

By: Representative Owen

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 1514

1 AN ACT TO CREATE NEW SECTION 5-8-27, MISSISSIPPI CODE OF
2 1972, TO PROHIBIT STATE AGENCIES AND GOVERNING AUTHORITIES FROM
3 EXPENDING PUBLIC FUNDS TO PAY CONTRACT LOBBYISTS; TO PROVIDE THAT
4 A COMMUNITY OR JUNIOR COLLEGE MAY NOT EXPEND PUBLIC FUNDS TO PAY
5 ANY PERSON TO PERFORM CONTRACT LOBBYING; TO AMEND SECTION 5-8-3,
6 MISSISSIPPI CODE OF 1972, TO DEFINE ADDITIONAL TERMS USED UNDER
7 THE LOBBYING LAW REFORM ACT OF 1994; TO AMEND SECTION 27-104-7,
8 MISSISSIPPI CODE OF 1972, TO DELETE CONTRACTS FOR LEGISLATIVE
9 ADVOCACY SERVICES FROM THE VARIOUS TYPES OF CONTRACTS SUBJECT TO
10 OVERSIGHT BY THE PUBLIC PROCUREMENT REVIEW BOARD; TO BRING FORWARD
11 SECTION 5-8-7, MISSISSIPPI CODE OF 1972, WHICH EXEMPTS CERTAIN
12 PERSONS FROM THE LOBBYING LAWS, FOR THE PURPOSE OF POSSIBLE
13 AMENDMENT; TO AMEND SECTION 5-8-13, MISSISSIPPI CODE OF 1972,
14 WHICH PROHIBITS LOBBYISTS AND LOBBYISTS' CLIENTS FROM
15 PARTICIPATING IN CERTAIN ACTS, TO CONFORM TO THE PROVISIONS OF
16 THIS ACT; TO BRING FORWARD SECTION 37-101-15, MISSISSIPPI CODE OF
17 1972, WHICH PROHIBITS EMPLOYEES OR AGENTS REPRESENTING THE
18 SEPARATE STATE INSTITUTIONS OF HIGHER LEARNING FROM APPEARING
19 BEFORE THE LEGISLATURE EXCEPT UPON ORDER OF THE BOARD OF TRUSTEES
20 OF STATE INSTITUTIONS OF HIGHER LEARNING OR UPON THE REQUEST OF
21 THE LEGISLATURE, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR
22 RELATED PURPOSES.

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

24 **SECTION 1.** The following shall be codified as Section
25 5-8-27, Mississippi Code of 1972:

26 5-8-27. (1) A state agency or governing authority may not
27 expend any public funds to pay any person to perform contract
28 lobbying on behalf of the state agency or governing authority.



29 Any contract entered into between a state agency or governing
30 authority and a person for contract lobbying services on behalf of
31 the state agency or governing authority that requires the state
32 agency or governing authority to expend public funds is void and
33 unenforceable.

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

41 (3) A public employee of a state agency, governing authority
42 or community or junior college who authorizes the expenditure of
43 public funds to pay a person to engage in contract lobbying on
44 behalf of the state agency, governing authority or community or
45 junior college shall be subject to termination.

46 (4) The prohibitions of this section do not apply to any
47 public employee of a state agency, governing authority or
48 community or junior college who, as a part of the employee's
49 employment, is authorized or directed by the employee's supervisor
50 or governing board to engage in lobbying the Legislature, other
51 state agencies or governing authorities. However, this subsection
52 may not be construed as absolving any public employee of a state
53 agency, governing authority or community or junior college from



complying with the reporting and disclosure requirements of this chapter.

