MISSISSIPPI LEGISLATURE REGULAR SESSION 2015

By: Representative Moak

To: Judiciary A;
Appropriations

HOUSE BILL NO. 1221

AN ACT TO CREATE THE "MISSISSIPPI STOP CORRUPTION ACT"; TO AMEND SECTION 31-7-13, MISSISSIPPI CODE OF 1972, TO REMOVE THE EXCEPTION FOR SINGLE SOURCE CONTRACTS BY STATE AGENCIES FROM THE BIDDING REQUIREMENTS; TO REQUIRE ANY AGENCY LOCAL GOVERNING AUTHORITIES WITH CURRENT SINGLE SOURCE CONTRACTS TO FILE A REPORT DETAILING THE CONTRACT; TO PROHIBIT AGENCIES LOCAL GOVERNING AUTHORITIES FROM ENTERING INTO SINGLE SOURCE CONTRACTS AFTER A CERTAIN DATE, EXCEPT IN EMERGENCY SITUATIONS; TO AMEND SECTIONS 25-53-3 AND 49-27-71, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS OF THIS ACT; TO BRING FORWARD SECTIONS 21-27-17, 21-27-23, 25-11-15, 25-53-5, 25-53-21, 25-53-119, 31-7-12, 31-7-14, 31-7-18, 31-7-38, 31-7-49, 31-7-105, 31-7-115, 31-7-119, 33-15-17, 37-11-7, 37-39-15, 37-39-17, 47-5-357, 51-13-111, 55-3-33, 57-1-221, 57-75-9, 65-1-85, 65-7-107, 65-43-3, 77-3-16, 77-3-17, 77-5-735, 77-6-27 AND 83-34-3, MISSISSIPPI CODE OF 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

SECTION 1. This act shall be known as the "Mississippi Stop Corruption Act."

SECTION 2. Section 31-7-13, Mississippi Code of 1972, is amended as follows:

31-7-13. All agencies and governing authorities shall purchase their commodities and printing; contract for garbage collection or disposal; contract for solid waste collection or

disposal; contract for sewage collection or disposal; contract for public construction; and contract for rentals as herein provided.

(a) **Bidding procedure for purchases not over $5,000.00.** Purchases which do not involve an expenditure of more than Five Thousand Dollars ($5,000.00), exclusive of freight or shipping charges, may be made without advertising or otherwise requesting competitive bids. However, nothing contained in this paragraph (a) shall be construed to prohibit any agency or governing authority from establishing procedures which require competitive bids on purchases of Five Thousand Dollars ($5,000.00) or less.

(b) **Bidding procedure for purchases over $5,000.00 but not over $50,000.00.** Purchases which involve an expenditure of more than Five Thousand Dollars ($5,000.00) but not more than Fifty Thousand Dollars ($50,000.00), exclusive of freight and shipping charges may be made from the lowest and best bidder without publishing or posting advertisement for bids, provided at least two (2) competitive written bids have been obtained. Any state agency or community/junior college purchasing commodities or procuring construction pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, to accept the lowest competitive written bid under Fifty Thousand Dollars ($50,000.00). Any governing authority purchasing commodities pursuant to this paragraph (b) may authorize its purchasing agent, or his designee, with regard to governing authorities other than counties, or its purchase clerk, or his designee, with regard to

counties, to accept the lowest and best competitive written bid. Such authorization shall be made in writing by the governing authority and shall be maintained on file in the primary office of the agency and recorded in the official minutes of the governing authority, as appropriate. The purchasing agent or the purchase clerk, or their designee, as the case may be, and not the governing authority, shall be liable for any penalties and/or damages as may be imposed by law for any act or omission of the purchasing agent or purchase clerk, or their designee, constituting a violation of law in accepting any bid without approval by the governing authority. The term "competitive written bid" shall mean a bid submitted on a bid form furnished by the buying agency or governing authority and signed by authorized personnel representing the vendor, or a bid submitted on a vendor's letterhead or identifiable bid form and signed by authorized personnel representing the vendor. "Competitive" shall mean that the bids are developed based upon comparable identification of the needs and are developed independently and without knowledge of other bids or prospective bids. Any bid item for construction in excess of Five Thousand Dollars ($5,000.00) shall be broken down by components to provide detail of component description and pricing. These details shall be submitted with the written bids and become part of the bid evaluation criteria. Bids may be submitted by facsimile, electronic mail or other generally accepted method of information distribution. Bids

submitted by electronic transmission shall not require the signature of the vendor's representative unless required by agencies or governing authorities.

(c) **Bidding procedure for purchases over $50,000.00.**

(i) **Publication requirement.**

1. Purchases which involve an expenditure of more than Fifty Thousand Dollars ($50,000.00), exclusive of freight and shipping charges, may be made from the lowest and best bidder after advertising for competitive bids once each week for two (2) consecutive weeks in a regular newspaper published in the county or municipality in which such agency or governing authority is located. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars ($25,000.00) shall be bid. All references to American Recovery and Reinvestment Act projects in this section shall not apply to programs identified in Division B of the American Recovery and Reinvestment Act.

2. The purchasing entity may designate the method by which the bids will be received, including, but not limited to, bids sealed in an envelope, bids received electronically in a secure system, bids received via a reverse auction, or bids received by any other method that promotes open competition and has been approved by the Office of Purchasing and Travel. However, reverse auction shall not be used for any public

contract for design or construction of public facilities, including buildings, roads and bridges.

3. The date as published for the bid opening shall not be less than seven (7) working days after the last published notice; however, if the purchase involves a construction project in which the estimated cost is in excess of Fifty Thousand Dollars ($50,000.00), such bids shall not be opened in less than fifteen (15) working days after the last notice is published and the notice for the purchase of such construction shall be published once each week for two (2) consecutive weeks. However, all American Recovery and Reinvestment Act projects in excess of Twenty-five Thousand Dollars ($25,000.00) shall be bid. For any projects in excess of Twenty-five Thousand Dollars ($25,000.00) under the American Recovery and Reinvestment Act, publication shall be made one (1) time and the bid opening for construction projects shall not be less than ten (10) working days after the date of the published notice. The notice of intention to let contracts or purchase equipment shall state the time and place at which bids shall be received, list the contracts to be made or types of equipment or supplies to be purchased, and, if all plans and/or specifications are not published, refer to the plans and/or specifications on file. If there is no newspaper published in the county or municipality, then such notice shall be given by posting same at the courthouse, or for municipalities at the city hall, and at two (2) other public places in the county or municipality,

and also by publication once each week for two (2) consecutive weeks in some newspaper having a general circulation in the county or municipality in the above-provided manner. On the same date that the notice is submitted to the newspaper for publication, the agency or governing authority involved shall mail written notice to, or provide electronic notification to the main office of the Mississippi Procurement Technical Assistance Program under the Mississippi Development Authority that contains the same information as that in the published notice. Submissions received by the Mississippi Procurement Technical Assistance Program for projects funded by the American Recovery and Reinvestment Act shall be displayed on a separate and unique Internet web page accessible to the public and maintained by the Mississippi Development Authority for the Mississippi Procurement Technical Assistance Program. Those American Recovery and Reinvestment Act related submissions shall be publicly posted within twenty-four (24) hours of receipt by the Mississippi Development Authority and the bid opening shall not occur until the submission has been posted for ten (10) consecutive days. The Department of Finance and Administration shall maintain information regarding contracts and other expenditures from the American Recovery and Reinvestment Act, on a unique Internet web page accessible to the public. The Department of Finance and Administration shall promulgate rules regarding format, content and deadlines, unless otherwise specified by law, of the posting of award notices, contract

execution and subsequent amendments, links to the contract documents, expenditures against the awarded contracts and general expenditures of funds from the American Recovery and Reinvestment Act. Within one (1) working day of the contract award, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration, notice of the award, including the award recipient, the contract amount, and a brief summary of the contract in accordance with rules promulgated by the department. Within one (1) working day of the contract execution, the agency or governing authority shall post to the designated web page maintained by the Department of Finance and Administration a summary of the executed contract and make a copy of the appropriately redacted contract documents available for linking to the designated web page in accordance with the rules promulgated by the department. The information provided by the agency or governing authority shall be posted to the web page for the duration of the American Recovery and Reinvestment Act funding or until the project is completed, whichever is longer.

(ii) **Bidding process amendment procedure.** If all plans and/or specifications are published in the notification, then the plans and/or specifications may not be amended. If all plans and/or specifications are not published in the notification, then amendments to the plans/specifications, bid opening date, bid opening time and place may be made, provided that the agency or governing authority maintains a list of all prospective bidders

who are known to have received a copy of the bid documents and all such prospective bidders are sent copies of all amendments. This notification of amendments may be made via mail, facsimile, electronic mail or other generally accepted method of information distribution. No addendum to bid specifications may be issued within two (2) working days of the time established for the receipt of bids unless such addendum also amends the bid opening to a date not less than five (5) working days after the date of the addendum.

(iii) **Filing requirement.** In all cases involving governing authorities, before the notice shall be published or posted, the plans or specifications for the construction or equipment being sought shall be filed with the clerk of the board of the governing authority. In addition to these requirements, a bid file shall be established which shall indicate those vendors to whom such solicitations and specifications were issued, and such file shall also contain such information as is pertinent to the bid.

(iv) **Specification restrictions.**

1. Specifications pertinent to such bidding shall be written so as not to exclude comparable equipment of domestic manufacture. However, if valid justification is presented, the Department of Finance and Administration or the board of a governing authority may approve a request for specific equipment necessary to perform a specific job. Further, such

justification, when placed on the minutes of the board of a governing authority, may serve as authority for that governing authority to write specifications to require a specific item of equipment needed to perform a specific job. In addition to these requirements, from and after July 1, 1990, vendors of relocatable classrooms and the specifications for the purchase of such relocatable classrooms published by local school boards shall meet all pertinent regulations of the State Board of Education, including prior approval of such bid by the State Department of Education.

2. Specifications for construction projects may include an allowance for commodities, equipment, furniture, construction materials or systems in which prospective bidders are instructed to include in their bids specified amounts for such items so long as the allowance items are acquired by the vendor in a commercially reasonable manner and approved by the agency/governing authority. Such acquisitions shall not be made to circumvent the public purchasing laws.

(v) Agencies and governing authorities may establish secure procedures by which bids may be submitted via electronic means.

(d) **Lowest and best bid decision procedure.**

(i) **Decision procedure.** Purchases may be made from the lowest and best bidder. In determining the lowest and best bid, freight and shipping charges shall be included.

Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(ii) **Decision procedure for Certified Purchasing Offices.** In addition to the decision procedure set forth in paragraph (d)(i), Certified Purchasing Offices may also use the following procedure: Purchases may be made from the bidder offering the best value. In determining the best value bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions, documented previous experience, training costs and other relevant provisions, including, but not limited to, a bidder having a local office and inventory located within the jurisdiction of the governing authority, may be included in the best value calculation. This provision shall authorize Certified Purchasing Offices to utilize a Request For Proposals (RFP)

process when purchasing commodities. All best value procedures for state agencies must be in compliance with regulations established by the Department of Finance and Administration. No agency or governing authority shall accept a bid based on items or criteria not included in the specifications.

(iii) **Decision procedure for Mississippi Landmarks.** In addition to the decision procedure set forth in paragraph (d)(i), where purchase involves renovation, restoration, or both, of the State Capitol Building or any other historical building designated for at least five (5) years as a Mississippi Landmark by the Board of Trustees of the Department of Archives and History under the authority of Sections 39-7-7 and 39-7-11, the agency or governing authority may use the following procedure: Purchases may be made from the lowest and best prequalified bidder. Prequalification of bidders shall be determined not less than fifteen (15) working days before the first published notice of bid opening. Prequalification criteria shall be limited to bidder's knowledge and experience in historical restoration, preservation and renovation. In determining the lowest and best bid, freight and shipping charges shall be included. Life-cycle costing, total cost bids, warranties, guaranteed buy-back provisions and other relevant provisions may be included in the best bid calculation. All best bid and prequalification procedures for state agencies must be in compliance with regulations established by the Department of Finance and

Administration. If any governing authority accepts a bid other than the lowest bid actually submitted, it shall place on its minutes detailed calculations and narrative summary showing that the accepted bid was determined to be the lowest and best bid, including the dollar amount of the accepted bid and the dollar amount of the lowest bid. No agency or governing authority shall accept a bid based on items not included in the specifications.

(iv) **Construction project negotiations authority.** If the lowest and best bid is not more than ten percent (10%) above the amount of funds allocated for a public construction or renovation project, then the agency or governing authority shall be permitted to negotiate with the lowest bidder in order to enter into a contract for an amount not to exceed the funds allocated.

(e) **Lease-purchase authorization.** For the purposes of this section, the term "equipment" shall mean equipment, furniture and, if applicable, associated software and other applicable direct costs associated with the acquisition. Any lease-purchase of equipment which an agency is not required to lease-purchase under the master lease-purchase program pursuant to Section 31-7-10 and any lease-purchase of equipment which a governing authority elects to lease-purchase may be acquired by a lease-purchase agreement under this paragraph (e). Lease-purchase financing may also be obtained from the vendor or from a third-party source after having solicited and obtained at least two (2) written competitive bids, as defined in paragraph (b) of

this section, for such financing without advertising for such bids. Solicitation for the bids for financing may occur before or after acceptance of bids for the purchase of such equipment or, where no such bids for purchase are required, at any time before the purchase thereof. No such lease-purchase agreement shall be for an annual rate of interest which is greater than the overall maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101, and the term of such lease-purchase agreement shall not exceed the useful life of equipment covered thereby as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service pursuant to the United States Internal Revenue Code and regulations thereunder as in effect on December 31, 1980, or comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines. Any lease-purchase agreement entered into pursuant to this paragraph (e) may contain any of the terms and conditions which a master lease-purchase agreement may contain under the provisions of Section 31-7-10(5), and shall contain an annual allocation dependency clause substantially similar to that set forth in Section 31-7-10(8). Each agency or governing authority entering into a lease-purchase transaction pursuant to this paragraph (e) shall maintain with respect to each such lease-purchase transaction the same information as required to be maintained by the Department of

Finance and Administration pursuant to Section 31-7-10(13). However, nothing contained in this section shall be construed to permit agencies to acquire items of equipment with a total acquisition cost in the aggregate of less than Ten Thousand Dollars ($10,000.00) by a single lease-purchase transaction. All equipment, and the purchase thereof by any lessor, acquired by lease-purchase under this paragraph and all lease-purchase payments with respect thereto shall be exempt from all Mississippi sales, use and ad valorem taxes. Interest paid on any lease-purchase agreement under this section shall be exempt from State of Mississippi income taxation.

(f) **Alternate bid authorization.** When necessary to ensure ready availability of commodities for public works and the timely completion of public projects, no more than two (2) alternate bids may be accepted by a governing authority for commodities. No purchases may be made through use of such alternate bids procedure unless the lowest and best bidder cannot deliver the commodities contained in his bid. In that event, purchases of such commodities may be made from one (1) of the bidders whose bid was accepted as an alternate.

(g) **Construction contract change authorization.** In the event a determination is made by an agency or governing authority after a construction contract is let that changes or modifications to the original contract are necessary or would better serve the purpose of the agency or the governing authority, such agency or

governing authority may, in its discretion, order such changes pertaining to the construction that are necessary under the circumstances without the necessity of further public bids; provided that such change shall be made in a commercially reasonable manner and shall not be made to circumvent the public purchasing statutes. In addition to any other authorized person, the architect or engineer hired by an agency or governing authority with respect to any public construction contract shall have the authority, when granted by an agency or governing authority, to authorize changes or modifications to the original contract without the necessity of prior approval of the agency or governing authority when any such change or modification is less than one percent (1%) of the total contract amount. The agency or governing authority may limit the number, manner or frequency of such emergency changes or modifications.

(h) **Petroleum purchase alternative.** In addition to other methods of purchasing authorized in this chapter, when any agency or governing authority shall have a need for gas, diesel fuel, oils and/or other petroleum products in excess of the amount set forth in paragraph (a) of this section, such agency or governing authority may purchase the commodity after having solicited and obtained at least two (2) competitive written bids, as defined in paragraph (b) of this section. If two (2) competitive written bids are not obtained, the entity shall comply with the procedures set forth in paragraph (c) of this section.

In the event any agency or governing authority shall have advertised for bids for the purchase of gas, diesel fuel, oils and other petroleum products and coal and no acceptable bids can be obtained, such agency or governing authority is authorized and directed to enter into any negotiations necessary to secure the lowest and best contract available for the purchase of such commodities.

(i) **Road construction petroleum products price adjustment clause authorization.** Any agency or governing authority authorized to enter into contracts for the construction, maintenance, surfacing or repair of highways, roads or streets, may include in its bid proposal and contract documents a price adjustment clause with relation to the cost to the contractor, including taxes, based upon an industry-wide cost index, of petroleum products including asphalt used in the performance or execution of the contract or in the production or manufacture of materials for use in such performance. Such industry-wide index shall be established and published monthly by the Mississippi Department of Transportation with a copy thereof to be mailed, upon request, to the clerks of the governing authority of each municipality and the clerks of each board of supervisors throughout the state. The price adjustment clause shall be based on the cost of such petroleum products only and shall not include any additional profit or overhead as part of the adjustment. The bid proposals or document contract shall contain the basis and

methods of adjusting unit prices for the change in the cost of such petroleum products.

(j) **State agency emergency purchase procedure.** If the governing board or the executive head, or his designee, of any agency of the state shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interests of the state, then the provisions herein for competitive bidding shall not apply and the head of such agency shall be authorized to make the purchase or repair. Total purchases so made shall only be for the purpose of meeting needs created by the emergency situation. In the event such executive head is responsible to an agency board, at the meeting next following the emergency purchase, documentation of the purchase, including a description of the commodity purchased, the purchase price thereof and the nature of the emergency shall be presented to the board and placed on the minutes of the board of such agency. The head of such agency, or his designee, shall, at the earliest possible date following such emergency purchase, file with the Department of Finance and Administration (i) a statement explaining the conditions and circumstances of the emergency, which shall include a detailed description of the events leading up to the situation and the negative impact to the entity if the purchase is made following the statutory requirements set forth in paragraph (a), (b) or (c) of this

section, and (ii) a certified copy of the appropriate minutes of the board of such agency, if applicable.

(k) **Governing authority emergency purchase procedure.** If the governing authority, or the governing authority acting through its designee, shall determine that an emergency exists in regard to the purchase of any commodities or repair contracts, so that the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the governing authority, then the provisions herein for competitive bidding shall not apply and any officer or agent of such governing authority having general or special authority therefor in making such purchase or repair shall approve the bill presented therefor, and he shall certify in writing thereon from whom such purchase was made, or with whom such a repair contract was made. At the board meeting next following the emergency purchase or repair contract, documentation of the purchase or repair contract, including a description of the commodity purchased, the price thereof and the nature of the emergency shall be presented to the board and shall be placed on the minutes of the board of such governing authority.

