

By: Representative Rotenberry

To: Conservation and Water Resources

HOUSE BILL NO. 1164

1 AN ACT TO AMEND SECTIONS 51-3-9 AND 51-3-35, MISSISSIPPI CODE
2 OF 1972, TO PROVIDE THAT PUBLIC NOTICE SHALL NOT BE REQUIRED FOR
3 THE REISSUANCE OF A WATER USE PERMIT; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 51-3-9, Mississippi Code of 1972, is
6 amended as follows:

7 51-3-9. (1) No permit for water use shall be issued for a
8 period longer than ten (10) years. The right to use of water
9 granted by the permit shall automatically terminate upon the
10 passage of the tenth anniversary date of the permit unless there
11 is pending before the board an application for another water
12 permit which includes the use of the same water permitted under
13 the expiring permit. Six (6) months prior to the tenth
14 anniversary date of such permit, the board shall give actual
15 written notice by certified mail to the permit holder informing
16 him that such permit shall be automatically terminated upon its
17 expiration unless such permit holder has made an application for
18 another water permit as described in this subsection. Public
19 notice shall not be required for the reissuance of a permit. The
20 permit shall be reissued to the permit holder unless his continued
21 use is found to be contrary to the public interest.

22 (2) Notwithstanding the foregoing provision, the board may
23 grant to a municipality, county or other governmental subdivision,
24 a public utility or a publicly regulated utility, a permit to use
25 water for a duration sufficient to amortize the initial capital
26 investment of such permittee in water-related equipment.



27 (3) The board may modify, terminate or decline to reissue a
28 permit upon a showing of good cause, after affording the permittee
29 involved an opportunity for a hearing at which the permittee shall
30 be entitled to be represented by legal counsel and call witnesses
31 and present evidence on his behalf.

32 (4) The board shall issue to any person filing a notice of
33 claim to previously existing rights as provided in Section 51-3-5
34 a permit which reflects such person's rights. However, such
35 person, on or before the tenth anniversary date of the permit so
36 issued by the board, shall file an application to renew such
37 permit or the rights thereunder to the use of water shall
38 automatically terminate upon the expiration of the permit. This
39 decennial filing requirement shall also apply thereafter to each
40 renewed permit.

41 **SECTION 2.** Section 51-3-35, Mississippi Code of 1972, is
42 amended as follows:

43 51-3-35. (1) Upon approval of the application the board
44 shall notify the applicant to that effect and issue a permit
45 authorizing him to take all steps required to apply the water to
46 the approved and proposed beneficial use. An application may be
47 approved for a less amount of water than that requested if, in the
48 opinion of the board, the approval of the full amount requested
49 would interfere with a vested right or is against public interest.
50 An applicant shall be entitled to proceed with construction and
51 with the use of water in accordance with the approval and such
52 limitations as may be prescribed by the board. No initial
53 application shall be approved until the substance thereof shall
54 have been published by the applicant in a newspaper having general
55 circulation in the county wherein the point of diversion or
56 withdrawal exists, at least ten (10) days before approval of such
57 application, and a public hearing accorded any person whose rights
58 may be adversely affected by such approval. At such hearing all
59 persons concerned will be accorded the right of counsel and the



60 right to introduce evidence in their behalf. Public notice shall
61 not be required for the reissuance of a permit.

62 (2) If the application is refused the board shall so notify
63 the applicant, and it shall be unlawful for such applicant to take
64 any steps toward the use of any such water, so long as the refusal
65 shall continue in force. Any person who proceeds to use water,
66 without approval of the board being first obtained, may be
67 enjoined in any court of competent jurisdiction.

68 **SECTION 3.** This act shall take effect and be in force from
69 and after July 1, 2002.

