

By: Representative Horne

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 652

1 AN ACT TO CODIFY NEW SECTION 5-8-27, MISSISSIPPI CODE OF
2 1972, TO PROHIBIT STATE AGENCIES AND COMMUNITY AND JUNIOR COLLEGES
3 FROM EXPENDING PUBLIC FUNDS TO PAY CONTRACT LOBBYISTS; TO AMEND
4 SECTION 5-8-3, MISSISSIPPI CODE OF 1972, TO DEFINE ADDITIONAL
5 TERMS USED UNDER THE LOBBYING LAW REFORM ACT OF 1994; TO AMEND
6 SECTION 27-104-7, MISSISSIPPI CODE OF 1972, TO DELETE CONTRACTS
7 FOR LEGISLATIVE ADVOCACY SERVICES FROM THE VARIOUS TYPES OF
8 CONTRACTS SUBJECT TO OVERSIGHT BY THE PUBLIC PROCUREMENT REVIEW
9 BOARD; TO BRING FORWARD SECTION 5-8-7, MISSISSIPPI CODE OF 1972,
10 WHICH EXEMPTS CERTAIN PERSONS FROM THE LOBBYING LAWS, FOR THE
11 PURPOSE OF POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 5-8-13,
12 MISSISSIPPI CODE OF 1972, WHICH PROHIBITS LOBBYISTS AND LOBBYISTS'
13 CLIENTS FROM PARTICIPATING IN CERTAIN ACTS, FOR PURPOSES OF
14 POSSIBLE AMENDMENT; TO BRING FORWARD SECTION 37-101-15,
15 MISSISSIPPI CODE OF 1972, WHICH PROHIBITS EMPLOYEES OR AGENTS
16 REPRESENTING THE SEPARATE STATE INSTITUTIONS OF HIGHER LEARNING
17 FROM APPEARING BEFORE THE LEGISLATURE EXCEPT UPON ORDER OF THE
18 BOARD OF TRUSTEES OF STATE INSTITUTIONS OF HIGHER LEARNING OR UPON
19 THE REQUEST OF THE LEGISLATURE, FOR PURPOSES OF POSSIBLE
20 AMENDMENT; AND FOR RELATED PURPOSES.

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

22 **SECTION 1.** The following shall be codified as Section
23 5-8-27, Mississippi Code of 1972:

24 5-8-27. (1) A state agency may not expend any public funds
25 to pay any person to perform contract lobbying on behalf of the
26 state agency. Any contract entered into between a state agency
27 and a person for contract lobbying services on behalf of the state



28 agency that requires the state agency to expend public funds is
29 void and unenforceable.

30 (2) A community or junior college may not expend any public
31 funds to pay any person to perform contract lobbying on behalf of
32 the community or junior college. Any contract entered into
33 between a community or junior college and a person for contract
34 lobbying services on behalf of the community or junior college
35 that requires the community or junior college to expend public
36 funds is void and unenforceable.

37 (3) A public employee of a state agency or community or
38 junior college who authorizes the expenditure of public funds to
39 pay a person to engage in contract lobbying on behalf of the state
40 agency or community or junior college shall be subject to
41 termination.

42 (4) The prohibitions of this section do not apply to any
43 public employee of a state agency or community or junior college
44 who, as a part of the employee's employment, is authorized or
45 directed by the employee's supervisor or governing board to engage
46 in lobbying the Legislature, other state agencies or local
47 entities of government. However, this subsection may not be
48 construed as absolving any public employee of a state agency or
49 community or junior college from complying with the reporting and
50 disclosure requirements of this chapter.

51 **SECTION 2.** Section 5-8-3, Mississippi Code of 1972, is
52 amended as follows:



53 5-8-3. The following words and phrases shall have the
54 meanings ascribed herein unless the context clearly indicates
55 otherwise:

56 (a) (i) "Anything of value" means:

57 1. A pecuniary item, including money, or a
58 bank bill or note;

59 2. A promissory note, bill of exchange,
60 order, draft, warrant, check or bond given for the payment of
61 money;

62 3. A contract, agreement, promise or other
63 obligation for an advance, conveyance, forgiveness of
64 indebtedness, deposit, distribution, loan, payment, gift, pledge
65 or transfer of money;

66 4. A stock, bond, note or other investment
67 interest in an entity;

68 5. A receipt given for the payment of money
69 or other property;

70 6. A right in action;

71 7. A gift, tangible good, chattel or an
72 interest in a gift, tangible good or chattel;

