

By: Senator(s) Hewes, Nunnelee

To: Education

SENATE BILL NO. 2863

1 AN ACT TO CREATE THE MISSISSIPPI COMMISSION ON PUBLIC SCHOOL
 2 ACTIVITIES WITHIN THE STATE DEPARTMENT OF EDUCATION TO REGULATE
 3 ALL ATHLETIC, EXTRACURRICULAR AND INTERSCHOLASTIC ACTIVITIES AMONG
 4 PUBLIC SCHOOLS; TO PROVIDE FOR THE MEMBERSHIP AND POWERS OF SAID
 5 COMMISSION; TO CREATE AND EMPOWER THE POSITION OF EXECUTIVE
 6 DIRECTOR OF THE COMMISSION ON PUBLIC SCHOOL ACTIVITIES; TO PROVIDE
 7 FOR HEARING PROCEDURES REGARDING CONTROVERSIES ARISING FROM SCHOOL
 8 ACTIVITIES; TO AUTHORIZE THE COMMISSION TO PRESCRIBE FEES TO BE
 9 CHARGED AT SUCH INTER-SCHOOL EVENTS FOR THE PURPOSE OF FUNDING THE
 10 ACTIVITIES OF THE COMMISSION; TO AMEND SECTION 37-7-301,
 11 MISSISSIPPI CODE OF 1972, TO AUTHORIZE LOCAL SCHOOL BOARDS TO
 12 COMPLY WITH THE REGULATIONS AND FEES PRESCRIBED BY THE COMMISSION
 13 ON PUBLIC SCHOOL ACTIVITIES; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** As used in this act:

16 (a) "Commission" means the Mississippi Commission on
17 Public School Activities.

18 (b) "Executive director" means the Executive Director
19 of the Mississippi Commission on Public School Activities.

20 **SECTION 2.** There is hereby created the "Mississippi
 21 Commission on Public School Activities" which shall be a division
 22 of the State Department of Education. The commission shall be
 23 composed of four (4) members appointed one (1) from each
 24 Mississippi congressional district, and one (1) from the state at
 25 large. The membership of said commission shall be appointed by
 26 the State Board of Education upon the recommendation of the State
 27 Superintendent of Education. In making the first appointments,
 28 one (1) member shall be appointed for a term of one (1) year, one
 29 (1) member shall be appointed for a term of two (2) years, one (1)
 30 member shall be appointed for a term of three (3) years, and two
 31 (2) members shall be appointed for a term of four (4) years, to be
 32 designated at the time of appointment. Thereafter all members

33 shall be appointed for a term of four (4) years. All members of
34 the commission shall possess at least a high school diploma, and
35 be persons knowledgeable in school affairs. Said commission shall
36 meet upon call of the State Superintendent of Education. Each
37 member of said commission shall receive the per diem authorized by
38 Section 25-3-69, Mississippi Code of 1972, plus actual and
39 necessary expenses and mileage as authorized by Section 25-3-41,
40 Mississippi Code of 1972, for each day in actual attendance at
41 meetings of the commission. The expenses of the commission shall
42 be paid out of the Public School Activities Special Fund, created
43 in this act.

44 **SECTION 3.** There is hereby created the position of Executive
45 Director of the Commission on Public School Activities, who shall
46 be appointed by the State Board of Education upon the
47 recommendation of the commission. He shall hold his position
48 subject to the will and pleasure of the State Board of Education
49 and shall be responsible to the Commission on Public School
50 Activities for the proper administration of its programs. The
51 executive director shall possess at least a baccalaureate degree
52 and shall be knowledgeable in public school administration. The
53 salary of the executive director shall be fixed by the State Board
54 of Education with the approval of the State Personnel Board. Such
55 salary and expenses for the operation of the Commission on Public
56 School Activities shall be paid out of the Public School
57 Activities Special Fund created in this act.

58 **SECTION 4.** The Commission on Public School Activities shall
59 have exclusive authority in planning, directing and controlling
60 contests, games, athletic events, music festivals and all other
61 interscholastic or extracurricular activities among the public
62 schools accredited by the Mississippi Commission on School
63 Accreditation. Such activities shall include all athletic,
64 extracurricular and interscholastic activities in Grades K-12.

65 **SECTION 5.** The Executive Director of the Commission on
66 Public School Activities shall have charge of and be responsible
67 for promoting the general welfare of the public schools accredited
68 by the Mississippi Commission on School Accreditation in their
69 relations with each other. He shall have the following duties and
70 responsibilities, subject to the direction of the commission:

71 (a) Planning, directing and controlling contests, games
72 and other interscholastic activities;

73 (b) Elevating the standards of sportsmanship by seeking
74 to strengthen the moral fibre of all concerned;

75 (c) Developing a higher standard of scholarship and
76 encouraging pride in scholastic achievement; and

77 (d) Encouraging the formation and promotion of
78 noncompetitive activities which contribute to the molding of good
79 character as part of a well-rounded extracurricular program.

