

By: Representative Weathersby

To: Universities and
Colleges; Ways and Means

HOUSE BILL NO. 1541

1 AN ACT TO AUTHORIZE THE BOARD OF TRUSTEES OF STATE
2 INSTITUTIONS OF HIGHER LEARNING, ACTING ON BEHALF OF THE
3 UNIVERSITY OF SOUTHERN MISSISSIPPI, TO ENTER INTO A SERVICES
4 AGREEMENT FOR THE OPERATION, REPAIRS AND MAINTENANCE AND/OR
5 CAPITAL IMPROVEMENTS OF ALL OR ANY PORTION OF THE UNIVERSITY
6 UTILITY SYSTEM; TO PROVIDE THAT SUCH AGREEMENT SHALL NOT EXCEED 50
7 YEARS; TO PROVIDE THAT THE AGREEMENT ENTERED INTO BY THE BOARD
8 SHALL BE PROTECTED FROM ACTIONS OF SUCCESSOR BOARDS BASED ON THE
9 BINDING SUCCESSOR DOCTRINE; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** As used in this act, the following terms shall
12 have the meanings ascribed in this section, unless context clearly
13 requires otherwise:

14 (a) "Services agreement" means a contract between the
15 Board of Trustees of State Institutions of Higher Learning, on
16 behalf of the university, and one or more private or nonprofit
17 entities that provides for allocating the responsibility of the
18 operation, repairs and maintenance and/or capital improvements of
19 all or any portion of the university utility system into a single
20 contract wherein the private or nonprofit entity is required to
21 satisfactorily perform, at a minimum, the operation, repairs and



22 maintenance and/or capital improvements and any reimbursement
23 thereof of the university utility system. Such an agreement shall
24 be deemed a personal service contract and, therefore, any
25 expenditures thereunder shall not be subject to the procurement
26 requirements set forth in Section 31-7-13.

27 (b) "University" means the University of Southern
28 Mississippi.

29 (c) "University utility system" means all or any
30 portion of the university's waterworks system, water supply
31 system, sewage system, sewage disposal system, gas producing
32 system, gas generating system, gas transmission system, gas
33 distribution system, electric generating system, electric
34 transmission system or electric distribution system,
35 telecommunication facilities, HVAC system, boilers, chillers,
36 related control systems or any combination thereof, that serve any
37 of the university's facilities, buildings, structures or premises.

38 **SECTION 2.** (1) The Board of Trustees of State Institutions
39 of Higher Learning, acting on behalf of the University of Southern
40 Mississippi, is authorized to enter into a long-term services
41 agreement for the operation, repairs and maintenance and/or
42 capital improvements of all or any portion of the university
43 utility system for the benefit of the university. The services
44 agreement may have a term not to exceed fifty (50) years.

45 (2) The services agreement and any amendments thereto shall
46 be subject to the approval of the Board of Trustees of State



47 Institutions of Higher Learning. The approved services agreement
48 and any amendments thereto shall not be cancelled by successor
49 boards based on the binding successor doctrine.

50 (3) The university, with the approval of the Board of
51 Trustees of State Institutions of Higher Learning, is authorized
52 to negotiate all aspects of any services agreement and any terms
53 and conditions thereunder, together with any ancillary agreements
54 pertaining to any services agreement as may be reasonably
55 necessary to effectuate the intent and purposes of this section
56 and to ensure a fair and equitable return to the university. The
57 university may consent to the private or nonprofit entity pledging
58 its interest under the services agreement to secure the private or
59 nonprofit entity's obligations under the terms and conditions of
60 the services agreement.

61 (4) (a) All proceeds or revenues derived or received by the
62 university from the services agreement, and any expenditures made
63 by the university under the services agreement, may be applied in
64 accordance with the terms and conditions thereof and in accordance
65 with this act. All proceeds and revenues received by the
66 university under this act shall be for the use and benefit of the
67 university subject to the terms and conditions of the services
68 agreement.

69 (b) At the end of the services agreement term provided
70 in this act, the operations, repair and maintenance and/or capital



improvements of the university utility system provided for in the services agreement shall revert to the university.

(5) The property and materials contained in the services agreement constituting the university utility system under this act, subject to the provisions of the services agreement, shall be exempt from property and other ad valorem taxation and assessments.

(6) The services agreement may be completed without any other proceedings or the happening of any other conditions or things other than those proceedings, conditions and things which are specific or required by this act.

SECTION 3. If any section, subsection, paragraph, sentence, clause or provision of this act shall be deemed unconstitutional or ineffective, in whole or in part, to the extent that it is not unconstitutional or ineffective, it shall be valid and effective and no other section, subdivision, paragraph, sentence, clause or provision shall on account thereof be deemed invalid or ineffective.

SECTION 4. This act shall take effect and be in force from and after its passage.

