

By: Senator(s) Wiggins

To: Medicaid; Judiciary,
Division A

SENATE BILL NO. 2381

1 AN ACT TO AUTHORIZE THE DIVISION OF MEDICAID TO FIX
2 LIQUIDATED DAMAGES PROVISIONS TO BE PAID BY PERSONS OR ENTITIES
3 WHO SUBMIT PROPOSALS OR QUALIFICATIONS AND CHALLENGE THE
4 DIVISION'S NEGATIVE DECISION ON A REQUEST FOR PROPOSAL; TO BRING
5 FORWARD SECTION 31-7-417, MISSISSIPPI CODE OF 1972, FOR PURPOSES
6 OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) The Division of Medicaid may fix, as
9 liquidated damages, specific sums to be paid by persons or
10 entities who submit proposals or qualifications and challenge the
11 division's negative decision on a request for proposal. The
12 division may further provide that the person or entity will pay
13 all costs, premiums for bonds, expenses, and fees in any action
14 brought upon the division where the litigation is resolved in the
15 division's favor. The liquidated damages provisions authorized in
16 this section shall be valid and enforceable in the courts of law
17 or equity of this state, and such clauses providing for liquidated
18 damages shall be enforceable as such and shall not be regarded as
19 penalties.



20 **SECTION 2.** Section 31-7-417, Mississippi Code of 1972, is
21 brought forward as follows:

22 31-7-417. (1) Submitted proposals or qualifications shall
23 be opened at the time designated for opening in the request for
24 proposals or request for qualifications. Proposals or
25 qualifications and modifications shall be date-stamped or time and
26 date-stamped upon receipt and held in a secure place until the
27 established due date. Electronic proposals or qualifications
28 received will be stored in an electronic lockbox until the time
29 designated for the opening of the proposal or qualification.

30 (2) As each proposal or qualification is submitted but
31 before those proposals or qualifications are opened, the chief
32 procurement officer shall designate a person to prepare a register
33 of proposals or qualifications, which shall include the number of
34 modifications received, if any, and a description sufficient to
35 identify the supply, service, commodity or other item offered.
36 The designated person shall assign each submitted proposal or
37 qualification an identifying letter, number, or combination
38 thereof, without revealing the name of the offerer who submitted
39 each proposal or qualification to the chief procurement officer or
40 any person named to the evaluation committee for that proposal or
41 qualification. The designated person shall keep the names of the
42 offerers and their identifying numbers or letters, or combination
43 thereof, in a sealed envelope or other secure location until
44 factors not requiring knowledge of the name of the offerer have



45 been evaluated and scored. If the designated person reveals the
46 names of the offerers and the corresponding identifying
47 information before such time, the procurement process shall be
48 terminated and the proposal or qualifications resolicited. The
49 register of proposals or qualifications shall be made part of the
50 report required under Section 31-7-423(1).

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

