

By: Representatives Mayo, Whittington, Ward

To: Corrections

HOUSE BILL NO. 1401

1 AN ACT TO AMEND SECTION 47-5-64, MISSISSIPPI CODE OF 1972, TO
2 INCREASE FROM THREE TO EIGHT YEARS THE MAXIMUM LEASE TERM FOR
3 WHICH THE COMMISSIONER OF CORRECTIONS MAY LEASE LAND OF DEPARTMENT
4 OF CORRECTIONS FOR AGRICULTURAL PURPOSES; TO AMEND SECTION
5 47-5-66, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE
6 DEPARTMENT OF FINANCE AND ADMINISTRATION TO HOLD AUCTIONS FOR
7 AGRICULTURAL LEASES TO PRIVATE ENTITIES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 47-5-64, Mississippi Code of 1972, is
10 amended as follows:

11 47-5-64. The Mississippi Commissioner of Corrections is
12 hereby directed to determine the number of acres and location of
13 land under its jurisdiction which are needed for security purposes
14 and for Prison Agricultural Enterprises. The Commissioner of
15 Corrections shall designate and reserve such additional land for
16 agricultural enterprise projects of the Department of Corrections,
17 as he deems necessary. The Mississippi Commissioner of
18 Corrections shall then recommend to the Department of Finance and
19 Administration the number of acres of department land which should
20 be leased to private entities and the term of the leases. The
21 Department of Finance and Administration shall have the authority
22 to lease for agricultural purposes that land so recommended for
23 not less than one (1) nor more than eight (8) years, with the
24 approval of the Public Procurement Review Board.

25 **SECTION 2.** Section 47-5-66, Mississippi Code of 1972, is
26 amended as follows:

27 47-5-66. (1) It shall be the duty of the State Department
28 of Finance and Administration, with the approval of the Public
29 Procurement Review Board, to lease lands at public contract upon

30 the submission of two (2) or more sealed bids to the State
31 Department of Finance and Administration after having advertised
32 the land for rent in newspapers of general circulation published
33 in Jackson, Mississippi; Memphis, Tennessee; the county in which
34 the land is located, and contiguous counties for a period of not
35 less than two (2) successive weeks. The first publication shall
36 be made not less than ten (10) days before the date of the public
37 contract, and the last publication shall be made not more than
38 seven (7) days before that date. The State Department of Finance
39 and Administration may reject any and all bids. Bids received in
40 response to the advertisement shall be opened at the State
41 Department of Finance and Administration. The State Department of
42 Finance and Administration, at its option, may reject all bids or
43 accept the highest and best bid received in response to the
44 advertisement, or the State Department of Finance and
45 Administration may hold an auction among those who submitted bids
46 in response to the advertisement. If the State Department of
47 Finance and Administration elects to hold an auction, no bidder
48 shall be granted any preference. The opening bid at the auction
49 shall be the highest bid received in response to the
50 advertisement. If the State Department of Finance and
51 Administration receives an acceptable bid in response to the
52 advertisement and elects not to hold an auction among those
53 submitting bids, then the holder of the existing lease may submit
54 a second bid in an amount not less than one hundred five percent
55 (105%) of the highest acceptable bid received if the holder of the
56 existing lease: (a) submitted a bid in response to the
57 advertisement, and (b) constructed or made improvements on the
58 leasehold premises after receiving approval of the State
59 Department of Finance and Administration during the term of the
60 existing lease. For purposes of this subsection, the term
61 improvements shall not include any work or items that are done
62 customarily on an annual basis in the preparing, planting,

63 growing, cultivating or harvesting of crops or other farm
64 products. Successful bidders shall take possession of their
65 leaseholds at the time authorized by the State Department of
66 Finance and Administration. However, rent shall be due no later
67 than the day upon which the lessee shall assume possession of the
68 leasehold, and shall be due on the anniversary date for each
69 following year of the lease. The State Department of Finance and
70 Administration may provide in any lease that rent shall be paid in
71 full in advance or paid in installments, as may be necessary or
72 appropriate. In addition, the State Department of Finance and
73 Administration may accept, and the lease may provide for,
74 assignments of federal, state, or other agricultural support
75 payments, growing crops or the proceeds from the sale thereof,
76 promissory notes, or any other good and valuable consideration
77 offered by any lessee to meet the rent requirements of the lease.
78 If a promissory note is offered by a lessee, it shall be secured
79 by a first lien on the crop of the lessee, or the proceeds from
80 the sale thereof. The lien shall be filed pursuant to Article 9
81 of the Mississippi Uniform Commercial Code and Section 1324 of the
82 Food Security Act of 1985, as enacted or amended. If the note is
83 not paid at maturity, it shall bear interest at the rate provided
84 for judgments and decrees in Section 75-17-7 from its maturity
85 date until the note is paid. The note shall provide for the
86 payment of all costs of collection and reasonable attorney's fees
87 if default is made in the payment of the note. The payment of
88 rent by promissory note or any means other than cash in advance
89 shall be subject to the approval of the Public Procurement Review
90 Board, which shall place the approval of record in the minutes of
91 the board. There is created a special fund to be designated as
92 "the Prison Agricultural Enterprises Fund." Any monies in hand or
93 due from the leasing of Penitentiary lands and the sales of timber
94 as provided in Section 47-5-56 and earmarked for the Prison
95 Industries Fund shall be deposited to the special fund for prison

96 agricultural enterprises. All monies in each fiscal year derived
97 from the leasing of the Penitentiary lands and the sales of timber
98 as provided in Section 47-5-56 shall be deposited into the special
99 fund for the purpose of conducting, operating and managing the
100 prison agricultural enterprises of the department. All profits
101 derived from the prison agricultural enterprises shall be
102 deposited into the Prison Agricultural Enterprises Fund. All
103 profits derived from prison industries shall be placed in a
104 special fund in the State Treasury to be known as the Prison
105 Industries Funds, to be appropriated each year by the Legislature
106 to the nonprofit corporation, which is required to be organized
107 under the provisions of Section 47-5-535, for the purpose of
108 operating and managing the prison industries. The state shall
109 have the rights and remedies for the security and collection of
110 the rents given by law to landlords. Upon the execution of the
111 agricultural leases to private entities as authorized by Section
112 47-5-64, the leased land shall be liable to be taxed as other
113 lands are taxed during the continuance of the lease, but in case
114 of sale thereon for taxes, only the title of the leaseholder or
115 his heirs or assigns shall pass by the sale. Any funds obtained
116 by the corporation as a result of sale of goods and services
117 manufactured and provided by it shall be accounted for separate
118 and apart from any funds received by the corporation through
119 appropriation from the State Legislature. All nonappropriated
120 funds generated by the corporation shall not be subject to
121 appropriation by the State Legislature.

122 (2) This section shall be repealed from and after July 1,
123 2004.

124 **SECTION 3.** This act shall take effect and be in force from
125 and after July 1, 2004.