

**Adopted  
COMMITTEE AMENDMENT NO 1 PROPOSED TO**

**Senate Bill No. 2897**

**BY: Committee**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

16           **SECTION 1.** Section 31-5-17, Mississippi Code of 1972, is  
17 amended as follows:  
18           31-5-17. Every public officer, contractor, superintendent or  
19 agent engaged in or in charge of the construction of any state or  
20 public building or public work of any kind for the State of  
21 Mississippi or for any board, city commission, governmental agency  
22 or municipality of the State of Mississippi shall employ only  
23 workmen and laborers who are legal citizens of the United States  
24 of America or are legal aliens. For purposes of this section, a  
25 legal alien is an individual who was lawfully admitted at the time  
26 such services were performed, was lawfully present for purposes of  
27 performing such services, or was permanently residing in the  
28 United States under color of law at the time such services were  
29 performed (including an alien who was lawfully present in the  
30 United States as a result of the application of Section 207, 208  
31 or 212(d)(5) of the Immigration and Nationality Act). In cases  
32 where the work is being lawfully conducted outside the United  
33 States of America, the utilization of workmen and laborers shall

34 be in strict compliance with the laws of the country in which the  
35 work is conducted.

36 **SECTION 2.** Section 31-5-19, Mississippi Code of 1972, is  
37 amended as follows:

38 31-5-19. All contracts entered into by agencies and  
39 institutions of the State of Mississippi, or any of its political  
40 subdivisions, shall include a provision requiring the contractor  
41 to be in compliance during the term of the contract with all  
42 federal and state laws, including, but not limited to, Section  
43 31-5-17. A knowing or willing failure to comply with such  
44 provision shall be grounds for cancellation by the agencies and  
45 institutions of the State of Mississippi, or any of its political  
46 subdivisions, of all contracts held with the contractor. In  
47 addition to the cancellation of the contract, the contractor shall  
48 be liable for any additional costs incurred by the agencies and  
49 institutions of the State of Mississippi, or any of its political  
50 subdivisions, because of the cancellation.

51 **SECTION 3.** Section 31-5-21, Mississippi Code of 1972, is  
52 amended as follows:

53 31-5-21. Any contractor, public officer, superintendent,  
54 agent or person in charge of such work, who shall violate any of  
55 the provisions of Section 31-5-17, shall be liable upon conviction  
56 before a court of competent jurisdiction to a fine of not more  
57 than One Hundred Dollars (\$100.00) or to imprisonment of not more  
58 than sixty (60) days, or both, at the discretion of the court; and  
59 every day's employment of each workman or laborer in such  
60 violation shall constitute a separate offense.

61 However, if the contract for such work includes the provision  
62 required by Section 31-5-19 and the public officer makes a  
63 reasonable effort to ensure compliance with that provision, the  
64 public officer shall not be subject to the fine or imprisonment.

65           **SECTION 4.** (1) Any public officer, contractor,  
66 superintendent or agent engaged in or in charge of contracts of  
67 any kind for the State of Mississippi or for any board, city  
68 commission, governmental agency or municipality of the State of  
69 Mississippi shall employ only workmen and laborers who are legal  
70 citizens of the United States of America or are legal aliens. For  
71 purposes of this section, a legal alien is an individual who was  
72 lawfully admitted at the time such services were performed, was  
73 lawfully present for purposes of performing such services, or was  
74 permanently residing in the United States under color of law at  
75 the time such services were performed (including an alien who was  
76 lawfully present in the United States as a result of the  
77 application of Section 207, 208 or 212(d)(5) of the Immigration  
78 and Nationality Act). In cases where the work is being lawfully  
79 conducted outside the United States of America, the utilization of  
80 workmen and laborers shall be in strict compliance with the laws  
81 of the country in which the work is conducted.

82           (2) All contracts entered into by agencies and institutions  
83 of the State of Mississippi, or any of its political subdivisions,  
84 shall include a provision requiring the contractor to be in  
85 compliance during the term of the contract with all federal and  
86 state laws, including, but not limited to, subsection (1) of this  
87 section. Failure to comply with such provision shall be grounds  
88 for cancellation by the agencies and institutions of the State of  
89 Mississippi, or any of its political subdivisions, of all  
90 contracts held with the contractor. In addition to the  
91 cancellation of the contract, the contractor shall be liable for  
92 any additional costs incurred by the agencies and institutions of  
93 the State of Mississippi, or any of its political subdivisions,  
94 because of the cancellation.

