HOUSE BILL NO. 602

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

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

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

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

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

or

(b) To any legal resident of the State of Mississippi who is a retired veteran of active duty service in the Armed Forces of the United States or a veteran rated as having one hundred percent (100%) permanent service-connected disability by the Veterans Administration, and who has continuously leased, improved and actually occupied the specific tract of land for no less than ten (10) consecutive years as his primary residence.

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:
29-3-29. Before any sixteenth section school land or land granted in lieu thereof may be sold or leased for industrial development or sold to a veteran of the Armed Forces of the United States under this chapter, the board of education controlling such land shall first determine that such sale or lease will be fair market value. In the determination of the fair market value of said land the comparative sales method shall be used, and the highest and best use of said sixteenth section lands shall be determined on the basis of finding that said land shall be susceptible to any use that comparative land in private ownership may be used, that the acreage to be sold or leased is not in excess of the amount of land authorized in Section 29-3-27 or an amount reasonably required for immediate use and for such future expansion as may be reasonably anticipated, that such sale or lease will be beneficial to and in the best interest of the schools of the district for which said land is held and if sold or leased for industrial development, that there will be prompt and substantial industrial development on, in, or under the land after the sale or lease. All of said findings, including the amount of the sale price or gross rental for said land, shall be spread on the minutes of the board of education. Also, if the board of education proposes to sell said land, said board shall first enter into a contract or obtain a legal option to purchase, for a specified price not in excess of fair market value, other land in the county of acreage of equivalent fair market value, and such contract or option shall be spread on the minutes of said board. However, not more than one hundred (100) acres in any one sixteenth section school lands in any county may be sold under this chapter for the purpose of being made an industrial park or a part of such industrial park, provided the provisions of this section and Sections 57-5-1 and 57-5-23 are fully complied with. A certified copy of the resolution or order of the board of education, setting out the foregoing findings, together with a
certified copy of the order approving and setting out the terms of
the contract or option to purchase other lands where a sale of
land is proposed, shall be forwarded to the county board of
supervisors, which board shall make an independent investigation
of the proposed sale or lease and of the proposed purchase of
other land. If the land is being sold or leased for industrial
development, an application to the Mississippi Development
Authority for the certificate authorizing the sale or lease shall
be forwarded to the county board of supervisors in addition to the
other items required in this section.

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

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

There shall be reserved all minerals in, on, and under any
lands conveyed under the provisions of this section. However,
in any county bordering on the State of Alabama,
traversed by the Tombigbee River, in which U.S. Highway 82
intersects U.S. Highway 45 and in which is situated a state
supported institution of higher learning, upon the sale of any
sixteenth section lands for industrial purposes as provided by
law, the board of education, the superintendent of education and
the Mississippi Development Authority, may sell and convey all
minerals except oil, gas, sulphur and casinghead gas on, in and
under the said sixteenth section lands so sold for industrial
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
education who may proceed forthwith to sell or lease said land in accordance with the proposition so submitted to the electors. If less than two-thirds (2/3) of those voting in such special election vote in favor of the said sale or lease, then said land shall not be sold or leased.

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

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

29-3-1. (1) Sixteenth section school lands, or lands granted in lieu thereof, constitute property held in trust for the benefit of the public schools and must be treated as such. The board of education under the general supervision of the Secretary of State, shall have control and jurisdiction of said school trust lands and of all funds arising from any disposition thereof heretofore or hereafter made. It shall be the duty of the board of education to manage the school trust lands and all funds arising therefrom as trust property. Accordingly, the board shall assure that adequate compensation is received for all sales and 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
individual authorized in Section 29-3-27 to purchase sixteenth section or lieu lands claims any of said land in fee simple or upon any other terms than that of a lease to expire at a fixed date with absolute reversion to the state in trust, or if the title to such lands rest in parol by destruction of records or otherwise, suit shall be instituted at once or as soon as practicable to test the legality of such claims or to reestablish the lost record.

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

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

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

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

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

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

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

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

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

SECTION 8. Section 29-3-71, Mississippi Code of 1972, is
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
said lands have been leased by the superintendent of education, with the consent of the board of education in open session, and said lease contract provides that the lessee shall pay all such drainage taxes and assessments, and the lessee has actually entered upon and occupied said lands as lessee and is recognized as such, the school district in which said sixteenth section is located shall not be liable for such drainage taxes on account of the negligence of the secretary in failing to enter the order of the board approving said lease contract on its minutes. All such drainage taxes and assessments accruing on any such lands that have not been sold or while the same are not leased shall be paid by the board of education of the school district in which such lands are situated, out of any sixteenth section funds belonging to the township in which such lands are located, which may be on hand at the time when such drainage taxes or assessments become due or which may be thereafter at any time collected or acquired. For the purpose of paying such drainage taxes and assessments, the board of education may borrow all money necessary to pay the same. When any such funds are borrowed as aforesaid, for the purposes aforesaid, the same shall be repaid out of the first sixteenth section fund thereafter derived from the sixteenth section lands so taxed and assessed.

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

29-3-111. All moneys heretofore or hereafter derived from the leasing of said lands for oil, gas and mineral purposes, including any bonus or delay rental payable under such leases, and all moneys derived from the annual payment of rents from the leasing of said lands for agricultural, residential, commercial, industrial, grazing or other purposes, or derived as interest upon loans or investments of principal funds, and all moneys heretofore or hereafter derived from the sale of sixteenth section or lieu lands or the sale of timber, may be expended for any of the
purposes authorized by law. In cases where said moneys have been
transferred to the principal fund and it is determined to expend
same for any of the purposes authorized by law, such moneys shall
be transferred to the proper fund for expenditure upon order of
the board of education.

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

19-3-35. The board of supervisors after each meeting shall
have an itemized statement made of allowances, to whom, for what,
and the amounts; a list of all contracts providing for the
expenditure of money and the terms of payment thereof; a statement
of all loans from sixteenth section funds, lieu land funds, and
sinking, and other trust funds, setting forth to whom made, the
amount, and the kind of security approved; a statement or list of
all sales of timber, of all leases upon, including all leases for
oil, gas and minerals upon, sixteenth section or lieu lands
situated in the county or belonging to the county, showing to whom
sold or made, description of land involved, the length of the term
of any such lease, and the consideration therefor; a statement or
list of all sales of sixteenth section or lieu lands situated in
the county or belonging to the county, showing to whom sold, a
description of the land involved and the consideration therefor;
and it shall also publish a recapitulation of all expenditures
according to districts and also the county as a whole, and in such
recapitulation the total expenses for each item shall be listed
for each district, and in the total county recapitulation the
total expended from each item shall be listed and same shall be
published within fifteen (15) days after adjournment in some
newspaper of general circulation published in the county, and if
no such newspaper is published in the county, then in a newspaper
published elsewhere in the state and having a general circulation
in such county. The cost of publishing the same shall be paid for
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.
SECTION 12. This act shall take effect and be in force from and after ratification by the electorate of the amendment to the Mississippi Constitution of 1890 set forth in House Concurrent Resolution No. ____, 2002 Regular Session.