SENATE BILL NO. 2996

AN ACT TO AMEND SECTION 51-5-15, MISSISSIPPI CODE OF 1972, TO REQUIRE THE COMMISSION ON ENVIRONMENTAL QUALITY TO CONSULT WITH THE ADVISORY COMMITTEE ON WELL DRILLING REGULATIONS; TO CREATE SECTION 51-5-16, MISSISSIPPI CODE OF 1972, TO CREATE AN INTERAGENCY COUNCIL TO CONSOLIDATE EXISTING REGULATIONS AND TO COORDINATE THE PROMULGATION OF FUTURE REGULATIONS ON SIMILAR WELL DRILLING ACTIVITIES; TO AMEND SECTION 51-5-17, MISSISSIPPI CODE OF 1972, TO INCREASE CIVIL PENALTIES FOR VIOLATIONS; TO AMEND SECTIONS 51-5-1 THROUGH 51-5-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO REORGANIZATION NOMENCLATURE; AND FOR RELATED PURPOSES.

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

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

51-5-1. (1) The definition in this subsection applies to Sections 51-5-1 through 51-5-19: "Commission" means the Mississippi Commission on Environmental Quality. (2) Every person, firm and corporation desiring to engage in the business of drilling wells for underground water in the State of Mississippi and every person who opens a well casing to the atmosphere shall file an application with the commission for a drilling license, using forms prepared by the commission, setting out qualifications therefor and such other information, including any examination, oral or written, as may be required by the commission. The fee for such license and the renewal fee shall be One Hundred Dollars ($100.00) for each year. (3) All licenses shall expire on June 30 of each year and shall not be transferable. (4) Nothing in this chapter shall prevent a person who has not obtained a license from constructing or servicing a water well on his own or leased property intended for use only in a single family house which is his permanent residence, or
intended for use only for watering livestock on his farm, and
where the waters to be produced are not intended for use by the
public or any residence other than his own. However, such person
shall comply with all rules and regulations for the construction
of wells as set out by the provisions of this chapter.

(5) This section shall not apply to any person who performs
labor or services at the direction and under the personal
supervision of a licensed well contractor.

(6) A license may be renewed and shall be renewable without
examination for * * * by applying not later than the expiration
date and paying the applicable fee. Such application shall have
the effect of extending the validity of the current license until
the new license is received or the applicant is notified by the
commission that it has refused his license. On application made
after the expiration date, the license shall be renewed only upon
payment of the applicable fee, plus a penalty of Ten Dollars
($10.00) for each month or fraction thereof the application is
delinquent. Delinquency in excess of one (1) year may, in the
discretion of the commission, be deemed as a waiver of the
driller's right for renewal; and if he should apply thereafter,
the commission may require that he be considered as a new
applicant, including the requirement for examination.

(7) Any person whose license has been revoked may, upon
application for a new license, be required, in the discretion of
the commission, to take the examination and in all other ways be
considered as a new applicant.

SECTION 2. Section 51-5-3, Mississippi Code of 1972, is
amended as follows:

51-5-3. (1) In order to be licensed as a water well
contractor in the State of Mississippi, the applicant must be
qualified as set out below:

(a) Be at least twenty-one (21) years of age;
(b) Be of good moral character;
(c) Demonstrate to the satisfaction of the commission a reasonable knowledge of this chapter and the rules and regulations adopted by the commission under this chapter;

(d) Possess the necessary drilling equipment, or present to the commission sufficient evidence to show that he has access to the use of such equipment at any time he needs it; and

(e) Have not less than three (3) years' experience in the work for which he is applying for a license.

(2) Each applicant shall be required to present to the examining committee three (3) notarized affidavits from licensed drillers showing that such applicant has the necessary qualifications and experience to meet the above-stated standards.

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

51-5-5. (1) In carrying out the provisions of this chapter, the commission is empowered, but not limited to, to do the following:

(a) Make reasonable rules and regulations for the purpose of carrying out the provisions of this chapter.

(b) Prepare required forms and establish other procedures to govern the submission of applications, reports and other information as required by this chapter.

(c) Prepare and give reasonable oral or written examinations for license applicants.

(d) Deposit all fees in a special fund for the implementation of this chapter.

(e) Enter upon and be given access to any premises for the purpose of inspecting water wells.

(2) If the commission finds that compliance with all the requirements of this chapter would result in undue hardship, an exemption from one or more of such requirements may be granted by the commission to the extent necessary to ameliorate
such undue hardship and to the extent such exemption can be granted without impairing the intent and purpose of this chapter.

SECTION 4. Section 51-5-7, Mississippi Code of 1972, is amended as follows:

51-5-7. (1) When the commission has reasonable grounds for believing that there has been a violation of this chapter or any applicable rules or regulations, the commission shall give written notice to the person alleged to be in violation. Such notice shall identify the provisions of this chapter or regulation alleged to be violated and the facts alleged. Such notice shall be served in the manner required by law for the service of process upon a person in a civil action, and may be accompanied by an order of the commission requiring described remedial action which, if taken within the time specified in such order, will effect compliance with the requirements of this chapter and applicable regulations.

Such order shall become final within thirty (30) days from the service thereof unless a request for hearing as provided elsewhere in this chapter is made within such time. In lieu of such order the commission may require the person or persons named in such notices to appear at a hearing at a time and place specified in the notice.

(2) When the commission finds that any provision of this chapter has been violated and that disciplinary action by the commission is insufficient or unavailable, then it shall be the duty of the commission to proceed with enforcement of this chapter by proper proceedings through any court of competent jurisdiction.

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

51-5-9. (1) When the commission determines that the holder of any license issued under this chapter has violated this chapter or any applicable rules and regulations, the commission may
suspend or revoke such license. Proceedings under this section shall not be dependent upon having exhausted remedies through any other section of this chapter.

