

By: Senator(s) Rhodes

To: Forestry

SENATE BILL NO. 2289

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO
2 MODERNIZE THE BIDDING PROCESS FOR THE SALE OF TIMBER OR OTHER
3 FOREST PRODUCTS ON SIXTEENTH SECTION LAND; AND FOR RELATED
4 PURPOSES.

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

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

8 29-3-45. (1) (a) The board of education shall, by order
9 placed upon its minutes, enter into an agreement with the State
10 Forestry Commission for the general supervision and management of
11 all lands classified as forest lands and of all timber or other
12 forest products under the control of the board on sixteenth
13 section lands, and lieu lands which have not been so classified.
14 However, any school board may contract with private persons or
15 businesses for the reforestation of sixteenth section lands and
16 may contract with a registered forester to be paid from the 16th
17 Section Interest Fund for a review of any forestry management
18 decision or forestry practice including the sale of timber for
19 sixteenth section forest land provided that any implementation of



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

36 (b) The State Forestry Commission shall have the sole
37 authority and control in scheduling of all cutting and harvesting
38 of timber or other forest products when such timber stands or
39 other forest products are determined by the State Forestry
40 Commission to be economically ready for cutting and harvesting.

41 (c) Should a school board disagree with the Forestry
42 Commission concerning the time of cutting and harvesting, the
43 board may make an appeal to the Forestry Commission at a regular
44 monthly scheduled meeting of the commission. If the school board



45 is not satisfied after the appeal to the commission, the board may
46 then appeal to the Secretary of State who will make the final
47 decision as to the time for cutting and harvesting. In the event
48 that the local school board is divested of its management
49 authority under subsection (3) hereof, the Secretary of State
50 after due consultation with the Forestry Commission shall retain
51 the right to make final decisions concerning the management and
52 sale of timber and other forest products.

53 (d) It is hereby made the duty of the State Forestry
54 Commission, from time to time, to mark timber which should be cut
55 from the lands, to determine what planting, deadening or other
56 forestry improvements should be made, giving due consideration to
57 food and habitat for wildlife, and to report to the appropriate
58 board of education. The State Forestry Commission and the board
59 of education shall supervise the cutting of any timber or
60 harvesting of other forest products sold from the lands herein
61 designated and shall have authority to require any timber-cutting
62 operations on the lands to cease until proper adjustment is made,
63 whenever it shall appear that timber is being cut in violation of
64 the terms of the sale. In the event that it is desired to lease
65 any of such lands or standing timber for turpentine purposes, such
66 lease shall only cover such trees as the State Forestry Commission
67 shall designate, and the commission through its employees shall
68 approve the number of faces, method of chipping and boxing of such



69 timber, and shall fix a minimum total cash price or minimum price
70 per unit.

71 (e) No sale of any timber, turpentine or other forest
72 products lease shall be made until notice of same shall have been
73 published once a week for three (3) consecutive weeks in at least
74 one (1) newspaper published in such county. The first publication
75 of such notice shall be made not less than twenty-one (21) days
76 prior to the date fixed for the sale, and the last publication
77 shall be made not more than seven (7) days prior to such date. If
78 no newspaper is published in such county, then such notice shall
79 be given by publishing the same for the required time in some
80 newspaper having a general circulation in such county and, in
81 addition thereto, by posting a copy of such notice for at least
82 twenty-one (21) days next preceding such sale at three (3) public
83 places in such county. The managing board may also publish
84 additional notices at school offices, in trade publications, or at
85 any other location, in any other media or by any other means it
86 finds likely to result in competitive bids. The board may allow
87 for the submission of electronic bids.

88 (f) Notwithstanding the above provision pertaining to
89 the sale of any timber, turpentine or other forest products, in
90 the event that timber must be cleared from an existing road or
91 existing utility right-of-way, the public notice requirement may
92 be waived. Prior to waiver of the public notice requirement, the
93 State Forestry Commission must make a finding that, due to the



94 small area of timber to be cleared, a public notice sale would not
95 be in the best interest of the local board of education. If the
96 State Forestry Commission makes such a finding, then it shall set
97 the value of the timber to be paid to the local board of education
98 by the party requesting the timber be removed.

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

114 (2) (a) A local board of education having control of the
115 sixteenth section lands in the Hurricane Katrina Disaster of 2005
116 shall be granted emergency powers to take any and all actions of a
117 reasonably prudent trustee acting under emergency conditions to
118 recover damaged timber, prevent further loss or damage to timber,



119 and to minimize economic loss. All such actions shall be taken in
120 consultation with and shall be subject to the prior approval from
121 the Secretary of State and the State Forestry Commission. The
122 emergency powers shall be as follows:

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

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

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



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

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

151 (c) The emergency powers shall also apply to the
152 management of timber by the Secretary of State pursuant to
153 subsection (3) of this section.

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

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

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



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

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

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



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

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

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



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

225 **SECTION 2.** This act shall take effect and be in force from
226 and after July 1, 2024.

