

By: Representative Guice

To: Judiciary B

## HOUSE BILL NO. 363

1 AN ACT TO AMEND SECTION 31-3-13, MISSISSIPPI CODE OF 1972, TO  
2 AUTHORIZE THE STATE BOARD OF CONTRACTORS TO EMPLOY PERSONNEL TO  
3 MONITOR OUT-OF-STATE CONTRACTORS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 31-3-13, Mississippi Code of 1972, is  
6 amended as follows:

7 31-3-13. The board shall have the following powers and  
8 responsibilities:

9 (a) To receive applications for certificates of  
10 responsibility, to investigate and examine applicants for same by  
11 holding hearings and securing information, to conduct  
12 examinations, and to issue certificates of responsibility to such  
13 contractors as the board finds to be responsible. One-fourth  
14 (1/4) of the certificates scheduled for renewal on the last day of  
15 December 1980, shall be reviewed by the board on the first Tuesday  
16 in January 1981. The remaining certificates shall be subject to  
17 renewal in the following manner: one-fourth (1/4) on the first  
18 Tuesday in April 1981; one-fourth (1/4) on the first Tuesday in  
19 July 1981; and one-fourth (1/4) on the first Tuesday in October  
20 1981. The board is authorized to extend the dates of expiration  
21 of certificates to coincide with the scheduled date of review of  
22 individual contractors. Except for the certificates extended from  
23 December 31, 1980, to the first Tuesday in January 1981, the board  
24 shall charge fees for the extension of certificates as follows:

25 (i) Twenty-five Dollars (\$25.00) if the date of  
26 renewal of the extended certificate is the first Tuesday in April  
27 1981;

28                   (ii) Fifty Dollars (\$50.00) if the date of renewal  
29 of the extended certificate is the first Tuesday in July 1981; and  
30                   (iii) Seventy-five Dollars (\$75.00) if the date of  
31 renewal of the extended certificate is the first Tuesday in  
32 October 1981.

33           The extended certificates renewed in compliance with this  
34 paragraph (a) and all original certificates and renewals thereof  
35 issued on or after July 1, 1980, shall expire one (1) year from  
36 the date of issuance. No certificate or any renewal thereof shall  
37 be issued until the application has been on file with the board  
38 for at least thirty (30) days. Application for renewal of  
39 certificates of responsibility, together with the payment of a  
40 special privilege license tax as provided under this chapter,  
41 shall serve to extend the current certificate until the board  
42 either renews the certificate or denies the application.

43           No certificate of responsibility or any renewal thereof shall  
44 be issued until the applicant furnishes to the board his  
45 Mississippi state sales tax number or Mississippi state use tax  
46 number and his state income tax identification numbers.

47           Additional fees may be required as provided in Section  
48 31-3-14.

49           The board shall conduct an objective, standardized  
50 examination of an applicant for a certificate to ascertain the  
51 ability of the applicant to make practical application of his  
52 knowledge of the profession or business of construction in the  
53 category or categories for which he has applied for a certificate  
54 of responsibility. The cost of the test and the cost of  
55 administering the test shall be paid for by applicants for  
56 certificates of responsibility at the time applications are filed.  
57 The board shall investigate thoroughly the past record of all  
58 applicants, which will include an effort toward ascertaining the  
59 qualifications of applicants in reading plans and specifications,  
60 estimating costs, construction ethics, and other similar matters.

61 The board shall take all applicants under consideration after  
62 having examined him or them and go thoroughly into the records and  
63 examinations, prior to granting any certificate of responsibility.  
64 If the applicant is an individual, examination may be taken by his  
65 personal appearance for examination or by the appearance for  
66 examination of one or more of his responsible managing employees;  
67 and if a copartnership or corporation or any other combination or  
68 organization, by the examination of one or more of the responsible  
69 managing officers or members of the executive staff of the  
70 applicant's firm, according to its own designation.

71 (b) To conduct thorough investigations of all  
72 applicants seeking renewal of their licenses and of all complaints  
73 filed with the board concerning the performance of a contractor on  
74 a public or private project.

