

By: Representative Reeves

To: Oil, Gas and Other Minerals

HOUSE BILL NO. 949

1 AN ACT TO BRING FORWARD SECTIONS 29-7-1, 29-7-3, 29-7-17,
2 29-7-19, 29-7-21 AND 27-29-35, MISSISSIPPI CODE OF 1972, WHICH
3 RELATE TO THE MINERAL LEASE COMMISSION, FOR THE PURPOSES OF
4 AMENDMENT; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 29-7-1, Mississippi Code of 1972, is
7 brought forward as follows:

8 29-7-1. (1) The Mississippi Major Economic Impact Authority
9 shall be the mineral lease commission, and shall exercise the
10 duties and responsibilities of the mineral lease commission under
11 the provisions of Section 29-7-1 et seq.

12 (2) The words "mineral lease commission," whenever they may
13 appear in the laws of the State of Mississippi, shall be construed
14 to mean the Mississippi Major Economic Impact Authority.

15 (3) The term "commission" means the Mississippi Major
16 Economic Impact Authority.

17 **SECTION 2.** Section 29-7-3, Mississippi Code of 1972, is
18 brought forward as follows:

19 29-7-3. There shall be no development or extraction of oil,
20 gas, or other minerals from state-owned lands by any private party
21 without first obtaining a mineral lease therefor from the
22 commission. The commission is hereby authorized and empowered,
23 for and on behalf of the state, to lease any and all of the state
24 land now owned (including that submerged or whereover the tide may
25 ebb and flow) or hereafter acquired, to some reputable person,
26 association, or company for oil and/or gas and/or other minerals
27 in and under and which may be produced therefrom, excepting,
28 however, sixteenth section school land, lieu lands, and such

29 forfeited tax land and property the title to which is subject to
30 any lawful redemption, for such consideration and upon such terms
31 and conditions as the commission deems just and proper. No
32 mineral lease of offshore lands shall allow offshore drilling
33 operations north of the coastal barrier islands, except in Blocks
34 40, 41, 42, 43, 63, 64 and 66 through 98, inclusive. Further,
35 surface offshore drilling operations will not be allowed within
36 one (1) mile of Cat Island. The commission may only offer for
37 lease the state-owned lands in Blocks 40, 41, 42, 43, 63, 64 and
38 66 through 98, inclusive, as shown on the Mississippi Department
39 of Environmental Quality Bureau of Geology Plat of Lease Blocks
40 (Open File Report 151) on terms and conditions and for a length of
41 time as determined by the commission. The commission may not
42 lease any lands or submerged lands off the Mississippi Gulf Coast
43 that have been leased by the Department on Marine Resources before
44 January 1, 2004, for any public or private oyster reef lease or
45 any lands or submerged lands within one (1) mile of that lease for
46 the purposes of drilling offshore for oil, gas and other minerals.

47 Consistent with the conservation policies of this state under
48 Section 53-1-1 et seq., the commission may offer for public bid
49 any tracts or blocks of state-owned lands not currently under
50 lease, which have been identified to the commission as having
51 development potential for oil or natural gas, not less than once a
52 year. Upon consultation with the Office of Geology in the
53 Mississippi Department of Environmental Quality, the Secretary of
54 State and any other state agency as the commission deems
55 appropriate, the commission shall promulgate rules and regulations
56 consistent with this chapter governing all aspects of the process
57 of leasing state lands within its jurisdiction for mineral
58 development, including the setting of all terms of the lease form
59 to be used for leasing state-owned lands, any necessary fees,
60 public bidding process, delay rental payments, shut-in royalty
61 payments, and such other provisions as may be required. The

