

**Final Report  
To the Legislature of Alabama**

**Submitted by  
The Alabama Waterfront Access Study Committee  
March 11, 2011**

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## Introduction

During the 2010 Regular Session, House Joint Resolution 840 was adopted, extending the Alabama Waterfront Access Committee to the tenth legislative day of the 2011 Regular Session.

The Committee was assigned the following duties:

1. Gather information about local land-use management and zoning, current shoreline development trends, and local tax rates, including tax assessment trends for shoreline properties.
2. Collect research and information from Alabama and other states and jurisdictions regarding incentive-based techniques and management tools used to preserve waterfront diversity.
3. Assess the applicability of such tools and techniques to the coastal shorelines of Alabama.
4. Hold three public meetings to present recommendations.
5. Submit a final report to the Legislature during the 2010 Regular Session. The final report of the Committee is to address the actions and resources needed to achieve the goals of the Committee.

The membership of the committee consisted of the following 28 appointments:

1. Director of the Mississippi-Alabama Sea Grant Consortium; this appointee was Dr. LaDon Swann.
2. A representative of the Alabama Department of Conservation and Natural Resources; this appointee was Commissioner Barnett Lawley.
3. A representative of the Alabama Department of Conservation and Natural Resources, Marine Resources Division; this appointee was Vernon Minton, Director.
4. A representative of the Alabama Working Waterfront Coalition; this appointee was Mr. Brett Dungan.
5. A representative of the Alabama Port Authority; this appointee was Mr. James Lyons.
6. A representative of the commercial fishing industry appointed by the Speaker of the House of Representatives; this appointee was Mr. Joseph Rodriguez, Jr.
7. A representative of the recreational fishing industry appointed by the President Pro Tempore of the Senate; this appointee was Ms. Bobbi Walker.
8. A representative of the United States Army Corps of Engineers appointed by the Speaker of the House of Representatives; this appointee was Dr. Susan Rees.
9. An economist appointed by the President Pro Tempore of the Senate from one of the major colleges or universities in the state; this appointee was Dr. Samuel Addy.
10. A social scientist appointed by the Speaker of the House of Representatives from one of the major colleges or universities in the state; this appointee was Dr. Diane Hite.

11. A representative of the Alabama Home Builders Association; this appointee was Mr. W. Russell Davis.
12. A representative of the Alabama Association of Realtors; this appointee was Mr. J. Danny Cooper.
13. A representative of the marine trades and manufacturing industry appointed by the President Pro Tempore of the Senate; this appointee was Mr. Tom Steber.
14. A representative of the Alabama Bureau of Tourism and Travel; this appointee was Mr. Lee Sentell.
15. A representative of the commercial fishing support industry appointed by the Organized Seafood Association of Alabama, Inc.; this appointee was Mr. B.G. Thompson.
16. A local government representative from each of the congressional districts, with the representatives from odd-numbered districts appointed by the Speaker of the House of Representatives and the representatives from even-numbered districts appointed by the President Pro Tempore of the Senate; these appointees were Mr. Charles Kelley and Mr. Cline Jones.
17. The Chair of the Agriculture, Conservation, and Forestry Committee of the Senate, or his or her designee; this appointee was Senator Kim Benefield.
18. The Chair of the Agriculture, Conservation, and Forestry Committee of the House of Representatives, or his or her designee; this appointee was Representative Thomas Jackson.
19. The members of the House of Representatives representing House Districts 95 and 105; these appointees were Representative Steve McMillan and Representative Spencer Collier, respectively.
20. The members of the Senate representing Senate Districts 32 and 35; these appointees were Senator Ben Brooks and Senator Trip Pittman, respectively.

Although the Committee did not meet during the Regular Session, there were actions taken by the Auburn University Marine Extension and Research Center and the Mississippi-Alabama Sea Grant Consortium to further the recommendations made by the Committee in 2010.

## **Background**

Alabama is abundant with water. The identity, culture, and economy of the State are tied to this precious resource. The waters of the State are vital for tourism, transportation, municipal and industrial supply, fisheries production and recreation. It is important to balance access to Alabama's waters with other desires for waterfront development.

