HOUSE BILL NO. 1048

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

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

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

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

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

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

(d) It is * * * the duty of the State Forestry Commission, from time to time, to mark timber which should be cut from sixteenth section lands, to determine what planting, deadening or other forestry improvements should be made, giving due consideration to food and habitat for wildlife, and to report to the appropriate board of education. The State Forestry Commission and the board of education shall supervise the cutting of any timber or harvesting of other forest products sold from
those lands herein designated and shall have authority to require
any timber-cutting or harvesting operations on those lands to
cease until proper adjustment is made, whenever it shall appear
that timber is being cut or forest products harvested in violation
of the terms of the sale. In the event that it is desired to
lease any of such lands or standing timber for turpentine
purposes, such lease shall only cover such trees as the State
Forestry Commission shall designate, and the commission, through
its employees, shall approve the number of faces, method of
chipping and boxing of such timber, and shall fix a minimum total
cash price or minimum price per unit.

(e) No sale of any timber, * * * turpentine or other
forest products shall be made until notice of the sale shall have
been published once a week for three (3) consecutive weeks in at
least one (1) newspaper published in such county. The first
publication of such notice shall be made not less than twenty-one
(21) days prior to the date fixed for the sale, and the last
publication shall be made not more than seven (7) days prior to
such date. If no newspaper is published in such county, then such
notice shall be given by publishing the same for the required time
in some newspaper having a general circulation in such county and,
in addition thereto, by posting a copy of such notice for at least
twenty-one (21) days next preceding such sale at three (3) public
places in such county. However, in the case of damage by fire,
windstorm or other natural causes which would require immediate
sale of the timber or other forest products, because the time
involved for advertisement as prescribed in this paragraph would
allow decay, rot or destruction substantially decreasing the
purchase price to be received had not such delay occurred, the
advertisement provisions of this paragraph shall not apply. The
board of education, with a written recommendation from a
designated employee of the State Forestry Commission filed in the
minutes of the board of education, shall determine when immediate
sale of the timber or other forest products is required. When the
board of education shall find an immediate sale necessary for the
causes stated in this paragraph, it shall, in its discretion, set
the time for receipt of bids on the purchase of the timber or
other forest products, but shall show due diligence in notifying
competitive bidders so that a true competitive bid shall be
received.

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

(b) During the time in which any local school board is
divested of authority and power to manage and sell timber and
other forest products, such authority and power shall be vested in
the Secretary of State, as supervisory trustee of sixteenth
section lands. Upon the appointment or election of a member of a
local school board who has such an interest in decisions and
contracts regarding the management and sale of timber or other
forest products, the school board shall notify immediately the
Secretary of State in writing. In addition, the school board
shall give written notification to the Secretary of State within
thirty (30) days before the expiration of the divestiture period.
Any contractor with a local school board or the Secretary of State
may rely on representations by the school board or the Secretary
of State as to who has authority to enter contracts for the
management or sale of timber or other forest products, and
reliance on such representations may not be grounds for voiding a
contract.

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

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

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