

By: Representative Guice

To: Judiciary B

HOUSE BILL NO. 992
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 31-3-21, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A CIVIL PENALTY PAID BY A CONTRACTOR FOR VIOLATION OF
3 THE LAWS GOVERNING THE BOARD OF PUBLIC CONTRACTORS SHALL BE PAID
4 INTO THE STATE BOARD OF CONTRACTORS' FUND; AND FOR RELATED
5 PURPOSES.

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

7 SECTION 1. Section 31-3-21, Mississippi Code of 1972, is
8 amended as follows:

9 31-3-21. (1) It shall be unlawful for any person who does
10 not hold a certificate of responsibility issued under this
11 chapter, or a similar certificate issued by another state
12 recognizing such certificate issued by the State of Mississippi,
13 to submit a bid, enter into a contract, or otherwise engage in or
14 continue in this state in the business of a contractor, as defined
15 in this chapter. Any bid which is submitted without a certificate
16 of responsibility number issued under this chapter and without
17 that number appearing on the exterior of the bid envelope, as and
18 if herein required, at the time designated for the opening of such
19 bid, shall not be considered further, and the person or public
20 agency soliciting bids shall not enter into a contract with a
21 contractor submitting a bid in violation of this section. In
22 addition, any person violating this section by knowingly and
23 willfully submitting a bid for projects without holding a
24 certificate of responsibility number issued under this chapter, as
25 and if herein required, at the time of the submission or opening
26 of such bid shall be guilty of a misdemeanor and, upon conviction,
27 shall be punished by a fine of not more than One Thousand Dollars

28 (\$1,000.00), or by imprisonment for not more than six (6) months,
29 or by both such fine and imprisonment.

30 (2) All bids submitted for public or private projects where
31 said bid is in excess of Fifty Thousand Dollars (\$50,000.00) with
32 respect to public projects and in excess of One Hundred Thousand
33 Dollars (\$100,000.00) with respect to private projects shall
34 contain on the outside or exterior of the envelope or container of
35 such bid the contractor's current certificate number, and no bid
36 shall be opened or considered unless such contractor's current
37 certificate number appears on the outside or exterior of said
38 envelope or container, or unless there appears a statement on the
39 outside or exterior of such envelope or container to the effect
40 that the bid enclosed therewith did not exceed Fifty Thousand
41 Dollars (\$50,000.00) with respect to public projects or One
42 Hundred Thousand Dollars (\$100,000.00) with respect to private
43 projects. Any person violating the provisions of this subsection
44 shall be guilty of a misdemeanor and, upon conviction, shall be
45 punished by a fine of not more than One Thousand Dollars
46 (\$1,000.00), or by imprisonment for not more than six (6) months,
47 or by both such fine and imprisonment.

48 (3) In the letting of public contracts preference shall be
49 given to resident contractors, and a nonresident bidder domiciled
50 in a state having laws granting preference to local contractors
51 shall be awarded Mississippi public contracts only on the same
52 basis as the nonresident bidder's state awards contracts to
53 Mississippi contractors bidding under similar circumstances; and
54 resident contractors actually domiciled in Mississippi, be they
55 corporate, individuals, or partnerships, are to be granted
56 preference over nonresidents in awarding of contracts in the same
57 manner and to the same extent as provided by the laws of the state
58 of domicile of the nonresident. When a nonresident contractor
59 submits a bid for a public project, he shall attach thereto a copy
60 of his resident state's current law pertaining to such state's
61 treatment of nonresident contractors. As used in this section,
62 the term "resident contractors" includes a nonresident person,
63 firm or corporation that has been qualified to do business in this
64 state and has maintained a permanent full-time office in the State

65 of Mississippi for two (2) years prior to January 1, 1986, and the
66 subsidiaries and affiliates of such a person, firm or corporation.
67 Any public agency awarding a contract shall promptly report to the
68 State Tax Commission the following information:

69 (a) The amount of the contract.

70 (b) The name and address of the contractor reviewing
71 the contract.

72 (c) The name and location of the project.

73 (4) In addition to any other penalties provided in this
74 chapter, and upon a finding of a violation of this chapter, the
75 State Board of Contractors may, after notice and hearing, issue an
76 order of abatement directing the contractor to cease all actions
77 constituting violations of this chapter until such time as the
78 contractor complies with Mississippi state law, and to pay to the
79 board a civil penalty to be deposited into the State Board of
80 Contractors' Fund, created in Section 31-3-17, of not more than
81 three percent (3%) of the total contract being performed by the
82 contractor. The funds collected from civil penalty payments shall
83 be used by the State Board of Contractors for enforcement and
84 education.

85 SECTION 2. This act shall take effect and be in force from
86 and after July 1, 1999.