

House Amendments to Senate Bill No. 2822

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

57 SECTION 1. (1) The Department of Environmental Quality
58 (department) shall establish a grant program to be known as the
59 ARPA Wastewater Infrastructure Grant Program to assist political
60 subdivisions, utility authorities and nonprofit utilities in the
61 construction of eligible wastewater and stormwater infrastructure
62 projects as provided in the Final Rule for the Coronavirus State
63 and Local Fiscal Recovery Funds as established by ARPA.

64 (2) There is created in the State Treasury a special fund to
65 be known as the American Rescue Plan Act (ARPA) Wastewater
66 Infrastructure Fund (the "ARPA Wastewater Infrastructure Fund"),
67 which will consist of funds made available by the Legislature from
68 federal ARPA funds. Monies in the fund shall be used by the
69 department, upon appropriation of the Legislature, to make grants
70 under the ARPA Wastewater Infrastructure Grant Program for the
71 purposes provided in subsection (1) of this section. It is the
72 intent of the Legislature that, in the first fiscal year after the
73 effective date of this act, twenty percent (20%) of the funds

74 appropriated to the ARPA Wastewater Infrastructure Fund be
75 obligated to projects that have completed plans and
76 specifications, acquired all necessary land and/or easements, and
77 are ready to proceed to construction.

78 (3) The department shall obligate the funds by the deadline
79 set by the rules and guidelines of the United States Department of
80 the Treasury and will adhere to the Treasury's rules and
81 guidelines for reporting and monitoring projects funded through
82 the American Rescue Plan Act.

83 (4) The department shall develop a system for use in ranking
84 the grant applications received. The ranking system shall include
85 the following factors, at a minimum: (a) the environmental impact
86 of the proposed project; (b) the proposed project's ability to
87 address noncompliance with state/federal requirements; (c) the
88 extent to which the project promotes economic development; (d) the
89 number of people served by the project (both new and existing
90 users); (e) impacts of the proposed project on disadvantaged/
91 overburdened communities; (f) the grant applicant's prior efforts
92 to secure funding to address the proposed project's objectives;
93 (g) the grant applicant's proposed contribution of other funds or
94 in-kind cost-sharing to the proposed project; (h) the grant
95 applicant's long-term plans for the financial and physical
96 operation and maintenance of the project; and (i) the grant
97 applicant's capacity to initiate construction in a timely manner
98 and complete the proposed project by the deadline specified by

99 rules and guidelines of the United States Department of the
100 Treasury for ARPA funds.

101 (5) An application for a grant under this section shall be
102 submitted at such time, be in such form, and contain such
103 information as the department prescribes.

104 (6) Upon the approval of an application for a grant under
105 this section, the department shall enter into a project grant
106 agreement with each grantee to establish the terms of the grant
107 for the project, including the amount of the grant. Any
108 assistance provided under this section for a project shall be
109 subject to a grantee cost-sharing requirement of not less than
110 twenty percent (20%). However, the cost-sharing requirement for a
111 small municipality (a municipality with a population of ten
112 thousand (10,000) or less, according to the most recent federal
113 decennial census, at the time the application is submitted) and a
114 limited population county (a county with a population of thirty
115 thousand (30,000) or less, according to the most recent federal
116 decennial census) shall be not less than five percent (5%). The
117 grantee share may be provided in the form of in-kind
118 contributions.

119 (7) The department shall have all powers necessary to
120 implement and administer the ARPA Wastewater Infrastructure Grant
121 Program established under this section. Of the funds appropriated
122 to the ARPA Wastewater Infrastructure Fund, up to ten percent
123 (10%) shall be used by the department to cover the department's
124 costs of administering the program.

125 (8) In carrying out its responsibilities under the ARPA
126 Wastewater Infrastructure Grant Program, for any contract under
127 the purview of the Public Procurement Review Board (PPRB), the
128 department shall be exempt from any requirement that the PPRB
129 approve any personal or professional services contracts or
130 pre-approve any solicitation of such contracts. This subsection
131 shall stand repealed on July 1, 2026.

132 (9) The department shall submit an annual report regarding
133 the ARPA Wastewater Infrastructure Grant Program no later than
134 December 31 of each year to the Lieutenant Governor, the Speaker
135 of the House, and the Chairmen of the Senate and House
136 Appropriations Committees.

137 **SECTION 2.** (1) The State Department of Health (department)
138 shall establish a grant program to be known as the ARPA Drinking
139 Water Infrastructure Grant Program to assist political
140 subdivisions, utility authorities and nonprofit utilities in the
141 construction of eligible drinking water infrastructure projects as
142 provided in the Final Rule for the Coronavirus State and Local
143 Fiscal Recovery Funds as established by ARPA.

