

By: Representative Carpenter (By Request)

To: Accountability,
Efficiency, Transparency;
Judiciary A

HOUSE BILL NO. 796

1 AN ACT TO AMEND SECTION 25-41-15, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT A COURT MAY VOID ANY ACTION TAKEN BY A PUBLIC BODY
3 IN VIOLATION OF THE OPEN MEETINGS LAW IF THE COURT DETERMINES THAT
4 THE PUBLIC INTEREST SO REQUIRES; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 25-41-15, Mississippi Code of 1972, is
7 amended as follows:

8 25-41-15. (1) The Mississippi Ethics Commission shall have
9 the authority to enforce the provisions of this chapter upon a
10 complaint filed by any person. Upon receiving a complaint, the
11 commission shall forward a copy of the complaint to the head of
12 the public body involved. The public body shall have fourteen
13 (14) days from receipt of the complaint to file a response with
14 the commission. After receiving the response to the complaint or,
15 if no response is received after fourteen (14) days, the
16 commission, in its discretion, may dismiss the complaint or
17 proceed by setting a hearing in accordance with rules and
18 regulations promulgated by the Ethics Commission.



19 (2) After a hearing, the Ethics Commission may order the
20 public body to take whatever reasonable measures necessary, if
21 any, to comply with this chapter. If the Ethics Commission finds
22 that a member or members of a public body has willfully and
23 knowingly violated the provisions of this chapter, the Ethics
24 Commission may impose a civil penalty upon the individual members
25 of the public body found to be in violation of the provisions of
26 this chapter in a sum not to exceed Five Hundred Dollars (\$500.00)
27 for a first offense and One Thousand Dollars (\$1,000.00) for a
28 second or subsequent offense, plus all reasonable expenses
29 incurred by the person or persons in bringing the complaint to
30 enforce this chapter.

31 (3) Nothing in this chapter shall be construed to prohibit
32 the Ethics Commission from mediating or otherwise resolving
33 disputes arising under this chapter or from entering orders agreed
34 to by the parties. In carrying out its responsibilities under
35 this section, the Ethics Commission shall have all the powers and
36 authority granted to it in Title 25, Chapter 4, Mississippi Code
37 of 1972.

38 (4) Any party may petition the chancery court of the county
39 in which the public body is located to enforce or appeal any order
40 of the Ethics Commission issued pursuant to this chapter. In any
41 such appeal the chancery court shall conduct a de novo review.

42 (5) (a) Upon a finding by a preponderance of the evidence
43 that a public body has violated any provisions of this chapter, a



44 court may void any action taken by a public body in violation of
45 this chapter if the court determines that the public interest in
46 voiding the action taken outweighs the public interest of
47 sustaining the action itself.

48 (b) Any party aggrieved by the action taken by the
49 public body in violation of this chapter may bring a suit for
50 enforcement. Such suit shall be brought within six (6) months of
51 the date of the violation, and in no event shall such suit be
52 brought later than two (2) years after the date of the violation.

53 (c) The provisions of this subsection (5) shall not
54 apply to an action taken in violation of this chapter if such
55 action involved the issuance of bonds or other evidence of
56 indebtedness of a public body if a public hearing, election or
57 public sale has been held regarding the bonds or evidence of
58 indebtedness.

59 **SECTION 2.** This act shall take effect and be in force from
60 and after July 1, 2020.

