

By: Representative Mayo

To: Judiciary B

HOUSE BILL NO. 749

1 AN ACT TO AMEND SECTION 73-13-45, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MONETARY THRESHOLD ON PUBLIC WORKS CONTRACTS
3 REQUIRING ENGINEERS OR ARCHITECTS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 73-13-45, Mississippi Code of 1972, is
6 amended as follows:

7 73-13-45. (1) (a) Neither the state, nor any of its
8 political subdivisions, such as a county, city or town, shall
9 award construction contracts of any public work involving the
10 practice of engineering or architecture unless the plans,
11 specifications and estimates have been prepared and such work
12 supervised by a registered professional engineer or architect;
13 provided, that nothing in this subsection shall be held to apply
14 to such public work wherein the expenditure does not exceed One
15 Hundred Thousand Dollars (\$100,000.00); and provided further, that
16 nothing in this subsection shall apply to any municipality wherein
17 such public work is not financed in whole or in part through the
18 issuance of bonds and let to public contract.

19 (b) The state and any of its political subdivisions,
20 such as a county, city or town, may engage in construction of
21 public buildings involving the practice of engineering or
22 architecture and using political subdivision work forces without
23 the supervision of a licensed professional engineer or architect,
24 provided that the total cost of the public building does not
25 exceed One Hundred Thousand Dollars (\$100,000.00). This paragraph
26 (1)(b) shall not supersede any rules and regulations promulgated

27 by the State Department of Health and the Department of
28 Environmental Quality.

29 (2) (a) In the awarding of public contracts for
30 professional engineering services, preference shall be given to
31 resident professional engineers over those nonresident
32 professional engineers domiciled in a state having laws which
33 grant a preference to the professional engineers who are residents
34 of that state. Nonresident professional engineers shall be
35 awarded Mississippi public contracts only on the same basis as the
36 nonresident professional's state awards contracts to Mississippi
37 professional engineers under similar circumstances. When a
38 nonresident professional engineer submits a proposal for a public
39 project, he shall attach thereto a copy of his resident state's
40 current statute, resolution, policy, procedure or executive order
41 pertaining to such state's treatment of nonresident professional
42 engineers. Resident professional engineers actually domiciled in
43 Mississippi, be they corporate, individuals or partnerships, shall
44 be granted preference over nonresidents in the awarding of
45 contracts in the same manner and to the same extent as provided by
46 the laws of the state of domicile of the nonresident. As used in
47 this section, the term "resident professional engineer" includes a
48 nonresident person, firm or corporation that has been qualified to
49 do business in this state and has maintained a permanent full-time
50 office in the State of Mississippi for not less than two (2) years
51 prior to submitting a proposal for a public project, and the
52 subsidiaries and affiliates of such a person, firm or corporation.

53 (b) The provisions of this subsection shall not apply
54 to any contract for any project upon which federal funds would be
55 withheld because of the preference requirements of this
56 subsection.

57 (c) Any contract, agreement or arrangement for
58 professional engineering services negotiated, made or entered
59 into, directly or indirectly, by the state, counties,

60 municipalities or any political subdivision thereof, or by any
61 special districts, which is in any way in violation of the
62 provisions of this subsection is hereby declared to be void as
63 contrary to the public policy of this state and shall not be given
64 effect or enforced by any court of this state or by any of its
65 officers or employees.

66 (d) Nothing in this subsection shall affect the
67 validity of any contract in existence prior to July 1, 1989.

68 (e) For purposes of this section, the term
69 "professional engineering services" means those within the scope
70 of the practice of professional engineering as defined by Sections
71 73-13-1 through 73-13-45, or those performed by any registered
72 professional engineer in connection with professional employment
73 or practice.

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