

By: Representatives Peranich, Franks, Moak

To: Marine Resources; Oil,
Gas and Other Minerals

HOUSE BILL NO. 1273

1 AN ACT TO AMEND SECTION 29-7-3, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT ANY SEISMOGRAPHIC TESTING OR EXPLORATION OR OTHER MINERAL
3 EXPLORATION OR TESTING ACTIVITIES OR DRILLING OR EXTRACTING OF
4 OIL, GAS OR OTHER MINERALS ON, IN OR UNDER STATE MARINE WATERS AND
5 TIDELANDS AND ALL WATERS AND SUBMERGED LANDS TWELVE NAUTICAL MILES
6 SOUTH OF A LINE DRAWN FROM THE SOUTHERNMOST LAND OF CAT ISLAND TO
7 THE SOUTHERNMOST LAND OF SHIP ISLAND, TO THE SOUTHERNMOST LAND OF
8 HORN ISLAND, TO THE SOUTHERNMOST LAND OF PETIT BOIS ISLAND AND
9 EXTENDING EAST AND WEST TO THE STATE BORDERS WITH ALABAMA AND
10 LOUISIANA AND TO PROHIBIT ANY LEASES FOR EXTRACTION OF OIL, GAS OR
11 OTHER MINERALS ON, IN OR UNDER THE STATE MARINE WATERS AND
12 TIDELANDS AND ALL WATERS AND SUBMERGED LANDS TWELVE NAUTICAL MILES
13 SOUTH OF A LINE DRAWN FROM THE SOUTHERNMOST LAND OF CAT ISLAND TO
14 THE SOUTHERNMOST LAND OF SHIP ISLAND, TO THE SOUTHERNMOST LAND OF
15 HORN ISLAND, TO THE SOUTHERNMOST LAND OF PETIT BOIS ISLAND AND
16 EXTENDING EAST AND WEST TO THE STATE BORDERS WITH ALABAMA AND
17 LOUISIANA; TO AMEND SECTIONS 29-7-1 AND 29-7-17, MISSISSIPPI CODE
18 OF 1972, TO CONFORM TO THE PRECEDING SECTION; TO REPEAL SECTIONS
19 29-7-19 AND 29-7-21, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR
20 HEARINGS TO BE HEARD BY THE COMMISSION ON ENVIRONMENTAL QUALITY AS
21 A RESULT OF EXTRACTING MINERALS AND FOR AN APPEALS PROCESS FOR
22 DECISIONS MADE BY THE COMMISSION; TO REPEAL SECTIONS 27-25-505 AND
23 27-25-705, MISSISSIPPI CODE OF 1972, WHICH PROVIDE THAT THE BOARD
24 OF SUPERVISORS OF A COUNTY SHALL REDUCE THE AD VALOREM TAXES
25 LEVIED BY THE COUNTY IN AN AMOUNT EQUAL TO ONE-HALF OF THE
26 COUNTY'S SHARE OF THE REVENUE DERIVED FROM THE OIL AND GAS
27 SEVERANCE TAX UNDER SUCH SECTIONS, AS A RESULT OF OFFSHORE
28 DRILLING ON THE MISSISSIPPI GULF COAST, AND THE GOVERNING
29 AUTHORITIES OF A MUNICIPALITY SHALL REDUCE THE AD VALOREM TAXES
30 LEVIED BY THE MUNICIPALITY IN AN AMOUNT EQUAL TO ONE-HALF OF THE
31 MUNICIPALITY'S SHARE OF THE REVENUE DERIVED FROM THE OIL AND GAS
32 SEVERANCE TAX UNDER SUCH SECTIONS, AS A RESULT OF OFFSHORE
33 DRILLING ON THE MISSISSIPPI GULF COAST; AND FOR RELATED PURPOSES.