75 (c) To obtain information concerning the responsibility  
76 of any applicant for a certificate of responsibility or a holder  
77 of a certificate of responsibility under this chapter. Such  
78 information may be obtained by investigation, by hearings, or by  
79 any other reasonable and lawful means. The board shall keep such  
80 information appropriately filed and shall disseminate same to any  
81 interested person. The board shall have the power of subpoena.

82 (d) To maintain a list of contractors to whom  
83 certificates of responsibility are issued, refused, revoked or  
84 suspended, which list shall be available to any interested person.  
85 Such list shall indicate the kind or kinds of works or projects  
86 for which a certificate of responsibility was issued, refused,  
87 revoked or suspended.

88 (e) To revoke by order entered on its minutes a  
89 certificate of responsibility upon a finding by the board that a  
90 particular contractor is not responsible, and to suspend such  
91 certificate of responsibility in particular cases pending  
92 investigation, upon cause to be stated in the board's order of  
93 suspension. No such revocation or suspension shall be ordered

94 without a hearing conducted upon not less than ten (10) days'  
95 notice to such certificate holder by certified or registered mail,  
96 wherein the holder of the certificate of responsibility shall be  
97 given an opportunity to present all lawful evidence which he may  
98 offer.

99 (f) To adopt rules and regulations setting forth the  
100 requirements for certificates of responsibility, the revocation or  
101 suspension thereof, and all other matters concerning same; rules  
102 and regulations governing the conduct of the business of the board  
103 and its employees; and such other rules and regulations as the  
104 board finds necessary for the proper administration of this  
105 chapter, including those for the conduct of its hearings on the  
106 revocation or suspension of certificates of responsibility. Such  
107 rules and regulations shall not conflict with the provisions of  
108 this chapter.

109 (g) The board shall have the power and responsibility  
110 to classify the kind or kinds of works or projects that a  
111 contractor is qualified and entitled to perform under the  
112 certificate of responsibility issued to him. Such classification  
113 shall be specified in the certificate of responsibility.

114 The powers of the State Board of Contractors shall not extend  
115 to fixing a maximum limit in the bid amount of any contractor, or  
116 the bonding capacity, or a maximum amount of work which a  
117 contractor may have under contract at any time, except as stated  
118 in paragraph (a) of this section; and the Board of Contractors  
119 shall not have jurisdiction or the power or authority to determine  
120 the maximum bond a contractor may be capable of obtaining. The  
121 board, in determining the qualifications of any applicant for an  
122 original certificate of responsibility or any renewal thereof,  
123 shall, among other things, take into consideration the following:  
124 (1) experience and ability, (2) character, (3) the manner of  
125 performance of previous contracts, (4) financial condition, (5)  
126 equipment, (6) personnel, (7) work completed, (8) work on hand,

127 (9) ability to perform satisfactorily work under contract at the  
128 time of an application for a certificate of responsibility or a  
129 renewal thereof, (10) default in complying with provisions of this  
130 law, or any other law of the state, and (11) the results of  
131 objective, standardized examinations. A record shall be made and  
132 preserved by the board of each examination of an applicant and the  
133 findings of the board thereon, and a certified copy of the record  
134 and findings shall be furnished to any applicant desiring to  
135 appeal from any order or decision of the board.

136 (h) The board shall enter upon its minutes an order or  
137 decision upon each application filed with it, and it may state in  
138 such order or decision the reason or reasons for its order or  
139 decision.

140 Upon failure of the board to enter an order or decision upon  
141 its minutes as to any application within one hundred eighty (180)  
142 days from the date of filing such application, the applicant shall  
143 have the right of appeal as otherwise provided by this chapter.

144 The holder of any valid certificate of responsibility issued  
145 by the Board of Public Contractors prior to January 1, 1986, shall  
146 be automatically issued a certificate of responsibility by the  
147 State Board of Contractors for the same classification or  
148 classifications of work which the holder was entitled to perform  
149 under the State Board of Public Contractors Act.

150 (i) The board is authorized to employ necessary  
151 personnel to monitor out-of-state contractors and such employees  
152 shall be authorized to shut down a project until such out-of-state  
153 contractors comply with any applicable state laws.

154 **SECTION 2.** This act shall take effect and be in force from  
155 and after July 1, 2007.