

By: Senator(s) Dearing

To: Education

SENATE BILL NO. 2254

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE LOCAL SCHOOL BOARDS TO USE COMPETITIVE BIDDING
3 PROCEDURES WHEN SELECTING VENDORS AUTHORIZED TO MAKE SOLICITATIONS
4 OF STUDENTS ON SCHOOL PROPERTY, OFFER CATASTROPHIC HEALTH OR
5 ACCIDENT INSURANCE COVERAGE TO STUDENTS OR FOR FUND-RAISING
6 ACTIVITIES; TO AMEND SECTION 31-7-23, MISSISSIPPI CODE OF 1972, TO
7 PROHIBIT SCHOOL ADMINISTRATORS FROM ACCEPTING ANY GIFTS OR THINGS
8 OF VALUE FROM VENDORS SELLING ITEMS TO STUDENTS; AND FOR RELATED
9 PURPOSES.

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

11 SECTION 1. Section 37-7-301, Mississippi Code of 1972, is
12 amended as follows:

13 37-7-301. The school boards of all school districts shall
14 have the following powers, authority and duties in addition to all
15 others imposed or granted by law, to wit:

16 (a) To organize and operate the schools of the district
17 and to make such division between the high school grades and
18 elementary grades as, in their judgment, will serve the best
19 interests of the school;

20 (b) To introduce public school music, art, manual
21 training and other special subjects into either the elementary or
22 high school grades, as the board shall deem proper;

23 (c) To be the custodians of real and personal school
24 property and to manage, control and care for same, both during the
25 school term and during vacation;

26 (d) To have responsibility for the erection, repairing
27 and equipping of school facilities and the making of necessary
28 school improvements;

29 (e) To suspend or to expel a pupil for misconduct in

the school, upon school buses, on the road to and from school, during recess or upon the school playgrounds, and to delegate such authority to the appropriate officials of the school district;

(f) To visit schools in the district, in their discretion, in a body for the purpose of determining what can be done for the improvement of the school in a general way;

(g) To support, within reasonable limits, the superintendent, administrative superintendent, principal and teachers where necessary for the proper discipline of the school;

(h) To exclude from the schools students with what appears to be infectious or contagious diseases; provided, however, such student may be allowed to return to school upon presenting a certificate from a public health officer, duly licensed physician or nurse practitioner that the student is free from such disease;

(i) To require those vaccinations specified by the State Health Officer as provided in Section 41-23-37, Mississippi Code of 1972;

(j) To see that all necessary utilities and services are provided in the schools at all times when same are needed;

(k) To authorize the use of the school buildings and grounds for the holding of public meetings and gatherings of the people under such regulations as may be prescribed by said board;

(l) To prescribe and enforce rules and regulations not inconsistent with law or with the regulations of the State Board of Education for their own government and for the government of the schools, and to transact their business at regular and special meetings called and held in the manner provided by law;

(m) To maintain and operate all of the schools under their control for such length of time during the year as may be required;

(n) To enforce in the schools the courses of study and the use of the textbooks prescribed by the proper authorities;

63 (o) To make orders directed to the superintendent of
64 schools or administrative superintendent for the issuance of pay
65 certificates for lawful purposes on any available funds of the
66 district and to have full control of the receipt, distribution,
67 allotment and disbursement of all funds provided for the support
68 and operation of the schools of such school district whether such
69 funds be derived from state appropriations, local ad valorem tax
70 collections, or otherwise;

71 (p) To select all school district personnel in the
72 manner provided by law, and to provide for such employee fringe
73 benefit programs, including accident reimbursement plans, as may
74 be deemed necessary and appropriate by the board;

75 (q) To provide athletic programs and other school
76 activities and to regulate the establishment and operation of such
77 programs and activities;

78 (r) To join, in their discretion, any association of
79 school boards and other public school-related organizations, and
80 to pay from local funds other than minimum foundation funds, any
81 membership dues;

82 (s) To expend local school activity funds, or other
83 available school district funds, other than minimum education
84 program funds, for the purposes prescribed under this paragraph.
85 "Activity funds" shall mean all funds received by school officials
86 in all school districts paid or collected to participate in any
87 school activity, such activity being part of the school program
88 and partially financed with public funds or supplemented by public
89 funds. The term "activity funds" shall not include any funds
90 raised and/or expended by any organization unless commingled in a
91 bank account with existing activity funds, regardless of whether
92 the funds were raised by school employees or received by school
93 employees during school hours or using school facilities, and
94 regardless of whether a school employee exercises influence over
95 the expenditure or disposition of such funds. Organizations shall

not be required to make any payment to any school for the use of any school facility if, in the discretion of the local school governing board, the organization's function shall be deemed to be beneficial to the official or extracurricular programs of the school. For the purposes of this provision, the term "organization" shall not include any organization subject to the control of the local school governing board. Activity funds may only be expended for any necessary expenses or travel costs, including advances, incurred by students and their chaperons in attending any in-state or out-of-state school-related programs, conventions or seminars and/or any commodities, equipment, travel expenses, purchased services or school supplies which the local school governing board, in its discretion, shall deem beneficial to the official or extracurricular programs of the district, including items which may subsequently become the personal property of individuals, including yearbooks, athletic apparel, book covers and trophies. Activity funds may be used to pay travel expenses of school district personnel. The local school governing board shall be authorized and empowered to promulgate rules and regulations specifically designating for what purposes school activity funds may be expended. The local school governing board shall provide (a) that such school activity funds shall be maintained and expended by the principal of the school generating the funds in individual bank accounts, or (b) that such school activity funds shall be maintained and expended by the superintendent of schools in a central depository approved by the board. The local school governing board shall provide that such school activity funds be audited as part of the annual audit required in Section 37-9-18. The State Auditor shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;