(l) **Hospital purchase, lease-purchase and lease authorization.**

(i) The commissioners or board of trustees of any public hospital may contract with such lowest and best bidder for the purchase or lease-purchase of any commodity under a contract

of purchase or lease-purchase agreement whose obligatory payment terms do not exceed five (5) years.

(ii) In addition to the authority granted in subparagraph (i) of this paragraph (l), the commissioners or board of trustees is authorized to enter into contracts for the lease of equipment or services, or both, which it considers necessary for the proper care of patients if, in its opinion, it is not financially feasible to purchase the necessary equipment or services. Any such contract for the lease of equipment or services executed by the commissioners or board shall not exceed a maximum of five (5) years' duration and shall include a cancellation clause based on unavailability of funds. If such cancellation clause is exercised, there shall be no further liability on the part of the lessee. Any such contract for the lease of equipment or services executed on behalf of the commissioners or board that complies with the provisions of this subparagraph (ii) shall be excepted from the bid requirements set forth in this section.

(m) **Exceptions from bidding requirements.** Excepted from bid requirements are:

(i) **Purchasing agreements approved by department.** Purchasing agreements, contracts and maximum price regulations executed or approved by the Department of Finance and Administration.

(ii) **Outside equipment repairs.** Repairs to equipment, when such repairs are made by repair facilities in the private sector; however, engines, transmissions, rear axles and/or other such components shall not be included in this exemption when replaced as a complete unit instead of being repaired and the need for such total component replacement is known before disassembly of the component; however, invoices identifying the equipment, specific repairs made, parts identified by number and name, supplies used in such repairs, and the number of hours of labor and costs therefor shall be required for the payment for such repairs.

(iii) **In-house equipment repairs.** Purchases of parts for repairs to equipment, when such repairs are made by personnel of the agency or governing authority; however, entire assemblies, such as engines or transmissions, shall not be included in this exemption when the entire assembly is being replaced instead of being repaired.

(iv) **Raw gravel or dirt.** Raw unprocessed deposits of gravel or fill dirt which are to be removed and transported by the purchaser.

(v) **Governmental equipment auctions.** Motor vehicles or other equipment purchased from a federal agency or authority, another governing authority or state agency of the State of Mississippi, or any governing authority or state agency of another state at a public auction held for the purpose of

disposing of such vehicles or other equipment. Any purchase by a governing authority under the exemption authorized by this subparagraph (v) shall require advance authorization spread upon the minutes of the governing authority to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(vi) **Intergovernmental sales and transfers.** Purchases, sales, transfers or trades by governing authorities or state agencies when such purchases, sales, transfers or trades are made by a private treaty agreement or through means of negotiation, from any federal agency or authority, another governing authority or state agency of the State of Mississippi, or any state agency or governing authority of another state. Nothing in this section shall permit such purchases through public auction except as provided for in subparagraph (v) of this section. It is the intent of this section to allow governmental entities to dispose of and/or purchase commodities from other governmental entities at a price that is agreed to by both parties. This shall allow for purchases and/or sales at prices which may be determined to be below the market value if the selling entity determines that the sale at below market value is in the best interest of the taxpayers of the state. Governing authorities shall place the terms of the agreement and any justification on the minutes, and state agencies shall obtain

approval from the Department of Finance and Administration, prior to releasing or taking possession of the commodities.

(vii) **Perishable supplies or food.** Perishable supplies or food purchased for use in connection with hospitals, the school lunch programs, homemaking programs and for the feeding of county or municipal prisoners.

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(*** * ***viii) **Waste disposal facility construction contracts.** Construction of incinerators and other facilities for disposal of solid wastes in which products either generated therein, such as steam, or recovered therefrom, such as materials for recycling, are to be sold or otherwise disposed of; however, in constructing such facilities, a governing authority or agency shall publicly issue requests for proposals, advertised for in the same manner as provided herein for seeking bids for public construction projects, concerning the design, construction, ownership, operation and/or maintenance of such facilities, wherein such requests for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, environmental compatibility, legal responsibilities and such other matters as are determined by the governing authority or agency to be appropriate for inclusion; and after responses to the request for proposals have been duly received, the governing authority or agency may select the most qualified proposal or proposals on the basis of price, technology and other

relevant factors and from such proposals, but not limited to the terms thereof, negotiate and enter contracts with one or more of the persons or firms submitting proposals.

(* * *ix) **Hospital group purchase contracts.** Supplies, commodities and equipment purchased by hospitals through group purchase programs pursuant to Section 31-7-38.

(* * *x) **Information technology products.** Purchases of information technology products made by governing authorities under the provisions of purchase schedules, or contracts executed or approved by the Mississippi Department of Information Technology Services and designated for use by governing authorities.

(* * *xi) **Energy efficiency services and equipment.** Energy efficiency services and equipment acquired by school districts, community and junior colleges, institutions of higher learning and state agencies or other applicable governmental entities on a shared-savings, lease or lease-purchase basis pursuant to Section 31-7-14.

(* * *xii) **Municipal electrical utility system fuel.** Purchases of coal and/or natural gas by municipally owned electric power generating systems that have the capacity to use both coal and natural gas for the generation of electric power.

(* * *xiii) **Library books and other reference materials.** Purchases by libraries or for libraries of books and periodicals; processed film, video cassette tapes, filmstrips and

slides; recorded audio tapes, cassettes and diskettes; and any such items as would be used for teaching, research or other information distribution; however, equipment such as projectors, recorders, audio or video equipment, and monitor televisions are not exempt under this subparagraph.

(* * *xiv) **Unmarked vehicles.** Purchases of unmarked vehicles when such purchases are made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2).

(* * *xv) **Election ballots.** Purchases of ballots printed pursuant to Section 23-15-351.

(* * *xvi) **Multichannel interactive video systems.** From and after July 1, 1990, contracts by Mississippi Authority for Educational Television with any private educational institution or private nonprofit organization whose purposes are educational in regard to the construction, purchase, lease or lease-purchase of facilities and equipment and the employment of personnel for providing multichannel interactive video systems (ITSF) in the school districts of this state.

(* * *xvii) **Purchases of prison industry products by the Department of Corrections, regional correctional facilities or privately owned prisons.** Purchases made by the Mississippi Department of Corrections, regional correctional facilities or privately owned prisons involving any item that is manufactured, processed, grown or produced from the state's prison industries.

(* * *xviii) **Undercover operations equipment.** Purchases of surveillance equipment or any other high-tech equipment to be used by law enforcement agents in undercover operations, provided that any such purchase shall be in compliance with regulations established by the Department of Finance and Administration.

(* * *xix) **Junior college books for rent.** Purchases by community or junior colleges of textbooks which are obtained for the purpose of renting such books to students as part of a book service system.

(* * *xx) **Certain school district purchases.** Purchases of commodities made by school districts from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures for purchases of the same commodities.

(* * *xxi) **Garbage, solid waste and sewage contracts.** Contracts for garbage collection or disposal, contracts for solid waste collection or disposal and contracts for sewage collection or disposal.

(* * *xxii) **Municipal water tank maintenance contracts.** Professional maintenance program contracts for the repair or maintenance of municipal water tanks, which provide professional services needed to maintain municipal water storage tanks for a fixed annual fee for a duration of two (2) or more years.

(* * *xxiii) **Purchases of Mississippi Industries for the Blind products.** Purchases made by state agencies or governing authorities involving any item that is manufactured, processed or produced by the Mississippi Industries for the Blind.

(* * *xxiv) **Purchases of state-adopted textbooks.** Purchases of state-adopted textbooks by public school districts.

(* * *xxxv) **Certain purchases under the Mississippi Major Economic Impact Act.** Contracts entered into pursuant to the provisions of Section 57-75-9(2), (3) and (4).

(* * *xxvi) **Used heavy or specialized machinery or equipment for installation of soil and water conservation practices purchased at auction.** Used heavy or specialized machinery or equipment used for the installation and implementation of soil and water conservation practices or measures purchased subject to the restrictions provided in Sections 69-27-331 through 69-27-341. Any purchase by the State Soil and Water Conservation Commission under the exemption authorized by this subparagraph shall require advance authorization spread upon the minutes of the commission to include the listing of the item or items authorized to be purchased and the maximum bid authorized to be paid for each item or items.

(* * *xxvii) **Hospital lease of equipment or services.** Leases by hospitals of equipment or services if the leases are in compliance with paragraph (l)(ii).

(* * *xxviii) **Purchases made pursuant to qualified cooperative purchasing agreements.** Purchases made by certified purchasing offices of state agencies or governing authorities under cooperative purchasing agreements previously approved by the Office of Purchasing and Travel and established by or for any municipality, county, parish or state government or the federal government, provided that the notification to potential contractors includes a clause that sets forth the availability of the cooperative purchasing agreement to other governmental entities. Such purchases shall only be made if the use of the cooperative purchasing agreements is determined to be in the best interest of the governmental entity.

(* * *xxix) **School yearbooks.** Purchases of school yearbooks by state agencies or governing authorities; provided, however, that state agencies and governing authorities shall use for these purchases the RFP process as set forth in the Mississippi Procurement Manual adopted by the Office of Purchasing and Travel.

(* * *xxx) **Design-build method and dual-phase design-build method of contracting.** Contracts entered into under the provisions of Section 31-7-13.1, 37-101-44 or 65-1-85.

(* * *xxxi) **Toll roads and bridge construction projects.** Contracts entered into under the provisions of Section 65-43-1 or 65-43-3.

(* * *xxxii) **Certain purchases under Section 57-1-221.** Contracts entered into pursuant to the provisions of Section 57-1-221.

(* * *xxxiii) **Certain transfers made pursuant to the provisions of Section 57-105-1(7).** Transfers of public property or facilities under Section 57-105-1(7) and construction related to such public property or facilities.

(* * *xxxiv) **Certain purchases or transfers entered into with local electrical power associations.** Contracts or agreements entered into under the provisions of Section 55-3-33.

(n) **Term contract authorization.** All contracts for the purchase of:

(i) All contracts for the purchase of commodities, equipment and public construction (including, but not limited to, repair and maintenance), may be let for periods of not more than sixty (60) months in advance, subject to applicable statutory provisions prohibiting the letting of contracts during specified periods near the end of terms of office. Term contracts for a period exceeding twenty-four (24) months shall also be subject to ratification or cancellation by governing authority boards taking office subsequent to the governing authority board entering the contract.

(ii) Bid proposals and contracts may include price adjustment clauses with relation to the cost to the contractor

based upon a nationally published industry-wide or nationally published and recognized cost index. The cost index used in a price adjustment clause shall be determined by the Department of Finance and Administration for the state agencies and by the governing board for governing authorities. The bid proposal and contract documents utilizing a price adjustment clause shall contain the basis and method of adjusting unit prices for the change in the cost of such commodities, equipment and public construction.

(o) **Purchase law violation prohibition and vendor penalty.** No contract or purchase as herein authorized shall be made for the purpose of circumventing the provisions of this section requiring competitive bids, nor shall it be lawful for any person or concern to submit individual invoices for amounts within those authorized for a contract or purchase where the actual value of the contract or commodity purchased exceeds the authorized amount and the invoices therefor are split so as to appear to be authorized as purchases for which competitive bids are not required. Submission of such invoices shall constitute a misdemeanor punishable by a fine of not less than Five Hundred Dollars ($500.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment for thirty (30) days in the county jail, or both such fine and imprisonment. In addition, the claim or claims submitted shall be forfeited.

(p) **Electrical utility petroleum-based equipment purchase procedure.** When in response to a proper advertisement therefor, no bid firm as to price is submitted to an electric utility for power transformers, distribution transformers, power breakers, reclosers or other articles containing a petroleum product, the electric utility may accept the lowest and best bid therefor although the price is not firm.

(q) **Fuel management system bidding procedure.** Any governing authority or agency of the state shall, before contracting for the services and products of a fuel management or fuel access system, enter into negotiations with not fewer than two (2) sellers of fuel management or fuel access systems for competitive written bids to provide the services and products for the systems. In the event that the governing authority or agency cannot locate two (2) sellers of such systems or cannot obtain bids from two (2) sellers of such systems, it shall show proof that it made a diligent, good-faith effort to locate and negotiate with two (2) sellers of such systems. Such proof shall include, but not be limited to, publications of a request for proposals and letters soliciting negotiations and bids. For purposes of this paragraph (q), a fuel management or fuel access system is an automated system of acquiring fuel for vehicles as well as management reports detailing fuel use by vehicles and drivers, and the term "competitive written bid" shall have the meaning as defined in paragraph (b) of this section. Governing authorities

and agencies shall be exempt from this process when contracting for the services and products of fuel management or fuel access systems under the terms of a state contract established by the Office of Purchasing and Travel.

(r) **Solid waste contract proposal procedure.** Before entering into any contract for garbage collection or disposal, contract for solid waste collection or disposal or contract for sewage collection or disposal, which involves an expenditure of more than Fifty Thousand Dollars ($50,000.00), a governing authority or agency shall issue publicly a request for proposals concerning the specifications for such services which shall be advertised for in the same manner as provided in this section for seeking bids for purchases which involve an expenditure of more than the amount provided in paragraph (c) of this section. Any request for proposals when issued shall contain terms and conditions relating to price, financial responsibility, technology, legal responsibilities and other relevant factors as are determined by the governing authority or agency to be appropriate for inclusion; all factors determined relevant by the governing authority or agency or required by this paragraph (r) shall be duly included in the advertisement to elicit proposals. After responses to the request for proposals have been duly received, the governing authority or agency shall select the most qualified proposal or proposals on the basis of price, technology and other relevant factors and from such proposals, but not

limited to the terms thereof, negotiate and enter into contracts with one or more of the persons or firms submitting proposals. If the governing authority or agency deems none of the proposals to be qualified or otherwise acceptable, the request for proposals process may be reinitiated. Notwithstanding any other provisions of this paragraph, where a county with at least thirty-five thousand (35,000) nor more than forty thousand (40,000) population, according to the 1990 federal decennial census, owns or operates a solid waste landfill, the governing authorities of any other county or municipality may contract with the governing authorities of the county owning or operating the landfill, pursuant to a resolution duly adopted and spread upon the minutes of each governing authority involved, for garbage or solid waste collection or disposal services through contract negotiations.

(s) **Minority set-aside authorization.** Notwithstanding any provision of this section to the contrary, any agency or governing authority, by order placed on its minutes, may, in its discretion, set aside not more than twenty percent (20%) of its anticipated annual expenditures for the purchase of commodities from minority businesses; however, all such set-aside purchases shall comply with all purchasing regulations promulgated by the Department of Finance and Administration and shall be subject to bid requirements under this section. Set-aside purchases for which competitive bids are required shall be made from the lowest and best minority business bidder. For the purposes of this

paragraph, the term "minority business" means a business which is owned by a majority of persons who are United States citizens or permanent resident aliens (as defined by the Immigration and Naturalization Service) of the United States, and who are Asian, Black, Hispanic or Native American, according to the following definitions:

(i) "Asian" means persons having origins in any of the original people of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

(ii) "Black" means persons having origins in any black racial group of Africa.

(iii) "Hispanic" means persons of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean Islands, regardless of race.

(iv) "Native American" means persons having origins in any of the original people of North America, including American Indians, Eskimos and Aleuts.

(t) **Construction punch list restriction.** The architect, engineer or other representative designated by the agency or governing authority that is contracting for public construction or renovation may prepare and submit to the contractor only one (1) preliminary punch list of items that do not meet the contract requirements at the time of substantial completion and one (1) final list immediately before final completion and final payment.

(u) **Procurement of construction services by state institutions of higher learning.** Contracts for privately financed construction of auxiliary facilities on the campus of a state institution of higher learning may be awarded by the Board of Trustees of State Institutions of Higher Learning to the lowest and best bidder, where sealed bids are solicited, or to the offeror whose proposal is determined to represent the best value to the citizens of the State of Mississippi, where requests for proposals are solicited.

(v) **Insurability of bidders for public construction or other public contracts.** In any solicitation for bids to perform public construction or other public contracts to which this section applies including, but not limited to, contracts for repair and maintenance, for which the contract will require insurance coverage in an amount of not less than One Million Dollars ($1,000,000.00), bidders shall be permitted to either submit proof of current insurance coverage in the specified amount or demonstrate ability to obtain the required coverage amount of insurance if the contract is awarded to the bidder. Proof of insurance coverage shall be submitted within five (5) business days from bid acceptance.

(w) **Purchase authorization clarification.** Nothing in this section shall be construed as authorizing any purchase not authorized by law.

(x) (i) **Single source items.** Notwithstanding any other provision of law, any agency or governing authority that has single source contracts in existence on July 1, 2015, shall make such contracts known to the public by preparing a report and filing a copy of the report with the Secretary of the Senate and with the Clerk of the House of Representatives by December 31, 2015. The report shall at least contain the following:

1. Any and all vendors, contractors, and subcontractors;

2. The cost of each contract to the agency;

3. The amount the agency has expended on the contract as of December 31, 2015;

4. The expiration date of each contract; and

5. The terms of each contract.

(ii) Notwithstanding any other provision of law, no agency or governing authority may enter into a single source contract after July 1, 2015, except in emergency situations where the delay incident to giving opportunity for competitive bidding would be detrimental to the interest of the agency. Any single source contract of an agency or governing authority that exists as of July 1, 2015, may not be renewed, unless such contract is made subject to the competitive bid requirements in this section.

(iii) For the purposes of this paragraph (x), the term "single source contract" means any contract for a noncompetitive item available from one (1) source only, any sole

source contract, any contract that is not subject to the competitive bid requirements in this section, and any contract where notice to the public has been eliminated.

(n) None of the provisions of subparagraphs (i) through (iii) of this paragraph (x) shall apply to any contract that requires a court order for appointment.

SECTION 3. Section 25-53-3, Mississippi Code of 1972, is amended as follows:

25-53-3. (1) Whenever the term "Central Data Processing Authority" or the term "authority," when referring to the Central Data Processing Authority, is used in any law, rule, regulation, document or elsewhere, it shall be construed to mean the Mississippi Department of Information Technology Services.

(2) For the purposes of this chapter the following terms shall have the meanings ascribed in this section unless the context otherwise requires:

(a) "Central Data Processing Authority" and "CDPA" mean "Mississippi Department of Information Technology Services (MDITS)" and the term "authority" means "board of the MDITS."

(b) "Bureau of Systems Policy and Planning," "Bureau of Telecommunications," "Bureau of Central Data Processing" and "bureau" mean "Mississippi Department of Information Technology Services."

(c) "Computer equipment or services" means any information technology, computer or computer related

telecommunications equipment, electronic word processing and office systems, or services utilized in connection therewith, including, but not limited to, all phases of computer software and consulting services, and insurance on all state-owned computer equipment.

(d) "Acquisition" of computer or telecommunications equipment or services means the purchase, lease, rental, or acquisition in any other manner of any such computer or telecommunications equipment or services.

(e) "Agency" means and includes all the various state agencies, officers, departments, boards, commissions, offices and institutions of the state.

(f) "Governing authority" means boards of supervisors, governing boards of all school districts, all boards of directors of public water supply districts, boards of directors of master public water supply districts, municipal public utility commissions, governing authorities of all municipalities, port authorities, commissioners and boards of trustees of any public hospitals and any political subdivision of the state supported, wholly or in part, by public funds of the state or political subdivisions thereof.

