

By: Senator(s) Michel, Polk, Butler (36th),  
Frazier, Parks, Williams, McLendon, Branning,  
Boyd, McMahan, Parker, Seymour, Sparks, Hill,  
England, Barrett, Moran, Caughman

To: Appropriations

SENATE BILL NO. 2822  
(As Sent to Governor)

1 AN ACT TO ESTABLISH THE "MISSISSIPPI MUNICIPALITY AND COUNTY  
2 WATER INFRASTRUCTURE GRANT PROGRAM ACT OF 2022" ADMINISTERED BY  
3 THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY UTILIZING  
4 CORONAVIRUS STATE FISCAL RECOVERY FUNDS MADE AVAILABLE UNDER THE  
5 FEDERAL AMERICAN RESCUE PLAN ACT (ARPA); TO PROVIDE THAT SUCH  
6 GRANTS SHALL BE MADE AVAILABLE TO MUNICIPALITIES, COUNTIES AND  
7 CERTAIN UTILITIES ON A ONE-TO-ONE MATCHING BASIS AND TO PROVIDE AN  
8 ADDITIONAL GRANT TO SMALLER MUNICIPALITIES BASED ON CORONAVIRUS  
9 LOCAL FISCAL RECOVERY FUNDS; TO PRESCRIBE ELIGIBLE PROJECTS UNDER  
10 THE GRANT PROGRAM; TO AUTHORIZE MULTIPLE ROUNDS OF WATER,  
11 WASTEWATER, AND STORMWATER INFRASTRUCTURE GRANT PROJECTS; TO  
12 AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO PROMULGATE  
13 GRANT APPLICATION REGULATIONS AND ENGINEERING ASSISTANCE; TO  
14 AUTHORIZE THE DEPARTMENT OF ENVIRONMENTAL QUALITY TO ADMINISTER  
15 THE MCWI GRANT PROGRAM AND RETAIN ADMINISTRATIVE COSTS; TO EXEMPT  
16 DEQ FROM THE ADMINISTRATIVE PROCEDURES LAW IN PROMULGATING  
17 REQUIREMENTS FOR GRANT APPLICATIONS AND FROM OVERSIGHT BY THE  
18 PUBLIC PROCUREMENT REVIEW BOARD WHEN ENTERING INTO NECESSARY  
19 CONTRACTS FOR PROFESSIONAL SERVICES; TO PROVIDE THAT A UTILITY MAY  
20 NOT DENY WATER SERVICE SOLELY ON THE BASIS THAT THE CUSTOMER IS A  
21 MEDICAL MARIJUANA LICENSEE; TO AMEND SECTION 27-104-7, MISSISSIPPI  
22 CODE OF 1972, IN CONFORMITY; AND FOR RELATED PURPOSES.

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

24 **SECTION 1.** (1) This act shall be known and may be cited as  
25 the "Mississippi Municipality and County Water Infrastructure  
26 Grant Program Act of 2022."

27 (2) There is hereby established within the Mississippi  
28 Department of Environmental Quality the Mississippi Municipality



29 and County Water Infrastructure (MCWI) Grant Program under which  
30 municipalities, counties and certain public utilities not  
31 regulated by the Public Service Commission may apply for  
32 reimbursable grants to make necessary investments in water,  
33 wastewater, and stormwater infrastructure to be funded by the  
34 Legislature utilizing Coronavirus State Fiscal Recovery Funds made  
35 available under the federal American Rescue Plan Act of 2021  
36 (ARPA). Such grants shall be made available to municipalities and  
37 counties to be matched with the Coronavirus Local Fiscal Recovery  
38 Funds awarded or to be awarded to them under ARPA on a one-to-one  
39 matching basis. Coronavirus Local Fiscal Recovery Funds that a  
40 county transfers to a municipality or that a county or  
41 municipality transfers to a public utility not regulated by the  
42 Public Service Commission are eligible on a one-to-one matching  
43 basis. Municipalities that received less than One Million Dollars  
44 (\$1,000,000.00) in the total allocation of Coronavirus Local  
45 Fiscal Recovery Funds are eligible for a two-to-one match only on  
46 the Coronavirus Local Fiscal Recovery Funds awarded or to be  
47 awarded to them under ARPA. The total funds provided for all  
48 two-to-one matches shall not exceed Fifty Million Dollars  
49 (\$50,000,000.00). The dollar amount for professional fees that  
50 can be allocated as a part of a county's, municipality's or public  
51 utility's matching share is not to exceed four percent (4%) of the  
52 total project cost.



53 (3) For purposes of this act, unless the context requires  
54 otherwise, the following terms shall have the meanings ascribed  
55 herein:

56 (a) "MCWI Grant Program" means the Mississippi  
57 Municipality and County Water Infrastructure Grant Program.