(t) To contract, on a shared savings, lease or lease-purchase basis, for energy efficiency services and/or

equipment as provided for in Section 31-7-14, not to exceed ten (10) years;

(u) To maintain accounts and issue pay certificates on school food service bank accounts;

(v) (i) To lease a school building from an individual, partnership, nonprofit corporation or a private for-profit corporation for the use of such school district, and to expend funds therefor as may be available from any nonminimum program sources. The school board of the school district desiring to lease a school building shall declare by resolution that a need exists for a school building and that the school district cannot provide the necessary funds to pay the cost or its proportionate share of the cost of a school building required to meet the present needs. The resolution so adopted by the school board shall be published once each week for three (3) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than thirty (30) days prior to the date upon which the school board is to act on the question of leasing a school building. If no petition requesting an election is filed prior to such meeting as hereinafter provided, then the school board may, by resolution spread upon its minutes, proceed to lease a school building. If at any time prior to said meeting a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question, then the school board shall, not later than the next regular meeting, adopt a resolution calling an election to be held within such school district upon the question of authorizing the school board to lease a school building. Such election shall be called and held, and notice thereof shall be given, in the same manner for elections upon the questions of the issuance of the bonds of school districts, and the results thereof

shall be certified to the school board. If at least three-fifths (3/5) of the qualified electors of the school district who voted in such election shall vote in favor of the leasing of a school building, then the school board shall proceed to lease a school building. The term of the lease contract shall not exceed twenty (20) years, and the total cost of such lease shall be either the amount of the lowest and best bid accepted by the school board after advertisement for bids or an amount not to exceed the current fair market value of the lease as determined by the averaging of at least two (2) appraisals by members of the American Institute of Real Estate Appraisers or the Society of Real Estate Appraisers. The term "school building" as used in this item (v) shall be construed to mean any building or buildings used for classroom purposes in connection with the operation of schools and shall include the site therefor, necessary support facilities, and the equipment thereof and appurtenances thereto such as heating facilities, water supply, sewage disposal, landscaping, walks, drives and playgrounds. The term "lease" as used in this item (v)(i) may include a lease/purchase contract;

(ii) If two (2) or more school districts propose to enter into a lease contract jointly, then joint meetings of the school boards having control may be held but no action taken shall be binding on any such school district unless the question of leasing a school building is approved in each participating school district under the procedure hereinabove set forth in item (v)(i). All of the provisions of item (v)(i) regarding the term and amount of the lease contract shall apply to the school boards of school districts acting jointly. Any lease contract executed by two (2) or more school districts as joint lessees shall set out the amount of the aggregate lease rental to be paid by each, which may be agreed upon, but there shall be no right of occupancy by any lessee unless the aggregate rental is paid as stipulated in the lease contract. All rights of joint lessees under the lease

contract shall be in proportion to the amount of lease rental paid by each;

(w) To employ all noninstructional and noncertificated employees and fix the duties and compensation of such personnel deemed necessary pursuant to the recommendation of the superintendent of schools or the administrative superintendent;

(x) To employ and fix the duties and compensation of such legal counsel as deemed necessary;

(y) Subject to rules and regulations of the State Board of Education, to purchase, own and operate trucks, vans and other motor vehicles, which shall bear the proper identification required by law;

(z) To expend funds for the payment of substitute teachers and to adopt reasonable regulations for the employment and compensation of such substitute teachers;

(aa) To acquire in its own name by purchase all real property which shall be necessary and desirable in connection with the construction, renovation or improvement of any public school building or structure. If the board shall be unable to agree with the owner of any such real property in connection with any such project, the board shall have the power and authority to acquire any such real property by condemnation proceedings pursuant to Section 11-27-1 et seq., Mississippi Code of 1972, and for such purpose, the right of eminent domain is hereby conferred upon and vested in said board. Provided further, that the local school board is authorized to grant an easement for ingress and egress over sixteenth section land or lieu land in exchange for a similar easement upon adjoining land where the exchange of easements affords substantial benefit to the sixteenth section land; provided, however, the exchange must be based upon values as determined by a competent appraiser, with any differential in value to be adjusted by cash payment. Any easement rights granted over sixteenth section land under such authority shall terminate

when the easement ceases to be used for its stated purpose. No
sixteenth section or lieu land which is subject to an existing
lease shall be burdened by any such easement except by consent of
the lessee or unless the school district shall acquire the
unexpired leasehold interest affected by the easement;

(bb) To charge reasonable fees related to the
educational programs of the district, in the manner prescribed in
Section 37-7-335;