(g) "Bid" means any of the valid source selection techniques and competitive procurement methods appropriate to information technology procurement in the public sector, including, but not limited to, competitive sealed bidding,

competitive sealed proposals, simplified small purchase procedures, * * * and emergency procurements.

(h) "Telecommunications transmission facility" means any transmission medium, switch, instrument, inside wiring system or other facility which is used, in whole or in part, to provide any transmission.

(i) "Equipment support contract" means a contract which covers a single, specific class or classes of telecommunications equipment or service and all features associated with that class, through which state agencies may purchase or lease the item of equipment or service specified by issuing a purchase order under the terms of the contract without the necessity of further competitive bidding.

(j) "Inside wiring system" means any wiring which:

(i) Directly or indirectly, interconnects any terminal equipment with any other terminal equipment or with any regulated facility or common carrier services; and

(ii) Is located at the premises of the customer and is not inside any terminal equipment.

(k) "Procurement" means the selling, buying, purchasing, renting, leasing or otherwise obtaining telecommunications equipment, system or related services, as well as activities engaged in, resulting in or expected to result in selling, buying, purchasing, renting, leasing or otherwise obtaining telecommunications equipment.

(l) "Telecommunications equipment, systems, related services" are limited to the equipment and means to provide:

(i) Telecommunications transmission facilities * * *;

(ii) Telephone systems, including voice processing systems * * *;

(iii) Facsimile systems * * *;

(iv) Radio paging services * * *;

(v) Mobile telephone services, including cellular mobile telephone service * * *;

(vi) Intercom and paging systems * * *;

(vii) Video teleconferencing systems * * *;

(viii) Personal communications networks and services * * *; and

(ix) Any and all systems based on emerging and future telecommunications technologies relative to (i) through (viii) above.

(m) "Telecommunications system lease contract" means a contract between a supplier of telecommunications systems, including equipment and related services, and the Mississippi Department of Information Technology Services through which telecommunications systems, including equipment and related services, may be leased for a term which shall not exceed sixty (60) months for a system lease valued less than One Million Dollars ($1,000,000.00) and shall not exceed one hundred twenty

(120) months for a system lease valued One Million Dollars ($1,000,000.00) or more.

(n) "Tariffed or regulated service" means telecommunications service offered by common carriers and subject to control by the Mississippi Public Service Commission or the Federal Communications Commission.

(o) "State Data Center" means one or more facilities operated by the Mississippi Department of Information Technology Services to provide information technology resources requiring enterprise computing resources or any other centrally managed information resources.

SECTION 4. Section 49-27-71, Mississippi Code of 1972, is amended as follows:

49-27-71. (1) (a) The department may remove from the coastal wetlands, as defined in Section 49-27-5(a), Mississippi Code of 1972, or from any private or man-made canal with a navigable connection to coastal wetlands, any vessel which is derelict, or has been determined by the department to be a public safety or environmental hazard, having been relinquished, deserted or left by the owner with the intention of abandoning the vessel. Any vessel submerged in or on the coastal wetlands or submerged in any private or man-made canal, with a navigable connection to coastal wetlands, in excess of thirty (30) days is declared abandoned and a derelict vessel. For the purposes of this

section, no vessel submerged more than one hundred (100) years will be considered derelict.

(b) Any owner or operator of a derelict vessel shall be liable to the State of Mississippi for the restoration of all affected coastal wetlands and all costs associated with the removal of the vessel.

(2) (a) If the last known owner or operator of a derelict vessel is ascertainable, the owner or operator shall be notified by certified mail to remove the derelict vessel and restore the affected coastal wetlands within thirty (30) days of the date of the notice. Failure to remove the vessel may result in the imposition of the damages provided in subsection (3).

(b) When the owner or operator of the derelict vessel is unknown or cannot be located after diligent search and inquiry, notice shall be given by publishing in a newspaper having general circulation in the county where the derelict vessel is located the intent to remove and dispose of the derelict vessel. The notice shall be published once a week for three (3) consecutive weeks. The derelict vessel may be removed ten (10) days after the last date of publication.

(c) The municipality or county where the vessel is located may remove the derelict vessel or request the department to contract for the removal of the derelict vessel. The cost of the removal of the derelict vessel shall be paid by the municipality or the county where the vessel is located. If the

county or municipality cannot pay the cost of removal, the department may pay the cost of removal, if funds are available.

(d) Any derelict vessel salvaged may be destroyed or otherwise disposed of without additional notice to the owner or operator and the value thereof, if any, applied as an offset to the cost of the removal of the derelict vessel and restoration of the affected coastal wetlands.

(e) If an owner or operator is subsequently identified, the owner or operator shall be liable for double the cost of the removal of the derelict vessel and the restoration of the affected coastal wetlands, attorneys' fees and all costs of court. Upon recovery of these damages, the county, municipality or department, as the case may be, shall be reimbursed the costs of the removal of the derelict vessel and restoration of the coastal wetlands.

(f) In addition to providing notice by publication or to the known owner or operator, notice shall be sent by mail to the Mississippi Department of Archives and History for a determination as to whether the vessel to be removed is of archaeological, historical or architectural significance under the state antiquities law. The Department of Archives and History shall respond within thirty (30) days to the notice and advise whether or not the vessel should be preserved.

(3) The chancery court of the county where the vessel is located shall have jurisdiction and by writ of mandatory injunction, order the removal of the vessel by the owner or

operator. The chancery court shall allow a reasonable time for completion of the restoration of the coastal wetlands and removal of the vessel. The chancery court may, in its discretion, order as damages a sum not to exceed Five Hundred Dollars ($500.00) per day for each day such violation has existed. The chancery court may further order as damages a sum not to exceed Five Hundred Dollars ($500.00) per day for each day that the violation exists beyond the date set by the court in its injunction for the removal of the vessel and the restoration of the coastal wetlands. Additionally, the owner or operator shall be liable for reasonable attorneys' fees and all costs of court.

(4) Any reimbursed cost of removal and any fines and damages collected in excess of the cost of the removal of the vessel and the restoration of the affected coastal wetlands shall be deposited in a special fund in the State Treasury to be known as the "Derelict Vessel Fund." The fund shall be administered by the department. Any funds deposited in the fund shall be used to cover the administrative costs and removal costs incurred by the department for the removal of vessels. Any remaining funds shall be used as a match for municipal and county funds to cover the costs of removing additional vessels.

(5) Any sunken or submerged vessel in or on the coastal wetlands within any designated navigation channel or within one hundred (100) yards of the boundaries of any state, county or municipal port may be declared a hazard to navigation and subject

to immediate removal and disposal by the department. Any sunken or submerged vessel in or on the coastal wetlands that is leaking any hazardous substances, chemicals or fuels may be declared an environmental hazard and subject to immediate removal and disposal by the department. The owners of a vessel removed in accordance with this subsection shall be liable for the costs associated with the salvage and disposal of the vessel and any damages to the flora and fauna within the coastal wetlands.

(6) The department is authorized to enter into contracts with individuals, firms and corporations for the removal of vessels. The salvage value, if any, of the vessel may be used to offset the cost of the removal of the vessel and the restoration of the coastal wetlands. *** * ***

(7) The commission shall adopt rules and regulations necessary and appropriate to carry out this section. The commission may also enter into interstate or intrastate efforts toward this end, and may seek and utilize aid from all federal, state and local sources in this endeavor.

(8) The State of Mississippi, the commission, the department and their employees and representatives shall not be liable for any damage resulting from the removal, sale or disposal of any vessel declared a derelict or hazardous vessel pursuant to this section.

SECTION 5. Section 21-27-17, Mississippi Code of 1972, is brought forward as follows:

21-27-17. The commission provided for by Section 21-27-13 is authorized to make such bylaws for the holding and conduct of its meetings and such other regulations as it may deem necessary for the safe, economic and efficient management and protection of the system or systems, and such bylaws and regulations shall have the same validity as an ordinance duly passed by the governing authorities of any municipality.

It is authorized to elect such officers and appoint such employees as may be necessary to operate the system or systems efficiently, and it shall have the entire control and management of such system or systems, together with all property connected or appertaining in any manner to such system or systems. The commission shall have the authority to employ a superintendent or manager of the systems, who shall have actual charge of the management and operation thereof and of the enforcement and execution of all the rules, regulations, programs, plans and decisions made and adopted by the commission in making purchases for materials and supplies to be used in the operation of the systems. In addition to any other purchasing authority granted by law, the commission may purchase electric transmission line materials, electric distribution system substation equipment, transformer equipment, and all other appliances, apparatus, machinery, equipment and appurtenances necessary for the sale of electricity, such as utility vehicles and fencing, from the surplus inventory of the Tennessee Valley Authority or any other

similar agency of the federal government and electric power associations. These purchases shall be exempt from the public bid requirements prescribed in Sections 31-7-12 and 31-7-13. However, for all other purchases, the commission shall advertise for competitive bids in the manner and form as is required in accordance with Section 31-7-13. The superintendent or manager shall make and keep full and proper books and records of all purchases and shall submit them to the commission for its approval and ratification before payment thereof is authorized to be made. The commission may authorize the superintendent or manager to immediately refund to a customer of the municipally owned utility his or her deposit for municipal utility services after the superintendent or manager has determined that payment for all services and any other obligations which the customer may have incurred in regard to the municipal utility has been made. It shall have the right to fix the salaries and term of office of all employees and to direct them in the discharge of their duties. It shall have the right to require good and sufficient bonds from all officers and employees in such amounts as it may deem proper. It shall have the right to discharge employees when found inefficient or for other good cause. It shall have the power to make and collect rates for services and facilities, and appropriate funds for the maintenance and improvements of such systems. It is authorized to borrow from the Mississippi Development Bank in order to fund advance purchases of energy for gas producing,

generating, transmission or distribution system or its electric generating, transmission or distribution system. It is authorized to insure all property used in the operation of such systems, including buildings, furniture, books and records, against loss by fire and tornado, and to carry sufficient amount of employers liability, steam boiler, plate glass and other miscellaneous casualty insurance, as in the discretion of the commission may be deemed proper, and to pay premiums therefor out of the funds derived from the operation of the systems. It shall report quarterly to the governing authorities of the municipality of all its doings and transactions of every kind whatsoever and shall make a complete statement of the financial condition of the systems at the end of each quarter, and shall annually make a detailed statement covering the entire management and operation of the systems, with any recommendations which it may have for the further development of the systems. At any time, the commission, by order or resolution, may authorize the expansion of activities of any component facility to include processing of materials on a custom basis or the processing and marketing of materials acquired to fully and efficiently utilize existing plant capacity. It shall also provide copies of all such quarterly and annual reports and statements to the Public Service Commission when so directed under Section 77-3-6.

The commission provided for by Section 21-27-13 is also authorized to allow a municipally owned utility to prepay the

utility's bills to those electricity suppliers which offer early payment discounts to the municipally owned utility.

SECTION 6. Section 21-27-23, Mississippi Code of 1972, is brought forward as follows:

21-27-23. Any municipality may:

(a) Borrow money and issue revenue bonds therefor solely for the purposes specified in this section and by the procedure provided in Sections 21-27-41 through 21-27-69.

Money may be borrowed and bonds issued by any municipality of the State of Mississippi, as defined in Section 21-27-11, to acquire or improve any waterworks system, water supply system, sewerage system, sewage disposal system, garbage disposal system, rubbish disposal system or incinerators, gas producing system, gas generating system, gas transmission system, or gas distribution system, electric generating, transmission or distribution system, railroad transportation system for passengers and freight, or motor vehicle transportation system, including any combination of any or all of those systems into one (1) system, within or without the corporate limits thereof, for the purpose of supplying the municipality and the persons and corporations, both public and private, whether within or without its corporate limits, with the services and facilities afforded by the system, provided that water, electric energy, or gas afforded by any system or systems may be supplied to such ultimate consumers thereof by sale thereof to the owners or operators of a distribution system for resale to

the public. Any municipality which shall borrow money and issue revenue bonds to provide funds with which to acquire a gas transmission system, if necessary in order to reach and obtain a source of supply of gas for the municipality, may extend or construct its gas transmission line into an adjoining state, and may use and expend part of the proceeds of such issue of revenue bonds for the purpose.

(b) To assume all indebtedness for any system or systems which may be acquired under the provisions of this section as all or part of the consideration for the acquisition of such system or systems and to issue its revenue bonds in exchange for the bonds or notes evidencing the indebtedness.

(c) To acquire or improve any system which it is authorized to borrow money and issue revenue bonds under subsection (a) of this section to acquire or improve; and to make contracts in furtherance thereof or in connection therewith.

(d) To own, operate and maintain any such system or combination of any and all of said systems into one (1) system.

(e) To establish, maintain and collect rates for the facilities and services offered by any such system; provided that if there is a combination of systems into one or more systems, the municipality establishing the same shall be and is empowered to establish, maintain and collect rates for any and all of the services or for any combination thereof, and the municipality may discontinue any or all of the services upon any failure to

promptly pay the charges fixed for the services. The rates so fixed for services rendered by any system or combination thereof may be charged for all services rendered thereby, regardless of whether the services may have been previously rendered without rates or charges therefor by the previously existing waterworks system, water supply system, sewerage system, sewage disposal system, garbage disposal system, rubbish disposal system or incinerators, gas producing system, gas generating system, gas transmission system, or gas distribution system, electric generating, transmission or distribution system, which shall have been merged into the combined system. Any such municipality may pledge for the payment of any bonds issued to acquire or improve any such combined system, or to refund any bonds previously issued to acquire or improve any such combined system or to acquire or improve any system merged with such combined system, the revenues to be derived from the operation of such combined system, including the charges authorized to be imposed by this section.

A municipality may authorize a municipally owned utility to make early payment of the utility's bills to its electricity suppliers which offer early payment discounts to the municipally owned utility. The municipality may immediately refund to a customer of the municipally owned utility his or her deposit for municipal utility services after the municipal utility has determined that payment for all services and any other obligations

which the customer may have incurred in regard to the municipal utility has been made.

If the revenues of any previously existing system being merged into a combined system are subject to a prior lien, the revenues and the expenses of any previously existing system shall be accounted for separately to the extent necessary to satisfy the covenants relating to the prior lien for so long as the indebtedness secured by the revenues shall remain outstanding. Only surplus revenues remaining after the satisfaction of all covenants relating to the outstanding indebtedness may be pledged to the retirement of any indebtedness to be secured by the revenues of a combined system. The existence of the outstanding indebtedness shall not, in and of itself, prevent the combining of systems as herein provided, so long as the prior lien on the revenues of any previously existing system is fully satisfied from the revenues of the previously existing system.

(f) To acquire property, real or personal, which may be necessary to effectuate the powers conferred by this section. The municipality may purchase electric transmission line materials, electric distribution system substation equipment, transformer equipment, and all other appliances, apparatus, machinery, equipment and appurtenances necessary for the sale of electricity, such as utility vehicles and fencing, from the surplus inventory of the Tennessee Valley Authority or any other similar agency of the federal government and electric power associations. These

purchases by the municipality shall be exempt from the public bid requirements prescribed in Sections 31-7-12 and 31-7-13. If the power of eminent domain is exercised, it shall be exercised in the manner provided by Sections 11-27-1 through 11-27-51.

(g) To enter into contract with the United States of America or any agency thereof, under the provisions of acts of the Congress of the United States, to aid or encourage public works and the regulations made in pursuance thereof, for the sale of bonds issued in accordance with the provisions of Sections 21-27-41 through 21-27-69 or for the acceptance of a grant to aid such municipality in acquiring or improving any such system; and the contracts may contain terms and conditions as may be agreed upon by and between the municipality and the United States of America or any agency thereof, or any purchaser of the bonds.

(h) To adopt the ordinances and resolutions and to do all things and perform all acts necessary, proper or desirable to effectuate the full intent and purpose of Sections 21-27-11 through 21-27-69, including processing, marketing, custom processing, sale and resale of materials processed through any facility under its jurisdiction.

(i) To borrow from the Mississippi Development Bank in order to fund the advance purchase of energy for its gas producing, generating, transmission or distribution system or its electric generating, transmission or distribution system.

SECTION 7. Section 25-11-15, Mississippi Code of 1972, is brought forward as follows:

25-11-15. (1) Board of trustees: The general administration and responsibility for the proper operation of the Public Employees' Retirement System and the federal-state agreement and for making effective the provisions of Articles 1 and 3 are vested in a board of trustees.

(2) The board shall consist of ten (10) trustees, as follows:

(a) The State Treasurer;

(b) One (1) member who shall be appointed by the Governor for a term of four (4) years, who shall be a member of the system;

(c) Two (2) members of the system having at least ten (10) years of creditable service who are state employees who are not employees of the state institutions of higher learning, who shall be elected by members of the system who are employees of state agencies and by members of the Mississippi Highway Safety Patrol Retirement System, but not by employees of the state institutions of higher learning;

(d) Two (2) members of the system having at least ten (10) years of creditable service who do not hold office in the legislative or judicial departments of municipal or county government, one (1) of whom shall be an employee of a municipality, instrumentality or juristic entity thereof, who

shall be elected by members of the system who are employees of the municipalities, instrumentalities or juristic entities thereof and by members of the municipal systems and the firemen's and policemen's disability and relief funds administered by the board of trustees, and one (1) of whom shall be an employee of a county, instrumentality or juristic entity thereof, who shall be elected by members of the system who are employees of the counties, instrumentalities or juristic entities thereof;

(e) One (1) member of the system having at least ten (10) years of creditable service who is an employee of a state institution of higher learning, who shall be elected by members of the system who are employees of the state institutions of higher learning as included in Section 37-101-1. Any member of the board on July 1, 1984, who is an employee of an institution of higher learning shall serve as the member trustee representing the institutions of higher learning until the end of the term for which he or she was elected;

(f) Two (2) retired members who are receiving a retirement allowance from the system, who shall be elected by the retired members or beneficiaries receiving a retirement allowance from the system and by the retired members or beneficiaries of the municipal systems, the firemen's and policemen's disability and relief funds and the Mississippi Highway Safety Patrol Retirement System administered by the board of trustees, to serve for a term of six (6) years under rules and regulations adopted by the board

to govern that election; however, any retired member of the board in office on April 19, 1993, shall serve as a retired trustee until the end of the term for which he or she was elected;

(g) One (1) member of the system having at least ten (10) years of creditable service who is an employee of any public school district or junior college or community college district that participates in the system, who shall be elected by the members of the system who are employees of any public school district or junior college or community college district; however, any member of the board on June 30, 1989, who is a certified classroom teacher shall serve as the member representing a classroom teacher until the end of the term for which the member was appointed;

(h) In the first election to be held for trustees one (1) member shall be elected for a term of two (2) years, and one (1) member for a term of four (4) years, and one (1) member for a term of six (6) years. Thereafter, their successors shall be elected for terms of six (6) years. All elections shall be held in accordance with rules and regulations adopted by the board to govern those elections and the board shall be the sole judge of all questions arising incident to or connected with the elections.

