

By: Representative Bennett

To: Public Property

HOUSE BILL NO. 1247

1 AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF THE STATE  
 2 INSTITUTIONS OF HIGHER LEARNING, ACTING BY AND THROUGH THE  
 3 UNIVERSITY OF SOUTHERN MISSISSIPPI, AND SUBJECT TO THE APPROVAL OF  
 4 THE MISSISSIPPI DEVELOPMENT AUTHORITY, IN ITS CAPACITY AS THE  
 5 BOARD, AND THE MISSISSIPPI STATE PORT AUTHORITY, TO LEASE AND  
 6 SUBLEASE ALL OR PORTIONS OF CERTAIN STATE-OWNED REAL PROPERTY AND  
 7 ANY IMPROVEMENTS THEREON LOCATED IN HARRISON COUNTY, MISSISSIPPI,  
 8 AND ADMINISTERED BY THE MISSISSIPPI STATE PORT AUTHORITY AT  
 9 GULFPORT; TO PROVIDE AUTHORITY FOR THE UNIVERSITY TO DO AND  
 10 PERFORM ALL THINGS REASONABLY NECESSARY AND APPURTENANT TO  
 11 EFFECTUATE SAID LEASE AND SUBLEASES; TO PROVIDE A MAXIMUM TERM OF  
 12 SAID LEASES AND SUBLEASES; TO PROVIDE THAT SAID LEASES AND  
 13 SUBLEASES ARE NOT AFFECTED BY THE BINDING SUCCESSOR DOCTRINE; TO  
 14 BRING FORWARD SECTIONS 59-5-35 AND 59-5-37, MISSISSIPPI CODE OF  
 15 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENTS; AND FOR RELATED  
 16 PURPOSES.

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

18 **SECTION 1.** (1) The Board of Trustees of the State  
 19 Institutions of Higher Learning, acting by and through the  
 20 University of Southern Mississippi, and subject to the approval of  
 21 the Mississippi Development Authority and Mississippi State Port  
 22 Authority, is authorized to lease or sublease, to public or  
 23 private entities, all or portions of various parcels of certain  
 24 state-owned real property and any improvements thereon under the  
 25 possession and control of the University of Southern Mississippi



26 located in Harrison County, Mississippi, as such property is  
27 administered by the Mississippi State Port Authority at Gulfport,  
28 Harrison County, Mississippi, and being more particularly  
29 described as follows:

30 **Port of Gulfport:** The Mississippi State Port Authority's  
31 deep-water port is comprised of approximately 300 acres  
32 of land, 10 structures, three electric STS gantry  
33 cranes, and 10 berths. The property is located south of  
34 HWY 90 with the main gate located at 1000 30th Ave.

35 South Extension, Gulfport, Harrison County, Mississippi.

36 **Cotton Compress:** Approximately 38 acres of property  
37 located at 2809 34th Avenue, Gulfport, Harrison County,  
38 Mississippi. This site is largely undeveloped, is used  
39 for truck parking and transloading as well as serving as  
40 a hurricane evacuation space for some of the MSPA's  
41 tenants.

42 **North Port Property:** Approximately 145 acres of property  
43 located north of 33rd Street and east of 34th Avenue in  
44 North Gulfport. This property is undeveloped and mostly  
45 wetlands. Thirty-three acres of this property is under  
46 a Corrective Action Plan with the Mississippi Department  
47 of Environmental Quality due to it being the former  
48 location of a fertilizer plant.

49 **Discovery Bay Property:** Approximately 153 acres of  
50 property located north of Bayou Portage in West Harrison



51 County, Mississippi. This property is wetlands and was  
52 purchased for wetland mitigation purposes.

53 **Property North of Highway 90**: Approximately 6.5 acres of  
54 property located immediately North of HWY 90 and west of  
55 27th Avenue in Gulfport. This property was very  
56 recently acquired and is undeveloped.

57 **29th Avenue and 19th Street**: Approximately 3.75 acres of  
58 property located in Gulfport. This property was very  
59 recently acquired and is undeveloped.

60 (2) The University of Southern Mississippi, with the  
61 approval of the Board of Trustees of State Institutions of Higher  
62 Learning, shall work collaboratively with the Mississippi State  
63 Port Authority to negotiate all aspects of any lease and sublease  
64 and any terms and ancillary agreements, in accordance with  
65 Sections 59-5-35 and 59-5-37, pertaining to any lease and sublease  
66 as may be reasonably necessary to effectuate the intent and  
67 purposes of this section and to ensure a fair and equitable return  
68 to the state.

69 (3) Any lease and sublease approved and entered into on the  
70 university's behalf shall not exceed a term of forty (40) years  
71 and shall not be cancelled by successor boards based on the  
72 binding successor doctrine.

73 (4) The State of Mississippi shall retain all mineral rights  
74 to the real property leased or subleased under this section.



75           (5) The Mississippi Development Authority and the  
76 Mississippi State Port Authority, as administrators of the  
77 properties described in subsection (1), are authorized to correct  
78 any discrepancies in the legal descriptions of such properties as  
79 deemed necessary.

80           (6) The Mississippi State Port Authority may recover its  
81 costs associated with the transaction authorized by  
82 this section from the proceeds of the lease or sublease of the  
83 real property described in subsection (1) of this section, and the  
84 net proceeds of the lease or sublease shall be deposited into a  
85 special fund in the State Treasury and shall be expended only for  
86 the benefit of the University of Southern Mississippi.

