SENATE BILL NO. 2803

AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972, TO GIVE AUTHORITY TO SCHOOL DISTRICTS TO TAKE ACTION WITH RESPECT TO THE OPERATIONS, MANAGEMENT, PROPERTY AND FINANCES OF THE SCHOOL DISTRICT FOR WHICH NO SPECIFIC PROVISION HAS BEEN MADE BY LAW, WITH LIMITATIONS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 37-7-301, Mississippi Code of 1972, is amended as follows:

37-7-301. (1) The school boards of all school districts shall have the following powers, authority and duties in addition to all others imposed or granted by law, to wit:

(a) To organize and operate the schools of the district and to make such division between the high school grades and elementary grades as, in their judgment, will serve the best interests of the school;

(b) To introduce public school music, art, manual training and other special subjects into either the elementary or high school grades, as the board shall deem proper;

(c) To be the custodians of real and personal school property and to manage, control and care for same, both during the school term and during vacation;

(d) To have responsibility for the erection, repairing and equipping of school facilities and the making of necessary school improvements;

(e) To suspend or to expel a pupil or to change the placement of a pupil to the school district's alternative school or home-bound program for misconduct in the school or on school property, as defined in Section 37-11-29, on the road to and from
school, or at any school-related activity or event, or for conduct occurring on property other than school property or other than at a school-related activity or event when such conduct by a pupil, in the determination of the school superintendent or principal, renders that pupil's presence in the classroom a disruption to the educational environment of the school or a detriment to the best interest and welfare of the pupils and teacher of such class as a whole, and to delegate such authority to the appropriate officials of the school district;

(f) To visit schools in the district, in their discretion, in a body for the purpose of determining what can be done for the improvement of the school in a general way;

(g) To support, within reasonable limits, the superintendent, principal and teachers where necessary for the proper discipline of the school;

(h) To exclude from the schools students with what appears to be infectious or contagious diseases; provided, however, such student may be allowed to return to school upon presenting a certificate from a public health officer, duly licensed physician or nurse practitioner that the student is free from such disease;

(i) To require those vaccinations specified by the State Health Officer as provided in Section 41-23-37, Mississippi Code of 1972;

(j) To see that all necessary utilities and services are provided in the schools at all times when same are needed;

(k) To authorize the use of the school buildings and grounds for the holding of public meetings and gatherings of the people under such regulations as may be prescribed by said board;

(l) To prescribe and enforce rules and regulations not inconsistent with law or with the regulations of the State Board of Education for their own government and for the government of
the schools, and to transact their business at regular and special
meetings called and held in the manner provided by law;

(m) To maintain and operate all of the schools under
their control for such length of time during the year as may be
required;

(n) To enforce in the schools the courses of study and
the use of the textbooks prescribed by the proper authorities;

(o) To make orders directed to the superintendent of
schools for the issuance of pay certificates for lawful purposes
on any available funds of the district and to have full control of
the receipt, distribution, allotment and disbursement of all funds
provided for the support and operation of the schools of such
school district whether such funds be derived from state
appropriations, local ad valorem tax collections, or otherwise;

(p) To select all school district personnel in the
manner provided by law, and to provide for such employee fringe
benefit programs, including accident reimbursement plans, as may
be deemed necessary and appropriate by the board;

(q) To provide athletic programs and other school
activities and to regulate the establishment and operation of such
programs and activities;

(r) To join, in their discretion, any association of
school boards and other public school-related organizations, and
to pay from local funds other than minimum foundation funds, any
membership dues;

(s) To expend local school activity funds, or other
available school district funds, other than minimum education
program funds, for the purposes prescribed under this paragraph.
"Activity funds" shall mean all funds received by school officials
in all school districts paid or collected to participate in any
school activity, such activity being part of the school program
and partially financed with public funds or supplemented by public
funds. The term "activity funds" shall not include any funds
raised and/or expended by any organization unless commingled in a
bank account with existing activity funds, regardless of whether
the funds were raised by school employees or received by school
employees during school hours or using school facilities, and
regardless of whether a school employee exercises influence over
the expenditure or disposition of such funds. Organizations shall
not be required to make any payment to any school for the use of
any school facility if, in the discretion of the local school
governing board, the organization's function shall be deemed to be
beneficial to the official or extracurricular programs of the
school. For the purposes of this provision, the term
"organization" shall not include any organization subject to the
control of the local school governing board. Activity funds may
only be expended for any necessary expenses or travel costs,
including advances, incurred by students and their chaperons in
attending any in-state or out-of-state school-related programs,
conventions or seminars and/or any commodities, equipment, travel
expenses, purchased services or school supplies which the local
school governing board, in its discretion, shall deem beneficial
to the official or extracurricular programs of the district,
including items which may subsequently become the personal
property of individuals, including yearbooks, athletic apparel,
book covers and trophies. Activity funds may be used to pay
tavel expenses of school district personnel. The local school
governing board shall be authorized and empowered to promulgate
rules and regulations specifically designating for what purposes
school activity funds may be expended. The local school governing
board shall provide (a) that such school activity funds shall be
maintained and expended by the principal of the school generating
the funds in individual bank accounts, or (b) that such school
activity funds shall be maintained and expended by the
superintendent of schools in a central depository approved by the
board. The local school governing board shall provide that such
school activity funds be audited as part of the annual audit required in Section 37-9-18. The State Auditor shall prescribe a uniform system of accounting and financial reporting for all school activity fund transactions;

