

By: Representative Bounds

To: Forestry

HOUSE BILL NO. 287

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 \$75,000.00.** Purchases which involve an expenditure of
197 more than Five Thousand Dollars (\$5,000.00) but not more than
198 Seventy-five Thousand Dollars (\$75,000.00), exclusive of freight
199 and 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 Seventy-five Thousand Dollars
206 (\$75,000.00). 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 \$75,000.00.**

239 (i) **Publication requirement.**

240 1. Purchases which involve an expenditure of
241 more than Seventy-five Thousand Dollars (\$75,000.00), 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, construction,
269 improvement, repair or remodeling of any public facilities,



270 including the purchase of materials, supplies, equipment or goods
271 for same and including buildings, roads and bridges. The Public
272 Procurement Review Board must approve any contract entered into by
273 alternative process. The provisions of this item 2 shall not
274 apply to the individual state institutions of higher learning.
275 The provisions of this item 2 requiring reverse auction as the
276 primary method of receiving bids shall not apply to term contract
277 purchases as provided in paragraph (n) of this section; however, a
278 purchasing entity may, in its discretion, utilize reverse auction
279 for such purchases. The provisions of this item 2 shall not apply
280 to individual public schools, including public charter schools and
281 public school districts, only when purchasing copyrighted
282 educational supplemental materials and software as a service
283 product. For such purchases, a local school board may authorize a
284 purchasing entity in its jurisdiction to use a Request for
285 Qualifications which promotes open competition and meets the
286 requirements of the Office of Purchasing and Travel.

287 3. The date as published for the bid opening
288 shall not be less than seven (7) working days after the last
289 published notice; however, if the purchase involves a construction
290 project in which the estimated cost is in excess of Seventy-five
291 Thousand Dollars (\$75,000.00), such bids shall not be opened in
292 less than fifteen (15) working days after the last notice is
293 published and the notice for the purchase of such construction
294 shall be published once each week for two (2) consecutive weeks.



295 However, all American Recovery and Reinvestment Act projects in
296 excess of Twenty-five Thousand Dollars (\$25,000.00) shall be bid.
297 For any projects in excess of Twenty-five Thousand Dollars
298 (\$25,000.00) under the American Recovery and Reinvestment Act,
299 publication shall be made one (1) time and the bid opening for
300 construction projects shall not be less than ten (10) working days
301 after the date of the published notice. The notice of intention
302 to let contracts or purchase equipment shall state the time and
303 place at which bids shall be received, list the contracts to be
304 made or types of equipment or supplies to be purchased, and, if
305 all plans and/or specifications are not published, refer to the
306 plans and/or specifications on file. If there is no newspaper
307 published in the county or municipality, then such notice shall be
308 given by posting same at the courthouse, or for municipalities at
309 the city hall, and at two (2) other public places in the county or
310 municipality, and also by publication once each week for two (2)
311 consecutive weeks in some newspaper having a general circulation
312 in the county or municipality in the above-provided manner. On
313 the same date that the notice is submitted to the newspaper for
314 publication, the agency or governing authority involved shall mail
315 written notice to, or provide electronic notification to the main
316 office of the Mississippi Procurement Technical Assistance Program
317 under the Mississippi Development Authority that contains the same
318 information as that in the published notice. Submissions received
319 by the Mississippi Procurement Technical Assistance Program for



320 projects funded by the American Recovery and Reinvestment Act
321 shall be displayed on a separate and unique Internet web page
322 accessible to the public and maintained by the Mississippi
323 Development Authority for the Mississippi Procurement Technical
324 Assistance Program. Those American Recovery and Reinvestment Act
325 related submissions shall be publicly posted within twenty-four
326 (24) hours of receipt by the Mississippi Development Authority and
327 the bid opening shall not occur until the submission has been
328 posted for ten (10) consecutive days. The Department of Finance
329 and Administration shall maintain information regarding contracts
330 and other expenditures from the American Recovery and Reinvestment
331 Act, on a unique Internet web page accessible to the public. The
332 Department of Finance and Administration shall promulgate rules
333 regarding format, content and deadlines, unless otherwise
334 specified by law, of the posting of award notices, contract
335 execution and subsequent amendments, links to the contract
336 documents, expenditures against the awarded contracts and general
337 expenditures of funds from the American Recovery and Reinvestment
338 Act. Within one (1) working day of the contract award, the agency
339 or governing authority shall post to the designated web page
340 maintained by the Department of Finance and Administration, notice
341 of the award, including the award recipient, the contract amount,
342 and a brief summary of the contract in accordance with rules
343 promulgated by the department. Within one (1) working day of the
344 contract execution, the agency or governing authority shall post



345 to the designated web page maintained by the Department of Finance
346 and Administration a summary of the executed contract and make a
347 copy of the appropriately redacted contract documents available
348 for linking to the designated web page in accordance with the
349 rules promulgated by the department. The information provided by
350 the agency or governing authority shall be posted to the web page
351 for the duration of the American Recovery and Reinvestment Act
352 funding or until the project is completed, whichever is longer.

353 (ii) **Bidding process amendment procedure.** If all
354 plans and/or specifications are published in the notification,
355 then the plans and/or specifications may not be amended. If all
356 plans and/or specifications are not published in the notification,
357 then amendments to the plans/specifications, bid opening date, bid
358 opening time and place may be made, provided that the agency or
359 governing authority maintains a list of all prospective bidders
360 who are known to have received a copy of the bid documents and all
361 such prospective bidders are sent copies of all amendments. This
362 notification of amendments may be made via mail, facsimile,
363 electronic mail or other generally accepted method of information
364 distribution. No addendum to bid specifications may be issued
365 within two (2) working days of the time established for the
366 receipt of bids unless such addendum also amends the bid opening
367 to a date not less than five (5) working days after the date of
368 the addendum.



369 (iii) **Filing requirement.** In all cases involving
370 governing authorities, before the notice shall be published or
371 posted, the plans or specifications for the construction or
372 equipment being sought shall be filed with the clerk of the board
373 of the governing authority. In addition to these requirements, a
374 bid file shall be established which shall indicate those vendors
375 to whom such solicitations and specifications were issued, and
376 such file shall also contain such information as is pertinent to
377 the bid.

