

By: Representative Bounds

To: Forestry

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1013

1 AN ACT TO AMEND SECTION 49-19-5, MISSISSIPPI CODE OF 1972, TO
2 AUTHORIZE THE MISSISSIPPI FORESTRY COMMISSION AND COUNTY FORESTERS
3 WHO ARE EMPLOYED BY THE COMMISSION TO ELECTRONICALLY ACCEPT BIDS
4 FOR TIMBER SALES; TO BRING FORWARD SECTION 29-1-1, 31-7-13,
5 49-19-3 AND 55-3-53, MISSISSIPPI CODE OF 1972, FOR PURPOSES OF
6 POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 49-19-5, Mississippi Code of 1972, is
9 amended as follows:

10 49-19-5. The State Forestry Commission is hereby authorized
11 and empowered to acquire and dispose of property of all kinds in
12 accordance with the provisions of Section 29-1-1, in order to
13 discharge the duties as set forth in Section 49-19-3, and
14 subsequent germane general laws of the State of Mississippi.

15 Notwithstanding any other provision of law, the commission,
16 and county foresters who are employed by the commission, is
17 authorized to electronically accept bids for timber sales.

18 * * * The commission is * * * also authorized to sell, rent,
19 lease, and dispose of any property acquired by the commission, all
20 property to be sold or disposed of shall be sold or disposed of in



21 the manner provided by law for the sale or disposition of surplus
22 property by other state agencies. Any funds received from the
23 sale, rental or lease of any property herein authorized, to be
24 acquired, shall be paid into the State Treasury to the credit of a
25 special account, and the commission is hereby authorized to use
26 this fund for the replacement, repairs, and upkeep of any property
27 authorized to be acquired and owned under this section.

28 **SECTION 2.** Section 29-1-1, Mississippi Code of 1972, is
29 brought forward as follows:

30 29-1-1. (1) Except as otherwise provided in subsections
31 (7), (8), (9) and (13) of this section, the title to all lands
32 held by any agency of the State of Mississippi shall appear on all
33 deeds and land records under the name of the "State of
34 Mississippi." A deed may also recite the name of the agency for
35 whose benefit and use the land is acquired, but the recital shall
36 not be deemed or construed to be a limitation on the grant or an
37 impairment of title held by the State of Mississippi. Use and
38 possession of the land may be reassigned by act of the Legislature
39 or by interagency conveyance where each agency has statutory
40 authority to acquire and dispose of land. For the purpose of this
41 section, the term "agency" shall be defined as set forth in
42 Section 31-7-1(a). The provisions of this section shall not
43 affect the authority of any agency to use any land held by the
44 agency. No assets or property of the Public Employees' Retirement
45 System of Mississippi shall be transferred in violation of Section



46 272A of the Mississippi Constitution of 1890. Each state agency
47 shall inventory any state-held lands which are titled in the name
48 of the agency. The agency shall execute quitclaim deeds and any
49 other necessary documents to transfer the name and title of the
50 property to the State of Mississippi. State agencies shall
51 furnish to the Secretary of State certified copies of the
52 quitclaim deeds and all other deeds whereby the state agency
53 acquires or disposes of state-held land.

54 (2) The Secretary of State, under the general direction of
55 the Governor and as authorized by law, shall sell and convey the
56 public lands in the manner and on the terms provided herein for
57 the several classes thereof; he shall perform all the
58 administrative and executive duties appertaining to the selection,
59 location, surveying, platting, listing, and registering these
60 lands or otherwise concerning them; and he shall investigate the
61 status of the various "percent" funds accrued and accruing to the
62 state from the sale of lands by the United States, and shall
63 collect and pay the funds into the Treasury in the manner provided
64 by law. The Secretary of State, with the approval of the
65 Governor, acting on behalf of the state, may accept gifts or
66 donations of land to the State of Mississippi.

67 (3) In accordance with Sections 7-11-11 and 7-11-13, the
68 Secretary of State shall be required to sign all conveyances of
69 all state-held land. For purposes of this section, the term
70 "conveyance" shall mean any sale or purchase of land by the State



71 of Mississippi for use by any agency, board or commission thereof.
72 Failure to obtain legislative approval pursuant to subsection (4)
73 of this section and the signature of the Secretary of State on any
74 conveyance regarding the sale or purchase of lands for the state
75 including any agency, board or commission thereof, shall render
76 the attempted sale or purchase of the lands void. Nothing in this
77 section shall be construed to authorize any state agency, board,
78 commission or public official to convey any state-held land unless
79 this authority is otherwise granted by law. The Secretary of
80 State shall not withhold arbitrarily his signature from any
81 purchase or sale authorized by the Mississippi State Legislature.
82 Except for those lands forfeited to the state for the nonpayment
83 of taxes, conveyed to another state agency or entity as provided
84 in subsection (11) of this section or acquired by the Mississippi
85 Transportation Commission under Section 65-1-123, no state-held
86 land shall be sold for less than the fair market value as
87 determined by two (2) professional appraisers selected by the
88 State Department of Finance and Administration, who are certified
89 general appraisers of the State of Mississippi. The proceeds from
90 any sale by an agency, board, commission or public official of
91 state-held lands shall be deposited into the State General Fund
92 unless otherwise provided by law.

93 (4) Before any state-held land is sold to any individual or
94 private entity, thirty (30) days' advance notice of the intended
95 sale shall be provided by the Secretary of State to the State



96 Legislature and to all state agencies for the purpose of
97 ascertaining whether an agency has a need for the land and for the
98 purpose of ascertaining whether the sale of the land was
99 authorized by law. If no agency of the state expresses in writing
100 to the Secretary of State by the end of the thirty-day period a
101 desire to use the land, then the Secretary of State, with the
102 prior approval of the Mississippi Legislature to sell the
103 state-held land, may offer the land for sale to any individual or
104 private entity. Such notice to state agencies is given in aid of
105 internal management of the real property inventory of the state,
106 and this notice requirement shall not be applied to challenge or
107 defeat any title heretofore or hereafter granted by the state
108 under any law authorized by the Mississippi Legislature providing
109 for the sale or disposal of property.

110 (5) A cultural resources survey may be performed on any
111 state-held land before the disposition of the land if the
112 Mississippi Department of Archives and History deems this survey
113 necessary. The cost of the survey and any archaeological studies
114 deemed necessary by the Mississippi Department of Archives and
115 History shall be paid by the selling agency and recouped from the
116 proceeds of the sale.

117 (6) Before any land may be purchased by the state for the
118 benefit of any state agency, the Secretary of State, or his
119 designee, shall search and examine all state land records to
120 determine whether the state owns any land that may fit the



121 particular need of the agency. The Secretary of State, or his
122 designee, shall notify the agency if it is determined that any
123 state-held land is available for use by the agency. The agency
124 shall determine if such land accommodates its needs and shall
125 determine whether to make an official request to the proper
126 authorities to have the use of the land.

127 (7) This section shall not apply to: (a) any lands
128 purchased or acquired for construction and maintenance of highways
129 or highway rights-of-way by the Mississippi Department of
130 Transportation, or (b) any lands acquired by the state by
131 forfeiture for nonpayment of ad valorem taxes and heretofore or
132 hereafter sold under authority of any other section of Chapter 1,
133 Title 29, specifically relating to tax-forfeited lands.

134 (8) This section shall not apply to any lands purchased
135 solely by the use of federal funds or lands for which authority to
136 transfer or dispose of these lands is governed by federal law or
137 federal regulations insofar as the application of this section
138 limits or impairs the ability of the Secretary of State to acquire
139 or dispose of the land. However, any state agency acquiring or
140 disposing of land exempted from the application of this section by
141 this subsection shall furnish the Secretary of State certified
142 copies of all deeds executed for those transfers or disposals.

143 (9) Any lands purchased by the Mississippi Major Economic
144 Impact Authority for a "project" as defined in Section 57-75-5
145 shall be excluded from the provisions of this section.



146 (10) The Secretary of State may recover from any agency,
147 corporation, board, commission, entity or individual any cost that
148 is incurred by his office for the record-keeping responsibilities
149 regarding the sale or purchase of any state-held lands.

