

By: Representative Cummings

To: County Affairs;
Appropriations

HOUSE BILL NO. 1364

1 AN ACT TO AMEND SECTIONS 17-17-63, 17-17-65 AND 17-17-425,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT MONIES FROM THE
3 DEPARTMENT OF ENVIRONMENTAL QUALITY SPECIAL GRANT FUNDS ALLOCATED
4 TO THE COUNTIES BE CONSIDERED ENCUMBERED AND PLEDGED FOR THE
5 EXCLUSIVE USE OF THE COUNTIES AND SHALL NOT BE TRANSFERRED,
6 EXPENDED OR USED FOR ANY OTHER PURPOSE; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 17-17-63, Mississippi Code of 1972, is
9 amended as follows:

10 17-17-63. (1) There is created in the State Treasury a fund
11 designated as the Mississippi Nonhazardous Solid Waste Corrective
12 Action Trust Fund for the purpose of providing funds for
13 emergency, preventive or corrective actions which may be required
14 or determined necessary by the department of any nonhazardous
15 solid waste disposal facility that received in whole or in part
16 household waste and closed before the effective date of Title 40
17 of the Code of Federal Regulations, Section 258.

18 (2) The trust fund shall be administered by the executive
19 director. The commission shall promulgate rules and regulations
20 for the administration of the fund and for a system of priorities
21 for related projects eligible for funding. Only the facilities
22 meeting the criteria in subsection (1) are eligible for funding.

23 (3) The commission may escalate, expend or utilize funds in
24 the trust fund for the following purposes:

25 (a) To take whatever emergency action is necessary or
26 appropriate to assure that the public health or safety is not
27 threatened whenever there is a release or substantial threat of a
28 release of contaminants from any source within the permitted area
29 of an eligible facility;

30 (b) To take preventive or corrective actions where the
31 release of contaminants from any source within the permitted area
32 of an eligible facility which presents an actual or potential
33 threat to human health or the environment including, but not
34 limited to, closure and post-closure care of an eligible facility;
35 and

36 (c) To take any actions as may be necessary to monitor
37 and provide post-closure care of any eligible facility, including
38 preventive and corrective actions, without regard to identity or
39 solvency of the owner thereof.

40 (4) The fund may not be used to pay for the normal costs of
41 closure and post-closure care of an eligible facility or where no
42 release or substantial threat of a release of contaminants has
43 been found by the commission.

44 (5) Expenditures may be made from the fund upon requisition
45 by the executive director.

46 (6) The fund shall be treated as a special trust fund.
47 Interest earned on the principal in the fund shall be credited by
48 the department to the fund, unless funds allocated under Section
49 17-17-219(3)(a)(i) are being paid to the Local Governments Solid
50 Waste Assistance Fund. If those funds are being paid to the Local
51 Governments Solid Waste Assistance Fund, the department shall
52 credit the earned interest to the Local Governments Solid Waste
53 Assistance Fund.

54 (7) The fund may receive monies from any available public or
55 private source, including, but not limited to, collection of fees,
56 interest, grants, taxes, public and private donations, petroleum
57 violation escrow funds or refunds and appropriated funds.

58 (8) The department shall transfer any balance in the fund on
59 July 1, 1997, in excess of Five Million Dollars (\$5,000,000.00) to
60 the Local Governments Solid Waste Assistance Fund.

61 (9) The monies from this fund that are provided to the
62 counties shall be considered encumbered and pledged for the

63 exclusive use of the counties and shall not be transferred,
64 expended or used for any other purpose.

65 **SECTION 2.** Section 17-17-65, Mississippi Code of 1972, is
66 amended as follows:

67 17-17-65. (1) There is created in the State Treasury a fund
68 designated as the Local Governments Solid Waste Assistance Fund,
69 referred to in this section as "fund," to be administered by the
70 executive director of the department.