378 (iv) **Specification restrictions.**

379 1. Specifications pertinent to such bidding
380 shall be written so as not to exclude comparable equipment of
381 domestic manufacture. However, if valid justification is
382 presented, the Department of Finance and Administration or the
383 board of a governing authority may approve a request for specific
384 equipment necessary to perform a specific job. Further, such
385 justification, when placed on the minutes of the board of a
386 governing authority, may serve as authority for that governing
387 authority to write specifications to require a specific item of
388 equipment needed to perform a specific job. In addition to these
389 requirements, from and after July 1, 1990, vendors of relocatable
390 classrooms and the specifications for the purchase of such
391 relocatable classrooms published by local school boards shall meet
392 all pertinent regulations of the State Board of Education,



393 including prior approval of such bid by the State Department of
394 Education.

395 2. Specifications for construction projects
396 may include an allowance for commodities, equipment, furniture,
397 construction materials or systems in which prospective bidders are
398 instructed to include in their bids specified amounts for such
399 items so long as the allowance items are acquired by the vendor in
400 a commercially reasonable manner and approved by the
401 agency/governing authority. Such acquisitions shall not be made
402 to circumvent the public purchasing laws.

403 (v) **Electronic bids.** Agencies and governing
404 authorities shall provide a secure electronic interactive system
405 for the submittal of bids requiring competitive bidding that shall
406 be an additional bidding option for those bidders who choose to
407 submit their bids electronically. The Department of Finance and
408 Administration shall provide, by regulation, the standards that
409 agencies must follow when receiving electronic bids. Agencies and
410 governing authorities shall make the appropriate provisions
411 necessary to accept electronic bids from those bidders who choose
412 to submit their bids electronically for all purchases requiring
413 competitive bidding under this section. Any special condition or
414 requirement for the electronic bid submission shall be specified
415 in the advertisement for bids required by this section. Agencies
416 or governing authorities that are currently without available high
417 speed Internet access shall be exempt from the requirement of this



418 subparagraph (v) until such time that high speed Internet access
419 becomes available. Any county having a population of less than
420 twenty thousand (20,000) shall be exempt from the provisions of
421 this subparagraph (v). Any municipality having a population of
422 less than ten thousand (10,000) shall be exempt from the
423 provisions of this subparagraph (v). The provisions of this
424 subparagraph (v) shall not require any bidder to submit bids
425 electronically. When construction bids are submitted
426 electronically, the requirement for including a certificate of
427 responsibility, or a statement that the bid enclosed does not
428 exceed Fifty Thousand Dollars (\$50,000.00), on the exterior of the
429 bid envelope as indicated in Section 31-3-21(1) and (2) shall be
430 deemed in compliance with by including same as an attachment with
431 the electronic bid submittal.

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

433 (i) **Decision procedure.** Purchases may be made
434 from the lowest and best bidder. In determining the lowest and
435 best bid, freight and shipping charges shall be included.
436 Life-cycle costing, total cost bids, warranties, guaranteed
437 buy-back provisions and other relevant provisions may be included
438 in the best bid calculation. All best bid procedures for state
439 agencies must be in compliance with regulations established by the
440 Department of Finance and Administration. If any governing
441 authority accepts a bid other than the lowest bid actually
442 submitted, it shall place on its minutes detailed calculations and



443 narrative summary showing that the accepted bid was determined to
444 be the lowest and best bid, including the dollar amount of the
445 accepted bid and the dollar amount of the lowest bid. No agency
446 or governing authority shall accept a bid based on items not
447 included in the specifications.

448 (ii) **Decision procedure for Certified Purchasing**
449 **Offices.** In addition to the decision procedure set forth in
450 subparagraph (i) of this paragraph (d), Certified Purchasing
451 Offices may also use the following procedure: Purchases may be
452 made from the bidder offering the best value. In determining the
453 best value bid, freight and shipping charges shall be included.
454 Life-cycle costing, total cost bids, warranties, guaranteed
455 buy-back provisions, documented previous experience, training
456 costs and other relevant provisions, including, but not limited
457 to, a bidder having a local office and inventory located within
458 the jurisdiction of the governing authority, may be included in
459 the best value calculation. This provision shall authorize
460 Certified Purchasing Offices to utilize a Request For Proposals
461 (RFP) process when purchasing commodities. All best value
462 procedures for state agencies must be in compliance with
463 regulations established by the Department of Finance and
464 Administration. No agency or governing authority shall accept a
465 bid based on items or criteria not included in the specifications.

466 (iii) **Decision procedure for Mississippi**
467 **Landmarks.** In addition to the decision procedure set forth in



468 subparagraph (i) of this paragraph (d), where purchase involves
469 renovation, restoration, or both, of the State Capitol Building or
470 any other historical building designated for at least five (5)
471 years as a Mississippi Landmark by the Board of Trustees of the
472 Department of Archives and History under the authority of Sections
473 39-7-7 and 39-7-11, the agency or governing authority may use the
474 following procedure: Purchases may be made from the lowest and
475 best prequalified bidder. Prequalification of bidders shall be
476 determined not less than fifteen (15) working days before the
477 first published notice of bid opening. Prequalification criteria
478 shall be limited to bidder's knowledge and experience in
479 historical restoration, preservation and renovation. In
480 determining the lowest and best bid, freight and shipping charges
481 shall be included. Life-cycle costing, total cost bids,
482 warranties, guaranteed buy-back provisions and other relevant
483 provisions may be included in the best bid calculation. All best
484 bid and prequalification procedures for state agencies must be in
485 compliance with regulations established by the Department of
486 Finance and Administration. If any governing authority accepts a
487 bid other than the lowest bid actually submitted, it shall place
488 on its minutes detailed calculations and narrative summary showing
489 that the accepted bid was determined to be the lowest and best
490 bid, including the dollar amount of the accepted bid and the
491 dollar amount of the lowest bid. No agency or governing authority



492 shall accept a bid based on items not included in the
493 specifications.