87           **SECTION 2.** Section 59-5-35, Mississippi Code of 1972, is  
88 brought forward as follows:

89           59-5-35. The board, acting jointly with the state port  
90 authority, is authorized to set aside, or lease all or portions of  
91 any lands, roads, docks, sheds, warehouses, elevators, compresses,  
92 floating dry docks, graving docks, marine railways, tugboats, or  
93 any other necessary or useful improvements constructed or acquired  
94 by it to individuals, firms, or corporations, public or private,  
95 for port, harbor, commercial or industrial purposes for a period  
96 not to exceed ninety-nine years, or to execute a conveyance of  
97 sale, except as otherwise limited by law, on such terms and  
98 conditions and with such safeguards as would best promote and  
99 protect the public interest. Any industrial lease of lands may be



100 executed upon such terms and conditions and for such monetary  
101 rental or other consideration as may be found adequate and  
102 approved by the board in orders or resolutions authorizing the  
103 same. Any covenants and agreements of the lessee to make  
104 expenditures in determined amounts, and within such time or times,  
105 for improvements to be erected upon the land, by such lessee and  
106 to conduct thereon industrial and/or other operations in such  
107 aggregate payroll amounts and for such period of time as may be  
108 determined and defined in such lease, and to give preference in  
109 employment where practical to residents of the State of  
110 Mississippi, and to qualified residents of the city and of the  
111 county in which such port or harbor is located, shall if included  
112 in such lease constitute and be deemed sufficient consideration  
113 for the execution of any such lease in the absence of monetary  
114 rental or other considerations; and such instrument may contain  
115 reasonable provisions giving the lessee the right to remove its or  
116 his improvements upon the termination of the lease. All leases  
117 theretofore made by any port commission, port authority, or other  
118 public agency authorized by law to execute leases for port,  
119 harbor, commercial or industrial improvements, which leases are  
120 now in effect or which may be hereafter executed by any such  
121 public agency or by the board, and all structures and all  
122 improvements and other permanent facilities erected, installed or  
123 located by such lessees or their successors or assignees within  
124 the limits of any port, harbor or part thereof, may be free and



125 exempt from all state, county, and municipal ad valorem taxes if  
126 so stipulated in such lease, and for such period as may be fixed  
127 in such lease.

128         **SECTION 3.** Section 59-5-37, Mississippi Code of 1972, is  
129 brought forward as follows:

130         59-5-37. (1) The board or State Port Authority, in the  
131 performance of its duties, may employ such personnel and make all  
132 contracts and purchases incidental to or necessary for the  
133 advancement, promotion, development, establishment, insurance,  
134 maintenance, repair, improvement and operation of any ports,  
135 harbors, rivers, channels and waterways including, if required for  
136 its protection, retirement benefits, workers' compensation  
137 insurance and other employee benefits for the benefit of any  
138 employees of the board or State Port Authority. The board or  
139 State Port Authority may establish a trade development and  
140 promotion account to pay all direct and necessary expenses for the  
141 promotion and development of the state port. The authority is  
142 granted the power to sue and be sued in its own name.

143         (2) (a) The board or State Port Authority may, in its  
144 discretion, make such contracts or purchases according to the  
145 state purchasing laws. Contracts let for any port, harbor, river,  
146 channel or waterway improvements shall be advertised as required  
147 by law for the letting of public contracts, and such contracts  
148 shall be awarded to the lowest and best bidder who shall make bond  
149 as shall be required by the board or State Port Authority



150 conditioned for the faithful prosecution and completion of work  
151 according to such contracts, such bond to be furnished by a  
152 corporate surety company qualified to do business in this state.  
153 However, the board may negotiate and enter into contracts with  
154 responsible lessees for the construction of facilities by lessees,  
155 such as those referred to in Section 59-5-11, and the acquisition  
156 thereof by the board upon such terms and conditions and for such  
157 amount as may be approved by the board.

158 (b) The State Port Authority shall be considered to be  
159 a "governing authority" under the state public purchasing laws as  
160 that term is defined in Section 31-7-1 and used in Sections 31-7-1  
161 through 31-7-73, and shall not be subject to the jurisdiction of  
162 the Department of Finance and Administration, the Public  
163 Procurement Review Board or the Bureau of Building, Grounds and  
164 Real Property Management under the provisions of Sections  
165 27-104-7, 29-5-2 and 31-11-3.

166 (3) (a) The board or State Port Authority, in its  
167 discretion, may use the design-build method of contracting for the  
168 renovation, repair and/or making of other improvements to not more  
169 than one (1) freezer and related equipment and/or facilities at  
170 the State Port at Gulfport, Mississippi. Notwithstanding any  
171 other provision of law to the contrary, any port or port  
172 commission may use the design-build method of contracting for the  
173 renovation, repair and/or making of other improvements to  
174 equipment and/or facilities at the port. For the purposes of this



175 subsection (3), the term "design-build method of contracting"  
176 means a contract that combines the design and construction phases  
177 of a project into a single contract and the contractor is required  
178 to satisfactorily perform, at a minimum, both the design and  
179 construction of the project.

180 (b) This subsection (3) shall stand repealed from and  
181 after July 1, 2024.

182 **SECTION 4.** This act shall take effect and be in force from  
183 and after its passage.

