

By: Representative Fleming

To: Appropriations

HOUSE BILL NO. 197

1 AN ACT TO AMEND SECTIONS 31-7-9 AND 31-7-12, MISSISSIPPI CODE
2 OF 1972, TO PROVIDE THAT PRICES FOR COMMODITIES UNDER THE STATE
3 CONTRACT SHALL NOT BE MORE THAN THE FAIR MARKET VALUE OF THE
4 COMMODITIES; TO PROVIDE THAT IN ANY PURCHASE BY A STATE AGENCY
5 FROM A STATE CONTRACT VENDOR, THE VENDOR MUST SELL THEIR
6 COMMODITIES TO THE AGENCY AT PRICES NOT MORE THAN THE FAIR MARKET
7 VALUE OF THE COMMODITIES; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 31-7-9, Mississippi Code of 1972, is
10 amended as follows:

11 31-7-9. (1) The Office of Purchasing and Travel shall adopt
12 purchasing regulations governing the purchase by any agency of any
13 commodity or commodities and establishing standards and
14 specifications for a commodity or commodities and the maximum fair
15 prices of a commodity or commodities, which prices shall be not
16 more than the fair market value of the commodities, subject to the
17 approval of the Public Procurement Review Board. It shall have
18 the power to amend, add to or eliminate purchasing regulations.
19 The adoption of, amendment, addition to or elimination of
20 purchasing regulations shall be based upon a determination by the
21 Office of Purchasing and Travel with the approval of the Public
22 Procurement Review Board, that such action is reasonable and
23 practicable and advantageous to promote efficiency and economy in
24 the purchase of commodities by the agencies of the state. Upon
25 the adoption of any purchasing regulation, or an amendment,
26 addition or elimination therein, copies of same shall be furnished
27 to the State Auditor and to all agencies affected thereby.
28 Thereafter, and except as otherwise may be provided in subsection
29 (2) of this section, no agency of the state shall purchase any



30 commodities covered by existing purchasing regulations unless such
31 commodities be in conformity with the standards and specifications
32 set forth in the purchasing regulations and unless the price
33 thereof does not exceed the maximum fair price established by such
34 purchasing regulations. The * * * Office of Purchasing and Travel
35 shall furnish to any county or municipality or other local public
36 agency of the state requesting same, copies of purchasing
37 regulations adopted by the Office of Purchasing and Travel and any
38 amendments, changes or eliminations of same that may be made from
39 time to time.

40 (2) The Office of Purchasing and Travel shall adopt, subject
41 to the approval of the Public Procurement Review Board, purchasing
42 regulations governing the purchase of unmarked vehicles to be used
43 by the Bureau of Narcotics and Department of Public Safety in
44 official investigations pursuant to Section 25-1-87. Such
45 regulations shall ensure that purchases of such vehicles shall be
46 at a fair price and shall take into consideration the peculiar
47 needs of the Bureau of Narcotics and Department of Public Safety
48 in undercover operations.

49 **SECTION 2.** Section 31-7-12, Mississippi Code of 1972, is
50 amended as follows:

51 31-7-12. (1) Except in regard to purchases of unmarked
52 vehicles made in accordance with purchasing regulations adopted by
53 the Department of Finance and Administration pursuant to Section
54 31-7-9(2), all agencies shall purchase commodities at the state
55 contract price from the approved source, unless approval is
56 granted by the Department of Finance and Administration to solicit
57 purchases outside the terms of the contracts. However, prices
58 accepted by an agency shall be less than the prices set by the
59 state contract. Prices accepted by an agency shall be obtained in
60 compliance with paragraph (a), (b) or (c) of Section 31-7-13. It
61 shall be the responsibility of the Department of Finance and
62 Administration to ascertain that the resulting prices shall



63 provide a cost effective alternative to the established state
64 contract.

65 (2) Governing authorities may purchase commodities approved
66 by the Department of Finance and Administration from the state
67 contract vendor, or from any source offering the identical
68 commodity, at a price not exceeding the state contract price
69 established by the Department of Finance and Administration for
70 such commodity, without obtaining or advertising for competitive
71 bids. Governing authorities that do not exercise the option to
72 purchase such commodities from the state contract vendor or from
73 another source offering the identical commodity at a price not
74 exceeding the state contract price established by the Department
75 of Finance and Administration shall make such purchases pursuant
76 to the provisions of Section 31-7-13 without regard to state
77 contract prices established by the Department of Finance and
78 Administration, unless such purchases are authorized to be made
79 under subsection (5) of this section.

80 (3) Nothing in this section shall prohibit governing
81 authorities from purchasing, pursuant to subsection (2) of this
82 section, commodities approved by the Department of Finance and
83 Administration at a price not exceeding the state contract price
84 established by the Department of Finance and Administration.

85 (4) The Department of Finance and Administration shall
86 ensure that the prices of all commodities on the state contract
87 are the lowest and best prices available from any source offering
88 that commodity at the same level of quality or service, utilizing
89 the reasonable standards established therefor by the Department of
90 Finance and Administration. All such prices shall be not more
91 than the fair market value of the commodities, as determined by
92 the Department of Finance and Administration. If the Department
93 of Finance and Administration does not list an approved price for
94 the particular item involved, purchase shall be made according to
95 statutory bidding and licensing requirements. To encourage



96 prudent purchasing practices, the Department of Finance and
97 Administration shall be authorized and empowered to exempt certain
98 commodities from the requirement that the lowest and best price be
99 approved by order placed on its minutes.

100 (5) In any purchase by an agency from a state contract
101 vendor, the vendor must sell their commodities to the agency at
102 prices not more than the fair market value of the commodities.

103 (6) Any school district may purchase commodities from
104 vendors with which any levying authority of the school district,
105 as defined in Section 37-57-1, has contracted through competitive
106 bidding procedures pursuant to Section 31-7-13 for purchases of
107 the same commodities. Purchases authorized by this subsection may
108 be made by a school district without obtaining or advertising for
109 competitive bids, and such purchases shall be made at the same
110 prices and under the same conditions as purchases of the same
111 commodities are to be made by the levying authority of the school
112 district under the contract with the vendor.

113 **SECTION 3.** This act shall take effect and be in force from
114 and after July 1, 2002.

