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HOUSE BILL NO. 211

Originated in House  Clerk

HOUSE BILL NO. 211

AN ACT TO AMEND SECTION 7-5-1, MISSISSIPPI CODE OF 1972, TO CLARIFY AND REVISE THE DUTIES OF THE ATTORNEY GENERAL; TO AMEND SECTION 7-5-5, MISSISSIPPI CODE OF 1972, TO REQUIRE DETAILED TIME AND EXPENSE RECORDS TO BE MAINTAINED BY OUTSIDE COUNSEL; TO AMEND SECTION 7-5-7, MISSISSIPPI CODE OF 1972, TO PLACE CERTAIN RESTRICTIONS UPON CONTINGENT FEE CONTRACTS FOR LEGAL SERVICES WITH OUTSIDE COUNSEL; TO CREATE NEW SECTION 7-5-8, MISSISSIPPI CODE OF 1972, TO ENUMERATE RESTRICTIONS ON CONTINGENT FEE CONTRACTS; TO AMEND SECTION 7-5-21, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIREMENTS FOR THE CASE DOCKET TO BE KEPT BY THE ATTORNEY GENERAL; TO AMEND SECTION 7-5-39, MISSISSIPPI CODE OF 1972, TO REQUIRE THE ATTORNEY GENERAL TO AUTHORIZE OUTSIDE COUNSEL UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 27-104-105, MISSISSIPPI CODE OF 1972, TO CONFORM STATE AGENCY PAYMENT FOR LEGAL SERVICES TO THE TENOR OF THIS ACT; TO AMEND SECTIONS 7-7-225, 17-18-41, 27-33-49, 27-104-17, 27-104-19, 29-3-39, 31-29-23, 41-9-35, 43-11-27, 43-15-121, 43-16-21, 43-20-21, 43-27-14, 49-5-98, 53-1-47, 57-10-533, 57-61-35, 57-71-33, 57-77-39, 59-5-65, 59-17-57, 65-26-37, 69-2-33, 69-27-359, 73-11-49, 73-13-39, 73-13-95, 73-15-33, 73-29-39, 73-29-43, 73-31-25, 73-36-35, 73-63-25, 75-76-25, 83-1-5 AND 97-33-109, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

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

7-5-1. The Attorney General provided for by Section 173 of the Mississippi Constitution shall be elected at the same time and in the same manner as the Governor is elected. His term of office shall be four (4) years and his compensation shall be fixed by the Legislature. He shall be the chief legal officer and advisor for the state, both civil and criminal, and is charged with managing all litigation on behalf of the state, except as otherwise specifically provided by law. No arm or agency of the state government shall bring or defend a suit against another * * * arm or agency without prior written approval of the Attorney General.

He shall have the powers of the Attorney General at common law and, except as otherwise provided by law, is given the sole power to bring or defend a lawsuit on behalf of a state agency, the subject matter of which is of statewide interest. * * * He shall intervene and argue the constitutionality of any statute when notified of a challenge thereto, pursuant to the Mississippi Rules of Civil Procedure. His qualifications for office shall be as provided for chancery and circuit judges in Section 154 of the Mississippi Constitution.

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

7-5-5. (1) The Attorney General shall appoint nine (9) competent attorneys, each of whom shall be designated as an assistant attorney general. The assistants shall each possess all of the qualifications required by law of the Attorney General and shall have power and authority under the direction and supervision of the Attorney General to perform all of the duties required by law of that officer; and each shall be liable to the pains and penalties to which the Attorney General is liable. The assistants shall serve at the will and pleasure of the Attorney General, and they shall devote their entire time and attention to the duties pertaining to the department of justice as required by the general laws. The compensation of * * * all * * * assistants authorized by law shall be fixed by the Attorney General not to exceed the compensation fixed by law * * *.

(2) (a) The Attorney General shall designate three (3) of the * * * assistant attorneys general authorized under subsection (1) of this section to devote their time and attention primarily to defending and aiding in the defense in all courts of any suit, filed or threatened, against the State of Mississippi, against any subdivision thereof, or against any agency or instrumentality of the state or subdivision, including all elected officials and any other officer or employee thereof. When the circumstances permit,

the assistants may perform any of the Attorney General's powers and duties, including, but not limited to, engaging in lawsuits outside the state when in his opinion this would help bring about the equal application of federal laws and court decisions in every state and guaranteeing equal protection of the laws as guaranteed every citizen by the United States Constitution.

(b) * * * The Attorney General * * * may employ outside counsel as special assistant attorneys general * * * on a fee or contract basis; * * * the Attorney General shall be the sole judge of the compensation in such cases except as otherwise provided in Section 7-5-8.

(i) Any contract for services of outside counsel shall require current and complete written time and expense records that describe in detail the time, in increments of no greater than one tenth (1/10) of an hour, and money spent each day in performance of the contract.

(ii) On conclusion of the matter for which the outside legal services were obtained, outside counsel shall provide a complete written statement of all fees and expenses, and the final complete time and expense records.

