

By: Moak

To: Education

HOUSE BILL NO. 277

1 AN ACT TO AMEND SECTION 29-3-27, MISSISSIPPI CODE OF 1972, TO
 2 AUTHORIZE THE SALE OF SIXTEENTH SECTION OR LIEU LAND TO CERTAIN
 3 RETIRED AND DISABLED VETERANS OF THE UNITED STATES ARMED FORCES;
 4 TO AMEND SECTION 29-3-29, MISSISSIPPI CODE OF 1972, TO REQUIRE
 5 CERTAIN ACTIONS BY THE BOARD OF EDUCATION AND THE COUNTY BOARD OF
 6 SUPERVISORS BEFORE SIXTEENTH SECTION OR LIEU LANDS MAY BE SOLD TO
 7 THOSE VETERANS; TO AMEND SECTIONS 29-3-1, 29-3-3, 29-3-11,
 8 29-3-25, 29-3-41, 29-3-71, 29-3-73 AND 29-3-111, MISSISSIPPI CODE
 9 OF 1972, IN CONFORMITY THERETO; TO AMEND SECTION 19-3-35,
 10 MISSISSIPPI CODE OF 1972, TO REQUIRE THE COUNTY BOARD OF
 11 SUPERVISORS TO PUBLISH A LIST OF ALL SIXTEENTH SECTION OR LIEU
 12 LANDS SOLD; AND FOR RELATED PURPOSES.

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

14 SECTION 1. Section 29-3-27, Mississippi Code of 1972, is
 15 amended as follows:

16 29-3-27. No sixteenth section lands or lands granted in lieu
 17 thereof, in whole or in part, situated within the school district
 18 holding or owning the same shall ever be sold, except that the
 19 board of education may, under the procedures hereinafter provided,
 20 sell such lands:

21 (a) For industrial development, * * * to any persons,
 22 firms, or corporations in fee simple, or any lesser estate, * * *
 23 for a purchase price not less than the fair market value thereof;
 24 or

25 (b) To any legal resident of the State of Mississippi
 26 who is a retired veteran of active duty service in the Armed

27 Forces of the United States or a veteran rated as having one
28 hundred percent (100%) permanent service-connected disability by
29 the Veterans Administration, and who has continuously leased,
30 improved and actually occupied the specific tract of land for no
31 less than ten (10) consecutive years as his primary residence.
32 Any sale authorized pursuant to this paragraph shall be in fee
33 simple or any lesser estate for a purchase price not less than the
34 fair market value. In no event shall a tract consisting of more
35 than five (5) acres be sold to one (1) person, and no person may
36 own more than one (1) tract at any time.

37 When any such sale is made, the deed shall be executed in the
38 name of the State of Mississippi by the superintendent of
39 the * * * board of education.

40 As used in this section and in Sections 29-3-29 and 29-3-61,
41 the term "industrial development" shall include restoration as a
42 tourist attraction the place where an organization was founded,
43 which said organization has since been expanded to be national or
44 international in its membership, scope, and influence.

45 The proceeds of the sale in fee simple of any sixteenth
46 section, or lands granted in lieu thereof, in whole or in part, or
47 such part of said proceeds as may be required to purchase acreage
48 of equivalent fair market value, shall be used by the board of
49 education, to purchase other land in the county, which land shall
50 be held and reserved by the State of Mississippi for the support
51 of the township schools in lieu of the land thus sold, as other
52 sixteenth section lieu land is held, and shall be subject to all
53 laws applicable thereto. Every such sale and every such purchase
54 of land in lieu thereof shall be reported by the secretary of the
55 board of education to the Secretary of State and to the State
56 Forestry Commission within ninety (90) days after the consummation
57 of each such sale and purchase. Any funds from a sale in fee

58 simple of any sixteenth section land, or land granted in lieu
59 thereof, in excess of any amount used to purchase said land in
60 lieu thereof, shall be treated as corpus and shall be invested by
61 the board of education as provided by law. Only the income from
62 such investment shall be expended for current operating expenses
63 of the schools.