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

35 **SECTION 1.** Section 29-7-3, Mississippi Code of 1972, is
36 amended as follows:

37 29-7-3. There shall be no development or extraction of oil,
38 gas, or other minerals from state-owned lands by any private party
39 without first obtaining a mineral lease therefor from the
40 commission. The commission is hereby authorized and empowered,
41 for and on behalf of the state, to lease any and all of the state
42 land now owned (including that submerged or wherever the tide may

43 ebb and flow) or hereafter acquired, to some reputable person,
44 association, or company for oil and/or gas and/or other minerals
45 in and under and which may be produced therefrom, excepting,
46 however, sixteenth section school land, lieu lands, and such
47 forfeited tax land and property the title to which is subject to
48 any lawful redemption, for such consideration and upon such terms
49 and conditions as the commission deems just and proper. * * *

50 * * * The commission may promulgate rules and
51 regulations * * * governing all aspects of the process of leasing
52 state lands within its jurisdiction for mineral development,
53 including the setting of * * * any necessary fees, public bidding
54 process, delay rental payments, shut-in royalty payments, and such
55 other provisions as may be required. * * *

56 There shall not be conducted any seismographic or other
57 mineral exploration or testing activities on any state-owned lands
58 within the mineral leasing jurisdiction of the commission without
59 first obtaining a permit therefor from the commission. * * * The
60 commission shall promulgate rules and regulations governing all
61 aspects of seismographic or other mineral exploration activity on
62 state lands within its jurisdiction, including the establishing of
63 fees and issuance of permits for the conduct of such mineral
64 exploration activities. * * * Provided, however, that persons
65 obtaining permits from the commission for seismographic or other
66 mineral exploration or testing activities on state-owned wildlife
67 management areas, lakes and fish hatcheries, shall be subject to
68 rules and regulations promulgated therefor by the Mississippi
69 Commission on Wildlife, Fisheries and Parks which shall also
70 receive all permit fees for such testing on said lands. * * *

71 Further, provided that each permit within the Mississippi
72 Sound or tidelands shall be reviewed by the Mississippi Commission
73 on Marine Resources and such special conditions as it may specify
74 will be included in the permit. Information or data obtained in
75 any mineral exploration activity on any and all state lands shall

76 be disclosed to the state through the Department of Environmental
77 Quality, upon demand. Such information or data shall be treated
78 as confidential for a period of ten (10) years from the date of
79 receipt thereof and shall not be disclosed to the public or to any
80 firm, individual or agency other than officials or authorized
81 employees of this state. Any person who makes unauthorized
82 disclosure of such confidential information or data shall be
83 guilty of a misdemeanor, and upon conviction thereof, be fined not
84 more than Five Thousand Dollars (\$5,000.00) or imprisoned in the
85 county jail not more than one (1) year, or both.

86 Whenever any such land or property is leased for oil and gas
87 and/or other minerals, such lease contract shall provide for a
88 lease royalty to the state of at least three-sixteenths (3/16) of
89 such oil and gas or other minerals, same to be paid in the manner
90 prescribed by the commission. Of the monies received in
91 connection with the execution of such leases, five-tenths of one
92 percent (5/10 of 1%) shall be retained in a special fund to be
93 appropriated by the Legislature, One Hundred Thousand Dollars
94 (\$100,000.00) of which amount to be used by the department for the
95 administration of the Mineral Lease Division, and the remainder of
96 such amount shall be deposited into the Education Trust Fund,
97 created in Section 206A, Mississippi Constitution of 1890; and two
98 percent (2%) shall be paid into a special fund to be designated as
99 the "Gulf and Wildlife Protection Fund," to be appropriated by the
100 Legislature, one-half (1/2) thereof to be apportioned as follows:
101 an amount which shall not exceed One Million Dollars
102 (\$1,000,000.00) shall be used by the Mississippi Department of
103 Wildlife, Fisheries and Parks * * * solely for the purpose of
104 cleanup, remedial or abatement actions involving pollution as a
105 result of the exploration or production of oil or gas, and any
106 amount in excess of such One Million Dollars (\$1,000,000.00) shall
107 be deposited into the Education Trust Fund, created in Section
108 206A, Mississippi Constitution of 1890. The remaining one-half