71 (2) The fund shall be used to provide grants to counties,
72 municipalities, regional solid waste management authorities or
73 multicounty entities as provided in subsection (5) of this section
74 for one or more of the following purposes:

75 (a) Cleanup of existing and future unauthorized dumps
76 on public or private property, subject to the limitation in
77 subsection (4) of this section;

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

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

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

85 (e) Distribution and use as grants to regional solid
86 waste management authorities, counties and municipalities for
87 implementation of household hazardous waste collection programs,
88 in accordance with Sections 17-17-439 through 17-17-445. The
89 grants shall not exceed seventy-five percent (75%) of eligible
90 project costs as established by the commission; and

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

94 (3) The commission shall earmark ten percent (10%) of the
95 amount deposited in the fund annually to be used to make grants to

96 counties, municipalities, regional solid waste management
97 authorities or multicounty entities to assist in defraying the
98 cost of preparing solid waste management plans required by Section
99 17-17-227. The commission shall award these grants according to
100 the merit of grant proposals received by the commission and the
101 level of need and timeliness of the requirement for the county or
102 regional solid waste management authority to update its solid
103 waste management plan.

104 (4) If a person is found to be responsible for creating an
105 unauthorized dump, the grantee shall make a reasonable effort to
106 require that person to clean up the property before expending any
107 monies from the fund to clean up the property. If the grantee is
108 unable to locate the person responsible for creating the dump, or
109 if the grantee determines that person is financially or otherwise
110 incapable of cleaning up the property, the grantee may use the
111 monies from the fund to clean up the property and shall make a
112 reasonable effort to recover from the responsible person any funds
113 expended.

114 (5) (a) Of monies annually deposited in the fund and any
115 balance remaining in the fund, the commission shall annually
116 allocate monies as follows:

117 (i) One-half (1/2) of the deposited funds and
118 remaining balance shall be allocated to each county based on the
119 percentage of state aid road mileage as established by the
120 Mississippi Department of Transportation State Aid road formula.

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

124 (b) The department shall notify the president of the
125 board of supervisors of each county in writing of the amount
126 allocated under paragraph (a)(i) of this subsection and that
127 additional funds are available on a competitive basis as provided
128 under paragraph (a)(ii) of this subsection.

129 (c) Upon receipt of a scope of work and cost proposal
130 acceptable to the commission, the commission shall award a grant
131 to a county up to the allocated amount for that county under
132 paragraph (a)(i) of this subsection. The commission may award
133 additional grant funds from monies available under paragraph
134 (a)(ii) of this subsection based upon the acceptable scope of work
135 and cost proposal.

136 (d) The commission may award grants to a regional solid
137 waste management authority or other multicounty entity upon
138 submission of a consolidated scope of work and cost proposal
139 acceptable to the commission and authorized by the member
140 counties. Upon submission of a scope of work and cost proposal,
141 the commission may award grants to municipalities from monies
142 available under paragraph (a)(ii) of this subsection.

143 (e) No grantee shall use more than three percent (3%)
144 of funds provided under this section to defray the costs of
145 administration of the grant.

146 (6) The department may use up to three percent (3%) of
147 monies annually deposited in the fund and of any balance remaining
148 in the fund to provide for the administration of this section.

149 (7) Expenditures may be made from the fund upon requisition
150 by the executive director of the department.

151 (8) The fund shall be treated as a special trust fund.
152 Interest earned on the principal in the fund shall be credited by
153 the department to the fund.

154 (9) The fund may receive monies from any available public or
155 private source, including, but not limited to, collection of fees,
156 interest, grants, taxes, public and private donations, judicial
157 actions and appropriated funds.

158 (10) Monies in the fund at the end of the fiscal year shall
159 be retained in the fund for use in the succeeding fiscal year.

160 (11) The commission may consolidate any grant provided under
161 this section with any grant provided under the waste tire

162 management program or the right-way-to-throw-away program. Funds
163 provided through any consolidated grant shall be used in
164 accordance with the program under which the funds are provided.

165 (12) Funds provided under this section shall not be used to
166 pay any costs of the establishment or operation of a landfill,
167 rubbish disposal site or other type of solid waste disposal
168 facility, for the routine collection of garbage or to collect any
169 fees assessed under Section 19-5-21 or 21-19-2.

170 (13) The commission shall not provide any funds under this
171 section to any grantee with an inadequate garbage or rubbish
172 collection or disposal system as required under Section 19-5-17 or
173 21-19-1.

174 (14) The monies from this fund that are provided to the
175 counties shall be considered encumbered and pledged for the
176 exclusive use of the counties and shall not be transferred,
177 expended or used for any other purpose.

