

By: Representative Bennett

To: Education

HOUSE BILL NO. 667

1 AN ACT TO AMEND SECTION 43-5-1, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THE STATE BOARD OF EDUCATION WITH THE DISCRETION TO
3 DELEGATE CERTAIN AUTHORITY TO RECEIVE AND HOLD REAL AND PERSONAL
4 PROPERTY OR TESTAMENTARY GIFTS OR BEQUESTS FOR THE BENEFIT OF THE
5 MISSISSIPPI SCHOOL FOR THE BLIND AND THE MISSISSIPPI SCHOOL FOR
6 THE DEAF TO ADMINISTRATIVE STAFF OF THE STATE DEPARTMENT OF
7 EDUCATION OF THOSE SCHOOLS; TO AMEND SECTION 43-5-8, MISSISSIPPI
8 CODE OF 1972, TO REQUIRE ALL ADMINISTRATIVE AND LICENSED
9 INSTRUCTIONAL EMPLOYEES OF MSBD TO ENTER INTO CONTRACTS FOR TERMS
10 OF THEIR EMPLOYMENT; TO REQUIRE THE STATE BOARD OF EDUCATION TO
11 DETERMINE THE QUALIFICATIONS FOR THOSE EMPLOYEES, WHO SHALL BE
12 TRANSFERRED FROM UNDER THE AUTHORITY OF THE MISSISSIPPI PERSONNEL
13 BOARD; TO PROVIDE FOR THE RETENTION OF BENEFITS AND SERVICE WITH
14 THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE STATE AND SCHOOL
15 EMPLOYEES' HEALTH INSURANCE PLAN; TO PROVIDE THAT SUCH EMPLOYEES
16 SHALL BE SUBJECT TO THE WILL AND PLEASURE OF THE RESPECTIVE
17 SUPERINTENDENTS OF MSBD; TO AMEND SECTION 43-5-13, MISSISSIPPI
18 CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; TO AMEND
19 SECTION 37-39-1, MISSISSIPPI CODE OF 1972, TO INCLUDE THE STATE
20 BOARD OF EDUCATION WITHIN THE MEANING OF THE TERM "SCHOOL BOARD,"
21 WHEN ACTING ON BEHALF OF THE MSBD; TO AMEND SECTION 31-7-1,
22 MISSISSIPPI CODE OF 1972, TO AMEND THE DEFINITIONS OF THE TERMS
23 "AGENCY" AND "GOVERNING AUTHORITY" UNDER THE PUBLIC PURCHASING
24 LAWS TO EXEMPT THE MISSISSIPPI SCHOOL FOR THE BLIND AND THE
25 MISSISSIPPI SCHOOL FOR THE DEAF FROM CERTAIN REQUIREMENTS OF THE
26 PUBLIC PROCUREMENT REVIEW BOARD; TO AMEND SECTION 37-140-5,
27 MISSISSIPPI CODE OF 1972, AS IT RELATES TO PERSONNEL MATTER FOR
28 THE MISSISSIPPI SCHOOL OF THE ARTS, IN CONFORMITY TO THE PRECEDING
29 PROVISIONS; AND FOR RELATED PURPOSES.

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



31 **SECTION 1.** Section 43-5-1, Mississippi Code of 1972, is
32 amended as follows:

33 43-5-1. (1) The State Board of Education shall be the Board
34 of Trustees of the Mississippi School for the Deaf and the
35 Mississippi School for the Blind and shall retain all powers and
36 duties granted by law to the Board of Trustees of the Mississippi
37 School for the Deaf and the Mississippi School for the Blind.
38 Wherever the term Board of Trustees of the Mississippi School for
39 the Deaf and Mississippi School for the Blind appears in any law
40 the same shall mean the State Board of Education.

