

By: Representative Zuber

To: Accountability,
Efficiency, Transparency;
Judiciary A

HOUSE BILL NO. 1435

1 AN ACT TO AMEND SECTION 5-8-3, MISSISSIPPI CODE OF 1972, TO
 2 REVISE THE DEFINITION OF "LOBBYING" TO INCLUDE ATTEMPTING TO
 3 INFLUENCE THE PROCUREMENT OF MATERIALS, SERVICES OR CONSTRUCTION
 4 BY AN AGENCY AND PROMOTING OR ATTEMPTING TO INFLUENCE THE AWARDED
 5 OF A GRANT OR CONTRACT WITH ANY DEPARTMENT OR AGENCY OF THE
 6 EXECUTIVE, LEGISLATIVE OR JUDICIAL BRANCH OF STATE OR LOCAL
 7 GOVERNMENT; TO REVISE THE DEFINITION OF "LOBBYIST" TO INCLUDE ANY
 8 INDIVIDUAL WHO IS EMPLOYED BY OR HAS CONTRACTED WITH ANY PRIVATE
 9 ENTITY FOR THE PURPOSE OF PROVIDING ANY TYPE OF CONSULTING OR
 10 OTHER SIMILAR SERVICE BUT ALSO ENGAGES IN ANY TYPE OF LOBBYING
 11 ACTIVITIES AND TO INCLUDE ANY INDIVIDUAL WHO ATTEMPTS TO INFLUENCE
 12 ANY MEMBER OR EMPLOYEE OF A GOVERNING AUTHORITY, COUNTY BOARD OF
 13 SUPERVISORS, UTILITY DISTRICT, WATER BOARD, SEWER BOARD, OR ANY
 14 OTHER SIMILAR LOCAL BOARD; TO BRING FORWARD SECTION 5-8-7,
 15 MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT;
 16 AND FOR RELATED PURPOSES.

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

18 **SECTION 1.** Section 5-8-3, Mississippi Code of 1972, is
 19 amended as follows:

20 5-8-3. The following words and phrases shall have the
 21 meanings ascribed herein unless the context clearly indicates
 22 otherwise:

23 (a) (i) "Anything of value" means:

24 1. A pecuniary item, including money, or a
 25 bank bill or note;



- 26 2. A promissory note, bill of exchange,
27 order, draft, warrant, check or bond given for the payment of
28 money;
- 29 3. A contract, agreement, promise or other
30 obligation for an advance, conveyance, forgiveness of
31 indebtedness, deposit, distribution, loan, payment, gift, pledge
32 or transfer of money;
- 33 4. A stock, bond, note or other investment
34 interest in an entity;
- 35 5. A receipt given for the payment of money
36 or other property;
- 37 6. A right in action;
- 38 7. A gift, tangible good, chattel or an
39 interest in a gift, tangible good or chattel;
- 40 8. A loan or forgiveness of indebtedness;
- 41 9. A work of art, antique or collectible;
- 42 10. An automobile or other means of personal
43 transportation;
- 44 11. Real property or an interest in real
45 property, including title to realty, a fee simple or partial
46 interest, present or future, contingent or vested within realty, a
47 leasehold interest, or other beneficial interest in realty;
- 48 12. An honorarium or compensation for
49 services;



50 13. A rebate or discount in the price of
51 anything of value, unless the rebate or discount is made in the
52 ordinary course of business to a member of the public without
53 regard to that person's status as an executive, legislative or
54 public official or public employee, or the sale or trade of
55 something for reasonable compensation that would ordinarily not be
56 available to a member of the public;

57 14. A promise or offer of employment;

58 15. Any other thing of value that is
59 pecuniary or compensatory in value to a person, except as
60 otherwise provided in subparagraph (ii) of this paragraph; or

61 16. A payment that directly benefits an
62 executive, legislative or public official or public employee or a
63 member of that person's immediate family.

