

By: Representatives Gunn, Baker, Lamar, Snowden, Rogers (61st), Upshaw, Monsour, Formby, White, Martinson, Zuber, Turner, Lott, Jennings, Woods, Hamilton, Boyd, Alday, Shirley, Crawford, Eure, DeBar, Weathersby, Barton, Rushing, Morgan, Aldridge, Carpenter, Massengill, Pigott, Haney, Mettetal, Brown (20th), Mims, Staples, Hood, Denny, Chism, Gipson, Moore, Byrd

To: Judiciary A

COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 211

1       AN ACT TO PROVIDE THAT THE GOVERNOR, LIEUTENANT GOVERNOR,  
2 SPEAKER OF THE HOUSE OF REPRESENTATIVES, ATTORNEY GENERAL,  
3 SECRETARY OF STATE, STATE TREASURER, STATE AUDITOR, COMMISSIONER  
4 OF AGRICULTURE AND COMMERCE, COMMISSIONER OF INSURANCE, AND THE  
5 EXECUTIVE DIRECTOR OF ANY STATE AGENCY, BOARD, COMMISSION,  
6 DEPARTMENT OR INSTITUTION, IS AUTHORIZED TO APPOINT OR EMPLOY  
7 SPECIAL COUNSEL TO REPRESENT THAT OFFICER OR AGENCY, BOARD,  
8 COMMISSION, DEPARTMENT OR INSTITUTION; TO PROVIDE THAT LITIGATION  
9 ON BEHALF OF A STATE AGENCY MUST RECEIVE THE APPROVAL OF THE  
10 AGENCY HEAD; TO REVISE THE AUTHORITY OF THESE OFFICERS TO RETAIN  
11 SPECIAL COUNSEL AND TO GRANT A LIMITED FUNDS REALLOCATION; TO  
12 PROVIDE THAT THE PERSONAL SERVICE CONTRACT REVIEW BOARD SHALL  
13 MAINTAIN CERTAIN CONTRACTS FOR APPOINTED OR EMPLOYED OUTSIDE  
14 COUNSEL ENTERED INTO BY THESE OFFICERS AND AGENCIES; TO AMEND  
15 SECTIONS 7-1-5, 7-5-1, 7-5-5, 7-5-7, 7-5-21, 7-5-39, 7-7-225,  
16 17-18-41, 25-9-120, 27-33-49, 27-104-17, 27-104-19, 27-104-105,  
17 29-3-39, 31-29-23, 41-9-35, 43-11-27, 43-15-121, 43-16-21,  
18 43-20-21, 43-27-14, 49-5-98, 53-1-47, 57-10-533, 57-61-35,  
19 57-71-33, 57-77-39, 59-5-65, 59-17-57, 65-26-37, 69-2-33,  
20 69-27-359, 73-11-49, 73-13-39, 73-13-95, 73-15-33, 73-29-39,  
21 73-29-43, 73-31-25, 73-36-35, 73-63-25, 75-76-25, 83-1-5, AND  
22 97-33-109, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND  
23 FOR RELATED PURPOSES.

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

25       **SECTION 1.** (1) For purposes of this section, "officer"  
26 means the Governor, Lieutenant Governor, Speaker of the House of  
27 Representatives, Attorney General, Secretary of State, State  
28 Treasurer, State Auditor, Commissioner of Agriculture and  
29 Commerce, Commissioner of Insurance, and executive director of any  
30 state agency, board, commission, department or institution.

31       (2) Subject to the approval of the Personal Service Contract  
32 Review Board created under Section 25-9-120, any officer is  
33 authorized to appoint or employ special counsel of the officer's  
34 choice other than the attorney employed in the Office of the  
35 Attorney General and assigned by the Attorney General and other  
36 than an attorney employed in state service who may be recommended



37 by the State Personnel Board, to represent that officer or the  
38 entity he leads or represents. An attorney appointed as special  
39 counsel who is not an attorney in the state service may be  
40 compensated on a fee basis. An attorney employed as special  
41 counsel who is an attorney in the state service shall be  
42 compensated on a salary basis. The special counsel may assist the  
43 officer in any or all legal matters, including, but not limited  
44 to, the preparation for, prosecution, or defense of any litigation  
45 in the state or federal courts or before any federal or state  
46 commission or agency in which the appointing or employing entity  
47 is a party or has an interest. The approval of the Attorney  
48 General is not required for an appointment or employment under  
49 this section. Unless compensation is paid pursuant to a  
50 contingent fee agreement, the appointed or employed special  
51 counsel's compensation shall be paid out of any funds appropriated  
52 or otherwise available to the officer.

53 (3) The officer is further entitled, without a determination  
54 as required in subsection (4), to retain special counsel of the  
55 officer's choice under this section if, in the officer's opinion,  
56 any conflict of interest exists with the Office of the Attorney  
57 General. The officer shall provide his opinions in this respect,  
58 in writing, to the Personal Service Contract Review Board. If  
59 appointed special counsel has been retained under this subsection,  
60 the Attorney General shall withdraw from representation of that  
61 officer, but the Attorney General may continue to appear in any  
62 other capacity.

63 (4) Before an attorney may be appointed or employed as  
64 special counsel under the provisions of this section, the officer  
65 must first determine and make a written finding to the Personal  
66 Service Contract Review Board that the needed legal services  
67 cannot be adequately performed by the attorneys and supporting  
68 legal staff members in state service who are assigned to the  
69 officer by the Attorney General.



95 (6) The following provisions shall apply to any contract for  
96 the services of appointed special counsel:

97 (a) Any contract for services of special counsel,  
98 whether providing for set, hourly or contingent fees, must require  
99 that the contracting attorney or law firm appointed as special  
100 counsel keep current and complete written time and expense records  
101 that describe in detail the time and expenses incurred each day in  
102 performance of the contract.

103 (b) At the conclusion of the matter for which the legal  
104 services were obtained, the contracting attorney or law firm  
105 appointed as special counsel shall prepare a complete written  
106 statement that describes the outcome of the matter, states the  
107 amount of any recovery, shows the contracting attorney's or law  
108 firm's computation of the amount of all fees and expenses, and  
109 contains the final complete time and expense records required  
110 under this subsection. The officer shall keep and maintain these  
111 records, shall forward copies of these records to the Personal  
112 Service Contract Review Board, and shall provide an annual report  
113 that shall be an open and public record, detailing all litigation  
114 pursued with appointed special counsel. This report shall include  
115 a description of the litigation, name of counsel retained,  
116 description of the terms and conditions by which outside counsel  
117 was retained, compensation, a description of the outcome of the  
118 matter, the amount of recovery, the contracting attorney's or law  
119 firm's computation of the amount of all fees and expenses and the  
120 final and complete time and expense records.

129 (8) The officer shall provide a docket of all cases using  
130 appointed or employed counsel under this section to the Personal  
131 Service Contract Review Board, which must be open to the  
132 inspection of the public during normal business hours and  
133 available online. The docket shall contain the information  
134 required in Section 7-5-21.

135 (9) This section shall not apply to Sections 57-75-15 and  
136 81-22-17.

137           **SECTION 2.** Section 7-1-5, Mississippi Code of 1972, is  
138       amended as follows:

139        7-1-5. In addition to the powers conferred and duties  
140 imposed on the Governor by the Constitution and by the laws as  
141 elsewhere provided, he shall have the powers and perform the  
142 duties following:

143 (a) He is the supreme executive officer of the state.

144 (b) He is the commander in chief of the militia of the  
145 state and may call out the militia to execute the laws, to  
146 suppress insurrections or riots, and to repel invasions.

147 (c) He shall see that the laws are faithfully executed.

148 (d) He is to supervise the official conduct of all  
149 executive and ministerial officers.

150 (e) He is to see that all offices are filled and the  
151 duties of the offices are performed or, in default thereof, apply  
152 such remedy as the law allows; and if the remedy is inadequate, he  
153 shall inform the Legislature at its next session.

154 (f) He shall make appointments and fill vacancies as  
155 prescribed by law.

156 (g) Whenever any suit or legal proceeding is pending  
157 that affects the title of the state to any property, or that may  
158 result in any claim against the state, he may direct the Attorney  
159 General to appear on behalf of the state and protect its interest.

160 (h) He may require the Attorney General, or district  
161 attorney of any district, to inquire into the affairs or  
162 management of any corporation existing under the laws of this  
163 state, or doing business in this state under the laws of the  
164 state.

165 (i) He may require the Attorney General to aid any  
166 district attorney in the discharge of his duties.

167 (j) He may offer rewards, not exceeding Two Hundred  
168 Dollars (\$200.00), for persons with mental illness who have  
169 escaped and are dangerous, and such other rewards as are  
170 authorized by law.

171 (k) He may require any officer or board to make special  
172 reports to him upon demand in writing.

