

By: Senator(s) Gollott

To: Ports and Marine
Resources; Environment Prot,
Cons and Water Res

SENATE BILL NO. 2483

1 AN ACT TO AMEND SECTION 49-27-5, MISSISSIPPI CODE OF 1972, TO
2 DEFINE CERTAIN TERMS; TO AMEND SECTION 49-27-61, MISSISSIPPI CODE
3 OF 1972, TO PROVIDE AN ALTERNATIVE FOR DREDGE MATERIAL DISPOSAL;
4 AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 49-27-5, Mississippi Code of 1972, is
7 amended as follows:

8 49-27-5. (a) "Coastal wetlands" means all publicly-owned
9 lands subject to the ebb and flow of the tide; which are below the
10 watermark of ordinary high tide; all publicly-owned accretions
11 above the watermark of ordinary high tide and all publicly-owned
12 submerged water-bottoms below the watermark of ordinary high tide
13 and * * * includes the flora and fauna on the wetlands and in the
14 wetlands.

15 (b) "Department" means the Department of Marine Resources.

16 (c) "Regulated activity" means any of the following
17 activities:

18 (i) The dredging, excavating or removing of soil, mud,
19 sand, gravel, flora, fauna or aggregate of any kind from any
20 coastal wetland;

21 (ii) The dumping, filling or depositing of any soil,
22 stones, sand, gravel, mud, aggregate of any kind or garbage,
23 either directly or indirectly, on or in any coastal wetlands;

24 (iii) Killing or materially damaging any flora or fauna
25 on or in any coastal wetland;

26 (iv) The erection on coastal wetlands of structures
27 which materially affect the ebb and flow of the tide; and

28 (v) The erection of any structure or structures on
29 suitable sites for water dependent industry.

30 (d) "Dredging" means the removal or displacement by any
31 means of soil, sand, gravel, shells or other material, whether of
32 intrinsic value or not, from coastal wetlands.

33 (e) "Executive director" means the Executive Director of the
34 Department of Marine Resources.

35 (f) "Filling" means either the displacement of waters by the
36 deposition into coastal wetlands of soil, sand, gravel, shells or
37 other material; or the artificial alteration of water levels or
38 water currents by physical structures, drainage ditches or
39 otherwise.

40 (g) "Person" means any natural person, partnership, joint
41 stock company, corporation, unincorporated association or society,
42 or the state and any agency thereof, or any county, municipality
43 or political subdivision, or any other corporation of any
44 character whatsoever.

45 (h) "Commission" means the Mississippi Commission on Marine
46 Resources.

47 (i) "Water dependent industry" means those commercial,
48 industrial or manufacturing activities which, for purposes basic
49 to their existence must occur or locate on or adjacent to the
50 estuaries, sounds, channels, shores or marshlands of the coast.

51 "Suitable sites for water dependent industry" means those areas of
52 land which are suitable for the development of water dependent
53 industry because of their proximity to waters of navigable depth,
54 size and configuration, topography, soil conditions and access to
55 other means of transportation. After consultation with local
56 governments, port authorities, development commissions, port and
57 harbor commissions and other interested parties, and after full
58 consideration of zoning ordinances duly adopted by local
59 governments, the commission shall designate those sites it deems
60 suitable for water dependent industry. The definition of

61 "suitable sites for water dependent industry" shall be limited to,
62 but not necessarily inclusive of, waterfront sites owned by county
63 port authorities, development commissions and port and harbor
64 commissions, and to areas that are now or are later made to be
65 within one thousand (1,000) feet of the centerline of any natural
66 or maintained channel having a depth of seven (7) feet or greater
67 at mean low water. However, additional sites may be included in
68 the definition of suitable sites for water dependent industry with
69 the concurrence of the board of supervisors in the county
70 affected.

71 **SECTION 2.** Section 49-27-61, Mississippi Code of 1972, is
72 amended as follows:

73 49-27-61. (1) (a) The commission shall charge Fifty Cents
74 (50¢) per cubic yard for any sand or gravel removed from wetlands
75 and Twenty-five Cents (25¢) per cubic yard for any other materials
76 removed from coastal wetlands by a permittee or his agent under
77 the terms of any permit issued.

78 (b) There shall be no charge levied by the commission
79 for the removal of one hundred (100) cubic yards or less of any
80 material removed from wetlands by a permittee or his agent under
81 the terms of any permit issued.

82 (c) The commission shall waive these charges on any
83 project of a governmental agency or any project wherein
84 expenditures are made as the result of a governmental grant or
85 governmental bond proceeds.

86 (d) Any party participating in the beneficial use of
87 dredge materials programs under subsection (2) shall be exempt
88 from these charges.

89 (2) The department may allow any party permitted to conduct
90 dredging activities to participate in the department programs
91 involving beneficial use of dredge materials. If approved by the
92 executive director, or his designee, a party may deposit
93 acceptable dredge materials in a designated location for a fee not

94 to exceed fifty percent (50%) of the fair market cost to transport
95 and dispose of the material in an approved upland site. The
96 department shall consider in-kind services for offsetting
97 depositional charges.

98 **SECTION 3.** This act shall take effect and be in force from
99 and after July 1, 2005.