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Chapter No. 91
11/HR07/A470SG
JP / EW

HOUSE BILL NO. 1498

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1498

AN ACT MAKING AN APPROPRIATION FOR THE SUPPORT AND MAINTENANCE OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY; AND FOR RELATED PURPOSES, FOR THE FISCAL YEAR 2012.

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

SECTION 1. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State General Fund not otherwise appropriated, for the support and maintenance of the Department of Environmental Quality for the fiscal year beginning July 1, 2011, and ending June 30, 2012 .... $ 10,811,689.00.

SECTION 2. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in any special fund in the State Treasury to the credit of the Department of Environmental Quality which is comprised of special source funds collected by or otherwise available to the department, for the support of the various offices of the department for the fiscal year beginning July 1, 2011, and ending June 30, 2012 .... $ 248,276,333.00.

SECTION 3. Of the funds appropriated under the provisions of this act, the following positions are authorized:

AUTHORIZED POSITIONS:

Permanent:	Full Time	274
	Part Time	0
Time-Limited:	Full Time	201
	Part Time	0

With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to

make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2013 do not exceed Fiscal Year 2012 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2012 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2012 appropriations for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2012 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

SECTION 4. It is the intention of the Legislature that the Department of Environmental Quality shall maintain complete accounting and personnel records related to the expenditure of all funds appropriated under this act and that such records shall be in the same format and level of detail as maintained for Fiscal Year 2011. It is further the intention of the Legislature that the agency's budget request for Fiscal Year 2013 shall be submitted to the Joint Legislative Budget Committee in a format and level of detail comparable to the format and level of detail provided during the Fiscal Year 2012 budget request process.

SECTION 5. In compliance with the "Mississippi Performance Budget and Strategic Planning Act of 1994," it is the intent of the Legislature that the funds provided herein shall be utilized in the most efficient and effective manner possible to achieve the intended mission of this agency. Based on the funding authorized, this agency shall make every effort to attain the targeted performance measures provided below:

Performance Measures	FY2012 Target
Pollution Control	
Air-Compliance Assurance Activities (Actions)	870
Air-Permits Issued (Permits)	200
Asbestos-Persons Certified (Persons)	1,300
RCRA-Inspections (Actions)	120
RCRA-Permit Actions Taken (Actions)	4
Waste Tires-Compliance Assurance (Actions)	550
Solid Waste-Permits Processed (Permits)	50
SRF Water-Inspections (Sites)	1,600
SRF Water-NPDES Permits Issued (Permits)	400
SRF Admin-Federal/State Match Funds (%)	90.00
Construction Grants	
Federal/State Match Funds Awarded (%)	90.00
Recipient Compliance with Loan	

Agreement (%)	90.00
Land & Water	
Water Levels Measured (Actions)	150
Water Withdrawal Permits Issued	1,500
Driller Licenses Issued	245
Dams Inspected	100
Dams Designs Reviewed	30
Geology	
Quadrangles Mapped (Sites)	8
Test Holes Drilled	12
Mines Inspected	862

A reporting of the degree to which the performance targets set above have been or are being achieved shall be provided in the agency's budget request submitted to the Joint Legislative Budget Committee for Fiscal Year 2013.

SECTION 6. It is the intent of the Legislature that the Department of Environmental Quality shall have authority to escalate the various budgets in both funds and positions, with the approval of the State Fiscal Officer, from any special funds collected or available, in the current fiscal year or any prior fiscal year, not to exceed Five Million Dollars ($5,000,000.00), to the agency for expenditure. Upon such approval, the Department of Environmental Quality may expend such funds in the manner authorized by law.

The Executive Director of the Department of Environmental Quality shall submit to the Department of Finance and Administration a certified statement providing a detailed explanation for any escalation, including a justification for the establishment of any new positions or reclassification of existing positions and the existence of any required matching funds for those positions, and an assessment of the impact on the agency's general fund budget for the three (3) fiscal years following the fiscal year in which the escalation is requested.

SECTION 7. It shall be unlawful for any officer, employee or other person whatsoever to use or permit or authorize the use of any automobile or any other motor vehicle owned by the State of Mississippi or any department, agency or institution thereof for any purpose other than upon the official business of the State of Mississippi or any agency, department or institution thereof.

It is the intent of the Legislature that motor vehicles authorized to be owned and operated by this agency shall comply with Sections 25-1-77 through 25-1-93, Mississippi Code of 1972.

SECTION 8. Of the funds appropriated in Section 2, an amount no greater than Two Hundred Fifty Thousand Dollars ($250,000.00) shall be derived from the Pollution Emergency Fund within the Pollution Operating Fund and shall be transferred to the Department of Finance and Administration.

SECTION 9. Of the funds appropriated in Section 2, an amount no greater than Two Hundred Fifty Thousand Dollars ($250,000.00) shall be derived from the Pollution Emergency Fund within the Pollution Operating Fund for transfer to the Department of Environmental Quality - Office of Administrative Services for support of Legal Division environmental protection activities.

