

1 HB800  
2 120587-1  
3 By Representative McMillan (N & P)  
4 RFD: Baldwin County Legislation  
5 First Read: 30-MAR-10

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9 A BILL  
10 TO BE ENTITLED  
11 AN ACT  
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13 Relating to Baldwin County and wastewater systems in  
14 the unincorporated area of the county; to provide for a  
15 technical advisory committee to advise the Baldwin County  
16 Commission; to grant certain powers to the Baldwin County  
17 Commission for the purpose of regulating the placement,  
18 construction, operation, and maintenance of wastewater systems  
19 in the unincorporated areas of the county in order to protect  
20 public health, welfare, and environment; to allow the Baldwin  
21 County Commission to establish minimum standards for  
22 construction, operation, and maintenance of certain wastewater  
23 systems operating within the unincorporated areas of the  
24 county; and to require wastewater utilities to register the  
25 applicable components of the wastewater system with the county  
26 commission.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. For purposes of this act, the following  
2 words have the following meanings:

3           (1) COUNTY COMMISSION. The Baldwin County  
4 Commission.

5           (2) SERVICED FACILITY. Any improvement, whether  
6 residential, commercial or industrial, which is connected to  
7 and serviced by a wastewater system as defined herein.

8           (3) WASTEWATER SYSTEM. A system of pipes, lines,  
9 meters, pumps, equipment and facilities, all or part of which  
10 are located in the unincorporated areas of Baldwin County and  
11 which are owned or operated by a wastewater utility, as  
12 defined herein, for the collection, treatment, and disposal of  
13 wastewater from homes, schools, businesses, and other entities  
14 in which solids, sewerage, nonhydrocarbon greases, and oils  
15 are collected for treatment or where wastewater is collected  
16 for disposal. The term does not include individual septic tank  
17 systems and any portable toilet.

18           (4) WASTEWATER UTILITY. The owner or operating  
19 entity of a wastewater system, whether privately owned or  
20 publicly owned, including those portions of privately owned  
21 wastewater systems, municipally owned wastewater systems, and  
22 wastewater systems owned by or through boards or other  
23 entities established by municipal corporations or as otherwise  
24 provided by state law.

25           (5) WASTEWATER. Solids, sewerage, nonhydrocarbon  
26 greases, and oils.

1           Section 2. There is created the Baldwin County  
2   Utility Technical Advisory Committee, which shall advise the  
3   county commission on the development of minimum engineering  
4   and construction standards for wastewater systems within the  
5   unincorporated areas of Baldwin County, including standards  
6   for construction of gravity, low-pressure, or other types of  
7   collection systems. The technical advisory committee shall be  
8   appointed by the county commission, except as provided herein,  
9   and shall consist of seven voting members as follows: The  
10   County Engineer, the County Planning Department Engineer, the  
11   Administrator of the County Health Department, or their  
12   respective designees; a representative from the Alabama  
13   Department of Environmental Management; a registered  
14   professional engineer with sanitary engineering experience;  
15   one member who is an employee from a municipal utility system  
16   within Baldwin County and one member who is a member of the  
17   Baldwin County Mayors' Association, or their designees, with  
18   both members being appointed by the Baldwin County Mayors'  
19   Association. The members shall serve for a term of 3 years and  
20   shall be eligible for reappointment at the discretion of the  
21   county commission. The county commission shall have the  
22   authority to remove a member in accordance with procedures  
23   adopted by the county commission. All meetings of the  
24   technical advisory committee shall be open to the public and  
25   notice of any meeting shall be given not less than 10 days  
26   before the meeting, except in cases of emergencies when  
27   reasonable notice shall be given to the public. The technical

1 advisory committee may be compensated in a manner and to the  
2 extent provided by the county commission.

