

House Amendments to Senate Bill No. 2853

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

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

27 **SECTION 1.** Section 29-7-1, Mississippi Code of 1972, is
28 amended as follows:

29 29-7-1. (1) The Mississippi Major Economic Impact Authority
30 shall be the mineral lease commission, and shall exercise the
31 duties and responsibilities of the mineral lease commission * * *
32 under the provisions of Sections 29-7-1 et seq.

33 (2) The words "mineral lease commission," whenever they may
34 appear in the laws of the State of Mississippi, shall be construed
35 to mean the Mississippi Major Economic Impact Authority.

36 (3) The term "commission" means the Mississippi Major
37 Economic Impact Authority.

38 **SECTION 2.** Section 29-7-3, Mississippi Code of 1972, is
39 amended as follows:

40 29-7-3. There shall be no development or extraction of oil,
41 gas, or other minerals from state-owned lands by any private party
42 without first obtaining a mineral lease therefor from the
43 commission. The commission is hereby authorized and empowered,
44 for and on behalf of the state, to lease any and all of the state
45 land now owned (including that submerged or whereover the tide may
46 ebb and flow) or hereafter acquired, to some reputable person,
47 association, or company for oil and/or gas and/or other minerals
48 in and under and which may be produced therefrom, excepting,
49 however, sixteenth section school land, lieu lands, and such
50 forfeited tax land and property the title to which is subject to
51 any lawful redemption, for such consideration and upon such terms
52 and conditions as the commission deems just and proper. No

53 mineral lease of offshore lands shall allow offshore drilling
54 operations north of the coastal barrier islands, except in Blocks
55 40, 41, 42, 43, 63, 64 and 66 through 98, inclusive. Further,
56 surface offshore drilling operations will not be allowed within
57 one (1) mile of Cat Island. The commission may only offer for
58 lease the state-owned lands in Blocks 40, 41, 42, 43, 63, 64 and
59 66 through 98, inclusive, as shown on the Mississippi Department
60 of Environmental Quality Bureau of Geology Plat of Lease Blocks
61 (Open File Report 151) on terms and conditions and for a length of
62 time as determined by the commission. The commission may not
63 lease any lands or submerged lands off the Mississippi Gulf Coast
64 that have been leased by the Department on Marine Resources before
65 January 1, 2004, for any public or private oyster reef lease or
66 any lands or submerged lands within one (1) mile of that lease for
67 the purposes of drilling offshore for oil, gas and other minerals.

68 Consistent with the conservation policies of this state under
69 Sections 53-1-1 et seq., the commission may offer for public bid
70 any tracts or blocks of state-owned lands not currently under
71 lease, which have been identified to the commission as having
72 development potential for oil or natural gas, not less than once a
73 year. Upon consultation with the Office of Geology in the
74 Mississippi Department of Environmental Quality, the Secretary of
75 State and any other state agency as the commission deems
76 appropriate, the commission shall promulgate rules and regulations
77 consistent with this chapter governing all aspects of the process
78 of leasing state lands within its jurisdiction for mineral
79 development, including the setting of all terms of the lease form
80 to be used for leasing state-owned lands, any necessary fees,
81 public bidding process, delay rental payments, shut-in royalty
82 payments, and such other provisions as may be required. The
83 Attorney General shall review the lease form adopted by the
84 commission for legal sufficiency.

85 There shall not be conducted any seismographic or other
86 mineral exploration or testing activities on any state-owned lands
87 within the mineral leasing jurisdiction of the commission without

88 first obtaining a permit therefor from the commission. Upon
89 consultation with the Office of Geology in the Mississippi
90 Department of Environmental Quality, the Secretary of State and
91 any other state agency as the commission deems appropriate, the
92 commission shall * * * promulgate rules and regulations governing
93 all aspects of seismographic or other mineral exploration activity
94 on state lands within its jurisdiction, including the establishing
95 of fees and issuance of permits for the conduct of such mineral
96 exploration activities. The Attorney General shall review the
97 permit form adopted by the commission for legal sufficiency.
98 Provided, however, that persons obtaining permits from the
99 commission for seismographic or other mineral exploration or
100 testing activities on state-owned wildlife management areas, lakes
101 and fish hatcheries, shall be subject to rules and regulations
102 promulgated therefor by the Mississippi Commission on Wildlife,
103 Fisheries and Parks which shall also receive all permit fees for
104 such testing on said lands. In addition, persons obtaining
105 permits from the commission for seismographic or other mineral
106 exploration or testing activities on state-owned marine waters
107 shall be subject to rules and regulations promulgated therefor by
108 the Mississippi Department on Marine Resources which shall also
109 receive all permit fees for such testing on those waters.

