MISSISSIPPI LEGISLATURE

By: Representative Scott (80th)

To: Labor; Appropriations

HOUSE BILL NO. 1435

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 CREATION AND APPOINTMENT OF FIVE MEMBERS TO THE MISSISSIPPI LABOR BOARD BY THE GOVERNOR; TO PROVIDE THAT THE BOARD SHALL APPOINT AN EXECUTIVE DIRECTOR OF THE DEPARTMENT; 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 25-3-33, 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) "Board" means the Mississippi Labor Board.
(b) "Department" means the Mississippi Department of Labor.
(c) "Executive director" means the administrative head of the department.
(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 work force 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 work force 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 board to every individual determined to be eligible therefor, and in carrying out the purposes of this act, the board 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;
    (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. There is created a board of five (5) members to
be known as the Mississippi Labor Board to be appointed by the
Governor with terms as follows:
    (a) The term of the member serving from the Third
Supreme Court district shall expire on June 30, 2005;
    (b) The term of one (1) member serving from the state
at large shall expire on June 30, 2006;
    (c) The term of the member serving from the First
Supreme Court district shall expire on June 30, 2007;
    (d) The term of the member serving from the Second
Supreme Court district shall expire on June 30, 2008; and
    (e) The term of one (1) member serving from the state
at large shall expire on June 30, 2004.

Upon the expiration of these terms, such appointments shall
be made by the Governor from the appropriate geographical area for
terms of five (5) years beginning July 1 of the year of appointment. An appointment to fill a vacancy, other than by expiration of a term of office, shall be made by the Governor for the balance of the unexpired term.

Members of the board shall receive no compensation but shall receive a per diem as authorized by law for each day spent in actual discharge of their duties and shall be reimbursed for mileage and actual expenses incurred in the performance of their duties in accordance with requirements of Section 25-3-41.

SECTION 5. (1) The chief officer of the department shall be denominated the executive director who shall be appointed by the board. The executive director shall receive a compensation as determined by the board. The executive director 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 executive director:

(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;

(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 6. 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 House Bill No.____, 2003 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 7. 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 8. 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 9. 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 labor provisions of the Mississippi Code of 1972.

(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 oftener 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 10. 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
ture 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 11. 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

SECTION 12. 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 executive director may assign to appropriate divisions powers and duties as deemed appropriate to carry out the lawful functions of the department.

SECTION 13. 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 designated as the sole administrator of all programs for which the state is the prime sponsor under Title 1(B) of Public Law 105-220, Workforce Investment Act of 1998, and the regulations promulgated thereunder, and is hereby authorized to take all necessary action to secure to this state the benefits of such legislation. The Mississippi Development Authority is empowered to receive and disburse funds for such programs which become available to it from any source.

SECTION 14. 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 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 15. 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 16. 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 17. 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 18. 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 19. 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 20.** 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 21.** Section 71-3-85, Mississippi Code of 1972, is amended as follows:

71-3-85. From and after the effective date of this act, the duties and powers of the Mississippi Workers' Compensation Commission and all equipment, supplies, records and any funds 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 House Bill No._____, 2003 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.

(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 Workers' 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 22. Sections 71-3-87, 71-3-89, 71-3-91 and 71-3-93,
employees, travel expenses and seal of the Workers' Compensation Commission, are repealed.

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:
Executive Director.......................... 70,000.00
Director, Mississippi Library Commission,
not to exceed................................. 70,000.00
Executive Secretary, Public Service Commission.................................... 65,000.00

Parole Board:
Chairman...................................... 50,000.00
Administrative Assistant for Parole
Matters.................................. 42,000.00
Members, each................................. 44,000.00
Governor's State Bond Advisory Division:
Director........................................ 55,000.00

* * *
Executive Director, Department of Mental Health, to be determined by the State Board of Mental Health, not to exceed........ 85,000.00
Director, Division of Medicaid, not to exceed........................................ 85,000.00
Director, State Department of Transportation, not to exceed................. 85,000.00
State Entomologist................................. 65,000.00
Clerk of the Supreme Court.......................... 60,000.00
State Aid Engineer, Division of State Aid Road Construction..................... 70,000.00
Executive Director, Judicial Performance Commission............................... 65,000.00
Executive Director, Department of Finance and Administration.................. 85,000.00
Superintendent, Mississippi School for the Blind, to be determined by the State Board of Education, not to exceed............. 65,000.00
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<td>Superintendent, Mississippi School for the Deaf</td>
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<td>Executive Director, State Fair Commission</td>
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<td>Executive Director, Department of Wildlife, Fisheries and Parks</td>
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<td>Executive Director, Department of Environmental Quality</td>
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<td>Stadium Manager, Mississippi Veterans Memorial Stadium</td>
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<td>Executive Director, Mississippi Arts Commission</td>
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Director, Mississippi Board of Nursing.............  60,000.00
Director, State Board of Pharmacy..................  60,000.00
Director, State Board of Public Contractors........  50,000.00
Director, Real Estate Commission...................  55,000.00
Director of Support Services, Department of
  Rehabilitation Services...........................  80,000.00
Executive Director, State Fire Academy...............  55,000.00
Executive Director, Law Enforcement
  Officers Training Academy.........................  50,000.00
Executive Director, State Board of
  Accountancy......................................  60,000.00
Executive Director, Mississippi Gaming
  Commission........................................  90,000.00
Executive Director, Mississippi Department
  of Marine Resources..............................  70,000.00
Executive Director, State Board of
  Registration for Professional
  Engineers and Land Surveyors....................  55,000.00
Executive Director, Public Utilities Staff...........  85,000.00
State Law Librarian................................  60,000.00
State Personnel Director...........................  75,000.00
Manager, Farmers Central Market, Department
  of Agriculture and Commerce.....................  40,000.00
State Veterinarian..................................  70,000.00
Executive Director, Mississippi Ethics
  Commission..........................................  70,000.00

SECTION 24. This act shall take effect and be in force from
and after July 1, 2003.