62 Attorney General shall review the lease form adopted by the
63 commission for legal sufficiency.

64 There shall not be conducted any seismographic or other
65 mineral exploration or testing activities on any state-owned lands
66 within the mineral leasing jurisdiction of the commission without
67 first obtaining a permit therefor from the commission. Upon
68 consultation with the Office of Geology in the Mississippi
69 Department of Environmental Quality, the Secretary of State and
70 any other state agency as the commission deems appropriate, the
71 commission shall promulgate rules and regulations governing all
72 aspects of seismographic or other mineral exploration activity on
73 state lands within its jurisdiction, including the establishing of
74 fees and issuance of permits for the conduct of such mineral
75 exploration activities. The Attorney General shall review the
76 permit form adopted by the commission for legal sufficiency.
77 Provided, however, that persons obtaining permits from the
78 commission for seismographic or other mineral exploration or
79 testing activities on state-owned wildlife management areas, lakes
80 and fish hatcheries, shall be subject to rules and regulations
81 promulgated therefor by the Mississippi Commission on Wildlife,
82 Fisheries and Parks which shall also receive all permit fees for
83 such testing on said lands. In addition, persons obtaining
84 permits from the commission for seismographic or other mineral
85 exploration or testing activities on state-owned marine waters
86 shall be subject to rules and regulations promulgated therefor by
87 the Mississippi Department on Marine Resources which shall also
88 receive all permit fees for such testing on those waters.

89 Further, provided that each permit within the Mississippi
90 Sound or tidelands shall be reviewed by the Mississippi Commission
91 on Marine Resources and such special conditions as it may specify
92 will be included in the permit. Information or data obtained in
93 any mineral exploration activity on any and all state lands shall
94 be disclosed to the state through the commission, upon demand.

95 Such information or data shall be treated as confidential for a
96 period of ten (10) years from the date of receipt thereof and
97 shall not be disclosed to the public or to any firm, individual or
98 agency other than officials or authorized employees of this state.
99 Any person who makes unauthorized disclosure of such confidential
100 information or data shall be guilty of a misdemeanor, and upon
101 conviction thereof, be fined not more than Five Thousand Dollars
102 (\$5,000.00) or imprisoned in the county jail not more than one (1)
103 year, or both.

104 Whenever any such land or property is leased for oil and gas
105 and/or other minerals, such lease contract shall provide for a
106 lease royalty to the state of at least three-sixteenths (3/16) of
107 such oil and gas or other minerals, same to be paid in the manner
108 prescribed by the commission. Of the monies received in
109 connection with the execution of such leases, five-tenths of one
110 percent (5/10 of 1%) shall be retained in a special fund to be
111 appropriated by the Legislature, One Hundred Thousand Dollars
112 (\$100,000.00) of which amount to be used by the commission for the
113 administration of the leasing and permitting under this section,
114 and the remainder of such amount shall be deposited into the
115 Education Trust Fund, created in Section 206A, Mississippi
116 Constitution of 1890; and two percent (2%) shall be paid into a
117 special fund to be designated as the "Gulf and Wildlife Protection
118 Fund," to be appropriated by the Legislature, one-half (1/2)
119 thereof to be apportioned as follows: an amount which shall not
120 exceed One Million Dollars (\$1,000,000.00) shall be used by the
121 Mississippi Department of Wildlife, Fisheries and Parks and the
122 Mississippi Department on Marine Resources solely for the purpose
123 of cleanup, remedial or abatement actions involving pollution as a
124 result of the exploration or production of oil or gas, and any
125 amount in excess of such One Million Dollars (\$1,000,000.00) shall
126 be deposited into the Education Trust Fund, created in Section
127 206A, Mississippi Constitution of 1890. The remaining one-half

128 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned
129 as follows: an amount which shall not exceed One Million Dollars
130 (\$1,000,000.00) shall be used by the Mississippi Commission on
131 Wildlife, Fisheries and Parks and the Mississippi Department on
132 Marine Resources for use first in the prudent management,
133 preservation, protection and conservation of existing waters,
134 lands and wildlife of this state and then, provided such purposes
135 are accomplished, for the acquisition of additional waters and
136 lands and any amount in excess of such One Million Dollars
137 (\$1,000,000.00) shall be deposited into the Education Trust Fund,
138 created in Section 206A, Mississippi Constitution of 1890.
139 However, in the event that the Legislature is not in session to
140 appropriate funds from the Gulf and Wildlife Protection Fund for
141 the purpose of cleanup, remedial or abatement actions involving
142 pollution as a result of the exploration or production of oil or
143 gas, then the Mississippi Department of Wildlife, Fisheries and
144 Parks and the Mississippi Department on Marine Resources may make
145 expenditures from this special fund account solely for said
146 purpose. The commission may lease the submerged beds for sand and
147 gravel on such a basis as it may deem proper, but where the waters
148 lie between this state and an adjoining state, there must be a
149 cash realization to this state, including taxes paid for such sand
150 and gravel, equal to that being had by such adjoining state, in
151 all cases the requisite consents therefor being lawfully obtained
152 from the United States.

