

By: Representative Shanks

To: Workforce Development

HOUSE BILL NO. 770
(As Sent to Governor)

1 AN ACT TO AMEND SECTIONS 37-153-7 AND 27-104-7, MISSISSIPPI
2 CODE OF 1972, TO EXTEND THE EXPIRATION DATE ON THE EXEMPTION FOR
3 THE OFFICE OF WORKFORCE DEVELOPMENT FROM THE REQUIREMENTS OF THE
4 PUBLIC PROCUREMENT REVIEW BOARD WHICH RELATE TO RENTAL AGREEMENTS
5 AND THE LEASING OF REAL PROPERTY FOR PURPOSES OF CONDUCTING AGENCY
6 BUSINESS; AND FOR RELATED PURPOSES.

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

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

10 37-153-7. (1) There is created the Mississippi Office of
11 Workforce Development and the Mississippi State Workforce
12 Investment Board, which shall serve as the advisory board for the
13 office. The Mississippi State Workforce Investment Board shall be
14 composed of thirty-one (31) voting members, of which a majority
15 shall be representatives of business and industry in accordance
16 with the federal Workforce Innovation and Opportunity Act, or any
17 successive acts.

18 (2) The members of the State Workforce Investment Board
19 shall include:

20 (a) The Governor, or his designee;



21 (b) Nineteen (19) members, appointed by the Governor,
22 of whom:

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

25 1. Are owners of businesses, chief executives
26 or operating officers of businesses, or other business executives
27 or employers with optimum policymaking or hiring authority, and
28 who, in addition, may be members of a local board described in
29 Section 3122(b)(2)(A)(i) of the federal Workforce Innovation and
30 Opportunity Act. At least two (2) of the members appointed under
31 this item 1. shall be small business owners, chief executives or
32 operating officers of businesses with less than fifty (50)
33 employees;

34 2. Represent businesses, including small
35 businesses, or organizations representing businesses, which
36 provide employment opportunities that, at a minimum, include
37 high-quality, work-relevant training and development in
38 high-demand industry sectors or occupations in the state; and

39 3. Are appointed from among individuals
40 nominated by state business organizations and business trade
41 associations;

42 (ii) Not less than twenty percent (20%) shall
43 consist of representatives of the workforce within the state,
44 which:



45 1. Includes labor organization
46 representatives who have been nominated by state labor
47 federations;

48 2. Includes a labor organization member or
49 training director from an apprenticeship program in the state,
50 which shall be a joint labor-management apprenticeship program if
51 such a program exists in the state;

52 3. May include representatives of
53 community-based organizations, including organizations serving
54 veterans or providing or supporting competitive, integrated
55 employment for individuals with disabilities, who have
56 demonstrated experience and expertise in addressing employment,
57 training or education needs of individuals with barriers to
58 employment; and

59 4. May include representatives of
60 organizations, including organizations serving out-of-school
61 youth, who have demonstrated experience or expertise in addressing
62 the employment, training or education needs of eligible youth;

63 (iii) The balance shall include government
64 representatives, including the lead state officials with primary
65 responsibility for core programs, and chief elected officials
66 (collectively representing both cities and counties, where
67 appropriate);

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



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

73 (e) The following state officials:

74 (i) The Executive Director of the Mississippi
75 Department of Employment Security;

76 (ii) The Executive Director of the Department of
77 Rehabilitation Services;

78 (iii) The State Superintendent of Public
79 Education;

80 (iv) The Executive Director of the Mississippi
81 Development Authority;

82 (v) The Executive Director of the Mississippi
83 Community College Board;

84 (vi) The President of the Community College
85 Association; and

86 (vii) The Commissioner of * * * Higher * * *
87 Education.

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

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



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

96 (i) The membership of the board shall reflect the
97 diversity of the State of Mississippi.

98 (j) The Governor shall designate the Chairman of the
99 Mississippi State Workforce Investment Board from among the
100 business and industry voting members of the board, and a quorum of
101 the board shall consist of a majority of the voting members of the
102 board.

103 (k) The voting members of the board who are not state
104 employees shall be entitled to reimbursement of their reasonable
105 expenses in the manner and amount specified in Section 25-3-41 and
106 shall be entitled to receive per diem compensation as authorized
107 in Section 25-3-69.

