

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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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:

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

(1) COUNTY COMMISSION. The Baldwin County Commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Establish procedures to address consumer complaints.

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

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

In performing its responsibility, the county commission shall encourage compatibility in the construction of wastewater systems, taking into account engineering feasibility and economy of operation to consumers and the wastewater utility. The design and construction of the 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.