

By: Senator(s) Parker

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2847

1 AN ACT TO REQUIRE THAT ALL STATE AGENCIES AND OFFICIALS SHALL
2 PROVIDE THE GOVERNOR AND LEGISLATURE WITH WRITTEN NOTICE BEFORE
3 ENTERING INTO ANY AGREED JUDGMENT, CONSENT DECREE OR OTHER
4 SETTLEMENT OF ANY LITIGATION OR CLAIM AGAINST THE STATE IF THE
5 SETTLEMENT WOULD REQUIRE AN EXPENDITURE IN AN AMOUNT THAT EXCEEDS
6 \$1,000,000.00, OR WOULD IMPACT THE ADMINISTRATION OF ANY ELECTION;
7 TO PROVIDE THAT ANY SETTLEMENT AGREEMENT SUBJECT TO THE PROVISIONS
8 OF THIS SECTION WILL NOT GO INTO EFFECT UNTIL 30 DAYS AFTER
9 WRITTEN NOTICE IS PROVIDED TO THE GOVERNOR AND LEGISLATURE; TO
10 PROVIDE THAT ANY SETTLEMENT AGREEMENT THAT IS SUBJECT TO THE
11 PROVISIONS OF THIS SECTION BUT FAILS TO PROVIDE WRITTEN NOTICE TO
12 THE GOVERNOR AND LEGISLATURE IS VOID; TO ALLOW THE NOTICE REQUIRED
13 BY THIS SECTION TO BE EXEMPT FROM THE MISSISSIPPI PUBLIC RECORDS
14 ACT OF 1983; TO AMEND SECTION 7-7-211, MISSISSIPPI CODE OF 1972,
15 TO REQUIRE THE OFFICE OF THE STATE AUDITOR TO AUDIT NONPROFIT
16 ORGANIZATIONS WHO RECEIVE TEN MILLION DOLLARS OR MORE IN STATE OR
17 GENERAL FUNDS; TO AUTHORIZE THE AUDIT OF NONPROFIT ORGANIZATIONS
18 WHO RECEIVE LESS THAN TEN MILLION DOLLARS IN STATE OR FEDERAL
19 FUNDS; TO REMOVE THE AUTHORITY AND DUTY OF THE STATE AUDITOR TO
20 INSTITUTE SUIT AGAINST A PERSON OR PERSONS WHO REFUSE, NEGLECT OR
21 OTHERWISE FAIL TO PAY AMOUNTS DEMANDED AND THE INTEREST DUE
22 THEREON; TO REQUIRE THAT AUDITS OUTSOURCED BY THE OFFICE OF THE
23 STATE AUDITOR ARE FINANCIAL STATEMENT AUDITS; TO DEFINE THE TERM
24 "FINANCIAL AFFAIRS" WITHIN THE ARTICLE PROVIDING FOR THE
25 DEPARTMENT OF AUDIT; AND FOR RELATED PURPOSES.

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

27 **SECTION 1.** (1) No agency, board, commission, public officer
28 or official of the State of Mississippi shall, without prior
29 written notification to the Governor and the Legislature, enter



30 into any agreed judgment, consent decree or other settlement of
31 any litigation or claim against the state if the settlement:

32 (a) Would require an expenditure in an amount that
33 exceeds One Million Dollars (\$1,000,000.00); or

34 (b) Would impact the administration of any election.

35 (2) For the purposes of this section, written notification
36 to the Governor and the Legislature shall be provided on a form as
37 prescribed by the Attorney General and delivered to the Governor
38 and the Lieutenant Governor and Speaker of the House of
39 Representatives on behalf of the Legislature.

40 (3) Any agreed judgment, consent decree or other settlement
41 of any litigation or claim against the state that would require an
42 expenditure in an amount that exceeds One Million Dollars
43 (\$1,000,000.00) or would impact the administration of any
44 election, shall be subject to the provisions of this section, and
45 shall not go into effect until thirty (30) days after written
46 notification to the Governor and the Legislature, unless said
47 period is waived by the Governor, Lieutenant Governor and Speaker
48 of the House.

49 (4) Any agreed judgment, consent decree or other settlement
50 of any litigation or claim entered into in violation of this
51 section shall be void.

52 (5) Any records, documents and information communicated to
53 the Governor and the Legislature in accordance with the provisions



54 of this act are exempt from the Mississippi Public Records Act of
55 1983, Miss. Code Ann. Sections 25-61-1, et seq.

