

## House Amendments to Senate Bill No. 2486

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

12           **SECTION 1.** Section 31-7-417, Mississippi Code of 1972, is  
13 amended as follows:

14           31-7-417. \* \* \* Submitted proposals or qualifications shall  
15 be opened at the time designated for opening in the request for  
16 proposals or request for qualifications. Proposals or  
17 qualifications and modifications shall be date-stamped or time and  
18 date-stamped upon receipt and held in a secure place until the  
19 established due date. Electronic proposals or qualifications  
20 received will be stored in an electronic lockbox until the time  
21 designated for the opening of the proposal or qualification.

22           \* \* \*

23           **SECTION 2.** Section 25-61-5, Mississippi Code of 1972, is  
24 amended as follows:

25           25-61-5. (1) (a) Except as otherwise provided by Sections  
26 25-61-9, 25-61-11, 25-61-11.2 and 37-153-7, all public records are  
27 hereby declared to be public property, and any person shall have  
28 the right to inspect, copy or mechanically reproduce or obtain a

29 reproduction of any public record of a public body in accordance  
30 with reasonable written procedures adopted by the public body  
31 concerning the cost, time, place and method of access, and public  
32 notice of the procedures shall be given by the public body, or, if  
33 a public body has not adopted written procedures, the right to  
34 inspect, copy or mechanically reproduce or obtain a reproduction  
35 of a public record of the public body shall be provided within one  
36 (1) working day after a written request for a public record is  
37 made. No public body shall adopt procedures which will authorize  
38 the public body to produce or deny production of a public record  
39 later than seven (7) working days from the date of the receipt of  
40 the request for the production of the record.

41 (b) If a public body is unable to produce a public  
42 record by the seventh working day after the request is made, the  
43 public body must provide a written explanation to the person  
44 making the request stating that the record requested will be  
45 produced and specifying with particularity why the records cannot  
46 be produced within the seven-day period. Unless there is mutual  
47 agreement of the parties, \* \* \* in no event shall the date for the  
48 public body's production of the requested records be any later  
49 than fourteen (14) working days from the receipt by the public  
50 body of the original request. \* \* \*

51 (2) If any public record contains material which is not  
52 exempted under this chapter, the public agency shall redact the  
53 exempted material and make the nonexempted material available for  
54 examination. Such public agency shall be entitled to charge a

55 reasonable fee for the redaction of any exempted material, not to  
56 exceed the agency's actual cost.

57 (3) Denial by a public body of a request for access to or  
58 copies of public records under this chapter shall be in writing  
59 and shall contain a statement of the specific exemption relied  
60 upon by the public body for the denial. Each public body shall  
61 maintain a file of all denials of requests for public records.  
62 Public bodies shall be required to preserve such denials on file  
63 for not less than three (3) years from the date such denials are  
64 made. This file shall be made available for inspection or  
65 copying, or both, during regular office hours to any person upon  
66 written request.

67 (4) Where any public body is preparing or conducting a  
68 competitive procurement, the time limitations contained in this  
69 section shall be tolled until the public body determines it will  
70 not issue the procurement, cancels the procurement or issues a  
71 notice naming its intended awardee. Record production under this  
72 chapter shall not delay any aspect of the procurement process  
73 unless the public body conducting the procurement specifically  
74 determines that it is in the best interest of the state to toll  
75 the procurement process until such time as the record production  
76 is complete.

77 ( \* \* \*5) This section shall stand repealed on July 1, \* \* \*  
78 2027.

79 **SECTION 3.** Section 25-61-9, Mississippi Code of 1972, is  
80 brought forward as follows:

81           25-61-9. (1) (a) Records furnished to public bodies by  
82 third parties which contain trade secrets or confidential  
83 commercial or financial information shall not be subject to  
84 inspection, examination, copying or reproduction under this  
85 chapter until notice to third parties has been given, but the  
86 records shall be released no later than twenty-one (21) days from  
87 the date the third parties are given notice by the public body  
88 unless the third parties have filed in chancery court a petition  
89 seeking a protective order on or before the expiration of the  
90 twenty-one-day time period. Any party seeking the protective  
91 order shall give notice to the party requesting the information in  
92 accordance with the Mississippi Rules of Civil Procedure.

