

Senate Amendments to House Bill No. 740

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE 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:

10 **SECTION 1.** Section 53-1-7, Mississippi Code of 1972, is
11 brought forward as follows:

12 53-1-7. The board shall appoint a State Oil and Gas
13 Supervisor, herein called supervisor, who shall be a competent and
14 qualified administrator and receive as compensation for his
15 services an annual salary to be fixed by law. The supervisor
16 shall be solely responsible for the administration of the offices
17 of the State Oil and Gas Board and shall be charged with the duty
18 of enforcing Sections 53-1-1 through 53-1-47, and Sections 53-3-3
19 through 53-3-165, and all rules, regulations and orders duly
20 adopted by the board. The supervisor shall be ex officio
21 secretary of the board and shall give bond, in such sum as the
22 board may direct, with corporate surety to be approved by the
23 board, conditioned that he will well and truly account for all
24 funds coming into his hands as such secretary. He shall remit to
25 the State Treasurer all monies collected by him as such secretary
26 for deposit in trust for the use of the board in a special fund

27 known as the Oil and Gas Conservation Fund to be expended as
28 provided by law.

29 The supervisor shall devote his entire time to his official
30 duties.

31 In addition, it shall be the supervisor's duty and
32 responsibility to:

33 (a) Supervise and manage all personnel of the offices
34 of the Oil and Gas Board.

35 (b) Formulate the duties and responsibilities of every
36 staff employee in detail, including written job descriptions and
37 written policies and procedures for performing staff tasks.

38 (c) Outline a detailed method of preparing, and devise
39 a systematic procedure for the filing of reports by field
40 inspectors.

41 (d) Formulate written policies and procedures for the
42 effective and efficient operation of the office, and present these
43 policies and procedures to the board for promulgation.

44 (e) Supervise the provision of technical support and
45 assistance to the board in its decision-making capacity.

46 From and after July 1, 2016, the expenses of this agency
47 shall be defrayed by appropriation from the State General Fund and
48 all user charges and fees authorized under this section shall be
49 deposited into the State General Fund as authorized by law.

50 From and after July 1, 2016, no state agency shall charge
51 another state agency a fee, assessment, rent or other charge for
52 services or resources received by authority of this section.

53 **SECTION 2.** Section 53-1-73, Mississippi Code of 1972, is
54 amended as follows:

55 53-1-73. For the purposes of paying the costs and expenses
56 incurred in connection with the administration and enforcement of
57 the oil and gas conservation laws of the State of Mississippi and
58 of the rules, regulations and orders of the State Oil and Gas
59 Board, there is * * * levied and assessed against each barrel of
60 oil produced in the State of Mississippi a charge not to exceed
61 sixty (60) mills on each barrel of such oil sold, and against each
62 one thousand (1,000) cubic feet of gas produced and sold a charge
63 not to exceed six (6) mills on each one thousand (1,000) cubic
64 feet of gas. The State Oil and Gas Board shall fix the amount of
65 such charge in the first instances, and may, from time to time,
66 change, reduce or increase the amount thereof, as in its judgment
67 the charges against the fund may require, but the amounts fixed
68 by * * * the board shall not exceed the limits hereinabove
69 prescribed; and it shall be the duty of the board to make
70 collection of such assessments. All monies collected shall be
71 used exclusively to pay the expenses and other costs in connection
72 with the functioning of the State Oil and Gas Board and the
73 administration of the oil and gas conservation laws of the State
74 of Mississippi now in force or hereafter enacted and the rules,
75 regulations and orders of * * * the board.

76 From and after July 1, 2016, the expenses of this agency
77 shall be defrayed by appropriation from the State General Fund and

78 all user charges and fees authorized under this section shall be
79 deposited into the State General Fund as authorized by law.

80 From and after July 1, 2016, no state agency shall charge
81 another state agency a fee, assessment, rent or other charge for
82 services or resources received by authority of this section.

