

By: Senator(s) Harden

To: Fees, Salaries and Administration

SENATE BILL NO. 2992

1 AN ACT TO AMEND SECTIONS 31-7-1, 31-7-5, 31-7-7 AND 31-7-9,
2 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE STATE INSTITUTIONS OF
3 HIGHER LEARNING TO BE EXEMPT FROM THE RULES AND REGULATIONS OF THE
4 DEPARTMENT OF FINANCE AND ADMINISTRATION REGARDING THE PURCHASE OF
5 COMMODITIES AND TO AUTHORIZE THE BOARD OF TRUSTEES OF STATE
6 INSTITUTIONS OF HIGHER LEARNING TO ADOPT SUCH PURCHASING
7 REGULATIONS FOR MEMBER INSTITUTIONS; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 31-7-1, Mississippi Code of 1972, is
10 amended as follows:

11 31-7-1. The following terms are defined for the purposes of
12 this chapter to have the following meanings:

13 (a) "Agency" shall mean any state board, commission,
14 committee, council, university, department or unit thereof created
15 by the Constitution or statutes if such board, commission,
16 committee, council, university, department, unit or the head
17 thereof is authorized to appoint subordinate staff by the
18 Constitution or statute, except a legislative or judicial board,
19 commission, committee, council, department or unit thereof.

20 (b) "Governing authority" shall mean boards of
21 supervisors, governing boards of all school districts, all boards
22 of directors of public water supply districts, boards of directors
23 of master public water supply districts, municipal public utility
24 commissions, governing authorities of all municipalities, port
25 authorities, commissioners and boards of trustees of any public
26 hospitals, boards of trustees of public library systems, district
27 attorneys, school attendance officers and any political
28 subdivision of the state supported wholly or in part by public
29 funds of the state or political subdivisions thereof, including

30 commissions, boards and agencies created or operated under the
31 authority of any county or municipality of this state. The term
32 "governing authority" shall not include economic development
33 authorities supported in part by private funds, or commissions
34 appointed to hold title to and oversee the development and
35 management of lands and buildings which are donated by private
36 individuals to the public for the use and benefit of the community
37 and which are supported in part by private funds.

38 (c) "Purchasing agent" shall mean any administrator,
39 superintendent, purchase clerk or other chief officer so
40 designated having general or special authority to negotiate for
41 and make private contract for or purchase for any governing
42 authority or agency.

43 (d) "Public funds" shall mean and include any
44 appropriated funds, special funds, fees or any other emoluments
45 received by an agency or governing authority.

46 (e) "Commodities" shall mean and include the various
47 commodities, goods, merchandise, furniture, equipment, automotive
48 equipment of every kind, and other personal property purchased by
49 the agencies of the state and governing authorities, but not
50 commodities purchased for resale or raw materials converted into
51 products for resale.

52 (i) "Equipment" shall be construed to include:
53 automobiles, trucks, tractors, office appliances and all other
54 equipment of every kind and description.

55 (ii) "Furniture" shall be construed to include:
56 desks, chairs, tables, seats, filing cabinets, bookcases and all
57 other items of a similar nature as well as dormitory furniture,
58 appliances, carpets and all other items of personal property
59 generally referred to as home, office or school furniture.

60 (f) "Emergency" shall mean any circumstances caused by
61 fire, flood, explosion, storm, earthquake, epidemic, riot,
62 insurrection or caused by any inherent defect due to defective

63 construction, or when the immediate preservation of order or of
64 public health is necessary by reason of unforeseen emergency, or
65 when the immediate restoration of a condition of usefulness of any
66 public building, equipment, road or bridge appears advisable, or
67 in the case of a public utility when there is a failure of any
68 machine or other thing used and useful in the generation,
69 production or distribution of electricity, water or natural gas,
70 or in the transportation or treatment of sewage; or when the delay
71 incident to obtaining competitive bids could cause adverse impact
72 upon the governing authorities or agency, its employees or its
73 citizens; or in the case of a public airport, when the delay
74 incident to publishing an advertisement for competitive bids would
75 endanger public safety in a specific (not general) manner, result
76 in or perpetuate a specific breach of airport security, or prevent
77 the airport from providing specific air transportation services.

