

Chapter No. 503
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HOUSE BILL NO. 1716

Originated in House Don Richardson Clerk

HOUSE BILL NO. 1716

AN ACT TO PROVIDE A STATE INCOME TAX CREDIT FOR CERTAIN TAXPAYERS THAT ALLOW LAND TO BE USED AS A NATURAL AREA PRESERVE, WILDLIFE REFUGE OR HABITAT AREA, WILDLIFE MANAGEMENT AREA, OR FOR THE PURPOSE OF PROVIDING PUBLIC OUTDOOR RECREATIONAL OPPORTUNITIES; TO PROVIDE THAT THE AMOUNT OF THE CREDIT CLAIMED BY A TAXPAYER SHALL BE \$5.50 PER ACRE OF SUCH LAND; TO PROVIDE THAT SUCH LAND MAY NOT BE UNDER LEASE TO THE COMMISSION ON WILDLIFE, FISHERIES AND PARKS; TO PROVIDE THAT THE COMMISSION MUST APPROVE THE LAND AS BEING SUITABLE FOR SUCH USES; TO AMEND SECTIONS 49-1-29, 49-5-71 AND 49-5-155, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. (1) A credit is allowed against the taxes imposed by this chapter to a taxpayer for allowing land owned by the taxpayer to be used as a natural area preserve, a wildlife refuge or habitat area, a wildlife management area, or for the purpose of providing public outdoor recreational opportunities, as authorized under Section 49-1-29, 49-1-71 or 49-5-155, subject to the following conditions and limitations:

(a) The land may not be under lease to the Mississippi Commission on Wildlife, Fisheries and Parks, and the commission must approve the land as being suitable for the uses described in this section.

(b) The amount of the tax credit allowed by this section shall be Five Dollars and Fifty Cents (\$5.50) per acre of land in each taxable year.

(c) In no event shall the amount of the tax credits allowed by this section for a taxable year exceed the taxpayer's liability for those taxes. Any unused credit amount shall be allowed to be carried forward for five (5) years from the close of

the taxable year in which the land was approved for such a use. No such credit shall be allowed the taxpayer against prior years' tax liability.

(2) To claim a credit allowed by this section, the taxpayer shall provide any information required by the Mississippi Commission on Wildlife, Fisheries and Parks or the Mississippi Commissioner of Revenue. Every taxpayer claiming a credit under this section shall maintain and make available for inspection by the Mississippi Commission on Wildlife, Fisheries and Parks or the Mississippi Commissioner of Revenue any records that either entity considers necessary to determine and verify the amount of the credit to which the taxpayer is entitled. The burden of proving eligibility for a credit and the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer that fails to maintain adequate records or to make them available for inspection.

(3) Upon approval of the Commission on Wildlife, Fisheries and Parks under subsection (1)(a), a taxpayer seeking to claim any tax credit provided for under this section must submit an application to the Mississippi Commissioner of Revenue for approval of the tax credit. The Mississippi Commissioner of Revenue shall promulgate the rules and forms on which the application is to be submitted. The Mississippi Commissioner of Revenue shall review the application and may approve such application upon determining that it meets the requirements of this section within sixty (60) days after receiving the application.

SECTION 2. Section 49-1-29, Mississippi Code of 1972, is amended as follows:

49-1-29. The commission may promulgate rules and regulations, inaugurate studies and surveys, and establish any services it deems necessary to carry out wildlife laws. A violation of any rules or regulations promulgated by the

commission shall constitute a misdemeanor and shall be punished as provided in Section 49-7-101.

The executive director shall have authority with commission approval:

(a) To close or shorten the open season as prescribed by law in cases of urgent emergency on any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians, in any locality, when it finds after investigation and public review that the action is reasonably necessary to secure the perpetuation of any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians and to maintain an adequate supply in the affected area. The statutes shall continue in full force and effect, except as restricted and limited by the rules and regulations promulgated by the commission.

(b) To designate wildlife refuges, with the consent of the property owner or owners, in any localities it finds necessary to secure perpetuation of any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians and to maintain an adequate supply for the purpose of providing a safe retreat where the animals may rest and replenish adjacent hunting, trapping or fishing grounds or waters, and to approve land suitable for such purposes as eligible for the income tax credit authorized under Section 1 of this act.