41 (2) The provisions of this section shall not be construed to
42 require any consolidation or combination of the Mississippi School
43 for the Deaf and the Mississippi School for the Blind other than
44 where economies can be realized through the common utilization of
45 maintenance personnel and equipment, physical facilities, vehicles
46 and administrative personnel, where the same can be done without
47 impairment of the effectiveness of the educational programs of the
48 two (2) institutions or the welfare of the students.

49 (3) The provisions of this section shall not be construed to
50 require any consolidation of services involving curriculum or
51 instructional programs of the two (2) institutions.

52 (4) The State Board of Education, on behalf of each of these
53 institutions, shall have the power to receive and hold property,
54 real and personal, and to accept and use as provided by law,
55 separate from the needs of the other institutions, all bequests,



56 devices and donations made or which may in the future be made to
57 or for it, and shall continue to enjoy the rights and privileges
58 heretofore conferred upon it by law and such as are necessary now,
59 or hereafter, to accomplish the purposes of its own establishment
60 and operation and maintenance hereunder, provided that the same be
61 not inconsistent with or in conflict with this chapter. The State
62 Board of Education, in its discretion, may delegate any such
63 powers and duties, as it deems appropriate, to any administrative
64 staff of the State Department of Education, the Mississippi School
65 for the Deaf or the Mississippi School for the Blind.

66 **SECTION 2.** Section 43-5-8, Mississippi Code of 1972, is
67 amended as follows:

68 43-5-8. (1) The Superintendent of the School for the Blind
69 and the Superintendent of the School for the Deaf * * * shall be
70 selected by and hold office subject to the will and pleasure of
71 the State Superintendent of Public Education, subject to the
72 approval of the State Board of Education. The State Board of
73 Education may provide housing for the two (2) superintendents so
74 employed either on- or off-campus. Each superintendent shall at
75 all times maintain supervision of the physical properties of the
76 school he serves.

77 (2) Effective July 1, 2021, all other administrative and
78 licensed instructional staff employed at the Mississippi School
79 for the Blind and the Mississippi School for the Deaf, hereinafter
80 MSBD, shall enter into written contracts of employment to indicate



81 and cover the period for which they are respectively employed.
82 Such employees shall be transferred from state service under the
83 authority of the State Personnel Board to employment status as
84 employees of the respective school. The State Board of Education
85 may set and determine qualifications necessary for such employees
86 and may appoint a subcommittee of the board for the purpose of
87 authorizing the execution of such employment contracts on a timely
88 basis. All such contracts and employment rights prescribed
89 thereunder shall be awarded and governed in accordance with
90 Section 37-9-1, et seq., as applicable, and Section 37-7-307.
91 Said contracts shall be exempt from any applicable requirements of
92 the Public Procurement Review Board for state agency employment
93 contracts. All references within Section 37-9-1 et seq. to a
94 "local school district" shall apply to MSBD, and all references to
95 a "local school board" shall apply to the State Board of Education
96 in its role as board of trustees pursuant to Sections 43-5-1 and
97 43-5-5. There shall be no interruption of service with the Public
98 Employees' Retirement System and the State and School Employees'
99 Health Insurance Plan for administrative and licensed
100 instructional staff. Any unused leave accumulated in
101 state-service employment shall be transferred in accordance with
102 the provisions of Section 37-7-707, unless otherwise provided.
103 (3) Effective July 1, 2021, all other personnel shall be
104 competitively appointed by the State Superintendent * * * of
105 Public Education with the recommendation of the superintendent of



106 the respective school. There shall be no interruption of service
107 with the Public Employees' Retirement System and the State and
108 School Employees' Health Insurance Plan for those applicable
109 personnel. The employment shall be subject to the will and
110 pleasure of the superintendent of the respective school, and shall
111 not be subject to the rules and regulations of the State Personnel
112 Board, except as provided in Section 25-9-127(4). The State
113 Superintendent of Public Education * * * shall fix the amount of
114 compensation or expenses of * * * these personnel * * *, which
115 shall be paid upon the requisition of the State Superintendent of
116 Public Education and warrant issued thereunder by the State
117 Auditor out of the funds appropriated by the Legislature in a lump
118 sum upon the basis of budgetary requirements submitted by the
119 State Superintendent of Public Education or out of funds otherwise
120 made available.

