

By: Representative Evans

To: Labor; Appropriations

HOUSE BILL NO. 390

1 AN ACT TO ESTABLISH A MISSISSIPPI DEPARTMENT OF LABOR, TO
2 TRANSFER THE DISPLACED WORKERS UNIT FROM THE DEPARTMENT OF
3 ECONOMIC AND COMMUNITY DEVELOPMENT TO THE DEPARTMENT OF LABOR AND
4 TO SET FORTH AND PRESCRIBE THE FUNCTIONS OF ADMINISTRATIVE OFFICES
5 WITHIN THE DEPARTMENT; TO PROVIDE FOR THE STATEWIDE ELECTION OF
6 THE COMMISSIONER OF LABOR; TO AMEND SECTION 71-5-101, MISSISSIPPI
7 CODE OF 1972, TO PROVIDE THAT THE DUTIES AND POWERS OF THE
8 MISSISSIPPI EMPLOYMENT SECURITY COMMISSION SHALL BE TRANSFERRED TO
9 THE OFFICE OF EMPLOYMENT SECURITY IN THE MISSISSIPPI DEPARTMENT OF
10 LABOR; TO REPEAL SECTIONS 71-5-103, 71-5-105 AND 71-5-107,
11 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR MEETINGS AND
12 COMPENSATION OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; TO
13 AMEND SECTION 71-1-1, MISSISSIPPI CODE OF 1972, TO EMPOWER THE
14 DEPARTMENT OF LABOR TO REGULATE OCCUPATIONAL HEALTH AND SAFETY
15 STANDARDS AND ENFORCE ALL LABOR LAWS IN THE STATE OF MISSISSIPPI;
16 TO AMEND SECTIONS 71-1-25 AND 71-1-27, MISSISSIPPI CODE OF 1972,
17 TO EMPOWER THE DEPARTMENT OF LABOR TO ENFORCE CHILD LABOR LAWS; TO
18 EMPOWER THE DEPARTMENT OF LABOR TO ADMINISTER AND COORDINATE
19 CERTAIN FEDERAL AND STATE-FUNDED JOB TRAINING AND
20 EMPLOYMENT-RELATED EDUCATION PROGRAMS; TO AMEND SECTIONS 7-1-351,
21 7-1-355, 7-1-357, 7-1-361, 7-1-363 AND 7-1-365, MISSISSIPPI CODE
22 OF 1972, IN CONFORMITY THERETO; TO PRESCRIBE THE RESPONSIBILITIES
23 OF THE OFFICE OF INDUSTRY SERVICE AND INDUSTRY START-UP TRAINING,
24 THE OFFICE OF EMPLOYEE RELATIONS AND JOB DISCRIMINATION AND THE
25 OFFICE OF DISABLED EMPLOYEE ASSISTANCE WITHIN THE DEPARTMENT; TO
26 AMEND SECTION 25-3-31, MISSISSIPPI CODE OF 1972, TO SET THE ANNUAL
27 SALARY OF THE COMMISSIONER OF LABOR; AND FOR RELATED PURPOSES.

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

29 SECTION 1. The following terms shall have the meanings
30 ascribed herein, unless the context shall otherwise require:

31 (a) "Commissioner" means the Commissioner of Labor.

32 (b) "Department" means the Mississippi Department of
33 Labor.

34 (c) "Director" means the administrative head of an
35 office.

36 (d) "Office" means an administrative subdivision of the
37 department.

38 SECTION 2. (1) There is created the Mississippi Department
39 of Labor for the following purposes:

40 (a) To coordinate employer-employee services and
41 relations;

42 (b) To establish and oversee an effective and efficient
43 work force development system in Mississippi to enable residents
44 to acquire skills necessary to maximize their economic
45 self-sufficiency; and

46 (c) To provide Mississippi employers with the work
47 force they need to effectively compete in the changing world
48 economy.

49 (2) The department shall be composed of the following
50 offices:

51 (a) The Office of Employment Security;

52 (b) The Office of Workplace Safety and Health;

53 (c) The Office of Job Development and Training;

54 (d) The Office of Industry Service and Industry
55 Start-up Training;

56 (e) The Office of Employee Relations and Job
57 Discrimination; and

58 (f) The Office of Disabled Employee Assistance.