(2) The commission shall notify the suspected violator at least fifteen (15) days before the commission hearing, shall specify to him the grounds for which such license revocation is proposed with such sufficiency as to protect his constitutional rights therein as in other civil hearings pertaining to license revocations, shall give him opportunity to present any witnesses or other reasonable evidence before the commission, and shall comply with established rules of procedure for such commission hearings.

(3) Any order of revocation of license shall become effective thirty (30) days after service of the order. The aggrieved party may appeal from the commission's finding to a court of competent jurisdiction as provided by the laws of the state, provided notice of appeal is given to the commission within ten (10) days of such commission action.

SECTION 6. Section 51-5-11, Mississippi Code of 1972, is amended as follows:

51-5-11. The grounds for revoking a well driller's license are:

(a) That he has intentionally made a material misstatement in the application for such license; or

(b) That he has willfully violated any provisions of this chapter; or

(c) That he has obtained, or attempted to obtain, such license by fraud or misrepresentation; or

(d) That he has been guilty of fraudulent or dishonest practices; or

(e) That he has demonstrated lack of competence as a driller of water wells; or
(f) That he has failed or refused to file reports as required under **this chapter**; or

(g) That he has willfully and contumaciously refused to obey reasonable orders, rules and regulations of the commission.

SECTION 7. Section 51-5-13, Mississippi Code of 1972, is amended as follows:

51-5-13. The driller shall keep accurate records on each water well drilled, including, but not limited to, its location, depth, character of rocks or formations drilled, fluids encountered, and any other reasonable information as the commission may specify. Each driller shall, within thirty (30) days after completion of each well, file a report containing such information in the office of the commission on forms provided by the commission. However, no report or information shall be required to be filed with the commission if the well is a driven well or if it is dug by the use of a hand auger.

SECTION 8. Section 51-5-15, Mississippi Code of 1972, is amended as follows:

51-5-15. (1) The commission shall appoint an advisory committee to advise it, to review, and to make recommendations for the regulation and control of water well drillers **this chapter**, and to assist in examining applicants. The commission shall submit proposed regulations to the advisory committee for review and comment. This advisory committee is hereby reconstituted and shall consist of the following:

(a) The Director of the Office of Land and Water Resources of the Department of Environmental Quality.

(b) The state geologist.

(c) A registered professional engineer competent in water well design and construction.

(d) Five (5) water well contractors, licensed under **this chapter** who shall be appointed from nominations submitted by the Mississippi Water Well Contractor's Association.
(2) The terms of appointment shall be as follows: The water
engineer and state geologist shall be ex officio members. The
registered professional engineer shall be appointed from the state
at large for a term of five (5) years. An environmental drilling
and water quality contractor ** shall be appointed for a term
of one (1) year, a service only pump installer for a term of two
years, one (1) driller who drills larger than eight (8) inch
wells for a term of three (3) years, one (1) driller who drills
four (4) inch to eight (8) inch wells for a term of four (4)
years, ** and one (1) driller who drills four (4) inch and
smaller wells for a term of five (5) years **. After the
initial appointments, the terms shall be for a period of five (5)
years.

In the event of a vacancy on the advisory committee, a
successor shall be appointed to fill the unexpired term. Those
members whose terms expire shall continue to serve until their
successor is appointed and qualifies.

(3) The advisory committee shall elect a chairman and vice
chairman at its first meeting, and election of officers shall take
place annually thereafter.

(4) The advisory committee shall meet at least quarterly at
a time and place determined by the committee.

(5) The advisory committee members may be reimbursed for
actual and necessary expenses incurred in the performance of their
official activities. ** Reimbursement shall be according to
those policies adopted by the State Fiscal Officer **, and
shall be approved by the commission from fees paid under **
this chapter.

SECTION 9. Section 51-5-17, Mississippi Code of 1972, is
amended as follows:

51-5-17. (1) Any person, firm or corporation who engages in
or follows the business or occupation, or advertises, holds itself
out, or acts temporarily or otherwise as a well driller without
having first secured the required license or renewal thereof, or who otherwise violates any provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be fined not less than One Hundred Dollars ($100.00) and not more than One Thousand Dollars ($1,000.00); and each day in which such violation exists or continues shall constitute a separate offense.

(2) In addition to the penalties in subsection (1), any person who violates this chapter, an applicable regulation or an order of the commission, shall be subject to a civil penalty not to exceed One Thousand Dollars ($1,000.00) for each day such noncompliance continues.

SECTION 10. The following shall be codified as Section 51-5-16, Mississippi Code of 1972:

51-5-16. (1) There is hereby created an interagency well drilling regulation review board. The board shall consist of the following:

(a) The Executive Director of the Department of Environmental Quality, or his designee;

(b) The State Health Officer, or his designee;

(c) The Secretary of the State Oil and Gas Board, or his designee;

(d) The Director of the Department of Transportation, or his designee; and

(e) The Director of the Yazoo Water Management District, or his designee.

In addition to the members, the board may add a representative from any agency that has separate but related or interrelated jurisdiction over well drilling activities.

(2) The board shall:

(a) Review all existing regulations and consolidate and conform the regulations to achieve uniformity in areas that are similar to the extent practicable; and
(b) Establish procedures and guidelines for the coordinated promulgation of regulations governing similar activities.

(3) It shall be the duty of each agency on the board and any agency added by the board to cooperate and coordinate with each agency before issuing regulations in order to achieve coordinated, consolidated and consistent regulation of well drilling activities.

(4) Any agency is authorized to enter into agreements with other agencies to implement this section.

SECTION 11. This act shall take effect and be in force from and after July 1, 2002.