

By: Ellington

To: Conservation and
Water Resources

HOUSE BILL NO. 1284

1 AN ACT TO AMEND SECTION 17-17-65, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE THE USE OF FUNDS IN THE LOCAL GOVERNMENTS SOLID WASTE
3 ASSISTANCE FUND FOR RIGHT-WAY-TO-THROW-AWAY PROGRAMS; TO AMEND
4 SECTION 17-17-217, MISSISSIPPI CODE OF 1972, TO REVISE THE
5 PERCENTAGE DISTRIBUTION OF FUNDS IN THE ENVIRONMENTAL PROTECTION
6 TRUST FUND; TO INCREASE FROM 50% TO 75% THE PERCENTAGE ALLOCATED
7 TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY FOR ADMINISTRATION OF
8 THE NONHAZARDOUS WASTE PROGRAM; TO REDUCE FROM 50% TO 25% THE
9 PERCENTAGE ALLOCATED TO MAKING GRANTS FOR HOUSEHOLD HAZARDOUS
10 WASTE COLLECTION PROGRAMS; TO AMEND SECTION 17-17-219, MISSISSIPPI
11 CODE OF 1972, TO REVISE THE PERCENTAGE DISTRIBUTION OF THE STATE
12 SOLID WASTE MANAGEMENT FEE; TO DECREASE FROM 50% TO 45% THE
13 PERCENTAGE ALLOCATED FOR THE NONHAZARDOUS SOLID WASTE CORRECTIVE
14 ACTION TRUST FUND; TO INCREASE FROM 15% TO 20% THE PERCENTAGE
15 ALLOCATED TO THE ENVIRONMENTAL PROTECTION TRUST FUND; TO DECREASE
16 FROM \$5,000,000.00 TO \$3,500,000.00 THE AMOUNT OF THE BALANCE OVER
17 WHICH FUNDS WILL BE TRANSFERRED FROM THE NONHAZARDOUS SOLID WASTE
18 CORRECTIVE ACTION TRUST FUND TO THE LOCAL GOVERNMENTS SOLID WASTE
19 ASSISTANCE FUND; TO PROVIDE THAT WHEN THE BALANCE IN THE
20 MISSISSIPPI NONHAZARDOUS SOLID WASTE CORRECTIVE TRUST FUND FALLS
21 BELOW \$2,000,000.00, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL
22 REDUCE PAYMENTS TO THE LOCAL GOVERNMENTS SOLID WASTE ASSISTANCE
23 FUND TO TWO-THIRDS OF THE FUNDS ALLOCATED TO THE NONHAZARDOUS
24 SOLID WASTE CORRECTIVE ACTION TRUST FUND; AND FOR RELATED
25 PURPOSES.

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

27 SECTION 1. Section 17-17-65, Mississippi Code of 1972, is
28 amended as follows:[HS1]

29 17-17-65. (1) There is created in the State Treasury a fund
30 designated as the Local Governments Solid Waste Assistance Fund,
31 referred to in this section as "fund," to be administered by the
32 executive director of the department.

33 (2) The fund shall be used to provide grants to counties,
34 municipalities, regional solid waste management authorities or
35 multi-county entities as provided in subsection (4) of this
36 section for one or more of the following purposes:

37 (a) Cleanup of existing and future unauthorized dumps

38 on public or private property, subject to the limitation in
39 subsection (3) of this section;

40 (b) Establishment of a collection center or program for
41 white goods, recyclables or other bulky rubbish waste not managed
42 by local residential solid waste collection programs;

43 (c) Provision of public notice and education related to
44 the proper management of solid waste, including recycling;

45 (d) Payment of a maximum of fifty percent (50%) of the
46 cost of employing a local solid waste enforcement officer; * * *

47 (e) Payment of a maximum of seventy-five percent (75%)
48 of the cost of conducting household hazardous waste collection
49 programs in accordance with Sections 17-17-439 through 17-17-445;
50 and

51 (f) Development of other local solid waste management
52 program activities associated with the prevention, enforcement or
53 abatement of unauthorized dumps, as approved by the commission.

54 (3) If a person is found to be responsible for creating an
55 unauthorized dump, the grantee shall make a reasonable effort to
56 require that person to clean up the property before expending any
57 monies from the fund to clean up the property. If the grantee is
58 unable to locate the person responsible for creating the dump, or
59 if the grantee determines that person is financially or otherwise
60 incapable of cleaning up the property, the grantee may use the
61 monies from the fund to clean up the property and shall make a
62 reasonable effort to recover from the responsible person any funds
63 expended.

64 (4) (a) Of monies annually deposited in the fund and any
65 balance remaining in the fund, the commission shall annually
66 allocate monies as follows:

67 (i) One-half (1/2) of the deposited funds and
68 remaining balance shall be allocated to each county based on the
69 percentage of State Aid road mileage as established by the
70 Mississippi Department of Transportation State Aid road formula.

