

Legislative Update

By Steve Gray

State Government

State Government Update

- ▶ Joint Legislative Budget Committee Hearings (Sept. 21st & 22nd)
- ▶ Mississippi agencies are seeking roughly \$800 million more for the 2019 Fiscal Year

State Economist Darrin Webb

- ▶ During the month of August, state revenue up 2.3% due to an audit payment
- ▶ Retail sales negative effective by the state's current economy
- ▶ 40% of the working age possibly not working
- ▶ Much higher disability rate than the nation
- ▶ We should anticipate more than a 1% growth in state revenue, but we may end flat
- ▶ We have low human capital compared to the rest of the nation: less educated, less healthier, less trained, and more disabled

Fiscal Year 2018

Total State "General Fund" Budget for Fiscal Year 2018

\$6,036,900,826.00

- ▶ Public Education: \$2,494,930,791.00
- ▶ Medicaid: \$918,757,821.00
- ▶ Dept. of Corrections: \$309,935,445.00
- ▶ Institutions of Higher Learning (IHL): \$666,829,396.00
- ▶ Dept. of Mental Health: \$226,715,018.00
- ▶ Junior Colleges: \$237,233,195.00
- ▶ Debt Service: \$384,741,392.00

TOTAL: \$5,239,143,058.00

LEFTOVER: \$797,757,768.00

Out-Of-Session Activity

Out-Of-Session Activity

- ▶ Reverse Auctions
- ▶ Transportation
- ▶ Medicaid Suspension for Inmates
- ▶ 2018 MAS Legislative Proposals

Reverse Auction

Reverse Auction

- ▶ Attorney Generals Opinion regarding local government
- ▶ Department of Finance & Administration recommendation regarding local government
- ▶ Preliminary efforts to re-address House Bill 1106

Reverse Auction

Attorney General's Opinion regarding House Bill 1106 & 1109

- ▶ AG's Opinion requested by Desoto County
 - ▶ Questioned whether the mandate to use reverse auction as the primary method for receiving bids during the bid process should apply to "all" governing authorities.

 - ▶ Questioned the definition of "Purchasing Entity," and stating that it is a broad term that encompasses both state entities and local governing authorities.

- Attorney General's Opinion Response
 - In our opinion, had the Legislature intended to limit the requirement of the PPRB approval to only determinations made by state agencies, it would have done so by using the term "agency" and not "purchasing entity." Furthermore, the nature of the amendments made by the passage of House Bills 1106 and 1109 indicates that the **Legislature intended on reforming the procurement laws to put safeguards in place to prevent corruption and encourage accountability and transparency.** Thus, based on the language contained in the amendment to Section 31-7-13 and the intent of House Bills 1106 and 1109, we are of the opinion that the amendment made by House Bills 1106 and 1109 to Section 31-7-1 applies to governing authorities.

Reverse Auction

Recommendations from Department of Finance & Administration (DFA)

▶ First Memorandum (July 13, 2017)

- ▶ Purchasing entity may petition the Public Procurement Review Board (PPRB) for relief from utilizing a reverse auction on a particular procurement.
- ▶ The Attorney General has recently opined that “purchasing entity” in this context includes “governing authorities.” See MS AG Op., Nowak (June 9, 2017)
- ▶ **It will be the recommendation of the Department of Finance & Administration to the PPRB that regulations be adopted which delegate this exemption approval authority back to the governing board of the individual authorities.**

• Second Memorandum (September 8, 2017)

- In our previously issued memorandum, our intention to recommend that the Public Procurement Review Board (PPRB) delegate approval authority for exemptions to performing reverse auctions and approval of any subsequent contract awards back to the applicable board of the governing authority. After consultation with Attorney General’s Office, we have come to the conclusion that the language of revised Section 31-7-13, does not support such a delegation. Accordingly, we will proceed with promulgating rules and regulations regarding the exemption requesting and contract approval processes through the PPRB.
- In order to assist governing authorities in complying with these new requirements, DFA, in partnership with the Mississippi Department of Information Technology Services (ITS), will be issuing a solicitation for the provision of both electronic bidding and reverse auction services. The contracts **will not be mandatory**, and governing authorities will still be free to contract with whomever they wish.

