

By: Representative Moak

To: Education

HOUSE BILL NO. 602

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



simple or any lesser estate for a purchase price not less than the
fair market value. In no event shall a tract consisting of more
than five (5) acres be sold to one (1) person, and no person may
own more than one (1) tract at any time.

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

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

The proceeds of the sale in fee simple of any sixteenth
section, or lands granted in lieu thereof, in whole or in part, or
such part of said proceeds as may be required to purchase acreage
of equivalent fair market value, shall be used by the board of
education, to purchase other land in the county, which land shall
be held and reserved by the State of Mississippi for the support
of the township schools in lieu of the land thus sold, as other
sixteenth section lieu land is held, and shall be subject to all
laws applicable thereto. Every such sale and every such purchase
of land in lieu thereof shall be reported by the secretary of the
board of education to the Secretary of State and to the State
Forestry Commission within ninety (90) days after the consummation
of each such sale and purchase. Any funds from a sale in fee
simple of any sixteenth section land, or land granted in lieu
thereof, in excess of any amount used to purchase said land in
lieu thereof, shall be treated as corpus and shall be invested by
the board of education as provided by law. Only the income from
such investment shall be expended for current operating expenses
of the schools.

SECTION 2. Section 29-3-29, Mississippi Code of 1972, is
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 Mississippi Development
106 Authority for the certificate authorizing the sale or lease shall
107 be forwarded to the county board of supervisors in addition to the
108 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 Mississippi Development Authority, may sell and convey all
129 minerals except oil, gas, sulphur and casinghead gas on, in and
130 under the said sixteenth section lands so sold for industrial
131 purposes. Said oil, gas, sulphur and casinghead gas shall be



reserved together with such rights of use, ingress and egress as shall not unreasonably interfere with the use of the lands by the purchaser. Prior written approval for such use, ingress and egress, shall be obtained from the surface owner or, if such approval is unreasonably withheld, may be obtained from the chancery court of the county in which said land is located.

If the land is being sold or leased for industrial development, certified copies of the resolutions or orders of the board of supervisors and of the board of education and of the application to the Mississippi Development Authority shall be transmitted to the county superintendent of education, if there be one in the county, who, if he approves the proposed sale or lease, shall so certify and forward same to the Mississippi Development Authority. If there be no county superintendent of education in the county, then the board of education whose district embraces the entire county shall so certify and transmit said copies to the Mississippi Development Authority for further action.

Upon receipt of the aforesaid application and certified copies of the said resolution and orders, the Mississippi Development Authority shall make investigation to determine whether or not the proposed sale or lease of said land for industrial development will promote prompt and substantial industrial development thereon, therein, or thereunder. If the authority finds that such sale or lease will promote prompt and substantial industrial development, * * * and further finds that the person, firm or corporation who proposes to establish said industry is financially responsible, and that the acreage to be sold or leased is not in excess of the amount of land reasonably required for immediate use and for such future expansion as may be reasonably anticipated, then the authority, in its discretion, may issue a certificate to the board of education of said district so certifying, and said certificate shall be the authority for the board of education to enter into the proposed sale or lease. If



the Mississippi Development Authority does not so find, then it shall decline to issue said certificate which action shall be final.

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



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

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

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

219 29-3-1. (1) Sixteenth section school lands, or lands
220 granted in lieu thereof, constitute property held in trust for the
221 benefit of the public schools and must be treated as such. The
222 board of education under the general supervision of the Secretary
223 of State, shall have control and jurisdiction of said school trust
224 lands and of all funds arising from any disposition thereof
225 heretofore or hereafter made. It shall be the duty of the board
226 of education to manage the school trust lands and all funds
227 arising therefrom as trust property. Accordingly, the board shall
228 assure that adequate compensation is received for all sales and
229 uses of the trust lands, except for uses by the public schools.



