

By: Representative Remak

To: Public Utilities; Public Health and Human Services

HOUSE BILL NO. 1181

1 AN ACT TO AMEND SECTION 41-67-4, MISSISSIPPI CODE OF 1972, TO  
 2 REDUCE THE TIME BY WHICH THE STATE DEPARTMENT OF HEALTH MUST MAKE  
 3 A DETERMINATION OF THE FEASIBILITY OF ESTABLISHING CENTRALIZED  
 4 WASTEWATER TREATMENT SYSTEMS IN A SUBDIVISION WHEN A DEVELOPER  
 5 REQUESTS A DETERMINATION OF FEASIBILITY; TO AMEND SECTION 41-67-6,  
 6 MISSISSIPPI CODE OF 1972, TO REDUCE THE TIME BY WHICH THE STATE  
 7 DEPARTMENT OF HEALTH MUST MAKE A DETERMINATION OF SUITABILITY OF  
 8 INDIVIDUAL ON-SITE WASTEWATER DISPOSAL SYSTEMS IN A SUBDIVISION  
 9 WHEN A DEVELOPER REQUESTS A DETERMINATION OF SUITABILITY; TO BRING  
 10 FORWARD SECTIONS 41-67-7 AND 41-67-11, MISSISSIPPI CODE OF 1972,  
 11 FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 41-67-4, Mississippi Code of 1972, is  
 14 amended as follows:

15 41-67-4. (1) The department shall determine the feasibility  
 16 of establishing centralized wastewater treatment systems upon the  
 17 submission by the developer of a preliminary design and  
 18 feasibility study prepared by a licensed professional engineer.  
 19 The developer may request and obtain a hearing before the board if  
 20 the developer is dissatisfied with the department's determination  
 21 of feasibility. The determination that a centralized wastewater  
 22 treatment system must be established shall be made without regard

23 to whether the establishment of a centralized wastewater treatment  
24 system is authorized by law or is subject to approval by one or  
25 more state or local government or public bodies. Whenever a  
26 developer requests a determination of feasibility, the department  
27 must make the determination within \* \* \* twenty (20) days after  
28 receipt of the preliminary design and feasibility study from the  
29 developer. The department shall state in writing the reasons for  
30 its determination. If the department does not make a  
31 determination within \* \* \* twenty (20) days, all sites within the  
32 subdivision shall be approved, if a certified installer attests or  
33 a department environmentalist determines that each site can be  
34 adequately served by an individual on-site wastewater disposal  
35 system.

36 (2) Where subdivisions are proposed that are composed of  
37 fewer than thirty-five (35) building sites, and no centralized  
38 wastewater treatment system is available, the department may waive  
39 the requirement for a feasibility study. If the feasibility study  
40 is waived, all sites within the subdivision shall be approved, if  
41 a certified installer attests or a department environmentalist  
42 determines that each site can be adequately served by an  
43 individual on-site wastewater disposal system.

44 (3) \* \* \* "Feasibility study" means a written evaluation and  
45 analysis of the potential of a proposed project that is based on  
46 investigation and research by a licensed professional engineer to  
47 give cost comparison between centralized or decentralized

48 treatment and disposal and individual on-site wastewater disposal  
49 systems.

50 **SECTION 2.** Section 41-67-6, Mississippi Code of 1972, is  
51 amended as follows:

52 41-67-6. (1) Nothing in this chapter shall preclude a  
53 certified professional evaluator or licensed professional engineer  
54 from providing services relating to the design of an individual  
55 on-site wastewater disposal system to comply with this chapter,  
56 except for performance-based systems as specified in Section  
57 41-67-3(3). A certified professional evaluator or licensed  
58 professional engineer shall notify the department in writing of  
59 those services being provided, including the type of treatment,  
60 the type of disposal, and the property address for the treatment  
61 and disposal system. Construction or installation shall not begin  
62 before authorization by the department. The department shall  
63 respond within ten (10) business days with authorization that the  
64 certified professional evaluator or licensed professional engineer  
65 fulfills the requirements of the law.