150 (11) Subsections (4), (5) and (6) of this section shall not
151 apply to sales or purchases of land when the Legislature expressly
152 authorizes or directs a state agency to sell, purchase or
153 lease-purchase a specifically described property. However, when
154 the Legislature authorizes a state agency to sell or otherwise
155 convey specifically described real property to another state
156 agency or other entity such as a county, municipality, economic
157 development district created under Section 19-5-99 or similar
158 entity, without providing that the conveyance may not be made for
159 less than the fair market value of the property, then the state
160 agency authorized to convey such property must make the following
161 determinations before conveying the property:

162 (a) That the state agency or other entity to which the
163 proposed conveyance is to be made has an immediate need for the
164 property;

165 (b) That there are quantifiable benefits that will
166 inure to the state agency or other entity to which the proposed
167 conveyance is to be made which outweigh any quantifiable costs to
168 the state agency authorized to make the conveyance; and

169 (c) That the state agency or other entity to which the
170 proposed conveyance is to be made lacks available funds to pay



171 fair market value for the property. If the state agency
172 authorized to convey such property fails to make such
173 determinations, then it shall not convey the property for less
174 than the fair market value of the property.

175 (12) This section shall not apply to the donation and
176 conveyance of the Nanih Waiya State Park to the Mississippi Band
177 of Choctaw Indians.

178 (13) This section shall not apply to any lands acquired,
179 sold, or leased pursuant to Section 59-5-1 et seq.

180 **SECTION 3.** Section 31-7-13, Mississippi Code of 1972, is
181 brought forward as follows:

182 31-7-13. All agencies and governing authorities shall
183 purchase their commodities and printing; contract for garbage
184 collection or disposal; contract for solid waste collection or
185 disposal; contract for sewage collection or disposal; contract for
186 public construction; and contract for rentals as herein provided.

187 (a) **Bidding procedure for purchases not over \$5,000.00.**

188 Purchases which do not involve an expenditure of more than Five
189 Thousand Dollars (\$5,000.00), exclusive of freight or shipping
190 charges, may be made without advertising or otherwise requesting
191 competitive bids. However, nothing contained in this paragraph

192 (a) shall be construed to prohibit any agency or governing
193 authority from establishing procedures which require competitive
194 bids on purchases of Five Thousand Dollars (\$5,000.00) or less.



195 (b) **Bidding procedure for purchases over \$5,000.00 but**
196 **not over \$50,000.00.** Purchases which involve an expenditure of
197 more than Five Thousand Dollars (\$5,000.00) but not more than
198 Fifty Thousand Dollars (\$50,000.00), exclusive of freight and
199 shipping charges, may be made from the lowest and best bidder
200 without publishing or posting advertisement for bids, provided at
201 least two (2) competitive written bids have been obtained. Any
202 state agency or community/junior college purchasing commodities or
203 procuring construction pursuant to this paragraph (b) may
204 authorize its purchasing agent, or his designee, to accept the
205 lowest competitive written bid under Fifty Thousand Dollars
206 (\$50,000.00). Any governing authority purchasing commodities
207 pursuant to this paragraph (b) may authorize its purchasing agent,
208 or his designee, with regard to governing authorities other than
209 counties, or its purchase clerk, or his designee, with regard to
210 counties, to accept the lowest and best competitive written bid.
211 Such authorization shall be made in writing by the governing
212 authority and shall be maintained on file in the primary office of
213 the agency and recorded in the official minutes of the governing
214 authority, as appropriate. The purchasing agent or the purchase
215 clerk, or his designee, as the case may be, and not the governing
216 authority, shall be liable for any penalties and/or damages as may
217 be imposed by law for any act or omission of the purchasing agent
218 or purchase clerk, or his designee, constituting a violation of
219 law in accepting any bid without approval by the governing



220 authority. The term "competitive written bid" shall mean a bid
221 submitted on a bid form furnished by the buying agency or
222 governing authority and signed by authorized personnel
223 representing the vendor, or a bid submitted on a vendor's
224 letterhead or identifiable bid form and signed by authorized
225 personnel representing the vendor. "Competitive" shall mean that
226 the bids are developed based upon comparable identification of the
227 needs and are developed independently and without knowledge of
228 other bids or prospective bids. Any bid item for construction in
229 excess of Five Thousand Dollars (\$5,000.00) shall be broken down
230 by components to provide detail of component description and
231 pricing. These details shall be submitted with the written bids
232 and become part of the bid evaluation criteria. Bids may be
233 submitted by facsimile, electronic mail or other generally
234 accepted method of information distribution. Bids submitted by
235 electronic transmission shall not require the signature of the
236 vendor's representative unless required by agencies or governing
237 authorities.

238 (c) **Bidding procedure for purchases over \$50,000.00.**

239 (i) **Publication requirement.**

240 1. Purchases which involve an expenditure of
241 more than Fifty Thousand Dollars (\$50,000.00), exclusive of
242 freight and shipping charges, may be made from the lowest and best
243 bidder after advertising for competitive bids once each week for
244 two (2) consecutive weeks in a regular newspaper published in the



245 county or municipality in which such agency or governing authority
246 is located. However, all American Recovery and Reinvestment Act
247 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
248 shall be bid. All references to American Recovery and
249 Reinvestment Act projects in this section shall not apply to
250 programs identified in Division B of the American Recovery and
251 Reinvestment Act.

252 2. Reverse auctions shall be the primary
253 method for receiving bids during the bidding process. If a
254 purchasing entity determines that a reverse auction is not in the
255 best interest of the state, then that determination must be
256 approved by the Public Procurement Review Board. The purchasing
257 entity shall submit a detailed explanation of why a reverse
258 auction would not be in the best interest of the state and present
259 an alternative process to be approved by the Public Procurement
260 Review Board. If the Public Procurement Review Board authorizes
261 the purchasing entity to solicit bids with a method other than
262 reverse auction, then the purchasing entity may designate the
263 other methods by which the bids will be received, including, but
264 not limited to, bids sealed in an envelope, bids received
265 electronically in a secure system, or bids received by any other
266 method that promotes open competition and has been approved by the
267 Office of Purchasing and Travel. However, reverse auction shall
268 not be used for any public contract for design or construction of
269 public facilities, including buildings, roads and bridges and term



270 contracts as provided in paragraph (n) of this section. The
271 Public Procurement Review Board must approve any contract entered
272 into by alternative process. The provisions of this item 2 shall
273 not apply to the individual state institutions of higher learning.

274 3. The date as published for the bid opening
275 shall not be less than seven (7) working days after the last
276 published notice; however, if the purchase involves a construction
277 project in which the estimated cost is in excess of Fifty Thousand
278 Dollars (\$50,000.00), such bids shall not be opened in less than
279 fifteen (15) working days after the last notice is published and
280 the notice for the purchase of such construction shall be
281 published once each week for two (2) consecutive weeks. However,
282 all American Recovery and Reinvestment Act projects in excess of
283 Twenty-five Thousand Dollars (\$25,000.00) shall be bid. For any
284 projects in excess of Twenty-five Thousand Dollars (\$25,000.00)
285 under the American Recovery and Reinvestment Act, publication
286 shall be made one (1) time and the bid opening for construction
287 projects shall not be less than ten (10) working days after the
288 date of the published notice. The notice of intention to let
289 contracts or purchase equipment shall state the time and place at
290 which bids shall be received, list the contracts to be made or
291 types of equipment or supplies to be purchased, and, if all plans
292 and/or specifications are not published, refer to the plans and/or
293 specifications on file. If there is no newspaper published in the
294 county or municipality, then such notice shall be given by posting