(cc) Subject to rules and regulations of the State
Board of Education, to purchase relocatable classrooms for the use
of such school district, in the manner prescribed in Section
37-1-13;

(dd) Enter into contracts or agreements with other
school districts, political subdivisions or governmental entities
to carry out one or more of the powers or duties of the school
board, or to allow more efficient utilization of limited resources
for providing services to the public;

(ee) To provide for in-service training for employees
of the district. Until June 30, 1994, the school boards may
designate two (2) days of the minimum school term, as defined in
Section 37-19-1, for employee in-service training for
implementation of the new statewide testing system as developed by
the State Board of Education. Such designation shall be subject
to approval by the State Board of Education pursuant to uniform
rules and regulations;

(ff) The school boards of all school districts, as part
of their duties to prescribe the use of textbooks, may provide
that parents and legal guardians shall be responsible for the
textbooks and for the compensation to the school district for any
books which are not returned to the proper schools upon the
withdrawal of their dependent child. If a textbook is lost or not
returned by any student who drops out of the public school
district, the parent or legal guardian shall also compensate the

261 school district for the fair market value of the textbooks;

262 (gg) To conduct fund-raising activities on behalf of
263 the school district that the local school board, in its
264 discretion, deems appropriate or beneficial to the official or
265 extracurricular programs of the district; provided that:

266 (i) Any proceeds of the fund-raising activities
267 shall be treated as "activity funds" and shall be accounted for as
268 are other activity funds under this section; and

269 (ii) Fund-raising activities conducted or
270 authorized by the board for the sale of school pictures, the
271 rental of caps and gowns or the sale of graduation invitations for
272 which the school board receives a commission, rebate or fee shall
273 contain a disclosure statement advising that a portion of the
274 proceeds of the sales or rentals shall be contributed to the
275 student activity fund;

276 (hh) To procure any vendor whose products or services
277 are used in conjunction with fund-raising activity, any vendor who
278 is invited into the schools to make sales to students, and any
279 vendor who is invited into the school to offer catastrophic health
280 insurance or accident insurance coverage to students through a
281 competitive bid process consisting of the following:

282 (i) The development of a request for proposals
283 which shall be advertised in at least one (1) newspaper of general
284 circulation in the county wherein the school district is located,
285 and shall inform interested parties of the goods or services which
286 are to be offered for sale, or lease to the students as well as
287 any other restrictions on responses to the request for proposals
288 including deadlines for submissions.

289 (ii) Review of the responses by a school district
290 committee of at least five (5) persons of whom at least one (1)
291 shall be a student and at least one (1) shall be a parent. In
292 reviewing responses, the committee shall rank the responses on the
293 basis of the prices offered, the quality of the product offered,

the reputation of the vendors, the extent to which the product or service meets the student's needs, and the vendor's history, if any, in providing products or services to the school district or its students.

(iii) The committee may reject any proposals which do not conform to the specifications provided in the request for proposals, and may reject all proposals if, in the opinion of the committee, the district or the students are best served by such action.

(iv) The committee shall review responses ranked as provided above and shall select the vendor which, in the opinion of the committee, will provide the best product or service to the students and the district. Records of the selection process shall be maintained by the district for at least three (3) years.

(v) The successful bidder shall be informed of selection by telephone and in writing.

(ii) To allow individual lessons for music, art and other curriculum-related activities for academic credit or nonacademic credit during school hours and using school equipment and facilities, subject to uniform rules and regulations adopted by the school board;

(jj) To charge reasonable fees for participating in an extracurricular activity for academic or nonacademic credit for necessary and required equipment such as safety equipment, band instruments and uniforms;

(kk) To conduct or participate in any fund-raising activities on behalf of or in connection with a tax-exempt charitable organization;

(ll) To exercise such powers as may be reasonably necessary to carry out the provisions of this section; and

(mm) To expend funds for the services of nonprofit arts organizations or other such nonprofit organizations who provide

performances or other services for the students of the school district.

SECTION 2. Section 31-7-23, Mississippi Code of 1972, is amended as follows:

31-7-23. (1) Any rebates, refunds, coupons, merit points, gratuities or any article of value tendered or received by any agency or governing authority from any vendor of material, supplies, equipment or other articles shall inure to the benefit of the agency or governing authority making the purchase. The agency or governing authority may, in accordance with its best interest, either take delivery of the article of value tendered and use the same or convert it to cash by selling it for its fair and reasonable value, making use of the proceeds from such sale for the exclusive benefit of the agency or governing authority.

(2) Whenever any school principal, assistant principal, superintendent, assistant superintendent or other school district employee participates in the selection procedure allowing vendors to sell products, services or insurance policies to students as provided for in Section 37-7-301(hh), such person may not receive any gift or thing of value, including money, from any vendor seeking or receiving the privilege of selling items to students. Any gift or thing of value, including money, which may heretofore be given to employees of the school district shall become the property of the school district and any school district employee who accepts a gift or thing of value, including money, in violation of this provision shall be punished in accordance with Section 31-7-55.

SECTION 3. This act shall take effect and be in force from and after July 1, 1999.