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Chapter No. 487
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SENATE BILL NO. 2700

Originated in Senate Liz Welch Secretary

SENATE BILL NO. 2700

AN ACT TO AMEND SECTIONS 1 THROUGH 21, CHAPTER 522, LAWS OF 2002, AS AMENDED BY SECTION 10, CHAPTER 431, LAWS OF 2011, TO AUTHORIZE FUNDS IN THE DEER ISLAND ACQUISITION, RECLAMATION AND PRESERVATION FUND TO BE UTILIZED FOR THE ACQUISITION, RECLAMATION AND PRESERVATION OF CAT ISLAND; TO REVISE THE TIME WITHIN WHICH THE SECRETARY OF STATE MUST MAKE AN ACCOUNTING OF UNUSED BOND PROCEEDS ISSUED UNDER THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

SECTION 1. Sections 1 through 21, Chapter 522, Laws of 2002, as amended by Section 10, Chapter 431, Laws of 2011, are amended as follows:

Section 10. Sections 1 through 21, Chapter 522, Laws of 2002, are amended as follows:

Section 1. As used in Sections 1 through 19 of this act, the following words shall have the meanings ascribed herein unless the context clearly requires otherwise:

(a) "Accreted value" of any bond means, as of any date of computation, an amount equal to the sum of (i) the stated initial value of such bond, plus (ii) the interest accrued thereon

from the issue date to the date of computation at the rate, compounded semiannually, that is necessary to produce the approximate yield to maturity shown for bonds of the same maturity.

(b) "Coastal" means within the geographical area of Hancock, Harrison and Jackson Counties.

(c) "Coastal preserve" means an exceptional area of uplands, wetlands, tidelands or submerged lands and their associated waters set aside for preserving their ecological integrity and for being maintained essentially in their natural state or existing condition for the public benefit.

(d) "Coastal Preserve System" means the entire body of Mississippi coastal preserves as heretofore previously designated by the Mississippi Commission on Marine Resources pursuant to Section 49-27-65(c) and as may be designated in the future.

(e) "State" means the State of Mississippi.

(f) "Commission" means the State Bond Commission.

(g) "Department" means the Mississippi Department of Marine Resources.

Section 2. (1) (a) A special fund, to be designated as the "Deer * * * <u>and Cat Islands</u> Acquisition, Reclamation and Preservation Fund," is created within the State Treasury. The fund shall be maintained by the State Treasurer as a separate and special fund, separate and apart from the General Fund of the state. Unexpended amounts remaining in the fund at the end of a

fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such special fund.

(b) Monies deposited into the fund shall be disbursed, in the discretion of the Secretary of State, to provide funds for the acquisition, reclamation, and preservation of Deer * * * and Cat Islands as part of the Coastal Preserve System, with the Coastal Preserve System to be managed by the Department of Marine Resources in cooperation with the Secretary of State. However, the Department of Marine Resources may not take any action relating to Deer * * * and Cat Islands unless authorized by the Mississippi Commission on Marine Resources at a meeting or meetings complying with the provisions of Section 25-41-1 et seq., Mississippi Code of 1972. The Mississippi Commission on Marine Resources shall comply with the Mississippi Administrative Procedures Law (Section 25-43-1 et seq., Mississippi Code of 1972) in promulgating and adopting rules or regulations, or both, relating to Deer * * * and Cat Islands.

(c) Acquisition of Deer * * * and Cat Islands shall be based upon appraisal and the acquisition price shall not be an amount in excess of its appraised value. For purposes of this paragraph one (1) appraisal shall be sufficient.

(2) Amounts deposited into such special fund shall be disbursed to pay the costs of acquisition, reclamation and preservation of Deer * * * and Cat Islands as described in

subsection (1) of this section. If any monies in such special fund are not used within five (5) years after the date the proceeds of the bonds authorized under Sections 1 through 19 of this act are deposited into the special fund, <u>or within five (5) years after the effective date of Senate Bill No. 2700, 2013 Regular Session, whichever is later,</u> then the Secretary of State shall provide an accounting of such unused monies to the commission. Promptly after the commission has certified, by resolution duly adopted, that the projects described in subsection (1) of this section shall have been completed, abandoned, or cannot be completed in a timely fashion, any amounts remaining in such special fund shall be applied to pay debt service on the bonds issued under Sections 1 through 19 of this act, in accordance with the proceedings authorizing the issuance of such bonds and as directed by the commission.

(3) The Secretary of State is expressly authorized and empowered to receive and expend any other source funds in connection with the expenditure of funds provided for in this section. The expenditure of monies deposited into the special fund shall be under the direction of the Secretary of State, and such funds shall be paid by the State Treasurer upon warrants issued by the Department of Finance and Administration, which warrants shall be issued upon requisitions signed by the Executive Director of the Department of Finance and Administration or his designee.