83 **SECTION 3.** Section 53-1-77, Mississippi Code of 1972, is
84 amended as follows:

85 53-1-77. (1) The State Oil and Gas Supervisor, as ex
86 officio secretary of such board, shall remit to the State
87 Treasurer all monies collected by reason of the assessments made
88 and fixed under the provisions of Section 53-1-73, and the State
89 Treasurer shall deposit all such monies in a special fund known as
90 the "Oil and Gas Conservation Fund," which is * * * continued in
91 effect.

92 (2) All monies on deposit in the Oil and Gas Conservation
93 Fund on April 10, 1948, and all monies hereafter deposited in such
94 fund, shall be for the use of the board to pay the expenses and
95 costs incurred in connection with the administration and
96 enforcement of the oil and gas conservation laws of the State of
97 Mississippi and the rules, regulations and orders of the State Oil
98 and Gas Board issued thereunder. Disbursements shall be made from
99 such fund only upon requisition of the State Oil and Gas
100 Supervisor, as approved and allowed by the board, and which
101 requisitions shall be supported by itemized statements thereto
102 attached showing the purpose or purposes of such expenditures.
103 Such requisitions shall be drawn upon the State * * * Fiscal

104 Officer, who shall issue a warrant upon * * * the fund. Such
105 warrants so issued shall be paid by the State Treasurer upon
106 presentation.

107 (3) The State Oil and Gas Supervisor, as ex officio
108 secretary of the Oil and Gas Board, shall submit, within ten (10)
109 days, after the convening of each session of the Legislature, to
110 the Legislature a detailed report of all receipts, expenditures
111 and balance on hand, of funds coming to the Oil and Gas Board from
112 any source whatsoever.

113 (4) In the event that at any particular time, the Oil and
114 Gas Conservation Fund contains an amount greater than Two Hundred
115 Thousand Dollars (\$200,000.00) more than the current fiscal year's
116 estimated budget, the amount of the excess may be used by the
117 board and at the board's discretion, to plug any oil or gas well,
118 including any Class II well, in the state * * * that has been
119 determined by the board to represent an imminent threat to the
120 environment and * * * that has been determined by the board to be
121 an "orphan" well.

122 (5) The board shall have the authority, in its discretion,
123 to use whatever legal means available to it to attempt to collect
124 any amounts so expended from any responsible party. Any amounts
125 so collected shall be returned to the Oil and Gas Board's
126 Emergency Plugging Fund created herein.

127 (6) Amounts of surplus in the Oil and Gas Conservation Fund
128 of over Two Hundred Thousand Dollars (\$200,000.00) shall be
129 transferred to a separate special fund of the Oil and Gas Board to

130 be known as the Emergency Plugging Fund, for the proper plugging
131 of wells pursuant to this section. The supervisor shall have the
132 authority, and it shall be his duty to transfer any amounts in the
133 Emergency Plugging Fund back to the Oil and Gas Conservation Fund
134 in the event and to the extent to which the Oil and Gas
135 Conservation Fund should at any time contain less than a Two
136 Hundred Thousand Dollars (\$200,000.00) surplus.

137 (7) For purposes of this section, orphan well means any oil
138 or gas well in the state, including Class II wells, * * * that has
139 not been properly plugged according to the requirements of the
140 statutes, rules and regulations governing same and for which a
141 responsible party such as an owner or operator cannot be located
142 or for which, for whatever reason, there is no other party * * *
143 that can be forced to plug the well.

144 (8) From and after July 1, 2016, the expenses of this
145 agency, except for emergency plugging of orphaned wells which
146 shall be paid from the Capital Expense Fund, shall be defrayed by
147 appropriation from the State General Fund and all user charges and
148 fees authorized under this section shall be deposited into the
149 State General Fund as authorized by law and as determined by the
150 State Fiscal Officer.

151 (9) From and after July 1, 2016, no state agency shall
152 charge another state agency a fee, assessment, rent or other
153 charge for services or resources received by authority of this
154 section.