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

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

7-5-7. (1) The Governor may engage outside counsel on a noncontingent fee basis to assist the Attorney General in cases to which the state is a party when, in his opinion, the interest of the state requires it, subject to the action of the Legislature in

providing compensation for such services not to exceed recognized bar rates for similar services.

(2) (a) The Attorney General is hereby authorized and empowered to appoint and employ outside counsel, on a fee or salary basis not to exceed recognized bar rates for similar services, to assist the Attorney General in the preparation for, prosecution, or defense of any litigation in the state or federal courts or before any federal commission or agency in which the state is a party or has an interest. The Attorney General may designate the outside counsel as special assistant Attorney General * * *.

(b) If the compensation agreed upon will be governed by a contingency fee contract, that contract must conform with the requirements of Section 7-5-8.

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

(4) The Attorney General may pay travel and other expenses of employees and appointees under this chapter in the same manner and amount as authorized by law for the payment of travel and expenses of state employees and officials.

(5) The compensation of appointees and employees under this chapter shall be paid out of the Attorney General's contingent fund, or out of any other funds appropriated to the Attorney General's office.

SECTION 4. The following shall be codified as Section 7-5-8, Mississippi Code of 1972:

7-5-8. (1) Before entering into a contingency fee contract with outside counsel, the state, an arm or agency of the state, or a statewide elected officer acting in his official capacity must first make a written determination that contingency fee representation is both cost-effective and in the public interest. The required written determination shall include specific findings for each of the following factors:

(a) Whether there exist sufficient and appropriate legal and financial resources within the Attorney General's office to handle the matter.

(b) The time and labor required; the novelty, complexity, and difficulty of the questions involved; and the skill requisite to perform the attorney services properly.

(c) The geographic area where the attorney services are to be provided.

(d) The amount of experience desired for the particular kind of attorney services to be provided and the nature of the outside attorney's experience with similar issues or cases.

(2) (a) The state, an arm or agency of the state, or a statewide elected officer acting in his official capacity may not enter into a contingency fee contract that provides for the outside attorney to receive a contingency fee, exclusive of reasonable costs and expenses incurred in connection with the case, which is in excess of the following:

(i) Twenty-five percent (25%) of any recovery of up to Ten Million Dollars (\$10,000,000.00); plus

(ii) Twenty percent (20%) of any portion of such recovery between Ten Million Dollars (\$10,000,000.00) and Fifteen Million Dollars (\$15,000,000.00); plus

(iii) Fifteen percent (15%) of any portion of such recovery between Fifteen Million Dollars (\$15,000,000.00) and Twenty Million Dollars (\$20,000,000.00); plus

(iv) Ten percent (10%) of any portion of such recovery between Twenty Million Dollars (\$20,000,000.00) and Twenty-five Million Dollars (25,000,000.00); plus

(v) Five percent (5%) of any portion of such recovery exceeding Twenty-five Million Dollars (\$25,000,000.00).

(b) Except as provided in subsection (3) of this section, a contingency fee shall not exceed an aggregate of Fifty Million Dollars (\$50,000,000.00), exclusive of reasonable costs and expenses incurred in connection with the case, and irrespective of the number of lawsuits filed or the number of attorneys retained to achieve the recovery.

(c) A contingency fee shall not be based on penalties or civil fines awarded or any amounts attributable to penalties or civil fines.

(3) The limits on fees set forth in subsection (2) of this section shall not apply if:

(a) The state, an arm or agency of the state, or a statewide elected officer acting in his official capacity makes a written determination stating the reasons why a greater fee is necessary, proper, and in the best interests of the state in a particular case; and

(b) The Outside Counsel Oversight Commission approves any terms of the contingency contract that exceed the limits set forth in subsection (2) of this section.

(4) The Outside Counsel Oversight Commission shall consist of the Governor, the Lieutenant Governor, and the Secretary of State; actions of the commission shall be taken by majority vote. Appeal from a decision of the Outside Counsel Oversight Commission shall be to any court of competent jurisdiction.

(5) (a) Copies of any executed contingency fee contract and the applicable written determination to enter into a contingency fee contract with the outside attorney shall be posted on the Attorney General's website for public inspection within five (5)

business days after the date the contract is executed unless the state, arm or agency of the state, or statewide elected officer retaining outside counsel makes a determination, subject to the approval of the Outside Counsel Oversight Commission, that to do so would negatively affect the state's interest, and shall remain posted on the website for the duration of the contingency fee contract, including any extensions or amendments to the contract.

(b) If the determination is made and duly approved that posting the contract will negatively affect the interests of the state, the contract will be posted on the Attorney General's website within five (5) days of the occurrence of the earliest of the following:

(i) Filing of the lawsuit for which the contract was executed;

(ii) Entry of appearance for any pending matter for which the contract was executed; or

(iii) From the time the outside attorney engages in any substantive action on behalf of the state relative to the subject matter for which the contract was executed.

