

House Amendments to Senate Bill No. 2978

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

16 **SECTION 1.** Section 37-7-485, Mississippi Code of 1972, is
17 amended as follows:

18 37-7-485. (1) This section shall be referred to as the
19 "School Property Development Act of 2005." It is the intent of
20 the Legislature that this section shall provide school boards with
21 an alternative optional method of disposal of surplus school
22 property that may generate greater returns to the district than a
23 public disposal sale, or to promote or stimulate economic
24 development within the school district or to promote, stabilize or
25 enhance property and tax values within the school district.

26 (2) The school board of any school district shall be
27 authorized and empowered, in its discretion, to sell, convey or
28 exchange a partial interest, undivided interest or any other
29 interest in real property (other than sixteenth section public
30 school trust land), in whole or in part, for a nonoperational
31 interest in any proposed development of the property, including
32 ownership of shares of a domestic corporation or a membership
33 interest in a limited liability company or a limited partnership
34 interest, any of which is organized for the operation of any
35 project, development or activity that, in the discretion of the
36 school board, will have the potential for fostering economic
37 development activities, increasing property values, increasing
38 student development or enhancing public safety. The school board
39 may contract with any other governmental entity, university or
40 community college, corporation, person or other legal entity for
41 the development, design, construction, financing, ownership or

42 operation of any project, development or activity, excluding
43 gaming and adult entertainment projects, developments or
44 activities, and may issue notes, leases, bonds or other written
45 obligations to finance such activities. The school board may
46 pledge any revenues or taxes it is to receive from such sale,
47 conveyance or exchange, including any shares of a corporation or
48 membership interest in a limited liability company or limited
49 partnership interest under this subsection or under Sections
50 37-7-471 through 37-7-483, to secure the repayment of any notes,
51 leases (excluding leases of sixteenth section public school trust
52 land), bonds or other written obligations of the district issued
53 under any provision of state law. Any such pledge of revenues or
54 other monies shall be valid and binding from the date the pledge
55 is made; such revenues or other monies so pledged and thereafter
56 received by the school district shall immediately be subject to
57 the lien of such pledge without any physical delivery thereof or
58 further act, and the lien of any such pledge shall be valid and
59 binding as against all parties having claims of any kind in tort,
60 contract or otherwise against the school district irrespective of
61 whether such parties have notice thereof. Neither the
62 resolutions, contracts or any other instrument by which a pledge
63 is created need be recorded. Any debt secured in whole or in part
64 by a pledge of such revenues or other monies shall not be subject
65 to or included in any debt limitation imposed on the issuance of
66 such debt. This subsection (2) shall not be construed to apply to
67 sixteenth section public school trust land.

68 (3) The school board shall use sound business practices when
69 executing exchanges as provided in this section. The school board
70 may utilize the services of the Mississippi Development Authority,
71 the local planning and development district or the Board of
72 Trustees of State Institutions of Higher Learning when executing
73 exchanges as provided in this section. The local school board
74 shall require, in any project exceeding Two Hundred Thousand
75 Dollars (\$200,000.00) that the party with whom the school board is
76 contracting shall provide the following information, at a minimum:

77 (a) A two-year business plan (which shall include pro
78 forma balance sheets, income statements and monthly cash flow
79 statements);

80 (b) Financial statements and tax returns for the three
81 (3) years immediately prior to the date the contract is formed;

82 (c) Credit reports on all persons or entities with a
83 twenty percent (20%) or greater interest in the entity;

84 (d) Data supporting the expertise of the entity's
85 principals;

86 (e) A cost benefit analysis of the project performed by
87 the Mississippi Development Authority, a state institution of
88 higher learning or other entity selected by the local school
89 board; and

90 (f) Any other information required by the local school
91 board.

92 This subsection (3) shall not be construed to apply to
93 sixteenth section public school trust land.

94 (4) The local school board shall make public record any
95 final and signed contract created under this section.

96 (5) No person involved in any economic development project
97 entered into by a school board under the provisions of this
98 section shall be related by consanguinity or affinity within the
99 third degree to any member of the school board or the
100 superintendent or any assistant superintendent of the school
101 district, nor shall any such person have an interest in any
102 business or have an economic relationship with any member of the
103 school board or the superintendent or any assistant superintendent
104 of the school district.