3           Section 3. (a) After receipt of the recommendations  
4 of the technical advisory committee, the county commission may  
5 establish uniform minimum standards for the design, placement,  
6 construction, operation, and maintenance of wastewater systems  
7 including, but not limited to, individual components thereof,  
8 and may register standards and protocols with each wastewater  
9 utility providing collection, treatment, and disposal services  
10 within the unincorporated areas of Baldwin County subject to  
11 this act. The county commission shall have legislative  
12 oversight over all wastewater utilities which own or operate  
13 wastewater systems within the unincorporated areas of Baldwin  
14 County, and only to the extent that the wastewater systems, or  
15 parts thereof, lie within the unincorporated areas of Baldwin  
16 County. Notwithstanding any provision of state law to the  
17 contrary, the county commission is vested with legislative  
18 oversight regarding the design, placement, construction,  
19 operation, and maintenance of all wastewater systems within  
20 the unincorporated areas of Baldwin County. The rules,  
21 regulations, construction standards, and specifications  
22 adopted by the county commission shall be applied equally and  
23 on a nondiscriminatory basis to all wastewater systems and  
24 wastewater utilities within all unincorporated areas of the  
25 county.

26           (b) The county commission shall have the sole  
27 authority to determine and regulate the location of all pipes,

1 lines, routes, meters, pumps, collection, equipment, stations,  
2 or other facilities of wastewater collection systems or  
3 wastewater utilities, which systems or utilities are situated  
4 inside the extraterritorial planning jurisdictions of  
5 municipalities, in compliance with the more stringent of the  
6 standards of the respective municipality or of the county  
7 commission, with the county commission vested with the  
8 authority to determine which standards are more stringent.

9 Section 4. The county commission shall perform all  
10 of the following in the exercise of its legislative oversight  
11 granted hereunder:

12 (1) Establish uniform minimum standards and  
13 specifications for the design, placement, construction,  
14 operation, and maintenance of wastewater systems within all  
15 unincorporated areas of Baldwin County.

16 (2) Register standards and protocols with each  
17 wastewater utility authorizing the utility to provide  
18 wastewater collection in accordance with this act and with  
19 those requirements established by the county as provided  
20 herein.

21 (3) Establish procedures for the relinquishment of  
22 regulatory oversight by the county commission over those  
23 portions of a wastewater system located in an area that is  
24 annexed by a municipality which provides sewer service.

25 (4) Establish procedures and provide staff,  
26 equipment, and other support for the implementation,  
27 administration, and enforcement of this act.

1                   (5) Establish procedures to address consumer  
2       complaints.

3                   (6) Establish procedures in coordination with  
4       appropriate county, state, and federal entities for the  
5       uniform reporting of information concerning any spills  
6       affecting any public waters or lands, receive monitoring  
7       reports for use in validating system integrity and capacity  
8       availability, and receive from municipal systems the annual  
9       municipal water pollution prevention program.

10                  Section 5. The county commission shall adopt uniform  
11       minimum standards and specifications for the construction and  
12       maintenance of wastewater systems within the unincorporated  
13       areas of Baldwin County to ensure protection of public health,  
14       welfare, and the environment. For purposes of systems or  
15       utilities which are situated inside the extraterritorial  
16       planning jurisdictions of municipalities, the county  
17       commission shall adopt the more stringent of the standards of  
18       the respective municipality or of the county commission as to  
19       the respective system or utility, with the county commission  
20       vested with the authority to determine which standards are  
21       more stringent.

22                  In performing its responsibility, the county  
23       commission shall encourage compatibility in the construction  
24       of wastewater systems, taking into account engineering  
25       feasibility and economy of operation to consumers and the  
26       wastewater utility. The design and construction of the  
27       wastewater system, whether gravity, low-pressure, or any other

1 type of system for the collection and transmission of  
2 wastewater using generally accepted engineering principles,  
3 shall be determined by the wastewater utility, subject to the  
4 approval of the county commission and provided the design and  
5 construction is performed in accordance with the minimum  
6 standards adopted by the county commission. The approval or  
7 denial of a utility's design and construction shall be based  
8 upon the minimum standards. The county commission may  
9 condition the approval of a utility's design and construction  
10 on specified technical changes to a submitted design.

11 After at least two public hearings, the county  
12 commission shall adopt uniform minimum standards,  
13 specifications, rules, and regulations, or amendments thereto,  
14 as it deems appropriate based on the recommendations submitted  
15 by the technical advisory committee and in compliance with  
16 this act. The county commission may modify, expand, or  
17 supplement the recommendations of the technical advisory  
18 committee, subject to the provisions of this act. Notice of  
19 the public hearings regarding the adoption of uniform minimum  
20 standards, and any proposed amendments thereto, shall be  
21 published in a newspaper of general circulation in Baldwin  
22 County once a week for two consecutive weeks. The first  
23 publication shall appear at least 20 days prior to the date of  
24 the first scheduled public hearing. The notice of the public  
25 hearings shall state that a copy of the proposed uniform  
26 minimum standards, specifications, rules, and regulations, or  
27 proposed amendments thereto, shall be available for inspection



1 and copying at the offices of the Baldwin County Commission,  
2 including all satellite offices.

