

By: Representatives Pigott, Paden

To: Agriculture

HOUSE BILL NO. 1159

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO
 2 ALLOW LOCAL SCHOOL BOARDS, WHICH APPROVE THE SALES OF TIMBER AND
 3 FOREST PRODUCTS GROWN ON SIXTEENTH SECTION LANDS, TO ENTER INTO
 4 LONG-TERM PUBLIC OR PRIVATE CONTRACTS FOR THE SALE OF CERTAIN
 5 FOREST PRODUCTS; TO AMEND SECTION 29-3-81, MISSISSIPPI CODE OF
 6 1972, TO CLARIFY THE AUTHORITY OF LOCAL SCHOOL BOARDS TO LEASE
 7 SIXTEENTH SECTION OR IN LIEU LANDS CLASSIFIED AS AGRICULTURAL
 8 LAND, USING PROVISIONS RELATED TO BEST FARM MANAGEMENT PRACTICES
 9 ESTABLISHED BY THE SECRETARY OF STATE IN CONSULTATION WITH FEDERAL
 10 AGRICULTURAL AGENCIES AND THE MISSISSIPPI STATE UNIVERSITY
 11 EXTENSION SERVICE; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 29-3-45, Mississippi Code of 1972, is
 14 amended as follows:

15 29-3-45. (1) (a) The board of education shall, by order
 16 placed upon its minutes, enter into an agreement with the State
 17 Forestry Commission for the general supervision and management of
 18 all lands classified as forest lands and of all timber or other
 19 forest products under the control of the board on sixteenth
 20 section lands, and lieu lands which have not been so classified.
 21 However, any school board may contract with private persons or
 22 businesses for the reforestation of sixteenth section lands and



23 may contract with a registered forester to be paid from the 16th
24 Section Interest Fund for a review of any forestry management
25 decision or forestry practice including the sale of timber for
26 sixteenth section forest land provided that any implementation of
27 a forestry management decision or forestry practice to be taken as
28 a result of the review described in this subsection shall be
29 subject to the approval of both the commission and the Secretary
30 of State. When such agreement has been entered into, no timber or
31 other forest products shall be sold from any of the sixteenth
32 section lands or lieu lands except such as have been marked or
33 approved for cutting by the State Forestry Commission's employees.
34 The Forestry Commission, or its designated employee, shall fix the
35 minimum total cash price or minimum price per unit, one thousand
36 (1,000) feet or other measure, at which the marked timber or other
37 forest products shall be sold. The sales may be made for a lump
38 sum or upon a unit price as in the opinion of the board may be
39 calculated to bring the greatest return. Sales shall be made upon
40 such other terms and conditions as to manner of cutting, damages
41 for cutting of unmarked trees, damages to trees not cut and other
42 pertinent matters as the board of education shall approve.

43 (b) The State Forestry Commission shall have the sole
44 authority and control in scheduling of all cutting and harvesting
45 of timber or other forest products when such timber stands or
46 other forest products are determined by the State Forestry
47 Commission to be economically ready for cutting and harvesting.



48 (c) Should a school board disagree with the Forestry
49 Commission concerning the time of cutting and harvesting, the
50 board may make an appeal to the Forestry Commission at a regular
51 monthly scheduled meeting of the commission. If the school board
52 is not satisfied after the appeal to the commission, the board may
53 then appeal to the Secretary of State who will make the final
54 decision as to the time for cutting and harvesting. In the event
55 that the local school board is divested of its management
56 authority under subsection (3) hereof, the Secretary of State
57 after due consultation with the Forestry Commission shall retain
58 the right to make final decisions concerning the management and
59 sale of timber and other forest products.

60 (d) It is hereby made the duty of the State Forestry
61 Commission, from time to time, to mark timber which should be cut
62 from the lands, to determine what planting, deadening or other
63 forestry improvements should be made, giving due consideration to
64 food and habitat for wildlife, and to report to the appropriate
65 board of education. The State Forestry Commission and the board
66 of education shall supervise the cutting of any timber or
67 harvesting of other forest products sold from the lands herein
68 designated and shall have authority to require any timber-cutting
69 operations on the lands to cease until proper adjustment is made,
70 whenever it shall appear that timber is being cut in violation of
71 the terms of the sale. In the event that it is desired to lease
72 any of such lands or standing timber for turpentine purposes, such



73 lease shall only cover such trees as the State Forestry Commission
74 shall designate, and the commission through its employees shall
75 approve the number of faces, method of chipping and boxing of such
76 timber, and shall fix a minimum total cash price or minimum price
77 per unit.

