

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.

