

By: Senator(s) King

To: Education

SENATE BILL NO. 2938

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO
2 PRESCRIBE A PROCEDURE FOR THE MANAGEMENT OF SALE OF TIMBER OR
3 OTHER FOREST PRODUCTS ON SIXTEENTH SECTION FOREST LAND IN THE
4 EVENT THE LOCAL SCHOOL BOARD IS DIVESTED OF AUTHORITY DUE TO A
5 CONFLICT OF INTEREST; AND FOR RELATED PURPOSES.

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

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

9 29-3-45. (1) (a) The board of education shall by order
10 placed upon its minutes, enter into an agreement with the State
11 Forestry Commission for the general supervision and management of
12 all lands classified as forest lands, as hereinabove provided, and
13 of all timber or other forest products under the control of the
14 board on sixteenth section lands, and lieu lands which have not
15 been so classified; however, any school board may contract with
16 private persons or businesses for the reforestation of sixteenth
17 section lands. When such agreement has been entered into, no
18 timber or other forest products shall be sold from any of said
19 sixteenth section lands or lieu lands except such as have been
20 marked for cutting by the State Forestry Commission's employees,
21 and the said Forestry Commission, or its designated employee,
22 shall fix the minimum total cash price or minimum price per unit,
23 one thousand (1,000) feet or other measure, at which said marked
24 timber or other forest products shall be sold. Said sales may be
25 made for a lump sum or upon a unit price as in the opinion of the
26 board may be calculated to bring the greatest return. Sales shall
27 be made upon such other terms and conditions as to manner of
28 cutting, damages for cutting of unmarked trees, damages to trees

29 not cut and other pertinent matters as the board of education
30 shall approve.

31 * * *

32 (b) The State Forestry Commission shall have the sole
33 authority and control in prescribing the forestry management
34 practices and scheduling of all cutting and harvesting of timber
35 or other forest products when such timber stands or other forest
36 products are determined by the State Forestry Commission to be
37 economically ready for cutting and harvesting; however, any school
38 board may contract with private persons or businesses for the
39 reforestation of sixteenth section lands.

40 (c) Should a school board disagree with the Forestry
41 Commission concerning the time of cutting and harvesting, the
42 board may make an appeal to the Forestry Commission at a regular
43 monthly scheduled meeting of the commission. If the school board
44 is not satisfied after the appeal to the commission, the board may
45 then appeal to the Secretary of State who will make the final
46 decision as to the time for cutting and harvesting. In the event,
47 the local school board is divested of its management authority
48 under Section (2) hereof, the Secretary of State after due
49 consultation with the Forestry Commission shall retain the right
50 to make final decisions concerning the management and sale of
51 timber and other forest products.

52 (d) It is hereby made the duty of the State Forestry
53 Commission, from time to time, to mark timber which should be cut
54 from said lands, to determine what planting, deadening or other
55 forestry improvements should be made, giving due consideration to
56 food and habitat for wildlife, and to report to the appropriate
57 board of education. The State Forestry Commission and the Board
58 of Education shall supervise the cutting of any timber or
59 harvesting of other forest products sold from said lands herein
60 designated and shall have authority to require any timber-cutting
61 operations on said lands to cease until proper adjustment is made,

62 whenever it shall appear that timber is being cut in violation of
63 the terms of the sale. In the event that it is desired to lease
64 any of such lands or standing timber for turpentine purposes, such
65 lease shall only cover such trees as the State Forestry Commission
66 shall designate, and said commission through its employees shall
67 approve the number of faces, method of chipping and boxing of such
68 timber, and shall fix a minimum total cash price or minimum price
69 per unit.

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

83 (f) Provided, however, in the case of damage by fire,
84 windstorm or other natural causes which would require immediate
85 sale of the timber, because the time involved for advertisement as
86 prescribed herein would allow decay, rot or destruction
87 substantially decreasing the purchase price to be received had not
88 such delay occurred, the advertisement provisions of this section
89 shall not apply. The board of education, with a written
90 recommendation from a designated employee of the State Forestry
91 Commission filed in the minutes of the board of education, shall
92 determine when immediate sale of the timber is required. When the
93 board of education shall find an immediate sale necessary for the
94 causes stated herein, it shall, in its discretion, set the time

95 for receipt of bids on the purchase of said timber, but shall show
96 due diligence in notifying competitive bidders so that a true
97 competitive bid shall be received.

98 (2) (a) In the event that any member of a local board of
99 education may have a personal interest, either direct or indirect,
100 in the decisions regarding the management or sale of timber or
101 other forest products or in a contract for the sale of timber or
102 other forest products from sixteenth section school lands under
103 the jurisdiction and control of said board, then said board of
104 education shall automatically be divested of all authority and
105 power to manage and sell timber or other forest products on
106 sixteenth section lands under its control and jurisdiction. Said
107 divestiture shall extend for the period of service, and for one
108 (1) year thereafter, of the board member having a direct or
109 indirect personal interest in the sale or decision to sell timber
110 or other forest products.

111 (b) During the time in which any local board of
112 education may be divested of authority and power to manage and
113 sell timber and other forest products, such authority and power
114 shall be vested in the Secretary of State, as supervisory trustee
115 of sixteenth section lands. Upon the appointment or election of a
116 member of a local board of education who may have such an
117 appointment or election of a member of a local board of education
118 who may have such an interest in decisions and contracts regarding
119 the management and sale of timber or other forest products, said
120 board of education shall immediately notify the Secretary of State
121 in writing. Likewise, said board shall give written notification
122 to the Secretary of State within thirty (30) days prior to the
123 expiration of any such divestiture period. Any contractor with a
124 local board of education or the Secretary of State shall be
125 entitled to rely on representations by such board or the Secretary
126 of State as to who has authority to enter contracts for the
127 management or sale of timber or other forest products, and

128 reliance on such representations shall not be grounds for voiding
129 any contract.

130 (c) The laws providing for the management and sale of
131 timber and other forest products by local boards of education
132 shall apply to the management and sale of timber and other forest
133 products by the Secretary of State. The Mississippi Forestry
134 Commission shall provide the Secretary of State with advice and
135 services in the same manner as provided to local boards of
136 education.

137 (d) The Secretary of State shall be paid all monies
138 derived from the sale of timber or other forest products and shall
139 promptly forward the same to the superintendent of education for
140 such school district with instructions for the proper settlement,
141 deposit and investment of said monies. Such local school board
142 shall reimburse the Secretary of State for all direct costs
143 relating to the management and sale of timber or other forest
144 products, and in the case of a sale of timber or other forest
145 products, the Secretary of State may deduct such direct cost from
146 the proceeds of sale. The Secretary of State shall furnish an
147 itemized listing of all direct cost charged to the local school
148 district.

149 SECTION 2. This act shall take effect and be in force from
150 and after July 1, 2001.