

By: Representative Ellington

To: Conservation and Water Resources

HOUSE BILL NO. 903
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 17-17-65, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE USES OF THE LOCAL GOVERNMENTS SOLID WASTE ASSISTANCE
3 FUND; TO AMEND SECTION 17-17-217, MISSISSIPPI CODE OF 1972, TO
4 REVISE THE USES OF THE ENVIRONMENTAL PROTECTION TRUST FUND; TO
5 AMEND SECTION 17-17-219, MISSISSIPPI CODE OF 1972, TO REVISE THE
6 DISTRIBUTION OF THE NONHAZARDOUS SOLID WASTE DISPOSAL FEES; TO
7 AMEND SECTION 49-31-25, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
8 THE MULTIMEDIA POLLUTION PREVENTION FEES SHALL BE DEPOSITED INTO
9 THE ENVIRONMENTAL PROTECTION TRUST FUND; TO REPEAL SECTION
10 49-31-23, MISSISSIPPI CODE OF 1972, WHICH CREATES THE MULTIMEDIA
11 POLLUTION PREVENTION FUND AND TO TRANSFER ANY BALANCE REMAINING IN
12 THE FUND TO THE ENVIRONMENTAL PROTECTION TRUST FUND CREATED IN
13 SECTION 17-17-217, MISSISSIPPI CODE OF 1972; AND FOR RELATED
14 PURPOSES.

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

16 **SECTION 1.** Section 17-17-65, Mississippi Code of 1972, is
17 amended as follows:

18 17-17-65. (1) There is created in the State Treasury a fund
19 designated as the Local Governments Solid Waste Assistance Fund,
20 referred to in this section as "fund," to be administered by the
21 executive director of the department.

22 (2) The fund shall be used to provide grants to counties,
23 municipalities, regional solid waste management authorities or
24 multicounty entities as provided in subsection (5) of this section
25 for one or more of the following purposes:

26 (a) Cleanup of existing and future unauthorized dumps
27 on public or private property, subject to the limitation in
28 subsection (4) of this section;

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

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



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

36 (e) Distribution and use as grants to regional solid
37 waste management authorities, counties and municipalities for
38 implementation of household hazardous waste collection programs,
39 in accordance with Sections 17-17-439 through 17-17-445. The
40 grants shall not exceed seventy-five percent (75%) of eligible
41 project costs as established by the commission; and

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

45 (3) The commission shall earmark ten percent (10%) of the
46 amount deposited in the fund annually to be used to make grants to
47 counties, municipalities, regional solid waste management
48 authorities or multicounty entities to assist in defraying the
49 cost of preparing solid waste management plans required by Section
50 17-17-227. The commission shall award these grants according to
51 the merit of grant proposals received by the commission and the
52 level of need and timeliness of the requirement for the county or
53 regional solid waste management authority to update its solid
54 waste management plan.

55 (4) 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 (5) (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 multicounty 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 (6) 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 (7) Expenditures may be made from the fund upon requisition
101 by the executive director of the department.

102 (8) 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 (9) 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 (10) 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 (11) 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 (12) 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 (13) 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:

127 17-17-217. (1) There is created in the State Treasury a
128 fund designated as the Environmental Protection Trust Fund, to be
129 administered by the executive director of the 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 defraying the costs of the
136 Department of Environmental Quality for administering the
137 nonhazardous waste program, including the development of the state
138 nonhazardous solid waste management plan as authorized by law.
139 The commission may also use the fund to accomplish the purposes of
140 the multimedia pollution prevention program created under Section
141 49-31-11.

142 * * *

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

145 (5) The fund shall be treated as a special trust fund.
146 Interest earned on the principal in the fund shall be credited by
147 the department to the fund.

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

152 **SECTION 3.** Section 17-17-219, Mississippi Code of 1972, is
153 amended as follows:

154 17-17-219. (1) Before July 15 of each year the operator of
155 a commercial nonhazardous solid waste management facility managing
156 municipal solid waste shall file with the State Tax Commission and
157 the department a statement, verified by oath, showing the total
158 amounts of nonhazardous solid waste managed at the facility during
159 the preceding calendar year, and shall at the same time pay to the
160 State Tax Commission One Dollar (\$1.00) per ton of municipal solid
161 waste generated and managed in the state by landfilling or
162 incineration, including waste-to-energy management. The fee shall



163 not be levied upon rubbish which is collected and disposed
164 separately from residential or household waste and which is not
165 managed for compensation. For ash and sludges which contain a
166 significant amount of water, the fee may be calculated on a dry
167 ton basis.

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

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

186 (3) * * * Except as provided in subsection (6) of this
187 section, all monies received by the State Tax Commission as
188 provided in this chapter shall be allocated as follows:

189 (a) Fifty percent (50%) shall be remitted to the
190 Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund;
191 and

192 * * *

193 (b) Fifty percent (50%) shall be remitted to the
194 Environmental Protection Trust Fund.

195 * * *



196 (4) All administrative provisions of the Mississippi Sales
197 Tax Law, including those which fix damages, penalties and interest
198 for nonpayment of taxes and for noncompliance with the provisions
199 of such chapter, and all other duties and requirements imposed
200 upon taxpayers, shall apply to all persons liable for fees under
201 the provisions of this chapter, and the Tax Commissioner shall
202 exercise all the power and authority and perform all the duties
203 with respect to taxpayers under this chapter as are provided in
204 the Mississippi Sales Tax Law except where there is a conflict,
205 then the provisions of this chapter shall control.