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

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

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

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

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

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

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

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

6. A right in action;

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

8. A loan or forgiveness of indebtedness;



79 9. A work of art, antique or collectible;
80 10. An automobile or other means of personal
81 transportation;
82 11. Real property or an interest in real
83 property, including title to realty, a fee simple or partial
84 interest, present or future, contingent or vested within realty, a
85 leasehold interest, or other beneficial interest in realty;
86 12. An honorarium or compensation for
87 services;
88 13. A rebate or discount in the price of
89 anything of value, unless the rebate or discount is made in the
90 ordinary course of business to a member of the public without
91 regard to that person's status as an executive, legislative or
92 public official or public employee, or the sale or trade of
93 something for reasonable compensation that would ordinarily not be
94 available to a member of the public;
95 14. A promise or offer of employment;
96 15. Any other thing of value that is
97 pecuniary or compensatory in value to a person, except as
98 otherwise provided in subparagraph (ii) of this paragraph; or
99 16. A payment that directly benefits an
100 executive, legislative or public official or public employee or a
101 member of that person's immediate family.
102 (ii) "Anything of value" does not mean:



103 1. Informational material such as books,
104 reports, pamphlets, calendars or periodicals informing an
105 executive, legislative or public official or public employee of
106 her or his official duties;

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

109 3. Food and beverages for immediate
110 consumption provided by a lobbyist up to a value of Ten Dollars
111 (\$10.00) in the aggregate during any calendar year;

112 4. Campaign contributions reported in
113 accordance with Section 23-15-801 et seq., Mississippi Code of
114 1972.

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

117 (c) "Compensation" means:

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

122 (ii) A contract, agreement, promise or other
123 obligation for an advance, conveyance, forgiveness of
124 indebtedness, deposit, distribution, loan, payment, gift, pledge
125 or transfer of money or anything of value, including reimbursement
126 of travel, food or lodging costs, for services rendered or to be
127 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, decision, determination or other quasi-legislative action or proceeding.

(e) "Executive agency" means:

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

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

(f) "Executive official" means:

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

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

(g) "Expenditure" means:

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



(ii) A payment to a lobbyist for salary, fee, commission, compensation for expenses, or other purpose by a person employing, retaining or contracting for the services of the 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



178 rebate or discount is made in the ordinary course of business to a
179 member of the public without regard to that person's status as an
180 executive, legislative or public official.

181 (i) "Legislative action" means:

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

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

191 (iii) Action by the Legislature in:

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

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

196 (j) "Legislative official" means:

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

199 (ii) A member of a commission or other entity
200 established by and responsible to either or both houses of the
201 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.

(k) "Lobbying" means:

(i) Influencing or attempting to influence legislative or executive action through oral or written communication; or

(ii) Solicitation of others to influence legislative or executive action; or

(iii) Paying or promising to pay anything of value directly or indirectly related to legislative or executive action.

(l) "Lobbyist" means:

(i) An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

(ii) An individual who represents a legislative or public official or public employee, or who represents a person, organization, association or other group, for the purpose of lobbying;

(iii) A sole proprietor, owner, part owner or shareholder in a business who has a pecuniary interest in



legislative or executive action, who engages in lobbying activities; or

(iv) Any individual described in subparagraphs (i), (ii) or (iii) of this paragraph (1) who is employed by or has contracted with any agency, legislative or public official or public employee, or any other public entity for the purpose of providing any type of consulting or other similar service but also engages in any type of lobbying activities. Such individual shall not qualify for any exemption under Section 5-8-7.

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

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

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

(p) "Public employee" means an individual appointed to a position, including a position created by statute, whether compensated or not, in state or local government and includes any employee of the public employee. The term includes a member of the board of trustees, chancellor, vice chancellor or the equivalent thereof in the state university system or the state



community and junior college system, and a president of a state college or university.

(q) "Public official" means an individual elected to a state or local office, or an individual who is appointed to fill a 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) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, Mississippi State Port Authority, commissioners and boards of trustees of any public hospitals, boards of trustees of public library systems, district attorneys, school attendance officers and any political subdivision of the state supported wholly or in part by public funds of the state or political subdivisions thereof, including commissions, boards and agencies



created or operated under the authority of any county or municipality of this state.

(u) "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.

(v) "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.

