

By: Senator(s) Nunnelee

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2996

1 AN ACT TO AMEND SECTION 51-5-15, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE COMMISSION ON ENVIRONMENTAL QUALITY TO CONSULT WITH
3 THE ADVISORY COMMITTEE ON WELL DRILLING REGULATIONS; TO CREATE
4 SECTION 51-5-16, MISSISSIPPI CODE OF 1972, TO CREATE AN
5 INTERAGENCY COUNCIL TO CONSOLIDATE EXISTING REGULATIONS AND TO
6 COORDINATE THE PROMULGATION OF FUTURE REGULATIONS ON SIMILAR WELL
7 DRILLING ACTIVITIES; TO AMEND SECTION 51-5-17, MISSISSIPPI CODE OF
8 1972, TO INCREASE CIVIL PENALTIES FOR VIOLATIONS; TO AMEND
9 SECTIONS 51-5-1 THROUGH 51-5-17, MISSISSIPPI CODE OF 1972, TO
10 CONFORM TO REORGANIZATION NOMENCLATURE; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 51-5-1, Mississippi Code of 1972, is
13 amended as follows:

14 51-5-1. (1) The definition in this subsection applies to
15 Sections 51-5-1 through 51-5-19: "Commission" means the
16 Mississippi Commission on Environmental Quality.

17 (2) Every person, firm and corporation desiring to engage in
18 the business of drilling wells for underground water in the State
19 of Mississippi and every person who opens a well casing to the
20 atmosphere shall file an application with the commission for a
21 drilling license, using forms prepared by the commission, setting
22 out qualifications therefor and such other information, including
23 any examination, oral or written, as may be required by the
24 commission. The fee for such license and the renewal fee shall be
25 One Hundred Dollars (\$100.00) for each year.

26 (3) All licenses shall expire on June 30 of each year and
27 shall not be transferable. * * *

28 (4) Nothing in this chapter shall prevent a person who has
29 not obtained a license * * * from constructing or servicing a
30 water well on his own or leased property intended for use only in
31 a single family house which is his permanent residence, or



32 intended for use only for watering livestock on his farm, and
33 where the waters to be produced are not intended for use by the
34 public or any residence other than his own. However, such person
35 shall comply with all rules and regulations for the construction
36 of wells as set out by the provisions of this chapter.

37 (5) This section shall not apply to any person who performs
38 labor or services at the direction and under the personal
39 supervision of a licensed well contractor.

40 (6) A license may be renewed and shall be renewable without
41 examination for * * * by applying not later than the expiration
42 date and paying the applicable fee. Such application shall have
43 the effect of extending the validity of the current license until
44 the new license is received or the applicant is notified by the
45 commission that it has refused his license. On application made
46 after the expiration date, the license shall be renewed only upon
47 payment of the applicable fee, plus a penalty of Ten Dollars
48 (\$10.00) for each month or fraction thereof the application is
49 delinquent. Delinquency in excess of one (1) year may, in the
50 discretion of the commission, be deemed as a waiver of the
51 driller's right for renewal; and if he should apply thereafter,
52 the commission may require that he be considered as a new
53 applicant, including the requirement for examination.

54 (7) Any person whose license has been revoked may, upon
55 application for a new license, be required, in the discretion of
56 the commission, to take the examination and in all other ways be
57 considered as a new applicant.

58 **SECTION 2.** Section 51-5-3, Mississippi Code of 1972, is
59 amended as follows:

60 51-5-3. (1) In order to be licensed as a water well
61 contractor in the State of Mississippi, the applicant must be
62 qualified as set out below:

63 (a) Be at least twenty-one (21) years of age;

64 (b) Be of good moral character;



65 (c) Demonstrate to the satisfaction of the commission a
66 reasonable knowledge of this chapter and the rules and regulations
67 adopted by the commission under * * * this chapter;

68 (d) Possess the necessary drilling equipment, or
69 present to the commission sufficient evidence to show that he has
70 access to the use of such equipment at any time he needs it; and

71 (e) Have not less than three (3) years' experience in
72 the work for which he is applying for a license.

73 (2) Each applicant shall be required to present to the
74 examining committee three (3) notarized affidavits from licensed
75 drillers showing that such applicant has the necessary
76 qualifications and experience to meet the above-stated standards.

77 **SECTION 3.** Section 51-5-5, Mississippi Code of 1972, is
78 amended as follows:

79 51-5-5. (1) In carrying out the provisions of this chapter,
80 the commission is empowered, but not limited to, to do the
81 following:

82 (a) Make reasonable rules and regulations for the
83 purpose of carrying out the provisions of this chapter.