173 (1) He shall transact all necessary business with state  
174 officers, shall require them to be present at their respective  
175 offices at all reasonable business hours, and may require  
176 information, in writing, from any such officer relating to the  
177 duties of his office.

178 (m) When deemed advisable upon proceedings for the  
179 arrest in this state of fugitives from justice from other states  
180 or countries, he may commission a special officer to arrest the  
181 fugitive in any part of the state.

182 (n) He may bring any proper suit affecting the general  
183 public interests, in his own name for the State of Mississippi, if  
184 after first requesting the proper officer so to do, the officer  
185 refuses or neglects to do the same.

188           **SECTION 3.** Section 7-5-1, Mississippi Code of 1972, is  
189       amended as follows:

190        7-5-1. (1) The Attorney General provided for by Section 173  
191        of the Mississippi Constitution shall be elected at the same time  
192        and in the same manner as the Governor is elected. His term of  
193        office shall be four (4) years and his compensation shall be fixed  
194        by the Legislature. He shall be the chief legal officer and  
195        advisor for the state, both civil and criminal, and is charged  
196        with managing \* \* \* litigation on behalf of the state. Nothing in  
197        this section shall be construed as exclusive authority by the  
198        Attorney General over attorneys for an officer as defined in  
199        Section 1 of this act, except as authorized by law. No arm or

200 agency of the state government shall bring or defend a suit  
201 against another such arm or agency without prior written approval  
202 of the Attorney General. He shall have the powers of the Attorney  
203 General at common law and, except as provided in subsection (2) of  
204 this section, is given \* \* \* power to bring or defend a lawsuit on  
205 behalf of a state agency, the subject matter of which is of  
206 statewide interest, and he shall intervene and argue the  
207 constitutionality of any statute when notified of a challenge  
208 thereto, pursuant to the Mississippi Rules of Civil Procedure.  
209 His qualifications for office shall be as provided for chancery  
210 and circuit judges in Section 154 of the Mississippi Constitution.

211 (2) No legal action on behalf of any officer as defined in  
212 Section 1 of this act, including a suit to recoup funds expended  
213 by an agency, may be taken until ten (10) days' written notice of  
214 the proposed legal action is given to the officer or agency,  
215 board, commission, department or institution. Upon the expiration  
216 of the notice period, the Attorney General may institute suit with  
217 or without the consent of the officer or agency, board,  
218 commission, department or institution. If the officer or agency,  
219 board, commission, department or institution does not consent to  
220 the legal action, an appointed or employed special counsel may be  
221 retained by such officer or agency, board, commission, department  
222 or institution pursuant to Section 1 of this act.

223 **SECTION 4.** Section 7-5-5, Mississippi Code of 1972, is  
224 amended as follows:

225 7-5-5. (1) The Attorney General shall appoint nine (9)  
226 competent attorneys, each of whom shall be designated as an  
227 assistant attorney general. The assistants shall each possess all  
228 of the qualifications required by law of the Attorney General and  
229 shall have power and authority under the direction and supervision  
230 of the Attorney General to perform all of the duties required by  
231 law of that officer; and each shall be liable to the pains and  
232 penalties to which the Attorney General is liable. The assistants



233 shall serve at the will and pleasure of the Attorney General, and  
234 they shall devote their entire time and attention to the duties  
235 pertaining to the department of justice as required by the general  
236 laws. The compensation of the within enumerated assistant  
237 attorneys general and all other regular assistants authorized by  
238 law shall be fixed by the Attorney General, not to exceed the  
239 compensation fixed by law for such assistants.

240        (2) (a) The Attorney General is hereby authorized,  
241 empowered and directed to designate three (3) of the \* \* \*  
242 assistant attorneys general to devote their time and attention  
243 primarily to defending and aiding in the defense in all courts of  
244 any suit, filed or threatened, against the State of Mississippi,  
245 against any subdivision thereof, or against any agency or  
246 instrumentality of the state or subdivision, including all elected  
247 officials and any other officer or employee thereof. When the  
248 circumstances permit, the assistants may perform any of the  
249 Attorney General's powers and duties, including, but not limited  
250 to, engaging in lawsuits outside the state when in his opinion  
251 same would help bring about the equal application of federal laws  
252 and court decisions in every state and guaranteeing equal  
253 protection of the laws as guaranteed every citizen by the United  
254 States Constitution.

255        (b) To further prosecute and insure such purposes, the  
256 Attorney General is hereby further expressly authorized, empowered  
257 and directed to appoint or employ such additional special counsel  
258 as \* \* \* may be necessary or advisable, on a fee or contract basis  
pursuant to the provisions of Section 1 of this act.

260        (3) The Attorney General may discharge any assistant  
261 attorney general, special assistant attorney general or appointed  
262 or employed special counsel hired by him at his pleasure and  
263 appoint another in his stead. The assistant attorneys general  
264 shall devote their entire time and attention to the duties



265 pertaining to the Department of Justice under the control and  
266 supervision of the Attorney General.

267 **SECTION 5.** Section 7-5-7, Mississippi Code of 1972, is  
268 amended as follows:

269 7-5-7. The Governor may engage counsel to assist the  
270 Attorney General in cases to which the state is a party when, in  
271 his opinion, the interest of the state requires it, subject to the  
272 action of the Legislature in providing compensation for such  
273 services.

274 Pursuant to the provisions of Section 1 of this act, the  
275 Attorney General is hereby authorized and empowered to appoint and  
276 employ special counsel, on a fee or salary basis, to assist the  
277 Attorney General in the preparation for, prosecution, or defense  
278 of any litigation in the state or federal courts or before any  
279 state or federal commission or agency in which the state is a  
280 party or has an interest.

281 The Attorney General may designate such special counsel as  
282 special assistant attorney general, and may pay such special  
283 counsel reasonable compensation provided that he complies with the  
284 requirements of Section 1 of this act.

285 The Attorney General may also employ special investigators on  
286 a per diem or salary basis, to be agreed upon at the time of  
287 employment, for the purpose of interviewing witnesses,  
288 ascertaining facts, or rendering any other services that may be  
289 needed by the Attorney General in the preparation for and  
290 prosecution of suits by or against the State of Mississippi, or in  
291 suits in which the Attorney General is participating on account of  
292 same being of statewide interest.

293 The Attorney General may pay travel and other expenses of  
294 employees and appointees made hereunder in the same manner and  
295 amount as authorized by law for the payment of travel and expenses  
296 of state employees and officials.



297        The compensation of appointees and employees made hereunder  
298 shall be paid out of the Attorney General's contingent fund, or  
299 out of any other funds appropriated to the Attorney General's  
300 office.

301        **SECTION 6.** Section 7-5-21, Mississippi Code of 1972, is  
302 amended as follows:

303        7-5-21. The Attorney General shall keep a docket of all  
304 causes in which he is required to appear or is appearing, either  
305 through his office or through counsel retained as appointed or  
306 employed special counsel, which must \* \* \* be open to the  
307 inspection of the public during regular business hours and must  
308 show the style of the case and the county, district, and court in  
309 which the causes have been instituted and tried, the cause number  
310 of the action, and whether they be civil or criminal. If civil,  
311 the docket must show the nature of the demand, the stage of the  
312 proceedings, the name and address of any appointed or employed  
313 special counsel, a memorandum of the judgment when prosecuted to  
314 judgment, any process issued thereon, whether satisfied or not,  
315 and if not satisfied, the return of the sheriff. If criminal, the  
316 docket must show the nature of the crime, the mode of prosecution,  
317 the stage of the proceedings, a memorandum of the sentence when  
318 prosecuted to a sentence, the execution thereof, if executed, and,  
319 if not executed, the reasons of delay or prevention. The docket  
320 information shall be available on the Attorney General's website.

321        **SECTION 7.** Section 7-5-39, Mississippi Code of 1972, is  
322 amended as follows:

323        7-5-39. Except as otherwise authorized in Section 1 of this  
324 act, the Attorney General shall also represent the state, in  
325 person or by his assistant, as counsel in all suits against the  
326 state in other courts than the Supreme Court at the seat of  
327 government, and he shall, in like manner, act as counsel for any  
328 of the state officers in suits brought by or against them in their  
329 official capacity, touching any official duty or trust and triable



330 at the seat of government. He may pursue the collection of any  
331 claim or judgment in favor of the state outside of the state.

332 **SECTION 8.** Section 7-7-225, Mississippi Code of 1972, is  
333 amended as follows:

334 7-7-225. The State Auditor \* \* \*, when conducting agency  
335 audits, shall test to determine whether or not the state  
336 institutions of higher learning and any state agency which does  
337 not draw warrants on the Treasury have complied with the  
338 provisions of Section 1 of this act with regard to any contract  
339 for legal services.