295 same at the courthouse, or for municipalities at the city hall,
296 and at two (2) other public places in the county or municipality,
297 and also by publication once each week for two (2) consecutive
298 weeks in some newspaper having a general circulation in the county
299 or municipality in the above-provided manner. On the same date
300 that the notice is submitted to the newspaper for publication, the
301 agency or governing authority involved shall mail written notice
302 to, or provide electronic notification to the main office of the
303 Mississippi Procurement Technical Assistance Program under the
304 Mississippi Development Authority that contains the same
305 information as that in the published notice. Submissions received
306 by the Mississippi Procurement Technical Assistance Program for
307 projects funded by the American Recovery and Reinvestment Act
308 shall be displayed on a separate and unique Internet web page
309 accessible to the public and maintained by the Mississippi
310 Development Authority for the Mississippi Procurement Technical
311 Assistance Program. Those American Recovery and Reinvestment Act
312 related submissions shall be publicly posted within twenty-four
313 (24) hours of receipt by the Mississippi Development Authority and
314 the bid opening shall not occur until the submission has been
315 posted for ten (10) consecutive days. The Department of Finance
316 and Administration shall maintain information regarding contracts
317 and other expenditures from the American Recovery and Reinvestment
318 Act, on a unique Internet web page accessible to the public. The
319 Department of Finance and Administration shall promulgate rules



320 regarding format, content and deadlines, unless otherwise
321 specified by law, of the posting of award notices, contract
322 execution and subsequent amendments, links to the contract
323 documents, expenditures against the awarded contracts and general
324 expenditures of funds from the American Recovery and Reinvestment
325 Act. Within one (1) working day of the contract award, the agency
326 or governing authority shall post to the designated web page
327 maintained by the Department of Finance and Administration, notice
328 of the award, including the award recipient, the contract amount,
329 and a brief summary of the contract in accordance with rules
330 promulgated by the department. Within one (1) working day of the
331 contract execution, the agency or governing authority shall post
332 to the designated web page maintained by the Department of Finance
333 and Administration a summary of the executed contract and make a
334 copy of the appropriately redacted contract documents available
335 for linking to the designated web page in accordance with the
336 rules promulgated by the department. The information provided by
337 the agency or governing authority shall be posted to the web page
338 for the duration of the American Recovery and Reinvestment Act
339 funding or until the project is completed, whichever is longer.

340 (ii) **Bidding process amendment procedure.** If all
341 plans and/or specifications are published in the notification,
342 then the plans and/or specifications may not be amended. If all
343 plans and/or specifications are not published in the notification,
344 then amendments to the plans/specifications, bid opening date, bid



345 opening time and place may be made, provided that the agency or
346 governing authority maintains a list of all prospective bidders
347 who are known to have received a copy of the bid documents and all
348 such prospective bidders are sent copies of all amendments. This
349 notification of amendments may be made via mail, facsimile,
350 electronic mail or other generally accepted method of information
351 distribution. No addendum to bid specifications may be issued
352 within two (2) working days of the time established for the
353 receipt of bids unless such addendum also amends the bid opening
354 to a date not less than five (5) working days after the date of
355 the addendum.

356 (iii) **Filing requirement.** In all cases involving
357 governing authorities, before the notice shall be published or
358 posted, the plans or specifications for the construction or
359 equipment being sought shall be filed with the clerk of the board
360 of the governing authority. In addition to these requirements, a
361 bid file shall be established which shall indicate those vendors
362 to whom such solicitations and specifications were issued, and
363 such file shall also contain such information as is pertinent to
364 the bid.

365 (iv) **Specification restrictions.**

366 1. Specifications pertinent to such bidding
367 shall be written so as not to exclude comparable equipment of
368 domestic manufacture. However, if valid justification is
369 presented, the Department of Finance and Administration or the



370 board of a governing authority may approve a request for specific
371 equipment necessary to perform a specific job. Further, such
372 justification, when placed on the minutes of the board of a
373 governing authority, may serve as authority for that governing
374 authority to write specifications to require a specific item of
375 equipment needed to perform a specific job. In addition to these
376 requirements, from and after July 1, 1990, vendors of relocatable
377 classrooms and the specifications for the purchase of such
378 relocatable classrooms published by local school boards shall meet
379 all pertinent regulations of the State Board of Education,
380 including prior approval of such bid by the State Department of
381 Education.

382 2. Specifications for construction projects
383 may include an allowance for commodities, equipment, furniture,
384 construction materials or systems in which prospective bidders are
385 instructed to include in their bids specified amounts for such
386 items so long as the allowance items are acquired by the vendor in
387 a commercially reasonable manner and approved by the
388 agency/governing authority. Such acquisitions shall not be made
389 to circumvent the public purchasing laws.

390 (v) **Electronic bids.** Agencies and governing
391 authorities shall provide a secure electronic interactive system
392 for the submittal of bids requiring competitive bidding that shall
393 be an additional bidding option for those bidders who choose to
394 submit their bids electronically. The Department of Finance and



395 Administration shall provide, by regulation, the standards that
396 agencies must follow when receiving electronic bids. Agencies and
397 governing authorities shall make the appropriate provisions
398 necessary to accept electronic bids from those bidders who choose
399 to submit their bids electronically for all purchases requiring
400 competitive bidding under this section. Any special condition or
401 requirement for the electronic bid submission shall be specified
402 in the advertisement for bids required by this section. Agencies
403 or governing authorities that are currently without available high
404 speed Internet access shall be exempt from the requirement of this
405 subparagraph (v) until such time that high speed Internet access
406 becomes available. Any county having a population of less than
407 twenty thousand (20,000) shall be exempt from the provisions of
408 this subparagraph (v). Any municipality having a population of
409 less than ten thousand (10,000) shall be exempt from the
410 provisions of this subparagraph (v). The provisions of this
411 subparagraph (v) shall not require any bidder to submit bids
412 electronically. When construction bids are submitted
413 electronically, the requirement for including a certificate of
414 responsibility, or a statement that the bid enclosed does not
415 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
416 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
417 deemed in compliance with by including same as an attachment with
418 the electronic bid submittal.

419 (d) **Lowest and best bid decision procedure.**



420 (i) **Decision procedure.** Purchases may be made
421 from the lowest and best bidder. In determining the lowest and
422 best bid, freight and shipping charges shall be included.
423 Life-cycle costing, total cost bids, warranties, guaranteed
424 buy-back provisions and other relevant provisions may be included
425 in the best bid calculation. All best bid procedures for state
426 agencies must be in compliance with regulations established by the
427 Department of Finance and Administration. If any governing
428 authority accepts a bid other than the lowest bid actually
429 submitted, it shall place on its minutes detailed calculations and
430 narrative summary showing that the accepted bid was determined to
431 be the lowest and best bid, including the dollar amount of the
432 accepted bid and the dollar amount of the lowest bid. No agency
433 or governing authority shall accept a bid based on items not
434 included in the specifications.

435 (ii) **Decision procedure for Certified Purchasing**
436 **Offices.** In addition to the decision procedure set forth in
437 subparagraph (i) of this paragraph (d), Certified Purchasing
438 Offices may also use the following procedure: Purchases may be
439 made from the bidder offering the best value. In determining the
440 best value bid, freight and shipping charges shall be included.
441 Life-cycle costing, total cost bids, warranties, guaranteed
442 buy-back provisions, documented previous experience, training
443 costs and other relevant provisions, including, but not limited
444 to, a bidder having a local office and inventory located within



445 the jurisdiction of the governing authority, may be included in
446 the best value calculation. This provision shall authorize
447 Certified Purchasing Offices to utilize a Request For Proposals
448 (RFP) process when purchasing commodities. All best value
449 procedures for state agencies must be in compliance with
450 regulations established by the Department of Finance and
451 Administration. No agency or governing authority shall accept a
452 bid based on items or criteria not included in the specifications.

453 (iii) **Decision procedure for Mississippi**

454 **Landmarks.** In addition to the decision procedure set forth in
455 subparagraph (i) of this paragraph (d), where purchase involves
456 renovation, restoration, or both, of the State Capitol Building or
457 any other historical building designated for at least five (5)
458 years as a Mississippi Landmark by the Board of Trustees of the
459 Department of Archives and History under the authority of Sections
460 39-7-7 and 39-7-11, the agency or governing authority may use the
461 following procedure: Purchases may be made from the lowest and
462 best prequalified bidder. Prequalification of bidders shall be
463 determined not less than fifteen (15) working days before the
464 first published notice of bid opening. Prequalification criteria
465 shall be limited to bidder's knowledge and experience in
466 historical restoration, preservation and renovation. In
467 determining the lowest and best bid, freight and shipping charges
468 shall be included. Life-cycle costing, total cost bids,
469 warranties, guaranteed buy-back provisions and other relevant



470 provisions may be included in the best bid calculation. All best
471 bid and prequalification procedures for state agencies must be in
472 compliance with regulations established by the Department of
473 Finance and Administration. If any governing authority accepts a
474 bid other than the lowest bid actually submitted, it shall place
475 on its minutes detailed calculations and narrative summary showing
476 that the accepted bid was determined to be the lowest and best
477 bid, including the dollar amount of the accepted bid and the
478 dollar amount of the lowest bid. No agency or governing authority
479 shall accept a bid based on items not included in the
480 specifications.

