

By: Senator(s) Stogner

To: Education

SENATE BILL NO. 2303

1 AN ACT TO AMEND SECTIONS 29-3-27, 29-3-29 AND 29-3-47,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL BOARDS TO
3 EXCHANGE SIXTEENTH SECTION SCHOOL LAND OR LIEU LAND CLASSIFIED AS
4 "FOREST LAND" FOR OTHER LAND OF EQUAL OR GREATER VALUE WHEN IN THE
5 OPINION OF THE STATE FORESTRY COMMISSION THE OTHER LAND TO BE
6 PURCHASED WILL PRODUCE MORE INCOME FOR THE SCHOOL DISTRICT; AND
7 FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 29-3-27, Mississippi Code of 1972, is
10 amended as follows:

11 29-3-27. No sixteenth section lands or lands granted in lieu
12 thereof, in whole or in part, situated within the school district
13 holding or owning the same shall ever be sold, except that the
14 board of education may, under the procedures hereinafter provided,
15 sell such lands for industrial development thereon, therein, or
16 thereunder to any persons, firms, or corporations in fee simple,
17 or any lesser estate therein, for a purchase price not less than
18 the fair market value thereof; and in addition, the board of
19 education may, under the procedures hereinafter provided, exchange
20 such land classified as "forest land" for other land located in
21 the county or adjacent to the school district of equivalent or
22 greater fair market value when in the opinion of the State
23 Forestry Commission the land to be purchased will produce more
24 income for the school district; and when any such sale is made,
25 the deed shall be executed in the name of the State of Mississippi
26 by the superintendent of the said board of education.

27 As used in this section and in Sections 29-3-29 and 29-3-61,
28 the term "industrial development" shall include restoration as a
29 tourist attraction the place where an organization was founded,



30 which said organization has since been expanded to be national or
31 international in its membership, scope, and influence.

32 The proceeds of the sale in fee simple of any sixteenth
33 section, or lands granted in lieu thereof, in whole or in part, or
34 such part of said proceeds as may be required to purchase acreage
35 of equivalent fair market value, shall be used by the board of
36 education, to purchase other land in the county, which land shall
37 be held and reserved by the State of Mississippi for the support
38 of the township schools in lieu of the land thus sold, as other
39 sixteenth section lieu land is held, and shall be subject to all
40 laws applicable thereto. Every such sale and every such purchase
41 of land in lieu thereof shall be reported by the secretary of the
42 board of education to the Secretary of State and to the State
43 Forestry Commission within ninety (90) days prior to the
44 consummation of each such sale and purchase. Any funds from a
45 sale in fee simple of any sixteenth section land, or land granted
46 in lieu thereof, in excess of any amount used to purchase said
47 land in lieu thereof, shall be treated as corpus and shall be
48 invested by the board of education as provided by law. Only the
49 income from such investment shall be expended for current
50 operating expenses of the schools.

51 **SECTION 2.** Section 29-3-29, Mississippi Code of 1972, is
52 amended as follows:

53 29-3-29. Before any sixteenth section school land or land
54 granted in lieu thereof may be sold or leased for industrial
55 development thereon, therein or thereunder under the provisions of
56 this chapter, the board of education controlling such land shall
57 first determine that such sale or lease will be fair market value.
58 In the determination of the fair market value of said land the
59 comparative sales method shall be used, and the highest and best
60 use of said sixteenth section lands shall be determined on the
61 basis of finding that said land shall be susceptible to any use
62 that comparative land in private ownership may be used, that there



63 will be prompt and substantial industrial development on, in, or
64 under said land after the sale or lease, that the acreage to be
65 sold or leased is not in excess of the amount of land reasonably
66 required for immediate use and for such future expansion as may be
67 reasonably anticipated, and that such sale or lease will be
68 beneficial to and in the best interest of the schools of the
69 district for which said land is held. All of said findings,
70 including the amount of the sale price or gross rental for said
71 land, shall be spread on the minutes of the board of education.
72 Also, if the board of education proposes to sell said land, said
73 board shall first enter into a contract or obtain a legal option
74 to purchase, for a specified price not in excess of fair market
75 value, other land in the county of acreage of equivalent fair
76 market value, and such contract or option shall be spread on the
77 minutes of said board. However, not more than one hundred (100)
78 acres in any one (1) sixteenth section school lands in any county
79 may be sold under this chapter for the purpose of being made an
80 industrial park or a part of such industrial park, provided the
81 provisions of this section and Sections 57-5-1 and 57-5-23 are
82 fully complied with.

