

By: Representative Frierson

To: Education; Forestry

HOUSE BILL NO. 1289

1 AN ACT TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT IF A SCHOOL BOARD DISAGREES WITH THE PRICE OR CUTTING
3 AND HARVESTING OF TIMBER ON SIXTEENTH SECTION LANDS AS ESTABLISHED
4 BY THE STATE FORESTRY COMMISSION, THE BOARD MAY CONTRACT WITH
5 PRIVATE PERSONS OR BUSINESSES TO PERFORM AN INDEPENDENT
6 EVALUATION; AND FOR RELATED PURPOSES.

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

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

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

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

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 price or time of cutting and harvesting,
42 the board may:

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

53 (ii) Contract with private persons or businesses
54 having knowledge and experience in forestry and timber matters to
55 perform an independent evaluation with regard to the price and/or
56 time of cutting and harvesting the timber. If the independent
57 evaluation differs from the commission's evaluation, then the
58 board may choose which evaluation the school district will follow.

59 (d) It is * * * made the duty of the State Forestry
60 Commission, from time to time, to mark timber which should be cut
61 from those lands, to determine what planting, deadening or other
62 forestry improvements should be made, giving due consideration to

63 food and habitat for wildlife, and to report to the appropriate
64 board of education. The State Forestry Commission and the Board
65 of Education shall supervise the cutting of any timber or
66 harvesting of other forest products sold from the lands herein
67 designated and shall have authority to require any timber-cutting
68 operations on those lands to cease until proper adjustment is
69 made, whenever it shall appear that timber is being cut in
70 violation of the terms of the sale. In the event that it is
71 desired to lease any of such lands or standing timber for
72 turpentine purposes, such lease shall only cover such trees as the
73 State Forestry Commission shall designate, and the commission
74 through its employees shall approve the number of faces, method of
75 chipping and boxing of such timber, and shall fix a minimum total
76 cash price or minimum price per unit.

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

90 (f) * * * However, in the case of damage by fire,
91 windstorm or other natural causes which would require immediate
92 sale of the timber, because the time involved for advertisement as
93 prescribed herein would allow decay, rot or destruction
94 substantially decreasing the purchase price to be received had not
95 such delay occurred, the advertisement provisions of this section

96 shall not apply. The board of education, with a written
97 recommendation from a designated employee of the State Forestry
98 Commission filed in the minutes of the board of education, shall
99 determine when immediate sale of the timber is required. When the
100 board of education shall find an immediate sale necessary for the
101 causes stated herein, it shall, in its discretion, set the time
102 for receipt of bids on the purchase of the timber, but shall show
103 due diligence in notifying competitive bidders so that a true
104 competitive bid shall be received.

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

118 (b) During the time in which any local board of
119 education may be divested of authority and power to manage and
120 sell timber and other forest products, such authority and power
121 shall be vested in the Secretary of State, as supervisory trustee
122 of sixteenth section lands. Upon the appointment or election of a
123 member of a local board of education who may have such an
124 appointment or election of a member of a local board of education
125 who may have such an interest in decisions and contracts regarding
126 the management and sale of timber or other forest products, the
127 board of education shall immediately notify the Secretary of State
128 in writing. Likewise, the board shall give written notification

129 to the Secretary of State within thirty (30) days prior to the
130 expiration of any such divestiture period. Any contractor with a
131 local board of education or the Secretary of State shall be
132 entitled to rely on representations by such board or the Secretary
133 of State as to who has authority to enter contracts for the
134 management or sale of timber or other forest products, and
135 reliance on such representations shall not be grounds for voiding
136 any contract.

137 (c) The laws providing for the management and sale of
138 timber and other forest products by local boards of education
139 shall apply to the management and sale of timber and other forest
140 products by the Secretary of State. The Mississippi Forestry
141 Commission shall provide the Secretary of State with advice and
142 services in the same manner as provided to local boards of
143 education.

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

156 **SECTION 2.** This act shall take effect and be in force from
157 and after July 1, 2005.