

By: Senator(s) Collins, Lee

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2553

1 AN ACT TO AMEND SECTION 25-9-120, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE MEMBERSHIP OF THE PERSONAL SERVICE CONTRACT REVIEW
3 BOARD; TO PROHIBIT ANY PERSON, EMPLOYEE OR OWNER OF A COMPANY THAT
4 RECEIVES ANY GRANTS, PROCUREMENTS OR CONTRACTS SUBJECT TO APPROVAL
5 UNDER THIS SECTION FROM BEING APPOINTED TO THE PERSONAL SERVICE
6 CONTRACT REVIEW BOARD; TO REMOVE CERTAIN EXEMPTIONS OF PERSONAL
7 SERVICES CONTRACTS FROM BOARD REVIEW; TO REQUIRE CERTAIN REPORTS
8 TO BE SUBMITTED TO THE CHAIRMEN OF THE ACCOUNTABILITY, EFFICIENCY
9 AND TRANSPARENCY COMMITTEES OF THE SENATE AND HOUSE OF
10 REPRESENTATIVES; TO AUTHORIZE AND DIRECT THE PERSONAL SERVICE
11 CONTRACT REVIEW BOARD TO DEVELOP AND ISSUE REGULATIONS TO DEFINE
12 STANDARDS FOR CONTRACT EMPLOYEES THAT ARE IN CONFORMITY WITH
13 FEDERAL INTERNAL REVENUE SERVICE REGULATIONS; TO REQUIRE CERTAIN
14 RECORDKEEPING FOR ALL SOLE SOURCE PROCUREMENTS FOR PERSONAL AND
15 PROFESSIONAL SERVICES; TO CREATE A NEW SECTION REQUIRING THE PEER
16 COMMITTEE TO EVALUATE ON A BIENNIAL BASIS THE PROCUREMENT PROCESS
17 OF STATE GOVERNMENT AND ITS POLITICAL SUBDIVISIONS; TO AMEND
18 SECTION 25-1-100, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT
19 CONTRACTS FOR PERSONAL AND PROFESSIONAL SERVICES AWARDED OR
20 EXECUTED BY THE DEPARTMENT OF INFORMATION TECHNOLOGY SERVICES AND
21 THE DEPARTMENT OF TRANSPORTATION SHALL NOT BE EXEMPT FROM THE
22 MISSISSIPPI PUBLIC RECORDS ACT; TO AMEND SECTION 26-61-9,
23 MISSISSIPPI CODE OF 1972, TO PROVIDE THAT CERTAIN PROVISIONS OF
24 ALL PROCUREMENT CONTRACTS AWARDED BY STATE AGENCIES SHALL NOT BE
25 DEEMED TO BE A TRADE SECRET OR CONFIDENTIAL INFORMATION UNDER THE
26 MISSISSIPPI PUBLIC RECORDS ACT; TO AMEND SECTIONS 27-104-155 AND
27 27-104-161, MISSISSIPPI CODE OF 1972, TO CLARIFY THAT PERSONAL AND
28 PROFESSIONAL SERVICE CONTRACTS SHALL BE INCLUDED ON THE
29 MISSISSIPPI TRANSPARENCY WEBSITE; TO AMEND SECTIONS 5-8-3 AND
30 5-8-7, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT ANY INDIVIDUAL
31 WHO PERFORMS BOTH CONSULTING AND LOBBYING SERVICES FOR A PUBLIC
32 ENTITY SHALL BE CONSIDERED A LOBBYIST AND SHALL NOT BE EXEMPT FROM
33 ANY LOBBYING LAW; TO BRING FORWARD SECTIONS 5-8-1, 5-8-5, 5-8-9



34 THROUGH 5-8-23, AND 25-53-151, MISSISSIPPI CODE OF 1972, FOR
35 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

37 **SECTION 1.** Section 25-9-120, Mississippi Code of 1972, is
38 amended as follows:

39 25-9-120. (1) Contract personnel, whether classified as
40 contract workers or independent contractors shall not be deemed
41 state service or nonstate service employees of the State of
42 Mississippi, and shall not be eligible to participate in the
43 Public Employees' Retirement System, or the State and School
44 Employee's Health Insurance Plan, nor be allowed credit for
45 personal and sick leave and other leave benefits as employees of
46 the State of Mississippi, notwithstanding Sections 25-3-91 through
47 25-3-101; 25-9-101 through 25-9-151; 25-11-1 through 25-11-126;
48 25-11-128 through 25-11-131; 25-15-1 through 25-15-23 and for the
49 purpose set forth herein. Contract workers, i.e., contract
50 personnel who do not meet the criteria of independent contractors,
51 shall be subject to the provisions of Section 25-11-127.

52 (2) (a) There is hereby created the Personal Service
53 Contract Review Board, which shall be composed of the * * *
54 following members:

55 (i) Three (3) individuals appointed by the
56 Governor with the advice and consent of the Senate, one (1) of
57 whom shall be the State Personnel Director;

58 (ii) Two (2) individuals appointed by the
59 Lieutenant Governor with the advice and consent of the Senate; and



60 (iii) The Executive Director of the Department of
61 Finance and Administration, serving as an ex officio member;

62 (b) When appointing members to the Personal Service
63 Contract Review Board, the Governor and Lieutenant Governor shall
64 take into consideration persons who possess at least five (5)
65 years of management experience in general business, health care,
66 or finance for an organization, corporation, or other public or
67 private entity. All appointed members of the Personal Service
68 Contract Review Board shall serve at the will and pleasure of the
69 appointing officer. Any person, or any employee or owner of a
70 company, who receives any grants, procurements or contracts that
71 are subject to approval under this section shall not be appointed
72 to the Personal Service Contract Review Board. Any person, or any
73 employee or owner of a company, who is a principal of the source
74 providing the personal or professional service shall not be
75 appointed to the Personal Service Contract Review Board if the
76 principal owns or controls a greater than five percent (5%)
77 interest or has an ownership value of One Million Dollars
78 (\$1,000,000.00) in the source's business, whichever is smaller.

79 (c) Members of the Personal Service Contract Review
80 Board shall be entitled to per diem as authorized by Section
81 25-3-69 and travel reimbursement as authorized by Section 25-3-41.

82 (d) The State Personnel Director shall be chairman and
83 shall preside over the meetings of the board. The board shall
84 annually elect a vice chairman, who shall serve in the absence of



85 the chairman. No business shall be transacted, including adoption
86 of rules of procedure, without the presence of a quorum of the
87 board. Three (3) members shall be a quorum. No action shall be
88 valid unless approved by the chairman and two (2) other of those
89 members present and voting, entered upon the minutes of the board
90 and signed by the chairman. Necessary clerical and administrative
91 support for the board shall be provided by the State Personnel
92 Board. Minutes shall be kept of the proceedings of each meeting,
93 copies of which shall be filed on a monthly basis with the * * *
94 Chairmen of the Accountability, Efficiency and Transparency
95 Committees of the Senate and House of Representatives.