58 (b) "ARPA" means the federal American Rescue Plan Act  
59 of 2021, Public Law 117-2, which amends Title VI of the Social  
60 Security Act.

61 (c) "State Recovery Funds" means Coronavirus State  
62 Fiscal Recovery Funds awarded through Section 602 of Title VI of  
63 the Social Security Act amended by Section 9901 of the federal  
64 American Rescue Plan Act of 2021, Public Law 117-2.

65 (d) "Local Recovery Funds" means Coronavirus Local  
66 Fiscal Recovery Funds awarded through Section 603 of Title VI of  
67 the Social Security Act amended by Section 9901 of the federal  
68 American Rescue Plan Act of 2021, Public Law 117-2.

69 (e) "Department" means the Department of Environmental  
70 Quality.

71 (f) "Professional fees" means fees for the services of  
72 attorneys and engineering, surveying, and environmental studies.

73 (g) "Project" means the infrastructure improvements  
74 defined in an application that (i) complies with all requirements  
75 of ARPA, and (ii) is eligible for a grant award under this  
76 section.



77           (4)   (a)   On or before July 1, 2022, the Department of  
78 Environmental Quality shall promulgate rules and regulations  
79 necessary to administer the MCWI Grant Program prescribed under  
80 this act, including application procedures and deadlines. The  
81 department is exempt from compliance with the Mississippi  
82 Administrative Procedures Law in fulfilling the requirements of  
83 this section.

84           (b)   The Department of Health shall advise the  
85 Mississippi Department of Environmental Quality regarding all such  
86 rules and regulations as related to the federal Safe Drinking  
87 Water Act.

88           (5)   Funding under the MCWI Grant Program shall be allocated  
89 to projects certified by the Mississippi Department of  
90 Environmental Quality as eligible for federal funding, including,  
91 but not be limited to, the following:

92           (a)   Construction of publicly owned treatment works;

93           (b)   Projects pursuant to the implementation of a  
94 nonpoint source pollution management program established under the  
95 Clean Water Act (CWA);

96           (c)   Decentralized wastewater treatment systems that  
97 treat municipal wastewater or domestic sewage;

98           (d)   Management and treatment of stormwater or  
99 subsurface drainage water;

100           (e)   Water conservation, efficiency, or reuse measures;



- 101                   (f) Development and implementation of a conservation  
102 and management plan under the CWA;
- 103                   (g) Watershed projects meeting the criteria set forth  
104 in the CWA;
- 105                   (h) Energy consumption reduction for publicly owned  
106 treatment works;
- 107                   (i) Reuse or recycling of wastewater, stormwater, or  
108 subsurface drainage water;
- 109                   (j) Facilities to improve drinking water quality;
- 110                   (k) Transmission and distribution, including  
111 improvements of water pressure or prevention of contamination in  
112 infrastructure and lead service line replacements;
- 113                   (l) New sources to replace contaminated drinking water  
114 or increase drought resilience, including aquifer storage and  
115 recovery system for water storage;
- 116                   (m) Storage of drinking water, such as to prevent  
117 contaminants or equalize water demands;
- 118                   (n) Purchase of water systems and interconnection of  
119 systems;
- 120                   (o) New community water systems;
- 121                   (p) Culvert repair, resizing, and removal, replacement  
122 of storm sewers, and additional types of stormwater  
123 infrastructure;



124 (q) Dam and reservoir rehabilitation, if the primary  
125 purpose of dam or reservoir is for drinking water supply and  
126 project is necessary for the provision of drinking water;

127 (r) Broad set of lead remediation projects eligible  
128 under EPA grant programs authorized by the Water Infrastructure  
129 Improvements for the Nation (WIIN) Act; and

130 (s) Any eligible drinking water, wastewater or  
131 stormwater project through ARPA guidelines, guidance, rules,  
132 regulations and other criteria, as may be amended from time to  
133 time, by the United States Department of the Treasury.

134 (6) The governing authority of a municipality, county or  
135 public utility that is not regulated by the Public Service  
136 Commission may submit an application for grant funds under this  
137 act if the applicant is an operator-member of Mississippi 811,  
138 Inc., as defined in Section 77-13-3. Applicants shall certify to  
139 the department that each expenditure of the funds awarded to them  
140 under this act is in compliance with ARPA guidelines, guidance,  
141 rules, regulations and other criteria, as may be amended from time  
142 to time, by the United States Department of the Treasury regarding  
143 the use of monies from the State Coronavirus State Fiscal Recovery  
144 Funds. Subsequent submissions will be due by the dates  
145 established by the department.

