

By: Representative Banks

To: Judiciary A

HOUSE BILL NO. 554

1 AN ACT TO PROVIDE THAT ARBITRATION CLAUSES IN CERTAIN
2 CONTRACTS SHALL BE CONSIDERED NONBINDING; TO AMEND SECTIONS
3 11-15-1, 11-15-103, 37-101-15, 65-1-89 AND 65-1-91, MISSISSIPPI
4 CODE OF 1972, TO CONFORM TO THE PRECEDING PROVISION; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** An arbitration clause in any contract between a
8 seller or provider and a citizen of this state is nonbinding. The
9 citizen has all legal remedies available in the courts of this
10 state in any matter that may be subject to the arbitration clause.

11 **SECTION 2.** Section 11-15-1, Mississippi Code of 1972, is
12 amended as follows:

13 11-15-1. (1) Subject to the provisions of subsection (2),
14 all persons, except infants and persons of unsound mind, may, by
15 instrument of writing, submit to the decision of one or more
16 arbitrators any controversy which may be existing between them,
17 which might be the subject of an action, and may, in such
18 submission, agree that the court having jurisdiction of the
19 subject matter shall render judgment on the award made pursuant to



20 such submission. In such case, however, should the parties agree
21 upon a court without jurisdiction of the subject matters of the
22 award, the judgment shall be rendered by the court having
23 jurisdiction in the county of the residence of the party, or some
24 one of them, against whom the award shall be made.

25 (2) An arbitration clause in any contract executed on or
26 after July 1, 2019, is subject to the provisions of Section 1 of
27 this act.

28 **SECTION 3.** Section 11-15-103, Mississippi Code of 1972, is
29 amended as follows:

30 11-15-103. (1) Except as otherwise provided in subsection
31 (2), two (2) or more parties referred to in Section 11-15-101 may
32 agree in writing to submit to arbitration any controversy existing
33 between them at the time of the agreement, or they may include in
34 a written contract a provision for the settlement by arbitration
35 of any controversy thereafter arising between them relating to
36 such contract or the failure or refusal to perform the whole or
37 any part thereof. Such agreement or provision shall be valid,
38 enforceable and irrevocable without regard to the justiciable
39 character of the controversy. * * * However, * * * if either
40 party to such an agreement initiates litigation against the other
41 with respect to such agreement, such arbitration provision shall
42 be deemed waived unless asserted as a defense on or before the
43 responding party is required to answer to such litigation.
44 Whenever a provision for binding arbitration is included in the



45 contract documents of a public contract, any bidder may refuse to
46 accept such clause and shall so state on the bid document before
47 entering into such public contract, and such refusal shall not be
48 cause to reject any bid on, or refuse the award of such public
49 contract.

50 (2) An arbitration clause in any contract executed on or
51 after July 1, 2019, is subject to the provisions of Section 1 of
52 this act.

53 **SECTION 4.** Section 37-101-15, Mississippi Code of 1972, is
54 amended as follows:

55 37-101-15. (a) The Board of Trustees of State Institutions
56 of Higher Learning shall succeed to and continue to exercise
57 control of all records, books, papers, equipment, and supplies,
58 and all lands, buildings, and other real and personal property
59 belonging to or assigned to the use and benefit of the board of
60 trustees formerly supervising and controlling the institutions of
61 higher learning named in Section 37-101-1. The board shall have
62 and exercise control of the use, distribution and disbursement of
63 all funds, appropriations and taxes, now and hereafter in
64 possession, levied and collected, received, or appropriated for
65 the use, benefit, support, and maintenance or capital outlay
66 expenditures of the institutions of higher learning, including the
67 authorization of employees to sign vouchers for the disbursement
68 of funds for the various institutions, except where otherwise
69 specifically provided by law.



70 (b) The board shall have general supervision of the
71 affairs of all the institutions of higher learning, including the
72 departments and the schools thereof. The board shall have the
73 power in its discretion to determine who shall be privileged to
74 enter, to remain in, or to graduate therefrom. The board shall
75 have general supervision of the conduct of libraries and
76 laboratories, the care of dormitories, buildings, and grounds; the
77 business methods and arrangement of accounts and records; the
78 organization of the administrative plan of each institution; and
79 all other matters incident to the proper functioning of the
80 institutions. The board shall have the authority to establish
81 minimum standards of achievement as a prerequisite for entrance
82 into any of the institutions under its jurisdiction, which
83 standards need not be uniform between the various institutions and
84 which may be based upon such criteria as the board may establish.