108 (3) Members of the state board may be recalled by their
109 appointing authority for cause, including a felony conviction,
110 fraudulent or dishonest acts or gross abuse of discretion, failure
111 to meet board member qualifications, or chronic failure to attend
112 board meetings.

113 (4) The Mississippi Department of Employment Security shall
114 establish limits on administrative costs for each portion of
115 Mississippi's workforce development system consistent with the
116 federal Workforce Investment Act or any future federal workforce
117 legislation.



118 (5) The Mississippi State Workforce Investment Board shall
119 have the following duties * * *, which are intended to be
120 consistent with the scope of duties provided in the federal
121 Workforce Innovation and Opportunity Act, amendments and successor
122 legislation to this act, and other relevant federal law:

123 (a) Through the office, develop and submit to the
124 Governor, Lieutenant Governor and Speaker of the House a strategic
125 plan for an integrated state workforce development system that
126 aligns resources and structures the system to more effectively and
127 efficiently meet the demands of Mississippi's employers and job
128 seekers. This plan will comply with the federal Workforce
129 Investment Act of 1998, as amended, the federal Workforce
130 Innovation and Opportunity Act of 2014 and amendments and
131 successor legislation to these acts;

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

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

137 (ii) Review local workforce development plans that
138 reflect the use of funds from the federal Workforce Investment
139 Act, Workforce Innovation and Opportunity Act, the Wagner-Peyser
140 Act and the amendment or successor legislation to the acts, and
141 the Mississippi Comprehensive Workforce Training and Education
142 Consolidation Act;



143 (c) Recommend to the office the designation of local
144 workforce investment areas as required in Section 116 of the
145 federal Workforce Investment Act of 1998 and the Workforce
146 Innovation and Opportunity Act of 2014. There shall be four (4)
147 workforce investment areas that are generally aligned with the
148 planning and development district structure in Mississippi.
149 Planning and development districts will serve as the fiscal agents
150 to manage Workforce Investment Act funds, oversee and support the
151 local workforce investment boards aligned with the area and the
152 local programs and activities as delivered by the one-stop
153 employment and training system. The planning and development
154 districts will perform this function through the provisions of the
155 county cooperative service districts created under Sections
156 19-3-101 through 19-3-115; however, planning and development
157 districts currently performing this function under the Interlocal
158 Cooperation Act of 1974, Sections 17-13-1 through 17-13-17, may
159 continue to do so;

160 (d) Assist the Governor in the development of an
161 allocation formula for the distribution of funds for adult
162 employment and training activities and youth activities to local
163 workforce investment areas;

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



167 (f) Assist the Governor in the establishment and
168 management of a one-stop employment and training system conforming
169 to the requirements of the federal Workforce Investment Act of
170 1998 and the Workforce Innovation and Opportunity Act of 2014, as
171 amended, recommending policy for implementing the Governor's
172 approved plan for employment and training activities and services
173 within the state. In developing this one-stop career operating
174 system, the Mississippi State Workforce Investment Board, in
175 conjunction with local workforce investment boards, shall:

176 (i) Design broad guidelines for the delivery of
177 workforce development programs;

178 (ii) Identify all existing delivery agencies and
179 other resources;

180 (iii) Define appropriate roles of the various
181 agencies to include an analysis of service providers' strengths
182 and weaknesses;

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

185 (v) Develop a financial plan to support the
186 delivery system that shall, at a minimum, include an
187 accountability system;

188 (g) To provide authority, in accordance with any
189 executive order of the Governor, for developing the necessary
190 collaboration among state agencies at the highest level for
191 accomplishing the purposes of this article;



192 (h) To monitor the effectiveness of the workforce
193 development centers and WIN job centers;

194 (i) To advise the Governor, public schools,
195 community * * * and junior colleges and institutions of higher
196 learning on effective school-to-work transition policies and
197 programs that link students moving from high school to higher
198 education and students moving between community colleges and
199 four-year institutions in pursuit of academic and technical skills
200 training;

201 (j) To work with industry to identify barriers that
202 inhibit the delivery of quality workforce education and the
203 responsiveness of educational institutions to the needs of
204 industry;

205 (k) To provide periodic assessments on effectiveness
206 and results of the overall Mississippi comprehensive workforce
207 development system and district councils;

208 (l) Develop broad statewide development goals,
209 including a goal to raise the state's labor force participation
210 rate;

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

214 (n) To assist the Governor in carrying out any other
215 responsibility required by the federal Workforce Investment Act of



216 1998, as amended and the Workforce Innovation and Opportunity Act,
217 successor legislation and amendments.