340 **SECTION 9.** Section 17-18-41, Mississippi Code of 1972, is  
341 amended as follows:

342 17-18-41. (1) No member, officer or employee of the  
343 department, authority or committee while acting within the scope  
344 of their authority shall be subject to any personal liability by  
345 reason of any act or omission in connection with the exercise of  
346 any power or performance of any duty whether expressed or implied  
347 pursuant to this chapter.

348 (2) Except as otherwise authorized in Section 1 of this act,  
349 the Attorney General shall be the legal representative of the  
350 authority and the committee and shall provide legal advice and  
351 counsel without cost to the authority and the committee.

352 **SECTION 10.** Section 25-9-120, Mississippi Code of 1972, is  
353 amended as follows:

354 25-9-120. (1) Contract personnel, whether classified as  
355 contract workers or independent contractors shall not be deemed  
356 state service or nonstate service employees of the State of  
357 Mississippi, and shall not be eligible to participate in the  
358 Public Employees' Retirement System, or the state employee health  
359 plan, nor be allowed credit for personal and sick leave and other  
360 leave benefits as employees of the State of Mississippi,  
361 notwithstanding Sections 25-3-91 through 25-3-101; 25-9-101  
362 through 25-9-151; 25-11-1 through 25-11-126; 25-11-128 through



363 25-11-131; 25-15-1 through 25-15-23 and for the purpose set forth  
364 herein. Contract workers, i.e., contract personnel who do not  
365 meet the criteria of independent contractors, shall be subject to  
366 the provisions of Section 25-11-127.

367 (2) There is hereby created the Personal Service Contract  
368 Review Board, which shall be composed of the State Personnel  
369 Director, the Executive Director of the Department of Finance and  
370 Administration, or his designee, the Commissioner of Corrections,  
371 or his designee, the Executive Director of the Mississippi  
372 Department of Wildlife and Fisheries, or his designee, and the  
373 Executive Director of the Department of Environmental Quality, or  
374 his designee. The State Personnel Director shall be chairman and  
375 shall preside over the meetings of the board. The board shall  
376 annually elect a vice chairman, who shall serve in the absence of  
377 the chairman. No business shall be transacted, including adoption  
378 of rules of procedure, without the presence of a quorum of the  
379 board. Three (3) members shall be a quorum. No action shall be  
380 valid unless approved by the chairman and two (2) other of those  
381 members present and voting, entered upon the minutes of the board  
382 and signed by the chairman. Necessary clerical and administrative  
383 support for the board shall be provided by the State Personnel  
384 Board. Minutes shall be kept of the proceedings of each meeting,  
385 copies of which shall be filed on a monthly basis with the  
386 Legislative Budget Office.

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

389 (a) Promulgate rules and regulations governing the  
390 solicitation and selection of contractual services personnel  
391 including personal and professional services contracts for any  
392 form of consulting, policy analysis, public relations, marketing,  
393 public affairs, legislative advocacy services or any other  
394 contract that the board deems appropriate for oversight, with the  
395 exception of any personal service contracts entered into for



396 computer or information technology-related services governed by  
397 the Mississippi Department of Information Technology Services, any  
398 personal service contracts entered into by the Mississippi  
399 Department of Transportation, and any contract for \* \* \*  
400 accountant, auditor, physician, dentist, architect, engineer,  
401 veterinarian and utility rate expert services. Any such rules and  
402 regulations shall provide for maintaining continuous internal  
403 audit covering the activities of such agency affecting its revenue  
404 and expenditures as required under Section 7-7-3(6) (d),  
405 Mississippi Code of 1972;

406 (b) (i) Approve all personal and professional services  
407 contracts involving the expenditures of funds in excess of One  
408 Hundred Thousand Dollars (\$100,000.00); and

409 (ii) Approve and maintain all contracts and  
410 related documents for legal services submitted to it and perform  
411 related responsibilities in accordance with the provisions of  
412 Section 1 of this act. Before any contract submitted to it under  
413 the provisions of Section 1 of this act is approved by it, the  
414 board shall provide the Attorney General with a copy of the  
415 contract and the related documents for legal services submitted to  
416 it and shall permit, unless exigent circumstances exist which  
417 reasonably require the immediate approval of the same, the  
418 Attorney General a reasonable opportunity to provide to it written  
419 comments and/or objections, if any, with respect to the same.

420 (c) Develop standards with respect to contractual  
421 services personnel which require invitations for public bid,  
422 requests for proposals, record keeping and financial  
423 responsibility of contractors. The Personal Service Contract  
424 Review Board may, in its discretion, require the agency involved  
425 to advertise such contract for public bid, and may reserve the  
426 right to reject any or all bids;

427 (d) Prescribe certain circumstances whereby agency  
428 heads may enter into contracts for personal and professional



429 services without receiving prior approval from the Personal  
430 Service Contract Review Board. The Personal Service Contract  
431 Review Board may establish a preapproved list of providers of  
432 various personal and professional services for set prices with  
433 which state agencies may contract without bidding or prior  
434 approval from the board;

435 (e) To provide standards for the issuance of requests  
436 for proposals, the evaluation of proposals received, consideration  
437 of costs and quality of services proposed, contract negotiations,  
438 the administrative monitoring of contract performance by the  
439 agency and successful steps in terminating a contract;

440 (f) To present recommendations for governmental  
441 privatization and to evaluate privatization proposals submitted by  
442 any state agency;

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

451 (h) To request the State Auditor to conduct a  
452 performance audit on any personal or professional service  
453 contract;

454 (i) Prepare an annual report to the Legislature  
455 concerning the issuance of personal service contracts during the  
456 previous year, collecting any necessary information from state  
457 agencies in making such report.

458 (4) No member of the Personal Service Contract Review Board  
459 shall use his official authority or influence to coerce, by threat  
460 of discharge from employment, or otherwise, the purchase of



461 commodities or the contracting for personal or professional  
462 services under this section.

463 **SECTION 11.** Section 27-33-49, Mississippi Code of 1972, is  
464 amended as follows:

465 27-33-49. Except as otherwise authorized in Section 1 of  
466 this act, the Attorney General of the state shall be the attorney  
467 for the commission and shall represent it in any proceedings  
468 before any court. In any hearing before the commission, where the  
469 services of an attorney are desired or needed, the Attorney  
470 General shall attend on behalf of the commission. The Attorney  
471 General shall construe any doubtful or conflicting provisions of  
472 this article, and his opinion shall be controlling on all  
473 officers.

474 **SECTION 12.** Section 27-104-17, Mississippi Code of 1972, is  
475 amended as follows:

476 27-104-17. (1) An allotment period shall be one-half (1/2)  
477 of twelve (12) months, and expenditure one-half (1/2) of the  
478 appropriated amount, unless otherwise specified in the  
479 appropriation bill or justified by the agency to the Department of  
480 Finance and Administration, and the first allotment period shall  
481 commence on July 1. Estimates shall be filed with the Department  
482 of Finance and Administration not later than the first day of the  
483 month preceding the beginning period.

484 \* \* \* The Department of Finance and Administration may, in  
485 its discretion, restrict an agency to a monthly allotment period  
486 when it becomes evident that an agency's rate of expenditure to  
487 date indicates this restriction will be necessary to prevent  
488 depletion of its appropriation prior to the close of the fiscal  
489 year or when the condition of the State General Fund requires  
490 monthly monitoring and control of the rate of General Fund  
491 expenditures.

492 (2) Except as otherwise authorized in Section 1 of this act,  
493 and unless otherwise specified in the agency appropriation bill,



494 in the event any emergency or unforeseen circumstances shall  
495 arise, the agency head may authorize increases in major objects of  
496 expenditure within each specific budget within each appropriation  
497 bill in total amounts not to exceed ten percent (10%) of the  
498 appropriated amount of each object, provided that other major  
499 objects of expenditure are decreased by a corresponding dollar  
500 amount. Except as otherwise authorized in Section 1 of this act,  
501 no transfers shall be authorized which increase or decrease the  
502 major object of expenditure "Salaries, Wages and Fringe Benefits,"  
503 or which increase the major object of expenditure "Capital  
504 Outlay - Equipment." The agency head shall submit written  
505 justification for the transfer to the Legislative Budget Office,  
506 the Department of Finance and Administration, and the State  
507 Auditor, on or before the fifteenth of the month prior to the  
508 effective date of the transfer. The transfer shall be effective  
509 the first working day of the month following timely submissions  
510 required herein. In cases of extreme hardship, certified in  
511 writing by the agency head and submitted with timely submissions  
512 required herein, the Executive Director of the Department of  
513 Finance and Administration, in his discretion, may authorize an  
514 earlier effective date for the transfer.

515 \* \* \*

516 (3) No former employee who is receiving State of Mississippi  
517 retirement benefits shall be hired under contract for an amount  
518 exceeding Twenty Thousand Dollars (\$20,000.00) a year without  
519 prior approval by an agency's proper governing board or authority.  
520 Upon approval of such contracts a written report shall be  
521 submitted detailing the cost and need of such contract services to  
522 the Chairmen and members of the Senate and House Appropriations  
523 Committees.

