

By: Representatives Turner, Ladner, Hopkins

To: Appropriations

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 540

1 AN ACT TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972,  
2 TO REQUIRE THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO CONDUCT  
3 PERSONAL AND PROFESSIONAL SERVICES SOLICITATIONS IN EXCESS OF  
4 SEVENTY-FIVE THOUSAND DOLLARS FOR THE DEPARTMENT OF MARINE  
5 RESOURCES, THE DEPARTMENT OF WILDLIFE, FISHERIES AND PARKS, THE  
6 MISSISSIPPI EMERGENCY MANAGEMENT AGENCY AND THE MISSISSIPPI  
7 DEVELOPMENT AUTHORITY; TO AMEND SECTION 27-104-103, MISSISSIPPI  
8 CODE OF 1972, TO REVISE THE POWER AND DUTIES OF THE DEPARTMENT OF  
9 FINANCE AND ADMINISTRATION TO CONFORM; AND FOR RELATED PURPOSES.

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

11 **SECTION 1.** Section 27-104-7, Mississippi Code of 1972, is  
12 amended as follows:

13 27-104-7. (1) (a) There is created the Public Procurement  
14 Review Board, which shall be reconstituted on January 1, 2018, and  
15 shall be composed of the following members:

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

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



20 (iii) The Executive Director of the Department of  
21 Finance and Administration, serving as an ex officio and nonvoting  
22 member.

23 (b) The initial terms of each appointee shall be as  
24 follows:

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

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

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

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

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

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

39 (c) When appointing members to the Public Procurement  
40 Review Board, the Governor and Lieutenant Governor shall take into  
41 consideration persons who possess at least five (5) years of  
42 management experience in general business, health care or finance  
43 for an organization, corporation or other public or private  
44 entity. Any person, or any employee or owner of a company, who



45 receives any grants, procurements or contracts that are subject to  
46 approval under this section shall not be appointed to the Public  
47 Procurement Review Board. Any person, or any employee or owner of  
48 a company, who is a principal of the source providing a personal  
49 or professional service shall not be appointed to the Public  
50 Procurement Review Board if the principal owns or controls a  
51 greater than five percent (5%) interest or has an ownership value  
52 of One Million Dollars (\$1,000,000.00) in the source's business,  
53 whichever is smaller. No member shall be an officer or employee  
54 of the State of Mississippi while serving as a voting member on  
55 the Public Procurement Review Board.

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

59 (e) The members of the Public Procurement Review Board  
60 shall elect a chair from among the membership, and he or she shall  
61 preside over the meetings of the board. The board shall annually  
62 elect a vice chair, who shall serve in the absence of the chair.  
63 No business shall be transacted, including adoption of rules of  
64 procedure, without the presence of a quorum of the board. Three  
65 (3) members shall be a quorum. No action shall be valid unless  
66 approved by a majority of the members present and voting, entered  
67 upon the minutes of the board and signed by the chair. Necessary  
68 clerical and administrative support for the board shall be  
69 provided by the Department of Finance and Administration. Minutes



70 shall be kept of the proceedings of each meeting, copies of which  
71 shall be filed on a monthly basis with the chairs of the  
72 Accountability, Efficiency and Transparency Committees of the  
73 Senate and House of Representatives and the chairs of the  
74 Appropriations Committees of the Senate and House of  
75 Representatives.

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

78 (a) Approve all purchasing regulations governing the  
79 purchase or lease by any agency, as defined in Section 31-7-1, of  
80 commodities and equipment, except computer equipment acquired  
81 pursuant to Sections 25-53-1 through 25-53-29;

82 (b) Adopt regulations governing the approval of  
83 contracts let for the construction and maintenance of state  
84 buildings and other state facilities as well as related contracts  
85 for architectural and engineering services.