64 (ii) "Anything of value" does not mean:

65 1. Informational material such as books,
66 reports, pamphlets, calendars or periodicals informing an
67 executive, legislative or public official or public employee of
68 her or his official duties;

69 2. A certificate, plaque or other
70 commemorative item which has little pecuniary value;

71 3. Food and beverages for immediate
72 consumption provided by a lobbyist up to a value of Ten Dollars
73 (\$10.00) in the aggregate during any calendar year;



74 4. Campaign contributions reported in
75 accordance with Section 23-15-801 et seq., Mississippi Code of
76 1972.

77 (b) "Commission" means the Mississippi Ethics
78 Commission, when used in the context of Section 5-8-19.

79 (c) "Compensation" means:

80 (i) An advance, conveyance, forgiveness of
81 indebtedness, deposit, distribution, loan, payment, gift, pledge
82 or transfer of money or anything of value, including reimbursement
83 of travel, food or lodging costs; or

84 (ii) A contract, agreement, promise or other
85 obligation for an advance, conveyance, forgiveness of
86 indebtedness, deposit, distribution, loan, payment, gift, pledge
87 or transfer of money or anything of value, including reimbursement
88 of travel, food or lodging costs, for services rendered or to be
89 rendered.

90 (d) "Executive action" means the proposal, drafting,
91 development, consideration, amendment, adoption, approval,
92 promulgation, issuance, modification, rejection or postponement by
93 a state or local governmental entity of a rule, regulation, order,
94 decision, determination or other quasi-legislative action or
95 proceeding.

96 (e) "Executive agency" means:



97 (i) An agency, board, commission, governing
98 authority or other body in the executive branch of state or local
99 government; or

100 (ii) An independent body of state or local
101 government that is not a part of the legislative or judicial
102 branch, but which shall include county boards of supervisors.

103 (f) "Executive official" means:

104 (i) A member or employee of a state agency, board,
105 commission, governing authority or other body in the executive
106 branch of state or local government; or

107 (ii) A public official or public employee, or any
108 employee of such person, of state or local government who takes an
109 executive action.

110 (g) "Expenditure" means:

111 (i) A purchase, payment, distribution, loan,
112 forgiveness of a loan or payment of a loan by a third party,
113 advance, deposit, transfer of funds, a promise to make a payment,
114 or a gift of money or anything of value for any purpose;

115 (ii) A payment to a lobbyist for salary, fee,
116 commission, compensation for expenses, or other purpose by a
117 person employing, retaining or contracting for the services of the
118 lobbyist separately or jointly with other persons;

119 (iii) A payment in support of or assistance to a
120 lobbyist or the lobbyist's activities, including the direct



121 payment of expenses incurred at the request or suggestion of the
122 lobbyist;

123 (iv) A payment that directly benefits an
124 executive, legislative or public official or a member of the
125 official's immediate family;

126 (v) A payment, including compensation, payment or
127 reimbursement for the services, time or expenses of an employee
128 for or in connection with direct communication with an executive,
129 legislative or public official made at the direction of the
130 employee's employer;

131 (vi) A payment for or in connection with
132 soliciting or urging other persons to enter into direct
133 communication with an executive, legislative or public official;
134 or

135 (vii) A payment or reimbursement for food,
136 beverages, travel, lodging, entertainment or sporting activities.

137 (h) "Gift" means anything of value to the extent that
138 consideration of equal or greater value is not received, including
139 a rebate or discount in the price of anything of value unless the
140 rebate or discount is made in the ordinary course of business to a
141 member of the public without regard to that person's status as an
142 executive, legislative or public official.

143 (i) "Legislative action" means:

144 (i) Preparation, research, drafting, introduction,
145 consideration, modification, amendment, approval, passage,



146 enactment, tabling, postponement, defeat or rejection of a bill,
147 resolution, amendment, motion, report, nomination, appointment or
148 other matter by the Mississippi State Legislature or a member or
149 employee of the Legislature acting or purporting to act in an
150 official capacity;

151 (ii) Action by the Governor in approving or
152 vetoing a bill or other action of the Legislature;

153 (iii) Action by the Legislature in:

154 1. Overriding or sustaining a veto by the
155 Governor; or

156 2. Considering, confirming or rejecting an
157 executive appointment of the Governor.