Reverse Auction

Preliminary efforts to re-address House Bill 1106

- Various coalitions have formed with a mission to repeal/amend the current law.
- Language change under consideration:
 - ▶ “Reverse auction **shall** (may) be the primary method for receiving bids during the bidding process.” (Lines 86 & 87)
 - ▶ “However, reverse auction shall not be used for any public contract for design or construction of public facilities, including buildings, roads and bridges, and construction materials.”

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But, as Turner points out, most penalties and fines for violating the new regulations were stripped out in the legislative process last year. He vows to try to remedy that in 2018.

But already there has been much talk of a push in the coming legislative session by vendor lobbyists and county government interests to undo the reforms before they can even kick in. Particularly, I'm told, many county supervisor do not relish the thought of having to get the lowest price through reverse auctions for purchases. It could hamstring the good-old-boy system of purchasing in a way not seen in generations.

More: [Public servants hiring spouses, mothers, brothers, lovers: Is it ethical?](#)

Turner last week applauded Pickering's delving into MDE's contracts and spending and his call for more systemic reforms and oversight.

"We will work with the auditor to get any legislation he might need," Turner said.

Pickering, who is calling for a procurement and accounting oversight body to handle federal grant spending by state agencies, said his office will be "hitting some other boards and commissions this fall."

"They are an abysmal failure with their finances," Pickering said, referring to many small agencies and commissions far flung across state government. "I'm going to be asking the Legislature for many smaller board and commissions to take away their financial operations — purchasing, contracting — and consolidating it and providing some oversight."

State leaders should ignore attempts by special interests and bureaucracy to thwart procurement reform.

Mississippi is too poor a state to allow its limited tax dollars to be mismanaged, stolen or spent inefficiently.

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Transportation

Transportation Meetings

- ▶ Federal Bridge Closings
- ▶ Senate Transportation Committee Hearing

Transportation Meetings

Federal Bridge Closings

- ▶ Due to an audit initiated in November of 2016, the Federal Highway Administration identified 120 bridges that were reported safe to remain open to traffic. Each of the bridges identified had a superstructure or a substructure component condition rating of 2 (critical condition).
- ▶ The effected areas had until January 25, 2017 to determine if the bridges could remain open.
- ▶ Of the 120 bridges, 114 were identified to remain open.
- ▶ Another re-inspection of the 114 bridges was conducted consisting of FHWA, MDOT, State Aid, and County Engineers. This inspection resulted in 72 bridges being either partially or fully closed to ensure safe traveling for the public.

Transportation Meetings

Senate Transportation Committee Hearing

- ▶ Two days of hearings regarding the poor conditions of the state's transportation system.
 - ▶ Representatives from the private sector facilitated the 1st day
 - ▶ Representatives from the public sector facilitated the 2nd day
- ▶ Among possible tax increases discussed were the following:
 - ▶ Increasing the per-gallon fuel tax by 7 cents, and indexing the 7 cents to the average whole sale price of fuel. (Expected to generate: \$164 million)
 - ▶ Imposing an additional highway privilege tax on vehicles over 10,000lbs. (Expected to generate: \$22.3 million)
 - ▶ Creating a state lottery. (Expected to generate: \$80 million) Based on Arkansas's lottery numbers.
 - ▶ Increasing sales tax on hotels and motels by 3 percent. (Expected to generate: \$28.3 million)
 - ▶ Increasing taxes on cigarettes by 32 cents a pack, to \$1 a pack. (Expected to generate: \$57.8 million)
 - ▶ Increasing taxes on other tobacco products to 20 percent. (Expected to generate \$6.3 million)
 - ▶ Also consideration to increase fees or taxes on casino, alcohol, e-cigarettes, tires, and car tags

"Since 2011, the Legislature has appropriated more than \$7 billion for Mississippi roads and bridges. Lt. Gov. Reeves believes we should direct more money to maintenance and repairs, and he believe we can do so without raising the gas tax and without implementing an illegal tax on internet sales. Our initial step is the state must do a better job prioritizing current spending while targeting inefficiencies in what has become a large bureaucracy (MDOT)."