66 (2) Within five (5) working days following receipt of the  
67 notice of intent and plot plan by an owner, lessee or developer of  
68 any lot or tract of land, the department shall conduct a soil and  
69 site evaluation, except in cases where a certified professional  
70 evaluator or licensed professional engineer provides services  
71 relating to the design, construction or installation of an  
72 individual on-site wastewater disposal system to comply with this

73 chapter. All regulations shall be applied uniformly in all areas  
74 of the state and shall take into consideration and make provision  
75 for different types of soil in the state when performing soil and  
76 site evaluations. Within ten (10) additional working days, the  
77 department shall make recommendations to the owner, lessee or  
78 developer of the type or types of individual on-site wastewater  
79 disposal systems suitable for installation on the lot or tract,  
80 unless there are conditions requiring further investigation that  
81 are revealed in the initial evaluation. In making recommendations  
82 on the type or types of individual on-site wastewater disposal  
83 systems suitable for installation on a lot or tract, personnel of  
84 the department shall use best professional judgment based on rules  
85 and regulations adopted by the board, considering the type or  
86 types of systems which are installed and functioning on lots or  
87 tracts near the subject lot or tract. To the extent practicable,  
88 the recommendations shall give the owner, lessee or developer  
89 maximum flexibility and all options consistent with the federal  
90 Clean Water Act, consistent with maintaining the wastes on the  
91 property of the generator and consistent with protection of the  
92 public health. The system or systems recommended shall be  
93 environmentally sound and cost-effective. The department, a  
94 licensed professional engineer or a certified professional  
95 evaluator shall provide complete information, including all  
96 applicable requirements and regulations on all systems  
97 recommended. The owner, lessee or developer shall have the right

98 to choose among systems. The department shall provide the owner,  
99 lessee or developer with a permit/recommendation that specifies  
100 all types of individual on-site wastewater disposal systems that  
101 are suitable for installation on the lot or tract.

102 (3) Within \* \* \* twenty (20) days of receipt of a request  
103 for determination of suitability of individual on-site wastewater  
104 disposal systems in a subdivision, the department shall advise the  
105 developer in writing either that all necessary information needed  
106 for determination of suitability has been received or state the  
107 additional information needed by the department for determination  
108 of suitability.

109 (4) Whenever a developer requests a determination of  
110 suitability of individual on-site wastewater disposal systems in a  
111 subdivision, the department must make the determination  
112 within \* \* \* twenty (20) days after receipt of all necessary  
113 information needed for the determination of suitability from the  
114 developer. The department shall state in writing the reasons for  
115 its determination.

116 (5) (a) The certified installer shall notify the department  
117 at least twenty-four (24) hours before beginning installation of  
118 an individual on-site wastewater disposal system and, at that  
119 time, schedule a time for inspection of the system with the  
120 appropriate county department of health.

121 (b) A certified installer, or designated agent thereof,  
122 shall not cover his work with soil or other surface material

123 unless the installer has received authorization to cover the  
124 system after an inspection by a department environmentalist, or  
125 unless a department environmentalist does not arrive for  
126 inspection within thirty (30) minutes of the designated and agreed  
127 upon time, in which case a certified installer, or designated  
128 agent thereof, may submit an affidavit of proper installation to  
129 the department for final approval.

130 (6) A person may not design, construct or install, or cause  
131 to be designed, constructed or installed an individual on-site  
132 wastewater disposal system that does not comply with this chapter  
133 and rules and regulations of the board.

134 (7) Any lot or tract that is two (2) acres or larger shall  
135 be exempt from the requirements of this chapter and regulations of  
136 the department relating to approval of individual on-site  
137 wastewater disposal systems by the department, and shall be exempt  
138 from the provisions of Section 41-67-5(2), provided that:

139 (a) All wastewater is contained on the lot or tract;

140 (b) No watercourse, as defined in Section 51-3-3(h), of  
141 Mississippi or the United States is impacted; and

142 (c) The person who installed the individual on-site  
143 wastewater disposal system provides the department with a signed  
144 affidavit attesting that the requirements of paragraphs (a) and  
145 (b) are met.

146 **SECTION 3.** Section 41-67-7, Mississippi Code of 1972, is  
147 brought forward as follows:

148           41-67-7. (1) Approval of the design, construction or  
149 installation of an individual on-site wastewater disposal system  
150 by the department is required, except as otherwise provided in  
151 Section 41-67-6(7). Upon completion of installation of the  
152 system, the department shall approve the design, construction or  
153 installation of that system, as requested, if the system is  
154 designed, constructed and installed, as the case may be, in  
155 accordance with the rules and regulations of the board. Whenever  
156 a person requests approval of an individual on-site wastewater  
157 disposal system and has met the requirements in subsection (3) of  
158 this section, the department must approve or disapprove the  
159 request within five (5) working days. If the department  
160 disapproves the request, the department shall state in writing the  
161 reasons for the disapproval. If the department does not respond  
162 to the request within ten (10) calendar days, the request for  
163 approval of the individual on-site wastewater disposal system  
164 shall be deemed approved.