73 8. A loan or forgiveness of indebtedness;

74 9. A work of art, antique or collectible;

75 10. An automobile or other means of personal
76 transportation;



77 11. Real property or an interest in real
78 property, including title to realty, a fee simple or partial
79 interest, present or future, contingent or vested within realty, a
80 leasehold interest, or other beneficial interest in realty;

81 12. An honorarium or compensation for
82 services;

83 13. A rebate or discount in the price of
84 anything of value, unless the rebate or discount is made in the
85 ordinary course of business to a member of the public without
86 regard to that person's status as an executive, legislative or
87 public official or public employee, or the sale or trade of
88 something for reasonable compensation that would ordinarily not be
89 available to a member of the public;

90 14. A promise or offer of employment;

91 15. Any other thing of value that is
92 pecuniary or compensatory in value to a person, except as
93 otherwise provided in subparagraph (ii) of this paragraph; or

94 16. A payment that directly benefits an
95 executive, legislative or public official or public employee or a
96 member of that person's immediate family.

97 (ii) "Anything of value" does not mean:

98 1. Informational material such as books,
99 reports, pamphlets, calendars or periodicals informing an
100 executive, legislative or public official or public employee of
101 her or his official duties;



2. A certificate, plaque or other commemorative item which has little pecuniary value;

3. Food and beverages for immediate consumption provided by a lobbyist up to a value of Ten Dollars (\$10.00) in the aggregate during any calendar year;

4. Campaign contributions reported in accordance with Section 23-15-801 et seq., Mississippi Code of 1972.

(b) "Commission" means the Mississippi Ethics Commission, when used in the context of Section 5-8-19.

(c) "Compensation" means:

(i) An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, including reimbursement of travel, food or lodging costs; or

(ii) A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, including reimbursement of travel, food or lodging costs, for services rendered or to be rendered.

(d) "Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a state or local governmental entity of a rule, regulation, order,



127 decision, determination or other quasi-legislative action or
128 proceeding.

129 (e) "Executive agency" means:

130 (i) An agency, board, commission, governing
131 authority or other body in the executive branch of state or local
132 government; or

133 (ii) An independent body of state or local
134 government that is not a part of the legislative or judicial
135 branch, but which shall include county boards of supervisors.

136 (f) "Executive official" means:

137 (i) A member or employee of a state agency, board,
138 commission, governing authority or other body in the executive
139 branch of state or local government; or

140 (ii) A public official or public employee, or any
141 employee of such person, of state or local government who takes an
142 executive action.

143 (g) "Expenditure" means:

144 (i) A purchase, payment, distribution, loan,
145 forgiveness of a loan or payment of a loan by a third party,
146 advance, deposit, transfer of funds, a promise to make a payment,
147 or a gift of money or anything of value for any purpose;

148 (ii) A payment to a lobbyist for salary, fee,
149 commission, compensation for expenses, or other purpose by a
150 person employing, retaining or contracting for the services of the
151 lobbyist separately or jointly with other persons;



(iii) A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

(iv) A payment that directly benefits an executive, legislative or public official or a member of the official's immediate family;

(v) A payment, including compensation, payment or reimbursement for the services, time or expenses of an employee for or in connection with direct communication with an executive, legislative or public official made at the direction of the employee's employer;

(vi) A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive, legislative or public official; or

(vii) A payment or reimbursement for food, beverages, travel, lodging, entertainment or sporting activities.

(h) "Gift" means anything of value to the extent that consideration of equal or greater value is not received, including a rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive, legislative or public official.

(i) "Legislative action" means:



(i) Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat or rejection of a bill, resolution, amendment, motion, report, nomination, appointment or other matter by the Mississippi State Legislature or a member or employee of the Legislature acting or purporting to act in an official capacity;

(ii) Action by the Governor in approving or vetoing a bill or other action of the Legislature;

(iii) Action by the Legislature in:

1. Overriding or sustaining a veto by the Governor; or

2. Considering, confirming or rejecting an executive appointment of the Governor.

(j) "Legislative official" means:

(i) A member, member-elect or presiding officer of the Legislature;

(ii) A member of a commission or other entity established by and responsible to either or both houses of the Legislature;

(iii) A staff member, officer or employee to a member or member-elect of the Legislature, to a member of a commission or other entity established by and responsible to either or both houses of the Legislature, or to the Legislature or any house, committee or office thereof.