153 The Department of Environmental Quality is authorized to
154 employ competent engineering personnel to survey the territorial
155 waters of this state in the Mississippi Sound and the Gulf of
156 Mexico and to prepare a map or plat of such territorial waters,
157 divided into blocks of not more than six thousand (6,000) acres
158 each with coordinates and reference points based upon longitude
159 and latitude surveys. The commission is authorized to adopt such
160 survey, plat or map for leasing of such submerged lands for

161 mineral development; and such leases may, after the adoption of
162 such plat or map, be made by reference to the map or plat, which
163 shall be on permanent file with the commission and a copy thereof
164 on file in the Office of the State Oil and Gas Board.

165 **SECTION 3.** Section 29-7-17, Mississippi Code of 1972, is
166 brought forward as follows:

167 29-7-17. (1) Any person found by the commission to be
168 violating any of the provisions of Section 29-7-3, or any rule or
169 regulation or written order of the commission in pursuance
170 thereof, or any condition or limitation of a permit shall be
171 subject to a civil penalty of not more than Ten Thousand Dollars
172 (\$10,000.00) for each violation, such penalty to be assessed and
173 levied by the commission after a hearing as hereinafter provided.
174 Each day upon which a violation occurs shall be deemed a separate
175 and additional violation. Appeals from the imposition of a civil
176 penalty may be taken to the appropriate chancery court in the same
177 manner as appeals from the orders of the commission. If the
178 appellant desires to stay the execution of a civil penalty
179 assessed by the commission, he shall give bond with sufficient
180 resident sureties of one or more guaranty or surety companies
181 authorized to do business in this state, payable to the State of
182 Mississippi, in an amount equal to double the amount of any civil
183 penalty assessed by the commission, as to which the stay of
184 execution is desired, on the condition that if the judgment shall
185 be affirmed the appellant shall pay all costs of the assessment
186 entered against him.

187 (2) In lieu of, or in addition to, the penalty provided in
188 subsection (1) of this section, the commission shall have power to
189 institute and maintain in the name of the state any and all
190 proceedings necessary or appropriate to enforce the provisions of
191 Section 29-7-3, rules and regulations promulgated, and orders and
192 permits made and issued thereunder, in the appropriate circuit,
193 chancery, county or justice court of the county in which venue may

194 lie. The commission may obtain mandatory or prohibitory
195 injunctive relief, either temporary or permanent, and it shall not
196 be necessary in such cases that the state plead or prove: (i)
197 that irreparable damage would result if the injunction did not
198 issue; (ii) that there is no adequate remedy at law; or (iii) that
199 a written complaint or commission order has first been issued for
200 the alleged violation.

201 (3) Any person who violates any of the provisions of, or
202 fails to perform any duty imposed by, Section 29-7-3 or any rule
203 or regulation issued hereunder, or who violates any order or
204 determination of the commission promulgated pursuant to such
205 section, and causes the death of fish, shellfish, or other
206 wildlife shall be liable, in addition to the penalties provided in
207 subsections (1), (2), (4) and (5) of this section, to pay to the
208 state an additional amount equal to the sum of money reasonably
209 necessary to restock such waters or replenish such wildlife as
210 determined by the commission after consultation with the
211 Mississippi Commission on Wildlife, Fisheries and Parks and the
212 Mississippi Department on Marine Resources. Such amount may be
213 recovered by the commission on behalf of the state in a civil
214 action brought in the appropriate county or circuit court of the
215 county in which venue may lie.

