

By: Representative Weathersby

To: Public Property;
Appropriations

HOUSE BILL NO. 1379
(As Passed the House)

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

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

10 **SECTION 1.** (1) The Department of Finance and
11 Administration, acting on behalf of the State Tax Commission and
12 the Department of Environmental Quality, may execute
13 lease-purchase agreements with entities approved by the
14 department, hereinafter referred to as the "lessors/sellers," for
15 the financing and construction of buildings in which to locate all
16 or part of the operations of the State Tax Commission and all or
17 part of the operations of the Department of Environmental Quality.

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

20 (a) The building for the State Tax Commission shall be
21 a maximum of two (2) stories, containing approximately one hundred
22 sixty thousand (160,000) net usable square feet of office space,
23 with secured entry and surface parking, to be located on
24 state-owned land within the Jackson Metropolitan area near or on
25 an accessible state or federal highway;

26 (b) The building for the Department of Environmental
27 Quality shall contain approximately one hundred seventy thousand
28 (170,000) net usable square feet of office space with secured
29 entry and surface parking;

30 (c) The architectural firms that will prepare site
31 plans and designs for the buildings will be selected by the
32 lessors/sellers;

33 (d) The state agrees to pay for additional
34 architectural costs to redesign the buildings, if the state
35 desires to increase the amount of net usable square feet after the
36 design phases are complete;

37 (e) The duration of the leases shall be fifteen (15) to
38 twenty (20) years;

39 (f) The state may exercise its purchase option at
40 certain intervals during the leases, for fixed dollar amounts,
41 which shall include the costs of the state failing to meet its
42 obligations related to the financing arrangements for the
43 construction of the buildings and any yield maintenance fees;

44 (g) The state agrees to pay:

45 (i) Net rents on the buildings of not more than
46 Twelve Dollars and Fifty Cents (\$12.50) per square foot per year;

47 (ii) All utility services used on the premises of
48 the buildings;

49 (iii) Premiums for the amount of insurance on the
50 buildings, based upon the lessors/sellers' requirements;

51 (iv) All annual operating maintenance costs
52 associated with the buildings;

53 (v) Other assessments levied on the buildings; and

54 (vi) All costs and expenses, including legal fees,
55 in connection with negotiating final lease/purchase agreements.

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

58 29-1-1. (1) Except as otherwise provided in subsections
59 (7), (8) and (9) of this section, the title to all lands held by
60 any agency of the State of Mississippi that were acquired solely
61 by the use of funds appropriated by the state shall appear on all
62 deeds and land records under the name of the "State of

63 Mississippi." For the purpose of this section, the term "agency"
64 shall be defined as set forth in Section 31-7-1(a). The
65 provisions of this section shall not affect the authority of any
66 agency to use any land held by the agency. No assets or property
67 of the Public Employees' Retirement System of Mississippi shall be
68 transferred in violation of Section 272A of the Mississippi
69 Constitution of 1890. Before September 1, 1993, each state agency
70 shall inventory any state-held lands that were acquired solely by
71 the use of funds appropriated by the state, and that are titled in
72 the name of the agency. The agency shall execute quitclaim deeds
73 and any other necessary documents to transfer the name and title
74 of the property to the State of Mississippi.

75 (2) The Secretary of State, under the general direction of
76 the Governor and as authorized by law, shall sell and convey the
77 public lands in the manner and on the terms provided in this
78 section for the several classes thereof; he shall perform all the
79 administrative and executive duties appertaining to the selection,
80 location, surveying, platting, listing, and registering these
81 lands or otherwise concerning them; and he shall investigate the
82 status of the various "percent" funds accrued and accruing to the
83 state from the sale of lands by the United States, and shall
84 collect and pay the funds into the treasury in the manner provided
85 by law.

86 (3) In accordance with Sections 7-11-11 and 7-11-13, the
87 Secretary of State shall be required to sign all conveyances of
88 all state-held land. For purposes of this section, the term
89 "conveyance" shall mean any sale or purchase of land by the State
90 of Mississippi for use by any agency, board or commission thereof.
91 Failure to obtain legislative approval under subsection (4) of
92 this section and the signature of the Secretary of State on any
93 conveyance regarding the sale or purchase of lands for the state
94 including any agency, board or commission thereof, shall render
95 the attempted sale or purchase of the lands void. Nothing in this

96 section shall be construed to authorize any state agency, board,
97 commission or public official to convey any state-held land unless
98 this authority is otherwise granted by law. The Secretary of
99 State shall not withhold arbitrarily his signature from any
100 purchase or sale authorized by the Mississippi State Legislature.
101 All sales of state-held lands, except those lands forfeited to the
102 state for the nonpayment of taxes and those lands acquired by the
103 Mississippi Transportation Commission under Section 65-1-123,
104 shall be sold for not less than the fair market value as
105 determined by two (2) professional appraisers selected by
106 the * * * Department of Finance and Administration, who are
107 certified general appraisers of the State of Mississippi. The
108 proceeds from any sale by an agency, board, commission or public
109 official of state-held lands shall be deposited into the State
110 General Fund unless otherwise provided by law.

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

124 (5) A cultural resources survey may be performed on any
125 state-held land before the disposition of the land if the State
126 Department of Archives and History deems this survey necessary.
127 The cost of the survey and any archaeological studies deemed
128 necessary by the State Department of Archives and History shall be

129 paid by the selling agency and recouped from the proceeds of the
130 sale.

131 (6) Before any land may be purchased by the state for the
132 benefit of any state agency, the Secretary of State, or his
133 designee, shall search and examine all state land records to
134 determine whether the state owns any land that may fit the
135 particular need of the agency. The Secretary of State, or his
136 designee, shall notify the agency if it is determined that any
137 state-held land is available for use by the agency. The agency
138 shall determine if the land accommodates its needs and shall
139 determine whether to make an official request to the proper
140 authorities to have the use of the land.

141 (7) Any lands purchased or acquired for construction and
142 maintenance of highways or highway rights-of-way by the
143 Mississippi Department of Transportation shall be excluded from
144 the provisions of this section.

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

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

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

156 (11) Subsections (3), (4), (5) and (6) of this section shall
157 not apply to sales or purchases of land when the Legislature
158 expressly authorizes or directs a state agency to sell, purchase
159 or lease-purchase a specifically described property; or when the
160 Legislature expressly authorizes a state agency to execute a
161 lease-purchase agreement to include specific provisions, even if

162 no specifically described property is referred to in the
163 legislative act. However, when the Legislature authorizes a state
164 agency to sell or otherwise convey specifically described real
165 property to another state agency or other entity, such as a
166 county, municipality, economic development district created under
167 Section 19-5-99 or similar entity, without providing that the
168 conveyance may not be made for less than the fair market value of
169 the property, then the state agency authorized to convey the
170 property must make the following determinations before conveying
171 the property:

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

175 (b) That there are quantifiable benefits that will
176 inure to the state agency or other entity to which the proposed
177 conveyance is to be made that outweigh any quantifiable costs to
178 the state agency authorized to make the conveyance; and

179 (c) That the state agency or other entity to which the
180 proposed conveyance is to be made lacks available funds to pay
181 fair market value for the property. If the state agency
182 authorized to convey the property fails to make those
183 determinations, then it shall not convey the property for less
184 than the fair market value of the property.

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