56 **SECTION 2.** Section 7-7-211, Mississippi Code of 1972, is
57 amended as follows:

58 7-7-211. (1) The department shall have the power and it
59 shall be its duty:

60 (a) To identify and define for all public offices of
61 the state and its subdivisions generally accepted accounting
62 principles or other accounting principles as promulgated by
63 nationally recognized professional organizations and to consult
64 with the State Fiscal Officer in the prescription and
65 implementation of accounting rules and regulations;

66 (b) To provide best practices, for all public offices
67 of regional and local subdivisions of the state, systems of
68 accounting, budgeting and reporting financial facts relating to
69 said offices in conformity with legal requirements and with
70 generally accepted accounting principles or other accounting
71 principles as promulgated by nationally recognized professional
72 organizations; to assist such subdivisions in need of assistance
73 in the installation of such systems; to revise such systems when
74 deemed necessary, and to report to the Legislature at periodic
75 times the extent to which each office is maintaining such systems,
76 along with such recommendations to the Legislature for improvement
77 as seem desirable;



78 (c) To study and analyze existing managerial policies,
79 methods, procedures, duties and services of the various state
80 departments and institutions upon written request of the Governor,
81 the Legislature or any committee or other body empowered by the
82 Legislature to make such request to determine whether and where
83 operations can be eliminated, combined, simplified and improved;

84 (d) To postaudit each year and, when deemed necessary,
85 preaudit and investigate the financial affairs of the departments,
86 institutions, boards, commissions, or other agencies of state
87 government, as part of the publication of a comprehensive annual
88 financial report for the State of Mississippi, or as deemed
89 necessary by the State Auditor. In complying with the
90 requirements of this paragraph, the department shall have the
91 authority to conduct all necessary audit procedures on an interim
92 and year-end basis;

93 (e) To postaudit and, when deemed necessary, preaudit
94 and investigate separately the financial affairs of (i) the
95 offices, boards and commissions of county governments and any
96 departments and institutions thereof and therein; (ii) public
97 school districts, departments of education and junior college
98 districts; and (iii) any other local offices or agencies which
99 share revenues derived from taxes or fees imposed by the State
100 Legislature or receive grants from revenues collected by
101 governmental divisions of the state; the cost of such audits,
102 investigations or other services to be paid as follows: Such part



103 shall be paid by the state from appropriations made by the
104 Legislature for the operation of the State Department of Audit as
105 may exceed the sum of Thirty-five Dollars (\$35.00) per man-hour
106 for the services of each staff person engaged in performing the
107 audit or other service plus the actual cost of any independent
108 specialist firm contracted by the State Auditor to assist in the
109 performance of the audit, which sum shall be paid by the county,
110 district, department, institution or other agency audited out of
111 its general fund or any other available funds from which such
112 payment is not prohibited by law. Costs paid for independent
113 specialists or firms contracted by the State Auditor shall be paid
114 by the audited entity through the State Auditor to the specialist
115 or firm conducting the postaudit.

116 Each school district in the state shall have its financial
117 records audited annually, at the end of each fiscal year, either
118 by the State Auditor or by a certified public accountant approved
119 by the State Auditor. Beginning with the audits of fiscal year
120 2010 activity, no certified public accountant shall be selected to
121 perform the annual audit of a school district who has audited that
122 district for three (3) or more consecutive years previously.
123 Certified public accountants shall be selected in a manner
124 determined by the State Auditor. The school district shall have
125 the responsibility to pay for the audit, including the review by
126 the State Auditor of audits performed by certified public
127 accountants;



128 (f) To postaudit and * * * preaudit and investigate the
129 financial affairs of the levee boards; agencies created by the
130 Legislature or by executive order of the Governor; profit or
131 nonprofit business entities administering programs financed by
132 funds in the amount of Ten Million Dollars (\$10,000,000.00) or
133 more flowing through the State Treasury or through any of the
134 agencies of the state, or its subdivisions and may preaudit
135 nonprofit business entities administering programs financed by
136 funds in an amount less than Ten Million Dollars (\$10,000,000.00)
137 flowing through the State Treasury or through any of the agencies
138 of the state, or its subdivisions; and all other public bodies
139 supported by funds derived in part or wholly from public funds,
140 except municipalities which annually submit an audit prepared by a
141 qualified certified public accountant using methods and procedures
142 prescribed by the department;