84 (b) Prepare required forms and establish other
85 procedures to govern the submission of applications, reports and
86 other information * * * as required by this chapter.

87 (c) Prepare and give reasonable oral * * * or written
88 examinations for license applicants.

89 (d) Deposit all fees in a special fund for the
90 implementation of this chapter.

91 (e) Enter upon and be given access to any premises for
92 the purpose of inspecting water wells.

93 (2) If the commission finds that compliance with all the
94 requirements of this chapter would result in undue hardship, an
95 exemption from * * * one or more of such requirements may be
96 granted by the commission to the extent necessary to ameliorate



97 such undue hardship and to the extent such exemption can be
98 granted without impairing the intent and purpose of this chapter.

99 **SECTION 4.** Section 51-5-7, Mississippi Code of 1972, is
100 amended as follows:

101 51-5-7. (1) When the commission has reasonable grounds for
102 believing that there has been a violation of this chapter or any
103 applicable rules or regulations * * *, the commission shall give
104 written notice to the person alleged to be in violation. Such
105 notice shall identify the provisions of this chapter or
106 regulation * * * alleged to be violated and the facts
107 alleged * * *. Such notice shall be served in the manner required
108 by law for the service of process upon a person in a civil action,
109 and may be accompanied by an order of the commission requiring
110 described remedial action which, if taken within the time
111 specified in such order, will effect compliance with the
112 requirements of this chapter and applicable regulations * * *.
113 Such order shall become final within thirty (30) days from the
114 service thereof unless a request for hearing as provided elsewhere
115 in this chapter is made within such time. In lieu of such order
116 the commission may require the person or persons named in such
117 notices to appear at a hearing at a time and place specified in
118 the notice.

119 (2) When the commission finds that any provision of this
120 chapter has been violated and that disciplinary action by the
121 commission is insufficient or unavailable, then it shall be the
122 duty of the commission to proceed with enforcement of this chapter
123 by proper proceedings through any court of competent
124 jurisdiction * * *.

125 **SECTION 5.** Section 51-5-9, Mississippi Code of 1972, is
126 amended as follows:

127 51-5-9. (1) When the commission determines that the holder
128 of any license issued under this chapter has violated this chapter
129 or any applicable rules and regulations * * *, the commission may



130 suspend or revoke such license. Proceedings under * * * this
131 section shall not be dependent upon having exhausted remedies
132 through any other section of this chapter.

133 (2) The commission shall notify the suspected violator at
134 least fifteen (15) days before the commission hearing * * *, shall
135 specify to him the grounds for which such license revocation is
136 proposed with such sufficiency as to protect his constitutional
137 rights therein as in other civil hearings pertaining to license
138 revocations, shall give him opportunity to present any witnesses
139 or other reasonable evidence before the commission, and shall
140 comply with established rules of procedure for such commission
141 hearings.

142 (3) Any * * * order of revocation of license shall become
143 effective thirty (30) days after service of the order. The
144 aggrieved party may appeal from the commission's finding to a
145 court of competent jurisdiction as provided by the laws of the
146 state, provided notice of appeal is given to the commission within
147 ten (10) days of such commission action.

148 **SECTION 6.** Section 51-5-11, Mississippi Code of 1972, is
149 amended as follows:

150 51-5-11. The grounds for revoking a well driller's license
151 are:

152 (a) That he has intentionally made a material
153 misstatement in the application for such license; or

154 (b) That he has willfully violated any provisions of
155 this chapter; or

156 (c) That he has obtained, or attempted to obtain, such
157 license by fraud or misrepresentation; or

158 (d) That he has been guilty of fraudulent or dishonest
159 practices; or

160 (e) That he has demonstrated lack of competence as a
161 driller of water wells; or



162 (f) That he has failed or refused to file reports as
163 required under * * * this chapter; or

164 (g) That he has willfully and contumaciously refused to
165 obey reasonable orders, rules and regulations of the commission.

166 **SECTION 7.** Section 51-5-13, Mississippi Code of 1972, is
167 amended as follows:

168 51-5-13. The driller shall keep accurate records on each
169 water well drilled, including, but not limited to, its location,
170 depth, character of rocks or formations drilled, fluids
171 encountered, and any other reasonable information as the
172 commission may specify. Each driller shall, within thirty (30)
173 days after completion of each well, file a report containing such
174 information in the office of the commission on forms provided by
175 the commission. However, no report or information shall be
176 required to be filed with the commission if the well is a driven
177 well or if it is dug by the use of a hand auger.

