

By: Representative Warren

To: Education

HOUSE BILL NO. 745

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE LOCAL SCHOOL BOARDS TO CONTRACT WITH PRIVATE FORESTERS  
3 OR THE STATE FORESTRY COMMISSION FOR THE MANAGEMENT OF SIXTEENTH  
4 SECTION FOREST LANDS; TO AMEND SECTIONS 29-3-47, 29-3-49, 29-3-54,  
5 29-3-85 AND 29-3-87, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO  
6 THE PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 29-3-45, Mississippi Code of 1972, is  
9 amended as follows:

10 29-3-45. (1) (a) The school board \* \* \* shall, by order  
11 placed upon its minutes, enter into an agreement with the State  
12 Forestry Commission or a private, registered forester licensed  
13 under the Foresters Registration Law of 1977 for the general  
14 supervision and management of all lands classified as forest  
15 lands, as \* \* \* provided for in this chapter, and of all timber or  
16 other forest products under the control of the board on sixteenth  
17 section lands, and lieu lands which have not been so  
18 classified \* \* \*. When such agreement has been entered into, no  
19 timber or other forest products shall be sold from any of the  
20 sixteenth section lands or lieu lands except such as have been  
21 marked for cutting by the State Forestry Commission's employees or  
22 the registered forester, and the \* \* \* Forestry Commission or its  
23 designated employee or the registered forester shall fix the  
24 minimum total cash price or minimum price per unit, one thousand  
25 (1,000) feet or other measure, at which the marked timber or other  
26 forest products shall be sold. The sales may be made for a lump  
27 sum or upon a unit price as in the opinion of the board may be  
28 calculated to bring the greatest return. Sales shall be made upon  
29 such other terms and conditions as to manner of cutting, damages



30 for cutting of unmarked trees, damages to trees not cut and other  
31 pertinent matters as the school board \* \* \* approves.

32 (b) The State Forestry Commission or the registered  
33 forester with whom the school board has contracted shall have the  
34 sole authority and control in prescribing the forestry management  
35 practices and scheduling of all cutting and harvesting of timber  
36 or other forest products when such timber stands or other forest  
37 products are determined by the State Forestry Commission or  
38 private forester to be economically ready for cutting and  
39 harvesting \* \* \*.

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

53 (d) It is \* \* \* the duty of the State Forestry  
54 Commission or the registered forester with whom a school board has  
55 contracted, from time to time, to mark timber which should be cut  
56 from the lands, to determine what planting, deadening or other  
57 forestry improvements should be made, giving due consideration to  
58 food and habitat for wildlife, and to report to the appropriate  
59 school board \* \* \*. The State Forestry Commission or private  
60 forester and the school board \* \* \* shall supervise the cutting of  
61 any timber or harvesting of other forest products sold from the  
62 lands \* \* \* and shall have authority to require any timber-cutting



63 operations on the lands to cease until proper adjustment is made,  
64 whenever it \* \* \* appears that timber is being cut in violation of  
65 the terms of the sale. If it is desired to lease any of such  
66 lands or standing timber for turpentine purposes, such lease shall  
67 only cover such trees as the State Forestry Commission or private  
68 forester designates, and the commission, through its employees, or  
69 private forester shall approve the number of faces, method of  
70 chipping and boxing of such timber, and shall fix a minimum total  
71 cash price or minimum price per unit.

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

85 (f) \* \* \* However, in the case of damage by fire,  
86 windstorm or other natural causes which would require immediate  
87 sale of the timber, because the time involved for advertisement as  
88 prescribed in paragraph (e) would allow decay, rot or destruction  
89 substantially decreasing the purchase price to be received had not  
90 such delay occurred, the advertisement provisions of this section  
91 shall not apply. The school board \* \* \*, with a written  
92 recommendation from a designated employee of the State Forestry  
93 Commission or the registered forester with whom the school board  
94 has contracted filed in the minutes of the school board \* \* \*,  
95 shall determine when immediate sale of the timber is required.



96 When the school board \* \* \* shall find an immediate sale necessary  
97 for the causes stated in this paragraph, it shall, in its  
98 discretion, set the time for receipt of bids on the purchase of  
99 the timber, but shall show due diligence in notifying competitive  
100 bidders so that a true competitive bid shall be received.

