

By: Representative Clark

To: Wildlife, Fisheries and  
Parks; Ways and Means

## HOUSE BILL NO. 262

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  
5 LANDS WITHIN THE HOLMES COUNTY STATE PARK FOR COMMERCIAL AND/OR  
6 RESIDENTIAL DEVELOPMENT; TO ESTABLISH THE PROCESS FOR SUCH; TO  
7 CREATE THE HOLMES COUNTY STATE PARK ENDOWMENT FUND; TO PROVIDE  
8 THAT REVENUES DERIVED FROM SUCH LEASES SHALL BE DEPOSITED INTO THE  
9 FUND; TO CREATE A LEGISLATIVE OVERSIGHT COMMITTEE TO SERVE IN AN  
10 ADVISORY CAPACITY REGARDING LEASES EXECUTED UNDER THIS ACT; TO  
11 AMEND SECTIONS 55-3-33 AND 55-3-47, MISSISSIPPI CODE OF 1972, TO  
12 AUTHORIZE THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS TO ENTER  
13 INTO AGREEMENTS AND CONTRACTS WITH ANY PERSON OR PRIVATE OR  
14 GOVERNMENTAL ENTITY, FOR THE PURPOSE OF OBTAINING SERVICES  
15 NECESSARY TO MANAGE, MAINTAIN, OPERATE OR IMPROVE THE HOLMES  
16 COUNTY STATE PARK; AND IN CONFORMITY TO THE PROVISIONS OF THIS ACT  
17 REGARDING THE LEASE OF LAND OR PROPERTY IN HOLMES COUNTY STATE  
18 PARK; AND FOR RELATED PURPOSES.

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

20 **SECTION 1.** For the purposes of Sections 1 through 5 of this  
21 act, the following terms shall have the meanings ascribed in this  
22 section unless the context clearly requires otherwise:

23 (a) "Commission" means the Mississippi Commission on  
24 Wildlife, Fisheries and Parks.

25 (b) "Department" means the Mississippi Department of  
26 Wildlife, Fisheries and Parks.

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

28 **SECTION 2.** (1) The Mississippi Development Authority and  
29 the Mississippi Department of Wildlife, Fisheries and Parks, with  
30 the approval of the Commission on Wildlife, Fisheries and Parks,  
31 may identify certain land or property within the Holmes County  
32 State Park that may be leased to third parties for commercial  
33 and/or residential development. The MDA and the commission shall  
34 establish criteria for identifying such land or property,



35 including, but not limited to, whether or not the land or property  
36 is owned by the state in fee simple and may be improved for  
37 commercial, residential or other development, or, whether the land  
38 or property is leased from the federal government or an agency  
39 thereof, and may be restricted by federal law or regulations or by  
40 the terms of such lease to limited development purposes.  
41 Sixteenth section or lieu lands may not be leased under the  
42 provisions of this act.

43 (2) Before approving any land or property in the Holmes  
44 County State Park for lease and development, whether the lease is  
45 for commercial or residential purposes, the commission must make  
46 an affirmative finding and enter upon its official minutes a  
47 statement that the development of the land will not be  
48 incompatible with the outdoor recreational purposes and  
49 opportunities existing at the park.

50 (3) The MDA shall provide the technical assistance and  
51 advice to the commission and the department as may be necessary to  
52 obtain the best combination of revenue producing development  
53 opportunities and projects that complement the unique qualities of  
54 the park. In addition, the MDA shall assist the department in  
55 complying with all applicable state guidelines for leasing state  
56 land for development.

57 (4) If any lease executed under the provisions of this act  
58 results in a person being terminated or removed from employment  
59 with the department, then the department shall give preference to  
60 hiring that person when filling vacant or new employment positions  
61 elsewhere within the department.

62 (5) A developer/lessee may sublease such portions of his  
63 lease as may be necessary for the development of a project. A  
64 sublease shall be an assignable contract and may be for commercial  
65 or other purposes, as approved by the commission; however, a  
66 sublease may not be for a term in excess of the remaining term of  
67 the developer's lease. Each sublease from the developer shall



68 contain an option for the sublessee to renew or renegotiate the  
69 lease directly with the department, at any time following ten (10)  
70 years after the beginning date of any sublease from the developer.