144 (2) There is created in the State Treasury a special fund to
145 be known as the American Rescue Plan Act (ARPA) Drinking Water
146 Infrastructure Fund (the "ARPA Drinking Water Infrastructure
147 Fund"), which will consist of funds made available by the
148 Legislature from federal ARPA funds. Monies in the fund shall be
149 used by the department, upon appropriation of the Legislature, to
150 make grants under the ARPA Drinking Water Infrastructure Grant

151 Program for the purposes provided in subsection (1) of this
152 section. It is the intent of the Legislature that, in the first
153 fiscal year after the effective date of this act, twenty percent
154 (20%) of the funds appropriated to the ARPA Drinking Water
155 Infrastructure Fund be obligated to projects that have completed
156 plans and specifications, acquired all necessary land and/or
157 easements, and are ready to proceed to construction.

158 (3) The department shall obligate the funds by the deadline
159 set by the rules and guidelines of the United States Department of
160 the Treasury and will adhere to the Treasury's rules and
161 guidelines for reporting and monitoring projects funded through
162 the American Rescue Plan Act.

163 (4) The department shall develop a system for use in ranking
164 the grant applications received. The ranking system shall include
165 the following factors, at a minimum: (a) the environmental impact
166 of the proposed project; (b) the proposed project's ability to
167 address noncompliance with state/federal requirements; (c) the
168 extent to which the project promotes economic development; (d) the
169 number of people served by the project (both new and existing
170 users); (e) impacts of the proposed project on disadvantaged/
171 overburdened communities; (f) the grant applicant's prior efforts
172 to secure funding to address the proposed project's objectives;
173 (g) the grant applicant's proposed contribution of other funds or
174 in-kind cost-sharing to the proposed project; (h) the grant
175 applicant's long-term plans for the financial and physical
176 operation and maintenance of the project; and (i) the grant

177 applicant's capacity to initiate construction in a timely manner
178 and complete the proposed project by the deadline specified by
179 rules and guidelines of the United States Department of the
180 Treasury for ARPA funds.

181 (5) An application for a grant under this section shall be
182 submitted at such time, be in such form, and contain such
183 information as the department prescribes.

184 (6) Upon the approval of an application for a grant under
185 this section, the department shall enter into a project grant
186 agreement with each grantee to establish the terms of the grant
187 for the project, including the amount of the grant. Any
188 assistance provided under this section for a project shall be
189 subject to a grantee cost-sharing requirement of not less than
190 twenty percent (20%). However, the cost-sharing requirement for a
191 small municipality (a municipality with a population of ten
192 thousand (10,000) or less, according to the most recent federal
193 decennial census, at the time the application is submitted) and a
194 limited population county (a county with a population of thirty
195 thousand (30,000) or less, according to the most recent federal
196 decennial census) shall be not less than five percent (5%). The
197 grantee share may be provided in the form of in-kind
198 contributions.

199 (7) The department shall have all powers necessary to
200 implement and administer the ARPA Drinking Water Infrastructure
201 Grant Program established under this section. Of the funds
202 appropriated to the ARPA Drinking Water Infrastructure Fund, up to

203 ten percent (10%) shall be used by the department to cover the
204 department's costs of administering the program.

205 (8) In carrying out its responsibilities under the ARPA
206 Drinking Water Infrastructure Grant Program, for any contract
207 under the purview of the Public Procurement Review Board (PPRB),
208 the department shall be exempt from any requirement that the PPRB
209 approve any personal or professional services contracts or
210 pre-approve any solicitation of such contracts. This subsection
211 shall stand repealed on July 1, 2026.

212 (9) The department shall submit an annual report regarding
213 the ARPA Drinking Water Infrastructure Grant Program no later than
214 December 31 of each year to the Lieutenant Governor, the Speaker
215 of the House, and the Chairmen of the Senate and House
216 Appropriations Committees.

217 **SECTION 3.** (1) The State Department of Health (department)
218 shall establish a grant program to be known as the ARPA Rural
219 Water Associations Infrastructure Grant Program to assist rural
220 water associations in the construction of eligible drinking water
221 infrastructure projects as provided in the Final Rule for the
222 Coronavirus State and Local Fiscal Recovery Funds as established
223 by ARPA.

224 (2) There is created in the State Treasury a special fund to
225 be known as the American Rescue Plan Act (ARPA) Rural Water
226 Associations Infrastructure Fund (the "ARPA Rural Water
227 Associations Infrastructure Fund"), which will consist of funds
228 made available by the Legislature from federal ARPA funds. Monies

229 in the fund shall be used by the department, upon appropriation of
230 the Legislature, to make grants under the ARPA Rural Water
231 Associations Infrastructure Grant Program for the purposes
232 provided in subsection (1) of this section. It is the intent of
233 the Legislature that, in the first fiscal year after the effective
234 date of this act, twenty percent (20%) of the funds appropriated
235 to the ARPA Rural Water Associations Infrastructure Fund be
236 obligated to projects that have completed plans and
237 specifications, acquired all necessary land and/or easements, and
238 are ready to proceed to construction.

