

Senate Amendments to House Bill No. 44

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

11 **SECTION 1.** Section 29-1-107, Mississippi Code of 1972, is
12 amended as follows:
13 29-1-107. (1) The Secretary of State with the approval of
14 the Governor shall, as far as practicable, rent or lease all lands
15 belonging to the state, except as otherwise provided by law for a
16 period of not exceeding one (1) year, and account for the rents
17 therefrom in the same manner as money received from the sale of
18 state lands, provided that no state land shall be rented or leased
19 to individuals, corporations, partnerships, or association of
20 persons for hunting or fishing purposes. Property belonging to
21 the state in municipalities, even though it may have been
22 subdivided into lots, blocks, divisions, or otherwise escheated or
23 was sold to the state by such description, may likewise be leased
24 or rented by the Secretary of State under the terms provided above
25 for other state lands, and the rents accounted for in the same
26 manner. The state shall have all the liens, rights and remedies
27 accorded to landlords in Sections 89-7-1 through 89-7-125; said
28 leases and rental contracts shall automatically terminate on the
29 date provided in said leases or contracts.
30 (2) (a) The Secretary of State, with the approval of the
31 Governor, may rent or lease surface lands, tidelands or submerged
32 lands owned or controlled by the State of Mississippi lying in or
33 adjacent to the Mississippi Sound or Gulf of Mexico or streams
34 emptying therein, for a period not exceeding forty (40) years for
35 rental payable to the state annually.

36 (b) The lessee under such agreement may construct such
37 necessary items for marking channels, docking, wharfing, mooring
38 or fleeting vessels which shall be in aid of navigation and not
39 obstructions thereto.

40 (c) A lessee of record may be given the option to renew
41 for an additional period not to exceed twenty-five (25) years.
42 The holder of a lease of Public Trust Tidelands, at the expiration
43 thereof, shall have a prior right, exclusive of all other persons,
44 to re-lease as may be agreed upon between the holder of the lease
45 and the Secretary of State.

46 (d) * * * Leases shall provide for review and rent
47 adjustments at each fifth anniversary tied either to the All Urban
48 Consumer Price Index-All Items (CPI) or to an appraisal which
49 deducts the value of any improvements by the lessee which
50 substantially enhance the value of the land, whichever is greater.
51 In the case where the initial rental was based on the value set by
52 the ad valorem tax rolls, then the rent review and adjustment
53 clause shall be likewise based on the value set by such tax rolls.
54 This paragraph shall not apply to a lease of state public trust
55 tidelands to a person possessing a gaming license under the
56 Mississippi Gaming Control Act who operates a gaming establishment
57 on such tidelands.

58 (e) In the event that the lessor and lessee cannot
59 agree on a rental amount, the lease may be cancelled at the option
60 of the lessor. The lessee shall, within thirty (30) days after
61 execution of a sublease or assignment, file a copy thereof,
62 including the total consideration therefor, with the Secretary of
63 State.

64 (3) Provided, however, the current occupants of public trust
65 tidelands that were developed after the determinable mean high
66 water line nearest the effective date of the Coastal Wetlands
67 Protection Law shall pay an annual rental based on the fair market
68 value as determined by the assessed valuation of the property. The
69 holder of a lease of Public Trust Tidelands, at the expiration
70 thereof, shall have a prior right, exclusive of all other persons,

71 to re-lease as may be agreed upon between the holder of the lease
72 and the Secretary of State.

73 (4) (a) In consideration of the State of Mississippi
74 allowing gaming establishments to locate in more secure areas on
75 shore and in consideration of the impacts of gaming activities on
76 tidelands and submerged lands, any person possessing a license
77 under the Gaming Control Act who operates a gaming establishment
78 in any of the three (3) most southern counties of the state shall
79 monthly pay the Public Trust Tidelands Fund created in Section
80 29-15-9, an amount equal to one percent (1%) of the licensee's
81 gross revenue (as defined in Section 75-76-5); however, a licensee
82 who leases state public trust tidelands shall receive a credit in
83 the amount of the licensee's annual lease payment not to exceed
84 the amount of the annual payments required by this paragraph.

85 (b) Paragraph (a) of this subsection shall not apply to
86 any structure in which the gaming licensee conducts gaming if such
87 structure is located entirely on property that is leased from the
88 State of Mississippi and/or a political subdivision of the State
89 of Mississippi and is not state public trust tidelands.

90 (c) Paragraph (a) of this subsection shall not apply to
91 a structure in which a licensee conducts gaming if such structure
92 was not located on property leased from the state or a political
93 subdivision of the state on August 29, 2005. This paragraph (c)
94 shall stand repealed from and after January 1, 2009.

95 **SECTION 2.** Section 29-15-9, Mississippi Code of 1972, is
96 amended as follows:

97 29-15-9. (1) There is created in the State Treasury a
98 special fund to be known as the "Public Trust Tidelands Fund."
99 The fund shall be administered by the Secretary of State as
100 trustee.

101 (2) (a) Any funds derived from lease rentals of tidelands
102 and submerged lands, except those funds derived from mineral
103 leases, or funds previously specifically designated to be applied
104 to other agencies, and payments made pursuant to Section
105 29-1-107(4), shall be transferred to the special fund.

106 (b) * * * Funds transferred pursuant to paragraph (a)
107 of this subsection may be appropriated by the Legislature in an
108 amount necessary to cover the administrative cost incurred by the
109 Secretary of State. Any remaining funds transferred pursuant to
110 paragraph (a) of this subsection shall be disbursed pro rata to
111 the local taxing authorities for the replacement of lost ad
112 valorem taxes, if any. Then, any remaining funds shall be
113 disbursed to the commission for new and extra programs of
114 tidelands management, such as conservation, reclamation,
115 preservation, acquisition, education or the enhancement of public
116 access to the public trust tidelands or public improvement
117 projects as they relate to those lands.

118 (3) Any funds that are appropriated as separate line items
119 in an appropriation bill for tideland programs or projects
120 authorized under this section for political subdivisions or other
121 agencies shall be disbursed as provided in this subsection.

122 (a) The Department of Marine Resources shall make
123 progress payments in installments based on the work completed and
124 material used in the performance of a tidelands project only after
125 receiving written verification from the political subdivision or
126 agency. The political subdivision or agency shall submit
127 verification of the work completed or materials in such detail and
128 form that the department may require.

129 (b) The Department of Marine Resources shall make funds
130 available for the purpose of using such funds as a match or
131 leverage for federal or other funds that are available for the
132 designated tidelands project.

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

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 29-1-107, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT ANY PERSON POSSESSING A LICENSE UNDER THE GAMING
3 CONTROL ACT WHO OPERATES A GAMING ESTABLISHMENT IN ANY OF THE
4 THREE MOST SOUTHERN COUNTIES OF THE STATE SHALL PAY TO THE PUBLIC
5 TRUST TIDELANDS FUND AN AMOUNT EQUAL TO 1% OF THE GROSS REVENUE OF
6 THE LICENSEE; TO GRANT LICENSEES A CREDIT FOR CERTAIN PUBLIC TRUST

7 TIDELANDS LEASE PAYMENTS; TO PROVIDE CERTAIN EXCEPTIONS TO SUCH
8 PAYMENTS; TO AMEND SECTION 29-15-9, MISSISSIPPI CODE OF 1972, IN
9 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

SS26\HB44A.13J

John O. Gilbert
Secretary of the Senate