(c) Any payment of contingency fees shall be posted on the Attorney General's website within fifteen (15) days after the payment of the contingency fees to the outside attorney and shall remain posted on the website for at least one (1) year after the date payment is made.

(6) An outside attorney under contract to provide services to the state on a contingency fee basis shall, from the inception of the contract until not less than four (4) years after the contract expires or is terminated, maintain detailed current records, including documentation of all expenses, disbursements, charges, credits, underlying receipts and invoices, and other financial transactions that concern the providing of attorney services. In addition, the outside attorney shall maintain detailed contemporaneous time records for the attorneys and

paralegals working on the matter in increments of no greater than one-tenth (1/10) of an hour, and shall promptly provide these records to the Attorney General upon request.

(7) (a) If an arm or agency of the state or a statewide elected officer contracts for outside legal counsel pursuant to Section 7-5-39(3) on a contingency fee basis, the arm or agency of the state or the statewide elected officer shall provide complete and timely information to the Office of the Attorney General as to every requirement of this section for inclusion in the report under this section. The Office of the Attorney General shall post the information as received on its website within five (5) days of receipt.

(b) The arm or agency of the state or statewide elected official responsible for retaining outside counsel shall provide complete and timely information to the Office of the Attorney General as to every requirement of Section 7-5-21 for inclusion in the docket required by that section.

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

7-5-21. The Attorney General shall keep a docket of all causes in which he is required to appear, whether through his office or through outside counsel, which * * * is a public record and must show the full style of the case, the cause number of the action, the county, district and court in which the causes have been instituted and tried, and whether the case is civil or criminal. If civil, the docket must show the nature of the demand, the stage of the proceedings, the name and address of any outside counsel, a description of the fee arrangement with any outside counsel, a memorandum of the judgment when prosecuted to judgment, any process issued thereon, whether satisfied or not, and if not satisfied, the return of the sheriff. If criminal, the docket must show the nature of the crime, the mode of prosecution, the stage of the proceedings, a memorandum of the sentence when

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

SECTION 6. Section 7-5-39, Mississippi Code of 1972, is amended as follows:

7-5-39. (1) Except as otherwise provided by law, the Attorney General shall * * * represent the state, in person or by his assistant, as counsel in all suits against the state in other courts or the Supreme Court at the seat of government, and he shall, in like manner, act as counsel for any of the state officers in suits brought by or against them in their official capacity, touching any official duty or trust * * *.

(2) No civil legal action on behalf of the state, any arm or agency of the state, or any statewide elected officer acting in his official capacity may be taken until seven (7) working days' written notice of the proposed legal action is given to the statewide elected officer or proper person in charge of the arm or agency unless irreparable injury to the state would result by waiting for the expiration of the seven-day period.

(3) (a) The Attorney General shall authorize retention of independent counsel from outside his office by an arm or agency of the state or a statewide elected officer acting in his official capacity if the Attorney General declines representation when requested.

(b) (i) The Attorney General shall authorize retention of independent counsel from outside his office by an arm or agency of the state or a statewide elected officer acting in his official capacity and shall withdraw from representation of the arm or agency of the state or the statewide elected officer if there is a significant disagreement with the Attorney General as to the legal strategy to be used in the matter, and the Outside Counsel Oversight Commission has first approved the retention of outside counsel.

(ii) If an arm or agency of the state or statewide elected officer acting in his official capacity retains outside counsel under this subsection (3), the counsel shall be selected by the arm or agency of the state or the statewide elected officer. Fees of counsel employed on a fee basis shall not exceed recognized bar rates for similar services; any contract for outside counsel employed on a contingency fee basis shall conform to the provisions of Section 7-5-8.

(4) The Attorney General may pursue the collection of any claim or judgment in favor of the state outside of the state.

SECTION 7. Section 27-104-105, Mississippi Code of 1972, is amended as follows:

27-104-105. The Department of Finance and Administration shall not process any warrant requested by any state agency for payment for legal services without first determining that the services and contract were approved either by the Attorney General and the State Personnel Board, or as authorized under Section 7-5-39(3); contracts for legal services performed for the State Highway Department in eminent domain cases shall not require approval by the State Personnel Board. The State Auditor shall test for compliance with this section.

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

7-7-225. The State Auditor * * *, when conducting agency audits, shall test to determine whether or not the state institutions of higher learning and any state agency which does not draw warrants on the Treasury have either received approval of the Attorney General or complied with the provisions of Section 7-5-39, with regard to any contract for legal services.

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

17-18-41. (1) No member, officer or employee of the department, authority or committee while acting within the scope

of their authority shall be subject to any personal liability by reason of any act or omission in connection with the exercise of any power or performance of any duty whether expressed or implied pursuant to this chapter.

(2) Except as otherwise authorized in Section 7-5-39, the Attorney General shall be the legal representative of the authority and the committee and shall provide legal advice and counsel without cost to the authority and the committee.