110 Further, provided that each permit within the Mississippi
111 Sound or tidelands shall be reviewed by the Mississippi Commission
112 on Marine Resources and such special conditions as it may specify
113 will be included in the permit. Information or data obtained in
114 any mineral exploration activity on any and all state lands shall
115 be disclosed to the state through the commission, upon demand.
116 Such information or data shall be treated as confidential for a
117 period of ten (10) years from the date of receipt thereof and
118 shall not be disclosed to the public or to any firm, individual or
119 agency other than officials or authorized employees of this state.
120 Any person who makes unauthorized disclosure of such confidential
121 information or data shall be guilty of a misdemeanor, and upon
122 conviction thereof, be fined not more than Five Thousand Dollars

(\$5,000.00) or imprisoned in the county jail not more than one (1) year, or both.

Whenever any such land or property is leased for oil and gas and/or other minerals, such lease contract shall provide for a lease royalty to the state of at least three-sixteenths (3/16) of such oil and gas or other minerals, same to be paid in the manner prescribed by the commission. Of the monies received in connection with the execution of such leases, five-tenths of one percent (5/10 of 1%) shall be retained in a special fund to be appropriated by the Legislature, One Hundred Thousand Dollars (\$100,000.00) of which amount to be used by the commission for the administration of the leasing and permitting under this section, and the remainder of such amount shall be deposited into the Education Trust Fund, created in Section 206A, Mississippi Constitution of 1890; and two percent (2%) shall be paid into a special fund to be designated as the "Gulf and Wildlife Protection Fund," to be appropriated by the Legislature, one-half (1/2) thereof to be apportioned as follows: an amount which shall not exceed One Million Dollars (\$1,000,000.00) shall be used by the Mississippi Department of Wildlife, Fisheries and Parks and the Mississippi Department on Marine Resources solely for the purpose of cleanup, remedial or abatement actions involving pollution as a result of the exploration or production of oil or gas, and any amount in excess of such One Million Dollars (\$1,000,000.00) shall be deposited into the Education Trust Fund, created in Section 206A, Mississippi Constitution of 1890. The remaining one-half (1/2) of such Gulf and Wildlife Protection Fund to be apportioned as follows: an amount which shall not exceed One Million Dollars (\$1,000,000.00) shall be used by the Mississippi Commission on Wildlife, Fisheries and Parks and the Mississippi Department on Marine Resources for use first in the prudent management, preservation, protection and conservation of existing waters, lands and wildlife of this state and then, provided such purposes are accomplished, for the acquisition of additional waters and lands and any amount in excess of such One Million Dollars

(\$1,000,000.00) shall be deposited into the Education Trust Fund, created in Section 206A, Mississippi Constitution of 1890.

However, in the event that the Legislature is not in session to appropriate funds from the Gulf and Wildlife Protection Fund for the purpose of clean-up, remedial or abatement actions involving pollution as a result of the exploration or production of oil or gas, then the Mississippi Department of Wildlife, Fisheries and Parks and the Mississippi Department on Marine Resources may make expenditures from this special fund account solely for said purpose. The commission may lease the submerged beds for sand and gravel on such a basis as it may deem proper, but where the waters lie between this state and an adjoining state, there must be a cash realization to this state, including taxes paid for such sand and gravel, equal to that being had by such adjoining state, in all cases the requisite consents therefor being lawfully obtained from the United States.