109 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned
110 as follows: an amount which shall not exceed One Million Dollars
111 (\$1,000,000.00) shall be used by the Mississippi Commission on
112 Wildlife, Fisheries and Parks * * * for use first in the prudent
113 management, preservation, protection and conservation of existing
114 waters, lands and wildlife of this state and then, provided such
115 purposes are accomplished, for the acquisition of additional
116 waters and lands and any amount in excess of such One Million
117 Dollars (\$1,000,000.00) shall be deposited into the Education
118 Trust Fund, created in Section 206A, Mississippi Constitution of
119 1890. However, in the event that the Legislature is not in
120 session to appropriate funds from the Gulf and Wildlife Protection
121 Fund for the purpose of cleanup, remedial or abatement actions
122 involving pollution as a result of the exploration or production
123 of oil or gas, then the Mississippi Department of Wildlife,
124 Fisheries and Parks * * * may make expenditures from this special
125 fund account solely for said purpose. The commission may lease
126 the submerged beds for sand and gravel on such a basis as it may
127 deem proper, but where the waters lie between this state and an
128 adjoining state, there must be a cash realization to this state,
129 including taxes paid for such sand and gravel, equal to that being
130 had by such adjoining state, in all cases the requisite consents
131 therefor being lawfully obtained from the United States.

132 Notwithstanding anything in this section to the contrary and
133 not withstanding any other provisions of law to the contrary, the
134 State of Mississippi, acting through the Mississippi Major
135 Economic Impact Authority or any other agency, shall not permit
136 any seismographic testing or exploration or other mineral
137 exploration or testing activities or drilling or extracting of
138 oil, gas or other minerals on, in or under state marine waters and
139 tidelands and all waters and submerged lands twelve (12) nautical
140 miles south of a line drawn from the southernmost land of Cat
141 Island to the southernmost land of Ship Island, to the

142 southernmost land of Horn Island, to the southernmost land of
143 Petit Bois Island and extending east and west to the state borders
144 with Alabama and Louisiana; furthermore, notwithstanding anything
145 in this section to the contrary and notwithstanding any other
146 provisions of law to the contrary, the State of Mississippi,
147 acting through the Mississippi Major Economic Impact Authority or
148 any other agency, shall not grant any leases for extraction of
149 oil, gas or other minerals on, in or under state marine waters and
150 tidelands nor any waters and submerged lands twelve nautical miles
151 south of a line drawn from the southernmost land of Cat Island to
152 the southernmost land of Ship Island, to the southernmost land of
153 Horn Island, to the southernmost land of Petit Bois Island and
154 extending east and west to the state borders with Alabama and
155 Louisiana.

156 It is the policy of the State of Mississippi within state
157 waters and tidelands, and to the extent under federal law,
158 treaties, or local, state or federal agreements that the state may
159 do so in the area of economic interest beyond the territorial
160 waters of the State of Mississippi, to prohibit all seismographic
161 testing, exploration, other mineral exploration or testing
162 activities, or drilling, extracting or leasing of oil, gas or
163 other minerals on, in or under all waters and submerged lands
164 twelve (12) nautical miles south of a line drawn from the
165 southernmost land of Cat Island to the southernmost land of Ship
166 Island, to the southernmost land of Horn Island, to the
167 southernmost land of Petit Bois Island and extending east and west
168 to the state borders with Alabama and Louisiana.

169 **SECTION 2.** Section 29-7-1, Mississippi Code of 1972, is
170 amended as follows:

171 29-7-1. (1) The Mississippi Commission on Environmental
172 Quality shall be the mineral lease commission, and shall exercise
173 the duties and responsibilities of the mineral lease commission

174 under the provisions of Chapter 2 of Title 49, Mississippi Code of
175 1972.

176 (2) The words "mineral lease commission," whenever they may
177 appear in the laws of the State of Mississippi, shall be construed
178 to mean the Mississippi Commission on Environmental Quality.

179 (3) The term "commission" means the Mississippi Commission
180 on Environmental Quality.

181 **SECTION 3.** Section 29-7-17, Mississippi Code of 1972, is
182 amended as follows:

183 29-7-17. (1) Any person found by the commission to be
184 violating any of the provisions of Section 29-7-3, or any rule or
185 regulation or written order of the commission in pursuance
186 thereof, or any condition or limitation of a permit shall be
187 subject to a civil penalty of not more than Ten Thousand Dollars
188 (\$10,000.00) for each violation, such penalty to be assessed and
189 levied by the commission after a hearing as hereinafter provided.
190 Each day upon which a violation occurs shall be deemed a separate
191 and additional violation. Appeals from the imposition of a civil
192 penalty may be taken to the appropriate chancery court in the same
193 manner as appeals from the orders of the commission. If the
194 appellant desires to stay the execution of a civil penalty
195 assessed by the commission, he shall give bond with sufficient
196 resident sureties of one or more guaranty or surety companies
197 authorized to do business in this state, payable to the State of
198 Mississippi, in an amount equal to double the amount of any civil
199 penalty assessed by the commission, as to which the stay of
200 execution is desired, on the condition that if the judgment shall
201 be affirmed the appellant shall pay all costs of the assessment
202 entered against him.

