

By: Turner

To: Judiciary

SENATE BILL NO. 2787

1 AN ACT TO AMEND SECTION 71-3-51, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT DECISIONS MADE BY THE WORKERS' COMPENSATION
3 COMMISSION MAY BE APPEALED DIRECTLY TO THE COURT OF APPEALS; TO
4 PROVIDE FOR SUNSET OF THIS PROVISION; TO AMEND SECTION 9-4-3,
5 MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED
6 PURPOSES.

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

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

10 [For orders of the Mississippi Workers' Compensation
11 Commission from which a notice of appeal is filed with the
12 commission on or after July 1, 2000, but before July 1, 2002, this
13 section shall read as follows:]

14 71-3-51. The final award of the commission shall be
15 conclusive and binding unless either party to the
16 controversy * * *, within thirty (30) days from the date of its
17 filing in the office of the commission * * *, shall appeal
18 therefrom to the Court of Appeals * * *. Notice of the filing of
19 the decision shall be sent by the commission to the parties. The
20 commission shall review and decide a party's claim that timely
21 notice was not received by utilizing by analogy the Mississippi
22 Rule of Appellate Procedure applicable to failure to receive
23 notice of the entry of a judgment.

24 Such appeal may be taken by filing notice of appeal with the
25 commission, whereupon the commission shall under its certificate
26 transmit to the Court of Appeals * * * all documents and papers on
27 file in the matter, together with a transcript of the evidence,
28 the findings, and award, which shall thereupon become the record

29 of the cause. If the notice of appeal is mistakenly filed with
30 the clerk of the Court of Appeals, the clerk will note the date on
31 which it was received and transmit the notice to the commission;
32 such notice shall be considered received by the commission on the
33 date received by the clerk of the Court of Appeals. Appeals shall
34 be considered only upon the record as made before the
35 commission. * * * The Court of Appeals shall review all questions
36 of law and of fact. If no prejudicial error is found, the matter
37 shall be affirmed * * *. If prejudicial error is found, the
38 commission's decision shall be reversed and the Court of Appeals
39 shall enter such judgment or award as the commission should have
40 entered or remand for further commission action, as warranted.
41 Review of decisions of the Court of Appeals by the Supreme Court
42 shall be by petition for certiorari as * * * required by law. An
43 appeal from the commission to the Court of Appeals shall not act
44 as a supersedeas unless the court * * * shall so direct, and then
45 upon such terms as the court imposes.

46 No controversy shall be heard by the commission or an award
47 of compensation made therein while the same matter is pending
48 either before a federal court or in any court in this state. Once
49 judicial review of a commission decision has been completed and no
50 further review is procedurally available, the continuing
51 jurisdiction of the commission and the jurisdiction of any court
52 shall be as otherwise provided by statute.

53 Any award of compensation made by the Court of Appeals and
54 reviewed by the Supreme Court shall bear the same interest and
55 penalties as do other judgments awarded in the Court of Appeals.

56 **[For orders of the Mississippi Workers' Compensation**
57 **Commission from which a notice of appeal is filed with the**
58 **commission on or after July 1, 2002, this section shall read as**
59 **follows:]**

60 71-3-51. The final award of the commission shall be
61 conclusive and binding unless either party to the controversy
62 shall, within thirty (30) days from the date of its filing in the
63 office of the commission and notification to the parties, appeal
64 therefrom to the circuit court of the county in which the injury
65 occurred.

66 Such appeal may be taken by filing notice of appeal with the
67 commission, whereupon the commission shall under its certificate
68 transmit to the circuit court of the county where the injury
69 occurred all documents and papers on file in the matter, together
70 with a transcript of the evidence, the findings, and award, which
71 shall thereupon become the record of the cause. Appeals shall be
72 considered only upon the record as made before the commission.
73 The circuit court shall always be deemed open for hearing of such
74 appeals, the circuit judge may hear the same at term time or in
75 vacation at any place in his district, and the same shall have
76 precedence over all civil cases except election contests. The
77 circuit court shall review all questions of law and of fact. If
78 no prejudicial error be found, the matter shall be affirmed and
79 remanded to the commission for enforcement. If prejudicial error
80 be found, the same shall be reversed and the circuit court shall
81 enter such judgment or award as the commission should have
82 entered. Appeals may be taken from the circuit court to the
83 supreme court in the manner as now required by law. An appeal
84 from the commission to the circuit court shall not act as a
85 supersedeas unless the court to which such appeal is directed
86 shall so direct, and then upon such terms as such court shall
87 direct.

88 No controversy shall be heard by the commission or an award
89 of compensation made therein while the same matter is pending
90 either before a federal court or in any court in this state.

91 Any award of compensation made by the circuit court and
92 appealed to the Supreme Court shall bear the same interest and
93 penalties as do other judgments awarded in the circuit court.

94 SECTION 2. Section 9-4-3, Mississippi Code of 1972, is
95 amended as follows:[MS1]

96 9-4-3. (1) The Court of Appeals shall have the power to
97 determine or otherwise dispose of any appeal or other proceeding
98 assigned to it by the Supreme Court.

99 Except as otherwise provided by law, the jurisdiction of the
100 Court of Appeals is limited to those matters which have been
101 assigned to it by the Supreme Court.

102 The Supreme Court shall prescribe rules for the assignment of
103 matters to the Court of Appeals. These rules may provide for the
104 selective assignment of individual cases and may provide for the
105 assignment of cases according to subject matter or other general
106 criteria. However, the Supreme Court shall retain appeals in
107 cases imposing the death penalty, or cases involving utility
108 rates, annexations, bond issues, election contests, or a statute
109 held unconstitutional by the lower court.

110 (2) Decisions of the Court of Appeals are final and are not
111 subject to review by the Supreme Court, except by writ of
112 certiorari. The Supreme Court may grant certiorari review only by
113 the affirmative vote of four (4) of its members. At any time
114 before final decision by the Court of Appeals, the Supreme Court
115 may, by order, transfer to the Supreme Court any case pending
116 before the Court of Appeals.

117 (3) The Court of Appeals shall have jurisdiction to issue
118 writs of habeas corpus, mandamus, quo warranto, certiorari,
119 prohibition or any other process when this may be necessary in any
120 case assigned to it by the Supreme Court.

121 (4) The Court of Appeals shall issue a decision in every
122 case heard before the Court of Appeals within two hundred seventy
123 (270) days after the final briefs have been filed with the court.

124 (5) The Supreme Court shall issue a decision in every case
125 within its original jurisdiction, including all direct and
126 post-conviction collateral relief appeals or applications in cases
127 imposing the death penalty, within two hundred seventy (270) days
128 after the final briefs have been filed with the court. The
129 Supreme Court shall issue a decision in every case received on
130 certiorari from the Court of Appeals within one hundred eighty
131 (180) days after the final briefs have been filed with the court.

132 SECTION 3. This act shall take effect and be in force from
133 and after July 1, 2000.