218 (6) The Mississippi State Workforce Investment Board shall
219 coordinate all training programs and funds within its purview,
220 consistent with the federal Workforce Investment Act, Workforce
221 Innovation and Opportunity Act, amendments and successor
222 legislation to these acts, and other relevant federal law.

223 Each state agency director responsible for workforce training
224 activities shall advise the Mississippi Office of Workforce
225 Development and the State Workforce Investment Board of
226 appropriate federal and state requirements. Each state agency,
227 department and institution shall report any monies received for
228 workforce training activities or career and technical education
229 and a detailed itemization of how those monies were spent to the
230 state board. The board shall compile the data and provide a
231 report of the monies and expenditures to the Chairs of the House
232 and Senate Appropriations Committee, the Chair of the House
233 Workforce Development Committee and the Chair of the Senate
234 Economic and Workforce Development Committee by October 1 of each
235 year. Each such state agency director shall remain responsible
236 for the actions of his agency; however, each state agency and
237 director shall work cooperatively to fulfill the state's goals.

238 (7) The State Workforce Investment Board shall establish an
239 executive committee, which shall consist of the following State
240 Workforce Investment Board members:



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

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

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

249 (e) The two (2) legislators, who shall serve in a
250 nonvoting capacity, one (1) of whom shall be appointed by the
251 Lieutenant Governor from the membership of the Mississippi Senate
252 and one (1) of whom shall be appointed by the Speaker of the House
253 of Representatives from the membership of the Mississippi House of
254 Representatives.

255 (8) The executive committee shall select an executive
256 director of the Office of Workforce Development, with the advice
257 and consent of a majority of the State Workforce Investment Board.
258 The executive committee shall seek input from economic development
259 organizations across the state when selecting the executive
260 director. The executive director shall:

261 (a) Be a person with extensive experience in
262 development of economic, human and physical resources, and
263 promotion of industrial and commercial development. The executive
264 director shall have a bachelor's degree from a state-accredited



265 institution and no less than eight (8) years of professional
266 experience related to workforce or economic development;

267 (b) Perform the functions necessary for the daily
268 operation and administration of the office, with oversight from
269 the executive committee and the State Workforce Investment Board,
270 to fulfill the duties of the state board as described in Chapter
271 476, Laws of 2020;

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

277 (d) Enter any part of the Mississippi Community College
278 Board, individual community and junior colleges, or other
279 workforce training facilities operated by the state or its
280 subdivisions;

281 (e) Serve at the will and pleasure of the executive
282 committee;

283 (f) Promulgate rules and regulations, subject to
284 oversight by the executive committee, not inconsistent with this
285 article, as may be necessary to enforce the provisions in Chapter
286 476, Laws of 2020; and

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



290 (9) The Office of Workforce Development and Mississippi
291 Community College Board shall collaborate in the administration
292 and oversight of the Mississippi Workforce Enhancement Training
293 Fund and Mississippi Works Fund, as described in Section 71-5-353.
294 The executive director shall maintain complete and exclusive
295 operational control of the office's functions.

296 (10) The office shall file an annual and a quarterly report
297 with the Governor, Secretary of State, President of the Senate,
298 Speaker of the House, Chairman of the House Workforce Development
299 Committee and Chairman of the Senate Economic and Workforce
300 Development Committee. The annual report shall be filed not later
301 than October 1 of each year regarding all funds approved by the
302 office to be expended on workforce training during the prior
303 calendar year. The quarterly and annual reports shall include:

304 (a) Information on the performance of the Mississippi
305 Workforce Enhancement Training Fund and the Mississippi Works
306 Fund, in terms of adding value to the local and state economy, the
307 contribution to future growth of the state economy, and movement
308 toward state goals, including increasing the labor force
309 participation rate;

310 (b) With respect to specific workforce training
311 projects:

312 (i) The location of the training;
313 (ii) The amount allocated to the project;
314 (iii) The purpose of the project;



315 (iv) The specific business entity that is the
316 beneficiary of the project;

317 (v) The number of employees intended to be trained
318 and actually trained, if applicable, in the course of the project;
319 and

320 (vi) The types of funds used for the project;

321 (c) With respect to the grants that have been awarded
322 under the Mississippi K-12 Workforce Development Grant Program
323 created in Section 37-153-221:

324 (i) The entity that was awarded the grant;

325 (ii) The amount allocated to the grant;

326 (iii) The purpose of the grant; * * *

327 (iv) How the grant has been used since it was
328 awarded; and

329 (d) With respect to the office's authority to select
330 tools and resources, including necessary online platforms and
331 similar systems in furtherance of the mission of the office:

332 (i) The policies that the office has adopted or
333 amended on the process for the selection of tools and resources,
334 including necessary online platforms and similar systems in
335 furtherance of the mission of the office;

336 (ii) The eligible entities that the office
337 determined may provide services, such as companies, nonprofit
338 organizations, or other similar groups;



339 (iii) Any tools and resources, including necessary
340 online platforms and similar systems in furtherance of the mission
341 of the office, that have been selected by the office; and

342 (iv) What entity received the benefit of the tools
343 and resources that were selected.

344 (e) All information concerning a proposed project which
345 is provided to the executive director shall be kept confidential.
346 Except as provided in subsections (13) and (14), such
347 confidentiality shall not limit disclosure under the Mississippi
348 Public Records Act of 1983 of records describing the nature,
349 quantity, cost or other pertinent information related to the
350 activities of, or services performed using, the Mississippi
351 Workforce Enhancement Training Fund or the Mississippi Works Fund.

352 (11) In addition to other powers and duties provided in this
353 section, the Office of Workforce Development shall also have the
354 following powers and duties:

355 (a) Direct access to accounting and banking statements
356 for all funds under its direction to ensure accurate and efficient
357 management of funds and to improve internal control;

358 (b) The ability to enter into nondisclosure agreements
359 to effectively support economic development activities and the
360 proprietary nature of customized training for existing and new
361 industry;

362 (c) To adopt and promulgate such rules and regulations
363 as may be necessary or desirable for the purpose of implementing



364 the Mississippi K-12 Workforce Development Grant Program created
365 in Section 37-153-221;

366 (d) To receive contributions, donations, gifts,
367 bequests of money, other forms of financial assistance and
368 property, equipment, materials or manpower from persons,
369 foundations, trust funds, corporations, organizations and other
370 sources, public or private, made to the office, and may expend or
371 use the same in accordance with the conditions prescribed by the
372 donor, provided that no such condition is contrary to any
373 provision of law;

374 (e) To contract with state agencies, governing
375 authorities or economic and workforce development entities for
376 shared programmatic efforts and support service or joint
377 employment of personnel in order to further the office's purposes;

378 (f) To determine, subject to appropriation, the need
379 for and, if desired, the selection of tools and resources,
380 including necessary online platforms and similar systems in
381 furtherance of the mission of the office, through processes
382 established in policies adopted by the office that are deemed to
383 be practical, feasible and in the public interest. These
384 processes shall outline eligible entities that may provide such
385 services, such as companies, nonprofit organizations, or other
386 similar groups and shall ensure the office determines metrics for
387 success, including deliverables as required by the office;



388 (g) To implement the career coaching program provided
389 for in Section 37-73-3;

390 (h) To provide career coaches with access to technology
391 to develop customized career pathways and connect students with
392 post-secondary and employment opportunities matching their skills
393 and interests; and

394 (i) To implement and oversee programs providing support
395 to community and junior colleges for training needs that may arise
396 when new businesses locate in Mississippi, to include providing
397 support to existing industries that may lose employees as a result
398 of the new business.

399 Through December 31, * * * 2026, the provisions of Section
400 27-104-7 related to rental agreements or leasing of real property
401 for the purpose of conducting agency business shall not apply to
402 the office.

403 (12) Nothing in Chapter 476, Laws of 2020 [Senate Bill No.
404 2564] shall void or otherwise interrupt any contract, lease, grant
405 or other agreement previously entered into by the State Workforce
406 Investment Board, Mississippi Community College Board, individual
407 community or junior colleges, or other entities.

408 (13) Any records of the office which contain client
409 information from the Mississippi Development Authority or local
410 economic development entities concerning development projects
411 shall be exempt from the provisions of the Mississippi Public
412 Records Act of 1983 for a period of two (2) years after receipt of



413 the information by the office. Confidential client information as
414 described in this section shall not include the information which
415 must be disclosed by the certified applicant related to a
416 qualified economic development project in the annual report
417 described in Section 57-1-759.