(2) In the event the board of supervisors declines to approve the rental value of the land set by the board of education, the board of education shall within ten (10) days appoint one (1) appraiser, the board of supervisors shall within twenty (20) days appoint one (1) appraiser and the two (2) appraisers so appointed shall within twenty (20) days appoint a third appraiser whose duty it shall be to appraise the land, exclusive of buildings and improvements, the title to which is not held in trust for the public schools, and to file a written report with each board setting forth their recommendation for the rental value of the land within thirty (30) days. The cost of the appraisal shall be paid from any available sixteenth section school funds or other school funds of the district. If no appeal is taken within twenty (20) days as provided hereunder, the lease shall be executed in accordance with said recommended rental value within thirty (30) days of the receipt of the appraisers' report. In the event any party is aggrieved by the decision of the appraisers setting forth the appraised rental value, the party so aggrieved shall be entitled to an appeal to the chancery court in which the land is located. Such appeal shall be taken within twenty (20) days following the decision. The chancery court, on appeal, may review all of the proceedings, may receive additional evidence, and make findings of fact, as well as conclusions of law to insure that a fair and reasonable return may be obtained on the sixteenth section lands or lands in lieu thereof.

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

29-3-3. The board of education may employ one or more competent persons to ascertain the true condition of the title and to institute and prosecute, in the chancery court of the county where the land lies, all necessary suits to establish and confirm the title to each parcel of such land and to fix the date of the expiration of any lease of the same. If any person other than an



263 individual authorized in Section 29-3-27 to purchase sixteenth
264 section or lieu lands claims any of said land in fee simple or
265 upon any other terms than that of a lease to expire at a fixed
266 date with absolute reversion to the state in trust, or if the
267 title to such lands rest in parol by destruction of records or
268 otherwise, suit shall be instituted at once or as soon as
269 practicable to test the legality of such claims or to reestablish
270 the lost record.

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

273 29-3-11. It shall likewise be the duty of the board of
274 education to ascertain whether or not such county has title to all
275 lieu lands to which it may, by law, be entitled. If it is
276 determined that such county does not have title to all such lands,
277 the board of education shall certify the fact to the Secretary of
278 State who shall institute proper proceedings to secure such lands
279 for such county unless title to the lieu lands has been conveyed
280 by a sale authorized under Section 29-3-27.

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

283 29-3-25. The Secretary of State shall make a report to the
284 Legislature every year, setting forth a statement of all sixteenth
285 section and lieu lands sold during that year, and shall maintain a
286 copy of said report within his office.

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

289 29-3-41. After any parcels of sixteenth section lands have
290 been classified as hereinabove provided, all land which has been
291 classified as forest land and which is not under lease shall * * *
292 not be sold or leased. The lands classified as forest lands which
293 may be under a lease that has a fixed date of expiration shall not
294 be re-leased when said lease expires; nor shall the lessee be
295 permitted to cut or remove any timber therefrom except according

296 to the terms of his lease. Such lands shall be reserved and kept
297 as forest lands. * * * The mineral rights in all such lands may be
298 leased for oil, gas, or mineral purposes, and the board of
299 education may grant leases to the surface of said lands classified
300 as forest, which are limited to hunting and fishing rights and
301 activities in relation thereto, and which shall not extend for a
302 period longer than fifteen (15) years. It shall be the duty of
303 the board of education to lease said hunting and fishing rights at
304 public contract after having advertised same for rent in a
305 newspaper published in said county or, if no newspaper be
306 published in said county, then in a newspaper having a general
307 circulation therein, for two (2) successive weeks, the first being
308 at least ten (10) days prior to said public contract. Said
309 hunting and fishing rights shall be leased to the person offering
310 the highest annual rental.

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

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

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

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



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

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

29-3-73. Where any school land, generally known as sixteenth sections, reserved for the use of schools, or land reserved or granted in lieu of or substituted for sixteenth sections lies within or partly within any drainage district created under the laws of this state, and will be benefited by such drainage district, such land so benefited shall be liable for its pro rata share of the costs, expenses, taxes and assessments relating to said district as if owned by an individual, and shall be assessed accordingly, as other lands are assessed. But in case of a sale of such lands for such taxes or assessments, only the title of the lessee holding such lands under lease at the time of the sale shall pass by the sale.

