

By: Representative DeLano

To: Municipalities

HOUSE BILL NO. 229

1 AN ACT TO AMEND SECTION 59-15-1, MISSISSIPPI CODE OF 1972, TO
 2 CLARIFY THE AUTHORITY OF CERTAIN MUNICIPALITIES TO CREATE HARBORS
 3 AND RECREATIONAL PARKS FOR SMALL WATER CRAFTS; TO AMEND SECTION
 4 59-15-3, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT ALL HARBORS,
 5 RECREATIONAL PARKS AND FACILITIES CONSTRUCTED AND IMPROVED WITHIN
 6 A CITY'S TERRITORIAL LIMITS SHALL BE MAINTAINED AND OPERATED UNDER
 7 THE EXCLUSIVE CONTROL OF THE CITY AUTHORITIES; TO AMEND SECTION
 8 29-15-5, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PRECEDING
 9 SECTION; TO BRING FORWARD SECTIONS 29-15-7, 29-15-9 AND 29-15-10,
 10 MISSISSIPPI CODE OF 1972, FOR PURPOSES OF AMENDMENT; AND FOR
 11 RELATED PURPOSES.

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

13 **SECTION 1.** Section 59-15-1, Mississippi Code of 1972, is
 14 amended as follows:

15 59-15-1. (1) The governing authorities of any * * *
 16 municipality in this state which has a population of ten thousand
 17 (10,000) or more, according to the last * * * federal decennial
 18 government census, * * * or the authorities of any municipality
 19 bordering on the Mississippi Sound or Gulf of Mexico are * * *
 20 authorized to create, establish, develop, promote, maintain, and
 21 operate recreational parks and harbors for small water
 22 crafts * * * within * * * the municipality's territorial



23 limits * * *. The governing authorities of any municipality
24 described in this section shall have the power to acquire,
25 purchase, install, rent, lease, mortgage, incumber, construct,
26 own, hold, maintain, equip, use, control and operate recreational
27 parks and harbors for small water craft. Such municipalities
28 shall own any docks, piers, slips, wharves, breakwaters,
29 bulkheads, jetties, buildings, structures, recreational parks,
30 areas and facilities associated with such harbors and recreational
31 parks and shall receive all monies and consideration derived from
32 the operation of any structure described in this section.

33 (2) Any harbors or recreational parks created under the
34 authority of this section that are located on property which can
35 be considered tidelands or submerged lands under the Public Trust
36 Tidelands map shall be held in trust by the municipality in which
37 such harbor or recreational facility and any structure associated
38 with such harbor or recreational facility is located.

39 **SECTION 2.** Section 59-15-3, Mississippi Code of 1972, is
40 amended as follows:

41 59-15-3. All * * * harbors, recreational parks and
42 facilities constructed and improved pursuant to this chapter shall
43 be maintained and operated under the exclusive control of the city
44 authorities. The Secretary of State shall not require any city
45 described in Section 59-15-1 to agree to any lease with the
46 Secretary of State or any other state agency, county or political
47 subdivision of the state in order for such city to exercise the



48 authority granted by this chapter. The city authorities of such
49 city, or cities, shall, subject to and in accordance with any
50 agreement, or agreements, as may be made by any such city with the
51 purchaser, or purchasers, of bonds or other obligations issued
52 pursuant to this chapter, prescribe, levy and collect all rent,
53 fees, tolls, revenues, privileges, commissions, and other charges
54 in connection with the operation, use and occupancy of the
55 aforesaid improvements and facilities, and shall pay over all net
56 revenues derived from the operation of said improvements and
57 facilities to any trustee authorized by Section 59-15-19 or
58 successor thereto designated as hereinafter in this chapter
59 provided. The net revenues shall be deemed to be such as may be
60 defined in any agreement, or agreements, entered into between any
61 such city, and the purchaser, or purchasers, of any bonds or other
62 obligations issued pursuant to this chapter. The authorities of
63 any such city, or cities, shall make a financial report to the
64 said trustee annually of the operation of the aforesaid
65 improvements and facilities.