239 (3) The department shall obligate the funds by the deadline
240 set by the rules and guidelines of the United States Department of
241 the Treasury and will adhere to the Treasury's rules and
242 guidelines for reporting and monitoring projects funded through
243 the American Rescue Plan Act.

244 (4) The department shall develop a system for use in ranking
245 the grant applications received. The ranking system shall include
246 the following factors, at a minimum: (a) the environmental impact
247 of the proposed project; (b) the proposed project's ability to
248 address noncompliance with state/federal requirements; (c) the
249 extent to which the project promotes economic development; (d) the
250 number of people served by the project (both new and existing
251 users); (e) impacts of the proposed project on disadvantaged/
252 overburdened communities; (f) the grant applicant's prior efforts
253 to secure funding to address the proposed project's objectives;
254 (g) the grant applicant's proposed contribution of other funds or

255 in-kind cost-sharing to the proposed project; (h) the grant
256 applicant's long-term plans for the financial and physical
257 operation and maintenance of the project; and (i) the grant
258 applicant's capacity to initiate construction in a timely manner
259 and complete the proposed project by the deadline specified by
260 rules and guidelines of the United States Department of the
261 Treasury for ARPA funds.

262 (5) An application for a grant under this section shall be
263 submitted at such time, be in such form, and contain such
264 information as the department prescribes.

265 (6) Upon the approval of an application for a grant under
266 this section, the department shall enter into a project grant
267 agreement with each grantee to establish the terms of the grant
268 for the project, including the amount of the grant.

269 (7) The department shall have all powers necessary to
270 implement and administer the ARPA Rural Water Associations
271 Infrastructure Grant Program established under this section. Of
272 the funds appropriated to the ARPA Rural Water Associations
273 Infrastructure Fund, up to ten percent (10%) shall be used by the
274 department to cover the department's costs of administering the
275 program.

276 (8) In carrying out its responsibilities under the ARPA
277 Rural Water Associations Infrastructure Grant Program, for any
278 contract under the purview of the Public Procurement Review Board
279 (PPRB), the department shall be exempt from any requirement that
280 the PPRB approve any personal or professional services contracts

281 or pre-approve any solicitation of such contracts. This
282 subsection shall stand repealed on July 1, 2026.

283 (9) The department shall submit an annual report regarding
284 the ARPA Rural Water Associations Infrastructure Grant Program no
285 later than December 31 of each year to the Lieutenant Governor,
286 the Speaker of the House, and the Chairmen of the Senate and House
287 Appropriations Committees.

288 **SECTION 4.** Section 27-104-7, Mississippi Code of 1972, is
289 amended as follows:

290 27-104-7. (1) (a) There is created the Public Procurement
291 Review Board, which shall be reconstituted on January 1, 2018, and
292 shall be composed of the following members:

293 (i) Three (3) individuals appointed by the
294 Governor with the advice and consent of the Senate;

295 (ii) Two (2) individuals appointed by the
296 Lieutenant Governor with the advice and consent of the Senate; and

297 (iii) The Executive Director of the Department of
298 Finance and Administration, serving as an ex officio and nonvoting
299 member.

300 (b) The initial terms of each appointee shall be as
301 follows:

302 (i) One (1) member appointed by the Governor to
303 serve for a term ending on June 30, 2019;

304 (ii) One (1) member appointed by the Governor to
305 serve for a term ending on June 30, 2020;

306 (iii) One (1) member appointed by the Governor to
307 serve for a term ending on June 30, 2021;

308 (iv) One (1) member appointed by the Lieutenant
309 Governor to serve for a term ending on June 30, 2019; and

310 (v) One (1) member appointed by the Lieutenant
311 Governor to serve for a term ending on June 30, 2020.

312 After the expiration of the initial terms, all appointed
313 members' terms shall be for a period of four (4) years from the
314 expiration date of the previous term, and until such time as the
315 member's successor is duly appointed and qualified.

316 (c) When appointing members to the Public Procurement
317 Review Board, the Governor and Lieutenant Governor shall take into
318 consideration persons who possess at least five (5) years of
319 management experience in general business, health care or finance
320 for an organization, corporation or other public or private
321 entity. Any person, or any employee or owner of a company, who
322 receives any grants, procurements or contracts that are subject to
323 approval under this section shall not be appointed to the Public
324 Procurement Review Board. Any person, or any employee or owner of
325 a company, who is a principal of the source providing a personal
326 or professional service shall not be appointed to the Public
327 Procurement Review Board if the principal owns or controls a
328 greater than five percent (5%) interest or has an ownership value
329 of One Million Dollars (\$1,000,000.00) in the source's business,
330 whichever is smaller. No member shall be an officer or employee

331 of the State of Mississippi while serving as a voting member on
332 the Public Procurement Review Board.

