

By: Senator(s) Harden

To: Education

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2804

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THE AUTHORITY OF LOCAL SCHOOL BOARDS TO ENTER INTO
3 CONTRACTS OR AGREEMENTS WITH PERSONS OR ENTITIES, PUBLIC OR
4 PRIVATE, TO PROVIDE TRAINING, CERTIFICATION AND/OR PROFESSIONAL
5 DEVELOPMENT ACTIVITIES FOR DISTRICT EMPLOYEES; AND FOR RELATED
6 PURPOSES.

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

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

10 37-7-301. The school boards of all school districts shall
11 have the following powers, authority and duties in addition to all
12 others imposed or granted by law, to wit:

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

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

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

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

26 (e) To suspend or to expel a pupil or to change the
27 placement of a pupil to the school district's alternative school
28 or home-bound program for misconduct in the school or on school
29 property, as defined in Section 37-11-29, on the road to and from



30 school, or at any school-related activity or event, or for conduct
31 occurring on property other than school property or other than at
32 a school-related activity or event when such conduct by a pupil,
33 in the determination of the school superintendent or principal,
34 renders that pupil's presence in the classroom a disruption to the
35 educational environment of the school or a detriment to the best
36 interest and welfare of the pupils and teacher of such class as a
37 whole, and to delegate such authority to the appropriate officials
38 of the school district;

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

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

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

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

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

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

59 (l) To prescribe and enforce rules and regulations not
60 inconsistent with law or with the regulations of the State Board
61 of Education for their own government and for the government of



62 the schools, and to transact their business at regular and special
63 meetings called and held in the manner provided by law;

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

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

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

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

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

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

87 (s) To expend local school activity funds, or other
88 available school district funds, other than minimum education
89 program funds, for the purposes prescribed under this paragraph.
90 "Activity funds" shall mean all funds received by school officials
91 in all school districts paid or collected to participate in any
92 school activity, such activity being part of the school program
93 and partially financed with public funds or supplemented by public
94 funds. The term "activity funds" shall not include any funds



95 raised and/or expended by any organization unless commingled in a
96 bank account with existing activity funds, regardless of whether
97 the funds were raised by school employees or received by school
98 employees during school hours or using school facilities, and
99 regardless of whether a school employee exercises influence over
100 the expenditure or disposition of such funds. Organizations shall
101 not be required to make any payment to any school for the use of
102 any school facility if, in the discretion of the local school
103 governing board, the organization's function shall be deemed to be
104 beneficial to the official or extracurricular programs of the
105 school. For the purposes of this provision, the term
106 "organization" shall not include any organization subject to the
107 control of the local school governing board. Activity funds may
108 only be expended for any necessary expenses or travel costs,
109 including advances, incurred by students and their chaperons in
110 attending any in-state or out-of-state school-related programs,
111 conventions or seminars and/or any commodities, equipment, travel
112 expenses, purchased services or school supplies which the local
113 school governing board, in its discretion, shall deem beneficial
114 to the official or extracurricular programs of the district,
115 including items which may subsequently become the personal
116 property of individuals, including yearbooks, athletic apparel,
117 book covers and trophies. Activity funds may be used to pay
118 travel expenses of school district personnel. The local school
119 governing board shall be authorized and empowered to promulgate
120 rules and regulations specifically designating for what purposes
121 school activity funds may be expended. The local school governing
122 board shall provide (i) that such school activity funds shall be
123 maintained and expended by the principal of the school generating
124 the funds in individual bank accounts, or (ii) that such school
125 activity funds shall be maintained and expended by the
126 superintendent of schools in a central depository approved by the
127 board. The local school governing board shall provide that such



128 school activity funds be audited as part of the annual audit
129 required in Section 37-9-18. The State Auditor shall prescribe a
130 uniform system of accounting and financial reporting for all
131 school activity fund transactions;

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

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

138 (v) (i) To lease a school building from an individual,
139 partnership, nonprofit corporation or a private for-profit
140 corporation for the use of such school district, and to expend
141 funds therefor as may be available from any nonminimum program
142 sources. The school board of the school district desiring to
143 lease a school building shall declare by resolution that a need
144 exists for a school building and that the school district cannot
145 provide the necessary funds to pay the cost or its proportionate
146 share of the cost of a school building required to meet the
147 present needs. The resolution so adopted by the school board
148 shall be published once each week for three (3) consecutive weeks
149 in a newspaper having a general circulation in the school district
150 involved, with the first publication thereof to be made not less
151 than thirty (30) days prior to the date upon which the school
152 board is to act on the question of leasing a school building. If
153 no petition requesting an election is filed prior to such meeting
154 as hereinafter provided, then the school board may, by resolution
155 spread upon its minutes, proceed to lease a school building. If
156 at any time prior to said meeting a petition signed by not less
157 than twenty percent (20%) or fifteen hundred (1500), whichever is
158 less, of the qualified electors of the school district involved
159 shall be filed with the school board requesting that an election
160 be called on the question, then the school board shall, not later