SECTION 10. Section 27-33-49, Mississippi Code of 1972, is amended as follows:

27-33-49. Except as otherwise authorized in Section 7-5-39, the Attorney General of the state shall be the attorney for the commission and shall represent it in any proceedings before any court. In any hearing before the commission, where the services of an attorney are desired or needed, the Attorney General shall attend on behalf of the commission. The Attorney General shall construe any doubtful or conflicting provisions of this article, and his opinion shall be controlling on all officers.

SECTION 11. Section 27-104-17, Mississippi Code of 1972, is amended as follows:

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

* * * The Department of Finance and Administration may, in its discretion, restrict an agency to a monthly allotment period when it becomes evident that an agency's rate of expenditure to date indicates this restriction will be necessary to prevent depletion of its appropriation prior to the close of the fiscal

year or when the condition of the State General Fund requires monthly monitoring and control of the rate of General Fund expenditures.

(2) * * * Unless otherwise specified in the agency appropriation bill, in the event any emergency or unforeseen circumstances shall arise, the agency head may authorize increases in major objects of expenditure within each specific budget within each appropriation bill in total amounts not to exceed ten percent (10%) of the appropriated amount of each object, provided that other major objects of expenditure are decreased by a corresponding dollar amount. Except as otherwise authorized in Section 7-5-39, no transfers shall be authorized which increase or decrease the major object of expenditure "Salaries, Wages and Fringe Benefits," or which increase the major object of expenditure "Capital Outlay - Equipment." The agency head shall submit written justification for the transfer to the Legislative Budget Office, the Department of Finance and Administration, and the State Auditor, on or before the fifteenth of the month prior to the effective date of the transfer. The transfer shall be effective the first working day of the month following timely submissions required herein. In cases of extreme hardship, certified in writing by the agency head and submitted with timely submissions required herein, the Executive Director of the Department of Finance and Administration, in his discretion, may authorize an earlier effective date for the transfer.

* * *

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

the Chairmen and members of the Senate and House Appropriations Committees.

SECTION 12. Section 27-104-19, Mississippi Code of 1972, is amended as follows:

27-104-19. Except as otherwise authorized in Section 7-5-39, when an operating budget has been approved, the amount approved shall be available and shall constitute the maximum of obligations or indebtedness which may be incurred by the agency for any purpose during the allotment period to be paid from such funds.

SECTION 13. Section 29-3-39, Mississippi Code of 1972, is amended as follows:

29-3-39. It shall be the duty of the board of education to survey periodically the classification of all sixteenth section land under its jurisdiction and to reclassify that land as it may deem advisable because of changes of conditions, and when any land is so reclassified, the board of education shall file a report thereof with the Secretary of State. From time to time the Secretary of State may institute proceedings to reclassify any sixteenth section lands which he may deem advisable and when any land is so reclassified, the Secretary of State shall file a report thereof with the board of education. When any land is reclassified under this section, notice thereof, rights to object thereto and rights to appeal therefrom shall be given in the same manner provided in Section 29-3-37 with reference to the original classification. * * * However, * * * all sixteenth section land shall be classified, or reclassified as is necessary, within one (1) year prior to the expiration date of any existing lease, and within sixty (60) days of the terminating of any lease of sixteenth section land by final court order. In all litigation which may result from the classification or reclassification of lands by the Secretary of State under Sections 29-3-31 through 29-3-39, the Secretary of State shall be represented by the Attorney General, who shall have control of the litigation except

as otherwise authorized in Section 7-5-39, but it shall be the duty of the various boards of education to furnish local legal assistance when requested so to do by the Attorney General.

SECTION 14. Section 31-29-23, Mississippi Code of 1972, is amended as follows:

31-29-23. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the bond commission is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

SECTION 15. Section 41-9-35, Mississippi Code of 1972, is amended as follows:

41-9-35. Notwithstanding the existence or pursuit of any other remedy, the licensing agency, may in the manner provided by law, upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the licensing agency in the proceedings, maintain an action in the name of the state for an injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of a hospital without a license as provided for in Section 41-9-11.

SECTION 16. Section 43-11-27, Mississippi Code of 1972, is amended as follows:

43-11-27. Notwithstanding the existence or pursuit of any other remedy, the licensing agency may, in the manner provided by law, upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the licensing agency in the proceedings, maintain an action in the name of the state for injunction or other process against any person to restrain or prevent the establishment, conduct,

management or operation of an institution for the aged or infirm without a license under this chapter.

SECTION 17. Section 43-15-121, Mississippi Code of 1972, is amended as follows:

43-15-121. In addition to, and notwithstanding, any other remedy provided by law, the division may, in a manner provided by law and upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the division in the proceedings, maintain an action in the name of the state for injunction or other process against any person or entity to restrain or prevent the establishment, management or operation of a program or facility or performance of services in violation of this article or rules of the division.

