

By: Senator(s) Parker

To: Economic and Workforce
Development

SENATE BILL NO. 2810

1 AN ACT TO AMEND SECTION 37-153-7, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE TIME-LIMITED EXEMPTIONS FROM THE MISSISSIPPI PUBLIC
3 RECORDS ACT OF 1983 FOR CERTAIN RECORDS AND CONFIDENTIAL CLIENT
4 INFORMATION FROM THE MISSISSIPPI DEVELOPMENT AUTHORITY OR LOCAL
5 ECONOMIC DEVELOPMENT ENTITIES HELD BY THE OFFICE OF WORKFORCE
6 DEVELOPMENT; TO AMEND SECTION 71-5-353, MISSISSIPPI CODE OF 1972,
7 TO REMOVE THE REQUIREMENT THAT ALL COSTS ASSOCIATED WITH THE
8 ADMINISTRATION OF CERTAIN FUNDS BE REIMBURSED TO THE DEPARTMENT OF
9 EMPLOYMENT SECURITY FROM THE MISSISSIPPI WORKS FUND; TO PROVIDE
10 THAT CERTAIN CONTRACTS AND PROCUREMENTS OF THE OFFICE OF WORKFORCE
11 DEVELOPMENT BE IN ACCORDANCE WITH POLICIES APPROVED BY THE STATE
12 WORKFORCE INVESTMENT BOARD'S EXECUTIVE COMMITTEE DEEMED TO BE
13 PRACTICAL, FEASIBLE AND IN THE PUBLIC INTEREST; TO EXEMPT THE
14 OFFICE OF WORKFORCE DEVELOPMENT, THROUGH DECEMBER 31, 2024, FROM
15 THE PUBLIC PROCUREMENT REVIEW BOARD WITH RESPECT TO RENTAL
16 AGREEMENTS OR LEASING OF REAL PROPERTY FOR THE PURPOSE OF
17 CONDUCTING AGENCY BUSINESS; TO AUTHORIZE THE OFFICE OF WORKFORCE
18 DEVELOPMENT TO RECEIVE AND USE BEQUESTS AND TRANSFERS SUBJECT TO
19 THE GRANTOR'S CONDITIONS, PROVIDED SUCH CONDITIONS ARE NOT
20 CONTRARY TO LAW; TO AUTHORIZE THE OFFICE OF WORKFORCE DEVELOPMENT
21 TO CONTRACT WITH OTHER STATE AGENCIES, GOVERNING AUTHORITIES, OR
22 ECONOMIC AND WORKFORCE DEVELOPMENT ENTITIES TO FURTHER ITS
23 PURPOSES; TO ALLOW THE OFFICE DIRECT AND IMMEDIATE ACCESS TO ALL
24 ACCOUNTING AND BANKING STATEMENTS RELATED TO FUNDS WITHIN ITS
25 DIRECTION; TO AMEND SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO
26 CONFORM TO THE TEMPORARY EXEMPTION FROM THE PUBLIC PROCUREMENT
27 REVIEW BOARD; TO AMEND SECTION 25-61-5, MISSISSIPPI CODE OF 1972,
28 TO CONFORM TO THE TEMPORARY EXEMPTION FROM THE PUBLIC RECORDS ACT
29 OF 1983; AND FOR RELATED PURPOSES.

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



31 **SECTION 1.** Section 37-153-7, Mississippi Code of 1972, is
32 amended as follows:

33 37-153-7. (1) There is created the Mississippi Office of
34 Workforce Development and the Mississippi State Workforce
35 Investment Board, which shall serve as the advisory board for the
36 office. The Mississippi State Workforce Investment Board shall be
37 composed of thirty-one (31) voting members, of which a majority
38 shall be representatives of business and industry in accordance
39 with the federal Workforce Innovation and Opportunity Act, or any
40 successive acts.

41 (2) The members of the State Workforce Investment Board
42 shall include:

43 (a) The Governor, or his designee;

44 (b) Nineteen (19) members, appointed by the Governor,
45 of whom:

46 (i) A majority shall be representatives of
47 businesses in the state, who:

48 1. Are owners of businesses, chief executives
49 or operating officers of businesses, or other business executives
50 or employers with optimum policymaking or hiring authority, and
51 who, in addition, may be members of a local board described in
52 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
53 Opportunity Act. At least two (2) of the members appointed under
54 this item 1. shall be small business owners, chief executives or



55 operating officers of businesses with less than fifty (50)
56 employees;

57 2. Represent businesses, including small
58 businesses, or organizations representing businesses, which
59 provide employment opportunities that, at a minimum, include
60 high-quality, work-relevant training and development in
61 high-demand industry sectors or occupations in the state; and

62 3. Are appointed from among individuals
63 nominated by state business organizations and business trade
64 associations;

65 (ii) Not less than twenty percent (20%) shall
66 consist of representatives of the workforce within the state,
67 which:

68 1. Includes labor organization
69 representatives who have been nominated by state labor
70 federations;

71 2. Includes a labor organization member or
72 training director from an apprenticeship program in the state,
73 which shall be a joint labor-management apprenticeship program if
74 such a program exists in the state;

75 3. May include representatives of
76 community-based organizations, including organizations serving
77 veterans or providing or supporting competitive, integrated
78 employment for individuals with disabilities, who have
79 demonstrated experience and expertise in addressing employment,



80 training or education needs of individuals with barriers to
81 employment; and

82 4. May include representatives of
83 organizations, including organizations serving out-of-school
84 youth, who have demonstrated experience or expertise in addressing
85 the employment, training or education needs of eligible youth;

86 (iii) The balance shall include government
87 representatives, including the lead state officials with primary
88 responsibility for core programs, and chief elected officials
89 (collectively representing both cities and counties, where
90 appropriate);

91 (c) Two (2) representatives of businesses in the state
92 appointed by the Lieutenant Governor;

93 (d) Two (2) representatives of businesses in the state
94 appointed by the Governor from a list of three (3) recommendations
95 from the Speaker of the House; and

96 (e) The following state officials:

97 (i) The Executive Director of the Mississippi
98 Department of Employment Security;

99 (ii) The Executive Director of the Department of
100 Rehabilitation Services;

101 (iii) The State Superintendent of Public
102 Education;

103 (iv) The Executive Director of the Mississippi
104 Development Authority;



105 (v) The Executive Director of the Mississippi
106 Community College Board;

107 (vi) The President of the Community College
108 Association; and

109 (vii) The Commissioner of the Institutions of
110 Higher Learning.

111 (f) One (1) senator, appointed by the Lieutenant
112 Governor, and one (1) representative, appointed by the Speaker of
113 the House, shall serve on the state board in a nonvoting capacity.

114 (g) The Governor may appoint additional members if
115 required by the federal Workforce Innovation and Opportunity Act,
116 or any successive acts.

117 (h) Members of the board shall serve a term of four (4)
118 years, and shall not serve more than three (3) consecutive terms.

119 (i) The membership of the board shall reflect the
120 diversity of the State of Mississippi.

121 (j) The Governor shall designate the Chairman of the
122 Mississippi State Workforce Investment Board from among the
123 business and industry voting members of the board, and a quorum of
124 the board shall consist of a majority of the voting members of the
125 board.

126 (k) The voting members of the board who are not state
127 employees shall be entitled to reimbursement of their reasonable
128 expenses in the manner and amount specified in Section 25-3-41 and



129 shall be entitled to receive per diem compensation as authorized
130 in Section 25-3-69.