121 (4) The entire expense of administering the schools shall
122 never exceed the amount appropriated therefor, plus funds received
123 from sources other than state appropriations. For a violation of
124 this provision, the superintendent shall be liable, and he or she
125 and the sureties on his or her bond shall be required to restore
126 any excess. * * * Effective July 1, 2021, any and all employees
127 or personnel of MSBD, whether administrative, licensed
128 instructional, nonlicensed instructional or otherwise, paid using
129 funds appropriated therefor or received from sources other than



130 appropriations, shall be stationed at the respective campus of
131 MSBD for the benefit of the respective school.

132 **SECTION 3.** Section 43-5-13, Mississippi Code of 1972, is
133 amended as follows:

134 43-5-13. Braille print, designated commonly as revised
135 Braille Grade Two, shall be taught in the School for the Blind.
136 The use of this print shall be included in the high school
137 literary courses of students in such school. Every teacher or
138 instructor in the School for the Deaf, whose duties include oral
139 instruction of pupils, shall become acquainted with the most
140 efficient and advanced methods of lipreading, but every teacher
141 shall also master the manual alphabet in order to be able to
142 communicate with pupils who cannot read lips and in order to aid
143 and participate in student activities outside the classrooms.
144 Every pupil entering the school shall be given oral instruction
145 until it is clearly determined whether he can master lipreading to
146 an extent enabling him to progress satisfactorily in his studies,
147 but manual instruction shall be provided in all subjects for all
148 pupils unable to progress satisfactorily under oral instruction
149 alone. The State Board of Education may set and determine the
150 additional requirements necessary for each teacher or instructor.

151 * * * Complete courses in shorthand and typewriting are to be
152 offered at the School for the Deaf.

153 **SECTION 4.** Section 37-39-1, Mississippi Code of 1972, is
154 amended as follows:



155 37-39-1. The following words and phrases, when used in this
156 chapter, shall, for the purpose of this chapter, have the meanings
157 respectively ascribed to them in this section:

158 (a) "Perishables" shall mean items which have a
159 variable market price on which vendors are unable to submit a
160 long-range price such as fruits and vegetables;

161 (b) "Purchasing agent" shall mean the superintendent,
162 or other individual or individuals designated by the school board
163 or by the school boards acting jointly as its agent or agents to
164 negotiate and make private contract or to purchase;

165 (c) "School boards" shall mean the local governing
166 boards of all school districts in the state, whether they act
167 jointly or separately. The term also means the State Board of
168 Education when acting in its role as prescribed in Section 43-5-1
169 et seq.;

170 (d) "Services" shall mean maintenance, operational and
171 scholastic services utilized within and for the school district or
172 school districts.

173 **SECTION 5.** Section 31-7-1, Mississippi Code of 1972, is
174 amended as follows:

175 31-7-1. The following terms are defined for the purposes of
176 this chapter to have the following meanings:

177 (a) "Agency" means any state board, commission,
178 committee, council, university, department or unit thereof created
179 by the Constitution or statutes if such board, commission,