Section 3. For the purpose of providing for the payment of the principal of and the interest upon bonds issued under the provisions of Sections 1 through 19 of this act or any indebtedness incurred under Section 20 of this act, or both, there is hereby created in the State Treasury the "Deer * * * and Cat Islands Acquisition, Reclamation and Preservation Bond Sinking Fund." Such sinking fund shall consist of the money required to be deposited into such fund pursuant to Section 18 of this act and such other amounts as shall be paid into such fund by appropriation or other authorization by the Legislature. Funds required in excess of the amounts available in the Deer * * * and Cat Islands Acquisition, Reclamation and Preservation Bond Sinking Fund to pay the principal of and the interest upon bonds issued under the provisions of Sections 1 through 19 of this act shall be appropriated from the State General Fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse into the State General Fund, and any interest earned or investment earnings on amounts in the fund shall be deposited into such fund.

Section 4. (1) The commission, at one time, or from time to time, may declare by resolution the necessity for issuance of general obligation bonds of the State of Mississippi to provide funds for all costs incurred or to be incurred for the purposes described in Section 2 of this act. Upon the issuance of a certificate by the Secretary of State, declaring the necessity for the issuance of any part or all of the general obligation bonds

authorized by this section, the Secretary of State shall deliver a certified copy of his certificate or certificates to the commission. Upon receipt of such certificate, the commission, in its discretion, may act as the issuing agent, prescribe the form of the bonds, determine the appropriate method for sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. Subject to the provisions of this act, the total amount of bonds issued under Sections 1 through 19 of this act shall not exceed Ten Million Dollars ($10,000,000.00).

(2) Any investment earnings on amounts deposited into the special fund created in Section 2 of this act shall be used to pay debt service on bonds issued under Sections 1 through 19 of this act, in accordance with the proceedings authorizing issuance of such bonds.

Section 5. The principal of and interest on the bonds authorized under Sections 1 through 19 of this act shall be payable in the manner provided in this section. Such bonds shall bear such date or dates, be in such denomination or denominations, bear interest at such rate or rates (not to exceed the limits set forth in Section 75-17-101, Mississippi Code of 1972), be payable at such place or places within or without the State of Mississippi, shall mature absolutely at such time or times not to

exceed ten (10) years from date of issue, be redeemable before maturity at such time or times and upon such terms, with or without premium, shall bear such registration privileges, and shall be substantially in such form, all as shall be determined by resolution of the commission.

Section 6. The bonds authorized by Sections 1 through 19 of this act shall be signed by the chairman of the commission, or by his facsimile signature, and the official seal of the commission shall be affixed thereto, attested by the secretary of the commission. The interest coupons, if any, to be attached to such bonds may be executed by the facsimile signatures of such officers. Whenever any such bonds shall have been signed by the officials designated to sign the bonds who were in office at the time of such signing but who may have ceased to be such officers before the sale and delivery of such bonds, or who may not have been in office on the date such bonds may bear, the signatures of such officers upon such bonds and coupons shall nevertheless be valid and sufficient for all purposes and have the same effect as if the person so officially signing such bonds had remained in office until their delivery to the purchaser, or had been in office on the date such bonds may bear. However, notwithstanding anything herein to the contrary, such bonds may be issued as provided in the Registered Bond Act of the State of Mississippi.

Section 7. All bonds and interest coupons issued under the provisions of Sections 1 through 19 of this act have all the

qualities and incidents of negotiable instruments under the provisions of the Uniform Commercial Code, and in exercising the powers granted by Sections 1 through 19 of this act, the commission shall not be required to and need not comply with the provisions of the Uniform Commercial Code.

Section 8. The commission shall act as the issuing agent for the bonds authorized under Sections 1 through 19 of this act, prescribe the form of the bonds, determine the appropriate method for the sale of the bonds, advertise for and accept bids or negotiate the sale of the bonds, issue and sell the bonds so authorized to be sold, pay all fees and costs incurred in such issuance and sale, and do any and all other things necessary and advisable in connection with the issuance and sale of such bonds. The commission is authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds authorized under Sections 1 through 19 of this act from the proceeds derived from the sale of such bonds. The commission shall sell such bonds on sealed bids at public sale or negotiate the sale of the bonds for such price as it may determine to be for the best interest of the State of Mississippi. All interest accruing on such bonds so issued shall be payable semiannually or annually.

If the bonds are to be sold on sealed bids at public sale, notice of the sale of any such bonds shall be published at least one time, not less than ten (10) days before the date of sale, and

shall be so published in one or more newspapers published or having a general circulation in the City of Jackson, Mississippi, selected by the commission.

The commission, when issuing any bonds under the authority of Sections 1 through 19 of this act, may provide that bonds, at the option of the State of Mississippi, may be called in for payment and redemption at the call price named therein and accrued interest on such date or dates named therein.

Section 9. The bonds issued under the provisions of Sections 1 through 19 of this act are general obligations of the State of Mississippi, and for the payment thereof the full faith and credit of the State of Mississippi is irrevocably pledged. If the funds available in the Deer * * * <u>and Cat Islands</u> Acquisition, Reclamation and Preservation Bond Sinking Fund and any funds appropriated by the Legislature are insufficient to pay the principal of and the interest on such bonds as they become due, then the deficiency shall be paid by the State Treasurer from any funds in the State Treasury not otherwise appropriated. All such bonds shall contain recitals on their faces substantially covering the provisions of this section.