131 (3) Members of the state board may be recalled by their
132 appointing authority for cause, including a felony conviction,
133 fraudulent or dishonest acts or gross abuse of discretion, failure
134 to meet board member qualifications, or chronic failure to attend
135 board meetings.

136 (4) The Mississippi Department of Employment Security shall
137 establish limits on administrative costs for each portion of
138 Mississippi's workforce development system consistent with the
139 federal Workforce Investment Act or any future federal workforce
140 legislation.

141 (5) The Mississippi State Workforce Investment Board shall
142 have the following duties. These duties are intended to be
143 consistent with the scope of duties provided in the federal
144 Workforce Innovation and Opportunity Act, amendments and successor
145 legislation to this act, and other relevant federal law:

146 (a) Through the office, develop and submit to the
147 Governor, Lieutenant Governor and Speaker of the House a strategic
148 plan for an integrated state workforce development system that
149 aligns resources and structures the system to more effectively and
150 efficiently meet the demands of Mississippi's employers and job
151 seekers. This plan will comply with the federal Workforce
152 Investment Act of 1998, as amended, the federal Workforce



153 Innovation and Opportunity Act of 2014 and amendments and
154 successor legislation to these acts;

155 (b) Assist the Governor, Lieutenant Governor and
156 Speaker of the House in the development and continuous improvement
157 of the statewide workforce investment system that shall include:

158 (i) Development of linkages in order to assure
159 coordination and nonduplication among programs and activities; and

160 (ii) Review local workforce development plans that
161 reflect the use of funds from the federal Workforce Investment
162 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
163 Act and the amendment or successor legislation to the acts, and
164 the Mississippi Comprehensive Workforce Training and Education
165 Consolidation Act;

166 (c) Recommend to the office the designation of local
167 workforce investment areas as required in Section 116 of the
168 federal Workforce Investment Act of 1998 and the Workforce
169 Innovation and Opportunity Act of 2014. There shall be four (4)
170 workforce investment areas that are generally aligned with the
171 planning and development district structure in Mississippi.
172 Planning and development districts will serve as the fiscal agents
173 to manage Workforce Investment Act funds, oversee and support the
174 local workforce investment boards aligned with the area and the
175 local programs and activities as delivered by the one-stop
176 employment and training system. The planning and development
177 districts will perform this function through the provisions of the



178 county cooperative service districts created under Sections
179 19-3-101 through 19-3-115; however, planning and development
180 districts currently performing this function under the Interlocal
181 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
182 continue to do so;

183 (d) Assist the Governor in the development of an
184 allocation formula for the distribution of funds for adult
185 employment and training activities and youth activities to local
186 workforce investment areas;

187 (e) Recommend comprehensive, results-oriented measures
188 that shall be applied to all of Mississippi's workforce
189 development system programs;

190 (f) Assist the Governor in the establishment and
191 management of a one-stop employment and training system conforming
192 to the requirements of the federal Workforce Investment Act of
193 1998 and the Workforce Innovation and Opportunity Act of 2014, as
194 amended, recommending policy for implementing the Governor's
195 approved plan for employment and training activities and services
196 within the state. In developing this one-stop career operating
197 system, the Mississippi State Workforce Investment Board, in
198 conjunction with local workforce investment boards, shall:

199 (i) Design broad guidelines for the delivery of
200 workforce development programs;

201 (ii) Identify all existing delivery agencies and
202 other resources;



203 (iii) Define appropriate roles of the various
204 agencies to include an analysis of service providers' strengths
205 and weaknesses;

206 (iv) Determine the best way to utilize the various
207 agencies to deliver services to recipients; and

208 (v) Develop a financial plan to support the
209 delivery system that shall, at a minimum, include an
210 accountability system;

211 (g) To provide authority, in accordance with any
212 executive order of the Governor, for developing the necessary
213 collaboration among state agencies at the highest level for
214 accomplishing the purposes of this article;

215 (h) To monitor the effectiveness of the workforce
216 development centers and WIN job centers;

217 (i) To advise the Governor, public schools,
218 community/junior colleges and institutions of higher learning on
219 effective school-to-work transition policies and programs that
220 link students moving from high school to higher education and
221 students moving between community colleges and four-year
222 institutions in pursuit of academic and technical skills training;

223 (j) To work with industry to identify barriers that
224 inhibit the delivery of quality workforce education and the
225 responsiveness of educational institutions to the needs of
226 industry;



227 (k) To provide periodic assessments on effectiveness
228 and results of the overall Mississippi comprehensive workforce
229 development system and district councils;

230 (l) Develop broad statewide development goals,
231 including a goal to raise the state's labor force participation
232 rate;

233 (m) Perform a comprehensive review of Mississippi's
234 workforce development efforts, including the amount spent and
235 effectiveness of programs supported by state or federal money; and

236 (n) To assist the Governor in carrying out any other
237 responsibility required by the federal Workforce Investment Act of
238 1998, as amended and the Workforce Innovation and Opportunity Act,
239 successor legislation and amendments.

240 (6) The Mississippi State Workforce Investment Board shall
241 coordinate all training programs and funds within its purview,
242 consistent with the federal Workforce Investment Act, Workforce
243 Innovation and Opportunity Act, amendments and successor
244 legislation to these acts, and other relevant federal law.

245 Each state agency director responsible for workforce training
246 activities shall advise the Mississippi Office of Workforce
247 Development and the State Workforce Investment Board of
248 appropriate federal and state requirements. Each state agency,
249 department and institution shall report any monies received for
250 workforce training activities or career and technical education
251 and a detailed itemization of how those monies were spent to the



252 state board. The board shall compile the data and provide a
253 report of the monies and expenditures to the Chairs of the House
254 and Senate Appropriations Committee, the Chair of the House
255 Workforce Development Committee and the Chair of the Senate
256 Economic and Workforce Development Committee by October 1 of each
257 year. Each such state agency director shall remain responsible
258 for the actions of his agency; however, each state agency and
259 director shall work cooperatively to fulfill the state's goals.

260 (7) The State Workforce Investment Board shall establish an
261 executive committee, which shall consist of the following State
262 Workforce Investment Board members:

263 (a) The Chair of the State Workforce Investment Board;
264 (b) Two (2) business representatives currently serving
265 on the state board selected by the Governor;

266 (c) The two (2) business representatives currently
267 serving on the state board appointed by the Lieutenant Governor;

268 (d) The two (2) business representatives currently
269 serving on the state board appointed by the Governor from a list
270 of three (3) recommendations from the Speaker of the House;

271 (e) The two (2) legislators, who shall serve in a
272 nonvoting capacity, one (1) of whom shall be appointed by the
273 Lieutenant Governor from the membership of the Mississippi Senate
274 and one (1) of whom shall be appointed by the Speaker of the House
275 of Representatives from the membership of the Mississippi House of
276 Representatives.



277 (8) The executive committee shall select an executive
278 director of the Office of Workforce Development, with the advice
279 and consent of a majority of the State Workforce Investment Board.
280 The executive committee shall seek input from economic development
281 organizations across the state when selecting the executive
282 director. The executive director shall:

283 (a) Be a person with extensive experience in
284 development of economic, human and physical resources, and
285 promotion of industrial and commercial development. The executive
286 director shall have a bachelor's degree from a state-accredited
287 institution and no less than eight (8) years of professional
288 experience related to workforce or economic development;

289 (b) Perform the functions necessary for the daily
290 operation and administration of the office, with oversight from
291 the executive committee and the State Workforce Investment Board,
292 to fulfill the duties of the state board as described in Chapter
293 476, Laws of 2020;

294 (c) Hire staff needed for the performance of his or her
295 duties under Chapter 476, Laws of 2020. The executive director,
296 with approval from the executive committee, shall set the
297 compensation of any hired employees from any funds made available
298 for that purpose;

299 (d) Enter any part of the Mississippi Community College
300 Board, individual community and junior colleges, or other



301 workforce training facilities operated by the state or its
302 subdivisions;

303 (e) Serve at the will and pleasure of the executive
304 committee;

305 (f) Promulgate rules and regulations, subject to
306 oversight by the executive committee, not inconsistent with this
307 article, as may be necessary to enforce the provisions in Chapter
308 476, Laws of 2020; and

309 (g) Perform any other actions he or she, in
310 consultation with the executive committee, deems necessary to
311 fulfill the duties under Chapter 476, Laws of 2020.

