

By: Representative Cameron

To: Labor

HOUSE BILL NO. 1171

1 AN ACT TO AMEND SECTION 71-5-365, MISSISSIPPI CODE OF 1972,  
2 TO AUTHORIZE THE EMPLOYMENT SECURITY COMMISSION TO ASSESS CERTAIN  
3 PENALTIES FOR LATE REPORTING BY AN EMPLOYER; TO PROVIDE THAT THE  
4 COMMISSION SHALL ESTABLISH A POLICY SETTING FORTH REASONS FOR  
5 REMOVING DAMAGES FOR FAILURE OF THE EMPLOYER TO MAKE AND FILE ANY  
6 REQUIRED REPORT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 71-5-365, Mississippi Code of 1972, is  
9 amended as follows:

10 71-5-365. If any employer fails to make and file any report  
11 as and when required by the terms and provisions of this chapter  
12 or by any rule or regulation of the commission for the purpose of  
13 determining the amount of contributions due by him under this  
14 chapter, or if any report which has been filed is deemed by the  
15 commission to be incorrect or insufficient, and such employer,  
16 after having been given written notice by mail by the commission  
17 to file such report, or a corrected or sufficient report, as the  
18 case may be, shall fail to file such report within fifteen (15)  
19 days after the date of the mailing of such notice, the commission  
20 may (a) determine the amount of contributions due from such  
21 employer on the basis of such information as may be readily  
22 available to the commission, which said determination shall be  
23 prima facie correct; (b) assess such employer with the amount of  
24 contribution so determined \* \* \*; (c) assess penalties in addition  
25 to any contributions in the amount of the greater of Twenty-five  
26 Dollars (\$25.00) or ten percent (10%) of the amount; and (d)  
27 immediately give written notice by mail to such employer of such  
28 determination, assessment, and/or damages, if any, added and

29 assessed, demanding payment of same together with interest, as  
30 herein provided, on the amount of contributions from the date when  
31 same were due and payable. Such determination and assessment by  
32 the commission shall be final at the expiration of fifteen (15)  
33 days from the date of the mailing of such written notice thereof  
34 demanding payment, unless such employer shall have filed with the  
35 commission a written protest and petition for a hearing,  
36 specifying his objections thereto. Upon receipt of such petition  
37 within the fifteen (15) days allowed, the commission shall fix the  
38 time and place for a hearing and shall notify the petitioner  
39 thereof. At any hearing held before the commission as herein  
40 provided, evidence may be offered to support such determination  
41 and assessment or to prove that it is incorrect, and the  
42 commission shall have all the power provided in Sections 71-5-137  
43 and 71-5-139. Immediately after such hearing a final decision in  
44 the matter shall be made by the commission, and any contributions  
45 or deficiencies in contributions found and determined by the  
46 commission to be due shall be assessed and paid, together with  
47 interest, within fifteen (15) days after notice of such final  
48 decision and assessment, and demand for payment thereof by the  
49 commission shall have been mailed to such employer.

50 The commission shall establish a policy setting forth reasons  
51 for removing damages specified by this section for failure to make  
52 and file any report. The policy shall provide for removal of such  
53 damages for reasons such as serious illness and natural disasters.  
54 Each request for removal of such damages shall be made in writing  
55 and accompanied by such evidence as may be required by the  
56 commission.

57 Sixty (60) days after the due date of the contributions,  
58 together with interest and damages, or upon issuance of a warrant,  
59 whichever occurs first, the commission, in its discretion, may  
60 assess an additional sum not exceeding one hundred percent (100%)

61 of the amount of the unpaid contributions due as damages for  
62 failure to pay.

63 SECTION 2. This act shall take effect and be in force from  
64 and after July 1, 2001.