

1 SB231
2 151477-4
3 By Senators Pittman, Waggoner, Scofield, Whatley, Allen,
4 Fielding, Glover, Dial, Marsh, Keahey and Reed
5 RFD: Tourism and Marketing
6 First Read: 19-FEB-13

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to Gulf State Park; to provide that the
12 project site shall not be sold; requiring the Gulf State Park
13 Project Committee to approve by a majority vote a long-term
14 lease of the project site; to provide for the management of
15 requests for proposals, negotiated project agreements, and
16 projects at the park by the Governor; to provide that certain
17 laws specifically enumerated in this act are not applicable to
18 persons submitting proposals and any party to an executed
19 project agreement; and to repeal Chapters 14B and 14D of Title
20 9 of the Code of Alabama 1975.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. The following terms as used in this act
23 shall have the following meanings:

24 (1) DEPARTMENT. The Department of Conservation and
25 Natural Resources.

26 (2) GOVERNOR. The Governor of the State of Alabama.

1 (3) GROUND LEASE. A lease of the project site which
2 shall provide for the rights and responsibilities of the state
3 and any other person which is a party thereto.

4 (4) GULF STATE PARK. The real property comprising
5 approximately 6,150 acres, and any future additions thereto,
6 including facilities and fixtures located thereon and
7 appurtenances thereto, owned and managed by the state and the
8 department in south Baldwin County, Alabama.

9 (5) GULF STATE PARK PROJECT COMMITTEE. The committee
10 established pursuant to Section 4(d).

11 (6) PARTY TO AN EXECUTED PROJECT AGREEMENT. The
12 state or any person who is a party to and is obligated to the
13 state under a project agreement, or any part thereof.

14 (7) PERSON. Any private person or any public person.

15 (8) PRIVATE PERSON. Any natural person, corporation,
16 general or limited partnership, limited liability company or
17 partnership, unincorporated association or organization, or
18 other nongovernmental entity.

19 (9) PROJECT. Real and personal property to be
20 located on the approximately 29 acre project site in Gulf
21 State Park, as described in Section 1(12), to consist of some
22 or all of the following: Lodge facilities; conference,
23 education, and meeting space; banquet areas; primary and
24 specialty restaurants; recreation and other facilities;
25 business centers; and infrastructure such as parking
26 facilities; transportation facilities for pedestrian and
27 vehicular traffic; utilities; and other structures or

1 improvements as presented by the Governor in a request for
2 proposal provided herein, or any other subsequent request.

3 (10) PROJECT AGREEMENT. Any project agreement, which
4 is executed by the Governor pursuant to Section 4, and
5 provides for the construction, improvement, lease, management,
6 occupancy, and use of the project site, or any part thereof.

7 (11) PROJECT REVENUES. All gross earnings, income,
8 receipts, lease payments, revenues, and other moneys derived
9 from or with respect to the project.

10 (12) PROJECT SITE. The real property located within
11 Gulf State Park of approximately 29 acres more particularly
12 described as follows: POC (Point of Commencement) SW Corner
13 Section 16, T9S, R4E; thence N 89 degrees 49'16"E, 5,290ft to
14 a calculated point in Lake Shelby, being the SE corner of
15 Section 16: Thence South 664ft to a point, on the south ROW
16 (Right Of Way) of State Route 182 and the east boundary of a
17 deed with restrictions (Deed Book 55n.s., Page 363-4, Baldwin
18 Co.), being the POB (Point of Beginning); thence eastwardly
19 along said ROW for 2,644ft more or less to a point; thence
20 south leaving said ROW and passing east of existing cul-de-sac
21 for 351ft more or less to the CCL (Coastal Construction Line);
22 thence westward along CCL (Coastal Construction Line) for
23 2,592ft more or less to a point on the East boundary of a said
24 deed; thence north leaving CCL (Coastal Construction Line) and
25 along East boundary of said deed for 826ft more or less back
26 to the POB all containing 29.1Ac +/-.

1 (13) PROPOSAL. Any proposal submitted to the
2 Governor pursuant to a request for proposal issued by the
3 Governor under Section 3.

4 (14) PUBLIC PERSON. Any county, municipality, or
5 public corporation and any agency, branch, department,
6 instrumentality, or political subdivision of the state or any
7 entity created by the Legislature.

8 (15) REQUESTS FOR PROPOSALS. A bid procurement that
9 is announced through a public notice from the Governor
10 requesting solutions and proposals to construct, maintain,
11 supervise, operate, and manage a project at the project site,
12 or any part thereof, as provided herein and subject to any
13 applicable provisions of law. The request for proposal shall
14 include the following:

15 a. Contact information for the Governor or his or
16 her designee for inquiries relating to the request for
17 proposal.

18 b. The date, time, and place where proposals must be
19 received.

20 c. The evaluation criteria for assessing the
21 proposals.

