

By: Representatives Livingston, Simmons

To: Game and Fish;
Conservation and
Water ResourcesHOUSE BILL NO. 1422
(As Passed the House)

1 AN ACT TO PROVIDE FOR A VOLUNTARY SCENIC STREAMS STEWARDSHIP
2 PROGRAM; TO AUTHORIZE THE DEPARTMENT OF WILDLIFE, FISHERIES AND
3 PARKS TO ADMINISTER SUCH PROGRAM; TO PROVIDE AN ELIGIBILITY AND
4 NOMINATION PROCESS FOR DESIGNATING SCENIC STREAMS REQUIRING
5 LEGISLATIVE APPROVAL; TO PROVIDE FOR THE PROTECTION OF PRIVATE
6 PROPERTY RIGHTS AND TO ENSURE CONTINUATION OF EXISTING USES; TO
7 PROVIDE FOR LOCAL ADVISORY COUNCILS; AND FOR RELATED PURPOSES.

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

9 SECTION 1. This act may be cited as the "Mississippi Scenic
10 Streams Stewardship Act."

11 SECTION 2. Except as otherwise required by the context:

12 (a) "Department" means the Department of Wildlife,
13 Fisheries and Parks.

14 (b) "Stream" means any free-flowing stream or segment
15 of stream that is a public waterway under Section 51-1-4,
16 Mississippi Code of 1972, and has not been channelized within the
17 last five (5) years.

18 SECTION 3. The Legislature finds that certain selected
19 streams and stream segments of this state possess unique or
20 outstanding scenic, recreational, geological, botanical, fish,
21 wildlife, historic or cultural values. It is the policy of the
22 Legislature to provide for the protection of these streams and to
23 conserve the state's natural heritage for the benefit and
24 enjoyment of present and future generations, while preserving the
25 private property rights of riparian landowners.

26 There is a necessity for a rational balance between the use
27 of these streams and the conservation of the natural beauty along
28 these streams. The Legislature finds that this balance will best

29 be achieved through a nonregulatory voluntary stewardship program
30 emphasizing local education, participation and support. The
31 primary goal of the program is to maximize voluntary private
32 conservation efforts and to build and maintain a sense of
33 stewardship among stream users and riparian landowners. To
34 accomplish this goal, the program must provide a nonregulatory
35 framework to obtain cooperative, voluntary management agreements
36 with riparian landowners to maintain scenic values while ensuring
37 the rights of riparian landowners to continue customary uses along
38 the stream.

39 SECTION 4. (1) There is hereby created the State Scenic
40 Streams Stewardship Program. The department shall coordinate the
41 program. The department shall establish and publish minimum
42 criteria for assessing a stream's eligibility for the State Scenic
43 Streams Stewardship Program. To qualify as eligible, the stream
44 must possess unique or outstanding scenic, recreational,
45 geological, botanical, fish, wildlife, historic or cultural
46 values. The level of pollution of a stream's waters must be
47 considered in determining eligibility for qualification as a
48 scenic stream. A stream with relatively polluted waters may
49 qualify as eligible as a scenic stream if other values are
50 considered outstanding.

51 (2) (a) The department shall inventory and evaluate
52 Mississippi streams and identify the streams or stream segments
53 which possess unique or outstanding scenic, recreational,
54 geological, botanical, fish, wildlife, historic or cultural values
55 based on the criteria established under this section.

56 (b) Any Mississippi organization, resident, state
57 agency or local government may request the department to evaluate
58 a stream.

59 (3) If the department determines that a stream meets the
60 eligibility criteria, the department may recommend to the
61 Legislature that a stream or stream segment be listed as eligible
62 for nomination to the State Scenic Streams Stewardship Program.
63 In order for a stream to be listed as eligible for nomination to
64 the State Scenic Streams Stewardship Program, the recommendation
65 must be filed as a bill and must be adopted by the Legislature.

