

By: Senator(s) Ferris

To: Education

SENATE BILL NO. 2781

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO VEST LOCAL SCHOOL BOARDS WITH HOME RULE AUTHORITY WITH CERTAIN
3 LIMITATIONS; AND FOR RELATED PURPOSES.

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

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

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

10 (a) To organize and operate the schools of the district
11 and to make such division between the high school grades and
12 elementary grades as, in their judgment, will serve the best
13 interests of the school;

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

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

20 (d) To have responsibility for the erection, repairing
21 and equipping of school facilities and the making of necessary
22 school improvements;

23 (e) To suspend or to expel a pupil for misconduct in
24 the school, upon school buses, on the road to and from school,
25 during recess or upon the school playgrounds, and to delegate such
26 authority to the appropriate officials of the school district;

27 (f) To visit schools in the district, in their

28 discretion, in a body for the purpose of determining what can be
29 done for the improvement of the school in a general way;

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

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

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

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

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

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

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

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

57 (o) To make orders directed to the superintendent of
58 schools or administrative superintendent for the issuance of pay
59 certificates for lawful purposes on any available funds of the
60 district and to have full control of the receipt, distribution,
61 allotment and disbursement of all funds provided for the support

62 and operation of the schools of such school district whether such
63 funds be derived from state appropriations, local ad valorem tax
64 collections, or otherwise;

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

69 (q) To provide athletic programs and other school
70 activities and to regulate the establishment and operation of such
71 programs and activities;

72 (r) To join, in their discretion, any association of
73 school boards and other public school-related organizations, and
74 to pay from local funds other than minimum foundation funds, any
75 membership dues;

76 (s) To expend local school activity funds, or other
77 available school district funds, other than minimum education
78 program funds, for the purposes prescribed under this paragraph.
79 "Activity funds" shall mean all funds received by school officials
80 in all school districts paid or collected to participate in any
81 school activity, such activity being part of the school program
82 and partially financed with public funds or supplemented by public
83 funds. The term "activity funds" shall not include any funds
84 raised and/or expended by any organization unless commingled in a
85 bank account with existing activity funds, regardless of whether
86 the funds were raised by school employees or received by school
87 employees during school hours or using school facilities, and
88 regardless of whether a school employee exercises influence over
89 the expenditure or disposition of such funds. Organizations shall
90 not be required to make any payment to any school for the use of
91 any school facility if, in the discretion of the local school
92 governing board, the organization's function shall be deemed to be
93 beneficial to the official or extracurricular programs of the
94 school. For the purposes of this provision, the term
95 "organization" shall not include any organization subject to the

96 control of the local school governing board. Activity funds may
97 only be expended for any necessary expenses or travel costs,
98 including advances, incurred by students and their chaperons in
99 attending any in-state or out-of-state school-related programs,
100 conventions or seminars and/or any commodities, equipment, travel
101 expenses, purchased services or school supplies which the local
102 school governing board, in its discretion, shall deem beneficial
103 to the official or extracurricular programs of the district,
104 including items which may subsequently become the personal
105 property of individuals, including yearbooks, athletic apparel,
106 book covers and trophies. Activity funds may be used to pay
107 travel expenses of school district personnel. The local school
108 governing board shall be authorized and empowered to promulgate
109 rules and regulations specifically designating for what purposes
110 school activity funds may be expended. The local school governing
111 board shall provide (a) that such school activity funds shall be
112 maintained and expended by the principal of the school generating
113 the funds in individual bank accounts, or (b) that such school
114 activity funds shall be maintained and expended by the
115 superintendent of schools in a central depository approved by the
116 board. The local school governing board shall provide that such
117 school activity funds be audited as part of the annual audit
118 required in Section 37-9-18. The State Auditor shall prescribe a
119 uniform system of accounting and financial reporting for all
120 school activity fund transactions;

121 (t) To contract, on a shared savings, lease or
122 lease-purchase basis, for energy efficiency services and/or
123 equipment as provided for in Section 31-7-14, not to exceed ten
124 (10) years;

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

127 (v) (i) To lease a school building from an individual,
128 partnership, nonprofit corporation or a private for-profit
129 corporation for the use of such school district, and to expend