78 (g) "Construction" shall mean the process of building,
79 altering, improving, renovating or demolishing a public structure,
80 public building, or other public real property. It does not
81 include routine operation, routine repair or regularly scheduled
82 maintenance of existing public structures, public buildings or
83 other public real property.

84 (h) "Purchase" shall mean buying, renting, leasing or
85 otherwise acquiring.

86 (i) "Certified purchasing office" shall mean any
87 purchasing office wherein fifty percent (50%) or more of the
88 purchasing agents hold a certification from the Universal Public
89 Purchasing Certification Council or other nationally recognized
90 purchasing certification.

91 (j) "Member institution" shall mean the eight (8) state
92 public four-year institutions and the Executive Office of the
93 Board of Trustees of State Institutions of Higher Learning.

94 **SECTION 2.** Section 31-7-5, Mississippi Code of 1972, is
95 amended as follows:

96 31-7-5. The Department of Finance and Administration shall
97 prescribe rules and regulations governing the manner in which the
98 authority and duties granted to it by law may be carried out. It
99 shall employ suitable and competent personnel, necessary to carry
100 out its purposes. The Department of Finance and Administration
101 may establish an Office of Purchasing, Travel and Fleet Management
102 and employ a competent person as Director of the Office of
103 Purchasing, Travel and Fleet Management who shall be a member of
104 the state service in a job classification and salary as determined
105 by the Executive Director of the Department of Finance and
106 Administration with the approval of the State Personnel Board.
107 Member institutions of the Board of Trustees of State Institutions
108 of Higher Learning shall be exempt from the rules and regulations
109 of the Department of Finance and Administration; and the Board of
110 Trustees of State Institutions of Higher Learning shall be granted
111 authority to administer and prescribe rules and regulations to
112 coordinate and promote efficiency and economy in the purchase of
113 commodities of the member institutions.

114 **SECTION 3.** Section 31-7-7, Mississippi Code of 1972, is
115 amended as follows:

116 31-7-7. (1) Through its director and other supervisory
117 personnel and, upon its request, through the agencies of the
118 state, the Office of General Services shall supervise the
119 performance of the following duties imposed upon it by this
120 chapter:

121 (a) A study of the purchases of commodities by the
122 agencies of the state; the compilation, exchange and coordination
123 of information concerning same; and the distribution of such
124 information to the agencies and governing authorities requesting
125 same.

126 (b) The planning and coordination of purchases in
127 volume for the agencies in order to take advantage of and secure
128 the economies possible by volume purchasing; the arrangement of

129 agreements between agencies and between governing authorities
130 whereby one may make a purchase or purchases for the other or
131 whereby an agency may make a purchase for a governing authority;
132 the arrangement of agreements whereby purchases of commodities can
133 be made between an agency and another agency or governing
134 authority at a fair price, less depreciated value; the
135 negotiations and execution of purchasing agreements and contracts
136 through and under which the Office of General Services may require
137 state agencies to purchase; and the obtaining or establishment of
138 methods for obtaining of competitive bid prices upon which any
139 agency of the state may purchase at the price approved by the
140 Office of General Services.

141 (c) The arrangement of provisions in purchase contracts
142 of the state, or any agency, providing that the same price for
143 which a commodity is available to an agency, may also, during the
144 period of time provided therein, be available to any governing
145 authority.

146 (2) The Board of Trustees of State Institutions of Higher
147 Learning shall develop administrative procedures to supervise the
148 member institutions through its director and other supervisory
149 personnel in the performance of the following duties:

150 (a) A study of the purchases of commodities by the
151 member institutions, the compilation, exchange and coordination of
152 information concerning same; and the distribution of such
153 information to the member institutions requesting same.