312 (9) The Office of Workforce Development and Mississippi
313 Community College Board shall collaborate in the administration
314 and oversight of the Mississippi Workforce Enhancement Training
315 Fund and Mississippi Works Fund, as described in Section 71-5-353.
316 The executive director shall maintain complete and exclusive
317 operational control of the office's functions.

318 (10) The office shall file an annual report with the
319 Governor, Secretary of State, President of the Senate, Secretary
320 of the Senate, Speaker of the House, and Clerk of the House not
321 later than October 1 of each year regarding all funds approved by
322 the office to be expended on workforce training during the prior
323 calendar year. The report shall include:

324 (a) Information on the performance of the Mississippi
325 Workforce Enhancement Training Fund and the Mississippi Works



326 Fund, in terms of adding value to the local and state economy, the
327 contribution to future growth of the state economy, and movement
328 toward state goals, including increasing the labor force
329 participation rate; and

330 (b) With respect to specific workforce training
331 projects:

332 (i) The location of the training;

333 (ii) The amount allocated to the project;

334 (iii) The purpose of the project;

335 (iv) The specific business entity that is the
336 beneficiary of the project; and

337 (v) The number of employees intended to be trained
338 and actually trained, if applicable, in the course of the project.

339 (c) All information concerning a proposed project which
340 is provided to the executive director shall be kept confidential.

341 Such confidentiality shall not limit disclosure under the

342 Mississippi Public Records Act of 1983 of records describing the

343 nature, quantity, cost or other pertinent information related to

344 the activities of, or services performed using, the Mississippi

345 Workforce Enhancement Training Fund or the Mississippi Works Fund,

346 except as provided in subsection (11) or (12) of this section.

347 (11) Any records of the office which contain client

348 information from the Mississippi Development Authority or local

349 economic development entities concerning development projects

350 shall be exempt from the provisions of the Mississippi Public



351 Records Act of 1983 for a period of two (2) years after receipt of
352 the information by the office. Confidential client information as
353 described in this section shall not include the information which
354 must be disclosed by the certified applicant related to a
355 qualified economic development project in the annual report
356 described in Section 57-1-759.

357 (12) Confidential client information in public records held
358 by the office shall be exempt from the provisions of the
359 Mississippi Public Records Act of 1983 during any period of review
360 and negotiation on a project proposal facilitated by the
361 Mississippi Development Authority or local economic development
362 entities and for a period of thirty (30) days after approval,
363 disapproval or abandonment of the proposal not to exceed one (1)
364 year.

365 (* * *13) Nothing in Chapter 476, Laws of 2020 [Senate Bill
366 No. 2564] shall void or otherwise interrupt any contract, lease,
367 grant or other agreement previously entered into by the State
368 Workforce Investment Board, Mississippi Community College Board,
369 individual community or junior colleges, or other entities.

370 **SECTION 2.** Section 71-5-353, Mississippi Code of 1972, is
371 amended as follows:

372 71-5-353. (1) (a) Each employer shall pay unemployment
373 insurance contributions equal to five and four-tenths percent
374 (5.4%) of taxable wages paid by him each calendar year, except as
375 may be otherwise provided in Section 71-5-361 and except that each



376 newly subject employer shall pay unemployment insurance
377 contributions at the rate of one percent (1%) of taxable wages,
378 for his first year of liability, one and one-tenth percent (1.1%)
379 of taxable wages for his second year of liability, and one and
380 two-tenths percent (1.2%) of taxable wages for his third and
381 subsequent years of liability unless the employer's
382 experience-rating record has been chargeable throughout at least
383 the twelve (12) consecutive calendar months ending on the most
384 recent computation date at the time the rate for a year is
385 determined; thereafter the employer's contribution rate shall be
386 determined in accordance with the provisions of Section 71-5-355.

387 (b) Notwithstanding the newly subject employer
388 contribution rate provided for in paragraph (a) of this
389 subsection, the contribution rate of all newly subject employers
390 shall be reduced by seven one-hundredths of one percent (.07%) for
391 calendar year 2013 only. The contribution rate of all newly
392 subject employers shall be reduced by three one-hundredths of one
393 percent (.03%) for calendar year 2014 only. For purposes of this
394 chapter, "newly subject employers" means employers whose
395 unemployment insurance experience-rating record has not been
396 chargeable throughout at least the twelve (12) consecutive
397 calendar months ending on the most recent computation date at the
398 time the contribution rate for a year is determined.

399 (2) (a) (i) There is hereby created in the Treasury of the
400 State of Mississippi special funds to be known as the "Mississippi



401 Workforce Enhancement Training Fund" and the "Mississippi Works
402 Fund" which consist of funds collected pursuant to subsection (3)
403 of this section.

404 (ii) Funds collected shall initially be deposited
405 into the Mississippi Department of Employment Security bank
406 account for clearing contribution collections and subsequently
407 appropriate amounts shall be transferred to the Mississippi
408 Workforce Investment and Training Fund Holding Account described
409 in Section 71-5-453. In the event any employer pays an amount
410 insufficient to cover the total contributions due, the amounts due
411 shall be satisfied in the following order:

- 412 1. Unemployment contributions;
- 413 2. Mississippi Workforce Enhancement Training
414 contributions, State Workforce Investment contributions and the
415 Mississippi Works contributions, known collectively as the
416 Mississippi Workforce Investment and Training contributions, on a
417 pro rata basis;
- 418 3. Interest and damages; then
- 419 4. Legal and processing costs.

420 The amount of unemployment insurance contributions due for
421 any period will be the amount due according to the actual
422 computations unless the employer is participating in the MLPP. In
423 that event, the amount due is the MLPP amount computed by the
424 department.



425 Cost of collection and administration of the Mississippi
426 Workforce Enhancement Training contribution, the State Workforce
427 Investment contribution and the Mississippi Works contribution
428 shall be allocated based on a plan approved by the United States
429 Department of Labor (USDOL). The Mississippi Community College
430 Board shall pay the cost of collecting the Mississippi Workforce
431 Enhancement Training contributions, the State Workforce Investment
432 Board shall pay the cost of collecting the State Workforce
433 Investment contributions and the Mississippi Department of
434 Employment Security shall pay the cost of collecting the
435 Mississippi Works contributions. Payments shall be made
436 semiannually with the cost allocated to each based on a USDOL
437 approved plan on a pro rata basis, for periods ending in June and
438 December of each year. Payment shall be made by each organization
439 to the department no later than sixty (60) days after the billing
440 date. Cost shall be allocated under the USDOL's approved plan and
441 in the same ratio as each contribution type represents to the
442 total authorized by subparagraph (ii)2 of this paragraph to be
443 collected for the period.