333 (d) Members of the Public Procurement Review Board
334 shall be entitled to per diem as authorized by Section 25-3-69 and
335 travel reimbursement as authorized by Section 25-3-41.

336 (e) The members of the Public Procurement Review Board
337 shall elect a chair from among the membership, and he or she shall
338 preside over the meetings of the board. The board shall annually
339 elect a vice chair, who shall serve in the absence of the chair.
340 No business shall be transacted, including adoption of rules of
341 procedure, without the presence of a quorum of the board. Three
342 (3) members shall be a quorum. No action shall be valid unless
343 approved by a majority of the members present and voting, entered
344 upon the minutes of the board and signed by the chair. Necessary
345 clerical and administrative support for the board shall be
346 provided by the Department of Finance and Administration. Minutes
347 shall be kept of the proceedings of each meeting, copies of which
348 shall be filed on a monthly basis with the chairs of the
349 Accountability, Efficiency and Transparency Committees of the
350 Senate and House of Representatives and the chairs of the
351 Appropriations Committees of the Senate and House of
352 Representatives.

353 (2) The Public Procurement Review Board shall have the
354 following powers and responsibilities:

355 (a) Approve all purchasing regulations governing the
356 purchase or lease by any agency, as defined in Section 31-7-1, of

357 commodities and equipment, except computer equipment acquired
358 pursuant to Sections 25-53-1 through 25-53-29;

359 (b) Adopt regulations governing the approval of
360 contracts let for the construction and maintenance of state
361 buildings and other state facilities as well as related contracts
362 for architectural and engineering services.

363 The provisions of this paragraph (b) shall not apply to such
364 contracts involving buildings and other facilities of state
365 institutions of higher learning which are self-administered as
366 provided under this paragraph (b) or Section 37-101-15(m);

367 (c) Adopt regulations governing any lease or rental
368 agreement by any state agency or department, including any state
369 agency financed entirely by federal funds, for space outside the
370 buildings under the jurisdiction of the Department of Finance and
371 Administration. These regulations shall require each agency
372 requesting to lease such space to provide the following
373 information that shall be published by the Department of Finance
374 and Administration on its website: the agency to lease the space;
375 the terms of the lease; the approximate square feet to be leased;
376 the use for the space; a description of a suitable space; the
377 general location desired for the leased space; the contact
378 information for a person from the agency; the deadline date for
379 the agency to have received a lease proposal; any other specific
380 terms or conditions of the agency; and any other information
381 deemed appropriate by the Division of Real Property Management of
382 the Department of Finance and Administration or the Public

383 Procurement Review Board. The information shall be provided
384 sufficiently in advance of the time the space is needed to allow
385 the Division of Real Property Management of the Department of
386 Finance and Administration to review and preapprove the lease
387 before the time for advertisement begins;

388 (d) Adopt, in its discretion, regulations to set aside
389 at least five percent (5%) of anticipated annual expenditures for
390 the purchase of commodities from minority businesses; however, all
391 such set-aside purchases shall comply with all purchasing
392 regulations promulgated by the department and shall be subject to
393 all bid requirements. Set-aside purchases for which competitive
394 bids are required shall be made from the lowest and best minority
395 business bidder; however, if no minority bid is available or if
396 the minority bid is more than two percent (2%) higher than the
397 lowest bid, then bids shall be accepted and awarded to the lowest
398 and best bidder. However, the provisions in this paragraph shall
399 not be construed to prohibit the rejection of a bid when only one
400 (1) bid is received. Such rejection shall be placed in the
401 minutes. For the purposes of this paragraph, the term "minority
402 business" means a business which is owned by a person who is a
403 citizen or lawful permanent resident of the United States and who
404 is:

405 (i) Black: having origins in any of the black
406 racial groups of Africa;

407 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
408 Central or South American, or other Spanish or Portuguese culture
409 or origin regardless of race;

410 (iii) Asian-American: having origins in any of
411 the original people of the Far East, Southeast Asia, the Indian
412 subcontinent, or the Pacific Islands;

413 (iv) American Indian or Alaskan Native: having
414 origins in any of the original people of North America; or

415 (v) Female;

416 (e) In consultation with and approval by the Chairs of
417 the Senate and House Public Property Committees, approve leases,
418 for a term not to exceed eighteen (18) months, entered into by
419 state agencies for the purpose of providing parking arrangements
420 for state employees who work in the Woolfolk Building, the Carroll
421 Gartin Justice Building or the Walter Sillers Office Building;