3 The uniform minimum standards and specifications  
4 adopted by the county commission shall include at least all of  
5 the following:

6 (1) The requirement for submission of plans and  
7 specifications, sealed by a professional engineer registered  
8 in the State of Alabama, of a proposed extension or  
9 construction of a wastewater system within the unincorporated  
10 area of Baldwin County prior to the issuance of any permits.

11 (2) The requirement for as-built drawings of the  
12 construction, sealed by a professional engineer registered in  
13 the State of Alabama.

14 (3) Capacity assurances for treatment and collection  
15 facilities reflecting demands on wastewater systems as a  
16 result of services presently being provided and service  
17 commitments already made, but not currently served.

18 (4) An operations and maintenance plan for the  
19 wastewater system, including a plan for handling emergencies.

20 (5) Any other matters pertaining to wastewater  
21 collection or treatment as determined necessary by the county  
22 commission.

23 Section 6. Those portions of existing wastewater  
24 systems installed or permitted prior to the effective date of  
25 this act and prior to the adoption of uniform minimum  
26 standards and specifications by the county commission are  
27 exempt from the uniform minimum standards and specifications

1 for the construction of wastewater systems to be adopted by  
2 the county commission pursuant to Section 5. In the event an  
3 existing wastewater system is replaced or expanded after the  
4 adoption of the uniform minimum standards and specifications,  
5 those portions to be replaced or expanded shall then meet the  
6 requirements of a new wastewater system as set forth in the  
7 adopted minimum standards and specifications to the extent the  
8 requirements do not materially adversely affect the operation  
9 of the remaining portions of the existing wastewater system.

10 Section 7. It is the intent of the Legislature to  
11 ensure the maximum level of service possible and to ensure  
12 protection of the public health, welfare, and the environment  
13 and the viability of wastewater utilities subject to  
14 regulation hereunder. In the event two or more lawful  
15 wastewater systems border the property to be served or are  
16 reasonably available to a property which is otherwise required  
17 to connect to a wastewater system pursuant to the terms of  
18 this act, and further where the wastewater utilities have the  
19 current uncommitted capacity to provide service, a property  
20 owner who is required to connect to a wastewater system  
21 pursuant to this act may choose the wastewater system to which  
22 the property shall be connected, and the property owner may  
23 modify that choice from time to time.

24 Section 8. Anyone aggrieved by any judgment, action,  
25 or decision of any agency, employee, officer, or  
26 representative charged by the county commission with  
27 responsibility for administering the terms of this act or the

1 minimum standards and specifications adopted hereunder, within  
2 60 days from the date of the judgment, action, or decision,  
3 may appeal therefrom to the county commission by filing a  
4 written notice of appeal with the chair or presiding officer  
5 of the county commission, specifying the judgment, action, or  
6 decision from which the appeal is taken. In the case of an  
7 appeal, the county commission shall within 60 days from the  
8 filing of the appeal either affirm the decision of the agency,  
9 employee, officer, or representative or reverse the decision,  
10 in whole or in part, and render the decision as the county  
11 commission deems appropriate. Anyone aggrieved by any  
12 judgment, action, or decision of the county commission made  
13 pursuant to this act may, within 60 days from the date of the  
14 judgment, action, or decision, appeal therefrom to the Circuit  
15 Court of Baldwin County by filing with the court and the chair  
16 or presiding officer of the county commission a written appeal  
17 specifying the judgment, action, or decision from which the  
18 appeal is taken along with the specific grounds therefor. Upon  
19 the filing of the appeal, the county commission shall cause a  
20 record of the proceedings in the matter to be certified to the  
21 Circuit Court. The case shall proceed in Circuit Court  
22 pursuant to the Alabama Rules of Civil Procedure, and the  
23 action in the court shall be tried de novo. Except as  
24 otherwise provided by law, the actions shall have priority  
25 over other civil actions. The non-prevailing party shall be  
26 responsible for all costs of the appeal.

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