(c) To acquire and hold for the state by purchase, condemnation, lease, or agreement as authorized from time to time by the Legislature, and to receive by gifts or devise, lands or water suitable for fish habitats, game and bird habitats, state parks, access sites, wildlife refuges, or for public shooting, trapping or fishing grounds or waters, to provide areas on which any citizen may hunt, trap or fish under any special regulations as the commission may prescribe, and to approve lands suitable for such purposes as eligible for the income tax credit authorized under Section 1 of this act.

(d) To extend and consolidate lands or waters suitable for the above purposes by exchange of lands or waters under its jurisdiction.

(e) To capture, propagate, transport, sell or exchange any species of game birds, game or fur-bearing animals, reptiles, fish or amphibians needed for stocking or restocking any lands or waters of the state.

(f) To enter into cooperative agreements with persons, firms, corporations or governmental agencies for purposes consistent with this chapter.

(g) To regulate the burning of rubbish, slashings and marshes or other areas it may find reasonably necessary to reduce the danger of destructive fires.

(h) To conduct research in improved wildlife and fisheries conservation methods and to disseminate information to the residents of the state through the schools, public media and other publications.

(i) To have exclusive charge and control of the propagation and distribution of wild birds, animals, reptiles, fish and amphibians, the conduct and control of hatcheries, biological stations and game and fur farms owned or acquired by the state; to expend for the protection, propagation or preservation of game birds, game or fur-bearing animals, reptiles, fish and amphibians all funds of the state acquired for this purpose arising from licenses, gifts or otherwise; and shall have charge of the enforcement of all wildlife laws.

(j) To grant permits and provide regulations for field trials and dog trainers.

(k) To prohibit and to regulate the taking of nongame gross fish, except minnows.

(l) To enter into agreements with landowners to trap and purchase quail on the premises of the landowner and to provide for the distribution of quail.

(m) To operate or lease to third persons concessions or other rights or privileges on lakes owned or leased by the department. Owners of land adjoining land owned or leased by the department shall have priority to the concessions or rights or privileges, if the owners meet the qualifications established by the commission.

(n) To implement a beaver control program and to charge fees, upon the recommendation of the Beaver Control Advisory Board, to landowners participating in the beaver control program described in Section 49-7-201.

(o) To apply for, receive and expend any federal, state or local funds, contributions or funds from any other source for the purpose of beaver control or eradication.

(p) To require the department to divide the districts into zones if necessary, and periodically survey the districts or zones to obtain information that is necessary to properly determine the population and allowable harvest limits of wildlife within the district or zone.

(q) To require Chronic Wasting Disease (CWD) testing of white-tailed deer harvested within any enclosure; to grant wildlife personnel authority to access the property and depopulate white-tailed deer within an enclosure where CWD has been diagnosed; and to grant wildlife personnel authority to access the property and utilize lethal collection methods to obtain tissue samples for testing where CWD has been diagnosed within five (5) miles of the enclosure.

SECTION 3. Section 49-5-71, Mississippi Code of 1972, is amended as follows:

49-5-71. (1) The Mississippi Commission on Wildlife, Fisheries and Parks is hereby authorized to acquire interests in real estate and personal property through purchase, donation, bequest or devise in furtherance of the purposes of Sections 49-5-61 through 49-5-85 and otherwise in accordance with the

provisions of law. The commission is authorized to approve land or real estate suitable for such purposes as eligible for the income tax credit authorized under Section 1 of this act.

(2) Before such real estate is purchased or leased, the fair market value of such real estate shall be determined by the averaging of at least two (2) appraisals by Mississippi Certified General Appraisers. Such appraisals shall be paid for by the State of Mississippi.

(3) The commission is hereby authorized to obtain abstracts and surveys, and to engage the services of attorneys to conduct the above described transactions. The commission is authorized to obtain title insurance on property purchased if, in the opinion of the commission, the best interests of the State of Mississippi would be served.

