SENATE BILL NO. 2938

AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO PRESCRIBE A PROCEDURE FOR THE MANAGEMENT OF SALE OF TIMBER OR OTHER FOREST PRODUCTS ON SIXTEENTH SECTION FOREST LAND IN THE EVENT THE LOCAL SCHOOL BOARD IS DIVESTED OF AUTHORITY DUE TO A CONFLICT OF INTEREST; 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 or 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 said sixteenth section lands or lieu lands except such as have been marked for cutting by the State Forestry Commission's employees, and the said 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 said marked timber or other forest products shall be sold. Said 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 Forestry Commission concerning the time of cutting and harvesting, the board may make an appeal to the 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. In the event, the local school board is divested of its management authority under Section (2) hereof, the Secretary of State after due consultation with the Forestry Commission shall retain the right to make final decisions concerning the management and sale of timber and other forest products.

(d) It is hereby made the duty of the State Forestry Commission, from time to time, to mark timber which should be cut from said 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 said lands herein designated and shall have authority to require any timber-cutting operations on said lands to cease until proper adjustment is made,
whenever it shall appear that timber is being cut 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 said 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 lease shall be made until notice of same 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 said 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.

(f) Provided, however, in the case of damage by fire, windstorm or other natural causes which would require immediate sale of the timber, because the time involved for advertisement as prescribed herein would allow decay, rot or destruction substantially decreasing the purchase price to be received had not such delay occurred, the advertisement provisions of this section 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 is required. When the board of education shall find an immediate sale necessary for the causes stated herein, it shall, in its discretion, set the time
for receipt of bids on the purchase of said timber, but shall show
due diligence in notifying competitive bidders so that a true
competitive bid shall be received.

(2) (a) In the event that any member of a local board of
education may have 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 said board, then said board of
education shall automatically be divested of all authority and
power to manage and sell timber or other forest products on
sixteenth section lands under its control and jurisdiction. Said
divestiture shall extend for the period of service, and for one
(1) year thereafter, of the 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 board of
education may be 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 board of education who may have such an
appointment or election of a member of a local board of education
who may have such an interest in decisions and contracts regarding
the management and sale of timber or other forest products, said
board of education shall immediately notify the Secretary of State
in writing. Likewise, said board shall give written notification
to the Secretary of State within thirty (30) days prior to the
expiration of any such divestiture period. Any contractor with a
local board of education or the Secretary of State shall be
entitled to rely on representations by such 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 shall not be grounds for voiding any contract.

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

(d) The Secretary of State shall be paid all monies derived from the sale of timber or other forest products and shall promptly forward the same to the superintendent of education for such school district with instructions for the proper settlement, deposit and investment of said monies. Such 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 cost from the proceeds of sale. The Secretary of State shall furnish an itemized listing of all direct cost charged to the local school district.

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