

By: Representatives Fillingane, Moore  
(100th)

To: Education

HOUSE BILL NO. 910

1 AN ACT TO PROVIDE THAT CEMETERIES THAT ARE AT LEAST  
2 TWENTY-FIVE YEARS OLD SHALL HAVE PRIORITY IN LEASING OF ADJACENT  
3 SIXTEENTH SECTION LAND FOR EXPANSION OF THE CEMETERY; TO AMEND  
4 SECTIONS 29-3-63 AND 29-3-81, MISSISSIPPI CODE OF 1972, IN  
5 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Any existing cemetery that has been in continuous  
8 operation as a cemetery for at least twenty-five (25) years and is  
9 located on or adjacent to sixteenth section land shall have  
10 priority over other applicants or bidders in leasing any of the  
11 adjoining sixteenth section land for the purpose of expanding its  
12 cemetery. The term of the lease shall not exceed twenty-five (25)  
13 years for land classified as agricultural and shall not exceed  
14 forty (40) years for all other classifications of those lands. If  
15 the sixteenth section lands are leased through competitive  
16 bidding, and another bidder has a higher bid than the cemetery's  
17 bid, the cemetery will be allowed to match the highest bid to  
18 obtain the lease.

19 **SECTION 2.** Section 29-3-63, Mississippi Code of 1972, is  
20 amended as follows:

21 29-3-63. (1) Except as otherwise provided for cemeteries in  
22 Section 1 of this act, the holder of a lease of sixteenth section  
23 or lieu land, at the expiration thereof, shall have a prior right,  
24 exclusive of all other persons, to re-lease or to extend an  
25 existing lease as may be agreed upon between the holder of the  
26 lease and board of education subject to the classification of said  
27 land. Provided, however, no holder of a lease of sixteenth  
28 section land classified as agricultural land shall have any



29 priority rights in extending his lease contract, except as  
30 otherwise provided in Section 29-3-81. Provided, however, the  
31 compensation on an annual basis shall be the fair market rental of  
32 the land excluding buildings and improvements made on such land by  
33 the lessee, the title to which is not held in trust for the public  
34 schools, but in no event shall the compensation be less than the  
35 minimum amounts prescribed in subsection (2) of this section.

36 (2) The board of education shall not lease or extend a lease  
37 on land classified as industrial or commercial at an annual rental  
38 less than five percent (5%) of the current market value, exclusive  
39 of buildings or improvements not owned by the school district.  
40 Such minimum acceptable percentage shall not apply to land  
41 classified as farm-residential, residential, recreational and  
42 other land; however, fair market rental will apply to those lands  
43 as determined by appraisal, comparative analysis or comparison  
44 with the private sector.

45 (3) The prior right to re-lease or extend an existing oil,  
46 gas and mineral lease, or any part thereof, granted under this  
47 section shall be conditioned upon the existence of production of  
48 oil, gas or other minerals thereunder in paying quantities, or the  
49 existence of a well capable of such production, or the existence  
50 of drilling or reworking operations at the time of lease  
51 expiration. Provided, however, that said lease may, in the  
52 discretion of the board of education, be extended only as to the  
53 lands included in a unit or units as defined by the appropriate  
54 agency having jurisdiction over said unit or units. The  
55 replacement lease shall be upon such terms and conditions as may  
56 be agreed upon between the holder of the lease and the board of  
57 education, provided that the rental and royalty provisions shall  
58 not be less than the rental and royalty provisions as set out in  
59 the expired lease and the primary term shall not exceed the  
60 limitations in Section 29-3-99. Bonus payment for the replacement



61 lease shall be consistent with the requirements set out in Section  
62 29-3-65 with respect to oil, gas and mineral leases.

63 (4) Where used in this section and Section 29-3-65, the term  
64 "oil and gas lease" or "oil, gas and mineral lease" shall include  
65 all leases originally executed pursuant to Section 29-3-99.

66 (5) The right to re-lease an oil, gas and mineral lease  
67 provided in subsection (3) above extends to oil, gas and mineral  
68 leases which have already expired as of the effective date of this  
69 section, subject to an accounting for production from the date of  
70 lease expiration to the date of the replacement lease authorized  
71 herein.

72 **SECTION 3.** Section 29-3-81, Mississippi Code of 1972, is  
73 amended as follows:

74 29-3-81. (1) Sixteenth section lands, or any lands granted  
75 in lieu of sixteenth section lands, classified as agricultural may  
76 be leased for the cultivation of rice, or pasturage, for a term  
77 not to exceed ten (10) years. All other sixteenth section or lieu  
78 lands classified as agricultural may be leased for a term not  
79 exceeding five (5) years. All leases of land classified as  
80 agricultural shall be for a term to expire on December 31. Except  
81 in those cases when the holder of an existing lease on  
82 agricultural land elects to re-lease such land, as authorized  
83 under this subsection, it shall be the duty of the board of  
84 education to lease the sixteenth section or lieu lands at public  
85 contract after having advertised such lands for rent in a  
86 newspaper published in the county or, if no newspaper is published  
87 in the county, then in a newspaper having a general circulation  
88 therein, for two (2) successive weeks, the first being at least  
89 ten (10) days before the public contract. The lease form and the  
90 terms so prescribed shall be on file and available for inspection  
91 in the office of the superintendent from and after the public  
92 notice by advertisement and until finally accepted by the board.  
93 However, before the expiration of an existing lease of land



94 classified as agricultural land, except as otherwise provided in  
95 subsection (2) for lands intended to be reclassified, the board of  
96 education, in its discretion and subject to the prior approval of  
97 the Secretary of State, may authorize the holder of the existing  
98 lease to re-lease the land, on no more than one (1) occasion, for  
99 a term not to exceed five (5) years and for a rental amount that  
100 is no less than one hundred twenty percent (120%) of the total  
101 rental value of the existing lease. If the holder of the existing  
102 lease elects not to re-lease the land, the board of education  
103 shall publish an advertisement of agricultural land for rent which  
104 publication shall be not more than four (4) months before the  
105 expiration of the term of an existing lease of the land. An  
106 election by the holder of the existing lease not to re-lease the  
107 land shall not preclude his participation in the bidding process  
108 established under this section. Subject to the classification of  
109 the land, the board of education shall enter into a new lease on  
110 agricultural land before the expiration of an existing lease on  
111 the same land, and the new lease shall take effect on the day  
112 immediately following the day on which the existing lease expires.  
113 The board of education may require bidders to furnish bond or  
114 submit evidence of financial ability.