161 than the next regular meeting, adopt a resolution calling an
162 election to be held within such school district upon the question
163 of authorizing the school board to lease a school building. Such
164 election shall be called and held, and notice thereof shall be
165 given, in the same manner for elections upon the questions of the
166 issuance of the bonds of school districts, and the results thereof
167 shall be certified to the school board. If at least three-fifths
168 (3/5) of the qualified electors of the school district who voted
169 in such election shall vote in favor of the leasing of a school
170 building, then the school board shall proceed to lease a school
171 building. The term of the lease contract shall not exceed twenty
172 (20) years, and the total cost of such lease shall be either the
173 amount of the lowest and best bid accepted by the school board
174 after advertisement for bids or an amount not to exceed the
175 current fair market value of the lease as determined by the
176 averaging of at least two (2) appraisals by certified general
177 appraisers licensed by the State of Mississippi. The term "school
178 building" as used in this item (v) shall be construed to mean any
179 building or buildings used for classroom purposes in connection
180 with the operation of schools and shall include the site therefor,
181 necessary support facilities, and the equipment thereof and
182 appurtenances thereto such as heating facilities, water supply,
183 sewage disposal, landscaping, walks, drives and playgrounds. The
184 term "lease" as used in this item (v)(i) may include a
185 lease/purchase contract;

186 (ii) If two (2) or more school districts propose
187 to enter into a lease contract jointly, then joint meetings of the
188 school boards having control may be held but no action taken shall
189 be binding on any such school district unless the question of
190 leasing a school building is approved in each participating school
191 district under the procedure hereinabove set forth in item (v)(i).
192 All of the provisions of item (v)(i) regarding the term and amount
193 of the lease contract shall apply to the school boards of school



194 districts acting jointly. Any lease contract executed by two (2)
195 or more school districts as joint lessees shall set out the amount
196 of the aggregate lease rental to be paid by each, which may be
197 agreed upon, but there shall be no right of occupancy by any
198 lessee unless the aggregate rental is paid as stipulated in the
199 lease contract. All rights of joint lessees under the lease
200 contract shall be in proportion to the amount of lease rental paid
201 by each;

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

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

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

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

215 (aa) To acquire in its own name by purchase all real
216 property which shall be necessary and desirable in connection with
217 the construction, renovation or improvement of any public school
218 building or structure. Whenever the purchase price for such real
219 property is greater than Fifty Thousand Dollars (\$50,000.00), the
220 school board shall not purchase the property for an amount
221 exceeding the fair market value of such property as determined by
222 the average of at least two (2) independent appraisals by
223 certified general appraisers licensed by the State of Mississippi.
224 If the board shall be unable to agree with the owner of any such
225 real property in connection with any such project, the board shall
226 have the power and authority to acquire any such real property by



227 condemnation proceedings pursuant to Section 11-27-1 et seq.,
228 Mississippi Code of 1972, and for such purpose, the right of
229 eminent domain is hereby conferred upon and vested in said board.
230 Provided further, that the local school board is authorized to
231 grant an easement for ingress and egress over sixteenth section
232 land or lieu land in exchange for a similar easement upon
233 adjoining land where the exchange of easements affords substantial
234 benefit to the sixteenth section land; provided, however, the
235 exchange must be based upon values as determined by a competent
236 appraiser, with any differential in value to be adjusted by cash
237 payment. Any easement rights granted over sixteenth section land
238 under such authority shall terminate when the easement ceases to
239 be used for its stated purpose. No sixteenth section or lieu land
240 which is subject to an existing lease shall be burdened by any
241 such easement except by consent of the lessee or unless the school
242 district shall acquire the unexpired leasehold interest affected
243 by the easement;

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

247 (cc) Subject to rules and regulations of the State
248 Board of Education, to purchase relocatable classrooms for the use
249 of such school district, in the manner prescribed in Section
250 37-1-13;

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

256 (ee) To provide for in-service training for employees
257 of the district. Until June 30, 1994, the school boards may
258 designate two (2) days of the minimum school term, as defined in
259 Section 37-19-1, for employee in-service training for



260 implementation of the new statewide testing system as developed by
261 the State Board of Education. Such designation shall be subject
262 to approval by the State Board of Education pursuant to uniform
263 rules and regulations;

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

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

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

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

287 (hh) To allow individual lessons for music, art and
288 other curriculum-related activities for academic credit or
289 nonacademic credit during school hours and using school equipment
290 and facilities, subject to uniform rules and regulations adopted
291 by the school board;



292 (ii) To charge reasonable fees for participating in an
293 extracurricular activity for academic or nonacademic credit for
294 necessary and required equipment such as safety equipment, band
295 instruments and uniforms;

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

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

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

305 (mm) To enter into contracts or agreements with persons
306 or entities, public or private, to provide training, certification
307 and/or professional development activities for district employees.

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