418 (14) Confidential client information in public records held
419 by the office shall be exempt from the provisions of the
420 Mississippi Public Records Act of 1983 during any period of review
421 and negotiation on a project proposal facilitated by the
422 Mississippi Development Authority or local economic development
423 entities and for a period of thirty (30) days after approval,
424 disapproval or abandonment of the proposal not to exceed one (1)
425 year.

426 **SECTION 2.** Section 27-104-7, Mississippi Code of 1972, is
427 amended as follows:

428 27-104-7. (1) (a) There is created the Public Procurement
429 Review Board, which shall be reconstituted on January 1, 2018, and
430 shall be composed of the following members:

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

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

435 (iii) The Executive Director of the Department of
436 Finance and Administration, serving as an ex officio and nonvoting
437 member.



438 (b) The initial terms of each appointee shall be as
439 follows:

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

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

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

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

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

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

454 (c) When appointing members to the Public Procurement
455 Review Board, the Governor and Lieutenant Governor shall take into
456 consideration persons who possess at least five (5) years of
457 management experience in general business, health care or finance
458 for an organization, corporation or other public or private
459 entity. Any person, or any employee or owner of a company, who
460 receives any grants, procurements or contracts that are subject to
461 approval under this section shall not be appointed to the Public
462 Procurement Review Board. Any person, or any employee or owner of



463 a company, who is a principal of the source providing a personal
464 or professional service shall not be appointed to the Public
465 Procurement Review Board if the principal owns or controls a
466 greater than five percent (5%) interest or has an ownership value
467 of One Million Dollars (\$1,000,000.00) in the source's business,
468 whichever is smaller. No member shall be an officer or employee
469 of the State of Mississippi while serving as a voting member on
470 the Public Procurement Review Board.

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

474 (e) The members of the Public Procurement Review Board
475 shall elect a chair from among the membership, and he or she shall
476 preside over the meetings of the board. The board shall annually
477 elect a vice chair, who shall serve in the absence of the chair.
478 No business shall be transacted, including adoption of rules of
479 procedure, without the presence of a quorum of the board. Three
480 (3) members shall be a quorum. No action shall be valid unless
481 approved by a majority of the members present and voting, entered
482 upon the minutes of the board and signed by the chair. Necessary
483 clerical and administrative support for the board shall be
484 provided by the Department of Finance and Administration. Minutes
485 shall be kept of the proceedings of each meeting, copies of which
486 shall be filed on a monthly basis with the chairs of the
487 Accountability, Efficiency and Transparency Committees of the



488 Senate and House of Representatives and the chairs of the
489 Appropriations Committees of the Senate and House of
490 Representatives.

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

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

497 (b) Adopt regulations governing the approval of
498 contracts let for the construction and maintenance of state
499 buildings and other state facilities as well as related contracts
500 for architectural and engineering services.

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

505 (c) Adopt regulations governing any lease or rental
506 agreement by any state agency or department, including any state
507 agency financed entirely by federal funds, for space outside the
508 buildings under the jurisdiction of the Department of Finance and
509 Administration. These regulations shall require each agency
510 requesting to lease such space to provide the following
511 information that shall be published by the Department of Finance
512 and Administration on its website: the agency to lease the space;



513 the terms of the lease; the approximate square feet to be leased;
514 the use for the space; a description of a suitable space; the
515 general location desired for the leased space; the contact
516 information for a person from the agency; the deadline date for
517 the agency to have received a lease proposal; any other specific
518 terms or conditions of the agency; and any other information
519 deemed appropriate by the Division of Real Property Management of
520 the Department of Finance and Administration or the Public
521 Procurement Review Board. The information shall be provided
522 sufficiently in advance of the time the space is needed to allow
523 the Division of Real Property Management of the Department of
524 Finance and Administration to review and preapprove the lease
525 before the time for advertisement begins;

526 (d) Adopt, in its discretion, regulations to set aside
527 at least five percent (5%) of anticipated annual expenditures for
528 the purchase of commodities from minority businesses; however, all
529 such set-aside purchases shall comply with all purchasing
530 regulations promulgated by the department and shall be subject to
531 all bid requirements. Set-aside purchases for which competitive
532 bids are required shall be made from the lowest and best minority
533 business bidder; however, if no minority bid is available or if
534 the minority bid is more than two percent (2%) higher than the
535 lowest bid, then bids shall be accepted and awarded to the lowest
536 and best bidder. However, the provisions in this paragraph shall
537 not be construed to prohibit the rejection of a bid when only one