59 SECTION 3. The Department of Labor shall provide the
60 labor-management services authorized by law and by the rules,
61 regulations and policies of the department to every individual
62 determined to be eligible therefor, and in carrying out the
63 purposes of this act, the department is authorized:

64 (a) To expend funds received either by appropriation or
65 directly from federal or private sources;

66 (b) To cooperate with other departments, agencies and
67 institutions, both public and private, in providing the services
68 authorized by this act to individuals, in studying the problems
69 involved therein, and in establishing, developing and providing in
70 conformity with the purposes of this act, such programs,
71 facilities and services as may be necessary or desirable;

72 (c) To enter into reciprocal agreements with other
73 states to provide for the services authorized by this act to

74 residents of the states concerned;

75 (d) To conduct research and compile statistics relating
76 to the provision of services to or the need of services by
77 individuals;

78 (e) To enter into contractual arrangements with the
79 federal government and with other authorized public agencies or
80 persons for performance of services related to labor-management;

81 (f) To take such action as may be necessary to enable
82 the department to apply for, accept and receive for the state and
83 its residents the full benefits available under any federal
84 legislation or program having as its purpose the providing of,
85 improvement or extension of, labor-management services.

86 SECTION 4. (1) The chief officer of the department shall be
87 denominated the Commissioner of Labor who shall be elected at the
88 general election as other state officers. His term of office
89 shall be for four (4) years as that of other state officials. The
90 commissioner shall receive a compensation to be fixed by law. The
91 commissioner shall be responsible for the proper administration of
92 the programs of labor-management relations provided under this act
93 and shall be responsible for appointing directors of offices and
94 any necessary supervisors, assistants and employees. The salary
95 and compensation of such employees shall be subject to the rules
96 and regulations adopted and promulgated by the State Personnel
97 Board as created under Section 25-9-101 et seq.

98 (2) In carrying out his duties under this act, the
99 Commissioner of Labor:

100 (a) Shall promulgate regulations governing personnel
101 standards, the protection of records and confidential information,
102 the manner and form of filing applications, eligibility and
103 investigation and determination therefor, for labor-management
104 services, procedures for fair hearings and such other regulations
105 as he finds necessary to carry out the purposes of this act and in
106 conformity with federal law;

107 (b) Shall establish appropriate subordinate

108 administrative units within the department;

109 (c) Shall prepare and submit to the Legislature annual
110 reports of activities and expenditures and, before each regular
111 session of the Legislature, coordinate budget requests required
112 for carrying out this act and estimates of the amounts to be made
113 available for this purpose from all sources;

114 (d) Shall be empowered to exercise executive and
115 administrative supervision over all institutions, offices,
116 programs and services now existing or hereafter acquired or
117 created under the jurisdiction of the department;

118 (e) Shall make certification for disbursement, in
119 accordance with regulations, of funds available, for implementing
120 the purposes of this act;

121 (f) Shall take such other action as he deems necessary
122 or appropriate to effectuate the purposes of this act;

123 (g) May delegate to any officer or employee of the
124 department such of his powers and duties as he finds necessary to
125 effectuate the purposes of this act.

126 SECTION 5. Section 71-5-101, Mississippi Code of 1972, is
127 amended as follows:

128 71-5-101. From and after the effective date of this act, the
129 duties and powers of the Mississippi Employment Security
130 Commission shall be transferred to the Office of Employment
131 Security in the Mississippi Department of Labor created in House
132 Bill _____, 1999 Regular Session. From and after the effective
133 date of this act, the Mississippi Employment Security Commission
134 shall be abolished. Any reference in this chapter to "Mississippi
135 Employment Security Commission" or "commission" means the Office
136 of Employment Security within the Mississippi Department of Labor
137 created in this act.

138 SECTION 6. Sections 71-5-103, 71-5-105 and 71-5-107,
139 Mississippi Code of 1972, which provide for meetings and
140 compensation of the Mississippi Employment Security Commission,
141 are repealed.

