To: Labor; Appropriations

MISSISSIPPI LEGISLATURE

By: Senator(s) Harden

REGULAR SESSION 2001

SENATE BILL NO. 2236

AN ACT TO ESTABLISH A MISSISSIPPI DEPARTMENT OF LABOR; TO SET FORTH AND PRESCRIBE THE FUNCTIONS OF ADMINISTRATIVE OFFICES WITHIN THE DEPARTMENT; TO PROVIDE FOR THE STATEWIDE ELECTION OF THE COMMISSIONER OF LABOR; TO AMEND SECTION 71-5-101, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE DUTIES, POWERS AND FUNDS OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION SHALL BE TRANSFERRED TO THE OFFICE OF EMPLOYMENT SECURITY IN THE MISSISSIPPI DEPARTMENT OF LABOR; TO REPEAL SECTIONS 71-5-103, 71-5-105 AND 71-5-107, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR MEETINGS AND COMPENSATION OF THE MISSISSIPPI EMPLOYMENT SECURITY COMMISSION; TO AMEND SECTION 71-1-1, MISSISSIPPI CODE OF 1972, TO EMPOWER THE DEPARTMENT OF LABOR TO REGULATE OCCUPATIONAL HEALTH AND SAFETY STANDARDS AND ENFORCE ALL LABOR LAWS IN THE STATE OF MISSISSIPPI; TO AMEND SECTIONS 71-1-25 AND 71-1-27, MISSISSIPPI CODE OF 1972, TO EMPOWER THE DEPARTMENT OF LABOR TO ENFORCE CHILD LABOR LAWS; TO EMPOWER THE DEPARTMENT OF LABOR TO ADMINISTER AND COORDINATE CERTAIN FEDERAL AND STATE-FUNDED JOB TRAINING AND EMPLOYMENT-RELATED EDUCATION PROGRAMS; TO AMEND SECTIONS 7-1-351, 7-1-355, 7-1-357, 7-1-361, 7-1-363 AND 7-1-365, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; TO PRESCRIBE THE RESPONSIBILITIES OF THE OFFICE OF INDUSTRY SERVICE AND INDUSTRY START-UP TRAINING, THE OFFICE OF EMPLOYEE RELATIONS AND JOB DISCRIMINATION AND THE OFFICE OF DISABLED EMPLOYEE ASSISTANCE WITHIN THE DEPARTMENT; TO AMEND SECTION 71-3-85, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE POWERS, DUTIES AND FUNDS OF THE MISSISSIPPI WORKERS' COMPENSATION COMMISSION SHALL BE TRANSFERRED TO THE OFFICE OF WORKERS' COMPENSATION IN THE MISSISSIPPI DEPARTMENT OF LABOR; TO REPEAL SECTIONS 71-3-87, 71-3-89, 71-3-91 AND 71-3-93, MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE BONDING, TRAVEL EXPENSES, EMPLOYEES AND SEAL OF THE WORKERS' COMPENSATION COMMISSION; TO AMEND SECTION 25-3-31, MISSISSIPPI CODE OF 1972, TO SET THE ANNUAL SALARY OF THE COMMISSIONER OF LABOR; TO AMEND SECTION 25-3-33, MISSISSIPPI CODE OF 1972, TO REMOVE CERTAIN FIXED SALARIES; AND FOR RELATED PURPOSES.

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

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

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

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

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

S. B. No. 2236
(d) "Office" means an administrative subdivision of the department.

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

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

(b) To establish and oversee an effective and efficient workforce development system in Mississippi to enable residents to acquire skills necessary to maximize their economic self-sufficiency; and

(c) To provide Mississippi employers with the workforce they need to effectively compete in the changing world economy.

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

(a) The Office of Employment Security;

(b) The Office of Workplace Safety and Health;

(c) The Office of Job Development and Training;

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

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

(f) The Office of Disabled Employee Assistance; and

(g) The Office of Workers' Compensation.

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

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

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

(c) To enter into reciprocal agreements with other
states to provide for the services authorized by this act to
residents of the states concerned;

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

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

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

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

(2) In carrying out his duties under this act, the
Commissioner of Labor:
(a) Shall promulgate regulations governing personnel standards, the protection of records and confidential information, the manner and form of filing applications, eligibility and investigation and determination therefor, for labor-management services, procedures for fair hearings and such other regulations as he finds necessary to carry out the purposes of this act and in conformity with federal law;

(b) Shall establish appropriate subordinate administrative units within the department;

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

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

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

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

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

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

71-5-101. From and after the effective date of this act, the duties and powers of the Mississippi Employment Security Commission and all equipment, supplies, records and any funds appropriated by the Legislature to the Mississippi Employment Security Commission shall be transferred to the Office of
Employment Security in the Mississippi Department of Labor created in Senate Bill No. 2236, 2001 Regular Session. From and after the effective date of this act, the Mississippi Employment Security Commission shall be abolished. Any reference in this chapter to "Mississippi Employment Security Commission" or "commission" means the Office of Employment Security within the Mississippi Department of Labor created in this act.