### **Water Resources**

Alabama is ranked first in the nation with the amount of navigable waterways and is ranked seventh in the nation with the highest number of river and stream miles, according to the Alabama Department of Economic and Community Affairs (2008). Alabama's inland water resources are among the most valuable economic and recreational assets. Nineteen river drainage systems have been impounded to create 563,000 acres of public

reservoirs, including 1400 miles of navigable waterways and over 23 state-managed public fishing lakes. (ADECA, 2008; ADCNR, 2009)

### **Economic Impacts**

Tourism: As reported in the Alabama Tourism and Travel Economic Impact Report of 2008, it is estimated that over 22 million travelers visited Alabama in 2008. Baldwin, Jefferson, Madison, Mobile and Montgomery were among the counties experiencing the largest number (63%) of travelers. Travelers spent approximately \$9.6 billion in 2008, an increase of 3% from 2007 and a 13% increase from 2006. Travel industry expenditures represent 5.7% of Alabama's Gross Domestic Product. It is estimated that 8.5% of non-agricultural employment in Alabama is directly or indirectly attributable to the travel and tourism industry. The total economic impact of the travel and tourism industry on Alabama in 2008 is estimated at over \$3.7 billion, with \$702 million of that generated into state and local tax revenues. According to the Gulf Coast Convention and Visitors Bureau website, approximately 4.5 million people visited Alabama's beaches in 2008 and left behind \$2.3 billion in travel-related expenditures. An estimated 41,500 people were employed in travel-related jobs and collected around \$928 million in wages (2009).

Employment: The coastal region of Alabama is among one of the most densely populated areas in the Gulf of Mexico and the nation. Major economic impacts provided to the state along the coast include tourism, recreation, commercial fishing, commercial shipping and offshore gas production. Close to 50,000 jobs (between 5% and 15% of the state's employment) along the Alabama coast were created by tourism and recreation. (GOMA, 2008)

Fisheries: The annual commercial fisheries landing statistics for Alabama in 2008 include over 24 million pounds with a landed value of over \$44 million. The 2 nationally ranked commercial fishery ports in Alabama are Bayou La Batre, with 19 million pounds landed annually and a landed value of over \$36 million, and Bon Secour-Gulf Shores with 5 million pounds landed and a landed value of over \$7 million. (NMFS, 2009)

Transport: There are approximately 1400 miles of federally funded navigable waterways in Alabama with links to 21 states. Over \$140 million in Federal dollars are brought into the state each year for waterways. The Port of Mobile is ranked the 9<sup>th</sup> largest port in the U.S. and has an economic impact of \$10.3 billion for the state of Alabama. Combined, the Alabama, Apalachicola-Chattahoochee-Flint, and the Tennessee River Systems, and Tennessee-Tombigbee and Warrior-Tombigbee Waterways have an economic impact of over \$23 billion and ship over 85 million tons each year. (Coalition of Alabama Waterways, 2008)

Recreation: Alabama's water resources provide an abundance of sport fish and other aquatic fauna, with over 200 species of freshwater fish and an estimated 300 species of saltwater fish. Access to freshwater fishing is listed as one of the top ten recreation needs in Alabama. (ADECA, 2008) In 2008 there were 279,944 boat registrations and over 486,000 recreational and commercial water-related fishing licenses issued in Alabama. (ADCNR, 2009)

## **Water Access**

The State provides resources for water-related activities. Most of the State's rivers have been impounded, increasing the scope of the water areas. It is projected that within the next year 83% of the recreational activities in which the population will participate will include activities involving water access. (ADECA, 2008) Access to inland waterways is abundant, but demand is outpacing access:

- The Alabama Division of Wildlife and Freshwater Fisheries maintains 182 inland public boat ramp lanes and water access areas.
- The U.S. Army Corps of Engineers maintains 14 impoundments and over 100 public-use areas throughout the state's waterways. The Corps recreation projects provide access to some of Alabama's major river systems, with swimming, picnicking, camping, fishing and boat launching facilities.
- The Tennessee Valley Authority maintains 4 reservoirs with 193,000 acres of surface water and 2662 miles of shoreline. There are 82,000 acres of shoreline available for public recreational use.
- Other river impoundments throughout the state are maintained by Alabama Power Company.