142 SECTION 7. Section 71-1-1, Mississippi Code of 1972, is
143 amended as follows:

144 71-1-1. (1) The Office of Workplace Safety and Health of
145 the Department of Labor is authorized to establish an occupational
146 health and safety program and is empowered:

147 (a) To employ such qualified personnel as staff to
148 carry out the duties and responsibilities set forth herein;

149 (b) To develop and make available upon request to all
150 employers of the state, including public employers, information,
151 consultation and assistance related to safety and health laws,
152 regulations, measures and standards; to participate and assist
153 with training and educational programs, directed toward employee
154 safety and disease prevention;

155 (c) To employ such personnel and procure such equipment
156 as necessary to provide on-site consultive services related to
157 assistance, information, education or training of employers and
158 employees toward compliance with safety and health standards and
159 toward the establishment of safety and health programs to prevent
160 work-connected disabilities;

161 (d) To collect, compile and report statistics related
162 to work-connected disabilities in Mississippi; such statistical
163 work shall be performed in cooperation with other
164 statistic-gathering agencies with the federal and state
165 governments. Such statistical reports as may be available shall
166 be made known to employers and employees.

167 (e) To receive such federal or state grants and
168 appropriations as available to further the education, training and
169 assistance to the employers and employees of Mississippi in
170 preventing work-connected disabilities.

171 (f) Nothing in this section shall be construed as
172 authorizing the State Board of Health to administer or enforce in
173 any way the Federal Occupational Safety and Health Act, known as
174 OSHA.

175 (2) In addition to such other duties and powers as may be

176 conferred by law, the Office of Workplace Safety and Health of the
177 Department of Labor shall have the power, jurisdiction and
178 authority:

179 (a) To superintend the enforcement of all labor laws in
180 the State of Mississippi, the enforcement of which is not
181 otherwise specifically provided for, and all rules and regulations
182 made pursuant thereto;

183 (b) To make or cause to be made all necessary
184 inspections to see that all laws and rules made pursuant thereto
185 which the division has the duty, power and authority to enforce,
186 are promptly and effectively carried out;

187 (c) To make investigations, collect and compile
188 statistical information and report upon the conditions of labor
189 generally, and upon all matters relating to the enforcement and
190 effect of the provisions of this section and of the rules issued
191 thereunder;

192 (d) To make and promulgate such rules, or changes in
193 rules, as it may deem advisable for the prevention of accidents or
194 the prevention of industrial or occupational diseases in every
195 employment or place of employment, and such rules, or changes in
196 rules, for the construction, repair and maintenance of places of
197 employment, places of public assembly and public buildings as it
198 may deem advisable to render them safe. The division may appoint
199 committees composed of employers, employees and experts to suggest
200 rules or changes therein;

201 (e) To order such reasonable changes in the
202 construction, maintenance and repair of places of employment as
203 shall render them safe; and

204 (f) To require the performance of any act necessary for
205 the protection of life, health and safety of employees.

206 SECTION 8. Section 71-1-25, Mississippi Code of 1972, is
207 amended as follows:

208 71-1-25. (1) It shall be the duty of the Office of
209 Workplace Safety and Health of the Department of Labor to inspect

210 employers under its jurisdiction for compliance with the child
211 labor provisions of the Mississippi Code of 1972.

212 (2) It shall be the duty of the Office of Workplace Safety
213 and Health to visit, without notice of its intention to do so, all
214 mills, canneries, workshops, factories, or manufacturing
215 establishments employing child labor at least twice each year, or
216 oftener if requested by the sheriff, and to promptly report to the
217 sheriff any unsanitary condition of the premises, any child or
218 children afflicted with infectious, contagious or communicable
219 diseases, or whose physical condition renders such child or
220 children incapacitated to perform the work required of them. The
221 sheriff shall promptly remove such child or children from such
222 mill, cannery, workshop, factory or manufacturing establishment,
223 and order the premises put in sanitary condition. The judgment of
224 the Office of Workplace Safety and Health as to the physical
225 condition of the children and the sanitary condition of the
226 premises shall be final and conclusive.

227 (3) Every employer shall furnish employment which shall be
228 reasonably safe for the employees therein and shall furnish and
229 use safety devices and safeguards and shall adopt and use methods
230 and processes reasonably adequate to render such an employment and
231 place of employment safe and shall do every other thing reasonably
232 necessary to protect the life, health, safety and welfare of such
233 employees; provided that, as used in this chapter, the term "safe"
234 or "safety" as applied to any employment or place of employment
235 shall include conditions and methods of sanitation and hygiene
236 reasonably necessary for the protection of the life, health,
237 safety and welfare of employees.

238 (4) Every employer and every owner of a place of employment,
239 place of public assembly or public building, now or hereafter
240 constructed, shall so construct, repair and maintain the same as
241 to render it reasonably safe.