178 **SECTION 8.** Section 51-5-15, Mississippi Code of 1972, is
179 amended as follows:

180 51-5-15. (1) The commission shall appoint an advisory
181 committee to advise it, to review, and to make recommendations for
182 the regulation and control of water well drillers * * *, and to
183 assist in examining applicants. The commission shall submit
184 proposed regulations to the advisory committee for review and
185 comment. This advisory committee is hereby reconstituted and
186 shall consist of the following:

187 (a) The Director of the Office of Land and Water
188 Resources of the Department of Environmental Quality.

189 (b) The state geologist.

190 (c) A registered professional engineer competent in
191 water well design and construction.

192 (d) Five (5) water well contractors, licensed
193 under * * * this chapter who shall be appointed from nominations
194 submitted by the Mississippi Water Well Contractor's Association.



195 (2) The terms of appointment shall be as follows: The water
196 engineer and state geologist shall be ex officio members. The
197 registered professional engineer shall be appointed from the state
198 at large for a term of five (5) years. An environmental drilling
199 and water quality contractor * * * shall be appointed for a term
200 of one (1) year, a service only pump installer for a term of two
201 (2) years, one (1) driller who drills larger than eight (8) inch
202 wells for a term of three (3) years, one (1) driller who drills
203 four (4) inch to eight (8) inch wells for a term of four (4)
204 years, * * * and one (1) driller who drills four (4) inch and
205 smaller wells for a term of five (5) years * * *. After the
206 initial appointments, the terms shall be for a period of five (5)
207 years.

208 In the event of a vacancy on the advisory committee, a
209 successor shall be appointed to fill the unexpired term. Those
210 members whose terms expire shall continue to serve until their
211 successor is appointed and qualifies.

212 (3) The advisory committee shall elect a chairman and vice
213 chairman at its first meeting, and election of officers shall take
214 place annually thereafter.

215 (4) The advisory committee shall meet at least quarterly at
216 a time and place determined by the committee.

217 (5) The advisory committee members may be reimbursed for
218 actual and necessary expenses incurred in the performance of their
219 official activities. * * * Reimbursement shall be according to
220 those policies adopted by the State Fiscal Officer * * *, and
221 shall be approved by the commission from fees paid under * * *
222 this chapter.

223 **SECTION 9.** Section 51-5-17, Mississippi Code of 1972, is
224 amended as follows:

225 51-5-17. (1) Any person, firm or corporation who engages in
226 or follows the business or occupation, or advertises, holds itself
227 out, or acts temporarily or otherwise as a well driller without



228 having first secured the required license or renewal thereof, or
229 who otherwise violates any provisions of this chapter is guilty of
230 a misdemeanor, and upon conviction shall be fined not less than
231 One Hundred Dollars (\$100.00) and not more than One Thousand
232 Dollars (\$1,000.00) * * *; and each day in which such violation
233 exists or continues shall constitute a separate offense.

234 (2) In addition to the penalties in subsection (1), any
235 person who violates this chapter, an applicable regulation or an
236 order of the commission * * *, shall be subject to a civil penalty
237 not to exceed One Thousand Dollars (\$1,000.00) for each day such
238 noncompliance continues.

239 **SECTION 10.** The following shall be codified as Section
240 51-5-16, Mississippi Code of 1972:

241 51-5-16. (1) There is hereby created an interagency well
242 drilling regulation review board. The board shall consist of the
243 following:

244 (a) The Executive Director of the Department of
245 Environmental Quality, or his designee;

246 (b) The State Health Officer, or his designee;

247 (c) The Secretary of the State Oil and Gas Board, or
248 his designee;

249 (d) The Director of the Department of Transportation,
250 or his designee; and

251 (e) The Director of the Yazoo Water Management
252 District, or his designee.

253 In addition to the members, the board may add a
254 representative from any agency that has separate but related or
255 interrelated jurisdiction over well drilling activities.

256 (2) The board shall:

257 (a) Review all existing regulations and consolidate and
258 conform the regulations to achieve uniformity in areas that are
259 similar to the extent practicable; and



260 (b) Establish procedures and guidelines for the
261 coordinated promulgation of regulations governing similar
262 activities.

263 (3) It shall be the duty of each agency on the board and any
264 agency added by the board to cooperate and coordinate with each
265 agency before issuing regulations in order to achieve coordinated,
266 consolidated and consistent regulation of well drilling
267 activities.

268 (4) Any agency is authorized to enter into agreements with
269 other agencies to implement this section.

270 **SECTION 11.** This act shall take effect and be in force from
271 and after July 1, 2002.