481 (iv) **Construction project negotiations authority.**

482 If the lowest and best bid is not more than ten percent (10%)
483 above the amount of funds allocated for a public construction or
484 renovation project, then the agency or governing authority shall
485 be permitted to negotiate with the lowest bidder in order to enter
486 into a contract for an amount not to exceed the funds allocated.

487 (e) **Lease-purchase authorization.** For the purposes of
488 this section, the term "equipment" shall mean equipment, furniture
489 and, if applicable, associated software and other applicable
490 direct costs associated with the acquisition. Any lease-purchase
491 of equipment which an agency is not required to lease-purchase
492 under the master lease-purchase program pursuant to Section
493 31-7-10 and any lease-purchase of equipment which a governing
494 authority elects to lease-purchase may be acquired by a



495 lease-purchase agreement under this paragraph (e). Lease-purchase
496 financing may also be obtained from the vendor or from a
497 third-party source after having solicited and obtained at least
498 two (2) written competitive bids, as defined in paragraph (b) of
499 this section, for such financing without advertising for such
500 bids. Solicitation for the bids for financing may occur before or
501 after acceptance of bids for the purchase of such equipment or,
502 where no such bids for purchase are required, at any time before
503 the purchase thereof. No such lease-purchase agreement shall be
504 for an annual rate of interest which is greater than the overall
505 maximum interest rate to maturity on general obligation
506 indebtedness permitted under Section 75-17-101, and the term of
507 such lease-purchase agreement shall not exceed the useful life of
508 equipment covered thereby as determined according to the upper
509 limit of the asset depreciation range (ADR) guidelines for the
510 Class Life Asset Depreciation Range System established by the
511 Internal Revenue Service pursuant to the United States Internal
512 Revenue Code and regulations thereunder as in effect on December
513 31, 1980, or comparable depreciation guidelines with respect to
514 any equipment not covered by ADR guidelines. Any lease-purchase
515 agreement entered into pursuant to this paragraph (e) may contain
516 any of the terms and conditions which a master lease-purchase
517 agreement may contain under the provisions of Section 31-7-10(5),
518 and shall contain an annual allocation dependency clause
519 substantially similar to that set forth in Section 31-7-10(8).



520 Each agency or governing authority entering into a lease-purchase
521 transaction pursuant to this paragraph (e) shall maintain with
522 respect to each such lease-purchase transaction the same
523 information as required to be maintained by the Department of
524 Finance and Administration pursuant to Section 31-7-10(13).
525 However, nothing contained in this section shall be construed to
526 permit agencies to acquire items of equipment with a total
527 acquisition cost in the aggregate of less than Ten Thousand
528 Dollars (\$10,000.00) by a single lease-purchase transaction. All
529 equipment, and the purchase thereof by any lessor, acquired by
530 lease-purchase under this paragraph and all lease-purchase
531 payments with respect thereto shall be exempt from all Mississippi
532 sales, use and ad valorem taxes. Interest paid on any
533 lease-purchase agreement under this section shall be exempt from
534 State of Mississippi income taxation.

535 (f) **Alternate bid authorization.** When necessary to
536 ensure ready availability of commodities for public works and the
537 timely completion of public projects, no more than two (2)
538 alternate bids may be accepted by a governing authority for
539 commodities. No purchases may be made through use of such
540 alternate bids procedure unless the lowest and best bidder cannot
541 deliver the commodities contained in his bid. In that event,
542 purchases of such commodities may be made from one (1) of the
543 bidders whose bid was accepted as an alternate.



544 (g) **Construction contract change authorization.** In the
545 event a determination is made by an agency or governing authority
546 after a construction contract is let that changes or modifications
547 to the original contract are necessary or would better serve the
548 purpose of the agency or the governing authority, such agency or
549 governing authority may, in its discretion, order such changes
550 pertaining to the construction that are necessary under the
551 circumstances without the necessity of further public bids;
552 provided that such change shall be made in a commercially
553 reasonable manner and shall not be made to circumvent the public
554 purchasing statutes. In addition to any other authorized person,
555 the architect or engineer hired by an agency or governing
556 authority with respect to any public construction contract shall
557 have the authority, when granted by an agency or governing
558 authority, to authorize changes or modifications to the original
559 contract without the necessity of prior approval of the agency or
560 governing authority when any such change or modification is less
561 than one percent (1%) of the total contract amount. The agency or
562 governing authority may limit the number, manner or frequency of
563 such emergency changes or modifications.

564 (h) **Petroleum purchase alternative.** In addition to
565 other methods of purchasing authorized in this chapter, when any
566 agency or governing authority shall have a need for gas, diesel
567 fuel, oils and/or other petroleum products in excess of the amount
568 set forth in paragraph (a) of this section, such agency or



569 governing authority may purchase the commodity after having
570 solicited and obtained at least two (2) competitive written bids,
571 as defined in paragraph (b) of this section. If two (2)
572 competitive written bids are not obtained, the entity shall comply
573 with the procedures set forth in paragraph (c) of this section.
574 In the event any agency or governing authority shall have
575 advertised for bids for the purchase of gas, diesel fuel, oils and
576 other petroleum products and coal and no acceptable bids can be
577 obtained, such agency or governing authority is authorized and
578 directed to enter into any negotiations necessary to secure the
579 lowest and best contract available for the purchase of such
580 commodities.

581 (i) **Road construction petroleum products price**
582 **adjustment clause authorization.** Any agency or governing
583 authority authorized to enter into contracts for the construction,
584 maintenance, surfacing or repair of highways, roads or streets,
585 may include in its bid proposal and contract documents a price
586 adjustment clause with relation to the cost to the contractor,
587 including taxes, based upon an industry-wide cost index, of
588 petroleum products including asphalt used in the performance or
589 execution of the contract or in the production or manufacture of
590 materials for use in such performance. Such industry-wide index
591 shall be established and published monthly by the Mississippi
592 Department of Transportation with a copy thereof to be mailed,
593 upon request, to the clerks of the governing authority of each



594 municipality and the clerks of each board of supervisors
595 throughout the state. The price adjustment clause shall be based
596 on the cost of such petroleum products only and shall not include
597 any additional profit or overhead as part of the adjustment. The
598 bid proposals or document contract shall contain the basis and
599 methods of adjusting unit prices for the change in the cost of
600 such petroleum products.

601 (j) **State agency emergency purchase procedure.** If the
602 governing board or the executive head, or his designees, of any
603 agency of the state shall determine that an emergency exists in
604 regard to the purchase of any commodities or repair contracts, so
605 that the delay incident to giving opportunity for competitive
606 bidding would be detrimental to the interests of the state, then
607 the head of such agency, or his designees, shall file with the
608 Department of Finance and Administration (i) a statement
609 explaining the conditions and circumstances of the emergency,
610 which shall include a detailed description of the events leading
611 up to the situation and the negative impact to the entity if the
612 purchase is made following the statutory requirements set forth in
613 paragraph (a), (b) or (c) of this section, and (ii) a certified
614 copy of the appropriate minutes of the board of such agency
615 requesting the emergency purchase, if applicable. Upon receipt of
616 the statement and applicable board certification, the State Fiscal
617 Officer, or his designees, may, in writing, authorize the purchase



618 or repair without having to comply with competitive bidding
619 requirements.