216 (4) Any person who, through misadventure, happenstance or
217 otherwise causes damage to or destruction of state-owned lands or
218 structures or other property thereon necessitating remedial or
219 cleanup action shall be liable for the cost of such remedial or
220 cleanup action and the commission may recover the cost of same by
221 a civil action brought in the circuit court of the county in which
222 venue may lie. This penalty may be recovered in lieu of or in
223 addition to the penalties provided in subsections (1), (2), (3)
224 and (5) of this section.

225 (5) It shall be unlawful for any person to conduct
226 unauthorized mineral exploration, development, or extraction

227 activity or to violate the provisions of Section 29-7-3 or the
228 rules and regulations of the commission which relate to mineral
229 exploration, development, or extraction activity and, upon
230 conviction thereof, such person shall be guilty of a misdemeanor,
231 and fined not less than Five Hundred Dollars (\$500.00) nor more
232 than Five Thousand Dollars (\$5,000.00) for each offense. Each day
233 on which such violation occurs or continues shall constitute a
234 separate offense.

235 (6) In lieu of or in addition to the penalties prescribed
236 hereinabove, any person convicted by a court of law or found
237 guilty by the commission of unlawful mineral extraction activity
238 on state-owned lands shall repay to the state the fair market
239 value of the minerals unlawfully extracted.

240 (7) Proceedings before the commission on civil violations
241 prescribed hereinabove shall be conducted in the manner set forth
242 in this chapter.

243 **SECTION 4.** Section 29-7-19, Mississippi Code of 1972, is
244 brought forward as follows:

245 29-7-19. (1) The hearings, as provided under Section
246 29-7-21(1), may be conducted by the commission itself at a regular
247 or special meeting of the commission, or the commission may
248 designate a hearing officer, who may conduct such hearings in the
249 name of the commission at any time and place as conditions and
250 circumstances may warrant. The hearing officer shall have the
251 record prepared of any hearing that he has conducted for the
252 commission. The record shall be submitted to the commission along
253 with that hearing officer's findings of fact and recommended
254 decision. Upon receipt and review of the record of the hearing
255 and the hearing officer's findings of fact and recommended
256 decision, the commission shall render its decision in the matter.
257 The decision shall become final after it is entered on the minutes
258 and shall be considered the final administrative agency decision

259 on the matter. The decision may be appealed under Section
260 29-7-21(2).

261 (2) All hearings before the commission shall be recorded
262 either by a court reporter, tape or mechanical recorders and
263 subject to transcription upon order of the commission or any
264 interested party, but if the request for transcription originates
265 with an interested party, that party shall pay the cost thereof.

266 **SECTION 5.** Section 29-7-21, Mississippi Code of 1972, is
267 brought forward as follows:

268 29-7-21. (1) Any person or interested party aggrieved by
269 any final rule, regulation, permit or order of the commission may
270 file a petition with the commission within thirty (30) days after
271 the final rule, regulation, permit or order is entered on the
272 minutes. The petition shall set forth the grounds and reasons for
273 the complaint and request a hearing of the matter involved.
274 However, there shall be no hearing on the same subject matter that
275 has previously been held before the commission or its designated
276 hearing officer. The commission shall fix the time and place of
277 the hearing and notify the petitioners thereof. In pending
278 matters, the commission shall have the same powers as to
279 subpoenaing witnesses, administering oaths, examining witnesses
280 under oath and conducting the hearing, as is now vested by law in
281 the Mississippi Public Service Commission, as to hearings before
282 it, with the additional power that the executive director may
283 issue all subpoenas, both at the instance of the petitioner and of
284 the commission. At the hearings the petitioner, and any other
285 interested party, may offer exhibits, present witnesses, and
286 otherwise submit evidence, as the commission deems appropriate.
287 After the hearing, the commission's decision shall be deemed the
288 final administrative agency decision on the matter.