95           **SECTION 5.** Section 31-7-9, Mississippi Code of 1972, is  
96 amended as follows:

97           31-7-9. (1) (a) The Office of Purchasing, Travel and Fleet  
98 Management shall adopt purchasing regulations governing the  
99 purchase by any agency of any commodity or commodities and  
100 establishing standards and specifications for a commodity or  
101 commodities and the maximum fair prices of a commodity or  
102 commodities, subject to the approval of the Public Procurement  
103 Review Board. It shall have the power to amend, add to or  
104 eliminate purchasing regulations. The adoption of, amendment,  
105 addition to or elimination of purchasing regulations shall be  
106 based upon a determination by the Office of Purchasing, Travel and  
107 Fleet Management with the approval of the Public Procurement  
108 Review Board, that such action is reasonable and practicable and  
109 advantageous to promote efficiency and economy in the purchase of  
110 commodities by the agencies of the state. Upon the adoption of  
111 any purchasing regulation, or an amendment, addition or  
112 elimination therein, copies of same shall be furnished to the  
113 State Auditor and to all agencies affected thereby. Thereafter,  
114 and except as otherwise may be provided in subsection (2) of this  
115 section, no agency of the state shall purchase any commodities  
116 covered by existing purchasing regulations unless such commodities  
117 be in conformity with the standards and specifications set forth  
118 in the purchasing regulations and unless the price thereof does  
119 not exceed the maximum fair price established by such purchasing  
120 regulations. The said Office of Purchasing, Travel and Fleet  
121 Management shall furnish to any county or municipality or other  
122 local public agency of the state requesting same, copies of  
123 purchasing regulations adopted by the Office of Purchasing, Travel  
124 and Fleet Management and any amendments, changes or eliminations  
125 of same that may be made from time to time.

126           (b) The Office of Purchasing, Travel and Fleet  
127 Management may adopt purchasing regulations governing the use of  
128 credit cards, procurement cards and purchasing club membership

129 cards to be used by state agencies, governing authorities of  
130 counties and municipalities and the Chickasawhay Natural Gas  
131 District. Use of the cards shall be in strict compliance with the  
132 regulations promulgated by the office. Any amounts due on the  
133 cards shall incur interest charges as set forth in Section  
134 31-7-305 and shall not be considered debt.

135 (2) The Office of Purchasing, Travel and Fleet Management  
136 shall adopt, subject to the approval of the Public Procurement  
137 Review Board, purchasing regulations governing the purchase of  
138 unmarked vehicles to be used by the Bureau of Narcotics and  
139 Department of Public Safety in official investigations pursuant to  
140 Section 25-1-87. Such regulations shall ensure that purchases of  
141 such vehicles shall be at a fair price and shall take into  
142 consideration the peculiar needs of the Bureau of Narcotics and  
143 Department of Public Safety in undercover operations.

144 (3) The Office of Purchasing, Travel and Fleet Management  
145 shall adopt, subject to the approval of the Public Procurement  
146 Review Board, regulations governing the certification process for  
147 certified purchasing offices. Such regulations shall require  
148 entities desiring to be classified as certified purchasing offices  
149 to submit applications and applicable documents on an annual  
150 basis, at which time the Office of Purchasing, Travel and Fleet  
151 Management may provide the governing entity with a certification  
152 valid for one (1) year from the date of issuance.

153 (4) The Office of Purchasing and Travel shall adopt rules  
154 and regulations to carry out the purposes of Section 4 of Senate  
155 Bill No. 2897, 2007 Regular Session.