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

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

500 (e) **Lease-purchase authorization.** For the purposes of
501 this section, the term "equipment" shall mean equipment, furniture
502 and, if applicable, associated software and other applicable
503 direct costs associated with the acquisition. Any lease-purchase
504 of equipment which an agency is not required to lease-purchase
505 under the master lease-purchase program pursuant to Section
506 31-7-10 and any lease-purchase of equipment which a governing
507 authority elects to lease-purchase may be acquired by a
508 lease-purchase agreement under this paragraph (e). Lease-purchase
509 financing may also be obtained from the vendor or from a
510 third-party source after having solicited and obtained at least
511 two (2) written competitive bids, as defined in paragraph (b) of
512 this section, for such financing without advertising for such
513 bids. Solicitation for the bids for financing may occur before or
514 after acceptance of bids for the purchase of such equipment or,
515 where no such bids for purchase are required, at any time before
516 the purchase thereof. No such lease-purchase agreement shall be



517 for an annual rate of interest which is greater than the overall
518 maximum interest rate to maturity on general obligation
519 indebtedness permitted under Section 75-17-101, and the term of
520 such lease-purchase agreement shall not exceed the useful life of
521 equipment covered thereby as determined according to the upper
522 limit of the asset depreciation range (ADR) guidelines for the
523 Class Life Asset Depreciation Range System established by the
524 Internal Revenue Service pursuant to the United States Internal
525 Revenue Code and regulations thereunder as in effect on December
526 31, 1980, or comparable depreciation guidelines with respect to
527 any equipment not covered by ADR guidelines. Any lease-purchase
528 agreement entered into pursuant to this paragraph (e) may contain
529 any of the terms and conditions which a master lease-purchase
530 agreement may contain under the provisions of Section 31-7-10(5),
531 and shall contain an annual allocation dependency clause
532 substantially similar to that set forth in Section 31-7-10(8).
533 Each agency or governing authority entering into a lease-purchase
534 transaction pursuant to this paragraph (e) shall maintain with
535 respect to each such lease-purchase transaction the same
536 information as required to be maintained by the Department of
537 Finance and Administration pursuant to Section 31-7-10(13).
538 However, nothing contained in this section shall be construed to
539 permit agencies to acquire items of equipment with a total
540 acquisition cost in the aggregate of less than Ten Thousand
541 Dollars (\$10,000.00) by a single lease-purchase transaction. All



542 equipment, and the purchase thereof by any lessor, acquired by
543 lease-purchase under this paragraph and all lease-purchase
544 payments with respect thereto shall be exempt from all Mississippi
545 sales, use and ad valorem taxes. Interest paid on any
546 lease-purchase agreement under this section shall be exempt from
547 State of Mississippi income taxation.

548 (f) **Alternate bid authorization.** When necessary to
549 ensure ready availability of commodities for public works and the
550 timely completion of public projects, no more than two (2)
551 alternate bids may be accepted by a governing authority for
552 commodities. No purchases may be made through use of such
553 alternate bids procedure unless the lowest and best bidder cannot
554 deliver the commodities contained in his bid. In that event,
555 purchases of such commodities may be made from one (1) of the
556 bidders whose bid was accepted as an alternate.

557 (g) **Construction contract change authorization.** In the
558 event a determination is made by an agency or governing authority
559 after a construction contract is let that changes or modifications
560 to the original contract are necessary or would better serve the
561 purpose of the agency or the governing authority, such agency or
562 governing authority may, in its discretion, order such changes
563 pertaining to the construction that are necessary under the
564 circumstances without the necessity of further public bids;
565 provided that such change shall be made in a commercially
566 reasonable manner and shall not be made to circumvent the public



567 purchasing statutes. In addition to any other authorized person,
568 the architect or engineer hired by an agency or governing
569 authority with respect to any public construction contract shall
570 have the authority, when granted by an agency or governing
571 authority, to authorize changes or modifications to the original
572 contract without the necessity of prior approval of the agency or
573 governing authority when any such change or modification is less
574 than one percent (1%) of the total contract amount. The agency or
575 governing authority may limit the number, manner or frequency of
576 such emergency changes or modifications.

577 (h) **Petroleum purchase alternative.** In addition to
578 other methods of purchasing authorized in this chapter, when any
579 agency or governing authority shall have a need for gas, diesel
580 fuel, oils and/or other petroleum products in excess of the amount
581 set forth in paragraph (a) of this section, such agency or
582 governing authority may purchase the commodity after having
583 solicited and obtained at least two (2) competitive written bids,
584 as defined in paragraph (b) of this section. If two (2)
585 competitive written bids are not obtained, the entity shall comply
586 with the procedures set forth in paragraph (c) of this section.
587 In the event any agency or governing authority shall have
588 advertised for bids for the purchase of gas, diesel fuel, oils and
589 other petroleum products and coal and no acceptable bids can be
590 obtained, such agency or governing authority is authorized and
591 directed to enter into any negotiations necessary to secure the



592 lowest and best contract available for the purchase of such
593 commodities.

594 (i) **Road construction petroleum products price**
595 **adjustment clause authorization.** Any agency or governing
596 authority authorized to enter into contracts for the construction,
597 maintenance, surfacing or repair of highways, roads or streets,
598 may include in its bid proposal and contract documents a price
599 adjustment clause with relation to the cost to the contractor,
600 including taxes, based upon an industry-wide cost index, of
601 petroleum products including asphalt used in the performance or
602 execution of the contract or in the production or manufacture of
603 materials for use in such performance. Such industry-wide index
604 shall be established and published monthly by the Mississippi
605 Department of Transportation with a copy thereof to be mailed,
606 upon request, to the clerks of the governing authority of each
607 municipality and the clerks of each board of supervisors
608 throughout the state. The price adjustment clause shall be based
609 on the cost of such petroleum products only and shall not include
610 any additional profit or overhead as part of the adjustment. The
611 bid proposals or document contract shall contain the basis and
612 methods of adjusting unit prices for the change in the cost of
613 such petroleum products.

614 (j) **State agency emergency purchase procedure.** If the
615 governing board or the executive head, or his designees, of any
616 agency of the state shall determine that an emergency exists in



617 regard to the purchase of any commodities or repair contracts, so
618 that the delay incident to giving opportunity for competitive
619 bidding would be detrimental to the interests of the state, then
620 the head of such agency, or his designees, shall file with the
621 Department of Finance and Administration (i) a statement
622 explaining the conditions and circumstances of the emergency,
623 which shall include a detailed description of the events leading
624 up to the situation and the negative impact to the entity if the
625 purchase is made following the statutory requirements set forth in
626 paragraph (a), (b) or (c) of this section, and (ii) a certified
627 copy of the appropriate minutes of the board of such agency
628 requesting the emergency purchase, if applicable. Upon receipt of
629 the statement and applicable board certification, the State Fiscal
630 Officer, or his designees, may, in writing, authorize the purchase
631 or repair without having to comply with competitive bidding
632 requirements.

