

By: Senator(s) Jordan (18th)

To: Insurance; Judiciary

SENATE BILL NO. 2051

1 AN ACT TO AMEND SECTIONS 71-3-51 AND 71-3-85, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE FOR THE DIRECT APPEAL OF MISSISSIPPI
3 WORKERS' COMPENSATION COMMISSION AWARDS TO THE MISSISSIPPI SUPREME
4 COURT; TO AMEND SECTIONS 71-5-101 AND 71-5-531, MISSISSIPPI CODE
5 OF 1972, TO PROVIDE FOR THE DIRECT APPEAL OF MISSISSIPPI
6 EMPLOYMENT SECURITY COMMISSION AWARDS TO THE MISSISSIPPI SUPREME
7 COURT; AND FOR RELATED PURPOSES. BE IT ENACTED BY THE
8 LEGISLATURE OF THE STATE OF MISSISSIPPI:

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10 SECTION 1. Section 71-3-51, Mississippi Code of 1972, is
11 amended as follows:

12 71-3-51. The final award of the commission shall be
13 conclusive and binding unless either party to the controversy
14 shall, within thirty (30) days from the date of its filing in the
15 office of the commission and notification to the parties, appeal
16 therefrom to the Supreme Court of the State of Mississippi * * *.

17 Such appeal may be taken by filing notice of appeal with the
18 commission, whereupon the commission shall under its certificate
19 transmit to the Mississippi Supreme Court * * * all documents and
20 papers on file in the matter, together with a transcript of the
21 evidence, the findings, and award, or so much thereof as may be
22 required by rule of the Supreme Court, which shall thereupon
23 become the record of the cause. Appeals shall be considered only
24 upon the record as made before the commission. * * * The
25 Mississippi Supreme Court shall review all questions of law and of
26 fact. If no prejudicial error is found, the matter shall be
27 affirmed and remanded to the commission for enforcement. If
28 prejudicial error is found, the matter shall be reversed and the
29 Mississippi Supreme Court shall enter such judgment or award as
30 the commission should have entered, or may remand the matter to

31 the commission for further proceedings. * * * An appeal from the
32 commission to the Mississippi Supreme Court shall not act as a
33 supersedeas unless the court * * * shall so direct, and then upon
34 such terms as such court shall direct.

35 No controversy shall be heard by the commission or an award
36 of compensation made therein while the same matter is pending
37 either before a federal court or the Mississippi Supreme Court.

38 Any award of compensation made by the * * * Mississippi
39 Supreme Court shall bear the same interest and penalties as do
40 other judgments awarded in * * * circuit court.

41 SECTION 2. Section 71-3-85, Mississippi Code of 1972, is
42 amended as follows:

43 71-3-85. (1) There is hereby created a commission to be
44 known as the Workmen's Compensation Commission, which shall be an
45 inferior court within the meaning of Section 172 of the
46 Constitution of the State of Mississippi, consisting of three (3)
47 members, who shall devote their entire time to the duties of the
48 office. The Governor shall appoint the members of the commission,
49 by and with the consent of the Mississippi State Senate, one (1)
50 for a term of two (2) years, one (1) for a term of four (4) years,
51 and one (1) for a term of six (6) years. Upon the expiration of
52 each term as above set forth, the Governor shall appoint a
53 successor for a term of six (6) years, and thereafter the term of
54 office of each commissioner shall be for six (6) years. One (1)
55 member shall be a person who by reason of his previous vocation or
56 affiliation can be classed as a representative of employers, and
57 one (1) member shall be a person who by reason of his previous
58 vocation or affiliation can be classed as a representative of
59 employees. One (1) member shall be an attorney at law of
60 recognized ability with at least five (5) years' active practice
61 in Mississippi prior to his appointment. The Governor shall
62 designate the chairman of the commission, whose term of chairman
63 shall run concurrently with his appointment as a commissioner.

64 The chairman shall be the administrative head of the

65 commission and shall have the final authority in all matters
66 relating to assignment of cases for hearing and trial and the
67 administrative work of the commission and its employees, except in
68 the promulgation of rules and regulations wherein the commission
69 shall act as a body, and in the trial and determination of cases
70 as otherwise provided.

71 Upon the expiration of the term of a commissioner, he shall
72 continue to serve until his successor has been appointed. Because
73 cumulative experience is conspicuously essential to the proper
74 administration of a workmen's compensation law, it is declared to
75 be in the public interest to continue workmen's compensation
76 commissioners in office as long as efficiency is demonstrated. A
77 commissioner may be removed for cause prior to the expiration of
78 his term, but shall be furnished a written copy of the charges
79 against him and shall be accorded a public hearing.