202 (k) "Lobbying" means:

203 (i) Influencing or attempting to influence

204 legislative or executive action through oral or written

205 communication; or

206 (ii) Solicitation of others to influence

207 legislative or executive action; or

208 (iii) Paying or promising to pay anything of value

209 directly or indirectly related to legislative or executive action.

210 (l) "Lobbyist" means:

211 (i) An individual who is employed and receives

212 payments, or who contracts for economic consideration, including

213 reimbursement for reasonable travel and living expenses, for the

214 purpose of lobbying;

215 (ii) An individual who represents a legislative or

216 public official or public employee, or who represents a person,

217 organization, association or other group, for the purpose of

218 lobbying;

219 (iii) A sole proprietor, owner, part owner or

220 shareholder in a business who has a pecuniary interest in

221 legislative or executive action, who engages in lobbying

222 activities; or

223 (iv) Any individual described in subparagraphs

224 (i), (ii) or (iii) of this paragraph (l) who is employed by or has

225 contracted with any agency, legislative or public official or

226 public employee, or any other public entity for the purpose of



227 providing any type of consulting or other similar service but also
228 engages in any type of lobbying activities. Such individual shall
229 not qualify for any exemption under Section 5-8-7.

230 (m) "Lobbyist's client" means the person in whose
231 behalf the lobbyist influences or attempts to influence
232 legislative or executive action.

233 (n) "Local" means all entities of government at the
234 county, county-district, multicounty district, municipal or school
235 district level.

236 (o) "Person" means an individual, proprietorship, firm,
237 partnership, joint venture, joint-stock company, syndicate,
238 business trust, estate, company, corporation, association, club,
239 committee, organization or group of persons acting in concert.

240 (p) "Public employee" means an individual appointed to
241 a position, including a position created by statute, whether
242 compensated or not, in state or local government and includes any
243 employee of the public employee. The term includes a member of
244 the board of trustees, chancellor, vice chancellor or the
245 equivalent thereof in the state university system or the state
246 community and junior college system, and a president of a state
247 college or university.

248 (q) "Public official" means an individual elected to a
249 state or local office, or an individual who is appointed to fill a
250 vacancy in the office.



(r) "Value" means the retail cost or fair market worth of an item or items, whichever is greater.

(s) "State agency" means any state board, commission, department, authority, committee, council or agency created by the Mississippi Constitution of 1890 or statute. The term "state agency" includes the Board of Trustees of State Institutions of Higher Learning and the individual state institutions of higher learning.

(t) "Community or junior college" means a community or junior college district and its local board of trustees established under Chapter 29, Title 37, Mississippi Code of 1972.

(u) "Public funds" means all funds appropriated by the Legislature and all other fees, local levies or other revenues generated by a state agency or community or junior college that are available for expenditure by the state agency or community or junior college.

(v) "Contract lobbying" means any lobbying performed by an independent contractor or a contract worker of a state agency or community or junior college.

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

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



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

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

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

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

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

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

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

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

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

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

(c) When appointing members to the Public Procurement Review Board, the Governor and Lieutenant Governor shall take into



300 consideration persons who possess at least five (5) years of
301 management experience in general business, health care or finance
302 for an organization, corporation or other public or private
303 entity. Any person, or any employee or owner of a company, who
304 receives any grants, procurements or contracts that are subject to
305 approval under this section shall not be appointed to the Public
306 Procurement Review Board. Any person, or any employee or owner of
307 a company, who is a principal of the source providing a personal
308 or professional service shall not be appointed to the Public
309 Procurement Review Board if the principal owns or controls a
310 greater than five percent (5%) interest or has an ownership value
311 of One Million Dollars (\$1,000,000.00) in the source's business,
312 whichever is smaller. No member shall be an officer or employee
313 of the State of Mississippi while serving as a voting member on
314 the Public Procurement Review Board.

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

318 (e) The members of the Public Procurement Review Board
319 shall elect a chair from among the membership, and he or she shall
320 preside over the meetings of the board. The board shall annually
321 elect a vice chair, who shall serve in the absence of the chair.
322 No business shall be transacted, including adoption of rules of
323 procedure, without the presence of a quorum of the board. Three
324 (3) members shall be a quorum. No action shall be valid unless



approved by a majority of the members present and voting, entered upon the minutes of the board and signed by the chair. Necessary clerical and administrative support for the board shall be provided by the Department of Finance and Administration. Minutes shall be kept of the proceedings of each meeting, copies of which shall be filed on a monthly basis with the chairs of the Accountability, Efficiency and Transparency Committees of the Senate and House of Representatives and the chairs of the Appropriations Committees of the Senate and House of Representatives.

