

By: Representative Franks

To: Conservation and Water
Resources

HOUSE BILL NO. 1363

1 AN ACT TO BRING FORWARD SECTION 49-2-4, MISSISSIPPI CODE OF
2 1972, RELATING TO THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL
3 QUALITY AND THE APPOINTMENT OF THE EXECUTIVE DIRECTOR, FOR
4 PURPOSES OF AMENDMENT; TO BRING FORWARD SECTION 49-2-7,
5 MISSISSIPPI CODE OF 1972, RELATING TO THE POWERS AND DUTIES OF THE
6 DEPARTMENT OF ENVIRONMENTAL RESOURCES, FOR PURPOSES OF AMENDMENT;
7 TO BRING FORWARD SECTION 49-2-9, MISSISSIPPI CODE OF 1972,
8 RELATING TO THE POWERS AND DUTIES OF THE COMMISSION ON
9 ENVIRONMENTAL QUALITY, FOR PURPOSES OF AMENDMENT; TO BRING FORWARD
10 SECTION 49-2-13, MISSISSIPPI CODE OF 1972, RELATING TO THE POWERS
11 AND DUTIES OF THE EXECUTIVE DIRECTOR, FOR PURPOSES OF AMENDMENT;
12 AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** Section 49-2-4, Mississippi Code of 1972, is
15 brought forward as follows:

16 49-2-4. (1) There is hereby created the Mississippi
17 Department of Environmental Quality whose offices shall be located
18 in Jackson, Mississippi.

19 (2) The department shall be headed by an executive director
20 who shall be appointed by and serve at the pleasure of the
21 Governor. The appointment of the executive director shall be made
22 with the advice and consent of the Senate. The executive director
23 may assign to the appropriate bureaus such powers and duties as
24 deemed appropriate to carry out the department's lawful functions.
25 The executive director shall have the following minimum
26 qualifications:

27 (a) A master's degree in a field related to natural
28 resources, and at least six (6) years' full-time experience in
29 natural resources, including at least three (3) years of
30 management experience; or

31 (b) A bachelor's degree in a field related to natural
32 resources or administration and at least eight (8) years of

33 full-time work in the field of natural resources, including four
34 (4) years of management experience.

35 The executive director shall be the chief administrative
36 officer of the department.

37 **SECTION 2.** Section 49-2-7, Mississippi Code of 1972, is
38 brought forward as follows:

39 49-2-7. The Department of Environmental Quality shall be the
40 Mississippi Department of Natural Resources with the exception of
41 the Office of Parks and Recreation, and shall retain all powers
42 and duties granted by law to the Mississippi Department of Natural
43 Resources with the exception of the Office of Parks and
44 Recreation, and wherever the term "Mississippi Department of
45 Natural Resources" appears in any law the same shall mean the
46 Department of Environmental Quality. The Executive Director of
47 the Department of Environmental Quality may assign to the
48 appropriate offices any powers and duties deemed appropriate to
49 carry out the lawful duties of the department.

50 The department shall be composed of the following offices:

- 51 (a) Office of Geology and Energy Resources;
- 52 (b) Office of Land and Water Resources; and
- 53 (c) Office of Pollution Control.

54 Each office shall be composed of the administrative units set
55 forth in the consolidation plan adopted by the commission, subject
56 to changes by the executive director, with approval of the
57 commission, as hereinafter set forth.

58 The department is designated as the single state department
59 to receive and expend any federal funds being received or expended
60 by any agency transferred to the department by Chapter 484, Laws
61 of 1978, and to receive and expend any federal funds made
62 available for matters within the jurisdiction of the department.

63 The department shall be responsible for conserving, managing,
64 developing and protecting the natural resources of the State of
65 Mississippi within the jurisdiction of the department, with the

66 exception of functions of the Office of Recreation and Parks. The
67 department shall coordinate all functions of state government
68 related to natural resources within the jurisdiction of the
69 department. The department shall not exercise any of its
70 authority or powers granted under the provisions of this section
71 in a manner which would be inconsistent with the provisions of
72 Section 29-1-1.

73 **SECTION 3.** Section 49-2-9, Mississippi Code of 1972, is
74 brought forward as follows:

75 49-2-9. (1) Effective July 1, 1979, the commission shall
76 have the following powers and duties:

77 (a) To formulate the policy of the department regarding
78 natural resources within the jurisdiction of the department;

79 (b) To adopt, modify, repeal, and promulgate, after due
80 notice and hearing, and where not otherwise prohibited by federal
81 or state law, to make exceptions to and grant exemptions and
82 variances from, and to enforce rules and regulations implementing
83 or effectuating the powers and duties of the commission under any
84 and all statutes within the commission's jurisdiction, and as the
85 commission may deem necessary to prevent, control and abate
86 existing or potential pollution;

87 (c) To apply for, receive and expend any federal or
88 state funds or contributions, gifts, devises, bequests or funds
89 from any other source;

90 (d) To commission or conduct studies designed to
91 determine alternative methods of managing or using the natural
92 resources of this state, in a manner to insure efficiency and
93 maximum productivity;

