

By: Senator(s) Dearing, Little, Posey, Michel, Morgan, Thames, King, Gordon, Huggins, Brown, Albritton, Walley, Doxey, Chaney, Kirby, Butler, Lee (35th), White, Clarke, Flowers, Jackson (15th), Pickering

To: Oil, Gas and Other Minerals

SENATE BILL NO. 2853  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 29-7-1, MISSISSIPPI CODE OF 1972, TO  
2 TRANSFER THE AUTHORITY OF THE MINERAL LEASE COMMISSION TO THE  
3 MISSISSIPPI MAJOR ECONOMIC IMPACT AUTHORITY; TO AMEND SECTION  
4 29-7-3, MISSISSIPPI CODE OF 1972, TO REVISE THE AUTHORITY OF THE  
5 COMMISSION TO LEASE STATE-OWNED LANDS THAT HAVE DEVELOPMENT  
6 POTENTIAL FOR OIL OR NATURAL GAS; TO PROVIDE CERTAIN RESTRICTIONS  
7 FOR DRILLING FOR OIL OR NATURAL GAS IN OFFSHORE WATERS; TO AMEND  
8 SECTION 29-7-17, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE  
9 PROVISIONS OF THIS ACT; TO CREATE A NEW SECTION TO BE CODIFIED AS  
10 SECTION 29-7-19, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR HEARINGS  
11 TO BE HEARD BY THE COMMISSION; TO CREATE A NEW SECTION TO BE  
12 CODIFIED AS SECTION 29-7-21, MISSISSIPPI CODE OF 1972, TO PROVIDE  
13 FOR AN APPEALS PROCESS FOR DECISIONS MADE BY THE COMMISSION; TO  
14 PROVIDE THAT THE BOARD OF SUPERVISORS OF A COUNTY SHALL REDUCE THE  
15 AD VALOREM TAXES LEVIED BY THE COUNTY IN AN AMOUNT EQUAL TO  
16 ONE-HALF OF THE COUNTY'S SHARE OF THE REVENUE DERIVED FROM THE OIL  
17 AND GAS SEVERANCE TAX UNDER SECTIONS 27-25-505 AND 27-25-705,  
18 MISSISSIPPI CODE OF 1972, AS A RESULT OF OFFSHORE DRILLING ON THE  
19 MISSISSIPPI GULF COAST AND THE GOVERNING AUTHORITIES OF A  
20 MUNICIPALITY SHALL REDUCE THE AD VALOREM TAXES LEVIED BY THE  
21 MUNICIPALITY IN AN AMOUNT EQUAL TO ONE-HALF OF THE MUNICIPALITY'S  
22 SHARE OF THE REVENUE DERIVED FROM THE OIL AND GAS SEVERANCE TAX  
23 UNDER SECTIONS 27-25-505 AND 27-25-705, MISSISSIPPI CODE OF 1972,  
24 AS A RESULT OF OFFSHORE DRILLING ON THE MISSISSIPPI GULF COAST;  
25 AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** Section 29-7-1, Mississippi Code of 1972, is  
28 amended as follows:

29 29-7-1. (1) The Mississippi Major Economic Impact Authority  
30 shall be the mineral lease commission, and shall exercise the  
31 duties and responsibilities of the mineral lease commission \* \* \*  
32 under the provisions of Section 29-7-1 et seq.

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

36 (3) The term "commission" means the Mississippi Major  
37 Economic Impact Authority.