(t) To contract, on a shared savings, lease or lease-purchase basis, for energy efficiency services and/or equipment as provided for in Section 31-7-14, not to exceed ten (10) years;

(u) To maintain accounts and issue pay certificates on school food service bank accounts;

(v) (i) To lease a school building from an individual, partnership, nonprofit corporation or a private for-profit corporation for the use of such school district, and to expend funds therefor as may be available from any nonminimum program sources. The school board of the school district desiring to lease a school building shall declare by resolution that a need exists for a school building and that the school district cannot provide the necessary funds to pay the cost or its proportionate share of the cost of a school building required to meet the present needs. The resolution so adopted by the school board shall be published once each week for three (3) consecutive weeks in a newspaper having a general circulation in the school district involved, with the first publication thereof to be made not less than thirty (30) days prior to the date upon which the school board is to act on the question of leasing a school building. If no petition requesting an election is filed prior to such meeting as hereinafter provided, then the school board may, by resolution spread upon its minutes, proceed to lease a school building. If at any time prior to said meeting a petition signed by not less than twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the school district involved shall be filed with the school board requesting that an election be called on the question, then the school board shall, not later
than the next regular meeting, adopt a resolution calling an
election to be held within such school district upon the question
of authorizing the school board to lease a school building. Such
election shall be called and held, and notice thereof shall be
given, in the same manner for elections upon the questions of the
issuance of the bonds of school districts, and the results thereof
shall be certified to the school board. If at least three-fifths
(3/5) of the qualified electors of the school district who voted
in such election shall vote in favor of the leasing of a school
building, then the school board shall proceed to lease a school
building. The term of the lease contract shall not exceed twenty
(20) years, and the total cost of such lease shall be either the
amount of the lowest and best bid accepted by the school board
after advertisement for bids or an amount not to exceed the
current fair market value of the lease as determined by the
averaging of at least two (2) appraisals by certified general
appraisers licensed by the State of Mississippi. The term "school
building" as used in this item (v) shall be construed to mean any
building or buildings used for classroom purposes in connection
with the operation of schools and shall include the site therefor,
necessary support facilities, and the equipment thereof and
appurtenances thereto such as heating facilities, water supply,
sewage disposal, landscaping, walks, drives and playgrounds. The
term "lease" as used in this item (v)(i) may include a
lease/purchase contract;

(ii) If two (2) or more school districts propose
to enter into a lease contract jointly, then joint meetings of the
school boards having control may be held but no action taken shall
be binding on any such school district unless the question of
leasing a school building is approved in each participating school
district under the procedure hereinabove set forth in item (v)(i).
All of the provisions of item (v)(i) regarding the term and amount
of the lease contract shall apply to the school boards of school
districts acting jointly. Any lease contract executed by two (2) or more school districts as joint lessees shall set out the amount of the aggregate lease rental to be paid by each, which may be agreed upon, but there shall be no right of occupancy by any lessee unless the aggregate rental is paid as stipulated in the lease contract. All rights of joint lessees under the lease contract shall be in proportion to the amount of lease rental paid by each;

(w) To employ all noninstructional and noncertificated employees and fix the duties and compensation of such personnel deemed necessary pursuant to the recommendation of the superintendent of schools;

(x) To employ and fix the duties and compensation of such legal counsel as deemed necessary;

(y) Subject to rules and regulations of the State Board of Education, to purchase, own and operate trucks, vans and other motor vehicles, which shall bear the proper identification required by law;

(z) To expend funds for the payment of substitute teachers and to adopt reasonable regulations for the employment and compensation of such substitute teachers;