143 (g) To make written demand, when necessary, for the
144 recovery of any amounts representing public funds improperly
145 withheld, misappropriated and/or otherwise illegally expended by
146 an officer, employee or administrative body of any state, county
147 or other public office, and/or for the recovery of the value of
148 any public property disposed of in an unlawful manner by a public
149 officer, employee or administrative body, such demands to be made
150 (i) upon the person or persons liable for such amounts and upon
151 the surety on official bond thereof, and/or (ii) upon any
152 individual, partnership, corporation or association to whom the



153 illegal expenditure was made or with whom the unlawful disposition
154 of public property was made, if such individual, partnership,
155 corporation or association knew or had reason to know through the
156 exercising of reasonable diligence that the expenditure was
157 illegal or the disposition unlawful. Such demand shall be
158 premised on competent evidence, which shall include at least one
159 (1) of the following: (i) sworn statements, (ii) written
160 documentation, (iii) physical evidence, or (iv) reports and
161 findings of government or other law enforcement agencies. Other
162 provisions notwithstanding, a demand letter issued pursuant to
163 this paragraph shall remain confidential by the State Auditor
164 until the individual against whom the demand letter is being filed
165 has been served with a copy of such demand letter. If, however,
166 such individual cannot be notified within fifteen (15) days using
167 reasonable means and due diligence, such notification shall be
168 made to the individual's bonding company, if he or she is bonded.
169 Each such demand shall be paid into the proper treasury of the
170 state, county or other public body through the office of the
171 department in the amount demanded within thirty (30) days from the
172 date thereof, together with interest thereon in the sum of one
173 percent (1%) per month from the date such amount or amounts were
174 improperly withheld, misappropriated and/or otherwise illegally
175 expended. In the event, however, such person or persons or such
176 surety shall refuse, neglect or otherwise fail to pay the amount
177 demanded and the interest due thereon within the allotted thirty



178 (30) days, * * * the Attorney General shall prosecute the same in
179 any court of the state to the end that there shall be recovered
180 the total of such amounts from the person or persons and surety on
181 official bond named therein; and the amounts so recovered shall be
182 paid into the proper treasury of the state, county or other public
183 body through the State Auditor. In any case where written demand
184 is issued to a surety on the official bond of such person or
185 persons and the surety refuses, neglects or otherwise fails within
186 one hundred twenty (120) days to either pay the amount demanded
187 and the interest due thereon or to give the State Auditor a
188 written response with specific reasons for nonpayment, then the
189 surety shall be subject to a civil penalty in an amount of twelve
190 percent (12%) of the bond, not to exceed Ten Thousand Dollars
191 (\$10,000.00), to be deposited into the State General Fund;

192 (h) To investigate any alleged or suspected violation
193 of the laws of the state by any officer or employee of the state,
194 county or other public office in the purchase, sale or the use of
195 any supplies, services, equipment or other property belonging
196 thereto; and in such investigation to do any and all things
197 necessary to procure evidence sufficient either to prove or
198 disprove the existence of such alleged or suspected violations.
199 The Division of Investigation of the State Department of Audit may
200 investigate, for the purpose of prosecution, any suspected
201 criminal violation of the provisions of this chapter. For the
202 purpose of administration and enforcement of this chapter, the



203 enforcement employees of the Division of Investigation of the
204 State Department of Audit have the powers of a law enforcement
205 officer of this state, and shall be empowered to make arrests and
206 to serve and execute search warrants and other valid legal process
207 anywhere within the State of Mississippi. All enforcement
208 employees of the Division of Investigation of the State Department
209 of Audit hired on or after July 1, 1993, shall be required to
210 complete the Law Enforcement Officers Training Program and shall
211 meet the standards of the program;

212 (i) To issue subpoenas, with the approval of, and
213 returnable to, a judge of a chancery or circuit court, in termtime
214 or in vacation, to examine the records, documents or other
215 evidence of persons, firms, corporations or any other entities
216 insofar as such records, documents or other evidence relate to
217 dealings with any state, county or other public entity. The
218 circuit or chancery judge must serve the county in which the
219 records, documents or other evidence is located; or where all or
220 part of the transaction or transactions occurred which are the
221 subject of the subpoena;

222 (j) In any instances in which the State Auditor is or
223 shall be authorized or required to examine or audit, whether
224 preaudit or postaudit, any books, ledgers, accounts or other
225 records of the affairs of any public hospital owned or owned and
226 operated by one or more political subdivisions or parts thereof or
227 any combination thereof, or any school district, including



