

By: Representative Clark

To: Wildlife, Fisheries and
Parks

HOUSE BILL NO. 200

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

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

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

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

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



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

27 **SECTION 2.** (1) The Mississippi Development Authority and
28 the Mississippi Department of Wildlife, Fisheries and Parks, with
29 the approval of the Commission on Wildlife, Fisheries and Parks,
30 may identify certain land or property within the Holmes County
31 State Park which may be leased to third parties for commercial
32 and/or residential development. The MDA and the commission shall
33 establish criteria for identifying such land or property,
34 including, but not limited to, whether or not the land or property
35 is owned by the state in fee simple and may be improved for
36 commercial, residential or other development, or, whether the land
37 or property is leased from the federal government or an agency
38 thereof, and may be restricted by federal law or regulations or by
39 the terms of such lease to limited development purposes.

40 Sixteenth section or lieu lands may not be leased under this act.

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

48 (3) The MDA shall provide the technical assistance and
49 advice to the commission and the department as may be necessary to
50 obtain the best combination of revenue producing development



51 opportunities and projects that complement the unique qualities of
52 the park. In addition, the MDA shall assist the department in
53 complying with all applicable state guidelines for leasing state
54 land for development.

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

60 (5) A developer/lessee may sublease such portions of his
61 lease as may be necessary for the development of a project. A
62 sublease is an assignable contract and may be for commercial or
63 other purposes, as approved by the commission; however, a sublease
64 may not be for a term in excess of the remaining term of the
65 developer's lease. Each sublease from the developer must contain
66 an option for the sublessee to renew or renegotiate the lease
67 directly with the department, at any time following ten (10) years
68 after the beginning date of any sublease from the developer.

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

73 (7) Before the commission or department may lease the land
74 or property to a third party, the lease of land or property must



75 be authorized specifically by an act of the Legislature that
76 amends or refers to this section.

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

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

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



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

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

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

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

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

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

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



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

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

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

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

144 55-3-33. (1) The Mississippi Department of Wildlife,
145 Fisheries and Parks may:

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



149 for the citizens of the State of Mississippi and for the purpose
150 of attracting visitors to the state.

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

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

162 (d) Contract with the * * * Mississippi Transportation
163 Commission, any municipality or board of supervisors of the state
164 for locating, constructing and maintaining roads and other
165 improvements in state parks and for payment of a part of the costs
166 thereof; however, no county or municipality more than twenty-five
167 (25) miles distant from a state park may contract for, or do, or
168 pay for any such work for a state park other than the
169 International Gardens of Mississippi. Any county or municipality
170 authorized to assist financially under the provisions of Sections
171 55-3-31 through 55-3-51 is authorized, in the discretion of its
172 respective governing authority, to set aside, appropriate and
173 expend monies from the General Fund for the purpose of defraying



174 such expense after a mandatory election is held on the question
175 within the county or municipality.

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

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

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

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



199 (h) Enter into agreements and contracts with any person
200 or with any private or governmental entity for the purpose of
201 obtaining or providing any services that are necessary to manage,
202 maintain, operate or improve the Holmes County State Park from a
203 source other than the department and its employees. Those
204 services include, but are not limited to: (i) personal services
205 that may be provided by professional, security enforcement,
206 technical and clerical personnel, as may be needed, from time to
207 time, or on a seasonal basis; and (ii) services for the
208 performance of any function associated with the management,
209 maintenance, operation or improvement of the park, including any
210 such function being performed by employees of the department on
211 July 1, 2018; however, the department ultimately is responsible
212 for the proper and adequate maintenance, management and operation
213 of the park.

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

220 (2) The department shall have the authority to lease to any
221 entity, sell and convey or otherwise transfer to any county or
222 municipality, or close any state park or historical site within
223 its jurisdiction which received a general fund subsidy in fiscal



224 year 1985 in excess of Two Dollars (\$2.00) per visitor to such
225 state park or historical site; * * * however, * * * this authority
226 shall not include the authority to sell, lease or convey any park
227 that was not in operation under the jurisdiction of the department
228 for a full fiscal year prior to fiscal year 1986.

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

233 (4) (a) The department may contract with the electric
234 public utility with a certificate of public convenience and
235 necessity to serve the area where a state park is located for the
236 transfer of ownership of the electrical infrastructure in the
237 state park to that electric public utility.

238 (b) If the electric public utility enters into an
239 agreement for the operation and maintenance of electrical
240 facilities in a state park, the electric public utility may
241 perform any upgrades to the electrical infrastructure of the park
242 that are necessary for the electrical infrastructure to be in
243 compliance with the electric public utility standards. The
244 electric public utility may assess the costs of the upgrades to
245 the department upon the terms and conditions agreed to by the
246 department and the electric public utility.

247 (c) The department may contract with the electric
248 public utility with the certificate of public convenience and



249 necessity to serve the area for the erection, construction,
250 maintenance, operation and control of electric distribution
251 substations, electric transmission lines, electrical
252 appurtenances, electrical appliances or electrical equipment
253 necessary or useful in the operation or distribution of electric
254 power or energy in the state park.