(w) "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 consideration persons who possess at least five (5) years of management experience in general business, health care or finance for an organization, corporation or other public or private entity. Any person, or any employee or owner of a company, who receives any grants, procurements or contracts that are subject to approval under this section shall not be appointed to the Public Procurement Review Board. Any person, or any employee or owner of



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

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

(e) The members of the Public Procurement Review Board shall elect a chair from among the membership, and he or she shall preside over the meetings of the board. The board shall annually elect a vice chair, who shall serve in the absence of the chair. No business shall be transacted, including adoption of rules of procedure, without the presence of a quorum of the board. Three (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);

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



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

(d) Adopt, in its discretion, regulations to set aside at least five percent (5%) of anticipated annual expenditures for the purchase of commodities from minority businesses; however, all 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;

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

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



425 including personal and professional services contracts for any
426 form of consulting, policy analysis, public relations, marketing,
427 public affairs * * * or any other contract that the board deems
428 appropriate for oversight, with the exception of:

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

432 2. Any personal service contracts entered
433 into for computer or information technology-related services
434 governed by the Mississippi Department of Information Technology
435 Services;

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

438 4. Any personal service contracts entered
439 into by the Mississippi Department of Transportation;

440 5. Any personal service contracts entered
441 into by the Department of Human Services through June 30, 2019,
442 which the Executive Director of the Department of Human Services
443 determines would be useful in establishing and operating the
444 Department of Child Protection Services;

445 6. Any personal service contracts entered
446 into by the Department of Child Protection Services through June
447 30, 2019;



448 7. Any contracts for entertainers and/or
449 performers at the Mississippi State Fairgrounds entered into by
450 the Mississippi Fair Commission;

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

454 9. Any contract entered into by the
455 Department of Public Safety for service on specialized equipment
456 and/or software required for the operation of such specialized
457 equipment for use by the Office of Forensics Laboratories;

458 10. Any personal or professional service
459 contract entered into by the Mississippi Department of Health or
460 the Department of Revenue solely in connection with their
461 respective responsibilities under the Mississippi Medical Cannabis
462 Act from February 2, 2022, through June 30, 2026;

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

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

470 13. Any personal or professional services
471 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



522 excess of Seventy-five Thousand Dollars (\$75,000.00). The
523 Department of Finance and Administration shall make any
524 submissions that are required to be made by other agencies to the
525 Public Procurement Review Board for the Department of Marine
526 Resources, the Department of Wildlife, Fisheries and Parks, the
527 Mississippi Emergency Management Agency and the Mississippi
528 Development Authority.

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

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

535 (h) Develop mandatory standards with respect to
536 contractual services personnel that require invitations for public
537 bid, requests for proposals, record keeping and financial
538 responsibility of contractors. The Public Procurement Review
539 Board shall, unless exempted under this paragraph (h) or under
540 paragraph (i) or (o) of this subsection (2), require the agency
541 involved to submit the procurement to a competitive procurement
542 process, and may reserve the right to reject any or all resulting
543 procurements;

544 (i) Prescribe certain circumstances by which agency
545 heads may enter into contracts for personal and professional
546 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;

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

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

(ii) An agency that has been issued a binding, valid court order mandating that a particular source or provider must be used for the required service must include a copy of the applicable court order in all future sole source contract reviews



for the particular personal or professional service referenced in the court order.

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

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

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

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

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

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



621 (iv) If any person or entity objects and proposes
622 that the personal or professional service published under
623 subparagraph (iii) of this paragraph (o) is not a sole source
624 service and can be provided by another person or entity, then the
625 objecting person or entity shall notify the Public Procurement
626 Review Board and the agency that published the proposed sole
627 source contract with a detailed explanation of why the personal or
628 professional service is not a sole source service.

629 (v) 1. If the agency determines after review that
630 the personal or professional service in the proposed sole source
631 contract can be provided by another person or entity, then the
632 agency must withdraw the sole source contract publication from the
633 procurement portal website and submit the procurement of the
634 personal or professional service to an advertised competitive bid
635 or selection process.

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

642 3. If the Public Procurement Review Board has
643 any reasonable doubt as to whether the personal or professional
644 service can only be provided by one (1) source, then the agency
645 must submit the procurement of the personal or professional



646 service to an advertised competitive bid or selection process. No
647 action taken by the Public Procurement Review Board in this appeal
648 process shall be valid unless approved by a majority of the
649 members of the Public Procurement Review Board present and voting.