155 (10) From and after July 1, 2019, the board shall be allowed
156 to maintain a balance in the Oil and Gas Conservation Fund in the
157 amount of Five Hundred Thousand Dollars (\$500,000.00) for the
158 purpose of paying expenses incurred by the board due to a material
159 change in the number of permits sought from the board in any
160 fiscal year. At the beginning of each fiscal year, the fees
161 collected by the board shall be deposited into the Oil and Gas
162 Conservation Fund until the fund has a balance of Five Hundred
163 Thousand Dollars (\$500,000.00) or until the amount collected in
164 the fiscal year equals Five Hundred Thousand Dollars
165 (\$500,000.00), whichever occurs first. If the Oil and Gas
166 Conservation Fund has a balance at the end of any fiscal year
167 those funds shall not lapse into the State General Fund, and the
168 amount collected in the next fiscal year shall be reduced by the
169 balance remaining in the fund so that the balance of the Oil and
170 Gas Conservation fund does not exceed Five Hundred Thousand
171 Dollars (\$500,000.00) in any fiscal year.

172 Upon making a declaration that a material change has occurred
173 and that the funds in the Oil and Gas Conservation Fund are needed
174 to meet permitting demands in a fiscal year, the board may
175 escalate its budget and expend such funds in accordance with rules
176 and regulations of the Department of Finance and Administration in
177 a manner consistent with the escalation of federal funds. The
178 board and the Department of Finance and Administration shall
179 report any such escalation to the Legislative Budget Office before
180 any funds are expended. Disbursements shall be made from such

181 fund only upon requisition of the State Oil and Gas Supervisor, as
182 approved and allowed by the board, and which requisitions shall be
183 supported by itemized statements thereto attached showing the
184 purpose or purposes of such expenditures. Such requisitions shall
185 be drawn upon the State Fiscal Officer, who shall issue a warrant
186 upon said fund. Such warrants so issued shall be paid by the
187 State Treasurer upon presentation.

188 (11) All other expenses of the board shall be defrayed by
189 appropriation from the State General Fund and all user charges and
190 fees authorized under this section shall be deposited into the
191 State General Fund as authorized by law.

192 **SECTION 4.** Section 53-3-13, Mississippi Code of 1972, is
193 brought forward as follows:

194 53-3-13. (1) Any person securing a permit to drill a well
195 in search of oil or gas under the provisions of Section 53-3-11
196 shall pay to the Oil and Gas Supervisor a fee of Six Hundred
197 Dollars (\$600.00) upon and for the issuance of the permit. A
198 lesser sum may be paid if the State Oil and Gas Board shall adopt
199 a rule fixing the amount to be paid at a sum less than Six Hundred
200 Dollars (\$600.00). Any such permit, when issued and the fee paid
201 thereon, shall be good for a period of one (1) year from the date
202 thereof; and in the event drilling has commenced within one (1)
203 year, the permit shall be good for the life of the well commenced,
204 unless during the course of drilling or production the operator is
205 changed. In the event a change of operators from that listed in
206 the drilling permit is desired, the operator listed and the

207 proposed new operator shall apply to the State Oil and Gas Board
208 for authority to change operators on forms to be prescribed by
209 order of the State Oil and Gas Board. The fee for such change of
210 operators shall be One Hundred Dollars (\$100.00) per change, or
211 some lesser sum as may be fixed by order of the board.

212 (2) The State Oil and Gas Supervisor, as ex officio
213 Secretary of the State Oil and Gas Board, shall remit to the State
214 Treasurer all monies collected by reason of the assessments made,
215 fixed and authorized under the provisions of subsection (1) of
216 this section, and the State Treasurer shall deposit all such
217 monies in a special fund known as the "Oil and Gas Conservation
218 Fund."

219 (3) From and after July 1, 2016, the expenses of this agency
220 shall be defrayed by appropriation from the State General Fund and
221 all user charges and fees authorized under this section shall be
222 deposited into the State General Fund as authorized by law.