78 (e) No sale of any timber, turpentine or other forest
79 products lease shall be made until notice of same shall have been
80 published once a week for three (3) consecutive weeks in at least
81 one (1) newspaper published in such county. The first publication
82 of such notice shall be made not less than twenty-one (21) days
83 prior to the date fixed for the sale, and the last publication
84 shall be made not more than seven (7) days prior to such date. If
85 no newspaper is published in such county, then such notice shall
86 be given by publishing the same for the required time in some
87 newspaper having a general circulation in such county and, in
88 addition thereto, by posting a copy of such notice for at least
89 twenty-one (21) days next preceding such sale at three (3) public
90 places in such county.

91 (f) Notwithstanding the above provision pertaining to
92 the sale of any timber, turpentine or other forest products, in
93 the event that timber must be cleared from an existing road or
94 existing utility right-of-way, the public notice requirement may
95 be waived. Prior to waiver of the public notice requirement, the
96 State Forestry Commission must make a finding that, due to the
97 small area of timber to be cleared, a public notice sale would not



98 be in the best interest of the local board of education. If the
99 State Forestry Commission makes such a finding, then it shall set
100 the value of the timber to be paid to the local board of education
101 by the party requesting the timber be removed.

102 (g) Provided, however, in the case of damage by fire,
103 windstorm or other natural causes which would require immediate
104 sale of the timber, because the time involved for advertisement as
105 prescribed herein would allow decay, rot or destruction
106 substantially decreasing the purchase price to be received had not
107 such delay occurred, the advertisement provisions of this section
108 shall not apply. The local board of education, with a written
109 recommendation from a designated employee of the State Forestry
110 Commission filed in the minutes of the local board of education,
111 shall determine when immediate sale of the timber is required.
112 When the board of education shall find an immediate sale necessary
113 for the causes stated herein, it shall, in its discretion, set the
114 time for receipt of bids on the purchase of the timber, but shall
115 show due diligence in notifying competitive bidders so that a true
116 competitive bid shall be received.

117 (2) (a) A local board of education having control of the
118 sixteenth section lands in the Hurricane Katrina Disaster of 2005
119 shall be granted emergency powers to take any and all actions of a
120 reasonably prudent trustee acting under emergency conditions to
121 recover damaged timber, prevent further loss or damage to timber,
122 and to minimize economic loss. All such actions shall be taken in



123 consultation with and shall be subject to the prior approval from
124 the Secretary of State and the State Forestry Commission. The
125 emergency powers shall be as follows:

126 (i) Contract with any individual or entity for
127 management advice, sale of timber, clearing of damage to timber
128 producing lands, transporting of timber, repairing access roads to
129 timber lands, conducting aerial spraying, or taking any other type
130 of action to prevent further loss of timber or diminution in value
131 of existing timber as the result of the incident which
132 necessitated the declaration of a natural disaster. In
133 contracting with any individual or entity, the local board of
134 education shall use its best efforts to ensure that all costs
135 incurred are reasonable and that a fair price is received for all
136 sales.

137 (ii) Enter into agreements with any individual,
138 private company, or other governmental entities for the pooling of
139 resources, or the sharing of costs so as to maximize the
140 mitigation of loss and minimize the expense of mitigating the loss
141 of timber.

142 (iii) Apply for any state, federal, or private
143 party grant or nonrepayable funds to cover costs associated with
144 emergency management contracts, sale timber, including loss for
145 diminution of value, transporting of timber, replanting of timber,
146 repairing access roads to timber, conducting aerial spraying, or



147 reimbursement for any other action taken to prevent further timber
148 damage, as well as mitigating the loss of funds due to damage.

149 (b) The emergency powers granted herein shall be for a
150 period of one (1) year from the date of designation as a disaster
151 area due to Hurricane Katrina. The emergency powers may be
152 extended for one (1) additional one-year period upon prior written
153 approval from the Secretary of State.

154 (c) The emergency powers shall also apply to the
155 management of timber by the Secretary of State pursuant to
156 subsection (3) of this section.

157 (d) In the event a local board of education is unable
158 to acquire the services of the State Forestry Commission or the
159 Secretary of State to meet an immediate need to salvage, remove or
160 take other appropriate action on damaged timber, the local board
161 of education shall unilaterally be granted the authority to take
162 such actions as necessary regarding the management or sale of
163 timber or other forest products.

164 (e) In exercising emergency powers, a local board of
165 education or the Secretary of State shall exercise the general
166 powers of a trustee with the same general restrictions and general
167 liabilities of a trustee and shall exercise the care and skill of
168 an ordinary prudent person to protect the beneficiaries of the
169 trust under such emergency circumstances.

170 (f) Any contractor with a local board of education or
171 the Secretary of State shall be entitled to rely on



172 representations by such board of education or the Secretary of
173 State as to who has authority to enter contracts for the
174 management or sale of timber or other forest products, and
175 reliance on such representations shall not be grounds for voiding
176 any contract.