71 (6) Rental payments due under any lease executed under this  
72 act shall be paid to the department and shall be deposited into  
73 the Holmes County State Park Lease Development Endowment Fund  
74 created in Section 4 of this act.

75 (7) Before the commission or department may lease the land  
76 or property to a third party, the lease of land or property must  
77 be specifically authorized by an act of the Legislature that  
78 amends or refers to this section.

79 (8) Any construction occurring on land or property leased  
80 under this act must fully comply with all applicable state laws,  
81 rules and regulations, and any local building codes and zoning  
82 ordinances. Development plans and construction must have the  
83 prior approval of the MDA and the commission.

84 **SECTION 3.** The department, with approval of the commission  
85 and assistance of the MDA, may enter into contracts or agreements  
86 with agencies of the United States government, municipalities,  
87 corporations, districts, public agencies, political subdivisions  
88 of any kind, and others for any services, facilities, utilities or  
89 commodities that any development project under the provisions of  
90 this act may require. The contract or agreement may be assigned  
91 to the developer/lessee, may be upon any terms and for any time as  
92 the parties may agree, and may provide that the contract or  
93 agreement shall continue in effect until assigned to, or  
94 renegotiated by, a sublessee of the developer/lessee.

95 **SECTION 4.** There is created in the State Treasury a special  
96 fund to be known as the "Holmes County State Park Lease  
97 Development Endowment Fund." The fund shall consist of all monies  
98 required to be deposited therein under the provisions of Section 2  
99 of this act. The principal of the fund shall remain inviolate and  
100 shall be invested as provided by law. Interest and income derived



101 from investment of the principal of the fund may be expended by  
102 the Mississippi Department of Wildlife, Fisheries and Parks, upon  
103 appropriation by the Legislature, only for the purpose of  
104 constructing, reconstructing, repairing, renovating or making  
105 improvements to real and personal property and facilities in the  
106 Holmes County State Park. Unexpended amounts remaining in the  
107 fund at the end of a fiscal year shall not lapse into the State  
108 General Fund, and any interest earned on amounts in the fund shall  
109 be deposited to the credit of the fund.

110       **SECTION 5.** (1) There is created the State Parks Development  
111 Legislative Oversight Committee to serve in an advisory capacity  
112 to the MDA, the commission and the department for the purpose of  
113 reviewing recommendations, proposals and plans of the MDA, the  
114 commission and the department in selecting, designating and  
115 authorizing the leasing of Holmes County State Park lands for  
116 commercial and/or residential development under this act and for  
117 the purpose of notifying and providing information to, and input  
118 from, members of the Legislature representing Holmes County.

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

120               (a) The Chair of the Senate Wildlife, Fisheries and  
121 Parks Committee;

122               (b) The Chair of the House Wildlife, Fisheries and  
123 Parks Committee;

124               (c) The Chair of the Senate Appropriations Committee;

125               (d) The Chair of the House Appropriations Committee;

126               (e) Two (2) members of the Senate to be appointed by  
127 the Lieutenant Governor, one (1) of whom shall be a member of the  
128 Senate Wildlife, Fisheries and Parks Committee and one (1) of whom  
129 shall be a member of the Senate Appropriations Committee; and

130               (f) Two (2) members of the House to be appointed by the  
131 Speaker of the House, one (1) of whom shall be a member of the  
132 House Wildlife, Fisheries and Parks Committee and one (1) of whom  
133 shall be a member of the House Appropriations Committee.



134 (3) Members of the committee shall be paid from the  
135 contingent expense funds of their respective houses in the same  
136 manner as provided for committee meetings when the Legislature is  
137 not in session. However, no per diem or expense for attending  
138 meetings of the committee may be paid to members of the committee  
139 while the Legislature is in session. No committee member may  
140 incur per diem, travel or other expenses unless previously  
141 authorized by vote, at a meeting of the committee, which action  
142 shall be recorded in the official minutes of the meeting.

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

145 55-3-33. (1) The Mississippi Department of Wildlife,  
146 Fisheries and Parks shall have the power and authority, and it  
147 shall be its duty to:

148 (a) Take charge and have full jurisdiction and control  
149 over all state parks, which parks shall be operated for the  
150 purpose of providing outdoor recreational activities and enjoyment  
151 for the citizens of the State of Mississippi and for the purpose  
152 of attracting visitors to the state.