422 (f) Promulgate rules and regulations governing the
423 solicitation and selection of contractual services personnel,
424 including personal and professional services contracts for any
425 form of consulting, policy analysis, public relations, marketing,
426 public affairs, legislative advocacy services or any other
427 contract that the board deems appropriate for oversight, with the
428 exception of any personal service contracts entered into by any
429 agency that employs only nonstate service employees as defined in
430 Section 25-9-107(c), any personal service contracts entered into
431 for computer or information technology-related services governed
432 by the Mississippi Department of Information Technology Services,

433 any personal service contracts entered into by the individual
434 state institutions of higher learning, any personal service
435 contracts entered into by the Mississippi Department of
436 Transportation, any personal service contracts entered into by the
437 Department of Human Services through June 30, 2019, which the
438 Executive Director of the Department of Human Services determines
439 would be useful in establishing and operating the Department of
440 Child Protection Services, any personal service contracts entered
441 into by the Department of Child Protection Services through June
442 30, 2019, any contracts for entertainers and/or performers at the
443 Mississippi State Fairgrounds entered into by the Mississippi Fair
444 Commission, any contracts entered into by the Department of
445 Finance and Administration when procuring aircraft maintenance,
446 parts, equipment and/or services, any contract entered into by the
447 Department of Public Safety for service on specialized equipment
448 and/or software required for the operation at such specialized
449 equipment for use by the Office of Forensics Laboratories, * * *
450 any contract for attorney, accountant, actuary auditor, architect,
451 engineer, anatomical pathologist, utility rate expert
452 services, * * * any personal service contracts approved by the
453 Executive Director of the Department of Finance and Administration
454 and entered into by the Coordinator of Mental Health Accessibility
455 through June 30, 2022, any personal or professional services
456 contract entered into by the Department of Environmental Quality
457 in carrying out its responsibilities under the ARPA Wastewater
458 Infrastructure Grant Program through June 30, 2026, any personal

459 or professional services contract entered into by the State
460 Department of Health in carrying out its responsibilities under
461 the ARPA Drinking Water Infrastructure Grant Program through June
462 30, 2026, and any personal or professional services contract
463 entered into by the State Department of Health in carrying out its
464 responsibilities under the ARPA Rural Water Associations
465 Infrastructure Grant Program through June 30, 2026. Any such
466 rules and regulations shall provide for maintaining continuous
467 internal audit covering the activities of such agency affecting
468 its revenue and expenditures as required under Section
469 7-7-3(6) (d). Any rules and regulation changes related to personal
470 and professional services contracts that the Public Procurement
471 Review Board may propose shall be submitted to the Chairs of the
472 Accountability, Efficiency and Transparency Committees of the
473 Senate and House of Representatives and the Chairs of the
474 Appropriation Committees of the Senate and House of
475 Representatives at least fifteen (15) days before the board votes
476 on the proposed changes, and those rules and regulation changes,
477 if adopted, shall be promulgated in accordance with the
478 Mississippi Administrative Procedures Act;

479 (g) Approve all personal and professional services
480 contracts involving the expenditures of funds in excess of
481 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
482 paragraph (f) of this subsection (2) and in subsection (8);

483 (h) Develop mandatory standards with respect to
484 contractual services personnel that require invitations for public

485 bid, requests for proposals, record keeping and financial
486 responsibility of contractors. The Public Procurement Review
487 Board shall, unless exempted under this paragraph (h) or under
488 paragraph (i) or (o) of this subsection (2), require the agency
489 involved to submit the procurement to a competitive procurement
490 process, and may reserve the right to reject any or all resulting
491 procurements;

492 (i) Prescribe certain circumstances by which agency
493 heads may enter into contracts for personal and professional
494 services without receiving prior approval from the Public
495 Procurement Review Board. The Public Procurement Review Board may
496 establish a preapproved list of providers of various personal and
497 professional services for set prices with which state agencies may
498 contract without bidding or prior approval from the board;

499 (i) Agency requirements may be fulfilled by
500 procuring services performed incident to the state's own programs.
501 The agency head shall determine in writing whether the price
502 represents a fair market value for the services. When the
503 procurements are made from other governmental entities, the
504 private sector need not be solicited; however, these contracts
505 shall still be submitted for approval to the Public Procurement
506 Review Board.