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

98 (a) Promulgate rules and regulations governing the
99 solicitation and selection of contractual services personnel
100 including personal and professional services contracts for any
101 form of consulting, policy analysis, public relations, marketing,
102 public affairs, legislative advocacy services or any other
103 contract that the board deems appropriate for oversight, with the
104 exception of any personal service contracts entered into for
105 computer or information technology-related services governed by
106 the Mississippi Department of Information Technology Services, any
107 personal service contracts entered into by the Mississippi
108 Department of Transportation, and any contract for attorney,
109 accountant, auditor, * * * architect, engineer, * * * and utility



110 rate expert services. Any such rules and regulations shall
111 provide for maintaining continuous internal audit covering the
112 activities of such agency affecting its revenue and expenditures
113 as required under Section 7-7-3(6) (d), Mississippi Code of 1972.
114 Any rules and regulation changes related to personal and
115 professional services contracts that may be proposed by the
116 Personal Service Contract Review Board shall be submitted to the
117 Chairmen of the Accountability, Efficiency and Transparency
118 Committees of the Senate and House of Representatives at least
119 fifteen (15) days prior to the board voting on the proposed
120 changes, and such rules and regulation changes, if adopted, shall
121 be promulgated in accordance with the Mississippi Administrative
122 Procedures Act;

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

126 (c) Develop standards with respect to contractual
127 services personnel which require invitations for public bid,
128 requests for proposals, record keeping and financial
129 responsibility of contractors. The Personal Service Contract
130 Review Board may, in its discretion, require the agency involved
131 to advertise such contract for public bid, and may reserve the
132 right to reject any or all bids;

133 (d) Prescribe certain circumstances whereby agency
134 heads may enter into contracts for personal and professional



135 services without receiving prior approval from the Personal
136 Service Contract Review Board. The Personal Service Contract
137 Review Board may establish a preapproved list of providers of
138 various personal and professional services for set prices with
139 which state agencies may contract without bidding or prior
140 approval from the board * * *;

141 (e) To provide standards for the issuance of requests
142 for proposals, the evaluation of proposals received, consideration
143 of costs and quality of services proposed, contract negotiations,
144 the administrative monitoring of contract performance by the
145 agency and successful steps in terminating a contract;

146 (f) To present recommendations for governmental
147 privatization and to evaluate privatization proposals submitted by
148 any state agency;

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

157 (h) To request the State Auditor to conduct a
158 performance audit on any personal or professional service
159 contract;



160 (i) Prepare an annual report to the Legislature
161 concerning the issuance of personal service contracts during the
162 previous year, collecting any necessary information from state
163 agencies in making such report. The Personal Service Contract
164 Review Board shall submit to the Chairmen of the Accountability,
165 Efficiency and Transparency Committees of the Senate and House of
166 Representatives quarterly reports of all sole source contracts
167 awarded by state agencies. Such quarterly reports shall include
168 the documentation and memoranda required in subsection (6) of this
169 section.

170 (4) The Personal Service Contract Review Board is hereby
171 authorized and directed to develop and promulgate rules and
172 regulations to define the allowable legal relationship between
173 contract employees and the contracting departments, agencies and
174 institutions of state government under the jurisdiction of the
175 State Personnel Board, in compliance with the applicable rules and
176 regulations of the federal Internal Revenue Service (IRS) for
177 federal employment tax purposes. Under these regulations, the
178 usual common law rules are applicable to determine and require
179 that such worker is an independent contractor and not an employee,
180 requiring evidence of lawful behavioral control, lawful financial
181 control and lawful relationship of the parties. Any state
182 department, agency or institution shall only be authorized to
183 contract for personnel services in compliance with said
184 regulations.



185 (* * *5) No member of the Personal Service Contract Review
186 Board shall use his official authority or influence to coerce, by
187 threat of discharge from employment, or otherwise, the purchase of
188 commodities or the contracting for personal or professional
189 services under this section.

190 (6) All sole source contracts for personal and professional
191 services awarded by state agencies, whether approved by an agency
192 head or the Personal Service Contract Review Board, shall contain
193 in the procurement file a written determination for the approval,
194 using a request form furnished by the Personal Service Contract
195 Review Board. The written determination shall document the basis
196 for the determination, including any market analysis conducted in
197 order to ensure that the service required was practicably
198 available from only one (1) source. A memorandum shall accompany
199 the request form and address the following four (4) points:

200 (a) Explanation of why this service is the only service
201 that can meet the needs of the purchasing agency;

202 (b) Explanation of why this vendor is the only
203 practicably available source from which to obtain this service;

204 (c) Explanation of why the price is considered
205 reasonable; and

206 (d) Description of the efforts that were made to
207 conduct a noncompetitive negotiation to get the best possible
208 price for the taxpayers.



209 **SECTION 2.** The Joint Committee on Performance Evaluation and
210 Expenditure Review (PEER) shall evaluate on a biennial basis the
211 procurement process utilized by state government and its political
212 subdivisions, including, but not limited to, the contract review,
213 reporting and recordkeeping requirements in Section 25-9-120, and
214 the bid requirements in Section 31-7-13. Upon completion of its
215 evaluation, the PEER Committee shall submit a report to the
216 Legislature with recommendations for improving the procurement
217 process. The Department of Finance and Administration and the
218 Personal Service Contract Review Board shall cooperate with the
219 PEER Committee to carry out the provisions of this section.

220 **SECTION 3.** Section 25-1-100, Mississippi Code of 1972, is
221 amended as follows:

222 25-1-100. (1) Personnel records and applications for
223 employment in the possession of a public body, as defined by
224 paragraph (a) of Section 25-61-3, except those which may be
225 released to the person who made the application or with the prior
226 written consent of the person who made the application, shall be
227 exempt from the provisions of the Mississippi Public Records Act
228 of 1983.

229 (2) Test questions and answers in the possession of a public
230 body, as defined by paragraph (a) of Section 25-61-3, which are to
231 be used in employment examinations, shall be exempt from the
232 provisions of the Mississippi Public Records Act of 1983.



233 (3) Letters of recommendation in the possession of a public
234 body, as defined by paragraph (a) of Section 25-61-3, respecting
235 any application for employment, shall be exempt from the
236 provisions of the Mississippi Public Records Act of 1983.

237 (4) Documents relating to contract authorization under
238 Section 25-9-120 shall not be exempt from the provisions of
239 Mississippi Public Records Act of 1983.

240 (5) Contracts for personal and professional services that
241 are awarded or executed by any state agency, including, but not
242 limited to, the Department of Information Technology Services and
243 the Department of Transportation, shall not be exempt from the
244 Mississippi Public Records Act of 1983.

245 **SECTION 4.** Section 25-61-9, Mississippi Code of 1972, is
246 amended as follows:

247 25-61-9. (1) Records furnished to public bodies by third
248 parties which contain trade secrets or confidential commercial or
249 financial information shall not be subject to inspection,
250 examination, copying or reproduction under this chapter until
251 notice to said third parties has been given, but such records
252 shall be released within a reasonable period of time unless the
253 said third parties shall have obtained a court order protecting
254 such records as confidential.

255 (2) If any public record which is held to be exempt from
256 disclosure pursuant to this chapter contains material which is not
257 exempt pursuant to this chapter, the public body shall separate



258 the exempt material and make the nonexempt material available for
259 examination and/or copying as provided for in this chapter.

260 (3) Trade secrets and confidential commercial and financial
261 information of a proprietary nature developed by a college or
262 university under contract with a firm, business, partnership,
263 association, corporation, individual or other like entity shall
264 not be subject to inspection, examination, copying or reproduction
265 under this chapter.

266 (4) Misappropriation of a trade secret shall be governed by
267 the provisions of the Mississippi Uniform Trade Secrets Act,
268 Sections 75-26-1 through 75-26-19.

269 (5) A waste minimization plan and any updates developed by
270 generators and facility operators under the Mississippi
271 Comprehensive Multimedia Waste Minimization Act of 1990 shall be
272 retained at the facility and shall not be subject to inspection,
273 examination, copying or reproduction under this chapter.

274 (6) Data processing software obtained by an agency under a
275 licensing agreement that prohibits its disclosure and which
276 software is a trade secret, as defined in Section 75-26-3, and
277 data processing software produced by a public body which is
278 sensitive must not be subject to inspection, copying or
279 reproduction under this chapter. As used in this subsection,
280 "sensitive" means only those portions of data processing software,
281 including the specifications and documentation, used to:



282 (a) Collect, process, store, and retrieve information
283 which is exempt under this chapter.