SECTION 18. Section 43-16-21, Mississippi Code of 1972, is amended as follows:

43-16-21. Notwithstanding the existence of any other remedy, the department may, in the manner provided by law, in termtime or in vacation, upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the department in the proceedings, maintain an action in the name of the state for an injunction or restraining order to cease the operation of the home, and to provide for the appropriate removal of the children from the home and placement in the custody of the parents or legal guardians, the Department of Human Services, or any other appropriate entity in the discretion of the court. Such action shall be brought in the chancery court or the youth court, as appropriate, of the county in which such child residential home is located, and shall only be initiated for the following violations:

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

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

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

SECTION 19. Section 43-20-21, Mississippi Code of 1972, is amended as follows:

43-20-21. Notwithstanding the existence of any other remedy, the licensing agency may, in the manner provided by law, in termtime or in vacation, upon the advice of the Attorney General who, except as otherwise authorized in Section 7-5-39, shall represent the licensing agency in the proceedings, maintain an action in the name of the state for an injunction or other proper remedy against any person to restrain or prevent the establishment, conduct, management or operation of a child care facility without license under this chapter, or otherwise in violation of this chapter.

SECTION 20. Section 43-27-14, Mississippi Code of 1972, is amended as follows:

43-27-14. The Department of Youth Services shall have the authority to accept any allotments of federal funds and commodities and shall manage and dispose of them in whatever manner may be required by federal law, and may take advantage of any federal programs, grants-in-aid, or other public or private assistance which may be offered or available which will accomplish or further the objectives of the department. Except as otherwise authorized in Section 7-5-39, the Attorney General shall be the legal representative of the department.

SECTION 21. Section 49-5-98, Mississippi Code of 1972, is amended as follows:

49-5-98. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the commission in issuing, selling and validating bonds herein provided for, and the commission may expend any sum not exceeding Fifteen Thousand Dollars (\$15,000.00) from the proceeds derived from the sale of the bonds authorized hereunder to pay the cost of attorney's fees, validating, printing, and cost of delivery of bonds authorized under Sections 49-5-86 through 49-5-98.

SECTION 22. Section 53-1-47, Mississippi Code of 1972, is amended as follows:

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

(ii) Any person, who, for the purpose of evading the provisions of Sections 53-1-1 through 53-1-47, inclusive, or any rule, regulation or order made thereunder, shall intentionally make or cause to be made any false entry, statement of fact or omission in any report required by said sections or by any rule, regulation or order thereunder or in any account, record or memorandum kept in connection with the provisions thereof or who, for such purpose, shall mutilate, alter, conceal or falsify any

such report, account, record or memorandum shall be deemed guilty of a misdemeanor and shall be subject, upon conviction in any court of competent jurisdiction, to a fine of not less than Five Hundred Dollars (\$500.00) nor more than One Thousand Dollars (\$1,000.00), or imprisonment for a term of not less than ten (10) days nor more than six (6) months for each such violation, or both such fine and imprisonment.

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

Except as otherwise authorized in Section 7-5-39, the Attorney General, by his designated assistant, shall represent the board in all such proceedings. If he represents the board, the Attorney General shall also designate a member of his staff to present evidence and proof of such violation in the event such charge is contested.

All penalties assessed by the board under the provisions of this section shall have the force and effect of a judgment of the circuit court and shall be enrolled in the office of the circuit clerk and execution may be issued thereon. All such penalties

paid or collected shall be paid to the State Treasurer for credit to the Special Oil and Gas Board Fund.

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

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

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

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

- (i) The willfulness of the violation;
- (ii) Any damage to water, land or other natural resources of the state or their users;
- (iii) Any cost of restoration and abatement;
- (iv) Any economic benefit to the violator as a result of noncompliance;
- (v) The seriousness of the violation, including any harm to the environment and any harm to the health and safety of the public; and

(vi) Any prior violation by such violator.

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

SECTION 23. Section 57-10-533, Mississippi Code of 1972, is amended as follows:

57-10-533. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this article.

SECTION 24. Section 57-61-35, Mississippi Code of 1972, is amended as follows:

57-61-35. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds authorized under this chapter.

SECTION 25. Section 57-71-33, Mississippi Code of 1972, is amended as follows:

57-71-33. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this act.

SECTION 26. Section 57-77-39, Mississippi Code of 1972, is amended as follows:

57-77-39. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the seller in issuing, selling and validating bonds or notes herein provided for, and the seller is hereby authorized and empowered to expend from the proceeds derived from the sale of the bonds or notes authorized hereunder all necessary administrative, legal and other expenses incidental and related to the issuance of bonds or notes authorized under this chapter.

SECTION 27. Section 59-5-65, Mississippi Code of 1972, is amended as follows:

59-5-65. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for. The State Bond Commission is hereby authorized and empowered to pay the costs that are incident to the sale, issuance and delivery of the bonds herein provided for, and such costs may be paid for out of the proceeds derived from the sale of such bonds.

SECTION 28. Section 59-17-57, Mississippi Code of 1972, is amended as follows:

59-17-57. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the State Bond Commission in issuing, selling and validating bonds herein provided for, and the board is hereby authorized and empowered to expend any sum not exceeding Fifteen Thousand Dollars (\$15,000.00) from the proceeds derived from the sale of any one (1) series of bonds authorized hereunder to pay for the cost of the approving attorney's fees, validating, printing and cost of delivery of bonds authorized under this chapter.