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

90 (c) Adopt regulations governing any lease or rental  
91 agreement by any state agency or department, including any state  
92 agency financed entirely by federal funds, for space outside the  
93 buildings under the jurisdiction of the Department of Finance and  
94 Administration. These regulations shall require each agency



95 requesting to lease such space to provide the following  
96 information that shall be published by the Department of Finance  
97 and Administration on its website: the agency to lease the space;  
98 the terms of the lease; the approximate square feet to be leased;  
99 the use for the space; a description of a suitable space; the  
100 general location desired for the leased space; the contact  
101 information for a person from the agency; the deadline date for  
102 the agency to have received a lease proposal; any other specific  
103 terms or conditions of the agency; and any other information  
104 deemed appropriate by the Division of Real Property Management of  
105 the Department of Finance and Administration or the Public  
106 Procurement Review Board. The information shall be provided  
107 sufficiently in advance of the time the space is needed to allow  
108 the Division of Real Property Management of the Department of  
109 Finance and Administration to review and preapprove the lease  
110 before the time for advertisement begins;

111 (d) Adopt, in its discretion, regulations to set aside  
112 at least five percent (5%) of anticipated annual expenditures for  
113 the purchase of commodities from minority businesses; however, all  
114 such set-aside purchases shall comply with all purchasing  
115 regulations promulgated by the department and shall be subject to  
116 all bid requirements. Set-aside purchases for which competitive  
117 bids are required shall be made from the lowest and best minority  
118 business bidder; however, if no minority bid is available or if  
119 the minority bid is more than two percent (2%) higher than the



120 lowest bid, then bids shall be accepted and awarded to the lowest  
121 and best bidder. However, the provisions in this paragraph shall  
122 not be construed to prohibit the rejection of a bid when only one  
123 (1) bid is received. Such rejection shall be placed in the  
124 minutes. For the purposes of this paragraph, the term "minority  
125 business" means a business which is owned by a person who is a  
126 citizen or lawful permanent resident of the United States and who  
127 is:

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

130 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
131 Central or South American, or other Spanish or Portuguese culture  
132 or origin regardless of race;

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

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

138 (v) Female;

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



145           (f) (i) Except as otherwise provided in subparagraph  
146 (ii) of this paragraph, promulgate rules and regulations governing  
147 the solicitation and selection of contractual services personnel,  
148 including personal and professional services contracts for any  
149 form of consulting, policy analysis, public relations, marketing,  
150 public affairs, legislative advocacy services or any other  
151 contract that the board deems appropriate for oversight, with the  
152 exception of any personal service contracts entered into by any  
153 agency that employs only nonstate service employees as defined in  
154 Section 25-9-107(c), any personal service contracts entered into  
155 for computer or information technology-related services governed  
156 by the Mississippi Department of Information Technology Services,  
157 any personal service contracts entered into by the individual  
158 state institutions of higher learning, any personal service  
159 contracts entered into by the Mississippi Department of  
160 Transportation, any personal service contracts entered into by the  
161 Department of Human Services through June 30, 2019, which the  
162 Executive Director of the Department of Human Services determines  
163 would be useful in establishing and operating the Department of  
164 Child Protection Services, any personal service contracts entered  
165 into by the Department of Child Protection Services through June  
166 30, 2019, any contracts for entertainers and/or performers at the  
167 Mississippi State Fairgrounds entered into by the Mississippi Fair  
168 Commission, any contracts entered into by the Department of  
169 Finance and Administration when procuring aircraft maintenance,



170 parts, equipment and/or services, any contract entered into by the  
171 Department of Public Safety for service on specialized equipment  
172 and/or software required for the operation at such specialized  
173 equipment for use by the Office of Forensics Laboratories, any  
174 personal or professional service contract entered into by the  
175 Mississippi Department of Health and/or the Department of Revenue  
176 solely in connection with their respective responsibilities under  
177 the Mississippi Medical Cannabis Act from February 2, 2022,  
178 through June 30, 2023, any contract for attorney, accountant,  
179 actuary auditor, architect, engineer, anatomical pathologist,  
180 utility rate expert services, any personal service contracts  
181 approved by the Executive Director of the Department of Finance  
182 and Administration and entered into by the Coordinator of Mental  
183 Health Accessibility through June 30, 2022, any personal or  
184 professional services contract entered into by the State  
185 Department of Health in carrying out its responsibilities under  
186 the ARPA Rural Water Associations Infrastructure Grant Program  
187 through June 30, 2026, and any personal or professional services  
188 contract entered into by the Mississippi Department of  
189 Environmental Quality in carrying out its responsibilities under  
190 the Mississippi Municipality and County Water Infrastructure Grant  
191 Program Act of 2022, through June 30, 2026. Any such rules and  
192 regulations shall provide for maintaining continuous internal  
193 audit covering the activities of such agency affecting its revenue  
194 and expenditures as required under Section 7-7-3(6)(d). Any rules





