

By: Representatives Green,  
McBride, Frierson, Gadd,  
Middleton

To: Appropriations

HOUSE BILL NO. 77

1 AN ACT MAKING AN APPROPRIATION FOR THE SUPPORT AND  
2 MAINTENANCE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AND FOR  
3 RELATED PURPOSES, FOR THE FISCAL YEAR 2006.

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

5 **SECTION 1.** The following sum, or so much thereof as may be  
6 necessary, is hereby appropriated out of any money in the State  
7 General Fund not otherwise appropriated, for the support and  
8 maintenance of the Department of Environmental Quality for the  
9 fiscal year beginning July 1, 2005, and ending June 30, 2006.....  
10 ..... \$ 11,004,519.00.

11 **SECTION 2.** The following sum, or so much thereof as may be  
12 necessary, is hereby appropriated out of any money in any special  
13 fund in the State Treasury to the credit of the Department of  
14 Environmental Quality which is comprised of special source funds  
15 collected by or otherwise available to the department, for the  
16 support of the various offices of the department for the fiscal  
17 year beginning July 1, 2005, and ending June 30, 2006.....  
18 ..... \$ 122,869,953.00.

19 **SECTION 3.** With the funds appropriated under the provisions  
20 of Section 1 and Section 2, the following positions are  
21 authorized:

22 AUTHORIZED POSITIONS:

23	Permanent:	Full Time.....	289
24		Part Time.....	0
25	Time-Limited:	Full Time.....	229
26		Part Time.....	0

27           With the funds herein appropriated, it is the intention of  
28 the Legislature that it shall be the agency's responsibility to  
29 make certain that funds required to be appropriated for "Personal  
30 Services" for Fiscal Year 2007 do not exceed Fiscal Year 2006  
31 funds appropriated for that purpose, unless programs or positions  
32 are added to the agency's Fiscal Year 2007 budget by the  
33 Mississippi Legislature. Based on data provided by the  
34 Legislative Budget Office, the State Personnel Board shall  
35 determine and publish the projected annual cost to fully fund all  
36 appropriated positions in compliance with the provisions of this  
37 act. It shall be the responsibility of the agency head to insure  
38 that no single personnel action increases this projected annual  
39 cost and/or the Fiscal Year 2006 appropriation for "Personal  
40 Services" when annualized, with the exception of escalated funds.  
41 If, at the time the agency takes any action to change "Personal  
42 Services," the State Personnel Board determines that the agency  
43 has taken an action which would cause the agency to exceed this  
44 projected annual cost or the Fiscal Year 2006 "Personal Services"  
45 appropriated level, when annualized, then only those actions which  
46 reduce the projected annual cost and/or the appropriation  
47 requirement will be processed by the State Personnel Board until  
48 such time as the requirements of this provision are met.

49           Any transfers or escalations shall be made in accordance with  
50 the terms, conditions and procedures established by law or  
51 allowable under the terms set forth within this act. The State  
52 Personnel Board shall not escalate positions without written  
53 approval from the Department of Finance and Administration. The  
54 Department of Finance and Administration shall not provide written  
55 approval to escalate any funds for salaries and/or positions  
56 without proof of availability of new or additional funds above the  
57 appropriated level.

58           No general funds authorized to be expended herein shall be  
59 used to replace federal funds and/or other special funds which are

60 being used for salaries authorized under the provisions of this  
61 act and which are withdrawn and no longer available.

62 The agency shall not take any action to promote or otherwise  
63 award salary increases through reallocation, reclassification,  
64 realignment, education benchmark, career ladder, or any other  
65 means to increase salaries of employees or positions unless  
66 specifically exempted by the following conditions: the award of  
67 teacher pay increases, the advancement of a trainee/cadet to the  
68 next level of a bona fide career ladder, the award of an  
69 educational benchmark for the attainment of Certified Public  
70 Accountant License or higher level professional certification as  
71 determined by the State Personnel Board, the immediate replacement  
72 of a departing employee with an individual from within state  
73 service or a new hire at a salary level equivalent to that of the  
74 departing employee, and the emergency appointment of nurses,  
75 pharmacists or other health care professionals at a salary to be  
76 determined by the State Personnel Board, unless otherwise  
77 authorized in this act.