620 If the governing board or the executive head, or his
621 designees, of any agency determines that an emergency exists in
622 regard to the purchase of any commodities or repair contracts, so
623 that the delay incident to giving opportunity for competitive
624 bidding would threaten the health or safety of any person, or the
625 preservation or protection of property, then the provisions in
626 this section for competitive bidding shall not apply, and any
627 officer or agent of the agency having general or specific
628 authority for making the purchase or repair contract shall approve
629 the bill presented for payment, and he shall certify in writing
630 from whom the purchase was made, or with whom the repair contract
631 was made.

632 Total purchases made under this paragraph (j) shall only be
633 for the purpose of meeting needs created by the emergency
634 situation. Following the emergency purchase, documentation of the
635 purchase, including a description of the commodity purchased, the
636 purchase price thereof and the nature of the emergency shall be
637 filed with the Department of Finance and Administration. Any
638 contract awarded pursuant to this paragraph (j) shall not exceed a
639 term of one (1) year.

640 Purchases under the grant program established under Section
641 37-68-7 in response to COVID-19 and the directive that school
642 districts create a distance learning plan and fulfill technology



643 needs expeditiously shall be deemed an emergency purchase for
644 purposes of this paragraph (j).

645 (k) **Governing authority emergency purchase procedure.**

646 If the governing authority, or the governing authority acting
647 through its designee, shall determine that an emergency exists in
648 regard to the purchase of any commodities or repair contracts, so
649 that the delay incident to giving opportunity for competitive
650 bidding would be detrimental to the interest of the governing
651 authority, then the provisions herein for competitive bidding
652 shall not apply and any officer or agent of such governing
653 authority having general or special authority therefor in making
654 such purchase or repair shall approve the bill presented therefor,
655 and he shall certify in writing thereon from whom such purchase
656 was made, or with whom such a repair contract was made. At the
657 board meeting next following the emergency purchase or repair
658 contract, documentation of the purchase or repair contract,
659 including a description of the commodity purchased, the price
660 thereof and the nature of the emergency shall be presented to the
661 board and shall be placed on the minutes of the board of such
662 governing authority. Purchases under the grant program
663 established under Section 37-68-7 in response to COVID-19 and the
664 directive that school districts create a distance learning plan
665 and fulfill technology needs expeditiously shall be deemed an
666 emergency purchase for purposes of this paragraph (k).



667 (1) **Hospital purchase, lease-purchase and lease**
668 **authorization.**

669 (i) The commissioners or board of trustees of any
670 public hospital may contract with such lowest and best bidder for
671 the purchase or lease-purchase of any commodity under a contract
672 of purchase or lease-purchase agreement whose obligatory payment
673 terms do not exceed five (5) years.

674 (ii) In addition to the authority granted in
675 subparagraph (i) of this paragraph (1), the commissioners or board
676 of trustees is authorized to enter into contracts for the lease of
677 equipment or services, or both, which it considers necessary for
678 the proper care of patients if, in its opinion, it is not
679 financially feasible to purchase the necessary equipment or
680 services. Any such contract for the lease of equipment or
681 services executed by the commissioners or board shall not exceed a
682 maximum of five (5) years' duration and shall include a
683 cancellation clause based on unavailability of funds. If such
684 cancellation clause is exercised, there shall be no further
685 liability on the part of the lessee. Any such contract for the
686 lease of equipment or services executed on behalf of the
687 commissioners or board that complies with the provisions of this
688 subparagraph (ii) shall be excepted from the bid requirements set
689 forth in this section.

690 (m) **Exceptions from bidding requirements.** Excepted
691 from bid requirements are:



692 (i) **Purchasing agreements approved by department.**

693 Purchasing agreements, contracts and maximum price regulations
694 executed or approved by the Department of Finance and
695 Administration.

696 (ii) **Outside equipment repairs.** Repairs to
697 equipment, when such repairs are made by repair facilities in the
698 private sector; however, engines, transmissions, rear axles and/or
699 other such components shall not be included in this exemption when
700 replaced as a complete unit instead of being repaired and the need
701 for such total component replacement is known before disassembly
702 of the component; however, invoices identifying the equipment,
703 specific repairs made, parts identified by number and name,
704 supplies used in such repairs, and the number of hours of labor
705 and costs therefor shall be required for the payment for such
706 repairs.

707 (iii) **In-house equipment repairs.** Purchases of
708 parts for repairs to equipment, when such repairs are made by
709 personnel of the agency or governing authority; however, entire
710 assemblies, such as engines or transmissions, shall not be
711 included in this exemption when the entire assembly is being
712 replaced instead of being repaired.

713 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
714 of gravel or fill dirt which are to be removed and transported by
715 the purchaser.



716 (v) **Governmental equipment auctions.** Motor
717 vehicles or other equipment purchased from a federal agency or
718 authority, another governing authority or state agency of the
719 State of Mississippi, or any governing authority or state agency
720 of another state at a public auction held for the purpose of
721 disposing of such vehicles or other equipment. Any purchase by a
722 governing authority under the exemption authorized by this
723 subparagraph (v) shall require advance authorization spread upon
724 the minutes of the governing authority to include the listing of
725 the item or items authorized to be purchased and the maximum bid
726 authorized to be paid for each item or items.

727 (vi) **Intergovernmental sales and transfers.**
728 Purchases, sales, transfers or trades by governing authorities or
729 state agencies when such purchases, sales, transfers or trades are
730 made by a private treaty agreement or through means of
731 negotiation, from any federal agency or authority, another
732 governing authority or state agency of the State of Mississippi,
733 or any state agency or governing authority of another state.
734 Nothing in this section shall permit such purchases through public
735 auction except as provided for in subparagraph (v) of this
736 paragraph (m). It is the intent of this section to allow
737 governmental entities to dispose of and/or purchase commodities
738 from other governmental entities at a price that is agreed to by
739 both parties. This shall allow for purchases and/or sales at
740 prices which may be determined to be below the market value if the



741 selling entity determines that the sale at below market value is
742 in the best interest of the taxpayers of the state. Governing
743 authorities shall place the terms of the agreement and any
744 justification on the minutes, and state agencies shall obtain
745 approval from the Department of Finance and Administration, prior
746 to releasing or taking possession of the commodities.

747 (vii) **Perishable supplies or food.** Perishable
748 supplies or food purchased for use in connection with hospitals,
749 the school lunch programs, homemaking programs and for the feeding
750 of county or municipal prisoners.

751 (viii) **Single source items.** Noncompetitive items
752 available from one (1) source only. In connection with the
753 purchase of noncompetitive items only available from one (1)
754 source, a certification of the conditions and circumstances
755 requiring the purchase shall be filed by the agency with the
756 Department of Finance and Administration and by the governing
757 authority with the board of the governing authority. Upon receipt
758 of that certification the Department of Finance and Administration
759 or the board of the governing authority, as the case may be, may,
760 in writing, authorize the purchase, which authority shall be noted
761 on the minutes of the body at the next regular meeting thereafter.
762 In those situations, a governing authority is not required to
763 obtain the approval of the Department of Finance and
764 Administration. Following the purchase, the executive head of the
765 state agency, or his designees, shall file with the Department of



766 Finance and Administration, documentation of the purchase,
767 including a description of the commodity purchased, the purchase
768 price thereof and the source from whom it was purchased.

769 (ix) **Waste disposal facility construction**
770 **contracts.** Construction of incinerators and other facilities for
771 disposal of solid wastes in which products either generated
772 therein, such as steam, or recovered therefrom, such as materials
773 for recycling, are to be sold or otherwise disposed of; however,
774 in constructing such facilities, a governing authority or agency
775 shall publicly issue requests for proposals, advertised for in the
776 same manner as provided herein for seeking bids for public
777 construction projects, concerning the design, construction,
778 ownership, operation and/or maintenance of such facilities,
779 wherein such requests for proposals when issued shall contain
780 terms and conditions relating to price, financial responsibility,
781 technology, environmental compatibility, legal responsibilities
782 and such other matters as are determined by the governing
783 authority or agency to be appropriate for inclusion; and after
784 responses to the request for proposals have been duly received,
785 the governing authority or agency may select the most qualified
786 proposal or proposals on the basis of price, technology and other
787 relevant factors and from such proposals, but not limited to the
788 terms thereof, negotiate and enter contracts with one or more of
789 the persons or firms submitting proposals.