195 and regulation changes related to personal and professional  
196 services contracts that the Public Procurement Review Board may  
197 propose shall be submitted to the Chairs of the Accountability,  
198 Efficiency and Transparency Committees of the Senate and House of  
199 Representatives and the Chairs of the Appropriation Committees of  
200 the Senate and House of Representatives at least fifteen (15) days  
201 before the board votes on the proposed changes, and those rules  
202 and regulation changes, if adopted, shall be promulgated in  
203 accordance with the Mississippi Administrative Procedures Act;

204 (ii) From and after July 1, 2024, the Public  
205 Procurement Review Board shall promulgate rules and regulations  
206 that require the Department of Finance and Administration to  
207 conduct personal and professional services solicitations as  
208 provided in subparagraph (i) of this paragraph for those services  
209 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the  
210 Department of Marine Resources, the Department of Wildlife,  
211 Fisheries and Parks, the Mississippi Emergency Management Agency  
212 and the Mississippi Development Authority, with assistance to be  
213 provided from these entities. Any powers that have been conferred  
214 upon agencies in order to comply with the provisions of this  
215 section for personal and professional services solicitations shall  
216 be conferred upon the Department of Finance and Administration to  
217 conduct personal and professional services solicitations for the  
218 Department of Marine Resources, the Department of Wildlife,  
219 Fisheries and Parks, the Mississippi Emergency Management Agency



220 and the Mississippi Development Authority for those services in  
221 excess of Seventy-five Thousand Dollars (\$75,000.00). The  
222 Department of Finance and Administration shall make any  
223 submissions that are required to be made by other agencies to the  
224 Public Procurement Review Board for the Department of Marine  
225 Resources, the Department of Wildlife, Fisheries and Parks, the  
226 Mississippi Emergency Management Agency and the Mississippi  
227 Development Authority.

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

232 (h) Develop mandatory standards with respect to  
233 contractual services personnel that require invitations for public  
234 bid, requests for proposals, record keeping and financial  
235 responsibility of contractors. The Public Procurement Review  
236 Board shall, unless exempted under this paragraph (h) or under  
237 paragraph (i) or (o) of this subsection (2), require the agency  
238 involved to submit the procurement to a competitive procurement  
239 process, and may reserve the right to reject any or all resulting  
240 procurements;

241 (i) Prescribe certain circumstances by which agency  
242 heads may enter into contracts for personal and professional  
243 services without receiving prior approval from the Public  
244 Procurement Review Board. The Public Procurement Review Board may



245 establish a preapproved list of providers of various personal and  
246 professional services for set prices with which state agencies may  
247 contract without bidding or prior approval from the board;

248 (i) Agency requirements may be fulfilled by  
249 procuring services performed incident to the state's own programs.  
250 The agency head shall determine in writing whether the price  
251 represents a fair market value for the services. When the  
252 procurements are made from other governmental entities, the  
253 private sector need not be solicited; however, these contracts  
254 shall still be submitted for approval to the Public Procurement  
255 Review Board.

256 (ii) Contracts between two (2) state agencies,  
257 both under Public Procurement Review Board purview, shall not  
258 require Public Procurement Review Board approval. However, the  
259 contracts shall still be entered into the enterprise resource  
260 planning system;

261 (j) Provide standards for the issuance of requests for  
262 proposals, the evaluation of proposals received, consideration of  
263 costs and quality of services proposed, contract negotiations, the  
264 administrative monitoring of contract performance by the agency  
265 and successful steps in terminating a contract;

266 (k) Present recommendations for governmental  
267 privatization and to evaluate privatization proposals submitted by  
268 any state agency;



