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To: Conservation and Water
Resources

HOUSE BILL NO. 949

1 AN ACT TO AMEND SECTION 17-17-227, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT NO SOLID WASTE MANAGEMENT PLAN SHALL INCLUDE ANY
3 PROPOSED NEW NONHAZARDOUS SOLID WASTE SANITARY LANDFILL IF THE NEW
4 LANDFILL IS LOCATED WITHIN A COUNTY HAVING TWO OR MORE EXISTING
5 PERMITTED NONHAZARDOUS SOLID WASTE SANITARY LANDFILLS, UNLESS A
6 REFERENDUM ELECTION HAS BEEN CONDUCTED AND APPROVED; TO AMEND
7 SECTION 17-17-229, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
8 FACILITY PERMIT GRANT OR LOAN MAY NOT BE ISSUED BY ANY AGENCY OF
9 THE STATE FOR ANY NEW NONHAZARDOUS SOLID WASTE SANITARY LANDFILL
10 IF THE NEW LANDFILL IS LOCATED WITHIN A COUNTY HAVING TWO OR MORE
11 EXISTING PERMITTED NONHAZARDOUS SOLID WASTE SANITARY LANDFILLS,
12 UNLESS A REFERENDUM HAS BEEN CONDUCTED AND APPROVED; TO CREATE NEW
13 SECTION 17-17-237, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE
14 REFERENDUM PROCESS; AND FOR RELATED PURPOSES.

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

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

18 17-17-227. (1) Each county, in cooperation with
19 municipalities within the county, shall prepare, adopt and submit
20 to the commission for review and approval a local nonhazardous
21 solid waste management plan for the county. Each local
22 nonhazardous solid waste management plan shall include, at a
23 minimum, the following:



24 (a) An inventory of the sources, composition and
25 quantities by weight or volume of municipal solid waste annually
26 generated within the county, and the source, composition and
27 quantity by weight or volume of municipal solid waste currently
28 transported into the county for management;

29 (b) An inventory of all existing facilities where
30 municipal solid waste is currently being managed, including the
31 environmental suitability and operational history of each
32 facility, and the remaining available permitted capacity for each
33 facility;

34 (c) An inventory of existing solid waste collection
35 systems and transfer stations within the county. The inventory
36 shall identify the entities engaging in municipal solid waste
37 collection within the county;

38 (d) A strategy for achieving a twenty-five percent
39 (25%) waste reduction goal through source reduction, recycling or
40 other waste reduction technologies;

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

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



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

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

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

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

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

66 (iii) Demonstration, to the extent possible, that
67 operation of the proposed facility will not negatively impact the
68 waste reduction strategy of the county, municipality, authority or
69 district that is submitting the plan;

70 (iv) Certification that the proposed service area
71 of the proposed facility is consistent with the local nonhazardous
72 solid waste management plan; 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



97 a local nonhazardous solid waste management plan in accordance
98 with this section.

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

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



122 hearing concerning the plan. The board of supervisors of the
123 county shall publish twice in at least one (1) newspaper as
124 defined in Section 13-3-31, having general circulation within the
125 county, a notice conspicuously displayed containing the time and
126 place of the hearing and the location where the plan is available
127 for review.

128 (b) After the public hearing, the board of supervisors
129 of the county may modify the plan based upon the public's
130 comments. Within ninety (90) days after the public hearing, each
131 board of supervisors shall approve a local nonhazardous solid
132 waste management plan by resolution.

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

139 (6) Upon ratification of the plan, the governing body of the
140 county, authority or district shall submit it to the commission
141 for review and approval in accordance with Section 17-17-225. The
142 commission shall, by order, approve or disapprove the plan within
143 one hundred eighty (180) days after its submission. The
144 commission shall include with an order disapproving a plan a
145 statement outlining the deficiencies in the plan and directing the
146 governing body of the county, authority or district to submit,



147 within one hundred twenty (120) days after issuance of the order,
148 a revised plan that remedies those deficiencies. If the governing
149 body of the county, authority or district, by resolution, requests
150 an extension of the time for submission of a revised plan, the
151 commission may, for good cause shown, grant one (1) extension for
152 a period of not more than sixty (60) additional days.

