

**Adopted
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

Senate Bill No. 2853

BY: Committee

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

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

18 29-7-1. (1) The Mississippi Major Economic Impact Authority
19 shall be the mineral lease commission, and shall exercise the
20 duties and responsibilities of the mineral lease commission * * *
21 under the provisions of Sections 29-7-1 et seq.

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

25 (3) The term "commission" means the Mississippi Major
26 Economic Impact Authority.

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

29 29-7-3. There shall be no development or extraction of oil,
30 gas, or other minerals from state-owned lands by any private party
31 without first obtaining a mineral lease therefor from the
32 commission. The commission is hereby authorized and empowered,
33 for and on behalf of the state, to lease any and all of the state
34 land now owned (including that submerged or whereover the tide may

35 ebb and flow) or hereafter acquired, to some reputable person,
36 association, or company for oil and/or gas and/or other minerals
37 in and under and which may be produced therefrom, excepting,
38 however, sixteenth section school land, lieu lands, and such
39 forfeited tax land and property the title to which is subject to
40 any lawful redemption, for such consideration and upon such terms
41 and conditions as the commission deems just and proper. No
42 mineral lease of offshore lands shall allow offshore drilling
43 operations north of the coastal barrier islands, except in Blocks
44 40, 41, 42, 43, 63, 64 and 66 through 98, inclusive. Further,
45 surface offshore drilling operations will not be allowed within
46 one (1) mile of Cat Island. The commission may only offer for
47 lease the state-owned lands in Blocks 40, 41, 42, 43, 63, 64 and
48 66 through 98, inclusive, as shown on the Mississippi Department
49 of Environmental Quality Bureau of Geology Plat of Lease Blocks
50 (Open File Report 151) on terms and conditions and for a length of
51 time as determined by the commission. The commission may not
52 lease any lands or submerged lands off the Mississippi Gulf Coast
53 that have been leased by the Department on Marine Resources before
54 January 1, 2004, for any public or private oyster reef lease or
55 any lands or submerged lands within one (1) mile of that lease for
56 the purposes of drilling offshore for oil, gas and other minerals.

57 Consistent with the conservation policies of this state under
58 Sections 53-1-1 et seq., the commission may offer for public bid
59 any tracts or blocks of state-owned lands not currently under
60 lease, which have been identified to the commission as having
61 development potential for oil or natural gas, not less than once a
62 year. Upon consultation with the Office of Geology in the
63 Mississippi Department of Environmental Quality, the Secretary of
64 State and any other state agency as the commission deems
65 appropriate, the commission shall promulgate rules and regulations
66 consistent with this chapter governing all aspects of the process

67 of leasing state lands within its jurisdiction for mineral
68 development, including the setting of all terms of the lease form
69 to be used for leasing state-owned lands, any necessary fees,
70 public bidding process, delay rental payments, shut-in royalty
71 payments, and such other provisions as may be required. The
72 Attorney General shall review the lease form adopted by the
73 commission for legal sufficiency.

74 There shall not be conducted any seismographic or other
75 mineral exploration or testing activities on any state-owned lands
76 within the mineral leasing jurisdiction of the commission without
77 first obtaining a permit therefor from the commission. Upon
78 consultation with the Office of Geology in the Mississippi
79 Department of Environmental Quality, the Secretary of State and
80 any other state agency as the commission deems appropriate, the
81 commission shall * * * promulgate rules and regulations governing
82 all aspects of seismographic or other mineral exploration activity
83 on state lands within its jurisdiction, including the establishing
84 of fees and issuance of permits for the conduct of such mineral
85 exploration activities. The Attorney General shall review the
86 permit form adopted by the commission for legal sufficiency.

87 Provided, however, that persons obtaining permits from the
88 commission for seismographic or other mineral exploration or
89 testing activities on state-owned wildlife management areas, lakes
90 and fish hatcheries, shall be subject to rules and regulations
91 promulgated therefor by the Mississippi Commission on Wildlife,
92 Fisheries and Parks which shall also receive all permit fees for
93 such testing on said lands. In addition, persons obtaining
94 permits from the commission for seismographic or other mineral
95 exploration or testing activities on state-owned marine waters
96 shall be subject to rules and regulations promulgated therefor by
97 the Mississippi Department on Marine Resources which shall also
98 receive all permit fees for such testing on those waters.

99 Further, provided that each permit within the Mississippi
100 Sound or tidelands shall be reviewed by the Mississippi Commission
101 on Marine Resources and such special conditions as it may specify
102 will be included in the permit. Information or data obtained in
103 any mineral exploration activity on any and all state lands shall
104 be disclosed to the state through the commission, upon demand.
105 Such information or data shall be treated as confidential for a
106 period of ten (10) years from the date of receipt thereof and
107 shall not be disclosed to the public or to any firm, individual or
108 agency other than officials or authorized employees of this state.
109 Any person who makes unauthorized disclosure of such confidential
110 information or data shall be guilty of a misdemeanor, and upon
111 conviction thereof, be fined not more than Five Thousand Dollars
112 (\$5,000.00) or imprisoned in the county jail not more than one (1)
113 year, or both.