633 If the governing board or the executive head, or his
634 designees, of any agency determines that an emergency exists in
635 regard to the purchase of any commodities or repair contracts, so
636 that the delay incident to giving opportunity for competitive
637 bidding would threaten the health or safety of any person, or the
638 preservation or protection of property, then the provisions in
639 this section for competitive bidding shall not apply, and any
640 officer or agent of the agency having general or specific
641 authority for making the purchase or repair contract shall approve



642 the bill presented for payment, and he shall certify in writing
643 from whom the purchase was made, or with whom the repair contract
644 was made.

645 Total purchases made under this paragraph (j) shall only be
646 for the purpose of meeting needs created by the emergency
647 situation. Following the emergency purchase, documentation of the
648 purchase, including a description of the commodity purchased, the
649 purchase price thereof and the nature of the emergency shall be
650 filed with the Department of Finance and Administration. Any
651 contract awarded pursuant to this paragraph (j) shall not exceed a
652 term of one (1) year.

653 Purchases under the grant program established under Section
654 37-68-7 in response to COVID-19 and the directive that school
655 districts create a distance learning plan and fulfill technology
656 needs expeditiously shall be deemed an emergency purchase for
657 purposes of this paragraph (j).

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

659 If the governing authority, or the governing authority acting
660 through its designee, shall determine that an emergency exists in
661 regard to the purchase of any commodities or repair contracts, so
662 that the delay incident to giving opportunity for competitive
663 bidding would be detrimental to the interest of the governing
664 authority, then the provisions herein for competitive bidding
665 shall not apply and any officer or agent of such governing
666 authority having general or special authority therefor in making



667 such purchase or repair shall approve the bill presented therefor,
668 and he shall certify in writing thereon from whom such purchase
669 was made, or with whom such a repair contract was made. At the
670 board meeting next following the emergency purchase or repair
671 contract, documentation of the purchase or repair contract,
672 including a description of the commodity purchased, the price
673 thereof and the nature of the emergency shall be presented to the
674 board and shall be placed on the minutes of the board of such
675 governing authority. Purchases under the grant program
676 established under Section 37-68-7 in response to COVID-19 and the
677 directive that school districts create a distance learning plan
678 and fulfill technology needs expeditiously shall be deemed an
679 emergency purchase for purposes of this paragraph (k).

680 (1) **Hospital purchase, lease-purchase and lease**
681 **authorization.**

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

687 (ii) In addition to the authority granted in
688 subparagraph (i) of this paragraph (1), the commissioners or board
689 of trustees is authorized to enter into contracts for the lease of
690 equipment or services, or both, which it considers necessary for
691 the proper care of patients if, in its opinion, it is not



692 financially feasible to purchase the necessary equipment or
693 services. Any such contract for the lease of equipment or
694 services executed by the commissioners or board shall not exceed a
695 maximum of five (5) years' duration and shall include a
696 cancellation clause based on unavailability of funds. If such
697 cancellation clause is exercised, there shall be no further
698 liability on the part of the lessee. Any such contract for the
699 lease of equipment or services executed on behalf of the
700 commissioners or board that complies with the provisions of this
701 subparagraph (ii) shall be excepted from the bid requirements set
702 forth in this section.

703 (m) **Exceptions from bidding requirements.** Excepted
704 from bid requirements are:

705 (i) **Purchasing agreements approved by department.**
706 Purchasing agreements, contracts and maximum price regulations
707 executed or approved by the Department of Finance and
708 Administration.

709 (ii) **Outside equipment repairs.** Repairs to
710 equipment, when such repairs are made by repair facilities in the
711 private sector; however, engines, transmissions, rear axles and/or
712 other such components shall not be included in this exemption when
713 replaced as a complete unit instead of being repaired and the need
714 for such total component replacement is known before disassembly
715 of the component; however, invoices identifying the equipment,
716 specific repairs made, parts identified by number and name,



717 supplies used in such repairs, and the number of hours of labor
718 and costs therefor shall be required for the payment for such
719 repairs.

720 (iii) **In-house equipment repairs.** Purchases of
721 parts for repairs to equipment, when such repairs are made by
722 personnel of the agency or governing authority; however, entire
723 assemblies, such as engines or transmissions, shall not be
724 included in this exemption when the entire assembly is being
725 replaced instead of being repaired.

726 (iv) **Raw gravel or dirt.** Raw unprocessed deposits
727 of gravel or fill dirt which are to be removed and transported by
728 the purchaser.

729 (v) **Governmental equipment auctions.** Motor
730 vehicles or other equipment purchased from a federal agency or
731 authority, another governing authority or state agency of the
732 State of Mississippi, or any governing authority or state agency
733 of another state at a public auction held for the purpose of
734 disposing of such vehicles or other equipment. Any purchase by a
735 governing authority under the exemption authorized by this
736 subparagraph (v) shall require advance authorization spread upon
737 the minutes of the governing authority to include the listing of
738 the item or items authorized to be purchased and the maximum bid
739 authorized to be paid for each item or items.

740 (vi) **Intergovernmental sales and transfers.**
741 Purchases, sales, transfers or trades by governing authorities or



742 state agencies when such purchases, sales, transfers or trades are
743 made by a private treaty agreement or through means of
744 negotiation, from any federal agency or authority, another
745 governing authority or state agency of the State of Mississippi,
746 or any state agency or governing authority of another state.
747 Nothing in this section shall permit such purchases through public
748 auction except as provided for in subparagraph (v) of this
749 paragraph (m). It is the intent of this section to allow
750 governmental entities to dispose of and/or purchase commodities
751 from other governmental entities at a price that is agreed to by
752 both parties. This shall allow for purchases and/or sales at
753 prices which may be determined to be below the market value if the
754 selling entity determines that the sale at below market value is
755 in the best interest of the taxpayers of the state. Governing
756 authorities shall place the terms of the agreement and any
757 justification on the minutes, and state agencies shall obtain
758 approval from the Department of Finance and Administration, prior
759 to releasing or taking possession of the commodities.

760 (vii) **Perishable supplies or food.** Perishable
761 supplies or food purchased for use in connection with hospitals,
762 the school lunch programs, homemaking programs and for the feeding
763 of county or municipal prisoners.