146 (7) An application for a grant under this act shall be  
147 submitted at such time, be in such form, and contain such  
148 information as the department prescribes. Each application for



149 grant funds shall include the following at a minimum: (a)  
150 applicant contact information; (b) project description and type of  
151 project; (c) project map; (d) estimate of population affected by  
152 the project; (e) disadvantaged community criteria (population,  
153 median household income, unemployment, current water/sewer rates);  
154 (f) estimated project cost; (g) list of match funds of direct  
155 Coronavirus Local Fiscal Recovery Funds received and to be  
156 received from the federal government, a certification that such  
157 funds have been or will be used for the project detailed in the  
158 application, and documentation of commitment; (h) estimated  
159 project schedule and readiness to proceed; (i) engineering  
160 services agreement; (j) engineering reports; and (k) information  
161 about status of obtaining any required permits.

162 (8) The department must apply a system for use in ranking  
163 the grant applications received. When applying the ranking  
164 system, the department shall apply a greater weight to projects  
165 that have approved engineering/design, plans and permits if the  
166 department has deemed the project is ready to begin construction  
167 within six (6) months. Projects that are included on the  
168 municipal or county engineer's approved list and provide  
169 applicable supporting documentation shall receive additional  
170 consideration awarded to the application. The ranking system  
171 shall include the following factors, at a minimum: (a) the  
172 environmental impact of the proposed project; (b) the proposed  
173 project's ability to address noncompliance with state/federal



174 requirements; (c) the extent to which the project promotes  
175 economic development; (d) the number of people served by the  
176 project and the number of communities the project serves; (e)  
177 impacts of the proposed project on disadvantaged/overburdened  
178 communities; (f) the grant applicant's prior efforts to secure  
179 funding to address the proposed project's objectives; (g) the  
180 grant applicant's proposed contribution of other funds or in-kind  
181 cost-sharing to the proposed project; (h) the grant applicant's  
182 long-term plans for the financial and physical operation and  
183 maintenance of the project; (i) the grant applicant's capacity to  
184 initiate construction in a timely manner and complete the proposed  
185 project by the deadline specified by the United States Department  
186 of Treasury rules for ARPA funds; (j) the extent to which the  
187 project benefits multiple political subdivisions in a regional  
188 manner; (k) the project's ability to enhance public service  
189 infrastructure, including transportation and emergency access; and  
190 (l) any other factors as determined by the department.

191 (9) The grant program shall include a specific emphasis on  
192 addressing the needs of an economically disadvantaged community,  
193 including providing safe, reliable drinking water in areas that  
194 lack infrastructure, providing sewage treatment capacity in  
195 unsewered areas and providing regional development of  
196 infrastructure to serve multiple communities.

197 (10) Applications shall be reviewed and scored as they are  
198 received. The Mississippi Department of Environmental Quality



199 shall certify whether each project submitted is a "necessary  
200 investment" in water, wastewater, or stormwater infrastructure as  
201 defined in the American Rescue Plan Act and all applicable  
202 guidance issued by the United States Department of the Treasury.  
203 The Department of Environmental Quality shall review the lists of  
204 recommended water infrastructure projects and issue its list of  
205 recommended projects to the Mississippi Department of Health for  
206 its advice. Grant agreements shall be executed between the  
207 recipient and the Mississippi Department of Environmental Quality.  
208 All final awards shall be determined at the discretion of the  
209 executive director of the department. Any funds awarded to the  
210 City of Jackson under this section shall be deposited in the  
211 Capital City Water/Sewer Projects Fund of the State Treasury.  
212 Funds shall be obligated to a grantee upon the execution of a  
213 grant agreement between the department and the approved applicant.  
214 Funds shall be made available to a grantee when the department  
215 obtains the necessary support for reimbursement. The department  
216 is authorized to conduct additional rounds of grants as needed;  
217 however, in the first round no more than forty percent (40%) of  
218 the total funds appropriated for each grant program may be awarded  
219 by the department, and the remaining funds may be awarded in the  
220 second or subsequent rounds which shall occur no later than six  
221 (6) months from the previous round. To ensure equitable treatment  
222 between the categories of projects, no less than twenty percent  
223 (20%) awarded under this section shall be allocated to each of the



224 three (3) categories of drinking water projects, wastewater  
225 projects and stormwater projects. In second or subsequent rounds,  
226 any funds not requested may be allocated to any category.

227 (11) Grant funds shall be used prospectively; however, grant  
228 funds may be used to reimburse expenses incurred before the  
229 enactment of this program if the costs are adequately documented  
230 and comply with applicable ARPA guidelines. An applicant must  
231 agree to obtain all necessary state and federal permits and follow  
232 all state bidding and contracting laws and fiscally sound practices  
233 in the administration of the funds.