(4) In order to carry out its management responsibilities over all state lands which are now or may hereafter come under its jurisdiction, the Department of Wildlife, Fisheries and Parks is authorized to grant easements and rights-of-way over and across any part of such state lands. Such easements and rights-of-way may be granted for such consideration, and upon such terms and conditions, as the department may deem to be in the best interest of the state, consistent with the use of such lands for recreational purposes. Any easement for a utility line shall be granted for that period of time which the department deems to be in the best interest of the management of such lands.

SECTION 4. Section 49-5-155, Mississippi Code of 1972, is amended as follows:

49-5-155. (1) The owner of any natural area may dedicate that area as a natural area preserve by executing with the commission articles of dedication. The articles shall transfer such portion of the owner's estate as agreed upon by the owner and the commission to the commission for the people of Mississippi.

(2) The commission may acquire articles of dedication for consideration or by donation, devise or bequest. The articles of dedication shall be recorded in the office of the chancery clerk of the county in which any or all of the natural area is located before the area shall become a natural area preserve.

(3) The commission may dedicate any property owned by the commission as natural area preserve by filing and recording articles of dedication in the office of the chancery clerk of the county in which any or all of the area is located.

(4) The articles of dedication shall contain:

(a) Provisions for the management, custody and use of the natural area preserve;

(b) Provisions which define the rights and privileges of the owner and the commission or the managing agency, including any rights of the owner related to his eligibility for an income tax credit authorized under Section 1 of this act; and

(c) Such other provisions as the owner or commission shall deem necessary to discharge the provisions of Sections 49-5-141 through 49-5-157 or to complete the transfer.

(5) The commission shall agree to no articles of dedication which do not provide for the protection, preservation and management of the natural area in a manner consistent with the intent and purposes of Sections 49-5-141 through 49-5-157.

(6) Any interest in real property owned by the commission in a natural area preserve shall be exempt from all ad valorem taxation levied by the State of Mississippi or any county or municipality or other political subdivision of this state. Any person who shall convey any interest in real property to the commission for the purposes set forth in Sections 49-5-141 through 49-5-157 shall be entitled to have the assessment of such property reduced by the amount of the value of the interest conveyed to the commission. The authorities responsible for determining and making the assessment shall also determine the value of the

interest conveyed to the commission. This reduction in the assessment of such property shall terminate when the interest conveyed to the commission terminates.

(7) The commission shall be the agency of the State of Mississippi primarily responsible for acquisition of natural area preserves, but no provision of Sections 49-5-141 through 49-5-157 shall be construed to limit the commission's authority to acquire other property. Any property acquired by the commission or any other agency of the state or political subdivision thereof pursuant to any other authority in law may be dedicated according to this section.

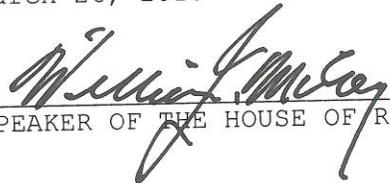
(8) No provisions of Sections 49-5-141 through 49-5-157 shall be construed to limit the authority of any other agency to acquire and dedicate natural areas according to the provisions of Sections 49-5-141 through 49-5-157.

SECTION 5. Section 1 of this act shall be codified as a separate code section in Chapter 7, Title 27, Mississippi Code of 1972.

SECTION 6. Nothing in this act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due or accrued under the income tax laws before the date on which this act becomes effective, whether such claims, assessments, appeals, suits or actions have been begun before the date on which this act becomes effective or are begun thereafter; and the provisions of the income tax laws are expressly continued in full force, effect and operation for the purpose of the assessment, collection and enrollment of liens for any taxes due or accrued and the execution of any warrant under such laws before the date on which this act becomes effective, and for the imposition of any penalties, forfeitures or claims for failure to comply with such laws.

SECTION 7. This act shall take effect and be in force from and after January 1, 2010.

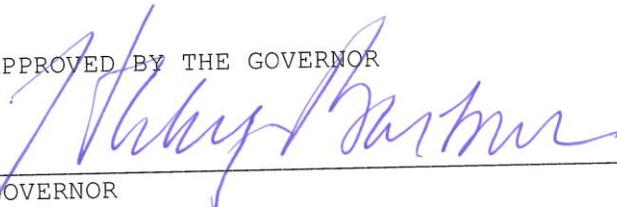
PASSED BY THE HOUSE OF REPRESENTATIVES
March 26, 2010


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 25, 2010


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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