83 Before any sixteenth section land or land granted in lieu
84 thereof classified as "forest land" may be sold and exchanged for
85 land of equivalent or greater value under the provisions of this
86 chapter, the board of education controlling such land shall submit
87 the proposed exchange to the State Forestry Commission which shall
88 first determine that such sale and exchange shall be beneficial to
89 and in the best interest of the schools of the district for which
90 said land is held due to increased income to be generated from
91 annual rentals or sale of timber, and that the land to be sold is
92 not in excess of the amount of land reasonably required for
93 immediate use and for such future expansion as may be reasonably
94 anticipated. Not more than one hundred (100) acres in any one (1)
95 section in any school district may be sold and exchanged under



96 authority of this section. If the board of education proposes to
97 sell said land, said board shall first enter into a contract or
98 obtain a legal option to purchase, for a specified price not in
99 excess of fair market value, other land in the county or adjacent
100 to the school district of equivalent fair market value or greater,
101 and all of said findings, including the amount of the sale price
102 and such contract or option, along with the written approval of
103 the State Forestry Commission, shall be spread on the minutes of
104 said board.

105 A certified copy of the resolution or order of the board of
106 education, setting out the foregoing findings, together with a
107 certified copy of the order approving and setting out the terms of
108 the contract or option to purchase other lands where a sale of
109 land is proposed and an application to the Mississippi Development
110 Authority or the Mississippi Forestry Commission, as the case may
111 be, for the certificate authorizing said sale or lease, shall be
112 forwarded to the county board of supervisors, which board shall
113 make an independent investigation of the proposed sale or lease
114 and of the proposed purchase of other land.

115 If said county board of supervisors shall concur in the
116 finding of fact of the board of education, and shall find that it
117 is to the best interests of the schools of the district to enter
118 into such sale or lease, it may enter on its minutes a resolution
119 or order approving the action of the board of education.

120 If the said county board of supervisors shall not concur in
121 the findings of the board of education, or shall find that the
122 proposed sale or lease will not be in the best interest of the
123 schools of the district, then it may, by resolution or order,
124 disapprove the proposed sale or lease, and such action shall be
125 final.

126 There shall be reserved all minerals in, on, and under any
127 lands conveyed under the provisions hereof. Provided, however,
128 that in any county bordering on the State of Alabama, traversed by



129 the Tombigbee River, in which U.S. Highway 82 intersects U.S.
130 Highway 45 and in which is situated a state supported institution
131 of higher learning, upon the sale of any sixteenth section lands
132 for industrial purposes as provided by law, the board of
133 education, the superintendent of education and the Mississippi
134 Agricultural and Industrial Board, may sell and convey all
135 minerals except oil, gas, sulphur and casinghead gas on, in and
136 under the said sixteenth section lands so sold for industrial
137 purposes. Said oil, gas, sulphur and casinghead gas shall be
138 reserved together with such rights of use, ingress and egress as
139 shall not unreasonably interfere with the use of the lands by the
140 purchaser. Prior written approval for such use, ingress and
141 egress, shall be obtained from the surface owner or, if such
142 approval is unreasonably withheld, may be obtained from the
143 chancery court of the county in which said land is located.

144 Certified copies of the resolutions or orders of the board of
145 supervisors and of the board of education and of the application
146 to the Mississippi Development Authority or the Mississippi
147 Forestry Commission, as the case may be, shall be transmitted to
148 the county superintendent of education, if there be one in the
149 county, who, if he approves the proposed sale or lease, shall so
150 certify and forward same to the Mississippi Development Authority
151 or Mississippi Forestry Commission, as the case may be. If there
152 be no county superintendent of education in the county, then the
153 board of education whose district embraces the entire county shall
154 so certify and transmit said copies to the Mississippi Development
155 Authority or the Mississippi Forestry Commission, as the case may
156 be, for further action.

157 Upon receipt of the aforesaid application and certified
158 copies of the said resolution and orders, the Mississippi
159 Development Authority or the Mississippi Forestry Commission, as
160 the case may be, shall make investigation to determine whether or
161 not the proposed sale or lease of said land will promote prompt



162 and substantial industrial development thereon, therein, or
163 thereunder, or in the case of the exchange of forest land, will
164 produce more income for the school district in which such land is
165 located. If the Mississippi Development Authority finds that such
166 sale or lease will promote prompt and substantial industrial
167 development thereon, therein or thereunder, and further finds that
168 the person, firm or corporation who proposes to establish said
169 industry is financially responsible, and that the acreage to be
170 sold or leased is not in excess of the amount of land reasonably
171 required for immediate use and for such future expansion as may be
172 reasonably anticipated, then the authority, in its discretion, may
173 issue a certificate to the board of education of said district so
174 certifying, and said certificate shall be the authority for the
175 board of education to enter into the proposed sale or lease. If
176 the Mississippi Development Authority does not so find, then it
177 shall decline to issue said certificate which action shall be
178 final.

179 Upon receipt of the aforesaid application and certified
180 copies of the said resolution and orders, the Mississippi Forestry
181 Commission shall make investigation to determine whether or not
182 the proposed sale and exchange of said land will produce more
183 annual rental income or timber sale income for the school district
184 to which such income is due. If the commission finds that such
185 sale and exchange will provide greater income for the school
186 district, and further finds that the person, firm or corporation
187 who proposes to purchase such land is financially responsible, and
188 that the acreage to be sold and exchanged is not in excess of the
189 amount of land reasonably required for school purposes or one
190 hundred (100) acres in the aggregate, then the commission, in its
191 discretion, may issue a certificate to the board of education of
192 said district so certifying, and said certificate shall be the
193 authority for the board of education to enter into the proposed
194 sale and exchange. If the commission does not so find, then it



195 shall decline to issue said certificate which action shall be
196 final.