255 (d) Any agreement entered into by the department and an
256 electric public utility under this subsection is exempt from the
257 public purchasing requirements under Section 31-7-13.

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

260 55-3-47. (1) In order to carry out its management
261 responsibilities over all state park lands which are now or which
262 may hereafter come under its jurisdiction, the Mississippi
263 Department of Wildlife, Fisheries and Parks is hereby authorized
264 to lease, and to grant easements and rights-of-way over and
265 across, any part of such state park lands. Except as otherwise
266 provided for the lease of land or property in the Holmes County
267 State Park under Sections 1 through 5 of this act, such leases,
268 easements and rights-of-way may be granted for such consideration,
269 and upon such terms and conditions, as the department may deem to
270 be in the best interest of the state, consistent with the use of
271 said lands for recreational purposes, and subject to the following
272 limitations: The department shall lease such lands for a term not
273 exceeding twenty-five (25) years and shall grant in the original



274 lease contract a nonnegotiable option to renew such lease for an
275 additional term not to exceed twenty-five (25) years. Both the
276 original lease contract and the option to renew such lease shall
277 be transferable contracts. Further, the department shall not
278 lease such lands for purposes which are incompatible with
279 recreational use and may place such terms, limitations,
280 restrictions and conditions in such leases as are deemed necessary
281 to ensure the proper utilization of such lands. Any easement for
282 a utility line shall be granted for that period of time which the
283 department deems to be in the best interest of a state park.

284 (2) The department is further authorized to enter into such
285 agreements as may be required, upon such terms as may be found to
286 be in the best interest of the state, in settlement of disputes or
287 litigation regarding the title to or boundaries of any state park
288 lands within the jurisdiction of the department, provided such
289 settlement agreements shall be negotiated and drafted with the
290 advice, counsel and assistance of the Attorney General and shall
291 be approved by the Department of Finance and Administration.

292 (3) In case any of the real estate within any state park
293 under the jurisdiction of the department shall cease to be used or
294 useful for state park purposes, or becomes the subject of boundary
295 or title disputes or litigation, the department may sell and
296 convey the same, with the approval of the Department of Finance
297 and Administration, upon such terms as the Department of Finance
298 and Administration may elect and may, in addition, exchange the



299 same, with the approval of the department, for real estate
300 belonging to any other political subdivision or state, county or
301 local governmental agency or department. The department is
302 authorized to sell and convey or otherwise transfer any state park
303 or historical site as described in subsection (2) of Section
304 55-3-33. Before any such sale or transfer, except as may occur in
305 settlement of title or boundary disputes or litigation, the
306 department shall publish notice of its intention to sell the park
307 land by public sale to the highest and best bidder at least once
308 each week for three (3) consecutive weeks in at least one (1)
309 public newspaper of general circulation in the county where such
310 land is located and also in at least one (1) newspaper of general
311 circulation throughout the state. Prior to any such sale, the
312 department shall obtain at least two (2) separate and independent
313 appraisals of the land to be sold and may not accept any bid lower
314 than the average of all appraisals made. The department may
315 reject any and all bids. The owner or any co-owner of record next
316 preceding the state in title to any lands sold hereunder by public
317 bid, excluding any entity which may have exercised the power of
318 eminent domain to assist the state in acquiring said lands, shall
319 have the opportunity to reacquire such lands by matching the
320 successful bid therefor. If the owner or any co-owner of record
321 next preceding the state in title, or the heirs or estate of such
322 owner or co-owner, acquires said lands, then the department shall
323 not reserve unto the state any minerals owned by the state



324 underlying the conveyed lands. However, if anyone other than such
325 owner or co-owner, or his heirs or estate, acquires said lands,
326 then the department shall reserve unto the state one-half (1/2) of
327 the minerals owned by the state underlying the conveyed lands,
328 except for lands sold in settlement of title or boundary disputes
329 or litigation, in which case the department may, in its
330 discretion, reserve said minerals. Appraisal fees shall be shared
331 equally by the department and purchaser.

332 (4) In exercising the authority granted in this section, the
333 department may act by and through its executive director in the
334 execution of any document or instrument prepared hereunder. Any
335 lease, deed or settlement agreement executed under the provisions
336 of this section shall bear the seal and attest of the Secretary of
337 State, with whom said instrument or document shall be filed and
338 recorded in addition to any other recording requirements of state
339 law.

340 This section shall not apply to sixteenth section school
341 lands or lieu lands included within any state park, except as may
342 be necessary or appropriate for the department to ratify or
343 confirm any action taken by the agency or department having
344 jurisdiction over such school or lieu lands.

345 All revenues collected by the department by virtue of any
346 transaction consummated under the provisions of this section shall
347 be deposited in the Mississippi Park Fund created by Section



348 55-3-41, from which funds shall be expended only as authorized by
349 the legislative appropriations process.

350 (5) This section shall not apply to the donation and
351 conveyance of the Nanih Waiya State Park to the Mississippi Band
352 of Choctaw Indians.

353 **SECTION 8.** This act shall take effect and be in force from
354 and after July 1, 2018.