22 d. Any other stipulations and clarifications the
23 Governor may require, provided that all provisions of state
24 law shall be applicable unless otherwise expressly provided
25 for in this act.

26 (16) STATE. The State of Alabama.

1 Section 2. (a) Any state park or park property lying
2 seaward of the current location of Alabama Highway 182 in
3 Baldwin County, Alabama, shall not be sold. The project site
4 and any portion thereof, including buildings and structures
5 constructed on the project site, shall not be sold.

6 (b) The Governor may authorize any state park or
7 park property lying seaward of the current location of Alabama
8 Highway 182 in Baldwin County, Alabama, including the project
9 site, in whole or in part, to be leased for a period of 12
10 years or shorter, including all extension or renewal periods.
11 Any lease of such property described in this subsection over
12 12 years, including all extension or renewal periods, shall be
13 subject to approval by a majority vote of the Gulf State Park
14 Project Committee, as provided for in subsection (b) of
15 Section 4 of this act. The Examiners of Public Accounts, prior
16 to any vote of the Gulf State Park Project Committee
17 pertaining to a lease provided herein, shall submit a
18 compliance report for the proposed lease to all members of the
19 Legislature and to all members of the Gulf State Park Project
20 Committee.

21 Section 3. Notwithstanding any other provision of
22 this act, this act is contingent on the submission to and
23 approval of a current market feasibility study by the Gulf
24 State Park Project Committee.

25 Section 4. (a) The Governor may issue requests for
26 proposals, in part or in whole, for the construction,
27 development, improvement, lease, and beneficial use of a

1 project to persons whom the Governor shall have determined are
2 qualified.

3 (b) After the opening of the proposals, the
4 proposals shall be immediately placed on file and available
5 for public inspection and shall become matters of public
6 record.

7 (c) The Governor shall deliver written notice to
8 each person who submitted a proposal of the decision of the
9 Governor to accept or reject the proposal of the person within
10 60 days of the date on which the proposals were opened.

11 Section 5. (a) No later than 30 days after
12 acceptance of a proposal by the Governor, the Governor shall
13 submit the accepted proposal to the State Finance Director and
14 Alabama Building Commission for evaluation, review, and
15 comments pertaining to the information provided in the
16 proposal. The State Finance Director and Alabama Building
17 Commission shall provide such evaluation, review, and comments
18 to the Governor no later than 60 days after acceptance of a
19 proposal by the Governor.

20 (b) Upon acceptance of a proposal by the Governor,
21 and subject to the provisions of subsection (a), the Governor
22 shall enter into negotiations of a project agreement with the
23 person who submitted the accepted proposal. Any project
24 agreement negotiated by the Governor shall provide that the
25 employment of engineers, architects, attorneys, contractors,
26 consultants or other employees or agents should reflect the
27 racial and ethnic diversity of the state. If, upon

1 negotiation, the Governor is unable to approve a project
2 agreement, then the Governor shall repeat the process provided
3 for in this act until such time as a project agreement is
4 approved by the Governor.

5 (c) Officers and employees of the department,
6 members of the Legislature, and members of their families, are
7 excluded from submission of a proposal hereunder.

8 (d) There is hereby established the Gulf State Park
9 Project Committee which shall consist of the Governor, who
10 shall be an ex officio member and chairman of the committee,
11 and seven other persons as follows: the Lieutenant Governor,
12 or his or her designee; the Speaker of the House of
13 Representatives, or his or her designee; the President Pro
14 Tempore of the Senate, or his or her designee; the State
15 Finance Director, or his or her designee; the Alabama
16 Secretary of Commerce, or his or her designee; the
17 Commissioner of the Department of Conservation and Natural
18 Resources, or his or her designee; and the Chair of the Joint
19 Legislative Committee on State Parks, or his or her designee.
20 The committee provided for herein shall meet at the call of
21 the chair, and five members present shall constitute a quorum.
22 The committee, by a majority vote of a quorum, may approve or
23 reject any project agreement negotiated and approved by the
24 Governor. In the event the committee rejects a project
25 agreement negotiated and approved by the Governor, then the
26 Governor shall repeat the process provided for in this act
27 until such time as a project may be approved by the committee.

1 (e) The Governor shall execute each project
2 agreement made herein, in accordance with all applicable
3 provisions of law and not inconsistent with any provision of
4 this act, and the written approval of the Governor shall be
5 set forth on each such project agreement.

6 (f) The term of any ground lease shall not exceed 70
7 years, including all extension and renewal periods. The
8 Governor, no sooner than one year prior to the expiration date
9 of any ground lease, or immediately upon termination of any
10 ground lease prior to the expiration date of the ground lease,
11 may enter negotiations with any person for execution of a
12 subsequent ground lease. The provisions of any ground lease
13 executed pursuant to this act shall be in accordance with all
14 applicable provisions of law and not inconsistent with this
15 act.