66 **SECTION 3.** Section 29-15-5, Mississippi Code of 1972, is
67 amended as follows:

68 29-15-5. (1) Tidelands and submerged lands are held by the
69 state in trust, unless such lands are connected in any manner to a
70 harbor or recreational park under Section 59-15-1, for use of all
71 the people, and are so held in their character as the beds and
72 shores of the sea and its tidally affected arms and tributaries



73 for the purposes defined by common law and statutory law.
74 Littoral and riparian property owners have common law and
75 statutory rights under the Coastal Wetlands Protection Law which
76 extend into the waters and beyond the low tide line, and the
77 state's responsibilities as trustee extends to such owners as well
78 as to the other members of the public.

79 (2) Residential property owners shall not be required to
80 obtain a tidelands lease for exercising their common law and
81 statutory littoral and riparian rights.

82 **SECTION 4.** Section 29-15-7, Mississippi Code of 1972, is
83 brought forward as follows:

84 29-15-7. (1) The Secretary of State, in cooperation with
85 other state agencies, shall prepare a Preliminary Map of Public
86 Trust Tidelands. The preliminary map shall depict the boundary as
87 the current mean high water line where shoreline is undeveloped
88 and in developed areas or where there have been encroachments,
89 such maps shall depict the boundary as the determinable mean high
90 water line nearest the effective date of the Coastal Wetlands
91 Protection Act.

92 (2) The state recognizes that the boundary of the public
93 trust tidelands is ambulatory and that the natural inland
94 expansion of tide waters over land not previously subject to the
95 ebb and flow of the tide increases the land subject to the public
96 trust, while natural accretion, the gradual and imperceptible
97 accumulation of land by natural causes, and natural reliction, the



98 increase of land by permanent withdrawal or retrocession of tidal
99 waters by natural causes, diminish the land subject to the public
100 trust and increase the property owned by the contiguous upland
101 owner. Likewise, the state recognizes the common law doctrine as
102 it pertains to such tidelands, submerged lands and riparian and
103 littoral rights and declares such to be the law of this state.

104 (3) The preliminary map shall be transmitted to each of the
105 chancery clerks of the coastal counties, and each chancery clerk
106 shall post such map in a public place in his office. The
107 Secretary of State shall also cause to be published in a newspaper
108 of general circulation within each coastal county a notice
109 announcing that a copy of the Preliminary Map of Public Trust
110 Tidelands is available for public inspection at the office of the
111 chancery clerk of that county, and shall post a similar notice in
112 at least three (3) public places in each coastal county in this
113 state. The preliminary map shall also be open to public
114 inspection at the office of the Secretary of State.

115 (4) The Secretary of State shall allow sixty (60) days after
116 publication of the preliminary map for submission of comments
117 and/or additional documentation and may, at his discretion, revise
118 the map accordingly. Within twenty (20) days of the completion of
119 the period for submission of comments, the Secretary of State
120 shall have incorporated any revisions to the Preliminary Map of
121 Public Trust Tidelands and certify its final adoption. The
122 certified map as finally adopted shall be published as provided



123 hereinabove. The final certified map shall be duly recorded in
124 the land records of the chancery clerks office in Hancock,
125 Harrison and Jackson Counties. Upon recordation, the certified
126 map shall be final to those properties not subject to the trust.
127 The Secretary of State shall issue to all consenting property
128 owners a certificate stating that the described property does not
129 lie within the boundary of the public trust tidelands and is not
130 subject to the trust. The Secretary of State shall duly file such
131 certificates with the proper chancery clerks office for
132 recordation. In addition, the certified map shall be placed in
133 the Secretary of State's permanent register which shall be open to
134 public inspection. Within one hundred twenty (120) days of final
135 adoption of the certified map, the Secretary of State shall
136 determine those property owners whose lands are subject of the
137 public trust and are in violation of such trust. The Secretary of
138 State shall notify all such owners by certified mail and shall
139 include an explanation of the procedure available to the occupant
140 to resolve any dispute with respect to this map. The notice shall
141 also inform occupants that after three (3) years the boundary as
142 set forth in the certified map shall become final unless the
143 occupant has submitted a contrary claim to the office of the
144 Secretary of State. Such property owner shall have six (6) months
145 to negotiate and settle differences with the Secretary of State.
146 The Secretary of State may allow extensions at his discretion. A
147 boundary determination shall be final upon agreement of the



148 Secretary of State and the owner and an instrument setting forth
149 the boundary agreement shall be duly executed and recorded in the
150 chancery court where the property is located. Any such boundary
151 agreement shall be binding on the state and other parties thereto.

