

By: Representatives Frierson, Dedeaux

To: Education

HOUSE BILL NO. 803

1 AN ACT TO AMEND SECTION 29-3-63, MISSISSIPPI CODE OF 1972, TO
2 DELETE COMPARATIVE ANALYSIS AS A MEANS OF DETERMINING FAIR MARKET
3 RENTAL VALUE OF FARM-RESIDENTIAL, RESIDENTIAL, RECREATIONAL AND
4 OTHER SIXTEENTH SECTION LANDS; TO AMEND SECTION 29-3-81,
5 MISSISSIPPI CODE OF 1972, TO RE-LEASE SIXTEENTH SECTION LANDS
6 CLASSIFIED AS AGRICULTURAL LANDS FOR A TERM OF FIVE YEARS; AND FOR
7 RELATED PURPOSES.

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

9 **SECTION 1.** Section 29-3-63, Mississippi Code of 1972, is
10 amended as follows:

11 29-3-63. (1) The holder of a lease of sixteenth section or
12 lieu land, at the expiration of, shall have a prior right,
13 exclusive of all other persons, to re-lease or to extend an
14 existing lease as may be agreed upon between the holder of the
15 lease and school board, subject to the classification of the land.

16 * * * However, no holder of a lease of sixteenth section land
17 classified as agricultural land shall have any priority rights in
18 extending his lease contract, except as otherwise provided in
19 Section 29-3-81. * * * The compensation on an annual basis shall
20 be the fair market rental of the land excluding buildings and
21 improvements made on such land by the lessee, the title to which
22 is not held in trust for the public schools, but in no event shall
23 the compensation be less than the minimum amounts prescribed in
24 subsection (2) of this section.

25 (2) The school board * * * shall not lease or extend a lease
26 on land classified as industrial or commercial at an annual rental
27 less than five percent (5%) of the current market value, exclusive
28 of buildings or improvements not owned by the school district.
29 Such minimum acceptable percentage shall not apply to land



30 classified as farm-residential, residential, recreational and
31 other land; however, fair market rental will apply to those lands
32 as determined by appraisal * * * or comparison with the private
33 sector.

34 (3) The prior right to re-lease or extend an existing oil,
35 gas and mineral lease, or any part of such lease, granted under
36 this section shall be conditioned upon the existence of production
37 of oil, gas or other minerals thereunder in paying quantities, or
38 the existence of a well capable of such production, or the
39 existence of drilling or reworking operations at the time of lease
40 expiration. * * * However, the lease may, in the discretion of
41 the school board * * *, be extended only as to the lands included
42 in a unit or units as defined by the appropriate agency having
43 jurisdiction over the unit or units. The replacement lease shall
44 be upon such terms and conditions as may be agreed upon between
45 the holder of the lease and the school board; however, the rental
46 and royalty provisions shall not be less than the rental and
47 royalty provisions as set out in the expired lease and the primary
48 term shall not exceed the limitations in Section 29-3-99. Bonus
49 payment for the replacement lease shall be consistent with the
50 requirements set out in Sections 29-3-65 with respect to oil, gas
51 and mineral leases.

52 (4) Where used in this section and Section 29-3-65, the term
53 "oil and gas lease" or "oil, gas and mineral lease" shall include
54 all leases originally executed pursuant to Section 29-3-99.

55 (5) The right to re-lease an oil, gas and mineral lease
56 provided in subsection (3) above extends to oil, gas and mineral
57 leases which have already expired as of May 7, 1992, subject to an
58 accounting for production from the date of lease expiration to the
59 date of the replacement lease authorized in this section.

60 **SECTION 2.** Section 29-3-81, Mississippi Code of 1972, is
61 amended as follows:



62 29-3-81. (1) Sixteenth section lands, or any lands granted
63 in lieu of sixteenth section lands, classified as agricultural may
64 be leased for the cultivation of rice, or pasturage, for a term
65 not to exceed ten (10) years. All other sixteenth section or lieu
66 lands classified as agricultural may be leased for a term not
67 exceeding five (5) years. All leases of land classified as
68 agricultural shall be for a term to expire on December 31. Except
69 in those cases when the holder of an existing lease on
70 agricultural land elects to re-lease such land, as authorized
71 under this subsection, it shall be the duty of the school
72 board * * * to lease the sixteenth section or lieu lands at public
73 contract after having advertised such lands for rent in a
74 newspaper published in the county or, if no newspaper is published
75 in the county, then in a newspaper having a general circulation
76 therein, for two (2) successive weeks, the first being at least
77 ten (10) days before the public contract. The lease form and the
78 terms so prescribed shall be on file and available for inspection
79 in the office of the superintendent from and after the public
80 notice by advertisement and until finally accepted by the board.
81 However, before the expiration of an existing lease of land
82 classified as agricultural land, the school board, subject to the
83 prior approval of the Secretary of State, shall authorize the
84 holder of the existing lease to re-lease the land, on no more than
85 one (1) occasion, for a term of five (5) years and for a rental
86 amount that is no less than one hundred twenty percent (120%) of
87 the total rental value of the existing lease. If the holder of
88 the existing lease elects not to re-lease the land, the school
89 board * * * shall publish an advertisement of agricultural land
90 for rent which publication shall be not more than four (4) months
91 before the expiration of the term of an existing lease of the
92 land. An election by the holder of the existing lease not to
93 re-lease the land shall not preclude his participation in the
94 bidding process established under this section. Subject to the