538 (1) bid is received. Such rejection shall be placed in the
539 minutes. For the purposes of this paragraph, the term "minority
540 business" means a business which is owned by a person who is a
541 citizen or lawful permanent resident of the United States and who
542 is:

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

545 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,
546 Central or South American, or other Spanish or Portuguese culture
547 or origin regardless of race;

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

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

553 (v) Female;

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

560 (f) (i) Except as otherwise provided in subparagraph
561 (ii) of this paragraph, promulgate rules and regulations governing
562 the solicitation and selection of contractual services personnel,



563 including personal and professional services contracts for any
564 form of consulting, policy analysis, public relations, marketing,
565 public affairs, legislative advocacy services or any other
566 contract that the board deems appropriate for oversight, with the
567 exception of:

568 1. Any personal service contracts entered
569 into by any agency that employs only nonstate service employees as
570 defined in Section 25-9-107(c);

571 2. Any personal service contracts entered
572 into for computer or information technology-related services
573 governed by the Mississippi Department of Information Technology
574 Services;

575 3. Any personal service contracts entered
576 into by the individual state institutions of higher learning;

577 4. Any personal service contracts entered
578 into by the Mississippi Department of Transportation;

579 5. Any personal service contracts entered
580 into by the Department of Human Services through June 30, 2019,
581 which the Executive Director of the Department of Human Services
582 determines would be useful in establishing and operating the
583 Department of Child Protection Services;

584 6. Any personal service contracts entered
585 into by the Department of Child Protection Services through June
586 30, 2019;



587 7. Any contracts for entertainers and/or
588 performers at the Mississippi State Fairgrounds entered into by
589 the Mississippi Fair Commission;

590 8. Any contracts entered into by the
591 Department of Finance and Administration when procuring aircraft
592 maintenance, parts, equipment and/or services;

593 9. Any contract entered into by the
594 Department of Public Safety for service on specialized equipment
595 and/or software required for the operation of such specialized
596 equipment for use by the Office of Forensics Laboratories;

597 10. Any personal or professional service
598 contract entered into by the Mississippi Department of Health or
599 the Department of Revenue solely in connection with their
600 respective responsibilities under the Mississippi Medical Cannabis
601 Act from February 2, 2022, through June 30, 2026;

602 11. Any contract for attorney, accountant,
603 actuary auditor, architect, engineer, anatomical pathologist, or
604 utility rate expert services;

605 12. Any personal service contracts approved
606 by the Executive Director of the Department of Finance and
607 Administration and entered into by the Coordinator of Mental
608 Health Accessibility through June 30, 2022;

609 13. Any personal or professional services
610 contract entered into by the State Department of Health in
611 carrying out its responsibilities under the ARPA Rural Water



612 Associations Infrastructure Grant Program through June 30, 2026;
613 and

614 14. And any personal or professional services
615 contract entered into by the Mississippi Department of
616 Environmental Quality in carrying out its responsibilities under
617 the Mississippi Municipality and County Water Infrastructure Grant
618 Program Act of 2022, through June 30, 2026.

619 Any such rules and regulations shall provide for maintaining
620 continuous internal audit covering the activities of such agency
621 affecting its revenue and expenditures as required under Section
622 7-7-3(6) (d). Any rules and regulation changes related to personal
623 and professional services contracts that the Public Procurement
624 Review Board may propose shall be submitted to the Chairs of the
625 Accountability, Efficiency and Transparency Committees of the
626 Senate and House of Representatives and the Chairs of the
627 Appropriation Committees of the Senate and House of
628 Representatives at least fifteen (15) days before the board votes
629 on the proposed changes, and those rules and regulation changes,
630 if adopted, shall be promulgated in accordance with the
631 Mississippi Administrative Procedures Act.