790 (x) **Hospital group purchase contracts.** Supplies,
791 commodities and equipment purchased by hospitals through group
792 purchase programs pursuant to Section 31-7-38.

793 (xi) **Information technology products.** Purchases
794 of information technology products made by governing authorities
795 under the provisions of purchase schedules, or contracts executed
796 or approved by the Mississippi Department of Information
797 Technology Services and designated for use by governing
798 authorities.

799 (xii) **Energy efficiency services and equipment.**
800 Energy efficiency services and equipment acquired by school
801 districts, community and junior colleges, institutions of higher
802 learning and state agencies or other applicable governmental
803 entities on a shared-savings, lease or lease-purchase basis
804 pursuant to Section 31-7-14.

805 (xiii) **Municipal electrical utility system fuel.**
806 Purchases of coal and/or natural gas by municipally owned electric
807 power generating systems that have the capacity to use both coal
808 and natural gas for the generation of electric power.

809 (xiv) **Library books and other reference materials.**
810 Purchases by libraries or for libraries of books and periodicals;
811 processed film, videocassette tapes, filmstrips and slides;
812 recorded audiotapes, cassettes and diskettes; and any such items
813 as would be used for teaching, research or other information
814 distribution; however, equipment such as projectors, recorders,



815 audio or video equipment, and monitor televisions are not exempt
816 under this subparagraph.

817 (xv) **Unmarked vehicles.** Purchases of unmarked
818 vehicles when such purchases are made in accordance with
819 purchasing regulations adopted by the Department of Finance and
820 Administration pursuant to Section 31-7-9(2).

821 (xvi) **Election ballots.** Purchases of ballots
822 printed pursuant to Section 23-15-351.

823 (xvii) **Multichannel interactive video systems.**
824 From and after July 1, 1990, contracts by Mississippi Authority
825 for Educational Television with any private educational
826 institution or private nonprofit organization whose purposes are
827 educational in regard to the construction, purchase, lease or
828 lease-purchase of facilities and equipment and the employment of
829 personnel for providing multichannel interactive video systems
830 (ITSF) in the school districts of this state.

831 (xviii) **Purchases of prison industry products by**
832 **the Department of Corrections, regional correctional facilities or**
833 **privately owned prisons.** Purchases made by the Mississippi
834 Department of Corrections, regional correctional facilities or
835 privately owned prisons involving any item that is manufactured,
836 processed, grown or produced from the state's prison industries.

837 (xix) **Undercover operations equipment.** Purchases
838 of surveillance equipment or any other high-tech equipment to be
839 used by law enforcement agents in undercover operations, provided



840 that any such purchase shall be in compliance with regulations
841 established by the Department of Finance and Administration.

842 (xx) **Junior college books for rent.** Purchases by
843 community or junior colleges of textbooks which are obtained for
844 the purpose of renting such books to students as part of a book
845 service system.

846 (xxi) **Certain school district purchases.**
847 Purchases of commodities made by school districts from vendors
848 with which any levying authority of the school district, as
849 defined in Section 37-57-1, has contracted through competitive
850 bidding procedures for purchases of the same commodities.

851 (xxii) **Garbage, solid waste and sewage contracts.**
852 Contracts for garbage collection or disposal, contracts for solid
853 waste collection or disposal and contracts for sewage collection
854 or disposal.

855 (xxiii) **Municipal water tank maintenance**
856 **contracts.** Professional maintenance program contracts for the
857 repair or maintenance of municipal water tanks, which provide
858 professional services needed to maintain municipal water storage
859 tanks for a fixed annual fee for a duration of two (2) or more
860 years.

861 (xxiv) **Purchases of Mississippi Industries for the**
862 **Blind products.** Purchases made by state agencies or governing
863 authorities involving any item that is manufactured, processed or
864 produced by the Mississippi Industries for the Blind.



865 (xxv) **Purchases of state-adopted textbooks.**
866 Purchases of state-adopted textbooks by public school districts.

867 (xxvi) **Certain purchases under the Mississippi**
868 **Major Economic Impact Act.** Contracts entered into pursuant to the
869 provisions of Section 57-75-9(2), (3) and (4).

870 (xxvii) **Used heavy or specialized machinery or**
871 **equipment for installation of soil and water conservation**
872 **practices purchased at auction.** Used heavy or specialized
873 machinery or equipment used for the installation and
874 implementation of soil and water conservation practices or
875 measures purchased subject to the restrictions provided in
876 Sections 69-27-331 through 69-27-341. Any purchase by the State
877 Soil and Water Conservation Commission under the exemption
878 authorized by this subparagraph shall require advance
879 authorization spread upon the minutes of the commission to include
880 the listing of the item or items authorized to be purchased and
881 the maximum bid authorized to be paid for each item or items.

882 (xxviii) **Hospital lease of equipment or services.**
883 Leases by hospitals of equipment or services if the leases are in
884 compliance with paragraph (1)(ii).

885 (xxix) **Purchases made pursuant to qualified**
886 **cooperative purchasing agreements.** Purchases made by certified
887 purchasing offices of state agencies or governing authorities
888 under cooperative purchasing agreements previously approved by the
889 Office of Purchasing and Travel and established by or for any



890 municipality, county, parish or state government or the federal
891 government, provided that the notification to potential
892 contractors includes a clause that sets forth the availability of
893 the cooperative purchasing agreement to other governmental
894 entities. Such purchases shall only be made if the use of the
895 cooperative purchasing agreements is determined to be in the best
896 interest of the governmental entity.

897 (xxx) **School yearbooks.** Purchases of school
898 yearbooks by state agencies or governing authorities; provided,
899 however, that state agencies and governing authorities shall use
900 for these purchases the RFP process as set forth in the
901 Mississippi Procurement Manual adopted by the Office of Purchasing
902 and Travel.

903 (xxxii) **Design-build method of contracting and**
904 **certain other contracts.** Contracts entered into under the
905 provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

906 (xxxiii) **Toll roads and bridge construction**
907 **projects.** Contracts entered into under the provisions of Section
908 65-43-1 or 65-43-3.

909 (xxxiiii) **Certain purchases under Section 57-1-221.**
910 Contracts entered into pursuant to the provisions of Section
911 57-1-221.

912 (xxxiv) **Certain transfers made pursuant to the**
913 **provisions of Section 57-105-1(7).** Transfers of public property



914 or facilities under Section 57-105-1(7) and construction related
915 to such public property or facilities.

916 (xxxv) **Certain purchases or transfers entered into**
917 **with local electrical power associations.** Contracts or agreements
918 entered into under the provisions of Section 55-3-33.

919 (xxxvi) **Certain purchases by an academic medical**
920 **center or health sciences school.** Purchases by an academic
921 medical center or health sciences school, as defined in Section
922 37-115-50, of commodities that are used for clinical purposes and
923 1. intended for use in the diagnosis of disease or other
924 conditions or in the cure, mitigation, treatment or prevention of
925 disease, and 2. medical devices, biological, drugs and
926 radiation-emitting devices as defined by the United States Food
927 and Drug Administration.

928 (xxxvii) **Certain purchases made under the Alyce G.**
929 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
930 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
931 Lottery Law.

932 (n) **Term contract authorization.** All contracts for the
933 purchase of:

934 (i) All contracts for the purchase of commodities,
935 equipment and public construction (including, but not limited to,
936 repair and maintenance), may be let for periods of not more than
937 sixty (60) months in advance, subject to applicable statutory
938 provisions prohibiting the letting of contracts during specified



939 periods near the end of terms of office. Term contracts for a
940 period exceeding twenty-four (24) months shall also be subject to
941 ratification or cancellation by governing authority boards taking
942 office subsequent to the governing authority board entering the
943 contract.

944 (ii) Bid proposals and contracts may include price
945 adjustment clauses with relation to the cost to the contractor
946 based upon a nationally published industry-wide or nationally
947 published and recognized cost index. The cost index used in a
948 price adjustment clause shall be determined by the Department of
949 Finance and Administration for the state agencies and by the
950 governing board for governing authorities. The bid proposal and
951 contract documents utilizing a price adjustment clause shall
952 contain the basis and method of adjusting unit prices for the
953 change in the cost of such commodities, equipment and public
954 construction.