95 classification of the land, the school board * * * shall enter
96 into a new lease on agricultural land before the expiration of an
97 existing lease on the same land, and the new lease shall take
98 effect on the day immediately following the day on which the
99 existing lease expires. The school board * * * may require
100 bidders to furnish bond or submit evidence of financial ability.

101 Bids received by the school board * * * in response to the
102 advertisement shall be opened at a regular or special meeting of
103 the board. The school board * * *, at its option, may reject all
104 bids or accept the highest and best bid received in response to
105 the advertisement, or the school board * * * may hold an auction
106 among those who submitted bids in response to the advertisement.
107 If the school board * * * elects to hold an auction, no bidder
108 shall be granted any preference. The opening bid at the auction
109 shall be highest bid received in response to the advertisement.

110 (2) (a) If the school board * * * receives an acceptable
111 bid in response to the advertisement and elects not to hold an
112 auction among those submitting bids, then the holder of the
113 existing lease may submit a second bid in an amount not less than
114 one hundred five percent (105%) of the highest acceptable bid
115 received if the holder of the existing lease: (i) submitted a bid
116 in response to the advertisement; and (ii) constructed or made
117 improvements on the leasehold premises after receiving approval of
118 the school board * * * during the term of the existing lease. For
119 purposes of this subsection, the term "improvements" shall not
120 include any work or items that are done customarily on an annual
121 basis in the preparing, planting, growing, cultivating or
122 harvesting of crops or other farm products.

123 (b) If the holder of the existing lease elects to
124 submit a second bid, the school board * * * shall hold an auction
125 among those who submitted bids in response to the advertisement.
126 The opening bid at the auction shall be the second bid of the
127 holder of the existing lease. However, no leaseholder may submit



128 a second bid if: (i) any rent, taxes or other payment required
129 under his lease are past due; or (ii) he is otherwise in default
130 of any term or provision of the lease and such default has not
131 been corrected or cured to the satisfaction of the school
132 board * * * after more than thirty (30) days' notice to the
133 leaseholder of the default.

134 (c) If an auction is held, the auction may be conducted
135 at the meeting at which bids are opened or at a subsequent regular
136 or special meeting. The board shall announce the time and place
137 of the auction at the meeting at which bids are opened, and no
138 further notice of the auction is required.

139 (d) If no bid acceptable to the school board * * * is
140 received after the advertisement or at auction, the school
141 board * * * may lease, within ninety (90) days, the lands by
142 private contract for an amount greater than the highest bid
143 previously rejected in order to acquire a fair rental value for
144 the lands. If no bids are received in response to the
145 advertisement, the school board * * * may negotiate a private
146 contract for a fair rental value, and the term of such contract
147 shall expire on December 31 of the same calendar year in which the
148 contract is made. The school board * * * may take the notes for
149 the rent and attend to their collection. The board has the right
150 and remedies for the security and collection of such rents given
151 by law to the agricultural landlords.

152 (e) If an existing lease is terminated before the
153 expiration of the term originally set therein, upon finding that
154 immediate action is necessary to prevent damage or loss to growing
155 crops or to prevent loss of opportunity to lease the land for the
156 current growing season, the school board * * * may negotiate a
157 private contract for a fair rental value, and the term of such
158 lease shall expire on December 31 of the same calendar year in
159 which the contract is made.



160 (3) Any holder of a lease on agricultural land that: (a)
161 was granted before July 1, 1997; and (b) has an expiration date on
162 or after April 1 but before December 31 during the final year of
163 the lease term, may extend the term of such lease to December 31
164 next following the expiration date originally provided for in the
165 lease. If such lease is extended, the rent for the period from
166 the original expiration date in the lease to December 31 next
167 following the original expiration date shall be one hundred five
168 percent (105%) of the annual rent provided in the existing lease
169 prorated over the period of the lease extension. At the
170 expiration of the extended lease term or at the expiration of the
171 original lease term if the lease holder does not extend such
172 lease, the land shall be offered for lease as provided in
173 subsections (1) and (2) of this section.

174 **SECTION 3.** This act shall take effect and be in force from
175 and after July 1, 2002.