444 (b) Mississippi Workforce Enhancement Training
445 contributions and State Workforce Investment contributions shall
446 be distributed as follows:

447 (i) For calendar year 2014, ninety-four and
448 seventy-five one-hundredths percent (94.75%) shall be distributed
449 to the Mississippi Workforce Enhancement Training Fund and the



450 remainder shall be distributed to the State Workforce Investment
451 Board bank account;

452 (ii) For calendar years subsequent to calendar
453 year 2014, ninety-three and seventy-five one-hundredths percent
454 (93.75%) shall be distributed to the Mississippi Workforce
455 Enhancement Training Fund and the remainder shall be distributed
456 to the State Workforce Investment Board bank account;

457 (iii) Workforce Enhancement Training contributions
458 and State Workforce Investment contributions for calendar years
459 2014 and 2015 shall be distributed as provided in subparagraphs
460 (i) and (ii) of this paragraph regardless of when the
461 contributions were collected.

462 (c) All contributions collected for the State Workforce
463 Enhancement Training Fund, the State Workforce Investment Fund and
464 the Mississippi Works Fund will be initially deposited into the
465 Mississippi Department of Employment Security bank account for
466 clearing contribution collections and subsequently transferred to
467 the Workforce Investment and Training Holding Account and will be
468 held by the Mississippi Department of Employment Security in such
469 account for a period of not less than thirty (30) days. After
470 such period, the Mississippi Workforce Enhancement Training
471 contributions shall be transferred to the Mississippi Community
472 College Board Treasury Account, with oversight provided by
473 the * * * office * * *, the State Workforce Investment
474 contributions and the Mississippi Works contributions shall be



475 transferred to the Mississippi Department of Employment Security
476 Mississippi Works Treasury Account in the same ratio as each
477 contribution type represents to the total authorized by paragraph
478 (a)(ii)2 of this subsection to be collected for the period and
479 within the time frame determined by the department; however,
480 except in cases of extraordinary circumstances, these funds shall
481 be transferred within fifteen (15) days. Interest earnings or
482 interest credits on deposit amounts in the Workforce Investment
483 and Training Holding Account shall be retained in the account to
484 pay the banking costs of the account. If after the period of
485 twelve (12) months interest earnings less banking costs exceeds
486 Ten Thousand Dollars (\$10,000.00), such excess amounts shall be
487 transferred to the respective accounts within thirty (30) days
488 following the end of each calendar year on the basis described in
489 paragraph (b) of this subsection. Interest earnings and/or
490 interest credits for the State Workforce Investments funds shall
491 be used for the payment of banking costs and excess amounts shall
492 be used in accordance with the rules and regulations of the State
493 Workforce Investment Board expenditure policies.

494 (d) All enforcement procedures for the collection of
495 delinquent unemployment contributions contained in Sections
496 71-5-363 through 71-5-383 shall be applicable in all respects for
497 collections of delinquent unemployment insurance contributions
498 designated for the Unemployment Compensation Fund, the Mississippi



499 Workforce Enhancement Training Fund, the State Workforce
500 Investment Board Fund and the Mississippi Works Fund.

501 (e) (i) Except as otherwise provided for in this
502 subparagraph (i), all monies deposited into the Mississippi
503 Workforce Enhancement Training Fund Treasury Account shall be
504 directed by the * * * office * * *, in collaboration with the
505 Mississippi Community College Board, in accordance with the
506 Workforce Training Act of 1994 (Section 37-153-1 et seq.) and
507 under policies approved by the * * * office * * * for the
508 following purposes: to provide training in collaboration with the
509 Mississippi Community College Board and individual community and
510 junior colleges to employers and employees in order to enhance
511 employee productivity. Such training may be subject to a minimal
512 administrative fee to be paid from the Mississippi Workforce
513 Enhancement Training Fund as established by the office * * *. The
514 initial priority of these funds shall be for the benefit of
515 existing businesses located within the state. Employers may
516 request training for existing employees and/or newly hired
517 employees from the * * * office * * *. The office, in
518 consultation with the Mississippi Community College Board, will be
519 responsible for approving the training. A portion of the funds
520 collected for the Mississippi Workforce Enhancement Training Fund
521 shall be used for the development of performance measures to
522 measure the effectiveness of the use of the Mississippi Workforce
523 Enhancement Training Fund dollars. These performance measures



524 shall be uniform for all training projects and shall be reported
525 to the Governor, Lieutenant Governor, Speaker of the House, and
526 members of the Legislature. Nothing in this section or elsewhere
527 in law shall be interpreted as giving the office * * * or State
528 Workforce Investment Board authority to direct the Mississippi
529 Community College Board or individual community or junior colleges
530 on how to expend other funds, aside from funds appropriated to the
531 Mississippi Workforce Enhancement Training Fund and Mississippi
532 Works Fund, appropriated or received for workforce training.
533 The * * * office * * *, Mississippi Community College Board,
534 individual community or junior colleges, State Workforce
535 Investment Board and other agencies implementing or coordinating
536 state-funded workforce development programs under state law shall
537 cooperate with each other to promote effective workforce training
538 in Mississippi, under the direction of the office. Any subsequent
539 changes to these performance measures shall also be reported to
540 the Governor, Lieutenant Governor, Speaker of the House, and
541 members of the Legislature. A performance report for each
542 training project and community college, based upon these measures,
543 shall be submitted annually to the Governor, Lieutenant Governor,
544 Speaker of the House, and members of the Legislature.

545 (ii) Except as otherwise provided in this
546 paragraph (e), all funds deposited into the State Workforce
547 Investment Board bank account shall be used for administration of
548 State Workforce Investment Board business, the office * * *,



549 grants related to training, and other projects as determined
550 appropriate by the State Workforce Investment Board and shall be
551 nonexpiring. Policies for grants and other projects shall be
552 approved through a majority vote of the State Workforce Investment
553 Board.

554 (iii) All funds deposited into the Mississippi
555 Department of Employment Security Mississippi Works Fund shall be
556 disbursed exclusively by the Executive Director of the Mississippi
557 Department of Employment Security, in accordance with the rules
558 and regulations promulgated by the office * * * in support of
559 workforce training activities approved by the * * * office * * *
560 in support of economic development activities. Funds allocated by
561 the executive director under this subparagraph (iii) shall only be
562 utilized for the training of unemployed persons, for immediate
563 training needs for the net new jobs created by an employer, for
564 the retention of jobs, to create a work-ready applicant pool of
565 Mississippians with credentials and/or postsecondary education in
566 accordance with the state's Workforce Investment and Opportunity
567 Act plan, or for the support of local economic and community
568 development activities related to workforce development in the
569 state. The * * * office * * *, in collaboration with the
570 Mississippi Public Community College System and its partners,
571 shall be the primary entity to facilitate training. Training
572 conducted utilizing these Mississippi Works funds may be subject



573 to a minimal administrative fee to be paid from the Mississippi
574 Works Fund as authorized by the * * * office * * *.

575 (iv) 1. The Department of Employment Security
576 shall be the fiscal agent for the receipt and disbursement of all
577 funds in the State Workforce Investment Board bank account,
578 subject to the administrative oversight of the office * * *.

579 2. In managing the State Workforce Investment
580 Board bank account, the office * * *, in coordination with the
581 Mississippi Department of Employment Security as fiscal agent,
582 shall ensure that any funds expended for contractual services
583 rendered to the office * * * over Five Thousand Dollars
584 (\$5,000.00) shall be paid only to service providers who have been
585 selected on a competitive basis. Any contract for services
586 entered into using funds from the Workforce Investment Fund bank
587 account shall meet the requirements * * * established in policies
588 approved by the State Workforce Investment Board's executive
589 committee deemed to be practical, feasible and in the public
590 interest.

