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

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

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

(2) In adopting a fee schedule, the commission shall use
graduated fees to reflect at a minimum, the following factors:
(a) The amount of fees remaining in the Department of
Environmental Quality Program Fund at the end of each fiscal year
that are available to be credited against the costs of a program;
and

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

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

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

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

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

SECTION 2. (1) There is created in the State Treasury a
special trust fund to be designated as the "Department of
Environmental Quality Program Fund," hereinafter referred to in
this section as the "fund." Interest earned on the principal
therein shall be credited by the Treasurer to the fund. Monies in
the fund at the end of the fiscal year shall be retained in the
fund for use in the next succeeding fiscal year. The fund may
receive monies from any available public or private source,
including, but not limited to, collection of fees, interest,
grants, public and private donations, and judicial actions.
(2) The commission and the department shall administer the fund as provided in Section 7-7-3.

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

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

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

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

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

51-5-1. (1) Every person, firm and corporation desiring to engage in the business of drilling wells for underground water in the State of Mississippi shall file an application with the State
Board of Water Commissioners for a drilling license, using forms prepared by the board, setting out qualifications therefor and such other information, including any examination, oral or written, as may be required by the board. * * *

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

(3) Nothing in this chapter shall prevent a person who has not obtained a license pursuant thereto from constructing 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 as to the construction of wells as set out by the provisions of this chapter.

(4) 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.

(5) A license may be renewed and shall be renewable without examination for the ensuing year by making an application 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 board that it has refused his license. On application made after June 30 of each year, the license will 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 State Board of Water Commissioners, be deemed as a waiver of the driller's right for renewal; and if he should apply thereafter, the board may require
that he be considered as a new applicant, including the requirement for examination.

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

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

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

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

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

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

53-7-25. Each application for a surface mining permit and each notice of intent shall be accompanied by an initial application fee established by the commission. The commission, in considering regulations pertaining to the application fee, may recognize the differences in the
various materials set out herein, taking into consideration the commercial value of the material and the nature and size of operation necessary to extract it. *

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

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

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

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

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

53-7-69. (1) All sums received through the payment of loans, grants, penalties and bond damages, less attorney's fees, shall be deposited in the State Treasury to the credit of a special fund to be designated the Land Reclamation Fund which is
hereby created in the State Treasury. When appropriated in accordance with Section 27-103-29, Mississippi Code of 1972, this fund shall be available to the commission and may be expended for the administration and enforcement of this chapter and for the reclamation of lands affected by operations. All fees collected shall be deposited in the Department of Environmental Quality Program Fund.

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

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

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