955 (o) **Purchase law violation prohibition and vendor**
956 **penalty.** No contract or purchase as herein authorized shall be
957 made for the purpose of circumventing the provisions of this
958 section requiring competitive bids, nor shall it be lawful for any
959 person or concern to submit individual invoices for amounts within
960 those authorized for a contract or purchase where the actual value
961 of the contract or commodity purchased exceeds the authorized
962 amount and the invoices therefor are split so as to appear to be
963 authorized as purchases for which competitive bids are not



964 required. Submission of such invoices shall constitute a
965 misdemeanor punishable by a fine of not less than Five Hundred
966 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
967 or by imprisonment for thirty (30) days in the county jail, or
968 both such fine and imprisonment. In addition, the claim or claims
969 submitted shall be forfeited.

970 (p) **Electrical utility petroleum-based equipment**
971 **purchase procedure.** When in response to a proper advertisement
972 therefor, no bid firm as to price is submitted to an electric
973 utility for power transformers, distribution transformers, power
974 breakers, reclosers or other articles containing a petroleum
975 product, the electric utility may accept the lowest and best bid
976 therefor although the price is not firm.

977 (q) **Fuel management system bidding procedure.** Any
978 governing authority or agency of the state shall, before
979 contracting for the services and products of a fuel management or
980 fuel access system, enter into negotiations with not fewer than
981 two (2) sellers of fuel management or fuel access systems for
982 competitive written bids to provide the services and products for
983 the systems. In the event that the governing authority or agency
984 cannot locate two (2) sellers of such systems or cannot obtain
985 bids from two (2) sellers of such systems, it shall show proof
986 that it made a diligent, good-faith effort to locate and negotiate
987 with two (2) sellers of such systems. Such proof shall include,
988 but not be limited to, publications of a request for proposals and



989 letters soliciting negotiations and bids. For purposes of this
990 paragraph (q), a fuel management or fuel access system is an
991 automated system of acquiring fuel for vehicles as well as
992 management reports detailing fuel use by vehicles and drivers, and
993 the term "competitive written bid" shall have the meaning as
994 defined in paragraph (b) of this section. Governing authorities
995 and agencies shall be exempt from this process when contracting
996 for the services and products of fuel management or fuel access
997 systems under the terms of a state contract established by the
998 Office of Purchasing and Travel.

999 (r) **Solid waste contract proposal procedure.** Before
1000 entering into any contract for garbage collection or disposal,
1001 contract for solid waste collection or disposal or contract for
1002 sewage collection or disposal, which involves an expenditure of
1003 more than Fifty Thousand Dollars (\$50,000.00), a governing
1004 authority or agency shall issue publicly a request for proposals
1005 concerning the specifications for such services which shall be
1006 advertised for in the same manner as provided in this section for
1007 seeking bids for purchases which involve an expenditure of more
1008 than the amount provided in paragraph (c) of this section. Any
1009 request for proposals when issued shall contain terms and
1010 conditions relating to price, financial responsibility,
1011 technology, legal responsibilities and other relevant factors as
1012 are determined by the governing authority or agency to be
1013 appropriate for inclusion; all factors determined relevant by the



1014 governing authority or agency or required by this paragraph (r)
1015 shall be duly included in the advertisement to elicit proposals.
1016 After responses to the request for proposals have been duly
1017 received, the governing authority or agency shall select the most
1018 qualified proposal or proposals on the basis of price, technology
1019 and other relevant factors and from such proposals, but not
1020 limited to the terms thereof, negotiate and enter into contracts
1021 with one or more of the persons or firms submitting proposals. If
1022 the governing authority or agency deems none of the proposals to
1023 be qualified or otherwise acceptable, the request for proposals
1024 process may be reinitiated. Notwithstanding any other provisions
1025 of this paragraph, where a county with at least thirty-five
1026 thousand (35,000) nor more than forty thousand (40,000)
1027 population, according to the 1990 federal decennial census, owns
1028 or operates a solid waste landfill, the governing authorities of
1029 any other county or municipality may contract with the governing
1030 authorities of the county owning or operating the landfill,
1031 pursuant to a resolution duly adopted and spread upon the minutes
1032 of each governing authority involved, for garbage or solid waste
1033 collection or disposal services through contract negotiations.

1034 (s) **Minority set-aside authorization.** Notwithstanding
1035 any provision of this section to the contrary, any agency or
1036 governing authority, by order placed on its minutes, may, in its
1037 discretion, set aside not more than twenty percent (20%) of its
1038 anticipated annual expenditures for the purchase of commodities



1039 from minority businesses; however, all such set-aside purchases
1040 shall comply with all purchasing regulations promulgated by the
1041 Department of Finance and Administration and shall be subject to
1042 bid requirements under this section. Set-aside purchases for
1043 which competitive bids are required shall be made from the lowest
1044 and best minority business bidder. For the purposes of this
1045 paragraph, the term "minority business" means a business which is
1046 owned by a majority of persons who are United States citizens or
1047 permanent resident aliens (as defined by the Immigration and
1048 Naturalization Service) of the United States, and who are Asian,
1049 Black, Hispanic or Native American, according to the following
1050 definitions:

1051 (i) "Asian" means persons having origins in any of
1052 the original people of the Far East, Southeast Asia, the Indian
1053 subcontinent, or the Pacific Islands.

1054 (ii) "Black" means persons having origins in any
1055 black racial group of Africa.

1056 (iii) "Hispanic" means persons of Spanish or
1057 Portuguese culture with origins in Mexico, South or Central
1058 America, or the Caribbean Islands, regardless of race.

1059 (iv) "Native American" means persons having
1060 origins in any of the original people of North America, including
1061 American Indians, Eskimos and Aleuts.

1062 (t) **Construction punch list restriction.** The
1063 architect, engineer or other representative designated by the



1064 agency or governing authority that is contracting for public
1065 construction or renovation may prepare and submit to the
1066 contractor only one (1) preliminary punch list of items that do
1067 not meet the contract requirements at the time of substantial
1068 completion and one (1) final list immediately before final
1069 completion and final payment.

1070 (u) **Procurement of construction services by state**
1071 **institutions of higher learning.** Contracts for privately financed
1072 construction of auxiliary facilities on the campus of a state
1073 institution of higher learning may be awarded by the Board of
1074 Trustees of State Institutions of Higher Learning to the lowest
1075 and best bidder, where sealed bids are solicited, or to the
1076 offeror whose proposal is determined to represent the best value
1077 to the citizens of the State of Mississippi, where requests for
1078 proposals are solicited.

1079 (v) **Insurability of bidders for public construction or**
1080 **other public contracts.** In any solicitation for bids to perform
1081 public construction or other public contracts to which this
1082 section applies, including, but not limited to, contracts for
1083 repair and maintenance, for which the contract will require
1084 insurance coverage in an amount of not less than One Million
1085 Dollars (\$1,000,000.00), bidders shall be permitted to either
1086 submit proof of current insurance coverage in the specified amount
1087 or demonstrate ability to obtain the required coverage amount of
1088 insurance if the contract is awarded to the bidder. Proof of



1089 insurance coverage shall be submitted within five (5) business
1090 days from bid acceptance.

1091 (w) **Purchase authorization clarification.** Nothing in
1092 this section shall be construed as authorizing any purchase not
1093 authorized by law.

1094 **SECTION 4.** Section 49-19-3, Mississippi Code of 1972, is
1095 brought forward as follows:

1096 49-19-3. The duties and powers of the commission shall be:

1097 (a) To appoint a State Forester, who shall serve at the
1098 will and pleasure of the commission and who is qualified to
1099 perform the duties as set forth herein; and to pay him such salary
1100 as is provided by the Legislature, and allow him such office
1101 expenses incidental to the performance of his official duties as
1102 the commission, in its discretion, may deem necessary; and to
1103 charge him with the immediate direction and control, subject to
1104 the supervision and approval of the commission, of all matters
1105 relating to forestry as authorized herein. Any person appointed
1106 by the commission as State Forester shall have received a
1107 bachelor's degree in forestry from an accredited school or college
1108 of forestry and shall be licensed and registered under the
1109 provisions of the Mississippi Foresters Registration Law (Section
1110 73-36-1 et seq.) and in addition shall have had at least five (5)
1111 years' administrative experience in a forestry-related field.