85 (c) The board shall exercise all the powers and
86 prerogatives conferred upon it under the laws establishing and
87 providing for the operation of the several institutions herein
88 specified. The board shall adopt such bylaws and regulations from
89 time to time as it deems expedient for the proper supervision and
90 control of the several institutions of higher learning, insofar as
91 such bylaws and regulations are not repugnant to the Constitution
92 and laws, and not inconsistent with the object for which these
93 institutions were established. The board shall have power and
94 authority to prescribe rules and regulations for policing the



95 campuses and all buildings of the respective institutions, to
96 authorize the arrest of all persons violating on any campus any
97 criminal law of the state, and to have such law violators turned
98 over to the civil authorities.

99 (d) For all institutions specified herein, the board
100 shall provide a uniform system of recording and of accounting
101 approved by the State Department of Audit. The board shall
102 annually prepare, or cause to be prepared, a budget for each
103 institution of higher learning for the succeeding year which must
104 be prepared and in readiness for at least thirty (30) days before
105 the convening of the regular session of the Legislature. All
106 relationships and negotiations between the State Legislature and
107 its various committees and the institutions named herein shall be
108 carried on through the board of trustees. No official, employee
109 or agent representing any of the separate institutions shall
110 appear before the Legislature or any committee thereof except upon
111 the written order of the board or upon the request of the
112 Legislature or a committee thereof.

113 (e) For all institutions specified herein, the board
114 shall prepare an annual report to the Legislature setting forth
115 the disbursements of all monies appropriated to the respective
116 institutions. Each report to the Legislature shall show how the
117 money appropriated to the several institutions has been expended,
118 beginning and ending with the fiscal years of the institutions,
119 showing the name of each teacher, officer, and employee, and the



120 salary paid each, and an itemized statement of each and every item
121 of receipts and expenditures. Each report must be balanced, and
122 must begin with the former balance. If any property belonging to
123 the state or the institution is used for profit, the reports shall
124 show the expense incurred in managing the property and the amount
125 received therefrom. The reports shall also show a summary of the
126 gross receipts and gross disbursements for each year and shall
127 show the money on hand at the beginning of the fiscal period of
128 the institution next preceding each session of the Legislature and
129 the necessary amount of expense to be incurred from * * * that
130 date to January 1 following. The board shall keep the annual
131 expenditures of each institution herein mentioned within the
132 income derived from legislative appropriations and other sources,
133 but in case of emergency arising from acts of providence,
134 epidemics, fire or storm with the written approval of the Governor
135 and by written consent of a majority of the senators and of the
136 representatives it may exceed the income. The board shall require
137 a surety bond in a surety company authorized to do business in
138 this state, of every employee who is the custodian of funds
139 belonging to one or more of the institutions mentioned herein,
140 which bond shall be in a sum to be fixed by the board in an amount
141 that will properly safeguard the * * * funds, the premium for
142 which shall be paid out of the funds appropriated for * * * those
143 institutions.



144 (f) The board shall have the power and authority to
145 elect the heads of the various institutions of higher learning and
146 to contract with all deans, professors, and other members of the
147 teaching staff, and all administrative employees of * * * those
148 institutions for a term of not exceeding four (4) years. The
149 board shall have the power and authority to terminate any such
150 contract at any time for malfeasance, inefficiency, or
151 contumacious conduct, but never for political reasons. It shall
152 be the policy of the board to permit the executive head of each
153 institution to nominate for election by the board all subordinate
154 employees of the institution over which he presides. It shall be
155 the policy of the board to elect all officials for a definite
156 tenure of service and to reelect during the period of satisfactory
157 service. The board shall have the power to make any adjustments
158 it thinks necessary between the various departments and schools of
159 any institution or between the different institutions.

160 (g) The board shall keep complete minutes and records
161 of all proceedings which shall be open for inspection by any
162 citizen of the state.