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

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



129 of State as to who has authority to enter contracts for the  
130 management or sale of timber or other forest products, and  
131 reliance on such representations shall not be grounds for voiding  
132 any contract.

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

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

152 **SECTION 2.** Section 29-3-47, Mississippi Code of 1972, is  
153 amended as follows:

154 29-3-47. For its services, the State Forestry Commission or  
155 the registered forester with whom the school board has contracted  
156 shall be entitled to receive \* \* \* actual expenses incurred in the  
157 discharge of the duties \* \* \* imposed in this chapter. In order  
158 to provide funds with which to pay for the general supervision and  
159 sale of forest products, fifteen percent (15%) of all receipts  
160 from the sales of forest products shall be placed by the board in  
161 a forestry escrow fund and reserved to pay for work performed by



162 the State Forestry Commission or private forester. Such payments  
163 shall be equal to the actual expenses incurred by the commission  
164 or private forester, as substantiated by itemized bills presented  
165 to the board.

166 Money in the forestry escrow fund may be used to pay for any  
167 forestry work authorized during the period of the agreement and  
168 shall not be subject to lapse by reason of county budget  
169 limitations.

170 In each school district having need of tree planting and  
171 timber stand improvement, the school board may place additional  
172 amounts in the forestry escrow fund to reimburse the State  
173 Forestry Commission or private forester for actual expenses  
174 incurred in performing this work \* \* \*. Such additional amounts  
175 may be made available from forest products sales receipts, funds  
176 borrowed from the sixteenth section principal fund as is provided  
177 for in Section 29-3-113, or any other funds available to the  
178 school board, excluding adequate education program funds.  
179 Expenditures from the forestry escrow fund for tree planting,  
180 timber stand improvement, and other forestry work will be limited  
181 to payment for work recommended by the Forestry Commission or  
182 private forester and agreed to by the school board \* \* \*.

183 When it becomes evident that the amount of money in the  
184 forestry escrow fund is in excess of the amount necessary to  
185 accomplish the work needed to achieve the goals set by the school  
186 board \* \* \* and the Forestry Commission or private forester, the  
187 State Forestry Commission or private forester shall advise the  
188 board to release any part of such funds as will not be needed,  
189 which may then be spent for any purpose authorized by law.

190 **SECTION 3.** Section 29-3-49, Mississippi Code of 1972, is  
191 amended as follows:

192 29-3-49. It shall be the duty of the State Forestry  
193 Commission, in the manner \* \* \* provided in Section 29-3-45, to  
194 enter into agreements for timber improvement purposes with the



195 school board \* \* \* upon the request of the board. The contract  
196 shall provide for the carrying out of a long-term program of  
197 timber improvement, including any or all of the following: The  
198 deadening of undesirable hardwoods; the planting of trees; the  
199 cutting and maintaining of fire lanes; and the establishment of  
200 marked boundaries on all lands classified as forest lands in the  
201 agreements, which must provide for the reimbursement of all  
202 current costs incurred by the State Forestry Commission and the  
203 carrying out of the duties required by such agreements. In the  
204 alternative, the school board, in its discretion, may have the  
205 option to contract with a private contractor \* \* \* to perform this  
206 work \* \* \*. Payment of the reimbursements required under this  
207 section to the \* \* \* Forestry Commission, or of compensation due  
208 under any such contract with private contractors, shall be made  
209 upon presentation of itemized bills therefor by the commission  
210 or \* \* \* private contractors, as the case may be, and may be made  
211 out of any sixteenth section funds to the credit of, or accruing  
212 to, any school district in which such work shall be done, or out  
213 of any other funds available to such district, excluding adequate  
214 education program funds.

215 **SECTION 4.** Section 29-3-54, Mississippi Code of 1972, is  
216 amended as follows:

217 29-3-54. Any leaseholder of sixteenth section land, or land  
218 granted in lieu thereof, shall be authorized to post such land  
219 against trespassers; however, such posting shall not prohibit the  
220 inspection of the lands by individuals responsible for the  
221 management or supervision of the lands acting in their official  
222 capacity. If hunting or fishing rights have been leased on lands  
223 classified as forest land, the holder of such rights and the State  
224 Forestry Commission or the registered forester with whom the  
225 school board has contracted for timber management services, as the  
226 case may be, shall be authorized to post such land against  
227 trespassers.



