

By: Representatives Guice, Bentz, Hamilton
(109th), Patterson

To: Marine Resources;
Conservation and Water
Resources

HOUSE BILL NO. 1619

1 AN ACT TO AMEND SECTION 79-22-23, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE SECRETARY OF STATE TO LEASE CERTAIN COASTAL
3 WETLANDS UPON RECOMMENDATION BY THE DEPARTMENT OF MARINE
4 RESOURCES; TO AMEND SECTION 49-27-3, MISSISSIPPI CODE OF 1972, TO
5 DECLARE WHEN A HIGHER PUBLIC INTEREST SHALL BE SERVED; TO AMEND
6 SECTION 29-1-107, MISSISSIPPI CODE OF 1972, TO REQUIRE THE
7 SECRETARY OF STATE TO ISSUE A LEASE WITHIN 120 DAYS IF THE
8 COMMERCIAL PURPOSE SERVES A HIGHER PUBLIC INTEREST; AND FOR
9 RELATED PURPOSES.

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

11 **SECTION 1.** Section 79-22-23, Mississippi Code of 1972,
12 is amended as follows:

13 79-22-23. (1) The Secretary of State, upon recommendation
14 of * * * the Mississippi Department of Environmental Quality, may
15 lease waters as provided by Section 29-1-107, Mississippi Code of
16 1972, within the jurisdiction of the state to a person for
17 aquaculture or the production of aquatic products, and upon
18 recommendation of the Mississippi Department of Marine Resources,
19 the Secretary of State shall lease such waters for such purposes.

20 The Department of Marine Resources is authorized to develop a
21 marine aquaculture lease management program and may adopt such
22 rules and regulations as may be necessary to implement the marine
23 aquaculture lease management program and to regulate the growth of
24 aquaculture.

25 (2) All state and governmental entities that are involved in
26 the regulation and enforcement of marine aquaculture activities or
27 related activities shall develop a coordinated procedure for
28 one-stop permitting applicable to marine aquaculture activities.
29 One-stop permitting is defined as a procedure that allows an
30 aquaculturist to fill out a joint application form and deposit it

31 with any of the aforementioned governmental agencies. The
32 receiving agency shall forward the joint application or copies of
33 it to the appropriate entities for review and expeditious action.
34 The one-stop permitting procedure document shall state the time
35 schedules for review and action by the applicable agencies after
36 the permit has been received and dated.

37 **SECTION 2.** Section 49-27-3, Mississippi Code of 1972, is
38 amended as follows:

39 49-27-3. (1) It is declared to be the public policy of this
40 state to favor the preservation of the natural state of the
41 coastal wetlands and their ecosystems and to prevent the
42 despoliation and destruction of them, except where a specific
43 alteration of specific coastal wetlands would serve a higher
44 public interest in compliance with the public purposes of the
45 public trust in which coastal wetlands are held.

46 (2) A higher public interest shall be served when a lease or
47 use for commercial purposes may create a minimum of two hundred
48 (200) jobs in the county in which the lease will be used.

49 **SECTION 3.** Section 29-1-107, Mississippi Code of 1972, is
50 amended as follows:

51 29-1-107. (1) The Secretary of State with the approval of
52 the Governor shall, as far as practicable, rent or lease all lands
53 belonging to the state, except as otherwise provided by law for a
54 period of not exceeding one (1) year, and account for the rents
55 therefrom in the same manner as money received from the sale of
56 state lands, provided that no state land shall be rented or leased
57 to individuals, corporations, partnerships, or association of
58 persons for hunting or fishing purposes. Property belonging to
59 the state in municipalities, even though it may have been
60 subdivided into lots, blocks, divisions, or otherwise escheated or
61 was sold to the state by such description, may likewise be leased
62 or rented by the Secretary of State under the terms provided above
63 for other state lands, and the rents accounted for in the same

64 manner. The state shall have all the liens, rights and remedies
65 accorded to landlords in Sections 89-7-1 through 89-7-125; said
66 leases and rental contracts shall automatically terminate on the
67 date provided in said leases or contracts.

68 (2) (a) The Secretary of State, with the approval of the
69 Governor, may rent or lease surface lands, tidelands or submerged
70 lands owned or controlled by the State of Mississippi lying in or
71 adjacent to the Mississippi Sound or Gulf of Mexico or streams
72 emptying therein, for a period not exceeding forty (40) years for
73 rental payable to the state annually. The lessee under such
74 agreement may construct such necessary items for marking channels,
75 docking, wharfing, mooring or fleeting vessels which shall be in
76 aid of navigation and not obstructions thereto. A lessee of
77 record may be given the option to renew for an additional period
78 not to exceed twenty-five (25) years. The holder of a lease of
79 Public Trust Tidelands, at the expiration thereof, shall have a
80 prior right, exclusive of all other persons, to re-lease as may be
81 agreed upon between the holder of the lease and the Secretary of
82 State. All such leases shall provide for review and rent
83 adjustments at each fifth anniversary tied either to the All Urban
84 Consumer Price Index-All Items (CPI) or to an appraisal which
85 deducts the value of any improvements by the lessee which
86 substantially enhance the value of the land, whichever is greater.
87 In the case where the initial rental was based on the value set by
88 the ad valorem tax rolls, then the rent review and adjustment
89 clause shall be likewise based on the value set by such tax rolls.
90 In the event that the lessor and lessee cannot agree on a rental
91 amount, the lease may be cancelled at the option of the lessor.
92 The lessee shall, within thirty (30) days after execution of a
93 sublease or assignment, file a copy thereof, including the total
94 consideration therefor, with the Secretary of State.

95 (b) The Secretary of State shall review an application
96 for a lease that will be used for commercial purposes to determine

97 if the commercial purpose will create a minimum of two hundred
98 (200) jobs in the county in which the lease will be used, thus
99 servicing a higher public interest in accordance with Section
100 49-7-3. The Secretary of State shall issue a lease within one
101 hundred twenty (120) days for those leases it determines will
102 serve a higher public interest. If the Secretary of State does
103 not issue a lease within one hundred twenty (120) days as required
104 by this paragraph, the person or corporation submitting the lease
105 may begin commercial development as if the lease was approved for
106 commercial purposes by the Secretary of State. In addition to any
107 other penalty provided for violation of this section, the
108 Secretary of State shall assess a civil penalty equal to twenty
109 percent (20%) of the total value of the lease for issued leases
110 and the total value of what the value of the lease may have been
111 if the Secretary of State had approved it within one hundred
112 twenty (120) days. A person or corporation that does not provide
113 a minimum of two hundred (200) jobs in the county in which the
114 lease is used shall suffer a civil penalty equal to fifty percent
115 (50%) of what the value of the lease would have been if approved
116 by the Secretary of State.

117 (3) Provided, however, the current occupants of public trust
118 tidelands that were developed after the determinable mean high
119 water line nearest the effective date of the Coastal Wetlands
120 Protection Law shall pay an annual rental based on the fair market
121 value as determined by the assessed valuation of the property. The
122 holder of a lease of Public Trust Tidelands, at the expiration
123 thereof, shall have a prior right, exclusive of all other persons,
124 to re-lease as may be agreed upon between the holder of the lease
125 and the Secretary of State.

126 **SECTION 4.** This act shall take effect and be in force from
127 and after July 1, 2004.