

*****Adopted***
AMENDMENT No. 1 PROPOSED TO**

House Bill NO. 903

By Senator(s) Committee

**Amend by striking all after the enacting clause and inserting in
lieu thereof the following:**

16 **SECTION 1. Section 17-17-65, Mississippi Code of 1972, is**

17 **amended as follows:**

18 **17-17-65. (1) There is created in the State Treasury a fund**

19 **designated as the Local Governments Solid Waste Assistance Fund,**

20 **referred to in this section as "fund," to be administered by the**

21 **executive director of the department.**

22 **(2) The fund shall be used to provide grants to counties,**

23 **municipalities, regional solid waste management authorities or**

24 multicounty entities as provided in subsection ~~(5)~~ of this section for
25 one or more of the following purposes:

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

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

32 (c) Provision of public notice and education related to the
33 proper management of solid waste, including recycling;

34 (d) Payment of a maximum of fifty percent (50%) of the cost
35 of employing a local solid waste enforcement officer;

36 (e) Distribution and use as grants to regional solid waste
37 management authorities, counties and municipalities for
38 implementation of household hazardous waste collection programs, in

39 accordance with Sections 17-17-439 through 17-17-445. The grants
40 shall not exceed seventy-five percent (75%) of eligible project costs as
41 established by the commission; and

42 (f) Development of other local solid waste management
43 program activities associated with the prevention, enforcement or
44 abatement of unauthorized dumps, as approved by the commission.

45 (3) The commission shall earmark ten percent (10%) of the
46 amount deposited in the fund annually to be used to make grants to
47 counties, municipalities, regional solid waste management authorities
48 or multicounty entities to assist in defraying the cost of preparing solid
49 waste management plans required by Section 17-17-227. The
50 commission shall award these grants according to the merit of grant
51 proposals received by the commission and the level of need and
52 timeliness of the requirement for the county or regional solid waste
53 management authority to update its solid waste management plan.

54 **(4)** If a person is found to be responsible for creating an
55 **unauthorized dump, the grantee shall make a reasonable effort to**
56 **require that person to clean up the property before expending any**
57 **monies from the fund to clean up the property. If the grantee is unable**
58 **to locate the person responsible for creating the dump, or if the**
59 **grantee determines that person is financially or otherwise incapable of**
60 **cleaning up the property, the grantee may use the monies from the**
61 **fund to clean up the property and shall make a reasonable effort to**
62 **recover from the responsible person any funds expended.**

63 **(5) (a)** Of monies annually deposited in the fund and any balance
64 **remaining in the fund, the commission shall annually allocate monies**
65 **as follows:**

66 **(i) One-half (1/2) of the deposited funds and remaining**
67 **balance shall be allocated to each county based on the percentage of**
68 **state aid road mileage as established by the Mississippi Department of**

69 **Transportation State Aid road formula.**

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

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

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

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

91 **(e) No grantee shall use more than three percent (3%) of**
92 **funds provided under this section to defray the costs of administration**
93 **of the grant.**

94 ~~**(6)**~~ **The department may use up to three percent (3%) of monies**
95 **annually deposited in the fund and of any balance remaining in the**
96 **fund to provide for the administration of this section.**

97 ~~**(7)**~~ **Expenditures may be made from the fund upon requisition by**
98 **the executive director of the department.**

99 **(8)** The fund shall be treated as a special trust fund. Interest
100 earned on the principal in the fund shall be credited by the department
101 to the fund.

102 **(9)** The fund may receive monies from any available public or
103 private source, including, but not limited to, collection of fees, interest,
104 grants, taxes, public and private donations, judicial actions and
105 appropriated funds.

106 **(10)** Monies in the fund at the end of the fiscal year shall be
107 retained in the fund for use in the succeeding fiscal year.

108 **(11)** The commission may consolidate any grant provided under
109 this section with any grant provided under the waste tire management
110 program or the right-way-to-throw-away program. Funds provided
111 through any consolidated grant shall be used in accordance with the
112 program under which the funds are provided.

113 **(12)** Funds provided under this section shall not be used to pay

114 any costs of the establishment or operation of a landfill, rubbish
115 disposal site or other type of solid waste disposal facility, for the
116 routine collection of garbage or to collect any fees assessed under
117 Section 19-5-21 or 21-19-2.

118 ~~(13)~~ The commission shall not provide any funds under this
119 section to any grantee with an inadequate garbage or rubbish
120 collection or disposal system as required under Section 19-5-17 or
121 21-19-1.

