

By: Senator(s) Dawkins

To: Finance

SENATE BILL NO. 3029

1 AN ACT TO AUTHORIZE THE MISSISSIPPI COMMISSION ON
 2 ENVIRONMENTAL QUALITY TO ESTABLISH FEES NECESSARY TO DEFRAY THE
 3 COSTS OF OPERATION OF THE COMMISSION, THE MISSISSIPPI
 4 ENVIRONMENTAL QUALITY PERMIT BOARD AND THE MISSISSIPPI DEPARTMENT
 5 OF ENVIRONMENTAL QUALITY; TO CREATE THE DEPARTMENT OF
 6 ENVIRONMENTAL QUALITY PROGRAM FUND; TO AMEND SECTIONS 51-3-31,
 7 51-5-1, 53-7-21, 53-7-25, 53-7-43 AND 53-7-69, MISSISSIPPI CODE OF
 8 1972, TO ALLOW THE COMMISSION TO SET PROGRAM FEES AND TO DIRECT
 9 FEES TO THE DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM FUND; TO
 10 REPEAL SECTION 49-31-25, MISSISSIPPI CODE OF 1972, WHICH
 11 ESTABLISHES MULTIMEDIA POLLUTION PREVENTION FEES; AND FOR RELATED
 12 PURPOSES.

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

14 **SECTION 1.** (1) The commission may establish and collect
 15 fees sufficient to cover all reasonable direct and indirect costs
 16 associated with the development and administration of all programs
 17 and activities within the jurisdiction of the commission, the
 18 Mississippi Department of Environmental Quality or the Mississippi
 19 Environmental Quality Permit Board. These fees shall be set by
 20 the commission at an amount not to exceed the expenses borne by
 21 the state, exclusive of federal funding, in carrying out the
 22 duties of the commission, department and permit board. The
 23 commission may assess fees either as an annual amount to be paid
 24 by a facility or person or as amounts reflecting the costs of
 25 programs. The commission shall review and, if necessary, revise
 26 its fees at least once each year. The commission may establish
 27 fees by order or by regulation.

28 (2) In adopting a fee schedule, the commission shall use
 29 graduated fees to reflect at a minimum, the following factors:

30 (a) The amount of fees remaining in the Department of
 31 Environmental Quality Program Fund at the end of each fiscal year



32 that are available to be credited against the costs of a program;
33 and

34 (b) The types and volume of wastes or emissions, type
35 of facility, population served and any other factors determined
36 necessary to fairly apportion fees to ensure that smaller
37 generators and businesses do not bear an inordinate share of the
38 costs of a program.

39 (3) Any person required to pay fees established by the
40 commission may petition the commission for a hearing as provided
41 under Section 49-17-35.

42 (4) The commission shall file a report by July 31 of each
43 year with the Governor, the Lieutenant Governor and the Speaker of
44 the House describing the type and amount of fees collected and the
45 ratio of general fund appropriations to environmental fees for
46 the preceding fiscal year.

47 (5) It is the intent of the Legislature that fees collected
48 pursuant to this section shall not supplant or reduce in any way
49 the general fund appropriation to the Department of Environmental
50 Quality.

51 (6) The commission shall deposit all fees collected under
52 this section into the "Department of Environmental Quality Program
53 Fund."

54 **SECTION 2.** (1) There is created in the State Treasury a
55 special trust fund to be designated as the "Department of
56 Environmental Quality Program Fund," hereinafter referred to in
57 this section as the "fund." Interest earned on the principal
58 therein shall be credited by the Treasurer to the fund. Monies in
59 the fund at the end of the fiscal year shall be retained in the
60 fund for use in the next succeeding fiscal year. The fund may
61 receive monies from any available public or private source,
62 including, but not limited to, collection of fees, interest,
63 grants, public and private donations, and judicial actions.



64 (2) The commission and the department shall administer the
65 fund as provided in Section 7-7-3.

66 (3) The commission is authorized to utilize any monies in
67 the fund to support the exercise of the powers and duties of the
68 commission, the department and its executive director, and the
69 permit board as set forth in statute. The commission may delegate
70 to the executive director the authority to make expenditures of
71 the fund.

72 **SECTION 3.** The commission may take any administrative or
73 legal action necessary to collect any fee owed to the commission
74 and to collect attorney's fees and costs related to the collection
75 of any fee. The commission may, by regulation or order, impose a
76 late fee for any fee not paid to the commission in a timely
77 fashion and may issue an order directing the holder of a permit
78 who has not paid its fees within ninety (90) days of the fee due
79 date to cease and desist its operations under the permit. The
80 commission may adopt regulations allowing the Mississippi
81 Environmental Quality Permit Board to revoke any permit for which
82 fees due under commission regulations have not been paid within
83 ninety (90) days of the due date.

84 **SECTION 4.** Section 51-3-31, Mississippi Code of 1972, is
85 amended as follows:

86 51-3-31. Any person desiring to use water for a beneficial
87 purpose shall apply to the board for a permit for such use on a
88 form prescribed by the board for such purpose. * * * The
89 application shall provide such information as deemed appropriate
90 by the board to its decision to issue such permit.