66 SECTION 5. (1) After the eligibility assessment of a stream
67 is completed by the department, and the Legislature enacts
68 legislation approving the eligibility, the stream may be nominated
69 as provided in this section. The department, through the
70 executive director, shall establish an advisory council for that
71 stream. The advisory council must be appointed as early as
72 possible to assist the work of the department. Each council must
73 consist of members who represent a broad range of interest in the
74 vicinity of the eligible stream and shall include, but not be
75 limited to, at least one (1) member from the department, local
76 government, agricultural interests, forestry interests, business
77 interests, conservation interests, recreational interests and
78 riparian landowners who shall constitute a majority of the
79 council. The advisory council shall elect a chairman. The
80 advisory council shall assist and advise the department concerning
81 the nomination of the stream for the program.

82 (2) The department shall hold a public meeting in the
83 vicinity of the eligible stream proposed for nomination to the
84 State Scenic Streams Stewardship Program. This public meeting
85 must be conducted before any action by the department to nominate
86 the eligible stream for inclusion in the State Scenic Streams
87 Stewardship Program. The purpose of this meeting is to receive
88 public comments concerning the proposed nomination of the eligible
89 stream. Notice of this meeting must be published at least thirty
90 (30) days before the meeting in a newspaper having general
91 circulation in each county containing or bordering the eligible
92 stream under study and in a newspaper having general circulation
93 in the state. The department shall notify, in writing, the
94 landowners along the eligible stream. The department and the
95 advisory council shall consider the public comments in its
96 decision whether to nominate the stream.

97 (3) Following the public meeting and after consideration of
98 the public comments, the department and the advisory council may

99 nominate the eligible stream for designation as a scenic stream
100 and inclusion in the program. In order for a stream to be listed
101 as eligible for nomination to the State Scenic Streams Stewardship
102 Program, the nomination must be filed as a bill and adopted by the
103 Legislature. No stream shall be designated as a scenic stream and
104 placed in the program until the Legislature has duly enacted
105 legislation designating the stream as scenic and placing it in the
106 State Scenic Streams Stewardship Program.

107 SECTION 6. (1) After the Legislature has designated a
108 stream as a state scenic stream, the department shall publish a
109 notice of the designation and provide written notice to the
110 affected units of local government and landowners. Notice of the
111 designation also must be published in a newspaper of general
112 circulation in the state to apprise interested parties of the
113 opportunities under this act. The notice must describe the
114 boundaries of the stream or stream segment.

115 (2) (a) The department and the advisory council shall
116 develop a cooperative voluntary stewardship plan for the scenic
117 stream. The department shall consult and cooperate with the State
118 Soil and Water Conservation Commission and the State Forestry
119 Commission in developing the stewardship options utilizing current
120 best management practices. Any other affected state agency may
121 also make recommendations to the department. The plan shall
122 identify current and traditional uses along the stream and outline
123 goals, objectives and action strategies to address the management
124 of resources along the stream.

125 (b) The plan shall utilize best management practices to
126 maintain the scenic values of the stream while ensuring the rights
127 of riparian landowners to continue existing agriculture, forestry,
128 water supply, recreational, commercial and industrial uses and any
129 other uses identified in the plan.

130 (3) (a) The plan shall provide several stewardship options
131 for a landowner. The options shall vary in length of commitment,

132 degree of involvement and enforceability. An option may be
133 modified to meet the needs of a landowner based on the individual
134 attributes of the stream.

135 (b) Participation in the stewardship plan is voluntary.
136 A landowner is under no obligation to participate in the plan. A
137 participating landowner must give at least thirty (30) days'
138 notice of his intent to terminate a nonbinding option and to
139 withdraw from the program.

140 (4) (a) The department may receive by gift, devise, grant
141 or dedication, conservation easements or other interest in real
142 property for the State Scenic Streams Stewardship Program.

143 (b) If any land is donated to the state for the Scenic
144 Streams Stewardship Program and the land ceases to be used in the
145 program, the title to the land reverts to the donor.