163 (h) The board shall have the power to enter into an
164 energy performance contract, energy services contract, on a
165 shared-savings, lease or lease-purchase basis, for energy
166 efficiency services and/or equipment as prescribed in Section
167 31-7-14.



168 (i) The Board of Trustees of State Institutions of
169 Higher Learning, for and on behalf of Jackson State University, is
170 hereby authorized to convey by donation or otherwise easements
171 across portions of certain real estate located in the City of
172 Jackson, Hinds County, Mississippi, for right-of-way required for
173 the Metro Parkway Project.

174 (j) Except as otherwise provided in this paragraph, in
175 connection with any international contract between the board or
176 one (1) of the state's institutions of higher learning and any
177 party outside of the United States, the board or institution that
178 is the party to the international contract is hereby authorized
179 and empowered to include in the contract a provision for the
180 resolution by arbitration of any controversy between the parties
181 to the contract relating to such contract or the failure or
182 refusal to perform any part of the contract. Such provision shall
183 be valid, enforceable and irrevocable without regard to the
184 justiciable character of the controversy. * * * However, * * * if
185 either party to such contract initiates litigation against the
186 other with respect to the contract, the arbitration provision
187 shall be deemed waived unless asserted as a defense on or before
188 the responding party is required to answer such litigation. An
189 arbitration clause in any contract executed on or after July 1,
190 2019, is subject to the provisions of Section 1 of this act.

191 (k) The Board of Trustees of State Institutions of
192 Higher Learning ("board"), on behalf of any institution under its



193 jurisdiction, shall purchase and maintain business property
194 insurance and business personal property insurance on all
195 university-owned buildings and/or contents as required by federal
196 law and regulations of the Federal Emergency Management Agency
197 (FEMA) as is necessary for receiving public assistance or
198 reimbursement for repair, reconstruction, replacement or other
199 damage to those buildings and/or contents caused by the Hurricane
200 Katrina Disaster of 2005 or subsequent disasters. The board is
201 authorized to expend funds from any available source for the
202 purpose of obtaining and maintaining that property insurance. The
203 board is authorized to enter into agreements with the Department
204 of Finance and Administration, local school districts,
205 community/junior college districts, community hospitals and/or
206 other state agencies to pool their liabilities to participate in a
207 group business property and/or business personal property
208 insurance program, subject to uniform rules and regulations as may
209 be adopted by the Department of Finance and Administration.

210 (1) The Board of Trustees of State Institutions of
211 Higher Learning, or its designee, may approve the payment or
212 reimbursement of reasonable travel expenses incurred by candidates
213 for open positions at the board's executive office or at any of
214 the state institutions of higher learning, when the job candidate
215 has incurred expenses in traveling to a job interview at the
216 request of the board, the Commissioner of Higher Education or a
217 state institution of higher learning administrator.



218 **SECTION 5.** Section 65-1-89, Mississippi Code of 1972, is
219 amended as follows:

220 65-1-89. (1) Except as otherwise provided in subsection
221 (2), every formal contract made by or on behalf of the Mississippi
222 Transportation Commission for the construction of any building,
223 highway, or work, or the doing of any repairs shall contain and
224 include a provision for settlement by arbitration, if requested by
225 either party to the contract, of all claims and disputes and other
226 matters arising out of such contract, or the failure or refusal to
227 perform the whole or any part thereof.

228 (2) An arbitration clause in any contract executed on or
229 after July 1, 2019, is subject to the provisions of Section 1 of
230 this act.

231 **SECTION 6.** Section 65-1-91, Mississippi Code of 1972, is
232 amended as follows:

233 65-1-91. (1) Subject to the provisions in subsection (2),
234 upon demand for arbitration by any party to a contract with the
235 Mississippi Transportation Commission for the construction of any
236 building, highway or work, or the doing of any repairs, such
237 arbitration shall proceed in all respects and shall have the same
238 effect as authorized and provided by Sections 11-15-1 through
239 11-15-37. Any arbitration decision shall be binding.

240 (2) An arbitration clause in any contract executed on or
241 after July 1, 2019, is subject to the provisions of Section 1 of
242 this act.



243 **SECTION 7.** This act shall take effect and be in force from
244 and after July 1, 2019.

