

**Adopted
AMENDMENT NO 2 PROPOSED TO**

House Bill No. 44

BY: Senator(s) Robertson, Gordon, Dearing

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

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

35 (2) (a) The Secretary of State, with the approval of the
36 Governor, may rent or lease surface lands, tidelands or submerged
37 lands owned or controlled by the State of Mississippi lying in or
38 adjacent to the Mississippi Sound or Gulf of Mexico or streams
39 emptying therein, for a period not exceeding forty (40) years for
40 rental payable to the state annually.

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

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

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

63 (e) The rent for a lease to a person possessing a
64 gaming license under the Mississippi Gaming Control Act who
65 operates a gaming establishment on state public trust tidelands

66 shall be equal to one percent (1%) of the licensee's gross revenue
67 (as defined in Section 75-76-5).

68 (f) In the event that the lessor and lessee cannot
69 agree on a rental amount, the lease may be cancelled at the option
70 of the lessor. The lessee shall, within thirty (30) days after
71 execution of a sublease or assignment, file a copy thereof,
72 including the total consideration therefor, with the Secretary of
73 State.

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

83 (4) (a) In consideration of the State of Mississippi
84 allowing gaming establishments to locate in more secure areas on
85 shore and in consideration of the impacts of gaming activities on
86 tidelands and submerged lands, any person possessing a license
87 under the Gaming Control Act who operates a gaming establishment
88 in any of the three (3) most southern counties of the state in a
89 structure that is not located entirely on state public trust
90 tidelands, shall pay the Public Trust Tidelands Fund created in
91 Section 29-15-9, an amount equal to one percent (1%) of the
92 licensee's gross revenue (as defined in Section 75-76-5).

93 (b) Paragraph (a) of this subsection shall not apply to
94 any structure in which the gaming licensee conducts gaming if such
95 structure is located entirely on property that is leased from the
96 State of Mississippi and/or a political subdivision of the State
97 of Mississippi.

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

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

105 29-15-9. (1) There is created in the State Treasury a
106 special fund to be known as the "Public Trust Tidelands Fund."
107 The fund shall be administered by the Secretary of State as
108 trustee.

109 (2) (a) Any funds derived from lease rentals of tidelands
110 and submerged lands, except those funds derived from mineral
111 leases, or funds previously specifically designated to be applied
112 to other agencies, and payments made pursuant to Section
113 29-1-107(4), shall be transferred to the special fund.

114 (b) * * * Funds transferred pursuant to paragraph (a)
115 of this subsection may be used to cover the administrative cost
116 incurred by the Secretary of State. Any remaining funds
117 transferred pursuant to paragraph (a) of this subsection shall be
118 disbursed pro rata to the local taxing authorities for the
119 replacement of lost ad valorem taxes, if any. Then, any remaining
120 funds shall be disbursed to the commission for new and extra
121 programs of tidelands management, such as conservation,
122 reclamation, preservation, acquisition, education or the
123 enhancement of public access to the public trust tidelands or
124 public improvement projects as they relate to those lands.

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

129 (a) The Department of Marine Resources shall make
130 progress payments in installments based on the work completed and
131 material used in the performance of a tidelands project only after
132 receiving written verification from the political subdivision or
133 agency. The political subdivision or agency shall submit
134 verification of the work completed or materials in such detail and
135 form that the department may require.

136 (b) The Department of Marine Resources shall make funds
137 available for the purpose of using such funds as a match or
138 leverage for federal or other funds that are available for the
139 designated tidelands project.

140 **SECTION 3.** This act shall take effect and be in force from
141 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 THE RENT PAID FOR A LEASE OF STATE PUBLIC TRUST
3 TIDELANDS BY A PERSON POSSESSING A GAMING LICENSE UNDER THE
4 MISSISSIPPI GAMING CONTROL ACT WHO OPERATES A GAMING ESTABLISHMENT
5 ON SUCH TIDELANDS SHALL BE EQUAL TO 1% OF THE GROSS REVENUE OF THE
6 LICENSEE; TO PROVIDE THAT ANY PERSON POSSESSING A LICENSE UNDER
7 THE GAMING CONTROL ACT WHO OPERATES A GAMING ESTABLISHMENT IN ANY
8 OF THE THREE MOST SOUTHERN COUNTIES OF THE STATE IN A STRUCTURE
9 THAT IS NOT LOCATED ENTIRELY ON PUBLIC TRUST TIDELANDS SHALL PAY
10 TO THE PUBLIC TRUST TIDELANDS FUND AN AMOUNT EQUAL TO THE LEASE
11 RENTAL PAYMENT THAT WOULD BE IMPOSED IF THE STRUCTURE WERE LOCATED
12 ON PUBLIC TRUST TIDELANDS AND TO PROVIDE CERTAIN EXCEPTIONS TO
13 SUCH PAYMENTS; TO AMEND SECTION 29-15-9, MISSISSIPPI CODE OF 1972,
14 IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.