591 3. Any commodities over Five Thousand Dollars
592 (\$5,000.00) procured for the office * * * to further its purpose
593 must be done competitively, in accordance with office policies
594 approved by the State Workforce Investment Board's executive
595 committee deemed to be practical, feasible and in the public
596 interest.



597 4. Through December 31, 2024, the provisions
598 of Section 27-104-7 related to rental agreements or leasing of
599 real property for the purpose of conducting agency business shall
600 not apply to the office.

601 5. The office may receive contributions,
602 donations, gifts, bequests of money, other forms of financial
603 assistance and property, equipment, materials or manpower from
604 persons, foundations, trust funds, corporations, organizations and
605 other sources, public or private, made to the office, and may
606 expend or use the same in accordance with the conditions
607 prescribed by the donor, provided that no such condition is
608 contrary to any provision of law.

609 6. The office may contract with state
610 agencies, governing authorities, or economic and workforce
611 development entities for shared programmatic efforts and support
612 services or joint employment of personnel in order to further the
613 office's purpose.

614 (v) In addition to other expenditures, the
615 office * * * shall expend from the State Workforce Investment
616 Board bank account for the use and benefit of the office * * *,
617 such funds as are necessary to prepare and develop a study of
618 workforce development needs that will consist of the following:

619 1. An identification of the state's workforce
620 development needs through a well-documented quantitative and
621 qualitative analysis of:



622 a. The current and projected workforce
623 training needs of existing and identified potential Mississippi
624 industries, with priority given to assessing the needs of existing
625 in-state industry and business. Where possible, the analysis
626 should include a verification and expansion of existing
627 information previously developed by workforce training and service
628 providers, as well as analysis of existing workforce data, such as
629 the data collected through the Statewide Longitudinal Data System;

630 b. The needs of the state's workers and
631 residents requiring additional workforce training to improve their
632 work skills in order to compete for better employment
633 opportunities, including a priority-based analysis of the critical
634 factors currently limiting the state's ability to provide a
635 trained and ready workforce; and

636 c. The needs of workforce service and
637 training providers in improving their ability to offer
638 industry-relevant training, including an assessment of the
639 practical limits of keeping training programs on the leading edge
640 and eliminating those programs with marginal workforce relevance.

641 2. An assessment of Mississippi's current
642 workforce development service delivery structure relative to the
643 needs quantified in this subparagraph, including:

644 a. Development of a list of
645 strengths/weaknesses/opportunities/threats (SWOT) of the current



646 workforce development delivery system relative to the identified
647 needs;

648 b. Identification of strategic options
649 for workforce development services based on the results of the
650 SWOT analysis; and

651 c. Development of results-oriented
652 measures for each option that can be baselined and, if
653 implemented, tracked over time, with quantifiable milestones and
654 goals.

655 3. Preparation of a report presenting all
656 subjects set out in this subparagraph to be delivered to the
657 Lieutenant Governor, Speaker of the House of Representatives,
658 Chairman of the Senate Finance Committee and Chairman of the House
659 Appropriations Committee no later than February 1, 2015.

660 4. Following the preparation of the report,
661 the State Workforce Investment Board shall make a recommendation
662 to the House and Senate Appropriations Committees on future uses
663 of funds deposited to the State Workforce Investment Fund account.
664 Such future uses may include:

665 a. The development of promotion
666 strategies for workforce development programs;

667 b. Initiatives designed to reduce the
668 state's dropout rate, including the development of a statewide
669 career awareness program;



670 c. The long-term monitoring of the
671 state's workforce development programs to determine whether they
672 are addressing the needs of business, industry, and the workers of
673 the state; and

674 d. The study of the potential
675 restructuring of the state's workforce programs and delivery
676 systems.

677 (vi) The office shall be provided direct and
678 immediate access to all accounting and banking statements related
679 to funds within its direction.

680 (3) (a) (i) Mississippi Workforce Enhancement Training
681 contributions and State Workforce Investment contributions shall
682 be collected at the following rates:

683 1. For calendar year 2014 only, the rate of
684 nineteen one-hundredths of one percent (.19%) based upon taxable
685 wages of which eighteen one-hundredths of one percent (.18%) shall
686 be the Workforce Enhancement Training contribution and
687 one-hundredths of one percent (.01%) shall be the State Workforce
688 Investment contribution; and

689 2. For calendar year 2015 only, the rate of
690 sixteen one-hundredths of one percent (.16%), based upon taxable
691 wages of which fifteen one-hundredths of one percent (.15%) shall
692 be the Workforce Enhancement Training contribution and
693 one-hundredths of one percent (.01%) shall be the State Workforce
694 Investment contribution.



695 (ii) Mississippi Workforce Enhancement Training
696 contributions, State Workforce Investment contributions and
697 Mississippi Works contributions shall be collected at the
698 following rates:

699 1. For calendar year 2016 only, at a rate of
700 twenty-four one-hundredths percent (.24%), based upon taxable
701 wages, of which fifteen one-hundredths percent (.15%) shall be the
702 Workforce Enhancement Training contribution, one-hundredths of one
703 percent (.01%) shall be the State Workforce Investment
704 contribution and eight one-hundredths percent (.08%) shall be the
705 Mississippi Works contribution.

706 2. For calendar years subsequent to calendar
707 year 2016, at a rate of twenty one-hundredths percent (.20%),
708 based upon taxable wages, of which fifteen one-hundredths percent
709 (.15%) shall be the Workforce Enhancement Training contribution,
710 one-hundredths of one percent (.01%) shall be the State Workforce
711 Investment contribution and four one-hundredths percent (.04%)
712 shall be the Mississippi Works contribution. The Mississippi
713 Works contribution shall be collected for calendar years in which
714 the general experience ratio, adjusted on the basis of the trust
715 fund adjustment factor and reduced by fifty percent (50%), results
716 in a general experience rate of less than two-tenths percent
717 (.2%). In all other years the Mississippi Works contribution
718 shall not be in effect.



719 (iii) The Mississippi Workforce Enhancement
720 Training Fund contribution, the State Workforce Investment
721 contribution and the Mississippi Works contribution shall be in
722 addition to the general experience rate plus the individual
723 experience rate of all employers but shall not be charged to
724 reimbursing or rate-paying political subdivisions or institutions
725 of higher learning, or reimbursing nonprofit organizations, as
726 described in Sections 71-5-357 and 71-5-359.

727 (b) All Mississippi Workforce Enhancement Training
728 contributions, State Workforce Investment contributions and
729 Mississippi Works contributions collected shall be deposited
730 initially into the Mississippi Department of Employment Security
731 bank account for clearing contribution collections and shall
732 within two (2) business days be transferred to the Workforce
733 Investment and Training Holding Account. Any Mississippi
734 Workforce Enhancement Training Fund and/or State Workforce
735 Investment Board bank account and/or Mississippi Works Fund
736 transactions from the Mississippi Department of Employment
737 Security bank account for clearing contribution collections that
738 are deposited into the Workforce Investment and Training Fund
739 Holding Account and are not honored by a financial institution
740 will be transferred back to the Mississippi Department of
741 Employment Security bank account for clearing contribution
742 collections out of funds in the Mississippi Workforce Investment
743 and Training Fund Holding Account.