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

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

163 (9) If the commission finds that the governing body of a
164 county, authority or district has failed to submit a local
165 nonhazardous solid waste management plan, obtain approval of its
166 local nonhazardous solid waste management plan or materially fails
167 to implement its local nonhazardous solid waste management plan,
168 the commission shall issue an order in accordance with Section
169 17-17-29, to the governing body of the county, authority or
170 district.



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

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

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

190 (13) Notwithstanding any provision of this chapter, no solid
191 waste management plan shall include any proposed new nonhazardous
192 solid waste sanitary landfill if such new landfill is located
193 within a county having two (2) or more existing permitted
194 nonhazardous solid waste sanitary landfills unless a referendum
195 election has been conducted and approved pursuant to Section



17-17-237. This subsection (13) shall not apply to the proposed expansion of any existing permitted nonhazardous solid waste landfill.

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.

(3) Notwithstanding any other provision of this chapter, neither the department, the permit board nor any other agency of the State of Mississippi shall issue any permit, grant or loan for any new nonhazardous solid waste sanitary landfill in a county having two (2) or more existing permitted nonhazardous solid waste sanitary landfills unless a referendum election has been conducted and approved pursuant to Section 17-17-237. This subsection (3) shall not apply to the proposed expansion of any existing permitted nonhazardous solid waste landfill.

SECTION 3. The following shall be codified as Section 17-17-237, Mississippi Code of 1972:

17-17-237. (1) No new nonhazardous solid waste sanitary landfill shall be incorporated into any solid waste management plan and no reference in any existing plan to any unpermitted new nonhazardous solid waste sanitary landfill shall be effective, applicable or operative and no permit, grant or loan shall be



approved for any new nonhazardous solid waste sanitary landfill if such new landfill is to be located in a county having two (2) or more existing permitted nonhazardous solid waste sanitary landfills unless and until a local referendum election shall be called and held in the county in which said new nonhazardous solid waste sanitary landfill is proposed and with the results hereinafter provided. The board of supervisors may require the proponent of or applicant for such new nonhazardous solid waste sanitary landfill to pay the costs of any such election.

(2) Upon presentation and filing of a proper petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county, it shall be the duty of the board of supervisors to call an election at which there shall be submitted to the qualified electors of the county the question of whether or not the new nonhazardous solid waste sanitary landfill proposed to be sited within a county having two (2) or more existing permitted nonhazardous solid waste sanitary landfills shall be eligible for consideration by the board of supervisors for inclusion in the solid waste management plan of the county. Such election shall be held and conducted by the county election commissioners on a date fixed by the order of the board of supervisors, which date shall not be more than sixty (60) days from the date of the filing of said petition. Notice thereof shall be given by publishing



such notice once each week for at least three (3) consecutive weeks in some newspaper published in said county or, if no newspaper be published therein, by such publication in a newspaper in an adjoining county and having a general circulation in the county involved. The election shall be held not earlier than fifteen (15) days from the first publication of such notice.

(3) The election shall be held and conducted as far as may be possible in the same manner as is provided by law for the holding of general elections. The ballots used thereat shall contain a brief statement of the proposition submitted and, on separate lines, the words "I vote FOR new nonhazardous solid waste sanitary landfill in _____ County ()", "I vote AGAINST new nonhazardous solid waste sanitary landfill in County ()" with appropriate boxes in which the voters may express their choice. All qualified electors may vote by marking the ballot with a cross (x) or check mark(✓) opposite the words of their choice.

(4) The election commissioners shall canvass and determine the results of the election, and shall certify same to the board of supervisors which shall adopt and spread upon its minutes an order declaring such results. If, in such election, sixty percent (60%) of the qualified electors participating therein shall vote in favor of the proposition, inclusion of the proposed new nonhazardous solid waste sanitary



landfill in a solid waste management plan and permitting of such landfill may be approved provided that all other requirements of law are satisfied as to said landfill. If, on the other hand, sixty percent (60%) of the qualified electors participating therein shall not vote in favor of the proposition, the new landfill may not be included in any solid waste management plan and shall not be permitted. In either case, no further election shall be held in a county under the provisions of this chapter for a period of two (2) years from the date of the prior election and then only upon the filing of a petition requesting same signed by at least twenty percent (20%) or fifteen hundred (1,500), whichever number is the lesser, of the qualified electors of the county as is otherwise provided herein.

SECTION 4. This act shall take effect and be in force from and after its passage.

