To: Conservation and Water Resources

MISSISSIPPI LEGISLATURE
REGULAR SESSION 2002

By: Representative Ellington

HOUSE BILL NO. 903
(As Sent to Governor)

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

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

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

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

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

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

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

(c) Provision of public notice and education related to the proper management of solid waste, including recycling;
(d) Payment of a maximum of fifty percent (50%) of the

   cost of employing a local solid waste enforcement officer;

(e) Distribution and use as grants to regional solid

   waste management authorities, counties and municipalities for

   implementation of household hazardous waste collection programs,

   in accordance with Sections 17-17-439 through 17-17-445. The

   grants shall not exceed seventy-five percent (75%) of eligible

   project costs as established by the commission; and

(f) Development of other local solid waste management

   program activities associated with the prevention, enforcement or

   abatement of unauthorized dumps, as approved by the commission.

(3) The commission shall earmark ten percent (10%) of the

   amount deposited in the fund annually to be used to make grants to

   counties, municipalities, regional solid waste management

   authorities or multicounty entities to assist in defraying the

   cost of preparing solid waste management plans required by Section

   17-17-227. The commission shall award these grants according to

   the merit of grant proposals received by the commission and the

   level of need and timeliness of the requirement for the county or

   regional solid waste management authority to update its solid

   waste management plan.

(4) If a person is found to be responsible for creating an

   unauthorized dump, the grantee shall make a reasonable effort to

   require that person to clean up the property before expending any

   monies from the fund to clean up the property. If the grantee is

   unable to locate the person responsible for creating the dump, or

   if the grantee determines that person is financially or otherwise

   incapable of cleaning up the property, the grantee may use the

   monies from the fund to clean up the property and shall make a

   reasonable effort to recover from the responsible person any funds

   expended.
(5) (a) Of monies annually deposited in the fund and any balance remaining in the fund, the commission shall annually allocate monies as follows:

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

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

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

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

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

(e) No grantee shall use more than three percent (3%) of funds provided under this section to defray the costs of administration of the grant.
The department may use up to three percent (3%) of monies annually deposited in the fund and of any balance remaining in the fund to provide for the administration of this section.

Expenditures may be made from the fund upon requisition by the executive director of the department.

The fund shall be treated as a special trust fund. Interest earned on the principal in the fund shall be credited by the department to the fund.

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

Monies in the fund at the end of the fiscal year shall be retained in the fund for use in the succeeding fiscal year.

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

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

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

**SECTION 2.** Section 17-17-217, Mississippi Code of 1972, is amended as follows:

There is created in the State Treasury a fund designated as the Environmental Protection Trust Fund, to be administered by the executive director of the department.
(2) The Commission on Environmental Quality shall promulgate rules and regulations for the administration of the fund and for a system of priorities for any related projects or programs eligible for funding from the fund.

(3) The commission may utilize any funds in the Environmental Protection Fund for defraying the costs of the Department of Environmental Quality for administering the nonhazardous waste program, including the development of the state nonhazardous solid waste management plan as authorized by law. The commission may also use the fund to accomplish the purposes of the multimedia pollution prevention program created under Section 49-31-11.

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

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

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

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

17-17-219. (1) Before July 15 of each year the operator of a commercial nonhazardous solid waste management facility managing municipal solid waste shall file with the State Tax Commission and the department a statement, verified by oath, showing the total amounts of nonhazardous solid waste managed at the facility during the preceding calendar year, and shall at the same time pay to the State Tax Commission One Dollar ($1.00) per ton of municipal solid waste generated and managed in the state by landfilling or incineration, including waste-to-energy management. The fee shall
not be levied upon rubbish which is collected and disposed separately from residential or household waste and which is not managed for compensation. For ash and sludges which contain a significant amount of water, the fee may be calculated on a dry ton basis.

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

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

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

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

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

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

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

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

* * *

(6) When the unobligated balance in the Mississippi Nonhazardous Solid Waste Corrective Action Trust Fund reaches or exceeds Three Million Five Hundred Thousand Dollars ($3,500,000.00), the department shall pay funds allocated under Section 17-17-219(3)(a) * * * to the Local Governments Solid Waste Assistance Fund created under Section 17-17-65 on the next scheduled payment date. After July 1, 2000, the department may
transfer any unobligated balance in the Mississippi Nonhazardous
Solid Waste Corrective Action Trust Fund exceeding Three Million
Five Hundred Thousand Dollars ($3,500,000.00) to the Local
Governments Solid Waste Assistance Fund. When the unobligated
balance is reduced below Two Million Dollars ($2,000,000.00), the
department shall reduce payments to the Local Governments Solid
Waste Assistance Fund to two-thirds (2/3) of the funds allocated
under Section 17-17-219(3)(a) *** and shall pay the remaining
one-third (1/3) of the funds allocated under Section
17-17-219(3)(a) *** to the Mississippi Nonhazardous Solid Waste
Corrective Action Trust Fund until the time as that fund balance
reaches or exceeds Three Million Five Hundred Thousand Dollars
($3,500,000.00).

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

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

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02/HR40/R1858SG
PAGE 8 (TB\BD)
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<th>TONS GENERATED/RELEASED</th>
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The fee shall be due and payable to the department not later than September 1 of each year, or not later than a date specified by the department in the invoice which shall be no less than thirty (30) days following receipt of an invoice from the department, whichever is later. The fee shall be based on the quantity of hazardous waste generated and/or chemicals released during the preceding calendar year. The department shall annually prepare an invoice for the amount of the pollution prevention fee due from each generator or facility operator and furnish it to each generator or facility operator. The proceeds of the fee shall be deposited into the Environmental Protection Trust Fund created in Section 17-17-217.280

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

(3) At the discretion of the commission, a generator or facility operator shall be liable for a penalty not to exceed three (3) times the amount of the fee due and payable for failure to pay the fee on or before the due date, plus the amount necessary to reimburse the cost of collection.
(4) From and after July 1, 1995, the department shall exclude from any calculation of pollution prevention fee any hazardous waste or chemical for which a Title V permit fee is assessed to the same generator or facility operator.

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

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