

By: Representative Pierce

To: Education

HOUSE BILL NO. 1396

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE SCHOOL BOARDS TO ENTER INTO CONTRACTS WITH A THIRD
3 PARTY FOR THE PURPOSE OF CONSOLIDATING CENTRAL OFFICE
4 ADMINISTRATIVE FUNCTIONS; AND FOR RELATED PURPOSES.

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

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

8 37-7-301. The school boards of all school districts shall
9 have the following powers, authority and duties in addition to all
10 others imposed or granted by law, to wit:

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

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

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

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

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

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

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

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

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

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

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

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

57 (l) To prescribe and enforce rules and regulations not
58 inconsistent with law or with the regulations of the State Board
59 of Education for their own government and for the government of
60 the schools, and to transact their business at regular and special
61 meetings called and held in the manner provided by law;

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

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

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

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

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

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

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

95 the funds were raised by school employees or received by school
96 employees during school hours or using school facilities, and
97 regardless of whether a school employee exercises influence over
98 the expenditure or disposition of such funds. Organizations shall
99 not be required to make any payment to any school for the use of
100 any school facility if, in the discretion of the local school
101 governing board, the organization's function shall be deemed to be
102 beneficial to the official or extracurricular programs of the
103 school. For the purposes of this provision, the term
104 "organization" shall not include any organization subject to the
105 control of the local school governing board. Activity funds may
106 only be expended for any necessary expenses or travel costs,
107 including advances, incurred by students and their chaperons in
108 attending any in-state or out-of-state school-related programs,
109 conventions or seminars and/or any commodities, equipment, travel
110 expenses, purchased services or school supplies which the local
111 school governing board, in its discretion, shall deem beneficial
112 to the official or extracurricular programs of the district,
113 including items which may subsequently become the personal
114 property of individuals, including yearbooks, athletic apparel,
115 book covers and trophies. Activity funds may be used to pay
116 travel expenses of school district personnel. The local school
117 governing board shall be authorized and empowered to promulgate
118 rules and regulations specifically designating for what purposes
119 school activity funds may be expended. The local school governing
120 board shall provide (i) that such school activity funds shall be
121 maintained and expended by the principal of the school generating
122 the funds in individual bank accounts, or (ii) that such school
123 activity funds shall be maintained and expended by the
124 superintendent of schools in a central depository approved by the
125 board. The local school governing board shall provide that such
126 school activity funds be audited as part of the annual audit
127 required in Section 37-9-18. The State Auditor shall prescribe a

128 uniform system of accounting and financial reporting for all
129 school activity fund transactions;

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

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

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

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

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

194 of the aggregate lease rental to be paid by each, which may be
195 agreed upon, but there shall be no right of occupancy by any
196 lessee unless the aggregate rental is paid as stipulated in the
197 lease contract. All rights of joint lessees under the lease
198 contract shall be in proportion to the amount of lease rental paid
199 by each;

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

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

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

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

213 (aa) To acquire in its own name by purchase all real
214 property which shall be necessary and desirable in connection with
215 the construction, renovation or improvement of any public school
216 building or structure. Whenever the purchase price for such real
217 property is greater than Fifty Thousand Dollars (\$50,000.00), the
218 school board shall not purchase the property for an amount
219 exceeding the fair market value of such property as determined by
220 the average of at least two (2) independent appraisals by
221 certified general appraisers licensed by the State of Mississippi.
222 If the board shall be unable to agree with the owner of any such
223 real property in connection with any such project, the board shall
224 have the power and authority to acquire any such real property by
225 condemnation proceedings pursuant to Section 11-27-1 et seq.,
226 Mississippi Code of 1972, and for such purpose, the right of

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

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

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

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

254 (ee) To provide for in-service training for employees
255 of the district. Until June 30, 1994, the school boards may
256 designate two (2) days of the minimum school term, as defined in
257 Section 37-19-1, for employee in-service training for
258 implementation of the new statewide testing system as developed by
259 the State Board of Education. Such designation shall be subject

260 to approval by the State Board of Education pursuant to uniform
261 rules and regulations;

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

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

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

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

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

290 (ii) To charge reasonable fees for participating in an
291 extracurricular activity for academic or nonacademic credit for

292 necessary and required equipment such as safety equipment, band
293 instruments and uniforms;

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

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

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

303 (mm) To expend federal No Child Left Behind Act funds,
304 or any other available funds that are expressly designated and
305 authorized for that use, to pay training, educational expenses,
306 salary incentives and salary supplements to employees of local
307 school districts; except that incentives shall not be considered
308 part of the local supplement as defined in Section 37-151-5(o),
309 nor shall incentives be considered part of the local supplement
310 paid to an individual teacher for the purposes of Section
311 37-19-7(1). Mississippi Adequate Education Program funds or any
312 other state funds may not be used for salary incentives or salary
313 supplements as provided in this paragraph (mm);