524 **SECTION 13.** Section 27-104-19, Mississippi Code of 1972, is  
525 amended as follows:



526        27-104-19. Except as otherwise authorized in Section 1 of  
527 this act, when an operating budget has been approved, the amount  
528 approved shall be available and shall constitute the maximum of  
529 obligations or indebtedness which may be incurred by the agency  
530 for any purpose during the allotment period to be paid from such  
531 funds.

532        **SECTION 14.** Section 27-104-105, Mississippi Code of 1972, is  
533 amended as follows:

534        27-104-105. The Department of Finance and Administration  
535 shall not process any warrant requested by any state agency for  
536 payment for legal services without first determining that the  
537 services and contract were approved as required by law. Contracts  
538 for legal services performed for the Mississippi Department of  
539 Transportation in eminent domain cases shall not require approval  
540 by the State Personnel Board. The State Auditor shall test for  
541 compliance with this section.

542        **SECTION 15.** Section 29-3-39, Mississippi Code of 1972, is  
543 amended as follows:

544        29-3-39. It shall be the duty of the board of education to  
545 survey periodically the classification of all sixteenth section  
546 land under its jurisdiction and to reclassify that land as it may  
547 deem advisable because of changes of conditions, and when any land  
548 is so reclassified, the board of education shall file a report  
549 thereof with the Secretary of State. From time to time the  
550 Secretary of State may institute proceedings to reclassify any  
551 sixteenth section lands which he may deem advisable and when any  
552 land is so reclassified, the Secretary of State shall file a  
553 report thereof with the board of education. When any land is  
554 reclassified under this section, notice thereof, rights to object  
555 thereto and rights to appeal therefrom shall be given in the same  
556 manner provided in Section 29-3-37 with reference to the original  
557 classification. \* \* \* However, \* \* \* all sixteenth section land  
558 shall be classified, or reclassified as is necessary, within one



559 (1) year prior to the expiration date of any existing lease, and  
560 within sixty (60) days of the terminating of any lease of  
561 sixteenth section land by final court order. In all litigation  
562 which may result from the classification or reclassification of  
563 lands by the Secretary of State under Sections 29-3-31 through  
564 29-3-39, the Secretary of State shall be represented by the  
565 Attorney General, who shall have control of the litigation, except  
566 as otherwise authorized in Section 1 of this act, but it shall be  
567 the duty of the various boards of education to furnish local legal  
568 assistance when requested so to do by the Attorney General.

569       **SECTION 16.** Section 31-29-23, Mississippi Code of 1972, is  
570 amended as follows:

571       31-29-23. Except as otherwise authorized in Section 1 of  
572 this act, the Attorney General of the State of Mississippi shall  
573 represent the State Bond Commission in issuing, selling and  
574 validating bonds herein provided for, and the bond commission is  
575 hereby authorized and empowered to expend from the proceeds  
576 derived from the sale of the bonds authorized hereunder all  
577 necessary administrative, legal and other expenses incidental and  
578 related to the issuance of bonds authorized under this chapter.

579       **SECTION 17.** Section 41-9-35, Mississippi Code of 1972, is  
580 amended as follows:

581       41-9-35. Notwithstanding the existence or pursuit of any  
582 other remedy, the licensing agency, may in the manner provided by  
583 law, upon the advice of the Attorney General who shall represent  
584 the licensing agency in the proceedings, except as otherwise  
585 authorized in Section 1 of this act, maintain an action in the  
586 name of the state for an injunction or other process against any  
587 person or governmental unit to restrain or prevent the  
588 establishment, conduct, management or operation of a hospital  
589 without a license as provided for in Section 41-9-11.

590       **SECTION 18.** Section 43-11-27, Mississippi Code of 1972, is  
591 amended as follows:



592        43-11-27. Notwithstanding the existence or pursuit of any  
593 other remedy, the licensing agency may, in the manner provided by  
594 law, upon the advice of the Attorney General who shall represent  
595 the licensing agency in the proceedings, except as otherwise  
596 authorized in Section 1 of this act, maintain an action in the  
597 name of the state for injunction or other process against any  
598 person to restrain or prevent the establishment, conduct,  
599 management or operation of an institution for the aged or infirm  
600 without a license under this chapter.

601        **SECTION 19.** Section 43-15-121, Mississippi Code of 1972, is  
602 amended as follows:

603        43-15-121. In addition to, and notwithstanding, any other  
604 remedy provided by law, the division may, in a manner provided by  
605 law and upon the advice of the Attorney General who shall  
606 represent the division in the proceedings, except as otherwise  
607 authorized in Section 1 of this act, maintain an action in the  
608 name of the state for injunction or other process against any  
609 person or entity to restrain or prevent the establishment,  
610 management or operation of a program or facility or performance of  
611 services in violation of this article or rules of the division.

612        **SECTION 20.** Section 43-16-21, Mississippi Code of 1972, is  
613 amended as follows:

614        43-16-21. Notwithstanding the existence of any other remedy,  
615 the department may, in the manner provided by law, in termtime or  
616 in vacation, upon the advice of the Attorney General who shall  
617 represent the department in the proceedings, except as otherwise  
618 authorized in Section 1 of this act, maintain an action in the  
619 name of the state for an injunction or restraining order to cease  
620 the operation of the home, and to provide for the appropriate  
621 removal of the children from the home and placement in the custody  
622 of the parents or legal guardians, the Department of Human  
623 Services, or any other appropriate entity in the discretion of the  
624 court. Such action shall be brought in the chancery court or the



625 youth court, as appropriate, of the county in which such child  
626 residential home is located, and shall only be initiated for the  
627 following violations:

628 (a) Providing supervision, care, lodging or maintenance  
629 for any children in such home without filing notification in  
630 accordance with this chapter.

631 (b) Failure to satisfactorily comply with local health  
632 department or State Fire Marshal inspections made pursuant to  
633 Section 43-16-15, regarding the health, nutrition, cleanliness,  
634 safety, sanitation, written records and discipline policy of such  
635 home.

636 (c) Suspected abuse and/or neglect of the children  
637 served by such home, as defined in Section 43-21-105.

638 **SECTION 21.** Section 43-20-21, Mississippi Code of 1972, is  
639 amended as follows:

640 43-20-21. Notwithstanding the existence of any other remedy,  
641 the licensing agency may, in the manner provided by law, in  
642 termtime or in vacation, upon the advice of the Attorney General  
643 who shall represent the licensing agency in the proceedings,  
644 except as otherwise authorized in Section 1 of this act, maintain  
645 an action in the name of the state for an injunction or other  
646 proper remedy against any person to restrain or prevent the  
647 establishment, conduct, management or operation of a child care  
648 facility without license under this chapter, or otherwise in  
649 violation of this chapter.

650 **SECTION 22.** Section 43-27-14, Mississippi Code of 1972, is  
651 amended as follows:

652 43-27-14. The Department of Youth Services shall have the  
653 authority to accept any allotments of federal funds and  
654 commodities and shall manage and dispose of them in whatever  
655 manner may be required by federal law, and may take advantage of  
656 any federal programs, grants-in-aid, or other public or private  
657 assistance which may be offered or available which will accomplish



658 or further the objectives of the department. Except as otherwise  
659 authorized in Section 1 of this act, the Attorney General shall be  
660 the legal representative of the department.

661 **SECTION 23.** Section 49-5-98, Mississippi Code of 1972, is  
662 amended as follows:

663 49-5-98. Except as otherwise authorized in Section 1 of this  
664 act, the Attorney General of the State of Mississippi shall  
665 represent the commission in issuing, selling and validating bonds  
666 herein provided for, and the commission may expend any sum not  
667 exceeding Fifteen Thousand Dollars (\$15,000.00) from the proceeds  
668 derived from the sale of the bonds authorized hereunder to pay the  
669 cost of attorney's fees, validating, printing, and cost of  
670 delivery of bonds authorized under Sections 49-5-86 through  
671 49-5-98.

672 **SECTION 24.** Section 53-1-47, Mississippi Code of 1972, is  
673 amended as follows:

674 53-1-47. (a) (i) Any person, who, for the purpose of  
675 evading the provisions of Sections 53-1-1 through 53-1-47,  
676 inclusive, or any rule, regulation or order made thereunder, shall  
677 make or cause to be made any false entry, statement of fact or  
678 omission in any report required by such sections or by any rule,  
679 regulation or order thereunder or in any account, record or  
680 memorandum kept in connection with the provisions thereof or who,  
681 for such purpose, shall mutilate, alter, conceal or falsify any  
682 such report, account, record or memorandum, shall be subject to a  
683 penalty of not more than Ten Thousand Dollars (\$10,000.00) per day  
684 for each day of such violation to be assessed by the board. In  
685 determining the amount of the penalty, the board shall consider  
686 the factors specified in subsection (d) of this section. Such  
687 penalties shall be assessed according to the procedures set forth  
688 in subsection (b) of this section.

