

By: Representative Rogers

To: Education

HOUSE BILL NO. 1048

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE DIVESTITURE OF A LOCAL SCHOOL BOARD'S MANAGEMENT
3 AUTHORITY OVER SIXTEENTH SECTION FOREST LANDS IF ANY MEMBER OF THE
4 BOARD HAS A PERSONAL INTEREST IN DECISIONS REGARDING THE TIMBER OR
5 OTHER FOREST PRODUCTS, AND TO GRANT SUCH MANAGEMENT AUTHORITY TO
6 THE SECRETARY OF STATE DURING THE PERIOD OF DIVESTITURE; AND FOR
7 RELATED PURPOSES.

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

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

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

29 shall be made upon such other terms and conditions as to manner of
30 cutting, damages for cutting of unmarked trees, damages to trees
31 not cut and other pertinent matters as the board of education
32 shall approve.

33 * * *

34 (b) The State Forestry Commission shall have the sole
35 authority and control in prescribing the forestry management
36 practices and scheduling of all cutting and harvesting of timber
37 or other forest products when such timber stands or other forest
38 products are determined by the State Forestry Commission to be
39 economically ready for cutting and harvesting; however, any school
40 board may contract with private persons or businesses for the
41 reforestation of sixteenth section lands.

42 (c) Should a school board disagree with the State
43 Forestry Commission concerning the time of cutting and harvesting,
44 the board may make an appeal to the State Forestry Commission at a
45 regular monthly scheduled meeting of the commission. If the
46 school board is not satisfied after the appeal to the commission,
47 the board may then appeal to the Secretary of State, who will make
48 the final decision as to the time for cutting and harvesting. If
49 the local school board is divested of its management authority
50 under subsection (2) of this section, the Secretary of State,
51 after due consultation with the State Forestry Commission, shall
52 retain the right to make final decisions concerning the management
53 and sale of timber and other forest products.

54 (d) It is * * * the duty of the State Forestry
55 Commission, from time to time, to mark timber which should be cut
56 from sixteenth section lands, to determine what planting,
57 deadening or other forestry improvements should be made, giving
58 due consideration to food and habitat for wildlife, and to report
59 to the appropriate board of education. The State Forestry
60 Commission and the board of education shall supervise the cutting
61 of any timber or harvesting of other forest products sold from

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

73 (e) No sale of any timber, * * * turpentine or other
74 forest products shall be made until notice of the sale shall have
75 been published once a week for three (3) consecutive weeks in at
76 least one (1) newspaper published in such county. The first
77 publication of such notice shall be made not less than twenty-one
78 (21) days prior to the date fixed for the sale, and the last
79 publication shall be made not more than seven (7) days prior to
80 such date. If no newspaper is published in such county, then such
81 notice shall be given by publishing the same for the required time
82 in some newspaper having a general circulation in such county and,
83 in addition thereto, by posting a copy of such notice for at least
84 twenty-one (21) days next preceding such sale at three (3) public
85 places in such county. However, in the case of damage by fire,
86 windstorm or other natural causes which would require immediate
87 sale of the timber or other forest products, because the time
88 involved for advertisement as prescribed in this paragraph would
89 allow decay, rot or destruction substantially decreasing the
90 purchase price to be received had not such delay occurred, the
91 advertisement provisions of this paragraph shall not apply. The
92 board of education, with a written recommendation from a
93 designated employee of the State Forestry Commission filed in the
94 minutes of the board of education, shall determine when immediate

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

102 (2) (a) If any member of a local school board has a
103 personal interest, either direct or indirect, in the decisions
104 regarding the management or sale of timber or other forest
105 products or in a contract for the sale of timber or other forest
106 products from sixteenth section school lands under the
107 jurisdiction and control of the school board, then the school
108 board automatically shall be divested of all authority and power
109 to manage and sell timber on sixteenth section lands under its
110 control and jurisdiction. This divestiture shall extend for the
111 period of service, and for one (1) year thereafter, of the school
112 board member having a direct or indirect personal interest in the
113 sale or decision to sell timber or other forest products.

114 (b) During the time in which any local school board is
115 divested of authority and power to manage and sell timber and
116 other forest products, such authority and power shall be vested in
117 the Secretary of State, as supervisory trustee of sixteenth
118 section lands. Upon the appointment or election of a member of a
119 local school board who has such an interest in decisions and
120 contracts regarding the management and sale of timber or other
121 forest products, the school board shall notify immediately the
122 Secretary of State in writing. In addition, the school board
123 shall give written notification to the Secretary of State within
124 thirty (30) days before the expiration of the divestiture period.
125 Any contractor with a local school board or the Secretary of State
126 may rely on representations by the school board or the Secretary
127 of State as to who has authority to enter contracts for the

128 management or sale of timber or other forest products, and
129 reliance on such representations may not be grounds for voiding a
130 contract.

131 (c) The laws providing for the management and sale of
132 timber and other forest products by local school boards apply to
133 the management and sale of timber and other forest products by the
134 Secretary of State. The State Forestry Commission shall provide
135 the Secretary of State with advice and services in the same manner
136 as provided to local school boards.

137 (d) The Secretary of State shall be paid all monies
138 derived from the sale of timber or other forest products and
139 promptly shall forward those monies to the superintendent of
140 education for the school district with instructions for the proper
141 settlement, deposit and investment of those monies. The local
142 school board shall reimburse the Secretary of State for all direct
143 costs relating to the management and sale of timber or other
144 forest products, and in the case of a sale of timber or other
145 forest products, the Secretary of State may deduct such direct
146 costs from the proceeds of sale. The Secretary of State shall
147 furnish an itemized listing of all direct costs charged to the
148 local school district.

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