

By: Representatives McBride, Akins

To: Wildlife, Fisheries and
Parks; Appropriations

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1492

1 AN ACT TO AUTHORIZE THE MISSISSIPPI DEPARTMENT OF WILDLIFE,
2 FISHERIES AND PARKS, ACTING IN CONJUNCTION WITH THE MISSISSIPPI
3 DEVELOPMENT AUTHORITY AND WITH THE APPROVAL OF THE MISSISSIPPI
4 COMMISSION ON WILDLIFE, FISHERIES AND PARKS, TO LEASE CERTAIN PARK
5 LANDS FOR COMMERCIAL AND/OR RESIDENTIAL DEVELOPMENT; TO ESTABLISH
6 THE PROCESS FOR LEASING OF PARK LANDS FOR DEVELOPMENT; TO CREATE
7 THE MISSISSIPPI PARKS ENDOWMENT FUND; TO PROVIDE THAT REVENUES
8 DERIVED FROM SUCH DEVELOPMENT LEASES SHALL BE DEPOSITED INTO THE
9 FUND AND MAY BE EXPENDED, UPON LEGISLATIVE APPROPRIATION, ONLY FOR
10 THE PURPOSE OF CONSTRUCTING, RECONSTRUCTING, REPAIRING, RENOVATING
11 OR MAKING IMPROVEMENTS TO REAL AND PERSONAL PROPERTY AND
12 FACILITIES ON ANY OF THE STATE PARKS UNDER THE JURISDICTION AND
13 CONTROL OF THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS; TO
14 CREATE THE STATE PARKS DEVELOPMENT LEGISLATIVE OVERSIGHT COMMITTEE
15 TO SERVE IN AN ADVISORY CAPACITY FOR THE PURPOSE OF REVIEWING
16 RECOMMENDATIONS, PROPOSALS AND PLANS IN REGARD TO SELECTING,
17 DESIGNATING AND AUTHORIZING THE LEASING OF STATE PARK LANDS FOR
18 COMMERCIAL AND/OR RESIDENTIAL DEVELOPMENT AS PROVIDED UNDER THIS
19 ACT; TO AMEND SECTION 55-3-33, MISSISSIPPI CODE OF 1972, TO
20 AUTHORIZE THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO ENTER
21 INTO CONTRACTS AND AGREEMENTS AND EXECUTE LEASES WITH THIRD
22 PARTIES FOR THE OPERATION, UPKEEP, SUPERVISION, MANAGEMENT AND
23 IMPROVEMENT OF STATE PARKS AND ANY BUILDINGS, ACTIVITIES OR
24 FACILITIES LOCATED THEREON AND MADE AVAILABLE FOR THE USE AND
25 ENJOYMENT OF THE GENERAL PUBLIC AND TO PROVIDE THAT ALL REVENUES
26 DERIVED BY THE DEPARTMENT FROM SUCH CONTRACTS, AGREEMENTS AND
27 LEASES SHALL BE DEPOSITED BY THE DEPARTMENT INTO THE STATE PARKS
28 LEASE DEVELOPMENT ENDOWMENT FUND AND MAY BE EXPENDED FOR THE SAME
29 PURPOSES AS OTHER MONIES IN THE FUND; AND FOR RELATED PURPOSES.

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

31 **SECTION 1.** For the purposes of Sections 1 through 5 of this
32 act, the following terms shall have the meanings ascribed in this
33 section unless the context otherwise requires:

34 (a) "Commission" means the Mississippi Commission on
35 Wildlife, Fisheries and Parks.

36 (b) "Department" means the Mississippi Department of
37 Wildlife, Fisheries and Parks.

38 (c) "MDA" means the Mississippi Development Authority.

39 **SECTION 2.** (1) The Mississippi Development Authority and
40 the Mississippi Department of Wildlife, Fisheries and Parks, with

41 the approval of the Commission on Wildlife, Fisheries and Parks,
42 may identify certain lands within the state parks and under the
43 jurisdiction and control of the department that may be leased to
44 third parties for commercial and/or residential development;
45 however, only lands within J.P. Coleman State Park, John W. Kyle
46 State Park, Hugh White State Park, George P. Cossar State Park,
47 Percy Quinn State Park and lands under the jurisdiction and
48 control of the commission and the department surrounding Legion
49 Lake in Simpson County may be leased and developed under the
50 provisions of this act. The MDA and the commission shall
51 establish criteria for identifying such land which shall include,
52 but which shall not be limited to, whether or not such lands are
53 owned by the state, in fee simple, and may be improved for
54 commercial, residential or other development, or, whether such
55 lands are leased from the federal government or an agency thereof,
56 such as the United States Army Corps of Engineers, and are
57 restricted by federal law or federal regulations or by the terms
58 of such lease to limited development purposes. Sixteenth section
59 or lieu lands shall not be subject to lease under the provisions
60 of this act.

