

**Adopted  
AMENDMENT NO 1 PROPOSED TO**

**Cmte Sub for Senate Bill No. 2482**

**BY: Senator(s) Ross**

**Amend by striking all after the enacting clause and inserting  
in lieu thereof the following:**

19           **SECTION 1.** Section 7-5-1, Mississippi Code of 1972, is  
20 amended as follows:  
21           7-5-1. (1) The Attorney General provided for by Section 173  
22 of the Mississippi Constitution shall be elected at the same time  
23 and in the same manner as the Governor is elected. His term of  
24 office shall be four (4) years and his compensation shall be fixed  
25 by the Legislature. He shall be the chief legal officer and  
26 advisor for the state, both civil and criminal, and is charged  
27 with managing all litigation on behalf of the state. No arm or  
28 agency of the state government shall bring or defend a suit  
29 against another such arm or agency without prior written approval  
30 of the Attorney General. He shall have the powers of the Attorney  
31 General at common law and, subject to the notice requirements of  
32 subsection (2) of this section, is given the sole power to bring  
33 or defend a lawsuit on behalf of a state agency, the subject  
34 matter of which is of statewide interest, and he shall intervene  
35 and argue the constitutionality of any statute when notified of a  
36 challenge thereto, pursuant to the Mississippi Rules of Civil  
37 Procedure. His qualifications for office shall be as provided for

38 chancery and circuit judges in Section 154 of the Mississippi  
39 Constitution.

40 (2) No legal action on behalf of any state agency, including  
41 a suit to recoup funds expended by an agency, may be taken until  
42 seven (7) working days' written notice of the proposed legal  
43 action is given to the executive director of the agency. Upon the  
44 expiration of the notice period, the Attorney General may  
45 institute suit with or without the consent of the executive  
46 director of the agency. In such instances where the executive  
47 director does not consent, the agency may retain separate counsel  
48 pursuant to Section 4 of Senate Bill No. 2482, 2007 Regular  
49 Session.

50 **SECTION 2.** Section 7-5-5, Mississippi Code of 1972, is  
51 amended as follows:

52 7-5-5. (1) The Attorney General shall appoint nine (9)  
53 competent attorneys, each of whom shall be designated as an  
54 assistant attorney general. The assistants shall each possess all  
55 of the qualifications required by law of the Attorney General and  
56 shall have power and authority under the direction and supervision  
57 of the Attorney General to perform all of the duties required by  
58 law of that officer; and each shall be liable to the pains and  
59 penalties to which the Attorney General is liable. The assistants  
60 shall serve at the will and pleasure of the Attorney General, and  
61 they shall devote their entire time and attention to the duties  
62 pertaining to the Department of Justice as required by the general  
63 laws. The compensation of the within enumerated assistant  
64 attorneys general and all other regular assistants authorized by  
65 law shall be fixed by the Attorney General not to exceed the  
66 compensation fixed by law for such assistants.

67 (2) (a) The Attorney General is hereby authorized,  
68 empowered and directed to designate three (3) of the \* \* \*  
69 assistant attorneys general to devote their time and attention

70 primarily to defending and aiding in the defense in all courts of  
71 any suit, filed or threatened, against the State of Mississippi,  
72 against any subdivision thereof, or against any agency or  
73 instrumentality of the state or subdivision, including all elected  
74 officials and any other officer or employee thereof. When the  
75 circumstances permit, the assistants may perform any of the  
76 Attorney General's powers and duties, including, but not limited  
77 to, engaging in lawsuits outside the state when in his opinion  
78 same would help bring about the equal application of federal laws  
79 and court decisions in every state and guaranteeing equal  
80 protection of the laws as guaranteed every citizen by the United  
81 States Constitution.

82 (b) To further prosecute and insure such purposes,  
83 subject to the limitations in this paragraph, the Attorney General  
84 is hereby further expressly authorized, empowered and directed to  
85 employ such additional counsel as special assistant attorneys  
86 general as may be necessary or advisable, on a fee or contract  
87 basis; and the Attorney General shall be the sole judge of the  
88 compensation in such cases.

89 (i) Any contract for services of additional  
90 counsel providing for a contingent fee, or where the anticipated  
91 fee is in excess of One Million Dollars (\$1,000,000.00), shall  
92 require that the contracting attorney or law firm keep current and  
93 complete written time and expense records that describe in detail  
94 the time and money spent each day in performance of the contract.

95 (ii) Any contract for legal services where the  
96 legal fee is reasonably expected to exceed One Million Dollars  
97 (\$1,000,000.00) shall be reviewed by the Personal Service Contract  
98 Review Board pursuant to Section 25-9-120.

99 (iii) In those cases where the anticipated fee is  
100 in excess of One Million Dollars (\$1,000,000.00), no contract for  
101 services of additional counsel shall be entered into by the

102 Attorney General until requests for proposals have been issued to  
103 at least three (3) separate law firms or solo practitioners, and  
104 the Attorney General shall submit copies of all proposals to the  
105 Personal Service Contract Review Board.