234 (12) (a) Monies must be disbursed under this section in  
235 compliance with the guidelines, guidance, rules, regulations or  
236 other criteria, as may be amended from time to time, of the United  
237 States Department of the Treasury regarding the use of monies from  
238 the Coronavirus State Fiscal Recovery Fund, established by the  
239 American Rescue Plan of 2021.

240 (b) The use of funds allocated under this program shall  
241 be subject to audit by the United States Department of the  
242 Treasury's Office of Inspector General and the Mississippi Office  
243 of the State Auditor. Each person receiving funds under these  
244 programs found to be fully or partially noncompliant with the  
245 requirements in this act shall return to the state all or a  
246 portion of the funds received.

247 (13) The department shall submit to the Lieutenant Governor,  
248 Speaker of the House, House and Senate Appropriations Chairmen,



249 and the Legislative Budget Office quarterly reports and annual  
250 reports that are due by the dates established in the Compliance  
251 and Reporting Guidance by the United States Department of  
252 Treasury. The reports shall contain the applications received,  
253 the score of the applications, the amount of grant funds awarded  
254 to each applicant, the amount of grant funds expended by each  
255 applicant, and status of each applicant's project.

256 (14) Grant funds shall be available under this act through  
257 December 31, 2026, or on the date of the fund expenditure deadline  
258 provided by the federal government, whichever occurs later. Each  
259 grant recipient shall certify for any project for which a grant is  
260 awarded that if the project is not completed by December 31, 2026,  
261 and the United States Congress does not enact an extension of the  
262 deadline on the availability of ARPA funds, then the grant  
263 recipient will complete the project through other funds.

264 (15) The Mississippi Department of Environmental Quality may  
265 retain an amount not to exceed five percent (5%) of the total  
266 funds allocated to the program to defray administrative costs.

267 (16) The department shall be exempt from provisions of the  
268 Public Procurement Review Board for any requirements of personal  
269 or professional service contracts or the pre-approval of the  
270 solicitation for such contracts used in the execution of its  
271 responsibilities under this act. This subsection shall stand  
272 repealed on January 1, 2026.



273 (17) The provisions of this section shall stand repealed on  
274 January 1, 2027.

275 **SECTION 2.** A public utility as defined in Section  
276 77-3-3(d) (iv) shall not deny or refuse services to any business  
277 entity solely on the basis that the entity is a licensee under the  
278 Mississippi Medical Cannabis Act.

279 **SECTION 3.** Section 27-104-7, Mississippi Code of 1972, as  
280 amended by Senate Bill No. 2818, 2022 Regular Session, and House  
281 Bill No. 1421, 2022 Regular Session, is amended as follows:

282 27-104-7. (1) (a) There is created the Public Procurement  
283 Review Board, which shall be reconstituted on January 1, 2018, and  
284 shall be composed of the following members:

285 (i) Three (3) individuals appointed by the  
286 Governor with the advice and consent of the Senate;

287 (ii) Two (2) individuals appointed by the  
288 Lieutenant Governor with the advice and consent of the Senate; and

289 (iii) The Executive Director of the Department of  
290 Finance and Administration, serving as an ex officio and nonvoting  
291 member.

292 (b) The initial terms of each appointee shall be as  
293 follows:

294 (i) One (1) member appointed by the Governor to  
295 serve for a term ending on June 30, 2019;

296 (ii) One (1) member appointed by the Governor to  
297 serve for a term ending on June 30, 2020;



298 (iii) One (1) member appointed by the Governor to  
299 serve for a term ending on June 30, 2021;

300 (iv) One (1) member appointed by the Lieutenant  
301 Governor to serve for a term ending on June 30, 2019; and

302 (v) One (1) member appointed by the Lieutenant  
303 Governor to serve for a term ending on June 30, 2020.

304 After the expiration of the initial terms, all appointed  
305 members' terms shall be for a period of four (4) years from the  
306 expiration date of the previous term, and until such time as the  
307 member's successor is duly appointed and qualified.

308 (c) When appointing members to the Public Procurement  
309 Review Board, the Governor and Lieutenant Governor shall take into  
310 consideration persons who possess at least five (5) years of  
311 management experience in general business, health care or finance  
312 for an organization, corporation or other public or private  
313 entity. Any person, or any employee or owner of a company, who  
314 receives any grants, procurements or contracts that are subject to  
315 approval under this section shall not be appointed to the Public  
316 Procurement Review Board. Any person, or any employee or owner of  
317 a company, who is a principal of the source providing a personal  
318 or professional service shall not be appointed to the Public  
319 Procurement Review Board if the principal owns or controls a  
320 greater than five percent (5%) interest or has an ownership value  
321 of One Million Dollars (\$1,000,000.00) in the source's business,  
322 whichever is smaller. No member shall be an officer or employee



323 of the State of Mississippi while serving as a voting member on  
324 the Public Procurement Review Board.