16 (g) If any project agreement is terminated prior to
17 or upon the expiration thereof, the Governor may, from time to
18 time, issue new requests for proposals as provided herein.
19 Any proposal submitted in response to a request for proposal
20 shall be subject to the provisions of this act and all other
21 provisions of law, unless otherwise expressly provided for in
22 this act. Any person, other than the state, who was a party
23 to an executed project agreement or any part thereof, shall
24 not be eligible to submit a proposal or become a party to an
25 executed project agreement or any part thereof, subsequent to
26 termination of any executed project agreement to which the
27 person was a party.

1 Section 6. Any contract for the acquisition,
2 construction, or installation of any part of the project that
3 shall be paid for or financed with public funds shall be
4 subject to the laws of the state now or hereafter in effect
5 that require competitive bids for the contract, including,
6 without limitation, Chapter 2 of Title 39 and Chapter 16 of
7 Title 41, Code of Alabama 1975. Any contract for the
8 acquisition, construction, or installation of any part of the
9 project that shall not be paid for or financed with public
10 funds shall be exempt from the laws of the state at any time
11 in effect that required competitive bids for the contracts.

12 Section 7. (a) Any part of the project revenues
13 which, by the terms of the project agreement, are subject to a
14 claim in favor of the department or the state, or are payable
15 or paid to the department or the state, shall be public funds
16 and distributed in accordance with subsection (c).

17 (b) Any part of the project revenues which, by the
18 terms of the project agreement, are to be retained, applied,
19 or used by the user thereunder, whether with respect to the
20 project or otherwise, shall not be public funds and shall not
21 be funds of the state.

22 (c) All project revenues which are public funds as
23 provided for in subsection (a), shall be distributed to the
24 Department of Conservation and Natural Resources.

25 Section 8. Subject to compliance with applicable
26 provisions of the Constitution of Alabama of 1901, as amended,
27 the state or any political subdivision of the state, upon

1 approval by the governing body thereof in accordance with law
2 and upon such terms and with or without consideration as it
3 determines, may do all of the following:

4 (1) Lend or donate money for, or perform services
5 for the benefit of, the project.

6 (2) Donate, sell, convey, transfer, lease, or grant
7 any property of any kind to, or for the use or benefit of, the
8 project.

9 (3) Grant abatements of taxes for the benefit of the
10 project, provided however, that there shall be no abatement of
11 taxes of which the proceeds are designated for the benefit of
12 public education.

13 (4) Do any and all things, whether or not
14 specifically authorized in this section, not otherwise
15 prohibited by law, that are necessary or convenient to aid the
16 planning, undertaking, acquisition, construction, financing,
17 maintenance, management, operation, repair, or capital
18 improvement of the project.

19 (5) Incur indebtedness in order to provide moneys to
20 make any loan, donation, or payment authorized in this
21 section.

22 Section 9. Other than project revenues, only
23 National Resource Damage Assessment funds or Restore Act funds
24 may be expended to implement this act. If the State of Alabama
25 does not receive or has not be awarded any National Resource
26 Damage Assessment funds or Restore Act funds for the purposes

1 of this act by December 31, 2015, this act is repealed on
2 January 1, 2016.

3 Section 10. (a) This act shall constitute complete
4 and comprehensive authority for the taking of all actions
5 necessary and desirable to put into effect the policy and
6 purposes of this act. This act shall only apply to the
7 property defined herein, and shall not be construed to apply
8 to any other state lands, including any other state park
9 lands. Insofar as this act may be in conflict or inconsistent
10 with any provisions of any other law concerning actions
11 authorized by this act, this act shall control and govern, any
12 other provision of law to the contrary notwithstanding.
13 Subject to the foregoing, this act does and shall be construed
14 to provide an additional and alternative method for the doing
15 of the things authorized thereby and shall be regarded as
16 supplemental and additional to other laws.

17 (b) The following provisions of law shall not apply
18 to a project agreement, or any part thereof, executed pursuant
19 to this act and the state and any party to an executed project
20 agreement shall not be required to comply with any of these
21 provisions of law in the execution, delivery, or performance
22 of a project agreement, or any part thereof:

23 (1) Article 2, Chapter 14 of Title 9, of the Code of
24 Alabama 1975.

25 (2) Article 3, Chapter 15 of Title 9, of the Code of
26 Alabama 1975.

1 Section 11. Chapters 14B and 14D of Title 9 of the
2 Code of Alabama 1975 are repealed.

3 Section 12. In the event that any provision of this
4 act shall be held or declared invalid or unenforceable by any
5 court of competent jurisdiction, the holding shall not
6 invalidate or render unenforceable any other provision hereof.

7 Section 13. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate committee on Tourism and Marketing.....	19-FEB-13
Read for the second time and placed on the calendar 3 amendments.....	07-MAR-13
Read for the third time and passed as amended	23-APR-13

Yeas 23
Nays 11

Patrick Harris
Secretary