228 activity funds thereof, it shall be sufficient compliance
229 therewith, in the discretion of the State Auditor, that such
230 examination or audit be made from the report of any audit or other
231 examination certified by a certified public accountant and
232 prepared by or under the supervision of such certified public
233 accountant. Such audits shall be financial statement audits which
234 are to be made in accordance with generally accepted standards of
235 auditing, with the use of an audit program prepared by the State
236 Auditor, and final reports of such audits shall conform to the
237 format prescribed by the State Auditor. All files, working
238 papers, notes, correspondence and all other data compiled during
239 the course of the audit shall be * * * provided, without cost, to
240 the State Auditor for examination and abstracting during the
241 normal business hours of any business day. The expense of such
242 certified reports shall be borne by the respective hospital, or
243 any available school district funds, subject to examination or
244 audit. The State Auditor shall not be bound by such certified
245 reports and * * * shall conduct such examination or audit from the
246 books, ledgers, accounts or other records involved as may be
247 appropriate and authorized by law;

248 (k) The State Auditor shall have the authority to
249 contract with qualified public accounting firms to perform
250 selected audits required in paragraphs (d), (e), (f) and (j) of
251 this section, if funds are made available for such contracts by
252 the Legislature, or if funds are available from the governmental



253 entity covered by paragraphs (d), (e), (f) and (j). Such audits
254 shall be financial statement audits which are to be made in
255 accordance with generally accepted standards of auditing. All
256 files, working papers, notes, correspondence and all other data
257 compiled during the course of the audit shall be * * *provided,
258 without cost, to the State Auditor for examination and abstracting
259 during the normal business hours of any business day;

260 (l) The State Auditor shall have the authority to
261 establish training courses and programs for the personnel of the
262 various state and local governmental entities under the
263 jurisdiction of the Office of the State Auditor. The training
264 courses and programs shall include, but not be limited to, topics
265 on internal control of funds, property and equipment control and
266 inventory, governmental accounting and financial reporting, and
267 internal auditing. The State Auditor is authorized to charge a
268 fee from the participants of these courses and programs, which fee
269 shall be deposited into the Department of Audit Special Fund.
270 State and local governmental entities are authorized to pay such
271 fee and any travel expenses out of their general funds or any
272 other available funds from which such payment is not prohibited by
273 law;

274 (m) Upon written request by the Governor or any member
275 of the State Legislature, the State Auditor may audit any state
276 funds and/or state and federal funds received by any nonprofit
277 corporation incorporated under the laws of this state;



278 (n) To conduct performance audits of personal or
279 professional service contracts by state agencies on a random
280 sampling basis, or upon request of the State Personal Service
281 Contract Review Board under Section 25-9-120(3);

282 (o) At the discretion of the State Auditor, the Auditor
283 may conduct risk assessments, as well as performance and
284 compliance audits based on Generally Accepted Government Auditing
285 Standards (GAGAS) of any state-funded economic development program
286 authorized under Title 57, Mississippi Code of 1972. After risk
287 assessments or program audits, the State Auditor may conduct
288 audits of those projects deemed high-risk, specifically as they
289 identify any potential wrongdoing or noncompliance based on
290 objectives of the economic development program. The Auditor is
291 granted authority to gather, audit and review data and information
292 from the Mississippi Development Authority or any of its agents,
293 the Department of Revenue, and when necessary under this
294 paragraph, the recipient business or businesses or any other
295 private, public or nonprofit entity with information relevant to
296 the audit project. The maximum amount the State Auditor may bill
297 the oversight agency under this paragraph in any fiscal year is
298 One Hundred Thousand Dollars (\$100,000.00), based on reasonable
299 and necessary expenses;

300 (p) To review and approve any independent auditor
301 selected by the Mississippi Lottery Corporation in accordance with



302 Section 27-115-89, to conduct an annual audit of the corporation;
303 and

304 (q) To conduct audits or investigations of the
305 Mississippi Lottery Corporation if, in the opinion of the State
306 Auditor, conditions justify such audits or investigations.

307 (2) As used in this article, "financial affairs" shall mean
308 an entity's income, expenses, assets, liabilities, and recent
309 financial transactions.

310 **SECTION 3.** This act shall take effect and be in force from
311 and after July 1, 2025.