325 (d) Members of the Public Procurement Review Board  
326 shall be entitled to per diem as authorized by Section 25-3-69 and  
327 travel reimbursement as authorized by Section 25-3-41.

328 (e) The members of the Public Procurement Review Board  
329 shall elect a chair from among the membership, and he or she shall  
330 preside over the meetings of the board. The board shall annually  
331 elect a vice chair, who shall serve in the absence of the chair.  
332 No business shall be transacted, including adoption of rules of  
333 procedure, without the presence of a quorum of the board. Three  
334 (3) members shall be a quorum. No action shall be valid unless  
335 approved by a majority of the members present and voting, entered  
336 upon the minutes of the board and signed by the chair. Necessary  
337 clerical and administrative support for the board shall be  
338 provided by the Department of Finance and Administration. Minutes  
339 shall be kept of the proceedings of each meeting, copies of which  
340 shall be filed on a monthly basis with the chairs of the  
341 Accountability, Efficiency and Transparency Committees of the  
342 Senate and House of Representatives and the chairs of the  
343 Appropriations Committees of the Senate and House of  
344 Representatives.

345 (2) The Public Procurement Review Board shall have the  
346 following powers and responsibilities:



347 (a) Approve all purchasing regulations governing the  
348 purchase or lease by any agency, as defined in Section 31-7-1, of  
349 commodities and equipment, except computer equipment acquired  
350 pursuant to Sections 25-53-1 through 25-53-29;

351 (b) Adopt regulations governing the approval of  
352 contracts let for the construction and maintenance of state  
353 buildings and other state facilities as well as related contracts  
354 for architectural and engineering services.

355 The provisions of this paragraph (b) shall not apply to such  
356 contracts involving buildings and other facilities of state  
357 institutions of higher learning which are self-administered as  
358 provided under this paragraph (b) or Section 37-101-15(m);

359 (c) Adopt regulations governing any lease or rental  
360 agreement by any state agency or department, including any state  
361 agency financed entirely by federal funds, for space outside the  
362 buildings under the jurisdiction of the Department of Finance and  
363 Administration. These regulations shall require each agency  
364 requesting to lease such space to provide the following  
365 information that shall be published by the Department of Finance  
366 and Administration on its website: the agency to lease the space;  
367 the terms of the lease; the approximate square feet to be leased;  
368 the use for the space; a description of a suitable space; the  
369 general location desired for the leased space; the contact  
370 information for a person from the agency; the deadline date for  
371 the agency to have received a lease proposal; any other specific



372 terms or conditions of the agency; and any other information  
373 deemed appropriate by the Division of Real Property Management of  
374 the Department of Finance and Administration or the Public  
375 Procurement Review Board. The information shall be provided  
376 sufficiently in advance of the time the space is needed to allow  
377 the Division of Real Property Management of the Department of  
378 Finance and Administration to review and preapprove the lease  
379 before the time for advertisement begins;

380 (d) Adopt, in its discretion, regulations to set aside  
381 at least five percent (5%) of anticipated annual expenditures for  
382 the purchase of commodities from minority businesses; however, all  
383 such set-aside purchases shall comply with all purchasing  
384 regulations promulgated by the department and shall be subject to  
385 all bid requirements. Set-aside purchases for which competitive  
386 bids are required shall be made from the lowest and best minority  
387 business bidder; however, if no minority bid is available or if  
388 the minority bid is more than two percent (2%) higher than the  
389 lowest bid, then bids shall be accepted and awarded to the lowest  
390 and best bidder. However, the provisions in this paragraph shall  
391 not be construed to prohibit the rejection of a bid when only one  
392 (1) bid is received. Such rejection shall be placed in the  
393 minutes. For the purposes of this paragraph, the term "minority  
394 business" means a business which is owned by a person who is a  
395 citizen or lawful permanent resident of the United States and who  
396 is:



397 (i) Black: having origins in any of the black  
398 racial groups of Africa;

399 (ii) Hispanic: of Mexican, Puerto Rican, Cuban,  
400 Central or South American, or other Spanish or Portuguese culture  
401 or origin regardless of race;

402 (iii) Asian-American: having origins in any of  
403 the original people of the Far East, Southeast Asia, the Indian  
404 subcontinent, or the Pacific Islands;

405 (iv) American Indian or Alaskan Native: having  
406 origins in any of the original people of North America; or

407 (v) Female;