203 (2) In lieu of, or in addition to, the penalty provided in
204 subsection (1) of this section, the commission shall have power to
205 institute and maintain in the name of the state any and all
206 proceedings necessary or appropriate to enforce the provisions of

207 Section 29-7-3, rules and regulations promulgated, and orders and
208 permits made and issued thereunder, in the appropriate circuit,
209 chancery, county or justice court of the county in which venue may
210 lie. The commission may obtain mandatory or prohibitory
211 injunctive relief, either temporary or permanent, and it shall not
212 be necessary in such cases that the state plead or prove: (i)
213 that irreparable damage would result if the injunction did not
214 issue; (ii) that there is no adequate remedy at law; or (iii) that
215 a written complaint or commission order has first been issued for
216 the alleged violation.

217 (3) Any person who violates any of the provisions of, or
218 fails to perform any duty imposed by, Section 29-7-3 or any rule
219 or regulation issued hereunder, or who violates any order or
220 determination of the commission promulgated pursuant to such
221 section, and causes the death of fish, shellfish, or other
222 wildlife shall be liable, in addition to the penalties provided in
223 subsections (1), (2), (4) and (5) of this section, to pay to the
224 state an additional amount equal to the sum of money reasonably
225 necessary to restock such waters or replenish such wildlife as
226 determined by the commission after consultation with the
227 Mississippi Commission on Wildlife, Fisheries and Parks * * *.
228 Such amount may be recovered by the commission on behalf of the
229 state in a civil action brought in the appropriate county or
230 circuit court of the county in which venue may lie.

231 (4) Any person who, through misadventure, happenstance or
232 otherwise causes damage to or destruction of state-owned lands or
233 structures or other property thereon necessitating remedial or
234 cleanup action shall be liable for the cost of such remedial or
235 cleanup action and the commission may recover the cost of same by
236 a civil action brought in the circuit court of the county in which
237 venue may lie. This penalty may be recovered in lieu of or in
238 addition to the penalties provided in subsections (1), (2), (3)
239 and (5) of this section.

240 (5) It shall be unlawful for any person to conduct
241 unauthorized mineral exploration, development, or extraction
242 activity or to violate the provisions of Section 29-7-3 or the
243 rules and regulations of the commission which relate to mineral
244 exploration, development, or extraction activity and, upon
245 conviction thereof, such person shall be guilty of a misdemeanor,
246 and fined not less than Five Hundred Dollars (\$500.00) nor more
247 than Five Thousand Dollars (\$5,000.00) for each offense. Each day
248 on which such violation occurs or continues shall constitute a
249 separate offense.

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

255 (7) Proceedings before the commission on civil violations
256 prescribed hereinabove shall be conducted in the manner set forth
257 in Sections 49-17-31, 49-17-33 and 49-17-35, with appeals
258 therefrom to be perfected in the manner set forth in Section
259 49-17-41.

260 **SECTION 4.** Sections 29-7-19 and 27-7-21, Mississippi Code of
261 1972, which provide for the hearing process concerning the
262 extraction of minerals before the Commission on Environmental
263 Quality and the appeals process for decisions made by the
264 commission, are repealed.

265 **SECTION 5.** Sections 27-25-505 and 27-25-705, Mississippi
266 Code of 1972, which require the board of supervisors of a county
267 to reduce the ad valorem taxes levied by the county in an amount
268 equal to one-half (1/2) of the county's share of the revenue
269 derived from the oil and gas severance tax under Sections
270 27-25-505 and 27-25-705, as a result of offshore drilling on the
271 Mississippi Gulf Coast and the governing authorities of a
272 municipality shall reduce the ad valorem taxes levied by the

273 municipality in an amount equal to one-half (1/2) of the
274 municipality's share of the revenue derived from the oil and gas
275 severance tax under such sections, are repealed.

276 **SECTION 6.** This act shall take effect and be in force from
277 and after its passage.