158 (j) "Legislative official" means:

159 (i) A member, member-elect or presiding officer of
160 the Legislature;

161 (ii) A member of a commission or other entity
162 established by and responsible to either or both houses of the
163 Legislature;

164 (iii) A staff member, officer or employee to a
165 member or member-elect of the Legislature, to a member of a
166 commission or other entity established by and responsible to
167 either or both houses of the Legislature, or to the Legislature or
168 any house, committee or office thereof.

169 (k) "Lobbying" means:



- 170 (i) Influencing or attempting to influence
171 legislative or executive action through oral or written
172 communication; or
- 173 (ii) Solicitation of others to influence
174 legislative or executive action; * * *
- 175 (iii) Paying or promising to pay anything of value
176 directly or indirectly related to legislative or executive
177 action * * *;
- 178 (iv) Attempting to influence the procurement of
179 materials, services or construction by an agency; or
- 180 (v) Promoting or attempting to influence the
181 awarding of a grant or contract with any department or agency of
182 the executive, legislative or judicial branch of state or local
183 government.
- 184 (1) "Lobbyist" means:
- 185 (i) An individual who is employed and receives
186 payments, or who contracts for economic consideration, including
187 reimbursement for reasonable travel and living expenses, for the
188 purpose of lobbying;
- 189 (ii) An individual who represents a legislative or
190 public official or public employee, or who represents a person,
191 organization, association or other group, for the purpose of
192 lobbying;
- 193 (iii) A sole proprietor, owner, part owner or
194 shareholder in a business who has a pecuniary interest in



195 legislative or executive action, who engages in lobbying
196 activities; * * *

197 (iv) Any individual described in subparagraphs
198 (i), (ii) or (iii) of this paragraph (1) who is employed by or has
199 contracted with any agency, legislative or public official or
200 public employee, or any other public or private entity for the
201 purpose of providing any type of consulting or other similar
202 service but also engages in any type of lobbying activities. Such
203 individual shall not qualify for any exemption under Section
204 5-8-7 * * *; or

205 (v) Any individual described in subparagraphs (i),
206 (ii), (iii) or (iv) of this paragraph (1) who attempts to
207 influence any member or employee of a governing authority, county
208 board of supervisors, utility district, water board, sewer board,
209 or any other similar local board.

210 (m) "Lobbyist's client" means the person in whose
211 behalf the lobbyist influences or attempts to influence
212 legislative or executive action.

213 (n) "Local" means all entities of government at the
214 county, county-district, multicounty district, municipal or school
215 district level.

216 (o) "Person" means an individual, proprietorship, firm,
217 partnership, joint venture, joint-stock company, syndicate,
218 business trust, estate, company, corporation, association, club,
219 committee, organization or group of persons acting in concert.



220 (p) "Public employee" means an individual appointed to
221 a position, including a position created by statute, whether
222 compensated or not, in state or local government and includes any
223 employee of the public employee. The term includes a member of
224 the board of trustees, chancellor, vice chancellor or the
225 equivalent thereof in the state university system or the state
226 community and junior college system, and a president of a state
227 college or university.

228 (q) "Public official" means an individual elected to a
229 state or local office, or an individual who is appointed to fill a
230 vacancy in the office.

231 (r) "Value" means the retail cost or fair market worth
232 of an item or items, whichever is greater.

233 **SECTION 2.** Section 5-8-7, Mississippi Code of 1972, is
234 brought forward as follows:

235 5-8-7. Notwithstanding any other provisions of this chapter,
236 except as otherwise provided in Section 5-8-3(1)(iv), the
237 following person shall not be included within the definition of
238 "lobbyist" or "lobbyist's client" under this chapter, and
239 accordingly the registration and reporting provisions, including
240 the payment of related fees, of this chapter do not apply to:

241 (a) A legislative or public official acting in an
242 official capacity.