269           (1) Authorize personal and professional service  
270 contracts to be effective for more than one (1) year provided a  
271 funding condition is included in any such multiple year contract,  
272 except the State Board of Education, which shall have the  
273 authority to enter into contractual agreements for student  
274 assessment for a period up to ten (10) years. The State Board of  
275 Education shall procure these services in accordance with the  
276 Public Procurement Review Board procurement regulations;

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

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

283           (o) Develop and implement the following standards and  
284 procedures for the approval of any sole source contract for  
285 personal and professional services regardless of the value of the  
286 procurement:

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

290           (ii) An agency that has been issued a binding,  
291 valid court order mandating that a particular source or provider  
292 must be used for the required service must include a copy of the  
293 applicable court order in all future sole source contract reviews



294 for the particular personal or professional service referenced in  
295 the court order.

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

304 1. The personal or professional service  
305 offered in the contract;

306 2. An explanation of why the personal or  
307 professional service is the only one that can meet the needs of  
308 the agency;

309 3. An explanation of why the source is the  
310 only person or entity that can provide the required personal or  
311 professional service;

312 4. An explanation of why the amount to be  
313 expended for the personal or professional service is reasonable;  
314 and

315 5. The efforts that the agency went through  
316 to obtain the best possible price for the personal or professional  
317 service.



318 (iv) If any person or entity objects and proposes  
319 that the personal or professional service published under  
320 subparagraph (iii) of this paragraph (o) is not a sole source  
321 service and can be provided by another person or entity, then the  
322 objecting person or entity shall notify the Public Procurement  
323 Review Board and the agency that published the proposed sole  
324 source contract with a detailed explanation of why the personal or  
325 professional service is not a sole source service.

326 (v) 1. If the agency determines after review that  
327 the personal or professional service in the proposed sole source  
328 contract can be provided by another person or entity, then the  
329 agency must withdraw the sole source contract publication from the  
330 procurement portal website and submit the procurement of the  
331 personal or professional service to an advertised competitive bid  
332 or selection process.

333 2. If the agency determines after review that  
334 there is only one (1) source for the required personal or  
335 professional service, then the agency may appeal to the Public  
336 Procurement Review Board. The agency has the burden of proving  
337 that the personal or professional service is only provided by one  
338 (1) source.

339 3. If the Public Procurement Review Board has  
340 any reasonable doubt as to whether the personal or professional  
341 service can only be provided by one (1) source, then the agency  
342 must submit the procurement of the personal or professional



343 service to an advertised competitive bid or selection process. No  
344 action taken by the Public Procurement Review Board in this appeal  
345 process shall be valid unless approved by a majority of the  
346 members of the Public Procurement Review Board present and voting.

347 (vi) The Public Procurement Review Board shall  
348 prepare and submit a quarterly report to the House of  
349 Representatives and Senate Accountability, Efficiency and  
350 Transparency Committees that details the sole source contracts  
351 presented to the Public Procurement Review Board and the reasons  
352 that the Public Procurement Review Board approved or rejected each  
353 contract. These quarterly reports shall also include the  
354 documentation and memoranda required in subsection (4) of this  
355 section. An agency that submitted a sole source contract shall be  
356 prepared to explain the sole source contract to each committee by  
357 December 15 of each year upon request by the committee;

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

360 (3) All submissions shall be made sufficiently in advance of  
361 each monthly meeting of the Public Procurement Review Board as  
362 prescribed by the Public Procurement Review Board. If the Public  
363 Procurement Review Board rejects any contract submitted for review  
364 or approval, the Public Procurement Review Board shall clearly set  
365 out the reasons for its action, including, but not limited to, the  
366 policy that the agency has violated in its submitted contract and  
367 any corrective actions that the agency may take to amend the



368 contract to comply with the rules and regulations of the Public  
369 Procurement Review Board.

370 (4) All sole source contracts for personal and professional  
371 services awarded by state agencies, other than those exempted  
372 under Section 27-104-7(2)(f) and (8), whether approved by an  
373 agency head or the Public Procurement Review Board, shall contain  
374 in the procurement file a written determination for the approval,  
375 using a request form furnished by the Public Procurement Review  
376 Board. The written determination shall document the basis for the  
377 determination, including any market analysis conducted in order to  
378 ensure that the service required was practicably available from  
379 only one (1) source. A memorandum shall accompany the request  
380 form and address the following four (4) points:

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

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

385 (c) Explanation of why the price is considered  
386 reasonable; and

387 (d) Description of the efforts that were made to  
388 conduct a noncompetitive negotiation to get the best possible  
389 price for the taxpayers.