314 (nn) To use any available funds, not appropriated or
315 designated for any other purpose, for reimbursement to the
316 state-licensed employees from both in-state and out-of-state, who
317 enter into a contract for employment in a school district, for the
318 expense of moving when the employment necessitates the relocation
319 of the licensed employee to a different geographical area than
320 that in which the licensed employee resides before entering into
321 the contract. The reimbursement shall not exceed One Thousand
322 Dollars (\$1,000.00) for the documented actual expenses incurred in
323 the course of relocating, including the expense of any
324 professional moving company or persons employed to assist with the

325 move, rented moving vehicles or equipment, mileage in the amount
326 authorized for county and municipal employees under Section
327 25-3-41 if the licensed employee used his personal vehicle or
328 vehicles for the move, meals and such other expenses associated
329 with the relocation. No licensed employee may be reimbursed for
330 moving expenses under this section on more than one (1) occasion
331 by the same school district. Nothing in this section shall be
332 construed to require the actual residence to which the licensed
333 employee relocates to be within the boundaries of the school
334 district that has executed a contract for employment in order for
335 the licensed employee to be eligible for reimbursement for the
336 moving expenses. However, the licensed employee must relocate
337 within the boundaries of the State of Mississippi. Any individual
338 receiving relocation assistance through the Critical Teacher
339 Shortage Act as provided in Section 37-159-5 shall not be eligible
340 to receive additional relocation funds as authorized in this
341 paragraph;

342 (oo) To use any available funds, not appropriated or
343 designated for any other purpose, to reimburse persons who
344 interview for employment as a licensed employee with the district
345 for the mileage and other actual expenses incurred in the course
346 of travel to and from the interview at the rate authorized for
347 county and municipal employees under Section 25-3-41;

348 (pp) Consistent with the report of the Task Force to
349 Conduct a Best Financial Management Practices Review, to improve
350 school district management and use of resources and identify cost
351 savings as established in Section 8 of Chapter 610, Laws of 2002,
352 local school boards are encouraged to conduct independent reviews
353 of the management and efficiency of schools and school districts.
354 Such management and efficiency reviews shall provide state and
355 local officials and the public with the following:

356 (i) An assessment of a school district's
357 governance and organizational structure;

358 (ii) An assessment of the school district's
359 financial and personnel management;
360 (iii) An assessment of revenue levels and sources;
361 (iv) An assessment of facilities utilization,
362 planning and maintenance;
363 (v) An assessment of food services, transportation
364 and safety/security systems;
365 (vi) An assessment of instructional and
366 administrative technology;
367 (vii) A review of the instructional management and
368 the efficiency and effectiveness of existing instructional
369 programs; and
370 (viii) Recommended methods for increasing
371 efficiency and effectiveness in providing educational services to
372 the public;
373 (qq) To enter into agreements with other local school
374 boards for the establishment of an educational service agency
375 (ESA) to provide for the cooperative needs of the region in which
376 the school district is located, as provided in Section 37-7-345.
377 This paragraph shall repeal on July 1, 2007;
378 (rr) To implement a financial literacy program for
379 students in Grades 10 and 11. The board may review the national
380 programs and obtain free literature from various nationally
381 recognized programs. After review of the different programs, the
382 board may certify a program that is most appropriate for the
383 school districts' needs. If a district implements a financial
384 literacy program, then any student in Grade 10 or 11 may
385 participate in the program. The financial literacy program shall
386 include, but is not limited to, instruction in the same areas of
387 personal business and finance as required under Section
388 37-1-3(2)(b). The school board may coordinate with volunteer
389 teachers from local community organizations, including, but not
390 limited to, the following: United States Department of

391 Agriculture Rural Development, United States Department of Housing
392 and Urban Development, Junior Achievement, bankers and other
393 nonprofit organizations. Nothing in this paragraph shall be
394 construed as to require school boards to implement a financial
395 literacy program;

396 (ss) To collaborate with the State Board of Education,
397 Community Action Agencies or the Department of Human Services to
398 develop and implement a voluntary program to provide services for
399 a full day prekindergarten program that addresses the cognitive,
400 social, and emotional needs of four-year-old and three-year-old
401 children. The school board may utilize nonstate source special
402 funds, grants, donations or gifts to fund the voluntary program;
403 and

404 (tt) To enter into contracts with a third party for the
405 purpose of consolidating central office administrative functions
406 including, but not limited to, school business such as budgeting,
407 accounting and purchasing, special education administration,
408 federal programs administration, school food service, school
409 transportation, professional development and test coordination.

410 **SECTION 2.** This act shall take effect and be in force from
411 and after July 1, 2005.