744 (c) Suspension of the Workforce Enhancement Training
745 Fund contributions required pursuant to this chapter shall occur
746 if the insured unemployment rate exceeds an average of five and
747 five-tenths percent (5.5%) for the three (3) consecutive months
748 immediately preceding the effective date of the new rate year
749 following such occurrence and shall remain suspended throughout
750 the duration of that rate year. Such suspension shall continue
751 until such time as the three (3) consecutive months immediately
752 preceding the effective date of the next rate year that has an
753 insured unemployment rate of less than an average of four and
754 five-tenths percent (4.5%). Upon such occurrence, reactivation
755 shall be effective upon the first day of the rate year following
756 the event that lifts suspension and shall be in effect for that
757 year and shall continue until such time as a subsequent suspension
758 event as described in this chapter occurs.

759 (d) Notwithstanding any other provision contained
760 herein, contribution collections for the State Workforce
761 Investment Fund, Mississippi Works Fund and Mississippi Workforce
762 Enhancement Training Fund shall not be suspended, under any
763 circumstances, for tax rate year 2021, and the resulting
764 contribution rate of twenty one-hundredths percent (.20%) shall be
765 added to the employer's general and individual experience rate to
766 obtain the total unemployment insurance rate for 2021.

767 (4) All collections due or accrued prior to any suspension
768 of the Mississippi Workforce Enhancement Training Fund will be



769 collected based upon the law at the time the contributions
770 accrued, regardless of when they are actually collected.

771 (5) As used in this section, "office" means the Mississippi
772 Office of Workforce Development established in Section 37-153-7.

773 **SECTION 3.** Section 27-104-7, Mississippi Code of 1972, is
774 amended as follows:

775 27-104-7. (1) (a) There is created the Public Procurement
776 Review Board, which shall be reconstituted on January 1, 2018, and
777 shall be composed of the following members:

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

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

782 (iii) The Executive Director of the Department of
783 Finance and Administration, serving as an ex officio and nonvoting
784 member.

785 (b) The initial terms of each appointee shall be as
786 follows:

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

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

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



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

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

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

801 (c) When appointing members to the Public Procurement
802 Review Board, the Governor and Lieutenant Governor shall take into
803 consideration persons who possess at least five (5) years of
804 management experience in general business, health care or finance
805 for an organization, corporation or other public or private
806 entity. Any person, or any employee or owner of a company, who
807 receives any grants, procurements or contracts that are subject to
808 approval under this section shall not be appointed to the Public
809 Procurement Review Board. Any person, or any employee or owner of
810 a company, who is a principal of the source providing a personal
811 or professional service shall not be appointed to the Public
812 Procurement Review Board if the principal owns or controls a
813 greater than five percent (5%) interest or has an ownership value
814 of One Million Dollars (\$1,000,000.00) in the source's business,
815 whichever is smaller. No member shall be an officer or employee
816 of the State of Mississippi while serving as a voting member on
817 the Public Procurement Review Board.



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

821 (e) The members of the Public Procurement Review Board
822 shall elect a chair from among the membership, and he or she shall
823 preside over the meetings of the board. The board shall annually
824 elect a vice chair, who shall serve in the absence of the chair.
825 No business shall be transacted, including adoption of rules of
826 procedure, without the presence of a quorum of the board. Three
827 (3) members shall be a quorum. No action shall be valid unless
828 approved by a majority of the members present and voting, entered
829 upon the minutes of the board and signed by the chair. Necessary
830 clerical and administrative support for the board shall be
831 provided by the Department of Finance and Administration. Minutes
832 shall be kept of the proceedings of each meeting, copies of which
833 shall be filed on a monthly basis with the chairs of the
834 Accountability, Efficiency and Transparency Committees of the
835 Senate and House of Representatives and the chairs of the
836 Appropriations Committees of the Senate and House of
837 Representatives.

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

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



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

844 (b) Adopt regulations governing the approval of
845 contracts let for the construction and maintenance of state
846 buildings and other state facilities as well as related contracts
847 for architectural and engineering services.

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

852 (c) Adopt regulations governing any lease or rental
853 agreement by any state agency or department, including any state
854 agency financed entirely by federal funds, for space outside the
855 buildings under the jurisdiction of the Department of Finance and
856 Administration. These regulations shall require each agency
857 requesting to lease such space to provide the following
858 information that shall be published by the Department of Finance
859 and Administration on its website: the agency to lease the space;
860 the terms of the lease; the approximate square feet to be leased;
861 the use for the space; a description of a suitable space; the
862 general location desired for the leased space; the contact
863 information for a person from the agency; the deadline date for
864 the agency to have received a lease proposal; any other specific
865 terms or conditions of the agency; and any other information
866 deemed appropriate by the Division of Real Property Management of



867 the Department of Finance and Administration or the Public
868 Procurement Review Board. The information shall be provided
869 sufficiently in advance of the time the space is needed to allow
870 the Division of Real Property Management of the Department of
871 Finance and Administration to review and preapprove the lease
872 before the time for advertisement begins;

873 (d) Adopt, in its discretion, regulations to set aside
874 at least five percent (5%) of anticipated annual expenditures for
875 the purchase of commodities from minority businesses; however, all
876 such set-aside purchases shall comply with all purchasing
877 regulations promulgated by the department and shall be subject to
878 all bid requirements. Set-aside purchases for which competitive
879 bids are required shall be made from the lowest and best minority
880 business bidder; however, if no minority bid is available or if
881 the minority bid is more than two percent (2%) higher than the
882 lowest bid, then bids shall be accepted and awarded to the lowest
883 and best bidder. However, the provisions in this paragraph shall
884 not be construed to prohibit the rejection of a bid when only one
885 (1) bid is received. Such rejection shall be placed in the
886 minutes. For the purposes of this paragraph, the term "minority
887 business" means a business which is owned by a person who is a
888 citizen or lawful permanent resident of the United States and who
889 is:

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



892 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
893 Central or South American, or other Spanish or Portuguese culture
894 or origin regardless of race;

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

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

900 (v) Female;

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

907 (f) Promulgate rules and regulations governing the
908 solicitation and selection of contractual services personnel,
909 including personal and professional services contracts for any
910 form of consulting, policy analysis, public relations, marketing,
911 public affairs, legislative advocacy services or any other
912 contract that the board deems appropriate for oversight, with the
913 exception of any personal service contracts entered into by any
914 agency that employs only nonstate service employees as defined in
915 Section 25-9-107(c), any personal service contracts entered into
916 for computer or information technology-related services governed



917 by the Mississippi Department of Information Technology Services,
918 any personal service contracts entered into by the individual
919 state institutions of higher learning, any personal service
920 contracts entered into by the Mississippi Department of
921 Transportation, any personal service contracts entered into by the
922 Department of Human Services through June 30, 2019, which the
923 Executive Director of the Department of Human Services determines
924 would be useful in establishing and operating the Department of
925 Child Protection Services, any personal service contracts entered
926 into by the Department of Child Protection Services through June
927 30, 2019, any contracts for entertainers and/or performers at the
928 Mississippi State Fairgrounds entered into by the Mississippi Fair
929 Commission, any contracts entered into by the Department of
930 Finance and Administration when procuring aircraft maintenance,
931 parts, equipment and/or services, any contract entered into by the
932 Department of Public Safety for service on specialized equipment
933 and/or software required for the operation at such specialized
934 equipment for use by the Office of Forensics Laboratories, any
935 personal or professional service contract entered into by the
936 Mississippi Department of Health and/or the Department of Revenue
937 solely in connection with their respective responsibilities under
938 the Mississippi Medical Cannabis Act from February 2, 2022,
939 through June 30, 2023, any contract for attorney, accountant,
940 actuary auditor, architect, engineer, anatomical pathologist,
941 utility rate expert services, any personal service contracts