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

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

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

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



349 (c) Adopt regulations governing any lease or rental
350 agreement by any state agency or department, including any state
351 agency financed entirely by federal funds, for space outside the
352 buildings under the jurisdiction of the Department of Finance and
353 Administration. These regulations shall require each agency
354 requesting to lease such space to provide the following
355 information that shall be published by the Department of Finance
356 and Administration on its website: the agency to lease the space;
357 the terms of the lease; the approximate square feet to be leased;
358 the use for the space; a description of a suitable space; the
359 general location desired for the leased space; the contact
360 information for a person from the agency; the deadline date for
361 the agency to have received a lease proposal; any other specific
362 terms or conditions of the agency; and any other information
363 deemed appropriate by the Division of Real Property Management of
364 the Department of Finance and Administration or the Public
365 Procurement Review Board. The information shall be provided
366 sufficiently in advance of the time the space is needed to allow
367 the Division of Real Property Management of the Department of
368 Finance and Administration to review and preapprove the lease
369 before the time for advertisement begins;

370 (d) Adopt, in its discretion, regulations to set aside
371 at least five percent (5%) of anticipated annual expenditures for
372 the purchase of commodities from minority businesses; however, all
373 such set-aside purchases shall comply with all purchasing



regulations promulgated by the department and shall be subject to all bid requirements. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder; however, if no minority bid is available or if the minority bid is more than two percent (2%) higher than the lowest bid, then bids shall be accepted and awarded to the lowest and best bidder. However, the provisions in this paragraph shall not be construed to prohibit the rejection of a bid when only one (1) bid is received. Such rejection shall be placed in the minutes. For the purposes of this paragraph, the term "minority business" means a business which is owned by a person who is a citizen or lawful permanent resident of the United States and who is:

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

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

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

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

(v) Female;



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

404 (f) (i) Except as otherwise provided in subparagraph
405 (ii) of this paragraph, promulgate rules and regulations governing
406 the solicitation and selection of contractual services personnel,
407 including personal and professional services contracts for any
408 form of consulting, policy analysis, public relations, marketing,
409 public affairs, * * * or any other contract that the board deems
410 appropriate for oversight, with the exception of:

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

414 2. Any personal service contracts entered
415 into for computer or information technology-related services
416 governed by the Mississippi Department of Information Technology
417 Services;

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

420 4. Any personal service contracts entered
421 into by the Mississippi Department of Transportation;



422 5. Any personal service contracts entered
423 into by the Department of Human Services through June 30, 2019,
424 which the Executive Director of the Department of Human Services
425 determines would be useful in establishing and operating the
426 Department of Child Protection Services;

427 6. Any personal service contracts entered
428 into by the Department of Child Protection Services through June
429 30, 2019;

430 7. Any contracts for entertainers and/or
431 performers at the Mississippi State Fairgrounds entered into by
432 the Mississippi Fair Commission;

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

436 9. Any contract entered into by the
437 Department of Public Safety for service on specialized equipment
438 and/or software required for the operation of such specialized
439 equipment for use by the Office of Forensics Laboratories;

440 10. Any personal or professional service
441 contract entered into by the Mississippi Department of Health or
442 the Department of Revenue solely in connection with their
443 respective responsibilities under the Mississippi Medical Cannabis
444 Act from February 2, 2022, through June 30, 2026;



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

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

13. Any personal or professional services contract entered into by the State Department of Health in carrying out its responsibilities under the ARPA Rural Water Associations Infrastructure Grant Program through June 30, 2026;

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

15. Any personal or professional services contract entered into by an agency for the design, operation or maintenance of museum exhibits. An agency making a purchase under this exemption shall publicly advertise a Request for Qualifications but shall be otherwise exempt. Any contracts arising from the use of this exemption must be approved by the Public Procurement Review Board prior to execution by the agency; and



16. Any personal or professional services contract entered into by the Mississippi Department of Environmental Quality in carrying out its responsibilities under Section 49-2-13(1). This item * * * 16 shall stand repealed on July 1, 2028.

