

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

1 SB49

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4 ENROLLED, An Act,

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

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. The Legislature finds and declares all of  
18 the following:

19 (1) The degrading condition of private sewer  
20 laterals in many locations throughout the state has led to a  
21 rise in groundwater and stormwater intrusion into municipal  
22 sewer systems, resulting in overflow of sewage collection and  
23 treatment facilities and damage to both public and private  
24 property.

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

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

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

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

16           (6) The use of public funds to repair private sewer  
17 laterals, for the reasons described in this section, is a  
18 public purpose as that term has been defined by the Supreme  
19 Court of Alabama in *Slawson v. Alabama Forestry Commission*,  
20 631 So.2d 953 (Ala. 1994), and related caselaw and opinions of  
21 the Supreme Court of Alabama; and use of public funds for this  
22 public purpose shall not be considered to be a lending of  
23 credit or a granting of public money or thing of value to or  
24 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 district or authority incorporated under Title 11, Code of  
13 Alabama 1975, may use public funds to repair or replace the  
14 private sewer lateral upon adoption of a resolution detailing  
15 that the repair or replacement constitutes a public purpose,  
16 and shall recover the actual cost of repair or replacement by  
17 prorating the cost of repair or replacement on the utility  
18 bill of the owner of the private sewer lateral. Terms of the  
19 recovery of cost shall be detailed in the resolution and shall  
20 be as mutually agreed by both parties.

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

23 (3) A county, municipality, district, or authority  
24 using public funds to repair or replace a private sewer  
25 lateral pursuant to subdivision (1) shall restore the property

1 to the condition of the property as it existed prior to the  
2 repair or replacement.

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

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

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB49

Senate 09-FEB-21

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris,  
Secretary.

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House of Representatives  
Amended and passed 27-APR-21

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Senate concurred in House amendment 29-APR-21

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By: Senator Chambliss