71 (ii) One-half (1/2) of the deposited funds and
72 remaining balance shall be made available to counties or
73 municipalities for grants on a competitive basis.

74 (b) The department shall notify the president of the
75 board of supervisors of each county in writing of the amount
76 allocated under paragraph (a)(i) of this subsection and that
77 additional funds are available on a competitive basis as provided
78 under paragraph (a)(ii) of this subsection.

79 (c) Upon receipt of a scope of work and cost proposal
80 acceptable to the commission, the commission shall award a grant
81 to a county up to the allocated amount for that county under
82 paragraph (a)(i) of this subsection. The commission may award
83 additional grant funds from monies available under paragraph
84 (a)(ii) of this subsection based upon the acceptable scope of work
85 and cost proposal.

86 (d) The commission may award grants to a regional solid
87 waste management authority or other multi-county entity upon
88 submission of a consolidated scope of work and cost proposal
89 acceptable to the commission and authorized by the member
90 counties. Upon submission of a scope of work and cost proposal,
91 the commission may award grants to municipalities from monies
92 available under paragraph (a)(ii) of this subsection.

93 (e) No grantee shall use more than three percent (3%)
94 of funds provided under this section to defray the costs of
95 administration of the grant.

96 (5) The department may use up to three percent (3%) of
97 monies annually deposited in the fund and of any balance remaining
98 in the fund to provide for the administration of this section.

99 (6) Expenditures may be made from the fund upon requisition
100 by the executive director of the department.

101 (7) The fund shall be treated as a special trust fund.
102 Interest earned on the principal in the fund shall be credited by
103 the department to the fund.

104 (8) The fund may receive monies from any available public or
105 private source, including, but not limited to, collection of fees,
106 interest, grants, taxes, public and private donations, judicial
107 actions and appropriated funds.

108 (9) Monies in the fund at the end of the fiscal year shall
109 be retained in the fund for use in the succeeding fiscal year.

110 (10) The commission may consolidate any grant provided under
111 this section with any grant provided under the waste tire
112 management program or the right-way-to-throw-away program. Funds
113 provided through any consolidated grant shall be used in
114 accordance with the program under which the funds are provided.

115 (11) Funds provided under this section shall not be used to
116 pay any costs of the establishment or operation of a landfill,
117 rubbish disposal site or other type of solid waste disposal
118 facility, for the routine collection of garbage or to collect any
119 fees assessed under Section 19-5-21 or 21-19-2.

120 (12) The commission shall not provide any funds under this
121 section to any grantee with an inadequate garbage or rubbish
122 collection or disposal system as required under Section 19-5-17 or
123 21-19-1.

124 SECTION 2. Section 17-17-217, Mississippi Code of 1972, is
125 amended as follows:[HS2]

126 17-17-217. (1) There is * * * created in the State Treasury
127 a fund * * * designated as the Environmental Protection Trust
128 Fund, to be administered by the executive director of the
129 department * * *.

130 (2) The Commission on Environmental Quality shall promulgate
131 rules and regulations for the administration of the fund and for a
132 system of priorities for any related projects or programs eligible
133 for funding from the fund.

134 (3) The commission may utilize any funds in the
135 Environmental Protection Fund for the following purposes:

136 (a) Not more than seventy-five percent (75%) shall be

137 utilized for defraying the costs of the Department of
138 Environmental Quality for administering the nonhazardous waste
139 program, including the development of the state nonhazardous solid
140 waste management plan as authorized by law;

141 (b) Not more than twenty-five percent (25%) shall be
142 utilized for making grants to regional solid waste management
143 authorities, counties and municipalities for implementation of
144 household hazardous waste collection programs, in accordance with
145 Sections 17-17-439 through 17-17-445. The grants shall not exceed
146 seventy-five percent (75%) of eligible project costs as
147 established by the commission.

148 (4) Expenditures may be made from the fund upon requisition
149 by the executive director of the department.

150 (5) The fund shall be treated as a special trust fund.
151 Interest earned on the principal in the fund shall be credited by
152 the department to the fund.

153 (6) The fund may receive monies from any available public or
154 private source, including, but not limited to, collection of fees,
155 interest, grants, taxes, public and private donations, petroleum
156 violation escrow funds or refunds, and appropriated funds.

157 SECTION 3. Section 17-17-219, Mississippi Code of 1972, is
158 amended as follows:[HS3]

159 17-17-219. (1) Before July 15 of each year the operator of
160 a commercial nonhazardous solid waste management facility managing
161 municipal solid waste shall file with the State Tax Commission and
162 the department a statement, verified by oath, showing the total
163 amounts of nonhazardous solid waste managed at the facility during
164 the preceding calendar year, and shall at the same time pay to the
165 State Tax Commission One Dollar (\$1.00) per ton of municipal solid
166 waste generated and managed in the state by landfilling or
167 incineration, including waste-to-energy management. The fee shall
168 not be levied upon rubbish which is collected and disposed
169 separately from residential or household waste and which is not

170 managed for compensation. For ash and sludges which contain a
171 significant amount of water, the fee may be calculated on a dry
172 ton basis.

