

**Adopted
AMENDMENT NO 1 PROPOSED TO**

House Bill No. 299

BY: Representative Bounds

1 **AMEND** by inserting the following after line 27 and
2 renumbering succeeding sections accordingly:

3 " **SECTION 2.** Section 29-3-45, Mississippi Code of 1972, is
4 amended as follows:

5 29-3-45. (1) (a) The board of education shall, by order
6 placed upon its minutes, enter into an agreement with the State
7 Forestry Commission for the general supervision and management of
8 all lands classified as forest lands and of all timber or other
9 forest products under the control of the board on sixteenth
10 section lands, and lieu lands which have not been so classified.
11 However, any school board may contract with private persons or
12 businesses for the reforestation of sixteenth section lands and
13 may contract with a registered forester to be paid from the 16th
14 Section Interest Fund for a review of any forestry management



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

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

38 (c) Should a school board disagree with the Forestry
39 Commission concerning the time of cutting and harvesting, the



40 board may make an appeal to the Forestry Commission at a regular
41 monthly scheduled meeting of the commission. If the school board
42 is not satisfied after the appeal to the commission, the board may
43 then appeal to the Secretary of State who will make the final
44 decision as to the time for cutting and harvesting. In the event
45 that the local school board is divested of its management
46 authority under subsection (3) hereof, the Secretary of State
47 after due consultation with the Forestry Commission shall retain
48 the right to make final decisions concerning the management and
49 sale of timber and other forest products.

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



65 approve the number of faces, method of chipping and boxing of such
66 timber, and shall fix a minimum total cash price or minimum price
67 per unit.

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

85 (f) Notwithstanding the above provision pertaining to
86 the sale of any timber, turpentine or other forest products, in
87 the event that timber must be cleared from an existing road or
88 existing utility right-of-way, the public notice requirement may
89 be waived. Prior to waiver of the public notice requirement, the



90 State Forestry Commission must make a finding that, due to the
91 small area of timber to be cleared, a public notice sale would not
92 be in the best interest of the local board of education. If the
93 State Forestry Commission makes such a finding, then it shall set
94 the value of the timber to be paid to the local board of education
95 by the party requesting the timber be removed.

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

111 (2) (a) A local board of education having control of the
112 sixteenth section lands in the Hurricane Katrina Disaster of 2005
113 shall be granted emergency powers to take any and all actions of a
114 reasonably prudent trustee acting under emergency conditions to



115 recover damaged timber, prevent further loss or damage to timber,
116 and to minimize economic loss. All such actions shall be taken in
117 consultation with and shall be subject to the prior approval from
118 the Secretary of State and the State Forestry Commission. The
119 emergency powers shall be as follows:

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

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

136 (iii) Apply for any state, federal, or private
137 party grant or nonrepayable funds to cover costs associated with
138 emergency management contracts, sale timber, including loss for
139 diminution of value, transporting of timber, replanting of timber,



140 repairing access roads to timber, conducting aerial spraying, or
141 reimbursement for any other action taken to prevent further timber
142 damage, as well as mitigating the loss of funds due to damage.

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

148 (c) The emergency powers shall also apply to the
149 management of timber by the Secretary of State pursuant to
150 subsection (3) of this section.

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

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



164 (f) Any contractor with a local board of education or
165 the Secretary of State shall be entitled to rely on
166 representations by such board of education or the Secretary of
167 State as to who has authority to enter contracts for the
168 management or sale of timber or other forest products, and
169 reliance on such representations shall not be grounds for voiding
170 any contract.

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

184 (b) During the time in which any local board of
185 education may be divested of authority and power to manage and
186 sell timber and other forest products, such authority and power
187 shall be vested in the Secretary of State, as supervisory trustee
188 of sixteenth section lands. Upon the appointment or election of a



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

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

210 (d) The Secretary of State shall be paid all monies
211 derived from the sale of timber or other forest products and shall
212 promptly forward the same to the superintendent of education for
213 such school district with instructions for the proper settlement,



214 deposit and investment of the monies. Such local school board
215 shall reimburse the Secretary of State for all direct costs
216 relating to the management and sale of timber or other forest
217 products, and in the case of a sale of timber or other forest
218 products, the Secretary of State may deduct such direct cost from
219 the proceeds of sale. The Secretary of State shall furnish an
220 itemized listing of all direct cost charged to the local school
221 district."

222 **AMEND further the title** on line 4 by inserting the following
223 after the semicolon:

224 "TO AMEND SECTION 29-3-45, MISSISSIPPI CODE OF 1972, TO PROVIDE
225 THAT THE MANAGING BOARD MAY POST ADDITIONAL NOTICES AND MAY ALLOW
226 FOR SUBMISSION OF ELECTRONIC BIDS;".

