

By: Representatives Jennings, Baker (74th),
Mayhall, Smith (59th)

To: Judiciary A

HOUSE BILL NO. 1211

1 AN ACT TO AMEND SECTION 73-13-45, MISSISSIPPI CODE OF 1972,
2 TO REVISE THE DOLLAR AMOUNT OF A PUBLIC WORKS CONTRACT WHICH
3 REQUIRES THE USE OF AN ENGINEER OR ARCHITECT; AND FOR RELATED
4 PURPOSES.

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

6 **SECTION 1.** Section 73-13-45, Mississippi Code of 1972, is
7 amended as follows:

8 73-13-45. (1) (a) Neither the state, nor any of its
9 political subdivisions, such as a county, city or town, shall
10 award construction contracts of any public work involving the
11 practice of engineering or architecture unless the plans,
12 specifications and estimates have been prepared and such work
13 supervised by a registered professional engineer or architect;
14 provided, that nothing in this subsection shall be held to apply
15 to such public work wherein the expenditure does not exceed One
16 Hundred Thousand Dollars (\$100,000.00); and provided further, that
17 nothing in this subsection shall apply to any municipality wherein
18 such public work is not financed in whole or in part through the
19 issuance of bonds and let to public contract.

20 (b) The state and any of its political subdivisions,
21 such as a county, city or town, may engage in construction of
22 public buildings involving the practice of engineering or
23 architecture and using political subdivision work forces without
24 the supervision of a licensed professional engineer or architect,
25 provided that the total cost of the public building does not
26 exceed One Hundred Thousand Dollars (\$100,000.00). This paragraph
27 (1)(b) shall not supersede any rules and regulations promulgated

28 by the State Department of Health and the Department of
29 Environmental Quality.

30 (2) (a) In the awarding of public contracts for
31 professional engineering services, preference shall be given to
32 resident professional engineers over those nonresident
33 professional engineers domiciled in a state having laws which
34 grant a preference to the professional engineers who are residents
35 of that state. Nonresident professional engineers shall be
36 awarded Mississippi public contracts only on the same basis as the
37 nonresident professional's state awards contracts to Mississippi
38 professional engineers under similar circumstances. When a
39 nonresident professional engineer submits a proposal for a public
40 project, he shall attach thereto a copy of his resident state's
41 current statute, resolution, policy, procedure or executive order
42 pertaining to such state's treatment of nonresident professional
43 engineers. Resident professional engineers actually domiciled in
44 Mississippi, be they corporate, individuals or partnerships, shall
45 be granted preference over nonresidents in the awarding of
46 contracts in the same manner and to the same extent as provided by
47 the laws of the state of domicile of the nonresident. As used in
48 this section, the term "resident professional engineer" includes a
49 nonresident person, firm or corporation that has been qualified to
50 do business in this state and has maintained a permanent full-time
51 office in the State of Mississippi for not less than two (2) years
52 prior to submitting a proposal for a public project, and the
53 subsidiaries and affiliates of such a person, firm or corporation.

54 (b) The provisions of this subsection shall not apply
55 to any contract for any project upon which federal funds would be
56 withheld because of the preference requirements of this
57 subsection.

58 (c) Any contract, agreement or arrangement for
59 professional engineering services negotiated, made or entered
60 into, directly or indirectly, by the state, counties,

61 municipalities or any political subdivision thereof, or by any
62 special districts, which is in any way in violation of the
63 provisions of this subsection is hereby declared to be void as
64 contrary to the public policy of this state and shall not be given
65 effect or enforced by any court of this state or by any of its
66 officers or employees.

67 (d) Nothing in this subsection shall affect the
68 validity of any contract in existence prior to July 1, 1989.

69 (e) For purposes of this section, the term
70 "professional engineering services" means those within the scope
71 of the practice of professional engineering as defined by Sections
72 73-13-1 through 73-13-45, or those performed by any registered
73 professional engineer in connection with professional employment
74 or practice.

75 **SECTION 2.** This act shall take effect and be in force from
76 and after July 1, 2007.