390 (5) In conjunction with the State Personnel Board, the  
391 Public Procurement Review Board shall develop and promulgate rules  
392 and regulations to define the allowable legal relationship between





393 contract employees and the contracting departments, agencies and  
394 institutions of state government under the jurisdiction of the  
395 State Personnel Board, in compliance with the applicable rules and  
396 regulations of the federal Internal Revenue Service (IRS) for  
397 federal employment tax purposes. Under these regulations, the  
398 usual common law rules are applicable to determine and require  
399 that such worker is an independent contractor and not an employee,  
400 requiring evidence of lawful behavioral control, lawful financial  
401 control and lawful relationship of the parties. Any state  
402 department, agency or institution shall only be authorized to  
403 contract for personnel services in compliance with those  
404 regulations.

405 (6) No member of the Public Procurement Review Board shall  
406 use his or her official authority or influence to coerce, by  
407 threat of discharge from employment, or otherwise, the purchase of  
408 commodities, the contracting for personal or professional  
409 services, or the contracting for public construction under this  
410 chapter.

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

414 (8) Nothing in this section shall impair or limit the  
415 authority of the Board of Trustees of the Public Employees'  
416 Retirement System to enter into any personal or professional  
417 services contracts directly related to their constitutional



418 obligation to manage the trust funds, including, but not limited  
419 to, actuarial, custodial banks, cash management, investment  
420 consultant and investment management contracts.

421 (9) Notwithstanding the exemption of personal and  
422 professional services contracts entered into by the Department of  
423 Human Services and personal and professional services contracts  
424 entered into by the Department of Child Protection Services from  
425 the provisions of this section under subsection (2)(f), before the  
426 Department of Human Services or the Department of Child Protection  
427 Services may enter into a personal or professional service  
428 contract, the department(s) shall give notice of the proposed  
429 personal or professional service contract to the Public  
430 Procurement Review Board for any recommendations by the board.  
431 Upon receipt of the notice, the board shall post the notice on its  
432 website and on the procurement portal website established by  
433 Sections 25-53-151 and 27-104-165. If the board does not respond  
434 to the department(s) within seven (7) calendar days after  
435 receiving the notice, the department(s) may enter the proposed  
436 personal or professional service contract. If the board responds  
437 to the department(s) within seven (7) calendar days, then the  
438 board has seven (7) calendar days from the date of its initial  
439 response to provide any additional recommendations. After the end  
440 of the second seven-day period, the department(s) may enter the  
441 proposed personal or professional service contract. The board is  
442 not authorized to disapprove any proposed personal or professional



443 services contracts. This subsection shall stand repealed on July  
444 1, 2022.

445 **SECTION 2.** Section 27-104-103, Mississippi Code of 1972, is  
446 amended as follows:

447 27-104-103. (1) The Department of Finance and  
448 Administration shall have the following duties and powers:

449 (a) To provide administrative guidance to the various  
450 departments and agencies of state government;

451 (b) To facilitate the expedient delivery of services  
452 and programs for the benefit of the citizens of the state;

453 (c) To analyze and develop efficient management  
454 practices and assist departments and agencies in implementing  
455 effective and efficient work management systems;

456 (d) To conduct management review of state agencies and  
457 departments and recommend a management plan to state departments  
458 and agencies when corrective action is required;

459 (e) To, at least annually, report to the Governor and  
460 the Legislature on programs and actions taken to improve the  
461 conduct of state operations and to prepare and recommend  
462 management programs for effective and efficient management of the  
463 operations of state government;

464 (f) To allocate the federal-state programs funds to the  
465 departments responsible for the delivery of the programs and  
466 services for which the appropriation was made;