650 (vi) The Public Procurement Review Board shall
651 prepare and submit a quarterly report to the House of
652 Representatives and Senate Accountability, Efficiency and
653 Transparency Committees that details the sole source contracts
654 presented to the Public Procurement Review Board and the reasons
655 that the Public Procurement Review Board approved or rejected each
656 contract. These quarterly reports shall also include the
657 documentation and memoranda required in subsection (4) of this
658 section. An agency that submitted a sole source contract shall be
659 prepared to explain the sole source contract to each committee by
660 December 15 of each year upon request by the committee;

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

663 (3) All submissions shall be made sufficiently in advance of
664 each monthly meeting of the Public Procurement Review Board as
665 prescribed by the Public Procurement Review Board. If the Public
666 Procurement Review Board rejects any contract submitted for review
667 or approval, the Public Procurement Review Board shall clearly set
668 out the reasons for its action, including, but not limited to, the
669 policy that the agency has violated in its submitted contract and
670 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:

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

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

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

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

(5) In conjunction with the State Personnel Board, the Public Procurement Review Board shall develop and promulgate rules and regulations to define the allowable legal relationship between



696 contract employees and the contracting departments, agencies and
697 institutions of state government under the jurisdiction of the
698 State Personnel Board, in compliance with the applicable rules and
699 regulations of the federal Internal Revenue Service (IRS) for
700 federal employment tax purposes. Under these regulations, the
701 usual common law rules are applicable to determine and require
702 that such worker is an independent contractor and not an employee,
703 requiring evidence of lawful behavioral control, lawful financial
704 control and lawful relationship of the parties. Any state
705 department, agency or institution shall only be authorized to
706 contract for personnel services in compliance with those
707 regulations.

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

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

717 (8) Nothing in this section shall impair or limit the
718 authority of the Board of Trustees of the Public Employees'
719 Retirement System to enter into any personal or professional
720 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.

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

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

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

(b) An individual who:

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



746 (ii) Receives no compensation or anything of value
747 for lobbying; and

748 (iii) Has no pecuniary interest in the legislative
749 or executive action.

750 (c) An individual lobbying in his or her own interest,
751 his or her own business interest, who pays, or promises to pay,
752 offers to pay or causes to be paid to public officials,
753 legislative officials or public employees any thing or things of
754 value aggregating in value to less than Two Hundred Dollars
755 (\$200.00) in any calendar year.

756 (d) An individual lobbying on behalf of his or her
757 employer's business interest where such lobbying is not a primary
758 or regular function of his employment position if such individual
759 pays, promises to pay, offers to pay, or causes to be paid
760 individually or on the employer's behalf to public officials,
761 legislative officials, or public employees any thing or things of
762 value aggregating in value to less than Two Hundred Dollars
763 (\$200.00) in any calendar year.

764 (e) An individual lobbying on behalf of an association
765 of which he or she is a member, where such lobbying is not a
766 primary or regular function of his or her position in the
767 association, if such individual pays, promises to pay, offers to
768 pay, or causes to be paid individually or on the association's
769 behalf to public officials, legislative officials or public



employees any thing or things of value aggregating in value to less than Two Hundred Dollars (\$200.00) in any calendar year.

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

(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.



819 **SECTION 5.** Section 5-8-13, Mississippi Code of 1972, is
820 amended as follows:

821 5-8-13. (1) A lobbyist shall not contract to receive or
822 accept compensation dependent upon the success or failure of a
823 legislative or executive action.

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

829 (3) A lobbyist or lobbyist's client shall not cause a
830 legislative or executive action for the purpose of obtaining
831 employment to lobby in support of or in opposition to the
832 legislative or executive action.

833 (4) An executive, legislative or public official or public
834 employee shall not be a lobbyist * * *.

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

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

840 37-101-15. (a) The Board of Trustees of State Institutions
841 of Higher Learning shall succeed to and continue to exercise
842 control of all records, books, papers, equipment, and supplies,
843 and all lands, buildings, and other real and personal property



844 belonging to or assigned to the use and benefit of the board of
845 trustees formerly supervising and controlling the institutions of
846 higher learning named in Section 37-101-1. The board shall have
847 and exercise control of the use, distribution and disbursement of
848 all funds, appropriations and taxes, now and hereafter in
849 possession, levied and collected, received, or appropriated for
850 the use, benefit, support, and maintenance or capital outlay
851 expenditures of the institutions of higher learning, including the
852 authorization of employees to sign vouchers for the disbursement
853 of funds for the various institutions, except where otherwise
854 specifically provided by law.

