

By: Representatives Martinson, Franks

To: Appropriations

HOUSE BILL NO. 750

1 AN ACT TO AMEND SECTION 25-9-120, MISSISSIPPI CODE OF 1972,
2 TO INCLUDE SERVICES PROVIDED TO THE STATE BY A GEOLOGIST IN THE
3 CATEGORY OF PROFESSIONAL SERVICES THAT ARE EXEMPT FROM REGULATION
4 BY THE PERSONAL SERVICE CONTRACT REVIEW BOARD; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 25-9-120, Mississippi Code of 1972, is
8 amended as follows:

9 25-9-120. (1) Contract personnel, whether classified as
10 contract workers or independent contractors shall not be deemed
11 state service or nonstate service employees of the State of
12 Mississippi, and shall not be eligible to participate in the
13 Public Employees' Retirement System, or the state employee health
14 plan, nor be allowed credit for personal and sick leave and other
15 leave benefits as employees of the State of Mississippi,
16 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101
17 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through
18 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth
19 herein. Contract workers, i.e., contract personnel who do not
20 meet the criteria of independent contractors, shall be subject to
21 the provisions of Section 25-11-127.

22 (2) There is hereby created the Personal Service Contract
23 Review Board, which shall be composed of the State Personnel
24 Director, the Executive Director of the Department of Finance and
25 Administration, or his designee, the Commissioner of Corrections,
26 or his designee, the Executive Director of the Mississippi
27 Department of Wildlife and Fisheries, or his designee, and the
28 Executive Director of the Department of Environmental Quality, or

29 his designee. The State Personnel Director shall be chairman and
30 shall preside over the meetings of the board. The board shall
31 annually elect a vice chairman, who shall serve in the absence of
32 the chairman. No business shall be transacted, including adoption
33 of rules of procedure, without the presence of a quorum of the
34 board. Three (3) members shall be a quorum. No action shall be
35 valid unless approved by the chairman and two (2) other of those
36 members present and voting, entered upon the minutes of the board
37 and signed by the chairman. Necessary clerical and administrative
38 support for the board shall be provided by the State Personnel
39 Board. Minutes shall be kept of the proceedings of each meeting,
40 copies of which shall be filed on a monthly basis with the
41 Legislative Budget Office.

42 (3) The Personal Service Contract Review Board shall have
43 the following powers and responsibilities:

44 (a) Promulgate rules and regulations governing the
45 solicitation and selection of contractual services personnel
46 including personal and professional services contracts for any
47 form of consulting, policy analysis, public relations, marketing,
48 public affairs, legislative advocacy services or any other
49 contract that the board deems appropriate for oversight, with the
50 exception of any personal service contracts entered into for
51 computer or information technology-related services governed by
52 the Mississippi Department of Information Technology Services, any
53 personal service contracts entered into by the Mississippi
54 Department of Transportation, and any contract for attorney,
55 accountant, auditor, physician, dentist, architect, engineer,
56 veterinarian, utility rate expert and geologist services. Any
57 such rules and regulations shall provide for maintaining
58 continuous internal audit covering the activities of such agency
59 affecting its revenue and expenditures as required under Section
60 7-7-3(6)(d), Mississippi Code of 1972;

61 (b) Approve all personal and professional services
62 contracts involving the expenditures of funds in excess of One
63 Hundred Thousand Dollars (\$100,000.00);

64 (c) Develop standards with respect to contractual
65 services personnel which require invitations for public bid,
66 requests for proposals, record keeping and financial
67 responsibility of contractors. The Personal Service Contract
68 Review Board may, in its discretion, require the agency involved
69 to advertise such contract for public bid, and may reserve the
70 right to reject any or all bids;

71 (d) Prescribe certain circumstances whereby agency
72 heads may enter into contracts for personal and professional
73 services without receiving prior approval from the Personal
74 Service Contract Review Board. The Personal Service Contract
75 Review Board may establish a pre-approved list of providers of
76 various personal and professional services for set prices with
77 which state agencies may contract without bidding or prior
78 approval from the board;

79 (e) To provide standards for the issuance of requests
80 for proposals, the evaluation of proposals received, consideration
81 of costs and quality of services proposed, contract negotiations,
82 the administrative monitoring of contract performance by the
83 agency and successful steps in terminating a contract;

84 (f) To present recommendations for governmental
85 privatization and to evaluate privatization proposals submitted by
86 any state agency;

87 (g) To authorize personal and professional service
88 contracts to be effective for more than one (1) year provided a
89 funding condition is included in any such multiple year contract,
90 except the State Board of Education, which shall have the
91 authority to enter into contractual agreements for student
92 assessment for a period up to ten (10) years. The State Board of

93 Education shall procure these services in accordance with the
94 Personal Service Contract Review Board procurement regulations;

95 (h) To request the State Auditor to conduct a
96 performance audit on any personal or professional service
97 contract;

98 (i) Prepare an annual report to the Legislature
99 concerning the issuance of personal service contracts during the
100 previous year, collecting any necessary information from state
101 agencies in making such report.

102 (4) No member of the Personal Service Contract Review Board
103 shall use his official authority or influence to coerce, by threat
104 of discharge from employment, or otherwise, the purchase of
105 commodities or the contracting for personal or professional
106 services under this section.

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