223 (4) From and after July 1, 2016, no state agency shall
224 charge another state agency a fee, assessment, rent or other
225 charge for services or resources received by authority of this
226 section.

227 **SECTION 5.** Section 53-11-23, Mississippi Code of 1972, is
228 brought forward as follows:

229 53-11-23. (1) (a) The board is authorized to adopt
230 regulations within its jurisdiction to assess sequestration fees
231 that shall be subject to the approval of the Legislature.

232 (b) Any monies collected shall be used exclusively:
233 (i) to pay the expenses and other costs connected with
234 administration and enforcement of this chapter and the rules,
235 regulations and orders of the board pursuant to this chapter; and
236 (ii) to fund the Carbon Dioxide Storage Fund established in this
237 chapter.

238 (c) Any per-ton fee shall first be applied to the
239 administration and enforcement costs of the board's activities
240 required or authorized by this chapter, and any amount exceeding
241 those costs shall be transferred to a separate special fund of the
242 State Oil and Gas Board which is hereby created and is to be known
243 as the Carbon Dioxide Storage Fund.

244 (d) Transfers to the Carbon Dioxide Storage Fund from
245 the per-ton fees shall be made monthly. Transfers from excess
246 funds collected under subsection (1)(c) of this section may be
247 made at any time in the fiscal year that the board shall determine
248 appropriate. At the beginning of the following fiscal year after
249 the transfer of the excess funds, the rate or rates to be
250 collected under subsection (1)(c) of this section shall be reduced
251 to reflect the excess from the prior year.

252 (e) When the balance in the Carbon Dioxide Storage Fund
253 reaches or exceeds Two Million Five Hundred Thousand Dollars
254 (\$2,500,000.00) per geologic sequestration facility, the board
255 shall abate the per-ton fee, and may adjust the annual regulatory
256 fee as prescribed herein. The abatement shall be effective at the
257 beginning of the ensuing fiscal year. When the Carbon Dioxide

258 Storage Fund is reduced below Two Million Five Hundred Thousand
259 Dollars (\$2,500,000.00) per geologic sequestration facility, the
260 per-ton fee shall again be imposed on all geologic storage
261 operators until such time as the fund shall reach or exceed Two
262 Million Five Hundred Thousand Dollars (\$2,500,000.00) per geologic
263 sequestration facility. The imposition of the per-ton fee shall
264 be effective at the beginning of the ensuing fiscal year.

265 (f) Monies in the Carbon Dioxide Storage Fund created
266 in this chapter may be used in the board's discretion but only if
267 inadequate funds are available from responsible parties including
268 the financial assurance funds provided in Section 53-11-27(2).
269 Monies in the Carbon Dioxide Storage Fund shall only be used for
270 oversight of geologic storage facilities after cessation of
271 injection at the facility and release of the facility's
272 performance bond or other assurance of performance and as shall be
273 necessary or appropriate to satisfy the requirements of the
274 federal Safe Drinking Water Act, including, without limitation,
275 matters with respect to closed facilities such as: (i)
276 inspecting, testing and monitoring of the facility, including
277 remaining surface facilities and wells; (ii) repairing mechanical
278 problems associated with remaining wells and surface
279 infrastructure; and (iii) repairing mechanical leaks at the
280 facility.

281 (g) The Carbon Dioxide Storage Fund shall be used for
282 the purposes set forth in this chapter and for no other
283 governmental purposes, nor shall any portion of the fund ever be

284 available to borrow from by any branch of government, it being the
285 intent of the Legislature that this fund and its increments shall
286 remain intact and inviolate. Any interest earned on monies in
287 this fund shall remain in this fund and shall not lapse into the
288 General Fund.

289 (2) To facilitate the proper administration of the Class VI
290 underground injection control program within its jurisdiction, the
291 commission is authorized to assess and collect fees from Class VI
292 permit applicants for Class VI underground injection control wells
293 permitted by the permit board. The commission is further
294 authorized to promulgate rules and regulations for the assessment
295 and collection of permit fees for Class VI underground injection
296 control wells within its jurisdiction.

