

By: Representative Martinson

To: Conservation and  
Water Resources

HOUSE BILL NO. 1224

1 AN ACT TO AMEND SECTIONS 49-2-9 AND 49-2-13, MISSISSIPPI CODE  
2 OF 1972, TO PROHIBIT THE COMMISSION ON ENVIRONMENTAL QUALITY AND  
3 THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY  
4 FROM ADOPTING RULES OR IMPLEMENTING POLICIES WHICH WOULD EXCLUDE  
5 "REGISTERED ENVIRONMENTAL MANAGERS" FROM CONSIDERATION AS BEING  
6 COMPETENT TO OFFER PROFESSIONAL OPINIONS IN RETURN FOR  
7 COMPENSATION, WITH REGARD TO ANY PROGRAM ADMINISTERED UNDER THE  
8 JURISDICTION OF THE COMMISSION; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. Section 49-2-9, Mississippi Code of 1972, is  
11 amended as follows:

12 49-2-9. (1) Effective July 1, 1979, the commission shall  
13 have the following powers and duties:

14 (a) To formulate the policy of the department regarding  
15 natural resources within the jurisdiction of the department;

16 (b) To adopt, modify, repeal, and promulgate, after due  
17 notice and hearing, and where not otherwise prohibited by federal  
18 or state law, to make exceptions to and grant exemptions and  
19 variances from, and to enforce rules and regulations implementing  
20 or effectuating the powers and duties of the commission under any  
21 and all statutes within the commission's jurisdiction, and as the  
22 commission may deem necessary to prevent, control and abate  
23 existing or potential pollution;

24 (c) To apply for, receive and expend any federal or  
25 state funds or contributions, gifts, devises, bequests or funds  
26 from any other source;

27 (d) To commission or conduct studies designed to  
28 determine alternative methods of managing or using the natural  
29 resources of this state, in a manner to insure efficiency and

30 maximum productivity;

31           (e) To enter into, and to authorize the executive  
32 director to execute with the approval of the commission,  
33 contracts, grants and cooperative agreements with any federal or  
34 state agency or subdivision thereof, or any public or private  
35 institution located inside or outside the State of Mississippi, or  
36 any person, corporation or association in connection with carrying  
37 out the provisions of this chapter; but this authority under this  
38 chapter and under any and all statutes within the commission's  
39 jurisdiction, except those statutes relating to the Bureau of  
40 Recreation and Parks, shall not include contracts, grants or  
41 cooperative agreements which do not develop data or information  
42 usable by the commission, or which provide goods, services or  
43 facilities to the commission or any of its bureaus, and shall  
44 exclude any monies for special interest groups for purposes of  
45 lobbying or otherwise promoting their special interests; and

46           (f) To discharge such other duties, responsibilities  
47 and powers as are necessary to implement the provisions of this  
48 chapter.

49       (2) The commission shall not adopt rules, regulations,  
50 ordinances or policies pertaining to any program administered  
51 under its jurisdiction, or on its behalf by the Department of  
52 Environmental Quality, which would exclude registered  
53 environmental managers from being utilized as professional  
54 consultants or considered by the commission as competent to offer  
55 advice or professional opinions in return for compensation with  
56 regard to any such program, or from otherwise participating in  
57 such a program. For purposes of this subsection, the term  
58 "registered environmental manager" means a person who is  
59 registered with the National Registry of Environmental  
60 Professionals.

61       SECTION 2. Section 49-2-13, Mississippi Code of 1972, is  
62 amended as follows:

63       49-2-13. (1) The executive director shall have the  
64 following powers and duties:

65           (a) To administer the policies of the commission within  
66 the authority granted by the commission;

67                   (b) To supervise and direct all administrative and  
68 technical activities of the department;

69                   (c) To organize the administrative units of the  
70 department in accordance with the plan adopted by the commission  
71 and, with commission approval, alter such organizational plan and  
72 reassign responsibilities as he may deem necessary to carry out  
73 the policies of the commission;

74                   (d) To coordinate the activities of the various offices  
75 of the department;

76                   (e) To employ, subject to the approval of the  
77 commission, qualified professional personnel in the subject matter  
78 or fields of each office, and such other technical and clerical  
79 staff as may be required for the operation of the department;

80                   (f) To recommend to the commission such studies and  
81 investigations as he may deem appropriate, and to carry out the  
82 approved recommendations in conjunction with the various offices;

83                   (g) To merge and coordinate functions and duties where  
84 possible to eliminate the possibility of two (2) separate  
85 organizational entities performing the same or similar functions,  
86 including, but not limited to, functions of audit, inspection,  
87 collection, personnel, motor vehicles, accounting, data  
88 processing, payroll and any other such administrative, procedural  
89 or enforcement function;

90                   (h) To coordinate all studies in the State of  
91 Mississippi concerned with the supply, development, use and  
92 conservation of natural resources within the jurisdiction of the  
93 department;

94                   (i) To prepare and deliver to the Legislature and the  
95 Governor on or before January 1 of each year, and at such other  
96 times as may be required by the Legislature or Governor, a full  
97 report of the work of the department and the offices thereof,  
98 including a detailed statement of expenditures of the department  
99 and any recommendations the commission may have;

(j) To issue, modify or revoke any and all orders under authority granted by the commission which include, but are not limited to those which (i) prohibit, control or abate discharges of contaminants and wastes into the air and waters of the state; (ii) require the construction of new disposal systems or air-cleaning devices or any parts thereof, or the modification, extension or alteration of existing disposal systems or air-cleaning devices or any parts thereof, or the adoption of other remedial measures to prevent, control or abate air and water pollution or to cause the proper management of solid wastes; (iii) impose penalties pursuant to Section 17-17-29 and Section 49-17-43 which have been agreed upon with alleged violators; and (iv) require compliance with the conditions of any permit issued by the Permit Board created in Section 49-17-28 and all regulations of the commission; and

(k) With the approval of the commission, to enter into contracts, grants and cooperative agreements with any federal or state agency or subdivision thereof, or any public or private institution located inside or outside the State of Mississippi, or any person, corporation or association in connection with carrying out the provisions of this chapter, provided the agreements do not have a financial cost in excess of the amounts appropriated for such purposes by the Legislature.

(2) The executive director, or any person employed by him or acting in his behalf, shall not implement any policy pertaining to any program administered by the Department of Environmental Quality which would exclude registered environmental managers from being utilized as professional consultants or considered by the commission as competent to offer advice or professional opinions in return for compensation with regard to any such program, or from otherwise participating in such a program. For purposes of this subsection, the term "registered environmental manager" means a person who is registered with the National Registry of

133 Environmental Professionals.

134       SECTION 3. This act shall take effect and be in force from  
135 and after its passage.