689 (ii) Any person, who, for the purpose of evading the  
690 provisions of Sections 53-1-1 through 53-1-47, inclusive, or any



691 rule, regulation or order made thereunder, shall intentionally  
692 make or cause to be made any false entry, statement of fact or  
693 omission in any report required by said sections or by any rule,  
694 regulation or order thereunder or in any account, record or  
695 memorandum kept in connection with the provisions thereof or who,  
696 for such purpose, shall mutilate, alter, conceal or falsify any  
697 such report, account, record or memorandum shall be deemed guilty  
698 of a misdemeanor and shall be subject, upon conviction in any  
699 court of competent jurisdiction, to a fine of not less than Five  
700 Hundred Dollars (\$500.00) nor more than One Thousand Dollars  
701 (\$1,000.00), or imprisonment for a term of not less than ten (10)  
702 days nor more than six (6) months for each such violation, or both  
703 such fine and imprisonment.

704 (b) Any person who violates any provision of Sections 53-1-1  
705 through 53-1-47, inclusive, or Sections 53-3-1 through 53-3-33,  
706 and 53-3-39 through 53-3-165, or any lawful rule, regulation or  
707 order of the board made hereunder, shall, in addition to any  
708 penalty for such violation that is otherwise provided for herein,  
709 be subject to a penalty of not to exceed Ten Thousand Dollars  
710 (\$10,000.00) per day for each day of such violation to be assessed  
711 by the board. When any charge is filed with the board charging  
712 any person with any such violation, the board shall conduct an  
713 adjudicative proceeding in accordance with the Administrative  
714 Procedures Law. Such proceeding shall be held by not less than  
715 three (3) members of the board and a unanimous verdict of all  
716 members hearing such charge shall be necessary for conviction and  
717 in the event of a conviction all members of the board hearing such  
718 cause must agree on the penalty assessed.

719 Except as otherwise authorized in Section 1 of this act, the  
720 Attorney General, by his designated assistant, shall represent the  
721 board in all such proceedings. If he represents the board, the  
722 Attorney General shall also designate a member of his staff to



723 present evidence and proof of such violation in the event such  
724 charge is contested.

725 All penalties assessed by the board under the provisions of  
726 this section shall have the force and effect of a judgment of the  
727 circuit court and shall be enrolled in the office of the circuit  
728 clerk and execution may be issued thereon. All such penalties  
729 paid or collected shall be paid to the State Treasurer for credit  
730 to the Special Oil and Gas Board Fund.

731 Any person adjudged guilty of any such violation shall have  
732 the right of appeal in accordance with the provisions of Section  
733 53-1-39.

734 The payment of any penalty as provided herein shall not have  
735 the effect of changing illegal oil into legal oil, illegal gas  
736 into legal gas or illegal product into legal product, nor shall  
737 such payment have the effect of authorizing the sale or purchase  
738 or acquisition or the transportation, refining, processing or  
739 handling in any other way of such illegal oil, illegal gas or  
740 illegal product.

741 (c) Any person who aids or abets any other person in the  
742 violation of any provision of Sections 53-1-1 through 53-1-47,  
743 inclusive, or Sections 53-3-1 through 53-3-21, inclusive, or any  
744 rule, regulation or order made thereunder, shall be subject to the  
745 same penalties as are prescribed herein for the violation by such  
746 other person.

747 (d) In determining the amount of the penalty under  
748 subsection (a), (b) or (c) of this section, the board shall  
749 consider at a minimum the following factors:

750 (i) The willfulness of the violation;  
751 (ii) Any damage to water, land or other natural  
752 resources of the state or their users;  
753 (iii) Any cost of restoration and abatement;  
754 (iv) Any economic benefit to the violator as a result  
755 of noncompliance;



756 (v) The seriousness of the violation, including any  
757 harm to the environment and any harm to the health and safety of  
758 the public; and

759 (vi) Any prior violation by such violator.

760 (e) The board is authorized to utilize the provisions of  
761 Section 85-7-132 to enforce penalties provided by this section.

762 **SECTION 25.** Section 57-10-533, Mississippi Code of 1972, is  
763 amended as follows:

764       57-10-533. Except as otherwise authorized in Section 1 of  
765 this act, the Attorney General of the State of Mississippi shall  
766 represent the seller in issuing, selling and validating bonds or  
767 notes herein provided for, and the seller is hereby authorized and  
768 empowered to expend from the proceeds derived from the sale of the  
769 bonds or notes authorized hereunder all necessary administrative,  
770 legal and other expenses incidental and related to the issuance of  
771 bonds or notes authorized under this article.

772       **SECTION 26.** Section 57-61-35, Mississippi Code of 1972, is  
773        amended as follows:

774        57-61-35. Except as otherwise authorized in Section 1 of  
775 this act, the Attorney General of the State of Mississippi shall  
776 represent the seller in issuing, selling and validating bonds  
777 herein provided for, and the seller is hereby authorized and  
778 empowered to expend from the proceeds derived from the sale of the  
779 bonds authorized hereunder all necessary administrative, legal and  
780 other expenses incidental and related to the issuance of bonds  
781 authorized under this chapter.

782           **SECTION 27.** Section 57-71-33, Mississippi Code of 1972, is  
783        amended as follows:

784        57-71-33. Except as otherwise authorized in Section 1 of  
785 this act, the Attorney General of the State of Mississippi shall  
786 represent the seller in issuing, selling and validating bonds or  
787 notes herein provided for, and the seller is hereby authorized and  
788 empowered to expend from the proceeds derived from the sale of the

789 bonds or notes authorized hereunder all necessary administrative,  
790 legal and other expenses incidental and related to the issuance of  
791 bonds or notes authorized under this act.

792         **SECTION 28.** Section 57-77-39, Mississippi Code of 1972, is  
793 amended as follows:

794         57-77-39. Except as otherwise authorized in Section 1 of  
795 this act, the Attorney General of the State of Mississippi shall  
796 represent the seller in issuing, selling and validating bonds or  
797 notes herein provided for, and the seller is hereby authorized and  
798 empowered to expend from the proceeds derived from the sale of the  
799 bonds or notes authorized hereunder all necessary administrative,  
800 legal and other expenses incidental and related to the issuance of  
801 bonds or notes authorized under this chapter.

802         **SECTION 29.** Section 59-5-65, Mississippi Code of 1972, is  
803 amended as follows:

804         59-5-65. Except as otherwise authorized in Section 1 of this  
805 act, the Attorney General of the State of Mississippi shall  
806 represent the State Bond Commission in issuing, selling and  
807 validating bonds herein provided for. The State Bond Commission  
808 is hereby authorized and empowered to pay the costs that are  
809 incident to the sale, issuance and delivery of the bonds herein  
810 provided for, and such costs may be paid for out of the proceeds  
811 derived from the sale of such bonds.

812         **SECTION 30.** Section 59-17-57, Mississippi Code of 1972, is  
813 amended as follows:

814         59-17-57. Except as otherwise authorized in Section 1 of  
815 this act, the Attorney General of the State of Mississippi shall  
816 represent the State Bond Commission in issuing, selling and  
817 validating bonds herein provided for, and the board is hereby  
818 authorized and empowered to expend any sum not exceeding Fifteen  
819 Thousand Dollars (\$15,000.00) from the proceeds derived from the  
820 sale of any one (1) series of bonds authorized hereunder to pay  
821 for the cost of the approving attorney's fees, validating,



822 printing and cost of delivery of bonds authorized under this  
823 chapter.

824 **SECTION 31.** Section 65-26-37, Mississippi Code of 1972, is  
825 amended as follows:

826 65-26-37. Except as otherwise authorized in Section 1 of  
827 this act, the Attorney General of the State of Mississippi shall  
828 represent the Transportation Commission in issuing, selling and  
829 validating bonds herein provided for, and said Transportation  
830 Commission is hereby authorized and empowered to expend any sum  
831 not to exceed Forty Thousand Dollars (\$40,000.00) on approval by  
832 the State Bond Commission from the proceeds derived from the sale  
833 of bonds authorized in subsections (1) and (2) of Section  
834 65-26-15, or from other funds available to the Transportation  
835 Commission, to pay the cost of approving attorney's fees,  
836 validating, printing and cost of delivery of bonds authorized  
837 under this chapter.

