

By: Representative Franks

To: Conservation and Water  
Resources

## HOUSE BILL NO. 896

1 AN ACT TO AMEND SECTIONS 17-17-227 AND 17-17-229, MISSISSIPPI  
2 CODE OF 1972, TO PROVIDE THE MISSISSIPPI COMMISSION ON  
3 ENVIRONMENTAL QUALITY WITH SOLE AUTHORITY TO CONSIDER NEED IN  
4 REVIEWING AND APPROVING OR DISAPPROVING LOCAL NONHAZARDOUS SOLID  
5 WASTE MANAGEMENT PLANS AND TO REMOVE NEED CONSIDERATION IN  
6 ISSUANCE OF PERMITS FOR NONHAZARDOUS SOLID WASTE FACILITIES; AND  
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 17-17-227, Mississippi Code of 1972, is  
10 amended as follows:

11 17-17-227. (1) Each county, in cooperation with  
12 municipalities within the county, shall prepare, adopt and submit  
13 to the commission for review and approval a local nonhazardous  
14 solid waste management plan for the county. Each local  
15 nonhazardous solid waste management plan shall include, at a  
16 minimum, the following:

17 (a) An inventory of the sources, composition and  
18 quantities by weight or volume of municipal solid waste annually  
19 generated within the county, and the source, composition and  
20 quantity by weight or volume of municipal solid waste currently  
21 transported into the county for management;

22 (b) An inventory of all existing facilities where  
23 municipal solid waste is currently being managed, including the  
24 environmental suitability and operational history of each  
25 facility, and the remaining available permitted capacity for each  
26 facility;

27 (c) An inventory of existing solid waste collection  
28 systems and transfer stations within the county. The inventory

shall identify the entities engaging in municipal solid waste collection within the county;

(d) A strategy for achieving a twenty-five percent (25%) waste reduction goal through source reduction, recycling or other waste reduction technologies;

(e) A projection, using acceptable averaging methods, of municipal solid waste generated within the boundaries of the county over the next twenty (20) years;

(f) An identification of the additional municipal solid waste management facilities, including an evaluation of alternative management technologies, and the amount of additional capacity needed to manage the quantities projected in paragraph (e);

(g) An estimation of development, construction, operational, closure and post-closure costs, including a proposed method for financing those costs;

(h) A plan for meeting any projected capacity shortfall, including a schedule and methodology for attaining the required capacity; \* \* \*

(i) A determination of need by the county, municipality, authority or district that is submitting the plan, for any new or expanded facilities. A determination of need shall include, at a minimum, the following:

(i) Verification that the proposed facility meets needs identified in the approved local nonhazardous solid waste management plan which shall take into account the quantities of municipal solid waste generated and the design capacities of existing facilities;

(ii) Certification that the proposed facility complies with local land use and zoning requirements, if any;

(iii) Demonstration, to the extent possible, that operation of the proposed facility will not negatively impact the

waste reduction strategy of the county, municipality, authority or district that is submitting the plan;

(iv) Demonstration that the proposed service area of the facility will not conflict with needs and plans identified in the local nonhazardous solid waste management plan of the county, municipality, authority or district; and

(v) A description of the extent to which the proposed facility is needed to replace other facilities; and

(j) Any other information the commission may require.

(2) Each local nonhazardous solid waste management plan may include:

(a) The preferred site or alternative sites for the construction of any additional municipal solid waste management facilities needed to properly manage the quantities of municipal solid waste projected for the service areas covered by the plan, including the factors which provided the basis for identifying the preferred or alternative sites; and

(b) The method of implementation of the plan with regard to the person who will apply for and acquire the permit for any planned additional facilities and the person who will own or operate any of the facilities.

(3) Each municipality shall cooperate with the county in planning for the management of municipal solid waste generated within its boundaries or the area served by that municipality. The governing authority of any municipality which does not desire to be included in the local nonhazardous solid waste management plan shall adopt a resolution stating its intent not to be included in the county plan. The resolution shall be provided to the board of supervisors and the commission. Any municipality resolving not to be included in a county waste plan shall prepare a local nonhazardous solid waste management plan in accordance with this section.

93           (4) The board of supervisors of any county may enter into  
94 interlocal agreements with one or more counties as provided by law  
95 to form a regional solid waste management authority or other  
96 district to provide for the management of municipal solid waste  
97 for all participating counties. For purposes of Section 17-17-221  
98 through Section 17-17-227, a local nonhazardous solid waste  
99 management plan prepared, adopted, submitted and implemented by  
100 the regional solid waste management authority or other district is  
101 sufficient to satisfy the planning requirements for the counties  
102 and municipalities within the boundaries of the authority or  
103 district.

