

By: Representatives Lamar, Dixon

To: Ways and Means

HOUSE BILL NO. 963

1 AN ACT TO AMEND SECTION 31-19-25, MISSISSIPPI CODE OF 1972,
2 WHICH PROVIDES FOR THE ADVERTISEMENT OF THE SALE AND RECEIPT OF
3 BIDS FOR THE SALE OF BONDS BY THE GOVERNING AUTHORITY OF ANY
4 COUNTY, ROAD DISTRICT, SCHOOL DISTRICT, DRAINAGE DISTRICT OR OTHER
5 POLITICAL SUBDIVISION OR INSTRUMENTALITY OF THIS STATE, TO PROVIDE
6 THAT SEALED BIDS MAY BE SUBMITTED IN ELECTRONIC FORM; TO REQUIRE
7 THAT A SUCCESSFUL BIDDER AT SUCH A SALE MUST, NO LATER THAN NOON
8 ON THE NEXT BUSINESS DAY FOLLOWING THE SALE OF THE BONDS, SUBMIT A
9 GOOD FAITH DEPOSIT TO THE PROPER GOVERNING AUTHORITY AS A GUARANTY
10 THAT THE BIDDER WILL CARRY OUT HIS CONTRACT TO PURCHASE THE BONDS;
11 TO PROVIDE THAT A GOOD FAITH DEPOSIT MAY BE SUBMITTED BY WIRE
12 TRANSFER; TO PROVIDE THAT IF A SUCCESSFUL BIDDER FAILS TO TIMELY
13 SUBMIT A GOOD FAITH DEPOSIT, THE GOVERNING AUTHORITY MAY SELL THE
14 BONDS BY PRIVATE SALE AT ANY TIME WITHIN SIXTY DAYS AFTER THE DATE
15 ADVERTISED FOR THE RECEPTION OF BIDS, BUT THAT NO SUCH PRIVATE
16 SALE MAY BE MADE AT A PRICE LESS THAN THE NEXT HIGHEST BID THAT
17 WAS RECEIVED PURSUANT TO SUCH ADVERTISEMENT; AND FOR RELATED
18 PURPOSES.

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

20 **SECTION 1.** Section 31-19-25, Mississippi Code of 1972, is
21 amended as follows:

22 31-19-25. All bonds issued pursuant to any laws of this
23 state and hereafter sold by the governing authority of or on
24 behalf of any county, road district, school district, drainage
25 district or other political subdivision or instrumentality of this
26 state shall be advertised for sale on sealed bids, which may be



submitted in electronic form, or at public auction. Such advertisement shall be published at least two (2) times in a newspaper published in the county in which the political subdivision or instrumentality is situated, and if no newspaper is published in such county, then in a newspaper published in an adjoining county; with respect to a political subdivision or instrumentality which is composed of more than one (1) county, such advertisement shall be published at least two (2) times in a newspaper having a general circulation in each county all or a portion of which is part of the political subdivision or instrumentality. The first publication in each case shall be made at least ten (10) days preceding the date fixed for the reception of bids, and such notice shall give the time and place of sale.

The governing authority may reject any and all bids, whether so stated in the notice of sale or not. If the bonds are not sold pursuant to such advertisement, they may be sold by the governing authority by private sale at any time within sixty (60) days after the date advertised for the reception of bids; but no such private sale shall be made at a price less than the highest bid which shall have been received pursuant to such advertisement. If not so sold at private sale, said bonds shall be readvertised in the manner herein prescribed.

* * * The successful bidder shall * * *, no later than noon on the next business day following the sale, submit by wire transfer or a cashier's check, certified check or exchange,



payable to the proper governing authority, issued or certified by
a bank located in this state, a good faith deposit in the amount
of not less than two percent (2%) of the par value of the bonds
offered for sale, as a guaranty that the successful bidder will
carry out his contract and purchase the bonds * * *. If the
successful bidder fails to timely submit its good faith deposit,
the bonds may be sold by the governing authority by private sale
at any time within sixty (60) days after the date advertised for
the reception of bids; but no such private sale shall be made at a
price less than the next highest bid which shall have been
received pursuant to such advertisement. If not so sold at
private sale, said bonds shall be readvertised in the manner
herein prescribed. If the successful bidder fails to purchase the
bonds pursuant to his bid and contract, the amount of such good
faith check shall be retained by the governing authority and
covered into the proper fund as liquidated damages for such
failure.

This section shall not apply to the sale of bonds by the
State of Mississippi through the State Bond Commission or the sale
of bonds or any other indebtedness incurred by a county in
connection with a project as defined under Section
57-75-5(f)(xxviii) or Section 57-75-5(f)(xxix).

A failure to comply with any provision of this section shall
not invalidate such bonds, but any member of the governing board,
commission or other governing authority who shall willfully



77 violate any of said provisions and shall willfully fail to give
78 the notices herein required shall be liable personally and on his
79 official bond for a penalty in each case of Five Hundred Dollars
80 (\$500.00) and, in addition thereto, for all financial loss that
81 may result to the county, municipality, road district, school
82 district, drainage district or other political subdivision or
83 instrumentality of the state or county resulting from such willful
84 failure to comply herewith. Such penalty and damages may be
85 recovered by suit of the Attorney General, a district attorney or
86 of any citizen of such county or other political subdivision in
87 any court of competent jurisdiction, for the use and benefit of
88 the county or other such political subdivision or instrumentality.

89 **SECTION 2.** This act shall take effect and be in force from
90 and after July 1, 2019.

