

By: Representatives Gunn, Reeves

To: Education

HOUSE BILL NO. 1601

1 AN ACT TO AMEND SECTION 37-7-301, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE SCHOOL BOARDS OF ALL SCHOOL DISTRICTS TO PAY FOR THE  
3 COST OF FLU SHOTS FOR ALL TEACHERS WHO VOLUNTARILY CHOOSE TO  
4 RECEIVE A FLU SHOT; AND FOR RELATED PURPOSES.

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

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

8 37-7-301. The school boards of all school districts shall  
9 have the following powers, authority and duties in addition to all  
10 others imposed or granted by law, to wit:

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

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

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

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

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

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

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

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

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

49 (i) To require those vaccinations specified by the  
50 State Health Officer as provided in Section 41-23-37;

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

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

56 (l) To prescribe and enforce rules and regulations not  
57 inconsistent with law or with the regulations of the State Board  
58 of Education for their own government and for the government of  
59 the schools, and to transact their business at regular and special  
60 meetings called and held in the manner provided by law;

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

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

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

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

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

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

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

94 the funds were raised by school employees or received by school  
95 employees during school hours or using school facilities, and  
96 regardless of whether a school employee exercises influence over  
97 the expenditure or disposition of such funds. Organizations shall  
98 not be required to make any payment to any school for the use of  
99 any school facility if, in the discretion of the local school  
100 governing board, the organization's function shall be deemed to be  
101 beneficial to the official or extracurricular programs of the  
102 school. For the purposes of this provision, the term  
103 "organization" shall not include any organization subject to the  
104 control of the local school governing board. Activity funds may  
105 only be expended for any necessary expenses or travel costs,  
106 including advances, incurred by students and their chaperons in  
107 attending any in-state or out-of-state school-related programs,  
108 conventions or seminars and/or any commodities, equipment, travel  
109 expenses, purchased services or school supplies which the local  
110 school governing board, in its discretion, shall deem beneficial  
111 to the official or extracurricular programs of the district,  
112 including items which may subsequently become the personal  
113 property of individuals, including yearbooks, athletic apparel,  
114 book covers and trophies. Activity funds may be used to pay  
115 travel expenses of school district personnel. The local school  
116 governing board shall be authorized and empowered to promulgate  
117 rules and regulations specifically designating for what purposes  
118 school activity funds may be expended. The local school governing  
119 board shall provide (i) that such school activity funds shall be  
120 maintained and expended by the principal of the school generating  
121 the funds in individual bank accounts, or (ii) that such school  
122 activity funds shall be maintained and expended by the  
123 superintendent of schools in a central depository approved by the  
124 board. The local school governing board shall provide that such  
125 school activity funds be audited as part of the annual audit  
126 required in Section 37-9-18. The State Auditor shall prescribe a

127 uniform system of accounting and financial reporting for all  
128 school activity fund transactions;

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

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

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

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

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

193 of the aggregate lease rental to be paid by each, which may be  
194 agreed upon, but there shall be no right of occupancy by any  
195 lessee unless the aggregate rental is paid as stipulated in the  
196 lease contract. All rights of joint lessees under the lease  
197 contract shall be in proportion to the amount of lease rental paid  
198 by each;

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

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

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

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

212 (aa) To acquire in its own name by purchase all real  
213 property which shall be necessary and desirable in connection with  
214 the construction, renovation or improvement of any public school  
215 building or structure. Whenever the purchase price for such real  
216 property is greater than Fifty Thousand Dollars (\$50,000.00), the  
217 school board shall not purchase the property for an amount  
218 exceeding the fair market value of such property as determined by  
219 the average of at least two (2) independent appraisals by  
220 certified general appraisers licensed by the State of Mississippi.  
221 If the board shall be unable to agree with the owner of any such  
222 real property in connection with any such project, the board shall  
223 have the power and authority to acquire any such real property by  
224 condemnation proceedings pursuant to Section 11-27-1 et seq.,  
225 Mississippi Code of 1972, and for such purpose, the right of

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

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

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

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

253 (ee) To provide for in-service training for employees  
254 of the district. Until June 30, 1994, the school boards may  
255 designate two (2) days of the minimum school term, as defined in  
256 Section 37-19-1, for employee in-service training for  
257 implementation of the new statewide testing system as developed by  
258 the State Board of Education. Such designation shall be subject

259 to approval by the State Board of Education pursuant to uniform  
260 rules and regulations;

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

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

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

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

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

289 (ii) To charge reasonable fees for participating in an  
290 extracurricular activity for academic or nonacademic credit for

291 necessary and required equipment such as safety equipment, band  
292 instruments and uniforms;

293 (jj) To conduct or participate in any fundraising  
294 activities on behalf of or in connection with a tax-exempt  
295 charitable organization;

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

298 (ll) To expend funds for the services of nonprofit arts  
299 organizations or other such nonprofit organizations who provide  
300 performances or other services for the students of the school  
301 district; and

302 (mm) To pay for the cost of flu shots to be  
303 administered to all school teachers who voluntarily choose to  
304 receive a flu shot.

305 **SECTION 2.** This act shall take effect and be in force from  
306 and after July 1, 2004.