SENATE BILL NO. 2902

AN ACT TO AMEND SECTION 31-3-17, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A SPECIAL PRIVILEGE TAX SHALL BE LEVIED ON EACH CONTRACTOR WHO APPLIES FOR A CERTIFICATE OF RESPONSIBILITY; TO AMEND SECTION 31-3-21, MISSISSIPPI CODE OF 1972, TO PROHIBIT COUNTIES AND MUNICIPALITIES FROM ISSUING A CONSTRUCTION PERMIT, CERTIFICATE OF OCCUPANCY, OR OTHER CONSTRUCTION APPROvals TO ANY CONTRACTOR WHO HAS NOT PAID OR SATISFIED A CIVIL PENALTY ASSESSED BY THE STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 31-3-17, Mississippi Code of 1972, is amended as follows:

31-3-17. There is hereby levied, in addition to any taxes otherwise provided for by law, a special privilege license tax of One Hundred Dollars ($100.00) on each contractor who applies for a certificate of responsibility issued under this chapter; and such tax shall be paid to the executive secretary of the board before making such application in this state. The board may levy an additional special privilege license tax not to exceed Fifty Dollars ($50.00) for each additional classification for which a contractor applies and is found to be qualified. The executive secretary of the board shall promptly deposit all monies received under this chapter in the State Treasury. Except for the civil penalty provided in Section 31-3-21 which shall be deposited into the State General Fund and the fee provided in Section 31-3-14, all monies received under this chapter shall be kept in a special fund in the State Treasury known as the "State Board of Contractors Fund," and shall be used only for the purposes of this chapter. Such monies shall not lapse at the end of each fiscal year, but all monies in such State Board of Contractors Fund in excess of the sum of fifty percent (50%) of the approved budget...
for the fiscal year shall be paid over into the General Fund of the State Treasury. All expenditures from the Board of Contractors Fund shall be by requisition to the State Auditor, signed by the executive secretary of the board and countersigned by the chairman or vice chairman of the board, and the State Treasurer shall issue his warrants thereon.

SECTION 2. Section 31-3-21, Mississippi Code of 1972, is amended as follows:

31-3-21. (1) It shall be unlawful for any person who does not hold a certificate of responsibility issued under this chapter, or a similar certificate issued by another state recognizing such certificate issued by the State of Mississippi, to submit a bid, enter into a contract, or otherwise engage in or continue in this state in the business of a contractor, as defined in this chapter. Any bid which is submitted without a certificate of responsibility number issued under this chapter and without that number appearing on the exterior of the bid envelope, as and if herein required, at the time designated for the opening of such bid, shall not be considered further, and the person or public agency soliciting bids shall not enter into a contract with a contractor submitting a bid in violation of this section. In addition, any person violating this section by knowingly and willfully submitting a bid for projects without holding a certificate of responsibility number issued under this chapter, as and if herein required, at the time of the submission or opening of such bid shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than One Thousand Dollars ($1,000.00), or by imprisonment for not more than six (6) months, or by both such fine and imprisonment.

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

(3) In the letting of public contracts preference shall be given to resident contractors, and a nonresident bidder domiciled in a state having laws granting preference to local contractors shall be awarded Mississippi public contracts only on the same basis as the nonresident bidder's state awards contracts to Mississippi contractors bidding under similar circumstances; and resident contractors actually domiciled in Mississippi, be they corporate, individuals, or partnerships, are to be granted preference over nonresidents in awarding of contracts in the same manner and to the same extent as provided by the laws of the state of domicile of the nonresident. When a nonresident contractor submits a bid for a public project, he shall attach thereto a copy of his resident state's current law pertaining to such state's treatment of nonresident contractors. As used in this section, the term "resident contractors" includes a nonresident person, firm or corporation that has been qualified to do business in this state and has maintained a permanent full-time office in the State of Mississippi for two (2) years prior to January 1, 1986, and the subsidiaries and affiliates of such a person, firm or corporation.
Any public agency awarding a contract shall promptly report to the State Tax Commission the following information:

(a) The amount of the contract.
(b) The name and address of the contractor reviewing the contract.
(c) The name and location of the project.

(4) In addition to any other penalties provided in this chapter, and upon a finding of a violation of this chapter, the State Board of Contractors may, after notice and hearing, issue an order of abatement directing the contractor to cease all actions constituting violations of this chapter until such time as the contractor complies with Mississippi state law, and to pay to the board a civil penalty to be deposited into the State Board of Contractors' Fund, created in Section 31-3-17, of not more than three percent (3%) of the total contract being performed by the contractor. The funds collected from civil penalty payments shall be used by the State Board of Contractors for enforcement and education. The governing authority of any municipality or county shall not issue a certificate of occupancy, and shall revoke or suspend any building/construction permit, certificate of occupancy or other construction approvals, to any contractor on a project or job against whom a civil penalty has been assessed by the State Board of Contractors when notified by the State Board of Contractors that the civil penalty has not been paid or satisfied.

SECTION 3. This act shall take effect and be in force from and after July 1, 2002.