507 (ii) Contracts between two (2) state agencies,
508 both under Public Procurement Review Board purview, shall not
509 require Public Procurement Review Board approval. However, the

510 contracts shall still be entered into the enterprise resource
511 planning system;

512 (j) Provide standards for the issuance of requests for
513 proposals, the evaluation of proposals received, consideration of
514 costs and quality of services proposed, contract negotiations, the
515 administrative monitoring of contract performance by the agency
516 and successful steps in terminating a contract;

517 (k) Present recommendations for governmental
518 privatization and to evaluate privatization proposals submitted by
519 any state agency;

520 (l) Authorize personal and professional service
521 contracts to be effective for more than one (1) year provided a
522 funding condition is included in any such multiple year contract,
523 except the State Board of Education, which shall have the
524 authority to enter into contractual agreements for student
525 assessment for a period up to ten (10) years. The State Board of
526 Education shall procure these services in accordance with the
527 Public Procurement Review Board procurement regulations;

528 (m) Request the State Auditor to conduct a performance
529 audit on any personal or professional service contract;

530 (n) Prepare an annual report to the Legislature
531 concerning the issuance of personal and professional services
532 contracts during the previous year, collecting any necessary
533 information from state agencies in making such report;

534 (o) Develop and implement the following standards and
535 procedures for the approval of any sole source contract for

536 personal and professional services regardless of the value of the
537 procurement:

538 (i) For the purposes of this paragraph (o), the
539 term "sole source" means only one (1) source is available that can
540 provide the required personal or professional service.

541 (ii) An agency that has been issued a binding,
542 valid court order mandating that a particular source or provider
543 must be used for the required service must include a copy of the
544 applicable court order in all future sole source contract reviews
545 for the particular personal or professional service referenced in
546 the court order.

547 (iii) Any agency alleging to have a sole source
548 for any personal or professional service, other than those
549 exempted under paragraph (f) of this subsection (2) and subsection
550 (8), shall publish on the procurement portal website established
551 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
552 days, the terms of the proposed contract for those services. In
553 addition, the publication shall include, but is not limited to,
554 the following information:

555 1. The personal or professional service
556 offered in the contract;

557 2. An explanation of why the personal or
558 professional service is the only one that can meet the needs of
559 the agency;

560 3. An explanation of why the source is the
561 only person or entity that can provide the required personal or
562 professional service;

563 4. An explanation of why the amount to be
564 expended for the personal or professional service is reasonable;
565 and

566 5. The efforts that the agency went through
567 to obtain the best possible price for the personal or professional
568 service.

569 (iv) If any person or entity objects and proposes
570 that the personal or professional service published under
571 subparagraph (iii) of this paragraph (o) is not a sole source
572 service and can be provided by another person or entity, then the
573 objecting person or entity shall notify the Public Procurement
574 Review Board and the agency that published the proposed sole
575 source contract with a detailed explanation of why the personal or
576 professional service is not a sole source service.

577 (v) 1. If the agency determines after review that
578 the personal or professional service in the proposed sole source
579 contract can be provided by another person or entity, then the
580 agency must withdraw the sole source contract publication from the
581 procurement portal website and submit the procurement of the
582 personal or professional service to an advertised competitive bid
583 or selection process.

584 2. If the agency determines after review that
585 there is only one (1) source for the required personal or

586 professional service, then the agency may appeal to the Public
587 Procurement Review Board. The agency has the burden of proving
588 that the personal or professional service is only provided by one
589 (1) source.

590 3. If the Public Procurement Review Board has
591 any reasonable doubt as to whether the personal or professional
592 service can only be provided by one (1) source, then the agency
593 must submit the procurement of the personal or professional
594 service to an advertised competitive bid or selection process. No
595 action taken by the Public Procurement Review Board in this appeal
596 process shall be valid unless approved by a majority of the
597 members of the Public Procurement Review Board present and voting.

598 (vi) The Public Procurement Review Board shall
599 prepare and submit a quarterly report to the House of
600 Representatives and Senate Accountability, Efficiency and
601 Transparency Committees that details the sole source contracts
602 presented to the Public Procurement Review Board and the reasons
603 that the Public Procurement Review Board approved or rejected each
604 contract. These quarterly reports shall also include the
605 documentation and memoranda required in subsection (4) of this
606 section. An agency that submitted a sole source contract shall be
607 prepared to explain the sole source contract to each committee by
608 December 15 of each year upon request by the committee;

609 (p) Assess any fines and administrative penalties
610 provided for in Sections 31-7-401 through 31-7-423.

611 (3) All submissions shall be made sufficiently in advance of
612 each monthly meeting of the Public Procurement Review Board as
613 prescribed by the Public Procurement Review Board. If the Public
614 Procurement Review Board rejects any contract submitted for review
615 or approval, the Public Procurement Review Board shall clearly set
616 out the reasons for its action, including, but not limited to, the
617 policy that the agency has violated in its submitted contract and
618 any corrective actions that the agency may take to amend the
619 contract to comply with the rules and regulations of the Public
620 Procurement Review Board.

