

By: Representative Weathersby

To: Public Property;
Appropriations

HOUSE BILL NO. 1379

1 AN ACT TO AUTHORIZE THE DEPARTMENT OF FINANCE AND
2 ADMINISTRATION, ACTING ON BEHALF OF THE STATE TAX COMMISSION, TO
3 EXECUTE A LEASE-PURCHASE AGREEMENT FOR THE FINANCING AND
4 CONSTRUCTION OF AN OFFICE BUILDING; TO SET FORTH CERTAIN SPECIFIC
5 PROVISIONS THAT MUST BE INCLUDED IN THE AGREEMENT; TO AMEND
6 SECTION 29-1-1, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO;
7 AND FOR RELATED PURPOSES.

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

9 SECTION 1. (1) The Department of Finance and

10 Administration, acting on behalf of the State Tax Commission, may
11 execute a lease-purchase agreement with an entity approved by the
12 department, hereinafter referred to as the lessor/seller, for the
13 financing and construction of a building in which to locate all or
14 part of the operations of the State Tax Commission.

15 (2) The terms of the lease-purchase agreement shall include
16 the following specific provisions:

17 (a) The building shall be two (2) stories, containing
18 approximately one hundred sixty thousand (160,000) net usable
19 square feet of office space, with secured entry and surface
20 parking;

21 (b) The architectural firm that will prepare a site
22 plan and design for the building will be selected by the
23 lessor/seller;

24 (c) The state agrees to pay for additional
25 architectural costs to redesign the building, in the event that
26 the state desires to increase the amount of net usable square feet
27 after the design phase is complete;

28 (d) The duration of the lease shall be fifteen (15) to
29 twenty (20) years;

30 (e) The state may exercise its purchase option at
31 certain intervals during the lease, for fixed dollar amounts,
32 which shall include the costs of the state failing to meet its
33 obligations related to the financing arrangement for the
34 construction of the building and any yield maintenance fees;

35 (f) The state agrees to pay:

36 (i) A net rent of Twelve Dollars and Fifty Cents
37 (\$12.50) per square foot per year,

38 (ii) All utility services used on the premises of
39 the building,

40 (iii) Premiums for the amount of insurance on the
41 building, based upon the lessor/seller's requirements,

42 (iv) All annual operating maintenance costs
43 associated with the building,

44 (v) Any taxes or other assessments levied on the
45 building, and

46 (vi) All costs and expenses, including legal fees,
47 in connection with negotiating a final lease/purchase agreement.

48 **SECTION 2.** Section 29-1-1, Mississippi Code of 1972, is
49 amended as follows:

50 29-1-1. (1) Except as otherwise provided in subsections
51 (7), (8) and (9) of this section, the title to all lands held by
52 any agency of the State of Mississippi which were acquired solely
53 by the use of funds appropriated by the state shall appear on all
54 deeds and land records under the name of the "State of
55 Mississippi." For the purpose of this section, the term "agency"
56 shall be defined as set forth in Section 31-7-1(a). The
57 provisions of this section shall not affect the authority of any
58 agency to use any land held by the agency. No assets or property
59 of the Public Employees' Retirement System of Mississippi shall be
60 transferred in violation of Section 272A of the Mississippi
61 Constitution of 1890. Before September 1, 1993, each state agency
62 shall inventory any state-held lands which were acquired solely by

63 the use of funds appropriated by the state, and which are titled
64 in the name of the agency. The agency shall execute quitclaim
65 deeds and any other necessary documents to transfer the name and
66 title of the property to the State of Mississippi.

67 (2) The Secretary of State, under the general direction of
68 the Governor and as authorized by law, shall sell and convey the
69 public lands in the manner and on the terms provided herein for
70 the several classes thereof; he shall perform all the
71 administrative and executive duties appertaining to the selection,
72 location, surveying, platting, listing, and registering these
73 lands or otherwise concerning them; and he shall investigate the
74 status of the various "percent" funds accrued and accruing to the
75 state from the sale of lands by the United States, and shall
76 collect and pay the funds into the treasury in the manner provided
77 by law.