156 **SECTION 6.** Section 25-9-120, Mississippi Code of 1972, is  
157 amended as follows:

158 25-9-120. (1) Contract personnel, whether classified as  
159 contract workers or independent contractors shall not be deemed  
160 state service or nonstate service employees of the State of

161 Mississippi, and shall not be eligible to participate in the  
162 Public Employees' Retirement System, or the state employee health  
163 plan, nor be allowed credit for personal and sick leave and other  
164 leave benefits as employees of the State of Mississippi,  
165 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101  
166 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through  
167 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth  
168 herein. Contract workers, i.e., contract personnel who do not  
169 meet the criteria of independent contractors, shall be subject to  
170 the provisions of Section 25-11-127.

171 (2) There is hereby created the Personal Service Contract  
172 Review Board, which shall be composed of the State Personnel  
173 Director, the Executive Director of the Department of Finance and  
174 Administration, or his designee, the Commissioner of Corrections,  
175 or his designee, the Executive Director of the Mississippi  
176 Department of Wildlife and Fisheries, or his designee, and the  
177 Executive Director of the Department of Environmental Quality, or  
178 his designee. The State Personnel Director shall be chairman and  
179 shall preside over the meetings of the board. The board shall  
180 annually elect a vice chairman, who shall serve in the absence of  
181 the chairman. No business shall be transacted, including adoption  
182 of rules of procedure, without the presence of a quorum of the  
183 board. Three (3) members shall be a quorum. No action shall be  
184 valid unless approved by the chairman and two (2) other of those  
185 members present and voting, entered upon the minutes of the board  
186 and signed by the chairman. Necessary clerical and administrative  
187 support for the board shall be provided by the State Personnel  
188 Board. Minutes shall be kept of the proceedings of each meeting,  
189 copies of which shall be filed on a monthly basis with the  
190 Legislative Budget Office.

191 (3) The Personal Service Contract Review Board shall have  
192 the following powers and responsibilities:

193           (a) Promulgate rules and regulations governing the  
194 solicitation and selection of contractual services personnel  
195 including personal and professional services contracts for any  
196 form of consulting, policy analysis, public relations, marketing,  
197 public affairs, legislative advocacy services or any other  
198 contract that the board deems appropriate for oversight, with the  
199 exception of any personal service contracts entered into for  
200 computer or information technology-related services governed by  
201 the Mississippi Department of Information Technology Services, any  
202 personal service contracts entered into by the Mississippi  
203 Department of Transportation, and any contract for attorney,  
204 accountant, auditor, physician, dentist, architect, engineer,  
205 veterinarian and utility rate expert services. Any such rules and  
206 regulations shall provide for maintaining continuous internal  
207 audit covering the activities of such agency affecting its revenue  
208 and expenditures as required under Section 7-7-3(6)(d),  
209 Mississippi Code of 1972;

210           (b) Approve all personal and professional services  
211 contracts involving the expenditures of funds in excess of One  
212 Hundred Thousand Dollars (\$100,000.00);

213           (c) Develop standards with respect to contractual  
214 services personnel which require invitations for public bid,  
215 requests for proposals, record keeping and financial  
216 responsibility of contractors. The Personal Service Contract  
217 Review Board may, in its discretion, require the agency involved  
218 to advertise such contract for public bid, and may reserve the  
219 right to reject any or all bids;

220           (d) Prescribe certain circumstances whereby agency  
221 heads may enter into contracts for personal and professional  
222 services without receiving prior approval from the Personal  
223 Service Contract Review Board. The Personal Service Contract  
224 Review Board may establish a preapproved list of providers of

225 various personal and professional services for set prices with  
226 which state agencies may contract without bidding or prior  
227 approval from the board;

228 (e) To provide standards for the issuance of requests  
229 for proposals, the evaluation of proposals received, consideration  
230 of costs and quality of services proposed, contract negotiations,  
231 the administrative monitoring of contract performance by the  
232 agency and successful steps in terminating a contract;

233 (f) To present recommendations for governmental  
234 privatization and to evaluate privatization proposals submitted by  
235 any state agency;

236 (g) To authorize personal and professional service  
237 contracts to be effective for more than one (1) year provided a  
238 funding condition is included in any such multiple year contract,  
239 except the State Board of Education, which shall have the  
240 authority to enter into contractual agreements for student  
241 assessment for a period up to ten (10) years. The State Board of  
242 Education shall procure these services in accordance with the  
243 Personal Service Contract Review Board procurement regulations;

244 (h) To request the State Auditor to conduct a  
245 performance audit on any personal or professional service  
246 contract;

247 (i) Prepare an annual report to the Legislature  
248 concerning the issuance of personal service contracts during the  
249 previous year, collecting any necessary information from state  
250 agencies in making such report.

