

By: Representative Guice

To: Judiciary B

HOUSE BILL NO. 1135

1 AN ACT TO AMEND SECTION 31-3-21, MISSISSIPPI CODE OF 1972, TO
2 PROHIBIT THE OPENING OF BIDS WHICH DO NOT COMPLY WITH BIDDING
3 REQUIREMENTS AND RESULT IN THE REJECTION OF LEGAL BIDS; TO PROVIDE
4 A PENALTY FOR VIOLATIONS; AND FOR RELATED PURPOSES.

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

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

8 31-3-21. (1) It shall be unlawful for any person who does
9 not hold a certificate of responsibility issued under this
10 chapter, or a similar certificate issued by another state
11 recognizing such certificate issued by the State of Mississippi,
12 to submit a bid, enter into a contract, or otherwise engage in or
13 continue in this state in the business of a contractor, as defined
14 in this chapter. Any bid which is submitted without a certificate
15 of responsibility number issued under this chapter and without
16 that number appearing on the exterior of the bid envelope, as and
17 if herein required, at the time designated for the opening of such
18 bid, shall not be considered further, and the person or public
19 agency soliciting bids shall not enter into a contract with a
20 contractor submitting a bid in violation of this section. In
21 addition, any person violating this section by knowingly and
22 willfully submitting a bid for projects without holding a
23 certificate of responsibility number issued under this chapter, as
24 and if herein required, at the time of the submission or opening
25 of such bid shall be guilty of a misdemeanor and, upon conviction,
26 shall be punished by a fine of not more than One Thousand Dollars
27 (\$1,000.00), or by imprisonment for not more than six (6) months,
28 or by both such fine and imprisonment. Any person who opens a bid

29 that does not comply with the provisions of this subsection and
30 such action causes bids which are in compliance with the
31 provisions of this section to be rejected shall be guilty of a
32 misdemeanor and, upon conviction, shall be fined One Thousand
33 Dollars (\$1,000.00).

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

57 (3) In the letting of public contracts preference shall be
58 given to resident contractors, and a nonresident bidder domiciled
59 in a state having laws granting preference to local contractors
60 shall be awarded Mississippi public contracts only on the same
61 basis as the nonresident bidder's state awards contracts to

62 Mississippi contractors bidding under similar circumstances; and
63 resident contractors actually domiciled in Mississippi, be they
64 corporate, individuals, or partnerships, are to be granted
65 preference over nonresidents in awarding of contracts in the same
66 manner and to the same extent as provided by the laws of the state
67 of domicile of the nonresident. When a nonresident contractor
68 submits a bid for a public project, he shall attach thereto a copy
69 of his resident state's current law pertaining to such state's
70 treatment of nonresident contractors. As used in this section,
71 the term "resident contractors" includes a nonresident person,
72 firm or corporation that has been qualified to do business in this
73 state and has maintained a permanent full-time office in the State
74 of Mississippi for two (2) years prior to January 1, 1986, and the
75 subsidiaries and affiliates of such a person, firm or corporation.
76 Any public agency awarding a contract shall promptly report to the
77 State Tax Commission the following information:

78 (a) The amount of the contract.

79 (b) The name and address of the contractor reviewing
80 the contract.

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

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

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