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

124 17-17-217. (1) There is created in the State Treasury a fund
125 designated as the Environmental Protection Trust Fund, to be
126 administered by the executive director of the department.

127 (2) The Commission on Environmental Quality shall promulgate
128 rules and regulations for the administration of the fund and for a

129 **system of priorities for any related projects or programs eligible for**
130 **funding from the fund.**

131 **(3) * * * The commission may utilize any funds in the**
132 **Environmental Protection Fund * * * for defraying the costs of the**
133 **Department of Environmental Quality for administering the**
134 **nonhazardous waste program, including the development of the state**
135 **nonhazardous solid waste management plan as authorized by law.**
136 **The commission may also use the fund to accomplish the purposes of**
137 **the multimedia pollution prevention program created under Section**
138 **49-31-11.**

139 *** * ***

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

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

144 to the fund.

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

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

151 **17-17-219. (1) Before July 15 of each year the operator of a**
152 **commercial nonhazardous solid waste management facility managing**
153 **municipal solid waste shall file with the State Tax Commission and the**
154 **department a statement, verified by oath, showing the total amounts of**
155 **nonhazardous solid waste managed at the facility during the preceding**
156 **calendar year, and shall at the same time pay to the State Tax**
157 **Commission One Dollar (\$1.00) per ton of municipal solid waste**
158 **generated and managed in the state by landfilling or incineration,**

159 including waste-to-energy management. The fee shall not be levied
160 upon rubbish which is collected and disposed separately from
161 residential or household waste and which is not managed for
162 compensation. For ash and sludges which contain a significant
163 amount of water, the fee may be calculated on a dry ton basis.

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

170 (b) Before July 15 of each year, the operator of a
171 commercial nonhazardous solid waste management facility managing
172 municipal solid waste located in this state shall pay to the State Tax
173 Commission an amount equal to the greater of the per-ton fee imposed

174 on the management of out-of-state nonhazardous solid waste by the
175 state from which the nonhazardous solid waste originated or the
176 per-ton fee, if any, imposed on the management of nonhazardous solid
177 waste by this state. The sum shall be based on the total amounts of
178 nonhazardous solid waste managed at the facility during the preceding
179 calendar year and shall be paid to the State Tax Commission at the
180 same time that reports are filed under subsection (2)(a) of this section.

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

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

186 * * *

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

189 * * *

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

200 **(5) (a) The operator of a commercial nonhazardous solid waste**
201 **management facility managing municipal solid waste shall keep an**
202 **accurate written daily record of deliveries of solid waste to the facility**
203 **as required by the department, including, but not limited to, the name**

204 of the hauler, the source of the waste, the types of waste received and
205 the weight of solid waste measured in tons received at the facility. A
206 copy of these records shall be maintained at the site by the operator
207 and shall be made available to the department for inspection upon
208 request.

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

215 * * *

216 (6) When the unobligated balance in the Mississippi
217 Nonhazardous Solid Waste Corrective Action Trust Fund reaches or
218 exceeds Three Million Five Hundred Thousand Dollars (\$3,500,000.00),

219 **the department shall pay funds allocated under Section**
220 **17-17-219(3)(a) * * * to the Local Governments Solid Waste Assistance**
221 **Fund created under Section 17-17-65 on the next scheduled payment**
222 **date. After July 1, 2000, the department may transfer any unobligated**
223 **balance in the Mississippi Nonhazardous Solid Waste Corrective**
224 **Action Trust Fund exceeding Three Million Five Hundred Thousand**
225 **Dollars (\$3,500,000.00) to the Local Governments Solid Waste**
226 **Assistance Fund. When the unobligated balance is reduced below**
227 **Two Million Dollars (\$2,000,000.00), the department shall reduce**
228 **payments to the Local Governments Solid Waste Assistance Fund to**
229 **two-thirds (2/3) of the funds allocated under Section**
230 **17-17-219(3)(a) * * * and shall pay the remaining one-third (1/3) of the**
231 **funds allocated under Section 17-17-219(3)(a) * * * to the Mississippi**
232 **Nonhazardous Solid Waste Corrective Action Trust Fund until the time**
233 **as that fund balance reaches or exceeds Three Million Five Hundred**

