

By: Senator(s) Tollison

To: Education

SENATE BILL NO. 2803

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO GIVE AUTHORITY TO SCHOOL DISTRICTS TO TAKE ACTION WITH RESPECT  
3 TO THE OPERATIONS, MANAGEMENT, PROPERTY AND FINANCES OF THE SCHOOL  
4 DISTRICT FOR WHICH NO SPECIFIC PROVISION HAS BEEN MADE BY LAW,  
5 WITH LIMITATIONS; AND FOR RELATED PURPOSES.

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

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

9 37-7-301. (1) The school boards of all school districts  
10 shall have the following powers, authority and duties in addition  
11 to all others imposed or granted by law, to wit:

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

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

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

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

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

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

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

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

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

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

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

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

58 (l) To prescribe and enforce rules and regulations not  
59 inconsistent with law or with the regulations of the State Board  
60 of Education for their own government and for the government of

61 the schools, and to transact their business at regular and special  
62 meetings called and held in the manner provided by law;

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

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

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

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

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

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

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

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

127 school activity funds be audited as part of the annual audit  
128 required in Section 37-9-18. The State Auditor shall prescribe a  
129 uniform system of accounting and financial reporting for all  
130 school activity fund transactions;

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

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

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

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

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

193 districts acting jointly. Any lease contract executed by two (2)  
194 or more school districts as joint lessees shall set out the amount  
195 of the aggregate lease rental to be paid by each, which may be  
196 agreed upon, but there shall be no right of occupancy by any  
197 lessee unless the aggregate rental is paid as stipulated in the  
198 lease contract. All rights of joint lessees under the lease  
199 contract shall be in proportion to the amount of lease rental paid  
200 by each;

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

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

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

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

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

226 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
227 Mississippi Code of 1972, and for such purpose, the right of  
228 eminent domain is hereby conferred upon and vested in said board.  
229 Provided further, that the local school board is authorized to  
230 grant an easement for ingress and egress over sixteenth section  
231 land or lieu land in exchange for a similar easement upon  
232 adjoining land where the exchange of easements affords substantial  
233 benefit to the sixteenth section land; provided, however, the  
234 exchange must be based upon values as determined by a competent  
235 appraiser, with any differential in value to be adjusted by cash  
236 payment. Any easement rights granted over sixteenth section land  
237 under such authority shall terminate when the easement ceases to  
238 be used for its stated purpose. No sixteenth section or lieu land  
239 which is subject to an existing lease shall be burdened by any  
240 such easement except by consent of the lessee or unless the school  
241 district shall acquire the unexpired leasehold interest affected  
242 by the easement;

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

246 (cc) Subject to rules and regulations of the State  
247 Board of Education, to purchase relocatable classrooms for the use  
248 of such school district, in the manner prescribed in Section  
249 37-1-13;

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

255 (ee) To provide for in-service training for employees  
256 of the district. Until June 30, 1994, the school boards may  
257 designate two (2) days of the minimum school term, as defined in  
258 Section 37-19-1, for employee in-service training for



259 implementation of the new statewide testing system as developed by  
260 the State Board of Education. Such designation shall be subject  
261 to approval by the State Board of Education pursuant to uniform  
262 rules and regulations;

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

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

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

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

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

291 (ii) To charge reasonable fees for participating in an  
292 extracurricular activity for academic or nonacademic credit for  
293 necessary and required equipment such as safety equipment, band  
294 instruments and uniforms;

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

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

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

304 (2) In addition to all the specific powers set forth  
305 above, the school boards of all school districts shall have the  
306 power to adopt any orders, resolutions, or take other action with  
307 respect to the operations, management, property and finances of  
308 the school district for which no specific provision has been made  
309 by general law and which are not inconsistent with the Mississippi  
310 Constitution of 1890, the Mississippi Code of 1972, or any other  
311 statute or law of the State of Mississippi; and any such school  
312 board shall likewise have the power to alter, modify and repeal  
313 such orders, resolutions or action. Except as provided for in  
314 this subsection (2), the powers granted to school boards in this  
315 section are complete without the existence of or reference to any  
316 specific authority granted in any other statute or law of the  
317 State of Mississippi. This subsection (2) shall not authorize  
318 school boards to (a) levy taxes other than those authorized by  
319 statute or increase the levy of any authorized tax beyond  
320 statutorily established limits, (b) issue bonds of any kind, (c)  
321 change the requirements, practices or procedures for applicable  
322 elections or establish any new elective office, (d) use any public  
323 funds, equipment, supplies or materials for any private purpose,

324 or (e) grant any donation, unless such actions are specifically  
325 authorized by another statute or law of the State of Mississippi.

326 SECTION 2. This act shall take effect and be in force from  
327 and after its passage.