104           (5) (a) Upon completion of its local nonhazardous solid  
105 waste management plan, the board of supervisors of the county  
106 shall publish in at least one (1) newspaper as defined in Section  
107 13-3-31, having general circulation within the county a public  
108 notice that describes the plan, specifies the location where it is  
109 available for review, and establishes a period of thirty (30) days  
110 for comments concerning the plan and a mechanism for submitting  
111 those comments. The board of supervisors shall also notify the  
112 board of supervisors of adjacent counties of the plan and shall  
113 make it available for review by the board of supervisors of each  
114 adjacent county. During the comment period, the board of  
115 supervisors of the county shall conduct at least one (1) public  
116 hearing concerning the plan. The board of supervisors of the  
117 county shall publish twice in at least one (1) newspaper as  
118 defined in Section 13-3-31, having general circulation within the  
119 county, a notice conspicuously displayed containing the time and  
120 place of the hearing and the location where the plan is available  
121 for review.

122           (b) After the public hearing, the board of supervisors  
123 of the county may modify the plan based upon the public's  
124 comments. Within ninety (90) days after the public hearing, each

board of supervisors shall approve a local nonhazardous solid waste management plan by resolution.

(c) A regional solid waste management authority or other district shall declare the plan to be approved as the authority's or district's solid waste management plan upon written notification, including a copy of the resolution, that the board of supervisors of each county forming the authority or district has approved the plan.

(6) Upon ratification of the plan, the governing body of the county, authority or district shall submit it to the commission for review and approval in accordance with Section 17-17-225. The commission shall, by order, approve or disapprove the plan within one hundred eighty (180) days after its submission. The commission shall include with an order disapproving a plan a statement outlining the deficiencies in the plan and directing the governing body of the county, authority or district to submit, within one hundred twenty (120) days after issuance of the order, a revised plan that remedies those deficiencies. If the governing body of the county, authority or district, by resolution, requests an extension of the time for submission of a revised plan, the commission may, for good cause shown, grant one (1) extension for a period of not more than sixty (60) additional days.

(7) After approval of the plan or revised plan by the commission, the governing body of the county, authority or district shall implement the plan in compliance with the implementation schedule contained in the approved plan.

(8) The governing body of the county, authority or district shall annually review implementation of the approved plan. The commission may require the governing body of each local government or authority to revise the local nonhazardous solid waste management plan as necessary, but not more than once every five (5) years.

(9) If the commission finds that the governing body of a county, authority or district has failed to submit a local nonhazardous solid waste management plan, obtain approval of its local nonhazardous solid waste management plan or materially fails to implement its local nonhazardous solid waste management plan, the commission shall issue an order in accordance with Section 17-17-29, to the governing body of the county, authority or district.

(10) The commission may, by regulation, adopt an alternative procedure to the procedure described in this section for the preparation, adoption, submission, review and approval of minor modifications of an approved local nonhazardous solid waste management plan. For purposes of this section, minor modifications may include administrative changes or the addition of any noncommercial nonhazardous solid waste management facility.

(11) The executive director of the department shall maintain a copy of all local nonhazardous solid waste management plans that the commission has approved and any orders issued by the commission.

(12) If a public notice required in subsection (5) was published in a newspaper as defined in Section 13-3-31, having general circulation within the county but was not published in a daily newspaper of general circulation as required by subsection (5) before April 20, 1993, the commission shall not disapprove the plan for failure to publish the notice in a daily newspaper. Any plan disapproved for that reason by the commission shall be deemed approved after remedying any other deficiencies in the plan.

**SECTION 2.** Section 17-17-229, Mississippi Code of 1972, is amended as follows:

17-17-229. (1) After approval of a local nonhazardous solid waste management plan by the commission, neither the department, the permit board nor any other agency of the State of Mississippi shall issue any permit, grant or loan for any nonhazardous solid

waste management facility in a county, municipality region, or district which is not consistent with the approved local nonhazardous solid waste management plan. \* \* \*

\* \* \*

(2) The commission shall adopt criteria to be considered in location and permitting of nonhazardous solid waste management facilities. The criteria shall be developed through public participation, shall be enforced by the permit board and shall include, in addition to all applicable state and federal rules and regulations, consideration of:

(a) Hydrological and geological factors, such as floodplains, depth to water table, soil composition, and permeability, cavernous bedrock, seismic activity, and slope;

(b) Natural resources factors, such as wetlands, endangered species habitats, proximity to parks, forests, wilderness areas and historical sites, and air quality;

(c) Land use factors, such as local land use, whether residential, industrial, commercial, recreational, agricultural, proximity to public water supplies, and proximity to incompatible structures such as schools, churches and airports;

(d) Transportation factors, such as proximity to waste generators and to population, route safety and method of transportation; and

(e) Aesthetic factors, such as the visibility, appearance and noise level of the facility.

**SECTION 3.** This act shall take effect and be in force from and after July 1, 2006.