408 (e) In consultation with and approval by the Chairs of  
409 the Senate and House Public Property Committees, approve leases,  
410 for a term not to exceed eighteen (18) months, entered into by  
411 state agencies for the purpose of providing parking arrangements  
412 for state employees who work in the Woolfolk Building, the Carroll  
413 Gartin Justice Building or the Walter Sillers Office Building;

414 (f) Promulgate rules and regulations governing the  
415 solicitation and selection of contractual services personnel,  
416 including personal and professional services contracts for any  
417 form of consulting, policy analysis, public relations, marketing,  
418 public affairs, legislative advocacy services or any other  
419 contract that the board deems appropriate for oversight, with the  
420 exception of any personal service contracts entered into by any  
421 agency that employs only nonstate service employees as defined in



422 Section 25-9-107(c), any personal service contracts entered into  
423 for computer or information technology-related services governed  
424 by the Mississippi Department of Information Technology Services,  
425 any personal service contracts entered into by the individual  
426 state institutions of higher learning, any personal service  
427 contracts entered into by the Mississippi Department of  
428 Transportation, any personal service contracts entered into by the  
429 Department of Human Services through June 30, 2019, which the  
430 Executive Director of the Department of Human Services determines  
431 would be useful in establishing and operating the Department of  
432 Child Protection Services, any personal service contracts entered  
433 into by the Department of Child Protection Services through June  
434 30, 2019, any contracts for entertainers and/or performers at the  
435 Mississippi State Fairgrounds entered into by the Mississippi Fair  
436 Commission, any contracts entered into by the Department of  
437 Finance and Administration when procuring aircraft maintenance,  
438 parts, equipment and/or services, any contract entered into by the  
439 Department of Public Safety for service on specialized equipment  
440 and/or software required for the operation at such specialized  
441 equipment for use by the Office of Forensics Laboratories, \* \* \*  
442 any personal or professional service contract entered into by the  
443 Mississippi Department of Health and/or the Department of Revenue  
444 solely in connection with their respective responsibilities under  
445 the Mississippi Medical Cannabis Act from February 2, 2022,  
446 through June 30, 2023, any contract for attorney, accountant,



447 actuary auditor, architect, engineer, anatomical pathologist,  
448 utility rate expert services, \* \* \* any personal service contracts  
449 approved by the Executive Director of the Department of Finance  
450 and Administration and entered into by the Coordinator of Mental  
451 Health Accessibility through June 30, 2022, any personal or  
452 professional services contract entered into by the State  
453 Department of Health in carrying out its responsibilities under  
454 the ARPA Rural Water Associations Infrastructure Grant Program  
455 through June 30, 2026, and any personal or professional services  
456 contract entered into by the Mississippi Department of  
457 Environmental Quality in carrying out its responsibilities under  
458 the Mississippi Municipality and County Water Infrastructure Grant  
459 Program Act of 2022, through June 30, 2026. Any such rules and  
460 regulations shall provide for maintaining continuous internal  
461 audit covering the activities of such agency affecting its revenue  
462 and expenditures as required under Section 7-7-3(6)(d). Any rules  
463 and regulation changes related to personal and professional  
464 services contracts that the Public Procurement Review Board may  
465 propose shall be submitted to the Chairs of the Accountability,  
466 Efficiency and Transparency Committees of the Senate and House of  
467 Representatives and the Chairs of the Appropriation Committees of  
468 the Senate and House of Representatives at least fifteen (15) days  
469 before the board votes on the proposed changes, and those rules  
470 and regulation changes, if adopted, shall be promulgated in  
471 accordance with the Mississippi Administrative Procedures Act;



472 (g) Approve all personal and professional services  
473 contracts involving the expenditures of funds in excess of  
474 Seventy-five Thousand Dollars (\$75,000.00), except as provided in  
475 paragraph (f) of this subsection (2) and in subsection (8);

476 (h) Develop mandatory standards with respect to  
477 contractual services personnel that require invitations for public  
478 bid, requests for proposals, record keeping and financial  
479 responsibility of contractors. The Public Procurement Review  
480 Board shall, unless exempted under this paragraph (h) or under  
481 paragraph (i) or (o) of this subsection (2), require the agency  
482 involved to submit the procurement to a competitive procurement  
483 process, and may reserve the right to reject any or all resulting  
484 procurements;

485 (i) Prescribe certain circumstances by which agency  
486 heads may enter into contracts for personal and professional  
487 services without receiving prior approval from the Public  
488 Procurement Review Board. The Public Procurement Review Board may  
489 establish a preapproved list of providers of various personal and  
490 professional services for set prices with which state agencies may  
491 contract without bidding or prior approval from the board;

492 (i) Agency requirements may be fulfilled by  
493 procuring services performed incident to the state's own programs.  
494 The agency head shall determine in writing whether the price  
495 represents a fair market value for the services. When the  
496 procurements are made from other governmental entities, the



497 private sector need not be solicited; however, these contracts  
498 shall still be submitted for approval to the Public Procurement  
499 Review Board.