942 approved by the Executive Director of the Department of Finance
943 and Administration and entered into by the Coordinator of Mental
944 Health Accessibility through June 30, 2022, any personal or
945 professional services contract entered into by the State
946 Department of Health in carrying out its responsibilities under
947 the ARPA Rural Water Associations Infrastructure Grant Program
948 through June 30, 2026, and any personal or professional services
949 contract entered into by the Mississippi Department of
950 Environmental Quality in carrying out its responsibilities under
951 the Mississippi Municipality and County Water Infrastructure Grant
952 Program Act of 2022, through June 30, 2026. Any such rules and
953 regulations shall provide for maintaining continuous internal
954 audit covering the activities of such agency affecting its revenue
955 and expenditures as required under Section 7-7-3(6)(d). Any rules
956 and regulation changes related to personal and professional
957 services contracts that the Public Procurement Review Board may
958 propose shall be submitted to the Chairs of the Accountability,
959 Efficiency and Transparency Committees of the Senate and House of
960 Representatives and the Chairs of the Appropriation Committees of
961 the Senate and House of Representatives at least fifteen (15) days
962 before the board votes on the proposed changes, and those rules
963 and regulation changes, if adopted, shall be promulgated in
964 accordance with the Mississippi Administrative Procedures Act;

965 (g) Approve all personal and professional services
966 contracts involving the expenditures of funds in excess of



967 Seventy-five Thousand Dollars (\$75,000.00), except as provided in
968 paragraph (f) of this subsection (2) and in subsection (8);

969 (h) Develop mandatory standards with respect to
970 contractual services personnel that require invitations for public
971 bid, requests for proposals, record keeping and financial
972 responsibility of contractors. The Public Procurement Review
973 Board shall, unless exempted under this paragraph (h) or under
974 paragraph (i) or (o) of this subsection (2), require the agency
975 involved to submit the procurement to a competitive procurement
976 process, and may reserve the right to reject any or all resulting
977 procurements;

978 (i) Prescribe certain circumstances by which agency
979 heads may enter into contracts for personal and professional
980 services without receiving prior approval from the Public
981 Procurement Review Board. The Public Procurement Review Board may
982 establish a preapproved list of providers of various personal and
983 professional services for set prices with which state agencies may
984 contract without bidding or prior approval from the board;

985 (i) Agency requirements may be fulfilled by
986 procuring services performed incident to the state's own programs.
987 The agency head shall determine in writing whether the price
988 represents a fair market value for the services. When the
989 procurements are made from other governmental entities, the
990 private sector need not be solicited; however, these contracts



991 shall still be submitted for approval to the Public Procurement
992 Review Board.

993 (ii) Contracts between two (2) state agencies,
994 both under Public Procurement Review Board purview, shall not
995 require Public Procurement Review Board approval. However, the
996 contracts shall still be entered into the enterprise resource
997 planning system;

998 (j) Provide standards for the issuance of requests for
999 proposals, the evaluation of proposals received, consideration of
1000 costs and quality of services proposed, contract negotiations, the
1001 administrative monitoring of contract performance by the agency
1002 and successful steps in terminating a contract;

1003 (k) Present recommendations for governmental
1004 privatization and to evaluate privatization proposals submitted by
1005 any state agency;

1006 (l) Authorize personal and professional service
1007 contracts to be effective for more than one (1) year provided a
1008 funding condition is included in any such multiple year contract,
1009 except the State Board of Education, which shall have the
1010 authority to enter into contractual agreements for student
1011 assessment for a period up to ten (10) years. The State Board of
1012 Education shall procure these services in accordance with the
1013 Public Procurement Review Board procurement regulations;

1014 (m) Request the State Auditor to conduct a performance
1015 audit on any personal or professional service contract;



1016 (n) Prepare an annual report to the Legislature
1017 concerning the issuance of personal and professional services
1018 contracts during the previous year, collecting any necessary
1019 information from state agencies in making such report;

1020 (o) Develop and implement the following standards and
1021 procedures for the approval of any sole source contract for
1022 personal and professional services regardless of the value of the
1023 procurement:

1024 (i) For the purposes of this paragraph (o), the
1025 term "sole source" means only one (1) source is available that can
1026 provide the required personal or professional service.

1027 (ii) An agency that has been issued a binding,
1028 valid court order mandating that a particular source or provider
1029 must be used for the required service must include a copy of the
1030 applicable court order in all future sole source contract reviews
1031 for the particular personal or professional service referenced in
1032 the court order.

1033 (iii) Any agency alleging to have a sole source
1034 for any personal or professional service, other than those
1035 exempted under paragraph (f) of this subsection (2) and subsection
1036 (8), shall publish on the procurement portal website established
1037 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)
1038 days, the terms of the proposed contract for those services. In
1039 addition, the publication shall include, but is not limited to,
1040 the following information:



- 1041 1. The personal or professional service
1042 offered in the contract;
- 1043 2. An explanation of why the personal or
1044 professional service is the only one that can meet the needs of
1045 the agency;
- 1046 3. An explanation of why the source is the
1047 only person or entity that can provide the required personal or
1048 professional service;
- 1049 4. An explanation of why the amount to be
1050 expended for the personal or professional service is reasonable;
1051 and
- 1052 5. The efforts that the agency went through
1053 to obtain the best possible price for the personal or professional
1054 service.

1055 (iv) If any person or entity objects and proposes
1056 that the personal or professional service published under
1057 subparagraph (iii) of this paragraph (o) is not a sole source
1058 service and can be provided by another person or entity, then the
1059 objecting person or entity shall notify the Public Procurement
1060 Review Board and the agency that published the proposed sole
1061 source contract with a detailed explanation of why the personal or
1062 professional service is not a sole source service.

1063 (v) 1. If the agency determines after review that
1064 the personal or professional service in the proposed sole source
1065 contract can be provided by another person or entity, then the



1066 agency must withdraw the sole source contract publication from the
1067 procurement portal website and submit the procurement of the
1068 personal or professional service to an advertised competitive bid
1069 or selection process.

1070 2. If the agency determines after review that
1071 there is only one (1) source for the required personal or
1072 professional service, then the agency may appeal to the Public
1073 Procurement Review Board. The agency has the burden of proving
1074 that the personal or professional service is only provided by one
1075 (1) source.

1076 3. If the Public Procurement Review Board has
1077 any reasonable doubt as to whether the personal or professional
1078 service can only be provided by one (1) source, then the agency
1079 must submit the procurement of the personal or professional
1080 service to an advertised competitive bid or selection process. No
1081 action taken by the Public Procurement Review Board in this appeal
1082 process shall be valid unless approved by a majority of the
1083 members of the Public Procurement Review Board present and voting.

1084 (vi) The Public Procurement Review Board shall
1085 prepare and submit a quarterly report to the House of
1086 Representatives and Senate Accountability, Efficiency and
1087 Transparency Committees that details the sole source contracts
1088 presented to the Public Procurement Review Board and the reasons
1089 that the Public Procurement Review Board approved or rejected each
1090 contract. These quarterly reports shall also include the



1091 documentation and memoranda required in subsection (4) of this
1092 section. An agency that submitted a sole source contract shall be
1093 prepared to explain the sole source contract to each committee by
1094 December 15 of each year upon request by the committee;

1095 (p) Assess any fines and administrative penalties
1096 provided for in Sections 31-7-401 through 31-7-423.