284 (b) Control and direct access authorizations and
285 security measures for automated systems.

286 (c) Collect, process, store, and retrieve information,
287 disclosure of which would require a significant intrusion into the
288 business of the public body.

289 (7) For all procurement contracts awarded by state agencies,
290 the provisions of the contract which contain the commodities
291 purchased or the personal or professional services provided, the
292 price to be paid, and the term of the contract shall not be deemed
293 to be a trade secret or confidential commercial or financial
294 information under this section, and shall be available for
295 examination, copying or reproduction as provided for in this
296 chapter.

297 **SECTION 5.** Section 27-104-155, Mississippi Code of 1972, is
298 amended as follows:

299 27-104-155. (1) The Department of Finance and
300 Administration shall develop and operate a searchable website that
301 includes information on expenditures of state funds from all
302 funding sources. The website shall have a unique and simplified
303 website address, and the department shall require each agency that
304 maintains a generally accessible Internet site or for which a
305 generally accessible Internet site is maintained to include a link



306 on the front page of the agency's Internet site to the searchable
307 website required under this section.

308 (a) With regard to disbursement of funds, the website
309 shall include, but not be limited to:

310 (i) The name and principal location of the entity
311 or recipients of the funds, excluding release of information
312 relating to an individual's place of residence, the identity of
313 recipients of state or federal assistance payments, and any other
314 information deemed confidential by state or federal law relating
315 to privacy rights;

316 (ii) The amount of state funds expended;

317 (iii) A descriptive purpose of the funding action
318 or expenditure;

319 (iv) The funding source of the expenditure;

320 (v) The budget program or activity of the
321 expenditure;

322 (vi) The specific source of authority and
323 descriptive purpose of the expenditure, to include a link to the
324 funding authorization document(s) in a searchable PDF form;

325 (vii) The specific source of authority for the
326 expenditure including, but not limited to, a grant, subgrant,
327 contract, or the general discretion of the agency director,
328 provided that if the authority is a grant, subgrant or contract,
329 the website entry shall include a grant, subgrant or contract
330 number or similar information that clearly identifies the specific



331 source of authority. The information required under this
332 paragraph includes data relative to tax exemptions and credits;
333 (viii) The expending agency;
334 (ix) The type of transaction;
335 (x) The expected performance outcomes achieved for
336 the funding action or expenditure;
337 (xi) Links to any state audit or report relating
338 to the entity or recipient of funds or the budget program or
339 activity or agency; and
340 (xii) Any other information deemed relevant by the
341 Department of Finance and Administration.

342 (b) When the expenditure of state funds involves the
343 expenditure of bond proceeds, the searchable website must include
344 a clear, detailed description of the purpose of the bonds, a
345 current status report on the project or projects being financed by
346 the bonds, and a current status report on the payment of the
347 principal and interest on the bonds.

348 (c) The searchable website must include access to an
349 electronic summary of each grant, including amendments; subgrant,
350 including amendments; contract, including amendments; and payment
351 voucher that includes, wherever possible, a hyperlink to the
352 actual document in a searchable PDF format, subject to the
353 restrictions in paragraph (d) of this section. The Department of
354 Finance and Administration may cooperate with other agencies to
355 accomplish the requirements of this paragraph.



356 (d) Nothing in Sections 27-104-151 through 27-104-159
357 shall permit or require the disclosure of trade secrets or other
358 proprietary information, including confidential vendor
359 information, or any other information that is required to be
360 confidential by state or federal law.

361 (e) The information available from the searchable
362 website must be updated no later than fourteen (14) days after the
363 receipt of data from an agency, and the Department of Finance and
364 Administration shall require each agency to provide to the
365 department access to all data that is required to be accessible
366 from the searchable website within fourteen (14) days of each
367 expenditure, grant award, including amendments; subgrant,
368 including amendments; or contract, including amendments; executed
369 by the agency.

370 (f) The searchable website must include all information
371 required by this section for all transactions that are initiated
372 in fiscal year 2015 or later. In addition, all information that
373 is included on the searchable website from the date of the
374 inception of the website until July 1, 2014, must be maintained on
375 the website according to the requirements of this section before
376 July 1, 2014, and remain accessible for ten (10) years from the
377 date it was originally made available. All data on the searchable
378 website must remain accessible to the public for a minimum of ten
379 (10) years.



380 (g) For the purposes of this subsection (1), the term
381 "contract" includes, but is not limited to, personal and
382 professional services contracts.

383 (2) The Board of Trustees of State Institutions of Higher
384 Learning shall create the IHL Accountability and Transparency
385 website to include its executive office and the institutions of
386 higher learning no later than July 1, 2012. This website shall:

387 (a) Provide access to existing financial reports,
388 financial audits, budgets and other financial documents that are
389 used to allocate, appropriate, spend and account for appropriated
390 funds;

391 (b) Have a unique and simplified website address;

392 (c) Be directly accessible via a link from the main
393 page of the Department of Finance and Administration website, as
394 well as the IHL website and the main page of the website of each
395 institution of higher learning;

396 (d) Include other links, features or functionality that
397 will assist the public in obtaining and reviewing public financial
398 information;

399 (e) Report expenditure information currently available
400 within these enterprise resource planning (ERP) computer systems;
401 and

402 (f) Design the reporting format using the existing
403 capabilities of these ERP computer systems.



404 (3) The Mississippi Community College Board shall create the
405 Community and Junior Colleges Accountability and Transparency
406 website to include its executive office and the community and
407 junior colleges no later than July 1, 2012. This website shall:

408 (a) Provide access to existing financial reports,
409 financial audits, budgets and other financial documents that are
410 used to allocate, appropriate, spend and account for appropriated
411 funds;

412 (b) Have a unique and simplified website address;

413 (c) Be directly accessible via a link from the main
414 page of the Department of Finance and Administration website, as
415 well as the Mississippi Community College Board website and the
416 main page of the website of each community and junior college;

417 (d) Include other links, features or functionality that
418 will assist the public in obtaining and reviewing public financial
419 information;

420 (e) Report expenditure information currently available
421 within the computer system of each community and junior college;
422 and

423 (f) Design the reporting format using the existing
424 capabilities of the computer system of each community and junior
425 college.

426 **SECTION 6.** Section 27-104-161, Mississippi Code of 1972, is
427 amended as follows:



428 27-104-161. No provision of Sections 27-104-151 through
429 27-104-159 shall be construed as conferring upon the Department of
430 Finance and Administration any authority to review, approve or
431 deny any expenditures or contracts entered into by the Legislature
432 or any of its committees, or to impose any requirement on the
433 Legislature or any of its committees to take any action other than
434 to disclose expenditures and contracts entered into on or after
435 July 1, 2011. For the purposes of this section, the term
436 "contract" includes, but is not limited to, personal and
437 professional services contracts.