80 **SECTION 6.** All controversies involving the activities among
81 schools shall be initially heard by the Executive Director of the
82 Commission on Public School Activities before whom a complete
83 record shall be made. After the conclusion of the hearing, the
84 executive director shall make a recommendation to the commission
85 as to the resolution of the controversy, and the commission, after
86 considering the transcribed record and the recommendation of the
87 executive director, shall make its decision which becomes final.
88 All appeals from the Commission on Public School Activities shall
89 be on the record and shall be filed in the Circuit Court of the
90 First Judicial District of Hinds County, Mississippi. The
91 commission shall select a competent and qualified court reporter
92 to the record and transcribe all hearings held before the
93 executive director whose fees and costs of transcription shall be
94 paid by the school district(s) involved within forty-five (45)
95 days after having been notified of such costs and fees by the
96 commission.

97 **SECTION 7.** (1) The Commission on Public School Activities
98 is empowered to develop and promulgate rules and regulations for
99 the purpose of administering athletic, extracurricular and
100 interscholastic activities among public schools.

101 (2) The Commission on Public School Activities is empowered
102 to prescribe reasonable fees to be charged at any such
103 extracurricular and interscholastic events among public schools in
104 order to fund the regulatory functions of the commission. The
105 commission shall provide for the collection of such fees by local
106 school district personnel and the deposit of such funds into the
107 Public School Activities Special Fund created herein.

108 (3) There is hereby created in the State Treasury the
109 "Public School Activities Special Fund." Such salaries,
110 compensation and other necessary expenses of the Commission on
111 Public School Activities shall be paid from the Public School
112 Activities Special Fund upon the requisition of the State
113 Superintendent of Education and warrant issued thereunder by the
114 State Auditor, subject to appropriation by the Legislature.

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

117 37-7-301. The school boards of all school districts shall
118 have the following powers, authority and duties in addition to all
119 others imposed or granted by law, to wit:

120 (a) To organize and operate the schools of the district
121 and to make such division between the high school grades and
122 elementary grades as, in their judgment, will serve the best
123 interests of the school;

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

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

130 (d) To have responsibility for the erection, repairing
131 and equipping of school facilities and the making of necessary
132 school improvements;

133 (e) To suspend or to expel a pupil or to change the
134 placement of a pupil to the school district's alternative school
135 or home-bound program for misconduct in the school or on school
136 property, as defined in Section 37-11-29, on the road to and from
137 school, or at any school-related activity or event, or for conduct
138 occurring on property other than school property or other than at
139 a school-related activity or event when such conduct by a pupil,
140 in the determination of the school superintendent or principal,
141 renders that pupil's presence in the classroom a disruption to the
142 educational environment of the school or a detriment to the best
143 interest and welfare of the pupils and teacher of such class as a
144 whole, and to delegate such authority to the appropriate officials
145 of the school district;

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

149 (g) To support, within reasonable limits, the
150 superintendent, principal and teachers where necessary for the
151 proper discipline of the school;

152 (h) To exclude from the schools students with what
153 appears to be infectious or contagious diseases; provided,
154 however, such student may be allowed to return to school upon
155 presenting a certificate from a public health officer, duly
156 licensed physician or nurse practitioner that the student is free
157 from such disease;

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

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

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

166 (l) To prescribe and enforce rules and regulations not
167 inconsistent with law or with the regulations of the State Board
168 of Education for their own government and for the government of
169 the schools, and to transact their business at regular and special
170 meetings called and held in the manner provided by law;

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

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

176 (o) To make orders directed to the superintendent of
177 schools for the issuance of pay certificates for lawful purposes
178 on any available funds of the district and to have full control of
179 the receipt, distribution, allotment and disbursement of all funds
180 provided for the support and operation of the schools of such
181 school district whether such funds be derived from state
182 appropriations, local ad valorem tax collections, or otherwise;

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

187 (q) To provide athletic programs and other school
188 activities subject to the regulations of the Commission on Public
189 School Activities of the State Department of Education;

190 (r) To join, in their discretion, any association of
191 school boards and other public school-related organizations, and
192 to pay from local funds other than minimum foundation funds, any
193 membership dues;

194 (s) To expend local school activity funds, or other
195 available school district funds, other than minimum education