(i) Any person eligible to vote for the election of a member of the board of trustees and who meets the qualifications for the office may seek election to the office and serve if elected. For purposes of determining eligibility to seek office

as a member of the board of trustees, the required creditable service in "the system" shall include each system administered by the board of trustees in which the person is a member.

The members described above and serving on the board on June 30, 1989, shall continue to serve on the board until the expiration of their terms.

(3) If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. However, if the unexpired term is six (6) months or less, an election shall be held to fill the office vacated for the next succeeding full term of office, and the person so elected to fill the next full term shall be appointed by the board to fill the remainder of the unexpired term. Whenever any member who is elected to a position to represent a class of members ceases to be a member of that class, that board member is no longer eligible for membership on the board. The position shall be declared vacant, and the unexpired term shall be filled in the same manner as the office was previously filled.

(4) Each trustee shall, within ten (10) days after his or her appointment or election, take an oath of office as provided by law and, in addition, shall take an oath that he or she will diligently and honestly administer the affairs of the board, and that he or she will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to Articles 1

and 3. The oath shall be signed by the member making it, certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

(5) Each trustee shall be entitled to one (1) vote. Six (6) members shall constitute a quorum at any meeting of the board, and a majority of those present shall be necessary for a decision.

(6) Subject to the limitations of Articles 1 and 3, the board shall establish rules and regulations for the administration of the system created by those articles and for the transaction of its business, and to give force and effect to the provisions of those articles wherever necessary to carry out the intent and purposes of the Legislature. The cited articles are remedial law and shall be liberally construed to accomplish their purposes.

(7) Notwithstanding any other law to the contrary, in the event of a natural disaster or other occurrence that results in the failure of the retirement system's computer system or a significant disruption of the normal activities of the retirement system, the executive director of the board, or his or her deputy, shall be authorized to contract with another entity, governmental or private, during the period of the failure or disruption, for services, commodities, work space and supplies as necessary to carry out the administration of all systems and programs administered by the board. The board shall be authorized to pay the reasonable cost of those services, commodities, work space and supplies. At the meeting of the board next following the

execution of a contract authorized under this subsection, documentation of the contract, including a description of the services, commodities, work space or supplies, the price thereof and the nature of the disaster or occurrence, shall be presented to the board and placed on the minutes of the board. Because of their emergency nature, purchases made under this subsection shall not be required to comply with the provisions of Section 31-7-13 or any other law governing public purchases.

(8) The computer equipment and software owned by the Public Employees' Retirement System are assets of the Trust Fund by virtue of the Constitution, Section 272-A and acquisition and operation thereof shall be under the jurisdiction of the Public Employees' Retirement System.

(9) The board shall elect a chairman and shall by a majority vote of all of its members appoint a secretary whose title shall be executive director, who shall serve at the will and pleasure of the board, who shall not be a member of the board of trustees, who shall be entitled to membership in the system, and who shall act as secretary of the board. The board of trustees shall employ such actuarial, clerical and other employees as are required to transact the business of the system, and shall fix the compensation of all employees, subject to the rules and regulations of the State Personnel Board.

(10) Each member of the board shall receive as compensation for his or her services Three Hundred Dollars ($300.00) per month.

All members of the board shall be reimbursed for their necessary traveling expenses, which shall be paid in accordance with the requirements of Section 25-3-41 or other applicable statutes with respect to traveling expenses of state officials and employees on official business. All members of the board shall be entitled to be members of the system and shall be entitled to creditable service for all time served as a member of the board, except for the retired members, who shall not be entitled to be a member of the system and who shall be eligible to receive the retirement allowance and compensation for services from the system while serving as a member of the board. Members of the board who are employed in state service (as defined in Section 25-11-103) shall not be required to take annual leave from their state service employment while performing his or her official duties as a member of the board.

(11) All expenses of the board incurred in the administration of Articles 1 and 3 shall be paid from such funds as may be appropriated by the Legislature for that purpose or from administrative fees collected from political subdivisions or juristic entities of the state. Each political subdivision of the state and each instrumentality of the state or of a political subdivision or subdivisions that submit a plan for approval by the board as provided in Section 25-11-11 shall reimburse the board, for coverage into the administrative expense fund, its pro rata

share of the total expense of administering Articles 1 and 3 as provided by regulations of the board.

(12) The Lieutenant Governor may designate two (2) Senators and the Speaker of the House of Representatives may designate two (2) Representatives to attend any meeting of the Board of Trustees of the Public Employees' Retirement System. The appointing authorities may designate alternate members from their respective houses to serve when the regular designees are unable to attend the meetings of the board. The legislative designees shall have no jurisdiction or vote on any matter within the jurisdiction of the board. For attending meetings of the board, the legislators shall receive per diem and expenses, which shall be paid from the contingent expense funds of their respective houses in the same amounts as provided for committee meetings when the Legislature is not in session; however, no per diem and expenses for attending meetings of the board will be paid while the Legislature is in session. No per diem and expenses will be paid except for attending meetings of the board without prior approval of the proper committee in their respective houses.

SECTION 8. Section 25-53-5, Mississippi Code of 1972, is brought forward as follows:

25-53-5. The authority shall have the following powers, duties, and responsibilities:

(a) The authority shall provide for the development of plans for the efficient acquisition and utilization of computer

equipment and services by all agencies of state government, and provide for their implementation. In so doing, the authority may use the MDITS' staff, at the discretion of the executive director of the authority, or the authority may contract for the services of qualified consulting firms in the field of information technology and utilize the service of such consultants as may be necessary for such purposes.

(b) The authority shall immediately institute procedures for carrying out the purposes of this chapter and supervise the efficient execution of the powers and duties of the office of executive director of the authority. In the execution of its functions under this chapter, the authority shall maintain as a paramount consideration the successful internal organization and operation of the several agencies so that efficiency existing therein shall not be adversely affected or impaired. In executing its functions in relation to the institutions of higher learning and junior colleges in the state, the authority shall take into consideration the special needs of such institutions in relation to the fields of teaching and scientific research.

(c) Title of whatever nature of all computer equipment now vested in any agency of the State of Mississippi is hereby vested in the authority, and no such equipment shall be disposed of in any manner except in accordance with the direction of the authority or under the provisions of such rules and regulations as may hereafter be adopted by the authority in relation thereto.

(d) The authority shall adopt rules, regulations, and procedures governing the acquisition of computer and telecommunications equipment and services which shall, to the fullest extent practicable, insure the maximum of competition between all manufacturers of supplies or equipment or services. In the writing of specifications, in the making of contracts relating to the acquisition of such equipment and services, and in the performance of its other duties the authority shall provide for the maximum compatibility of all information systems hereafter installed or utilized by all state agencies and may require the use of common computer languages where necessary to accomplish the purposes of this chapter. The authority may establish by regulation and charge reasonable fees on a nondiscriminatory basis for the furnishing to bidders of copies of bid specifications and other documents issued by the authority.

(e) The authority shall adopt rules and regulations governing the sharing with, or the sale or lease of information technology services to any nonstate agency or person. Such regulations shall provide that any such sharing, sale or lease shall be restricted in that same shall be accomplished only where such services are not readily available otherwise within the state, and then only at a charge to the user not less than the prevailing rate of charge for similar services by private enterprise within this state.

(f) The authority may, in its discretion, establish a special technical advisory committee or committees to study and make recommendations on technology matters within the competence of the authority as the authority may see fit. Persons serving on the Information Resource Council, its task forces, or any such technical advisory committees shall be entitled to receive their actual and necessary expenses actually incurred in the performance of such duties, together with mileage as provided by law for state employees, provided the same has been authorized by a resolution duly adopted by the authority and entered on its minutes prior to the performance of such duties.

(g) The authority may provide for the development and require the adoption of standardized computer programs and may provide for the dissemination of information to and the establishment of training programs for the personnel of the various information technology centers of state agencies and personnel of the agencies utilizing the services thereof.

(h) The authority shall adopt reasonable rules and regulations requiring the reporting to the authority through the office of executive director of such information as may be required for carrying out the purposes of this chapter and may also establish such reasonable procedures to be followed in the presentation of bills for payment under the terms of all contracts for the acquisition of computer equipment and services now or

hereafter in force as may be required by the authority or by the executive director in the execution of their powers and duties.

(i) The authority shall require such adequate documentation of information technology procedures utilized by the various state agencies and may require the establishment of such organizational structures within state agencies relating to information technology operations as may be necessary to effectuate the purposes of this chapter.

(j) The authority may adopt such further reasonable rules and regulations as may be necessary to fully implement the purposes of this chapter. All rules and regulations adopted by the authority shall be published and disseminated in readily accessible form to all affected state agencies, and to all current suppliers of computer equipment and services to the state, and to all prospective suppliers requesting the same. Such rules and regulations shall be kept current, be periodically revised, and copies thereof shall be available at all times for inspection by the public at reasonable hours in the offices of the authority. Whenever possible no rule, regulation or any proposed amendment to such rules and regulations shall be finally adopted or enforced until copies of said proposed rules and regulations have been furnished to all interested parties for their comment and suggestions.

(k) The authority shall establish rules and regulations which shall provide for the submission of all contracts proposed

to be executed by the executive director for computer equipment or services to the authority for approval before final execution, and the authority may provide that such contracts involving the expenditure of less than such specified amount as may be established by the authority may be finally executed by the executive director without first obtaining such approval by the authority.

(l) The authority is authorized to purchase, lease, or rent computer equipment or services and to operate said equipment and utilize said services in providing services to one or more state agencies when in its opinion such operation will provide maximum efficiency and economy in the functions of any such agency or agencies.

(m) Upon the request of the governing body of a political subdivision or instrumentality, the authority shall assist the political subdivision or instrumentality in its development of plans for the efficient acquisition and utilization of computer equipment and services. An appropriate fee shall be charged the political subdivision by the authority for such assistance.

(n) The authority shall adopt rules and regulations governing the protest procedures to be followed by any actual or prospective bidder, offerer or contractor who is aggrieved in connection with the solicitation or award of a contract for the acquisition of computer equipment or services. Such rules and

regulations shall prescribe the manner, time and procedure for making protests and may provide that a protest not timely filed shall be summarily denied. The authority may require the protesting party, at the time of filing the protest, to post a bond, payable to the state, in an amount that the authority determines sufficient to cover any expense or loss incurred by the state, the authority or any state agency as a result of the protest if the protest subsequently is determined by a court of competent jurisdiction to have been filed without any substantial basis or reasonable expectation to believe that the protest was meritorious; however, in no event may the amount of the bond required exceed a reasonable estimate of the total project cost. The authority, in its discretion, also may prohibit any prospective bidder, offerer or contractor who is a party to any litigation involving any such contract with the state, the authority or any agency of the state to participate in any other such bid, offer or contract, or to be awarded any such contract, during the pendency of the litigation.

(o) The authority shall make a report in writing to the Legislature each year in the month of January. Such report shall contain a full and detailed account of the work of the authority for the preceding year as specified in Section 25-53-29(3).

All acquisitions of computer equipment and services involving the expenditure of funds in excess of the dollar amount established in Section 31-7-13(c), or rentals or leases in excess

of the dollar amount established in Section 31-7-13(c) for the term of the contract, shall be based upon competitive and open specifications, and contracts therefor shall be entered into only after advertisements for bids are published in one or more daily newspapers having a general circulation in the state not less than fourteen (14) days prior to receiving sealed bids therefor. The authority may reserve the right to reject any or all bids, and if all bids are rejected, the authority may negotiate a contract within the limitations of the specifications so long as the terms of any such negotiated contract are equal to or better than the comparable terms submitted by the lowest and best bidder, and so long as the total cost to the State of Mississippi does not exceed the lowest bid. If the authority accepts one (1) of such bids, it shall be that which is the lowest and best.

(p) When applicable, the authority may procure equipment, systems and related services in accordance with the law or regulations, or both, which govern the Bureau of Purchasing of the Office of General Services or which govern the Mississippi Department of Information Technology Services procurement of telecommunications equipment, software and services.

(q) The authority is authorized to purchase, lease, or rent information technology and services for the purpose of establishing pilot projects to investigate emerging technologies. These acquisitions shall be limited to new technologies and shall be limited to an amount set by annual appropriation of the

Legislature. These acquisitions shall be exempt from the advertising and bidding requirement.

(r) All fees collected by the Mississippi Department of Information Technology Services shall be deposited into the Mississippi Department of Information Technology Services Revolving Fund unless otherwise specified by the Legislature.

(s) The authority shall work closely with the council to bring about effective coordination of policies, standards and procedures relating to procurement of remote sensing and geographic information systems (GIS) resources. In addition, the authority is responsible for development, operation and maintenance of a delivery system infrastructure for geographic information systems data. The authority shall provide a warehouse for Mississippi's geographic information systems data.

(t) The authority shall manage one or more State Data Centers, to provide information technology services on a cost-sharing basis. In determining the appropriate services to be provided through the State Data Center, the authority should consider those services that:

(i) Result in savings to the state as a whole;

(ii) Improve and enhance the security and reliability of the state's information and business systems; and

(iii) Optimize the efficient use of the state's information technology assets, including, but not limited to, promoting partnerships with the state institutions of higher

learning and community colleges to capitalize on advanced information technology resources.

(u) The authority shall increase federal participation in the cost of the State Data Center to the extent provided by law and its shared technology infrastructure through providing such shared services to agencies that receive federal funds. With regard to state institutions of higher learning and community colleges, the authority may provide shared services when mutually agreeable, following a determination by both the authority and the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, as the case may be, that the sharing of services is mutually beneficial.

(v) The authority, in its discretion, may require new or replacement agency business applications to be hosted at the State Data Center. With regard to state institutions of higher learning and community colleges, the authority and the Board of Trustees of State Institutions of Higher Learning or the Mississippi Community College Board, as the case may be, may agree that institutions of higher learning or community colleges may utilize business applications that are hosted at the State Data Center, following a determination by both the authority and the applicable board that the hosting of those applications is mutually beneficial. In addition, the authority may establish partnerships to capitalize on the advanced technology resources of the Board of Trustees of State Institutions of Higher Learning or

the Mississippi Community College Board, following a determination by both the authority and the applicable board that such a partnership is mutually beneficial.

(w) The authority shall provide a periodic update regarding reform-based information technology initiatives to the Chairmen of the House and Senate Accountability, Efficiency and Transparency Committees.

SECTION 9. Section 25-53-21, Mississippi Code of 1972, is brought forward as follows:

25-53-21. The executive director shall have the following duties, responsibilities and authority:

(a) He shall conduct continuing studies of all information technology activities carried out by all agencies of the state and shall develop a long-range plan for the efficient and economical performance of such activities in state government. Such plan shall be submitted to the authority for its approval and, having been approved by the authority, shall be implemented by the executive director and all state agencies. Such plan shall be continuously reviewed and modifications thereof shall be proposed to the authority by the executive director as developments in information technology techniques and changes in the structure, activities, and functions of state government may require.

(b) He shall review the purchasing practices of all state agencies in the area of the purchasing of supplies for

information technology and make recommendations to the authority and to the Public Procurement Review Board for the institution of purchasing procedures which will insure the most economical procurement of such supplies commensurate with the efficient operation of all departments and agencies of state government.

(c) He shall see that all reports required of all agencies are promptly and accurately made in accordance with the rules and regulations adopted by the authority. Either in person or through his authorized agents, he shall make such inspections of information technology operations being conducted by any of the agencies of the state as may be necessary for the performance of his duties.

(d) He shall suggest and cause to be brought about cooperation between the several state agencies in order to provide efficiency in information technology operation. He shall, together with the heads of the agencies involved, reduce to writing and execute cooperative plans for the acquisition and operation of information technology equipment, and any such plan so adopted shall be carried out in accordance with the provisions of such plan unless the same shall be amended by the joint action of the executive director and the heads of agencies involved. The executive director shall report to the authority the details of any plan so adopted and all amendments or modifications thereof, and shall otherwise report to the authority and to the Public Procurement Review Board any failure on the part of any agency to

carry out the provisions of such plan. In the event the head of any agency involved or the executive director shall propose amendments to a plan so adopted and such amendment is disapproved by the head of another agency involved or the executive director, an appeal may be taken to the authority which may, after full consideration thereof, order the adoption of the proposed amendment or any modification thereof. The executive director shall make decisions on all questions of the division of the cost of information technology operations among the several agencies, but his findings shall be subject to the approval or modification by the authority on appeal to it.

(e) He shall review all contracts for acquisition of computer equipment or services now or hereafter in force and may require the renegotiation, termination, amendment or execution of any such contracts in proper form and in accordance with the policies and rules and regulations and subject to the direction of the authority. In the negotiation and execution of such contracts, the executive director may negotiate a limitation on the liability to the state of prospective contractors provided such limitation affords the state reasonable protection.

(f) He shall act as the purchasing and contracting agent for the State of Mississippi in the negotiation and execution of all contracts for the acquisition of computer equipment or services. He shall receive, review, and promptly approve or disapprove all requests of agencies of the state for

the acquisition of computer equipment or services, which are submitted in accordance with rules and regulations of the authority. In the event that any such request is disapproved, he shall immediately notify the requesting agency and the members of the authority in writing of such disapproval, stating his reasons therefor. The disapproval of any request by the executive director of the authority may be appealed to the authority or to the Public Procurement Review Board, respectively, in such manner as may be authorized by such reasonable rules and regulations hereby authorized to be adopted by the authority and by the Public Procurement Review Board to govern the same. The executive director shall report the approval of all such requests to the authority in such manner as may be directed by the authority, and shall execute any such contracts only after complying with rules and regulations which may be adopted by the authority in relation thereto. Any contracts for personal or professional services entered into by the executive director shall be exempted from the requirements of Section 25-9-120(3) relating to submission of such contract to the State Personal Service Contract Review Board.

(g) He shall suggest and cause to be brought about cooperation between the several state agencies, departments and institutions in order that work may be done by one agency for another agency, and equipment in one agency may be made available to another agency, and suggest and cause to be brought about such

improvements as may be necessary in joint or cooperative information technology operations.

(h) He shall be designated as the "Chief Information Confidentiality Officer" after being duly sworn to the oath of this office by the chairman of the authority and shall be responsible for administering the oath to other qualified officers he may designate.

(i) He shall appoint employees of the Mississippi Department of Information Technology Services, or at his discretion, employees of other state agencies and institutions that are responsible for handling or processing data for any agency or institution other than that for which they are employed, to a position of information custodial care that shall be known as "Information Confidentiality Officer." The selection and swearing of all officers shall be reported to the authority at the next regular meeting and names, affirmation dates and employment dates shall be recorded in the permanent minutes of the authority.

SECTION 10. Section 25-53-119, Mississippi Code of 1972, is brought forward as follows:

25-53-119. The bureau shall, subject to the provisions of Sections 25-53-101 through 25-53-125, have sole authority and responsibility for defining the specific telecommunications equipment, systems and related services to which the provisions of Sections 25-53-101 through 25-53-125 shall be applicable. However, the provisions of Sections 25-53-101 through 25-53-125

shall not be applicable with respect to computer and telecommunications equipment, systems and related services that are only available from a sole source.

