

Senate Amendments to House Bill No. 827

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:

12 **SECTION 1.** Section 49-15-11, Mississippi Code of 1972, is
13 amended as follows:

14 49-15-11. (1) The Mississippi Department of Marine
15 Resources is hereby established and full power is vested in the
16 department to manage, control, supervise, enforce and direct any
17 matters pertaining to saltwater aquatic life and marine resources
18 under the jurisdiction of the commission.

19 (2) The Executive Director of the Department of Marine
20 Resources shall have the authority to internally reorganize the
21 Department of Marine Resources. For a period of six (6) months
22 after April 16, 2014, the personnel actions of the executive
23 director shall be exempt from State Personnel Board rules,
24 regulations and procedures in order to give the executive director
25 flexibility in making an orderly, effective and timely
26 reorganization of the Department of Marine Resources.

27 (3) The department shall be composed of the following
28 offices:

- 29 (a) Office of Coastal Resources Management;
30 (b) Office of Finance and Administration;
31 (c) Office of Marine Fisheries;
32 (d) Office of Marine Patrol; and
33 (e) Office of Coastal Restoration and Resiliency.

34 Each office shall be composed of the administrative units as
35 set forth in the reorganization plan developed by the executive
36 director.

37 (4) The following agency personnel shall be appointed by the
38 executive director:

39 (a) Chief Financial Officer who shall have a minimum of
40 a Master's degree in Business Administration, Accounting or
41 related field and a minimum of five (5) years' experience in
42 business management or accounting practice or who shall be a
43 Certified Public Accountant.

44 (b) Chief of Marine Patrol who shall be a certified law
45 enforcement officer with a minimum of ten (10) years of law
46 enforcement experience.

47 (c) Chief Scientific Officer who shall have a minimum
48 of a Master's degree in Coastal Sciences or related field with a
49 minimum of five (5) years of experience in coastal resource
50 management or equivalent experience.

51 (5) The executive director shall have an annual audit of the
52 department, including the accounts established in Section
53 49-15-17, performed by an independent certified public accountant
54 and shall file the audit report with the commission, the Chairman

55 of the Senate Ports and Marine Resources Committee, the Chairman
56 of the House Marine Resources Committee, the State Auditor and the
57 Legislative Budget Office.

58 (6) Whenever the terms "Mississippi Marine Conservation
59 Commission," "Marine Conservation Commission," "Bureau of Marine
60 Resources" and "Mississippi Marine Resources Council" appear in
61 any state law, they shall mean the "Mississippi Advisory
62 Commission on Marine Resources * * *," which shall operate only
63 as an advisory commission to the Department of Marine Resources.

64 **SECTION 2.** Section 49-15-301, Mississippi Code of 1972, is
65 amended as follows:

66 49-15-301. (1) The Mississippi Advisory Commission on
67 Marine Resources is hereby established and full power is vested in
68 the advisory commission to * * * advise the Executive Director of
69 the Department of Marine Resources on all matters pertaining to
70 all saltwater aquatic life and marine resources. The advisory
71 commission shall * * * advise the Executive Director of the
72 Department of Marine Resources on the administration of the
73 Coastal Wetlands Protection Law and the Public Trust Tidelands
74 Act. * * * Notwithstanding any other provision of law to the
75 contrary, the commission shall only be * * * an advisory
76 commission to the Department of Marine Resources and shall not
77 have independent authority to take official action on behalf of
78 the Mississippi Department of Marine Resources and its actions are
79 purely advisory in nature. Whenever the terms "Mississippi
80 Commission on Marine Resources," "Commission on Marine Resources"

81 and "commission" when referring to the Mississippi Commission on
82 Marine Resources appear in any state law, they shall mean the
83 "Mississippi Advisory Commission on Marine Resources."