242 SECTION 9. Section 71-1-27, Mississippi Code of 1972, is
243 amended as follows:

244 71-1-27. Any officer, manager, or superintendent of any
245 mill, cannery, workshop, factory or manufacturing establishment in
246 which child labor is employed who shall fail or refuse to give
247 true and correct information demanded of him by any officer who is
248 directed under this chapter to inspect such mill, cannery,
249 workshop, factory or manufacturing establishment, or who shall
250 fail or refuse to obey any lawful order of the Office of Workplace
251 Safety and Health or the sheriff of the county in which the mill,
252 cannery, workshop, factory or manufacturing establishment is
253 located for carrying out the purpose of this chapter, shall be
254 guilty of a misdemeanor and, upon conviction, shall be fined not
255 less than Ten Dollars (\$10.00) nor more than One Hundred Dollars
256 (\$100.00).

257 SECTION 10. The Office of Job Development and Training of
258 the Mississippi Department of Labor shall administer and
259 coordinate as necessary the following federally and state-funded
260 employment, training and employment-related education programs:
261 (a) training and employment-related education programs sponsored
262 by the federal Job Training Partnership Act; (b) employment
263 programs under the Wagner-Peyser Act; (c) employment, training and
264 education programs for welfare recipients funded by the federal
265 JOBS and Basic Skills Training Program within the Family Support
266 Act; and (d) the Comprehensive Employment and Training Act of
267 1973.

268 SECTION 11. Section 7-1-351, Mississippi Code of 1972, is
269 amended as follows:

270 7-1-351. The Office of Job Development and Training of the
271 Department of Labor shall be the Division of Job Development and
272 Training and shall retain all powers and duties granted by law to
273 the Division of Job Development and Training and wherever the term
274 "Division of Job Development and Training" shall appear in any law
275 it shall mean the Department of Labor. The Commissioner of Labor
276 may assign to appropriate divisions powers and duties as deemed
277 appropriate to carry out the lawful functions of the department.

278 SECTION 12. Section 7-1-355, Mississippi Code of 1972, is
279 amended as follows:

280 7-1-355. The Office of Job Development and Training,
281 Department of Labor, is designated as the sole administrator of
282 all programs for which the state is the prime sponsor under the
283 Comprehensive Employment and Training Act of 1973, as amended (29
284 USCA 801 et seq.), and the regulations promulgated thereunder, and
285 is hereby authorized to take all necessary action to secure to
286 this state the benefits of such legislation. Such office is
287 empowered to receive and disburse funds for such programs which
288 become available to it from any source.

289 SECTION 13. Section 7-1-357, Mississippi Code of 1972, is
290 amended as follows:

291 7-1-357. The Office of Job Development and Training,
292 Department of Labor, is authorized to cooperate with or enter into
293 agreements with any agency, official, educational institution or
294 political subdivision of this state, any agency or official of the
295 government of the United States of America or any private person,
296 firm, partnership or corporation in order to carry out the
297 provisions of Sections 7-1-351 through 7-1-371.

298 SECTION 14. Section 7-1-361, Mississippi Code of 1972, is
299 amended as follows:

300 7-1-361. The Office of Job Development and Training,
301 Department of Labor, is authorized to promulgate such rules and
302 regulations as may be necessary to carry out the provisions of
303 Sections 7-1-351 through 7-1-371.

304 SECTION 15. Section 7-1-363, Mississippi Code of 1972, is
305 amended as follows:

306 7-1-363. To the maximum extent practicable, the Department
307 of Labor shall contract with the Division of Vocational-Technical
308 Education of the State Department of Education all programs
309 embracing an institutional training component. Such programs
310 shall be contracted to the Division of Vocational-Technical
311 Education of the State Department of Education, except those

312 programs funded by the Governor's special grant, shall be
313 coordinated with and complementary to the existing state public
314 educational systems and shall not be duplicative or competitive in
315 nature to such systems.

316 SECTION 16. Section 7-1-365, Mississippi Code of 1972, is
317 amended as follows:

318 7-1-365. The State Department of Education,
319 Vocational-Technical Division, the board of trustees of any junior
320 college district, the board of trustees of any school district,
321 the Mississippi Employment Security Commission, and the Office of
322 Job Development and Training, Department of Labor, shall cooperate
323 in carrying out the provisions of Sections 7-1-351 through
324 7-1-371.

