

1 SB49  
2 208825-2  
3 By Senator Chambliss  
4 RFD: Governmental Affairs  
5 First Read: 02-FEB-21  
6 PFD: 01/15/2021

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to sewer laterals; to authorize a county,  
12 municipality, or authority incorporated under Title 11, Code  
13 of Alabama 1975, to use public funds to repair or replace  
14 private sewer laterals; to provide a method by which a county,  
15 municipality, or authority using public funds to repair or  
16 replace sewer laterals may recover those public funds; and to  
17 require a county, municipality, or authority repairing or  
18 replacing a private sewer lateral to restore property to its  
19 original condition following the repair or replacement of the  
20 private sewer lateral.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. The Legislature finds and declares all of  
23 the following:

24 (1) The degrading condition of private sewer  
25 laterals in many locations throughout the state has led to a  
26 rise in groundwater and stormwater intrusion into municipal  
27 sewer systems, resulting in overflow of sewage collection and

1 treatment facilities and damage to both public and private  
2 property.

3 (2) Overflow of raw sewage into yards,  
4 right-of-ways, drainage ditches, streams, creeks, and rivers  
5 is a direct threat to the environment, from microscopic  
6 organisms to large animals and even to humans - especially  
7 children that like and need to play outdoors, often in those  
8 same areas vulnerable to overflow.

9 (3) The cost involved in repair or replacement of a  
10 sewer lateral is often unattainable by private individuals.

11 (4) Although the lack of repairs of private sewer  
12 laterals may be a result of neglect or insufficient funds on  
13 the part of private individuals, the effects of degradation of  
14 private sewer laterals as described above constitute a serious  
15 threat to public health.

16 (5) Use of public funds to remedy or combat public  
17 health issues is a primary role of government.

18 (6) The use of public funds to repair private sewer  
19 laterals, for the reasons described in this section, is a  
20 public purpose as that term has been defined by the Supreme  
21 Court of Alabama in *Slawson v. Alabama Forestry Commission*,  
22 631 So.2d 953 (Ala. 1994), and related caselaw and opinions of  
23 the Supreme Court of Alabama; and use of public funds for this  
24 public purpose shall not be considered to be a lending of  
25 credit or a granting of public money or thing of value to or  
26 in aid of any private individual, association, company,

1 partnership, or corporation, within the meaning of any state  
2 constitutional or statutory provision.

3 Section 2. (a) For purposes of this act, "private  
4 sewer lateral" means a sewer line on private property that  
5 connects to a public sewer system, and does not include any  
6 portion of a sewer line within the foundation of a building.

7 (b) (1) Upon receipt of a written request from the  
8 owner of a property that has a private sewer lateral that is  
9 contributing to a serious threat to public health as described  
10 herein and that the owner certifies that he or she is not  
11 financially able to repair or replace, a county, municipality,  
12 or authority incorporated under Title 11, Code of Alabama  
13 1975, may use public funds to repair or replace the private  
14 sewer lateral upon adoption of a resolution detailing that the  
15 repair or replacement constitutes a public purpose, and shall  
16 recover the actual cost of repair or replacement by prorating  
17 the cost of repair or replacement on the utility bill of the  
18 owner of the private sewer lateral. Terms of the recovery of  
19 cost shall be detailed in the resolution and shall be as  
20 mutually agreed by both parties.

21 (2) A county, municipality, or authority shall not  
22 be obligated to replace a private sewer lateral.

23 (3) A county, municipality, or authority using  
24 public funds to repair or replace a private sewer lateral  
25 pursuant to subdivision (1) shall restore the property to the  
26 condition of the property as it existed prior to the repair or  
27 replacement.

1                   (c) A county, municipality, or authority performing  
2 a repair or replacement of a private sewer lateral under  
3 subsection (b) shall not be deemed to be the owner of the  
4 private sewer lateral, nor shall the county, municipality, or  
5 authority be obligated to perform any other duties unless the  
6 county, municipality, or authority adopts a resolution  
7 accepting those duties.

8                   Section 3. This act shall become effective on the  
9 first day of the third month following its passage and  
10 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 02-FEB-21

Read for the second time and placed on the calen-  
dar..... 03-FEB-21

Read for the third time and passed as amended .... 09-FEB-21

Yeas 30  
Nays 0

Patrick Harris,  
Secretary.