61 (2) Before approving any state park lands for lease and
62 development, whether such lease is for commercial or residential
63 purposes, the commission must make an affirmative finding and
64 enter upon its official minutes a statement that the development
65 of such land will not be incompatible with the outdoor
66 recreational purposes and opportunities existing at that park.

67 (3) The MDA shall provide such technical assistance and
68 advice to the commission and the department as may be necessary to
69 obtain the best combination of revenue producing development
70 opportunities and projects that complement the unique qualities of
71 the park where they will be located. In addition, the MDA shall
72 assist the department in complying with all applicable state
73 guidelines for leasing lands for development.

74 (4) If any lease executed under the provisions of this act
75 should result in a loss of department employees or department
76 personnel, the department shall give hiring preference to such
77 persons when filling employee vacancies or new employment
78 positions elsewhere within the department.

79 (5) A developer/lessee may sublease such portions of his
80 lease as may be necessary for the development of a project. Any
81 such sublease shall be an assignable contract and may be for
82 commercial or other purposes, as approved by the commission;
83 however, a sublease may not be for a term in excess of the
84 remaining term of the developer's lease. Each sublease from the
85 developer shall contain an option for the sublessee to renew or
86 renegotiate the lease directly with the department, at any time
87 following ten (10) years after the commencement date of any
88 sublease from the developer.

89 (6) Rental payments due under any lease granted pursuant to
90 this act shall be paid to the department and shall be deposited
91 into the State Parks Lease Development Endowment Fund created
92 under Section 4 of this act.

93 (7) Any construction upon any lands leased under this act
94 must fully comply with all applicable state laws, rules and
95 regulations, and any local building codes and zoning ordinances.
96 Development plans and construction must have the prior approval of
97 the MDA and the commission.

98 **SECTION 3.** The department, with approval of the commission
99 and assistance of the MDA, may enter into contracts with agencies
100 of the United States government, municipalities, corporations,
101 districts, public agencies, political subdivisions of any kind,
102 and others for any services, facilities, utilities or commodities
103 that any development project under the provisions of this act may
104 require. Any such contract or agreement shall be assignable to
105 the developer/lessee, may be upon any terms and for any time as
106 the parties may agree, and may provide that the contract or

107 agreement shall continue in effect until assigned to or
108 renegotiated by a sublessee of the developer/lessee.

109 **SECTION 4.** There is created in the State Treasury a special
110 fund to be known as the "State Parks Lease Development Endowment
111 Fund." The fund shall consist of all monies required to be
112 deposited therein under the provisions of Section 2 of House Bill
113 No. 1492, 2007 Regular Session. The principal of the fund shall
114 remain inviolate and shall be invested as provided by law.
115 Interest and income derived from investment of the principal of
116 the fund may be expended by the Mississippi Department of
117 Wildlife, Fisheries and Parks, upon appropriation by the
118 Legislature, only for the purpose of constructing, reconstructing,
119 repairing, renovating or making improvements to real and personal
120 property and facilities on any of the state parks under the
121 jurisdiction and control of the Commission on Wildlife, Fisheries
122 and Parks. Unexpended amounts remaining in the fund at the end of
123 a fiscal year shall not lapse into the State General Fund, and any
124 interest earned on amounts in the fund shall be deposited to the
125 credit of the fund.

126 **SECTION 5.** (1) There is created the State Parks Development
127 Legislative Oversight Committee to serve in an advisory capacity
128 to the Mississippi Development Authority, the Mississippi
129 Commission on Wildlife, Fisheries and Parks and the Mississippi
130 Department of Wildlife, Fisheries and Parks for the purpose of
131 reviewing recommendations, proposals and plans of the MDA, the
132 commission and the department in selecting, designating and
133 authorizing the leasing of state park lands for commercial and/or
134 residential development as provided under this act and for the
135 purpose of notifying and providing information to, and input from,
136 members of the Legislature representing areas of the state where
137 such leases are being considered.

138 (2) The committee shall consist of the following members:

139 (a) The Chairman of the Senate Wildlife, Fisheries and
140 Parks Committee;

141 (b) The Chairman of the House Wildlife, Fisheries and
142 Parks Committee;

143 (c) The Chairman of the Senate Appropriations
144 Committee;

145 (d) The Chairman of the House Appropriations Committee;

146 (e) Two (2) members of the Senate to be appointed by
147 the Lieutenant Governor, one (1) of whom shall be a member of the
148 Senate Wildlife, Fisheries and Parks Committee and one (1) of whom
149 shall be a member of the Senate Appropriations Committee; and

150 (e) Two (2) members of the House to be appointed by the
151 Speaker of the House, one (1) of whom shall be a member of the
152 House Wildlife, Fisheries and Parks Committee and one (1) of whom
153 shall be a member of the House Appropriations Committee;

154 (3) Members of the committee shall be paid from the
155 contingent expense funds of their respective houses in the same
156 manner as provided for committee meetings when the Legislature is
157 not in session. However, no per diem or expense for attending
158 meetings of the committee may be paid to members of the committee
159 while the Legislature is in session. No committee member may
160 incur per diem, travel or other expenses unless previously
161 authorized by vote, at a meeting of the committee, which action
162 shall be recorded in the official minutes of the meeting.