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

Where such sixteenth section land, or land taken in lieu thereof, shall be held by any lessee, whether his lease shall have heretofore been acquired or shall hereafter be acquired, all such drainage taxes and assessments accruing thereon during such lease shall, in the discretion of the board of education, either be paid by the lessee, his grantees or assigns, or by the board of education, but the liability for such drainage taxes shall be fixed by the lease contract when said lands are leased. Where



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

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

385 29-3-111. All moneys heretofore or hereafter derived from
386 the leasing of said lands for oil, gas and mineral purposes,
387 including any bonus or delay rental payable under such leases, and
388 all moneys derived from the annual payment of rents from the
389 leasing of said lands for agricultural, residential, commercial,
390 industrial, grazing or other purposes, or derived as interest upon
391 loans or investments of principal funds, and all moneys heretofore
392 or hereafter derived from the sale of sixteenth section or lieu
393 lands or the sale of timber, may be expended for any of the



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

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

401 19-3-35. The board of supervisors after each meeting shall
402 have an itemized statement made of allowances, to whom, for what,
403 and the amounts; a list of all contracts providing for the
404 expenditure of money and the terms of payment thereof; a statement
405 of all loans from sixteenth section funds, lieu land funds, and
406 sinking, and other trust funds, setting forth to whom made, the
407 amount, and the kind of security approved; a statement or list of
408 all sales of timber, of all leases upon, including all leases for
409 oil, gas and minerals upon, sixteenth section or lieu lands
410 situated in the county or belonging to the county, showing to whom
411 sold or made, description of land involved, the length of the term
412 of any such lease, and the consideration therefor; a statement or
413 list of all sales of sixteenth section or lieu lands situated in
414 the county or belonging to the county, showing to whom sold, a
415 description of the land involved and the consideration therefor;
416 and it shall also publish a recapitulation of all expenditures
417 according to districts and also the county as a whole, and in such
418 recapitulation the total expenses for each item shall be listed
419 for each district, and in the total county recapitulation the
420 total expended from each item shall be listed and same shall be
421 published within fifteen (15) days after adjournment in some
422 newspaper of general circulation published in the county, and if
423 no such newspaper is published in the county, then in a newspaper
424 published elsewhere in the state and having a general circulation
425 in such county. The cost of publishing the same shall be paid for
426 out of the general fund of the county. The cost of such



publication shall not exceed one-half (1/2) of the rate now fixed by law for publishing legal notices, and in no event shall the cost of such publication exceed One Hundred Dollars (\$100.00) in any one (1) month, save, however, in counties of Classes 1 and 2 the board of supervisors may expend an amount not to exceed One Hundred Seventy-five Dollars (\$175.00) per month for the publication of said cumulative digest of its proceedings as provided for above. If there be more than one (1) newspaper published in the county, the board of supervisors shall advertise, as provided by law, for contracts for publishing such proceedings, and shall award the contract to the lowest bidder for a period of two (2) years. If no bid be made for the price above mentioned, then the proceedings shall be posted at the courthouse door as hereinafter provided. If there be no newspaper published in such county, then such proceedings shall be posted at the front courthouse door.

If any member of a board of supervisors or the chancery clerk shall fail, refuse or neglect to comply with the provisions of this section, he shall, upon conviction, be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) for such failure, refusal or neglect for each offense and, in addition thereto, shall be liable to a penalty of Five Hundred Dollars (\$500.00), recoverable on his official bond by suit filed by any county or district attorney or any interested citizen, upon his official bond.

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



460 SECTION 12. This act shall take effect and be in force from
461 and after ratification by the electorate of the amendment to the
462 Mississippi Constitution of 1890 set forth in House Concurrent
463 Resolution No. _____, 2002 Regular Session.