438 **SECTION 7.** Section 5-8-3, Mississippi Code of 1972, is
439 amended as follows:

440 5-8-3. The following words and phrases shall have the
441 meanings ascribed herein unless the context clearly indicates
442 otherwise:

443 (a) (i) "Anything of value" means:

444 1. A pecuniary item, including money, or a
445 bank bill or note;

446 2. A promissory note, bill of exchange,
447 order, draft, warrant, check or bond given for the payment of
448 money;

449 3. A contract, agreement, promise or other
450 obligation for an advance, conveyance, forgiveness of
451 indebtedness, deposit, distribution, loan, payment, gift, pledge
452 or transfer of money;



- 453 4. A stock, bond, note or other investment
454 interest in an entity;
- 455 5. A receipt given for the payment of money
456 or other property;
- 457 6. A right in action;
- 458 7. A gift, tangible good, chattel or an
459 interest in a gift, tangible good or chattel;
- 460 8. A loan or forgiveness of indebtedness;
- 461 9. A work of art, antique or collectible;
- 462 10. An automobile or other means of personal
463 transportation;
- 464 11. Real property or an interest in real
465 property, including title to realty, a fee simple or partial
466 interest, present or future, contingent or vested within realty, a
467 leasehold interest, or other beneficial interest in realty;
- 468 12. An honorarium or compensation for
469 services;
- 470 13. A rebate or discount in the price of
471 anything of value, unless the rebate or discount is made in the
472 ordinary course of business to a member of the public without
473 regard to that person's status as an executive, legislative or
474 public official or public employee, or the sale or trade of
475 something for reasonable compensation that would ordinarily not be
476 available to a member of the public;
- 477 14. A promise or offer of employment;



478 15. Any other thing of value that is
479 pecuniary or compensatory in value to a person, except as
480 otherwise provided in subparagraph (ii) of this paragraph; or

481 16. A payment that directly benefits an
482 executive, legislative or public official or public employee or a
483 member of that person's immediate family.

484 (ii) "Anything of value" does not mean:

485 1. Informational material such as books,
486 reports, pamphlets, calendars or periodicals informing an
487 executive, legislative or public official or public employee of
488 her or his official duties;

489 2. A certificate, plaque or other
490 commemorative item which has little pecuniary value;

491 3. Food and beverages for immediate
492 consumption provided by a lobbyist up to a value of Ten Dollars
493 (\$10.00) in the aggregate during any calendar year;

494 4. Campaign contributions reported in
495 accordance with Section 23-15-801 et seq., Mississippi Code of
496 1972.

497 (b) "Commission" means the Mississippi Ethics
498 Commission, when used in the context of Section 5-8-19.

499 (c) "Compensation" means:

500 (i) An advance, conveyance, forgiveness of
501 indebtedness, deposit, distribution, loan, payment, gift, pledge



502 or transfer of money or anything of value, including reimbursement
503 of travel, food or lodging costs; or

504 (ii) A contract, agreement, promise or other
505 obligation for an advance, conveyance, forgiveness of
506 indebtedness, deposit, distribution, loan, payment, gift, pledge
507 or transfer of money or anything of value, including reimbursement
508 of travel, food or lodging costs, for services rendered or to be
509 rendered.

510 (d) "Executive action" means the proposal, drafting,
511 development, consideration, amendment, adoption, approval,
512 promulgation, issuance, modification, rejection or postponement by
513 a state or local governmental entity of a rule, regulation, order,
514 decision, determination or other quasi-legislative action or
515 proceeding.

516 (e) "Executive agency" means:

517 (i) An agency, board, commission, governing
518 authority or other body in the executive branch of state or local
519 government; or

520 (ii) An independent body of state or local
521 government that is not a part of the legislative or judicial
522 branch, but which shall include county boards of supervisors.

523 (f) "Executive official" means:

524 (i) A member or employee of a state agency, board,
525 commission, governing authority or other body in the executive
526 branch of state or local government; or



527 (ii) A public official or public employee, or any
528 employee of such person, of state or local government who takes an
529 executive action.

530 (g) "Expenditure" means:

531 (i) A purchase, payment, distribution, loan,
532 forgiveness of a loan or payment of a loan by a third party,
533 advance, deposit, transfer of funds, a promise to make a payment,
534 or a gift of money or anything of value for any purpose;

535 (ii) A payment to a lobbyist for salary, fee,
536 commission, compensation for expenses, or other purpose by a
537 person employing, retaining or contracting for the services of the
538 lobbyist separately or jointly with other persons;

539 (iii) A payment in support of or assistance to a
540 lobbyist or the lobbyist's activities, including the direct
541 payment of expenses incurred at the request or suggestion of the
542 lobbyist;

543 (iv) A payment that directly benefits an
544 executive, legislative or public official or a member of the
545 official's immediate family;

546 (v) A payment, including compensation, payment or
547 reimbursement for the services, time or expenses of an employee
548 for or in connection with direct communication with an executive,
549 legislative or public official made at the direction of the
550 employee's employer;



551 (vi) A payment for or in connection with
552 soliciting or urging other persons to enter into direct
553 communication with an executive, legislative or public official;
554 or

555 (vii) A payment or reimbursement for food,
556 beverages, travel, lodging, entertainment or sporting activities.

557 (h) "Gift" means anything of value to the extent that
558 consideration of equal or greater value is not received, including
559 a rebate or discount in the price of anything of value unless the
560 rebate or discount is made in the ordinary course of business to a
561 member of the public without regard to that person's status as an
562 executive, legislative or public official.

563 (i) "Legislative action" means:

564 (i) Preparation, research, drafting, introduction,
565 consideration, modification, amendment, approval, passage,
566 enactment, tabling, postponement, defeat or rejection of a bill,
567 resolution, amendment, motion, report, nomination, appointment or
568 other matter by the Mississippi State Legislature or a member or
569 employee of the Legislature acting or purporting to act in an
570 official capacity;

571 (ii) Action by the Governor in approving or
572 vetoing a bill or other action of the Legislature;

573 (iii) Action by the Legislature in:

574 1. Overriding or sustaining a veto by the
575 Governor; or



576 2. Considering, confirming or rejecting an
577 executive appointment of the Governor.

578 (j) "Legislative official" means:

579 (i) A member, member-elect or presiding officer of
580 the Legislature;

581 (ii) A member of a commission or other entity
582 established by and responsible to either or both houses of the
583 Legislature;

584 (iii) A staff member, officer or employee to a
585 member or member-elect of the Legislature, to a member of a
586 commission or other entity established by and responsible to
587 either or both houses of the Legislature, or to the Legislature or
588 any house, committee or office thereof.

589 (k) "Lobbying" means:

590 (i) Influencing or attempting to influence
591 legislative or executive action through oral or written
592 communication; or

593 (ii) Solicitation of others to influence
594 legislative or executive action; or

595 (iii) Paying or promising to pay anything of value
596 directly or indirectly related to legislative or executive action.

597 (l) "Lobbyist" means:

598 (i) An individual who is employed and receives
599 payments, or who contracts for economic consideration, including



600 reimbursement for reasonable travel and living expenses, for the
601 purpose of lobbying;

602 (ii) An individual who represents a legislative or
603 public official or public employee, or who represents a person,
604 organization, association or other group, for the purpose of
605 lobbying; * * *

606 (iii) A sole proprietor, owner, part owner or
607 shareholder in a business who has a pecuniary interest in
608 legislative or executive action, who engages in lobbying
609 activities * * *; or

610 (iv) Any individual described in subparagraphs
611 (i), (ii) or (iii) of this paragraph (1) who is employed by or has
612 contracted with any agency, legislative or public official or
613 public employee, or any other public entity for the purpose of
614 providing any type of consulting or other similar service but also
615 engages in any type of lobbying activities. Such individual shall
616 not qualify for any exemption under Section 5-8-7.

617 (m) "Lobbyist's client" means the person in whose
618 behalf the lobbyist influences or attempts to influence
619 legislative or executive action.

620 (n) "Local" means all entities of government at the
621 county, county-district, multicounty district, municipal or school
622 district level.

623 (o) "Person" means an individual, proprietorship, firm,
624 partnership, joint venture, joint-stock company, syndicate,



625 business trust, estate, company, corporation, association, club,
626 committee, organization or group of persons acting in concert.