500 (ii) Contracts between two (2) state agencies,  
501 both under Public Procurement Review Board purview, shall not  
502 require Public Procurement Review Board approval. However, the  
503 contracts shall still be entered into the enterprise resource  
504 planning system;

505 (j) Provide standards for the issuance of requests for  
506 proposals, the evaluation of proposals received, consideration of  
507 costs and quality of services proposed, contract negotiations, the  
508 administrative monitoring of contract performance by the agency  
509 and successful steps in terminating a contract;

510 (k) Present recommendations for governmental  
511 privatization and to evaluate privatization proposals submitted by  
512 any state agency;

513 (l) Authorize personal and professional service  
514 contracts to be effective for more than one (1) year provided a  
515 funding condition is included in any such multiple year contract,  
516 except the State Board of Education, which shall have the  
517 authority to enter into contractual agreements for student  
518 assessment for a period up to ten (10) years. The State Board of  
519 Education shall procure these services in accordance with the  
520 Public Procurement Review Board procurement regulations;



521 (m) Request the State Auditor to conduct a performance  
522 audit on any personal or professional service contract;

523 (n) Prepare an annual report to the Legislature  
524 concerning the issuance of personal and professional services  
525 contracts during the previous year, collecting any necessary  
526 information from state agencies in making such report;

527 (o) Develop and implement the following standards and  
528 procedures for the approval of any sole source contract for  
529 personal and professional services regardless of the value of the  
530 procurement:

531 (i) For the purposes of this paragraph (o), the  
532 term "sole source" means only one (1) source is available that can  
533 provide the required personal or professional service.

534 (ii) An agency that has been issued a binding,  
535 valid court order mandating that a particular source or provider  
536 must be used for the required service must include a copy of the  
537 applicable court order in all future sole source contract reviews  
538 for the particular personal or professional service referenced in  
539 the court order.

540 (iii) Any agency alleging to have a sole source  
541 for any personal or professional service, other than those  
542 exempted under paragraph (f) of this subsection (2) and subsection  
543 (8), shall publish on the procurement portal website established  
544 by Sections 25-53-151 and 27-104-165, for at least fourteen (14)  
545 days, the terms of the proposed contract for those services. In



546 addition, the publication shall include, but is not limited to,  
547 the following information:

548                   1. The personal or professional service  
549 offered in the contract;

550                   2. An explanation of why the personal or  
551 professional service is the only one that can meet the needs of  
552 the agency;

553                   3. An explanation of why the source is the  
554 only person or entity that can provide the required personal or  
555 professional service;

556                   4. An explanation of why the amount to be  
557 expended for the personal or professional service is reasonable;  
558 and

559                   5. The efforts that the agency went through  
560 to obtain the best possible price for the personal or professional  
561 service.

562                   (iv) If any person or entity objects and proposes  
563 that the personal or professional service published under  
564 subparagraph (iii) of this paragraph (o) is not a sole source  
565 service and can be provided by another person or entity, then the  
566 objecting person or entity shall notify the Public Procurement  
567 Review Board and the agency that published the proposed sole  
568 source contract with a detailed explanation of why the personal or  
569 professional service is not a sole source service.



570 (v) 1. If the agency determines after review that  
571 the personal or professional service in the proposed sole source  
572 contract can be provided by another person or entity, then the  
573 agency must withdraw the sole source contract publication from the  
574 procurement portal website and submit the procurement of the  
575 personal or professional service to an advertised competitive bid  
576 or selection process.

577 2. If the agency determines after review that  
578 there is only one (1) source for the required personal or  
579 professional service, then the agency may appeal to the Public  
580 Procurement Review Board. The agency has the burden of proving  
581 that the personal or professional service is only provided by one  
582 (1) source.

583 3. If the Public Procurement Review Board has  
584 any reasonable doubt as to whether the personal or professional  
585 service can only be provided by one (1) source, then the agency  
586 must submit the procurement of the personal or professional  
587 service to an advertised competitive bid or selection process. No  
588 action taken by the Public Procurement Review Board in this appeal  
589 process shall be valid unless approved by a majority of the  
590 members of the Public Procurement Review Board present and voting.

591 (vi) The Public Procurement Review Board shall  
592 prepare and submit a quarterly report to the House of  
593 Representatives and Senate Accountability, Efficiency and  
594 Transparency Committees that details the sole source contracts



595 presented to the Public Procurement Review Board and the reasons  
596 that the Public Procurement Review Board approved or rejected each  
597 contract. These quarterly reports shall also include the  
598 documentation and memoranda required in subsection (4) of this  
599 section. An agency that submitted a sole source contract shall be  
600 prepared to explain the sole source contract to each committee by  
601 December 15 of each year upon request by the committee;

602 (p) Assess any fines and administrative penalties  
603 provided for in Sections 31-7-401 through 31-7-423.