251 (4) No member of the Personal Service Contract Review Board  
252 shall use his official authority or influence to coerce, by threat  
253 of discharge from employment, or otherwise, the purchase of  
254 commodities or the contracting for personal or professional  
255 services under this section.



256       (5) The Personal Service Contract Review Board shall adopt  
257 rules and regulations to carry out the purposes of Section 4 of  
258 Senate Bill No. 2897, 2007 Regular Session.

259       **SECTION 7.** Section 25-53-5, Mississippi Code of 1972, is  
260 amended as follows:

261       25-53-5. The authority shall have the following powers,  
262 duties and responsibilities:

263           (a) The authority shall provide for the development of  
264 plans for the efficient acquisition and utilization of computer  
265 equipment and services by all agencies of state government, and  
266 provide for their implementation. In so doing, the authority may  
267 use the MDITS' staff, at the discretion of the executive director  
268 of the authority, or the authority may contract for the services  
269 of qualified consulting firms in the field of information  
270 technology and utilize the service of such consultants as may be  
271 necessary for such purposes.

272           (b) The authority shall immediately institute  
273 procedures for carrying out the purposes of this chapter and  
274 supervise the efficient execution of the powers and duties of the  
275 office of executive director of the authority. In the execution  
276 of its functions under this chapter, the authority shall maintain  
277 as a paramount consideration the successful internal organization  
278 and operation of the several agencies so that efficiency existing  
279 therein shall not be adversely affected or impaired. In executing  
280 its functions in relation to the institutions of higher learning  
281 and junior colleges in the state, the authority shall take into  
282 consideration the special needs of such institutions in relation  
283 to the fields of teaching and scientific research.

284           (c) Title of whatever nature of all computer equipment  
285 now vested in any agency of the State of Mississippi is hereby  
286 vested in the authority, and no such equipment shall be disposed  
287 of in any manner except in accordance with the direction of the

288 authority or under the provisions of such rules and regulations as  
289 may hereafter be adopted by the authority in relation thereto.

290 (d) The authority shall adopt rules, regulations, and  
291 procedures governing the acquisition of computer and  
292 telecommunications equipment and services which shall, to the  
293 fullest extent practicable, insure the maximum of competition  
294 between all manufacturers of supplies or equipment or services.  
295 In the writing of specifications, in the making of contracts  
296 relating to the acquisition of such equipment and services, and in  
297 the performance of its other duties the authority shall provide  
298 for the maximum compatibility of all information systems hereafter  
299 installed or utilized by all state agencies and may require the  
300 use of common computer languages where necessary to accomplish the  
301 purposes of this chapter. The authority may establish by  
302 regulation and charge reasonable fees on a nondiscriminatory basis  
303 for the furnishing to bidders of copies of bid specifications and  
304 other documents issued by the authority.

305 (e) The authority shall adopt rules and regulations  
306 governing the sharing with, or the sale or lease of information  
307 technology services to any nonstate agency or person. Such  
308 regulations shall provide that any such sharing, sale or lease  
309 shall be restricted in that same shall be accomplished only where  
310 such services are not readily available otherwise within the  
311 state, and then only at a charge to the user not less than the  
312 prevailing rate of charge for similar services by private  
313 enterprise within this state.

314 (f) The authority may, in its discretion, establish a  
315 special technical advisory committee or committees to study and  
316 make recommendations on technology matters within the competence  
317 of the authority as the authority may see fit. Persons serving on  
318 the Information Resource Council, its task forces, or any such  
319 technical advisory committees shall be entitled to receive their

320 actual and necessary expenses actually incurred in the performance  
321 of such duties, together with mileage as provided by law for state  
322 employees, provided the same has been authorized by a resolution  
323 duly adopted by the authority and entered on its minutes prior to  
324 the performance of such duties.

