

1 SB231
2 151477-5
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

1 SB231

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4 ENROLLED, An Act,

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

18 (1) DEPARTMENT. The Department of Conservation and
19 Natural Resources.

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

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

24 (4) GULF STATE PARK. The real property comprising
25 approximately 6,150 acres, and any future additions thereto,

1 including facilities and fixtures located thereon and
2 appurtenances thereto, owned and managed by the state and the
3 department in south Baldwin County, Alabama.

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

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

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

10 (8) PRIVATE PERSON. Any natural person, corporation,
11 general or limited partnership, limited liability company or
12 partnership, unincorporated association or organization, or
13 other nongovernmental entity.

14 (9) PROJECT. Real and personal property to be
15 located on the approximately 29 acre project site in Gulf
16 State Park, as described in Section 1(12), to consist of some
17 or all of the following: Lodge facilities; conference,
18 education, and meeting space; banquet areas; primary and
19 specialty restaurants; recreation and other facilities;
20 business centers; and infrastructure such as parking
21 facilities; transportation facilities for pedestrian and
22 vehicular traffic; utilities; and other structures or
23 improvements as presented by the Governor in a request for
24 proposal provided herein, or any other subsequent request.

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

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

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

1 (16) STATE. The State of Alabama.

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

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

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

1 Section 4. (a) The Governor may issue requests for
2 proposals, in part or in whole, for the construction,
3 development, improvement, lease, and beneficial use of a
4 project to persons whom the Governor shall have determined are
5 qualified.

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

10 (c) The Governor shall deliver written notice to
11 each person who submitted a proposal of the decision of the
12 Governor to accept or reject the proposal of the person within
13 60 days of the date on which the proposals were opened.

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

23 (b) Upon acceptance of a proposal by the Governor,
24 and subject to the provisions of subsection (a), the Governor
25 shall enter into negotiations of a project agreement with the

1 person who submitted the accepted proposal. Any project
2 agreement negotiated by the Governor shall provide that the
3 employment of engineers, architects, attorneys, contractors,
4 consultants or other employees or agents should reflect the
5 racial and ethnic diversity of the state. If, upon
6 negotiation, the Governor is unable to approve a project
7 agreement, then the Governor shall repeat the process provided
8 for in this act until such time as a project agreement is
9 approved by the Governor.

10 (c) Officers and employees of the department,
11 members of the Legislature, and members of their families, are
12 excluded from submission of a proposal hereunder.

13 (d) There is hereby established the Gulf State Park
14 Project Committee which shall consist of the Governor, who
15 shall be an ex officio member and chairman of the committee,
16 and seven other persons as follows: the Lieutenant Governor,
17 or his or her designee; the Speaker of the House of
18 Representatives, or his or her designee; the President Pro
19 Tempore of the Senate, or his or her designee; the State
20 Finance Director, or his or her designee; the Alabama
21 Secretary of Commerce, or his or her designee; the
22 Commissioner of the Department of Conservation and Natural
23 Resources, or his or her designee; and the Chair of the Joint
24 Legislative Committee on State Parks, or his or her designee.
25 The committee provided for herein shall meet at the call of

1 the chair, and five members present shall constitute a quorum.
2 The committee, by a majority vote of a quorum, may approve or
3 reject any project agreement negotiated and approved by the
4 Governor. In the event the committee rejects a project
5 agreement negotiated and approved by the Governor, then the
6 Governor shall repeat the process provided for in this act
7 until such time as a project may be approved by the committee.

8 (e) The Governor shall execute each project
9 agreement made herein, in accordance with all applicable
10 provisions of law and not inconsistent with any provision of
11 this act, and the written approval of the Governor shall be
12 set forth on each such project agreement.

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

23 (g) If any project agreement is terminated prior to
24 or upon the expiration thereof, the Governor may, from time to
25 time, issue new requests for proposals as provided herein.