152 (5) If any dispute as to the location of the boundary of the
153 public trust cannot be negotiated and settled between the affected
154 property owners and the Secretary of State within six (6) months
155 after notice by the state of its claim, either the state or a
156 person claiming an interest in the property may apply to the
157 chancery court of the county in which the property is located for
158 a resolution of the dispute and a determination of the location of
159 the boundary. All persons having an interest in the property
160 subject to the dispute shall be made a party to such proceeding.
161 In any such action, the state shall have the burden of proof by a
162 preponderance of evidence that any such land is subject to the
163 trust.

164 (6) Nothing in this section is intended to preclude any
165 party from pursuing remedies otherwise available at law, including
166 but not limited to those provided in Sections 11-17-1 et seq.,
167 except that if no action is taken by the occupant within three (3)
168 years of receipt of notice as described above, the boundary as
169 determined by the certified map shall become final.

170 **SECTION 5.** Section 29-15-9, Mississippi Code of 1972, is
171 brought forward as follows:



172 29-15-9. (1) There is created in the State Treasury a
173 special fund to be known as the "Public Trust Tidelands Fund."
174 The fund shall be administered by the Secretary of State as
175 trustee.

176 (2) Any funds derived from lease rentals of tidelands and
177 submerged lands, except those funds derived from mineral leases,
178 or funds previously specifically designated to be applied to other
179 agencies, shall be transferred to the special fund. However,
180 funds derived from lease rentals may be used to cover the
181 administrative cost incurred by the Secretary of State. Any
182 remaining funds derived from lease rentals shall be disbursed pro
183 rata to the local taxing authorities for the replacement of lost
184 ad valorem taxes, if any. Then, any remaining funds shall be
185 disbursed to the commission for new and extra programs of
186 tidelands management, such as conservation, reclamation,
187 preservation, acquisition, education or the enhancement of public
188 access to the public trust tidelands or public improvement
189 projects as they relate to those lands.

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

194 (a) The Department of Marine Resources shall make
195 progress payments in installments based on the work completed and
196 material used in the performance of a tidelands project only after



197 receiving written verification from the political subdivision or
198 agency. The political subdivision or agency shall submit
199 verification of the work completed or materials in such detail and
200 form that the department may require.

201 (b) The Department of Marine Resources shall make funds
202 available for the purpose of using such funds as a match or
203 leverage for federal or other funds that are available for the
204 designated tidelands project.

205 **SECTION 6.** Section 29-15-10, Mississippi Code of 1972, is
206 brought forward as follows:

207 29-15-10. (1) There is created in the State Treasury a
208 special fund to be known as the "Public Trust Tidelands
209 Assessments Fund." The purpose of the fund is to ensure that
210 monies derived from the public trust tidelands assessments shall
211 be used for the benefit of preserving and protecting the tidelands
212 and submerged lands found within the three (3) most southern
213 counties of the state. One (1) specific purpose of the fund is to
214 ensure that the annual payment made by the state for the purchase
215 of Deer Island shall continue uninterrupted until the purchase
216 transaction is completed. The fund shall be administered by the
217 Secretary of State, as trustee. None of the funds that are in the
218 special fund or that are required to be deposited into the special
219 fund shall be transferred, diverted or in any other manner
220 expended or used for any purpose other than those purposes
221 specified in this section.



222 (2) (a) Any funds derived from assessments made pursuant to
223 Section 29-1-107(4) (c) shall be deposited into the special fund.

224 (b) Funds paid pursuant to paragraph (a) of this
225 subsection may be appropriated by the Legislature in an amount
226 necessary to cover the administrative cost incurred by the
227 Mississippi Commission on Marine Resources. Any remaining funds
228 shall be disbursed by the commission for new and extra programs of
229 tidelands management, such as conservation, reclamation,
230 preservation, acquisition, education or the enhancement of public
231 access to the public trust tidelands or public improvement
232 projects as they relate to those lands.

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

237 (a) The Department of Marine Resources shall make
238 progress payments in installments based on the work completed and
239 material used in the performance of a tidelands project only after
240 receiving written verification from the political subdivision or
241 agency. The political subdivision or agency shall submit
242 verification of the work completed or materials in such detail and
243 form that the department may require.

244 (b) The Department of Marine Resources shall make funds
245 available for the purpose of using such funds as a match or



246 leverage for federal or other funds that are available for the
247 designated tidelands project.

248 **SECTION 7.** This act shall take effect and be in force from
249 and after July 1, 2018.