228           **SECTION 5.** Section 29-3-85, Mississippi Code of 1972, is  
229 amended as follows:

230           29-3-85. In all surface leases of sixteenth section land  
231 made by the school board \* \* \*, whether such leases are original  
232 leases or extensions of existing leases, title to all timber,  
233 minerals, oil, and gas on such lands shall be reserved, together  
234 with the right of ingress and egress to remove same, whether such  
235 provisions be included in the terms of any such lease or not; and  
236 no timber shall be cut and used by the lessees except for fuel and  
237 necessary repairs and improvements on the leased premises. The  
238 school board \* \* \*, notwithstanding the fact that such land may  
239 have been leased for other purposes, shall have the right, from  
240 time to time, to sell all merchantable timber on such lands in the  
241 manner \* \* \* provided in this chapter. \* \* \* In any surface  
242 lease, the school board \* \* \* shall reserve the right to grant or  
243 sell rights-of-way across any of the land for a road, highway,  
244 railroad, or any public utility line, provided only that the  
245 leaseholder be paid a reasonable rental for the unexpired term of  
246 his lease by the grantee of such right-of-way. If any surface  
247 lessee of any such sixteenth section land shall commit, cause to  
248 be committed, or permit the commission of any act of waste on any  
249 sixteenth section lands under lease to such lessee, then such  
250 lease shall thereupon, as to such lessee, cease and terminate and  
251 shall thenceforth be null and void; and the school board \* \* \*  
252 shall have the right to institute an action in any court of  
253 competent jurisdiction to secure the cancellation of same of  
254 record, to recover damages for such waste, and to maintain an  
255 action in ejectment to recover possession of the same. To this  
256 end, the school board may employ competent counsel to institute  
257 and maintain any such action or actions on behalf of the board.

258           **SECTION 6.** Section 29-3-87, Mississippi Code of 1972, is  
259 amended as follows:



260           29-3-87. Notwithstanding the provisions of this or any other  
261 statute, the several school boards, in their discretion and by  
262 resolution spread upon the minutes, may set aside, reserve and  
263 dedicate any available sixteenth section lands or lands in lieu  
264 thereof for use by such school district as a site for school  
265 buildings, which such dedication and reservation shall be for such  
266 length of time, not exceeding fifty (50) years, and upon such  
267 terms and conditions as the school board \* \* \*, in its discretion,  
268 shall deem proper. Any such reservation or dedication of  
269 sixteenth section lands shall automatically cease and terminate  
270 if, at anytime, the land involved shall cease to be used for the  
271 purpose for which the dedication or reservation is made. The  
272 reservation or dedication shall cover the surface of the lands  
273 only and shall not prevent the school board \* \* \* from leasing  
274 those lands for oil, gas, and mineral exploration and development  
275 in a manner otherwise provided by law.

276           In the same manner and subject to the same provisions \* \* \*  
277 set forth in this section, the school board \* \* \* having a timber  
278 management and marketing agreement with the State Forestry  
279 Commission or National Forest Service may set aside, reserve and  
280 dedicate any available sixteenth section lands or lands granted in  
281 lieu thereof, which has been classified as forest land under the  
282 provisions of this chapter, to be utilized for public parks and  
283 recreation areas. The board of supervisors or the governing  
284 authorities of any municipality wherein such lands or any portion  
285 thereof lie may expend any funds otherwise available for park or  
286 recreational areas in the construction and maintenance of  
287 improvements to be located thereon.

288           The setting aside, reservation and dedication of any such  
289 sixteenth section lands or lands granted in lieu thereof by a  
290 school board \* \* \* to the Department of Wildlife, Fisheries and  
291 Parks for the purpose of locating a state park thereon may be for  
292 a length of time not exceeding ninety-nine (99) years.



293           No sixteenth section or lieu land which is subject to an  
294 existing lease shall be set aside, dedicated and reserved as a  
295 school building site or for public park or recreational purposes  
296 under the provisions of this section unless the school district  
297 involved shall acquire the unexpired leasehold interest from the  
298 leaseholder, or unless such lease and leasehold interest shall be  
299 surrendered and relinquished by the leaseholder.

300           **SECTION 7.** This act shall take effect and be in force from  
301 and after July 1, 2003.