467 (g) To coordinate the planning functions of all  
468 agencies in the executive branch of government and review any and  
469 all plans which are developed by those agencies and departments;  
470 (h) To collect and maintain the necessary data on which  
471 to base budget and policy development issues;  
472 (i) To develop and analyze policy recommendations to  
473 the Governor;  
474 (j) To develop and manage the executive budget process;  
475 (k) To prepare the executive branch budget  
476 recommendations;  
477 (l) To review and monitor the expenditures of the  
478 executive agencies and departments of government;  
479 (m) To manage the state's fiscal affairs;  
480 (n) To administer programs relating to general  
481 services, public procurement, insurance and the Bond Advisory  
482 Division;  
483 (o) To administer the state's aircraft operation.  
484 (2) The department shall have the following additional  
485 powers and duties under Chapter 18 of Title 17:  
486 (a) It shall acquire the site submitted by the  
487 Mississippi Hazardous Waste Facility Siting Authority and, if  
488 determined necessary, design, finance, construct and operate a  
489 state commercial hazardous waste management facility;  
490 (b) It may acquire by deed, purchase, lease, contract,  
491 gift, devise or otherwise any real or personal property,



492 structures, rights-of-way, franchises, easements and other  
493 interest in land which is necessary and convenient for the  
494 construction or operation of the state commercial hazardous waste  
495 management facility, upon such terms and conditions as it deems  
496 advisable, hold, mortgage, pledge or otherwise encumber the same,  
497 and lease, sell, convey or otherwise dispose of the same in such a  
498 manner as may be necessary or advisable to carry out the purposes  
499 of Chapter 18 of Title 17;

500 (c) It shall develop and implement, in consultation  
501 with the Department of Environmental Quality, schedules of user  
502 fees, franchise fees and other charges, including nonregulatory  
503 penalties and surcharges applicable to the state commercial  
504 hazardous waste management facility;

505 (d) It may employ consultants and contractors to  
506 provide services including site acquisition, design, construction,  
507 operation, closure, post-closure and perpetual care of the state  
508 commercial hazardous waste management facility;

509 (e) It may apply for and accept loans, grants and gifts  
510 from any federal or state agency or any political subdivision or  
511 any private or public organization;

512 (f) It shall make plans, surveys, studies and  
513 investigations as may be necessary or desirable with respect to  
514 the acquisition, development and use of real property and the  
515 design, construction, operation, closure and long-term care of the  
516 state commercial hazardous waste management facility;



517 (g) It shall have the authority to preempt any local  
518 ordinance or restriction which prohibits or has the effect of  
519 prohibiting the establishment or operation of the state commercial  
520 hazardous waste management facility;

521 (h) It may negotiate any agreement for site  
522 acquisition, design, construction, operation, closure,  
523 post-closure and perpetual care of the state commercial hazardous  
524 waste management facility and may negotiate any agreement with any  
525 local governmental unit pursuant to Chapter 18 of Title 17;

526 (i) It may promulgate rules and regulations necessary  
527 to effectuate the purposes of Chapter 18 of Title 17 not  
528 inconsistent therewith;

529 (j) If funds are not appropriated or if the  
530 appropriated funds are insufficient to carry out the provisions of  
531 Chapter 18 of Title 17, the department shall expend any funds  
532 available to it from any source to defray its costs to implement  
533 Chapter 18 of Title 17 through February 1, 1991 \* \* \*;

534 (k) To carry out such duties and responsibilities  
535 assigned to it by the Public Procurement Review Board as provided  
536 in Section 27-104-7(2)(f);

537 (l) To establish, with the approval of the Public  
538 Procurement Review Board, rules that ensure that vendors may  
539 compete for personal and professional services and other contracts  
540 provided that they have an office in the state without regard to  
541 the office's location in the state.



542 (3) From and after July 1, 2016, the expenses of the  
543 Department of Finance and Administration shall be defrayed by  
544 appropriation from the State General Fund and all user charges and  
545 fees authorized under law such as rents, MAGIC fees, and other  
546 fees for services shall be deposited into the State General Fund  
547 as authorized by law.

548 (4) From and after July 1, 2016, the Department of Finance  
549 and Administration shall not charge another state agency a fee,  
550 assessment, rent or other charge for services or resources  
551 received by that state agency from the department.

552 **SECTION 3.** This act shall take effect and be in force from  
553 and after July 1, 2023.