64 SECTION 2. Section 29-3-29, Mississippi Code of 1972, is
65 amended as follows:

66 29-3-29. Before any sixteenth section school land or land
67 granted in lieu thereof may be sold or leased for industrial
68 development or sold to a veteran of the Armed Forces of the United
69 States under * * * this chapter, the board of education
70 controlling such land shall first determine that such sale or
71 lease will be fair market value. In the determination of the fair
72 market value of said land the comparative sales method shall be
73 used, and the highest and best use of said sixteenth section lands
74 shall be determined on the basis of finding that said land shall
75 be susceptible to any use that comparative land in private
76 ownership may be used, * * * that the acreage to be sold or leased
77 is not in excess of the amount of land authorized in Section
78 29-3-27 or an amount reasonably required for immediate use and for
79 such future expansion as may be reasonably anticipated, * * * that
80 such sale or lease will be beneficial to and in the best interest
81 of the schools of the district for which said land is held and if
82 sold or leased for industrial development, that there will be
83 prompt and substantial industrial development on, in, or under the
84 land after the sale or lease. All of said findings, including the
85 amount of the sale price or gross rental for said land, shall be

86 spread on the minutes of the board of education. Also, if the
87 board of education proposes to sell said land, said board shall
88 first enter into a contract or obtain a legal option to purchase,
89 for a specified price not in excess of fair market value, other
90 land in the county of acreage of equivalent fair market value, and
91 such contract or option shall be spread on the minutes of said
92 board. However, not more than one hundred (100) acres in any one
93 (1) sixteenth section school lands in any county may be sold under
94 this chapter for the purpose of being made an industrial park or a
95 part of such industrial park, provided the provisions of this
96 section and Sections 57-5-1 and 57-5-23 are fully complied with.

97 A certified copy of the resolution or order of the board of
98 education, setting out the foregoing findings, together with a
99 certified copy of the order approving and setting out the terms of
100 the contract or option to purchase other lands where a sale of
101 land is proposed, * * * shall be forwarded to the county board of
102 supervisors, which board shall make an independent investigation
103 of the proposed sale or lease and of the proposed purchase of
104 other land. If the land is being sold or leased for industrial
105 development, an application to the Department of Economic and
106 Community Development for the certificate authorizing the sale or
107 lease shall be forwarded to the county board of supervisors in
108 addition to the other items required in this section.

109 If said county board of supervisors shall concur in the
110 finding of fact of the board of education, and shall find that it
111 is to the best interests of the schools of the district to enter
112 into such sale or lease, it may enter on its minutes a resolution
113 or order approving the action of the board of education.

114 If the said county board of supervisors shall not concur in
115 the findings of the board of education, or shall find that the
116 proposed sale or lease will not be in the best interest of the
117 schools of the district, then it may, by resolution or order,
118 disapprove the proposed sale or lease, and such action shall be
119 final.

120 There shall be reserved all minerals in, on, and under any
121 lands conveyed under the provisions of this section. * * *
122 However, * * * in any county bordering on the State of Alabama,
123 traversed by the Tombigbee River, in which U.S. Highway 82
124 intersects U.S. Highway 45 and in which is situated a state
125 supported institution of higher learning, upon the sale of any
126 sixteenth section lands for industrial purposes as provided by
127 law, the board of education, the superintendent of education and
128 the Department of Economic and Community Development, may sell and
129 convey all minerals except oil, gas, sulphur and casinghead gas
130 on, in and under the said sixteenth section lands so sold for
131 industrial purposes. Said oil, gas, sulphur and casinghead gas
132 shall be reserved together with such rights of use, ingress and
133 egress as shall not unreasonably interfere with the use of the
134 lands by the purchaser. Prior written approval for such use,
135 ingress and egress, shall be obtained from the surface owner or,
136 if such approval is unreasonably withheld, may be obtained from
137 the chancery court of the county in which said land is located.

138 If the land is being sold or leased for industrial
139 development, certified copies of the resolutions or orders of the
140 board of supervisors and of the board of education and of the
141 application to the Department of Economic and Community

142 Development shall be transmitted to the county superintendent of
143 education, if there be one in the county, who, if he approves the
144 proposed sale or lease, shall so certify and forward same to the
145 Department of Economic and Community Development. If there be no
146 county superintendent of education in the county, then the board
147 of education whose district embraces the entire county shall so
148 certify and transmit said copies to the Department of Economic and
149 Community Development for further action.