1112 (b) To take such action and provide and maintain such
1113 organized means as may seem necessary and expedient to prevent,



1114 control and extinguish forest fires, including the enforcement of
1115 any and all laws pertaining to the protection of forests and
1116 woodland.

1117 (c) To encourage forest and tree planting for the
1118 production of a wood crop, for the protection of water supply, for
1119 windbreak and shade, or for any other beneficial purposes
1120 contributing to the general welfare, public hygiene and comfort of
1121 the people.

1122 (d) To cause to be made such technical investigations
1123 and studies concerning forest conditions, the propagation, care
1124 and protection of forest and shade trees, the care and management
1125 of forests, their growth, yield and the products and by-products
1126 thereof, and any other competent subject, including forest
1127 taxation, bearing on the timber supply and needs of the state,
1128 which the commission, in its discretion, may deem proper.

1129 (e) To assist and cooperate with any federal or state
1130 department or institution, county, town, corporation or
1131 individual, under such terms as in the judgment of the commission
1132 will best serve the public interest, in the preparation and
1133 execution of plans for the protection, management, replacement, or
1134 extension of the forest, woodland and roadside or other ornamental
1135 tree growth in the state.

1136 (f) To encourage public interest in forestry by means
1137 of correspondence, the public press, periodicals, the publication
1138 of bulletins and leaflets for general distribution, the delivery



1139 of lectures in the schools and other suitable means, and to
1140 cooperate to the fullest extent with the extension department
1141 services of the state colleges in promoting reforestation. It
1142 shall be the duty of the State Forester to cooperate with private
1143 timber owners in laying plans for the protection, management and
1144 replacement of forests and in aiding them to form protection
1145 associations. It shall be his duty to examine all timbered lands
1146 belonging to the state and its institutions and report to the
1147 commission upon their timber conditions and actual value, and also
1148 whether some of these lands may not be held as state forests. He
1149 shall be responsible for the protection and management of lands
1150 donated, purchased or belonging to the state or state
1151 institutions, and all other lands reserved by the state as state
1152 forests.

1153 (g) To control the expenditure of any and all funds
1154 appropriated or otherwise made available for the several purposes
1155 set forth herein under suitable regulations and restrictions by
1156 the commission and to specifically authorize any officer or
1157 employee of the commission to incur necessary and stipulated
1158 expenses in connection with the work in which such person may be
1159 engaged.

1160 (h) To submit annually to the Legislature a report of
1161 the expenditures, proceedings and results achieved, together with
1162 such other matters including recommendations concerning



1163 legislation as are germane to the aims and purposes of this
1164 chapter.

1165 (i) To create, establish and organize the State of
1166 Mississippi into forestry districts for the most effective and
1167 efficient administration of the commission.

1168 (j) To appoint, upon the State Forester's
1169 recommendation, six (6) individuals who shall be designated
1170 Mississippi Forestry Commission Law Enforcement Officers with
1171 authority to bear arms, investigate and make arrests; however, the
1172 law enforcement duties and authority of the officers shall be
1173 limited to woods arson. The officers shall comply with applicable
1174 minimum educational and training standards for law enforcement
1175 officers. These officers may issue citations for any violation of
1176 those laws for recklessly or with gross negligence causing fire to
1177 burn the lands of another. A citation issued by a Forestry
1178 Commission law enforcement officer shall be issued on a uniform
1179 citation form consisting of an original and at least two (2)
1180 copies. Such citation shall show, among other necessary
1181 information, the name of the issuing officer, the name of the
1182 court in which the cause is to be heard and the date and time the
1183 person charged with a violation is to appear to answer the charge.
1184 The uniform citation form shall make a provision on it for
1185 information that will constitute a complaint charging the offense
1186 for which the citation was issued and, when duly sworn to and
1187 filed with a court of competent jurisdiction, prosecution may



1188 proceed under that complaint. For the purposes of this paragraph,
1189 the fact that any person is found to have a brush or debris pile
1190 or other material which is or was being burned and reasonable and
1191 prudent efforts were not taken to prevent the spread of the fire
1192 onto the lands of another shall be evidence that such person
1193 recklessly or with gross negligence caused the land to burn.

1194 This paragraph shall stand repealed on June 30, 2022.

1195 **SECTION 5.** Section 55-3-53, Mississippi Code of 1972, is
1196 brought forward as follows:

1197 55-3-53. (1) The Mississippi Department of Wildlife,
1198 Fisheries and Parks is hereby authorized and empowered to sell and
1199 dispose of timber, trees, deadwood and stumps standing, growing
1200 and being upon the lands of state parks. Such timber shall be
1201 sold and disposed of under the direction and specifications of the
1202 Department of Wildlife, Fisheries and Parks in accordance with
1203 sound and efficient principles of selective cutting, forestry
1204 management and conservation.

1205 Before any such timber, trees, deadwood and stumps shall be
1206 sold, the Department of Wildlife, Fisheries and Parks shall select
1207 and mark the trees to be cut and disposed of. No trees or timber
1208 shall be marked for cutting when the cutting thereof would destroy
1209 or mar the scenic views from the tourist observation points in
1210 said park. The purchaser shall pay double price on sale basis for
1211 all trees, timber or stumps cut that had not been marked for
1212 removing by the Department of Wildlife, Fisheries and Parks.



1213 Before any such timber, trees, deadwood or stumps standing,
1214 growing or being upon such land shall be sold, the department
1215 shall advertise its intention so to do by publication in a
1216 newspaper published or having general circulation in the county or
1217 counties where parks are located, such notice to be published at
1218 least once a week for three (3) consecutive weeks preceding the
1219 sale and by posting one (1) notice in the courthouse in such
1220 county. The notice shall specify that such bids shall be filed
1221 with the superintendent of the state park involved, who shall
1222 transmit same to the Department of Wildlife, Fisheries and Parks
1223 for rejection or approval. Said department shall accept the bid
1224 of the highest and best bidder for cash, but shall have the right
1225 to reject any and all of such bids.

1226 Provided, however, in the case of damage by fire, windstorm,
1227 insects or other natural causes which would require immediate sale
1228 of the timber, because the time involved for advertisement as
1229 prescribed herein would allow decay, rot or destruction
1230 substantially decreasing the purchase price to be received had not
1231 such delay occurred, the advertisement provisions of this section
1232 shall not apply. The State Park Director, upon a written
1233 recommendation from the county forester of the county wherein said
1234 state park is located, shall determine when immediate sale of the
1235 timber is required. When the State Park Director shall find an
1236 immediate sale necessary for the causes stated herein, he shall,
1237 in his discretion, set the time for receipt of bids on the



1238 purchase of said timber, but shall show due diligence in notifying
1239 competitive bidders so that a true competitive bid shall be
1240 received.

1241 Whenever any timber, trees, deadwood or stumps are sold under
1242 the provisions of this section, the purchaser thereof shall have
1243 all necessary rights of ingress and egress to enter upon said land
1244 and cut and remove such timber, trees, deadwood or stumps.

1245 The proceeds derived or received from all sales under the
1246 provisions of this section shall be placed in the State Parks
1247 Timber Management Endowment Fund created under Section 55-3-54.

1248 (2) Notwithstanding the provisions of subsection (1) of this
1249 section, the Department of Wildlife, Fisheries and Parks may cut
1250 and sell trees damaged by fire, windstorm or insects and deadwood
1251 and stumps located upon the lands of state parks for firewood.
1252 Such firewood shall be sold only to overnight guests at state
1253 parks for use at state parks. The Department of Wildlife,
1254 Fisheries and Parks shall select and mark all trees to be cut for
1255 firewood.

1256 **SECTION 6.** This act shall take effect and be in force from
1257 and after July 1, 2022, and shall stand repealed on June 30, 2022.

