

By: Representatives McBride, Akins

To: Wildlife, Fisheries and
Parks; AppropriationsHOUSE BILL NO. 1492
(As Passed the House)

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; TO PROHIBIT DRILLING OR
30 OTHER EXPLORATION ON ANY STATE-OWNED WILDLIFE MANAGEMENT AREA AND
31 STATE PARKS; AND FOR RELATED PURPOSES.

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

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

36 (a) "Commission" means the Mississippi Commission on
37 Wildlife, Fisheries and Parks.

38 (b) "Department" means the Mississippi Department of
39 Wildlife, Fisheries and Parks.

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

41 **SECTION 2.** (1) The Mississippi Development Authority and
42 the Mississippi Department of Wildlife, Fisheries and Parks, with
43 the approval of the Commission on Wildlife, Fisheries and Parks,
44 may identify certain lands within the state parks and under the
45 jurisdiction and control of the department that may be leased to
46 third parties for commercial and/or residential development;
47 however, only lands within J.P. Coleman State Park, John W. Kyle
48 State Park, Hugh White State Park, George P. Cossar State Park,
49 Percy Quinn State Park and lands under the jurisdiction and
50 control of the commission and the department surrounding Legion
51 Lake in Simpson County may be leased and developed under the
52 provisions of this act. The MDA and the commission shall
53 establish criteria for identifying such land which shall include,
54 but which shall not be limited to, whether or not such lands are
55 owned by the state, in fee simple, and may be improved for
56 commercial, residential or other development, or, whether such
57 lands are leased from the federal government or an agency thereof,
58 such as the United States Army Corps of Engineers, and are
59 restricted by federal law or federal regulations or by the terms
60 of such lease to limited development purposes. Sixteenth section
61 or lieu lands shall not be subject to lease under the provisions
62 of this act.

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

69 (3) The MDA shall provide such technical assistance and
70 advice to the commission and the department as may be necessary to
71 obtain the best combination of revenue producing development
72 opportunities and projects that complement the unique qualities of
73 the park where they will be located. In addition, the MDA shall

74 assist the department in complying with all applicable state
75 guidelines for leasing lands for development.

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

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

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

95 (7) Notwithstanding any provision of this section to the
96 contrary, before the commission or department may lease any state
97 park lands to third parties, the lease of those particular lands
98 must be specifically authorized by an act of the Legislature that
99 amends this section or references this section.

100 (8) Any construction upon any lands leased under this act
101 must fully comply with all applicable state laws, rules and
102 regulations, and any local building codes and zoning ordinances.
103 Development plans and construction must have the prior approval of
104 the MDA and the commission.

105 **SECTION 3.** The department, with approval of the commission
106 and assistance of the MDA, may enter into contracts with agencies

107 of the United States government, municipalities, corporations,
108 districts, public agencies, political subdivisions of any kind,
109 and others for any services, facilities, utilities or commodities
110 that any development project under the provisions of this act may
111 require. Any such contract or agreement shall be assignable to
112 the developer/lessee, may be upon any terms and for any time as
113 the parties may agree, and may provide that the contract or
114 agreement shall continue in effect until assigned to or
115 renegotiated by a sublessee of the developer/lessee.

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

133 **SECTION 5.** (1) There is created the State Parks Development
134 Legislative Oversight Committee to serve in an advisory capacity
135 to the Mississippi Development Authority, the Mississippi
136 Commission on Wildlife, Fisheries and Parks and the Mississippi
137 Department of Wildlife, Fisheries and Parks for the purpose of
138 reviewing recommendations, proposals and plans of the MDA, the
139 commission and the department in selecting, designating and

140 authorizing the leasing of state park lands for commercial and/or
141 residential development as provided under this act and for the
142 purpose of notifying and providing information to, and input from,
143 members of the Legislature representing areas of the state where
144 such leases are being considered.