SECTION 11. Section 31-7-12, Mississippi Code of 1972, is brought forward as follows:

31-7-12. (1) Except in regard to purchases of unmarked vehicles made in accordance with purchasing regulations adopted by the Department of Finance and Administration pursuant to Section 31-7-9(2), all agencies shall purchase commodities at the state contract price from the approved source, unless approval is granted by the Department of Finance and Administration to solicit purchases outside the terms of the contracts. However, prices accepted by an agency shall be less than the prices set by the state contract. Prices accepted by an agency shall be obtained in compliance with paragraph (a), (b) or (c) of Section 31-7-13. It shall be the responsibility of the Department of Finance and Administration to ascertain that the resulting prices shall provide a cost effective alternative to the established state contract.

(2) Governing authorities may purchase commodities approved by the Department of Finance and Administration from the state contract vendor, or from any source offering the identical commodity, at a price not exceeding the state contract price established by the Department of Finance and Administration for such commodity, without obtaining or advertising for competitive

bids. Governing authorities that do not exercise the option to purchase such commodities from the state contract vendor or from another source offering the identical commodity at a price not exceeding the state contract price established by the Department of Finance and Administration shall make such purchases pursuant to the provisions of Section 31-7-13 without regard to state contract prices established by the Department of Finance and Administration, unless such purchases are authorized to be made under subsection (5) of this section.

(3) Nothing in this section shall prohibit governing authorities from purchasing, pursuant to subsection (2) of this section, commodities approved by the Department of Finance and Administration at a price not exceeding the state contract price established by the Department of Finance and Administration.

(4) The Department of Finance and Administration shall ensure that the prices of all commodities on the state contract are the lowest and best prices available from any source offering that commodity at the same level of quality or service, utilizing the reasonable standards established therefor by the Department of Finance and Administration. If the Department of Finance and Administration does not list an approved price for the particular item involved, purchase shall be made according to statutory bidding and licensing requirements. To encourage prudent purchasing practices, the Department of Finance and Administration shall be authorized and empowered to exempt certain commodities

from the requirement that the lowest and best price be approved by order placed on its minutes.

(5) Any school district may purchase commodities from vendors with which any levying authority of the school district, as defined in Section 37-57-1, has contracted through competitive bidding procedures pursuant to Section 31-7-13 for purchases of the same commodities. Purchases authorized by this subsection may be made by a school district without obtaining or advertising for competitive bids, and such purchases shall be made at the same prices and under the same conditions as purchases of the same commodities are to be made by the levying authority of the school district under the contract with the vendor.

SECTION 12. Section 31-7-14, Mississippi Code of 1972, is brought forward as follows:

31-7-14. (1) (a) For purposes of this section, the following words and phrases shall have the meaning ascribed herein, unless the context clearly indicates otherwise:

(i) "Division" means the Energy Division of the Mississippi Development Authority.

(ii) "Energy services" or "energy efficient services" means energy efficiency equipment, services relating to the installation, operation and maintenance of equipment and improvements reasonably required to existing or new equipment and existing or new improvements and facilities including, but not limited to, heating, ventilation and air-conditioning systems,

lighting, windows, insulation and energy management controls, life safety measures that provide long-term, operating-cost reductions, building operation programs that reduce operating costs, alternative fuel motor vehicles including vehicles that have been converted to such and ancillary equipment related to or associated with the fueling of alternative fuel motor vehicles, or other energy-conservation-related improvements, including improvements or equipment related to renewable energy, water and other natural resources conservation, including accuracy and measurement of water distribution and/or consumption, and other equipment, services and improvements providing energy efficiency as determined by the division.

(iii) "Energy performance contract" means an agreement to provide energy services which include, but are not limited to, the design, installation, financing and maintenance or management of the energy systems or equipment in order to improve its energy efficiency. The energy savings are guaranteed by the performance contractor and savings from energy, operations, maintenance and other cost-avoidance measures can be used to repay the cost of the project.

(iv) "Energy services contract" means an agreement to provide energy services which include, but are not limited to, the design, installation, financing and maintenance or management of the energy systems or equipment in order to improve its energy

efficiency. Payments for the contract are not contingent upon the actual savings realized from the equipment.

(v) "Entity" means the board of trustees of any public school district, junior college, institution of higher learning, publicly owned hospital, state agency or governing authority of this chapter.

(vi) "Shared savings contract" means an agreement where the contractor and the entity each receive a preagreed percentage or dollar value of the energy cost savings over the life of the contract.

(vii) "Reduce operating costs" means elimination of future expenses or avoidance of future replacement expenditures as a result of new equipment installed or services performed. A contract that otherwise satisfies the requirements of this section shall satisfy the requirements allowing use of an energy performance or shared savings contract even if the sole expense being eliminated is maintenance expense.

(viii) "Alternative fuel motor vehicle" means a motor vehicle propelled by alternative fuel either as a dedicated alternative fuel vehicle, as a bi-fuel vehicle using alternative fuel as one of its fuels, or as a dual fuel vehicle using alternative fuel as one of its fuels.

(b) An entity may enter into a lease, energy services contract, energy performance contract, shared savings contract, or lease-purchase contracts for energy efficiency equipment,

services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities and shall contract in accordance with the following provisions:

(i) An entity shall publicly issue requests for proposals, advertised in the same manner as provided in Section 31-7-13 for seeking competitive sealed bids, concerning the provision of energy efficiency services relating to the installation, operation and maintenance of equipment, improvements reasonably required to existing or new equipment and existing or new improvements and facilities or the design, installation, ownership, operation and maintenance of energy efficiency equipment. Those requests for proposals shall contain terms and conditions relating to submission of proposals, evaluation and selection of proposals, financial terms, legal responsibilities, and any other matters as the entity determines to be appropriate for inclusion.

(ii) Upon receiving responses to the request for proposals, the entity may select the most qualified proposal or proposals on the basis of experience and qualifications of the proposers, the technical approach, the financial arrangements, the overall benefits to the entity and any other relevant factors determined to be appropriate.

(iii) An entity shall negotiate and enter into contracts with the person, persons, firm or firms submitting the proposal selected as the most qualified under this section.

(iv) All contracts must contain the following annual allocation dependency clause: The continuation of this contract is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Legislature or other budgeting authority. If the Legislature or other budgeting authority fails to appropriate sufficient monies to provide for the continuation of the contract, the contract shall terminate on the last day of the fiscal year for which appropriations were made. The termination shall be without penalty or expense to the entity of any kind whatsoever, except as to the portions of payments for which funds were appropriated.

(v) The annual rate of interest paid under any lease-purchase agreement authorized by this section shall not exceed the maximum interest rate to maturity on general obligation indebtedness permitted under Section 75-17-101.

(vi) The maximum lease-purchase term for any equipment acquired under this section shall not exceed the useful life of that equipment as determined according to the upper limit of the asset depreciation range (ADR) guidelines for the Class Life Asset Depreciation Range System established by the Internal Revenue Service under the United States Internal Revenue Code and the regulations thereunder as in effect on December 31, 1980, or

comparable depreciation guidelines with respect to any equipment not covered by ADR guidelines.

(vii) This subsection shall, with respect to the procurement of energy efficiency services and/or equipment, supersede any contradictory or conflicting provisions of Chapter 7, Title 31, Mississippi Code of 1972, and other laws with respect to awarding public contracts.

(2) (a) The division may contract with a party selected under this subsection to provide financing to entities and private "nonprofit" hospitals, to purchase energy efficiency equipment, services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities or an energy saving performance contract, energy services contract, or lease-purchase basis. Any energy efficiency lease financing contract entered into by the division before May 15, 1992, shall be valid and binding when the contract was entered into under this subsection.

(b) The entities and private "nonprofit" hospitals that decide to contract for energy efficiency equipment, services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities on a lease, energy services contract or lease-purchase basis, may request financial assistance from the division.

(c) The provisions of any energy efficiency lease-purchase agreements authorized under this subsection (2) shall comply with the requirements of subsection (1)(b)(iv) and (v) of this section. The term of any lease or lease-purchase agreement for energy efficiency services and/or equipment entered into under this section shall not exceed twenty (20) years, commencing on the completion of the installation of equipment or improvements under the contract.

(d) Any entity or private "nonprofit" hospital having approval of the division may borrow money in anticipation of entering into a lease-purchase agreement pursuant to subsection (2)(b) of this section. Any borrowing may be upon terms and conditions as may be agreed upon by the borrowing entity and the party advancing interim funds; however, the principal on any borrowing shall be repaid within a period of time not to exceed one hundred eighty (180) days. In borrowing money under this paragraph (d), it is not necessary to publish notice of intention to do so or to secure the consent of the qualified electors, either by election or otherwise. Any borrowing may be negotiated between the parties and is not required to be publicly bid, may be evidenced by negotiable notes or lease and shall not be considered when computing any limitation of indebtedness of the borrowing entity established by law. The principal, interest and costs of incurring any borrowing shall not exceed the principal amount of the final contract or agreement approved by the division, and

accepted by the borrowing entity, under subsection (2)(b) of this section.

(e) This subsection (2) shall, with respect to the procurement of energy efficiency services and/or equipment, supersede the provisions of any contradictory or conflicting provisions of Chapter 7, Title 31, Mississippi Code of 1972, and other laws with respect to awarding public contracts.

(3) All lease-purchase agreements authorized by this section and the income from those agreements shall be exempt from all taxation within the State of Mississippi, except gift, transfer and inheritance taxes.

(4) (a) An entity may contract for energy efficiency equipment services relating to the installation, operation or maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities on a shared-savings basis or performance basis.

(b) If an entity decides to enter into a contract for energy efficiency equipment, services relating to the installation, operation or maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities on a shared-savings basis or performance basis, the entity shall issue a request for proposals or a request for qualifications, as determined necessary by the division, in the same manner as prescribed under subsection

(1)(b) of this section. The entity shall notify the division in writing. The final contract shall be approved by the division.

(c) The terms of any shared savings, energy services contract, or energy performance contract entered into under this section may not exceed twenty (20) years, commencing on the completion of the installation of equipment or improvements under the contract.

(d) The terms of any shared savings or energy performance contract entered into under this section must contain a guarantee of savings clause from the company providing energy efficiency equipment services relating to the installation, operation and maintenance of equipment or improvements reasonably required to existing or new equipment and existing or new improvements and facilities.

(5) By September 1 of each year, each entity that receives financial assistance through the energy efficiency lease program shall annually report to the division its energy usage by meter in dollars and consumption by fuel type for the previous fiscal year.

(6) The contract may be construed to provide flexibility to public agencies in structuring agreements entered into hereunder so that economic benefits may be maximized.

SECTION 13. Section 31-7-18, Mississippi Code of 1972, is brought forward as follows:

31-7-18. In addition to the method of purchasing authorized in this chapter, said governing authorities are hereby authorized

to accept the lowest bid received from a motor vehicle dealer domiciled within the county of the governing authority for the purchase of any motor vehicle having a gross vehicle weight rating of less than twenty-six thousand (26,000) pounds that shall not exceed a sum equal to three percent (3%) greater than the price or cost which the dealer pays the manufacturer, as evidenced by the factory invoice for the motor vehicle. In the event said county does not have an authorized motor vehicle dealer, said board or governing authority may, in like manner, receive bids from motor vehicle dealers in any adjoining county.

No purchase of a motor vehicle under the provisions of this section shall be valid unless the purchase is made according to statutory bidding and licensing requirements. Provided, however, that the governing authorities may choose to purchase a motor vehicle from the authorized state contract dealer without having to advertise and receive bids therefor.

No purchase shall be made in excess of the approved state contract price by any of the aforementioned governing authorities when such authorities are situated, wholly or in part, in the county wherein the authorized state contract dealer for a particular item is domiciled.

SECTION 14. Section 31-7-38, Mississippi Code of 1972, is brought forward as follows:

31-7-38. The board of trustees or governing board of any hospital or regional mental health center owned or owned and

operated separately or jointly by the State of Mississippi or any of its branches, agencies, departments or subdivisions, or by one or more counties, cities, towns, supervisors districts or election districts, or combinations thereof, may authorize by resolution the organization and operation of, or the participation in, a group purchasing program with other hospitals or regional mental health centers, for the purchase of supplies, commodities and equipment when it appears to the board of trustees or governing board that such a group purchasing program could or would affect economy or efficiency in their operations. Purchases by hospitals or regional mental health centers participating in group purchasing programs of supplies, commodities and equipment through such programs shall be exempt from the provisions of Sections 31-7-9, 31-7-10, 31-7-11, 31-7-12 and 31-7-13. This section shall stand repealed on July 1, 2016.

SECTION 15. Section 31-7-49, Mississippi Code of 1972, is brought forward as follows:

31-7-49. In placing orders for purchases under bids received and contracts awarded under the provisions of this chapter, the governing authority, by orders entered on its minutes, may authorize its members, or agents designated by its order, to place orders for the purchase of such supplies and materials from time to time during the period covered by the contract, as such supplies and materials are needed. Claims for such supplies so ordered by an individual board member or other duly authorized

agent shall not be allowed and paid by the board until such claims shall have been approved in writing by the individual board member or agent who ordered such supplies or the successor to such member or agent.

SECTION 16. Section 31-7-105, Mississippi Code of 1972, is brought forward as follows:

31-7-105. Upon acceptance of any bid by the board of supervisors, as provided in Section 31-7-13, the clerk of the board of supervisors, shall forthwith deliver to the purchase clerk a certified copy of such accepted bid. The accepted bid or offer to furnish equipment, heavy equipment, machinery, supplies, commodities, materials or services shall constitute the sole source for such purchase, unless such purchase is otherwise authorized by law. The term "lowest and best bid" shall not include any person, firm, partnership or corporation other than the person, firm, partnership or corporation actually submitting the bid determined to be the lowest and best bid.

SECTION 17. Section 31-7-115, Mississippi Code of 1972, is brought forward as follows:

31-7-115. The State Auditor, or a certified public accountant employed by the State Auditor, shall, upon the close of the fiscal year of the county, make an audit of the books, records, supporting documents and other data of the county purchase clerk and the inventory control clerk. The Auditor shall review the county's compliance with Section 31-7-13(d), (k) and

(m). The audit report shall include a schedule of purchases not made from the lowest bidder under the authority of Section 31-7-13(d), with the reasons given therefor. The audit report shall include a schedule of emergency purchases made under the authority of Section 31-7-13(k). The audit report shall include a schedule of purchases made noncompetitively from a sole source under the authority of Section 31-7-13(m). Such audit report shall be published in at least one (1) newspaper published in the county, or if no newspaper is published in the county, then in a newspaper having general circulation in the county.

SECTION 18. Section 31-7-119, Mississippi Code of 1972, is brought forward as follows:

31-7-119. (1) Except as provided in subsection (2) of this section, neither the board of supervisors nor any member thereof shall individually purchase, order or receive any equipment, heavy equipment, machinery, supplies, commodities, materials or services for the use or benefit of the county.

(2) In any county in which the board of supervisors is not required to operate on a countywide system of road administration, the prohibition as provided in subsection (1) of this section shall not apply (a) to purchases of not more than One Thousand Dollars ($1,000.00) in the aggregate; or (b) to the purchase of parts or repair services in emergency situations, which purchases are exempt from bid requirements pursuant to Section 31-7-13(m)(ii) and (iii), Mississippi Code of 1972. Any

supervisor who purchases any item or services in accordance with this subsection (2) shall sign the invoice or receipt and forward it to the purchase clerk in the manner provided by Section 31-7-103. No claim based on any such purchase shall be approved unless the purchase was made in compliance with the provisions of this subsection.

SECTION 19. Section 33-15-17, Mississippi Code of 1972, is brought forward as follows:

33-15-17. (a) Each county and municipality, or counties and the municipalities therein acting jointly, or two (2) or more counties acting jointly, of this state are hereby authorized and directed to establish a local organization for emergency management in accordance with the state emergency management plan and program, if required and authorized so to do by such state emergency management plan. Each local organization for emergency management shall have a director who shall be appointed by the governing body of the political subdivision, or political subdivisions acting jointly, and who shall have direct responsibility for the organization, administration and operation of such local organization for emergency management, subject to the direction and control of such governing body. Each local organization for emergency management shall perform emergency management functions within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial

limits as may be required pursuant to the provisions of the state emergency management plan. Each county shall develop an emergency management plan and program that is coordinated and consistent with the State Comprehensive Emergency Management Plan and program. Counties that are part of an interjurisdictional emergency management agreement entered into pursuant to this section shall cooperatively develop an emergency management plan and program that is coordinated and consistent with the state emergency management plan and program.

(b) In carrying out the provisions of this article each county and municipality, or the two (2) acting jointly, or two (2) or more counties acting jointly, where there is joint organization, in which any disaster as described in Section 33-15-5 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each county and municipality is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes and the appropriation and expenditure of public funds.

(c) Each county and each municipality, or two (2) or more counties acting jointly, shall have the power and authority:

(1) To appropriate and expend funds, make contracts, obtain and distribute equipment, materials, and supplies for emergency management purposes; provide for the health and safety of persons and property, including emergency assistance to the victims of any enemy attack or man-made, technological or natural disasters; and to direct and coordinate the development of emergency management plans and programs in accordance with the policies and plans set by the federal and state emergency management agencies;

(2) To appoint, employ, remove, or provide, with or without compensation, air raid wardens, rescue teams, auxiliary fire and police personnel, and other emergency management workers;

(3) To establish, as necessary, a primary and one or more secondary emergency operating centers to provide continuity of government, and direction and control of emergency operation during an emergency;

(4) To donate public funds, supplies, labor and equipment to assist any governmental entity in a county or municipality in which a disaster as described in Section 33-15-5 occurs;

(5) Subject to the order of the Governor, or the chief executive of the political subdivision, to assign and make available for duty, the employees, property or equipment of the

subdivision relating to fire fighting, engineering, rescue, health, medical and related services, police, transportation, construction, and similar items or services for emergency management purposes either within or outside of the limits of the subdivision;

(6) Subject to the order of the chief executive of the county or municipality or the Governor to order the evacuation of any area subject to an impending or existing enemy attack or man-made, technological or natural disaster;

(7) Subject to the order of the chief executive of the county or municipality or the Governor, to control or restrict egress, ingress and movement within the disaster area to the degree necessary to facilitate the protection of life and property;

(8) To enter into mutual aid agreements in the manner authorized by Section 33-15-19.

(d) A local emergency as defined in Section 33-15-5 may be proclaimed by the mayor or governing body of a municipality or the governing body of a county. In the event a local emergency is proclaimed by the mayor of a municipality, the governing body of such municipality shall review and approve or disapprove the need for continuing the local emergency at its first regular meeting following such proclamation or at a special meeting legally called for such review. Thereafter, the governing body shall review the need for continuing the local emergency at least every thirty (30)

days until such local emergency is terminated, and shall proclaim the termination of such local emergency at the earliest possible date that conditions warrant. During a local emergency, the governing body of a political subdivision may promulgate orders and regulations necessary to provide for the protection of life and property, including orders or regulations imposing a curfew within designated boundaries where necessary to preserve the public order and safety. Such orders and regulations and amendments and rescissions thereof shall be in writing and shall be given widespread notice and publicity. The authorization granted by this section to impose a curfew shall not be construed as restricting in any manner the existing authority to impose a curfew pursuant to police power for any other lawful purpose.

