

By: Representative Harness

To: Universities and
Colleges; Ways and Means

HOUSE BILL NO. 748

1 AN ACT TO AMEND SECTION 37-101-15, MISSISSIPPI CODE OF 1972,
2 TO DELETE THE REPEALER ON THE PROVISION OF LAW THAT AUTHORIZES THE
3 BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING TO
4 ADMINISTER CERTAIN CONTRACTS FOR CONSTRUCTION AND MAINTENANCE
5 PROJECTS AT THE STATE INSTITUTIONS WHICH ARE FUNDED BY STATE
6 GENERAL OBLIGATION BONDS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 37-101-15, Mississippi Code of 1972, is
9 amended as follows:

10 37-101-15. (a) The Board of Trustees of State Institutions
11 of Higher Learning shall succeed to and continue to exercise
12 control of all records, books, papers, equipment, and supplies,
13 and all lands, buildings, and other real and personal property
14 belonging to or assigned to the use and benefit of the board of
15 trustees formerly supervising and controlling the institutions of
16 higher learning named in Section 37-101-1. The board shall have
17 and exercise control of the use, distribution and disbursement of
18 all funds, appropriations and taxes, now and hereafter in
19 possession, levied and collected, received, or appropriated for
20 the use, benefit, support, and maintenance or capital outlay



21 expenditures of the institutions of higher learning, including the
22 authorization of employees to sign vouchers for the disbursement
23 of funds for the various institutions, except where otherwise
24 specifically provided by law.

25 (b) The board shall have general supervision of the affairs
26 of all the institutions of higher learning, including the
27 departments and the schools thereof. The board shall have the
28 power in its discretion to determine who shall be privileged to
29 enter, to remain in, or to graduate therefrom. The board shall
30 have general supervision of the conduct of libraries and
31 laboratories, the care of dormitories, buildings, and grounds; the
32 business methods and arrangement of accounts and records; the
33 organization of the administrative plan of each institution; and
34 all other matters incident to the proper functioning of the
35 institutions. The board shall have the authority to establish
36 minimum standards of achievement as a prerequisite for entrance
37 into any of the institutions under its jurisdiction, which
38 standards need not be uniform between the various institutions and
39 which may be based upon such criteria as the board may establish.

40 (c) The board shall exercise all the powers and prerogatives
41 conferred upon it under the laws establishing and providing for
42 the operation of the several institutions herein specified. The
43 board shall adopt such bylaws and regulations from time to time as
44 it deems expedient for the proper supervision and control of the
45 several institutions of higher learning, insofar as such bylaws



46 and regulations are not repugnant to the Constitution and laws,
47 and not inconsistent with the object for which these institutions
48 were established. The board shall have power and authority to
49 prescribe rules and regulations for policing the campuses and all
50 buildings of the respective institutions, to authorize the arrest
51 of all persons violating on any campus any criminal law of the
52 state, and to have such law violators turned over to the civil
53 authorities.

54 (d) For all institutions specified herein, the board shall
55 provide a uniform system of recording and of accounting approved
56 by the State Department of Audit. The board shall annually
57 prepare, or cause to be prepared, a budget for each institution of
58 higher learning for the succeeding year which must be prepared and
59 in readiness for at least thirty (30) days before the convening of
60 the regular session of the Legislature. All relationships and
61 negotiations between the State Legislature and its various
62 committees and the institutions named herein shall be carried on
63 through the board of trustees. No official, employee or agent
64 representing any of the separate institutions shall appear before
65 the Legislature or any committee thereof except upon the written
66 order of the board or upon the request of the Legislature or a
67 committee thereof.

68 (e) For all institutions specified herein, the board shall
69 prepare an annual report to the Legislature setting forth the
70 disbursements of all monies appropriated to the respective



71 institutions. Each report to the Legislature shall show how the
72 money appropriated to the several institutions has been expended,
73 beginning and ending with the fiscal years of the institutions,
74 showing the name of each teacher, officer, and employee, and the
75 salary paid each, and an itemized statement of each and every item
76 of receipts and expenditures. Each report must be balanced, and
77 must begin with the former balance. If any property belonging to
78 the state or the institution is used for profit, the reports shall
79 show the expense incurred in managing the property and the amount
80 received therefrom. The reports shall also show a summary of the
81 gross receipts and gross disbursements for each year and shall
82 show the money on hand at the beginning of the fiscal period of
83 the institution next preceding each session of the Legislature and
84 the necessary amount of expense to be incurred from said date to
85 January 1 following. The board shall keep the annual expenditures
86 of each institution herein mentioned within the income derived
87 from legislative appropriations and other sources, but in case of
88 emergency arising from acts of providence, epidemics, fire or
89 storm with the written approval of the Governor and by written
90 consent of a majority of the senators and of the representatives
91 it may exceed the income. The board shall require a surety bond
92 in a surety company authorized to do business in this state of
93 every employee who is the custodian of funds belonging to one or
94 more of the institutions mentioned herein, which bond shall be in
95 a sum to be fixed by the board in an amount that will properly



96 safeguard the said funds, the premium for which shall be paid out
97 of the funds appropriated for said institutions.