325 (g) The authority may provide for the development and  
326 require the adoption of standardized computer programs and may  
327 provide for the dissemination of information to and the  
328 establishment of training programs for the personnel of the  
329 various information technology centers of state agencies and  
330 personnel of the agencies utilizing the services thereof.

331 (h) The authority shall adopt reasonable rules and  
332 regulations requiring the reporting to the authority through the  
333 office of executive director of such information as may be  
334 required for carrying out the purposes of this chapter and may  
335 also establish such reasonable procedures to be followed in the  
336 presentation of bills for payment under the terms of all contracts  
337 for the acquisition of computer equipment and services now or  
338 hereafter in force as may be required by the authority or by the  
339 executive director in the execution of their powers and duties.

340 (i) The authority shall require such adequate  
341 documentation of information technology procedures utilized by the  
342 various state agencies and may require the establishment of such  
343 organizational structures within state agencies relating to  
344 information technology operations as may be necessary to  
345 effectuate the purposes of this chapter.

346 (j) The authority may adopt such further reasonable  
347 rules and regulations as may be necessary to fully implement the  
348 purposes of this chapter. All rules and regulations adopted by  
349 the authority shall be published and disseminated in readily  
350 accessible form to all affected state agencies, and to all current  
351 suppliers of computer equipment and services to the state, and to

352 all prospective suppliers requesting the same. Such rules and  
353 regulations shall be kept current, be periodically revised, and  
354 copies thereof shall be available at all times for inspection by  
355 the public at reasonable hours in the offices of the authority.  
356 Whenever possible no rule, regulation or any proposed amendment to  
357 such rules and regulations shall be finally adopted or enforced  
358 until copies of said proposed rules and regulations have been  
359 furnished to all interested parties for their comment and  
360 suggestions.

361 (k) The authority shall establish rules and regulations  
362 which shall provide for the submission of all contracts proposed  
363 to be executed by the executive director for computer equipment or  
364 services to the authority for approval before final execution, and  
365 the authority may provide that such contracts involving the  
366 expenditure of less than such specified amount as may be  
367 established by the authority may be finally executed by the  
368 executive director without first obtaining such approval by the  
369 authority.

370 (l) The authority is authorized to purchase, lease, or  
371 rent computer equipment or services and to operate said equipment  
372 and utilize said services in providing services to one or more  
373 state agencies when in its opinion such operation will provide  
374 maximum efficiency and economy in the functions of any such agency  
375 or agencies.

376 (m) Upon the request of the governing body of a  
377 political subdivision or instrumentality, the authority shall  
378 assist the political subdivision or instrumentality in its  
379 development of plans for the efficient acquisition and utilization  
380 of computer equipment and services. An appropriate fee shall be  
381 charged the political subdivision by the authority for such  
382 assistance.

383           (n) The authority shall adopt rules and regulations  
384 governing the protest procedures to be followed by any actual or  
385 prospective bidder, offerer or contractor who is aggrieved in  
386 connection with the solicitation or award of a contract for the  
387 acquisition of computer equipment or services. Such rules and  
388 regulations shall prescribe the manner, time and procedure for  
389 making protests and may provide that a protest not timely filed  
390 shall be summarily denied. The authority may require the  
391 protesting party, at the time of filing the protest, to post a  
392 bond, payable to the state, in an amount that the authority  
393 determines sufficient to cover any expense or loss incurred by the  
394 state, the authority or any state agency as a result of the  
395 protest if the protest subsequently is determined by a court of  
396 competent jurisdiction to have been filed without any substantial  
397 basis or reasonable expectation to believe that the protest was  
398 meritorious; however, in no event may the amount of the bond  
399 required exceed a reasonable estimate of the total project cost.  
400 The authority, in its discretion, also may prohibit any  
401 prospective bidder, offerer or contractor who is a party to any  
402 litigation involving any such contract with the state, the  
403 authority or any agency of the state to participate in any other  
404 such bid, offer or contract, or to be awarded any such contract,  
405 during the pendency of the litigation.

406           (o) The authority shall make a report in writing to the  
407 Legislature each year in the month of January. Such report shall  
408 contain a full and detailed account of the work of the authority  
409 for the preceding year as specified in Section 25-53-29(3).