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

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

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

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

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

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

(d) To collect, compile and report statistics related to work-connected disabilities in Mississippi; such statistical work shall be performed in cooperation with other...
statistic-gathering agencies with the federal and state
governments. Such statistical reports as may be available shall
be made known to employers and employees;
(e) To receive such federal or state grants and
appropriations as available to further the education, training and
assistance to the employers and employees of Mississippi in
preventing work-connected disabilities;
(f) Nothing in this section shall be construed as
authorizing the State Board of Health to administer or enforce in
any way the Federal Occupational Safety and Health Act, known as
OSHA.

(2) In addition to such other duties and powers as may be
conferred by law, the Office of Workplace Safety and Health of the
Department of Labor shall have the power, jurisdiction and
authority:
(a) To superintend the enforcement of all labor laws in
the State of Mississippi, the enforcement of which is not
otherwise specifically provided for, and all rules and regulations
made pursuant thereto;
(b) To make or cause to be made all necessary
inspections to see that all laws and rules made pursuant thereto
which the division has the duty, power and authority to enforce,
are promptly and effectively carried out;
(c) To make investigations, collect and compile
statistical information and report upon the conditions of labor
generally and upon all matters relating to the enforcement and
effect of the provisions of this section and of the rules issued
thereunder;
(d) To make and promulgate such rules, or changes in
rules, as it may deem advisable for the prevention of accidents or
the prevention of industrial or occupational diseases in every
employment or place of employment and such rules, or changes in
rules, for the construction, repair and maintenance of places of
employment, places of public assembly and public buildings as it
may deem advisable to render them safe. The division may appoint
committees composed of employers, employees and experts to suggest
rules or changes therein;

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

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

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

71-1-25. (1) It shall be the duty of the Office of
Workplace Safety and Health of the Department of Labor to inspect
employers under its jurisdiction for compliance with the child

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

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

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

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

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

SECTION 10. The Office of Job Development and Training of the Mississippi Department of Labor shall administer and coordinate as necessary the following federally and state-funded employment, training and employment-related education programs:

(a) training and employment-related education programs sponsored by the federal Job Training Partnership Act; (b) employment
programs under the Wagner-Peyser Act; (c) employment, training and education programs for welfare recipients funded by the federal JOBS and Basic Skills Training Program within the Family Support Act; and (d) the Comprehensive Employment and Training Act of 1973.

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

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

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

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

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

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

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

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

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

7-1-363. To the maximum extent practicable, the **Department of Labor** shall contract with the Division of Vocational-Technical
**Education** of the State Department of Education all programs
embracing an institutional training component. Such programs
shall be contracted to the Division of Vocational-Technical
Education of the State Department of Education, except those
programs funded by the Governor's special grant, shall be
coordinated with and complementary to the existing state public
educational systems and shall not be duplicative or competitive in
nature to such systems.

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

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

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

SECTION 18. The Office of Employee Relations and Job

Discrimination in the Mississippi Department of Labor shall do all
in its power to promote the voluntary arbitration, mediation and
conciliation of disputes between employers and employees and to
avoid strikes, picketing, lockouts, boycotts, black list,
discriminations and legal proceedings in matters of employment.
In pursuance of this duty, the office may appoint temporary boards
of arbitration, provide necessary expenses of such boards, order
reasonable compensation for each member engaged in such
arbitration, prescribe rules for such arbitration boards, conduct
investigations and hearings, publish reports and advertisements,
and may do all things convenient and necessary to accomplish the
purpose. The office may designate a mediator and may detail
employees or persons not in the office, from time to time, for the
purpose of executing such provisions. Nothing in this section
shall be construed to in anywise prohibit or limit employees'
right to bargain collectively.

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

SECTION 20. Section 71-3-85, Mississippi Code of 1972, is
amended as follows:

71-3-85. (1) From and after the effective date of this act,
appropriated by the Legislature to the Mississippi Workers' Compensation Commission shall be transferred to the Office of Workers' Compensation in the Mississippi Department of Labor created in Senate Bill No. 2236, 2001 Regular Session. From and after the effective date of this act, the Mississippi Workers' Compensation Commission shall be abolished. Any reference in this chapter to "Workers' Compensation Commission" or "commission" means the Office of Workers' Compensation within the Mississippi Department of Labor created in this act.

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(2) The Office of Workers' Compensation in the Mississippi Department of Labor shall have the powers and duties necessary for effecting the purposes of this chapter, including the powers of a court of record for compelling the attendance of witnesses, examining them under oath, and compelling the production of books, papers, documents and objects relevant to the determination of a claim for compensation, and the power to adopt rules and regulations and make or approve the forms relating to notices of injuries, payment of claims and other purposes. The authority of the Office of Workers' Compensation and its duly authorized representatives to investigate and determine claims for compensation shall include the right to enter the premises where an injury occurred, to ascertain its causes and circumstances.

(3) The Office of Workers' Compensation shall be situated in the City of Jackson, but hearings may be held at such places as it may deem most convenient for the proper and speedy performance of its duties. The Office of Workers' Compensation is authorized, if it deems it necessary for the convenient and efficient dispatch of business, to lease office space and facilities in other than publicly-owned buildings.