38           **SECTION 2.** Section 29-7-3, Mississippi Code of 1972, is  
39 amended as follows:

40           29-7-3. There shall be no development or extraction of oil,  
41 gas, or other minerals from state-owned lands by any private party  
42 without first obtaining a mineral lease therefor from the  
43 commission. The commission is hereby authorized and empowered,  
44 for and on behalf of the state, to lease any and all of the state  
45 land now owned (including that submerged or wherever the tide may  
46 ebb and flow) or hereafter acquired, to some reputable person,  
47 association, or company for oil and/or gas and/or other minerals  
48 in and under and which may be produced therefrom, excepting,  
49 however, sixteenth section school land, lieu lands, and such  
50 forfeited tax land and property the title to which is subject to  
51 any lawful redemption, for such consideration and upon such terms  
52 and conditions as the commission deems just and proper. No  
53 mineral lease of offshore lands shall allow offshore drilling  
54 operations north of the coastal barrier islands, except in Blocks  
55 40, 41, 42, 43, 63, 64 and 66 through 98, inclusive. Further,  
56 surface offshore drilling operations will not be allowed within  
57 one (1) mile of Cat Island. The commission may only offer for  
58 lease the state-owned lands in Blocks 40, 41, 42, 43, 63, 64 and  
59 66 through 98, inclusive, as shown on the Mississippi Department  
60 of Environmental Quality Bureau of Geology Plat of Lease Blocks  
61 (Open File Report 151) on terms and conditions and for a length of  
62 time as determined by the commission. The commission may not  
63 lease any lands or submerged lands off the Mississippi Gulf Coast  
64 that have been leased by the Department on Marine Resources before  
65 January 1, 2004, for any public or private oyster reef lease or  
66 any lands or submerged lands within one (1) mile of that lease for  
67 the purposes of drilling offshore for oil, gas and other minerals.

68           Consistent with the conservation policies of this state under  
69 Section 53-1-1 et seq., the commission may offer for public bid  
70 any tracts or blocks of state-owned lands not currently under

71 lease, which have been identified to the commission as having  
72 development potential for oil or natural gas, not less than once a  
73 year. Upon consultation with the Office of Geology in the  
74 Mississippi Department of Environmental Quality, the Secretary of  
75 State and any other state agency as the commission deems  
76 appropriate, the commission shall promulgate rules and regulations  
77 consistent with this chapter governing all aspects of the process  
78 of leasing state lands within its jurisdiction for mineral  
79 development, including the setting of all terms of the lease form  
80 to be used for leasing state-owned lands, any necessary fees,  
81 public bidding process, delay rental payments, shut-in royalty  
82 payments, and such other provisions as may be required. The  
83 Attorney General shall review the lease form adopted by the  
84 commission for legal sufficiency.

85       There shall not be conducted any seismographic or other  
86 mineral exploration or testing activities on any state-owned lands  
87 within the mineral leasing jurisdiction of the commission without  
88 first obtaining a permit therefor from the commission. Upon  
89 consultation with the Office of Geology in the Mississippi  
90 Department of Environmental Quality, the Secretary of State and  
91 any other state agency as the commission deems appropriate, the  
92 commission shall \* \* \* promulgate rules and regulations governing  
93 all aspects of seismographic or other mineral exploration activity  
94 on state lands within its jurisdiction, including the establishing  
95 of fees and issuance of permits for the conduct of such mineral  
96 exploration activities. The Attorney General shall review the  
97 permit form adopted by the commission for legal sufficiency.

98 Provided, however, that persons obtaining permits from the  
99 commission for seismographic or other mineral exploration or  
100 testing activities on state-owned wildlife management areas, lakes  
101 and fish hatcheries, shall be subject to rules and regulations  
102 promulgated therefor by the Mississippi Commission on Wildlife,  
103 Fisheries and Parks which shall also receive all permit fees for

104 such testing on said lands. In addition, persons obtaining  
105 permits from the commission for seismographic or other mineral  
106 exploration or testing activities on state-owned marine waters  
107 shall be subject to rules and regulations promulgated therefor by  
108 the Mississippi Department on Marine Resources which shall also  
109 receive all permit fees for such testing on those waters.