289 (2) Any interested person aggrieved by any final rule,
290 regulation, permit or order of the commission issued under this
291 section, regardless of the amount involved, may appeal to the

292 Chancery Court of the First Judicial District of Hinds County,
293 Mississippi, which shall be taken and perfected as hereinafter
294 provided, within thirty (30) days from the date that the final
295 rule, regulation or order is filed for record in the office of the
296 commission. The chancery court may affirm the rule, regulation,
297 permit, or order, or reverse the same for further proceedings as
298 the court may require. All appeals shall be on the record, taken
299 and perfected, heard and determined either in termtime or in
300 vacation, including a transcript of pleadings and testimony, both
301 oral and documentary, filed and heard before the commission, and
302 the appeal shall be heard and disposed of promptly by the court as
303 a preference cause. In perfecting any appeal provided by this
304 section, the provisions of law respecting notice to the reporter
305 and the allowance of bills of exception, now or hereafter in force
306 respecting appeals from the chancery court to the Supreme Court,
307 shall be applicable. However, the reporter shall transcribe his
308 notes and file the transcript of the record with the board within
309 thirty (30) days after approval of the appeal bond.

310 (3) Upon the filing with the commission of a petition for
311 appeal to the Hinds County Chancery Court, it shall be the duty of
312 the commission, as promptly as possible and within sixty (60) days
313 after approval of the appeal bond, if required, to file with the
314 clerk of the chancery court to which the appeal is taken, a copy
315 of the petition for appeal and of the rule, regulation, permit or
316 order appealed from, and the original and one (1) copy of the
317 transcript of the record of proceedings in evidence before the
318 commission. After the filing of the petition, the appeal shall be
319 perfected by the filing with the clerk of the chancery court to
320 which the appeal is taken of bond in the sum of Five Hundred
321 Dollars (\$500.00) with two (2) sureties or with a surety company
322 qualified to do business in Mississippi as the surety, conditioned
323 to pay the cost of the appeal; the bond to be approved by any
324 member of the commission, or by the clerk of the court to which

325 the appeal is taken. The perfection of an appeal shall not stay
326 or suspend the operation of any rule, regulation, permit or order
327 of the board, but the judge of the chancery court to which the
328 appeal is taken may award a writ of supersedeas to any rule,
329 regulation, permit or order of the commission after five (5) days'
330 notice to the commission and after hearing. Any order or judgment
331 staying the operation of any rule, regulation, permit or order of
332 the commission shall contain a specific finding, based upon
333 evidence submitted to the chancery judge and identified by
334 reference thereto, that great or irreparable damage would result
335 to the appellant if he is denied relief, and the stay shall not
336 become effective until a supersedeas bond shall have been executed
337 and filed with and approved by the clerk of the court or the
338 chancery judge, payable to the state. The supersedeas bond shall
339 be in an amount fixed by the chancery judge to protect the lessee
340 or permittee from loss or damage from the stay and conditioned as
341 the chancery judge may direct in the order granting the
342 supersedeas. If the appeal is of a commission order concerning
343 the lease of state lands for minerals, that appeal shall be given
344 priority over other matters pending in the chancery court. If the
345 appeal is of a commission permit, that appeal shall be given
346 priority over other matters pending in chancery court.

347 **SECTION 6.** Section 27-29-35, Mississippi Code of 1972, is
348 brought forward as follows:

349 27-29-35. From and after July 1, 2004, the board of
350 supervisors of a county shall reduce the ad valorem taxes levied
351 by the county in an amount equal to one-half (1/2) of the county's
352 share of the revenue derived from the oil and gas severance tax
353 under Sections 27-25-505 and 27-25-705 as a result of offshore
354 drilling on the Mississippi Gulf Coast. From and after July 1,
355 2004, the governing authorities of a municipality shall reduce the
356 ad valorem taxes levied by the municipality in an amount equal to
357 one-half (1/2) of the municipality's share of the revenue derived

358 from the oil and gas severance tax under Sections 27-25-505 and
359 27-25-705 as a result of offshore drilling on the Mississippi Gulf
360 Coast.

361 **SECTION 7.** This act shall take effect and be in force from
362 and after July 1, 2005.