197 The Mississippi Development Authority or the Mississippi
198 Forestry Commission, as the case may be, when issuing a
199 certificate to the county board of education certifying its
200 findings and authorizing said sale or lease, may, nevertheless, in
201 its discretion, make such sale or lease conditioned on and subject
202 to the vote of the qualified electors of said district. Upon
203 receipt of a certificate so conditioned upon an election, or upon
204 a petition as hereinafter provided for, the board of education, by
205 resolution spread upon its minutes, shall forward a copy of the
206 certificate to the board of supervisors who by resolution upon its
207 minutes, shall call an election to be held in the manner now
208 provided by law for holding county elections, and shall fix in
209 such resolution a date upon which such an election shall be held,
210 of which not less than three (3) weeks notice shall be given by
211 the clerk of said board of supervisors by publishing a notice in a
212 newspaper published in said county once each week for three (3)
213 consecutive weeks preceding the same, or if no newspaper is
214 published in said county, then in a newspaper having a general
215 circulation therein, and by posting a notice for three (3) weeks
216 preceding said election at three (3) public places in said county.
217 At such election, all qualified voters of the county may vote, and
218 the ballots used shall have printed thereon a brief statement of
219 the proposed sale or lease of said land, including the description
220 and price, together with the words "For the proposed sale, lease
221 or exchange" and the words "Against the proposed sale, lease or
222 exchange," and the voter shall vote by placing a cross (x) or
223 check (√) opposite his choice of the proposition. Should the
224 election provided for herein result in favor of the proposed sale,
225 lease or exchange by at least two-thirds (2/3) of the votes cast
226 being in favor of the said proposition, the board of supervisors
227 shall notify the board of education who may proceed forthwith to



228 sell, lease or exchange said land in accordance with the
229 proposition so submitted to the electors. If less than two-thirds
230 (2/3) of those voting in such special election vote in favor of
231 the said sale or lease, then said land shall not be sold, leased
232 or exchanged.

233 The board of education shall further be required, prior to
234 passing of a resolution expressing its intent to sell said land,
235 to publish a notice of intent to sell said land for three (3)
236 consecutive weeks in a newspaper published in said county or, if
237 there be none, in a newspaper having a general circulation in said
238 county, and to post three (3) notices thereof in three (3) public
239 places in said county, one (1) of which shall be at the
240 courthouse, for said time. If within the period of three (3)
241 weeks following the first publication of said intent, a petition
242 signed by twenty percent (20%) of the qualified electors of said
243 county shall be filed with the board of supervisors requesting an
244 election concerning the sale, then an election shall be called as
245 hereinabove provided.

246 **SECTION 3.** Section 29-3-47, Mississippi Code of 1972, is
247 amended as follows:

248 29-3-47. For its services the State Forestry Commission
249 shall be entitled to receive its actual expenses incurred in the
250 discharge of the duties herein imposed. In order to provide funds
251 with which to pay for the general supervision and sale of forest
252 products, fifteen percent (15%) of all receipts from the sales of
253 forest products shall be placed by the board in a forestry escrow
254 fund and reserved to pay for work performed by the State Forestry
255 Commission. Such payments shall be equal to the actual expenses
256 incurred by the commission as substantiated by itemized bills
257 presented to the board.

258 Money in the forestry escrow fund may be used to pay for any
259 forestry work authorized during the period of the agreement and



260 shall not be subject to lapse by reason of county budget
261 limitations.

262 In each school district having need of tree planting and
263 timber stand improvement, or in the event of a proposed sale and
264 exchange of land classified as "forest land" as authorized in
265 Sections 29-3-27 and 29-3-29, the board of education is authorized
266 to place additional amounts in the forestry escrow fund to
267 reimburse the State Forestry Commission for actual expenses
268 incurred in performing this work, or to pay for any work done
269 under private contract under the supervision of said commission.
270 Such additional amounts may be made available from forest products
271 sales receipts, funds borrowed from the sixteenth section
272 principal fund as is provided for in Section 29-3-113, or any
273 other funds available to the board of education excluding minimum
274 foundation program funds. Expenditures from the forestry escrow
275 fund for tree planting, timber stand improvement, and other
276 forestry work will be limited to payment for work recommended by
277 the forestry commission and agreed to by the board of education.

278 When it becomes evident that the amount of money in the
279 forestry escrow fund is in excess of the amount necessary to
280 accomplish the work needed to achieve the goals set by the board
281 of education and the forestry commission, the State Forestry
282 Commission shall advise said board to release any part of such
283 funds as will not be needed, which may then be spent for any
284 purpose authorized by law.

285 **SECTION 4.** This act shall be in force and take effect from
286 and after the date the electorate approves an amendment proposed
287 to Section 211 of the Mississippi Constitution of 1890 to
288 authorize the provisions of this act, as provided in Senate
289 Concurrent Resolution No. 517, 2003 Regular Session.