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

(ii) From and after July 1, 2024, the Public Procurement Review Board shall promulgate rules and regulations that require the Department of Finance and Administration to conduct personal and professional services solicitations as provided in subparagraph (i) of this paragraph for those services in excess of Seventy-five Thousand Dollars (\$75,000.00) for the Department of Marine Resources, the Department of Wildlife,



Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority, with assistance to be provided from these entities. Any powers that have been conferred upon agencies in order to comply with the provisions of this section for personal and professional services solicitations shall be conferred upon the Department of Finance and Administration to conduct personal and professional services solicitations for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority for those services in excess of Seventy-five Thousand Dollars (\$75,000.00). The Department of Finance and Administration shall make any submissions that are required to be made by other agencies to the Public Procurement Review Board for the Department of Marine Resources, the Department of Wildlife, Fisheries and Parks, the Mississippi Emergency Management Agency and the Mississippi Development Authority.

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

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

(h) Develop mandatory standards with respect to contractual services personnel that require invitations for public



bid, requests for proposals, record keeping and financial responsibility of contractors. The Public Procurement Review Board shall, unless exempted under this paragraph (h) or under paragraph (i) or (o) of this subsection (2), require the agency involved to submit the procurement to a competitive procurement process, and may reserve the right to reject any or all resulting procurements;

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

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

(ii) Contracts between two (2) state agencies, both under Public Procurement Review Board purview, shall not require Public Procurement Review Board approval. However, the



contracts shall still be entered into the enterprise resource planning system;

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

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

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

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

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



568 (o) Develop and implement the following standards and
569 procedures for the approval of any sole source contract for
570 personal and professional services regardless of the value of the
571 procurement:

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

575 (ii) An agency that has been issued a binding,
576 valid court order mandating that a particular source or provider
577 must be used for the required service must include a copy of the
578 applicable court order in all future sole source contract reviews
579 for the particular personal or professional service referenced in
580 the court order.

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

589 1. The personal or professional service
590 offered in the contract;



591 2. An explanation of why the personal or
592 professional service is the only one that can meet the needs of
593 the agency;

594 3. An explanation of why the source is the
595 only person or entity that can provide the required personal or
596 professional service;

597 4. An explanation of why the amount to be
598 expended for the personal or professional service is reasonable;
599 and

600 5. The efforts that the agency went through
601 to obtain the best possible price for the personal or professional
602 service.

603 (iv) If any person or entity objects and proposes
604 that the personal or professional service published under
605 subparagraph (iii) of this paragraph (o) is not a sole source
606 service and can be provided by another person or entity, then the
607 objecting person or entity shall notify the Public Procurement
608 Review Board and the agency that published the proposed sole
609 source contract with a detailed explanation of why the personal or
610 professional service is not a sole source service.

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



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

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

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

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



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

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

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

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



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

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

670 (c) Explanation of why the price is considered
671 reasonable; and

672 (d) Description of the efforts that were made to
673 conduct a noncompetitive negotiation to get the best possible
674 price for the taxpayers.

675 (5) In conjunction with the State Personnel Board, the
676 Public Procurement Review Board shall develop and promulgate rules
677 and regulations to define the allowable legal relationship between
678 contract employees and the contracting departments, agencies and
679 institutions of state government under the jurisdiction of the
680 State Personnel Board, in compliance with the applicable rules and
681 regulations of the federal Internal Revenue Service (IRS) for
682 federal employment tax purposes. Under these regulations, the
683 usual common law rules are applicable to determine and require
684 that such worker is an independent contractor and not an employee,
685 requiring evidence of lawful behavioral control, lawful financial
686 control and lawful relationship of the parties. Any state
687 department, agency or institution shall only be authorized to
688 contract for personnel services in compliance with those
689 regulations.



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

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

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

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



715 **SECTION 4.** Section 5-8-7, Mississippi Code of 1972, is
716 brought forward as follows:

717 5-8-7. Notwithstanding any other provisions of this chapter,
718 except as otherwise provided in Section 5-8-3(1)(iv), the
719 following person shall not be included within the definition of
720 "lobbyist" or "lobbyist's client" under this chapter, and
721 accordingly the registration and reporting provisions, including
722 the payment of related fees, of this chapter do not apply to:

723 (a) A legislative or public official acting in an
724 official capacity.

725 (b) An individual who:

726 (i) Represents or purports to represent only the
727 individual;

728 (ii) Receives no compensation or anything of value
729 for lobbying; and

730 (iii) Has no pecuniary interest in the legislative
731 or executive action.

732 (c) An individual lobbying in his or her own interest,
733 his or her own business interest, who pays, or promises to pay,
734 offers to pay or causes to be paid to public officials,
735 legislative officials or public employees any thing or things of
736 value aggregating in value to less than Two Hundred Dollars
737 (\$200.00) in any calendar year.

