

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2847

1 AN ACT TO REQUIRE THAT ALL STATE AGENCIES AND OFFICIALS SHALL
2 PROVIDE THE GOVERNOR AND LEGISLATURE WITH WRITTEN NOTICE BEFORE
3 ENTERING INTO ANY AGREED JUDGMENT, CONSENT DECREE OR OTHER
4 SETTLEMENT OF ANY LITIGATION OR CLAIM AGAINST THE STATE IF THE
5 SETTLEMENT WOULD REQUIRE AN EXPENDITURE IN AN AMOUNT THAT EXCEEDS
6 \$5,000,000.00, OR WOULD IMPACT THE ADMINISTRATION OF ANY ELECTION;
7 TO PROVIDE THAT ANY SETTLEMENT AGREEMENT SUBJECT TO THE PROVISIONS
8 OF THIS SECTION WILL NOT GO INTO EFFECT UNTIL 30 DAYS AFTER
9 WRITTEN NOTICE IS PROVIDED TO THE GOVERNOR AND LEGISLATURE; TO
10 PROVIDE THAT ANY SETTLEMENT AGREEMENT THAT IS SUBJECT TO THE
11 PROVISIONS OF THIS SECTION BUT FAILS TO PROVIDE WRITTEN NOTICE TO
12 THE GOVERNOR AND LEGISLATURE IS VOID; TO AMEND SECTION 7-7-211,
13 MISSISSIPPI CODE OF 1972, TO REQUIRE THE OFFICE OF THE STATE
14 AUDITOR TO AUDIT NONPROFIT OR PROFIT ORGANIZATIONS WHO RECEIVE
15 \$10,000,000.00 OR MORE IN STATE OR GENERAL FUNDS; TO AUTHORIZE THE
16 AUDIT OF NONPROFIT OR PROFIT ORGANIZATIONS WHO RECEIVE LESS THAN
17 \$10,000,000.00 IN STATE OR FEDERAL FUNDS; TO REMOVE THE AUTHORITY
18 AND DUTY OF THE STATE AUDITOR TO INSTITUTE SUIT AGAINST A PERSON
19 OR PERSONS WHO REFUSE, NEGLECT OR OTHERWISE FAIL TO PAY AMOUNTS
20 DEMANDED AND THE INTEREST DUE THEREON; TO REQUIRE THAT AUDITS
21 OUTSOURCED BY THE OFFICE OF THE STATE AUDITOR ARE FINANCIAL
22 STATEMENT AUDITS; TO DEFINE THE TERM "FINANCIAL AFFAIRS" WITHIN
23 THE ARTICLE PROVIDING FOR THE DEPARTMENT OF AUDIT; AND FOR RELATED
24 PURPOSES.

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

26 **SECTION 1.** (1) No agency, board, commission, public officer
27 or official of the State of Mississippi shall, without prior
28 written notification to the Governor and the Legislature, enter



29 into any agreed judgment, consent decree or other settlement of
30 any litigation or claim against the state if the settlement:

31 (a) Would require an expenditure in an amount that
32 exceeds Five Million Dollars (\$5,000,000.00); or

33 (b) Would impact the administration of any election.

34 (2) For the purposes of this section, written notification
35 to the Governor and the Legislature shall be provided on a form as
36 prescribed by the Attorney General and delivered to the Governor
37 and the Lieutenant Governor and Speaker of the House of
38 Representatives on behalf of the Legislature.

39 (3) Any agreed judgment, consent decree or other settlement
40 of any litigation or claim against the state that would require an
41 expenditure in an amount that exceeds Five Million Dollars
42 (\$5,000,000.00) or would impact the administration of any
43 election, shall be subject to the provisions of this section, and
44 shall not go into effect until thirty (30) days after written
45 notification to the Governor and the Legislature, unless said
46 period is waived by the Governor, Lieutenant Governor and Speaker
47 of the House.

48 (4) Any agreed judgment, consent decree or other settlement
49 of any litigation or claim entered into in violation of this
50 section shall be void.