94 (e) To enter into, and to authorize the executive
95 director to execute with the approval of the commission,
96 contracts, grants and cooperative agreements with any federal or
97 state agency or subdivision thereof, or any public or private
98 institution located inside or outside the State of Mississippi, or

99 any person, corporation or association in connection with carrying
100 out the provisions of this chapter; but this authority under this
101 chapter and under any and all statutes within the commission's
102 jurisdiction, except those statutes relating to the Bureau of
103 Recreation and Parks, shall not include contracts, grants or
104 cooperative agreements which do not develop data or information
105 usable by the commission, or which provide goods, services or
106 facilities to the commission or any of its bureaus, and shall
107 exclude any monies for special interest groups for purposes of
108 lobbying or otherwise promoting their special interests; and

109 (f) To discharge such other duties, responsibilities
110 and powers as are necessary to implement the provisions of this
111 chapter.

112 (2) The Mississippi Department of Environmental Quality,
113 Office of Geology and Energy Resources shall be responsible for
114 program management, procurement, development and maintenance of
115 the Mississippi Digital Earth Model, which should include the
116 following seven (7) core data layers of a digital land base
117 computer model of the State of Mississippi:

118 (a) Geodetic control;

119 (b) Elevation and bathymetry;

120 (c) Orthoimagery;

121 (d) Hydrography;

122 (e) Transportation;

123 (f) Government boundaries; and

124 (g) Cadastral. With respect to the cadastral layer,
125 the authority and responsibility of the Mississippi Department of
126 Environmental Quality, Office of Geology and Energy Resources
127 shall be limited to compiling information submitted by counties.

128 For all seven (7) framework layers, the Mississippi
129 Department of Environmental Quality, Office of Geology and Energy
130 Resources shall be the integrator of data from all sources and the
131 guarantor of data completeness and consistency and shall

132 administer the council's policies and standards for the
133 procurement of remote sensing and geographic information system
134 data by state and local governmental entities.

135 **SECTION 4.** Section 49-2-13, Mississippi Code of 1972, is
136 brought forward as follows:

137 49-2-13. The executive director shall have the following
138 powers and duties:

139 (a) To administer the policies of the commission within
140 the authority granted by the commission;

141 (b) To supervise and direct all administrative and
142 technical activities of the department;

143 (c) To organize the administrative units of the
144 department in accordance with the plan adopted by the commission
145 and, with commission approval, alter such organizational plan and
146 reassign responsibilities as he may deem necessary to carry out
147 the policies of the commission;

148 (d) To coordinate the activities of the various offices
149 of the department;

150 (e) To employ, subject to the approval of the
151 commission, qualified professional personnel in the subject matter
152 or fields of each office, and such other technical and clerical
153 staff as may be required for the operation of the department;

154 (f) To recommend to the commission such studies and
155 investigations as he may deem appropriate, and to carry out the
156 approved recommendations in conjunction with the various offices;

157 (g) To merge and coordinate functions and duties where
158 possible to eliminate the possibility of two (2) separate
159 organizational entities performing the same or similar functions,
160 including, but not limited to, functions of audit, inspection,
161 collection, personnel, motor vehicles, accounting, data
162 processing, payroll and any other such administrative, procedural
163 or enforcement function;

164 (h) To coordinate all studies in the State of
165 Mississippi concerned with the supply, development, use and
166 conservation of natural resources within the jurisdiction of the
167 department;

168 (i) To prepare and deliver to the Legislature and the
169 Governor on or before January 1 of each year, and at such other
170 times as may be required by the Legislature or Governor, a full
171 report of the work of the department and the offices thereof,
172 including a detailed statement of expenditures of the department
173 and any recommendations the commission may have;

174 (j) To issue, modify or revoke any and all orders under
175 authority granted by the commission which include, but are not
176 limited to those which (i) prohibit, control or abate discharges
177 of contaminants and wastes into the air and waters of the state;
178 (ii) require the construction of new disposal systems or
179 air-cleaning devices or any parts thereof, or the modification,
180 extension or alteration of existing disposal systems or
181 air-cleaning devices or any parts thereof, or the adoption of
182 other remedial measures to prevent, control or abate air and water
183 pollution or to cause the proper management of solid wastes; (iii)
184 impose penalties pursuant to Section 17-17-29 and Section 49-17-43
185 which have been agreed upon with alleged violators; and (iv)
186 require compliance with the conditions of any permit issued by the
187 Permit Board created in Section 49-17-28 and all regulations of
188 the commission; and

189 (k) With the approval of the commission, to enter into
190 contracts, grants and cooperative agreements with any federal or
191 state agency or subdivision thereof, or any public or private
192 institution located inside or outside the State of Mississippi, or
193 any person, corporation or association in connection with carrying
194 out the provisions of this chapter, provided the agreements do not
195 have a financial cost in excess of the amounts appropriated for
196 such purposes by the Legislature.

197 **SECTION 5.** This act shall take effect and be in force from
198 and after July 1, 2004.