

By: Representative Rogers

To: Education

HOUSE BILL NO. 1039

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY THAT IF A MEMBER OF A LOCAL SCHOOL BOARD HAS ANY INTEREST
3 IN THE MANAGEMENT OR SALE OF TIMBER OR SIXTEENTH SECTION LANDS,
4 THEN THE SCHOOL BOARD MAY NOT TAKE ANY ACTION REGARDING TIMBER
5 MANAGEMENT ISSUES; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 29-3-45, Mississippi Code of 1972, is
8 amended as follows:

9 29-3-45. The board of education shall, by order placed upon
10 its minutes, enter into an agreement with the State Forestry
11 Commission for the general supervision and management of all lands
12 classified as forest lands, as hereinabove provided, and of all
13 timber under the control of the board on sixteenth section lands,
14 and lieu lands which have not been so classified; however, any
15 school board may contract with private persons or businesses for
16 the reforestation of sixteenth section lands. When such agreement
17 has been entered into, no timber shall be sold from any of the
18 sixteenth section lands or lieu lands except such as have been
19 marked for cutting by the State Forestry Commission's employees,
20 and the State Forestry Commission, or its designated employee,
21 shall fix the minimum total cash price or minimum price per unit,
22 one thousand (1,000) feet or other measure, at which the marked
23 timber shall be sold. The sales may be made for a lump sum or
24 upon a unit price as, in the opinion of the board, may be
25 calculated to bring the greatest return. Sales shall be made upon
26 such other terms and conditions as to manner of cutting, damages
27 for cutting of unmarked trees, damages to trees not cut and other
28 pertinent matters as the board of education shall approve.

29 Any member of the board of education who has an interest in
30 the management or sale of timber on sixteenth section lands under
31 the control of that board which may create a conflict of interest
32 under Section 109 of the Mississippi Constitution of 1890 or
33 Section 25-4-105 must recuse himself or herself from participating
34 in any action of the board relating to the management or sale of
35 the timber. If any member of the board of education is required
36 to recuse himself from the decision of the board regarding a
37 timber management issue, the board may not take any action
38 relating to the management or sale of the timber, and the
39 superintendent of the school district shall forward the matter to
40 the Secretary of State, who as supervisory trustee, shall have
41 authority to make all decisions and take any action within the
42 authority of the board of education relating to the issue.

43 The State Forestry Commission shall have the sole authority
44 and control in prescribing the forestry management practices and
45 scheduling of all cutting and harvesting of timber when such
46 timber stands are determined by the State Forestry Commission to
47 be economically ready for cutting and harvesting; however, any
48 school board may contract with private persons or businesses for
49 the reforestation of sixteenth section lands.

50 Should a school board disagree with the State Forestry
51 Commission concerning the time of cutting and harvesting, the
52 board may make an appeal to the State Forestry Commission at a
53 regular monthly scheduled meeting of the commission. If the
54 school board is not satisfied after the appeal to the commission,
55 the board may then appeal to the Secretary of State who will make
56 the final decision as to the time for cutting and harvesting.

57 It is * * * the duty of the State Forestry Commission, from
58 time to time, to mark timber which should be cut from the
59 sixteenth section lands, to determine what planting, deadening or
60 other forestry improvements should be made, giving due
61 consideration to food and habitat for wildlife, and to report to

62 the appropriate board of education. The State Forestry Commission
63 and the board of education shall supervise the cutting of any
64 timber sold from those lands herein designated and shall have
65 authority to require any timber-cutting operations on the lands to
66 cease until proper adjustment is made, whenever it shall appear
67 that timber is being cut in violation of the terms of the sale.
68 In the event that it is desired to lease any of such lands or
69 standing timber for turpentine purposes, such lease shall only
70 cover such trees as the State Forestry Commission shall designate,
71 and the commission, through its employees, shall approve the
72 number of faces, method of chipping and boxing of such timber, and
73 shall fix a minimum total cash price or minimum price per unit.

74 No sale of any timber, sand or gravel or turpentine lease
75 shall be made until notice of the sale or lease has been published
76 once a week for three (3) consecutive weeks in at least one (1)
77 newspaper published in such county. The first publication of such
78 notice shall be made not less than twenty-one (21) days prior to
79 the date fixed for the sale or lease, and the last publication
80 shall be made not more than seven (7) days prior to such date. If
81 no newspaper is published in such county, then such notice shall
82 be given by publishing the same for the required time in some
83 newspaper having a general circulation in such county and, in
84 addition * * *, by posting a copy of such notice for at least
85 twenty-one (21) days next preceding such sale or lease at three
86 (3) public places in such county.

87 * * * However, in the case of damage by fire, windstorm or
88 other natural causes which would require immediate sale of the
89 timber, because the time involved for advertisement as prescribed
90 in this section would allow decay, rot or destruction
91 substantially decreasing the purchase price to be received had not
92 such delay occurred, the advertisement provisions of this section
93 shall not apply. The board of education, with a written
94 recommendation from a designated employee of the State Forestry

95 Commission filed in the minutes of the board of education, shall
96 determine when immediate sale of the timber is required. When the
97 board of education shall find an immediate sale necessary for the
98 causes stated in this section, it shall, in its discretion, set
99 the time for receipt of bids on the purchase of the timber, but
100 shall show due diligence in notifying competitive bidders so that
101 a true competitive bid shall be received.

102 SECTION 2. This act shall take effect and be in force from
103 and after July 1, 2001.