51 **SECTION 2.** Section 7-7-211, Mississippi Code of 1972, is
52 amended as follows:



7-7-211. (1) The department shall have the power and it shall be its duty:

(a) To identify and define for all public offices of the state and its subdivisions generally accepted accounting principles or other accounting principles as promulgated by nationally recognized professional organizations and to consult with the State Fiscal Officer in the prescription and implementation of accounting rules and regulations;

(b) To provide best practices, for all public offices of regional and local subdivisions of the state, systems of accounting, budgeting and reporting financial facts relating to said offices in conformity with legal requirements and with generally accepted accounting principles or other accounting principles as promulgated by nationally recognized professional organizations; to assist such subdivisions in need of assistance in the installation of such systems; to revise such systems when deemed necessary, and to report to the Legislature at periodic times the extent to which each office is maintaining such systems, along with such recommendations to the Legislature for improvement as seem desirable;

(c) To study and analyze existing managerial policies, methods, procedures, duties and services of the various state departments and institutions upon written request of the Governor, the Legislature or any committee or other body empowered by the



Legislature to make such request to determine whether and where
operations can be eliminated, combined, simplified and improved;

(d) To postaudit each year and, when deemed necessary,
preaudit and investigate the financial affairs of the departments,
institutions, boards, commissions, or other agencies of state
government, as part of the publication of a comprehensive annual
financial report for the State of Mississippi, or as deemed
necessary by the State Auditor. In complying with the
requirements of this paragraph, the department shall have the
authority to conduct all necessary audit procedures on an interim
and year-end basis;

(e) To postaudit and, when deemed necessary, preaudit
and investigate separately the financial affairs of (i) the
offices, boards and commissions of county governments and any
departments and institutions thereof and therein; (ii) public
school districts, departments of education and junior college
districts; and (iii) any other local offices or agencies which
share revenues derived from taxes or fees imposed by the State
Legislature or receive grants from revenues collected by
governmental divisions of the state; the cost of such audits,
investigations or other services to be paid as follows: Such part
shall be paid by the state from appropriations made by the
Legislature for the operation of the State Department of Audit as
may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
for the services of each staff person engaged in performing the



audit or other service plus the actual cost of any independent specialist firm contracted by the State Auditor to assist in the performance of the audit, which sum shall be paid by the county, district, department, institution or other agency audited out of its general fund or any other available funds from which such payment is not prohibited by law. Costs paid for independent specialists or firms contracted by the State Auditor shall be paid by the audited entity through the State Auditor to the specialist or firm conducting the postaudit.

Each school district in the state shall have its financial records audited annually, at the end of each fiscal year, either by the State Auditor or by a certified public accountant approved by the State Auditor. Beginning with the audits of fiscal year 2010 activity, no certified public accountant shall be selected to perform the annual audit of a school district who has audited that district for three (3) or more consecutive years previously. Certified public accountants shall be selected in a manner determined by the State Auditor. The school district shall have the responsibility to pay for the audit, including the review by the State Auditor of audits performed by certified public accountants;

(f) To postaudit and * * * preaudit and investigate the financial affairs of the levee boards; agencies created by the Legislature or by executive order of the Governor; profit or nonprofit business entities administering programs financed by



funds in the amount of Ten Million Dollars (\$10,000,000.00) or
more flowing through the State Treasury or through any of the
agencies of the state, or its subdivisions and may postaudit and
preaudit profit and nonprofit business entities administering
programs financed by funds in an amount less than Ten Million
Dollars (\$10,000,000.00) flowing through the State Treasury or
through any of the agencies of the state, or its subdivisions; and
all other public bodies supported by funds derived in part or
wholly from public funds, except municipalities which annually
submit an audit prepared by a qualified certified public
accountant using methods and procedures prescribed by the
department;