106 (iv) On conclusion of the matter for which the  
107 outside legal services were obtained, the contracting attorney or  
108 law firm shall provide the Personal Service Contract Review Board  
109 with a complete written statement showing the contracting  
110 attorney's or law firm's computation of the amount of all fees and  
111 expenses, and the final complete time and expense records required  
112 under subparagraph (i) of this paragraph.

113 (3) The Attorney General may discharge any assistant  
114 attorney general or special assistant attorney general at his  
115 pleasure and appoint another in his stead. The assistant  
116 attorneys general shall devote their entire time and attention to  
117 the duties pertaining to the Department of Justice under the  
118 control and supervision of the Attorney General.

119 **SECTION 3.** Section 7-5-21, Mississippi Code of 1972, is  
120 amended as follows:

121 7-5-21. The Attorney General shall keep a docket of all  
122 causes in which he is required to appear or is appearing, either  
123 through his office or through retained counsel, which must \* \* \*  
124 be open to the inspection of the public and must show the county,  
125 district, and court in which the causes have been instituted and  
126 tried, and whether they be civil or criminal. If civil, the  
127 docket must show the nature of the demand, the stage of the  
128 proceedings, the name and address of any retained or contract  
129 counsel, a memorandum of the judgment when prosecuted to judgment,  
130 any process issued thereon, whether satisfied or not, and if not  
131 satisfied, the return of the sheriff. If criminal, the docket  
132 must show the nature of the crime, the mode of prosecution, the  
133 stage of the proceedings, a memorandum of the sentence when

134 prosecuted to a sentence, the execution thereof, if executed, and,  
135 if not executed, the reasons of delay or prevention.

136       **SECTION 4.** The governing director or governing entity of any  
137 state agency, board, institution or commission is entitled to  
138 retain special counsel on a fee or salary basis if a conflict of  
139 interest exists between the positions of the agency, board,  
140 institution or commission and the Office of the Attorney General  
141 as to a legal or policy position with regard to which the agency,  
142 board, institution or commission has standing. The compensation  
143 of any special counsel under this section shall not exceed  
144 recognized bar rates for similar services; the attorney's  
145 compensation shall be paid out of any funds appropriated or  
146 otherwise available to the appointing or employing entity. If the  
147 contract provides for a fee anticipated to exceed One Million  
148 Dollars (\$1,000,000.00), the agency, board, institution or  
149 commission shall not enter into a contract for legal services  
150 until requests for proposals have been issued to at least three  
151 (3) separate law firms or solo practitioners; copies of all  
152 proposals shall be submitted to the Personal Service Contract  
153 Review Board.

154       **SECTION 5.** Section 25-9-120, Mississippi Code of 1972, is  
155 amended as follows:

156       25-9-120. (1) Contract personnel, whether classified as  
157 contract workers or independent contractors shall not be deemed  
158 state service or nonstate service employees of the State of  
159 Mississippi, and shall not be eligible to participate in the  
160 Public Employees' Retirement System, or the state employee health  
161 plan, nor be allowed credit for personal and sick leave and other  
162 leave benefits as employees of the State of Mississippi,  
163 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101  
164 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through  
165 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth

166 herein. Contract workers, i.e., contract personnel who do not  
167 meet the criteria of independent contractors, shall be subject to  
168 the provisions of Section 25-11-127.

169 (2) There is hereby created the Personal Service Contract  
170 Review Board, which shall be composed of the State Personnel  
171 Director, the Executive Director of the Department of Finance and  
172 Administration, or his designee, the Commissioner of Corrections,  
173 or his designee, the Executive Director of the Mississippi  
174 Department of Wildlife and Fisheries, or his designee, and the  
175 Executive Director of the Department of Environmental Quality, or  
176 his designee. The State Personnel Director shall be chairman and  
177 shall preside over the meetings of the board. The board shall  
178 annually elect a vice chairman, who shall serve in the absence of  
179 the chairman. No business shall be transacted, including adoption  
180 of rules of procedure, without the presence of a quorum of the  
181 board. Three (3) members shall be a quorum. No action shall be  
182 valid unless approved by the chairman and two (2) other of those  
183 members present and voting, entered upon the minutes of the board  
184 and signed by the chairman. Necessary clerical and administrative  
185 support for the board shall be provided by the State Personnel  
186 Board. Minutes shall be kept of the proceedings of each meeting,  
187 copies of which shall be filed on a monthly basis with the  
188 Legislative Budget Office.

189 (3) The Personal Service Contract Review Board shall have  
190 the following powers and responsibilities:

191 (a) Promulgate rules and regulations governing the  
192 solicitation and selection of contractual services personnel  
193 including personal and professional services contracts for any  
194 form of consulting, policy analysis, public relations, marketing,  
195 public affairs, legislative advocacy services or any other  
196 contract that the board deems appropriate for oversight, with the  
197 exception of any personal service contracts entered into for

198 computer or information technology-related services governed by  
199 the Mississippi Department of Information Technology Services, any  
200 personal service contracts entered into by the Mississippi  
201 Department of Transportation, and any contract for attorney not  
202 subject to paragraph (b)(ii) of this subsection, accountant,  
203 auditor, physician, dentist, architect, engineer, veterinarian and  
204 utility rate expert services. Any such rules and regulations  
205 shall provide for maintaining continuous internal audit covering  
206 the activities of such agency affecting its revenue and  
207 expenditures as required under Section 7-7-3(6)(d), Mississippi  
208 Code of 1972;

209 (b) (i) Approve all personal and professional services  
210 contracts involving the expenditures of funds in excess of One  
211 Hundred Thousand Dollars (\$100,000.00).