738 (d) An individual lobbying on behalf of his or her
739 employer's business interest where such lobbying is not a primary



740 or regular function of his employment position if such individual
741 pays, promises to pay, offers to pay, or causes to be paid
742 individually or on the employer's behalf to public officials,
743 legislative officials, or public employees any thing or things of
744 value aggregating in value to less than Two Hundred Dollars
745 (\$200.00) in any calendar year.

746 (e) An individual lobbying on behalf of an association
747 of which he or she is a member, where such lobbying is not a
748 primary or regular function of his or her position in the
749 association, if such individual pays, promises to pay, offers to
750 pay, or causes to be paid individually or on the association's
751 behalf to public officials, legislative officials or public
752 employees any thing or things of value aggregating in value to
753 less than Two Hundred Dollars (\$200.00) in any calendar year.

754 (f) An individual who is a shareholder, owner or part
755 owner of a business who lobbies on behalf of such business, where
756 such individual is not an employee of the business, if such
757 individual pays, promises to pay, offers to pay, or causes to be
758 paid individually or on behalf of the business to public
759 officials, legislative officials or public employees any thing or
760 things of value aggregating in value to less than Two Hundred
761 Dollars (\$200.00) in any calendar year.

762 (g) An individual who:



(i) Limits lobbying solely to formal testimony before a public meeting of a legislative body or an executive agency, or a committee, division or department thereof; and

(ii) Registers the appearance in the records of the public body, if such records are kept.

(h) An individual who is a licensed attorney representing a client by:

(i) Drafting bills, preparing arguments thereon, and advising the client or rendering opinions as to the construction and effect of proposed or pending legislation, where such services are usual and customary professional legal services which are not otherwise connected with legislative action; or

(ii) Providing information, on behalf of the client, to an executive or public official, a public employee, or an agency, board, commission, governing authority or other body of state or local government where such services are usual and customary professional legal services including or related to a particular nonlegislative matter, case or controversy.

(i) News media and employees of the news media whose activity is limited solely to the publication or broadcast of news, editorial comments, or paid advertisements that attempt to influence legislative or executive action. For the purposes of this section, "news media" shall be construed to be bona fide radio and television stations, newspapers, journals or magazines, or bona fide news bureaus or associations which in turn furnish



information solely to bona fide radio or television stations,
newspapers, journals or magazines.

(j) An individual who engages in lobbying activities
exclusively on behalf of a religious organization which qualifies
as a tax-exempt organization under the Internal Revenue Code.

(k) An individual who is a nonattorney professional and
who receives professional fees and expenses to represent clients
on executive agency matters, except that if anything of value
shall be paid or promised to be paid directly or indirectly on
behalf of a client for the personal use or benefit of an executive
or public official or public employee, then expenditures and
actions of the individual are reportable under this chapter, and
the individual must register as a lobbyist.

SECTION 5. Section 5-8-13, Mississippi Code of 1972, is
brought forward as follows:

5-8-13. (1) A lobbyist shall not contract to receive or
accept compensation dependent upon the success or failure of a
legislative or executive action.

(2) A lobbyist or lobbyist's client shall not knowingly or
willfully make or cause to be made a false statement or
misrepresentation of facts to an executive, legislative or public
official or public employee, or to the public in general with the
intent to affect the outcome of a legislative or executive action.

(3) A lobbyist or lobbyist's client shall not cause a
legislative or executive action for the purpose of obtaining



employment to lobby in support of or in opposition to the legislative or executive action.

(4) An executive, legislative or public official or public employee shall not be a lobbyist, except that he may act as a lobbyist when acting in his official capacity.

(5) A lobbyist must disclose anything of value given in whole or in part to any executive, legislative or public official or public employee.

SECTION 6. Section 37-101-15, Mississippi Code of 1972, is brought forward as follows:

37-101-15. (a) The Board of Trustees of State Institutions of Higher Learning shall succeed to and continue to exercise control of all records, books, papers, equipment, and supplies, and all lands, buildings, and other real and personal property belonging to or assigned to the use and benefit of the board of trustees formerly supervising and controlling the institutions of higher learning named in Section 37-101-1. The board shall have and exercise control of the use, distribution and disbursement of all funds, appropriations and taxes, now and hereafter in possession, levied and collected, received, or appropriated for the use, benefit, support, and maintenance or capital outlay expenditures of the institutions of higher learning, including the authorization of employees to sign vouchers for the disbursement of funds for the various institutions, except where otherwise specifically provided by law.