114 Whenever any such land or property is leased for oil and gas
115 and/or other minerals, such lease contract shall provide for a
116 lease royalty to the state of at least three-sixteenths (3/16) of
117 such oil and gas or other minerals, same to be paid in the manner
118 prescribed by the commission. Of the monies received in
119 connection with the execution of such leases, five-tenths of one
120 percent (5/10 of 1%) shall be retained in a special fund to be
121 appropriated by the Legislature, One Hundred Thousand Dollars
122 (\$100,000.00) of which amount to be used by the commission for the
123 administration of the leasing and permitting under this section,
124 and the remainder of such amount shall be deposited into the
125 Education Trust Fund, created in Section 206A, Mississippi
126 Constitution of 1890; and two percent (2%) shall be paid into a
127 special fund to be designated as the "Gulf and Wildlife Protection
128 Fund," to be appropriated by the Legislature, one-half (1/2)
129 thereof to be apportioned as follows: an amount which shall not
130 exceed One Million Dollars (\$1,000,000.00) shall be used by the

131 Mississippi Department of Wildlife, Fisheries and Parks and the
132 Mississippi Department on Marine Resources solely for the purpose
133 of cleanup, remedial or abatement actions involving pollution as a
134 result of the exploration or production of oil or gas, and any
135 amount in excess of such One Million Dollars (\$1,000,000.00) shall
136 be deposited into the Education Trust Fund, created in Section
137 206A, Mississippi Constitution of 1890. The remaining one-half
138 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned
139 as follows: an amount which shall not exceed One Million Dollars
140 (\$1,000,000.00) shall be used by the Mississippi Commission on
141 Wildlife, Fisheries and Parks and the Mississippi Department on
142 Marine Resources for use first in the prudent management,
143 preservation, protection and conservation of existing waters,
144 lands and wildlife of this state and then, provided such purposes
145 are accomplished, for the acquisition of additional waters and
146 lands and any amount in excess of such One Million Dollars
147 (\$1,000,000.00) shall be deposited into the Education Trust Fund,
148 created in Section 206A, Mississippi Constitution of 1890.
149 However, in the event that the Legislature is not in session to
150 appropriate funds from the Gulf and Wildlife Protection Fund for
151 the purpose of clean-up, remedial or abatement actions involving
152 pollution as a result of the exploration or production of oil or
153 gas, then the Mississippi Department of Wildlife, Fisheries and
154 Parks and the Mississippi Department on Marine Resources may make
155 expenditures from this special fund account solely for said
156 purpose. The commission may lease the submerged beds for sand and
157 gravel on such a basis as it may deem proper, but where the waters
158 lie between this state and an adjoining state, there must be a
159 cash realization to this state, including taxes paid for such sand
160 and gravel, equal to that being had by such adjoining state, in
161 all cases the requisite consents therefor being lawfully obtained
162 from the United States.

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

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

177 29-7-17. (1) Any person found by the commission to be
178 violating any of the provisions of Section 29-7-3, or any rule or
179 regulation or written order of the commission in pursuance
180 thereof, or any condition or limitation of a permit shall be
181 subject to a civil penalty of not more than Ten Thousand Dollars
182 (\$10,000.00) for each violation, such penalty to be assessed and
183 levied by the commission after a hearing as hereinafter provided.
184 Each day upon which a violation occurs shall be deemed a separate
185 and additional violation. Appeals from the imposition of a civil
186 penalty may be taken to the appropriate chancery court in the same
187 manner as appeals from the orders of the commission. If the
188 appellant desires to stay the execution of a civil penalty
189 assessed by the commission, he shall give bond with sufficient
190 resident sureties of one or more guaranty or surety companies
191 authorized to do business in this state, payable to the State of
192 Mississippi, in an amount equal to double the amount of any civil
193 penalty assessed by the commission, as to which the stay of
194 execution is desired, on the condition that if the judgment shall

195 be affirmed the appellant shall pay all costs of the assessment
196 entered against him.

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

211 (3) Any person who violates any of the provisions of, or
212 fails to perform any duty imposed by, Section 29-7-3 or any rule
213 or regulation issued hereunder, or who violates any order or
214 determination of the commission promulgated pursuant to such
215 section, and causes the death of fish, shellfish, or other
216 wildlife shall be liable, in addition to the penalties provided in
217 subsections (1), (2), (4) and (5) of this section, to pay to the
218 state an additional amount equal to the sum of money reasonably
219 necessary to restock such waters or replenish such wildlife as
220 determined by the commission after consultation with the
221 Mississippi Commission on Wildlife, Fisheries and Parks and the
222 Mississippi Department on Marine Resources. Such amount may be
223 recovered by the commission on behalf of the state in a civil
224 action brought in the appropriate county or circuit court of the
225 county in which venue may lie.