196 program funds, for the purposes prescribed under this paragraph.
197 "Activity funds" shall mean all funds received by school officials
198 in all school districts paid or collected to participate in any
199 school activity, such activity being part of the school program
200 and partially financed with public funds or supplemented by public
201 funds. The term "activity funds" shall not include any funds
202 raised and/or expended by any organization unless commingled in a
203 bank account with existing activity funds, regardless of whether
204 the funds were raised by school employees or received by school
205 employees during school hours or using school facilities, and
206 regardless of whether a school employee exercises influence over
207 the expenditure or disposition of such funds. Organizations shall
208 not be required to make any payment to any school for the use of
209 any school facility if, in the discretion of the local school
210 governing board, the organization's function shall be deemed to be
211 beneficial to the official or extracurricular programs of the
212 school. For the purposes of this provision, the term
213 "organization" shall not include any organization subject to the
214 control of the local school governing board. Activity funds may
215 only be expended for any necessary expenses or travel costs,
216 including advances, incurred by students and their chaperons in
217 attending any in-state or out-of-state school-related programs,
218 conventions or seminars and/or any commodities, equipment, travel
219 expenses, purchased services or school supplies which the local
220 school governing board, in its discretion, shall deem beneficial
221 to the official or extracurricular programs of the district,
222 including items which may subsequently become the personal
223 property of individuals, including yearbooks, athletic apparel,
224 book covers and trophies. Activity funds may be used to pay
225 travel expenses of school district personnel. The local school
226 governing board shall be authorized and empowered to promulgate
227 rules and regulations specifically designating for what purposes
228 school activity funds may be expended. The local school governing

229 board shall provide (i) that such school activity funds shall be
230 maintained and expended by the principal of the school generating
231 the funds in individual bank accounts, or (ii) that such school
232 activity funds shall be maintained and expended by the
233 superintendent of schools in a central depository approved by the
234 board. The local school governing board shall provide that such
235 school activity funds be audited as part of the annual audit
236 required in Section 37-9-18. The State Auditor shall prescribe a
237 uniform system of accounting and financial reporting for all
238 school activity fund transactions;

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

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

245 (v) (i) To lease a school building from an individual,
246 partnership, nonprofit corporation or a private for-profit
247 corporation for the use of such school district, and to expend
248 funds therefor as may be available from any nonminimum program
249 sources. The school board of the school district desiring to
250 lease a school building shall declare by resolution that a need
251 exists for a school building and that the school district cannot
252 provide the necessary funds to pay the cost or its proportionate
253 share of the cost of a school building required to meet the
254 present needs. The resolution so adopted by the school board
255 shall be published once each week for three (3) consecutive weeks
256 in a newspaper having a general circulation in the school district
257 involved, with the first publication thereof to be made not less
258 than thirty (30) days prior to the date upon which the school
259 board is to act on the question of leasing a school building. If
260 no petition requesting an election is filed prior to such meeting
261 as hereinafter provided, then the school board may, by resolution

262 spread upon its minutes, proceed to lease a school building. If
263 at any time prior to said meeting a petition signed by not less
264 than twenty percent (20%) or fifteen hundred (1500), whichever is
265 less, of the qualified electors of the school district involved
266 shall be filed with the school board requesting that an election
267 be called on the question, then the school board shall, not later
268 than the next regular meeting, adopt a resolution calling an
269 election to be held within such school district upon the question
270 of authorizing the school board to lease a school building. Such
271 election shall be called and held, and notice thereof shall be
272 given, in the same manner for elections upon the questions of the
273 issuance of the bonds of school districts, and the results thereof
274 shall be certified to the school board. If at least three-fifths
275 (3/5) of the qualified electors of the school district who voted
276 in such election shall vote in favor of the leasing of a school
277 building, then the school board shall proceed to lease a school
278 building. The term of the lease contract shall not exceed twenty
279 (20) years, and the total cost of such lease shall be either the
280 amount of the lowest and best bid accepted by the school board
281 after advertisement for bids or an amount not to exceed the
282 current fair market value of the lease as determined by the
283 averaging of at least two (2) appraisals by certified general
284 appraisers licensed by the State of Mississippi. The term "school
285 building" as used in this item (v) shall be construed to mean any
286 building or buildings used for classroom purposes in connection
287 with the operation of schools and shall include the site therefor,
288 necessary support facilities, and the equipment thereof and
289 appurtenances thereto such as heating facilities, water supply,
290 sewage disposal, landscaping, walks, drives and playgrounds. The
291 term "lease" as used in this item (v)(i) may include a
292 lease/purchase contract;

293 (ii) If two (2) or more school districts propose
294 to enter into a lease contract jointly, then joint meetings of the

295 school boards having control may be held but no action taken shall
296 be binding on any such school district unless the question of
297 leasing a school building is approved in each participating school
298 district under the procedure hereinabove set forth in item (v)(i).
299 All of the provisions of item (v)(i) regarding the term and amount
300 of the lease contract shall apply to the school boards of school
301 districts acting jointly. Any lease contract executed by two (2)
302 or more school districts as joint lessees shall set out the amount
303 of the aggregate lease rental to be paid by each, which may be
304 agreed upon, but there shall be no right of occupancy by any
305 lessee unless the aggregate rental is paid as stipulated in the
306 lease contract. All rights of joint lessees under the lease
307 contract shall be in proportion to the amount of lease rental paid
308 by each;