93           (b) If a court determines that a person or entity has  
94 made duplicative requests for public records that are the subject  
95 of a protective order under paragraph (a) of this subsection, the  
96 court shall order the requesting person or entity to reimburse the  
97 third party's costs and attorney's fees for seeking additional  
98 protective orders for the same or substantially similar requests  
99 for public records.

100           (2) If any public record which is held to be exempt from  
101 disclosure pursuant to this chapter contains material which is not  
102 exempt pursuant to this chapter, the public body shall separate  
103 the exempt material and make the nonexempt material available for  
104 examination or copying, or both, as provided for in this chapter.

105           (3) Trade secrets and confidential commercial and financial  
106 information of a proprietary nature developed by a college,

107 university or public hospital under contract with a firm,  
108 business, partnership, association, corporation, individual or  
109 other like entity shall not be subject to inspection, examination,  
110 copying or reproduction under this chapter.

111 (4) Misappropriation of a trade secret shall be governed by  
112 the provisions of the Mississippi Uniform Trade Secrets Act,  
113 Sections 75-26-1 through 75-26-19.

114 (5) A waste minimization plan and any updates developed by  
115 generators and facility operators under the Mississippi  
116 Comprehensive Multimedia Waste Minimization Act of 1990 shall be  
117 retained at the facility and shall not be subject to inspection,  
118 examination, copying or reproduction under this chapter.

119 (6) Data processing software obtained by an agency under a  
120 licensing agreement that prohibits its disclosure and which  
121 software is a trade secret, as defined in Section 75-26-3, and  
122 data processing software produced by a public body which is  
123 sensitive must not be subject to inspection, copying or  
124 reproduction under this chapter.

125 As used in this subsection, "sensitive" means only those  
126 portions of data processing software, including the specifications  
127 and documentation, used to:

128 (a) Collect, process, store, and retrieve information  
129 which is exempt under this chapter.

130 (b) Control and direct access authorizations and  
131 security measures for automated systems.

132 (c) Collect, process, store, and retrieve information,  
133 disclosure of which would require a significant intrusion into the  
134 business of the public body.

135 (7) For all procurement contracts awarded by state agencies,  
136 the provisions of the contract which contain the commodities  
137 purchased or the personal or professional services provided, the  
138 unit prices contained within the procurement contracts, the  
139 overall price to be paid, and the term of the contract shall not  
140 be deemed to be a trade secret or confidential commercial or  
141 financial information under this section, and shall be available  
142 for examination, copying or reproduction as provided for in this  
143 chapter. Any party seeking a protective order for a procurement  
144 contract awarded by state agencies shall give notice to and  
145 provide the reasons for the protective order to the party  
146 requesting the information in accordance with the Mississippi  
147 Rules of Civil Procedure. The notice and reasons for the  
148 protective order must be posted on the Mississippi procurement  
149 portal for a minimum of seven (7) days before filing the petition  
150 seeking the protective order in chancery court. Any party seeking  
151 a protective order in violation of this subsection may be barred  
152 by a state agency from submitting bids, proposals or  
153 qualifications for procurement for a period not to exceed five (5)  
154 years.

155 **SECTION 4.** This act shall take effect and be in force from  
156 and after July 1, 2024, and shall stand repealed on June 30, 2024.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1           AN ACT TO AMEND SECTION 31-7-417, MISSISSIPPI CODE OF 1972,  
2 TO SIMPLIFY THE RECEIPT AND REGISTRATION PROCESS FOR PROPOSALS AND  
3 REQUESTS FOR QUALIFICATIONS; TO AMEND SECTION 25-61-5, MISSISSIPPI  
4 CODE OF 1972, TO PROVIDE THAT WHERE ANY PUBLIC BODY IS PREPARING  
5 OR CONDUCTING A COMPETITIVE PROCUREMENT, THE TIME LIMITATIONS FOR  
6 PRODUCTION SHALL BE TOLLED UNTIL THE PUBLIC BODY DETERMINES IT  
7 WILL NOT ISSUE THE PROCUREMENT, CANCELS THE PROCUREMENT OR ISSUES  
8 A NOTICE NAMING ITS INTENDED AWARDEE; TO BRING FORWARD SECTION  
9 25-61-9, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE  
10 AMENDMENT; AND FOR RELATED PURPOSES.

HR26\SB2486A.1J

Andrew Ketchings  
Clerk of the House of Representatives