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

146 (a) The Chairman of the Senate Wildlife, Fisheries and
147 Parks Committee;

148 (b) The Chairman of the House Wildlife, Fisheries and
149 Parks Committee;

150 (c) The Chairman of the Senate Appropriations
151 Committee;

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

153 (e) Two (2) members of the Senate to be appointed by
154 the Lieutenant Governor, one (1) of whom shall be a member of the
155 Senate Wildlife, Fisheries and Parks Committee and one (1) of whom
156 shall be a member of the Senate Appropriations Committee; and

157 (e) Two (2) members of the House to be appointed by the
158 Speaker of the House, one (1) of whom shall be a member of the
159 House Wildlife, Fisheries and Parks Committee and one (1) of whom
160 shall be a member of the House Appropriations Committee;

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

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

172 55-3-33. (1) The Mississippi Department of Wildlife,
173 Fisheries and Parks shall have the power and authority, and it
174 shall be its duty to:

175 (a) Take charge and have full jurisdiction and control
176 over all state parks, which parks shall be operated for the
177 purpose of providing outdoor recreational activities and enjoyment
178 for the citizens of the State of Mississippi and for the purpose
179 of attracting visitors to the state.

180 (b) Set up a uniform accounting procedure for the state
181 parks and prescribe the manner in which books, records and
182 accounts shall be kept, which procedure shall account for all
183 moneys taken in and expended by the various parks and shall
184 provide for periodic audits of such books.

185 (c) Accept gifts, bequests of money or other property,
186 real or personal, to be used for the purpose of advancing the
187 recreation and conservation interests in state parks. The
188 department is authorized, subject to approval by the State
189 Legislature, to purchase property, real or personal, to be used
190 for state park purposes.

191 (d) Contract with the State Transportation Commission,
192 any municipality or board of supervisors of the state for
193 locating, constructing and maintaining roads and other
194 improvements in state parks and for payment of a part of the costs
195 thereof; however, no county or municipality more than twenty-five
196 (25) miles distant from a state park may contract for, or do, or
197 pay for any such work for a state park other than the
198 International Gardens of Mississippi. Any county or municipality
199 authorized to assist financially under the provisions of Sections
200 55-3-31 through 55-3-51 is authorized, in the discretion of its
201 respective governing authority, to set aside, appropriate and
202 expend moneys from the General Fund for the purpose of defraying
203 such expense after a mandatory election is held on the question
204 within the county or municipality.

205 (e) Designate employees as peace officers with power to
206 make arrests for infraction of the rules and regulations of the
207 department. Such officers are authorized to carry weapons and to
208 enforce the laws of the State of Mississippi within the confines
209 of a state park.

210 (f) Enforce and delegate the responsibility to enforce
211 all reasonable rules and regulations governing the occupancy and
212 use of lands and waters in state parks under its jurisdiction,
213 supply recreational and conservation facilities and charge fees
214 for the use of same; review all rates and charges for facilities
215 and accommodations furnished at the various state parks annually,
216 making such charges as are justified; and establish fees for
217 entrance to state parks.

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

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

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

234 (4) The department, with the approval of the Mississippi
235 Commission on Wildlife, Fisheries and Parks and the Mississippi
236 Development Authority, may enter into contracts and agreements and
237 execute leases with third parties on such terms as the department

238 and third parties may agree for the operation, upkeep,
239 supervision, management and improvement of state parks and any
240 buildings, activities or facilities located thereon and made
241 available for the use and enjoyment of the general public. All
242 revenues derived by the department from such contracts, agreements
243 and leases shall be deposited by the department into the State
244 Parks Lease Development Endowment Fund created under Section 4 of
245 House Bill No. 1492, 2007 Regular Session. If any such contract,
246 agreement or lease should result in a loss of department employees
247 or department personnel, the department shall give hiring
248 preference to such persons when filling employee vacancies or new
249 employment positions elsewhere within the department.

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

255 **SECTION 7.** There shall not be conducted any drilling,
256 seismographic or other mineral exploration or testing activities
257 on any state-owned wildlife management area, lake, fish hatchery
258 or state park under the jurisdiction of the Mississippi Commission
259 on Wildlife, Fisheries and Parks. Any person found by the
260 Mississippi Major Economic Impact Authority to be violating this
261 section shall be subject to the penalties prescribed under Section
262 29-7-17.

263 **SECTION 8.** This act shall take effect and be in force from
264 and after July 1, 2007.