

147 (c) Before the adoption of any resolution or ordinance
148 to increase the ad valorem tax assessment or fees or charges
149 authorized by this section, the governing authority of a
150 municipality shall have published a notice advertising their
151 intent to increase the ad valorem tax assessment or fees or
152 charges authorized by this section. The notice shall specify the
153 purpose of the proposed increase, the proposed percentage increase
154 and the proposed percentage increase in total revenues for garbage
155 and/or rubbish collection and/or disposal services or shall
156 contain a copy of any resolution by the governing authority
157 stating their intent to increase the ad valorem tax assessment or
158 fees or charges authorized by this section. The notice shall be

159 published in a newspaper having general circulation in the
160 municipality for no less than three (3) consecutive weeks before
161 the adoption of the order. The notice shall be in print no less
162 than the size of eighteen (18) point and shall be surrounded by a
163 one-fourth (1/4) inch black border. The notice shall not be
164 placed in the legal section notice of the newspaper. There shall
165 be no language in the notice inferring a mandate from the
166 Legislature.

167 In addition to the requirement for publication of notice, the
168 governing authority of a municipality shall notify each person
169 furnished garbage and/or rubbish collection and/or disposal
170 service of any increase in the ad valorem tax assessment or fees
171 or charges authorized by this section. In the case of an increase
172 of the ad valorem tax assessment, a notice shall be conspicuously
173 placed on or attached to the first ad valorem tax bill on which
174 the increased assessment is effective. In the case of an increase
175 in fees or charges, a notice shall be conspicuously placed on or
176 attached to the first bill for fees or charges on which the
177 increased fees or charges are assessed. There shall be no
178 language in any notice inferring a mandate from the Legislature.

179 (d) The governing authority of a municipality may adopt
180 an ordinance authorizing the granting of exemptions from the fees
181 or charges for certain generators of garbage and/or rubbish. The
182 ordinance shall define clearly those generators that may be
183 exempted and shall be interpreted consistently by the governing
184 authority when determining whether to grant or withhold requested
185 exemptions.

186 (e) The governing authority may borrow money for the
187 purpose of defraying the expenses of the system in anticipation
188 of:

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

190 (ii) Revenues resulting from the assessment of any
191 fees or charges for garbage and/or rubbish collection and/or
192 disposal; or

193 (iii) Any combination thereof.

194 (3) (a) Fees or charges for mosquito abatement and for
195 garbage and/or rubbish collection and/or disposal shall be
196 assessed jointly and severally against the generator of the
197 garbage and/or rubbish and against the owner of the property
198 furnished the service. However, any person who pays, as a part of
199 a rental or lease agreement, an amount for garbage and/or rubbish
200 collection and/or disposal services shall not be held liable upon
201 the failure of the property owner to pay such fees.

202 (b) Every generator assessed the fees or charges
203 provided for and limited by this section and the owner of the
204 property occupied by that generator shall be jointly and severally
205 liable for the fees and/or charges so assessed. The fees or
206 charges shall be a lien upon the real property offered garbage
207 and/or rubbish collection and/or disposal service.

208 At the discretion of the governing body of the municipality,
209 fees or charges assessed for the service may be assessed annually.
210 If fees or charges are assessed annually, the fees or charges for
211 each calendar year shall be a lien upon the real property offered
212 the service beginning on January 1 of the next immediately
213 succeeding calendar year. The person or entity owing the fees or
214 charges, upon signing a form provided by the governing authority,
215 may pay the fees or charges in equal installments.

216 If fees or charges so assessed are assessed on a basis other
217 than annually, the fees or charges shall become a lien on the real
218 property offered the service on the date that the fees or charges
219 become due and payable.

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

222 The municipality shall mail a notice of the lien, including
223 the amount of unpaid fees or charges and a description of the
224 property subject to the lien, to the owner of the property subject
225 to the lien.

226 (c) The municipal governing body shall notify the
227 county tax collector of any unpaid fees or charges assessed under
228 this section within ninety (90) days after such fees or charges
229 are due. Upon receipt of a delinquency notice, the tax collector
230 shall not issue or renew a motor vehicle road and bridge privilege
231 license for any motor vehicle owned by a person who is delinquent
232 in the payment of fees or charges, unless such fees or charges, in
233 addition to any other taxes or fees assessed against the motor
234 vehicle, are paid.

235 (d) Liens created under this section may be discharged
236 as follows:

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

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

243 **SECTION 3.** This act shall take effect and be in force from
244 and after July 1, 2005.