764 (viii) **Single-source items.** Noncompetitive items
765 available from one (1) source only. In connection with the
766 purchase of noncompetitive items only available from one (1)



767 source, a certification of the conditions and circumstances
768 requiring the purchase shall be filed by the agency with the
769 Department of Finance and Administration and by the governing
770 authority with the board of the governing authority. Upon receipt
771 of that certification the Department of Finance and Administration
772 or the board of the governing authority, as the case may be, may,
773 in writing, authorize the purchase, which authority shall be noted
774 on the minutes of the body at the next regular meeting thereafter.
775 In those situations, a governing authority is not required to
776 obtain the approval of the Department of Finance and
777 Administration. Following the purchase, the executive head of the
778 state agency, or his designees, shall file with the Department of
779 Finance and Administration, documentation of the purchase,
780 including a description of the commodity purchased, the purchase
781 price thereof and the source from whom it was purchased.

782 (ix) **Waste disposal facility construction**
783 **contracts.** Construction of incinerators and other facilities for
784 disposal of solid wastes in which products either generated
785 therein, such as steam, or recovered therefrom, such as materials
786 for recycling, are to be sold or otherwise disposed of; however,
787 in constructing such facilities, a governing authority or agency
788 shall publicly issue requests for proposals, advertised for in the
789 same manner as provided herein for seeking bids for public
790 construction projects, concerning the design, construction,
791 ownership, operation and/or maintenance of such facilities,



792 wherein such requests for proposals when issued shall contain
793 terms and conditions relating to price, financial responsibility,
794 technology, environmental compatibility, legal responsibilities
795 and such other matters as are determined by the governing
796 authority or agency to be appropriate for inclusion; and after
797 responses to the request for proposals have been duly received,
798 the governing authority or agency may select the most qualified
799 proposal or proposals on the basis of price, technology and other
800 relevant factors and from such proposals, but not limited to the
801 terms thereof, negotiate and enter contracts with one or more of
802 the persons or firms submitting proposals.

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

806 (xi) **Information technology products.** Purchases
807 of information technology products made by governing authorities
808 under the provisions of purchase schedules, or contracts executed
809 or approved by the Mississippi Department of Information
810 Technology Services and designated for use by governing
811 authorities.

812 (xii) **Energy efficiency services and equipment.**
813 Energy efficiency services and equipment acquired by school
814 districts, community and junior colleges, institutions of higher
815 learning and state agencies or other applicable governmental



816 entities on a shared-savings, lease or lease-purchase basis
817 pursuant to Section 31-7-14.

818 (xiii) **Municipal electrical utility system fuel.**

819 Purchases of coal and/or natural gas by municipally owned electric
820 power generating systems that have the capacity to use both coal
821 and natural gas for the generation of electric power.

822 (xiv) **Library books and other reference materials.**

823 Purchases by libraries or for libraries of books and periodicals;
824 processed film, videocassette tapes, filmstrips and slides;
825 recorded audiotapes, cassettes and diskettes; and any such items
826 as would be used for teaching, research or other information
827 distribution; however, equipment such as projectors, recorders,
828 audio or video equipment, and monitor televisions are not exempt
829 under this subparagraph.

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

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

836 (xvii) **Multichannel interactive video systems.**

837 From and after July 1, 1990, contracts by Mississippi Authority
838 for Educational Television with any private educational
839 institution or private nonprofit organization whose purposes are
840 educational in regard to the construction, purchase, lease or



841 lease-purchase of facilities and equipment and the employment of
842 personnel for providing multichannel interactive video systems
843 (ITSF) in the school districts of this state.

844 (xviii) **Purchases of prison industry products by**
845 **the Department of Corrections, regional correctional facilities or**
846 **privately owned prisons.** Purchases made by the Mississippi
847 Department of Corrections, regional correctional facilities or
848 privately owned prisons involving any item that is manufactured,
849 processed, grown or produced from the state's prison industries.

850 (xix) **Undercover operations equipment.** Purchases
851 of surveillance equipment or any other high-tech equipment to be
852 used by law enforcement agents in undercover operations, provided
853 that any such purchase shall be in compliance with regulations
854 established by the Department of Finance and Administration.

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

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

864 (xxii) **Garbage, solid waste and sewage contracts.**
865 Contracts for garbage collection or disposal, contracts for solid



866 waste collection or disposal and contracts for sewage collection
867 or disposal.

868 (xxiii) **Municipal water tank maintenance**
869 **contracts.** Professional maintenance program contracts for the
870 repair or maintenance of municipal water tanks, which provide
871 professional services needed to maintain municipal water storage
872 tanks for a fixed annual fee for a duration of two (2) or more
873 years.

874 (xxiv) **Purchases of Mississippi Industries for the**
875 **Blind products.** Purchases made by state agencies or governing
876 authorities involving any item that is manufactured, processed or
877 produced by the Mississippi Industries for the Blind.

878 (xxv) **Purchases of state-adopted textbooks.**
879 Purchases of state-adopted textbooks by public school districts.

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

883 (xxvii) **Used heavy or specialized machinery or**
884 **equipment for installation of soil and water conservation**
885 **practices purchased at auction.** Used heavy or specialized
886 machinery or equipment used for the installation and
887 implementation of soil and water conservation practices or
888 measures purchased subject to the restrictions provided in
889 Sections 69-27-331 through 69-27-341. Any purchase by the State
890 Soil and Water Conservation Commission under the exemption



891 authorized by this subparagraph shall require advance
892 authorization spread upon the minutes of the commission to include
893 the listing of the item or items authorized to be purchased and
894 the maximum bid authorized to be paid for each item or items.

895 (xxviii) **Hospital lease of equipment or services.**

896 Leases by hospitals of equipment or services if the leases are in
897 compliance with paragraph (1)(ii).

898 (xxix) **Purchases made pursuant to qualified**

899 **cooperative purchasing agreements.** Purchases made by certified
900 purchasing offices of state agencies or governing authorities
901 under cooperative purchasing agreements previously approved by the
902 Office of Purchasing and Travel and established by or for any
903 municipality, county, parish or state government or the federal
904 government, provided that the notification to potential
905 contractors includes a clause that sets forth the availability of
906 the cooperative purchasing agreement to other governmental
907 entities. Such purchases shall only be made if the use of the
908 cooperative purchasing agreements is determined to be in the best
909 interest of the governmental entity.

910 (xxx) **School yearbooks.** Purchases of school

911 yearbooks by state agencies or governing authorities; provided,
912 however, that state agencies and governing authorities shall use
913 for these purchases the RFP process as set forth in the
914 Mississippi Procurement Manual adopted by the Office of Purchasing
915 and Travel.