838 **SECTION 32.** Section 69-2-33, Mississippi Code of 1972, is  
839 amended as follows:

840 69-2-33. Except as otherwise authorized in Section 1 of this  
841 act, the Attorney General of the State of Mississippi shall  
842 represent the department in issuing, selling and validating bonds  
843 or notes authorized under Sections 69-2-19 through 69-2-39 of this  
844 chapter, and the department is authorized to pay from the proceeds  
845 derived from the sale of such bonds or notes, or from other funds  
846 available to the department, the reasonable cost of approving  
847 attorney's fees, validating, printing and cost of delivery of such  
848 bonds or notes.

849 **SECTION 33.** Section 69-27-359, Mississippi Code of 1972, is  
850 amended as follows:

851 69-27-359. Except as otherwise authorized in Section 1 of  
852 this act, the Attorney General of the State of Mississippi shall  
853 represent the Soil and Water Conservation Commission in issuing,  
854 selling and validating bonds authorized under Sections 69-27-345



855 through 69-27-365, and the commission is authorized to pay from  
856 the proceeds derived from the sale of such bonds or from other  
857 funds available to the commission, the reasonable cost of  
858 approving attorney's fees, validating, printing, cost of delivery  
859 of such bonds and any other necessary costs of issuance.

860       **SECTION 34.** Section 73-11-49, Mississippi Code of 1972, is  
861 amended as follows:

862       73-11-49. (1) The board is authorized to select from its  
863 own membership a chairman, vice chairman and secretary-treasurer.  
864 Election of officers shall be held at the first regularly  
865 scheduled meeting of the fiscal year.

866       (2) All members of the board shall be reimbursed for their  
867 necessary traveling expenses and mileage incident to their  
868 attendance upon the business of the board, as provided in Section  
869 25-3-41, and shall receive a per diem as provided in Section  
870 25-3-69 for every day actually spent upon the business of the  
871 board, not to exceed twenty (20) days per year unless authorized  
872 by a majority vote of the board.

873       (3) All monies received by the board shall be paid into a  
874 special fund in the State Treasury to the credit of the board and  
875 shall be used by the board for paying the traveling and necessary  
876 expenses and per diem of the members of the board while on board  
877 business, and for paying other expenses necessary for the  
878 operation of the board in carrying out and involving the  
879 provisions of this chapter.

880       (4) The board shall employ an administrator of the board,  
881 who shall have complete supervision and be held responsible for  
882 the direction of the office of the board, shall have supervision  
883 over field inspections and enforcement of the provisions of this  
884 chapter, shall have such other duties as may be assigned by the  
885 board, shall be responsible and answerable to the board. The  
886 board may employ such other clerical assistants and employees as  
887 may be necessary to carry out the provisions of this chapter, and



888 the terms and conditions of such employment shall be determined by  
889 the board in accordance with applicable state law and rules and  
890 regulations of the State Personnel Board.

891 (5) Except as otherwise authorized in Section 1 of this act,  
892 the board, when it shall deem necessary, shall be represented by  
893 an assistant attorney general duly appointed by the Attorney  
894 General of this state, and may also request and receive the  
895 assistance of other state agencies and county and district  
896 attorneys, all of whom are authorized to provide the assistance  
897 requested.

898 (6) The board shall have subpoena power in enforcing the  
899 provisions of this chapter.

900 (7) The board shall adopt and promulgate rules and  
901 regulations for the transaction of its business in accordance with  
902 the provisions of the Mississippi Administrative Procedures Law  
903 (Section 25-43-1 et seq.). No rule or regulation promulgated by  
904 the board affecting any person or agency outside the board shall  
905 be adopted, amended or repealed without a public hearing on the  
906 proposed action. The board shall give written notice at least  
907 thirty (30) days in advance of any meeting with respect to any  
908 proposed adoption, amendment or repeal of a rule or regulation of  
909 the board, in accordance with the Administrative Procedures Act,  
910 as well as notifying the duly elected presidents and secretaries  
911 of the Mississippi Funeral Directors Association and the  
912 Mississippi Funeral Directors and Morticians Association, or their  
913 successors.

914 (8) The board may designate the administrator to perform  
915 inspections under this chapter, may employ an individual to  
916 perform such inspections or may contract with any other individual  
917 or entity to perform such inspections. Any individual or entity  
918 that performs such inspections shall have the right of entry into  
919 any place in which the business or practice of funeral service  
920 and/or funeral directing is carried on or advertised as being



921 carried on, for the purpose of inspection, for the investigation  
922 of complaints coming before the board and for such other matters  
923 as the board may direct.

924 (9) The board shall not adopt any rule or regulation  
925 pertaining to the transportation of dead bodies, and shall not  
926 adopt any rule or regulation requiring dead bodies to be embalmed  
927 except as required by the State Department of Health's Rule 43 or  
928 any subsequent rule adopted by the department.

929 **SECTION 35.** Section 73-13-39, Mississippi Code of 1972, is  
930 amended as follows:

931 73-13-39. Any person or firm who shall practice, or offer to  
932 practice, engineering in this state without being licensed in  
933 accordance with the provisions of Sections 73-13-1 through  
934 73-13-45, or any person presenting or attempting to use as his own  
935 the certificate of licensure or seal of another, or any person who  
936 shall give any false or forged evidence of any kind to the board  
937 or to any member thereof in obtaining a certificate of licensure,  
938 or any person who shall falsely impersonate any other licensee of  
939 like or different name, or any person or firm who shall attempt to  
940 use an expired or revoked certificate of licensure, or any person  
941 or firm who shall violate any of the provisions of Sections  
942 73-13-1 through 73-13-45, shall be guilty of a misdemeanor, and  
943 shall, upon conviction, be sentenced to pay a fine of not less  
944 than One Hundred Dollars (\$100.00), nor more than Five Thousand  
945 Dollars (\$5,000.00) in addition to reimbursement of investigative  
946 expenses and court costs, or suffer imprisonment for a period not  
947 exceeding three (3) months, or both. The criminal penalties  
948 provided for in this section may be assessed in addition to those  
949 civil penalties provided for in Section 73-13-37.

950 Unless licensed in accordance with the provisions of Sections  
951 73-13-1 through 73-13-45, no person shall:

952 (a) Directly or indirectly employ, use, cause to be  
953 used or make use of any of the following terms or any



954 combinations, variations or abbreviations thereof as a  
955 professional, business or commercial identification, title, name,  
956 representation, claim, asset or means of advantage or benefit:  
957 "engineer," "professional engineer," "licensed engineer,"  
958 "registered engineer," "registered professional engineer,"  
959 "licensed professional engineer," "engineered," "engineering"; or  
960 (b) Directly or indirectly employ, use, cause to be  
961 used or make use of any letter, abbreviation, word, symbol,  
962 slogan, sign or any combinations or variations thereof which in  
963 any manner whatsoever tends or is likely to create any impression  
964 with the public or any member thereof that any person is qualified  
965 or authorized to practice engineering; or  
966 (c) Receive any fee or compensation or the promise of  
967 any fee or compensation for performing, offering or attempting to  
968 perform any service, work, act or thing which is any part of the  
969 practice of engineering.

970 Any person, firm, partnership, association or corporation  
971 which shall do, offer or attempt to do any one or more of the acts  
972 or things set forth in items (a) through (c) of the preceding  
973 paragraph shall be conclusively presumed and regarded as engaged  
974 in the practice of engineering.

975 It shall be the duty of all duly constituted officers of the  
976 law of this state, or any political subdivision thereof, to  
977 enforce the provisions of Sections 73-13-1 through 73-13-45 and to  
978 prosecute any persons violating same. Except as otherwise  
979 authorized in Section 1 of this act, the Attorney General of the  
980 state or his assistant shall act as legal advisor of the board in  
981 carrying out the provisions of Sections 73-13-1 through 73-13-45.

982 **SECTION 36.** Section 73-13-95, Mississippi Code of 1972, is  
983 amended as follows:

984 73-13-95. Any person who shall practice, or offer to  
985 practice, surveying in this state without being licensed in  
986 accordance with the provisions of Sections 73-13-71 through



987 73-13-105, or any person presenting or attempting to use as his  
988 own the certificate of licensure or the seal of another, or any  
989 person who shall give any false or forged evidence of any kind to  
990 the board or to any member thereof in obtaining a certificate of  
991 licensure, or any person who shall falsely impersonate any other  
992 licensee of like or different name, or any person who shall  
993 knowingly attempt to use a license which has been expired for more  
994 than twelve (12) consecutive months or revoked certificate of  
995 licensure, or any person who shall violate any of the provisions  
996 of Sections 73-13-71 through 73-13-105, shall be guilty of a  
997 misdemeanor, and shall, upon conviction of a first offense of  
998 violating this section, be sentenced to pay a fine of not less  
999 than One Hundred Dollars (\$100.00), nor more than Five Thousand  
1000 Dollars (\$5,000.00), and in addition thereto shall make  
1001 restitution to the board for investigative expenses and court  
1002 costs, or suffer imprisonment for a period of not exceeding three  
1003 (3) months, or both. Upon any second and subsequent conviction of  
1004 violating this section, such person shall be sentenced to pay a  
1005 fine of not less than Five Thousand Dollars (\$5,000.00), nor more  
1006 than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the  
1007 county jail for not more than one (1) year, or both. The criminal  
1008 penalties provided for in this section may be assessed in addition  
1009 to those civil penalties provided for in Section 73-13-37.