84 (2) * * * The reconstituted Mississippi Advisory Commission
85 on Marine Resources shall consist of five (5) members to be
86 appointed as follows:

87 (a) The Governor shall appoint five (5) members who
88 shall be residents of Jackson, Harrison and Hancock Counties with
89 the advice and consent of the Senate. The Governor shall appoint
90 at least one (1) member from each county but not more than two (2)
91 members from any one (1) county. The members designated in
92 subparagraphs (i), (ii) and (iv) must be a resident of the county
93 where the business he is appointed to represent is located.

94 (b) The advisory commission shall be composed as
95 follows:

96 (i) One (1) member shall be a commercial seafood
97 processor.

98 (ii) One (1) member shall be a commercial
99 fisherman.

100 (iii) One (1) member shall be a recreational
101 sports fisherman.

102 (iv) One (1) member shall be a charter boat
103 operator.

104 (v) One (1) member shall be a member of an
105 incorporated nonprofit environmental organization.

106 (c) Of the initial members appointed by the Governor,
107 the members designated in subparagraphs (i), (ii) and (iii) shall
108 serve for an initial term of two (2) years and one (1) member
109 shall be appointed from each county. The members designated in
110 subparagraphs (iv) and (v) shall serve an initial term of four (4)
111 years. All terms after the initial terms shall be for a period of
112 four (4) years.

113 (d) Any vacancy in the office of an appointed member of
114 the advisory commission shall be filled by appointment by the
115 Governor for the balance of the unexpired term.

116 (3) Each member shall have a demonstrated history of
117 involvement in the matter of jurisdiction for which he is
118 appointed to represent and his employment and activities must not
119 conflict with the matter of jurisdiction represented. A member
120 shall not have a record of conviction of violation of fish and
121 game or seafood laws or regulations within the five (5) years
122 preceding his appointment or a record of any felony conviction.
123 After July 1, 1999, if a member is convicted of a violation of the
124 seafood laws during his term, his office shall be deemed vacant
125 and the Governor shall fill the vacancy as provided in this
126 section.

127 (4) The advisory commission shall elect a chairman who shall
128 preside at all meetings of the commission, and the advisory
129 commission shall also elect a vice chairman who shall serve in the
130 absence or inability of the chairman.

131 (5) Each member shall be paid actual and necessary expenses
132 incurred in attending meetings of the advisory commission and in
133 performing his duties away from his domicile under assignment by
134 the advisory commission. In addition, members shall receive the
135 per diem authorized in Section 25-3-69 * * *.

136 (6) The advisory commission shall adopt rules and
137 regulations governing times and places of meetings * * *. * * *

138 (7) The advisory commission shall not take any action * * *
139 without the approval of the Department of Marine Resources, and
140 such action shall be included in the minutes of the advisory
141 commission. A majority of the members shall constitute a quorum
142 of the advisory commission.

143 (8) The advisory commission * * * shall advise the
144 Department of Marine Resources * * * on how to devise a plan to
145 make licenses available in each coastal county.

146 (9) (a) There is hereby created a Marine Resources
147 Technical Advisory Council composed of the Executive Director of
148 the Gulf Coast Research Lab, or his designee; the Executive
149 Director of the Department of Environmental Quality, or his
150 designee; and the Executive Director of the Department of
151 Wildlife, Fisheries and Parks, or his designee.

152 (b) The council shall give technical assistance to
153 the * * * department.

154 (10) For purposes of this section the following definitions
155 apply:

156 (a) "Charter boat operator" means an individual who
157 operates a vessel for hire, guiding sports fishermen for a fee and
158 is duly licensed to engage in such activity in the State of
159 Mississippi.

160 (b) "Commercial fisherman" means a fisherman who sells,
161 barter or exchanges any or all of his catch or who is paid for
162 attempting to catch marine species, and is duly licensed to engage
163 in commercial fishing.

164 (c) "Commercial seafood processor" means an individual
165 who engages in the business of purchasing seafood products and
166 preparing them for resale and who is duly licensed to engage in
167 such commercial activity in the State of Mississippi.

168 (d) "Incorporated environmental nonprofit organization"
169 means an organization duly incorporated in any state as a
170 nonprofit organization and whose stated goals and purposes are the
171 conservation of natural resources.