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

919 (xxxiii) **Toll roads and bridge construction**
920 **projects.** Contracts entered into under the provisions of Section
921 65-43-1 or 65-43-3.

922 (xxxiiii) **Certain purchases under Section 57-1-221.**
923 Contracts entered into pursuant to the provisions of Section
924 57-1-221.

925 (xxxv) **Certain transfers made pursuant to the**
926 **provisions of Section 57-105-1(7).** Transfers of public property
927 or facilities under Section 57-105-1(7) and construction related
928 to such public property or facilities.

929 (xxxvi) **Certain purchases or transfers entered into**
930 **with local electrical power associations.** Contracts or agreements
931 entered into under the provisions of Section 55-3-33.

932 (xxxvii) **Certain purchases by an academic medical**
933 **center or health sciences school.** Purchases by an academic
934 medical center or health sciences school, as defined in Section
935 37-115-50, of commodities that are used for clinical purposes and
936 1. intended for use in the diagnosis of disease or other
937 conditions or in the cure, mitigation, treatment or prevention of
938 disease, and 2. medical devices, biological, drugs and
939 radiation-emitting devices as defined by the United States Food
940 and Drug Administration.



941 (xxxvii) **Certain purchases made under the Alyce G.**
942 **Clarke Mississippi Lottery Law.** Contracts made by the Mississippi
943 Lottery Corporation pursuant to the Alyce G. Clarke Mississippi
944 Lottery Law.

945 (xxxviii) **Certain purchases made by the Department**
946 **of Health and the Department of Revenue.** Purchases made by the
947 Department of Health and/or the Department of Revenue solely for
948 the purpose of fulfilling their respective responsibilities under
949 the Mississippi Medical Cannabis Act. This subparagraph shall
950 stand repealed on June 30, 2023.

951 (n) **Term contract authorization.** All contracts for the
952 purchase of:

953 (i) All contracts for the purchase of commodities,
954 equipment and public construction (including, but not limited to,
955 repair and maintenance), may be let for periods of not more than
956 sixty (60) months in advance, subject to applicable statutory
957 provisions prohibiting the letting of contracts during specified
958 periods near the end of terms of office. Term contracts for a
959 period exceeding twenty-four (24) months shall also be subject to
960 ratification or cancellation by governing authority boards taking
961 office subsequent to the governing authority board entering the
962 contract.

963 (ii) Bid proposals and contracts may include price
964 adjustment clauses with relation to the cost to the contractor
965 based upon a nationally published industry-wide or nationally



966 published and recognized cost index. The cost index used in a
967 price adjustment clause shall be determined by the Department of
968 Finance and Administration for the state agencies and by the
969 governing board for governing authorities. The bid proposal and
970 contract documents utilizing a price adjustment clause shall
971 contain the basis and method of adjusting unit prices for the
972 change in the cost of such commodities, equipment and public
973 construction.

974 (o) **Purchase law violation prohibition and vendor**
975 **penalty.** No contract or purchase as herein authorized shall be
976 made for the purpose of circumventing the provisions of this
977 section requiring competitive bids, nor shall it be lawful for any
978 person or concern to submit individual invoices for amounts within
979 those authorized for a contract or purchase where the actual value
980 of the contract or commodity purchased exceeds the authorized
981 amount and the invoices therefor are split so as to appear to be
982 authorized as purchases for which competitive bids are not
983 required. Submission of such invoices shall constitute a
984 misdemeanor punishable by a fine of not less than Five Hundred
985 Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00),
986 or by imprisonment for thirty (30) days in the county jail, or
987 both such fine and imprisonment. In addition, the claim or claims
988 submitted shall be forfeited.

989 (p) **Electrical utility petroleum-based equipment**
990 **purchase procedure.** When in response to a proper advertisement



991 therefor, no bid firm as to price is submitted to an electric
992 utility for power transformers, distribution transformers, power
993 breakers, reclosers or other articles containing a petroleum
994 product, the electric utility may accept the lowest and best bid
995 therefor although the price is not firm.

996 (q) **Fuel management system bidding procedure.** Any
997 governing authority or agency of the state shall, before
998 contracting for the services and products of a fuel management or
999 fuel access system, enter into negotiations with not fewer than
1000 two (2) sellers of fuel management or fuel access systems for
1001 competitive written bids to provide the services and products for
1002 the systems. In the event that the governing authority or agency
1003 cannot locate two (2) sellers of such systems or cannot obtain
1004 bids from two (2) sellers of such systems, it shall show proof
1005 that it made a diligent, good-faith effort to locate and negotiate
1006 with two (2) sellers of such systems. Such proof shall include,
1007 but not be limited to, publications of a request for proposals and
1008 letters soliciting negotiations and bids. For purposes of this
1009 paragraph (q), a fuel management or fuel access system is an
1010 automated system of acquiring fuel for vehicles as well as
1011 management reports detailing fuel use by vehicles and drivers, and
1012 the term "competitive written bid" shall have the meaning as
1013 defined in paragraph (b) of this section. Governing authorities
1014 and agencies shall be exempt from this process when contracting
1015 for the services and products of fuel management or fuel access



1016 systems under the terms of a state contract established by the
1017 Office of Purchasing and Travel.

1018 (r) **Solid waste contract proposal procedure.** Before
1019 entering into any contract for garbage collection or disposal,
1020 contract for solid waste collection or disposal or contract for
1021 sewage collection or disposal, which involves an expenditure of
1022 more than Seventy-five Thousand Dollars (\$75,000.00), a governing
1023 authority or agency shall issue publicly a request for proposals
1024 concerning the specifications for such services which shall be
1025 advertised for in the same manner as provided in this section for
1026 seeking bids for purchases which involve an expenditure of more
1027 than the amount provided in paragraph (c) of this section. Any
1028 request for proposals when issued shall contain terms and
1029 conditions relating to price, financial responsibility,
1030 technology, legal responsibilities and other relevant factors as
1031 are determined by the governing authority or agency to be
1032 appropriate for inclusion; all factors determined relevant by the
1033 governing authority or agency or required by this paragraph (r)
1034 shall be duly included in the advertisement to elicit proposals.
1035 After responses to the request for proposals have been duly
1036 received, the governing authority or agency shall select the most
1037 qualified proposal or proposals on the basis of price, technology
1038 and other relevant factors and from such proposals, but not
1039 limited to the terms thereof, negotiate and enter into contracts
1040 with one or more of the persons or firms submitting proposals. If



1041 the governing authority or agency deems none of the proposals to
1042 be qualified or otherwise acceptable, the request for proposals
1043 process may be reinitiated. Notwithstanding any other provisions
1044 of this paragraph, where a county with at least thirty-five
1045 thousand (35,000) nor more than forty thousand (40,000)
1046 population, according to the 1990 federal decennial census, owns
1047 or operates a solid waste landfill, the governing authorities of
1048 any other county or municipality may contract with the governing
1049 authorities of the county owning or operating the landfill,
1050 pursuant to a resolution duly adopted and spread upon the minutes
1051 of each governing authority involved, for garbage or solid waste
1052 collection or disposal services through contract negotiations.

