

By: Dearing

To: Education

SENATE BILL NO. 2145

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

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

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

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

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

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

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

53 (l) To prescribe and enforce rules and regulations not
54 inconsistent with law or with the regulations of the State Board
55 of Education for their own government and for the government of

56 the schools, and to transact their business at regular and special
57 meetings called and held in the manner provided by law;

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

61 (n) To enforce in the schools the courses of study and
62 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
96 not be required to make any payment to any school for the use of
97 any school facility if, in the discretion of the local school
98 governing board, the organization's function shall be deemed to be
99 beneficial to the official or extracurricular programs of the
100 school. For the purposes of this provision, the term
101 "organization" shall not include any organization subject to the
102 control of the local school governing board. Activity funds may
103 only be expended for any necessary expenses or travel costs,
104 including advances, incurred by students and their chaperons in
105 attending any in-state or out-of-state school-related programs,
106 conventions or seminars and/or any commodities, equipment, travel
107 expenses, purchased services or school supplies which the local
108 school governing board, in its discretion, shall deem beneficial
109 to the official or extracurricular programs of the district,
110 including items which may subsequently become the personal
111 property of individuals, including yearbooks, athletic apparel,

112 book covers and trophies. Activity funds may be used to pay
113 travel expenses of school district personnel. The local school
114 governing board shall be authorized and empowered to promulgate
115 rules and regulations specifically designating for what purposes
116 school activity funds may be expended. The local school governing
117 board shall provide (a) that such school activity funds shall be
118 maintained and expended by the principal of the school generating
119 the funds in individual bank accounts, or (b) that such school
120 activity funds shall be maintained and expended by the
121 superintendent of schools in a central depository approved by the
122 board. The local school governing board shall provide that such
123 school activity funds be audited as part of the annual audit
124 required in Section 37-9-18. The State Auditor shall prescribe a
125 uniform system of accounting and financial reporting for all
126 school activity fund transactions;

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

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

133 (v) (i) To lease a school building from an individual,
134 partnership, nonprofit corporation or a private for-profit
135 corporation for the use of such school district, and to expend
136 funds therefor as may be available from any nonminimum program
137 sources. The school board of the school district desiring to
138 lease a school building shall declare by resolution that a need
139 exists for a school building and that the school district cannot

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

168 amount of the lowest and best bid accepted by the school board
169 after advertisement for bids or an amount not to exceed the
170 current fair market value of the lease as determined by the
171 averaging of at least two (2) appraisals by members of the
172 American Institute of Real Estate Appraisers or the Society of
173 Real Estate Appraisers. The term "school building" as used in
174 this item (v) shall be construed to mean any building or buildings
175 used for classroom purposes in connection with the operation of
176 schools and shall include the site therefor, necessary support
177 facilities, and the equipment thereof and appurtenances thereto
178 such as heating facilities, water supply, sewage disposal,
179 landscaping, walks, drives and playgrounds. The term "lease" as
180 used in this item (v) (i) may include a lease/purchase contract;
181 (ii) If two (2) or more school districts propose
182 to enter into a lease contract jointly, then joint meetings of the
183 school boards having control may be held but no action taken shall
184 be binding on any such school district unless the question of
185 leasing a school building is approved in each participating school
186 district under the procedure hereinabove set forth in item (v) (i).
187 All of the provisions of item (v) (i) regarding the term and amount
188 of the lease contract shall apply to the school boards of school
189 districts acting jointly. Any lease contract executed by two (2)
190 or more school districts as joint lessees shall set out the amount
191 of the aggregate lease rental to be paid by each, which may be
192 agreed upon, but there shall be no right of occupancy by any
193 lessee unless the aggregate rental is paid as stipulated in the
194 lease contract. All rights of joint lessees under the lease
195 contract shall be in proportion to the amount of lease rental paid

196 by each;

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

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

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

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

210 (aa) To acquire in its own name by purchase all real
211 property which shall be necessary and desirable in connection with
212 the construction, renovation or improvement of any public school
213 building or structure. If the board shall be unable to agree with
214 the owner of any such real property in connection with any such
215 project, the board shall have the power and authority to acquire
216 any such real property by condemnation proceedings pursuant to
217 Section 11-27-1 et seq., Mississippi Code of 1972, and for such
218 purpose, the right of eminent domain is hereby conferred upon and
219 vested in said board. Provided further, that the local school
220 board is authorized to grant an easement for ingress and egress
221 over sixteenth section land or lieu land in exchange for a similar
222 easement upon adjoining land where the exchange of easements
223 affords substantial benefit to the sixteenth section land;

224 provided, however, the exchange must be based upon values as
225 determined by a competent appraiser, with any differential in
226 value to be adjusted by cash payment. Any easement rights granted
227 over sixteenth section land under such authority shall terminate
228 when the easement ceases to be used for its stated purpose. No
229 sixteenth section or lieu land which is subject to an existing
230 lease shall be burdened by any such easement except by consent of
231 the lessee or unless the school district shall acquire the
232 unexpired leasehold interest affected by the easement;

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

236 (cc) Subject to rules and regulations of the State
237 Board of Education, to purchase relocatable classrooms for the use
238 of such school district, in the manner prescribed in Section
239 37-1-13;

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

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

252 rules and regulations;

253 (ff) The school boards of all school districts, as part
254 of their duties to prescribe the use of textbooks, may provide
255 that parents and legal guardians shall be responsible for the
256 textbooks and for the compensation to the school district for any
257 books which are not returned to the proper schools upon the
258 withdrawal of their dependent child. If a textbook is lost or not
259 returned by any student who drops out of the public school
260 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,
294 the reputation of the vendors, the extent to which the product or
295 service meets the student's needs, and the vendor's history, if
296 any, in providing products or services to the school district or
297 its students.

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

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

308 years.

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

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

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

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

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

325 (mm) To expend funds for the services of nonprofit arts
326 organizations or other such nonprofit organizations who provide
327 performances or other services for the students of the school
328 district.

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

331 31-7-23. (1) Any rebates, refunds, coupons, merit points,
332 gratuities or any article of value tendered or received by any
333 agency or governing authority from any vendor of material,
334 supplies, equipment or other articles shall inure to the benefit
335 of the agency or governing authority making the purchase. The

336 agency or governing authority may, in accordance with its best
337 interest, either take delivery of the article of value tendered
338 and use the same or convert it to cash by selling it for its fair
339 and reasonable value, making use of the proceeds from such sale
340 for the exclusive benefit of the agency or governing authority.

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

354 SECTION 3. This act shall take effect and be in force from
355 and after July 1, 2000.