309 (w) To employ all noninstructional and noncertificated
310 employees and fix the duties and compensation of such personnel
311 deemed necessary pursuant to the recommendation of the
312 superintendent of schools;

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

315 (y) Subject to rules and regulations of the State Board
316 of Education, to purchase, own and operate trucks, vans and other
317 motor vehicles, which shall bear the proper identification
318 required by law;

319 (z) To expend funds for the payment of substitute
320 teachers and to adopt reasonable regulations for the employment
321 and compensation of such substitute teachers;

322 (aa) To acquire in its own name by purchase all real
323 property which shall be necessary and desirable in connection with
324 the construction, renovation or improvement of any public school
325 building or structure. Whenever the purchase price for such real
326 property is greater than Fifty Thousand Dollars (\$50,000.00), the
327 school board shall not purchase the property for an amount

328 exceeding the fair market value of such property as determined by
329 the average of at least two (2) independent appraisals by
330 certified general appraisers licensed by the State of Mississippi.
331 If the board shall be unable to agree with the owner of any such
332 real property in connection with any such project, the board shall
333 have the power and authority to acquire any such real property by
334 condemnation proceedings pursuant to Section 11-27-1 et seq.,
335 Mississippi Code of 1972, and for such purpose, the right of
336 eminent domain is hereby conferred upon and vested in said board.
337 Provided further, that the local school board is authorized to
338 grant an easement for ingress and egress over sixteenth section
339 land or lieu land in exchange for a similar easement upon
340 adjoining land where the exchange of easements affords substantial
341 benefit to the sixteenth section land; provided, however, the
342 exchange must be based upon values as determined by a competent
343 appraiser, with any differential in value to be adjusted by cash
344 payment. Any easement rights granted over sixteenth section land
345 under such authority shall terminate when the easement ceases to
346 be used for its stated purpose. No sixteenth section or lieu land
347 which is subject to an existing lease shall be burdened by any
348 such easement except by consent of the lessee or unless the school
349 district shall acquire the unexpired leasehold interest affected
350 by the easement;

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

354 (cc) Subject to rules and regulations of the State
355 Board of Education, to purchase relocatable classrooms for the use
356 of such school district, in the manner prescribed in Section
357 37-1-13;

358 (dd) Enter into contracts or agreements with other
359 school districts, political subdivisions or governmental entities
360 to carry out one or more of the powers or duties of the school

361 board, or to allow more efficient utilization of limited resources
362 for providing services to the public;

363 (ee) To provide for in-service training for employees
364 of the district. Until June 30, 1994, the school boards may
365 designate two (2) days of the minimum school term, as defined in
366 Section 37-19-1, for employee in-service training for
367 implementation of the new statewide testing system as developed by
368 the State Board of Education. Such designation shall be subject
369 to approval by the State Board of Education pursuant to uniform
370 rules and regulations;

371 (ff) As part of their duties to prescribe the use of
372 textbooks, to provide that parents and legal guardians shall be
373 responsible for the textbooks and for the compensation to the
374 school district for any books which are not returned to the proper
375 schools upon the withdrawal of their dependent child. If a
376 textbook is lost or not returned by any student who drops out of
377 the public school district, the parent or legal guardian shall
378 also compensate the school district for the fair market value of
379 the textbooks;

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

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

387 (ii) Fund-raising activities conducted or
388 authorized by the board for the sale of school pictures, the
389 rental of caps and gowns or the sale of graduation invitations for
390 which the school board receives a commission, rebate or fee shall
391 contain a disclosure statement advising that a portion of the
392 proceeds of the sales or rentals shall be contributed to the
393 student activity fund;

394 (hh) To allow individual lessons for music, art and
395 other curriculum-related activities for academic credit or
396 nonacademic credit during school hours and using school equipment
397 and facilities, subject to uniform rules and regulations adopted
398 by the school board;

399 (ii) To charge reasonable fees for participating in an
400 extracurricular activity for academic or nonacademic credit for
401 necessary and required equipment such as safety equipment, band
402 instruments and uniforms;

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

406 (kk) To exercise such powers as may be reasonably
407 necessary to carry out the provisions of this section; * * *

408 (ll) To expend funds for the services of nonprofit arts
409 organizations or other such nonprofit organizations who provide
410 performances or other services for the students of the school
411 district; and

412 (mm) To charge fees prescribed by the Commission on
413 Public School Activities of the State Department of Education and
414 deposit such fees into the Public School Activities Special Fund.

415 **SECTION 9.** This act shall take effect and be in force from
416 and after July 1, 2004.