1053 (s) **Minority set-aside authorization.** Notwithstanding
1054 any provision of this section to the contrary, any agency or
1055 governing authority, by order placed on its minutes, may, in its
1056 discretion, set aside not more than twenty percent (20%) of its
1057 anticipated annual expenditures for the purchase of commodities
1058 from minority businesses; however, all such set-aside purchases
1059 shall comply with all purchasing regulations promulgated by the
1060 Department of Finance and Administration and shall be subject to
1061 bid requirements under this section. Set-aside purchases for
1062 which competitive bids are required shall be made from the lowest
1063 and best minority business bidder. For the purposes of this
1064 paragraph, the term "minority business" means a business which is
1065 owned by a majority of persons who are United States citizens or



1066 permanent resident aliens (as defined by the Immigration and
1067 Naturalization Service) of the United States, and who are Asian,
1068 Black, Hispanic or Native American, according to the following
1069 definitions:

1070 (i) "Asian" means persons having origins in any of
1071 the original people of the Far East, Southeast Asia, the Indian
1072 subcontinent, or the Pacific Islands.

1073 (ii) "Black" means persons having origins in any
1074 black racial group of Africa.

1075 (iii) "Hispanic" means persons of Spanish or
1076 Portuguese culture with origins in Mexico, South or Central
1077 America, or the Caribbean Islands, regardless of race.

1078 (iv) "Native American" means persons having
1079 origins in any of the original people of North America, including
1080 American Indians, Eskimos and Aleuts.

1081 (t) **Construction punch list restriction.** The
1082 architect, engineer or other representative designated by the
1083 agency or governing authority that is contracting for public
1084 construction or renovation may prepare and submit to the
1085 contractor only one (1) preliminary punch list of items that do
1086 not meet the contract requirements at the time of substantial
1087 completion and one (1) final list immediately before final
1088 completion and final payment.

1089 (u) **Procurement of construction services by state**
1090 **institutions of higher learning.** Contracts for privately financed



1091 construction of auxiliary facilities on the campus of a state
1092 institution of higher learning may be awarded by the Board of
1093 Trustees of State Institutions of Higher Learning to the lowest
1094 and best bidder, where sealed bids are solicited, or to the
1095 offeror whose proposal is determined to represent the best value
1096 to the citizens of the State of Mississippi, where requests for
1097 proposals are solicited.

1098 (v) **Insurability of bidders for public construction or**
1099 **other public contracts.** In any solicitation for bids to perform
1100 public construction or other public contracts to which this
1101 section applies, including, but not limited to, contracts for
1102 repair and maintenance, for which the contract will require
1103 insurance coverage in an amount of not less than One Million
1104 Dollars (\$1,000,000.00), bidders shall be permitted to either
1105 submit proof of current insurance coverage in the specified amount
1106 or demonstrate ability to obtain the required coverage amount of
1107 insurance if the contract is awarded to the bidder. Proof of
1108 insurance coverage shall be submitted within five (5) business
1109 days from bid acceptance.

1110 (w) **Purchase authorization clarification.** Nothing in
1111 this section shall be construed as authorizing any purchase not
1112 authorized by law.

1113 **SECTION 4.** Section 49-19-3, Mississippi Code of 1972, is
1114 brought forward as follows:

1115 49-19-3. The duties and powers of the commission shall be:



1116 (a) To appoint a State Forester, who shall serve at the
1117 will and pleasure of the commission and who is qualified to
1118 perform the duties as set forth herein; and to pay him such salary
1119 as is provided by the Legislature, and allow him such office
1120 expenses incidental to the performance of his official duties as
1121 the commission, in its discretion, may deem necessary; and to
1122 charge him with the immediate direction and control, subject to
1123 the supervision and approval of the commission, of all matters
1124 relating to forestry as authorized herein. Any person appointed
1125 by the commission as State Forester shall have received a
1126 bachelor's degree in forestry from an accredited school or college
1127 of forestry and shall be licensed and registered under the
1128 provisions of the Mississippi Foresters Registration Law (Section
1129 73-36-1 et seq.) and in addition shall have had at least five (5)
1130 years' administrative experience in a forestry-related field.

1131 (b) To take such action and provide and maintain such
1132 organized means as may seem necessary and expedient to prevent,
1133 control and extinguish forest fires, including the enforcement of
1134 any and all laws pertaining to the protection of forests and
1135 woodland.

1136 (c) To encourage forest and tree planting for the
1137 production of a wood crop, for the protection of water supply, for
1138 windbreak and shade, or for any other beneficial purposes
1139 contributing to the general welfare, public hygiene and comfort of
1140 the people.



1141 (d) To cause to be made such technical investigations
1142 and studies concerning forest conditions, the propagation, care
1143 and protection of forest and shade trees, the care and management
1144 of forests, their growth, yield and the products and by-products
1145 thereof, and any other competent subject, including forest
1146 taxation, bearing on the timber supply and needs of the state,
1147 which the commission, in its discretion, may deem proper.

1148 (e) To assist and cooperate with any federal or state
1149 department or institution, county, town, corporation or
1150 individual, under such terms as in the judgment of the commission
1151 will best serve the public interest, in the preparation and
1152 execution of plans for the protection, management, replacement, or
1153 extension of the forest, woodland and roadside or other ornamental
1154 tree growth in the state.