SECTION 20. Section 37-11-7, Mississippi Code of 1972, is brought forward as follows:

37-11-7. (1) The State of Mississippi does hereby accept and avail itself of all the provisions and benefits of acts passed by the Senate and House of Representatives of the United States of America in Congress assembled on June 4, 1946, known as the "National School Lunch Act," Chapter 281, 60 Stat 230, and on October 11, 1966, known as the "Child Nutrition Act," 80 Stat 885.

(2) The State Department of Education is hereby designated and appointed as the state agency in Mississippi to carry out and execute the functions and duties required of a state agency under the terms and provisions of said acts and to administer the funds

made available by the federal government for the school lunch and other child nutrition programs for and in the State of Mississippi under the provisions of said acts. For such purpose, the State Superintendent of Public Education is hereby authorized and empowered to do any and all things which may be required under the terms of said acts to enable the State of Mississippi to receive the benefits thereof, to enter into any and all agreements and contracts with any officer or agency of the United States of America, or any other person, agency or political subdivision, that may be necessary, expedient or advisable in administering said acts, and to appoint and employ a state supervisor of the child nutrition programs and such other administrative, supervisory, stenographic and clerical personnel as may be necessary in the administration of said acts.

(3) The school boards of any combination of school districts may authorize by resolution the organization and operation of, or the participation in, a group purchase program with other participating child nutrition operators for the purchase of commodities, supplies, equipment and services provided under the school lunch and child nutrition programs, when it appears to said participating child nutrition operators that a group purchase program shall effect economy or efficiency in such operation. The State Department of Education may administer such group purchase program to provide commodities, supplies, equipment and services under the school lunch and child nutrition programs and may charge

and collect reasonable fees from participating operators for the actual cost of administering such group purchase program. Purchases by participating operators in such group purchasing programs shall not be exempt from public bid requirements as prescribed in Sections 31-7-12 and 31-7-13, Mississippi Code of 1972.

(4) The State Treasurer is hereby designated and appointed custodian of all monies received by the state from appropriations made to carry out the provisions of said acts of Congress, and he is authorized to receive and to provide for the proper custody of same, and to make disbursements thereof in the manner provided for in said acts and for the purposes therein specified.

SECTION 21. Section 37-39-15, Mississippi Code of 1972, is brought forward as follows:

37-39-15. (1) In connection with the purchase of necessary supplies or equipment for the conduct of regular school operations, school boards may, in their discretion, designate as their purchasing agent or agents such school official or officials as they see fit and may authorize such agent or agents to make purchases of supplies and equipment subject to competitive bid requirements in Sections 31-7-1 et seq., Mississippi Code of 1972.

(2) Supplies that are perishable or foods purchased for use in connection with the school lunch and homemaking programs shall be exempted from competitive bid requirements. However, each school board shall adopt and place in its minutes definite

policies for guidance of agents of such boards in connection with purchases of perishable supplies or foods which are unstable or variable in price. Such policies shall have the effect of law and any violations shall be subject to the penalties as provided by law.

SECTION 22. Section 37-39-17, Mississippi Code of 1972, is brought forward as follows:

37-39-17. Purchases of items regularly used in connection with school operation shall not be made in small quantities for the purpose of circumventing the law requiring competitive bids or quotations, but shall be purchased by contract whenever feasible. School boards shall have the authority, however, to award such contracts for supplies or equipment to be delivered to different points in the school district or county, to different bidders, when the best interests of the district or county warrant such action. Reasons for awarding such contracts to different bidders for different areas in the district shall be recorded on the minutes of the school board. In no event shall the price paid exceed the lowest and best bid received.

SECTION 23. Section 47-5-357, Mississippi Code of 1972, is brought forward as follows:

47-5-357. (1) Due to the unique and time sensitive requirements of growing and harvesting products produced by the prison agricultural enterprises, the Department of Finance and Administration and the department shall establish a prudent

purchasing policy which may exempt from bid requirements those commodities, items or services which are needed for the efficient and effective management of the prison agricultural enterprises.

(2) The Department of Finance and Administration shall, by order entered on its minutes, list those commodities, items and services exempted from bid requirements as provided in Section 31-7-12, Mississippi Code of 1972.

SECTION 24. Section 51-13-111, Mississippi Code of 1972, is brought forward as follows:

51-13-111. The Tombigbee River Valley Water Management District through its board of directors is hereby empowered:

(a) To develop, in conjunction with the United States Army Corps of Engineers, United States Secretary of Agriculture, or with the head of any other federal or state agency as may be involved, plans for public works of improvement for the prevention of floodwater damage, or the conservation, development, navigation, utilization and disposal of water, including the impoundment, diversion, flowage and distribution of waters for beneficial use as defined in Chapter 3 of this title.

To enter into agreements with the United States of America, as represented by the United States Army Corps of Engineers, to meet the requirements of local cooperation for flood control and navigation projects as set out in House Document No. 167, 84th Congress, First Session, as authorized by Public Law 85-500, 85th Congress, dated July 3, 1958, as amended, and House Document No.

486, 79th Congress, Second Session, as approved by Public Law 525, 79th Congress, as amended.

(b) To impound overflow water and the surface water of the Tombigbee River or its tributaries within the project area, within or without the district, at the place or places and in the amount as may be approved by the Office of Land and Water Resources of the State of Mississippi, by the construction of a dam or dams, reservoir or reservoirs, work or works, plants and any other necessary or useful related facilities contemplated and described as a part of the project, within or without the district, to control, store and preserve these waters, and to use, distribute, and sell them, to construct or otherwise acquire within the project area all works, plants, or other facilities necessary or useful to the project for processing the water and transporting it to cities and other facilities for domestic, municipal, commercial, industrial, agricultural and manufacturing purposes, and is hereby given the power to control open channels for water delivery purposes and water transportation.

(c) To acquire and develop any other available water necessary or useful to the project and to construct, acquire and develop all facilities within the project area deemed necessary or useful with respect thereto, including terminals.

(d) To forest and reforest, and to aid in the foresting and reforesting of the project area, and to prevent and to aid in the prevention of soil erosion and flood within the area; to

control, store, and preserve within the boundaries of the project area the waters of the Tombigbee River or any of its tributaries for irrigation of lands and for prevention of water pollution.

(e) To acquire by condemnation all property of any kind, real, personal, or mixed, or any interest therein, within or without the boundaries of the district, necessary for the projects and the exercise of the powers, rights, privileges and functions conferred upon the district by this article, according to the procedure provided by law for the condemnation of lands or other property taken for rights-of-way or other purposes by railroads, telephone, or telegraph companies, and according to the provisions of Section 29-1-1. For the purposes of this article the right of eminent domain of the district shall be superior and dominant to the right of eminent domain of railroad, telegraph, telephone, gas, power and other companies or corporations and shall be sufficient to enable the acquisition of county roads, state highways, or other public property in the project area, and the acquisition or relocation of this property in the project area. The cost of right-of-way purchases, rerouting and elevating all other county-maintained roads affected by construction shall be borne by the water management district, and new construction shall be of equal quality as in roads existing as of May 1, 1962. The county in which the work is done may assist in these costs if the board of supervisors desires.

The amount and character of interest in land, other property, and easements to be acquired shall be determined by the board of directors, and their determination shall be conclusive and shall not be subject to attack in the absence of manifold abuse of discretion or fraud on the part of such board in making such determination. However,

(i) In acquiring lands, either by negotiation or condemnation, the district shall not acquire minerals or royalties within the project area; sand and gravel shall not be considered as minerals within the meaning of this section; and

(ii) No person or persons owning the drilling rights or the right to share in production shall be prevented from exploring, developing, or producing oil or gas with necessary rights-of-way for ingress and egress, pipelines, and other means of transporting these products by reason of the inclusion of the lands or mineral interests within the project area, whether below or above the waterline, but any activities shall be under reasonable regulations by the board of directors that will adequately protect the project; and

(iii) In drilling and developing, these persons are hereby vested with a special right to have mineral interests integrated and their lands developed in the drilling unit or units that the State Oil and Gas Board shall establish after due consideration of the rights of all owners to be included in the drilling unit.

Moreover, when any site or plot of land is to be sold to any person, firm, or corporation for the purpose of operating recreational facilities thereon for profit, the board shall, by resolution, specify the terms and conditions of the sale and shall advertise for public bids thereon. When these bids are received, they shall be publicly opened by the board, and the board shall thereupon determine the highest and best bid submitted and shall immediately notify the former owner of the site or plot of the amount, terms, and conditions of the highest and best bid. The former owner of the site or plot shall have the exclusive right at his option, for a period of thirty (30) days after written notice is received by the landowner of the determination of the highest and best bid by the board, to purchase the site or plot of land by meeting the highest and best bid and by complying with all terms and conditions of the sale as specified by the board. However, the board shall not sell to any former owner more land than was taken from the former owner for the construction of the project, or one-quarter (1/4) mile of shoreline, whichever shall be the lesser. If this option is not exercised by the former owner within a period of thirty (30) days, the board shall accept the highest and best bid submitted.

Any bona fide resident householder actually living or maintaining a residence on land taken by the district by condemnation shall have the right to repurchase his former land

from the board of directors for a price not exceeding the price paid for condemning his land, plus any permanent improvements.

In addition and notwithstanding any other provision in this section to the contrary, the board may lease or rent all or any portion of any property that it owns to any person, firm, or corporation for the purpose of operating recreational facilities for profit or not for profit or for any other public purpose provided the land is open for the use of the general public or is otherwise used for the public benefit and upon any other terms and conditions as the board may determine. The leasing or renting of all or any portion of any such land upon said conditions shall require a resolution duly adopted by the board and shall be exempt from any bid requirements in this section.

(f) To require the necessary relocation of roads and highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities in the project area, or to require the anchoring or other protection of any of these, provided due compensation is first paid the owners thereof or agreement is had with the owners regarding the payment of the cost of relocation. Further, the district is hereby authorized to acquire easements or rights-of-way in or outside of the project area for the relocation of roads, highways, railroad, telephone, and telegraph lines and properties, electric power lines, gas pipelines and mains and facilities, and to convey them to the owners thereof in connection with the relocation as a

part of the construction of the project. However, the directors of the district shall not close any public access road to the project existing prior to the construction of the reservoir unless the board of supervisors of the county in which the road is located agrees thereto.

(g) To overflow and inundate any public lands and public property, including sixteenth section lands and in lieu lands, within the project area.

(h) To construct, extend, improve, maintain and reconstruct, to cause to be constructed, extended, improved, maintained and reconstructed, and to use and operate all facilities of any kind within the project area necessary or convenient to the project and to the exercise of powers, rights, privileges and functions.

(i) To sue and be sued in its corporate name.

(j) To adopt, use, and alter a corporate seal.

(k) To make bylaws for the management and regulation of its affairs.

(l) To employ engineers, attorneys, and all necessary agents and employees to properly finance, construct, operate, and maintain the project and the plants and to pay reasonable compensation for these services; for all services in connection with the issuance of bonds as provided in this article, the attorney's fee shall not exceed one-quarter of one percent (1/4 of 1%) of the principal amount of these bonds. For any other

services, only reasonable compensation shall be paid for these services. The board shall have the right to employ a general manager, who shall, at the discretion of the board, have the power to employ and discharge employees. Without limiting the generality of the foregoing, it may employ fiscal agents or advisors in connection with its financing program and in connection with the issuance of its bonds.

(m) To make contracts and to execute instruments necessary or convenient to the exercise of the powers, rights, privileges, and functions conferred upon it by this article.

(n) To make or cause to be made surveys and engineering investigations relating to the project, or related projects, for the information of the district to facilitate the accomplishment of the purposes for which it is created.

(o) To apply for and accept grants from the United States of America, or from any corporation or agency created or designated by the United States of America, and to ratify and accept applications heretofore or hereafter made by voluntary associations to these agencies for grants to construct, maintain or operate any project or projects which hereafter may be undertaken or contemplated by the district.

(p) To do any other acts or things necessary, requisite, or convenient to the exercising of the powers, rights, privileges or functions conferred upon it by this article or any other law.

(q) To make contracts in the issuance of bonds that may be necessary to insure the marketability thereof.

(r) To enter into contracts with municipalities, corporations, districts, public agencies, political subdivisions of any kind, and others for any services, facilities or commodities that the project may provide. The district is also authorized to contract with any municipality, corporation, or public agency for the rental, leasing, purchase, or operation of the water production, water filtration or purification, water supply and distributing facilities of the municipality, corporation, or public agency upon consideration as the district and entity may agree. Any contract may be upon any terms and for any time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein, refunding bonds issued in lieu of these bonds, and all obligations are paid. Any contract with any political subdivision shall be binding upon these political subdivisions according to its terms, and the municipalities or other political subdivisions shall have the power to enter into these contracts as in the discretion of the governing authorities thereof would be to the best interest of the people of the municipality or other political subdivision. These contracts may include, within the discretion of the governing authorities, a pledge of the full faith and credit of the political subdivisions for the performance thereof.

(s) To fix and collect charges and rates for any services, facilities or commodities furnished by it in connection with the project, and to impose penalties for failure to pay these charges and rates when due.

(t) To operate and maintain within the project area, with the consent of the governing body of any city or town located within the district, any works, plants or facilities of any city deemed necessary or convenient to the accomplishment of the purposes for which the district is created.

(u) Subject to the provisions of this article, from time to time to lease, sell, or otherwise lawfully dispose of any property of any kind, real, personal, or mixed, or any interest therein within the project area or acquired outside the project area as authorized in this article, for the purpose of furthering the business of the district.

(v) When, in the opinion of the board of directors as shown by resolution duly passed, it shall not be necessary to the carrying on of the business of the district that the district own any lands acquired, the board shall advertise these lands for sale to the highest and best bidder for cash and shall receive and publicly open the bids thereon. The board shall, by resolution, determine the highest and best bid submitted for the land and shall thereupon notify the former owner, his/her heirs or devisees, by registered mail of the land to be sold and the highest and best bid received therefor, and the former owner, or

his/her heirs or devisees, shall have the exclusive right at his/her or their option for a period of thirty (30) days in which to meet such highest and best bid and to purchase the property. Provided further, that the board may transfer title to that certain property known as the Trace State Park in Pontotoc County to the Department of Environmental Quality; provided, however, that any of the property that is under current lease shall not be included in the transfer. Such transfer of title shall require a resolution duly adopted by the board and by the Commission on Environmental Quality and shall be exempt from any bid requirements herein. In addition, the board may transfer title to that certain property known as the Elvis Presley Park in Lee County to Lee County, Mississippi, upon the terms and conditions as it may determine. The transfer of title shall require a resolution duly adopted by the board and shall be exempt from any bid requirement in this section. In addition, the board may transfer title to all or any portion of that certain property known as the Elvis Presley Park in Lee County to the Mississippi Department of Wildlife, Fisheries and Parks upon the terms and conditions as it may determine, including, but not limited to, authorizing the board to pay the sum of Two Hundred Thousand Dollars ($200,000.00) to the Mississippi Department of Wildlife, Fisheries and Parks at the time of the transfer with such funds to be used by the Mississippi Department of Wildlife, Fisheries and Parks for the construction of an office building on the Elvis

Presley Park for use by the Mississippi Department of Wildlife, Fisheries and Parks. Such transfer of title and the payment of such sum of money shall require a resolution duly adopted by the board and by the Mississippi Department of Wildlife, Fisheries and Parks and shall be exempt from any bid requirement in this section.

(w) To prevent or aid in the prevention of damages to persons or property from the waters of the Tombigbee River or any of its tributaries.

(x) To acquire by purchase, lease, gift or in any other manner (otherwise than by condemnation) and to maintain, use, and operate all property of any kind, real, personal, or mixed, or any interest therein within the project area, within or without the boundaries of the district, necessary for the project and convenient to the exercise of the powers, rights, privileges and functions conferred upon the district by this article.

(y) In the purchase of or in the entering into of all lease-purchase agreements for supplies, equipment, heavy equipment, and the like, the directors shall in all instances comply with the provisions of law pertaining to public purchases by public bids on these supplies and equipment.

(z) In addition to, or in conjunction with, any other powers and duties of the district arising under this chapter, to exercise those powers, duties and functions of a joint water management district set forth in Sections 51-8-27 through 51-8-55,

except the power of eminent domain under Section 51-8-33. Before exercising those powers and duties, the district must comply with the provisions of Sections 51-8-63 and 51-8-65. In exercising the functions of a joint water management district, the district may apply to the Environmental Quality Permit Board for delegation of those powers and duties as provided by Section 51-3-15, and to apply to the Mississippi Commission on Environmental Quality for delegation of those powers and duties provided by Section 51-3-21.

SECTION 25. Section 55-3-33, Mississippi Code of 1972, is brought forward as follows:

55-3-33. (1) The Mississippi Department of Wildlife, Fisheries and Parks may:

(a) Take charge and have full jurisdiction and control over all state parks, which parks shall be operated for the purpose of providing outdoor recreational activities and enjoyment for the citizens of the State of Mississippi and for the purpose of attracting visitors to the state.

(b) Set up a uniform accounting procedure for the state parks and prescribe the manner in which books, records and accounts shall be kept, which procedure shall account for all monies taken in and expended by the various parks and shall provide for periodic audits of such books.

(c) Accept gifts, bequests of money or other property, real or personal, to be used for the purpose of advancing the recreation and conservation interests in state parks. The

department is authorized, subject to approval by the State Legislature, to purchase property, real or personal, to be used for state park purposes.

(d) Contract with the State Transportation Commission, any municipality or board of supervisors of the state for locating, constructing and maintaining roads and other improvements in state parks and for payment of a part of the costs thereof; however, no county or municipality more than twenty-five (25) miles distant from a state park may contract for, or do, or pay for any such work for a state park other than the International Gardens of Mississippi. Any county or municipality authorized to assist financially under the provisions of Sections 55-3-31 through 55-3-51 is authorized, in the discretion of its respective governing authority, to set aside, appropriate and expend monies from the General Fund for the purpose of defraying such expense after a mandatory election is held on the question within the county or municipality.

(e) Designate employees as peace officers with power to make arrests for infraction of the rules and regulations of the department. Such officers are authorized to carry weapons and to enforce the laws of the State of Mississippi within the confines of a state park.

(f) Enforce and delegate the responsibility to enforce all reasonable rules and regulations governing the occupancy and use of lands and waters in state parks under its jurisdiction,

supply recreational and conservation facilities and charge fees for the use of same; review all rates and charges for facilities and accommodations furnished at the various state parks annually, making such charges as are justified; and establish fees for entrance to state parks.

(g) To periodically establish a discounted fee or fees for the entry and use of selected state parks and recreational facilities. The discounted fee or fees shall only be used for the purpose or purposes of marketing and promotion to increase the patronage and revenue of those selected parks and facilities. The discounted fee or fees shall not be considered a donation of state property.

Each park shall retain from revenues generated therein, a sum sufficient to pay necessary expenses of operation, but in no event to be less than seventy-five percent (75%) of such revenues.