627 (p) "Public employee" means an individual appointed to
628 a position, including a position created by statute, whether
629 compensated or not, in state or local government and includes any
630 employee of the public employee. The term includes a member of
631 the board of trustees, chancellor, Vice-Chancellor or the
632 equivalent thereof in the state university system or the state
633 community and junior college system, and a president of a state
634 college or university.

635 (q) "Public official" means an individual elected to a
636 state or local office, or an individual who is appointed to fill a
637 vacancy in the office.

638 (r) "Value" means the retail cost or fair market worth
639 of an item or items, whichever is greater.

640 **SECTION 8.** Section 5-8-7, Mississippi Code of 1972, is
641 amended as follows:

642 5-8-7. Notwithstanding any other provisions of this chapter,
643 except as otherwise provided in Section 5-8-3(1)(iv), the
644 following person shall not be included within the definition of
645 "lobbyist" or "lobbyist's client" under this chapter, and
646 accordingly the registration and reporting provisions, including
647 the payment of related fees, of this chapter do not apply to:

648 (a) A legislative or public official acting in an
649 official capacity.



650 (b) An individual who:

651 (i) Represents or purports to represent only the

652 individual;

653 (ii) Receives no compensation or anything of value

654 for lobbying; and

655 (iii) Has no pecuniary interest in the legislative

656 or executive action.

657 (c) An individual lobbying in his or her own interest,

658 his or her own business interest, who pays, or promises to pay,

659 offers to pay or causes to be paid to public officials,

660 legislative officials or public employees any thing or things of

661 value aggregating in value to less than Two Hundred Dollars

662 (\$200.00) in any calendar year.

663 (d) An individual lobbying on behalf of his or her

664 employer's business interest where such lobbying is not a primary

665 or regular function of his employment position if such individual

666 pays, promises to pay, offers to pay, or causes to be paid

667 individually or on the employer's behalf to public officials,

668 legislative officials, or public employees any thing or things of

669 value aggregating in value to less than Two Hundred Dollars

670 (\$200.00) in any calendar year.

671 (e) An individual lobbying on behalf of an association

672 of which he or she is a member, where such lobbying is not a

673 primary or regular function of his or her position in the

674 association, if such individual pays, promises to pay, offers to



675 pay, or causes to be paid individually or on the association's
676 behalf to public officials, legislative officials or public
677 employees any thing or things of value aggregating in value to
678 less than Two Hundred Dollars (\$200.00) in any calendar year.

679 (f) An individual who is a shareholder, owner or part
680 owner of a business who lobbies on behalf of such business, where
681 such individual is not an employee of the business, if such
682 individual pays, promises to pay, offers to pay, or causes to be
683 paid individually or on behalf of the business to public
684 officials, legislative officials or public employees any thing or
685 things of value aggregating in value to less than Two Hundred
686 Dollars (\$200.00) in any calendar year.

687 (g) An individual who:

688 (i) Limits lobbying solely to formal testimony
689 before a public meeting of a legislative body or an executive
690 agency, or a committee, division or department thereof; and

691 (ii) Registers the appearance in the records of
692 the public body, if such records are kept.

693 (h) An individual who is a licensed attorney
694 representing a client by:

695 (i) Drafting bills, preparing arguments thereon,
696 and advising the client or rendering opinions as to the
697 construction and effect of proposed or pending legislation, where
698 such services are usual and customary professional legal services
699 which are not otherwise connected with legislative action; or



700 (ii) Providing information, on behalf of the
701 client, to an executive or public official, a public employee, or
702 an agency, board, commission, governing authority or other body of
703 state or local government where such services are usual and
704 customary professional legal services including or related to a
705 particular nonlegislative matter, case or controversy.

706 (i) News media and employees of the news media whose
707 activity is limited solely to the publication or broadcast of
708 news, editorial comments, or paid advertisements that attempt to
709 influence legislative or executive action. For the purposes of
710 this section, "news media" shall be construed to be bona fide
711 radio and television stations, newspapers, journals or magazines,
712 or bona fide news bureaus or associations which in turn furnish
713 information solely to bona fide radio or television stations,
714 newspapers, journals or magazines.

715 (j) An individual who engages in lobbying activities
716 exclusively on behalf of a religious organization which qualifies
717 as a tax-exempt organization under the Internal Revenue Code.

718 (k) An individual who is a nonattorney professional and
719 who receives professional fees and expenses to represent clients
720 on executive agency matters, except that if anything of value
721 shall be paid or promised to be paid directly or indirectly on
722 behalf of a client for the personal use or benefit of an executive
723 or public official or public employee, then expenditures and



724 actions of the individual are reportable under this chapter, and
725 the individual must register as a lobbyist.

726 **SECTION 9.** Section 5-8-1, Mississippi Code of 1972, is
727 brought forward as follows:

728 5-8-1. This chapter shall be cited as the "Lobbying Law
729 Reform Act of 1994."

730 **SECTION 10.** Section 5-8-5, Mississippi Code of 1972, is
731 brought forward as follows:

732 5-8-5. (1) Except as otherwise provided in Section 5-8-7 of
733 this chapter and in addition to reports required by Sections 5-8-9
734 and 5-8-11 of this chapter, every lobbyist and every lobbyist's
735 client shall file a registration statement with the Secretary of
736 State within five (5) calendar days after becoming a lobbyist,
737 becoming a lobbyist's client or beginning to lobby for a new
738 client. The filing of every registration statement shall be
739 accompanied by the payment of a registration fee of Twenty-five
740 Dollars (\$25.00) to the Secretary of State. The lobbyist shall
741 file the registration statement and pay the fees to the Secretary
742 of State for each lobbyist's client whom the lobbyist represents.

743 (2) The registration statement shall include the following:

744 (a) The name, address, occupation and telephone number
745 of the lobbyist;

746 (b) The name, address, telephone number and principal
747 place of business of the lobbyist's client;

748 (c) The kind of business of the lobbyist's client;



749 (d) The full name of the person or persons who control
750 the lobbyist's client, the partners, if any, and officers of the
751 lobbyist's client;

752 (e) The full name, address and telephone number of each
753 lobbyist employed by or representing the lobbyist's client; and

754 (f) A statement or statements by the lobbyist and
755 lobbyist's client indicating the specific nature of the issues
756 being advocated for or against on behalf of the lobbyist's client,
757 with sufficient detail so that the precise nature of the
758 lobbyist's advocacy is evident from the statement itself.

759 (3) Registration shall be valid for one (1) calendar year,
760 commencing January 1 and ending December 31 of each year. If the
761 lobbyist or lobbyist's client shall register after January 1, the
762 registration shall be effective upon actual receipt by the
763 Secretary of State and shall cease on December 31 of each year.

764 (4) A lobbyist or lobbyist's client may terminate his
765 registration by filing an expenditure report required under this
766 chapter. Such report shall include information through the last
767 day of lobbying activity. The termination report must indicate
768 that the lobbyist intends to use the report as the final
769 accounting of lobbying activity.

770 (5) The Secretary of State shall prescribe and make
771 available to every lobbyist and lobbyist's client appropriate
772 forms for filing registration statements as required by Sections
773 5-8-1 through 5-8-19 of this chapter.



774 **SECTION 11.** Section 5-8-9, Mississippi Code of 1972, is
775 brought forward as follows:

776 5-8-9. (1) Except as otherwise provided in Section 5-8-7 of
777 this chapter and in subsection (7) of this section, no later than
778 January 30 of each year, a lobbyist's client shall file a report
779 of expenditures with the Secretary of State. The report must
780 contain information on all expenditures paid by the lobbyist's
781 client during the preceding twelve (12) calendar months.

