

By: Senator(s) Sparks

To: Judiciary, Division A

## SENATE BILL NO. 2786

1 AN ACT TO ENACT THE ENDING AGENCY OVERREACH ACT; TO CREATE  
2 NEW SECTION 9-1-201, MISSISSIPPI CODE OF 1972, TO PROVIDE ON  
3 APPEAL, A COURT SHALL INTERPRET A STATUTE OR AGENCY RULE OR  
4 REGULATION DE NOVO; TO CREATE NEW SECTION 9-1-203, MISSISSIPPI  
5 CODE OF 1972, TO PROVIDE THAT NO CIVIL PENALTY MAY BE AWARDED IN  
6 AN ACTION BROUGHT BY OR ON BEHALF OF AN ADMINISTRATIVE AGENCY OF  
7 THE STATE AGAINST ANY PERSON OR LEGAL ENTITY FOR CONDUCT THAT  
8 WOULD ALSO BE THE SUBJECT OF A SUIT AT COMMON LAW IN WHICH THE  
9 DEFENDANT WOULD BE ENTITLED TO TRIAL BY JURY, EXCEPT AFTER A TRIAL  
10 BY JURY BEFORE A CIRCUIT, COUNTY, OR CHANCERY COURT; TO AMEND  
11 SECTION 25-43-3.111, MISSISSIPPI CODE OF 1972, TO AUTHORIZE A  
12 PERSON OR ENTITY TO CONTEST THE VALIDITY OF AN AGENCY RULE UP TO  
13 ONE YEAR AFTER THE DATE THE PERSON OR ENTITY BRINGING THE ACTION  
14 IS INJURED BY FINAL AGENCY ACTION; AND FOR RELATED PURPOSES.

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

16 **SECTION 1.** This act shall be known as and may be cited as  
17 the "Ending Agency Overreach Act."

18 **SECTION 2.** The following shall be codified as Section  
19 9-1-201, Mississippi Code of 1972:

20 9-1-201. (1) On appeal of an agency's decision, a court  
21 shall interpret the statute or agency rule or regulation de novo.  
22 The reviewing court shall not defer to the agency's interpretation  
23 of the statute, rule or regulation. After applying all customary



24 tools of interpretation, the court shall resolve any remaining  
25 ambiguity against increased agency authority.

26 (2) For the purposes of this section, "agency" shall mean  
27 any agency, board or commission of the state.

28 **SECTION 3.** The following shall be codified as Section  
29 9-1-203, Mississippi Code of 1972:

30 9-1-203. No civil penalty may be awarded in an action  
31 brought by or on behalf of an administrative agency board or  
32 commission of the state against any person or legal entity for  
33 conduct that would also be the subject of a suit at common law in  
34 which the defendant would be entitled to trial by jury before a  
35 circuit, county, or chancery court, except after a trial by jury  
36 before a circuit, county, or chancery court. This requirement  
37 does not apply to summary judgments rendered in compliance with  
38 the Rules of Civil Procedure and precedents establishing the  
39 standards for summary judgment. This requirement does not apply  
40 to civil cases in a court proceeding in chancery court that, prior  
41 to the effective date of this act, did not involve a right to a  
42 jury trial.

43 **SECTION 4.** Section 25-43-3.111, Mississippi Code of 1972, is  
44 amended as follows:

45 25-43-3.111. (1) A rule adopted after July 1, 2005, is  
46 invalid unless adopted in substantial compliance with the  
47 provisions of Sections 25-43-3.102 through 25-43-3.110.  
48 Inadvertent failure to mail a notice of proposed rule adoption to



49 any person as required by Section 25-43-3.103(2) does not  
50 invalidate a rule.

51 (2) An action to contest the validity of a rule on the  
52 grounds of its noncompliance with any provision of Sections  
53 25-43-3.102 through 25-43-3.110 must be commenced within either  
54 one (1) year after the effective date of the rule or one (1) year  
55 after the date the person or entity bringing the action is injured  
56 by final agency action, whichever is later.

57 **SECTION 5.** This act shall take effect and be in force from  
58 and after July 1, 2025.

