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3 PITTMAN SUBSTITUTE FOR SB 231
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8 SYNOPSIS: This bill would authorize the Governor to
9 issue requests for proposals, accept proposals, and
10 negotiate and execute project agreements at Gulf
11 State Park for the enhancement of the park.

12 This bill would create the Gulf State Park
13 Project Committee to approve or reject any
14 long-term lease at the project site and to approve
15 or reject any project agreement approved by the
16 Governor.

17 This bill would provide that certain laws
18 specifically enumerated in this act shall not be
19 applicable to any project agreement executed
20 pursuant to this act, the state, and any party to
21 an executed project agreement.

22 This bill would repeal Chapters 14B and 14D
23 of Title 9 of the Code of Alabama 1975.

24 This bill would prohibit the sale of the
25 project site, and prohibit the long-term lease of
26 certain state park or park real property, unless

1 the Gulf State Park Project Committee approves such
2 long-term lease by majority vote.

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4 A BILL
5 TO BE ENTITLED
6 AN ACT

7
8 Relating to Gulf State Park; to provide that the
9 project site shall not be sold; requiring the Gulf State Park
10 Project Committee to approve by a majority vote a long-term
11 lease of the project site; to provide for the management of
12 requests for proposals, negotiated project agreements, and
13 projects at the park by the Governor; to provide that certain
14 laws specifically enumerated in this act are not applicable to
15 persons submitting proposals and any party to an executed
16 project agreement; and to repeal Chapters 14B and 14D of Title
17 9 of the Code of Alabama 1975.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

21 (1) DEPARTMENT. The Department of Conservation and
22 Natural Resources.

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

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

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

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

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

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

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

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

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

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

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

12 a. Contact information for the Governor or his or
13 her designee for inquiries relating to the request for
14 proposal.

15 b. The date, time, and place where proposals must be
16 received.

17 c. The evaluation criteria for assessing the
18 proposals.

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

23 (16) STATE. The State of Alabama.

24 Section 2. (a) Any state park or park property lying
25 seaward of the current location of Alabama Highway 182 in
26 Baldwin County, Alabama, shall not be sold. The project site

1 and any portion thereof, including buildings and structures
2 constructed on the project site, shall not be sold.

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

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

23 (b) After the opening of the proposals, the
24 proposals shall be immediately placed on file and available
25 for public inspection and shall become matters of public
26 record.

1 (c) The Governor shall deliver written notice to
2 each person who submitted a proposal of the decision of the
3 Governor to accept or reject the proposal of the person within
4 60 days of the date on which the proposals were opened.

5 Section 4. (a) No later than 30 days after
6 acceptance of a proposal by the Governor, the Governor shall
7 submit the accepted proposal to the State Finance Director and
8 Alabama Building Commission for evaluation, review, and
9 comments pertaining to the information provided in the
10 proposal. The State Finance Director and Alabama Building
11 Commission shall provide such evaluation, review, and comments
12 to the Governor no later than 60 days after acceptance of a
13 proposal by the Governor.

14 (b) Upon acceptance of a proposal by the Governor,
15 and subject to the provisions of subsection (a), the Governor
16 shall enter into negotiations of a project agreement with the
17 person who submitted the accepted proposal. Any project
18 agreement negotiated by the Governor shall provide that the
19 employment of engineers, architects, attorneys, contractors,
20 consultants or other employees or agents should reflect the
21 racial and ethnic diversity of the state. If, upon
22 negotiation, the Governor is unable to approve a project
23 agreement, then the Governor shall repeat the process provided
24 for in this act until such time as a project agreement is
25 approved by the Governor.

1 (c) Officers and employees of the department,
2 members of the Legislature, and members of their families, are
3 excluded from submission of a proposal hereunder.

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

24 (e) The Governor shall execute each project
25 agreement made herein, in accordance with all applicable
26 provisions of law and not inconsistent with any provision of

1 this act, and the written approval of the Governor shall be
2 set forth on each such project agreement.

3 (f) The term of any ground lease shall not exceed 30
4 years, including all extension and renewal periods. The
5 Governor, no sooner than one year prior to the expiration date
6 of any ground lease, or immediately upon termination of any
7 ground lease prior to the expiration date of the ground lease,
8 may enter negotiations with any person for execution of a
9 subsequent ground lease. The provisions of any ground lease
10 executed pursuant to this act shall be in accordance with all
11 applicable provisions of law and not inconsistent with this
12 act.

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

25 Section 5. Any contract for the acquisition,
26 construction, or installation of any part of the project that
27 shall be paid for or financed with public funds shall be

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

9 Section 6. (a) Any part of the project revenues
10 which, by the terms of the project agreement, are subject to a
11 claim in favor of the department or the state, or are payable
12 or paid to the department or the state, shall be public funds
13 and distributed in accordance with subsection (c).

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

19 (c) All project revenues which are public funds as
20 provided for in subsection (a), shall be distributed as
21 follows:

22 (1) 50% to the Department of Conservation and
23 Natural Resources for use and benefit of the State Park
24 System.

25 (2) 50% to the credit of the State General Fund.

26 Section 7. Subject to compliance with applicable
27 provisions of the Constitution of Alabama of 1901, as amended,

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

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

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

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

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

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

23 Section 8. (a) This act shall constitute complete
24 and comprehensive authority for the taking of all actions
25 necessary and desirable to put into effect the policy and
26 purposes of this act. This act shall only apply to the
27 property defined herein, and shall not be construed to apply

1 to any other state lands, including any other state park
2 lands. Insofar as this act may be in conflict or inconsistent
3 with any provisions of any other law concerning actions
4 authorized by this act, this act shall control and govern, any
5 other provision of law to the contrary notwithstanding.
6 Subject to the foregoing, this act does and shall be construed
7 to provide an additional and alternative method for the doing
8 of the things authorized thereby and shall be regarded as
9 supplemental and additional to other laws.

10 (b) The following provisions of law shall not apply
11 to a project agreement, or any part thereof, executed pursuant
12 to this act and the state and any party to an executed project
13 agreement shall not be required to comply with any of these
14 provisions of law in the execution, delivery, or performance
15 of a project agreement, or any part thereof:

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

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

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

22 Section 10. In the event that any provision of this
23 act shall be held or declared invalid or unenforceable by any
24 court of competent jurisdiction, the holding shall not
25 invalidate or render unenforceable any other provision hereof.

1 Section 11. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.