

By: Representative Ladner

To: Judiciary A

HOUSE BILL NO. 980

1 AN ACT TO REQUIRE ALL STATE AGENCIES TO ABIDE BY STATE LAW;
 2 TO PROVIDE THAT NO AGENCY, BOARD, COMMISSION OR OTHER STATE ENTITY
 3 SHALL ADOPT ANY RULE, POLICY OR REGULATION THAT CONFLICTS WITH ANY
 4 CURRENT STATE LAW; TO REQUIRE THE TERMINATION OF ANY DIRECTOR,
 5 COMMISSIONER OR BOARD MEMBER WHO VOTES IN FAVOR OF, APPROVES OR
 6 ENFORCES ANY RULE, POLICY OR REGULATION THAT CONFLICTS WITH STATE
 7 LAW; TO PROVIDE THAT ANY AGENCY, BOARD, COMMISSION OR OTHER STATE
 8 ENTITY SHALL RESCIND A RULE, POLICY OR REGULATION THAT CONFLICTS
 9 WITH STATE LAW WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THE
 10 RULE, POLICY OR REGULATION; TO BRING FORWARD SECTIONS 25-43-1.101
 11 AND 25-43-1.103, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF
 12 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

14 **SECTION 1.** All state agencies shall abide by state law. No
 15 state agency, board, commission or other state entity shall adopt
 16 any rule, policy or regulation that conflicts with any current
 17 state law. Any director, commissioner or board member who votes
 18 in favor of, approves or enforces any rule, policy or regulation
 19 that conflicts with state law shall be terminated immediately. A
 20 state agency, board, commission or other state entity shall
 21 rescind any rule, policy or regulation that conflicts with state
 22 law within ninety (90) days of the effective date of the rule,
 23 policy or regulation.



24 **SECTION 2.** Section 25-43-1.101, Mississippi Code of 1972, is
25 brought forward as follows:

26 25-43-1.101. (1) This chapter may be cited as the
27 "Mississippi Administrative Procedures Law."

28 (2) This chapter is intended to provide a minimum procedural
29 code for the operation of all state agencies when they take action
30 affecting the rights and duties of the public. Nothing in this
31 chapter shall be construed as invalidating any rule or regulation
32 adopted before July 1, 2005, if such rule or regulation was
33 properly adopted in accordance with the law as it existed at the
34 time of adoption. Nothing in this chapter is meant to discourage
35 agencies from adopting procedures providing greater protections to
36 the public or conferring additional rights upon the public; and
37 save for express provisions of this chapter to the contrary,
38 nothing in this chapter is meant to abrogate in whole or in part
39 any statute prescribing procedural duties for an agency which are
40 greater than or in addition to those provided here. This chapter
41 is meant to apply to all rule-making that is not specifically
42 excluded from this chapter or some portion thereof by its express
43 terms or by the express terms of another chapter.

44 The purposes of the Mississippi Administrative Procedures Law
45 are: to provide legislative oversight of powers and duties
46 delegated to administrative agencies; to increase public
47 accountability of administrative agencies; to simplify government
48 by assuring a uniform minimum procedure to which all agencies will



49 be held in the conduct of their most important functions; to
50 increase public access to governmental information; and to
51 increase public participation in the formulation of administrative
52 rules. In accomplishing its objectives, the intention of this
53 chapter is to strike a fair balance between these purposes and the
54 need for efficient, economical and effective government
55 administration. This chapter is not meant to alter the
56 substantive rights of any person or agency. Its impact is limited
57 to procedural rights with the expectation that better substantive
58 results will be achieved in the everyday conduct of state
59 government by improving the process by which those results are
60 attained.

61 (3) From and after July 1, 2005, any reference to the
62 Mississippi Administrative Procedure Act, the Mississippi
63 Administrative Procedures Act, the Mississippi Administrative
64 Procedure Law, or the Mississippi Administrative Procedures Law,
65 being Section 25-43-1 et seq., Mississippi Code of 1972, shall be
66 deemed to mean and refer to this chapter.

67 **SECTION 3.** Section 25-43-1.103, Mississippi Code of 1972, is
68 brought forward as follows:

69 25-43-1.103. (1) This chapter applies to all agencies and
70 all proceedings not expressly exempted under this chapter.

71 (2) This chapter creates only procedural rights and imposes
72 only procedural duties. They are in addition to those created and
73 imposed by other statutes.



74 (3) Specific statutory provisions which govern agency
75 proceedings and which are in conflict with any of the provisions
76 of this chapter shall continue to be applied to all proceedings of
77 any such agency to the extent of such conflict only.

78 (4) The provisions of this chapter shall not be construed to
79 amend, repeal or supersede the provisions of any other law; and,
80 to the extent that the provisions of any other law conflict or are
81 inconsistent with the provisions of this chapter, the provisions
82 of such other law shall govern and control.

83 (5) An agency may grant procedural rights to persons in
84 addition to those conferred by this chapter so long as rights
85 conferred upon other persons by any provision of law are not
86 substantially prejudiced.

87 **SECTION 4.** This act shall take effect and be in force from
88 and after July 1, 2018.