## **Threats**

An expanding population, especially on the coast, is leading to increased pressure to develop the waterfront, thereby decreasing waterfront access for both recreation and industry. Between the years 2000 and 2008, there has been a 6.6% overall population increase averaged within Alabama. Regions experiencing the most growth include Auburn-Opelika (12.1%), Huntsville (9.6%), Montgomery (8.7%) and Mobile (8.1%). (ADECA) According to the Center for Business and Economic Research at the University of Alabama, it is estimated that by 2025, the combined coastal population of Alabama will exceed 690,000 people, a 76.9% increase in Baldwin County and a 10.9% increase in Mobile County. (Mobile Bay NEP, 2008) Since 2000, Mobile, Baldwin, Jefferson, Madison and Shelby counties have seen a combined increase of 89% in their populations, a combined increase of 27% in their per capita incomes and a combined increase of 15% in the number of housing units. (U.S. Census, 2009)

## **Definitions**

The State of Alabama adheres to the public trust doctrine, which provides that the coastal waters of Alabama and the submerged lands below the mean high waterline belong to the people of the State and shall be available for their *use* and *enjoyment*. The State also recognizes that access to coastal and inland waters (waterfront access) is essential to economic development and the shared use and enjoyment of public trust waters, submerged lands, and inland streams, rivers, and lakes.

Working Waterfronts are commercial facilities that *require* direct access to or location on, over, or adjacent to Alabama's coastal public trust waters, submerged lands, and inland streams, rivers, and lakes. The term includes public waterfront access facilities that may be open to the public, offer access by vessels to State waters and lands, or support facilities for recreational, commercial, research, or government vessels.

Examples include, but are not limited to, commercial fishing facilities, including seafood processing facilities, wet and dry marinas, commercial or public docks, boat construction facilities, boat haul-out and repair facilities, recreational fishing facilities including fishing piers, facilities engaged in or offering boating for hire (e.g. charter, head, and tour boats), and facilities that require direct use/flow of coastal or inland waters, including wharf areas for marine aquaculture operations and product transport. Public municipal intakes or municipal water usage and delivery are not included.

Waterfront Access means a parcel, or parcels, of real property that provide access to *water-dependent* commercial and/or recreational activities in Alabama's public trust waters, on coastal public trust submerged lands, or inland streams, rivers, and lakes.

Public Waterfront Access Facility is a site or facility owned by a public entity that provides (or is capable of providing) public access for *water-dependent* activities in Alabama's coastal and inland public trust areas.

Examples include, but are not limited to, public boat ramps and other boat launching sites, public mooring facilities, waterfront parks and boardwalks, and public rights-of-way adjacent to Alabama's Department of Transportation roads and bridges.

### **Recommendations**

In March, 2010, the Alabama Waterfront Access Committee, in accordance with HJR656, submitted the following recommendations to the Alabama Legislature in order to protect and preserve waterfront access in the State of Alabama. Those recommendations were prioritized into three tiers, with Tier I priorities requiring the most immediate attention.

In accordance with HJR840, actions taken in furtherance of those recommendations are incorporated within the appropriate issue areas and highlighted in bold.

#### Planning/Zoning Issues

1. Complete a Comprehensive Working Waterfront plan as defined and enacted by any federal legislation, for example, the "Keep America's Waterfronts Working Act of 2009" [HR2548]. (*Tier I priority*)  
A working waterfront plan should include:
  - a. An assessment of the economic, social, cultural, and historic value of working waterfronts to the coastal state.
  - b. A description of relevant State and local laws and regulations affecting working waterfronts.
  - c. Identification of the geographic areas where working waterfronts are currently under threat of conversion to incompatible uses and the extent of this threat.
  - d. Identification of geographic areas with a historical connection to working waterfronts where working waterfronts are not currently available.

- e. Identification of other working waterfront needs, including improvements to existing working waterfront areas.
  - f. Identification of current availability and the potential for expansion of public access to coastal waters in indicated areas.
  - g. A strategic and prioritized plan for the preservation, expansion, and improvement of working waterfronts in the state.
  - h. A description of the degree of community support.
2. Create a Waterfronts Alabama Partnership Program to assist Regional Planning Commissions, state agencies, municipal planning organizations, counties and municipalities in incorporating working waterfront and water access issues into comprehensive planning and the implementation of those plans. *(Tier I priority)*

This program should perform the following:

- a. Collaborate with Regional Planning Commissions to develop regional comprehensive land-use plans along Alabama's waterways.
- b. Allow eligible applicants to apply directly to the program for planning assistance. The program should employ technical expertise in land use planning.
- c. Write model language for waterfront planning, such as overlay zones, historic districts, etc., for use by eligible applicants.
- d. Encourage the use of business improvement districts, industrial parks, and transfer of development rights for waterfront access areas.
- e. Encourage local zoning designations that may include Recreational and Commercial Working Waterfront or Mixed-Use, Tax Increment Financing, Overlay, Historic Districts, or special maritime zoning.
- f. Develop industrial parks that preserve commercial fisheries-related businesses and services.
- g. Encourage the updating of state and local comprehensive plans to include working waterfronts in their coastal, recreational, and land-use elements.
- h. Develop a Geographic Information System (GIS) model to identify working waterfronts and waterfront access areas.
- i. Encourage a dialogue with Congress and the Office of Management and Budget leading to increased funding to the U.S. Army Corps of Engineers for the prioritization of areas specifically included in a working waterfront plan in the maintenance process.
- j. Encourage the beneficial use of dredge material suitable for environmental restoration and risk reduction.
- k. Encourage the re-use of dredge material from upland areas in accordance with current law.

**Actions:**

1. **In November, 2010, with funding from the National Sea Grant Law Center, the Auburn University Marine Extension and Research Center (AUMERC) coordinated with the Mississippi-Alabama Sea Grant Consortium (MASGC) to conduct a *Working Waterfronts***



***Planners Workshop*** for regional, state, county and municipal planners in coastal Alabama and Mississippi.

2. **With funding from the National Sea Grant Law Center, AUMERC is coordinating with MASGC to facilitate a program of legal research, education and technical assistance to the City of Gulf Shores, Alabama. AUMERC is subcontracting with a law student to conduct legal research and develop model language for waterfront planning that incorporates measures to protect and preserve working waterfronts.**
3. Seek legislative approval for the waiver of emergency permit fees for rebuilding waterfront properties after declared natural disasters. *(Tier III priority)*

#### Financial Incentive Issues

1. Create incentives for working waterfront businesses. *(Tier II priority)*
2. Establish a fund for the acquisition of property for working waterfront and waterfront access properties. *(Tier II priority)*
3. Identify high priority working waterfront areas and encourage funding under future Coastal Impact Assistance Programs or other federal funding mechanisms. *(Tier II priority)*
4. Enable the Department of Conservation and Natural Resources to increase boating registration fees and/or annually using the consumer price index (CPI) to make adjustments in boater registration due to inflation, with such funds to be used to maintain and/or increase the number of marine police officers on Alabama waterways and for other working waterfront related duties of the Marine Police Division. *(Tier III priority)*

#### Socio-Economic Issues

1. Conduct a statewide economic inventory of working waterfronts and waterfront access. The inventory should include tonnage shipped, transient boating business, job creation and retention, water-dependent tourism including nature-based and heritage-based, sociological and geographical data, and GIS mapping. The inventory should be updated each time the U.S. Economic Census is released. *(Tier I priority)*

**Actions:**

**AUMERC is coordinating with MASGC, Auburn University and the Northern Gulf Institute to pursue funding for conducting an economic inventory and GIS mapping of working waterfronts in coastal Alabama and Mississippi.**

2. Conduct an economic impact study of Alabama's working waterfronts. *(Tier I priority)*

**Actions:**

**MASGC is pursuing an economic impact study of Alabama’s working waterfronts.**

3. Enable the Alabama Cooperative Extension System and the Mississippi-Alabama Sea Grant Consortium to provide technical assistance and support to waterfront stakeholders in sustainable business practices, and to provide public education on the economic, environmental, and societal importance of working waterfronts to the State. *(Tier II priority)*

**Actions:**

**AUMERC and MASGC continue to coordinate and facilitate actions in furtherance of the recommendations of the Waterfront Access Study Committee.**

4. Encourage continued commercial use associated with working waterfronts to better reflect economic values of shipping on waterways. *(Tier II priority)*

Infrastructure Issues

1. Direct all state agencies to expand public access to waters in project planning and construction programs. *(Tier III priority)*
2. Encourage federal and local agencies to incorporate public waterfront access and/or facilities in projects with access to public trust waters of the state of Alabama, for example, boat access and bank fishing. *(Tier III priority)*

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