177 (3) (a) In the event that any member of a local board of
178 education may have a personal interest, either direct or indirect,
179 in the decisions regarding the management or sale of timber or
180 other forest products or in a contract for the sale of timber or
181 other forest products from sixteenth section school lands under
182 the jurisdiction and control of the board, then the board of
183 education shall automatically be divested of all authority and
184 power to manage and sell timber or other forest products on
185 sixteenth section lands under its control and jurisdiction. The
186 divestiture shall extend for the period of service, and for one
187 (1) year thereafter, of the board member having a direct or
188 indirect personal interest in the sale or decision to sell timber
189 or other forest products.

190 (b) During the time in which any local board of
191 education may be divested of authority and power to manage and
192 sell timber and other forest products, such authority and power
193 shall be vested in the Secretary of State, as supervisory trustee
194 of sixteenth section lands. Upon the appointment or election of a
195 member of a local board of education who may have such an
196 appointment or election of a member of a local board of education



197 who may have such an interest in decisions and contracts regarding
198 the management and sale of timber or other forest products, the
199 board of education shall immediately notify the Secretary of State
200 in writing. Likewise, the board shall give written notification
201 to the Secretary of State within thirty (30) days prior to the
202 expiration of any such divestiture period. Any contractor with a
203 local board of education or the Secretary of State shall be
204 entitled to rely on representations by such board or the Secretary
205 of State as to who has authority to enter contracts for the
206 management or sale of timber or other forest products, and
207 reliance on such representations shall not be grounds for voiding
208 any contract.

209 (c) The laws providing for the management and sale of
210 timber and other forest products by local boards of education
211 shall apply to the management and sale of timber and other forest
212 products by the Secretary of State. The Mississippi Forestry
213 Commission shall provide the Secretary of State with advice and
214 services in the same manner as provided to local boards of
215 education.

216 (d) The Secretary of State shall be paid all monies
217 derived from the sale of timber or other forest products and shall
218 promptly forward the same to the superintendent of education for
219 such school district with instructions for the proper settlement,
220 deposit and investment of the monies. Such local school board
221 shall reimburse the Secretary of State for all direct costs



222 relating to the management and sale of timber or other forest
223 products, and in the case of a sale of timber or other forest
224 products, the Secretary of State may deduct such direct cost from
225 the proceeds of sale. The Secretary of State shall furnish an
226 itemized listing of all direct cost charged to the local school
227 district.

228 (4) (a) The local board of education is authorized to enter
229 into supply agreements, for a term not to exceed ten (10) years,
230 for the sale of forest products consisting of wood waste, wood
231 fiber, pulpwood or biomass. The supply agreement may be entered
232 into by:

233 (i) Public contract after publication of notice
234 and upon the terms set forth in this subsection (4) of this
235 section; or

236 (ii) Private contract after the Mississippi
237 Forestry Commission provides the appropriate local school board
238 with:

239 1. A written appraisal of the value of the
240 forest products to be harvested under the terms of the supply
241 agreement; and

242 2. The minimum value at which the forest
243 products may be sold.

244 (b) Supply agreements authorized under the provision of
245 this subsection (4) may only be entered into upon the
246 recommendation of the Mississippi Forestry Commission, and in



247 accordance with contractual terms approved by the commission and
248 the Secretary of State.

249 **SECTION 2.** Section 29-3-81, Mississippi Code of 1972, is
250 amended as follows:

251 29-3-81. (1) (a) Sixteenth section lands, or any lands
252 granted in lieu of sixteenth section lands, classified as
253 agricultural may be leased * * * for a term not to exceed ten (10)
254 years. * * * All leases of land classified as agricultural shall
255 be for a term to expire on December 31 and shall contain
256 provisions related to best farm management practices as
257 established by the Secretary of State, in consultation with
258 federal agricultural agencies and the Mississippi State University
259 Extension Service. Except in those cases when the holder of an
260 existing lease on agricultural land elects to re-lease such land,
261 as authorized under this subsection, it shall be the duty of the
262 board of education to lease the sixteenth section or lieu lands at
263 public contract after having advertised such lands for rent in a
264 newspaper published in the county or, if no newspaper is published
265 in the county, then in a newspaper having a general circulation
266 therein, for two (2) successive weeks, the first being at least
267 ten (10) days before the public contract. The lease form and the
268 terms so prescribed shall be on file and available for inspection
269 in the office of the superintendent from and after the public
270 notice by advertisement and until finally accepted by the board.



271 (b) Bids received by the board of education in response
272 to the advertisement shall be opened at a regular or special
273 meeting of the board. The board of education, at its option, may
274 reject all bids or accept the highest and best bid received in
275 response to the advertisement, or the board of education may hold
276 an auction among those who submitted bids in response to the
277 advertisement. If the board of education elects to hold an
278 auction, no bidder shall be granted any preference. The opening
279 bid at the auction shall be the highest bid received in response
280 to the advertisement.