SECTION 29. Section 65-26-37, Mississippi Code of 1972, is amended as follows:

65-26-37. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent

the Transportation Commission in issuing, selling and validating bonds herein provided for, and said Transportation Commission is hereby authorized and empowered to expend any sum not to exceed Forty Thousand Dollars (\$40,000.00) on approval by the State Bond Commission from the proceeds derived from the sale of bonds authorized in subsections (1) and (2) of Section 65-26-15, or from other funds available to the Transportation Commission, to pay the cost of approving attorney's fees, validating, printing and cost of delivery of bonds authorized under this chapter.

SECTION 30. Section 69-2-33, Mississippi Code of 1972, is amended as follows:

69-2-33. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the department in issuing, selling and validating bonds or notes authorized under Sections 69-2-19 through 69-2-39 of this chapter, and the department is authorized to pay from the proceeds derived from the sale of such bonds or notes, or from other funds available to the department, the reasonable cost of approving attorney's fees, validating, printing and cost of delivery of such bonds or notes.

SECTION 31. Section 69-27-359, Mississippi Code of 1972, is amended as follows:

69-27-359. Except as otherwise authorized in Section 7-5-39, the Attorney General of the State of Mississippi shall represent the Soil and Water Conservation Commission in issuing, selling and validating bonds authorized under Sections 69-27-345 through 69-27-365, and the commission is authorized to pay from the proceeds derived from the sale of such bonds or from other funds available to the commission, the reasonable cost of approving attorney's fees, validating, printing, cost of delivery of such bonds and any other necessary costs of issuance.

SECTION 32. Section 73-11-49, Mississippi Code of 1972, is amended as follows:

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

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

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

(4) The board shall employ an administrator of the board, who shall have complete supervision and be held responsible for the direction of the office of the board, shall have supervision over field inspections and enforcement of the provisions of this chapter, shall have such other duties as may be assigned by the board, shall be responsible and answerable to the board. The board may employ such other clerical assistants and employees as may be necessary to carry out the provisions of this chapter, and the terms and conditions of such employment shall be determined by the board in accordance with applicable state law and rules and regulations of the State Personnel Board.

(5) Except as otherwise authorized in Section 7-5-39, the board, when it shall deem necessary, shall be represented by an assistant attorney general duly appointed by the Attorney General of this state, and may also request and receive the assistance of

other state agencies and county and district attorneys, all of whom are authorized to provide the assistance requested.

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

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

(8) The board may designate the administrator to perform inspections under this chapter, may employ an individual to perform such inspections or may contract with any other individual or entity to perform such inspections. Any individual or entity that performs such inspections shall have the right of entry into any place in which the business or practice of funeral service and/or funeral directing is carried on or advertised as being carried on, for the purpose of inspection, for the investigation of complaints coming before the board and for such other matters as the board may direct.

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

SECTION 33. Section 73-13-39, Mississippi Code of 1972, is amended as follows:

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

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

(a) Directly or indirectly employ, use, cause to be used or make use of any of the following terms or any combinations, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "engineer," "professional engineer," "licensed engineer," "registered engineer," "registered professional engineer," "licensed professional engineer," "engineered," "engineering"; or

(b) Directly or indirectly employ, use, cause to be used or make use of any letter, abbreviation, word, symbol,

slogan, sign or any combinations or variations thereof which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice engineering; or

(c) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of engineering.

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

It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of Sections 73-13-1 through 73-13-45 and to prosecute any persons violating same. Except as otherwise authorized in Section 7-5-39, the Attorney General of the state or his assistant shall act as legal advisor of the board in carrying out the provisions of Sections 73-13-1 through 73-13-45.

SECTION 34. Section 73-13-95, Mississippi Code of 1972, is amended as follows:

73-13-95. Any person who shall practice, or offer to practice, surveying in this state without being licensed in accordance with the provisions of Sections 73-13-71 through 73-13-105, or any person presenting or attempting to use as his own the certificate of licensure or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of licensure, or any person who shall falsely impersonate any other licensee of like or different name, or any person who shall knowingly attempt to use a license which has been expired for more than twelve (12) consecutive months or revoked certificate of

licensure, or any person who shall violate any of the provisions of Sections 73-13-71 through 73-13-105, shall be guilty of a misdemeanor, and shall, upon conviction of a first offense of violating this section, be sentenced to pay a fine of not less than One Hundred Dollars (\$100.00), nor more than Five Thousand Dollars (\$5,000.00), and in addition thereto shall make restitution to the board for investigative expenses and court costs, or suffer imprisonment for a period of not exceeding three (3) months, or both. Upon any second and subsequent conviction of violating this section, such person shall be sentenced to pay a fine of not less than Five Thousand Dollars (\$5,000.00), nor more than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the county jail for not more than one (1) year, or both. The criminal penalties provided for in this section may be assessed in addition to those civil penalties provided for in Section 73-13-37.