172 (e) "Recreational sports fisherman" means an individual
173 who catches or harvests marine species only for recreation or
174 personal consumption and not for sale. The individual must
175 possess a saltwater sports fishing license, be a member of an
176 incorporated nonprofit sports fishing organization and not possess
177 a commercial fishing or seafood processor license.

178 **SECTION 3.** Section 49-15-303, Mississippi Code of 1972, is
179 amended as follows:

180 49-15-303. The advisory commission shall have the following
181 powers and duties:

182 (a) To * * * advise the department regarding marine
183 resources within the jurisdiction of the department;

184 (b) To * * * advise the executive director on whether
185 to execute contracts, grants and cooperative agreements with any
186 public or private institution, federal or state agency or any
187 subdivision thereof to carry out the duties of the commission; and

188 (c) To advise the department on whether to adopt, amend
189 or repeal any rules and regulations necessary for the operation of
190 the * * * department necessary for the protection, conservation
191 and propagation of seafood, and necessary for the management of
192 commercial and recreational taking of seafood * * *.

193 * * *

194 **SECTION 4.** Section 49-15-304, Mississippi Code of 1972, is
195 amended as follows:

196 49-15-304. The department, with the advice of the advisory
197 commission, may adopt, modify or repeal rules or regulations to
198 utilize, manage, conserve, preserve and protect the flora, fauna,
199 tidelands, coastal wetlands, coastal preserves, marine waters and
200 any other matter pertaining to marine resources under its
201 jurisdiction. Rules and regulations adopted by the * * *
202 department shall be consistent with the public policy expressed in
203 Section 29-15-3 (public trust tidelands), Section 39-7-3
204 (antiquities and historic preservation), Section 49-15-1
205 (seafood), Section 49-17-3 (pollution control), Section 49-27-3
206 (coastal wetlands protection) and Section 57-15-6 (coastal zone
207 management). The * * * department may make exceptions to and

208 grant variances from any rules and regulations adopted by
209 the * * * department. The * * * department shall give due
210 consideration to permissible uses of the natural resources within
211 its jurisdiction when promulgating rules and regulations.

212 **SECTION 5.** Section 49-15-305, Mississippi Code of 1972, is
213 amended as follows:

214 49-15-305. (1) * * * *The Governor shall appoint the*
215 *Executive Director* * * * *of the Department of Marine Resources,*
216 *with the advice and consent of the Senate* * * *, *who shall serve*
217 *at the will and pleasure of the Governor.* *The executive director*
218 *shall be knowledgeable and experienced in marine resources*
219 *management.*

220 (2) The executive director of the department shall have the
221 following powers and duties:

222 (a) To supervise and direct all administrative,
223 inspection and technical activities and personnel of the
224 department;

225 (b) To employ qualified professional personnel in the
226 subject matter or fields, and any other technical and clerical
227 staff as may be required for the operation of the department;

228 (c) To coordinate all studies in the State of
229 Mississippi concerned with the supply, development, use and
230 conservation of marine resources;

231 (d) To prepare and deliver to the Legislature and the
232 Governor on or before January 1 of each year, and at any other
233 times as may be required by the Legislature or Governor, a full

234 report of the work of the department, including a detailed
235 statement of expenditures of the department and any
236 recommendations the department may have;

237 (e) To enter into cooperative agreements with any
238 federal or state agency or subdivision thereof, or any public or
239 private institution located inside or outside the State of
240 Mississippi, or any person, corporation or association in
241 connection with studies and investigations pertaining to marine
242 resources, provided the agreements do not have a financial cost in
243 excess of the amounts appropriated for the purposes by the
244 Legislature; and

245 (f) To carry out all regulations and rules adopted by
246 the * * * department and enforce all licenses and permits issued
247 by the department.