146 (5) Any lands placed in the State Scenic Streams Stewardship
147 Program may be obtained only from private or corporate owners
148 voluntarily. Land placed in the State Scenic Streams Stewardship
149 Program shall not be obtained by eminent domain.

150 SECTION 7. This act shall not be construed to prohibit,
151 restrict or otherwise affect any existing or future lawful use or
152 activity in or related to the scenic streams area. This act also
153 shall not be construed to prohibit, restrict or otherwise affect
154 the operation, maintenance or new construction of any facility,
155 road, railroad, bridge, utility, pipeline, crossing or any other
156 structure in or related to the scenic stream area. In the event
157 there is any conflict between this section and any other provision
158 in this act, this section shall control.

159 SECTION 8. (1) The department shall administer this act and
160 may promulgate regulations for the specific powers granted under
161 this act. In the process of administering the Scenic Streams
162 Stewardship Program, the department shall consider, protect and
163 ensure protection of the rights of private ownership and of the
164 voluntary participants in the Scenic Streams Stewardship Programs.

165 (2) The department may enter into agreements with local,
166 state and federal agencies, and private landowners, for the mutual
167 management of a scenic stream. An agency which has administrative
168 jurisdiction over lands or interests in land along a state scenic
169 stream must assist the department to implement the policies and
170 practices of this act.

171 SECTION 9. (1) The department is authorized to conduct a
172 pilot program for the following streams designated as eligible for
173 inclusion in the State Scenic Streams Stewardship Program:

174 (a) Wolf River in Pearl River, Hancock, Stone and
175 Harrison Counties beginning at Mississippi Highway 26 in Pearl
176 River County to the Bay of St. Louis in Harrison County;

177 (b) Black Creek in Lamar, Forrest, Perry, Stone, George
178 and Jackson Counties beginning at Mississippi Highway 589 in Lamar
179 County to the Pascagoula River in Jackson County;

180 (c) Okatoma Creek in Simpson and Covington Counties
181 beginning at the Illinois Central Gulf Railroad in Simpson County
182 to the Bowie River in Covington County;

183 (d) Strong River in Smith, Rankin and Simpson Counties
184 beginning at the confluence of Beech Creek in Smith County to the
185 Pearl River in Simpson County;

186 (e) Pearl River in Winston and Neshoba Counties
187 beginning at the origin, confluence of Nanih Waiya Creek and Bogue
188 Chitto Creek in Winston County to MS Highway 15 in Neshoba County;
189 and

190 (f) Buttahatchie River in Monroe and Lowndes Counties
191 beginning at the Mississippi-Alabama state line in Monroe County
192 to U.S. Highway 45 in Lowndes County.

193 (2) The department shall follow the requirements in this act
194 for the nomination of these streams to the State Scenic Streams
195 Stewardship Program. The department shall report annually to the
196 Legislature on the status of the pilot program.

197 (3) Any landowner entering into a binding agreement for the

198 management of lands in a pilot project shall be eligible for any
199 subsequent incentives that are offered for participation in the
200 State Scenic Streams Stewardship Program.

201 SECTION 10. This act does not confer upon any member of the
202 public the right to the use of or access to private lands within
203 the boundary of a designated scenic stream area and any
204 unauthorized use is trespass and subject to the penalties provided
205 for trespass offenses.

206 SECTION 11. All new programs authorized under this House
207 Bill No. 1422 shall be subject to the availability of funds
208 specifically appropriated therefor by the Legislature during the
209 1999 Regular Session or any subsequent session. It is the intent
210 of the Legislature that this act shall be codified but that no
211 section enacted by this House Bill No. 1422 shall take effect
212 until the Legislature has funded any new programs authorized
213 hereunder by line item appropriation, and the line item
214 appropriation is certified by the Legislative Budget Office to the
215 Secretary of State.

216 SECTION 12. This act shall take effect and be in force from
217 and after July 1, 1999.