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

(a) Directly or indirectly employ, use, cause to be used or make use of any of the following terms or any combination, variations or abbreviations thereof as a professional, business or commercial identification, title, name, representation, claim, asset or means of advantage or benefit: "surveyor," "professional surveyor," "licensed surveyor," "registered surveyor," "registered professional surveyor," "licensed professional surveyor," "surveyed," "surveying," "professional land surveyor," or "licensed professional land surveyor";

(b) Directly or indirectly employ, use, cause to be used or make use of any letter, abbreviation, word, symbol, slogan, sign or any combinations or variations thereof, which in any manner whatsoever tends or is likely to create any impression with the public or any member thereof that any person is qualified or authorized to practice surveying; or

(c) Receive any fee or compensation or the promise of any fee or compensation for performing, offering or attempting to perform any service, work, act or thing which is any part of the practice of surveying.

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

It shall be the duty of all duly constituted officers of the law of this state, or any political subdivision thereof, to enforce the provisions of Sections 73-13-71 through 73-13-105 and to prosecute any persons violating same. Except as otherwise authorized in Section 7-5-39, the Attorney General of the state or his assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out the provisions of Sections 73-13-71 through 73-13-105.

SECTION 35. Section 73-15-33, Mississippi Code of 1972, is amended as follows:

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

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

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

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

(d) Use any title, designation or abbreviation by which a person presents to the public that he or she is a registered

nurse, a licensed practical nurse or any other type of nurse, unless the person is duly licensed or privileged to practice under the provisions of this article; however, this paragraph does not prohibit a certified nurse assistant or certified nursing assistant from using the word "nurse" or "nursing" as part of his or her job title;

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

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

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

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

Any person, firm or corporation who violates any provisions of this article shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00) or by imprisonment in the county jail for not less than twelve (12) months, or by both such fine and imprisonment. It shall be necessary to prove, in any prosecution under this article, only a single act prohibited by law, or a single holding out or an attempt without proving a general course of conduct in order to constitute a violation. Each violation may constitute a separate offense. Except as otherwise authorized in Section

7-5-39, it shall be the duty of the Attorney General to advise with the board in preparing charges, to assist in conducting board disciplinary hearings, to provide assistance with appropriate affidavits and other charges for filing in the appropriate court, and to assist the county or district attorney in prosecution, if any.

SECTION 36. Section 73-29-39, Mississippi Code of 1972, is amended as follows:

73-29-39. Any person dissatisfied with the action of the board in refusing his application or suspending or revoking his license, or any other action of the board, may appeal the action of the board by filing a petition within thirty (30) days thereafter in the circuit court in the county where the person resides or in the Circuit Court of Hinds County, Mississippi, and the court is vested with jurisdiction and it shall be the duty of the court to set the matter for hearing upon ten (10) days' written notice to the board and the attorney representing the board. The court in which the petition of appeal is filed shall determine whether or not a cancellation or suspension of a license shall be abated until the hearing shall have been consummated with final judgment thereon or whether any other action of the board should be suspended pending hearing, and enter its order accordingly, which shall be operative when served upon the board, and the court shall provide the attorney representing the board with a copy of the petition and order. Except as otherwise authorized in Section 7-5-39, the board shall be represented in such appeals by the district or county attorney of the county or the Attorney General, or any of their assistants. The board shall initially determine all facts, but the court upon appeal shall set aside the determination of the board if the board's determination (1) is not based upon substantial evidence upon the entire record; (2) is arbitrary or capricious; (3) is in violation of statutory

requirements; or (4) was made without affording to licensee or applicant due process of law.

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

SECTION 37. Section 73-29-43, Mississippi Code of 1972, is amended as follows:

73-29-43. If any person violates any provisions of this chapter, the secretary shall, upon direction of a majority of the board, in the name of the State of Mississippi, through the Attorney General of the State of Mississippi, except as otherwise authorized in Section 7-5-39, apply in any chancery court of competent jurisdiction, for an order enjoining such violation or for an order enforcing compliance with this chapter. Upon the filing of a verified petition in the court, the court, or any judge thereof, if satisfied by affidavit or otherwise that the person has violated this chapter, may issue a temporary injunction, without notice or bond, enjoining such continued violation and if it is established that the person has violated or is violating this chapter, the court, or any judge thereof, may enter a decree perpetually enjoining the violation or enforcing compliance with this chapter. In case of violation of any order or decree issued under the provisions of this section, the court, or any judge thereof, may try and punish the offender for contempt of court. Proceedings under this section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this chapter.

SECTION 38. Section 73-31-25, Mississippi Code of 1972, is amended as follows:

73-31-25. The board may, in the name of the people of the State of Mississippi, through the Attorney General, except as otherwise authorized in Section 7-5-39, apply for an injunction in any court of competent jurisdiction to enjoin any person from committing any act declared to be a misdemeanor by this chapter.