115 Bids received by the board of education in response to the  
116 advertisement shall be opened at a regular or special meeting of  
117 the board. The board of education, at its option, may reject all  
118 bids or accept the highest and best bid received in response to  
119 the advertisement, or the board of education may hold an auction  
120 among those who submitted bids in response to the advertisement.  
121 If the board of education elects to hold an auction, no bidder  
122 shall be granted any preference. The opening bid at the auction  
123 shall be highest bid received in response to the advertisement.

124 (2) If, during the final year of an existing lease, the  
125 board of education notifies the holder of the existing lease that  
126 the board of education intends to reclassify the land under



127 Section 29-3-39, the holder of the existing lease may re-lease the  
128 land for a term of five (5) years and for a rental amount that is  
129 equal to one hundred twenty percent (120%) of the total rental  
130 value of the existing lease. Thereafter, the board of education  
131 shall proceed with the reclassification of the land, and the new  
132 classification will be implemented upon the expiration of the  
133 lease. This subsection does not apply if the board of education  
134 intends to reclassify the land under the "commercial" or  
135 "industrial" land classification based on a valid business  
136 proposal presented to and approved by the board of education.

137 (3) (a) If the board of education receives an acceptable  
138 bid in response to the advertisement and elects not to hold an  
139 auction among those submitting bids, then the holder of the  
140 existing lease may submit a second bid in an amount not less than  
141 one hundred five percent (105%) of the highest acceptable bid  
142 received if the holder of the existing lease: (i) submitted a bid  
143 in response to the advertisement; and (ii) constructed or made  
144 improvements on the leasehold premises after receiving approval of  
145 the board of education during the term of the existing lease. For  
146 purposes of this subsection, the term "improvements" shall not  
147 include any work or items that are done customarily on an annual  
148 basis in the preparing, planting, growing, cultivating or  
149 harvesting of crops or other farm products.

150 (b) If the holder of the existing lease elects to  
151 submit a second bid, the board of education shall hold an auction  
152 among those who submitted bids in response to the advertisement.  
153 The opening bid at the auction shall be the second bid of the  
154 holder of the existing lease. However, no leaseholder may submit  
155 a second bid if: (i) any rent, taxes or other payment required  
156 under his lease are past due; or (ii) he is otherwise in default  
157 of any term or provision of the lease and such default has not  
158 been corrected or cured to the satisfaction of the board of



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

161 (c) If an auction is held, the auction may be conducted  
162 at the meeting at which bids are opened or at a subsequent regular  
163 or special meeting. The board shall announce the time and place  
164 of the auction at the meeting at which bids are opened, and no  
165 further notice of the auction is required.

166 (d) If no bid acceptable to the board of education is  
167 received after the advertisement or at auction, the board of  
168 education may lease, within ninety (90) days, the lands by private  
169 contract for an amount greater than the highest bid previously  
170 rejected in order to acquire a fair rental value for the lands.  
171 If no bids are received in response to the advertisement, the  
172 board of education may negotiate a private contract for a fair  
173 rental value, and the term of such contract shall expire on  
174 December 31 of the same calendar year in which the contract is  
175 made. The board of education may take the notes for the rent and  
176 attend to their collection. The board has the right and remedies  
177 for the security and collection of such rents given by law to the  
178 agricultural landlords.

179 (e) If an existing lease is terminated before the  
180 expiration of the term originally set therein, upon finding that  
181 immediate action is necessary to prevent damage or loss to growing  
182 crops or to prevent loss of opportunity to lease the land for the  
183 current growing season, the board of education may negotiate a  
184 private contract for a fair rental value, and the term of such  
185 lease shall expire on December 31 of the same calendar year in  
186 which the contract is made.

187 (4) Any holder of a lease on agricultural land that: (a)  
188 was granted before July 1, 1997; and (b) has an expiration date on  
189 or after April 1 but before December 31 during the final year of  
190 the lease term, may extend the term of such lease to December 31  
191 next following the expiration date originally provided for in the



192 lease. If such lease is extended, the rent for the period from  
193 the original expiration date in the lease to December 31 next  
194 following the original expiration date shall be one hundred five  
195 percent (105%) of the annual rent provided in the existing lease  
196 prorated over the period of the lease extension. At the  
197 expiration of the extended lease term or at the expiration of the  
198 original lease term if the lease holder does not extend such  
199 lease, the land shall be offered for lease as provided in  
200 subsections (1) and (2) of this section.

201 (5) In the case of leases of sixteenth section land by a  
202 cemetery under Section 1 of this act, the lease terms, priority in  
203 leasing and re-leasing the land and the selection of the winning  
204 bid for the lease shall be governed under Section 1 of this act  
205 and not this section.

206 **SECTION 4.** Section 1 of this act shall be codified in Title  
207 29, Chapter 3, Mississippi Code of 1972.

208 **SECTION 5.** This act shall take effect and be in force from  
209 and after July 1, 2003.