Section 10. Upon the issuance and sale of bonds under the provisions of Sections 1 through 19 of this act, the commission shall transfer the proceeds of any such sale or sales to the special fund created in Section 2 of this act. The proceeds of such bonds shall be disbursed solely upon the order of the

Secretary of State under such restrictions, if any, as may be contained in the resolution providing for the issuance of the bonds.

Section 11. The bonds authorized under Sections 1 through 19 of this act may be issued without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specified or required by Sections 1 through 19 of this act. Any resolution providing for the issuance of bonds under the provisions of Sections 1 through 19 of this act shall become effective immediately upon its adoption by the commission, and any such resolution may be adopted at any regular or special meeting of the commission by a majority of its members.

Section 12. The bonds authorized under the authority of Sections 1 through 19 of this act may be validated in the Chancery Court of the First Judicial District of Hinds County, Mississippi, in the manner and with the force and effect provided by Chapter 13, Title 31, Mississippi Code of 1972, for the validation of county, municipal, school district and other bonds. The notice to taxpayers required by such statutes shall be published in a newspaper published or having a general circulation in the City of Jackson, Mississippi.

Section 13. Any holder of bonds issued under the provisions of Sections 1 through 19 of this act or of any of the interest coupons pertaining thereto may, either at law or in equity, by

suit, action, mandamus or other proceeding, protect and enforce any and all rights granted under Sections 1 through 19 of this act, or under such resolution, and may enforce and compel performance of all duties required by Sections 1 through 19 of this act to be performed, in order to provide for the payment of bonds and interest thereon.

Section 14. All bonds issued under the provisions of Sections 1 through 19 of this act shall be legal investments for trustees and other fiduciaries, and for savings banks, trust companies and insurance companies organized under the laws of the State of Mississippi, and such bonds shall be legal securities which may be deposited with and shall be received by all public officers and bodies of this state and all municipalities and political subdivisions for the purpose of securing the deposit of public funds.

Section 15. Bonds issued under the provisions of Sections 1 through 19 of this act and income therefrom shall be exempt from all taxation in the State of Mississippi.

Section 16. The proceeds of the bonds issued under Sections 1 through 19 of this act shall be used solely for the purposes herein provided, including the costs incident to the issuance and sale of such bonds.

Section 17. The State Treasurer is authorized, without further process of law, to certify to the Department of Finance and Administration the necessity for warrants, and the Department

of Finance and Administration is authorized and directed to issue such warrants, in such amounts as may be necessary to pay when due the principal of, premium, if any, and interest on, or the accreted value of, all bonds issued under Sections 1 through 19 of this act; and the State Treasurer shall forward the necessary amount to the designated place or places of payment of such bonds in ample time to discharge such bonds, or the interest thereon, on the due dates thereof.

Section 18. From the funds it receives under Section 29-15-9, Mississippi Code of 1972, the Commission on Marine Resources shall deposit the amount of funds necessary to annually pay the principal of and interest on bonds issued pursuant to Sections 1 through 19 of this act or any indebtedness incurred under Section 20 of this act, or both, into the Deer * * * <u>and Cat Islands</u> Acquisition, Reclamation and Preservation Bond Sinking Fund created in Section 3 of this act. Any funds received by the Commission on Marine Resources under Section 29-15-9, and used by the Commission on Marine Resources for any purpose related to the acquisition, reclamation and preservation of Deer * * * <u>and Cat Islands</u>, other than for deposit into the Deer * * * <u>and Cat Islands</u> Acquisition, Reclamation and Preservation Bond Sinking Fund created in Section 3 of this act, shall be subject to legislative appropriation.

Section 19. Except as otherwise provided in this act, Sections 1 through 19 of this act shall be deemed to be full and

complete authority for the exercise of the powers herein granted, but Sections 1 through 19 of this act shall not be deemed to repeal or to be in derogation of any existing law of this state.

Section 20. In addition to, and not as a limitation of, the availability of the use of proceeds from general obligation bonds issued under Sections 1 through 19 of this act, the Secretary of State may borrow money from the Mississippi Development Bank pursuant to Section 31-25-1 et seq., Mississippi Code of 1972, to provide funds for the acquisition, reclamation, and preservation of Deer Island as described in Section 2 of this act. Subject to the provisions of this act, any loan made by the Mississippi Development Bank to the Secretary of State for the purposes stated in this section may be made upon such terms and conditions as prescribed by and between the Mississippi Development Bank and the Secretary of State pursuant to Section 31-25-1 et seq. The Secretary of State may not borrow money from the Mississippi Development Bank under this section after July 1, 2005.

Section 21. The total amount of bonds issued under Sections 1 through 19 of this act and any indebtedness incurred under Section 20 of this act shall not exceed Ten Million Dollars ($10,000,000.00) in the aggregate.

SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
February 12, 2013

PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 12, 2013

SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR

GOVERNOR

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