180 committee, council, university, department, unit or the head
181 thereof is authorized to appoint subordinate staff by the
182 Constitution or statute, except a legislative or judicial board,
183 commission, committee, council, department or unit thereof; except
184 a charter school authorized by the Mississippi Charter School
185 Authorizer Board; and except the Mississippi State Port
186 Authority; * * * except the Mississippi School of the Arts (MSA)
187 established in Section 37-140-1 et seq. for the sole purpose of
188 the application of the term "agency" as it pertains to the Public
189 Procurement Review Board's powers and responsibilities as defined
190 in Section 27-104-7(2) (a), but without application to the use of
191 the term within this chapter, effective July 1, 2020; and except
192 the Mississippi School for the Blind and the Mississippi School
193 for the Deaf (MSBD) for the sole purpose of the application of the
194 term "agency" as it pertains to the Public Procurement Review
195 Board's powers and responsibilities as defined in Section
196 27-104-7(2) (a), but without application to the use of the term
197 within this chapter, effective July 1, 2021. An academic medical
198 center or health sciences school as defined in Section 37-115-50
199 is not an "agency" for those purchases of commodities as defined
200 in this section that are used for clinical purposes and (i)
201 intended for use in the diagnosis of disease or other conditions
202 or in the cure, mitigation, treatment or prevention of disease,
203 and (ii) medical devices, biological, drugs and radiation emitting



204 devices as defined by the United States Food and Drug
205 Administration.

206 (b) "Governing authority" means boards of supervisors,
207 governing boards of all school districts, all boards of directors
208 of public water supply districts, boards of directors of master
209 public water supply districts, municipal public utility
210 commissions, governing authorities of all municipalities, port
211 authorities, Mississippi State Port Authority, commissioners and
212 boards of trustees of any public hospitals, boards of trustees of
213 public library systems, district attorneys, school attendance
214 officers and any political subdivision of the state supported
215 wholly or in part by public funds of the state or political
216 subdivisions thereof, including commissions, boards and agencies
217 created or operated under the authority of any county or
218 municipality of this state. The term "governing authority" shall
219 not include economic development authorities supported in part by
220 private funds, or commissions appointed to hold title to and
221 oversee the development and management of lands and buildings
222 which are donated by private individuals to the public for the use
223 and benefit of the community and which are supported in part by
224 private funds. The term "governing authority" also shall not
225 include the governing board of a charter school. The term
226 "governing authority" also shall not include the Mississippi
227 School of the Arts established in Section 37-140-1 et seq., for
228 the sole purpose of the application of the term "agency" as it



229 pertains to the Public Procurement Review Board's powers and
230 responsibilities as defined in Section 27-104-7(2) (a), but without
231 application to the use of the term within this chapter, effective
232 July 1, 2020. The term "governing authority" also shall not
233 include the Mississippi School for the Blind and the Mississippi
234 School for the Deaf (MSBD) for the sole purpose of the application
235 of the term "governing authority" as it pertains to the Public
236 Procurement Review Board's powers and responsibilities as defined
237 in Section 27-104-7(2) (a), but without application to the use of
238 the term within this chapter, effective July 1, 2021.

239 (c) "Purchasing agent" means any administrator,
240 superintendent, purchase clerk or other chief officer so
241 designated having general or special authority to negotiate for
242 and make private contract for or purchase for any governing
243 authority or agency, including issue purchase orders, invitations
244 for bid, requests for proposals, and receive and accept bids.

245 (d) "Public funds" means and includes any appropriated
246 funds, special funds, fees or any other emoluments received by an
247 agency or governing authority.

248 (e) "Commodities" means and includes the various
249 commodities, goods, merchandise, furniture, equipment, automotive
250 equipment of every kind, and other personal property purchased by
251 the agencies of the state and governing authorities, but not
252 commodities purchased for resale or raw materials converted into
253 products for resale.



254 (i) "Equipment" shall be construed to include:
255 automobiles, trucks, tractors, office appliances and all other
256 equipment of every kind and description.

257 (ii) "Furniture" shall be construed to include:
258 desks, chairs, tables, seats, filing cabinets, bookcases and all
259 other items of a similar nature as well as dormitory furniture,
260 appliances, carpets and all other items of personal property
261 generally referred to as home, office or school furniture.