(2) The department shall have the authority to lease to any entity, sell and convey or otherwise transfer to any county or municipality, or close any state park or historical site within its jurisdiction which received a general fund subsidy in fiscal year 1985 in excess of Two Dollars ($2.00) per visitor to such state park or historical site; provided, however, that this authority shall not include the authority to sell, lease or convey any park that was not in operation under the jurisdiction of the department for a full fiscal year prior to fiscal year 1986.

(3) The department may execute agreements with rails-to-trails and recreational districts by which the department will assume responsibility for the operation and maintenance of trails developed under Sections 55-25-1 through 55-25-15.

(4) (a) The department may contract with the electric public utility with a certificate of public convenience and necessity to serve the area where a state park is located for the transfer of ownership of the electrical infrastructure in the state park to that electric public utility.

(b) If the electric public utility enters into an agreement for the operation and maintenance of electrical facilities in a state park, the electric public utility may perform any upgrades to the electrical infrastructure of the park that are necessary for the electrical infrastructure to be in compliance with the electric public utility standards. The electric public utility may assess the costs of the upgrades to the department upon the terms and conditions agreed to by the department and the electric public utility.

(c) The department may contract with the electric public utility with the certificate of public convenience and necessity to serve the area for the erection, construction, maintenance, operation and control of electric distribution substations, electric transmission lines, electrical appurtenances, electrical appliances or electrical equipment

necessary or useful in the operation or distribution of electric power or energy in the state park.

(d) Any agreement entered into by the department and an electric public utility under this subsection is exempt from the public purchasing requirements under Section 31-7-13.

SECTION 26. Section 57-1-221, Mississippi Code of 1972, is brought forward as follows:

57-1-221. (1) As used in this section:

(a) "Approved business enterprise" means any project that:

(i) Locates or expands in this state and creates a minimum of two hundred fifty (250) new, full-time jobs with a total capital investment in the state of a minimum of Thirty Million Dollars ($30,000,000.00) in Tier 1 or Tier 2 counties;

(ii) Locates or expands in this state and creates a minimum of one hundred fifty (150) new, full-time jobs with a total capital investment in the state of a minimum of Fifteen Million Dollars ($15,000,000.00) in areas federally designated as low-income census tracts;

(iii) Locates or expands in this state and creates a minimum of one thousand (1,000) new, full-time jobs; or

(iv) Locates or expands in this state with significant regional impact as determined by MDA.

(b) "MDA" means the Mississippi Development Authority.

(c) "Facility related to the project" means and includes any of the following, as they may pertain to the project:

(i) Facilities to provide potable and industrial water supply systems, sewage and waste disposal systems and water, natural gas and electric transmission systems to the site of the project;

(ii) Building facilities and equipment necessary to operate the facility;

(iii) Rail lines;

(iv) Airports, airfields, air terminals and port facilities;

(v) Highways, streets and other roadways; and

(vi) Fire protection facilities, equipment and elevated water tanks.

(d) "Project" means any industrial, commercial, research and development, warehousing, distribution, transportation, processing, mining, United States government or tourism enterprise together with all real property required for construction, maintenance and operation of the enterprise that is approved by the MDA.

(2) (a) There is created a special fund in the State Treasury to be known as the Mississippi Industry Incentive Financing Revolving Fund which shall consist of money from any source designated for deposit into the fund. Unexpended amounts remaining in the fund at the end of a fiscal year shall not lapse

into the State General Fund, and any interest earned on amounts in the fund shall be deposited to the credit of the fund. Money in the fund shall be disbursed by the Mississippi Development Authority for the purposes authorized in subsection (3) of this section.

(b) Money in the fund that is derived from the proceeds of general obligation bonds may be used to reimburse reasonable actual and necessary costs incurred by the MDA in providing grants or loans under this section through the use of general obligation bonds. An accounting of actual costs incurred for which reimbursement is sought shall be maintained for each grant or loan by the MDA. Reimbursement of reasonable actual and necessary costs for assistance shall not exceed three percent (3%) of the proceeds of bonds issued for such assistance. Reimbursements made under this subsection shall satisfy any applicable federal tax law requirements.

(3) The MDA shall establish a program to make grants or loans from the Mississippi Industry Incentive Financing Revolving Fund to local governments, including, but not limited to, counties, municipalities, industrial development authorities and economic development districts, and approved business enterprises to construct or otherwise provide facilities related to the project. Local governments are authorized to accept grants and enter into loans authorized under the program, and to sell, lease

or otherwise dispose of a project or any property related to the project in whole or in part.

(4) (a) Any business enterprise or local government desiring a grant or loan under this section shall submit an application to the MDA which shall include, at a minimum:

(i) Evidence that the business or industry meets the definition of an approved business enterprise;

(ii) A description, including the cost, of the requested assistance;

(iii) A description of the purpose for which the assistance is requested; and

(iv) Any other information required by the MDA.

(b) The MDA shall require that binding commitments be entered into requiring that:

(i) The minimum requirements of this section and such other requirements as the MDA considers proper shall be met; and

(ii) If such requirements are not met, all or a portion of the funds provided by this section as determined by the MDA shall be repaid.

(c) Upon receipt of the application from a business enterprise or local government for a grant or loan under this section, the MDA shall determine whether the enterprise meets the definition of an approved business enterprise and determine

whether to provide the assistance requested in the form of a grant or a loan.

(d) The MDA shall have sole discretion in providing grants or loans under this section. The terms of a grant or loan provided under this section and the manner of repayment of any loan shall be within the discretion of the MDA. Repayments of loans made under this section shall be deposited to the credit of the Mississippi Industry Incentive Financing Revolving Fund until the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00). Once the uncommitted balance in the fund reaches Fifty Million Dollars ($50,000,000.00), repayments of loans under this section shall be deposited to the credit of Fund No. 3951 in the State Treasury to pay debt service on bonds until such time as the uncommitted balance in the fund falls below Fifty Million Dollars ($50,000,000.00).

(e) The MDA shall notify the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee of the approval of any grant or loan application thirty (30) days prior to the disbursement of any money for the loan or grant from the Mississippi Industry Incentive Financing Revolving Fund. The notification shall identify the applicant and the purposes for which the loan or grant is made.

(5) (a) Contracts, by local governments, including, but not limited to, design and construction contracts, for the

acquisition, purchase, construction or installation of a project shall be exempt from the provisions of Section 31-7-13 if:

(i) The MDA finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this section to enter into such contracts on the basis of Section 31-7-13; and

(ii) The approved business enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(6) It is the policy of the MDA and the MDA is authorized to accommodate and support any enterprise that receives a loan under this section for a project defined in Section 17-25-23 that wishes to have a program of diversity in contracting, and/or that wishes to do business with or cause its prime contractor to do business with Mississippi companies, including those companies that are small business concerns owned and controlled by socially and economically disadvantaged individuals. The term "socially and economically disadvantaged individuals" shall have the meaning ascribed to such term under Section 8(d) of the Small Business Act

(15 USCS 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged individuals for the purposes of this subsection.

(7) The MDA shall promulgate rules and regulations, in accordance with the Mississippi Administrative Procedures Law, for the implementation of this section.

SECTION 27. Section 57-75-9, Mississippi Code of 1972, is brought forward as follows:

57-75-9. (1) The authority is hereby designated and empowered to act on behalf of the state in submitting a siting proposal for any project eligible for assistance under this act. The authority is empowered to take all steps appropriate or necessary to effect the siting, development, and operation of the project within the state, including the negotiation of a fee-in-lieu. If the state is selected as the preferred site for the project, the authority is hereby designated and empowered to act on behalf of the state and to represent the state in the planning, financing, development, construction and operation of the project or any facility related to the project, with the concurrence of the affected public agency. The authority may take affirmative steps to coordinate fully all aspects of the submission of a siting proposal for the project and, if the state is selected as the preferred site, to coordinate fully, with the concurrence of the affected public agency, the development of the

project or any facility related to the project with private business, the United States government and other public agencies. All public agencies are encouraged to cooperate to the fullest extent possible to effectuate the duties of the authority; however, the development of the project or any facility related to the project by the authority may be done only with the concurrence of the affected public agency.

(2) (a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts, for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(iv)1 or any facility related to the project shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

(c) The enterprise involved with the project may, upon approval of the authority, negotiate such contracts in the name of the authority.

(d) The provisions of this subsection (2) shall not apply to contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project as defined in Section 57-75-5(f)(iv)1 and such contracts may be entered into pursuant to subsection (3) of this section.

(3) (a) Contracts by the authority for excavation, fill dirt and compaction for the preparation of the site of a project defined in Section 57-75-5(f)(iv)1 shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority shall advertise for a period of time to be set by the authority, but in no event less than one (1) business day, the date, time and place of a meeting with the authority to receive specifications on a request for proposals on excavation, fill dirt and compaction for the preparation of the site of the project defined in Section 57-75-5(f)(iv)1.

(ii) The authority shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the authority concerning the selection of the contractor shall be final.

(b) Contracts by the authority or a public agency for site preparation, utilities, real estate improvements, wastewater or for public works for a project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii) shall be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of such contracts:

(i) The authority or the public agency shall advertise for a period of time to be set by the authority or the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the authority or the public agency to receive specifications on the preparation of the site of the project defined in Section 57-75-5(f)(xxi) or Section 57-75-5(f)(xxii).

(ii) The authority or the public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the authority or the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the

contract. The decision of the authority or the public agency concerning the selection of the contractor shall be final.

(c) Contracts by a public agency for site preparation, utilities, real estate improvements, infrastructure, roads or for public works for a project defined in Section 57-75-5(f)(xxiii) may be exempt from the provisions of Section 31-7-13 and the following procedure shall be followed in the award of contracts:

(i) The public agency shall advertise for a period of time to be set by the public agency, but in no event less than one (1) nor more than five (5) calendar days, the date, time and place of a meeting with the public agency to receive specifications on site preparation, utilities, real estate improvements, infrastructure, roads or for public works related to the project defined in Section 57-75-5(f)(xxiii).

(ii) The public agency shall set the minimum qualifications necessary to be considered for award of the contract and the advertisement shall set forth such minimum qualifications.

(iii) Following the meeting the public agency shall, in its discretion, select one or more of the qualified contractors with whom to negotiate or award the contract. The decision of the public agency concerning selection of the contractor shall be final.

(4) (a) Contracts, by the authority or a public agency, including, but not limited to, design and construction contracts,

for the acquisition, purchase, construction or installation of a project defined in Section 57-75-5(f)(xxvi), Section 57-75-5(f)(xxvii) or Section 57-75-5(f)(xxviii) shall be exempt from the provisions of Section 31-7-13 if:

(i) The authority finds and records such finding on its minutes, that because of availability or the particular nature of a project, it would not be in the public interest or would less effectively achieve the purposes of this chapter to enter into such contracts on the basis of Section 31-7-13; and

(ii) The enterprise that is involved in the project concurs in such finding.

(b) When the requirements of paragraph (a) of this subsection are met:

(i) The requirements of Section 31-7-13 shall not apply to such contracts; and

(ii) The contracts may be entered into on the basis of negotiation.

SECTION 28. Section 65-1-85, Mississippi Code of 1972, is brought forward as follows:

65-1-85. (1) All contracts by or on behalf of the commission for the purchase of materials, equipment and supplies shall be made in compliance with Section 31-7-1 et seq. All contracts by or on behalf of the commission for construction, reconstruction or other public work authorized to be done under the provisions of this chapter, except maintenance, shall be made

by the executive director, subject to the approval of the commission, only upon competitive bids after due advertisement as follows, to wit:

(a) Advertisement for bids shall be in accordance with such rules and regulations, in addition to those herein provided, as may be adopted therefor by the commission, and the commission is authorized and empowered to make and promulgate such rules and regulations as it may deem proper, to provide and adopt standard specifications for road and bridge construction, and to amend such rules and regulations from time to time.

(b) The advertisement shall be inserted twice, being once a week for two (2) successive weeks in a newspaper published at the seat of government in Jackson, Mississippi, having a general circulation throughout the state, and no letting shall be less than fourteen (14) days nor more than sixty (60) days after the publication of the first notice of such letting, and notices of such letting may be placed in a metropolitan paper or national trade publication.

(c) Before advertising for such work, the executive director shall cause to be prepared and filed in the department detailed plans and specifications covering the work proposed to be done and copies of the plans and specifications shall be subject to inspection by any citizen during all office hours and made available to all prospective bidders upon such reasonable terms and conditions as may be required by the commission. A fee shall

be charged equal to the cost of producing a copy of any such plans and specifications.

(d) All such contracts shall be let to a responsible bidder with the lowest and best bid, and a record of all bids received for construction and reconstruction shall be preserved.

(e) Each bid for such a construction and reconstruction contract must be accompanied by a cashier's check, a certified check or bidders bond executed by a surety company authorized to do business in the State of Mississippi, in the principal amount of not less than five percent (5%) of the bid, guaranteeing that the bidder will give bond and enter into a contract for the faithful performance of the contract according to plans and specifications on file.

(f) Bonds shall be required of the successful bidder in an amount equal to the contract price. The contract price shall mean the entire cost of the particular contract let. In the event change orders are made after the execution of a contract which results in increasing the total contract price, additional bond in the amount of the increased cost may be required. The surety or sureties on such bonds shall be a surety company or surety companies authorized to do business in the State of Mississippi, all bonds to be payable to the State of Mississippi and to be conditioned for the prompt, faithful and efficient performance of the contract according to plans and specifications, and for the prompt payment of all persons furnishing labor, material,

equipment and supplies therefor. Such bonds shall be subject to the additional obligation that the principal and surety or sureties executing the same shall be liable to the state in a civil action instituted by the state at the instance of the commission or any officer of the state authorized in such cases, for double any amount in money or property the state may lose or be overcharged or otherwise defrauded of by reason of any wrongful or criminal act, if any, of the contractor, his agent or employees.

(2) With respect to equipment used in the construction, reconstruction or other public work authorized to be done under the provisions of this chapter: the word "equipment," in addition to all equipment incorporated into or fully consumed in connection with such project, shall include the reasonable value of the use of all equipment of every kind and character and all accessories and attachments thereto which are reasonably necessary to be used and which are used in carrying out the performance of the contract, and the reasonable value of the use thereof, during the period of time the same are used in carrying out the performance of the contract, shall be the amount as agreed upon by the persons furnishing the equipment and those using the same to be paid therefor, which amount, however, shall not be in excess of the maximum current rates and charges allowable for leasing or renting as specified in Section 65-7-95; the word "labor" shall include all work performed in repairing equipment used in carrying out the

performance of the contract, which repair labor is reasonably necessary to the efficient operation of said equipment; and the words "materials" and "supplies" shall include all repair parts installed in or on equipment used in carrying out the performance of the contract, which repair parts are reasonably necessary to the efficient operation of said equipment.

(3) The executive director, subject to the approval of the commission, shall have the right to reject any and all bids, whether such right is reserved in the notice or not.

(4) The commission may require the prequalification of any and all bidders and the failure to comply with prequalification requirements may be the basis for the rejection of any bid by the commission. The commission may require the prequalification of any and all subcontractors before they are approved to participate in any contract awarded under this section.

(5) The commission may adopt rules and regulations for the termination of any previously awarded contract which is not timely proceeding toward completion. The failure of a contractor to comply with such rules and regulations shall be a lawful basis for the commission to terminate the contract with such contractor. In the event of a termination under such rules and regulations, the contractor shall not be entitled to any payment, benefit or damages beyond the cost of the work actually completed.

(6) Any contract for construction or paving of any highway may be entered into for any cost which does not exceed the amount

of funds that may be made available therefor through bond issues or from other sources of revenue, and the letting of contracts for such construction or paving shall not necessarily be delayed until the funds are actually on hand, provided authorization for the issuance of necessary bonds has been granted by law to supplement other anticipated revenue, or when the department certifies to the Department of Finance and Administration and the Legislative Budget Office that projected receipts of funds by the department will be sufficient to pay such contracts as they become due and the Department of Finance and Administration determines that the projections are reasonable and receipts will be sufficient to pay the contracts as they become due. The Department of Finance and Administration shall spread such determination on its minutes prior to the letting of any contracts based on projected receipts. Nothing in this subsection shall prohibit the issuance of bonds, which have been authorized, at any time in the discretion of the State Bond Commission, nor to prevent investment of surplus funds in United States government bonds or State of Mississippi bonds as presently authorized by Section 12, Chapter 312, Laws of 1956.

(7) All other contracts for work to be done under the provisions of this chapter and for the purchase of materials, equipment and supplies to be used as provided for in this chapter shall be made in compliance with Section 31-7-1 et seq.

(8) The commission shall not empower or authorize the executive director, or any one or more of its members, or any

engineer or other person to let or make contracts for the construction or repair of public roads, or building bridges, or for the purchase of material, equipment or supplies contrary to the provisions of this chapter as set forth in this section, except in cases of flood or other cases of emergency where the public interest requires that the work be done or the materials, equipment or supplies be purchased without the delay incident to advertising for competitive bids. Such emergency contracts may be made without advertisement under such rules and regulations as the commission may prescribe.

(9) The executive director, subject to the approval of the commission, is authorized to negotiate and make agreements with communities and/or civic organizations for landscaping, beautification and maintenance of highway rights-of-way; however, nothing in this subsection shall be construed as authorization for the executive director or commission to participate in such a project to an extent greater than the average cost for maintenance of shoulders, backslopes and median areas with respect thereto.

(10) The executive director may negotiate and enter into contracts with private parties for the mowing of grass and trimming of vegetation on the rights-of-way of state highways whenever such practice is possible and cost effective.

(11) (a) As an alternative to the method of awarding contracts as otherwise provided in this section, the commission may use the design-build method of contracting for the following:

(i) Projects for the Mississippi Development Authority pursuant to agreements between both governmental entities;

(ii) Any project with an estimated cost of not more than Ten Million Dollars ($10,000,000.00), not to exceed two (2) projects per fiscal year; and

(iii) Any project which has an estimated cost of more than Ten Million Dollars ($10,000,000.00), not to exceed one (1) project per fiscal year.

(b) As used in this subsection, the term "design-build" method of contracting means a contract that combines the design and construction phases of a project into a single contract and the contractor is required to satisfactorily perform, at a minimum, both the design and construction of the project.

(c) The commission shall establish detailed criteria for the selection of the successful design-build contractor in each request for design-build proposals. The evaluation of the selection committee is a public record and shall be maintained for a minimum of ten (10) years after project completion.

(d) The commission shall maintain detailed records on projects separate and apart from its regular record keeping. The commission shall file a report to the Legislature evaluating the design-build method of contracting by comparing it to the low-bid method of contracting. At a minimum, the report must include:

(i) The management goals and objectives for the design-build system of management;

(ii) A complete description of the components of the design-build management system, including a description of the system the department put into place on all projects managed under the system to insure that it has the complete information on highway segment costs and to insure proper analysis of any proposal the commission receives from a highway contractor;

(iii) The accountability systems the Transportation Department established to monitor any design-build project's compliance with specific goals and objectives for the project;

(iv) The outcome of any project or any interim report on an ongoing project let under a design-build management system showing compliance with the goals, objectives, policies and procedures the department set for the project; and

(v) The method used by the department to select projects to be let under the design-build system of management and all other systems, policies and procedures that the department considered as necessary components to a design-build management system.