782 (2) The report must list expenditures for the purpose of
783 lobbying according to the following categories:

784 (a) A payment to a lobbyist for salary, fee,
785 compensation for expenses, or other purpose by a person employing,
786 retaining or contracting for the services of the lobbyist
787 separately or jointly with other persons;

788 (b) A payment for those portions of office rent,
789 utilities, supplies and compensation of support personnel
790 attributable to lobbying activities;

791 (c) A payment in support of or assistance to a lobbyist
792 or the lobbyist's activities, including the direct payment of
793 expenses incurred at the request or suggestion of the lobbyist;

794 (d) A payment, including compensation, payment or
795 reimbursement for the services, time or expenses of an employee
796 for or in connection with direct communication with an executive,
797 legislative or public official or public employee, where such



798 communication is made at the request, suggestion or direction of
799 the lobbyist's client;

800 (e) A payment for or in connection with soliciting or
801 urging other persons to enter into direct communication with an
802 executive, legislative or public official or public employee,
803 where such communication is made at the request, suggestion or
804 direction of the lobbyist's client;

805 (f) A payment or reimbursement for food, beverages,
806 travel, lodging, entertainment or sporting activities; or

807 (g) A purchase, payment, distribution, loan,
808 forgiveness of a loan or payment of a loan by a third party,
809 advance, deposit, transfer of funds, a promise to make a payment,
810 or a gift of money or anything of value for any purpose.

811 (3) For each executive, legislative or public official or
812 public employee who was paid, given or promised to be paid
813 anything of value in full or in part from the lobbyist's client,
814 the report must also include:

815 (a) The name of the executive, legislative or public
816 official or public employee who was paid, given or promised
817 anything of value;

818 (b) A description and the monetary value of anything of
819 value paid, given or promised to such official or employee, with
820 sufficient detail so that the nature of the transfer is clear;

821 (c) The place and date anything of value was paid,
822 given or promised; and



823 (d) The name of the person who paid, gave or promised
824 to pay anything of value.

825 (4) Each expenditure for the purpose of lobbying must be
826 reported in accordance with the category of the expenditure
827 required in this section and with any additional categories as may
828 be required by rule or regulation of the Secretary of State.

829 (5) The report due January 30 shall include a cumulative
830 total for the calendar year for all reportable categories.

831 (6) A lobbyist's client shall maintain contemporaneous
832 records of all expenditures reportable under Sections 5-8-1
833 through 5-8-19 of this chapter and shall retain such records for a
834 period of two (2) years.

835 (7) If the State of Mississippi is a lobbyist's client, the
836 State of Mississippi shall be exempt from filing an annual report.

837 (8) (a) If the entire Legislature and all statewide elected
838 officials are individually invited to a single function, which is
839 sponsored by a lobbyist's client, or a lobbyist on behalf of such
840 client, and is to begin and end within one (1) day, then it shall
841 not be necessary to report the costs related to food and beverages
842 offered for immediate consumption required in subsection (3) of
843 this section, so long as food and beverages provided at such
844 functions are offered equally to all invitees; however, in all
845 such cases, the amount expended for such functions shall be
846 reported in accordance with the provisions of this subsection.



847 (b) The report of the expenditure connected with a
848 single function as described in paragraph (a) of this subsection
849 shall be made by the lobbyist's client and shall include the
850 following:

851 (i) The total amount of money expended for the
852 function;

853 (ii) The estimated total number of persons in
854 attendance at the function;

855 (iii) The estimated total number of public
856 officials in attendance at the function.

857 **SECTION 12.** Section 5-8-11, Mississippi Code of 1972, is
858 brought forward as follows:

859 5-8-11. (1) Except as otherwise provided in Section 5-8-7
860 of this chapter, a lobbyist shall file with the Secretary of State
861 a separate report for each lobbyist's client. The report shall
862 specifically list all payments received from the lobbyist's client
863 and all expenditures that were initiated or paid by the lobbyist
864 on behalf of each lobbyist's client during each reporting period
865 required herein.

866 (2) The report must list expenditures for the purpose of
867 lobbying according to the following categories:

868 (a) A payment to the lobbyist for salary, fee,
869 compensation for expenses, or other purpose by the person
870 employing, retaining or contracting for the services of the
871 lobbyist separately or jointly with other persons;



872 (b) A payment for those portions of office rent,
873 utilities, supplies and compensation of support personnel
874 attributable to lobbying activities;

875 (c) A payment in support of or assistance to a lobbyist
876 or the lobbyist's activities, including the direct payment of
877 expenses incurred at the request or suggestion of the lobbyist;

878 (d) A payment, including compensation, payment or
879 reimbursement for the services, time or expenses of an employee
880 for or in connection with direct communication with an executive,
881 legislative or public official or public employee, where such
882 communication is made at the request, suggestion or direction of
883 the lobbyist;

884 (e) A payment for or in connection with soliciting or
885 urging other persons to enter into direct communication with an
886 executive, legislative or public official or public employee,
887 where such communication is made at the request, suggestion or
888 direction of the lobbyist;

889 (f) A payment or reimbursement for food, beverages,
890 travel, lodging, entertainment or sporting activities;

891 (g) A purchase, payment, distribution, loan, or
892 forgiveness of a loan or payment of a loan by a third party,
893 advance, deposit, transfer of funds, a promise to make a payment,
894 or a gift of money or anything of value for any purpose.

895 (3) For each executive, legislative or public official or
896 public employee who was paid, given or promised to be paid



897 anything of value in full or in part from the lobbyist, the report
898 must also include:

899 (a) The name of the executive, legislative or public
900 official or employee who was paid, given or promised anything of
901 value;

902 (b) A description and the monetary value of anything of
903 value paid, given or promised to such official or employee, with
904 sufficient detail so that the nature of the transfer is clear;

905 (c) The place and date anything of value was paid,
906 given or promised; and

907 (d) The name of the person who paid, gave or promised
908 to pay anything of value.

909 (4) Each expenditure for the purpose of lobbying must be
910 reported in accordance with the category of the expenditure
911 required in this section and with any additional categories as may
912 be required by rule or regulation of the Secretary of State.

913 (5) A report of expenditures must be filed with the
914 Secretary of State no later than January 30 of each year. The
915 report shall contain information on all expenditures paid or
916 initiated by the lobbyist on behalf of each lobbyist's client
917 during the preceding twelve (12) calendar months, and it shall
918 include a cumulative total for the calendar year of all reportable
919 categories.

920 (6) In addition to the annual report required above, a
921 lobbyist shall file two (2) reports during regular sessions of the



922 Legislature with the Secretary of State on February 25 and within
923 ten (10) days after the Legislature's adjournment sine die. Such
924 additional report shall include the name of the executive,
925 legislative, or public official or public employee who receives
926 anything of value from the lobbyist or from the lobbyist on behalf
927 of the lobbyist's client, the name of the person receiving the
928 payment, the name of the person making the payment, the amount of
929 the payment and the date of the payment. However, any lobbyist
930 who lobbies local government exclusively shall be exempt from the
931 requirement of filing the reports required by this paragraph.

932 (7) (a) If the entire Legislature and all statewide elected
933 officials are individually invited to a single function which is
934 sponsored by a lobbyist on behalf of one or more lobbyist's
935 clients and is to begin and end within one (1) day, then it shall
936 not be necessary to report the costs related to food and beverages
937 offered for immediate consumption as required in subsection (3) of
938 this section, so long as food and beverages provided at such
939 functions are offered equally to all invitees; however, in all
940 such cases, the amount expended for such functions shall be
941 reported in accordance with the provisions of this subsection.

942 (b) The report of the expenditure connected with a
943 single function as described in paragraph (a) of this subsection
944 shall be made by the lobbyist and shall include the following:

945 (i) The total amount of money expended for the
946 function, reception or meal;



947 (ii) The total number of persons in attendance at
948 the function, reception or meal;

949 (iii) The total number of legislators in
950 attendance at the function, reception or meal.