The Department of Environmental Quality is authorized to employ competent engineering personnel to survey the territorial waters of this state in the Mississippi Sound and the Gulf of Mexico and to prepare a map or plat of such territorial waters, divided into blocks of not more than six thousand (6,000) acres each with coordinates and reference points based upon longitude and latitude surveys. The commission is authorized to adopt such survey, plat or map for leasing of such submerged lands for mineral development; and such leases may, after the adoption of such plat or map, be made by reference to the map or plat, which shall be on permanent file with the commission and a copy thereof on file in the Office of the State Oil and Gas Board.

SECTION 3. Section 29-7-17, Mississippi Code of 1972, is amended as follows:

29-7-17. (1) Any person found by the commission to be violating any of the provisions of Section 29-7-3, or any rule or regulation or written order of the commission in pursuance thereof, or any condition or limitation of a permit shall be subject to a civil penalty of not more than Ten Thousand Dollars

193 (\$10,000.00) for each violation, such penalty to be assessed and
194 levied by the commission after a hearing as hereinafter provided.
195 Each day upon which a violation occurs shall be deemed a separate
196 and additional violation. Appeals from the imposition of a civil
197 penalty may be taken to the appropriate chancery court in the same
198 manner as appeals from the orders of the commission. If the
199 appellant desires to stay the execution of a civil penalty
200 assessed by the commission, he shall give bond with sufficient
201 resident sureties of one or more guaranty or surety companies
202 authorized to do business in this state, payable to the State of
203 Mississippi, in an amount equal to double the amount of any civil
204 penalty assessed by the commission, as to which the stay of
205 execution is desired, on the condition that if the judgment shall
206 be affirmed the appellant shall pay all costs of the assessment
207 entered against him.

208 (2) In lieu of, or in addition to, the penalty provided in
209 subsection (1) of this section, the commission shall have power to
210 institute and maintain in the name of the state any and all
211 proceedings necessary or appropriate to enforce the provisions of
212 Section 29-7-3, rules and regulations promulgated, and orders and
213 permits made and issued thereunder, in the appropriate circuit,
214 chancery, county or justice court of the county in which venue may
215 lie. The commission may obtain mandatory or prohibitory
216 injunctive relief, either temporary or permanent, and it shall not
217 be necessary in such cases that the state plead or prove: (i)
218 that irreparable damage would result if the injunction did not
219 issue; (ii) that there is no adequate remedy at law; or (iii) that
220 a written complaint or commission order has first been issued for
221 the alleged violation.

222 (3) Any person who violates any of the provisions of, or
223 fails to perform any duty imposed by, Section 29-7-3 or any rule
224 or regulation issued hereunder, or who violates any order or
225 determination of the commission promulgated pursuant to such
226 section, and causes the death of fish, shellfish, or other
227 wildlife shall be liable, in addition to the penalties provided in

subsections (1), (2), (4) and (5) of this section, to pay to the state an additional amount equal to the sum of money reasonably necessary to restock such waters or replenish such wildlife as determined by the commission after consultation with the Mississippi Commission on Wildlife, Fisheries and Parks and the Mississippi Department on Marine Resources. Such amount may be recovered by the commission on behalf of the state in a civil action brought in the appropriate county or circuit court of the county in which venue may lie.

(4) Any person who, through misadventure, happenstance or otherwise causes damage to or destruction of state-owned lands or structures or other property thereon necessitating remedial or cleanup action shall be liable for the cost of such remedial or cleanup action and the commission may recover the cost of same by a civil action brought in the circuit court of the county in which venue may lie. This penalty may be recovered in lieu of or in addition to the penalties provided in subsections (1), (2), (3) and (5) of this section.

(5) It shall be unlawful for any person to conduct unauthorized mineral exploration, development, or extraction activity or to violate the provisions of Section 29-7-3 or the rules and regulations of the commission which relate to mineral exploration, development, or extraction activity and, upon conviction thereof, such person shall be guilty of a misdemeanor, and fined not less than Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars (\$5,000.00) for each offense. Each day on which such violation occurs or continues shall constitute a separate offense.

(6) In lieu of or in addition to the penalties prescribed hereinabove, any person convicted by a court of law or found guilty by the commission of unlawful mineral extraction activity on state-owned lands shall repay to the state the fair market value of the minerals unlawfully extracted.

(7) Proceedings before the commission on civil violations prescribed hereinabove shall be conducted in the manner set forth in this chapter.

