

1 HB593  
2 212710-1  
3 By Representative Ingram  
4 RFD: County and Municipal Government  
5 First Read: 06-APR-21

8 SYNOPSIS: This bill would provide that the use of  
9 public funds to repair or replace sewer laterals on  
10 private property is a "public purpose," as that  
11 term has been defined by the Supreme Court of  
12 Alabama in *Slawson v. Alabama Forestry Commission*,  
13 631 So.2d 953 (Ala. 1994), and related caselaw and  
14 opinions of the Supreme Court of Alabama, and would  
15 authorize a county, municipality, or authority  
16 incorporated under Title 11, Code of Alabama 1975,  
17 to repair or replace a private sewer lateral or to  
18 transfer public funds for repair or replacement of  
19 a private sewer lateral, and to recover the amount  
20 of the transfer or the cost of repair or  
21 replacement by prorating that amount on the utility  
22 bill of the owner of the private sewer lateral.

24 A BILL  
25 TO BE ENTITLED  
26 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 use public funds to repair or replace  
4           private sewer laterals; to provide a method by which a county,  
5           municipality, or authority using public funds to repair or  
6           replace sewer laterals may recover those public funds; and to  
7           require a county, municipality, or authority repairing or  
8           replacing a private sewer lateral to restore property to its  
9           original condition following the repair or replacement of the  
10          private sewer lateral.

11         BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12                 Section 1. The Legislature finds and declares all of  
13                 the following:

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

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

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

1 (4) Although the lack of repairs of private sewer  
2 laterals may be a result of neglect or insufficient funds on  
3 the part of private individuals, the effects of degradation of  
4 private sewer laterals as described above constitute a serious  
5 threat to public health.

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

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

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

23 (b) (1) Upon receipt of a written request from the  
24 owner of a property that has a private sewer lateral that is  
25 contributing to a serious threat to public health as described  
26 herein and that the owner certifies that he or she is not  
27 financially able to repair or replace, a county, municipality,

1 or authority incorporated under Title 11, Code of Alabama  
2 1975, may use public funds to repair or replace the private  
3 sewer lateral upon adoption of a resolution detailing that the  
4 repair or replacement constitutes a public purpose, and shall  
5 recover the actual cost of repair or replacement by prorating  
6 the cost of repair or replacement on the utility bill of the  
7 owner of the private sewer lateral. Terms of the recovery of  
8 cost shall be detailed in the resolution and shall be as  
9 mutually agreed by both parties.

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

12 (3) A county, municipality, or authority using  
13 public funds to repair or replace a private sewer lateral  
14 pursuant to subdivision (1) shall restore the property to the  
15 condition of the property as it existed prior to the repair or  
16 replacement.

17 (c) A county, municipality, or authority performing  
18 a repair or replacement of a private sewer lateral under  
19 subsection (b) shall not be deemed to be the owner of the  
20 private sewer lateral, nor shall the county, municipality, or  
21 authority be obligated to perform any other duties unless the  
22 county, municipality, or authority adopts a resolution  
23 accepting those duties.

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