262 (f) "Emergency" means any circumstances caused by fire,
263 flood, explosion, storm, earthquake, epidemic, riot, insurrection
264 or caused by any inherent defect due to defective construction, or
265 when the immediate preservation of order or of public health is
266 necessary by reason of unforeseen emergency, or when the immediate
267 restoration of a condition of usefulness of any public building,
268 equipment, road or bridge appears advisable, or in the case of a
269 public utility when there is a failure of any machine or other
270 thing used and useful in the generation, production or
271 distribution of electricity, water or natural gas, or in the
272 transportation or treatment of sewage; or when the delay incident
273 to obtaining competitive bids could cause adverse impact upon the
274 governing authorities or agency, its employees or its citizens; or
275 in the case of a public airport, when the delay incident to
276 publishing an advertisement for competitive bids would endanger
277 public safety in a specific (not general) manner, result in or



278 perpetuate a specific breach of airport security, or prevent the
279 airport from providing specific air transportation services.

280 (g) "Construction" means the process of building,
281 altering, improving, renovating or demolishing a public structure,
282 public building, or other public real property. It does not
283 include routine operation, routine repair or regularly scheduled
284 maintenance of existing public structures, public buildings or
285 other public real property.

286 (h) "Purchase" means buying, renting, leasing or
287 otherwise acquiring.

288 (i) "Certified purchasing office" means any purchasing
289 office in which fifty percent (50%) or more of the purchasing
290 agents hold a certification from the Universal Public Purchasing
291 Certification Council or other nationally recognized purchasing
292 certification, and in which, in the case of a state agency
293 purchasing office, in addition to the national certification, one
294 hundred percent (100%) of the purchasing officials hold a
295 certification from the State of Mississippi's Basic or Advanced
296 Purchasing Certification Program.

297 (j) "Certified Mississippi Purchasing Agent" means a
298 state agency purchasing official who holds a certification from
299 the Mississippi Basic Purchasing Certification Program as
300 established by the Office of Purchasing, Travel and Fleet
301 Management.



302 (k) "Certified Mississippi Procurement Manager" means a
303 state agency purchasing official who holds a certification from
304 the Mississippi Advanced Purchasing Certification Program as
305 established by the Office of Purchasing, Travel and Fleet
306 Management.

307 **SECTION 6.** Section 37-140-5, Mississippi Code of 1972, is
308 amended as follows:

309 37-140-5. (1) The school shall be governed by the State
310 Board of Education. The board shall develop a plan relating to
311 the opening, operation and funding of the school to be presented
312 to the Legislature during the 2000 Regular Session. The plan
313 shall include an equitable and reasonable plan for student
314 recruitment without regard to race, creed or color.

315 (2) The State Superintendent of Public Education shall
316 appoint an advisory panel to assist the board in developing the
317 plan relating to the school. The advisory panel shall consist of
318 the following twelve (12) appointed or designated members:

319 (a) Three (3) licensed school teachers or
320 administrators, one (1) to be appointed from each of the three (3)
321 Mississippi Supreme Court Districts;

322 (b) Three (3) citizens or professionals representing
323 the areas of dance, creative writing, literature, music, theater
324 arts or visual arts, one (1) to be appointed from each of the
325 three (3) Mississippi Supreme Court Districts;



326 (c) Three (3) citizens knowledgeable in business,
327 personnel management or public administration, with at least three
328 (3) years' actual experience therein, one (1) to be appointed from
329 each of the three (3) Mississippi Supreme Court Districts.

330 (d) One (1) member shall be a representative of the
331 Mississippi Arts Commission to be designated by the commission,
332 one (1) member shall be a representative of the Mississippi
333 Humanities Council to be designated by the council, and one (1)
334 member shall be a representative of the state institutions of
335 higher learning in Mississippi which offer degrees in visual, fine
336 and performing arts, to be designated by the Board of Trustees of
337 State Institutions of Higher Learning.

338 Appointments to the advisory panel shall be made within
339 ninety (90) days of April 23, 1999. The advisory panel shall meet
340 upon the call of the State Superintendent of Public Education and
341 shall organize for business by selecting a chairman and vice
342 chairman/secretary for keeping records of the panel. Members of
343 the advisory panel shall receive no compensation but may be
344 reimbursed for necessary expenses and mileage for attending
345 meetings and necessary business of the panel, in the amount
346 authorized for state employees under Section 25-3-41.