1010        Unless licensed in accordance with the provisions of Sections  
1011 73-13-71 through 73-13-105, no person shall:

1012            (a) Directly or indirectly employ, use, cause to be  
1013 used or make use of any of the following terms or any combination,  
1014 variations or abbreviations thereof as a professional, business or  
1015 commercial identification, title, name, representation, claim,  
1016 asset or means of advantage or benefit: "surveyor," "professional  
1017 surveyor," "licensed surveyor," "registered surveyor," "registered  
1018 professional surveyor," "licensed professional surveyor,"



1019 "surveyed," "surveying," "professional land surveyor," or  
1020 "licensed professional land surveyor";  
1021 (b) Directly or indirectly employ, use, cause to be  
1022 used or make use of any letter, abbreviation, word, symbol,  
1023 slogan, sign or any combinations or variations thereof, which in  
1024 any manner whatsoever tends or is likely to create any impression  
1025 with the public or any member thereof that any person is qualified  
1026 or authorized to practice surveying; or  
1027 (c) Receive any fee or compensation or the promise of  
1028 any fee or compensation for performing, offering or attempting to  
1029 perform any service, work, act or thing which is any part of the  
1030 practice of surveying.

1031 Any person, firm, partnership, association or corporation  
1032 which shall do, offer or attempt to do any one or more of the acts  
1033 or things set forth in items (a) through (c) of the preceding  
1034 paragraph shall be conclusively presumed and regarded as engaged  
1035 in the practice of surveying.

1036 It shall be the duty of all duly constituted officers of the  
1037 law of this state, or any political subdivision thereof, to  
1038 enforce the provisions of Sections 73-13-71 through 73-13-105 and  
1039 to prosecute any persons violating same. Except as otherwise  
1040 authorized in Section 1 of this act, the Attorney General of the  
1041 state or his assistant shall act as legal adviser of the board and  
1042 render such legal assistance as may be necessary in carrying out  
1043 the provisions of Sections 73-13-71 through 73-13-105.

1044           **SECTION 37.** Section 73-15-33, Mississippi Code of 1972, is  
1045   amended as follows:

1046 73-15-33. It is unlawful for any person, including a  
1047 corporation or association, to:

1048 (a) Sell, fraudulently obtain or furnish any nursing  
1049 diploma, license, renewal of license, or record, or to aid or abet  
1050 therein;

1051 (b) Practice nursing as defined by this article under  
1052 cover of any diploma, license, renewal of license, or record  
1053 illegally or fraudulently obtained or signed or issued unlawfully  
1054 or under fraudulent representation;

1055 (c) Practice or offer to practice nursing as defined by  
1056 this article unless duly licensed or privileged to practice under  
1057 the provisions of this article;

1058 (d) Use any title, designation or abbreviation by which  
1059 a person presents to the public that he or she is a registered  
1060 nurse, a licensed practical nurse or any other type of nurse,  
1061 unless the person is duly licensed or privileged to practice under  
1062 the provisions of this article; however, this paragraph does not  
1063 prohibit a certified nurse assistant or certified nursing  
1064 assistant from using the word "nurse" or "nursing" as part of his  
1065 or her job title:

1066 (e) Practice as a registered nurse or a licensed  
1067 practical nurse during the time his or her license or privilege to  
1068 practice issued under the provisions of this article is under  
1069 suspension or revocation;

1070 (f) Conduct a nursing education program for the  
1071 preparation of registered nurses, unless the program has been  
1072 accredited by the Board of Trustees of State Institutions of  
1073 Higher Learning, or conduct a nursing education program for the  
1074 preparation of licensed practical nurses unless the program has  
1075 been accredited by the Department of Education through the  
1076 Division of Vocational Education;

1077 (g) Willfully employ unlicensed persons or persons not  
1078 holding the privilege to practice, to practice as registered  
1079 nurses or licensed practical nurses; or

1080 (h) Willfully aid or abet any person who violates any  
1081 provisions of this article.

1082 Any person, firm or corporation who violates any provisions  
1083 of this article shall be guilty of a misdemeanor and, upon

1084 conviction thereof, shall be punished by a fine not less than One  
1085 Hundred Dollars (\$100.00) nor more than One Thousand Dollars  
1086 (\$1,000.00) or by imprisonment in the county jail for not less  
1087 than twelve (12) months, or by both such fine and imprisonment.  
1088 It shall be necessary to prove, in any prosecution under this  
1089 article, only a single act prohibited by law, or a single holding  
1090 out or an attempt without proving a general course of conduct in  
1091 order to constitute a violation. Each violation may constitute a  
1092 separate offense. Except as otherwise authorized in Section 1 of  
1093 this act, it shall be the duty of the Attorney General to advise  
1094 with the board in preparing charges, to assist in conducting board  
1095 disciplinary hearings, to provide assistance with appropriate  
1096 affidavits and other charges for filing in the appropriate court,  
1097 and to assist the county or district attorney in prosecution, if  
1098 any.

1099       **SECTION 38.** Section 73-29-39, Mississippi Code of 1972, is  
1100 amended as follows:

1101       73-29-39. Any person dissatisfied with the action of the  
1102 board in refusing his application or suspending or revoking his  
1103 license, or any other action of the board, may appeal the action  
1104 of the board by filing a petition within thirty (30) days  
1105 thereafter in the circuit court in the county where the person  
1106 resides or in the Circuit Court of Hinds County, Mississippi, and  
1107 the court is vested with jurisdiction and it shall be the duty of  
1108 the court to set the matter for hearing upon ten (10) days'  
1109 written notice to the board and the attorney representing the  
1110 board. The court in which the petition of appeal is filed shall  
1111 determine whether or not a cancellation or suspension of a license  
1112 shall be abated until the hearing shall have been consummated with  
1113 final judgment thereon or whether any other action of the board  
1114 should be suspended pending hearing, and enter its order  
1115 accordingly, which shall be operative when served upon the board,  
1116 and the court shall provide the attorney representing the board



1117 with a copy of the petition and order. Except as otherwise  
1118 authorized in Section 1 of this act, the board shall be  
1119 represented in such appeals by the district or county attorney of  
1120 the county or the Attorney General, or any of their assistants.  
1121 The board shall initially determine all facts, but the court upon  
1122 appeal shall set aside the determination of the board if the  
1123 board's determination (1) is not based upon substantial evidence  
1124 upon the entire record; (2) is arbitrary or capricious; (3) is in  
1125 violation of statutory requirements; or (4) was made without  
1126 affording to licensee or applicant due process of law.

1127 Actions taken by the board in suspending a license when  
1128 required by Section 93-11-157 or 93-11-163 are not actions from  
1129 which an appeal may be taken under this section. Any appeal of a  
1130 license suspension that is required by Section 93-11-157 or  
1131 93-11-163 shall be taken in accordance with the appeal procedure  
1132 specified in Section 93-11-157 or 93-11-163, as the case may be,  
1133 rather than the procedure specified in this section.

1134 **SECTION 39.** Section 73-29-43, Mississippi Code of 1972, is  
1135 amended as follows:

1136 73-29-43. If any person violates any provisions of this  
1137 chapter, the secretary shall, upon direction of a majority of the  
1138 board, in the name of the State of Mississippi, through the  
1139 Attorney General of the State of Mississippi, except as otherwise  
1140 authorized in Section 1 of this act, apply in any chancery court  
1141 of competent jurisdiction, for an order enjoining such violation  
1142 or for an order enforcing compliance with this chapter. Upon the  
1143 filing of a verified petition in the court, the court, or any  
1144 judge thereof, if satisfied by affidavit or otherwise that the  
1145 person has violated this chapter, may issue a temporary  
1146 injunction, without notice or bond, enjoining such continued  
1147 violation and if it is established that the person has violated or  
1148 is violating this chapter, the court, or any judge thereof, may  
1149 enter a decree perpetually enjoining the violation or enforcing



1150 compliance with this chapter. In case of violation of any order  
1151 or decree issued under the provisions of this section, the court,  
1152 or any judge thereof, may try and punish the offender for contempt  
1153 of court. Proceedings under this section shall be in addition to,  
1154 and not in lieu of, all other remedies and penalties provided by  
1155 this chapter.

1156 **SECTION 40.** Section 73-31-25, Mississippi Code of 1972, is  
1157 amended as follows:

1158 73-31-25. The board may, in the name of the people of the  
1159 State of Mississippi, through the Attorney General, except as  
1160 otherwise authorized in Section 1 of this act, apply for an  
1161 injunction in any court of competent jurisdiction to enjoin any  
1162 person from committing any act declared to be a misdemeanor by  
1163 this chapter.