165           (2) Individual on-site wastewater disposal systems shall be  
166 considered acceptable, provided the following requirements are  
167 met:

168                   (a) Centralized wastewater treatment systems are not  
169 available or feasible;

170                   (b) The existing disposal systems in the area are  
171 functioning satisfactorily;

172 (c) Soil types, soil texture, seasonal water tables and  
173 other limiting factors are satisfactory for underground  
174 absorption;

175 (d) Any private water supply is located at a higher  
176 elevation or it must be properly protected, and at least fifty  
177 (50) feet from the individual on-site wastewater disposal system  
178 and at least one hundred (100) feet from the disposal field of the  
179 system; and

180 (e) The systems meet applicable water quality  
181 requirements of Section 41-67-10.

182 (3) After construction or installation of the individual  
183 on-site wastewater disposal system, the property owner or his  
184 agent shall provide a final approval request containing the  
185 following to the department:

186 (a) A signed affidavit from the installer that the  
187 system was installed in compliance with all requirements,  
188 regulations and permit conditions applicable to the system  
189 installed; and

190 (b) For any advanced treatment system, an affidavit  
191 from the property owner agreeing to a continuing maintenance  
192 agreement on the installed system at the end of the required  
193 manufacturer's maintenance agreement.

194 (4) If any person or certified installer fails to obtain  
195 final approval or submit an affidavit of proper installation to  
196 the department in the installation of the system, the board, after



197 due notice and hearing, may levy an administrative fine not to  
198 exceed Ten Thousand Dollars (\$10,000.00). Each wastewater system  
199 installed not in compliance with this chapter or applicable rules  
200 and regulations of the board may be considered a separate offense.

201 (5) The property owner, if not a qualified homeowner  
202 maintenance provider, shall keep a continuing maintenance  
203 agreement with a certified installer on all advanced treatment  
204 systems in perpetuity. Any person violating this subsection shall  
205 be subject to the penalties and damages as provided in Section  
206 41-67-28(5).

207 **SECTION 4.** Section 41-67-11, Mississippi Code of 1972, is  
208 brought forward as follows:

209 41-67-11. (1) Individual on-site wastewater disposal  
210 systems may be approved in an area where individual on-site  
211 wastewater disposal systems otherwise would not be approved  
212 because of the availability or feasibility of connection to a  
213 centralized wastewater treatment system only after a contract has  
214 been awarded or other definite commitments as are deemed  
215 sufficient to the department are formalized for the construction  
216 of a centralized wastewater treatment system that upon completion  
217 will adequately serve the property. Individual on-site wastewater  
218 disposal systems shall only be approved when the centralized  
219 wastewater treatment system will be completed and available for  
220 use within thirty-six (36) months. The department may approve the  
221 installation of a system under these circumstances only if the

222 system will comply with the requirements of Section 41-67-5(1) and  
223 comply with all construction requirements of the department. The  
224 system may be installed only after the developer has signed a  
225 written agreement with the centralized wastewater treatment  
226 provider stating that the developer will connect to the  
227 centralized wastewater treatment system when it becomes available,  
228 and the provider of the centralized wastewater treatment system  
229 being constructed certifies that the centralized wastewater  
230 treatment system will have adequate capacity to accept the sewage  
231 to be produced by the individual on-site wastewater disposal  
232 systems. The developer shall install an internal sewage  
233 collection system from each lot to the connection point to the  
234 centralized wastewater treatment system as he develops the streets  
235 of the subdivision. Upon completion of the construction of the  
236 centralized wastewater treatment system, all individual on-site  
237 wastewater disposal systems shall be abandoned and all residences,  
238 buildings or facilities connected to the centralized wastewater  
239 treatment system.

240 (2) The department may approve the use of a sewage holding  
241 tank for the purpose of providing sewage services. The department  
242 shall require the proper abandonment and removal of the sewage  
243 holding tank and connection to a centralized wastewater treatment  
244 system when that system is available, or the usage is no longer  
245 needed.

246           **SECTION 5.** This act shall take effect and be in force from  
247 and after July 1, 2025.