243 (b) An individual who:



244 (i) Represents or purports to represent only the
245 individual;

246 (ii) Receives no compensation or anything of value
247 for lobbying; and

248 (iii) Has no pecuniary interest in the legislative
249 or executive action.

250 (c) An individual lobbying in his or her own interest,
251 his or her own business interest, who pays, or promises to pay,
252 offers to pay or causes to be paid to public officials,
253 legislative officials or public employees any thing or things of
254 value aggregating in value to less than Two Hundred Dollars
255 (\$200.00) in any calendar year.

256 (d) An individual lobbying on behalf of his or her
257 employer's business interest where such lobbying is not a primary
258 or regular function of his employment position if such individual
259 pays, promises to pay, offers to pay, or causes to be paid
260 individually or on the employer's behalf to public officials,
261 legislative officials, or public employees any thing or things of
262 value aggregating in value to less than Two Hundred Dollars
263 (\$200.00) in any calendar year.

264 (e) An individual lobbying on behalf of an association
265 of which he or she is a member, where such lobbying is not a
266 primary or regular function of his or her position in the
267 association, if such individual pays, promises to pay, offers to
268 pay, or causes to be paid individually or on the association's



269 behalf to public officials, legislative officials or public
270 employees any thing or things of value aggregating in value to
271 less than Two Hundred Dollars (\$200.00) in any calendar year.

272 (f) An individual who is a shareholder, owner or part
273 owner of a business who lobbies on behalf of such business, where
274 such individual is not an employee of the business, if such
275 individual pays, promises to pay, offers to pay, or causes to be
276 paid individually or on behalf of the business to public
277 officials, legislative officials or public employees any thing or
278 things of value aggregating in value to less than Two Hundred
279 Dollars (\$200.00) in any calendar year.

280 (g) An individual who:

281 (i) Limits lobbying solely to formal testimony
282 before a public meeting of a legislative body or an executive
283 agency, or a committee, division or department thereof; and

284 (ii) Registers the appearance in the records of
285 the public body, if such records are kept.

286 (h) An individual who is a licensed attorney
287 representing a client by:

288 (i) Drafting bills, preparing arguments thereon,
289 and advising the client or rendering opinions as to the
290 construction and effect of proposed or pending legislation, where
291 such services are usual and customary professional legal services
292 which are not otherwise connected with legislative action; or



293 (ii) Providing information, on behalf of the
294 client, to an executive or public official, a public employee, or
295 an agency, board, commission, governing authority or other body of
296 state or local government where such services are usual and
297 customary professional legal services including or related to a
298 particular nonlegislative matter, case or controversy.

299 (i) News media and employees of the news media whose
300 activity is limited solely to the publication or broadcast of
301 news, editorial comments, or paid advertisements that attempt to
302 influence legislative or executive action. For the purposes of
303 this section, "news media" shall be construed to be bona fide
304 radio and television stations, newspapers, journals or magazines,
305 or bona fide news bureaus or associations which in turn furnish
306 information solely to bona fide radio or television stations,
307 newspapers, journals or magazines.

308 (j) An individual who engages in lobbying activities
309 exclusively on behalf of a religious organization which qualifies
310 as a tax-exempt organization under the Internal Revenue Code.

311 (k) An individual who is a nonattorney professional and
312 who receives professional fees and expenses to represent clients
313 on executive agency matters, except that if anything of value
314 shall be paid or promised to be paid directly or indirectly on
315 behalf of a client for the personal use or benefit of an executive
316 or public official or public employee, then expenditures and



317 actions of the individual are reportable under this chapter, and
318 the individual must register as a lobbyist.

319 **SECTION 3.** This act shall take effect and be in force from
320 and after July 1, 2022.