105 (6) No person, or any agent, subsidiary or parent
106 corporation or firm owned in whole or in part by the person shall
107 be eligible to bid or otherwise participate in the construction,
108 contracting, or subcontracting on any project or part thereof for
109 which the person has been hired to perform construction program
110 management services. Any contract for public construction that
111 violates this provision shall be void and against the public

112 policy of the state. For purposes of this subsection, the term
113 "construction program management services" means a set of
114 management and technical services rendered by a person or firm to
115 a public sector building owner during the predesign, design,
116 construction, or post-construction phases of new construction,
117 demolition, alteration, repair, or renovation projects. These
118 services include any one or more of the following: project
119 planning, budgeting, scheduling, coordination, design management,
120 construction administration, or facility occupancy actions, but
121 shall not include any component of the actual construction work.
122 The term does not include the services performed by the general
123 contractor who is engaged to perform the construction work, or
124 services customarily performed by licensed architects or
125 registered engineers.

126 (7) This section shall be supplemental and additional to any
127 powers conferred by other laws on school districts. However, this
128 act shall not grant any authority to a school board to issue debt
129 in any amount that is not otherwise expressly provided for by law,
130 and shall not grant any authority to impose, levy or collect any
131 tax that is not otherwise expressly provided for by law.

132 (8) If a school board exercises its option to enter into a
133 development agreement or other contract under this act or to
134 transfer any property or interest therein to a third party for
135 purposes of future development, the following conditions shall
136 apply:

137 (a) The board shall have the express authority to
138 retain a deed of trust or such other security interest in the
139 property in an amount equal at least to the value of the property
140 at the time of such transfer, less any consideration paid by the
141 developer or other parties;

142 (b) The liability of the school board and the school
143 district under any such development agreement shall be limited to
144 the value of any retained property interest in the development
145 agreement or the property that is the subject of the development
146 agreement. Neither the school board nor the district shall be

147 liable to any party nor shall it indemnify or hold harmless any
148 party for any liabilities, obligations, losses, damages,
149 penalties, settlements, claims, actions, suits, proceedings or
150 judgments of any kind and nature, costs, expenses, or attorney's
151 fees incurred by such party or parties for any act or action
152 arising out of, or in connection with any development agreement
153 entered into by the school board, other than the value of the
154 retained ownership interest in the property that was conveyed
155 under such development agreement.

156 (9) Before entering into any transaction as provided in this
157 section, the school board members shall certify that they are in
158 compliance with Section 25-4-25 regarding filings of statements of
159 economic interest with the Mississippi Ethics Commission and that
160 they will receive no direct or indirect pecuniary benefit as a
161 result of the transaction or be in violation of the provisions of
162 Section 25-4-105 regarding the improper use of official position.

163 (10) [Deleted]

164 (11) This section and Section 2 of this act shall stand
165 repealed on June 30, 2006.

166 **SECTION 2.** Section 3, Chapter 65, Laws of 1935, which
167 provides that the title to certain real property dedicated to the
168 City of Jackson for school purposes will revert to the state if
169 the property ceases to be used for school purposes, is repealed.
170 The State of Mississippi expressly releases and waives its
171 reversionary interest and any and all other interests it may have
172 in certain real property formerly dedicated to the City of
173 Jackson, and later to the Jackson Public School District, under
174 Chapter 65, Laws of 1935.

175 **SECTION 3.** This act shall take effect and be in force from
176 and after its passage.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 37-7-485, MISSISSIPPI CODE OF 1972,
2 TO AUTHORIZE LOCAL SCHOOL BOARDS TO CONTRACT WITH OTHER ENTITIES
3 FOR THE DEVELOPMENT, DESIGN, CONSTRUCTION, FINANCING, OWNERSHIP
4 AND OPERATION OF SURPLUS SCHOOL PROPERTY PURSUANT TO THE

5 PROVISIONS OF THE SCHOOL PROPERTY DEVELOPMENT ACT; TO AUTHORIZE
6 SCHOOL BOARDS TO ISSUE NOTES AND OTHER WRITTEN OBLIGATIONS TO
7 FINANCE SUCH ACTIVITIES; TO AUTHORIZE SCHOOL BOARDS TO PLEDGE
8 TAXES COLLECTED UPON SUCH LAND AS SECURITY FOR SUCH NOTES; TO
9 REMOVE THE REPEALER FOR THE SCHOOL PROPERTY DEVELOPMENT ACT; TO
10 REPEAL SECTION 3, CHAPTER 65, LAWS OF 1935, WHICH PROVIDES THAT
11 THE TITLE TO CERTAIN REAL PROPERTY DEDICATED TO THE CITY OF
12 JACKSON FOR SCHOOL PURPOSES WILL REVERT TO THE STATE IF THE
13 PROPERTY CEASES TO BE USED FOR SCHOOL PURPOSES; AND FOR RELATED
14 PURPOSES.

HR40\SB2978PH.J

Don Richardson
Clerk of the House of Representatives