

By: Representative Fleming

To: Judiciary B

HOUSE BILL NO. 107

1 AN ACT TO AMEND SECTION 31-3-21, MISSISSIPPI CODE OF 1972, TO
2 CLARIFY BID REQUIREMENTS FOR CONTRACTORS; AND FOR RELATED
3 PURPOSES.

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

5 **SECTION 1.** Section 31-3-21, Mississippi Code of 1972, is
6 amended as follows:

7 31-3-21. (1) It shall be unlawful for any person who does
8 not hold a certificate of responsibility issued under this
9 chapter, or a similar certificate issued by another state
10 recognizing such certificate issued by the State of Mississippi,
11 to submit a bid, enter into a contract for any public, residential
12 or any other job, or otherwise engage in or continue in this state
13 in the business of a contractor, as defined in this chapter. Any
14 bid which is submitted without a certificate of responsibility
15 number issued under this chapter and without that number appearing
16 on the exterior of the bid envelope, as and if herein required, at
17 the time designated for the opening of such bid, shall not be
18 considered further, and the person or public agency soliciting
19 bids shall not enter into a contract with a contractor submitting
20 a bid in violation of this section. In addition, any person
21 violating this section by knowingly and willfully submitting a bid
22 for projects without holding a certificate of responsibility
23 number issued under this chapter, as and if herein required, at
24 the time of the submission or opening of such bid shall be guilty
25 of a misdemeanor and, upon conviction, shall be punished by a fine
26 of not more than One Thousand Dollars (\$1,000.00), or by

27 imprisonment for not more than six (6) months, or by both such
28 fine and imprisonment.

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

47 (3) In the letting of public contracts preference shall be
48 given to resident contractors, and a nonresident bidder domiciled
49 in a state having laws granting preference to local contractors
50 shall be awarded Mississippi public contracts only on the same
51 basis as the nonresident bidder's state awards contracts to
52 Mississippi contractors bidding under similar circumstances; and
53 resident contractors actually domiciled in Mississippi, be they
54 corporate, individuals, or partnerships, are to be granted
55 preference over nonresidents in awarding of contracts in the same
56 manner and to the same extent as provided by the laws of the state
57 of domicile of the nonresident. When a nonresident contractor
58 submits a bid for a public project, he shall attach thereto a copy
59 of his resident state's current law pertaining to such state's

60 treatment of nonresident contractors. As used in this section,
61 the term "resident contractors" includes a nonresident person,
62 firm or corporation that has been qualified to do business in this
63 state and has maintained a permanent full-time office in the State
64 of Mississippi for two (2) years prior to January 1, 1986, and the
65 subsidiaries and affiliates of such a person, firm or corporation.
66 Any public agency awarding a contract shall promptly report to the
67 State Tax Commission the following information:

68 (a) The amount of the contract.

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

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

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

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