855 (b) The board shall have general supervision of the affairs
856 of all the institutions of higher learning, including the
857 departments and the schools thereof. The board shall have the
858 power in its discretion to determine who shall be privileged to
859 enter, to remain in, or to graduate therefrom. The board shall
860 have general supervision of the conduct of libraries and
861 laboratories, the care of dormitories, buildings, and grounds; the
862 business methods and arrangement of accounts and records; the
863 organization of the administrative plan of each institution; and
864 all other matters incident to the proper functioning of the
865 institutions. The board shall have the authority to establish
866 minimum standards of achievement as a prerequisite for entrance
867 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 buildings of the respective institutions, to authorize the arrest of all persons violating on any campus any criminal law of the state, and to have such law violators turned over to the civil authorities.

(d) For all institutions specified herein, the board shall provide a uniform system of recording and of accounting approved by the State Department of Audit. The board shall annually prepare, or cause to be prepared, a budget for each institution of higher learning for the succeeding year which must be prepared and in readiness for at least thirty (30) days before the convening of the regular session of the Legislature. All relationships and negotiations between the State Legislature and its various committees and the institutions named herein shall be carried on



893 through the board of trustees. No official, employee or agent
894 representing any of the separate institutions shall appear before
895 the Legislature or any committee thereof except upon the written
896 order of the board or upon the request of the Legislature or a
897 committee thereof.

898 (e) For all institutions specified herein, the board shall
899 prepare an annual report to the Legislature setting forth the
900 disbursements of all monies appropriated to the respective
901 institutions. Each report to the Legislature shall show how the
902 money appropriated to the several institutions has been expended,
903 beginning and ending with the fiscal years of the institutions,
904 showing the name of each teacher, officer, and employee, and the
905 salary paid each, and an itemized statement of each and every item
906 of receipts and expenditures. Each report must be balanced, and
907 must begin with the former balance. If any property belonging to
908 the state or the institution is used for profit, the reports shall
909 show the expense incurred in managing the property and the amount
910 received therefrom. The reports shall also show a summary of the
911 gross receipts and gross disbursements for each year and shall
912 show the money on hand at the beginning of the fiscal period of
913 the institution next preceding each session of the Legislature and
914 the necessary amount of expense to be incurred from said date to
915 January 1 following. The board shall keep the annual expenditures
916 of each institution herein mentioned within the income derived
917 from legislative appropriations and other sources, but in case of



918 emergency arising from acts of providence, epidemics, fire or
919 storm with the written approval of the Governor and by written
920 consent of a majority of the senators and of the representatives
921 it may exceed the income. The board shall require a surety bond
922 in a surety company authorized to do business in this state of
923 every employee who is the custodian of funds belonging to one or
924 more of the institutions mentioned herein, which bond shall be in
925 a sum to be fixed by the board in an amount that will properly
926 safeguard the said funds, the premium for which shall be paid out
927 of the funds appropriated for said institutions.

928 (f) The board shall have the power and authority to elect
929 the heads of the various institutions of higher learning and to
930 contract with all deans, professors, and other members of the
931 teaching staff, and all administrative employees of said
932 institutions for a term not exceeding four (4) years. The board
933 shall have the power and authority to terminate any such contract
934 at any time for malfeasance, inefficiency, or contumacious
935 conduct, but never for political reasons. It shall be the policy
936 of the board to permit the executive head of each institution to
937 nominate for election by the board all subordinate employees of
938 the institution over which he presides. It shall be the policy of
939 the board to elect all officials for a definite tenure of service
940 and to reelect during the period of satisfactory service. The
941 board shall have the power to make any adjustments it thinks



necessary between the various departments and schools of any institution or between the different institutions.

