

By: Senator(s) King

To: Education

SENATE BILL NO. 2938

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO  
2 PRESCRIBE A PROCEDURE FOR THE MANAGEMENT OF SALE OF TIMBER OR  
3 OTHER FOREST PRODUCTS ON SIXTEENTH SECTION FOREST LAND IN THE  
4 EVENT THE LOCAL SCHOOL BOARD IS DIVESTED OF AUTHORITY DUE TO A  
5 CONFLICT OF INTEREST; 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. (1) (a) The board of education shall by order  
10 placed upon its minutes, enter into an agreement with the State  
11 Forestry Commission for the general supervision and management of  
12 all lands classified as forest lands, as hereinabove provided, and  
13 of all timber or other forest products under the control of the  
14 board on sixteenth section lands, and lieu lands which have not  
15 been so classified; however, any school board may contract with  
16 private persons or businesses for the reforestation of sixteenth  
17 section lands. When such agreement has been entered into, no  
18 timber or other forest products shall be sold from any of said  
19 sixteenth section lands or lieu lands except such as have been  
20 marked for cutting by the State Forestry Commission's employees,  
21 and the said Forestry Commission, or its designated employee,  
22 shall fix the minimum total cash price or minimum price per unit,  
23 one thousand (1,000) feet or other measure, at which said marked  
24 timber or other forest products shall be sold. Said sales may be  
25 made for a lump sum or upon a unit price as in the opinion of the  
26 board may be calculated to bring the greatest return. Sales shall  
27 be made upon such other terms and conditions as to manner of  
28 cutting, damages for cutting of unmarked trees, damages to trees

29 not cut and other pertinent matters as the board of education  
30 shall approve.

31 \* \* \*

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

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

52 (d) It is hereby made the duty of the State Forestry  
53 Commission, from time to time, to mark timber which should be cut  
54 from said lands, to determine what planting, deadening or other  
55 forestry improvements should be made, giving due consideration to  
56 food and habitat for wildlife, and to report to the appropriate  
57 board of education. The State Forestry Commission and the Board  
58 of Education shall supervise the cutting of any timber or  
59 harvesting of other forest products sold from said lands herein  
60 designated and shall have authority to require any timber-cutting  
61 operations on said lands to cease until proper adjustment is made,

62 whenever it shall appear that timber is being cut in violation of  
63 the terms of the sale. In the event that it is desired to lease  
64 any of such lands or standing timber for turpentine purposes, such  
65 lease shall only cover such trees as the State Forestry Commission  
66 shall designate, and said commission through its employees shall  
67 approve the number of faces, method of chipping and boxing of such  
68 timber, and shall fix a minimum total cash price or minimum price  
69 per unit.

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

83           (f) Provided, however, in the case of damage by fire,  
84 windstorm or other natural causes which would require immediate  
85 sale of the timber, because the time involved for advertisement as  
86 prescribed herein would allow decay, rot or destruction  
87 substantially decreasing the purchase price to be received had not  
88 such delay occurred, the advertisement provisions of this section  
89 shall not apply. The board of education, with a written  
90 recommendation from a designated employee of the State Forestry  
91 Commission filed in the minutes of the board of education, shall  
92 determine when immediate sale of the timber is required. When the  
93 board of education shall find an immediate sale necessary for the  
94 causes stated herein, it shall, in its discretion, set the time

95 for receipt of bids on the purchase of said timber, but shall show  
96 due diligence in notifying competitive bidders so that a true  
97 competitive bid shall be received.

98 (2) (a) In the event that any member of a local board of  
99 education may have a personal interest, either direct or indirect,  
100 in the decisions regarding the management or sale of timber or  
101 other forest products or in a contract for the sale of timber or  
102 other forest products from sixteenth section school lands under  
103 the jurisdiction and control of said board, then said board of  
104 education shall automatically be divested of all authority and  
105 power to manage and sell timber or other forest products on  
106 sixteenth section lands under its control and jurisdiction. Said  
107 divestiture shall extend for the period of service, and for one  
108 (1) year thereafter, of the board member having a direct or  
109 indirect personal interest in the sale or decision to sell timber  
110 or other forest products.

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

128 reliance on such representations shall not be grounds for voiding  
129 any contract.

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

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

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