78 Unless expressly authorized herein by the Legislature, no  
79 funds appropriated shall be expended to pay expenses incurred by  
80 more than four (4) employees or other representatives of the  
81 agency for attending the same conference, seminar or workshop,  
82 either in state or out of state; however, such funds may be  
83 expended for expenses incurred by more than four (4) employees or  
84 other representatives for attendance at the same conference,  
85 seminar or workshop (a) if attendance is required in order to  
86 maintain professional certification or licensure, which  
87 certification or licensure is required by the employees' job  
88 descriptions or by law, or (b) if such expenditure has received  
89 the prior written approval of the Department of Finance and  
90 Administration.

91 **SECTION 4.** It is the intention of the Legislature that the  
92 Department of Environmental Quality shall maintain complete

93 accounting and personnel records related to the expenditure of all  
 94 funds appropriated under this act and that such records shall be  
 95 in the same format and level of detail as maintained for Fiscal  
 96 Year 2005. It is further the intention of the Legislature that  
 97 the agency's budget request for Fiscal Year 2007 shall be  
 98 submitted to the Joint Legislative Budget Committee in a format  
 99 and level of detail comparable to the format and level of detail  
 100 provided during the Fiscal Year 2006 budget request process.

101 **SECTION 5.** In compliance with the "Mississippi Performance  
 102 Budget and Strategic Planning Act of 1994," it is the intent of  
 103 the Legislature that the funds provided herein shall be utilized  
 104 in the most efficient and effective manner possible to achieve the  
 105 intended mission of this agency. Based on the funding authorized,  
 106 this agency shall make every effort to attain the targeted  
 107 performance measures provided below:

108	FY2006
109 <u>Performance Measures</u>	<u>Target</u>
110 Pollution Control	
111     Air-Compliance Assurance Activities (Actions)	1,100
112     Air-Permits Issued (Permits)	300
113     Asbestos-Persons Certified (Persons)	1,300
114     RCRA-Inspections (Actions)	150
115     RCRA-Permit Actions Taken (Actions)	5
116     Wst Tires-Compliance Assurance (Actions)	460
117     Sld Waste-Permits Processed (Permits)	70
118     SRF Water-Inspections (Sites)	1,700
119     SRF Water-NPDES Permits Issued (Permits)	300
120     SRF Admin-Fed/State Match Funds (percent)	90
121 Construction Grants	
122     Federal/State Match Funds Awarded (percent)	90
123     Recipient Compliance with Loan Agreement	90
124 Land & Water	
125     Water Levels Measured (Actions)	1,000

126	Test/Data Collection Wells	2,500
127	Water Withdrawal Permits Issued	1,200
128	Driller Licenses Issued	300
129	Dams Inspected	150
130	Geology	
131	Quadrangles Mapped (Sites)	8
132	Test Holes Drilled	12
133	Mines Inspected	1,000

134 A reporting of the degree to which the performance targets  
135 set above have been or are being achieved shall be provided in the  
136 agency's budget request submitted to the Joint Legislative Budget  
137 Committee for Fiscal Year 2007.

138 **SECTION 6.** It is the intent of the Legislature that the  
139 Department of Environmental Quality shall have authority to  
140 escalate the various budgets in both funds and positions, with the  
141 approval of the State Fiscal Officer, from any special funds  
142 collected or available, in the current fiscal year or any prior  
143 fiscal year, not to exceed Five Million Dollars (\$5,000,000.00),  
144 to the agency for expenditure. Upon such approval, the Department  
145 of Environmental Quality may expend such funds in the manner  
146 authorized by law.

147 The Executive Director of the Department of Environmental  
148 Quality shall submit to the Department of Finance and  
149 Administration a certified statement providing a detailed  
150 explanation for any escalation, including a justification for the  
151 establishment of any new positions or reclassification of existing  
152 positions and the existence of any required matching funds for  
153 those positions, and an assessment of the impact on the agency's  
154 general fund budget for the three (3) fiscal years following the  
155 fiscal year in which the escalation is requested.

156 **SECTION 7.** It shall be unlawful for any officer, employee or  
157 other person whatsoever to use or permit or authorize the use of  
158 any automobile or any other motor vehicle owned by the State of

159 Mississippi or any department, agency or institution thereof for  
160 any purpose other than upon the official business of the State of  
161 Mississippi or any agency, department or institution thereof.

162 It is the intent of the Legislature that motor vehicles  
163 authorized to be owned and operated by this agency shall comply  
164 with Sections 25-1-77 through 25-1-93, Mississippi Code of 1972.