632 (ii) From and after July 1, 2024, the Public
633 Procurement Review Board shall promulgate rules and regulations
634 that require the Department of Finance and Administration to
635 conduct personal and professional services solicitations as
636 provided in subparagraph (i) of this paragraph for those services



637 in excess of Seventy-five Thousand Dollars (\$75,000.00) for the
638 Department of Marine Resources, the Department of Wildlife,
639 Fisheries and Parks, the Mississippi Emergency Management Agency
640 and the Mississippi Development Authority, with assistance to be
641 provided from these entities. Any powers that have been conferred
642 upon agencies in order to comply with the provisions of this
643 section for personal and professional services solicitations shall
644 be conferred upon the Department of Finance and Administration to
645 conduct personal and professional services solicitations for the
646 Department of Marine Resources, the Department of Wildlife,
647 Fisheries and Parks, the Mississippi Emergency Management Agency
648 and the Mississippi Development Authority for those services in
649 excess of Seventy-five Thousand Dollars (\$75,000.00). The
650 Department of Finance and Administration shall make any
651 submissions that are required to be made by other agencies to the
652 Public Procurement Review Board for the Department of Marine
653 Resources, the Department of Wildlife, Fisheries and Parks, the
654 Mississippi Emergency Management Agency and the Mississippi
655 Development Authority.

656 The provisions of this subparagraph (ii) shall stand repealed
657 on June 30, 2027;

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



662 (h) Develop mandatory standards with respect to
663 contractual services personnel that require invitations for public
664 bid, requests for proposals, record keeping and financial
665 responsibility of contractors. The Public Procurement Review
666 Board shall, unless exempted under this paragraph (h) or under
667 paragraph (i) or (o) of this subsection (2), require the agency
668 involved to submit the procurement to a competitive procurement
669 process, and may reserve the right to reject any or all resulting
670 procurements;

671 (i) Prescribe certain circumstances by which agency
672 heads may enter into contracts for personal and professional
673 services without receiving prior approval from the Public
674 Procurement Review Board. The Public Procurement Review Board may
675 establish a preapproved list of providers of various personal and
676 professional services for set prices with which state agencies may
677 contract without bidding or prior approval from the board;

678 (i) Agency requirements may be fulfilled by
679 procuring services performed incident to the state's own programs.
680 The agency head shall determine in writing whether the price
681 represents a fair market value for the services. When the
682 procurements are made from other governmental entities, the
683 private sector need not be solicited; however, these contracts
684 shall still be submitted for approval to the Public Procurement
685 Review Board.



686 (ii) Contracts between two (2) state agencies,
687 both under Public Procurement Review Board purview, shall not
688 require Public Procurement Review Board approval. However, the
689 contracts shall still be entered into the enterprise resource
690 planning system;

691 (j) Provide standards for the issuance of requests for
692 proposals, the evaluation of proposals received, consideration of
693 costs and quality of services proposed, contract negotiations, the
694 administrative monitoring of contract performance by the agency
695 and successful steps in terminating a contract;

696 (k) Present recommendations for governmental
697 privatization and to evaluate privatization proposals submitted by
698 any state agency;

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

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

709 (n) Prepare an annual report to the Legislature
710 concerning the issuance of personal and professional services



711 contracts during the previous year, collecting any necessary
712 information from state agencies in making such report;

713 (o) Develop and implement the following standards and
714 procedures for the approval of any sole source contract for
715 personal and professional services regardless of the value of the
716 procurement:

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

720 (ii) An agency that has been issued a binding,
721 valid court order mandating that a particular source or provider
722 must be used for the required service must include a copy of the
723 applicable court order in all future sole source contract reviews
724 for the particular personal or professional service referenced in
725 the court order.

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

734 1. The personal or professional service
735 offered in the contract;



736 2. An explanation of why the personal or
737 professional service is the only one that can meet the needs of
738 the agency;

739 3. An explanation of why the source is the
740 only person or entity that can provide the required personal or
741 professional service;

742 4. An explanation of why the amount to be
743 expended for the personal or professional service is reasonable;
744 and

745 5. The efforts that the agency went through
746 to obtain the best possible price for the personal or professional
747 service.

748 (iv) If any person or entity objects and proposes
749 that the personal or professional service published under
750 subparagraph (iii) of this paragraph (o) is not a sole source
751 service and can be provided by another person or entity, then the
752 objecting person or entity shall notify the Public Procurement
753 Review Board and the agency that published the proposed sole
754 source contract with a detailed explanation of why the personal or
755 professional service is not a sole source service.

756 (v) 1. If the agency determines after review that
757 the personal or professional service in the proposed sole source
758 contract can be provided by another person or entity, then the
759 agency must withdraw the sole source contract publication from the
760 procurement portal website and submit the procurement of the



761 personal or professional service to an advertised competitive bid
762 or selection process.

