

By: Representative Guice

To: Judiciary B

HOUSE BILL NO. 1050

1 AN ACT TO AMEND SECTIONS 17-25-5, 27-17-457 AND 31-3-13,
2 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CONTRACTORS HOLDING A
3 CURRENT CERTIFICATE OF RESPONSIBILITY SHALL NOT BE REQUIRED TO
4 TAKE EXAMINATIONS BY POLITICAL SUBDIVISIONS; AND FOR RELATED
5 PURPOSES.

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

7 **SECTION 1.** Section 17-25-5, Mississippi Code of 1972, is
8 amended as follows:

9 17-25-5. (1) Every municipality and county of the State of
10 Mississippi shall grant competency examination reciprocity to any
11 contractor, including, but not limited to, any electrical,
12 plumbing, heating and air conditioning, water and sewer, roofing
13 or mechanical contractor, who is licensed by another municipality
14 or county of this state without imposing any further competency
15 examination requirements provided:

16 (a) That the contractor furnishes evidence that he has
17 a license issued on the basis of a competency examination
18 administered in one (1) municipality or county of the State of
19 Mississippi which has an examining board that regularly gives a
20 written examination which has been approved by the State Board of
21 Public Contractors or the Building Officials Association of
22 Mississippi;

23 (b) That he furnishes evidence that he actually took
24 and passed the written examination which qualified him for such
25 license; however, in lieu thereof, he may furnish evidence that
26 he was issued a license prior to May 1, 1972, and prior to the
27 existence of a written examination by a county or municipality

28 which has an examining board that requires written examination to
29 qualify for a license;

30 (c) That he has been actively engaged in the business
31 for which he is licensed for two (2) years or more;

32 (d) That he has held a license for his business for one
33 (1) year or more; and

34 (e) That he pays the license fee to the municipality or
35 county to which application is made for a license * * *.

36 (2) (a) Any contractor who operates more than one (1)
37 separate place of business within the state must obtain the
38 appropriate privilege license and pay the privilege license fee
39 for each location if required by the local jurisdiction.

40 (b) Every jurisdiction in which a contractor does
41 business may impose its own separate bonding requirements on the
42 contractor desiring to do business there.

43 (3) A contractor who holds a current certificate of
44 responsibility shall be granted reciprocity in every municipality
45 and county of the state without examination. A municipality or
46 county may require certain skill levels for employees or
47 subcontractors of prime contractors.

48 **SECTION 2.** Section 27-17-457, Mississippi Code of 1972, is
49 amended as follows:

50 27-17-457. (1) Any contractor, including, but not limited
51 to, any electrical, plumbing, heating and air conditioning, water
52 and sewer, roofing or mechanical contractor, who is licensed by
53 any one (1) municipality or county of the State of Mississippi,
54 which municipality or county has an examining board where there is
55 regularly given a written examination, and who does not hold a
56 current certificate of responsibility issued by the State Board of
57 Public Contractors, shall be allowed to do business in any other
58 municipality or county in the state without being required to
59 obtain a license in such other municipality or county or to
60 undergo any further examination provided:

61 (a) That he furnishes evidence that he has such
62 license;

63 (b) That he furnishes evidence that he actually took
64 and passed the written examination which qualified him for such
65 license; however, in lieu thereof evidence that if said contractor
66 was issued a license prior to May 1, 1972, and prior to the
67 existence of such written examination by a county or municipality
68 which has an examining board that does presently require written
69 examination to qualify for a license; and

70 (c) That he is not operating a separate place of
71 business located in such other municipality or county.

72 (2) Any contractor, including, but not limited to, any
73 electrical, plumbing, heating and air conditioning, water and
74 sewer, roofing or mechanical contractor, who * * * holds a current
75 certificate of responsibility issued by the State Board of Public
76 Contractors shall be allowed to do business in any * * *
77 municipality or county in the state without being required to
78 obtain a separate license in such other municipality or county or
79 to undergo any further examination provided said contractor meets
80 the requirements of paragraphs (a) and (b) of subsection (1) of
81 this section.

82 (3) No additional privilege license bond shall be required
83 in order for such a contractor to do business in another
84 municipality or county in the state as long as the contractor has
85 obtained the bond in the municipality or county where he is
86 licensed.

87 (4) Nothing in this Section 27-17-457 supercedes or
88 otherwise affects the provisions of Title 31, Chapter 3, or the
89 provisions of Title 73, Chapter 59. In the event any provision in
90 Section 27-17-457 conflicts with any provision of Title 31,
91 Chapter 3, or of Title 73, Chapter 59, the latter titles and
92 chapters are hereby deemed and shall be controlling over the
93 provisions of Section 27-17-457.