163 **SECTION 6.** Section 55-3-33, Mississippi Code of 1972, is
164 amended as follows:

165 55-3-33. (1) The Mississippi Department of Wildlife,
166 Fisheries and Parks shall have the power and authority, and it
167 shall be its duty to:

168 (a) Take charge and have full jurisdiction and control
169 over all state parks, which parks shall be operated for the
170 purpose of providing outdoor recreational activities and enjoyment

171 for the citizens of the State of Mississippi and for the purpose
172 of attracting visitors to the state.

173 (b) Set up a uniform accounting procedure for the state
174 parks and prescribe the manner in which books, records and
175 accounts shall be kept, which procedure shall account for all
176 moneys taken in and expended by the various parks and shall
177 provide for periodic audits of such books.

178 (c) Accept gifts, bequests of money or other property,
179 real or personal, to be used for the purpose of advancing the
180 recreation and conservation interests in state parks. The
181 department is authorized, subject to approval by the State
182 Legislature, to purchase property, real or personal, to be used
183 for state park purposes.

184 (d) Contract with the State Transportation Commission,
185 any municipality or board of supervisors of the state for
186 locating, constructing and maintaining roads and other
187 improvements in state parks and for payment of a part of the costs
188 thereof; however, no county or municipality more than twenty-five
189 (25) miles distant from a state park may contract for, or do, or
190 pay for any such work for a state park other than the
191 International Gardens of Mississippi. Any county or municipality
192 authorized to assist financially under the provisions of Sections
193 55-3-31 through 55-3-51 is authorized, in the discretion of its
194 respective governing authority, to set aside, appropriate and
195 expend moneys from the General Fund for the purpose of defraying
196 such expense after a mandatory election is held on the question
197 within the county or municipality.

198 (e) Designate employees as peace officers with power to
199 make arrests for infraction of the rules and regulations of the
200 department. Such officers are authorized to carry weapons and to
201 enforce the laws of the State of Mississippi within the confines
202 of a state park.

203 (f) Enforce and delegate the responsibility to enforce
204 all reasonable rules and regulations governing the occupancy and
205 use of lands and waters in state parks under its jurisdiction,
206 supply recreational and conservation facilities and charge fees
207 for the use of same; review all rates and charges for facilities
208 and accommodations furnished at the various state parks annually,
209 making such charges as are justified; and establish fees for
210 entrance to state parks.

211 Each park shall retain from revenues generated therein, a sum
212 sufficient to pay necessary expenses of operation, but in no event
213 to be less than seventy-five percent (75%) of such revenues.

214 (2) The department shall have the authority to lease to any
215 entity, sell and convey or otherwise transfer to any county or
216 municipality, or close any state park or historical site within
217 its jurisdiction which received a General Fund subsidy in Fiscal
218 Year 1985 in excess of Two Dollars (\$2.00) per visitor to such
219 state park or historical site; provided, however, that this
220 authority shall not include the authority to sell, lease or convey
221 any park that was not in operation under the jurisdiction of the
222 department for a full fiscal year prior to fiscal year 1986.

223 (3) The department may execute agreements with
224 rails-to-trails and recreational districts by which the department
225 will assume responsibility for the operation and maintenance of
226 trails developed under Sections 55-25-1 through 55-25-15.

227 (4) The department, with the approval of the Mississippi
228 Commission on Wildlife, Fisheries and Parks and the Mississippi
229 Development Authority, may enter into contracts and agreements and
230 execute leases with third parties on such terms as the department
231 and third parties may agree for the operation, upkeep,
232 supervision, management and improvement of state parks and any
233 buildings, activities or facilities located thereon and made
234 available for the use and enjoyment of the general public. All
235 revenues derived by the department from such contracts, agreements

236 and leases shall be deposited by the department into the State
237 Parks Lease Development Endowment Fund created under Section 4 of
238 House Bill No. 1492, 2007 Regular Session. If any such contract,
239 agreement or lease should result in a loss of department employees
240 or department personnel, the department shall give hiring
241 preference to such persons when filling employee vacancies or new
242 employment positions elsewhere within the department.

243 (5) Notwithstanding any other provisions of this section to
244 the contrary, the department may lease state park lands to third
245 parties for commercial and/or residential development as
246 authorized under Sections 1 through 5 of House Bill No. 1492, 2007
247 Regular Session.

248 **SECTION 7.** This act shall take effect and be in force from
249 and after July 1, 2007.