(g) To make written demand, when necessary, for the
recovery of any amounts representing public funds improperly
withheld, misappropriated and/or otherwise illegally expended by
an officer, employee or administrative body of any state, county
or other public office, and/or for the recovery of the value of
any public property disposed of in an unlawful manner by a public
officer, employee or administrative body, such demands to be made
(i) upon the person or persons liable for such amounts and upon
the surety on official bond thereof, and/or (ii) upon any
individual, partnership, corporation or association to whom the
illegal expenditure was made or with whom the unlawful disposition
of public property was made, if such individual, partnership,
corporation or association knew or had reason to know through the



exercising of reasonable diligence that the expenditure was
illegal or the disposition unlawful. Such demand shall be
premised on competent evidence, which shall include at least one
(1) of the following: (i) sworn statements, (ii) written
documentation, (iii) physical evidence, or (iv) reports and
findings of government or other law enforcement agencies. Other
provisions notwithstanding, a demand letter issued pursuant to
this paragraph shall remain confidential by the State Auditor
until the individual against whom the demand letter is being filed
has been served with a copy of such demand letter. If, however,
such individual cannot be notified within fifteen (15) days using
reasonable means and due diligence, such notification shall be
made to the individual's bonding company, if he or she is bonded.
Each such demand shall be paid into the proper treasury of the
state, county or other public body through the office of the
department in the amount demanded within thirty (30) days from the
date thereof, together with interest thereon in the sum of one
percent (1%) per month from the date such amount or amounts were
improperly withheld, misappropriated and/or otherwise illegally
expended. In the event, however, such person or persons or such
surety shall refuse, neglect or otherwise fail to pay the amount
demanded and the interest due thereon within the allotted thirty
(30) days, * * * the Attorney General shall prosecute the same in
any court of the state to the end that there shall be recovered
the total of such amounts from the person or persons and surety on



177 official bond named therein; and the amounts so recovered shall be
178 paid into the proper treasury of the state, county or other public
179 body through the State Auditor. In any case where written demand
180 is issued to a surety on the official bond of such person or
181 persons and the surety refuses, neglects or otherwise fails within
182 one hundred twenty (120) days to either pay the amount demanded
183 and the interest due thereon or to give the State Auditor a
184 written response with specific reasons for nonpayment, then the
185 surety shall be subject to a civil penalty in an amount of twelve
186 percent (12%) of the bond, not to exceed Ten Thousand Dollars
187 (\$10,000.00), to be deposited into the State General Fund;

188 (h) To investigate any alleged or suspected violation
189 of the laws of the state by any officer or employee of the state,
190 county or other public office in the purchase, sale or the use of
191 any supplies, services, equipment or other property belonging
192 thereto; and in such investigation to do any and all things
193 necessary to procure evidence sufficient either to prove or
194 disprove the existence of such alleged or suspected violations.
195 The Division of Investigation of the State Department of Audit may
196 investigate, for the purpose of prosecution, any suspected
197 criminal violation of the provisions of this chapter. For the
198 purpose of administration and enforcement of this chapter, the
199 enforcement employees of the Division of Investigation of the
200 State Department of Audit have the powers of a law enforcement
201 officer of this state, and shall be empowered to make arrests and



202 to serve and execute search warrants and other valid legal process
203 anywhere within the State of Mississippi. All enforcement
204 employees of the Division of Investigation of the State Department
205 of Audit hired on or after July 1, 1993, shall be required to
206 complete the Law Enforcement Officers Training Program and shall
207 meet the standards of the program;

208 (i) To issue subpoenas, with the approval of, and
209 returnable to, a judge of a chancery or circuit court, in termtime
210 or in vacation, to examine the records, documents or other
211 evidence of persons, firms, corporations or any other entities
212 insofar as such records, documents or other evidence relate to
213 dealings with any state, county or other public entity. The
214 circuit or chancery judge must serve the county in which the
215 records, documents or other evidence is located; or where all or
216 part of the transaction or transactions occurred which are the
217 subject of the subpoena;

218 (j) In any instances in which the State Auditor is or
219 shall be authorized or required to examine or audit, whether
220 preaudit or postaudit, any books, ledgers, accounts or other
221 records of the affairs of any public hospital owned or owned and
222 operated by one or more political subdivisions or parts thereof or
223 any combination thereof, or any school district, including
224 activity funds thereof, it shall be sufficient compliance
225 therewith, in the discretion of the State Auditor, that such
226 examination or audit be made from the report of any audit or other