1 Any proposal submitted in response to a request for proposal
2 shall be subject to the provisions of this act and all other
3 provisions of law, unless otherwise expressly provided for in
4 this act. Any person, other than the state, who was a party
5 to an executed project agreement or any part thereof, shall
6 not be eligible to submit a proposal or become a party to an
7 executed project agreement or any part thereof, subsequent to
8 termination of any executed project agreement to which the
9 person was a party.

10 Section 6. Any contract for the acquisition,
11 construction, or installation of any part of the project that
12 shall be paid for or financed with public funds shall be
13 subject to the laws of the state now or hereafter in effect
14 that require competitive bids for the contract, including,
15 without limitation, Chapter 2 of Title 39 and Chapter 16 of
16 Title 41, Code of Alabama 1975. Any contract for the
17 acquisition, construction, or installation of any part of the
18 project that shall not be paid for or financed with public
19 funds shall be exempt from the laws of the state at any time
20 in effect that required competitive bids for the contracts.

21 Section 7. (a) Any part of the project revenues
22 which, by the terms of the project agreement, are subject to a
23 claim in favor of the department or the state, or are payable
24 or paid to the department or the state, shall be public funds
25 and distributed in accordance with subsection (c).

1 (b) Any part of the project revenues which, by the
2 terms of the project agreement, are to be retained, applied,
3 or used by the user thereunder, whether with respect to the
4 project or otherwise, shall not be public funds and shall not
5 be funds of the state.

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

9 Section 8. Subject to compliance with applicable
10 provisions of the Constitution of Alabama of 1901, as amended,
11 the state or any political subdivision of the state, upon
12 approval by the governing body thereof in accordance with law
13 and upon such terms and with or without consideration as it
14 determines, may do all of the following:

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

17 (2) Donate, sell, convey, transfer, lease, or grant
18 any property of any kind to, or for the use or benefit of, the
19 project.

20 (3) Grant abatements of taxes for the benefit of the
21 project, provided however, that there shall be no abatement of
22 taxes of which the proceeds are designated for the benefit of
23 public education.

24 (4) Do any and all things, whether or not
25 specifically authorized in this section, not otherwise

1 prohibited by law, that are necessary or convenient to aid the
2 planning, undertaking, acquisition, construction, financing,
3 maintenance, management, operation, repair, or capital
4 improvement of the project.

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

8 Section 9. Other than project revenues, only
9 National Resource Damage Assessment funds or Restore Act funds
10 may be expended to implement this act. If the State of Alabama
11 does not receive or has not be awarded any National Resource
12 Damage Assessment funds or Restore Act funds for the purposes
13 of this act by December 31, 2015, this act is repealed on
14 January 1, 2016.

15 Section 10. (a) This act shall constitute complete
16 and comprehensive authority for the taking of all actions
17 necessary and desirable to put into effect the policy and
18 purposes of this act. This act shall only apply to the
19 property defined herein, and shall not be construed to apply
20 to any other state lands, including any other state park
21 lands. Insofar as this act may be in conflict or inconsistent
22 with any provisions of any other law concerning actions
23 authorized by this act, this act shall control and govern, any
24 other provision of law to the contrary notwithstanding.
25 Subject to the foregoing, this act does and shall be construed

1 to provide an additional and alternative method for the doing
2 of the things authorized thereby and shall be regarded as
3 supplemental and additional to other laws.

4 (b) The following provisions of law shall not apply
5 to a project agreement, or any part thereof, executed pursuant
6 to this act and the state and any party to an executed project
7 agreement shall not be required to comply with any of these
8 provisions of law in the execution, delivery, or performance
9 of a project agreement, or any part thereof:

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

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

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

16 Section 12. In the event that any provision of this
17 act shall be held or declared invalid or unenforceable by any
18 court of competent jurisdiction, the holding shall not
19 invalidate or render unenforceable any other provision hereof.

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB231

Senate 23-APR-13

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris
Secretary

House of Representatives
Passed: 02-MAY-13

By: Senator Pittman