763 2. If the agency determines after review that
764 there is only one (1) source for the required personal or
765 professional service, then the agency may appeal to the Public
766 Procurement Review Board. The agency has the burden of proving
767 that the personal or professional service is only provided by one
768 (1) source.

769 3. If the Public Procurement Review Board has
770 any reasonable doubt as to whether the personal or professional
771 service can only be provided by one (1) source, then the agency
772 must submit the procurement of the personal or professional
773 service to an advertised competitive bid or selection process. No
774 action taken by the Public Procurement Review Board in this appeal
775 process shall be valid unless approved by a majority of the
776 members of the Public Procurement Review Board present and voting.

777 (vi) The Public Procurement Review Board shall
778 prepare and submit a quarterly report to the House of
779 Representatives and Senate Accountability, Efficiency and
780 Transparency Committees that details the sole source contracts
781 presented to the Public Procurement Review Board and the reasons
782 that the Public Procurement Review Board approved or rejected each
783 contract. These quarterly reports shall also include the
784 documentation and memoranda required in subsection (4) of this
785 section. An agency that submitted a sole source contract shall be



786 prepared to explain the sole source contract to each committee by
787 December 15 of each year upon request by the committee;

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

790 (3) All submissions shall be made sufficiently in advance of
791 each monthly meeting of the Public Procurement Review Board as
792 prescribed by the Public Procurement Review Board. If the Public
793 Procurement Review Board rejects any contract submitted for review
794 or approval, the Public Procurement Review Board shall clearly set
795 out the reasons for its action, including, but not limited to, the
796 policy that the agency has violated in its submitted contract and
797 any corrective actions that the agency may take to amend the
798 contract to comply with the rules and regulations of the Public
799 Procurement Review Board.

800 (4) All sole source contracts for personal and professional
801 services awarded by state agencies, other than those exempted
802 under Section 27-104-7(2)(f) and (8), whether approved by an
803 agency head or the Public Procurement Review Board, shall contain
804 in the procurement file a written determination for the approval,
805 using a request form furnished by the Public Procurement Review
806 Board. The written determination shall document the basis for the
807 determination, including any market analysis conducted in order to
808 ensure that the service required was practicably available from
809 only one (1) source. A memorandum shall accompany the request
810 form and address the following four (4) points:



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

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

815 (c) Explanation of why the price is considered
816 reasonable; and

817 (d) Description of the efforts that were made to
818 conduct a noncompetitive negotiation to get the best possible
819 price for the taxpayers.

820 (5) In conjunction with the State Personnel Board, the
821 Public Procurement Review Board shall develop and promulgate rules
822 and regulations to define the allowable legal relationship between
823 contract employees and the contracting departments, agencies and
824 institutions of state government under the jurisdiction of the
825 State Personnel Board, in compliance with the applicable rules and
826 regulations of the federal Internal Revenue Service (IRS) for
827 federal employment tax purposes. Under these regulations, the
828 usual common law rules are applicable to determine and require
829 that such worker is an independent contractor and not an employee,
830 requiring evidence of lawful behavioral control, lawful financial
831 control and lawful relationship of the parties. Any state
832 department, agency or institution shall only be authorized to
833 contract for personnel services in compliance with those
834 regulations.



835 (6) No member of the Public Procurement Review Board shall
836 use his or her official authority or influence to coerce, by
837 threat of discharge from employment, or otherwise, the purchase of
838 commodities, the contracting for personal or professional
839 services, or the contracting for public construction under this
840 chapter.

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

844 (8) Nothing in this section shall impair or limit the
845 authority of the Board of Trustees of the Public Employees'
846 Retirement System to enter into any personal or professional
847 services contracts directly related to their constitutional
848 obligation to manage the trust funds, including, but not limited
849 to, actuarial, custodial banks, cash management, investment
850 consultant and investment management contracts. Nothing in this
851 section shall impair or limit the authority of the State Treasurer
852 to enter into any personal or professional services contracts
853 involving the management of trust funds, including, but not
854 limited to, actuarial, custodial banks, cash management,
855 investment consultant and investment management contracts.

856 (9) Through December 31, * * * 2026, the provisions of this
857 section related to rental agreements or leasing of real property
858 for the purpose of conducting agency business shall not apply to
859 the Office of Workforce Development created in Section 37-153-7.



860 **SECTION 3.** This act shall take effect and be in force from
861 and after July 1, 2024.