621 (4) All sole source contracts for personal and professional
622 services awarded by state agencies, other than those exempted
623 under Section 27-104-7(2)(f) and (8), whether approved by an
624 agency head or the Public Procurement Review Board, shall contain
625 in the procurement file a written determination for the approval,
626 using a request form furnished by the Public Procurement Review
627 Board. The written determination shall document the basis for the
628 determination, including any market analysis conducted in order to
629 ensure that the service required was practicably available from
630 only one (1) source. A memorandum shall accompany the request
631 form and address the following four (4) points:

632 (a) Explanation of why this service is the only service
633 that can meet the needs of the purchasing agency;

634 (b) Explanation of why this vendor is the only
635 practicably available source from which to obtain this service;

636 (c) Explanation of why the price is considered
637 reasonable; and

638 (d) Description of the efforts that were made to
639 conduct a noncompetitive negotiation to get the best possible
640 price for the taxpayers.

641 (5) In conjunction with the State Personnel Board, the
642 Public Procurement Review Board shall develop and promulgate rules
643 and regulations to define the allowable legal relationship between
644 contract employees and the contracting departments, agencies and
645 institutions of state government under the jurisdiction of the
646 State Personnel Board, in compliance with the applicable rules and
647 regulations of the federal Internal Revenue Service (IRS) for
648 federal employment tax purposes. Under these regulations, the
649 usual common law rules are applicable to determine and require
650 that such worker is an independent contractor and not an employee,
651 requiring evidence of lawful behavioral control, lawful financial
652 control and lawful relationship of the parties. Any state
653 department, agency or institution shall only be authorized to
654 contract for personnel services in compliance with those
655 regulations.

656 (6) No member of the Public Procurement Review Board shall
657 use his or her official authority or influence to coerce, by
658 threat of discharge from employment, or otherwise, the purchase of
659 commodities, the contracting for personal or professional
660 services, or the contracting for public construction under this
661 chapter.

662 (7) Notwithstanding any other laws or rules to the contrary,
663 the provisions of subsection (2) of this section shall not be
664 applicable to the Mississippi State Port Authority at Gulfport.

665 (8) Nothing in this section shall impair or limit the
666 authority of the Board of Trustees of the Public Employees'
667 Retirement System to enter into any personal or professional
668 services contracts directly related to their constitutional
669 obligation to manage the trust funds, including, but not limited
670 to, actuarial, custodial banks, cash management, investment
671 consultant and investment management contracts.

672 (9) Notwithstanding the exemption of personal and
673 professional services contracts entered into by the Department of
674 Human Services and personal and professional services contracts
675 entered into by the Department of Child Protection Services from
676 the provisions of this section under subsection (2)(f), before the
677 Department of Human Services or the Department of Child Protection
678 Services may enter into a personal or professional service
679 contract, the department(s) shall give notice of the proposed
680 personal or professional service contract to the Public
681 Procurement Review Board for any recommendations by the board.
682 Upon receipt of the notice, the board shall post the notice on its
683 website and on the procurement portal website established by
684 Sections 25-53-151 and 27-104-165. If the board does not respond
685 to the department(s) within seven (7) calendar days after
686 receiving the notice, the department(s) may enter the proposed
687 personal or professional service contract. If the board responds

688 to the department(s) within seven (7) calendar days, then the
689 board has seven (7) calendar days from the date of its initial
690 response to provide any additional recommendations. After the end
691 of the second seven-day period, the department(s) may enter the
692 proposed personal or professional service contract. The board is
693 not authorized to disapprove any proposed personal or professional
694 services contracts. This subsection shall stand repealed on July
695 1, 2022.