SECTION 4. The following shall be codified as Section 29-7-19, Mississippi Code of 1972:

29-7-19. (1) The hearings, as provided under Section 29-7-21(1), may be conducted by the commission itself at a regular or special meeting of the commission, or the commission may designate a hearing officer, who may conduct such hearings in the name of the commission at any time and place as conditions and circumstances may warrant. The hearing officer shall have the record prepared of any hearing that he has conducted for the commission. The record shall be submitted to the commission along with that hearing officer's findings of fact and recommended decision. Upon receipt and review of the record of the hearing and the hearing officer's findings of fact and recommended decision, the commission shall render its decision in the matter. The decision shall become final after it is entered on the minutes and shall be considered the final administrative agency decision on the matter. The decision may be appealed under Section 29-7-21(2).

(2) All hearings before the commission shall be recorded either by a court reporter, tape or mechanical recorders and subject to transcription upon order of the commission or any interested party, but if the request for transcription originates with an interested party, that party shall pay the cost thereof.

SECTION 5. The following shall be codified as Section 29-7-21, Mississippi Code of 1972:

29-7-21. (1) Any person or interested party aggrieved by any final rule, regulation, permit or order of the commission may file a petition with the commission within thirty (30) days after the final rule, regulation, permit or order is entered on the minutes. The petition shall set forth the grounds and reasons for the complaint and request a hearing of the matter involved. However, there shall be no hearing on the same subject matter that

has previously been held before the commission or its designated hearing officer. The commission shall fix the time and place of the hearing and notify the petitioners thereof. In pending matters, the commission shall have the same powers as to subpoenaing witnesses, administering oaths, examining witnesses under oath and conducting the hearing, as is now vested by law in the Mississippi Public Service Commission, as to hearings before it, with the additional power that the executive director may issue all subpoenas, both at the instance of the petitioner and of the commission. At the hearings the petitioner, and any other interested party, may offer exhibits, present witnesses, and otherwise submit evidence, as the commission deems appropriate. After the hearing, the commission's decision shall be deemed the final administrative agency decision on the matter.

(2) Any interested person aggrieved by any final rule, regulation, permit or order of the commission issued under this section, regardless of the amount involved, may appeal to the Chancery Court of the First Judicial District of Hinds County, Mississippi, which shall be taken and perfected as hereinafter provided, within thirty (30) days from the date that the final rule, regulation or order is filed for record in the office of the commission. The chancery court may affirm the rule, regulation, permit, or order, or reverse the same for further proceedings as the court may require. All appeals shall be on the record, taken and perfected, heard and determined either in termtime or in vacation, including a transcript of pleadings and testimony, both oral and documentary, filed and heard before the commission, and the appeal shall be heard and disposed of promptly by the court as a preference cause. In perfecting any appeal provided by this section, the provisions of law respecting notice to the reporter and the allowance of bills of exception, now or hereafter in force respecting appeals from the chancery court to the Supreme Court, shall be applicable. However, the reporter shall transcribe his notes and file the transcript of the record with the board within thirty (30) days after approval of the appeal bond.

(3) Upon the filing with the commission of a petition for appeal to the Hinds County Chancery Court, it shall be the duty of the commission, as promptly as possible and within sixty (60) days after approval of the appeal bond, if required, to file with the clerk of the chancery court to which the appeal is taken, a copy of the petition for appeal and of the rule, regulation, permit or order appealed from, and the original and one (1) copy of the transcript of the record of proceedings in evidence before the commission. After the filing of the petition, the appeal shall be perfected by the filing with the clerk of the chancery court to which the appeal is taken of bond in the sum of Five Hundred Dollars (\$500.00) with two (2) sureties or with a surety company qualified to do business in Mississippi as the surety, conditioned to pay the cost of the appeal; the bond to be approved by any member of the commission, or by the clerk of the court to which the appeal is taken. The perfection of an appeal shall not stay or suspend the operation of any rule, regulation, permit or order of the board, but the judge of the chancery court to which the appeal is taken may award a writ of supersedeas to any rule, regulation, permit or order of the commission after five (5) days' notice to the commission and after hearing. Any order or judgment staying the operation of any rule, regulation, permit or order of the commission shall contain a specific finding, based upon evidence submitted to the chancery judge and identified by reference thereto, that great or irreparable damage would result to the appellant if he is denied relief, and the stay shall not become effective until a supersedeas bond shall have been executed and filed with and approved by the clerk of the court or the chancery judge, payable to the state. The supersedeas bond shall be in an amount fixed by the chancery judge to protect the lessee or permittee from loss or damage from the stay and conditioned as the chancery judge may direct in the order granting the supersedeas. If the appeal is of a commission order concerning the lease of state lands for minerals, that appeal shall be given priority over other matters pending in the chancery court. If the