150 Upon receipt of the aforesaid application and certified
151 copies of the said resolution and orders, the Department of
152 Economic and Community Development shall make investigation to
153 determine whether or not the proposed sale or lease of said land
154 for industrial development will promote prompt and substantial
155 industrial development thereon, therein, or thereunder. If the
156 department finds that such sale or lease will promote prompt and
157 substantial industrial development, * * * and further finds that
158 the person, firm or corporation who proposes to establish said
159 industry is financially responsible, and that the acreage to be
160 sold or leased is not in excess of the amount of land reasonably
161 required for immediate use and for such future expansion as may be
162 reasonably anticipated, then the department, in its discretion,
163 may issue a certificate to the board of education of said district
164 so certifying, and said certificate shall be the authority for the
165 board of education to enter into the proposed sale or lease. If
166 the Department of Economic and Community Development does not so
167 find, then it shall decline to issue said certificate which action
168 shall be final.

169 The Department of Economic and Community Development, when

170 issuing a certificate to the county board of education certifying
171 its findings and authorizing said sale or lease for industrial
172 development, * * * in its discretion, may make such sale or lease
173 conditioned on and subject to the vote of the qualified electors
174 of said district. Upon receipt of a certificate so conditioned
175 upon an election, or upon a petition as hereinafter provided for,
176 the board of education, by resolution spread upon its minutes,
177 shall forward a copy of the certificate to the board of
178 supervisors who by resolution upon its minutes, shall call an
179 election to be held in the manner now provided by law for holding
180 county elections, and shall fix in such resolution a date upon
181 which such an election shall be held, of which not less than three
182 (3) weeks notice shall be given by the clerk of said board of
183 supervisors by publishing a notice in a newspaper published in
184 said county once each week for three (3) consecutive weeks
185 preceding the same, or if no newspaper is published in said
186 county, then in a newspaper having a general circulation therein,
187 and by posting a notice for three (3) weeks preceding said
188 election at three (3) public places in said county. At such
189 election, all qualified voters of the county may vote, and the
190 ballots used shall have printed thereon a brief statement of the
191 proposed sale or lease of said land, including the description and
192 price, together with the words "For the proposed sale or lease"
193 and the words "Against the proposed sale or lease," and the voter
194 shall vote by placing a cross (x) or check (v) opposite his choice
195 of the proposition. Should the election provided for herein
196 result in favor of the proposed sale or lease by at least
197 two-thirds (2/3) of the votes cast being in favor of the said

198 proposition, the board of supervisors shall notify the board of
199 education who may proceed forthwith to sell or lease said land in
200 accordance with the proposition so submitted to the electors. If
201 less than two-thirds (2/3) of those voting in such special
202 election vote in favor of the said sale or lease, then said land
203 shall not be sold or leased.

204 The board of education shall * * * be required, prior to
205 passing of a resolution expressing its intent to sell said land
206 for industrial development or to a veteran of the Armed Forces of
207 the United States, to publish a notice of intent to sell said land
208 for three (3) consecutive weeks in a newspaper published in said
209 county or, if there be none, in a newspaper having a general
210 circulation in said county, and to post three (3) notices thereof
211 in three (3) public places in said county, one (1) of which shall
212 be at the courthouse, for said time. If within the period of
213 three (3) weeks following the first publication of said intent, a
214 petition signed by twenty percent (20%) of the qualified electors
215 of said county shall be filed with the board of supervisors
216 requesting an election concerning the sale, then an election shall
217 be called as hereinabove provided.

218 SECTION 3. Section 29-3-1, Mississippi Code of 1972, is
219 amended as follows:

220 29-3-1. (1) Sixteenth section school lands, or lands
221 granted in lieu thereof, constitute property held in trust for the
222 benefit of the public schools and must be treated as such. The
223 board of education under the general supervision of the Secretary
224 of State, shall have control and jurisdiction of said school trust
225 lands and of all funds arising from any disposition thereof

226 heretofore or hereafter made. It shall be the duty of the board
227 of education to manage the school trust lands and all funds
228 arising therefrom as trust property. Accordingly, the board shall
229 assure that adequate compensation is received for all sales and
230 uses of the trust lands, except for uses by the public schools.