696 **SECTION 5.** This act shall take effect and be in force from
697 and after July 1, 2022, and shall stand repealed on June 30, 2022.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO PROVIDE THAT THE DEPARTMENT OF ENVIRONMENTAL
2 QUALITY SHALL ESTABLISH A GRANT PROGRAM TO BE KNOWN AS THE ARPA
3 WASTEWATER INFRASTRUCTURE GRANT PROGRAM TO ASSIST POLITICAL
4 SUBDIVISIONS, UTILITY AUTHORITIES AND NONPROFIT UTILITIES IN THE
5 CONSTRUCTION OF ELIGIBLE WASTEWATER AND STORMWATER INFRASTRUCTURE
6 PROJECTS UNDER THE AMERICAN RESCUE PLAN ACT (ARPA); TO CREATE A
7 SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE ARPA
8 WASTEWATER INFRASTRUCTURE FUND, WHICH SHALL BE USED BY THE
9 DEPARTMENT TO MAKE GRANTS UNDER THE GRANT PROGRAM; TO PROVIDE THAT
10 UPON THE APPROVAL OF AN APPLICATION FOR A GRANT UNDER THE PROGRAM,
11 THE DEPARTMENT SHALL ENTER INTO A PROJECT GRANT AGREEMENT WITH
12 EACH GRANTEE TO ESTABLISH THE TERMS OF THE GRANT FOR THE PROJECT,
13 INCLUDING THE AMOUNT OF THE GRANT; TO PROVIDE THAT ANY ASSISTANCE
14 PROVIDED FOR A PROJECT UNDER THE GRANT PROGRAM SHALL BE SUBJECT TO
15 A GRANTEE COST-SHARING REQUIREMENT OF NOT LESS THAN TWENTY
16 PERCENT; TO PROVIDE THAT ANY PERSONAL OR PROFESSIONAL SERVICES
17 CONTRACTS ENTERED INTO BY THE DEPARTMENT IN CARRYING OUT ITS
18 RESPONSIBILITIES UNDER THE GRANT PROGRAM SHALL BE EXEMPT FROM
19 REVIEW AND APPROVAL BY THE PUBLIC PROCUREMENT REVIEW BOARD; TO
20 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ESTABLISH A
21 GRANT PROGRAM TO BE KNOWN AS THE ARPA DRINKING WATER
22 INFRASTRUCTURE GRANT PROGRAM TO ASSIST POLITICAL SUBDIVISIONS,
23 UTILITY AUTHORITIES AND NONPROFIT UTILITIES IN THE CONSTRUCTION OF
24 ELIGIBLE DRINKING WATER INFRASTRUCTURE PROJECTS UNDER THE AMERICAN
25 RESCUE PLAN ACT (ARPA); TO CREATE A SPECIAL FUND IN THE STATE
26 TREASURY TO BE KNOWN AS THE ARPA DRINKING WATER INFRASTRUCTURE

27 FUND, WHICH SHALL BE USED BY THE DEPARTMENT TO MAKE GRANTS UNDER
28 THE GRANT PROGRAM; TO PROVIDE THAT UPON THE APPROVAL OF AN
29 APPLICATION FOR A GRANT UNDER THE PROGRAM, THE DEPARTMENT SHALL
30 ENTER INTO A PROJECT GRANT AGREEMENT WITH EACH GRANTEE TO
31 ESTABLISH THE TERMS OF THE GRANT FOR THE PROJECT, INCLUDING THE
32 AMOUNT OF THE GRANT; TO PROVIDE THAT ANY ASSISTANCE PROVIDED FOR A
33 PROJECT UNDER THE GRANT PROGRAM SHALL BE SUBJECT TO A GRANTEE
34 COST-SHARING REQUIREMENT OF NOT LESS THAN TWENTY PERCENT; TO
35 PROVIDE THAT ANY PERSONAL OR PROFESSIONAL SERVICES CONTRACTS
36 ENTERED INTO BY THE DEPARTMENT IN CARRYING OUT ITS
37 RESPONSIBILITIES UNDER THE GRANT PROGRAM SHALL BE EXEMPT FROM
38 REVIEW AND APPROVAL BY THE PUBLIC PROCUREMENT REVIEW BOARD; TO
39 PROVIDE THAT THE STATE DEPARTMENT OF HEALTH SHALL ESTABLISH A
40 GRANT PROGRAM TO BE KNOWN AS THE ARPA RURAL WATER ASSOCIATIONS
41 INFRASTRUCTURE GRANT PROGRAM TO ASSIST RURAL WATER ASSOCIATIONS IN
42 THE CONSTRUCTION OF ELIGIBLE DRINKING WATER INFRASTRUCTURE
43 PROJECTS UNDER THE AMERICAN RESCUE PLAN ACT (ARPA); TO CREATE A
44 SPECIAL FUND IN THE STATE TREASURY TO BE KNOWN AS THE ARPA RURAL
45 WATER ASSOCIATIONS INFRASTRUCTURE FUND, WHICH SHALL BE USED BY THE
46 DEPARTMENT TO MAKE GRANTS UNDER THE GRANT PROGRAM; TO PROVIDE THAT
47 UPON THE APPROVAL OF AN APPLICATION FOR A GRANT UNDER THE PROGRAM,
48 THE DEPARTMENT SHALL ENTER INTO A PROJECT GRANT AGREEMENT WITH
49 EACH GRANTEE TO ESTABLISH THE TERMS OF THE GRANT FOR THE PROJECT,
50 INCLUDING THE AMOUNT OF THE GRANT; TO PROVIDE THAT ANY PERSONAL OR
51 PROFESSIONAL SERVICES CONTRACTS ENTERED INTO BY THE DEPARTMENT IN
52 CARRYING OUT ITS RESPONSIBILITIES UNDER THE GRANT PROGRAM SHALL BE
53 EXEMPT FROM REVIEW AND APPROVAL BY THE PUBLIC PROCUREMENT REVIEW
54 BOARD; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO
55 CONFORM TO THE PRECEDING PROVISIONS; AND FOR RELATED PURPOSES.

HR43\SB2822A.J

Andrew Ketchings
Clerk of the House of Representatives