110 Further, provided that each permit within the Mississippi  
111 Sound or tidelands shall be reviewed by the Mississippi Commission  
112 on Marine Resources and such special conditions as it may specify  
113 will be included in the permit. Information or data obtained in  
114 any mineral exploration activity on any and all state lands shall  
115 be disclosed to the state through the commission, upon demand.  
116 Such information or data shall be treated as confidential for a  
117 period of ten (10) years from the date of receipt thereof and  
118 shall not be disclosed to the public or to any firm, individual or  
119 agency other than officials or authorized employees of this state.  
120 Any person who makes unauthorized disclosure of such confidential  
121 information or data shall be guilty of a misdemeanor, and upon  
122 conviction thereof, be fined not more than Five Thousand Dollars  
123 (\$5,000.00) or imprisoned in the county jail not more than one (1)  
124 year, or both.

125 Whenever any such land or property is leased for oil and gas  
126 and/or other minerals, such lease contract shall provide for a  
127 lease royalty to the state of at least three-sixteenths (3/16) of  
128 such oil and gas or other minerals, same to be paid in the manner  
129 prescribed by the commission. Of the monies received in  
130 connection with the execution of such leases, five-tenths of one  
131 percent (5/10 of 1%) shall be retained in a special fund to be  
132 appropriated by the Legislature, One Hundred Thousand Dollars  
133 (\$100,000.00) of which amount to be used by the commission for the  
134 administration of the leasing and permitting under this section,  
135 and the remainder of such amount shall be deposited into the  
136 Education Trust Fund, created in Section 206A, Mississippi

137 Constitution of 1890; and two percent (2%) shall be paid into a  
138 special fund to be designated as the "Gulf and Wildlife Protection  
139 Fund," to be appropriated by the Legislature, one-half (1/2)  
140 thereof to be apportioned as follows: an amount which shall not  
141 exceed One Million Dollars (\$1,000,000.00) shall be used by the  
142 Mississippi Department of Wildlife, Fisheries and Parks and the  
143 Mississippi Department on Marine Resources solely for the purpose  
144 of cleanup, remedial or abatement actions involving pollution as a  
145 result of the exploration or production of oil or gas, and any  
146 amount in excess of such One Million Dollars (\$1,000,000.00) shall  
147 be deposited into the Education Trust Fund, created in Section  
148 206A, Mississippi Constitution of 1890. The remaining one-half  
149 (1/2) of such Gulf and Wildlife Protection Fund to be apportioned  
150 as follows: an amount which shall not exceed One Million Dollars  
151 (\$1,000,000.00) shall be used by the Mississippi Commission on  
152 Wildlife, Fisheries and Parks and the Mississippi Department on  
153 Marine Resources for use first in the prudent management,  
154 preservation, protection and conservation of existing waters,  
155 lands and wildlife of this state and then, provided such purposes  
156 are accomplished, for the acquisition of additional waters and  
157 lands and any amount in excess of such One Million Dollars  
158 (\$1,000,000.00) shall be deposited into the Education Trust Fund,  
159 created in Section 206A, Mississippi Constitution of 1890.  
160 However, in the event that the Legislature is not in session to  
161 appropriate funds from the Gulf and Wildlife Protection Fund for  
162 the purpose of cleanup, remedial or abatement actions involving  
163 pollution as a result of the exploration or production of oil or  
164 gas, then the Mississippi Department of Wildlife, Fisheries and  
165 Parks and the Mississippi Department on Marine Resources may make  
166 expenditures from this special fund account solely for said  
167 purpose. The commission may lease the submerged beds for sand and  
168 gravel on such a basis as it may deem proper, but where the waters  
169 lie between this state and an adjoining state, there must be a

170 cash realization to this state, including taxes paid for such sand  
171 and gravel, equal to that being had by such adjoining state, in  
172 all cases the requisite consents therefor being lawfully obtained  
173 from the United States.

174 The Department of Environmental Quality is authorized to  
175 employ competent engineering personnel to survey the territorial  
176 waters of this state in the Mississippi Sound and the Gulf of  
177 Mexico and to prepare a map or plat of such territorial waters,  
178 divided into blocks of not more than six thousand (6,000) acres  
179 each with coordinates and reference points based upon longitude  
180 and latitude surveys. The commission is authorized to adopt such  
181 survey, plat or map for leasing of such submerged lands for  
182 mineral development; and such leases may, after the adoption of  
183 such plat or map, be made by reference to the map or plat, which  
184 shall be on permanent file with the commission and a copy thereof  
185 on file in the Office of the State Oil and Gas Board.