231 (2) In the event the board of supervisors declines to
232 approve the rental value of the land set by the board of
233 education, the board of education shall within ten (10) days
234 appoint one (1) appraiser, the board of supervisors shall within
235 twenty (20) days appoint one (1) appraiser and the two (2)
236 appraisers so appointed shall within twenty (20) days appoint a
237 third appraiser whose duty it shall be to appraise the land,
238 exclusive of buildings and improvements, the title to which is not
239 held in trust for the public schools, and to file a written report
240 with each board setting forth their recommendation for the rental
241 value of the land within thirty (30) days. The cost of the
242 appraisal shall be paid from any available sixteenth section
243 school funds or other school funds of the district. If no appeal
244 is taken within twenty (20) days as provided hereunder, the lease
245 shall be executed in accordance with said recommended rental value
246 within thirty (30) days of the receipt of the appraisers' report.
247 In the event any party is aggrieved by the decision of the
248 appraisers setting forth the appraised rental value, the party so
249 aggrieved shall be entitled to an appeal to the chancery court in
250 which the land is located. Such appeal shall be taken within
251 twenty (20) days following the decision. The chancery court, on
252 appeal, may review all of the proceedings, may receive additional
253 evidence, and make findings of fact, as well as conclusions of law

254 to insure that a fair and reasonable return may be obtained on the
255 sixteenth section lands or lands in lieu thereof.

256 SECTION 4. Section 29-3-3, Mississippi Code of 1972, is
257 amended as follows:

258 29-3-3. The board of education may employ one or more
259 competent persons to ascertain the true condition of the title and
260 to institute and prosecute, in the chancery court of the county
261 where the land lies, all necessary suits to establish and confirm
262 the title to each parcel of such land and to fix the date of the
263 expiration of any lease of the same. If any person other than an
264 individual authorized in Section 29-3-27 to purchase sixteenth
265 section or lieu lands claims any of said land in fee simple or
266 upon any other terms than that of a lease to expire at a fixed
267 date with absolute reversion to the state in trust, or if the
268 title to such lands rest in parol by destruction of records or
269 otherwise, suit shall be instituted at once or as soon as
270 practicable to test the legality of such claims or to reestablish
271 the lost record.

272 SECTION 5. Section 29-3-11, Mississippi Code of 1972, is
273 amended as follows:

274 29-3-11. It shall likewise be the duty of the board of
275 education to ascertain whether or not such county has title to all
276 lieu lands to which it may, by law, be entitled. If it is
277 determined that such county does not have title to all such lands,
278 the board of education shall certify the fact to the Secretary of
279 State who shall institute proper proceedings to secure such lands
280 for such county unless title to the lieu lands has been conveyed
281 by a sale authorized under Section 29-3-27.

282 SECTION 6. Section 29-3-25, Mississippi Code of 1972, is
283 amended as follows:

284 29-3-25. The Secretary of State shall make a report to the
285 Legislature every year, setting forth a statement of all sixteenth
286 section and lieu lands sold during that year, and shall maintain a
287 copy of said report within his office.

288 SECTION 7. Section 29-3-41, Mississippi Code of 1972, is
289 amended as follows:

290 29-3-41. After any parcels of sixteenth section lands have
291 been classified as hereinabove provided, all land which has been
292 classified as forest land and which is not under lease shall * * *
293 not be sold or leased. The lands classified as forest lands which
294 may be under a lease that has a fixed date of expiration shall not
295 be re-leased when said lease expires; nor shall the lessee be
296 permitted to cut or remove any timber therefrom except according
297 to the terms of his lease. Such lands shall be reserved and kept
298 as forest lands. * * * The mineral rights in all such lands may be
299 leased for oil, gas, or mineral purposes, and the board of
300 education may grant leases to the surface of said lands classified
301 as forest, which are limited to hunting and fishing rights and
302 activities in relation thereto, and which shall not extend for a
303 period longer than fifteen (15) years. It shall be the duty of
304 the board of education to lease said hunting and fishing rights at
305 public contract after having advertised same for rent in a
306 newspaper published in said county or, if no newspaper be
307 published in said county, then in a newspaper having a general
308 circulation therein, for two (2) successive weeks, the first being
309 at least ten (10) days prior to said public contract. Said

310 hunting and fishing rights shall be leased to the person offering
311 the highest annual rental.