(e) All contracts let under the provisions of this subsection shall be subject to oversight and review by the State Auditor. The State Auditor shall file a report with the Legislature on or before January 1 of each year detailing his

findings with regard to any contract let or project performed in violation of the provisions of this subsection. The actual and necessary expenses incurred by the State Auditor in complying with this paragraph (e) shall be paid for and reimbursed by the Mississippi Department of Transportation out of funds made available for the contract or contracts let and project or projects performed.

(12) The provisions of this section shall not be construed to prohibit the commission from awarding or entering into contracts for the design, construction and financing of toll roads, highways and bridge projects as provided under Sections 65-43-1 and 65-43-3.

SECTION 29. Section 65-7-107, Mississippi Code of 1972, is brought forward as follows:

65-7-107. Where any contract is made, as provided herein, by any member of the board of supervisors in vacation without competitive bids, and the amount of such contract exceeds the sum of One Hundred Dollars ($100.00), it shall be the duty of the member of the board of supervisors making such contract to obtain bids from at least two (2) bidders before making such contract, and to file a statement of the amount of each such bid with the board at its next meeting.

SECTION 30. Section 65-43-3, Mississippi Code of 1972, is brought forward as follows:

65-43-3. (1) (a) In addition to and as an alternative to any other authority granted by law, including, but not limited to, Section 65-43-1, any governmental entities, as defined in Section 65-43-1, in their discretion, may contract, individually or jointly with other governmental entities, with any persons, corporations, partnerships or other businesses licensed to do business in the State of Mississippi (hereinafter referred to as "companies" or "company") for the purpose of designing, financing, constructing, operating and maintaining one or more new toll roads or toll bridges in the state for motor vehicle traffic, including tollbooths and related facilities, at those locations where an alternate untolled route exists. Such contracts may provide that the governmental entities may grant certain rights (including, but not limited to, the right to exclusively operate and maintain) in land held by the governmental entities, whether in fee simple, as an easement or other interest, to a company for design, construction, operation and/or maintenance of roadways, highways or bridges for motor vehicle traffic, tollbooths and related facilities. All such highways, pavement, bridges, drainage-related structures and other infrastructure comprising the projects shall be built and maintained in accordance with not less than the minimum highway design, construction and maintenance standards established by the contracting governmental entity for such highways, infrastructure and facilities. The contracting governmental entity shall conduct periodic inspections of any such

project throughout the term of the contract to ensure compliance by the company. Failure of a company to comply with minimum standards established for the project by the contracting governmental entity shall constitute a breach and shall subject the company to liability on its bond or security or to rescission of the contract in accordance with the terms and provisions of the contract.

(b) A governmental entity may not enter into a contract under this section with (i) any company designated as a foreign terrorist organization pursuant to Presidential Executive Order 13224 or Section 302 of the federal Antiterrorism or Effective Death Penalty Act of 1996, (ii) any company under the control of a so-designated foreign terrorist organization, or (iii) any company controlled by a foreign person if to do so would violate any order of the Committee on Foreign Investment in the United States under the Foreign Investment and National Security Act of 2007, H.R. 566, 110th Cong. (2007), Public Law 110-49, 121 Stat. 246. These requirements also shall apply to any proposed transfer or assignment of any contract entered into under this section.

(2) (a) Every contract entered into by a governmental entity under this section (except for contracts entered into with another governmental entity or following termination of a predecessor contract entered into under this section), at a minimum, must provide for the design and construction of a new toll road or toll bridge project and may also provide for the

financing, acquisition, lease, maintenance, and/or operation of a new toll road or toll bridge project.

(b) If a governmental entity enters into a contract with a company as authorized by this section, such governmental entity shall use a competitive procurement process that provides the best value for the governmental entity. The governmental entity may accept unsolicited proposals for a proposed new toll road or solicit proposals in accordance with this section.

(c) A governmental entity shall publish a request for competing proposals and qualifications in a newspaper having a general circulation within such governmental entity or, if the governmental entity is the Mississippi Transportation Commission, shall publish the request in a newspaper having a general circulation at the seat of government and, if the governmental entity has a website, shall post the request on such website. Such request shall include the criteria used to evaluate the proposals, the relative weight given to the criteria and a deadline by which proposals must be received. At a minimum, a proposal submitted in response to such request must contain:

(i) Information regarding the proposed project location, scope and limits;

(ii) Information regarding the company's qualifications, experience, technical competence, and capability to develop the project; and

(iii) A proposed financial plan for the proposed project that includes, at a minimum, the projected project costs, projected revenues and proposed sources of funds.

A governmental entity may interview a company submitting a solicited or unsolicited proposal. In evaluating such proposals, a governmental entity may solicit input from other sources regarding such proposals.

(d) The governmental entity shall rank each proposal based on the criteria described in the request for proposals and select the company whose proposal offers the best value to the governmental entity. The governmental entity may enter into discussions with the company whose proposal offers the best value. If at any point during the discussions it appears to the governmental entity that the highest ranking proposal will not provide the governmental entity with the overall best value, the governmental entity may enter into discussions with the company submitting the next highest ranking proposal.

(e) The governmental entity may withdraw a request for competing proposals and qualifications at any time and for any reason and may reject any one (1) or all proposals. In either case, the governmental entity may then publish a new request for competing proposals and qualifications. A governmental entity shall not be required to pay any company for the costs of preparing or submitting proposals.

(f) The governmental entity shall prescribe the general form of a contract authorized by this section and may include any matter the governmental entity considers advantageous to it. The governmental entity and the company shall negotiate the specific terms of the contract.

(g) Except as provided under this subsection (2), no such contract entered into hereunder shall be subject to the provisions of Section 65-1-8, Section 31-7-13 or any other public bid or public procurement laws of this state.

(h) The Transportation Commission shall evaluate each proposal based on the criteria established by the commission. The Transportation Commission shall approve or disapprove a proposal within ninety (90) days after receipt of the proposal. If the Transportation Commission needs additional information, it may delay approval for an additional sixty (60) days.

(i) Any right or interest arising under or as a result of any contract entered into under this section by a governmental entity with a company involving a franchise, license agreement, concession agreement, operating agreement, construction agreement, design agreement and/or any other similar contractual arrangement in connection with the financing, design, construction, acquisition, maintenance and/or operation of a toll road or toll bridge project shall not constitute any right, title or interest in land or other real property or real estate or in personal property within the meaning of Article 1, Chapter 35, Title 27,

Mississippi Code of 1972, in the toll road or toll bridge project, including tollbooths and related toll facilities (including, but not limited to, land, pavement, drainage-related structures, and other infrastructure and property related thereto) in which a governmental entity is the title owner of such property and/or holder of easements, rights-of-way and/or other interests for such toll road or toll bridge project.

(3) Every contract entered into by a governmental entity under this section shall require a company to enter into bond and provide such security as the governmental entity determines may be necessary or advisable to ensure timely completion and proper execution and performance of the contract. The term of the contract shall not exceed fifty (50) years and shall not be extended or renewed. The governmental entities are authorized to acquire such property or interests in property as may be necessary, by gift, purchase or eminent domain, for construction and maintenance of the highways or bridges built pursuant to contracts entered into under this section. Upon expiration, termination or rescission of the contract, any and all rights and/or interests that the company may have in the land, infrastructure, facilities or other improvements to the property subject to contract shall terminate and automatically, by operation of law, be returned or conveyed to and vested in the State of Mississippi or the contracting governmental entity. Upon

termination, expiration or rescission of the contract, the collection of tolls shall cease.

(4) The governmental entity having jurisdiction over the toll highway or bridge may, after notice and public hearing, establish, charge and collect motor vehicle operator tolls for use of the highway or bridge and its facilities. Alternatively, during the term of any contract entered into under this section, the company may establish, charge and collect motor vehicle operators tolls for use of the highway or bridge and its facilities. The amount of such tolls, and any modification thereto, shall be subject to approval by the contracting governmental entity after notice and public hearing. All such contracts entered into with the Mississippi Transportation Commission may require a company to pay a percentage or other specified portion of all tolls collected to the Mississippi Department of Transportation. If bonds are issued pursuant to Section 65-43-13, then all such tolls paid to the department shall be deposited into the special bond sinking fund under Section 65-43-11, and may be expended only as authorized by the Legislature. If bonds are not issued pursuant to Section 65-43-13, then all such tolls paid to the department shall be deposited into the department's highway fund to be used by the department for the construction and maintenance of highways.

(5) If a toll road is a designated evacuation route and a declaration of a state of emergency is issued by the President of

the United States or by the Governor, the collection of tolls shall cease until the termination of the state of emergency.

(6) All statutes of this state relating to vehicle and traffic regulation and control shall be applicable to motor vehicles operated upon highways and bridges constructed under this section and shall be enforceable by the Mississippi Department of Public Safety, the Mississippi Highway Safety Patrol or any other law enforcement agency having jurisdiction over such highways and bridges.

(7) The State of Mississippi, the Mississippi Transportation Commission, the Mississippi Department of Transportation, counties, municipalities or any other agency or political subdivision, or any officer or employee thereof, shall not be liable for any tortious act or omission arising out of the construction, maintenance or operation of any highway or bridge project under the provisions of this section where the act or omission occurs during the term of any such contract entered into by the Mississippi Transportation Commission or other governmental entity and a company.

SECTION 31. Section 77-3-16, Mississippi Code of 1972, is brought forward as follows:

77-3-16. (1) All contracts for construction, extension and/or repair of facilities in excess of Two Hundred Thousand Dollars ($200,000.00) by or on the behalf of any public utility subject to rate regulations by the Mississippi Public Service

Commission, shall be governed by this section. The public utility shall maintain a list of contractors and suppliers qualified to perform contracts within the scope of proposed utility projects. The public utility shall, upon written request of any qualified prospective bidder, add his or its name to such list. At least every six (6) months, the public utility shall publish in a newspaper, having general circulation in the area in which the utility operates, a notice requesting names of qualified contractors and suppliers. Upon written request by qualified contractors and suppliers, those names shall be added to such list. The public utility shall give to each contractor or supplier on said list who is qualified with respect to a project under consideration written invitation to bid those projects subject to this section. Contracts subject to this section shall be awarded to the lowest and best bidder. Provided, however, nothing contained herein shall prohibit any public utility from performing services covered by this section with its own regularly employed workforce.

(2) The public utility may enter into a master contract with the lowest and best contractor to cover all construction work to be performed in a specified geographic area.

(3) If the chief executive officer of a public utility determines that an emergency exists which affects the public health, safety or welfare, the provisions of this section shall

not apply. As used in this section, an emergency is any occurrence in which service is interrupted.

(4) The provisions of this section shall not apply to contracts which by their nature are not adapted to competitive bidding, including, but not limited to:

(a) Items which may be acquired from a sole source;

(b) Contracts for professional services;

(c) Equipment and systems which, by reason of the training of personnel or of any inventory replacement of parts maintained by the utility, are or should be compatible with existing equipment;

(d) Contracts for interstate or intrastate carriage of persons or property with a common carrier or contract carrier at the rates set forth in the officially approved tariff of that carrier; and

(e) Such contracts as the commission may define by regulation.

(5) The Public Service Commission shall have the authority to monitor all conditions contained in this section.

SECTION 32. Section 77-3-17, Mississippi Code of 1972, is brought forward as follows:

77-3-17. In addition to such other rights as it may have to use the streets, alleys and public places of a municipality, a public utility which holds a certificate of public convenience and necessity granted under the provisions of this article covering

the geographical area of such municipality, and which (1) is operating under a municipal franchise on March 29, 1956, or (2) shall have previously operated under such a municipal franchise which has expired within five (5) years prior to said date, or (3) which shall hereafter operate under a municipal franchise hereafter granted, may, after the expiration of any such franchise continue to use the streets, alleys and public places therein situated upon condition that (1) such utility shall pay the said municipality compensation therefor at the rate of two percent (2%) of said utility's gross revenue from sales to residential and commercial customers within said municipality, in case of a utility defined in subparagraphs (i) and (ii) of paragraph (d) of Section 77-3-3 and in the case of a utility defined in subparagraph (iii) of paragraph (d) of said section the said utility shall pay two percent (2%) of the monthly service charges in said municipality whether said utility has a franchise to operate therein or not, such payments to be made quarterly of each year, and (2) after the expiration of such franchise the municipality, or any customer of such utility in such municipality, upon appropriate petition, shall be entitled to a hearing as to whether or not the certificate of convenience and necessity may then and thereafter be granted on a permanent basis. Any co-operative which shall operate within any area of a municipality shall likewise pay such municipality two percent (2%)

of the co-operative's gross revenue from sales to residential and commercial customers within said municipality.

Any municipality shall have the right to acquire by purchase, negotiation or condemnation the facilities of any utility that is now or may hereafter be located within the corporate limits of such municipality; provided, however, prior to any municipality exercising the right of eminent domain as provided herein, the commission shall determine that the certificate of public convenience and necessity granted to the utility pursuant to Section 77-3-13 for the service area wherein such facilities are located, shall be cancelled as provided in Section 77-3-21.

SECTION 33. Section 77-5-735, Mississippi Code of 1972, is brought forward as follows:

77-5-735. A municipality's or joint agency's purchase of, contract for the acquisition of, or contract for any property, including any project or interest therein, or the construction of, or the operation and maintenance of, any project, owned or to be owned jointly by such municipality or joint agency with any person, firm or corporation engaged in the generation, transmission or distribution of electricity, either within or without this state, other than with a municipality of this state or a joint agency created pursuant to this article, may be made or entered into without meeting the requirements of any law relating to acquisitions, purchases or contracts by competitive bids where

the interest to be acquired by such municipality or joint agency in such property or project is twenty-five percent (25%) or less.

If a municipality or joint agency which finds and records on its minutes that acquisition of any project, or any interest therein, or any portion thereof, or any property or any interest therein or any portion thereof, which is authorized by this article is available or can be acquired or contracted for from or with only a single source, person, firm or corporation, then such acquisition or contract may be made or entered into without meeting the requirements of any law relating to acquisitions, purchases or contracts by competitive bids. If, after advertising for competitive bids as to other proposed purchases, acquisitions or contracts, only one (1) bid is received, the municipality or joint agency, as the case may be, may reject the bid and negotiate privately any purchase, contract or acquisition for a consideration not exceeding that proposed in the bid.

SECTION 34. Section 77-6-27, Mississippi Code of 1972, is brought forward as follows:

77-6-27. A municipality's or the authority's purchase of, contract for the acquisition of, or contract for any property, including any project or interest therein, or the construction of, or the operation and maintenance of, any project, owned or to be owned jointly by such municipality or the authority with any person, firm or corporation engaged in the production, transmission or distribution of gas, either within or without this

state, other than with a municipality of this state or the authority created pursuant to this chapter, may be made or entered into without meeting the requirements of any law relating to acquisitions, purchases or contracts by competitive bids where the interest to be acquired by such municipality or the authority in such property or project is twenty-five percent (25%) or less.

If a municipality or the authority which finds and records on its minutes that acquisition of any project or any interest therein or any portion thereof, or any property or any interest therein or any portion thereof, which is authorized by this chapter is available or can be acquired or contracted for from or with a municipality or the authority or only a single source, person, firm or corporation, then such acquisition or contract may be made or entered into without meeting the requirements of any law relating to acquisitions, purchases or contracts by competitive bids. If, after advertising for competitive bids as to other proposed purchases, acquisitions or contracts, only one (1) bid is received, the municipality or the authority, as the case may be, may reject the bid and negotiate privately any purchase, contract or acquisition for a consideration not exceeding that proposed in the bid.

SECTION 35. Section 83-34-3, Mississippi Code of 1972, is brought forward as follows:

83-34-3. (1) From and after March 22, 2007, the Mississippi Windstorm Underwriting Association, as created by Chapter 459,

Laws of 1987, shall be a separate and independent entity as provided for herein. At its option, the association may incorporate. All assets belonging to the association on or before March 22, 2007, shall hereinafter belong to and remain with the association. There shall be no distribution of income or assets other than for the benefit of the association, which shall have the right to invest and reinvest assets.

(2) From and after March 22, 2007, the association shall no longer have members. Former "members" of the association shall be "assessable insurers" and shall have no rights to the assets and profits of the association, but shall have the obligation for regular assessments as provided herein. Former members shall continue to have the obligations provided in this chapter before March 22, 2007, for all policyholder claims, costs, damages of any kind and expenses in any manner resulting from losses that occurred before March 22, 2007, for which the association may assess as needed the former members in the manner provided in this chapter before March 22, 2007. As a condition of its authority to continue to transact the business of insurance in this state and by transacting business in this state, each licensed insurer agrees to be bound by the provisions of this statute and the plan of operation as approved by the commissioner, and all amendments and revisions thereto.

(3) Any licensed insurer first authorized to write insurance after March 22, 2007, shall become an assessable insurer on the

first day of January immediately following such authorization. The determination of such insurer's participation in the association shall be made based upon writings in the prior year in the same manner as for all other assessable insurers of the association.

(4) Except as provided for in Section 83-34-4(6), the premiums, assessments, fees, investment income and other revenue of the association are funds received for the sole purpose of providing insurance coverage, paying claims for Mississippi citizens insured by the association, securing and repaying debt obligations issued by the association, and conducting all other activities of the association, all as required or permitted by this chapter. Such revenue shall not be considered taxes, fees, licenses or charges for services imposed by the State of Mississippi on individuals, businesses, or agencies, and shall not be used for other purposes.

(5) It is the intent of the Legislature that the association be and act as a nonprofit entity. The association shall be free from taxation of every kind by the state and any political subdivision or other instrumentality thereof. It is the intent of the Legislature that the association be tax exempt from all taxes, including federal taxes, and the association is granted the authority to take those steps necessary to obtain federal tax exempt status.

(6) Any debt obligations issued by the association, their transfer, and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation of every kind by the state and any political subdivision or other instrumentality thereof.

(7) In the event of the termination of the association by act of the Legislature, or other means, the assets of the association shall be applied first to pay all debts, liabilities and obligations of the association, including the establishment of reasonable reserves for any contingent liabilities or obligations, and all remaining assets of the association shall become property of the state.

(8) The association shall operate as a private enterprise and shall not be subject to the procurement provisions of Section 31-7-13, and policies and decisions of the association, including, but not limited to, decisions relating to incurring debt, levying of assessments, the issuance and sale of bonds, claims decisions under association policies, hiring and firing of employees, and all services relating to the operation of the association shall not be subject to the provisions of Section 25-9-101 et seq. The association shall not be required to obtain or to hold a license or certificate of authority issued by the commissioner or any other office. The association shall not be required to participate as a member insurer of the Mississippi Insurance Guaranty Association.

SECTION 36. This act shall take effect and be in force from and after July 1, 2015.

ST: Government contracts; create the "Mississippi Stop Corruption Act" to revise requirements for single source contracts.