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

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

(i) The Board of Trustees of State Institutions of Higher Learning, for and on behalf of Jackson State University, is hereby authorized to convey by donation or otherwise easements across portions of certain real estate located in the City of Jackson, Hinds County, Mississippi, for right-of-way required for the Metro Parkway Project.

(j) In connection with any international contract between the board or one (1) of the state's institutions of higher learning and any party outside of the United States, the board or institution that is the party to the international contract is hereby authorized and empowered to include in the contract a provision for the resolution by arbitration of any controversy between the parties to the contract relating to such contract or the failure or refusal to perform any part of the contract. Such provision shall be valid, enforceable and irrevocable without



967 regard to the justiciable character of the controversy. Provided,
968 however, that in the event either party to such contract initiates
969 litigation against the other with respect to the contract, the
970 arbitration provision shall be deemed waived unless asserted as a
971 defense on or before the responding party is required to answer
972 such litigation.

973 (k) The Board of Trustees of State Institutions of Higher
974 Learning ("board"), on behalf of any institution under its
975 jurisdiction, shall purchase and maintain business property
976 insurance and business personal property insurance on all
977 university-owned buildings and/or contents as required by federal
978 law and regulations of the Federal Emergency Management Agency
979 (FEMA) as is necessary for receiving public assistance or
980 reimbursement for repair, reconstruction, replacement or other
981 damage to those buildings and/or contents caused by the Hurricane
982 Katrina Disaster of 2005 or subsequent disasters. The board is
983 authorized to expend funds from any available source for the
984 purpose of obtaining and maintaining that property insurance. The
985 board is authorized to enter into agreements with the Department
986 of Finance and Administration, local school districts,
987 community/junior college districts, community hospitals and/or
988 other state agencies to pool their liabilities to participate in a
989 group business property and/or business personal property
990 insurance program, subject to uniform rules and regulations as may
991 be adopted by the Department of Finance and Administration.



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

1000 (m) (i) The Board of Trustees of State Institutions of
1001 Higher Learning is authorized to administer and approve contracts
1002 for the construction and maintenance of buildings and other
1003 facilities of the state institutions of higher learning, including
1004 related contracts for architectural and engineering services,
1005 which are paid for with self-generated funds.

1006 (ii) Additionally, the board is authorized to oversee,
1007 administer and approve contracts for the construction and
1008 maintenance of buildings and other facilities of the state
1009 institutions of higher learning, including related contracts for
1010 architectural and engineering services, which are funded in whole
1011 or in part by general obligation bonds of the State of Mississippi
1012 at institutions designated annually by the board as being capable
1013 to procure and administer all such contracts. Prior to the
1014 disbursement of funds, an agreement for each project between the
1015 institution and the Department of Finance and Administration shall
1016 be executed. The approval and execution of the agreement shall



1017 not be withheld by either party unless the withholding party
1018 provides a written, detailed explanation of the basis for
1019 withholding to the other party. The agreement shall stipulate the
1020 responsibilities of each party, applicable procurement
1021 regulations, documentation and reporting requirements, conditions
1022 prior to, and schedule of, disbursement of general obligation bond
1023 funds to the institution and provisions concerning handling any
1024 remaining general obligation bonds at the completion of the
1025 project. Such agreement shall not include provisions that
1026 constitute additional qualifications or criteria that act to
1027 invalidate the designation of an institution as capable of
1028 procuring and administering such project. Inclusion of any such
1029 provisions may be appealed to the Public Procurement Review Board.
1030 This paragraph (ii) shall stand repealed from and after July 1,
1031 2025.

1032 (n) The Board of Trustees of State Institutions of Higher
1033 Learning ("board") shall require all on-campus faculty and staff
1034 employed by, and all students attending, any of the state
1035 institutions of higher learning identified in Section 37-101-1 to
1036 be issued an identification badge in physical or electronic
1037 format. Any identification card issued or renewed pursuant to
1038 this section, whether physical or in an electronic format, shall
1039 include the words "Crisis Lifeline - Dial or Text 988, or chat
1040 988lifeline.org" or like language for formatting purposes.



1041 **SECTION 7.** This act shall take effect and be in force from
1042 and after July 1, 2025.