281 (2) * * * Before the expiration of an existing lease of land
282 classified as agricultural land, except as otherwise provided in
283 subsection (* * *3) for lands intended to be reclassified, the
284 board of education, in its discretion and subject to the prior
285 approval of the Secretary of State, may authorize the holder of
286 the existing lease to re-lease the land, on no more than one (1)
287 occasion, for a term not to exceed * * * ten (10) years and for a
288 rental amount and lease terms related to best farm management
289 practices established by the Secretary of State, in consultation
290 with federal agricultural agencies and the Mississippi State
291 University Extension Service * * *. If the holder of the existing
292 lease elects not to re-lease the land, the board of education
293 shall publish an advertisement of agricultural land for rent which
294 publication shall be not more than four (4) months before the
295 expiration of the term of an existing lease of the land. An



296 election by the holder of the existing lease not to re-lease the
297 land shall not preclude his participation in the bidding process
298 established under this section. Subject to the classification of
299 the land, the board of education shall enter into a new lease on
300 agricultural land before the expiration of an existing lease on
301 the same land, and the new lease shall take effect on the day
302 immediately following the day on which the existing lease expires.
303 The board of education may require bidders to furnish bond or
304 submit evidence of financial ability.

305 * * *

306 (* * *3) If, during the final year of an existing lease,
307 the board of education notifies the holder of the existing lease
308 that the board of education intends to reclassify the land under
309 Section 29-3-39, the holder of the existing lease may re-lease the
310 land for a term of five (5) years and for a rental amount that is
311 equal to one hundred twenty percent (120%) of the total rental
312 value of the then existing lease. Thereafter, the board of
313 education shall have the option to proceed with the
314 reclassification of the land or may re-lease the land for one (1)
315 additional term of five (5) years after advertising for bids or
316 holding an auction in the same manner as provided in subsection
317 (1) of this section, and the new classification will be
318 implemented upon the expiration of the then existing lease. This
319 subsection does not apply if the board of education intends to
320 reclassify the land under the "commercial" or "industrial" land



321 classification based on a valid business proposal presented to and
322 approved by the board of education.

323 (* * *4) (a) If the board of education receives an
324 acceptable bid in response to the advertisement and elects not to
325 hold an auction among those submitting bids, then the holder of
326 the existing lease may submit a second bid in an amount not less
327 than one hundred five percent (105%) of the highest acceptable bid
328 received if the holder of the existing lease: (i) submitted a bid
329 in response to the advertisement; and (ii) constructed or made
330 improvements on the leasehold premises after receiving approval of
331 the board of education during the term of the existing lease. For
332 purposes of this subsection, the term "improvements" shall not
333 include any work or items that are done customarily on an annual
334 basis in the preparing, planting, growing, cultivating or
335 harvesting of crops or other farm products.

336 (b) If the holder of the existing lease elects to
337 submit a second bid, the board of education shall hold an auction
338 among those who submitted bids in response to the advertisement.
339 The opening bid at the auction shall be the second bid of the
340 holder of the existing lease. However, no leaseholder may submit
341 a second bid if: (i) any rent, taxes or other payment required
342 under his lease are past due; or (ii) he is otherwise in default
343 of any term or provision of the lease and such default has not
344 been corrected or cured to the satisfaction of the board of



345 education after more than thirty (30) days' notice to the
346 leaseholder of the default.

347 (c) If an auction is held, the auction may be conducted
348 at the meeting at which bids are opened or at a subsequent regular
349 or special meeting. The board shall announce the time and place
350 of the auction at the meeting at which bids are opened, and no
351 further notice of the auction is required.

352 (d) If no bid acceptable to the board of education is
353 received after the advertisement or at auction, the board of
354 education may lease, within ninety (90) days, the lands by private
355 contract for an amount greater than the highest bid previously
356 rejected in order to acquire a fair rental value for the lands.
357 If no bids are received in response to the advertisement, the
358 board of education may negotiate a private contract for a fair
359 rental value, and the term of such contract shall expire on
360 December 31 of the same calendar year in which the contract is
361 made. The board of education may take the notes for the rent and
362 attend to their collection. The board has the right and remedies
363 for the security and collection of such rents given by law to the
364 agricultural landlords.

365 (e) If an existing lease is terminated before the
366 expiration of the term originally set therein, upon finding that
367 immediate action is necessary to prevent damage or loss to growing
368 crops or to prevent loss of opportunity to lease the land for the
369 current growing season, the board of education may negotiate a



370 private contract for a fair rental value, and the term of such
371 lease shall expire on December 31 of the same calendar year in
372 which the contract is made.

373 * * *

374 **SECTION 3.** This act shall take effect and be in force from
375 and after July 1, 2022.