154 (b) The planning and coordination of purchases in
155 volume for the member institutions in order to take advantage of
156 and secure the economies possible by volume purchasing; the
157 arrangement of agreements between member institutions whereby one
158 may make a purchase or purchases for the other; the arrangement of
159 agreements whereby purchases of commodities can be made at a fair
160 price, less depreciated value; the negotiations and execution of
161 purchasing agreements and contracts through and under which the

162 Board of Trustees of State Institutions of Higher Learning may
163 require member institutions; and the obtaining or establishment of
164 methods for obtaining competitive bid prices upon which any member
165 institution may purchase at the price approved by the Board of
166 Trustees of State Institutions of Higher Learning.

167 **SECTION 4.** Section 31-7-9, Mississippi Code of 1972, is
168 amended as follows:

169 31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet
170 Management shall adopt purchasing regulations governing the
171 purchase by any agency of any commodity or commodities and
172 establishing standards and specifications for a commodity or
173 commodities and the maximum fair prices of a commodity or
174 commodities, subject to the approval of the Public Procurement
175 Review Board. It shall have the power to amend, add to or
176 eliminate purchasing regulations. The adoption of, amendment,
177 addition to or elimination of purchasing regulations shall be
178 based upon a determination by the Office of Purchasing, Travel and
179 Fleet Management with the approval of the Public Procurement
180 Review Board, that such action is reasonable and practicable and
181 advantageous to promote efficiency and economy in the purchase of
182 commodities by the agencies of the state. Upon the adoption of
183 any purchasing regulation, or an amendment, addition or
184 elimination therein, copies of same shall be furnished to the
185 State Auditor and to all agencies affected thereby. Thereafter,
186 and except as otherwise may be provided in subsection (2) of this
187 section, no agency of the state shall purchase any commodities
188 covered by existing purchasing regulations unless such commodities
189 be in conformity with the standards and specifications set forth
190 in the purchasing regulations and unless the price thereof does
191 not exceed the maximum fair price established by such purchasing
192 regulations. The said Office of Purchasing, Travel and Fleet
193 Management shall furnish to any county or municipality or other
194 local public agency of the state requesting same, copies of

195 purchasing regulations adopted by the Office of Purchasing, Travel
196 and Fleet Management and any amendments, changes or eliminations
197 of same that may be made from time to time.

198 (b) The Office of Purchasing, Travel and Fleet
199 Management may adopt purchasing regulations governing the use of
200 credit cards, procurement cards and purchasing club membership
201 cards to be used by state agencies, governing authorities of
202 counties and municipalities and the Chickasawhay Natural Gas
203 District. Use of the cards shall be in strict compliance with the
204 regulations promulgated by the office. Any amounts due on the
205 cards shall incur interest charges as set forth in Section
206 31-7-305 and shall not be considered debt.

207 (2) The Office of Purchasing, Travel and Fleet Management
208 shall adopt, subject to the approval of the Public Procurement
209 Review Board, purchasing regulations governing the purchase of
210 unmarked vehicles to be used by the Bureau of Narcotics and
211 Department of Public Safety in official investigations pursuant to
212 Section 25-1-87. Such regulations shall ensure that purchases of
213 such vehicles shall be at a fair price and shall take into
214 consideration the peculiar needs of the Bureau of Narcotics and
215 Department of Public Safety in undercover operations.

216 (3) The Office of Purchasing, Travel and Fleet Management
217 shall adopt, subject to the approval of the Public Procurement
218 Review Board, regulations governing the certification process for
219 certified purchasing offices. Such regulations shall require
220 entities desiring to be classified as certified purchasing offices
221 to submit applications and applicable documents on an annual
222 basis, at which time the Office of Purchasing, Travel and Fleet
223 Management may provide the governing entity with a certification
224 valid for one (1) year from the date of issuance.

225 (4) The Board of Trustees of State Institutions of Higher
226 Learning shall have the authority to adopt purchasing regulations
227 governing the purchase by any member institution of any commodity

228 or commodities and establish standards and specifications for a
229 commodity or commodities and establish the maximum fair prices of
230 a commodity or commodities. It shall have the power to amend, add
231 to or eliminate purchasing regulations. Upon the adoption of any
232 purchasing regulation, or an amendment, addition or elimination
233 therein, copies of same shall be furnished to the State Auditor.

234 **SECTION 5.** This act shall take effect and be in force from
235 and after July 1, 2007.