SECTION 10. Of the funds appropriated in Section 2, an amount no greater than One Hundred Thousand Dollars ($100,000.00) shall be derived from the Pollution Emergency Fund within the Pollution Operating Fund for transfer to the Department of Environmental Quality - Office of Pollution Control for support of the Household Hazardous Waste Collection Grants Program.

SECTION 11. The Department of Environmental Quality (DEQ) may request that the Mississippi Development Authority (MDA) staff shall provide an economic viability assessment for any complete application or group of related complete applications submitted to DEQ after July 1, 1999, for which DEQ estimates that DEQ will be required to devote extraordinary effort to process the application or group of related applications within the one hundred and eighty

(180) days required by Section 49-17-29(3)(c). For purposes of this paragraph, "extraordinary effort" means the constant dedication of more than three (3) full-time equivalent positions for a period of at least one hundred eighty (180) days. The economic viability assessment shall include, but not be limited to: (i) an analysis of the current and future market viability of the project concerning which application(s) has been made to DEQ; and (ii) an analysis of the applicant's economic ability to construct, develop, maintain and operate the project as described in the application(s) submitted to DEQ. If the economic viability assessment concludes that the project is not economically viable for any reason, DEQ shall suspend processing the permit application(s), notwithstanding the provisions of Section 49-17-29(3)(c). Within thirty (30) days of the decision of MDA staff, the permit applicant may present any additional information on its behalf to the Executive Director of MDA, and the Executive Director shall review the MDA staff assessment. If additional information is received in writing from the applicant, the Executive Director of MDA shall make a decision in review of the MDA staff decision within sixty (60) days of the staff decision, and the decision of the Executive Director of MDA shall be the final administrative action of MDA in the matter.

SECTION 12. It is the intention of the Legislature that the Executive Director of the Department of Environmental Quality shall have authority to transfer cash from one special fund treasury fund to another special fund treasury fund under the control of the Department of Environmental Quality. The purpose of this authority is to more efficiently use available cash reserves. It is further the intention of the Legislature that the Executive Director of the Department of Environmental Quality shall submit written justification for the transfer to the Legislative Budget Office and the Department of Finance and

Administration on or before the fifteenth of the month prior to the effective date of the transfer.

SECTION 13. It is the intention of the Legislature that whenever two (2) or more bids are received by this agency for the purchase of commodities or equipment, and whenever all things stated in such received bids are equal with respect to price, quality and service, the Mississippi Industries for the Blind shall be given preference. A similar preference shall be given to the Mississippi Industries for the Blind whenever purchases are made without competitive bids.

SECTION 14. Of the funds appropriated herein, it is the intent of the Legislature that the Department of Environmental Quality shall pay debt service on bonds issued to provide state matching funds for the State Revolving Loan Fund with interest earnings derived from the fund.

SECTION 15. It is the intent of the Legislature that from the funds available to the Department of Environmental Quality, the agency may purchase and pay premiums on property damage insurance on its motor vehicles, boats, trailers, motors, and other equipment assigned to the South Regional Office.

SECTION 16. It is the intention of the Legislature that the agency shall compile cell phone usage records of any cellular phone (wireless communication device) that is assigned, issued or made available to any officer or employee in accordance with Section 25-53-191, Mississippi Code of 1972, and these records shall be made publicly available at the expense of the agency.

SECTION 17. It is legislative intent to ensure beneficial information reaches as many Mississippians as possible. Further, it is legislative intent that the expenditure of public funds for this purpose be accomplished in an efficient and effective manner.

Therefore, state agencies as standard procedure will observe the following criteria:

(a) Develop goals and desired result for a campaign.

(b) Evaluate effectiveness through respected advertising standards, including market reach and cost effectiveness.

(c) Seek public service announcements, which would be aired by media without cost.

(d) Itemize and justify professional assistance and related expenses for creative and production costs outside of the actual media expenditures.

(e) Utilize Mississippi-owned media companies when feasible.

SECTION 18. No former employee who is receiving State of Mississippi retirement benefits shall be hired under contract for an amount exceeding Twenty Thousand Dollars ($20,000.00) a year without prior approval by an agency's proper governing board or authority. Upon approval of such contracts, a written report shall be submitted detailing the cost and need of such contract services to the Chairmen and members of the Senate and House Appropriations Committees.

SECTION 19. With the funds appropriated herein, the Department of Environmental Quality is authorized to make payment for expenses incurred during previous fiscal years as follows:

Vendor	Fiscal Year	Amount
Hancock County Utility Authority	2008	$1,779.00
Hancock County Utility Authority	2009	$5,886.04

SECTION 20. The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.

SECTION 21. This act shall take effect and be in force from and after July 1, 2011.

PASSED BY THE HOUSE OF REPRESENTATIVES
April 4, 2011

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
April 4, 2011

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

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