

By: Representatives Ishee, Weathersby

To: Oil, Gas and Other
Minerals; Public Property

HOUSE BILL NO. 1255

1 AN ACT TO AMEND SECTION 29-1-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT THE STATE OF MISSISSIPPI SHALL RETAIN ALL MINERAL
3 RIGHTS OF EVERY KIND AND CHARACTER WHEN PUBLIC LANDS ARE SOLD OR
4 TRANSFERRED; TO EXEMPT CERTAIN PUBLIC LANDS FROM THIS REQUIREMENT;
5 AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 29-1-1, Mississippi Code of 1972, is
8 amended as follows:

9 29-1-1. (1) Except as otherwise provided in subsections
10 (7), (8) and (9) of this section, the title to all lands held by
11 any agency of the State of Mississippi which were acquired solely
12 by the use of funds appropriated by the state shall appear on all
13 deeds and land records under the name of the "State of
14 Mississippi." For the purpose of this section, the term "agency"
15 shall be defined as set forth in Section 31-7-1(a). The
16 provisions of this section shall not affect the authority of any
17 agency to use any land held by the agency. No assets or property
18 of the Public Employees' Retirement System of Mississippi shall be
19 transferred in violation of Section 272A of the Mississippi
20 Constitution of 1890. Before September 1, 1993, each state agency
21 shall inventory any state-held lands which were acquired solely by
22 the use of funds appropriated by the state, and which are titled
23 in the name of the agency. The agency shall execute quitclaim
24 deeds and any other necessary documents to transfer the name and
25 title of the property to the State of Mississippi.

26 (2) The Secretary of State, under the general direction of
27 the Governor and as authorized by law, shall sell and convey the
28 public lands in the manner and on the terms provided herein for

29 the several classes thereof; he shall perform all the
30 administrative and executive duties appertaining to the selection,
31 location, surveying, platting, listing, and registering these
32 lands or otherwise concerning them; and he shall investigate the
33 status of the various "percent" funds accrued and accruing to the
34 state from the sale of lands by the United States, and shall
35 collect and pay the funds into the treasury in the manner provided
36 by law.

37 (3) In accordance with Sections 7-11-11 and 7-11-13, the
38 Secretary of State shall be required to sign all conveyances of
39 all state-held land. For purposes of this section, the term
40 "conveyance" shall mean any sale or purchase of land by the State
41 of Mississippi for use by any agency, board or commission thereof.
42 Failure to obtain legislative approval pursuant to subsection (4)
43 of this section and the signature of the Secretary of State on any
44 conveyance regarding the sale or purchase of lands for the state
45 including any agency, board or commission thereof, shall render
46 the attempted sale or purchase of the lands void. Nothing in this
47 section shall be construed to authorize any state agency, board,
48 commission or public official to convey any state-held land unless
49 this authority is otherwise granted by law. The Secretary of
50 State shall not withhold arbitrarily his signature from any
51 purchase or sale authorized by the Mississippi State Legislature.
52 All sales of state-held lands, except those lands forfeited to the
53 state for the nonpayment of taxes and those lands acquired by the
54 Mississippi Transportation Commission under Section 65-1-123,
55 shall be sold for not less than the fair market value as
56 determined by two (2) professional appraisers selected by the
57 State Department of Finance and Administration, who are certified
58 general appraisers of the State of Mississippi. The proceeds from
59 any sale by an agency, board, commission or public official of
60 state-held lands shall be deposited into the State General Fund
61 unless otherwise provided by law.

62 (4) Before any state-held land is sold to any individual or
63 private entity, thirty (30) days' advance notice of the intended
64 sale shall be provided by the Secretary of State to the State
65 Legislature, to all state agencies and to all governing
66 authorities within the state for the purpose of ascertaining
67 whether an agency or governing authority has a need for the land
68 and for the purpose of ascertaining whether the sale of the land
69 was authorized by law. If no agency or governing authority within
70 the state expresses in writing to the Secretary of State by the
71 end of the thirty-day period a desire to use the land, then the
72 Secretary of State, with the prior approval of the Mississippi
73 Legislature to sell the state-held land, may offer the land for
74 sale to any individual or private entity.

75 (5) A cultural resources survey may be performed on any
76 state-held land before the disposition of the land if the State
77 Department of Archives and History deems this survey necessary.
78 The cost of the survey and any archaeological studies deemed
79 necessary by the State Department of Archives and History shall be
80 paid by the selling agency and recouped from the proceeds of the
81 sale.

82 (6) Before any land may be purchased by the state for the
83 benefit of any state agency, the Secretary of State, or his
84 designee, shall search and examine all state land records to
85 determine whether the state owns any land that may fit the
86 particular need of the agency. The Secretary of State, or his
87 designee, shall notify the agency if it is determined that any
88 state-held land is available for use by the agency. The agency
89 shall determine if such land accommodates its needs and shall
90 determine whether to make an official request to the proper
91 authorities to have the use of the land.

92 (7) Any lands purchased or acquired for construction and
93 maintenance of highways or highway rights-of-way by the

94 Mississippi Department of Transportation shall be excluded from
95 the provisions of this section.

96 (8) This section shall not apply to any agency of the State
97 of Mississippi that holds title to lands purchased solely by the
98 use of federal funds or whose authority to transfer or dispose of
99 these lands is governed by federal law or federal regulations.

100 (9) Any lands purchased by the Mississippi Major Economic
101 Impact Authority for a "project" as defined in Section 57-75-5
102 shall be excluded from the provisions of this section.

103 (10) The Secretary of State may recover from any agency,
104 corporation, board, commission, entity or individual any cost that
105 is incurred by his office for the record-keeping responsibilities
106 regarding the sale or purchase of any state-held lands.

107 (11) Subsections (3), (4), (5) and (6) of this section shall
108 not apply to sales or purchases of land when the Legislature
109 expressly authorizes or directs a state agency to sell, purchase
110 or lease-purchase a specifically described property. However,
111 when the Legislature authorizes a state agency to sell or
112 otherwise convey specifically described real property to another
113 state agency or other entity such as a county, municipality,
114 economic development district created under Section 19-5-99 or
115 similar entity, without providing that the conveyance may not be
116 made for less than the fair market value of the property, then the
117 state agency authorized to convey such property must make the
118 following determinations before conveying the property:

119 (a) That the state agency or other entity to which the
120 proposed conveyance is to be made has an immediate need for the
121 property;

122 (b) That there are quantifiable benefits that will
123 inure to the state agency or other entity to which the proposed
124 conveyance is to be made which outweigh any quantifiable costs to
125 the state agency authorized to make the conveyance; and

126 (c) That the state agency or other entity to which the
127 proposed conveyance is to be made lacks available funds to pay
128 fair market value for the property. If the state agency
129 authorized to convey such property fails to make such
130 determinations, then it shall not convey the property for less
131 than the fair market value of the property.

132 (12) Except for lands described in subsections (7), (8) and
133 (9) of this section, title to all oil, gas and mineral rights of
134 every kind and character in, on or under any public lands sold or
135 transferred by the Secretary of State or any agency of the state
136 acting on behalf of the state, shall be retained by the State of
137 Mississippi.

138 **SECTION 2.** This act shall take effect and be in force from
139 and after July 1, 2006.