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

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

203 Mississippi, in an amount equal to double the amount of any civil  
204 penalty assessed by the commission, as to which the stay of  
205 execution is desired, on the condition that if the judgment shall  
206 be affirmed the appellant shall pay all costs of the assessment  
207 entered against him.

208 (2) In lieu of, or in addition to, the penalty provided in  
209 subsection (1) of this section, the commission shall have power to  
210 institute and maintain in the name of the state any and all  
211 proceedings necessary or appropriate to enforce the provisions of  
212 Section 29-7-3, rules and regulations promulgated, and orders and  
213 permits made and issued thereunder, in the appropriate circuit,  
214 chancery, county or justice court of the county in which venue may  
215 lie. The commission may obtain mandatory or prohibitory  
216 injunctive relief, either temporary or permanent, and it shall not  
217 be necessary in such cases that the state plead or prove: (i)  
218 that irreparable damage would result if the injunction did not  
219 issue; (ii) that there is no adequate remedy at law; or (iii) that  
220 a written complaint or commission order has first been issued for  
221 the alleged violation.

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

235 action brought in the appropriate county or circuit court of the  
236 county in which venue may lie.

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

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

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

261 (7) Proceedings before the commission on civil violations  
262 prescribed hereinabove shall be conducted in the manner set forth  
263 in this chapter.

264 **SECTION 4.** The following shall be codified as Section  
265 29-7-19, Mississippi Code of 1972:

266 29-7-19. (1) The hearings, as provided under Section  
267 29-7-21(1), may be conducted by the commission itself at a regular



268 or special meeting of the commission, or the commission may  
269 designate a hearing officer, who may conduct such hearings in the  
270 name of the commission at any time and place as conditions and  
271 circumstances may warrant. The hearing officer shall have the  
272 record prepared of any hearing that he has conducted for the  
273 commission. The record shall be submitted to the commission along  
274 with that hearing officer's findings of fact and recommended  
275 decision. Upon receipt and review of the record of the hearing  
276 and the hearing officer's findings of fact and recommended  
277 decision, the commission shall render its decision in the matter.  
278 The decision shall become final after it is entered on the minutes  
279 and shall be considered the final administrative agency decision  
280 on the matter. The decision may be appealed under Section  
281 29-7-21(2).

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

287 **SECTION 5.** The following shall be codified as Section  
288 29-7-21, Mississippi Code of 1972:

289 29-7-21. (1) Any person or interested party aggrieved by  
290 any final rule, regulation, permit or order of the commission may  
291 file a petition with the commission within thirty (30) days after  
292 the final rule, regulation, permit or order is entered on the  
293 minutes. The petition shall set forth the grounds and reasons for  
294 the complaint and request a hearing of the matter involved.  
295 However, there shall be no hearing on the same subject matter that  
296 has previously been held before the commission or its designated  
297 hearing officer. The commission shall fix the time and place of  
298 the hearing and notify the petitioners thereof. In pending  
299 matters, the commission shall have the same powers as to  
300 subpoenaing witnesses, administering oaths, examining witnesses

301 under oath and conducting the hearing, as is now vested by law in  
302 the Mississippi Public Service Commission, as to hearings before  
303 it, with the additional power that the executive director may  
304 issue all subpoenas, both at the instance of the petitioner and of  
305 the commission. At the hearings the petitioner, and any other  
306 interested party, may offer exhibits, present witnesses, and  
307 otherwise submit evidence, as the commission deems appropriate.  
308 After the hearing, the commission's decision shall be deemed the  
309 final administrative agency decision on the matter.