212 (ii) Review all contracts for legal services,  
213 whether on a set fee, contingent fee or hourly fee basis, in which  
214 the anticipated fee is in excess of One Million Dollars  
215 (\$1,000,000.00), and provide a recommendation to the Attorney  
216 General or the retaining agency which the Attorney General or the  
217 retaining agency may consider.

218 (c) Develop standards with respect to contractual  
219 services personnel which require invitations for public bid,  
220 requests for proposals, record keeping and financial  
221 responsibility of contractors. The Personal Service Contract  
222 Review Board may, in its discretion, require the agency involved  
223 to advertise such contract for public bid, and may reserve the  
224 right to reject any or all bids;

225 (d) Prescribe certain circumstances whereby agency  
226 heads may enter into contracts for personal and professional  
227 services without receiving prior approval from the Personal  
228 Service Contract Review Board. The Personal Service Contract  
229 Review Board may establish a pre-approved list of providers of

230 various personal and professional services for set prices with  
231 which state agencies may contract without bidding or prior  
232 approval from the board;

233 (e) To provide standards for the issuance of requests  
234 for proposals, the evaluation of proposals received, consideration  
235 of costs and quality of services proposed, contract negotiations,  
236 the administrative monitoring of contract performance by the  
237 agency and successful steps in terminating a contract;

238 (f) To present recommendations for governmental  
239 privatization and to evaluate privatization proposals submitted by  
240 any state agency;

241 (g) To authorize personal and professional service  
242 contracts to be effective for more than one (1) year provided a  
243 funding condition is included in any such multiple year contract,  
244 except the State Board of Education, which shall have the  
245 authority to enter into contractual agreements for student  
246 assessment for a period up to ten (10) years. The State Board of  
247 Education shall procure these services in accordance with the  
248 Personal Service Contract Review Board procurement regulations;

249 (h) To request the State Auditor to conduct a  
250 performance audit on any personal or professional service  
251 contract;

252 (i) Prepare an annual report to the Legislature  
253 concerning the issuance of personal service contracts during the  
254 previous year, collecting any necessary information from state  
255 agencies in making such report.

256 (4) No member of the Personal Service Contract Review Board  
257 shall use his official authority or influence to coerce, by threat  
258 of discharge from employment, or otherwise, the purchase of  
259 commodities or the contracting for personal or professional  
260 services under this section.



261       (5) The Personal Service Contract Review Board may retain  
262 outside counsel for the purpose of advising it in its review  
263 pursuant to subsection (3)(b)(ii) of contracts entered into by the  
264 Attorney General or an agency for outside legal counsel.

265       **SECTION 6.** This act shall take effect and be in force from  
266 and after July 1, 2007.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1       AN ACT TO AMEND SECTION 7-5-1, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT NOTICE OF CERTAIN LITIGATION SHALL BE GIVEN TO AN  
3 AGENCY HEAD AND THAT AGENCIES MAY RETAIN SEPARATE COUNSEL IN  
4 CERTAIN SITUATIONS; TO AMEND SECTION 7-5-5, MISSISSIPPI CODE OF  
5 1972, TO REVISE THE AUTHORITY OF THE ATTORNEY GENERAL TO ENTER  
6 INTO CONTRACTS FOR OUTSIDE LEGAL SERVICES; TO AMEND SECTION  
7 7-5-21, MISSISSIPPI CODE OF 1972, TO REVISE THE CASE DOCKET  
8 MAINTAINED BY THE ATTORNEY GENERAL; TO AUTHORIZE STATE AGENCIES  
9 AND OTHER STATE ENTITIES TO DIRECTLY EMPLOY LEGAL COUNSEL, WHETHER  
10 SALARIED OR ON A CASE-BY-CASE BASIS, WHEN CERTAIN CONFLICTS OF  
11 INTEREST EXIST; TO PROVIDE THAT COMPENSATION OF SUCH LEGAL COUNSEL  
12 MAY BE PAID FROM ANY FUNDS APPROPRIATED OR OTHERWISE AVAILABLE TO  
13 THE APPOINTING OR EMPLOYING ENTITY; TO AMEND SECTION 25-9-120,  
14 MISSISSIPPI CODE OF 1972, TO REVISE THE DUTIES OF THE PERSONAL  
15 SERVICE CONTRACT REVIEW BOARD TO REVIEW CERTAIN FEE CONTRACTS FOR  
16 OUTSIDE LEGAL COUNSEL WHEN ENTERED INTO BY THE ATTORNEY GENERAL OR  
17 STATE AGENCIES; AND FOR RELATED PURPOSES.