

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

SYNOPSIS: This bill would provide that the use of public funds to repair or replace sewer laterals on private property is a "public purpose," as that term has been defined by the Supreme Court of Alabama in *Slawson v. Alabama Forestry Commission*, 631 So.2d 953 (Ala. 1994), and related caselaw and opinions of the Supreme Court of Alabama, and would authorize a county, municipality, or authority incorporated under Title 11, Code of Alabama 1975, to repair or replace a private sewer lateral or to transfer public funds for repair or replacement of a private sewer lateral, and to recover the amount of the transfer or the cost of repair or replacement by prorating that amount on the utility bill of the owner of the private sewer lateral.

A BILL  
TO BE ENTITLED  
AN ACT

1           Relating to sewer laterals; to authorize a county,  
2           municipality, or authority incorporated under Title 11, Code  
3           of Alabama 1975, to transfer or use public funds for the  
4           repair or replacement of private sewer laterals; and to  
5           provide a method by which a county, municipality, or authority  
6           transferring or using public funds to repair or replace sewer  
7           laterals may recover those public funds.

8           BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9           Section 1. The Legislature finds and declares all of  
10          the following:

11           (1) The degrading condition of private sewer  
12          laterals in many locations throughout the state has led to a  
13          rise in groundwater and stormwater intrusion into municipal  
14          sewer systems, resulting in overflow of sewage collection and  
15          treatment facilities and damage to both public and private  
16          property.

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

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

25           (4) Although the lack of repairs of private sewer  
26          laterals may be a result of neglect or insufficient funds on  
27          the part of private individuals, the effects of degradation of

1 private sewer laterals as described above constitute a serious  
2 threat to public health.

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

5 (6) The use of public funds to repair private sewer  
6 laterals, for the reasons described in this section, is a  
7 public purpose as that term has been defined by the Supreme  
8 Court of Alabama in *Slawson v. Alabama Forestry Commission*,  
9 631 So.2d 953 (Ala. 1994), and related caselaw and opinions of  
10 the Supreme Court of Alabama; and use of public funds for this  
11 public purpose shall not be considered to be a lending of  
12 credit or a granting of public money or thing of value to or  
13 in aid of any private individual, association, company,  
14 partnership, or corporation, within the meaning of any state  
15 constitutional or statutory provision.

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

20 (b) (1) A county, municipality, or authority  
21 incorporated under Title 11, Code of Alabama 1975, may use  
22 public funds to repair or replace a private sewer lateral, or  
23 transfer public funds to a property owner for the purpose of  
24 repair or replacement of a private sewer lateral on that  
25 property, upon the adoption of a resolution declaring that the  
26 repair, replacement, or transfer constitutes a public purpose,  
27 and may recover the amount of the transfer or the actual cost

1 of repair or replacement, whichever is greater, by prorating  
2 that amount on the utility bill of the owner of the private  
3 sewer lateral.

4 (2) Prior to using or transferring any public funds  
5 under this subsection, a county, municipality, or authority  
6 shall consider the availability of public funds, equipment,  
7 personnel, and facilities and the competing demands of the  
8 county, municipality, or authority for those public funds,  
9 equipment, personnel, and facilities.

10 (c) A county, municipality, or authority  
11 transferring funds or performing a repair or replacement of a  
12 private sewer lateral under subsection (b) shall not be deemed  
13 to be the owner of the private sewer lateral, nor shall the  
14 county, municipality, or authority be obligated to perform any  
15 other duties unless the county, municipality, or authority  
16 adopts a resolution accepting those duties.

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