1155 (f) To encourage public interest in forestry by means
1156 of correspondence, the public press, periodicals, the publication
1157 of bulletins and leaflets for general distribution, the delivery
1158 of lectures in the schools and other suitable means, and to
1159 cooperate to the fullest extent with the extension department
1160 services of the state colleges in promoting reforestation. It
1161 shall be the duty of the State Forester to cooperate with private
1162 timber owners in laying plans for the protection, management and
1163 replacement of forests and in aiding them to form protection
1164 associations. It shall be his duty to examine all timbered lands
1165 belonging to the state and its institutions and report to the



1166 commission upon their timber conditions and actual value, and also
1167 whether some of these lands may not be held as state forests. He
1168 shall be responsible for the protection and management of lands
1169 donated, purchased or belonging to the state or state
1170 institutions, and all other lands reserved by the state as state
1171 forests.

1172 (g) To control the expenditure of any and all funds
1173 appropriated or otherwise made available for the several purposes
1174 set forth herein under suitable regulations and restrictions by
1175 the commission and to specifically authorize any officer or
1176 employee of the commission to incur necessary and stipulated
1177 expenses in connection with the work in which such person may be
1178 engaged.

1179 (h) To submit annually to the Legislature a report of
1180 the expenditures, proceedings and results achieved, together with
1181 such other matters including recommendations concerning
1182 legislation as are germane to the aims and purposes of this
1183 chapter.

1184 (i) To create, establish and organize the State of
1185 Mississippi into forestry districts for the most effective and
1186 efficient administration of the commission.

1187 (j) To appoint, upon the State Forester's
1188 recommendation, six (6) individuals who shall be designated
1189 Mississippi Forestry Commission Law Enforcement Officers with
1190 authority to bear arms, investigate and make arrests; however, the



1191 law enforcement duties and authority of the officers shall be
1192 limited to woods arson. The officers shall comply with applicable
1193 minimum educational and training standards for law enforcement
1194 officers. These officers may issue citations for any violation of
1195 those laws for recklessly or with gross negligence causing fire to
1196 burn the lands of another. A citation issued by a Forestry
1197 Commission law enforcement officer shall be issued on a uniform
1198 citation form consisting of an original and at least two (2)
1199 copies. Such citation shall show, among other necessary
1200 information, the name of the issuing officer, the name of the
1201 court in which the cause is to be heard and the date and time the
1202 person charged with a violation is to appear to answer the charge.
1203 The uniform citation form shall make a provision on it for
1204 information that will constitute a complaint charging the offense
1205 for which the citation was issued and, when duly sworn to and
1206 filed with a court of competent jurisdiction, prosecution may
1207 proceed under that complaint. For the purposes of this paragraph,
1208 the fact that any person is found to have a brush or debris pile
1209 or other material which is or was being burned and reasonable and
1210 prudent efforts were not taken to prevent the spread of the fire
1211 onto the lands of another shall be evidence that such person
1212 recklessly or with gross negligence caused the land to burn.

1213 This paragraph shall stand repealed on June 30, 2022.

1214 **SECTION 5.** Section 55-3-53, Mississippi Code of 1972, is
1215 brought forward as follows:



1216 55-3-53. (1) The Mississippi Department of Wildlife,
1217 Fisheries and Parks is hereby authorized and empowered to sell and
1218 dispose of timber, trees, deadwood and stumps standing, growing
1219 and being upon the lands of state parks. Such timber shall be
1220 sold and disposed of under the direction and specifications of the
1221 Department of Wildlife, Fisheries and Parks in accordance with
1222 sound and efficient principles of selective cutting, forestry
1223 management and conservation.

1224 Before any such timber, trees, deadwood and stumps shall be
1225 sold, the Department of Wildlife, Fisheries and Parks shall select
1226 and mark the trees to be cut and disposed of. No trees or timber
1227 shall be marked for cutting when the cutting thereof would destroy
1228 or mar the scenic views from the tourist observation points in
1229 said park. The purchaser shall pay double price on sale basis for
1230 all trees, timber or stumps cut that had not been marked for
1231 removing by the Department of Wildlife, Fisheries and Parks.

1232 Before any such timber, trees, deadwood or stumps standing,
1233 growing or being upon such land shall be sold, the department
1234 shall advertise its intention so to do by publication in a
1235 newspaper published or having general circulation in the county or
1236 counties where parks are located, such notice to be published at
1237 least once a week for three (3) consecutive weeks preceding the
1238 sale and by posting one (1) notice in the courthouse in such
1239 county. The notice shall specify that such bids shall be filed
1240 with the superintendent of the state park involved, who shall



1241 transmit same to the Department of Wildlife, Fisheries and Parks
1242 for rejection or approval. Said department shall accept the bid
1243 of the highest and best bidder for cash, but shall have the right
1244 to reject any and all of such bids.

1245 Provided, however, in the case of damage by fire, windstorm,
1246 insects or other natural causes which would require immediate sale
1247 of the timber, because the time involved for advertisement as
1248 prescribed herein would allow decay, rot or destruction
1249 substantially decreasing the purchase price to be received had not
1250 such delay occurred, the advertisement provisions of this section
1251 shall not apply. The State Park Director, upon a written
1252 recommendation from the county forester of the county wherein said
1253 state park is located, shall determine when immediate sale of the
1254 timber is required. When the State Park Director shall find an
1255 immediate sale necessary for the causes stated herein, he shall,
1256 in his discretion, set the time for receipt of bids on the
1257 purchase of said timber, but shall show due diligence in notifying
1258 competitive bidders so that a true competitive bid shall be
1259 received.

1260 Whenever any timber, trees, deadwood or stumps are sold under
1261 the provisions of this section, the purchaser thereof shall have
1262 all necessary rights of ingress and egress to enter upon said land
1263 and cut and remove such timber, trees, deadwood or stumps.



1264 The proceeds derived or received from all sales under the
1265 provisions of this section shall be placed in the State Parks
1266 Timber Management Endowment Fund created under Section 55-3-54.

1267 (2) Notwithstanding the provisions of subsection (1) of this
1268 section, the Department of Wildlife, Fisheries and Parks may cut
1269 and sell trees damaged by fire, windstorm or insects and deadwood
1270 and stumps located upon the lands of state parks for firewood.
1271 Such firewood shall be sold only to overnight guests at state
1272 parks for use at state parks. The Department of Wildlife,
1273 Fisheries and Parks shall select and mark all trees to be cut for
1274 firewood.

1275 **SECTION 6.** This act shall take effect and be in force from
1276 and after July 1, 2023.