- Laura Hipp (Lt. Governor Spokeswoman)

Medicaid Suspension for Inmates

Medicaid Suspension

► Overview

- Under federal law, states are prohibited from using federal funds to finance health care for individuals who are incarcerated. This means that when an individual is incarcerated, states must either suspend or terminate their eligibility for Medicaid. Despite federal guidance encouraging states to suspend rather than terminate Medicaid eligibility, most states terminate. Now, several states are moving toward Medicaid suspension.

Medicaid Suspension

▶ Practical Aspect

- ▶ If Medicaid benefits are terminated, individuals must reapply for these benefit, and re-determine eligibility upon release from incarceration. This process can result in a two or three month delay in reinstatement of benefits, and therefore access to non-emergency health care treatments and services.
- ▶ For individuals with serious mental illness (SMI), delaying access to mental health treatment for weeks or months may be particularly debilitating. The delay could potentially reverse mental health stabilization gains made while incarcerated, placing these individuals at risk for re-hospitalization and/or return to the criminal justice system. This risk can have costly effects on society.

Medicaid Suspension

▶ Public Sector Cost Savings

▶ State Cost Savings: States may achieve cost savings by switching to suspension policies.

- **The 24-Hour Inpatient Stay Exception:** Suspending Medicaid is one way to allow federal Medicaid funds to finance care provided to an eligible incarcerated individual outside of jail or prison when the inmate is a patient in a “medical institution” for 24+ hours. In states that terminate, counties can work with their local Medicaid agency to create a suspension process and access the 24-hour inpatient stay exception.
 - North Carolina reported \$10 million in savings the first year it billed Medicaid.
 - Hudson County, New Jersey estimates that it will save approximately \$700,000 per year by accessing the 24-hour inpatient stay exception
- **Access to Care:** Ensuring Medicaid enrollment for eligible incarcerated individuals may reduce reliance on emergency departments, recidivism and other related societal losses.

▶ Better outcomes for those with serious mental illness (SMI): Ensuring Medicaid continuity for people with SMI may reduce recidivism, and has the potential to positively impact health status. It may also increase access to timely care by reducing delays in benefits

- For individuals with SMI, delaying access to mental health treatment for weeks or months may be particularly debilitating. It may reverse mental health stabilization gains made while incarcerated, and place individuals with SMI at higher risk for re-hospitalization and/or return to the criminal justice system.

2018 Legislative Proposals

MAS 2018 Legislative Proposals

Proposal 1

The Mississippi Association of Supervisors request legislation that establishes a state certified county supervisor's education certification program, with a merit pay incentive that will initially be unspecified in the amount, and subject to what can be accomplished through the legislative process)

Proposal 2

The Mississippi Association of Supervisors request legislation that increases infrastructure funding to county government beyond its existing funding stream.

Proposal 3

The Mississippi Association of Supervisors request legislation funding the Local System Bridge Program (LSBP) at \$40 million.

Proposal 4

The Mississippi Association of Supervisors request legislation that fully funds the Homestead Exemption Reimbursement at \$87.5 million.

MAS 2018 Legislative Proposals

Proposal 5

The Mississippi Association of Supervisors request legislation that provides for increased revenue for 911 funding.

Proposal 6

The Mississippi Association of Supervisors request legislation to provide funding for the Rural Fire Truck Acquisition Program.

Proposal 7

The Mississippi Association of Supervisors request legislation to provide county governments savings through Medicaid suspension.

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the left and right sides of the frame, leaving a large white central area. The shapes are composed of triangles and polygons, some of which are semi-transparent, creating a layered effect.

Questions?