94 (5) This Section 27-17-457 is intended to apply only to the
95 Local Privilege Tax Law, and is not intended to apply to or
96 restrict the powers and authority granted to municipalities and
97 counties in Sections 21-19-25 and 19-5-9, or any powers or
98 authority derived from said sections related to permits and permit
99 bonds, and the issuance, denial or requirements thereof.

100 (6) No taxpayer receiving a privilege license under this
101 Section 27-17-457 shall be authorized to advertise to the public
102 that they are "licensed" unless said taxpayer is currently in
103 compliance with paragraph (b) of subsection (1) of this section,
104 or holds a current license or certificate of responsibility from
105 the State Board of Contractors. Any officer collecting the tax
106 may suspend the issuance or renewal of a privilege license granted
107 under this section until such time as said officer finds that such
108 taxpayer is in compliance with the provisions of this subsection.
109 If any taxpayer receiving a privilege license under this section
110 presents themselves to the public as "licensed" then said taxpayer
111 must state to the public that they are "licensed by the city of"
112 and/or "county of" followed by the name or names of the
113 appropriate city and/or county from which such taxpayer is
114 currently in compliance with paragraph (b) of subsection (1) of
115 this section; or, if otherwise appropriate, "licensed by the State
116 Board of Contractors."

117 **SECTION 3.** Section 31-3-13, Mississippi Code of 1972, is
118 amended as follows:

119 31-3-13. The board shall have the following powers and
120 responsibilities:

121 (a) To receive applications for certificates of
122 responsibility, to investigate and examine applicants for same by
123 holding hearings and securing information, to conduct
124 examinations, and to issue certificates of responsibility to such
125 contractors as the board finds to be responsible. One-fourth
126 (1/4) of the certificates scheduled for renewal on the last day of

127 December 1980, shall be reviewed by the board on the first Tuesday
128 in January 1981. The remaining certificates shall be subject to
129 renewal in the following manner: one-fourth (1/4) on the first
130 Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in
131 July 1981; and one-fourth (1/4) on the first Tuesday in October
132 1981. The board is authorized to extend the dates of expiration
133 of certificates to coincide with the scheduled date of review of
134 individual contractors. Except for the certificates extended from
135 December 31, 1980, to the first Tuesday in January 1981, the board
136 shall charge fees for the extension of certificates as follows:

137 (i) Twenty-five Dollars (\$25.00) if the date of
138 renewal of the extended certificate is the first Tuesday in April
139 1981;

140 (ii) Fifty Dollars (\$50.00) if the date of renewal
141 of the extended certificate is the first Tuesday in July 1981; and

142 (iii) Seventy-five Dollars (\$75.00) if the date of
143 renewal of the extended certificate is the first Tuesday in
144 October 1981.

145 The extended certificates renewed in compliance with this
146 paragraph (a) and all original certificates and renewals thereof
147 issued on or after July 1, 1980, shall expire one (1) year from
148 the date of issuance. No certificate or any renewal thereof shall
149 be issued until the application has been on file with the board
150 for at least thirty (30) days. Application for renewal of
151 certificates of responsibility, together with the payment of a
152 special privilege license tax as provided under this chapter,
153 shall serve to extend the current certificate until the board
154 either renews the certificate or denies the application.

155 No certificate of responsibility or any renewal thereof shall
156 be issued until the applicant furnishes to the board his
157 Mississippi state sales tax number or Mississippi state use tax
158 number and his state income tax identification numbers.

159 Additional fees may be required as provided in Section
160 31-3-14.

161 The board shall conduct an objective, standardized
162 examination of an applicant for a certificate to ascertain the
163 ability of the applicant to make practical application of his
164 knowledge of the profession or business of construction in the
165 category or categories for which he has applied for a certificate
166 of responsibility. The cost of the test and the cost of
167 administering the test shall be paid for by applicants for
168 certificates of responsibility at the time applications are filed.
169 The board shall investigate thoroughly the past record of all
170 applicants, which will include an effort toward ascertaining the
171 qualifications of applicants in reading plans and specifications,
172 estimating costs, construction ethics, and other similar matters.
173 The board shall take all applicants under consideration after
174 having examined him or them and go thoroughly into the records and
175 examinations, prior to granting any certificate of responsibility.
176 If the applicant is an individual, examination may be taken by his
177 personal appearance for examination or by the appearance for
178 examination of one or more of his responsible managing employees;
179 and if a copartnership or corporation or any other combination or
180 organization, by the examination of one or more of the responsible
181 managing officers or members of the executive staff of the
182 applicant's firm, according to its own designation. A person who
183 holds a current certificate of responsibility shall be granted
184 reciprocity in every municipality and county of the state without
185 examination.