(b) The board shall have general supervision of the affairs of all the institutions of higher learning, including the departments and the schools thereof. The board shall have the power in its discretion to determine who shall be privileged to enter, to remain in, or to graduate therefrom. The board shall have general supervision of the conduct of libraries and laboratories, the care of dormitories, buildings, and grounds; the business methods and arrangement of accounts and records; the organization of the administrative plan of each institution; and all other matters incident to the proper functioning of the institutions. The board shall have the authority to establish minimum standards of achievement as a prerequisite for entrance into any of the institutions under its jurisdiction, which standards need not be uniform between the various institutions and which may be based upon such criteria as the board may establish.

(c) The board shall exercise all the powers and prerogatives conferred upon it under the laws establishing and providing for the operation of the several institutions herein specified. The board shall adopt such bylaws and regulations from time to time as it deems expedient for the proper supervision and control of the several institutions of higher learning, insofar as such bylaws and regulations are not repugnant to the Constitution and laws, and not inconsistent with the object for which these institutions were established. The board shall have power and authority to prescribe rules and regulations for policing the campuses and all



863 buildings of the respective institutions, to authorize the arrest
864 of all persons violating on any campus any criminal law of the
865 state, and to have such law violators turned over to the civil
866 authorities.

867 (d) For all institutions specified herein, the board shall
868 provide a uniform system of recording and of accounting approved
869 by the State Department of Audit. The board shall annually
870 prepare, or cause to be prepared, a budget for each institution of
871 higher learning for the succeeding year which must be prepared and
872 in readiness for at least thirty (30) days before the convening of
873 the regular session of the Legislature. All relationships and
874 negotiations between the State Legislature and its various
875 committees and the institutions named herein shall be carried on
876 through the board of trustees. No official, employee or agent
877 representing any of the separate institutions shall appear before
878 the Legislature or any committee thereof except upon the written
879 order of the board or upon the request of the Legislature or a
880 committee thereof.

881 (e) For all institutions specified herein, the board shall
882 prepare an annual report to the Legislature setting forth the
883 disbursements of all monies appropriated to the respective
884 institutions. Each report to the Legislature shall show how the
885 money appropriated to the several institutions has been expended,
886 beginning and ending with the fiscal years of the institutions,
887 showing the name of each teacher, officer, and employee, and the



888 salary paid each, and an itemized statement of each and every item
889 of receipts and expenditures. Each report must be balanced, and
890 must begin with the former balance. If any property belonging to
891 the state or the institution is used for profit, the reports shall
892 show the expense incurred in managing the property and the amount
893 received therefrom. The reports shall also show a summary of the
894 gross receipts and gross disbursements for each year and shall
895 show the money on hand at the beginning of the fiscal period of
896 the institution next preceding each session of the Legislature and
897 the necessary amount of expense to be incurred from said date to
898 January 1 following. The board shall keep the annual expenditures
899 of each institution herein mentioned within the income derived
900 from legislative appropriations and other sources, but in case of
901 emergency arising from acts of providence, epidemics, fire or
902 storm with the written approval of the Governor and by written
903 consent of a majority of the senators and of the representatives
904 it may exceed the income. The board shall require a surety bond
905 in a surety company authorized to do business in this state of
906 every employee who is the custodian of funds belonging to one or
907 more of the institutions mentioned herein, which bond shall be in
908 a sum to be fixed by the board in an amount that will properly
909 safeguard the said funds, the premium for which shall be paid out
910 of the funds appropriated for said institutions.

911 (f) The board shall have the power and authority to elect
912 the heads of the various institutions of higher learning and to



913 contract with all deans, professors, and other members of the
914 teaching staff, and all administrative employees of said
915 institutions for a term not exceeding four (4) years. The board
916 shall have the power and authority to terminate any such contract
917 at any time for malfeasance, inefficiency, or contumacious
918 conduct, but never for political reasons. It shall be the policy
919 of the board to permit the executive head of each institution to
920 nominate for election by the board all subordinate employees of
921 the institution over which he presides. It shall be the policy of
922 the board to elect all officials for a definite tenure of service
923 and to reelect during the period of satisfactory service. The
924 board shall have the power to make any adjustments it thinks
925 necessary between the various departments and schools of any
926 institution or between the different institutions.

927 (g) The board shall keep complete minutes and records of all
928 proceedings which shall be open for inspection by any citizen of
929 the state.

930 (h) The board shall have the power to enter into an energy
931 performance contract, energy services contract, on a
932 shared-savings, lease or lease-purchase basis, for energy
933 efficiency services and/or equipment as prescribed in Section
934 31-7-14.