91 * * *

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

94 51-5-1. (1) Every person, firm and corporation desiring to
95 engage in the business of drilling wells for underground water in
96 the State of Mississippi shall file an application with the State



97 Board of Water Commissioners for a drilling license, using forms
98 prepared by the board, setting out qualifications therefor and
99 such other information, including any examination, oral or
100 written, as may be required by the board. * * *

101 (2) All licenses shall expire on June 30 of each year and
102 shall not be transferable and shall be renewable annually, without
103 qualifying examination, upon payment of the required fee. * * *

104 (3) Nothing in this chapter shall prevent a person who has
105 not obtained a license pursuant thereto from constructing a water
106 well on his own or leased property intended for use only in a
107 single family house which is his permanent residence, or intended
108 for use only for watering livestock on his farm, and where the
109 waters to be produced are not intended for use by the public or
110 any residence other than his own. However, such person shall
111 comply with all rules and regulations as to the construction of
112 wells as set out by the provisions of this chapter.

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

116 (5) A license may be renewed and shall be renewable without
117 examination for the ensuing year by making an application not
118 later than the expiration date and paying the applicable fee.
119 Such application shall have the effect of extending the validity
120 of the current license until the new license is received or the
121 applicant is notified by the board that it has refused his
122 license. On application made after June 30 of each year, the
123 license will be renewed only upon payment of the applicable fee,
124 plus a penalty of Ten Dollars (\$10.00) for each month or fraction
125 thereof the application is delinquent. Delinquency in excess of
126 one (1) year may, in the discretion of the State Board of Water
127 Commissioners, be deemed as a waiver of the driller's right for
128 renewal; and if he should apply thereafter, the board may require



129 that he be considered as a new applicant, including the
130 requirement for examination.

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

135 **SECTION 6.** Section 53-7-21, Mississippi Code of 1972, is
136 amended as follows:

137 53-7-21. (1) From and after April 15, 1978, no operator
138 shall engage in surface mining without having first submitted a
139 notice of intent or having obtained from the commission a permit
140 for each operation. The approved permit shall authorize the
141 operator to engage in surface mining upon the area of land
142 described in his application for a period of five (5) years from
143 the date of its issuance.

144 In addition to the permit, each operator holding a permit
145 shall annually, on the anniversary date of the permit, file with
146 the commission a certificate of compliance in which the operator,
147 under oath, shall declare that he is following his approved mining
148 and reclamation plan and is abiding by the provisions of this
149 chapter and the rules and regulations of the commission. The
150 commission may establish a fee for filing the certificate of
151 compliance.

152 (2) Before a Class I permit may be issued, a public hearing
153 shall be conducted, and all such applicants shall publish notice
154 pursuant to Section 53-7-45.

155 **SECTION 7.** Section 53-7-25, Mississippi Code of 1972, is
156 amended as follows:

157 53-7-25. Each application for a surface mining permit and
158 each notice of intent shall be accompanied by an initial
159 application fee established by the commission * * *. The
160 commission, in considering regulations pertaining to the
161 application fee * * *, may recognize the differences in the



162 various materials set out herein, taking into consideration the
163 commercial value of the material and the nature and size of
164 operation necessary to extract it. * * *

165 **SECTION 8.** Section 53-7-43, Mississippi Code of 1972, is
166 amended as follows:

167 53-7-43. (1) Amendments to the surface mining plan or
168 reclamation plan may be made in accordance with the regulations of
169 the commission. The commission shall conduct a hearing on the
170 proposed amendments to Class I permits, and may order a hearing on
171 the proposed amendments to Class II permits. Notice shall be
172 published by the Class I operator as provided in Section 53-7-45,
173 and the hearing shall be conducted in accordance with the
174 provisions of Section 53-7-45.

175 (2) In the event the operator seeks to renew his permit for
176 another term, he shall notify the commission of such intent no
177 later than six (6) months prior to the permit's expiration date on
178 a form prescribed by the commission. Upon the submission of such
179 notification to the commission, the commission may, in its
180 discretion, order a public hearing to be held in accordance with
181 the provisions of Section 53-7-45 prior to the expiration of the
182 permit.

183 (3) Permits may be transferred, in the discretion of the
184 commission, pursuant to rules and regulations adopted by the
185 commission which rules and regulations shall be based upon the
186 criteria of the approval of permit applications and the issuance
187 of permits.

188 * * *

189 **SECTION 9.** Section 53-7-69, Mississippi Code of 1972, is
190 amended as follows:

191 53-7-69. (1) All sums received through the payment of * * *
192 loans, grants, penalties and bond damages, less attorney's fees,
193 shall be deposited in the State Treasury to the credit of a
194 special fund to be designated the Land Reclamation Fund which is



195 hereby created in the State Treasury. When appropriated in
196 accordance with Section 27-103-29, Mississippi Code of 1972, this
197 fund shall be available to the commission and may be expended for
198 the administration and enforcement of this chapter and for the
199 reclamation of lands affected by operations. All fees collected
200 shall be deposited in the Department of Environmental Quality
201 Program Fund.

202 (2) Proceeds from the suits on bonds, collateral or deposits
203 and penalties recovered shall be available to be expended to
204 reclaim, in accordance with the provisions of this chapter, lands
205 with respect to which the bonds, collateral or deposits were
206 provided and penalties assessed. Any unused funds may be used to
207 reclaim other unreclaimed lands.

208 **SECTION 10.** Section 49-31-25, Mississippi Code of 1972,
209 which establishes the multimedia pollution prevention fee, is
210 repealed.

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