153 (b) Set up a uniform accounting procedure for the state  
154 parks and prescribe the manner in which books, records and  
155 accounts shall be kept, which procedure shall account for all  
156 monies taken in and expended by the various parks and shall  
157 provide for periodic audits of such books.

158 (c) Accept gifts, bequests of money or other property,  
159 real or personal, to be used for the purpose of advancing the  
160 recreation and conservation interests in state parks. The  
161 department is authorized, subject to approval by the State  
162 Legislature, to purchase property, real or personal, to be used  
163 for state park purposes.

164 (d) Contract with the State Transportation Commission,  
165 any municipality or board of supervisors of the state for  
166 locating, constructing and maintaining roads and other



167 improvements in state parks and for payment of a part of the costs  
168 thereof; however, no county or municipality more than twenty-five  
169 (25) miles distant from a state park may contract for, or do, or  
170 pay for any such work for a state park other than the  
171 International Gardens of Mississippi. Any county or municipality  
172 authorized to assist financially under the provisions of Sections  
173 55-3-31 through 55-3-51 is authorized, in the discretion of its  
174 respective governing authority, to set aside, appropriate and  
175 expend monies from the General Fund for the purpose of defraying  
176 such expense after a mandatory election is held on the question  
177 within the county or municipality.

178 (e) Designate employees as peace officers with power to  
179 make arrests for infraction of the rules and regulations of the  
180 department. Such officers are authorized to carry weapons and to  
181 enforce the laws of the State of Mississippi within the confines  
182 of a state park.

183 (f) Enforce and delegate the responsibility to enforce  
184 all reasonable rules and regulations governing the occupancy and  
185 use of lands and waters in state parks under its jurisdiction,  
186 supply recreational and conservation facilities and charge fees  
187 for the use of same; review all rates and charges for facilities  
188 and accommodations furnished at the various state parks annually,  
189 making such charges as are justified; and establish fees for  
190 entrance to state parks.

191 (g) To periodically establish a discounted fee or fees  
192 for the entry and use of selected state parks and recreational  
193 facilities. The discounted fee or fees shall only be used for the  
194 purpose or purposes of marketing and promotion to increase the  
195 patronage and revenue of those selected parks and facilities. The  
196 discounted fee or fees shall not be considered a donation of state  
197 property.



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

201           (h) To enter into agreements and contracts with any  
202 person or with any private or governmental entity, for the purpose  
203 of obtaining or providing any services that are necessary to  
204 manage, maintain, operate or improve the Holmes County State Park,  
205 from a source other than the department and its employees. Those  
206 services include, but are not limited to, (i) personal services  
207 that may be provided by professional, security enforcement,  
208 technical and clerical personnel as may be needed from time to  
209 time or on a seasonal basis, and (ii) services for the performance  
210 of any function associated with the management, maintenance,  
211 operation or improvement of the park, including any such function  
212 being performed by employees of the department on July 1, 2012;  
213 however, the department is ultimately responsible for the proper  
214 and adequate maintenance, management and operation of the park.

215           (i) To enter into a lease under the provisions of  
216 Sections 1 through 5 of this act with any person, or any private  
217 or governmental entity, of land or property located in the Holmes  
218 County State Park, including buildings, recreational activities or  
219 facilities located in the park and made available for the use and  
220 enjoyment of the general public.

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 **SECTION 7.** Section 55-3-47, Mississippi Code of 1972, is  
235 amended as follows:

236 55-3-47. (1) In order to carry out its management  
237 responsibilities over all state park lands which are now or which  
238 may hereafter come under its jurisdiction, the Mississippi  
239 Department of Wildlife, Fisheries and Parks is hereby authorized  
240 to lease, and to grant easements and rights-of-way over and  
241 across, any part of such state park lands. Except as otherwise  
242 provided for the lease of land or property in the Holmes County  
243 State Park under the provisions of Sections 1 through 5 of this  
244 act, such leases, easements and rights-of-way may be granted for  
245 such consideration, and upon such terms and conditions, as the  
246 department may deem to be in the best interest of the state,  
247 consistent with the use of said lands for recreational purposes,  
248 and subject to the following limitations: The department shall  
249 lease such lands for a term not exceeding twenty-five (25) years  
250 and shall grant in the original lease contract a nonnegotiable  
251 option to renew such lease for an additional term not to exceed  
252 twenty-five (25) years. Both the original lease contract and the  
253 option to renew such lease shall be transferable contracts.  
254 Further, the department shall not lease such lands for purposes  
255 which are incompatible with recreational use and may place such  
256 terms, limitations, restrictions and conditions in such leases as  
257 are deemed necessary to ensure the proper utilization of such  
258 lands. Any easement for a utility line shall be granted for that  
259 period of time which the department deems to be in the best  
260 interest of a state park.