234 **Thousand Dollars (\$3,500,000.00).**

235 **SECTION 4. Section 49-31-25, Mississippi Code of 1972, is**

236 **amended as follows:**

237 **49-31-25. (1) There is imposed upon each large quantity**
238 **generator and each small quantity generator that is regulated under**
239 **the Mississippi hazardous waste management regulations and each**
240 **facility operator, a pollution prevention fee. The fee upon each large**
241 **quantity generator and each small quantity generator shall be**
242 **measured by the quantity of hazardous waste which that generator**
243 **generates annually. The fee upon each facility operator shall be**
244 **measured by the quantity of chemicals which each facility releases**
245 **annually and reports pursuant to Section 313 of EPCRA. For a fee**
246 **payer that is both a large quantity hazardous waste generator and a**
247 **facility operator, the fee shall be measured by adding the quantity of**
248 **fugitive and stack air emissions reported under Section 313 of EPCRA**

249 plus the quantity of hazardous waste generated annually. For a fee
 250 payer that is both a small quantity hazardous waste generator and a
 251 facility operator, the fee shall be measured by the quantity of
 252 chemicals released as reported pursuant to Section 313 of EPCRA.
 253 The fee shall be assessed in an amount according to the following
 254 schedule:

255	TONS GENERATED/RELEASED			ANNUAL FEE
256	0.01	to	9.99	\$ 250.00
257	10.00	to	99.99	\$ 500.00
258	100.00	to	999.99	\$ 1,500.00
259	1,000.00	to	9,999.99	\$ 2,500.00
260	10,000.00	to	49,999.99	\$ 10,000.00
261	50,000.00 and above			\$ 50,000.00

262 The fee shall be due and payable to the department not later than
 263 September 1 of each year, or not later than a date specified by the

264 **department in the invoice which shall be no less than thirty (30) days**
265 **following receipt of an invoice from the department, whichever is later.**

266 **The fee shall be based on the quantity of hazardous waste generated**
267 **and/or chemicals released during the preceding calendar year. The**
268 **department shall annually prepare an invoice for the amount of the**
269 **pollution prevention fee due from each generator or facility operator**
270 **and furnish it to each generator or facility operator. The proceeds of**
271 **the fee shall be deposited into the Environmental Protection Trust**
272 **Fund created in Section 17-17-217.**

273 **(2) From and after July 1, 1995, the department shall exclude**
274 **from the calculation of the pollution prevention fee any hazardous**
275 **waste recycled on-site or shipped off-site for recycling as reported on**
276 **the Mississippi Annual Hazardous Waste Report or its equivalent and**
277 **any chemicals recycled on-site or shipped off-site for recycling as**
278 **reported under Section 313 of EPCRA. The hazardous waste generator**

279 or the facility operator shall submit any information the department
280 deems necessary to substantiate that the hazardous waste or
281 chemicals were recycled.

282 (3) At the discretion of the commission, a generator or facility
283 operator shall be liable for a penalty not to exceed three (3) times the
284 amount of the fee due and payable for failure to pay the fee on or
285 before the due date, plus the amount necessary to reimburse the cost
286 of collection.

287 (4) From and after July 1, 1995, the department shall exclude
288 from any calculation of pollution prevention fee any hazardous waste
289 or chemical for which a Title V permit fee is assessed to the same
290 generator or facility operator.

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

294 the Environmental Protection Trust Fund created in Section 17-17-217.

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

Further, amend by striking the title in its entirety and inserting in
lieu thereof the following:

1 AN ACT TO AMEND SECTION 17-17-65, MISSISSIPPI CODE OF
2 1972, TO REVISE THE USES OF THE LOCAL GOVERNMENTS SOLID
3 WASTE ASSISTANCE FUND; TO AMEND SECTION 17-17-217,
4 MISSISSIPPI CODE OF 1972, TO REVISE THE USES OF THE
5 ENVIRONMENTAL PROTECTION TRUST FUND; TO AMEND SECTION
6 17-17-219, MISSISSIPPI CODE OF 1972, TO REVISE THE
7 DISTRIBUTION OF THE NONHAZARDOUS SOLID WASTE DISPOSAL
8 FEES; TO AMEND SECTION 49-31-25, MISSISSIPPI CODE OF 1972, TO
9 PROVIDE THAT THE MULTIMEDIA POLLUTION PREVENTION FEES
10 SHALL BE DEPOSITED INTO THE ENVIRONMENTAL PROTECTION
11 TRUST FUND; TO REPEAL SECTION 49-31-23, MISSISSIPPI CODE OF
12 1972, WHICH CREATES THE MULTIMEDIA POLLUTION PREVENTION
13 FUND AND TO TRANSFER ANY BALANCE REMAINING IN THE FUND
14 TO THE ENVIRONMENTAL PROTECTION TRUST FUND CREATED IN
15 SECTION 17-17-217, MISSISSIPPI CODE OF 1972; AND FOR RELATED
16 PURPOSES.