78 (3) In accordance with Sections 7-11-11 and 7-11-13, the
79 Secretary of State shall be required to sign all conveyances of
80 all state-held land. For purposes of this section, the term
81 "conveyance" shall mean any sale or purchase of land by the State
82 of Mississippi for use by any agency, board or commission thereof.
83 Failure to obtain legislative approval pursuant to subsection (4)
84 of this section and the signature of the Secretary of State on any
85 conveyance regarding the sale or purchase of lands for the state
86 including any agency, board or commission thereof, shall render
87 the attempted sale or purchase of the lands void. Nothing in this
88 section shall be construed to authorize any state agency, board,
89 commission or public official to convey any state-held land unless
90 this authority is otherwise granted by law. The Secretary of
91 State shall not withhold arbitrarily his signature from any
92 purchase or sale authorized by the Mississippi State Legislature.
93 All sales of state-held lands, except those lands forfeited to the
94 state for the nonpayment of taxes and those lands acquired by the
95 Mississippi Transportation Commission under Section 65-1-123,

96 shall be sold for not less than the fair market value as
97 determined by two (2) professional appraisers selected by the
98 State Department of Finance and Administration, who are certified
99 general appraisers of the State of Mississippi. The proceeds from
100 any sale by an agency, board, commission or public official of
101 state-held lands shall be deposited into the State General Fund
102 unless otherwise provided by law.

103 (4) Before any state-held land is sold to any individual or
104 private entity, thirty (30) days' advance notice of the intended
105 sale shall be provided by the Secretary of State to the State
106 Legislature, to all state agencies and to all governing
107 authorities within the state for the purpose of ascertaining
108 whether an agency or governing authority has a need for the land
109 and for the purpose of ascertaining whether the sale of the land
110 was authorized by law. If no agency or governing authority within
111 the state expresses in writing to the Secretary of State by the
112 end of the thirty-day period a desire to use the land, then the
113 Secretary of State, with the prior approval of the Mississippi
114 Legislature to sell the state-held land, may offer the land for
115 sale to any individual or private entity.

116 (5) A cultural resources survey may be performed on any
117 state-held land before the disposition of the land if the State
118 Department of Archives and History deems this survey necessary.
119 The cost of the survey and any archaeological studies deemed
120 necessary by the State Department of Archives and History shall be
121 paid by the selling agency and recouped from the proceeds of the
122 sale.

123 (6) Before any land may be purchased by the state for the
124 benefit of any state agency, the Secretary of State, or his
125 designee, shall search and examine all state land records to
126 determine whether the state owns any land that may fit the
127 particular need of the agency. The Secretary of State, or his
128 designee, shall notify the agency if it is determined that any

129 state-held land is available for use by the agency. The agency
130 shall determine if such land accommodates its needs and shall
131 determine whether to make an official request to the proper
132 authorities to have the use of the land.

133 (7) Any lands purchased or acquired for construction and
134 maintenance of highways or highway rights-of-way by the
135 Mississippi Department of Transportation shall be excluded from
136 the provisions of this section.

137 (8) This section shall not apply to any agency of the State
138 of Mississippi that holds title to lands purchased solely by the
139 use of federal funds or whose authority to transfer or dispose of
140 these lands is governed by federal law or federal regulations.

141 (9) Any lands purchased by the Mississippi Major Economic
142 Impact Authority for a "project" as defined in Section 57-75-5
143 shall be excluded from the provisions of this section.

144 (10) The Secretary of State may recover from any agency,
145 corporation, board, commission, entity or individual any cost that
146 is incurred by his office for the record-keeping responsibilities
147 regarding the sale or purchase of any state-held lands.

148 (11) Subsections (3), (4), (5) and (6) of this section shall
149 not apply to sales or purchases of land when the Legislature
150 expressly authorizes or directs a state agency to sell, purchase
151 or lease-purchase a specifically described property; or when the
152 Legislature expressly authorizes a state agency to execute a
153 lease-purchase agreement to include specific provisions, even if
154 no specifically described property is referred to in the act.

155 However, when the Legislature authorizes a state agency to sell or
156 otherwise convey specifically described real property to another
157 state agency or other entity such as a county, municipality,
158 economic development district created under Section 19-5-99 or
159 similar entity, without providing that the conveyance may not be
160 made for less than the fair market value of the property, then the

161 state agency authorized to convey such property must make the
162 following determinations before conveying the property:

163 (a) That the state agency or other entity to which the
164 proposed conveyance is to be made has an immediate need for the
165 property;

166 (b) That there are quantifiable benefits that will
167 inure to the state agency or other entity to which the proposed
168 conveyance is to be made which outweigh any quantifiable costs to
169 the state agency authorized to make the conveyance; and

170 (c) That the state agency or other entity to which the
171 proposed conveyance is to be made lacks available funds to pay
172 fair market value for the property. If the state agency
173 authorized to convey such property fails to make such
174 determinations, then it shall not convey the property for less
175 than the fair market value of the property.

176 **SECTION 3.** This act shall take effect and be in force from
177 and after its passage.