

By: Senator(s) Jackson

To: Business and Financial
Institutions

SENATE BILL NO. 2902

1 AN ACT TO AMEND SECTION 31-3-17, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT A SPECIAL PRIVILEGE TAX SHALL BE LEVIED ON EACH
3 CONTRACTOR WHO APPLIES FOR A CERTIFICATE OF RESPONSIBILITY; TO
4 AMEND SECTION 31-3-21, MISSISSIPPI CODE OF 1972, TO PROHIBIT
5 COUNTIES AND MUNICIPALITIES FROM ISSUING A CONSTRUCTION PERMIT,
6 CERTIFICATE OF OCCUPANCY, OR OTHER CONSTRUCTION APPROVALS TO ANY
7 CONTRACTOR WHO HAS NOT PAID OR SATISFIED A CIVIL PENALTY ASSESSED
8 BY THE STATE BOARD OF CONTRACTORS; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** Section 31-3-17, Mississippi Code of 1972, is
11 amended as follows:

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



31 for the fiscal year shall be paid over into the General Fund of
32 the State Treasury. All expenditures from the Board of
33 Contractors Fund shall be by requisition to the State Auditor,
34 signed by the executive secretary of the board and countersigned
35 by the chairman or vice chairman of the board, and the State
36 Treasurer shall issue his warrants thereon.

37 **SECTION 2.** Section 31-3-21, Mississippi Code of 1972, is
38 amended as follows:

39 31-3-21. (1) It shall be unlawful for any person who does
40 not hold a certificate of responsibility issued under this
41 chapter, or a similar certificate issued by another state
42 recognizing such certificate issued by the State of Mississippi,
43 to submit a bid, enter into a contract, or otherwise engage in or
44 continue in this state in the business of a contractor, as defined
45 in this chapter. Any bid which is submitted without a certificate
46 of responsibility number issued under this chapter and without
47 that number appearing on the exterior of the bid envelope, as and
48 if herein required, at the time designated for the opening of such
49 bid, shall not be considered further, and the person or public
50 agency soliciting bids shall not enter into a contract with a
51 contractor submitting a bid in violation of this section. In
52 addition, any person violating this section by knowingly and
53 willfully submitting a bid for projects without holding a
54 certificate of responsibility number issued under this chapter, as
55 and if herein required, at the time of the submission or opening
56 of such bid shall be guilty of a misdemeanor and, upon conviction,
57 shall be punished by a fine of not more than One Thousand Dollars
58 (\$1,000.00), or by imprisonment for not more than six (6) months,
59 or by both such fine and imprisonment.

60 (2) All bids submitted for public or private projects where
61 said bid is in excess of Fifty Thousand Dollars (\$50,000.00) with
62 respect to public projects and in excess of One Hundred Thousand
63 Dollars (\$100,000.00) with respect to private projects shall



64 contain on the outside or exterior of the envelope or container of
65 such bid the contractor's current certificate number, and no bid
66 shall be opened or considered unless such contractor's current
67 certificate number appears on the outside or exterior of said
68 envelope or container, or unless there appears a statement on the
69 outside or exterior of such envelope or container to the effect
70 that the bid enclosed therewith did not exceed Fifty Thousand
71 Dollars (\$50,000.00) with respect to public projects or One
72 Hundred Thousand Dollars (\$100,000.00) with respect to private
73 projects. Any person violating the provisions of this subsection
74 shall be guilty of a misdemeanor and, upon conviction, shall be
75 punished by a fine of not more than One Thousand Dollars
76 (\$1,000.00), or by imprisonment for not more than six (6) months,
77 or by both such fine and imprisonment.

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



97 Any public agency awarding a contract shall promptly report to the
98 State Tax Commission the following information:

99 (a) The amount of the contract.

100 (b) The name and address of the contractor reviewing
101 the contract.

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

103 (4) In addition to any other penalties provided in this
104 chapter, and upon a finding of a violation of this chapter, the
105 State Board of Contractors may, after notice and hearing, issue an
106 order of abatement directing the contractor to cease all actions
107 constituting violations of this chapter until such time as the
108 contractor complies with Mississippi state law, and to pay to the
109 board a civil penalty to be deposited into the State Board of
110 Contractors' Fund, created in Section 31-3-17, of not more than
111 three percent (3%) of the total contract being performed by the
112 contractor. The funds collected from civil penalty payments shall
113 be used by the State Board of Contractors for enforcement and
114 education. The governing authority of any municipality or county
115 shall not issue a certificate of occupancy, and shall revoke or
116 suspend any building/construction permit, certificate of occupancy
117 or other construction approvals, to any contractor on a project or
118 job against whom a civil penalty has been assessed by the State
119 Board of Contractors when notified by the State Board of
120 Contractors that the civil penalty has not been paid or satisfied.

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