(aa) To acquire in its own name by purchase all real property which shall be necessary and desirable in connection with the construction, renovation or improvement of any public school building or structure. Whenever the purchase price for such real property is greater than Fifty Thousand Dollars ($50,000.00), the school board shall not purchase the property for an amount exceeding the fair market value of such property as determined by the average of at least two (2) independent appraisals by certified general appraisers licensed by the State of Mississippi. If the board shall be unable to agree with the owner of any such real property in connection with any such project, the board shall have the power and authority to acquire any such real property by
condemnation proceedings pursuant to Section 11-27-1 et seq.,
Mississippi Code of 1972, and for such purpose, the right of
eminent domain is hereby conferred upon and vested in said board.
Provided further, that the local school board is authorized to
grant an easement for ingress and egress over sixteenth section
land or lieu land in exchange for a similar easement upon
adjoining land where the exchange of easements affords substantial
benefit to the sixteenth section land; provided, however, the
exchange must be based upon values as determined by a competent
appraiser, with any differential in value to be adjusted by cash
payment. Any easement rights granted over sixteenth section land
under such authority shall terminate when the easement ceases to
be used for its stated purpose. No sixteenth section or lieu land
which is subject to an existing lease shall be burdened by any
such easement except by consent of the lessee or unless the school
district shall acquire the unexpired leasehold interest affected
by the easement;

(bb) To charge reasonable fees related to the
educational programs of the district, in the manner prescribed in
Section 37-7-335;

(cc) Subject to rules and regulations of the State
Board of Education, to purchase relocatable classrooms for the use
of such school district, in the manner prescribed in Section
37-1-13;

(dd) Enter into contracts or agreements with other
school districts, political subdivisions or governmental entities
to carry out one or more of the powers or duties of the school
board, or to allow more efficient utilization of limited resources
for providing services to the public;

(ee) To provide for in-service training for employees
of the district. Until June 30, 1994, the school boards may
designate two (2) days of the minimum school term, as defined in
Section 37-19-1, for employee in-service training for
implementation of the new statewide testing system as developed by
the State Board of Education. Such designation shall be subject
to approval by the State Board of Education pursuant to uniform
rules and regulations;

(ff) As part of their duties to prescribe the use of
textbooks, to provide that parents and legal guardians shall be
responsible for the textbooks and for the compensation to the
school district for any books which are not returned to the proper
schools upon the withdrawal of their dependent child. If a
textbook is lost or not returned by any student who drops out of
the public school district, the parent or legal guardian shall
also compensate the school district for the fair market value of
the textbooks;

(gg) To conduct fund-raising activities on behalf of
the school district that the local school board, in its
discretion, deems appropriate or beneficial to the official or
extracurricular programs of the district; provided that:

(i) Any proceeds of the fund-raising activities
shall be treated as "activity funds" and shall be accounted for as
are other activity funds under this section; and

(ii) Fund-raising activities conducted or
authorized by the board for the sale of school pictures, the
rental of caps and gowns or the sale of graduation invitations for
which the school board receives a commission, rebate or fee shall
contain a disclosure statement advising that a portion of the
proceeds of the sales or rentals shall be contributed to the
student activity fund;

(hh) To allow individual lessons for music, art and
other curriculum-related activities for academic credit or
nonacademic credit during school hours and using school equipment
and facilities, subject to uniform rules and regulations adopted
by the school board;
(ii) To charge reasonable fees for participating in an extracurricular activity for academic or nonacademic credit for necessary and required equipment such as safety equipment, band instruments and uniforms;

(jj) To conduct or participate in any fund-raising activities on behalf of or in connection with a tax-exempt charitable organization;

(kk) To exercise such powers as may be reasonably necessary to carry out the provisions of this section; *

(ll) To expend funds for the services of nonprofit arts organizations or other such nonprofit organizations who provide performances or other services for the students of the school district.

(2) In addition to all the specific powers set forth above, the school boards of all school districts shall have the power to adopt any orders, resolutions, or take other action with respect to the operations, management, property and finances of the school district for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi; and any such school board shall likewise have the power to alter, modify and repeal such orders, resolutions or action. Except as provided for in this subsection (2), the powers granted to school boards in this section are complete without the existence of or reference to any specific authority granted in any other statute or law of the State of Mississippi. This subsection (2) shall not authorize school boards to (a) levy taxes other than those authorized by statute or increase the levy of any authorized tax beyond statutorily established limits, (b) issue bonds of any kind, (c) change the requirements, practices or procedures for applicable elections or establish any new elective office, (d) use any public funds, equipment, supplies or materials for any private purpose,
or (e) grant any donation, unless such actions are specifically authorized by another statute or law of the State of Mississippi.

SECTION 2. This act shall take effect and be in force from and after its passage.