310 (2) Any interested person aggrieved by any final rule,  
311 regulation, permit or order of the commission issued under this  
312 section, regardless of the amount involved, may appeal to the  
313 Chancery Court of the First Judicial District of Hinds County,  
314 Mississippi, which shall be taken and perfected as hereinafter  
315 provided, within thirty (30) days from the date that the final  
316 rule, regulation or order is filed for record in the office of the  
317 commission. The chancery court may affirm the rule, regulation,  
318 permit, or order, or reverse the same for further proceedings as  
319 the court may require. All appeals shall be on the record, taken  
320 and perfected, heard and determined either in termtime or in  
321 vacation, including a transcript of pleadings and testimony, both  
322 oral and documentary, filed and heard before the commission, and  
323 the appeal shall be heard and disposed of promptly by the court as  
324 a preference cause. In perfecting any appeal provided by this  
325 section, the provisions of law respecting notice to the reporter  
326 and the allowance of bills of exception, now or hereafter in force  
327 respecting appeals from the chancery court to the Supreme Court,  
328 shall be applicable. However, the reporter shall transcribe his  
329 notes and file the transcript of the record with the board within  
330 thirty (30) days after approval of the appeal bond.

331 (3) Upon the filing with the commission of a petition for  
332 appeal to the Hinds County Chancery Court, it shall be the duty of  
333 the commission, as promptly as possible and within sixty (60) days

334 after approval of the appeal bond, if required, to file with the  
335 clerk of the chancery court to which the appeal is taken, a copy  
336 of the petition for appeal and of the rule, regulation, permit or  
337 order appealed from, and the original and one (1) copy of the  
338 transcript of the record of proceedings in evidence before the  
339 commission. After the filing of the petition, the appeal shall be  
340 perfected by the filing with the clerk of the chancery court to  
341 which the appeal is taken of bond in the sum of Five Hundred  
342 Dollars (\$500.00) with two (2) sureties or with a surety company  
343 qualified to do business in Mississippi as the surety, conditioned  
344 to pay the cost of the appeal; the bond to be approved by any  
345 member of the commission, or by the clerk of the court to which  
346 the appeal is taken. The perfection of an appeal shall not stay  
347 or suspend the operation of any rule, regulation, permit or order  
348 of the board, but the judge of the chancery court to which the  
349 appeal is taken may award a writ of supersedeas to any rule,  
350 regulation, permit or order of the commission after five (5) days'  
351 notice to the commission and after hearing. Any order or judgment  
352 staying the operation of any rule, regulation, permit or order of  
353 the commission shall contain a specific finding, based upon  
354 evidence submitted to the chancery judge and identified by  
355 reference thereto, that great or irreparable damage would result  
356 to the appellant if he is denied relief, and the stay shall not  
357 become effective until a supersedeas bond shall have been executed  
358 and filed with and approved by the clerk of the court or the  
359 chancery judge, payable to the state. The supersedeas bond shall  
360 be in an amount fixed by the chancery judge to protect the lessee  
361 or permittee from loss or damage from the stay and conditioned as  
362 the chancery judge may direct in the order granting the  
363 supersedeas. If the appeal is of a commission order concerning  
364 the lease of state lands for minerals, that appeal shall be given  
365 priority over other matters pending in the chancery court. If the

366 appeal is of a commission permit, that appeal shall be given  
367 priority over other matters pending in chancery court.

368        **SECTION 6.** From and after July 1, 2004, the board of  
369 supervisors of a county shall reduce the ad valorem taxes levied  
370 by the county in an amount equal to one-half (1/2) of the county's  
371 share of the revenue derived from the oil and gas severance tax  
372 under Sections 27-25-505 and 27-25-705 as a result of offshore  
373 drilling on the Mississippi Gulf Coast. From and after July 1,  
374 2004, the governing authorities of a municipality shall reduce the  
375 ad valorem taxes levied by the municipality in an amount equal to  
376 one-half (1/2) of the municipality's share of the revenue derived  
377 from the oil and gas severance tax under Sections 27-25-505 and  
378 27-25-705 as a result of offshore drilling on the Mississippi Gulf  
379 Coast.

380        **SECTION 7.** This act shall take effect and be in force from  
381 and after July 1, 2004.