312 * * * If the board of education receives an acceptable bid,
313 the most recent holder of said hunting and fishing rights, if it
314 shall have made an offer, shall have the final right to extend its
315 lease for the term advertised at the annual rental equal to said
316 highest offer received by the board of education.

317 If no bid acceptable to the board of education is received
318 after said advertisement, the board of education may, within
319 ninety (90) days, lease same by private contract for an amount
320 greater than the highest bid previously rejected.

321 If the board of education determines to lease the land by
322 private contract, the most recent holder of said hunting and
323 fishing rights, if it shall have made an offer, shall have the
324 final right to extend its lease on the same terms and conditions
325 as those contained in the private contract proposed to be accepted
326 by the board of education.

327 SECTION 8. Section 29-3-71, Mississippi Code of 1972, is
328 amended as follows:

329 29-3-71. Sixteenth section lands reserved for the use of
330 schools, or lands reserved or granted in lieu of or as a
331 substitute for the sixteenth sections, shall be liable, after the
332 same shall have been sold or leased, to be taxed as other lands
333 are taxed. * * * In case of sale thereof for taxes, only the title
334 of the lessee or his heirs or assigns shall pass by the sale.

335 SECTION 9. Section 29-3-73, Mississippi Code of 1972, is
336 amended as follows:

337 29-3-73. Where any school land, generally known as sixteenth

338 sections, reserved for the use of schools, or land reserved or
339 granted in lieu of or substituted for sixteenth sections lies
340 within or partly within any drainage district created under the
341 laws of this state, and will be benefited by such drainage
342 district, such land so benefited shall be liable for its pro rata
343 share of the costs, expenses, taxes and assessments relating to
344 said district as if owned by an individual, and shall be assessed
345 accordingly, as other lands are assessed. But in case of a sale
346 of such lands for such taxes or assessments, only the title of the
347 lessee holding such lands under lease at the time of the sale
348 shall pass by the sale.

349 If title to any sixteenth section or lieu land lying within a
350 drainage district is conveyed by a sale authorized under Section
351 29-3-27, the titleholder of the land shall be liable for the pro
352 rata share of the costs, expenses, taxes and assessments relating
353 to the district, and the land shall be assessed accordingly.

354 Where such sixteenth section land, or land taken in lieu
355 thereof, shall be held by any lessee, whether his lease shall have
356 heretofore been acquired or shall hereafter be acquired, all such
357 drainage taxes and assessments accruing thereon during such lease
358 shall, in the discretion of the board of education, either be paid
359 by the lessee, his grantees or assigns, or by the board of
360 education, but the liability for such drainage taxes shall be
361 fixed by the lease contract when said lands are leased. Where
362 said lands have been leased by the superintendent of education,
363 with the consent of the board of education in open session, and
364 said lease contract provides that the lessee shall pay all such
365 drainage taxes and assessments, and the lessee has actually

366 entered upon and occupied said lands as lessee and is recognized
367 as such, the school district in which said sixteenth section is
368 located shall not be liable for such drainage taxes on account of
369 the negligence of the secretary in failing to enter the order of
370 the board approving said lease contract on its minutes. All such
371 drainage taxes and assessments accruing on any such lands that
372 have not been sold or while the same are not leased shall be paid
373 by the board of education of the school district in which such
374 lands are situated, out of any sixteenth section funds belonging
375 to the township in which such lands are located, which may be on
376 hand at the time when such drainage taxes or assessments become
377 due or which may be thereafter at any time collected or acquired.
378 For the purpose of paying such drainage taxes and assessments, the
379 board of education may borrow all money necessary to pay the same.
380 When any such funds are borrowed as aforesaid, for the purposes
381 aforesaid, the same shall be repaid out of the first sixteenth
382 section fund thereafter derived from the sixteenth section lands
383 so taxed and assessed.