206 (5) (a) The operator of a commercial nonhazardous solid
207 waste management facility managing municipal solid waste shall
208 keep an accurate written daily record of deliveries of solid waste
209 to the facility as required by the department, including, but not
210 limited to, the name of the hauler, the source of the waste, the
211 types of waste received and the weight of solid waste measured in
212 tons received at the facility. A copy of these records shall be
213 maintained at the site by the operator and shall be made available
214 to the department for inspection upon request.

215 (b) The operator shall file with the department
216 annually, on such forms as the department may prescribe, a report
217 providing aggregate information on the types, amounts and sources
218 of waste received at the facility during the preceding calendar
219 year. The State Tax Commission and the department shall share
220 information provided under this section.

221 * * *

222 (6) When the unobligated balance in the Mississippi
223 Nonhazardous Solid Waste Corrective Action Trust Fund reaches or
224 exceeds Three Million Five Hundred Thousand Dollars
225 (\$3,500,000.00), the department shall pay funds allocated under
226 Section 17-17-219(3)(a) * * * to the Local Governments Solid Waste
227 Assistance Fund created under Section 17-17-65 on the next
228 scheduled payment date. After July 1, 2000, the department may



229 transfer any unobligated balance in the Mississippi Nonhazardous
230 Solid Waste Corrective Action Trust Fund exceeding Three Million
231 Five Hundred Thousand Dollars (\$3,500,000.00) to the Local
232 Governments Solid Waste Assistance Fund. When the unobligated
233 balance is reduced below Two Million Dollars (\$2,000,000.00), the
234 department shall reduce payments to the Local Governments Solid
235 Waste Assistance Fund to two-thirds (2/3) of the funds allocated
236 under Section 17-17-219(3)(a) * * * and shall pay the remaining
237 one-third (1/3) of the funds allocated under Section
238 17-17-219(3)(a) * * * to the Mississippi Nonhazardous Solid Waste
239 Corrective Action Trust Fund until the time as that fund balance
240 reaches or exceeds Three Million Five Hundred Thousand Dollars
241 (\$3,500,000.00).

242 **SECTION 4.** Section 49-31-25, Mississippi Code of 1972, is
243 amended as follows:

244 49-31-25. (1) There is imposed upon each large quantity
245 generator and each small quantity generator that is regulated
246 under the Mississippi hazardous waste management regulations and
247 each facility operator, a pollution prevention fee. The fee upon
248 each large quantity generator and each small quantity generator
249 shall be measured by the quantity of hazardous waste which that
250 generator generates annually. The fee upon each facility operator
251 shall be measured by the quantity of chemicals which each facility
252 releases annually and reports pursuant to Section 313 of EPCRA.
253 For a fee payer that is both a large quantity hazardous waste
254 generator and a facility operator, the fee shall be measured by
255 adding the quantity of fugitive and stack air emissions reported
256 under Section 313 of EPCRA plus the quantity of hazardous waste
257 generated annually. For a fee payer that is both a small quantity
258 hazardous waste generator and a facility operator, the fee shall
259 be measured by the quantity of chemicals released as reported
260 pursuant to Section 313 of EPCRA. The fee shall be assessed in an
261 amount according to the following schedule:



| 262 | TONS GENERATED/RELEASED | | ANNUAL FEE |
|-----|-------------------------|--------------|--------------|
| 263 | 0.01 | to 9.99 | \$ 250.00 |
| 264 | 10.00 | to 99.99 | \$ 500.00 |
| 265 | 100.00 | to 999.99 | \$ 1,500.00 |
| 266 | 1,000.00 | to 9,999.99 | \$ 2,500.00 |
| 267 | 10,000.00 | to 49,999.99 | \$ 10,000.00 |
| 268 | 50,000.00 and above | | \$ 50,000.00 |

269 The fee shall be due and payable to the department not later
270 than September 1 of each year, or not later than a date specified
271 by the department in the invoice which shall be no less than
272 thirty (30) days following receipt of an invoice from the
273 department, whichever is later. The fee shall be based on the
274 quantity of hazardous waste generated and/or chemicals released
275 during the preceding calendar year. The department shall annually
276 prepare an invoice for the amount of the pollution prevention fee
277 due from each generator or facility operator and furnish it to
278 each generator or facility operator. The proceeds of the fee
279 shall be deposited into the Environmental Protection Trust Fund
280 created in Section 17-17-217.

281 (2) From and after July 1, 1995, the department shall
282 exclude from the calculation of the pollution prevention fee any
283 hazardous waste recycled on-site or shipped off-site for recycling
284 as reported on the Mississippi Annual Hazardous Waste Report or
285 its equivalent and any chemicals recycled on-site or shipped
286 off-site for recycling as reported under Section 313 of EPCRA.
287 The hazardous waste generator or the facility operator shall
288 submit any information the department deems necessary to
289 substantiate that the hazardous waste or chemicals were recycled.

290 (3) At the discretion of the commission, a generator or
291 facility operator shall be liable for a penalty not to exceed
292 three (3) times the amount of the fee due and payable for failure
293 to pay the fee on or before the due date, plus the amount
294 necessary to reimburse the cost of collection.



295 (4) From and after July 1, 1995, the department shall
296 exclude from any calculation of pollution prevention fee any
297 hazardous waste or chemical for which a Title V permit fee is
298 assessed to the same generator or facility operator.

299 **SECTION 5.** Section 49-31-23, Mississippi Code of 1972, which
300 creates the Multimedia Pollution Prevention Fund, is repealed and
301 any balance remaining in the fund on July 1, 2002, shall be
302 transferred to the Environmental Protection Trust Fund created in
303 Section 17-17-217.

304 **SECTION 6.** This act shall take effect and be in force from
305 and after July 1, 2002.