248 **SECTION 6.** Section 49-15-307, Mississippi Code of 1972, is
249 amended as follows:

250 49-15-307. The department shall have the following powers
251 and duties:

252 (a) To implement the policy of the * * * department
253 regarding marine resources within the jurisdiction of the
254 department;

255 (b) To apply for, receive and expend any federal or
256 state funds or contributions, gifts, devises, bequests or funds
257 from any other source;

258 (c) To commission or conduct studies designed to
259 determine alternative methods of managing and conserving the

260 marine resources of this state in a manner to * * * ensure
261 efficiency and sustained productivity;

262 (d) To issue permits and licenses authorized by law or
263 regulation;

264 (e) To equip and supply check stations, remote duty
265 stations and personnel for extended duty;

266 (f) To develop programs to enhance the marketing of the
267 state's recreational and commercial marine resources;

268 (g) To provide gear, insignias, and otherwise equip
269 personnel subject to the amount appropriated for those purposes;
270 and

271 (h) To discharge any other duties, responsibilities and
272 powers as are necessary to implement this chapter.

273 **SECTION 7.** Section 49-15-15, Mississippi Code of 1972, is
274 amended as follows:

275 49-15-15. (1) In addition to any other powers and duties
276 authorized by law, the department, with the advice of the advisory
277 commission, shall have the following powers and duties regarding
278 the regulation of seafood:

279 (a) To exercise full jurisdiction and authority over
280 all marine aquatic life and to regulate any matters pertaining to
281 seafood, including cultivated seafood;

282 (b) To adopt, promulgate, amend or repeal, after due
283 notice and public hearing, in accordance with the Mississippi
284 Administrative Procedures Law and subject to the limitations in
285 subsection (2) of this section, rules and regulations authorized

286 under this chapter, including, but not limited to, rules and
287 regulations necessary for the protection, conservation or
288 propagation of all seafood in the waters under the territorial
289 jurisdiction of the State of Mississippi and for the regulation of
290 gill net and purse seine fishermen. All public hearings under
291 this chapter concerning the regulation of marine resources shall
292 be held in Hancock, Harrison or Jackson Counties. Each rule or
293 regulation promulgated under this chapter shall immediately be
294 advertised one (1) time in a newspaper or newspapers having
295 general circulation in counties affected by that regulation. A
296 regulation shall become effective at 6:00 a.m. on the day after
297 its publication;

298 (c) To regulate all seafood sanitation and processing
299 programs. In the three (3) coastal counties, the sanitation
300 program regulating processing plants and seafood sold in retail
301 stores operating in conjunction with a processing plant or seafood
302 market that primarily deals with seafood is under the exclusive
303 authority of the * * * department. The * * * department may also
304 inspect and regulate those areas of any seafood processing plant
305 which process freshwater species at any site * * *. To
306 effectively and efficiently implement the state seafood sanitation
307 program, the State Health Officer, the Commissioner of Agriculture
308 and the executive director of the department may enter into a
309 memorandum of understanding, which at a minimum, clearly specifies
310 the responsibilities of each agency in implementing the seafood

311 sanitation program, as well as the sharing of information and
312 communication and coordination between the agencies;

313 (d) To set standards of measure;

314 (e) To set requirements for employment of commission
315 employees whose compensation shall be governed by the rules and
316 regulations of the State Personnel Board;

317 (f) To acquire and dispose of commission equipment and
318 facilities;

319 (g) To keep proper records of the commission, including
320 an official ordinance book which contains all rules and
321 regulations promulgated by the department, with the advice of the
322 advisory commission, under this chapter;

323 (h) To enter into advantageous interstate and
324 intrastate agreements with proper officials, which directly or
325 indirectly result in the protection, propagation and conservation
326 of the seafood of the State of Mississippi, or continue any such
327 agreements now in existence;

328 (i) To arrange, negotiate or contract for the use of
329 available federal, state and local facilities which would aid in
330 the propagation, protection and conservation of the seafood of the
331 State of Mississippi;

332 (j) To authorize the operation of double rigs in the
333 waters lying between the mainland coast and the island chain, and
334 those rigs shall not exceed a length of twenty-five (25) feet at
335 the corkline, and to prescribe the length at the lead line for
336 each rig, net or try-trawl;