325 SECTION 17. The Office of Industry Service and Industry
326 Start-up Training in the Mississippi Department of Labor shall
327 contract with the State Board of Community/Junior Colleges, and
328 the Division of Vocational-Technical Education of the State
329 Department of Education to provide (a) all programs embracing an
330 existing industry or a new industrial training component, and (b)
331 all employment-related community/junior college or
332 employment-related secondary education programs.

333 SECTION 18. The Office of Employee Relations and Job
334 Discrimination in the Mississippi Department of Labor shall do all
335 in its power to promote the voluntary arbitration, mediation and
336 conciliation of disputes between employers and employees and to
337 avoid strikes, picketing, lockouts, boycotts, black list,
338 discriminations and legal proceedings in matters of employment.
339 In pursuance of this duty, the office may appoint temporary boards
340 of arbitration, provide necessary expenses of such boards, order
341 reasonable compensation for each member engaged in such
342 arbitration, prescribe rules for such arbitration boards, conduct
343 investigations and hearings, publish reports and advertisements,
344 and may do all things convenient and necessary to accomplish the
345 purpose. The office may designate a mediator and may detail

346 employees or persons not in the office from time to time for the
347 purpose of executing such provisions. Nothing in this section
348 shall be construed to in anywise prohibit or limit employees'
349 right to bargain collectively.

350 SECTION 19. The Office of Disabled Employee Assistance of
351 the Mississippi Department of Labor shall function as an
352 information clearinghouse and referral service for employees and
353 employers regarding any aspect of the federal Americans With
354 Disabilities Act, which prohibits discrimination in all terms and
355 conditions of employment regarding private and public employers.

356 SECTION 20. Section 25-3-31, Mississippi Code of 1972, is
357 amended as follows:

358 **[Until January 1, 2000, Section 25-3-31 will read as**
359 **follows:]**

360 25-3-31. The annual salaries of the following elected state
361 and district officers are fixed as follows:

362	Governor.....	\$83,160.00
363	Attorney General.....	90,800.00
364	Secretary of State.....	75,000.00
365	Commissioner of Insurance.....	75,000.00
366	State Treasurer.....	75,000.00
367	State Auditor of Public Accounts.....	75,000.00
368	Commissioner of Agriculture and Commerce.....	75,000.00
369	Transportation Commissioners.....	65,000.00
370	Public Service Commissioners.....	65,000.00
371	<u>Commissioner of Labor.....</u>	<u>75,000.00</u>

372 The salary of the Governor fixed below for January 1, 2000,
373 shall be the reference amount utilized in computing average
374 compensation and earned compensation pursuant to Section
375 25-11-103(f) and Section 25-11-103(k), and to related sections
376 which require such computations.

377 **[From and after January 1, 2000, Section 25-3-31 will read as**
378 **follows:]**

379 25-3-31. The annual salaries of the following elected state

380 and district officers are fixed as follows:

381	Governor.....	\$101,800.00
382	Attorney General.....	90,800.00
383	Secretary of State.....	75,000.00
384	Commissioner of Insurance.....	75,000.00
385	State Treasurer.....	75,000.00
386	State Auditor of Public Accounts.....	75,000.00
387	Commissioner of Agriculture and Commerce.....	75,000.00
388	Transportation Commissioners.....	65,000.00
389	Public Service Commissioners.....	65,000.00
390	<u>Commissioner of Labor</u>	<u>75,000.00</u>

391 The above fixed salary of the Governor shall be the reference
392 amount utilized in computing average compensation and earned
393 compensation pursuant to Section 25-11-103(f) and Section
394 25-11-103(k) and to related sections which require such
395 computations.

396 SECTION 21. The Attorney General of the State of Mississippi
397 shall submit this act, immediately upon approval by the Governor,
398 or upon approval by the Legislature subsequent to a veto, to the
399 Attorney General of the United States or to the United States
400 District Court for the District of Columbia in accordance with the
401 provisions of the Voting Rights Act of 1965, as amended and
402 extended.

403 SECTION 22. If this act is effectuated under Section 5 of
404 the Voting Rights Act of 1965, then this act shall take effect and
405 be in force from and after the general election in 1999, or the
406 date it is effectuated under Section 5 of the Voting Rights Act of
407 1965, as amended and extended, whichever is the later date.