297 (3) From and after July 1, 2016, the expenses of this agency
298 shall be defrayed by appropriation from the State General Fund and
299 all user charges and fees authorized under this section shall be
300 deposited into the State General Fund as authorized by law.

301 (4) From and after July 1, 2016, no state agency shall
302 charge another state agency a fee, assessment, rent or other
303 charge for services or resources received by authority of this
304 section.

305 **SECTION 6.** Section 27-104-205, Mississippi Code of 1972, is
306 amended as follows:

307 27-104-205. (1) From and after July 1, 2016, the expenses
308 of the following enumerated state agencies shall be defrayed by
309 appropriation of the Legislature from the State General Fund: the

310 State Fire Marshal, the State Fire Academy, the Office of
311 Secretary of State (not including the Preneed Contracts Loss
312 Recovery Fund), the Mississippi Public Service Commission, the
313 Mississippi Department of Information Technology Services, (not
314 including the Mississippi Department of Information Technology
315 Services Revolving Fund), the State Personnel Board, the
316 Mississippi Department of Insurance (not including the Municipal
317 Fire Protection Fund, Section 83-1-37, the County Volunteer Fire
318 Department Fund, Section 83-1-39, and the Mississippi Propane
319 Education and Research Fund, Section 75-57-119), the Mississippi
320 Law Enforcement Officers' Minimum Standards Board, the Mississippi
321 Gaming Commission, the Mississippi Oil and Gas Board (except as
322 provided in Section 53-1-77(10)), the Mississippi Department of
323 Revenue - License Tag, the Office of the State Public Defender,
324 the Mississippi Workers' Compensation Commission (not including
325 the Second Injury Trust Fund) and the Office of Attorney General.
326 Beginning July 1, 2016, any fees, assessments or other revenues
327 charged for the support of the above-named state agencies shall be
328 deposited into the State General Fund, and any special fund or
329 depository established within the State Treasury for the deposit
330 of such fees, assessments or revenues shall be abolished and the
331 balance transferred to the State General Fund. Expenses
332 heretofore drawn from such special funds or other depositories
333 shall be drawn from the agencies General Fund Account.

334 (2) Beginning with the fiscal year ending June 30, 2016, the
335 amount to be appropriated annually from the State General Fund for

336 the support of each of the above-named state agencies shall not
337 exceed the amount appropriated for such purpose in the preceding
338 fiscal year, plus any increases in or additional fees, assessments
339 or other charges authorized by act of the Legislature for the
340 succeeding fiscal year.

341 (3) The provisions of this section shall not apply to any
342 trust fund account that is maintained by any above-named agency.

343 (4) The provisions of this section shall not prohibit any of
344 the above-named agencies from maintaining clearing accounts in
345 approved depositories.

346 (5) The provisions of this section shall not apply to any
347 trust fund accounts maintained by the Public Employees' Retirement
348 System and protected under Section 272A of the Mississippi
349 Constitution of 1890.

350 **SECTION 7.** Section 27-103-303, Mississippi Code of 1972, is
351 brought forward as follows:

352 27-103-303. (1) There is created in the State Treasury a
353 special fund, separate and apart from any other fund, to be
354 designated the Capital Expense Fund.

355 (2) The Capital Expense Fund shall not be considered as a
356 surplus or available funds when adopting a balanced budget as
357 required by law. The State Treasurer shall invest all sums in the
358 Capital Expense Fund not needed for the purposes provided for in
359 this section in certificates of deposit, repurchase agreements and
360 other securities as authorized in Section 27-105-33(d) or Section
361 7-9-103, as the State Treasurer may determine to yield the highest

362 market rate available. Interest earned on this fund shall be
363 deposited by the State Treasurer into the State General Fund.

364 (3) The Capital Expense Fund shall be used for capital
365 expense needs, repair and renovation of state-owned properties and
366 specific expenditures authorized by the Legislature. The
367 Legislature shall designate those capital expense projects, repair
368 and renovation projects and other authorized projects in an
369 appropriation act passed by the Legislature, which shall direct
370 the Director of the Department of Finance and Administration to
371 administer the projects.