261 (2) The department is further authorized to enter into such  
262 agreements as may be required, upon such terms as may be found to





263 be in the best interest of the state, in settlement of disputes or  
264 litigation regarding the title to or boundaries of any state park  
265 lands within the jurisdiction of the department, provided such  
266 settlement agreements shall be negotiated and drafted with the  
267 advice, counsel and assistance of the Attorney General and shall  
268 be approved by the Department of Finance and Administration.

269 (3) In case any of the real estate within any state park  
270 under the jurisdiction of the department shall cease to be used or  
271 useful for state park purposes, or becomes the subject of boundary  
272 or title disputes or litigation, the department may sell and  
273 convey the same, with the approval of the Department of Finance  
274 and Administration, upon such terms as the Department of Finance  
275 and Administration may elect and may, in addition, exchange the  
276 same, with the approval of the department, for real estate  
277 belonging to any other political subdivision or state, county or  
278 local governmental agency or department. The department is  
279 authorized to sell and convey or otherwise transfer any state park  
280 or historical site as described in subsection (2) of Section  
281 55-3-33. Before any such sale or transfer, except as may occur in  
282 settlement of title or boundary disputes or litigation, the  
283 department shall publish notice of its intention to sell the park  
284 land by public sale to the highest and best bidder at least once  
285 each week for three (3) consecutive weeks in at least one (1)  
286 public newspaper of general circulation in the county where such  
287 land is located and also in at least one (1) newspaper of general  
288 circulation throughout the state. Prior to any such sale, the  
289 department shall obtain at least two (2) separate and independent  
290 appraisals of the land to be sold and may not accept any bid lower  
291 than the average of all appraisals made. The department may  
292 reject any and all bids. The owner or any co-owner of record next  
293 preceding the state in title to any lands sold hereunder by public  
294 bid, excluding any entity which may have exercised the power of  
295 eminent domain to assist the state in acquiring said lands, shall



296 have the opportunity to reacquire such lands by matching the  
297 successful bid therefor. If the owner or any co-owner of record  
298 next preceding the state in title, or the heirs or estate of such  
299 owner or co-owner, acquires said lands, then the department shall  
300 not reserve unto the state any minerals owned by the state  
301 underlying the conveyed lands. However, if anyone other than such  
302 owner or co-owner, or his heirs or estate, acquires said lands,  
303 then the department shall reserve unto the state one-half (1/2) of  
304 the minerals owned by the state underlying the conveyed lands,  
305 except for lands sold in settlement of title or boundary disputes  
306 or litigation, in which case the department may, in its  
307 discretion, reserve said minerals. Appraisal fees shall be shared  
308 equally by the department and purchaser.

309 (4) In exercising the authority granted in this section, the  
310 department may act by and through its executive director in the  
311 execution of any document or instrument prepared hereunder. Any  
312 lease, deed or settlement agreement executed under the provisions  
313 of this section shall bear the seal and attest of the Secretary of  
314 State, with whom said instrument or document shall be filed and  
315 recorded in addition to any other recording requirements of state  
316 law.

317 This section shall not apply to sixteenth section school  
318 lands or lieu lands included within any state park, except as may  
319 be necessary or appropriate for the department to ratify or  
320 confirm any action taken by the agency or department having  
321 jurisdiction over such school or lieu lands.

322 All revenues collected by the department by virtue of any  
323 transaction consummated under the provisions of this section shall  
324 be deposited in the Mississippi Park Fund created by Section  
325 55-3-41, from which funds shall be expended only as authorized by  
326 the legislative appropriations process.



327           (5) This section shall not apply to the donation and  
328 conveyance of the Nanih Waiya State Park to the Mississippi Band  
329 of Choctaw Indians.

330           **SECTION 8.** This act shall take effect and be in force from  
331 and after July 1, 2012.