173 (2) (a) Before July 15 of each year, the operator of a
174 commercial nonhazardous solid waste management facility managing
175 municipal solid waste shall file with the State Tax Commission and
176 the department a statement, verified by oath, showing the total
177 amounts of solid waste received from out of state and managed at
178 the facility during the preceding calendar year.

179 (b) Before July 15 of each year, the operator of a
180 commercial nonhazardous solid waste management facility managing
181 municipal solid waste located in this state shall pay to the State
182 Tax Commission an amount equal to the greater of the per-ton fee
183 imposed on the management of out-of-state nonhazardous solid waste
184 by the state from which the nonhazardous solid waste originated or
185 the per-ton fee, if any, imposed on the management of nonhazardous
186 solid waste by this state. The sum shall be based on the total
187 amounts of nonhazardous solid waste managed at the facility during
188 the preceding calendar year and shall be paid to the State Tax
189 Commission at the same time that reports are filed under
190 subsection (2)(a) of this section.

191 (3) (a) Except as provided in subsection (7) of this
192 section, all monies received by the State Tax Commission as
193 provided in this chapter shall be allocated as follows:

194 (i) Forty-five percent (45%) shall be remitted to
195 the Mississippi Nonhazardous Solid Waste Corrective Action Trust
196 Fund;

197 (ii) Thirty-five percent (35%) shall be remitted
198 to the Multimedia Pollution Prevention Fund; and

199 (iii) Twenty percent (20%) shall be remitted to
200 the Environmental Protection Trust Fund.

201 (b) To provide for the maximum effective use of monies
202 collected under this section, the commission, upon determination

203 that unused funds are available from subparagraph (ii), may
204 reallocate those funds to subparagraph (iii).

205 (4) All administrative provisions of the Mississippi Sales
206 Tax Law, including those which fix damages, penalties and interest
207 for nonpayment of taxes and for noncompliance with the provisions
208 of such chapter, and all other duties and requirements imposed
209 upon taxpayers, shall apply to all persons liable for fees under
210 the provisions of this chapter, and the Tax Commissioner shall
211 exercise all the power and authority and perform all the duties
212 with respect to taxpayers under this chapter as are provided in
213 the Mississippi Sales Tax Law except where there is a conflict,
214 then the provisions of this chapter shall control.

215 (5) (a) The operator of a commercial nonhazardous solid
216 waste management facility managing municipal solid waste shall
217 keep an accurate written daily record of deliveries of solid waste
218 to the facility as required by the department, including, but not
219 limited to, the name of the hauler, the source of the waste, the
220 types of waste received and the weight of solid waste measured in
221 tons received at the facility. A copy of these records shall be
222 maintained at the site by the operator and shall be made available
223 to the department for inspection upon request.

224 (b) The operator shall file with the department
225 annually, on such forms as the department may prescribe, a report
226 providing aggregate information on the types, amounts and sources
227 of waste received at the facility during the preceding calendar
228 year. The State Tax Commission and the department shall share
229 information provided under this section.

230 (6) This section shall become effective on January 1
231 following the publication of the final Subtitle D regulations in
232 the Federal Register.

233 (7) When the unobligated balance in the Mississippi
234 Nonhazardous Solid Waste Corrective Action Trust Fund reaches or
235 exceeds Three Million Five Hundred Thousand Dollars

236 (\$3,500,000.00), the department shall pay funds allocated under
237 Section 17-17-219(3)(a)(i) to the Local Governments Solid Waste
238 Assistance Fund created under Section 17-17-65 on the next
239 scheduled payment date. After July 1, 2000, the department may
240 transfer any unobligated balance in the Mississippi Nonhazardous
241 Solid Waste Corrective Action Trust Fund exceeding Three Million
242 Five Hundred Thousand Dollars (\$3,500,000.00) to the Local
243 Governments Solid Waste Assistance Fund. When the unobligated
244 balance is reduced below Two Million Dollars (\$2,000,000.00), the
245 department shall reduce payments to the Local Governments Solid
246 Waste Assistance Fund to two-thirds (2/3) of the funds allocated
247 under Section 17-17-219(3)(a)(i) and shall pay the remaining
248 one-third (1/3) of the funds allocated under Section
249 17-17-219(3)(a)(i) to the Mississippi Nonhazardous Solid Waste
250 Corrective Action Trust Fund until the time as that fund balance
251 reaches or exceeds Three Million Five Hundred Thousand Dollars
252 (\$3,500,000.00).

253 SECTION 4. This act shall take effect and be in force from
254 and after July 1, 2000.