951 (8) A lobbyist shall maintain contemporaneous records of all
952 expenditures reportable under Sections 5-8-1 through 5-8-19 of
953 this chapter, and shall retain such records for a period of two
954 (2) years.

955 **SECTION 13.** Section 5-8-13, Mississippi Code of 1972, is
956 brought forward as follows:

957 5-8-13. (1) A lobbyist shall not contract to receive or
958 accept compensation dependent upon the success or failure of a
959 legislative or executive action.

960 (2) A lobbyist or lobbyist's client shall not knowingly or
961 willfully make or cause to be made a false statement or
962 misrepresentation of facts to an executive, legislative or public
963 official or public employee, or to the public in general with the
964 intent to affect the outcome of a legislative or executive action.

965 (3) A lobbyist or lobbyist's client shall not cause a
966 legislative or executive action for the purpose of obtaining
967 employment to lobby in support of or in opposition to the
968 legislative or executive action.

969 (4) An executive, legislative or public official or public
970 employee shall not be a lobbyist, except that he may act as a
971 lobbyist when acting in his official capacity.



972 (5) A lobbyist must disclose anything of value given in
973 whole or in part to any executive, legislative or public official
974 or public employee.

975 **SECTION 14.** Section 5-8-15, Mississippi Code of 1972, is
976 brought forward as follows:

977 5-8-15. (1) The district attorney of the circuit court of
978 the district wherein an alleged violation occurred shall
979 investigate violations of this chapter.

980 (2) In addition to a district attorney's authority as set
981 forth in subsection (1) of this section, the Attorney General
982 shall investigate alleged violations of this chapter and use all
983 existing powers granted that office in conducting such
984 investigations.

985 **SECTION 15.** Section 5-8-17, Mississippi Code of 1972, is
986 brought forward as follows:

987 5-8-17. (1) In addition to any other penalty permitted by
988 law, the Secretary of State shall require any person who fails to
989 file a report as required under Sections 5-8-1 through 5-8-19 of
990 this chapter, or who shall file a report which fails to comply
991 with the material particulars of Sections 5-8-1 through 5-8-19 of
992 this chapter or any rules, regulations or procedures implemented
993 pursuant to Sections 5-8-1 through 5-8-19 of this chapter, to be
994 assessed a civil penalty as follows:

995 (a) Within five (5) calendar days after any deadline
996 for filing a report pursuant to Sections 5-8-1 through 5-8-19 of



997 this chapter, the Secretary of State shall compile a list of those
998 lobbyists and lobbyists' clients who have failed to file a
999 required report. The Secretary of State shall provide each
1000 lobbyist or lobbyist's client who has failed to file such a report
1001 notice of such failure by certified mail.

1002 (b) Beginning with the tenth calendar day after which
1003 any report shall be due, the Secretary of State shall assess the
1004 delinquent lobbyist and delinquent lobbyist's client a civil
1005 penalty of Fifty Dollars (\$50.00) per day and part of any day
1006 until a valid report is delivered to the Secretary of State, up to
1007 a maximum of ten (10) days. However, in the discretion of the
1008 Secretary of State, the assessing of such fine may be waived if
1009 the Secretary of State shall determine that unforeseeable
1010 mitigating circumstances, such as the health of the lobbyist,
1011 shall interfere with timely filing of a required report.

1012 (c) Filing of the required report and payment of the
1013 fine within ten (10) calendar days of notice by the Secretary of
1014 State that a required statement has not been filed constitutes
1015 compliance with Sections 5-8-1 through 5-8-19 of this chapter.

1016 (d) Payment of the fine without filing the required
1017 report does not in any way excuse or exempt any person required to
1018 file from the filing requirements of Sections 5-8-1 through 5-8-19
1019 of this chapter.

1020 (2) (a) Upon the sworn application of a lobbyist or
1021 lobbyist's client against whom a civil penalty has been assessed



1022 pursuant to subsection (1), the Secretary of State shall forward
1023 the application to the Mississippi Ethics Commission. The
1024 commission shall fix a time and place for a hearing and shall
1025 cause a written notice specifying the civil penalties that have
1026 been assessed against the lobbyist or lobbyist's client and notice
1027 of the time and place of the hearing to be served upon the
1028 lobbyist or lobbyist's client at least twenty (20) calendar days
1029 prior to the hearing date. Such notice may be served by mailing a
1030 copy thereof by certified mail, postage prepaid, to the last known
1031 business address of the lobbyist or lobbyist's client.

1032 (b) The commission is authorized to issue subpoenas for
1033 the attendance of witnesses and the production of books and papers
1034 at such hearing. Process issued by the commission shall extend to
1035 all parts of the state and shall be served by any person
1036 designated by the commission for such service.

1037 (c) The lobbyist or lobbyist's client shall have the
1038 right to appear either personally or by counsel, or both, to
1039 produce witnesses or evidence in his behalf, to cross-examine
1040 witnesses and to have subpoenas issued by the commission.

1041 (d) A hearing officer shall be appointed by the
1042 commission to conduct the hearing. At the hearing, the hearing
1043 officer shall administer oaths as may be necessary for the proper
1044 conduct of the hearing. All hearings shall be conducted by the
1045 commission, who shall not be bound by strict rules of procedure or
1046 by the laws of evidence in the conduct of the proceedings, but the



1047 determination shall be based upon sufficient evidence to sustain
1048 it.

1049 (e) Where, in any proceeding before the commission, any
1050 witness fails or refuses to attend upon a subpoena issued by the
1051 commission, refuses to testify, or refuses to produce any books
1052 and papers the production of which is called for by a subpoena,
1053 the attendance of such witness, the giving of his testimony or the
1054 production of the books and papers shall be enforced by any court
1055 of competent jurisdiction of this state in the manner provided for
1056 the enforcement of attendance and testimony of witnesses in civil
1057 cases in the courts of this state.

1058 (f) Within fifteen (15) calendar days after conclusion
1059 of the hearing, the commission shall reduce its decision to
1060 writing and forward an attested true copy thereof to the last
1061 known business address of the lobbyist or lobbyist's client by way
1062 of United States first-class, certified mail, postage prepaid.

1063 (3) (a) The right to appeal from the decision of the
1064 commission in an administrative hearing concerning the assessment
1065 of civil penalties authorized pursuant to this section is hereby
1066 granted. Such appeal shall be to the Circuit Court of Hinds
1067 County and shall include a verbatim transcript of the testimony at
1068 the hearing. The appeal shall be taken within thirty (30)
1069 calendar days after notice of the decision of the commission
1070 following an administrative hearing. The appeal shall be
1071 perfected upon filing notice of the appeal and by the prepayment



1072 of all costs, including the cost of the preparation of the record
1073 of the proceedings by the commission, and the filing of a bond in
1074 the sum of Two Hundred Dollars (\$200.00), conditioned that if the
1075 decision of the commission be affirmed by the court, the lobbyist
1076 or lobbyist's client will pay the costs of the appeal and the
1077 action in court. If the decision is reversed by the court, the
1078 Secretary of State will pay the costs of the appeal and the action
1079 in court.

1080 (b) If there is an appeal, such appeal shall act as a
1081 supersedeas. The court shall dispose of the appeal and enter its
1082 decision promptly. The hearing on the appeal may be tried in
1083 vacation, in the court's discretion. The scope of review of the
1084 court shall be limited to a review of the record made before the
1085 commission to determine if the action of the commission is
1086 unlawful for the reason that it was (i) not supported by
1087 substantial evidence, (ii) arbitrary or capricious, (iii) beyond
1088 the power of the commission to make, or (iv) in violation of some
1089 statutory or constitutional right of the appellant. The decision
1090 of the court may be appealed to the Supreme Court in the manner
1091 provided by law.

