

By: Senator(s) Gollott

To: Finance

SENATE BILL NO. 3030

1 AN ACT TO AUTHORIZE THE MISSISSIPPI COMMISSION ON
 2 ENVIRONMENTAL QUALITY TO ESTABLISH FEES NECESSARY TO DEFRAY THE
 3 COSTS OF OPERATION OF THE COMMISSION, THE MISSISSIPPI
 4 ENVIRONMENTAL QUALITY PERMIT BOARD AND THE MISSISSIPPI DEPARTMENT
 5 OF ENVIRONMENTAL QUALITY; TO AMEND SECTIONS 51-3-31, 51-5-1,
 6 53-7-21, 53-7-25, 53-7-43 AND 53-7-69, MISSISSIPPI CODE OF 1972,
 7 TO ALLOW THE COMMISSION TO SET PROGRAM FEES AND TO DIRECT FEES TO
 8 THE DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM FUND; TO REPEAL
 9 SECTION 49-31-25, MISSISSIPPI CODE OF 1972, WHICH ESTABLISHES
 10 MULTIMEDIA POLLUTION PREVENTION FEES; TO CREATE IN THE STATE
 11 TREASURY THE DEPARTMENT OF ENVIRONMENTAL QUALITY PROGRAM FUND; AND
 12 FOR RELATED PURPOSES.

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

14 **SECTION 1.** The commission may establish and collect fees
 15 sufficient to cover all reasonable direct and indirect costs
 16 associated with the development and administration of all programs
 17 and activities within the jurisdiction of the commission, the
 18 Mississippi Department of Environmental Quality or the Mississippi
 19 Environmental Quality Permit Board created by Section 49-17-28.
 20 These fees shall be set by the commission at an amount designed to
 21 recoup to the commission, at a maximum, the expenses borne by the
 22 state, exclusive of federal funding, in carrying out the duties of
 23 the commission, department and permit board. The commission may
 24 assess fees either as an annual amount to be paid by a facility or
 25 person or as amounts reflecting the costs of certain activities,
 26 including, but not limited to, permit application review and
 27 processing. The commission shall review and, if necessary, revise
 28 its fees at least once each year. Commission fees may be set by
 29 order of the commission or by regulation adopted by the
 30 commission. In adopting regulations setting fees, the commission
 31 shall consider, at a minimum, the following factors:



32 (a) The fees charged by adjoining states for similar
33 permits, programs or activities;

34 (b) The actual cost to the commission, the department
35 or the permit board of the activity for which a fee is to be
36 charged; and

37 (c) The amount of fees remaining in the Department of
38 Environmental Quality Program Fund at the end of each fiscal year
39 that are available to be credited against the costs borne by the
40 commission, the department or the permit board in conducting
41 activities for which fees are charged.

42 (2) The commission shall file a report by July 31 of each
43 year with the Governor, the Lieutenant Governor and the Speaker of
44 the House describing the type and amount of fees collected by the
45 commission for the preceding fiscal year.

46 (3) It is the intent of the Legislature that fees collected
47 pursuant to this section shall not supplant or reduce in any way
48 the General Fund appropriation to the Department of Environmental
49 Quality.

50 **SECTION 2.** (1) There is created in the State Treasury a
51 special trust fund to be designated as the "Department of
52 Environmental Quality Program Fund," hereinafter referred to in
53 this section as the "fund." Interest earned on the principal
54 therein shall be credited by the Treasurer to the fund. Monies in
55 the fund at the end of the fiscal year shall be retained in the
56 fund for use in the next succeeding fiscal year. The fund may
57 receive monies from any available public or private source,
58 including, but not limited to, collection of fees, interest,
59 grants, public and private donations, and judicial actions.

60 (2) All fees collected pursuant to Section 1 of Senate Bill
61 No. 3030, 2002 Regular Session, shall be deposited into the fund.
62 The commission is authorized to utilize any monies in the fund to
63 support the exercise of the powers and duties of the commission,
64 the department and its executive director, and the permit board as



65 set forth in statute. The commission may delegate to the
66 executive director the authority to make expenditures of the fund.

67 (3) The commission and the department shall administer the
68 fund in accordance with Section 7-7-3.

69 **SECTION 3.** The commission may take any administrative or
70 legal action necessary to collect any fee owed to the commission
71 and to collect attorney's fees and costs related to the collection
72 of any fee. The commission may, by regulation or order, impose a
73 late fee for any fee not paid to the commission in a timely
74 fashion and may issue an order directing the holder of a permit
75 who has not paid its fees within ninety (90) days of the fee due
76 date to cease and desist its operations under the permit. The
77 commission may adopt regulations allowing the Mississippi
78 Environmental Quality Permit Board to revoke any permit for which
79 fees due under commission regulations have not been paid within
80 ninety (90) days of the due date.

81 **SECTION 4.** Section 51-3-31, Mississippi Code of 1972, is
82 amended as follows:

83 51-3-31. Any person desiring to use water for a beneficial
84 purpose shall apply to the board for a permit for such use on a
85 form prescribed by the board for such purpose. * * * The
86 application shall provide such information as deemed appropriate
87 by the board to its decision to issue such permit.

88 * * *

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

91 51-5-1. (1) Every person, firm and corporation desiring to
92 engage in the business of drilling wells for underground water in
93 the State of Mississippi shall file an application with the State
94 Board of Water Commissioners for a drilling license, using forms
95 prepared by the board, setting out qualifications therefor and
96 such other information, including any examination, oral or
97 written, as may be required by the board. * * *



98 (2) All licenses shall expire on June 30 of each year and
99 shall not be transferable and shall be renewable annually, without
100 qualifying examination, upon payment of the required fee.