186 (b) To conduct thorough investigations of all
187 applicants seeking renewal of their licenses and of all complaints
188 filed with the board concerning the performance of a contractor on
189 a public or private project.

190 (c) To obtain information concerning the responsibility
191 of any applicant for a certificate of responsibility or a holder

192 of a certificate of responsibility under this chapter. Such
193 information may be obtained by investigation, by hearings, or by
194 any other reasonable and lawful means. The board shall keep such
195 information appropriately filed and shall disseminate same to any
196 interested person. The board shall have the power of subpoena.

197 (d) To maintain a list of contractors to whom
198 certificates of responsibility are issued, refused, revoked or
199 suspended, which list shall be available to any interested person.
200 Such list shall indicate the kind or kinds of works or projects
201 for which a certificate of responsibility was issued, refused,
202 revoked or suspended.

203 (e) To revoke by order entered on its minutes a
204 certificate of responsibility upon a finding by the board that a
205 particular contractor is not responsible, and to suspend such
206 certificate of responsibility in particular cases pending
207 investigation, upon cause to be stated in the board's order of
208 suspension. No such revocation or suspension shall be ordered
209 without a hearing conducted upon not less than ten (10) days'
210 notice to such certificate holder by certified or registered mail,
211 wherein the holder of the certificate of responsibility shall be
212 given an opportunity to present all lawful evidence which he may
213 offer.

214 (f) To adopt rules and regulations setting forth the
215 requirements for certificates of responsibility, the revocation or
216 suspension thereof, and all other matters concerning same; rules
217 and regulations governing the conduct of the business of the board
218 and its employees; and such other rules and regulations as the
219 board finds necessary for the proper administration of this
220 chapter, including those for the conduct of its hearings on the
221 revocation or suspension of certificates of responsibility. Such
222 rules and regulations shall not conflict with the provisions of
223 this chapter.

224 (g) The board shall have the power and responsibility
225 to classify the kind or kinds of works or projects that a
226 contractor is qualified and entitled to perform under the
227 certificate of responsibility issued to him. Such classification
228 shall be specified in the certificate of responsibility.

229 The powers of the State Board of Contractors shall not extend
230 to fixing a maximum limit in the bid amount of any contractor, or
231 the bonding capacity, or a maximum amount of work which a
232 contractor may have under contract at any time, except as stated
233 in paragraph (a) of this section; and the Board of Contractors
234 shall not have jurisdiction or the power or authority to determine
235 the maximum bond a contractor may be capable of obtaining. The
236 board, in determining the qualifications of any applicant for an
237 original certificate of responsibility or any renewal thereof,
238 shall, among other things, take into consideration the following:
239 (1) experience and ability, (2) character, (3) the manner of
240 performance of previous contracts, (4) financial condition, (5)
241 equipment, (6) personnel, (7) work completed, (8) work on hand,
242 (9) ability to perform satisfactorily work under contract at the
243 time of an application for a certificate of responsibility or a
244 renewal thereof, (10) default in complying with provisions of this
245 law, or any other law of the state, and (11) the results of
246 objective, standardized examinations. A record shall be made and
247 preserved by the board of each examination of an applicant and the
248 findings of the board thereon, and a certified copy of the record
249 and findings shall be furnished to any applicant desiring to
250 appeal from any order or decision of the board.

251 (h) The board shall enter upon its minutes an order or
252 decision upon each application filed with it, and it may state in
253 such order or decision the reason or reasons for its order or
254 decision.

255 Upon failure of the board to enter an order or decision upon
256 its minutes as to any application within one hundred eighty (180)

257 days from the date of filing such application, the applicant shall
258 have the right of appeal as otherwise provided by this chapter.

259 The holder of any valid certificate of responsibility issued
260 by the Board of Public Contractors prior to January 1, 1986, shall
261 be automatically issued a certificate of responsibility by the
262 State Board of Contractors for the same classification or
263 classifications of work which the holder was entitled to perform
264 under the State Board of Public Contractors Act.

265 **SECTION 4.** This act shall take effect and be in force from
266 and after July 1, 2006.