604 (3) All submissions shall be made sufficiently in advance of  
605 each monthly meeting of the Public Procurement Review Board as  
606 prescribed by the Public Procurement Review Board. If the Public  
607 Procurement Review Board rejects any contract submitted for review  
608 or approval, the Public Procurement Review Board shall clearly set  
609 out the reasons for its action, including, but not limited to, the  
610 policy that the agency has violated in its submitted contract and  
611 any corrective actions that the agency may take to amend the  
612 contract to comply with the rules and regulations of the Public  
613 Procurement Review Board.

614 (4) All sole source contracts for personal and professional  
615 services awarded by state agencies, other than those exempted  
616 under Section 27-104-7(2)(f) and (8), whether approved by an  
617 agency head or the Public Procurement Review Board, shall contain  
618 in the procurement file a written determination for the approval,  
619 using a request form furnished by the Public Procurement Review



620 Board. The written determination shall document the basis for the  
621 determination, including any market analysis conducted in order to  
622 ensure that the service required was practicably available from  
623 only one (1) source. A memorandum shall accompany the request  
624 form and address the following four (4) points:

625 (a) Explanation of why this service is the only service  
626 that can meet the needs of the purchasing agency;

627 (b) Explanation of why this vendor is the only  
628 practicably available source from which to obtain this service;

629 (c) Explanation of why the price is considered  
630 reasonable; and

631 (d) Description of the efforts that were made to  
632 conduct a noncompetitive negotiation to get the best possible  
633 price for the taxpayers.

634 (5) In conjunction with the State Personnel Board, the  
635 Public Procurement Review Board shall develop and promulgate rules  
636 and regulations to define the allowable legal relationship between  
637 contract employees and the contracting departments, agencies and  
638 institutions of state government under the jurisdiction of the  
639 State Personnel Board, in compliance with the applicable rules and  
640 regulations of the federal Internal Revenue Service (IRS) for  
641 federal employment tax purposes. Under these regulations, the  
642 usual common law rules are applicable to determine and require  
643 that such worker is an independent contractor and not an employee,  
644 requiring evidence of lawful behavioral control, lawful financial



645 control and lawful relationship of the parties. Any state  
646 department, agency or institution shall only be authorized to  
647 contract for personnel services in compliance with those  
648 regulations.

649 (6) No member of the Public Procurement Review Board shall  
650 use his or her official authority or influence to coerce, by  
651 threat of discharge from employment, or otherwise, the purchase of  
652 commodities, the contracting for personal or professional  
653 services, or the contracting for public construction under this  
654 chapter.

655 (7) Notwithstanding any other laws or rules to the contrary,  
656 the provisions of subsection (2) of this section shall not be  
657 applicable to the Mississippi State Port Authority at Gulfport.

658 (8) Nothing in this section shall impair or limit the  
659 authority of the Board of Trustees of the Public Employees'  
660 Retirement System to enter into any personal or professional  
661 services contracts directly related to their constitutional  
662 obligation to manage the trust funds, including, but not limited  
663 to, actuarial, custodial banks, cash management, investment  
664 consultant and investment management contracts.

665 (9) Notwithstanding the exemption of personal and  
666 professional services contracts entered into by the Department of  
667 Human Services and personal and professional services contracts  
668 entered into by the Department of Child Protection Services from  
669 the provisions of this section under subsection (2)(f), before the



670 Department of Human Services or the Department of Child Protection  
671 Services may enter into a personal or professional service  
672 contract, the department(s) shall give notice of the proposed  
673 personal or professional service contract to the Public  
674 Procurement Review Board for any recommendations by the board.  
675 Upon receipt of the notice, the board shall post the notice on its  
676 website and on the procurement portal website established by  
677 Sections 25-53-151 and 27-104-165. If the board does not respond  
678 to the department(s) within seven (7) calendar days after  
679 receiving the notice, the department(s) may enter the proposed  
680 personal or professional service contract. If the board responds  
681 to the department(s) within seven (7) calendar days, then the  
682 board has seven (7) calendar days from the date of its initial  
683 response to provide any additional recommendations. After the end  
684 of the second seven-day period, the department(s) may enter the  
685 proposed personal or professional service contract. The board is  
686 not authorized to disapprove any proposed personal or professional  
687 services contracts. This subsection shall stand repealed on July  
688 1, 2022.

689         **SECTION 4.** This act shall take effect and be in force from  
690 and after its passage.