1097 (3) All submissions shall be made sufficiently in advance of
1098 each monthly meeting of the Public Procurement Review Board as
1099 prescribed by the Public Procurement Review Board. If the Public
1100 Procurement Review Board rejects any contract submitted for review
1101 or approval, the Public Procurement Review Board shall clearly set
1102 out the reasons for its action, including, but not limited to, the
1103 policy that the agency has violated in its submitted contract and
1104 any corrective actions that the agency may take to amend the
1105 contract to comply with the rules and regulations of the Public
1106 Procurement Review Board.

1107 (4) All sole source contracts for personal and professional
1108 services awarded by state agencies, other than those exempted
1109 under Section 27-104-7(2) (f) and (8), whether approved by an
1110 agency head or the Public Procurement Review Board, shall contain
1111 in the procurement file a written determination for the approval,
1112 using a request form furnished by the Public Procurement Review
1113 Board. The written determination shall document the basis for the
1114 determination, including any market analysis conducted in order to
1115 ensure that the service required was practicably available from



1116 only one (1) source. A memorandum shall accompany the request
1117 form and address the following four (4) points:

1118 (a) Explanation of why this service is the only service
1119 that can meet the needs of the purchasing agency;

1120 (b) Explanation of why this vendor is the only
1121 practicably available source from which to obtain this service;

1122 (c) Explanation of why the price is considered
1123 reasonable; and

1124 (d) Description of the efforts that were made to
1125 conduct a noncompetitive negotiation to get the best possible
1126 price for the taxpayers.

1127 (5) In conjunction with the State Personnel Board, the
1128 Public Procurement Review Board shall develop and promulgate rules
1129 and regulations to define the allowable legal relationship between
1130 contract employees and the contracting departments, agencies and
1131 institutions of state government under the jurisdiction of the
1132 State Personnel Board, in compliance with the applicable rules and
1133 regulations of the federal Internal Revenue Service (IRS) for
1134 federal employment tax purposes. Under these regulations, the
1135 usual common law rules are applicable to determine and require
1136 that such worker is an independent contractor and not an employee,
1137 requiring evidence of lawful behavioral control, lawful financial
1138 control and lawful relationship of the parties. Any state
1139 department, agency or institution shall only be authorized to



1140 contract for personnel services in compliance with those
1141 regulations.

1142 (6) No member of the Public Procurement Review Board shall
1143 use his or her official authority or influence to coerce, by
1144 threat of discharge from employment, or otherwise, the purchase of
1145 commodities, the contracting for personal or professional
1146 services, or the contracting for public construction under this
1147 chapter.

1148 (7) Notwithstanding any other laws or rules to the contrary,
1149 the provisions of subsection (2) of this section shall not be
1150 applicable to the Mississippi State Port Authority at Gulfport.

1151 (8) Nothing in this section shall impair or limit the
1152 authority of the Board of Trustees of the Public Employees'
1153 Retirement System to enter into any personal or professional
1154 services contracts directly related to their constitutional
1155 obligation to manage the trust funds, including, but not limited
1156 to, actuarial, custodial banks, cash management, investment
1157 consultant and investment management contracts.

1158 (9) Notwithstanding the exemption of personal and
1159 professional services contracts entered into by the Department of
1160 Human Services and personal and professional services contracts
1161 entered into by the Department of Child Protection Services from
1162 the provisions of this section under subsection (2)(f), before the
1163 Department of Human Services or the Department of Child Protection
1164 Services may enter into a personal or professional service



1165 contract, the department(s) shall give notice of the proposed
1166 personal or professional service contract to the Public
1167 Procurement Review Board for any recommendations by the board.
1168 Upon receipt of the notice, the board shall post the notice on its
1169 website and on the procurement portal website established by
1170 Sections 25-53-151 and 27-104-165. If the board does not respond
1171 to the department(s) within seven (7) calendar days after
1172 receiving the notice, the department(s) may enter the proposed
1173 personal or professional service contract. If the board responds
1174 to the department(s) within seven (7) calendar days, then the
1175 board has seven (7) calendar days from the date of its initial
1176 response to provide any additional recommendations. After the end
1177 of the second seven-day period, the department(s) may enter the
1178 proposed personal or professional service contract. The board is
1179 not authorized to disapprove any proposed personal or professional
1180 services contracts. This subsection shall stand repealed on July
1181 1, 2022.

1182 (10) Through December 31, 2024, the provisions of this
1183 section related to rental agreements or leasing of real property
1184 for the purpose of conducting agency business shall not apply to
1185 the Office of Workforce Development created in Section 37-153-7.

1186 **SECTION 4.** Section 25-61-5, Mississippi Code of 1972, is
1187 amended as follows:

1188 25-61-5. (1) (a) Except as otherwise provided by Sections
1189 25-61-9, 25-61-11 * * *, 25-61-11.2 and 37-153-7, all public



1190 records are hereby declared to be public property, and any person
1191 shall have the right to inspect, copy or mechanically reproduce or
1192 obtain a reproduction of any public record of a public body in
1193 accordance with reasonable written procedures adopted by the
1194 public body concerning the cost, time, place and method of access,
1195 and public notice of the procedures shall be given by the public
1196 body, or, if a public body has not adopted written procedures, the
1197 right to inspect, copy or mechanically reproduce or obtain a
1198 reproduction of a public record of the public body shall be
1199 provided within one (1) working day after a written request for a
1200 public record is made. No public body shall adopt procedures
1201 which will authorize the public body to produce or deny production
1202 of a public record later than seven (7) working days from the date
1203 of the receipt of the request for the production of the record.

1204 (b) If a public body is unable to produce a public
1205 record by the seventh working day after the request is made, the
1206 public body must provide a written explanation to the person
1207 making the request stating that the record requested will be
1208 produced and specifying with particularity why the records cannot
1209 be produced within the seven-day period. Unless there is mutual
1210 agreement of the parties, or the information requested is part of
1211 ongoing negotiations related to a request for competitive sealed
1212 proposals, in no event shall the date for the public body's
1213 production of the requested records be any later than fourteen
1214 (14) working days from the receipt by the public body of the



1215 original request. Production of competitive sealed proposals in
1216 accordance with requests made pursuant to this section shall be no
1217 later than seven (7) working days after the notice of intent to
1218 award is issued to the winning proposer. Persons making a request
1219 for production of competitive sealed proposals after the notice of
1220 intent to award is issued by the public body shall have a
1221 reasonable amount of time, but in no event less than seven (7)
1222 working days after the production of the competitive sealed
1223 proposals, to protest the procurement or intended award prior to
1224 contract execution. However, in any instance where a person has
1225 filed for a protective order for a competitive sealed proposal and
1226 the court has not ruled on the protective order within ninety (90)
1227 days of filing, then the public body may proceed with awarding the
1228 contract without production of competitive sealed proposals and
1229 the contract may be protested after execution.

1230 (2) If any public record contains material which is not
1231 exempted under this chapter, the public agency shall redact the
1232 exempted material and make the nonexempted material available for
1233 examination. Such public agency shall be entitled to charge a
1234 reasonable fee for the redaction of any exempted material, not to
1235 exceed the agency's actual cost.

1236 (3) Denial by a public body of a request for access to or
1237 copies of public records under this chapter shall be in writing
1238 and shall contain a statement of the specific exemption relied
1239 upon by the public body for the denial. Each public body shall



1240 maintain a file of all denials of requests for public records.
1241 Public bodies shall be required to preserve such denials on file
1242 for not less than three (3) years from the date such denials are
1243 made. This file shall be made available for inspection or
1244 copying, or both, during regular office hours to any person upon
1245 written request.

1246 (4) This section shall stand repealed on July 1, 2024.

1247 **SECTION 5.** This act shall take effect and be in force from
1248 and after its passage.