98 (f) The board shall have the power and authority to elect
99 the heads of the various institutions of higher learning and to
100 contract with all deans, professors, and other members of the
101 teaching staff, and all administrative employees of said
102 institutions for a term not exceeding four (4) years. The board
103 shall have the power and authority to terminate any such contract
104 at any time for malfeasance, inefficiency, or contumacious
105 conduct, but never for political reasons. It shall be the policy
106 of the board to permit the executive head of each institution to
107 nominate for election by the board all subordinate employees of
108 the institution over which he presides. It shall be the policy of
109 the board to elect all officials for a definite tenure of service
110 and to reelect during the period of satisfactory service. The
111 board shall have the power to make any adjustments it thinks
112 necessary between the various departments and schools of any
113 institution or between the different institutions.

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

117 (h) The board shall have the power to enter into an energy
118 performance contract, energy services contract, on a
119 shared-savings, lease or lease-purchase basis, for energy



120 efficiency services and/or equipment as prescribed in Section
121 31-7-14.

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

128 (j) In connection with any international contract between
129 the board or one (1) of the state's institutions of higher
130 learning and any party outside of the United States, the board or
131 institution that is the party to the international contract is
132 hereby authorized and empowered to include in the contract a
133 provision for the resolution by arbitration of any controversy
134 between the parties to the contract relating to such contract or
135 the failure or refusal to perform any part of the contract. Such
136 provision shall be valid, enforceable and irrevocable without
137 regard to the justiciable character of the controversy. Provided,
138 however, that in the event either party to such contract initiates
139 litigation against the other with respect to the contract, the
140 arbitration provision shall be deemed waived unless asserted as a
141 defense on or before the responding party is required to answer
142 such litigation.

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



145 jurisdiction, shall purchase and maintain business property
146 insurance and business personal property insurance on all
147 university-owned buildings and/or contents as required by federal
148 law and regulations of the Federal Emergency Management Agency
149 (FEMA) as is necessary for receiving public assistance or
150 reimbursement for repair, reconstruction, replacement or other
151 damage to those buildings and/or contents caused by the Hurricane
152 Katrina Disaster of 2005 or subsequent disasters. The board is
153 authorized to expend funds from any available source for the
154 purpose of obtaining and maintaining that property insurance. The
155 board is authorized to enter into agreements with the Department
156 of Finance and Administration, local school districts,
157 community/junior college districts, community hospitals and/or
158 other state agencies to pool their liabilities to participate in a
159 group business property and/or business personal property
160 insurance program, subject to uniform rules and regulations as may
161 be adopted by the Department of Finance and Administration.

162 (1) The Board of Trustees of State Institutions of Higher
163 Learning, or its designee, may approve the payment or
164 reimbursement of reasonable travel expenses incurred by candidates
165 for open positions at the board's executive office or at any of
166 the state institutions of higher learning, when the job candidate
167 has incurred expenses in traveling to a job interview at the
168 request of the board, the Commissioner of Higher Education or a
169 state institution of higher learning administrator.



170 (m) (i) The Board of Trustees of State Institutions of
171 Higher Learning is authorized to administer and approve contracts
172 for the construction and maintenance of buildings and other
173 facilities of the state institutions of higher learning, including
174 related contracts for architectural and engineering services,
175 which are paid for with self-generated funds.

176 (ii) Additionally, the board is authorized to oversee,
177 administer and approve contracts for the construction and
178 maintenance of buildings and other facilities of the state
179 institutions of higher learning, including related contracts for
180 architectural and engineering services, which are funded in whole
181 or in part by general obligation bonds of the State of Mississippi
182 at institutions designated annually by the board as being capable
183 to procure and administer all such contracts. Prior to the
184 disbursement of funds, an agreement for each project between the
185 institution and the Department of Finance and Administration shall
186 be executed. The approval and execution of the agreement shall
187 not be withheld by either party unless the withholding party
188 provides a written, detailed explanation of the basis for
189 withholding to the other party. The agreement shall stipulate the
190 responsibilities of each party, applicable procurement
191 regulations, documentation and reporting requirements, conditions
192 prior to, and schedule of, disbursement of general obligation bond
193 funds to the institution and provisions concerning handling any
194 remaining general obligation bonds at the completion of the



195 project. Such agreement shall not include provisions that
196 constitute additional qualifications or criteria that act to
197 invalidate the designation of an institution as capable of
198 procuring and administering such project. Inclusion of any such
199 provisions may be appealed to the Public Procurement Review Board.

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201 **SECTION 2.** This act shall take effect and be in force from
202 and after July 1, 2022.