337 (k) To destroy or dispose of equipment or nets which
338 have been lawfully seized by the commission and which are not sold
339 under Section 49-15-201 et seq.;

340 (l) To open, close and regulate fishing seasons for the
341 taking of shrimp, oysters, fish taken for commercial purposes and
342 crabs and set size, catching and taking regulations for all types
343 of seafood and culling regulations for oysters, except as
344 otherwise specifically provided by law;

345 (m) To utilize the resources of the Gulf Coast Research
346 Laboratory to the fullest extent possible;

347 (n) To develop a resource management plan to preserve
348 seafood resources and to ensure a safe supply of these resources;

349 (o) To prescribe types and forms of scientific permits
350 for public educational or scientific institutions, federal and
351 state agencies and consultants performing marine resource studies;

352 (p) To suspend the issuance of licenses when necessary
353 to impose a moratorium to conserve a fishery resource;

354 (q) To promote, construct, monitor and maintain
355 artificial fishing reefs in the marine waters of the State of
356 Mississippi and in adjacent federal waters; to accept grants and
357 donations of money or materials from public and private sources
358 for such reefs; to set permit fees and establish guidelines for
359 the construction of artificial reefs in federal waters; and to
360 apply for any federal permits necessary for the construction or
361 maintenance of artificial fishing reefs in federal waters. The
362 location data associated with artificial reefs by corporations and

363 private individuals shall not be published by the commission or
364 the department on the website or in written publications of the
365 department. Location data of the artificial reefs may be
366 requested in writing by any individual and shall be provided by
367 the department in a timely manner; and

368 (r) To require, in addition to other licensing
369 requirements, the successful completion of educational or training
370 programs on shellfish sanitation as a prerequisite to receiving
371 commercial licenses authorized under this chapter in order to
372 ensure compliance with the Interstate Shellfish Sanitation
373 Conference's educational requirements for shellfish processors,
374 dealers and harvesters by January 1, 2014.

375 (2) The * * * department shall not adopt rules, regulations
376 or ordinances pertaining to marine resources which are more
377 stringent than federal regulations. In any case where federal
378 laws and regulations are silent on a matter pertaining to marine
379 resources, the laws and regulations of the State of Mississippi
380 shall control. The * * * department shall review all marine
381 resource ordinances for compliance with the no more stringent
382 standard and revise any ordinances more stringent than this
383 standard no later than December 31, 1992. This subsection shall
384 not apply to rules, regulations or ordinances pertaining to the
385 wild stock of marine fin fish.

386 **SECTION 8.** Section 49-15-25, Mississippi Code of 1972, is
387 amended as follows:

388 49-15-25. The * * * department may appoint an advisory
389 council of persons who may fairly be regarded as representative of
390 all the various segments of the industry. This council shall aid
391 the * * * department in formulating policies and discussing
392 problems related to the administration of this chapter and the
393 advancement and protection of the industry.

394 **SECTION 9.** This act shall take effect and be in force from
395 and after July 1, 2020.

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

1 AN ACT TO AMEND SECTION 49-15-11, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A PERSON WHO IS A CERTIFIED PUBLIC ACCOUNTANT
3 QUALIFIES FOR THE CHIEF FINANCIAL OFFICER POSITION OF THE
4 DEPARTMENT OF MARINE RESOURCES; TO AMEND SECTIONS 49-15-301,
5 49-15-303, 49-15-304, 49-15-305, 49-15-307, 45-15-15 AND 49-15-25,
6 MISSISSIPPI CODE OF 1972, TO RECONSTITUTE THE MISSISSIPPI
7 COMMISSION ON MARINE RESOURCES AS THE MISSISSIPPI ADVISORY
8 COMMISSION ON MARINE RESOURCES AND TO PRESCRIBE ITS POWERS AND
9 DUTIES TO ADVISE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT AND IN
10 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

SS26\HB827A.6J

Eugene S. Clarke
Secretary of the Senate