

1 HB800
2 121393-2
3 By Representative McMillan (N & P)
4 RFD: Baldwin County Legislation
5 First Read: 30-MAR-10

1 ENGROSSED

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4 A BILL
5 TO BE ENTITLED
6 AN ACT
7

8 Relating to Baldwin County and wastewater systems in
9 the unincorporated area of the county; to provide for a
10 technical advisory committee to advise the Baldwin County
11 Commission; to grant certain powers to the Baldwin County
12 Commission for the purpose of regulating the placement within
13 the county rights-of-way, construction, operation, and
14 maintenance of wastewater systems in the unincorporated areas
15 of the county in order to protect public health, welfare, and
16 environment; and to allow the Baldwin County Commission to
17 establish minimum standards for construction, operation, and
18 maintenance of wastewater systems operating within the
19 unincorporated areas of the county.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

23 (1) COUNTY COMMISSION. The Baldwin County
24 Commission.

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

4 (3) WASTEWATER SYSTEM. A system of pipes, lines,
5 meters, pumps, equipment and facilities, all or part of which
6 are located in the unincorporated areas of Baldwin County and
7 which are owned or operated by a wastewater utility, as
8 defined herein, for the collection, treatment, and disposal of
9 wastewater from homes, schools, businesses, and other entities
10 in which solids, sewerage, nonhydrocarbon greases, and oils
11 are collected for treatment or where wastewater is collected
12 for disposal. Individual septic tank systems and all portable
13 toilets are expressly excluded from the definition of the term
14 wastewater system.

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

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

24 Section 2. There is created the Baldwin County
25 Utility Technical Advisory Committee, which shall advise the
26 county commission on the development of minimum engineering

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

1 reasonable notice shall be given to the public. The technical
2 advisory committee may be compensated in a manner and to the
3 extent provided by the county commission.

4 Section 3. After receipt of the recommendations of
5 the technical advisory committee, the county commission shall
6 establish uniform minimum standards for the design, placement
7 within the county rights-of-way, construction, operation, and
8 maintenance of wastewater systems including, but not limited
9 to, individual components thereof located in the
10 unincorporated areas of the county. The uniform rules,
11 regulations, construction standards, and specifications
12 adopted by the county commission shall be applied equally and
13 on a nondiscriminatory basis to all wastewater utilities
14 operating wastewater systems within all unincorporated areas
15 of the county.

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

19 (1) Establish written uniform minimum standards and
20 specifications for the design, placement within the county
21 rights-of-way, construction, operation, and maintenance of
22 wastewater systems within all unincorporated areas of Baldwin
23 County.

24 (2) Establish written procedures for the
25 relinquishment of regulatory oversight by the county

1 commission over those portions of a wastewater system located
2 in an area that is annexed by a municipality.

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

6 (4) Establish written procedures to address consumer
7 complaints.

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

15 Section 5. In the event the county commission
16 exercises the authority granted hereunder, the county
17 commission shall adopt uniform minimum standards and
18 specifications for the construction and maintenance of
19 wastewater systems within the unincorporated areas of Baldwin
20 County to ensure protection of public health, welfare, and the
21 environment. The county commission shall have jurisdiction
22 over all facilities of wastewater utilities within the
23 unincorporated areas of Baldwin County, but only to the extent
24 that the wastewater systems, or parts thereof, lie within the
25 unincorporated areas of Baldwin County. Notwithstanding any
26 provision of state law to the contrary, the county commission

1 is vested with jurisdiction over the design, placement within
2 the county rights-of-way, construction, operation, and
3 maintenance of all wastewater systems within the
4 unincorporated areas of the county.

5 In performing its responsibility, the county
6 commission shall encourage compatibility in the construction
7 of wastewater systems, taking into account engineering
8 feasibility and economy of operation to consumers and the
9 wastewater utility. The design and construction of the
10 wastewater system, whether gravity, low-pressure, or any other
11 type of system for the collection and transmission of
12 wastewater using generally accepted engineering principles,
13 shall be determined by the wastewater utility, provided the
14 design and construction is performed in accordance with the
15 minimum standards adopted by the county commission. The review
16 of a request for approval of a utility's design and
17 construction shall be based upon the minimum standards and
18 such approval or denial shall be provided to the wastewater
19 utility within 30 days of the date of the request. In the
20 event no notice of approval or denial is provided within the
21 30-day period, without the written consent of the wastewater
22 utility granting additional time, the request for approval
23 shall be deemed approved. In the event the request for
24 approval is denied, the reasons for denial shall be clearly
25 stated and set forth in writing and shall be based on the
26 minimum standards adopted by the county commission. The county

1 commission may condition the approval of a utility's design
2 and construction on specified technical changes to a submitted
3 design in order to meet the minimum standards adopted by the
4 county commission.

