

By: Senator(s) Horhn

To: Business and
Financial
Institutions;
Appropriations

SENATE BILL NO. 2858

1 AN ACT TO AMEND SECTIONS 31-3-17 AND 31-3-21, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT THE CIVIL PENALTIES COLLECTED BY THE
3 STATE BOARD OF CONTRACTORS SHALL BE DEPOSITED INTO THE STATE BOARD
4 OF CONTRACTORS FUND, INSTEAD OF THE STATE GENERAL FUND; AND FOR
5 RELATED PURPOSES.

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

7 SECTION 1. Section 31-3-17, Mississippi Code of 1972, is
8 amended as follows:

9 31-3-17. There is hereby levied, in addition to any taxes
10 otherwise provided for by law, a special privilege license tax of
11 One Hundred Dollars (\$100.00) on each contractor to whom a
12 certificate of responsibility is issued under this chapter; and
13 such tax shall be paid to the executive secretary of the board
14 before engaging in or continuing in such business in this state.
15 The board may levy an additional special privilege license tax not
16 to exceed Fifty Dollars (\$50.00) for each additional
17 classification for which a contractor applies and is found to be
18 qualified. The executive secretary of the board shall promptly
19 deposit all monies received under this chapter in the State
20 Treasury. Except for * * * the fee provided in Section 31-3-14,
21 all monies received under this chapter shall be kept in a special
22 fund in the State Treasury known as the "State Board of
23 Contractors Fund," and shall be used only for the purposes of this
24 chapter. Such monies shall not lapse at the end of each fiscal
25 year, but all monies in such State Board of Contractors Fund in
26 excess of the sum of fifty percent (50%) of the approved budget
27 for the fiscal year shall be paid over into the General Fund of

28 the State Treasury. All expenditures from the Board of
29 Contractors Fund shall be by requisition to the State Auditor,
30 signed by the executive secretary of the board and countersigned
31 by the chairman or vice-chairman of the board, and the State
32 Treasurer shall issue his warrants thereon.

33 SECTION 2. Section 31-3-21, Mississippi Code of 1972, is
34 amended as follows:

35 31-3-21. (1) It shall be unlawful for any person who does
36 not hold a certificate of responsibility issued under this
37 chapter, or a similar certificate issued by another state
38 recognizing such certificate issued by the State of Mississippi,
39 to submit a bid, enter into a contract, or otherwise engage in or
40 continue in this state in the business of a contractor, as defined
41 in this chapter. Any bid which is submitted without a certificate
42 of responsibility number issued under this chapter and without
43 that number appearing on the exterior of the bid envelope, as and
44 if herein required, at the time designated for the opening of such
45 bid, shall not be considered further, and the person or public
46 agency soliciting bids shall not enter into a contract with a
47 contractor submitting a bid in violation of this section. In
48 addition, any person violating this section by knowingly and
49 willfully submitting a bid for projects without holding a
50 certificate of responsibility number issued under this chapter, as
51 and if herein required, at the time of the submission or opening
52 of such bid shall be guilty of a misdemeanor and, upon conviction,
53 shall be punished by a fine of not more than One Thousand Dollars
54 (\$1,000.00), or by imprisonment for not more than six (6) months,
55 or by both such fine and imprisonment.

56 (2) All bids submitted for public or private projects where
57 said bid is in excess of Fifty Thousand Dollars (\$50,000.00) with
58 respect to public projects and in excess of One Hundred Thousand
59 Dollars (\$100,000.00) with respect to private projects shall
60 contain on the outside or exterior of the envelope or container of
61 such bid the contractor's current certificate number, and no bid
62 shall be opened or considered unless such contractor's current
63 certificate number appears on the outside or exterior of said
64 envelope or container, or unless there appears a statement on the

65 outside or exterior of such envelope or container to the effect
66 that the bid enclosed therewith did not exceed Fifty Thousand
67 Dollars (\$50,000.00) with respect to public projects or One
68 Hundred Thousand Dollars (\$100,000.00) with respect to private
69 projects. Any person violating the provisions of this subsection
70 shall be guilty of a misdemeanor and, upon conviction, shall be
71 punished by a fine of not more than One Thousand Dollars
72 (\$1,000.00), or by imprisonment for not more than six (6) months,
73 or by both such fine and imprisonment.

74 (3) In the letting of public contracts preference shall be
75 given to resident contractors, and a nonresident bidder domiciled
76 in a state having laws granting preference to local contractors
77 shall be awarded Mississippi public contracts only on the same
78 basis as the nonresident bidder's state awards contracts to
79 Mississippi contractors bidding under similar circumstances; and
80 resident contractors actually domiciled in Mississippi, be they
81 corporate, individuals, or partnerships, are to be granted
82 preference over nonresidents in awarding of contracts in the same
83 manner and to the same extent as provided by the laws of the state
84 of domicile of the nonresident. When a nonresident contractor
85 submits a bid for a public project, he shall attach thereto a copy
86 of his resident state's current law pertaining to such state's
87 treatment of nonresident contractors. As used in this section,
88 the term "resident contractors" includes a nonresident person,
89 firm or corporation that has been qualified to do business in this
90 state and has maintained a permanent full-time office in the State
91 of Mississippi for two (2) years prior to January 1, 1986, and the
92 subsidiaries and affiliates of such a person, firm or corporation.
93 Any public agency awarding a contract shall promptly report to the
94 State Tax Commission the following information:

- 95 (a) The amount of the contract.
- 96 (b) The name and address of the contractor reviewing
97 the contract.

98 (c) The name and location of the project.

99 (4) In addition to any other penalties provided in this
100 chapter, and upon a finding of a violation of this chapter, the
101 State Board of Contractors may, after notice and hearing, issue an
102 order of abatement directing the contractor to cease all actions
103 constituting violations of this chapter until such time as the
104 contractor complies with Mississippi state law, and to pay to the
105 board a civil penalty to be deposited into the State Board of
106 Contractors Fund of not more than three percent (3%) of the total
107 contract being performed by the contractor.

108 SECTION 3. This act shall take effect and be in force from
109 and after July 1, 1999.