

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2574

1 AN ACT TO AMEND SECTION 31-5-51, MISSISSIPPI CODE OF 1972, TO
2 INCREASE THE THRESHOLD AMOUNT TO \$75,000.00 FOR LUMP-SUM PAYMENTS
3 AND PROVISIONS FOR PERFORMANCE AND PAYMENT BONDS; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 31-5-51, Mississippi Code of 1972,
7 is amended as follows:

8 31-5-51. (1) Any person entering into a formal contract
9 with the state or any county, city or political subdivision
10 thereof, or other public authority for the construction,
11 alteration or repair of any public building or public work, before
12 entering into such contract, shall furnish to such public body,
13 except as provided in subsection (5) of this section, bonds with
14 good and sufficient surety as follows:

15 (a) A performance bond payable to, in favor of or for
16 the protection of such public body, as owner, for the work to be
17 done in an amount not less than the amount of the contract,
18 conditioned for the full and faithful performance of the contract;



19 (b) A payment bond payable to such public body but
20 conditioned for the prompt payment of all persons supplying labor
21 or material used in the prosecution of the work under said
22 contract, for the use of each such person, in an amount not less
23 than the amount of the contract; and

24 (c) The bonds herein provided for may be made by any
25 surety company which is authorized to do business in the State of
26 Mississippi and listed on the United States Treasury Department's
27 list of acceptable sureties, or such bonds may be guaranteed by a
28 personal surety as provided for herein. The personal surety shall
29 deposit with the State Treasurer cash or certificates of deposit
30 in an amount not less than the amount of the contract, and the
31 State Treasurer shall hold same in trust and on deposit for the
32 benefit of the public body that is a party to the contract
33 providing for the construction, alteration or repair of the public
34 building or for the public work.

35 (2) Every person who has furnished labor or material used in
36 the prosecution of the work provided for in such contract, in
37 respect of which a payment bond is furnished and who has not been
38 paid in full therefor before the expiration of a period of ninety
39 (90) days after the date on which the last of the labor was
40 performed by him or her or the last of the materials was furnished
41 by him or her and for which such claim is made, provided the same
42 has been approved, where required, by the public authority or its
43 architect or engineers, or such approval is being withheld as a



44 result of unreasonable acts of the contractor, shall have the
45 right to sue on such payment bond for the amount, or the balance
46 thereof that is due and payable, but unpaid at the time of
47 institution of such suit and to prosecute said action to final
48 execution and judgment. Notwithstanding anything to the contrary
49 contained herein, if the amount claimed in such action is subject
50 to contractual provisions or conditions, between the parties
51 involved in such action, the action shall be abated pending the
52 performance of such provisions and the fulfillment of such
53 conditions.

54 (3) Any person having direct contractual relationship with a
55 subcontractor but no contractual relationship express or implied
56 with the contractor furnishing said payment bond shall have a
57 right of action upon the said payment bond upon giving written
58 notice to said contractor within ninety (90) days from the date on
59 which such person did or performed the last of the labor or
60 furnished or supplied the last of the material for which such
61 claim is made, stating with substantial accuracy the amount
62 claimed and the name of the party to whom the material was
63 furnished or supplied or for whom the labor was done or performed.
64 Such notice shall be given in writing by the claimant to the
65 contractor or surety at any place where the contractor or surety
66 maintains an office or conducts business. Such notice may be
67 personally delivered by the claimant to the contractor or surety,
68 or it may be mailed by certified mail, return receipt requested,



69 postage prepaid, to the contractor or surety. No such action may
70 be maintained by any person not having a direct contractual
71 relationship with the contractor-principal, unless the notice
72 required by this section shall have been given.

73 (4) The only persons protected by such payment bond, subject
74 to the notice provisions of this section are:

75 (a) Subcontractors and material suppliers of the
76 contractor;

77 (b) Sub-subcontractors and material suppliers of those
78 subcontractors named in subsection (4)(a) of this section; and

79 (c) Laborers who have performed work on the project
80 site.

81 (5) Whenever a contract is less than * * * Seventy-five
82 Thousand Dollars (\$75,000.00) the owners may elect to make a lump
83 sum payment at the completion of the job. Lump sum payments will
84 not be made until completion and acceptance by the governing
85 agency. In such a case a performance bond or payment bond will not
86 be required.

87 (6) Except as otherwise provided in subsection (1)(c) for a
88 personal surety, no surety or surety company shall be allowed to
89 guarantee or write bonds for the benefit of the public body that
90 is a party to a contract providing for the construction,
91 alteration or repair of a public building or for public work,
92 unless that surety is listed on the United States Treasury
93 Department's list of acceptable sureties. If the surety is not



94 listed on the United States Treasury Department's list of
95 acceptable sureties, the public body for which the public work is
96 being performed shall be liable to the extent that the surety
97 would be liable.

98 (7) Any person entering into a formal contract with the
99 state which exceeds Five Thousand Dollars (\$5,000.00), or with a
100 county, city or other public authority which exceeds Twenty-five
101 Thousand dollars (\$25,000.00), for the construction, alteration or
102 repair of any public building or public work, before entering into
103 such contract, shall furnish to the public body proof of general
104 liability insurance coverage in an amount not less than One
105 Million Dollars (\$1,000,000.00) for bodily injury and property
106 damage. Exempted from the provisions of this subsection are any
107 persons who enter into a contract with the Mississippi Department
108 of Rehabilitation Services for the construction, alteration or
109 repair of the home of a disabled individual who has been
110 determined eligible for services by the Mississippi Department of
111 Rehabilitation Services.

112 **SECTION 2.** This act shall take effect and be in force from
113 and after July 1, 2025.