5 After at least two public hearings, the county
6 commission shall adopt uniform minimum standards,
7 specifications, rules, and regulations, or amendments thereto,
8 as it deems appropriate based on the recommendations submitted
9 by the technical advisory committee and in compliance with
10 this act. The county commission may modify, expand, or
11 supplement the recommendations of the technical advisory
12 committee, subject to the provisions of this act. Notice of
13 the public hearings regarding the adoption of uniform minimum
14 standards, and any proposed amendments thereto, shall be
15 published in a newspaper of general circulation in Baldwin
16 County once a week for four consecutive weeks. The first
17 publication shall appear at least 30 days prior to the date of
18 the first scheduled public hearing. The notice of the public
19 hearings shall state that a copy of the proposed uniform
20 minimum standards, specifications, rules, and regulations, or
21 proposed amendments thereto, shall be available for inspection
22 and copying at the offices of the Baldwin County Commission,
23 including all satellite offices.

24 The uniform minimum standards and specifications
25 adopted by the county commission shall include at least all of
26 the following:

1 (1) The requirement for submission of plans and
2 specifications of a proposed extension or construction of a
3 wastewater system within the unincorporated area of Baldwin
4 County prior to the issuance of any permits.

5 (2) The requirement for as-built drawings of the
6 construction.

7 (3) Capacity assurances by certificate from the
8 wastewater utility for treatment and collection facilities.

9 (4) An operations and maintenance plan for the
10 wastewater system located within the unincorporated areas of
11 the county, including a plan for handling emergencies.

12 Section 6. Those portions of existing wastewater
13 systems installed or permitted prior to the effective date of
14 this act and prior to the adoption of uniform minimum
15 standards and specifications by the county commission, or any
16 amendments thereto, are exempt from the uniform minimum
17 standards and specifications for the construction of
18 wastewater systems to be adopted by the county commission
19 pursuant to Section 5, or any amendments thereto, which are
20 imposed subsequent to the construction of the respective
21 portions of the existing wastewater systems. In the event an
22 existing wastewater system is replaced or expanded after the
23 adoption of the uniform minimum standards and specifications,
24 those portions to be replaced or expanded shall then meet the
25 requirements of a new wastewater system as set forth in the
26 adopted minimum standards and specifications to the extent the

1 requirements do not materially adversely affect the operation
2 of the remaining portions of the existing wastewater system.

3 Section 7. It is the intent of the Legislature to
4 ensure the maximum level of service possible and to ensure
5 protection of the public health, welfare, and the environment
6 and the viability of wastewater utilities subject to
7 regulation hereunder. Subject to any contractual obligations
8 between wastewater utilities and any person or entity related
9 or pertaining to a serviced facility, in the event two or more
10 lawful wastewater systems border the property to be served or
11 are reasonably available to a property which is otherwise
12 required to connect to a wastewater system pursuant to the
13 terms of this act, and further where the wastewater utilities
14 have the current capacity to provide service, a property owner
15 who is required to connect to a wastewater system pursuant to
16 this act may choose the wastewater system to which the
17 property shall be connected, and the property owner may modify
18 that choice from time to time.

19 Section 8. Anyone aggrieved by any judgment, action,
20 or decision of any agency, employee, officer, or
21 representative charged by the county commission with
22 responsibility for administering the terms of this act or the
23 minimum standards and specifications adopted hereunder, within
24 30 days from the date of the judgment, action, or decision,
25 may appeal therefrom to the county commission by filing a
26 written notice of appeal with the chair or presiding officer

1 of the county commission, specifying the judgment, action, or
2 decision from which the appeal is taken. In the case of an
3 appeal, the county commission shall within 45 days from the
4 filing of the appeal either affirm the decision of the agency,
5 employee, officer, or representative or reverse the decision,
6 in whole or in part, and render the decision as the county
7 commission deems appropriate. In the event the county
8 commission fails to take action and render a decision on the
9 appeal within the 45 days from the filing of the appeal, the
10 decision of the agency, employee, officer, or representative
11 shall be deemed approved by the county commission. Anyone
12 aggrieved by any judgment, action, or decision of the county
13 commission made pursuant to this act, within 30 days from the
14 date of the judgment, action, or decision, may appeal
15 therefrom to the Circuit Court of Baldwin County by filing
16 with the court and the chair or presiding officer of the
17 county commission a written appeal specifying the judgment,
18 action, or decision from which the appeal is taken along with
19 the specific grounds therefor. Upon the filing of the appeal,
20 the county commission shall cause a record of the proceedings
21 in the matter to be certified to the circuit court. The case
22 shall proceed in circuit court pursuant to the Alabama Rules
23 of Civil Procedure, and the action in the court shall be tried
24 de novo. Except as otherwise provided by law, the actions
25 shall have priority over other civil actions. The

1 non-prevailing party shall be responsible for all costs of the
2 appeal.

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

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House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Baldwin County
Legislation 30-MAR-10

Read for the second time and placed
on the calendar with 1 substitute
and 01-APR-10

Read for the third time and passed
as amended 08-APR-10

Yeas 48, Nays 0, Abstains 21

Greg Pappas
Clerk