130 funds therefor as may be available from any non-minimum program
131 sources. The school board of the school district desiring to
132 lease a school building shall declare by resolution that a need
133 exists for a school building and that the school district cannot
134 provide the necessary funds to pay the cost or its proportionate
135 share of the cost of a school building required to meet the
136 present needs. The resolution so adopted by the school board
137 shall be published once each week for three (3) consecutive weeks
138 in a newspaper having a general circulation in the school district
139 involved, with the first publication thereof to be made not less
140 than thirty (30) days prior to the date upon which the school
141 board is to act on the question of leasing a school building. If
142 no petition requesting an election is filed prior to such meeting
143 as hereinafter provided, then the school board may, by resolution
144 spread upon its minutes, proceed to lease a school building. If
145 at any time prior to said meeting a petition signed by not less
146 than twenty percent (20%) or fifteen hundred (1500), whichever is
147 less, of the qualified electors of the school district involved
148 shall be filed with the school board requesting that an election
149 be called on the question, then the school board shall, not later
150 than the next regular meeting, adopt a resolution calling an
151 election to be held within such school district upon the question
152 of authorizing the school board to lease a school building. Such
153 election shall be called and held, and notice thereof shall be
154 given, in the same manner for elections upon the questions of the
155 issuance of the bonds of school districts, and the results thereof
156 shall be certified to the school board. If at least three-fifths
157 (3/5) of the qualified electors of the school district who voted
158 in such election shall vote in favor of the leasing of a school
159 building, then the school board shall proceed to lease a school
160 building. The term of the lease contract shall not exceed twenty
161 (20) years, and the total cost of such lease shall be either the
162 amount of the lowest and best bid accepted by the school board
163 after advertisement for bids or an amount not to exceed the

164 current fair market value of the lease as determined by the
165 averaging of at least two (2) appraisals by members of the
166 American Institute of Real Estate Appraisers or the Society of
167 Real Estate Appraisers. The term "school building" as used in
168 this item (v) shall be construed to mean any building or buildings
169 used for classroom purposes in connection with the operation of
170 schools and shall include the site therefor, necessary support
171 facilities, and the equipment thereof and appurtenances thereto
172 such as heating facilities, water supply, sewage disposal,
173 landscaping, walks, drives and playgrounds. The term "lease" as
174 used in this item (v)(i) may include a lease/purchase contract;

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

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

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

197 (y) Subject to rules and regulations of the State Board

198 of Education, to purchase, own and operate trucks, vans and other
199 motor vehicles, which shall bear the proper identification
200 required by law;

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

204 (aa) To acquire in its own name by purchase all real
205 property which shall be necessary and desirable in connection with
206 the construction, renovation or improvement of any public school
207 building or structure. If the board shall be unable to agree with
208 the owner of any such real property in connection with any such
209 project, the board shall have the power and authority to acquire
210 any such real property by condemnation proceedings pursuant to
211 Section 11-27-1 et seq., Mississippi Code of 1972, and for such
212 purpose, the right of eminent domain is hereby conferred upon and
213 vested in said board. Provided further, that the local school
214 board is authorized to grant an easement for ingress and egress
215 over sixteenth section land or lieu land in exchange for a similar
216 easement upon adjoining land where the exchange of easements
217 affords substantial benefit to the sixteenth section land;
218 provided, however, the exchange must be based upon values as
219 determined by a competent appraiser, with any differential in
220 value to be adjusted by cash payment. Any easement rights granted
221 over sixteenth section land under such authority shall terminate
222 when the easement ceases to be used for its stated purpose. No
223 sixteenth section or lieu land which is subject to an existing
224 lease shall be burdened by any such easement except by consent of
225 the lessee or unless the school district shall acquire the
226 unexpired leasehold interest affected by the easement;

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

230 (cc) Subject to rules and regulations of the State
231 Board of Education, to purchase relocatable classrooms for the use

232 of such school district, in the manner prescribed in Section
233 37-1-13;

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

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

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

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

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

263 (ii) Fund-raising activities conducted or
264 authorized by the board for the sale of school pictures, the
265 rental of caps and gowns or the sale of graduation invitations for

266 which the school board receives a commission, rebate or fee shall
267 contain a disclosure statement advising that a portion of the
268 proceeds of the sales or rentals shall be contributed to the
269 student activity fund;

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

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

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

282 (kk) To exercise such powers as may be reasonably
283 necessary to carry out the provisions of this section; * * *

284 (ll) To expend funds for the services of nonprofit arts
285 organizations or other such nonprofit organizations who provide
286 performances or other services for the students of the school
287 district; and

288 (mm) In addition to all the specific powers set forth
289 in paragraphs (a) through (ff) above, the school boards of all
290 school districts which have reached Level III, IV or V
291 accreditation status in the prior school year, and with the
292 approval of the State Board of Education any school district which
293 has reached Level I or II accreditation status in the prior school
294 year, shall be vested with home rule authority which shall confer
295 upon such districts all power and authority to take any and all
296 action which, in its discretion, may promote the general mission
297 of the school district, unless there is a statute prohibiting such
298 action; provided, however, that this subsection shall not grant
299 any extra authority to a school board to impose, levy or collect a

300 tax which is not otherwise expressly provided for.

301 SECTION 2. This act shall take effect and be in force from
302 and after July 1, 1999.