

By: Dearing

To: Environment Prot,
Cons and Water ResSENATE BILL NO. 3022
(As Sent to Governor)

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 MAKE EXCEPTIONS TO THE PERCENTAGE
11 ALLOCATION FOR TRANSFERRED FUNDS; TO AMEND SECTION 17-17-219,
12 MISSISSIPPI CODE OF 1972, TO REVISE THE PERCENTAGE DISTRIBUTION OF
13 THE STATE SOLID WASTE MANAGEMENT FEE; TO DECREASE FROM 50% TO 45%
14 THE PERCENTAGE ALLOCATED FOR THE NONHAZARDOUS SOLID WASTE
15 CORRECTIVE ACTION TRUST FUND; TO INCREASE FROM 15% TO 20% THE
16 PERCENTAGE ALLOCATED TO THE ENVIRONMENTAL PROTECTION TRUST FUND;
17 TO DECREASE FROM \$5,000,000.00 TO \$3,500,000.00 THE AMOUNT OF THE
18 BALANCE OVER WHICH FUNDS WILL BE TRANSFERRED FROM THE NONHAZARDOUS
19 SOLID WASTE CORRECTIVE ACTION TRUST FUND TO THE LOCAL GOVERNMENTS
20 SOLID WASTE ASSISTANCE FUND; TO PROVIDE THAT WHEN THE BALANCE IN
21 THE MISSISSIPPI NONHAZARDOUS SOLID WASTE CORRECTIVE TRUST FUND
22 FALLS BELOW \$2,000,000.00, THE DEPARTMENT OF ENVIRONMENTAL QUALITY
23 SHALL REDUCE PAYMENTS TO THE LOCAL GOVERNMENTS SOLID WASTE
24 ASSISTANCE FUND TO TWO-THIRDS OF THE FUNDS ALLOCATED TO THE
25 NONHAZARDOUS SOLID WASTE CORRECTIVE ACTION TRUST FUND; AND FOR
26 RELATED PURPOSES.

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

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

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

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

38 (a) Cleanup of existing and future unauthorized dumps

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

121 (12) The commission shall not provide any funds under this
122 section to any grantee with an inadequate garbage or rubbish
123 collection or disposal system as required under Section 19-5-17 or
124 21-19-1.

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

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

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

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

137 (i) Not more than seventy-five percent (75%) shall

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

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

149 (b) If the commission transfers monies to the
150 Environmental Protection Trust Fund from any other source of
151 funding administered by the commission, the percentage specified
152 in this subsection shall not apply.

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

155 (5) The fund shall be treated as a special trust fund.
156 Interest earned on the principal in the fund shall be credited by
157 the department to the fund.

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

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

164 17-17-219. (1) Before July 15 of each year the operator of
165 a commercial nonhazardous solid waste management facility managing
166 municipal solid waste shall file with the State Tax Commission and
167 the department a statement, verified by oath, showing the total
168 amounts of nonhazardous solid waste managed at the facility during
169 the preceding calendar year, and shall at the same time pay to the
170 State Tax Commission One Dollar (\$1.00) per ton of municipal solid

171 waste generated and managed in the state by landfilling or
172 incineration, including waste-to-energy management. The fee shall
173 not be levied upon rubbish which is collected and disposed
174 separately from residential or household waste and which is not
175 managed for compensation. For ash and sludges which contain a
176 significant amount of water, the fee may be calculated on a dry
177 ton basis.

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

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

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

199 (i) Forty-five percent (45%) shall be remitted to
200 the Mississippi Nonhazardous Solid Waste Corrective Action Trust
201 Fund;

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

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

206 (b) To provide for the maximum effective use of monies
207 collected under this section, the commission, upon determination
208 that unused funds are available from subparagraph (ii), may
209 reallocate those funds to subparagraph (iii).

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

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

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

235 (6) This section shall become effective on January 1
236 following the publication of the final Subtitle D regulations in

237 the Federal Register.

238 (7) When the unobligated balance in the Mississippi
239 Nonhazardous Solid Waste Corrective Action Trust Fund reaches or
240 exceeds Three Million Five Hundred Thousand Dollars
241 (\$3,500,000.00), the department shall pay funds allocated under
242 Section 17-17-219(3)(a)(i) to the Local Governments Solid Waste
243 Assistance Fund created under Section 17-17-65 on the next
244 scheduled payment date. After July 1, 2000, the department may
245 transfer any unobligated balance in the Mississippi Nonhazardous
246 Solid Waste Corrective Action Trust Fund exceeding Three Million
247 Five Hundred Thousand Dollars (\$3,500,000.00) to the Local
248 Governments Solid Waste Assistance Fund. When the unobligated
249 balance is reduced below Two Million Dollars (\$2,000,000.00), the
250 department shall reduce payments to the Local Governments Solid
251 Waste Assistance Fund to two-thirds (2/3) of the funds allocated
252 under Section 17-17-219(3)(a)(i) and shall pay the remaining
253 one-third (1/3) of the funds allocated under Section
254 17-17-219(3)(a)(i) to the Mississippi Nonhazardous Solid Waste
255 Corrective Action Trust Fund until the time as that fund balance
256 reaches or exceeds Three Million Five Hundred Thousand Dollars
257 (\$3,500,000.00).

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