

By: Senator(s) Huggins

To: Corrections; Public Property

SENATE BILL NO. 2482

1 AN ACT TO AMEND SECTION 47-5-66, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE STATE DEPARTMENT OF FINANCE AND ADMINISTRATION TO  
3 HOLD AUCTIONS FOR AGRICULTURAL LEASES TO PRIVATE ENTITIES; AND FOR  
4 RELATED PURPOSES.

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

6 **SECTION 1.** Section 47-5-66, Mississippi Code of 1972, is  
7 amended as follows:

8 47-5-66. (1) It shall be the duty of the State Department  
9 of Finance and Administration, with the approval of the Public  
10 Procurement Review Board, to lease lands at public contract upon  
11 the submission of two (2) or more sealed bids to the State  
12 Department of Finance and Administration after having advertised  
13 the land for rent in newspapers of general circulation published  
14 in Jackson, Mississippi; Memphis, Tennessee; the county in which  
15 the land is located; and contiguous counties for a period of not  
16 less than two (2) successive weeks. The first publication shall  
17 be made not less than ten (10) days before the date of the public  
18 contract, and the last publication shall be made not more than  
19 seven (7) days before that date. Bids received in response to the  
20 advertisement shall be opened at the State Department of Finance  
21 and Administration. The State Department of Finance and  
22 Administration may reject all bids or accept the highest and best  
23 bid received in response to the advertisement, or the State  
24 Department of Finance and Administration may hold an auction among  
25 those who submitted bids in response to the advertisement. If the  
26 State Department of Finance and Administration elects to hold an  
27 auction, no bidder shall be granted any preference. The opening  
28 bid at the auction shall be the highest bid received in response

29 to the advertisement. If the State Department of Finance and  
30 Administration receives an acceptable bid in response to the  
31 advertisement and elects not to hold an auction among those  
32 submitting bids, then the holder of the existing lease may submit  
33 a second bid in an amount not less than one hundred five percent  
34 (105%) of the highest acceptable bid received if the holder of the  
35 existing lease: (a) submitted a bid in response to the  
36 advertisement, and (b) constructed or made improvements on the  
37 leasehold premises after receiving approval of the State  
38 Department of Finance and Administration during the term of the  
39 existing lease. For purposes of this subsection, the term  
40 improvements shall not include any work or items that are done  
41 customarily on an annual basis in the preparing, planting,  
42 growing, cultivating or harvesting of crops or other farm  
43 products. Successful bidders shall take possession of their  
44 leaseholds at the time authorized by the State Department of  
45 Finance and Administration. However, rent shall be due no later  
46 than the day upon which the lessee shall assume possession of the  
47 leasehold, and shall be due on the anniversary date for each  
48 following year of the lease. The State Department of Finance and  
49 Administration may provide in any lease that rent shall be paid in  
50 full in advance or paid in installments, as may be necessary or  
51 appropriate. In addition, the State Department of Finance and  
52 Administration may accept, and the lease may provide for,  
53 assignments of federal, state, or other agricultural support  
54 payments, growing crops or the proceeds from the sale thereof,  
55 promissory notes, or any other good and valuable consideration  
56 offered by any lessee to meet the rent requirements of the lease.  
57 If a promissory note is offered by a lessee, it shall be secured  
58 by a first lien on the crop of the lessee, or the proceeds from  
59 the sale thereof. The lien shall be filed pursuant to Article 9  
60 of the Mississippi Uniform Commercial Code and Section 1324 of the  
61 Food Security Act of 1985, as enacted or amended. If the note is

62 not paid at maturity, it shall bear interest at the rate provided  
63 for judgments and decrees in Section 75-17-7 from its maturity  
64 date until the note is paid. The note shall provide for the  
65 payment of all costs of collection and reasonable attorney's fees  
66 if default is made in the payment of the note. The payment of  
67 rent by promissory note or any means other than cash in advance  
68 shall be subject to the approval of the Public Procurement Review  
69 Board, which shall place the approval of record in the minutes of  
70 the board. There is created a special fund to be designated as  
71 the "Prison Agricultural Enterprises Fund." Any monies in hand or  
72 due from the leasing of Penitentiary lands and the sales of timber  
73 as provided in Section 47-5-56 and earmarked for the Prison  
74 Industries Fund shall be deposited to the special fund for prison  
75 agricultural enterprises. All monies in each fiscal year derived  
76 from the leasing of the Penitentiary lands and the sales of timber  
77 as provided in Section 47-5-56 shall be deposited into the special  
78 fund for the purpose of conducting, operating and managing the  
79 prison agricultural enterprises of the department. All profits  
80 derived from the prison agricultural enterprises shall be  
81 deposited into the Prison Agricultural Enterprises Fund. All  
82 profits derived from prison industries shall be placed in a  
83 special fund in the State Treasury to be known as the "Prison  
84 Industries Fund," to be appropriated each year by the Legislature  
85 to the nonprofit corporation, which is required to be organized  
86 under the provisions of Section 47-5-535, for the purpose of  
87 operating and managing the prison industries. The state shall  
88 have the rights and remedies for the security and collection of  
89 the rents given by law to landlords. Upon the execution of the  
90 agricultural leases to private entities as authorized by Section  
91 47-5-64, the leased land shall be liable to be taxed as other  
92 lands are taxed during the continuance of the lease, but in case  
93 of sale thereon for taxes, only the title of the leaseholder or  
94 his heirs or assigns shall pass by the sale. Any funds obtained

95 by the corporation as a result of sale of goods and services  
96 manufactured and provided by it shall be accounted for separate  
97 and apart from any funds received by the corporation through  
98 appropriation from the State Legislature. All nonappropriated  
99 funds generated by the corporation shall not be subject to  
100 appropriation by the State Legislature.

101 (2) This section shall be repealed from and after July 1,  
102 2006.

103 **SECTION 2.** This act shall take effect and be in force from  
104 and after its passage.