227 examination certified by a certified public accountant and
228 prepared by or under the supervision of such certified public
229 accountant. Such audits shall be financial statement audits which
230 are to be made in accordance with generally accepted standards of
231 auditing, with the use of an audit program prepared by the State
232 Auditor, and final reports of such audits shall conform to the
233 format prescribed by the State Auditor. All files, working
234 papers, notes, correspondence and all other data compiled during
235 the course of the audit shall be * * * provided, without cost, to
236 the State Auditor for examination and abstracting during the
237 normal business hours of any business day. The expense of such
238 certified reports shall be borne by the respective hospital, or
239 any available school district funds, subject to examination or
240 audit. The State Auditor shall not be bound by such certified
241 reports and * * * shall conduct such examination or audit from the
242 books, ledgers, accounts or other records involved as may be
243 appropriate and authorized by law;

244 (k) The State Auditor shall have the authority to
245 contract with qualified public accounting firms to perform
246 selected audits required in paragraphs (d), (e), (f) and (j) of
247 this section, if funds are made available for such contracts by
248 the Legislature, or if funds are available from the governmental
249 entity covered by paragraphs (d), (e), (f) and (j). Such audits
250 shall be financial statement audits which are to be made in
251 accordance with generally accepted standards of auditing. All



files, working papers, notes, correspondence and all other data compiled during the course of the audit shall be * * * provided, without cost, to the State Auditor for examination and abstracting during the normal business hours of any business day;

(l) The State Auditor shall have the authority to establish training courses and programs for the personnel of the various state and local governmental entities under the jurisdiction of the Office of the State Auditor. The training courses and programs shall include, but not be limited to, topics on internal control of funds, property and equipment control and inventory, governmental accounting and financial reporting, and internal auditing. The State Auditor is authorized to charge a fee from the participants of these courses and programs, which fee shall be deposited into the Department of Audit Special Fund. State and local governmental entities are authorized to pay such fee and any travel expenses out of their general funds or any other available funds from which such payment is not prohibited by law;

(m) Upon written request by the Governor or any member of the State Legislature, the State Auditor may audit any state funds and/or state and federal funds received by any nonprofit corporation incorporated under the laws of this state;

(n) To conduct performance audits of personal or professional service contracts by state agencies on a random



sampling basis, or upon request of the State Personal Service
Contract Review Board under Section 25-9-120(3);

(o) At the discretion of the State Auditor, the Auditor
may conduct risk assessments, as well as performance and
compliance audits based on Generally Accepted Government Auditing
Standards (GAGAS) of any state-funded economic development program
authorized under Title 57, Mississippi Code of 1972. After risk
assessments or program audits, the State Auditor may conduct
audits of those projects deemed high-risk, specifically as they
identify any potential wrongdoing or noncompliance based on
objectives of the economic development program. The Auditor is
granted authority to gather, audit and review data and information
from the Mississippi Development Authority or any of its agents,
the Department of Revenue, and when necessary under this
paragraph, the recipient business or businesses or any other
private, public or nonprofit entity with information relevant to
the audit project. The maximum amount the State Auditor may bill
the oversight agency under this paragraph in any fiscal year is
One Hundred Thousand Dollars (\$100,000.00), based on reasonable
and necessary expenses;

(p) To review and approve any independent auditor
selected by the Mississippi Lottery Corporation in accordance with
Section 27-115-89, to conduct an annual audit of the corporation;
and



300 (q) To conduct audits or investigations of the
301 Mississippi Lottery Corporation if, in the opinion of the State
302 Auditor, conditions justify such audits or investigations.

303 (2) As used in this article, "financial affairs" shall mean
304 an entity's income, expenses, assets, liabilities, and recent
305 financial transactions.

306 **SECTION 3.** This act shall take effect and be in force from
307 and after July 1, 2025.