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

SECTION 39. Section 73-36-35, Mississippi Code of 1972, is amended as follows:

73-36-35. Any person who practices or offers to practice the profession of forestry in this state without being registered in accordance with this chapter, or any person who uses in connection with his name, or otherwise assumes, uses or advertises any title or description tending to convey the impression that he is a registered forester without being registered in accordance with this chapter, or any person who presents or attempts to use as his own the license of another, or any person who gives any false or forged evidence of any kind to the board or any member in obtaining a license, or any person who attempts to use an expired or revoked license, or any person, firm, partnership or corporation who violates any of the provisions of this chapter and has not been issued an administrative fine by the board for the violation is guilty of a misdemeanor and, upon conviction, shall be fined not more than Five Thousand Dollars (\$5,000.00) for each violation. The board, or any person or persons as may be designated by the board to act in its stead, is empowered to

prefer charges for any violations of this chapter in any court of competent jurisdiction. It shall be the duty of all duly constituted officers of the law of this state to enforce the provisions of this chapter and to prosecute any persons, firms, partnerships or corporations violating same. Except as otherwise authorized in Section 7-5-39, the Attorney General of the state or his designated assistant shall act as legal advisor of the board and render such assistance as may be necessary in carrying out the provisions of this chapter.

SECTION 40. Section 73-63-25, Mississippi Code of 1972, is amended as follows:

73-63-25. Except as otherwise authorized in Section 7-5-39, the Attorney General shall be counsel and attorney for the board and shall provide any legal services as may be requested by the board from time to time. The board * * * may retain outside counsel and investigators to provide any legal and investigative assistance as may be necessary in enforcing this chapter as authorized in House Bill No. 211, 2012 Regular Session.

SECTION 41. Section 75-76-25, Mississippi Code of 1972, is amended as follows:

75-76-25. Except as otherwise authorized in Section 7-5-39, the Attorney General and his assistants shall represent the commission and the executive director in any proceeding to which the commission or the executive director is a party under this chapter * * * and shall also advise the commission and the executive director in all other matters, including representing the commission when the commission sits in a quasi-judicial capacity.

SECTION 42. Section 83-1-5, Mississippi Code of 1972, is amended as follows:

83-1-5. The commissioner shall receive a compensation to be fixed by law. He is hereby authorized to employ a clerk and stenographer and an actuary at a salary to be fixed by law; and in

addition shall be allowed a sufficient sum for traveling expenses and for extra clerical help.

Further, the commissioner may appoint or employ special counsel pursuant to the provisions of Section 7-5-39.

SECTION 43. Section 97-33-109, Mississippi Code of 1972, is amended as follows:

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

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

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

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

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

(d) Demand access to and audit and inspect books and records of licensees for the purpose of determining compliance with laws and regulations relative to charitable bingo games;

(e) Conduct in-depth audits and investigations; and

(f) Mandate that internal controls be executed in accordance with the provisions of the Charitable Bingo Law and other applicable laws and regulations.

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

(4) In addition to license revocation or suspension or any criminal penalty imposed, the commission may assess a fine against any person who violates any law or regulation relative to

charitable bingo games. Such a fine shall only be assessed after notice and an opportunity for a hearing to be held.

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

(6) Except as otherwise authorized in Section 7-5-39, the Attorney General shall be the attorney for the commission in regard to its duties to regulate the Charitable Bingo Law and he shall represent it in all legal proceedings and shall prosecute any civil action for a violation of the provisions of Sections 97-33-51 through 97-33-203 or the rules and regulations of the commission.

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

(8) (a) Whenever any person who is a resident of the State of Mississippi has reason to believe that a person or organization is or has violated the provisions of Sections 97-33-51 through 97-33-203 and that proceedings would be in the public interest, he may bring an action in the name of the state against such person to restrain by temporary or permanent injunction such violation, upon at least five (5) days' summons before the hearing of the action. The action shall be brought in the chancery or county court of the county in which such violation has occurred or, with consent of the parties, may be brought in the chancery or county court of the county in which the State Capitol is located. The said courts are authorized to issue temporary or permanent

injunctions to restrain and prevent violations of Sections 97-33-51 through 97-33-203, and such injunctions shall be issued without bond.

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

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

(d) No penalty authorized by this subsection shall be deemed to limit the court's powers to insure compliance with its orders, decrees and judgments, or punish for the violations thereof.

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

SECTION 44. This act shall take effect and be in force from and after July 1, 2012.

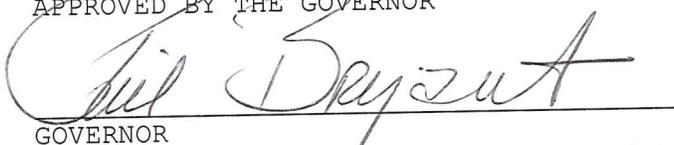
PASSED BY THE HOUSE OF REPRESENTATIVES
May 1, 2012


SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
May 2, 2012


PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR


GOVERNOR

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