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

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

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

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

253 **SECTION 4.** The following shall be codified as Section
254 29-7-19, Mississippi Code of 1972:

255 29-7-19. (1) The hearings, as provided under Section
256 29-7-21(1), may be conducted by the commission itself at a regular
257 or special meeting of the commission, or the commission may

258 designate a hearing officer, who may conduct such hearings in the
259 name of the commission at any time and place as conditions and
260 circumstances may warrant. The hearing officer shall have the
261 record prepared of any hearing that he has conducted for the
262 commission. The record shall be submitted to the commission along
263 with that hearing officer's findings of fact and recommended
264 decision. Upon receipt and review of the record of the hearing
265 and the hearing officer's findings of fact and recommended
266 decision, the commission shall render its decision in the matter.
267 The decision shall become final after it is entered on the minutes
268 and shall be considered the final administrative agency decision
269 on the matter. The decision may be appealed under Section
270 29-7-21(2).

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

276 **SECTION 5.** The following shall be codified as Section
277 29-7-21, Mississippi Code of 1972:

278 29-7-21. (1) Any person or interested party aggrieved by
279 any final rule, regulation, permit or order of the commission may
280 file a petition with the commission within thirty (30) days after
281 the final rule, regulation, permit or order is entered on the
282 minutes. The petition shall set forth the grounds and reasons for
283 the complaint and request a hearing of the matter involved.
284 However, there shall be no hearing on the same subject matter that
285 has previously been held before the commission or its designated
286 hearing officer. The commission shall fix the time and place of
287 the hearing and notify the petitioners thereof. In pending
288 matters, the commission shall have the same powers as to
289 subpoenaing witnesses, administering oaths, examining witnesses

290 under oath and conducting the hearing, as is now vested by law in
291 the Mississippi Public Service Commission, as to hearings before
292 it, with the additional power that the executive director may
293 issue all subpoenas, both at the instance of the petitioner and of
294 the commission. At the hearings the petitioner, and any other
295 interested party, may offer exhibits, present witnesses, and
296 otherwise submit evidence, as the commission deems appropriate.
297 After the hearing, the commission's decision shall be deemed the
298 final administrative agency decision on the matter.

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

320 (3) Upon the filing with the commission of a petition for
321 appeal to the Hinds County Chancery Court, it shall be the duty of

322 the commission, as promptly as possible and within sixty (60) days
323 after approval of the appeal bond, if required, to file with the
324 clerk of the chancery court to which the appeal is taken, a copy
325 of the petition for appeal and of the rule, regulation, permit or
326 order appealed from, and the original and one (1) copy of the
327 transcript of the record of proceedings in evidence before the
328 commission. After the filing of the petition, the appeal shall be
329 perfected by the filing with the clerk of the chancery court to
330 which the appeal is taken of bond in the sum of Five Hundred
331 Dollars (\$500.00) with two (2) sureties or with a surety company
332 qualified to do business in Mississippi as the surety, conditioned
333 to pay the cost of the appeal; the bond to be approved by any
334 member of the commission, or by the clerk of the court to which
335 the appeal is taken. The perfection of an appeal shall not stay
336 or suspend the operation of any rule, regulation, permit or order
337 of the board, but the judge of the chancery court to which the
338 appeal is taken may award a writ of supersedeas to any rule,
339 regulation, permit or order of the commission after five (5) days'
340 notice to the commission and after hearing. Any order or judgment
341 staying the operation of any rule, regulation, permit or order of
342 the commission shall contain a specific finding, based upon
343 evidence submitted to the chancery judge and identified by
344 reference thereto, that great or irreparable damage would result
345 to the appellant if he is denied relief, and the stay shall not
346 become effective until a supersedeas bond shall have been executed
347 and filed with and approved by the clerk of the court or the
348 chancery judge, payable to the state. If the appeal is of a
349 commission order concerning the lease of state lands for minerals,
350 that appeal shall be given priority over other matters pending in
351 the chancery court. If the appeal is of a commission permit, that
352 appeal shall be given priority over other matters pending in
353 chancery court. In all other cases, the supersedeas bond shall be

354 in an amount fixed by the chancery judge to protect the lessee or
355 permittee from loss or damage from the stay and conditioned as the
356 chancery judge may direct in the order granting the supersedeas.

357 **SECTION 6.** This act shall take effect and be in force from
358 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; AND
14 FOR RELATED PURPOSES.