

By: Senator(s) Posey, Woodfield, Dearing,
Scoper, Harvey, Thames, Huggins, Stogner

To: Wildlife and
Fisheries

SENATE BILL NO. 2904
(As Passed the Senate)

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 The recommendation must be filed as a bill and must be adopted by
64 the Legislature.

65 SECTION 5. (1) After the eligibility assessment of a stream

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

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

96 (3) Following the public meeting and after consideration of
97 the public comments, the department and the advisory council may
98 nominate the eligible stream for designation as a scenic stream

99 and inclusion in the program. The nomination must be filed as a
100 bill and adopted by the Legislature. No stream shall be
101 designated as a scenic stream and placed in the program until the
102 Legislature has duly enacted legislation designating the stream as
103 scenic and placing it in the State Scenic Streams Stewardship
104 Program.

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

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

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

128 (3) (a) The plan shall provide several stewardship options
129 for a landowner. The options shall vary in length of commitment,
130 degree of involvement and enforceability. An option may be
131 modified to meet the needs of a landowner based on the individual

132 attributes of the stream.

133 (b) Participation in the stewardship plan is voluntary.

134 A landowner is under no obligation to participate in the plan. A
135 participating landowner must give at least thirty (30) days'
136 notice of his intent to terminate a non-binding option and to
137 withdraw from the program.

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

141 (b) If any land is donated to the state for the scenic
142 streams stewardship program and the land ceases to be used in the
143 program, the title to the land reverts to the donor.

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

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

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

163 (2) The department may enter into agreements with local,
164 state and federal agencies, and private landowners, for the mutual

165 management of a scenic stream. An agency which has administrative
166 jurisdiction over lands or interests in land along a state scenic
167 stream must assist the department to implement the policies and
168 practices of this act.

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

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

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

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

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

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

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

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

195 (3) Any landowner entering into a binding agreement for the
196 management of lands in a pilot project shall be eligible for any
197 subsequent incentives that are offered for participation in the

198 State Scenic Streams Stewardship Program.

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

204 SECTION 11. All new programs authorized under this Senate
205 Bill 2904 shall be subject to the availability of funds
206 specifically appropriated therefor by the Legislature during the
207 1999 Regular Session or any subsequent session. It is the intent
208 of the Legislature that this act shall be codified but that no
209 section enacted by this Senate Bill No. 2904 shall take effect
210 until the Legislature has funded any new programs authorized
211 hereunder by line item appropriation, and the line item
212 appropriation is certified by the Legislative Budget Office to the
213 Secretary of State.

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