1092 (4) If, after forty-five (45) calendar days of the date of
1093 the administrative hearing procedure set forth in subsection (2),
1094 the lobbyist or lobbyist's client shall not file a valid report as
1095 required by law, the commission shall notify the Attorney General



1096 of the delinquency. The Attorney General shall investigate said
1097 offense in accordance with the provisions of this chapter.

1098 **SECTION 16.** Section 5-8-19, Mississippi Code of 1972, is
1099 brought forward as follows:

1100 5-8-19. The Secretary of State shall:

1101 (a) Provide forms for registration and for statements
1102 required by Sections 5-8-1 through 5-8-19 of this chapter to all
1103 persons required to file.

1104 (b) Issue a certificate of registration to a lobbyist
1105 registered under the provisions of Sections 5-8-1 through 5-8-19
1106 of this chapter.

1107 (c) Make all statements and reports filed available for
1108 public inspection and copying, at a reasonable cost, during
1109 regular office hours.

1110 (d) Publish an annual report summarizing the financial
1111 activities of lobbyists and lobbyists' clients, and such annual
1112 report shall not include amounts reported pursuant to Sections
1113 5-8-9(8) and 5-8-11(7) for single functions in the calculation of
1114 the cumulative total amount of money expended for lobbying
1115 purposes.

1116 **SECTION 17.** Section 5-8-21, Mississippi Code of 1972, is
1117 brought forward as follows:

1118 5-8-21. Any person who, with intent, violates any of the
1119 provisions of this chapter whether acting either individually or
1120 as an officer, agent, employee, or counsel of a person, firm,



1121 corporation or association, or any person whether acting
1122 individually or as the officer, employee, agent or counsel of a
1123 firm, corporation or association, who, with intent, causes or
1124 participates, either directly or indirectly, in any violation of
1125 the provisions of this chapter shall upon conviction for the first
1126 offense be fined not more than One Thousand Dollars (\$1,000.00) or
1127 imprisoned in the county jail not more than six (6) months or both
1128 and upon conviction for a second or any subsequent offense be
1129 fined not more than Five Thousand Dollars (\$5,000.00) or
1130 imprisoned in the Penitentiary not more than three (3) years or
1131 both. Any association or corporation which, with intent,
1132 violates, or causes or participates, either directly or
1133 indirectly, in any violation of any of the provisions of this
1134 chapter shall, for each offense, upon conviction, be fined not
1135 more than Five Thousand Dollars (\$5,000.00). The prosecution or
1136 conviction of one or more of the officers or employees of such
1137 corporation or association shall not be a bar to the prosecution
1138 and conviction of the corporation or association for such offense.

1139 **SECTION 18.** Section 5-8-23, Mississippi Code of 1972, is
1140 brought forward as follows:

1141 5-8-23. If any section, paragraph, sentence, clause, phrase
1142 or any part of this chapter passed hereafter is declared to be
1143 unconstitutional or void, or if for any reason is declared to be
1144 invalid or of no effect, the remaining sections, paragraphs,



1145 sentences, clauses, phrases or parts thereof shall be in no manner
1146 affected thereby but shall remain in full force and effect.

1147 **SECTION 19.** Section 25-53-151, Mississippi Code of 1972, is
1148 brought forward as follows:

1149 25-53-151. (1) There is established in the State Treasury
1150 the "Electronic Government Services Fund," into which shall be
1151 deposited specific funds appropriated by the Legislature for
1152 developing and providing electronic government services within the
1153 State of Mississippi. Any funds in the Electronic Government
1154 Services Fund at the end of a fiscal year shall not lapse into the
1155 State General Fund, but shall be available for expenditure in the
1156 subsequent fiscal year. The funds in the Electronic Government
1157 Fund shall be available for expenditure pursuant to specific
1158 appropriation by the Legislature beginning in fiscal year 2002, to
1159 the Mississippi Department of Information Technology Services.

1160 (2) There is hereby established an Electronic Government
1161 Oversight Committee to oversee the implementation of E-Government
1162 and related technology initiatives. Duties of this committee
1163 would include: (a) prioritize and make recommendations for all
1164 electronic government services, in order to cut across state and
1165 local governmental organizational structures; (b) address policy
1166 issues such as privacy, security, transaction fees and
1167 accessibility; (c) review ongoing fiscal and operational
1168 management and support of portal; (d) provide a mechanism for
1169 gathering input from citizens, businesses and government entities;



1170 (e) encourage self-service models for citizens through state
1171 websites and other electronic services; and (f) promote economic
1172 development and efficient delivery of government services by
1173 encouraging governmental and private sector entities to conduct
1174 their business and transactions using electronic media. The
1175 Electronic Government Oversight Committee shall be composed of the
1176 following: (a) the Executive Director of the Mississippi
1177 Department of Information Technology Services, or his designee;
1178 (b) the State Auditor, or his designee; (c) the State Treasurer,
1179 or his designee; (d) the Secretary of State, or his designee; (e)
1180 the Executive Director of the Department of Finance and
1181 Administration, or his designee; (f) the Commissioner of Public
1182 Safety, or his designee; (g) the Commissioner of Revenue, or his
1183 designee. The committee shall annually elect one (1) member to
1184 serve as chairman and one (1) member to serve as vice chairman,
1185 who shall act as chairman in the absence of the chairman. The
1186 committee shall meet monthly or upon the call of the chairman, and
1187 shall make necessary reports and recommendations to the
1188 Legislature and the appropriate agencies of state government. All
1189 agencies of state government shall cooperate with the committee in
1190 providing requested information, shall work closely with and
1191 provide information to the committee and shall report to the
1192 committee at its request. The Mississippi Department of
1193 Information Technology Services shall provide administrative



1194 support for the committee. Nonlegislative members of the
1195 committee shall serve without compensation.

1196 (3) The Electronic Government Oversight Committee shall
1197 advise and provide direction to the Department of Finance and
1198 Administration to develop a procurement portal that will enable
1199 potential vendors of goods and services to access relevant and
1200 necessary information related to the sale of the following types
1201 of goods and services to the State of Mississippi and its
1202 agencies:

1203 (a) Commodities, as defined by Section 31-7-1;

1204 (b) Contract personnel, as defined by Sections 25-9-107
1205 and 25-9-120; and

1206 (c) Computer equipment and services, as defined by
1207 Section 25-53-3.

1208 (4) The procurement portal provided for in subsection (3)
1209 must provide potential vendors with the following:

1210 (a) A searchable database of business procurement
1211 opportunities with the state which includes a breakdown by product
1212 or service and by the organization seeking the product or service;

1213 (b) Listings of the published date and closing date for
1214 each business procurement opportunity;

1215 (c) A "Frequently Asked Questions" section regarding
1216 doing business with the respective agencies;

1217 (d) A breakdown of "Frequently Asked Questions"
1218 regarding the selection process with the respective agencies;



1219 (e) An open-air forum for questions and answers
1220 relating to the procurement process, in general, as well as
1221 specifically relating to a single contract; and

1222 (f) Links to individual agency websites and contacts to
1223 enable potential vendors to obtain more specific information, if
1224 necessary.

1225 (5) The procurement portal must be linked to the
1226 Transparency Mississippi website established in accordance with
1227 Sections 27-104-151 through 27-104-163. The Mississippi
1228 Department of Information Technology Services shall develop and
1229 maintain a link to the procurement portal from the state website.

1230 **SECTION 20.** This act shall take effect and be in force from
1231 and after its passage.