178 **SECTION 3.** Section 17-17-425, Mississippi Code of 1972, is
179 amended as follows:

180 17-17-425. (1) Beginning July 1, 1995, monies allocated to
181 the Environmental Protection Trust Fund from waste tire fees shall
182 be accounted for in a waste tire account and shall be utilized for
183 the following purposes:

184 (a) Not more than sixty percent (60%) shall be utilized
185 for making grants to counties, municipalities or regional solid
186 waste management authorities: (i) for providing a waste tire
187 collection program for small quantity waste tire generators as
188 provided in Section 17-17-409; (ii) for use in clean-up of small
189 scattered unauthorized waste tire dumps not abated under Section
190 17-17-419; (iii) for matching funds for employment of a solid
191 waste enforcement officer as provided in Section 17-17-65; and
192 (iv) for purchase of products derived from Mississippi waste
193 tires;

194 (b) Not more than five percent (5%) shall be utilized
195 by the department for abatement of unauthorized waste tire dumps
196 as provided in Section 17-17-419;

197 (c) Not more than fifteen percent (15%) shall be
198 utilized (i) to provide incentive grants to persons that will
199 manufacture products from waste tires, use recovered rubber from
200 waste tires or use waste tires as a fuel or fuel supplement,
201 (ii) to provide funding for research and demonstration projects
202 directly related to solving solid waste problems resulting from
203 waste tires, including the use of innovative technologies for the
204 processing of waste tires, (iii) to provide an incentive
205 reimbursement to end users for the costs of using waste tires or
206 waste tire derived materials where those tires originate in the
207 State of Mississippi, if the commission determines an incentive is
208 necessary to promote market development. The commission may
209 determine legitimate end uses that may be eligible for
210 reimbursement and an acceptable rate of reimbursement; and

211 (d) Not more than twenty percent (20%) shall be
212 utilized by the department to pay the costs of administering these
213 funds and the waste tire management program required under
214 Sections 17-17-405, 17-17-407, 17-17-411, 17-17-413, 17-17-419 and
215 17-17-423.

216 (2) To provide for the maximum effective use of funds in the
217 waste tire account, the commission, upon determination that unused
218 funds are available in a particular program as described above,
219 may reallocate funds between the programs described in paragraphs
220 (a) through (c) of subsection (1) to exceed the percentage
221 thresholds.

222 (3) The commission may consolidate any grant provided under
223 this section with any grant provided under the local governments
224 solid waste assistance program or the Right-Way-To-Throw-Away
225 Program. Funds provided through any consolidated grant shall be

226 used in accordance with the program under which the funds are
227 provided.

228 (4) The commission shall establish a statewide plan for the
229 use of monies received under Sections 17-17-401 through 17-17-427
230 and shall adopt regulations for administering this fund. The
231 regulations shall include eligibility requirements for persons
232 requesting incentive grants and funding for research and
233 demonstration projects. No incentive grant or research and
234 demonstration project funding may be awarded for an activity which
235 receives less than seventy-five percent (75%) of its waste tires
236 from Mississippi waste tires sites, retailers or residents. The
237 commission may consider requests for funding from applicants who
238 do not meet this requirement contingent upon the applicant
239 demonstrating that the activity does or will accept Mississippi
240 tires and that the award of the requested funding would be in the
241 best interest of the State of Mississippi. The burden of proof
242 shall be on the applicant to show that eligibility requirements
243 have been met.

244 (5) For the purpose of establishing a statewide plan for the
245 use of monies received under Sections 17-17-401 through 17-17-427
246 and proposing regulations for administering this fund, including
247 eligibility requirements and application priorities, the
248 commission shall create an advisory council consisting of members
249 of the tire industry, the general public, the department, and the
250 Mississippi Development Authority.

251 (6) The department shall provide technical assistance, upon
252 written request, to a municipality, county or group of counties
253 desiring assistance in applying for waste tire grants or choosing
254 a method of waste tire management which would be an eligible use
255 of the grant funds.

256 (7) Subject to the authority of the commission in subsection
257 (2) of this section, monies existing in the waste tire account of
258 the Environmental Protection Trust Fund on July 1, 1995, shall

259 remain in the account as previously allocated but those monies
260 which have been allocated for incentive grants or research and
261 demonstration awards shall be combined as described in subsection
262 (1)(c) of this section.

263 (8) The monies from this fund that are provided to the
264 counties shall be considered encumbered and pledged for the
265 exclusive use of the counties and shall not be transferred,
266 expended or used for any other purpose.

267 **SECTION 4.** This act shall take effect and be in force from
268 and after July 1, 2005.