935 (i) The Board of Trustees of State Institutions of Higher
936 Learning, for and on behalf of Jackson State University, is hereby
937 authorized to convey by donation or otherwise easements across



938 portions of certain real estate located in the City of Jackson,
939 Hinds County, Mississippi, for right-of-way required for the Metro
940 Parkway Project.

941 (j) In connection with any international contract between
942 the board or one (1) of the state's institutions of higher
943 learning and any party outside of the United States, the board or
944 institution that is the party to the international contract is
945 hereby authorized and empowered to include in the contract a
946 provision for the resolution by arbitration of any controversy
947 between the parties to the contract relating to such contract or
948 the failure or refusal to perform any part of the contract. Such
949 provision shall be valid, enforceable and irrevocable without
950 regard to the justiciable character of the controversy. Provided,
951 however, that in the event either party to such contract initiates
952 litigation against the other with respect to the contract, the
953 arbitration provision shall be deemed waived unless asserted as a
954 defense on or before the responding party is required to answer
955 such litigation.

956 (k) The Board of Trustees of State Institutions of Higher
957 Learning ("board"), on behalf of any institution under its
958 jurisdiction, shall purchase and maintain business property
959 insurance and business personal property insurance on all
960 university-owned buildings and/or contents as required by federal
961 law and regulations of the Federal Emergency Management Agency
962 (FEMA) as is necessary for receiving public assistance or



reimbursement for repair, reconstruction, replacement or other damage to those buildings and/or contents caused by the Hurricane Katrina Disaster of 2005 or subsequent disasters. The board is authorized to expend funds from any available source for the purpose of obtaining and maintaining that property insurance. The board is authorized to enter into agreements with the Department of Finance and Administration, local school districts, community/junior college districts, community hospitals and/or other state agencies to pool their liabilities to participate in a group business property and/or business personal property insurance program, subject to uniform rules and regulations as may be adopted by the Department of Finance and Administration.

(l) The Board of Trustees of State Institutions of Higher Learning, or its designee, may approve the payment or reimbursement of reasonable travel expenses incurred by candidates for open positions at the board's executive office or at any of the state institutions of higher learning, when the job candidate has incurred expenses in traveling to a job interview at the request of the board, the Commissioner of Higher Education or a state institution of higher learning administrator.

(m) (i) The Board of Trustees of State Institutions of Higher Learning is authorized to administer and approve contracts for the construction and maintenance of buildings and other facilities of the state institutions of higher learning, including



987 related contracts for architectural and engineering services,
988 which are paid for with self-generated funds.

989 (ii) Additionally, the board is authorized to oversee,
990 administer and approve contracts for the construction and
991 maintenance of buildings and other facilities of the state
992 institutions of higher learning, including related contracts for
993 architectural and engineering services, which are funded in whole
994 or in part by general obligation bonds of the State of Mississippi
995 at institutions designated annually by the board as being capable
996 to procure and administer all such contracts. Prior to the
997 disbursement of funds, an agreement for each project between the
998 institution and the Department of Finance and Administration shall
999 be executed. The approval and execution of the agreement shall
1000 not be withheld by either party unless the withholding party
1001 provides a written, detailed explanation of the basis for
1002 withholding to the other party. The agreement shall stipulate the
1003 responsibilities of each party, applicable procurement
1004 regulations, documentation and reporting requirements, conditions
1005 prior to, and schedule of, disbursement of general obligation bond
1006 funds to the institution and provisions concerning handling any
1007 remaining general obligation bonds at the completion of the
1008 project. Such agreement shall not include provisions that
1009 constitute additional qualifications or criteria that act to
1010 invalidate the designation of an institution as capable of
1011 procuring and administering such project. Inclusion of any such



1012 provisions may be appealed to the Public Procurement Review Board.
1013 This paragraph (ii) shall stand repealed from and after July 1,
1014 2025.

1015 (n) The Board of Trustees of State Institutions of Higher
1016 Learning ("board") shall require all on-campus faculty and staff
1017 employed by, and all students attending, any of the state
1018 institutions of higher learning identified in Section 37-101-1 to
1019 be issued an identification badge in physical or electronic
1020 format. Any identification card issued or renewed pursuant to
1021 this section, whether physical or in an electronic format, shall
1022 include the words "Crisis Lifeline - Dial or Text 988, or chat
1023 988lifeline.org" or like language for formatting purposes.

1024 **SECTION 7.** This act shall take effect and be in force from
1025 and after July 1, 2025.