101 (3) Nothing in this chapter shall prevent a person who has
102 not obtained a license pursuant thereto from constructing a water
103 well on his own or leased property intended for use only in a
104 single family house which is his permanent residence, or intended
105 for use only for watering livestock on his farm, and where the
106 waters to be produced are not intended for use by the public or
107 any residence other than his own. However, such person shall
108 comply with all rules and regulations as to the construction of
109 wells as set out by the provisions of this chapter.

110 (4) This section shall not apply to any person who performs
111 labor or services at the direction and under the personal
112 supervision of a licensed well contractor.

113 (5) A license may be renewed and shall be renewable without
114 examination for the ensuing year by making an application not
115 later than the expiration date and paying the applicable fee.
116 Such application shall have the effect of extending the validity
117 of the current license until the new license is received or the
118 applicant is notified by the board that it has refused his
119 license. On application made after June 30 of each year, the
120 license will be renewed only upon payment of the applicable fee,
121 plus a penalty of Ten Dollars (\$10.00) for each month or fraction
122 thereof the application is delinquent. Delinquency in excess of
123 one (1) year may, in the discretion of the State Board of Water
124 Commissioners, be deemed as a waiver of the driller's right for
125 renewal; and if he should apply thereafter, the board may require
126 that he be considered as a new applicant, including the
127 requirement for examination.

128 (6) Any person whose license has been revoked may, upon
129 application for a new license, be required, in the discretion of



130 the board, to take the examination and in all other ways be
131 considered as a new applicant.

132 **SECTION 6.** Section 53-7-21, Mississippi Code of 1972, is
133 amended as follows:

134 53-7-21. (1) From and after April 15, 1978, no operator
135 shall engage in surface mining without having first submitted a
136 notice of intent or having obtained from the commission a permit
137 for each operation. The approved permit shall authorize the
138 operator to engage in surface mining upon the area of land
139 described in his application for a period of five (5) years from
140 the date of its issuance.

141 In addition to the permit, each operator holding a permit
142 shall annually, on the anniversary date of the permit, file with
143 the commission a certificate of compliance in which the operator,
144 under oath, shall declare that he is following his approved mining
145 and reclamation plan and is abiding by the provisions of this
146 chapter and the rules and regulations of the commission. The
147 commission may establish a fee for filing the certificate of
148 compliance.

149 (2) Before a Class I permit may be issued, a public hearing
150 shall be conducted, and all such applicants shall publish notice
151 pursuant to Section 53-7-45.

152 **SECTION 7.** Section 53-7-25, Mississippi Code of 1972, is
153 amended as follows:

154 53-7-25. Each application for a surface mining permit and
155 each notice of intent shall be accompanied by an initial
156 application fee established by the commission * * *. The
157 commission, in considering regulations pertaining to the
158 application fee * * *, may recognize the differences in the
159 various materials set out herein, taking into consideration the
160 commercial value of the material and the nature and size of
161 operation necessary to extract it. * * *



162 **SECTION 8.** Section 53-7-43, Mississippi Code of 1972, is
163 amended as follows:

164 53-7-43. (1) Amendments to the surface mining plan or
165 reclamation plan may be made in accordance with the regulations of
166 the commission. The commission shall conduct a hearing on the
167 proposed amendments to Class I permits, and may order a hearing on
168 the proposed amendments to Class II permits. Notice shall be
169 published by the Class I operator as provided in Section 53-7-45,
170 and the hearing shall be conducted in accordance with the
171 provisions of Section 53-7-45.

172 (2) In the event the operator seeks to renew his permit for
173 another term, he shall notify the commission of such intent no
174 later than six (6) months prior to the permit's expiration date on
175 a form prescribed by the commission. Upon the submission of such
176 notification to the commission, the commission may, in its
177 discretion, order a public hearing to be held in accordance with
178 the provisions of Section 53-7-45 prior to the expiration of the
179 permit.

180 (3) Permits may be transferred, in the discretion of the
181 commission, pursuant to rules and regulations adopted by the
182 commission which rules and regulations shall be based upon the
183 criteria of the approval of permit applications and the issuance
184 of permits.

185 * * *

186 **SECTION 9.** Section 53-7-69, Mississippi Code of 1972, is
187 amended as follows:

188 53-7-69. (1) All sums received through the payment of * * *
189 loans, grants, penalties and bond damages, less attorney's fees,
190 shall be deposited in the State Treasury to the credit of a
191 special fund to be designated the Land Reclamation Fund which is
192 hereby created in the State Treasury. When appropriated in
193 accordance with Section 27-103-29, Mississippi Code of 1972, this
194 fund shall be available to the commission and may be expended for



195 the administration and enforcement of this chapter and for the
196 reclamation of lands affected by operations. All fees collected
197 shall be deposited in the Department of Environmental Quality
198 Program Fund.

199 (2) Proceeds from the suits on bonds, collateral or deposits
200 and penalties recovered shall be available to be expended to
201 reclaim, in accordance with the provisions of this chapter, lands
202 with respect to which the bonds, collateral or deposits were
203 provided and penalties assessed. Any unused funds may be used to
204 reclaim other unreclaimed lands.

205 **SECTION 10.** Section 49-31-25, Mississippi Code of 1972,
206 which establishes the multimedia pollution prevention fee, is
207 repealed.

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