384 SECTION 10. Section 29-3-111, Mississippi Code of 1972, is
385 amended as follows:

386 29-3-111. All moneys heretofore or hereafter derived from
387 the leasing of said lands for oil, gas and mineral purposes,
388 including any bonus or delay rental payable under such leases, and
389 all moneys derived from the annual payment of rents from the
390 leasing of said lands for agricultural, residential, commercial,
391 industrial, grazing or other purposes, or derived as interest upon
392 loans or investments of principal funds, and all moneys heretofore
393 or hereafter derived from the sale of sixteenth section or lieu

394 lands or the sale of timber, may be expended for any of the
395 purposes authorized by law. In cases where said moneys have been
396 transferred to the principal fund and it is determined to expend
397 same for any of the purposes authorized by law, such moneys shall
398 be transferred to the proper fund for expenditure upon order of
399 the board of education.

400 SECTION 11. Section 19-3-35, Mississippi Code of 1972, is
401 amended as follows:

402 19-3-35. The board of supervisors after each meeting shall
403 have an itemized statement made of allowances, to whom, for what,
404 and the amounts; a list of all contracts providing for the
405 expenditure of money and the terms of payment thereof; a statement
406 of all loans from sixteenth section funds, lieu land funds, and
407 sinking, and other trust funds, setting forth to whom made, the
408 amount, and the kind of security approved; a statement or list of
409 all sales of timber, of all leases upon, including all leases for
410 oil, gas and minerals upon, sixteenth section or lieu lands
411 situated in the county or belonging to the county, showing to whom
412 sold or made, description of land involved, the length of the term
413 of any such lease, and the consideration therefor; a statement or
414 list of all sales of sixteenth section or lieu lands situated in
415 the county or belonging to the county, showing to whom sold, a
416 description of the land involved and the consideration therefor;
417 and it shall also publish a recapitulation of all expenditures
418 according to districts and also the county as a whole, and in such
419 recapitulation the total expenses for each item shall be listed
420 for each district, and in the total county recapitulation the
421 total expended from each item shall be listed and same shall be

422 published within fifteen (15) days after adjournment in some
423 newspaper of general circulation published in the county, and if
424 no such newspaper is published in the county, then in a newspaper
425 published elsewhere in the state and having a general circulation
426 in such county. The cost of publishing the same shall be paid for
427 out of the general fund of the county. The cost of such
428 publication shall not exceed one-half (1/2) of the rate now fixed
429 by law for publishing legal notices, and in no event shall the
430 cost of such publication exceed One Hundred Dollars (\$100.00) in
431 any one (1) month, save, however, in counties of Classes 1 and 2
432 the board of supervisors may expend an amount not to exceed One
433 Hundred Seventy-five Dollars (\$175.00) per month for the
434 publication of said cumulative digest of its proceedings as
435 provided for above. If there be more than one (1) newspaper
436 published in the county, the board of supervisors shall advertise,
437 as provided by law, for contracts for publishing such proceedings,
438 and shall award the contract to the lowest bidder for a period of
439 two (2) years. If no bid be made for the price above mentioned,
440 then the proceedings shall be posted at the courthouse door as
441 hereinafter provided. If there be no newspaper published in such
442 county, then such proceedings shall be posted at the front
443 courthouse door.

444 If any member of a board of supervisors or the chancery clerk
445 shall fail, refuse or neglect to comply with the provisions of
446 this section, he shall, upon conviction, be guilty of a
447 misdemeanor and shall be fined not more than Five Hundred Dollars
448 (\$500.00) for such failure, refusal or neglect for each offense
449 and, in addition thereto, shall be liable to a penalty of Five

450 Hundred Dollars (\$500.00), recoverable on his official bond by
451 suit filed by any county or district attorney or any interested
452 citizen, upon his official bond.

453 This shall not be construed to repeal Section 19-3-33, and
454 where the verbatim proceedings are published as therein provided,
455 this section shall not apply, it being intended hereby to provide
456 a method of publishing the proceedings of the board of supervisors
457 in addition to that now provided for by Section 19-3-33. Where
458 publication is made under Section 19-3-33, this section shall not
459 be construed so as to require any other and additional
460 publication, or notice.

461 SECTION 12. This act shall take effect and be in force from
462 and after ratification by the electorate of the amendment to the
463 Mississippi Constitution of 1890 set forth in House Concurrent
464 Resolution No. ____, 2000 Regular Session.