366 appeal is of a commission permit, that appeal shall be given
367 priority over other matters pending in chancery court.

368 **SECTION 6.** From and after July 1, 2004, the board of
369 supervisors of a county shall reduce the ad valorem taxes levied
370 by the county in an amount equal to one-half (1/2) of the county's
371 share of the revenue derived from the oil and gas severance tax
372 under Sections 27-25-505 and 27-25-705 as a result of offshore
373 drilling on the Mississippi Gulf Coast. From and after July 1,
374 2004, the governing authorities of a municipality shall reduce the
375 ad valorem taxes levied by the municipality in an amount equal to
376 one-half (1/2) of the municipality's share of the revenue derived
377 from the oil and gas severance tax under Sections 27-25-505 and
378 27-25-705 as a result of offshore drilling on the Mississippi Gulf
379 Coast.

380 **SECTION 7.** This act shall take effect and be in force from
381 and after July 1, 2004.

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

1 AN ACT TO AMEND SECTION 29-7-1, MISSISSIPPI CODE OF 1972, TO
2 TRANSFER THE AUTHORITY OF THE MINERAL LEASE COMMISSION TO THE
3 MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY; TO AMEND SECTION
4 29-7-3, MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE
5 COMMISSION TO LEASE STATE-OWNED LANDS THAT HAVE DEVELOPMENT
6 POTENTIAL FOR OIL OR NATURAL GAS; TO PROVIDE CERTAIN RESTRICTIONS
7 FOR DRILLING FOR OIL OR NATURAL GAS IN OFFSHORE WATERS; TO AMEND
8 SECTION 29-7-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
9 PROVISIONS OF THIS ACT; TO CREATE A NEW SECTION TO BE CODIFIED AS
10 SECTION 29-7-19, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR HEARINGS
11 TO BE HEARD BY THE COMMISSION; TO CREATE A NEW SECTION TO BE
12 CODIFIED AS SECTION 29-7-21, MISSISSIPPI CODE OF 1972, TO PROVIDE
13 FOR AN APPEALS PROCESS FOR DECISIONS MADE BY THE COMMISSION; TO
14 PROVIDE THAT THE BOARD OF SUPERVISORS OF A COUNTY SHALL REDUCE THE
15 AD VALOREM TAXES LEVIED BY THE COUNTY IN AN AMOUNT EQUAL TO
16 ONE-HALF OF THE COUNTY'S SHARE OF THE REVENUE DERIVED FROM THE OIL
17 AND GAS SEVERANCE TAX UNDER SECTIONS 27-25-505 AND 27-25-705,
18 MISSISSIPPI CODE OF 1972, AS A RESULT OF OFFSHORE DRILLING ON THE
19 MISSISSIPPI GULF COAST AND THE GOVERNING AUTHORITIES OF A
20 MUNICIPALITY SHALL REDUCE THE AD VALOREM TAXES LEVIED BY THE
21 MUNICIPALITY IN AN AMOUNT EQUAL TO ONE-HALF OF THE MUNICIPALITY'S
22 SHARE OF THE REVENUE DERIVED FROM THE OIL AND GAS SEVERANCE TAX
23 UNDER SECTIONS 27-25-505 AND 27-25-705, MISSISSIPPI CODE OF 1972,
24 AS A RESULT OF OFFSHORE DRILLING ON THE MISSISSIPPI GULF COAST;
25 AND FOR RELATED PURPOSES.

HR40\SB2853PH.J

Don Richardson
Clerk of the House of Representatives