1164 If it is established that the defendant has been or is  
1165 committing an act declared to be a misdemeanor by this chapter,  
1166 the court, or any judge thereof, shall enter a decree perpetually  
1167 enjoining the defendant from further committing that act. In case  
1168 of violation of any injunction issued under the provisions of this  
1169 section, the court, or any judge thereof, may summarily try and  
1170 punish the offender for contempt of court. Those injunctive  
1171 proceedings shall be in addition to, and not in lieu of, all  
1172 penalties and other remedies provided for in this chapter.

1173 **SECTION 41.** Section 73-36-35, Mississippi Code of 1972, is  
1174 amended as follows:

1175 73-36-35. Any person who practices or offers to practice the  
1176 profession of forestry in this state without being registered in  
1177 accordance with this chapter, or any person who uses in connection  
1178 with his name, or otherwise assumes, uses or advertises any title  
1179 or description tending to convey the impression that he is a  
1180 registered forester without being registered in accordance with  
1181 this chapter, or any person who presents or attempts to use as his  
1182 own the license of another, or any person who gives any false or



1183 forged evidence of any kind to the board or any member in  
1184 obtaining a license, or any person who attempts to use an expired  
1185 or revoked license, or any person, firm, partnership or  
1186 corporation who violates any of the provisions of this chapter and  
1187 has not been issued an administrative fine by the board for the  
1188 violation is guilty of a misdemeanor and, upon conviction, shall  
1189 be fined not more than Five Thousand Dollars (\$5,000.00) for each  
1190 violation. The board, or any person or persons as may be  
1191 designated by the board to act in its stead, is empowered to  
1192 prefer charges for any violations of this chapter in any court of  
1193 competent jurisdiction. It shall be the duty of all duly  
1194 constituted officers of the law of this state to enforce the  
1195 provisions of this chapter and to prosecute any persons, firms,  
1196 partnerships or corporations violating same. Except as otherwise  
1197 authorized in Section 1 of this act, the Attorney General of the  
1198 state or his designated assistant shall act as legal advisor of  
1199 the board and render such assistance as may be necessary in  
1200 carrying out the provisions of this chapter.

1201       **SECTION 42.** Section 73-63-25, Mississippi Code of 1972, is  
1202 amended as follows:

1203       73-63-25. Except as otherwise authorized in Section 1 of  
1204 this act, the Attorney General shall be counsel and attorney for  
1205 the board and shall provide any legal services as may be requested  
1206 by the board from time to time. The board \* \* \* may retain  
1207 outside counsel and investigators to provide any legal and  
1208 investigative assistance as may be necessary in enforcing this  
1209 chapter as authorized in Section 1 of this act.

1210       **SECTION 43.** Section 75-76-25, Mississippi Code of 1972, is  
1211 amended as follows:

1212       75-76-25. Except as otherwise authorized in Section 1 of  
1213 this act, the Attorney General and his assistants shall represent  
1214 the commission and the executive director in any proceeding to  
1215 which the commission or the executive director is a party under



1216 this chapter. Except as otherwise authorized in Section 1 of this  
1217 act, the Attorney General shall also advise the commission and the  
1218 executive director in all other matters, including representing  
1219 the commission when the commission sits in a quasi-judicial  
1220 capacity.

1221 **SECTION 44.** Section 83-1-5, Mississippi Code of 1972, is  
1222 amended as follows:

1223 83-1-5. The commissioner shall receive a compensation to be  
1224 fixed by law. He is hereby authorized to employ a clerk and  
1225 stenographer and an actuary at a salary to be fixed by law; and in  
1226 addition shall be allowed a sufficient sum for traveling expenses  
1227 and for extra clerical help.

1228 Further, the commissioner may appoint or employ special  
1229 counsel pursuant to the provisions of Section 1 of this act.

1230 **SECTION 45.** Section 97-33-109, Mississippi Code of 1972, is  
1231 amended as follows:

1232 97-33-109. (1) The commission shall monitor the conduct or  
1233 business of licensees, both on a routine scheduled and an  
1234 unscheduled basis, to the extent necessary to ensure compliance  
1235 with the provisions of charitable bingo game laws and regulations  
1236 of the state.

1237 (2) In carrying out its enforcement responsibilities, the  
1238 commission may:

1239 (a) Inspect and examine all premises in which  
1240 charitable bingo games are conducted or supplies or equipment for  
1241 such games are manufactured and distributed;

1242 (b) Inspect all such supplies and equipment in, upon or  
1243 about such premises;

1244 (c) Seize and remove from such premises and impound  
1245 such supplies and equipment for the purpose of examination and  
1246 inspection pursuant to an appropriate court order;



1247 (d) Demand access to and audit and inspect books and  
1248 records of licensees for the purpose of determining compliance  
1249 with laws and regulations relative to charitable bingo games;  
1250 (e) Conduct in-depth audits and investigations; and  
1251 (f) Mandate that internal controls be executed in  
1252 accordance with the provisions of the Charitable Bingo Law and  
1253 other applicable laws and regulations.

1254 (3) The commission shall require licensees to maintain  
1255 records and submit reports.

1256 (4) In addition to license revocation or suspension or any  
1257 criminal penalty imposed, the commission may assess a fine against  
1258 any person who violates any law or regulation relative to  
1259 charitable bingo games. Such a fine shall only be assessed after  
1260 notice and an opportunity for a hearing to be held.

1261 (5) All departments, commissions, boards, agencies, officers  
1262 and institutions of the state, and all subdivisions thereof, shall  
1263 cooperate with the commission in carrying out its enforcement  
1264 responsibilities.

1265 (6) Except as otherwise authorized in Section 1 of this act,  
1266 the Attorney General shall be the attorney for the commission in  
1267 regard to its duties to regulate the Charitable Bingo Law and he  
1268 shall represent it in all legal proceedings and shall prosecute  
1269 any civil action for a violation of the provisions of Sections  
1270 97-33-51 through 97-33-203 or the rules and regulations of the  
1271 commission.

1272 (7) It is the duty of the sheriffs, deputy sheriffs and  
1273 police officers of this state to assist the commission in the  
1274 enforcement of the provisions of Sections 97-33-51 through  
1275 97-33-203 and to arrest and complain against any person violating  
1276 the provisions of Sections 97-33-51 through 97-33-203. It is the  
1277 duty of the district attorneys of this state to prosecute all  
1278 violations of the provisions of Sections 97-33-51 through  
1279 97-33-203 if requested to do so by the commission.

1280 (8) (a) Whenever any person who is a resident of the State  
1281 of Mississippi has reason to believe that a person or organization  
1282 is or has violated the provisions of Sections 97-33-51 through  
1283 97-33-203 and that proceedings would be in the public interest, he  
1284 may bring an action in the name of the state against such person  
1285 to restrain by temporary or permanent injunction such violation,  
1286 upon at least five (5) days' summons before the hearing of the  
1287 action. The action shall be brought in the chancery or county  
1288 court of the county in which such violation has occurred or, with  
1289 consent of the parties, may be brought in the chancery or county  
1290 court of the county in which the State Capitol is located. The  
1291 said courts are authorized to issue temporary or permanent  
1292 injunctions to restrain and prevent violations of Sections  
1293 97-33-51 through 97-33-203, and such injunctions shall be issued  
1294 without bond.

1295 (b) Any person who violates the terms of an injunction  
1296 issued under this subsection shall forfeit and pay to the state a  
1297 civil penalty of not more than Five Thousand Dollars (\$5,000.00)  
1298 per violation which shall be payable to the General Fund of the  
1299 State of Mississippi. For the purposes of this subsection, the  
1300 chancery or county court issuing an injunction shall retain  
1301 jurisdiction, and the cause shall be continued, and in such cases  
1302 the person bringing the action may petition for recovery of civil  
1303 penalties.

1304 (c) In any action brought under this subsection, if the  
1305 court finds that a person is willfully violating the provisions of  
1306 Sections 97-33-51 through 97-33-203, the person bringing the  
1307 action, upon petition to the court, may recover on behalf of the  
1308 state a civil penalty of not exceeding Five Hundred Dollars  
1309 (\$500.00) per violation which shall be payable to the General Fund  
1310 of the State of Mississippi.

1311 (d) No penalty authorized by this subsection shall be  
1312 deemed to limit the court's powers to insure compliance with its

1313 orders, decrees and judgments, or punish for the violations  
1314 thereof.

1315 (e) For purposes of this subsection, a willful  
1316 violation occurs when the party committing the violation knew or  
1317 should have known that his conduct was a violation of the  
1318 provisions of Sections 97-33-51 through 97-33-203.

1319 **SECTION 46.** This act shall take effect and be in force from  
1320 and after July 1, 2012.