(4) The Office of Workers' Compensation shall adopt detailed rules and regulations for implementing the purposes of this chapter at hearings attended by the main parties interested. Such
rules, upon adoption, shall be published and be at all reasonable
times made available to the public and, if not inconsistent with
law, shall be binding upon those participating in the
responsibilities and benefits of the Workmen's Compensation Law.

(5) The Office of Workers' Compensation shall adopt or
approve the forms required for administering the chapter, such
notices of injury, application for benefits, receipts for
compensation and all other forms needed to assure the orderly and
prompt operation of the law, and may require the exclusive use of
any or all such approved forms.

SECTION 21. Sections 71-3-87, 71-3-89, 71-3-91 and 71-3-93,
Mississippi Code of 1972, which provide for the bonding,
employees, travel expenses and seal of the Workers' Compensation
Commission, are repealed.

SECTION 22. Section 25-3-31, Mississippi Code of 1972, is
amended as follows:

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

Governor......................................... $101,800.00
Attorney General................................. 90,800.00
Secretary of State............................... 75,000.00
Commissioner of Insurance....................... 75,000.00
State Treasurer................................. 75,000.00
State Auditor of Public Accounts................. 75,000.00
Commissioner of Agriculture and Commerce..... 75,000.00
Transportation Commissioners.................... 65,000.00
Public Service Commissioners..................... 65,000.00
Commissioner of Labor.......................... 75,000.00

The above fixed salary of the Governor shall be the reference
amount utilized in computing average compensation and earned
compensation pursuant to Section 25-11-103(f) and Section
25-11-103(k) and to related sections which require such
computations.
SECTION 23. Section 25-3-33, Mississippi Code of 1972, is amended as follows:

25-3-33. The annual salaries of the following appointive state and district officials and employees are fixed as follows:

Deputy Attorney General, not to exceed $72,800.00

Assistant Attorneys General shall each receive annual salaries in an amount to be fixed by the Attorney General but not to exceed 68,400.00

Military Department--National Guard:

Adjutant General 80,000.00

Department of Banking and Consumer Finance:

Commissioner 85,000.00

Chairman of the State Tax Commission

(Commissioner of Revenue) 91,000.00

Associate Commissioners, each 42,000.00

Director of Emergency Management Agency 65,000.00

Department of Public Safety:

Commissioner of Public Safety 80,000.00

Director, Office of Mississippi Highway Safety Patrol, or his successor 70,000.00

Director, Office of Support Services, or his successor 70,000.00

Department of Human Services:

Director, not to exceed 85,000.00

Archives and History:

Director, not to exceed 70,000.00

State Forester 70,000.00

State Oil and Gas Board:

Secretary-Supervisor 70,000.00

Educational Television Authority:
<table>
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<tr>
<th>Position</th>
<th>Salary</th>
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<tbody>
<tr>
<td>Executive Director</td>
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<td>Director, Mississippi Library Commission,</td>
<td>$70,000.00</td>
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<td>not to exceed</td>
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<td>Executive Secretary, Public Service Commission</td>
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<td>Parole Board:</td>
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<td>Chairman</td>
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<td>Administrative Assistant for Parole Matters</td>
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<td>Director</td>
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<td>Clerk of the Supreme Court</td>
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<td>Executive Director, Judicial Performance</td>
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<tr>
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<td>$65,000.00</td>
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<tr>
<td>Superintendent, Mississippi School for the Deaf,</td>
<td></td>
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to be determined by the State Board of Education, not to exceed $65,000.00

Executive Director, State Fair Commission $65,000.00

Executive Director, Department of Wildlife, Fisheries and Parks $80,000.00

Executive Director, Department of Environmental Quality $85,000.00

Executive Director, Pat Harrison Waterway District $65,000.00

Executive Director, Pearl River Basin Development District $61,000.00

Executive Director, Pearl River Valley Water Supply District $71,000.00

Executive Director, Tombigbee River Valley Water Management District $61,000.00

Director, Soil and Water Conservation Commission $60,000.00

Commissioner, Mississippi Department of Corrections $85,000.00

Executive Director, Mississippi Department of Information Technology Services $85,000.00

Executive Director, Mississippi Industries for the Blind $60,000.00

Director, Mississippi Bureau of Narcotics $60,000.00

Executive Secretary, State Veterans Affairs Board $55,000.00

Executive Officer, Veterans' Home Purchase Board $65,000.00

Chief Administrative Officer, Motor Vehicle Commission $55,000.00

Stadium Manager, Mississippi Veterans Memorial Stadium $55,000.00

Executive Director, Mississippi Arts
SECTION 24. The Attorney General of the State of Mississippi shall submit this act, immediately upon approval by the Governor, or upon approval by the Legislature subsequent to a veto, to the Attorney General of the United States or to the United States
SECTION 25. This act shall take effect and be in force from and after the general election in 2000, or the date it is effectuated under Section 5 of the Voting Rights Act of 1965, as amended and extended.