410           All acquisitions of computer equipment and services involving  
411 the expenditure of funds in excess of the dollar amount  
412 established in Section 31-7-13(c), or rentals or leases in excess  
413 of the dollar amount established in Section 31-7-13(c) for the  
414 term of the contract, shall be based upon competitive and open

415 specifications, and contracts therefor shall be entered into only  
416 after advertisements for bids are published in one or more daily  
417 newspapers having a general circulation in the state not less than  
418 fourteen (14) days prior to receiving sealed bids therefor. The  
419 authority may reserve the right to reject any or all bids, and if  
420 all bids are rejected, the authority may negotiate a contract  
421 within the limitations of the specifications so long as the terms  
422 of any such negotiated contract are equal to or better than the  
423 comparable terms submitted by the lowest and best bidder, and so  
424 long as the total cost to the State of Mississippi does not exceed  
425 the lowest bid. If the authority accepts one (1) of such bids, it  
426 shall be that which is the lowest and best.

427           (p) When applicable, the authority may procure  
428 equipment, systems and related services in accordance with the law  
429 or regulations, or both, which govern the Bureau of Purchasing of  
430 the Office of General Services or which govern the Mississippi  
431 Department of Information Technology Services procurement of  
432 telecommunications equipment, software and services.

433           (q) The authority is authorized to purchase, lease, or  
434 rent information technology and services for the purpose of  
435 establishing pilot projects to investigate emerging technologies.  
436 These acquisitions shall be limited to new technologies and shall  
437 be limited to an amount set by annual appropriation of the  
438 Legislature. These acquisitions shall be exempt from the  
439 advertising and bidding requirement.

440           (r) All fees collected by the Mississippi Department of  
441 Information Technology Services shall be deposited into the  
442 Mississippi Department of Information Technology Services  
443 Revolving Fund unless otherwise specified by the Legislature.

444           (s) The authority shall work closely with the council  
445 to bring about effective coordination of policies, standards and  
446 procedures relating to procurement of remote sensing and

447 geographic information systems (GIS) resources. In addition, the  
448 authority is responsible for development, operation and  
449 maintenance of a delivery system infrastructure for geographic  
450 information systems data. The authority shall provide a warehouse  
451 for Mississippi's geographic information systems data.

452 (t) The authority shall adopt rules and regulations to  
453 carry out the purposes of Section 4 of Senate Bill No. 2897, 2007  
454 Regular Session.

455 **SECTION 8.** This act shall take effect and be in force from  
456 and after July 1, 2007, and shall repeal on June 30, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 31-5-17, MISSISSIPPI CODE OF 1972, TO  
2 REQUIRE LABOR USED ON PUBLIC WORKS TO BE PERFORMED BY WORKMEN AND  
3 LABORERS WHO ARE LEGAL CITIZENS OF THE UNITED STATES OR LEGAL  
4 ALIENS; TO AMEND SECTION 31-5-19, MISSISSIPPI CODE OF 1972, TO  
5 REQUIRE PUBLIC WORK CONTRACTS TO INCLUDE A PROVISION REQUIRING THE  
6 CONTRACTOR TO BE IN COMPLIANCE WITH FEDERAL AND STATE LAWS; TO  
7 AMEND SECTION 31-5-21, MISSISSIPPI CODE OF 1972, TO REVISE THE  
8 PENALTY FOR VIOLATING SUCH LABOR REQUIREMENTS ON PUBLIC WORKS; TO  
9 CREATE A NEW CODE SECTION TO REQUIRE LABOR USED UNDER PUBLIC  
10 CONTRACTS OF ANY KIND TO BE PERFORMED BY WORKMEN AND LABORERS WHO  
11 ARE LEGAL CITIZENS OF THE UNITED STATES OR LEGAL ALIENS; TO AMEND  
12 SECTIONS 31-7-9, 25-9-120 AND 25-53-5, MISSISSIPPI CODE OF 1972,  
13 TO REQUIRE CERTAIN AGENCIES TO ADOPT RULES AND REGULATIONS TO  
14 CARRY OUT THE PURPOSES OF THIS ACT; AND FOR RELATED PURPOSES.