

By: Senator(s) Mettetal, Jackson (32nd)

To: Public Property; Finance

SENATE BILL NO. 2556

1 AN ACT TO AMEND SECTION 31-5-25, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE TIME PERIOD FOR PAYMENT DUE CONTRACTORS UNDER ALL
3 PUBLIC CONSTRUCTION CONTRACTS; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 31-5-25, Mississippi Code of 1972, is
6 amended as follows:

7 31-5-25. (1) All sums due contractors under all public
8 construction contracts shall be paid as follows:

9 (a) Partial, progress or interim payments: All
10 partial, progress or interim payments or monies owed contractors
11 shall be paid when due and payable under the terms of the
12 contract. If they are not paid within forty-five (45) calendar
13 days from the day they were due and payable, then they shall bear
14 interest from the due date until paid at the rate of one percent
15 (1%) per month until fully paid.

16 (b) Final payments: The final payment of all monies
17 owed contractors shall be due and payable:

18 (i) At the completion of the project or after the
19 work has been substantially completed in accordance with the terms
20 and provisions of the contract;

21 (ii) When the owner beneficially uses or occupies
22 the project except in the case where the project involves
23 renovation or alteration to an existing facility in which the
24 owner maintains beneficial use or occupancy during the course of
25 the project;

(iii) When the project is certified as having been completed by the architect or engineer authorized to make such certification; or

(iv) When the project is certified as having been completed by the contracting authority representing the State of Mississippi or any of its political subdivisions, whichever event shall first occur.

If the contractor is not paid in full within forty-five (45) calendar days from the first occurrence of one (1) of the above-mentioned events, then said final payment shall bear interest from the date of said first occurrence at the rate of one percent (1%) per month until fully paid.

In no event shall said final payment due the contractor be made until the consent of the contractor's surety has been obtained in writing and delivered to the proper contracting authority.

(c) Contracts for the construction of prison facilities let or approved by the State Prison Emergency Construction and Management Board when exercising its emergency powers to remove two thousand (2,000) inmates from county jails are exempt from this section; however, this exemption does not apply to contracts for the construction of private correctional facilities and additional facilities at the South Mississippi Correctional Institution and the Central Mississippi Correctional Facility. This paragraph shall stand repealed from and after July 1, 1996.

(2) Contractors shall submit monthly certification to the project engineer or architect indicating payments to subcontractors on prior payment request.

SECTION 2. This act shall take effect and be in force from and after July 1, 2006.