347 (3) The board may utilize the staff of the State Department
348 of Education and other state agencies as may be required for the
349 implementation of this chapter. The department may employ any
350 personnel deemed necessary by the board for assisting in the



351 development and implementation of the plan relating to the
352 opening, operation and funding of the school. The board also may
353 contract or enter into agreements with other agencies or private
354 entities which it deems necessary to carry out its duties and
355 functions relating to the opening and operation of the school.

356 (4) To the extent possible, the board shall enter into
357 agreements with the Board of Trustees of the Brookhaven Municipal
358 Separate School District for the dual enrollment of students for
359 the purpose of teaching academic courses to students attending the
360 school, and the local school board shall be fully authorized to
361 offer any such courses to students attending the school. The
362 State Board of Education may develop and issue necessary
363 regulations for the coordination of such courses for these
364 students, the preparation and transfer of transcripts, and the
365 reimbursement of any costs incurred by the school district for
366 providing such services.

367 (5) The board may enter into agreements with public school
368 districts to authorize students enrolled in such school districts
369 to participate in the fine arts programs at the school to the
370 extent that adequate space is available. The parent or guardian
371 of any student participating in fine arts programs at the school
372 under this subsection shall be responsible for transporting the
373 student to and from the school.

374 (6) * * * Effective July 1, 2020, all administrative,
375 instructional and noninstructional employees of the Mississippi



376 School of the Arts shall be transferred from state service and the
377 authority of the State Personnel Board to employment status as
378 employees of the Mississippi School of the Arts. All
379 administrative and instructional employees at the said school
380 shall enter into written contracts of employment to indicate and
381 cover the period for which they are respectively employed. All
382 such contracts for administrative and instructional employees
383 shall be exempt from the requirements of the Public Procurement
384 Review Board for state agency employment contracts. The State
385 Board of Education may set and determine qualifications necessary
386 for such employees and may appoint a subcommittee of the board for
387 the purpose of authorizing the execution of such employment
388 contracts on a timely basis. Such administrators and employees
389 shall be offered contracts by the Superintendent/Executive
390 Director of the MSA and * * * all such contracts and employment
391 rights prescribed thereunder shall be awarded and governed in
392 accordance with Sections 37-9-1, et seq., as applicable, and
393 Section 37-7-307. Any and all references within Section 37-9-1 et
394 seq., to a "local school district" shall apply to MSA and any and
395 all references to a "local school board" shall apply to the State
396 Board of Education's role as defined in Section 37-140-1. The MSA
397 may renew employment or nonrenew employment with such
398 administrative and instructional employees in accordance with the
399 provisions of said sections relating to school district
400 employment. Noninstructional employees of the MSA shall be



401 full-time employees of the MSA and shall serve at the will and
402 pleasure of the Superintendent of the MSA. All salaries and
403 contracts shall be subject to the approval of the State Board of
404 Education, and the MSA may continue to use the teacher salary
405 scale for its instructional employees which is in effect on
406 January 1, 2019. Any unused leave accumulated at the Mississippi
407 School of the Arts shall be transferred in accordance with the
408 provisions of Section 37-7-307. There shall be no interruption of
409 service with the Public Employees' Retirement System and the State
410 and School Employees' Health Insurance Plan for administrative,
411 instructional and noninstructional employees due to an employee's
412 employment status under this subsection. The MSA shall not be
413 considered a local educational agency for the same purposes and to
414 the same extent that all other school districts in the state are
415 deemed local educational agencies under applicable federal law.
416 The MSA may receive donations or grants from any public or private
417 source, including any federal funding that may be available to the
418 schools within the MSA.

419 **SECTION 7.** This act shall take effect and be in force from
420 and after July 1, 2020.