165 **SECTION 8.** Of the funds appropriated in Section 2 and  
166 allocated in Section 3, an amount no greater than Two Hundred  
167 Fifty Thousand Dollars (\$250,000.00) shall be derived from the  
168 Pollution Emergency Fund within the Pollution Operating Fund and  
169 shall be transferred to the Department of Finance and  
170 Administration.

171 **SECTION 9.** Of the funds appropriated in Section 2 and  
172 allocated in Section 3, an amount no greater than One Hundred  
173 Fifty Thousand Dollars (\$150,000.00) shall be derived from the  
174 Pollution Emergency Fund within the Pollution Operating Fund for  
175 transfer to the Department of Environmental Quality - Office of  
176 Administrative Services for support of Legal Division  
177 environmental protection activities.

178 **SECTION 10.** Of the funds appropriated in Section 2 and  
179 allocated in Section 3, an amount no greater than One Hundred  
180 Thousand Dollars (\$100,000.00) shall be derived from the Pollution  
181 Emergency Fund within the Pollution Operating Fund for transfer to  
182 the Department of Environmental Quality - Office of Pollution  
183 Control for support of the Household Hazardous Waste Collection  
184 Grants Program.

185 **SECTION 11.** The Department of Environmental Quality (DEQ)  
186 may request that the Mississippi Development Authority (MDA) staff  
187 shall provide an economic viability assessment for any complete  
188 application or group of related complete applications submitted to  
189 DEQ after July 1, 1999, for which DEQ estimates that DEQ will be  
190 required to devote extraordinary effort to process the application  
191 or group of related applications within the one hundred and eighty

192 (180) days required by Section 49-17-29(3)(c). For purposes of  
193 this paragraph, "extraordinary effort" means the constant  
194 dedication of more than three (3) full-time equivalent positions  
195 for a period of at least one hundred eighty (180) days. The  
196 economic viability assessment shall include, but not be limited  
197 to: (i) an analysis of the current and future market viability of  
198 the project concerning which application(s) has been made to DEQ;  
199 and (ii) an analysis of the applicant's economic ability to  
200 construct, develop, maintain and operate the project as described  
201 in the application(s) submitted to DEQ. If the economic viability  
202 assessment concludes that the project is not economically viable  
203 for any reason, DEQ shall suspend processing the permit  
204 application(s), notwithstanding the provisions of Section  
205 49-17-29(3)(c). Within thirty (30) days of the decision of MDA  
206 staff, the permit applicant may present any additional information  
207 on its behalf to the Executive Director of MDA, and the Executive  
208 Director shall review the MDA staff assessment. If additional  
209 information is received in writing from the applicant, the  
210 Executive Director of MDA shall make a decision in review of the  
211 MDA staff decision within sixty (60) days of the staff decision,  
212 and the decision of the Executive Director of MDA shall be the  
213 final administrative action of MDA in the matter.

214 **SECTION 12.** Of the funds provided herein, the sum of One  
215 Million Dollars (\$1,000,000.00) is hereby assessed on any  
216 nonfederal special funds and shall be deposited to the Budget  
217 Contingency Fund created in Section 27-103-301, Mississippi Code  
218 of 1972, on or before October 1, 2005, for the purpose of  
219 reimbursing the State of Mississippi for administrative costs.

220 **SECTION 13.** It is the intention of the Legislature that the  
221 Executive Director of the Department of Environmental Quality  
222 shall have authority to transfer cash from one special fund  
223 treasury fund to another special fund treasury fund under the  
224 control of the Department of Environmental Quality. The purpose

225 of this authority is to more efficiently use available cash  
226 reserves. It is further the intention of the Legislature that the  
227 Executive Director of the Department of Environmental Quality  
228 shall submit written justification for the transfer to the  
229 Legislative Budget Office and the Department of Finance and  
230 Administration on or before the fifteenth of the month prior to  
231 the effective date of the transfer.

232         **SECTION 14.** The money herein appropriated shall be paid by  
233 the State Treasurer out of any money in the State Treasury to the  
234 credit of the proper fund or funds as set forth in this act, upon  
235 warrants issued by the State Fiscal Officer; and the State Fiscal  
236 Officer shall issue his warrants upon requisitions signed by the  
237 proper person, officer or officers, in the manner provided by law.

238         **SECTION 15.** This act shall take effect and be in force from  
239 and after July 1, 2005.