372 (4) In addition to the purposes specified in subsection (3)
373 of this section, the Capital Expense Fund shall be used to provide
374 funds for emergency repairs on state-owned buildings and the
375 emergency plugging of orphaned wells identified by the Oil and Gas
376 Board, upon requisition of the Director of the Department of
377 Finance and Administration. Whenever the director determines that
378 funds are immediately needed for emergency repairs on state-owned
379 buildings or the Oil and Gas Board has requested funds for the
380 emergency plugging of orphaned wells identified by the board, he
381 shall requisition the funds needed from the Capital Expense Fund,
382 which shall be subject to the limitations set forth in this
383 subsection. At the same time he makes the requisition, the
384 director shall notify the Lieutenant Governor, the Speaker of the
385 House of Representatives, the respective Chairmen of the Senate
386 Appropriations Committee, the Senate Finance Committee, the House
387 Appropriations Committee and the House Ways and Means Committee

388 and the Legislative Budget Office of his determination of the need
389 for the funds, the amount that he has requisitioned and where the
390 funds will be used. If the amount requisitioned is available in
391 the Capital Expense Fund, is not allocated for any specific
392 projects as authorized in subsection (3) of this section and is
393 within the limitations set forth below in this subsection, then
394 the director may escalate the budget of the Bureau of Building,
395 Grounds and Real Property Management or the Oil and Gas Board to
396 use the full amount of the requisitioned funds for the emergency
397 repairs or plugging of orphaned wells, and transfer that amount to
398 the bureau or board for that purpose. If the amount requisitioned
399 is more than the amount available in the Capital Expense Fund or
400 above the limitations set forth below in this subsection, then the
401 director may escalate the budget of the bureau or board to use the
402 amount that is available within the limitations for the emergency
403 repairs or plugging of orphaned wells, and transfer that amount to
404 the bureau or board for that purpose. The maximum amount that may
405 be transferred from the Capital Expense Fund to the bureau or
406 board for any single emergency shall be One Million Dollars
407 (\$1,000,000.00), and the maximum amount that may be transferred to
408 the bureau or board for all emergencies during any fiscal year
409 shall be Five Million Dollars (\$5,000,000.00).

410 (5) Funds deposited in the Capital Expense Fund shall be
411 used only for the purposes specified in this section, and as long
412 as the provisions of this section remain in effect, no other
413 expenditure, appropriation or transfer of funds in the Capital

414 Expense Fund shall be made except by act of the Legislature making
415 specific reference to the Capital Expense Fund as the source of
416 those funds.

417 (6) Unexpended funds in the Capital Expense Fund at the end
418 of a fiscal year shall not lapse into the State General Fund but
419 shall remain in the fund for use under this section. Any funds
420 appropriated from the Capital Expense Fund that are unexpended at
421 the end of a fiscal year shall lapse into the Capital Expense
422 Fund.

423 **SECTION 8.** This act shall take effect and be in force from
424 and after July 1, 2019, and shall stand repealed on June 30, 2019.

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

1 AN ACT TO AMEND AND BRING FORWARD SECTIONS 53-1-7, 53-1-73,
2 53-1-77, 53-3-13, 53-11-23, 27-104-205 AND 27-103-303, MISSISSIPPI
3 CODE OF 1972, TO REENACT THE PROVISIONS OF LAW REQUIRING CERTAIN
4 EXPENSES OF THE MISSISSIPPI STATE OIL AND GAS BOARD TO BE DEFRAIDED
5 BY APPROPRIATION FROM THE STATE GENERAL FUND; TO AMEND SECTION
6 53-1-77, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE BOARD TO
7 RETAIN A CERTAIN FUND TO DEFRAID EXPENSES RELATING TO PERMITS; AND
8 FOR RELATED PURPOSES.

SS26\HB740A.J

Liz Welch
Secretary of the Senate