80 Each member of the commission and each administrative law
81 judge shall receive an annual salary fixed by the Legislature.

82 (2) A vacancy in the commission, if there remain two (2)
83 members of it, shall not impair the authority of such two (2)
84 members to act. In case of illness or continued absence for other
85 reasons, the same authority of such two (2) members shall apply.

86 (3) The commission shall have the powers and duties
87 necessary for effecting the purposes of this chapter, including
88 the powers of a court of record for compelling the attendance of
89 witnesses, examining them under oath, and compelling the
90 production of books, papers, documents and objects relevant to the
91 determination of a claim for compensation, and the power to adopt
92 rules and regulations and make or approve the forms relating to
93 notices of injuries, payment of claims and other purposes. The
94 authority of the commission and its duly authorized
95 representatives to investigate and determine claims for
96 compensation shall include the right to enter the premises where
97 an injury occurred, to ascertain its causes and circumstances.

98 (4) The office of the commission shall be situated in the

99 City of Jackson, but hearings may be held at such places as it may
100 deem most convenient for the proper and speedy performance of its
101 duties. The commission is authorized, if it deems it necessary
102 for the convenient and efficient dispatch of business, to lease
103 office space and facilities in other than publicly owned
104 buildings.

105 (5) The commission shall adopt detailed rules and
106 regulations for implementing the purposes of this chapter at
107 hearings attended by the main parties interested. Such rules,
108 upon adoption, shall be published and be at all reasonable times
109 made available to the public and, if not inconsistent with law,
110 shall be binding upon those participating in the responsibilities
111 and benefits of the workmen's compensation law.

112 (6) The commission shall adopt or approve the forms required
113 for administering the chapter, such notices of injury, application
114 for benefits, receipts for compensation and all other forms needed
115 to assure the orderly and prompt operation of the law, and may
116 require the exclusive use of any or all such approved forms.

117 SECTION 3. Section 71-5-101, Mississippi Code of 1972, is
118 amended as follows:

119 71-5-101. There is created a commission of three (3) members
120 to be known as the Mississippi Employment Security Commission,
121 which shall be an inferior court within the meaning of Section 172
122 of the Constitution of the State of Mississippi. One (1) member
123 of the commission shall be a representative of employees. The
124 members of the commission shall be appointed by the Governor, one
125 (1) from each Supreme Court district, and the Governor shall
126 designate one (1) member as chairman. The commissioners initially
127 appointed shall serve for terms of two (2), four (4) and six (6)
128 years respectively, as designated by the Governor. Thereafter the
129 term of office of each commissioner shall be four (4) years, with
130 said terms expiring at two-year intervals. Any appointment to a
131 vacancy shall be for the unexpired term in question, and from the
132 Supreme Court district in which such vacancy occurred. No

133 commissioner shall, during his term of office, serve as an officer
134 or committee member of any political party organization.

135 SECTION 4. Section 71-5-531, Mississippi Code of 1972, is
136 amended as follows:

137 71-5-531. Within ten (10) days after the decision of the
138 board of review has become final, any party aggrieved thereby may
139 secure judicial review thereof by filing in the office of the
140 commission and notification to the parties appeal therefrom to the
141 Supreme Court of the State of Mississippi.

142 Such appeal may be taken by filing notice of appeal with the
143 commission, whereupon the commission shall under its certificate
144 transmit to the Mississippi Supreme Court all documents and papers
145 on file in the matter, together with a transcript of the evidence,
146 the findings and award, or so much thereof as may be required by
147 rule of the Mississippi Supreme Court, which shall thereupon
148 become the record of the cause. Appeals shall be considered only
149 upon the record made before the commission. The Mississippi
150 Supreme Court shall review all questions of law and of fact. If
151 no prejudicial error is found, the matter shall be affirmed and
152 remanded to the commission for enforcement. If prejudicial error
153 is found, the matter shall be reversed and the Mississippi Supreme
154 Court shall enter such judgment or award as the commission should
155 have entered, or may remand the matter to the commission for
156 further proceedings. An appeal from the commission to the
157 Mississippi Supreme Court shall not act as a supersedeas unless
158 the court shall so direct, and then upon such terms as such court
159 shall direct. No controversy shall be heard by the commission or
160 an award of compensation made therein while the same matter is
161 pending either before a federal court or the Mississippi Supreme
162 Court. Any award of compensation made by the Mississippi Supreme
163 Court shall bear the same interest and penalties as do other
164 judgments awarded in circuit court.

165 SECTION 5. This act shall take effect and be in force from
166 and after July 1, 1999.