

By: Senator(s) Nunnelee

To: Public Health and Welfare; Appropriations

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2841

1 AN ACT TO AMEND SECTIONS 43-1-1, 43-1-2, 43-1-3, 43-1-5 AND
2 43-1-6, MISSISSIPPI CODE OF 1972, WHICH CREATE THE DEPARTMENT OF
3 HUMAN SERVICES, PRESCRIBE ITS DUTIES AND RESPONSIBILITIES, PROVIDE
4 FOR THE APPOINTMENT OF AN EXECUTIVE DIRECTOR OF HUMAN SERVICES,
5 PROVIDE FOR THE AUTHORITY AND RESPONSIBILITIES OF THE EXECUTIVE
6 DIRECTOR, PROVIDE FOR A JOINT OVERSIGHT COMMITTEE OF THE
7 DEPARTMENT, PROVIDE THE STRUCTURE OF THE DEPARTMENT AND TRANSFER
8 THE PROGRAMS WITHIN THE DIVISION OF FEDERAL-STATE PROGRAMS TO THE
9 DEPARTMENT, TO EXTEND THE AUTOMATIC REPEALERS ON THOSE SECTIONS;
10 AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 43-1-1, Mississippi Code of 1972, is
13 amended as follows:

14 43-1-1. (1) The Department of Human Services shall be the
15 State Department of Public Welfare and shall retain all powers and
16 duties as granted to the State Department of Public Welfare.
17 Wherever the term "State Department of Public Welfare" or "State
18 Board of Public Welfare" appears in any law, the same shall mean
19 the Department of Human Services. The Executive Director of the
20 Department of Human Services may assign to the appropriate offices
21 such powers and duties deemed appropriate to carry out the lawful
22 functions of the department.

23 (2) The State Auditor shall conduct or have conducted a
24 financial, inventory and compliance audit of the Department of
25 Human Services and file a report with any recommendations to the
26 Chairmen of the Senate Public Health and Welfare Committee and the
27 House Public Health and Human Services Committee on or before
28 November 1, 2004, which shall include any findings of
29 noncompliance by the federal Department of Health and Human
30 Services.

31 (3) This section shall stand repealed on July 1, 2006.

32 **SECTION 2.** Section 43-1-2, Mississippi Code of 1972, is
33 amended as follows:

34 43-1-2. (1) There is created the Mississippi Department of
35 Human Services, whose offices shall be located in Jackson,
36 Mississippi, and which shall be under the policy direction of the
37 Governor.

38 (2) The chief administrative officer of the department shall
39 be the Executive Director of Human Services. The Governor shall
40 appoint the Executive Director of Human Services with the advice
41 and consent of the Senate, and he shall serve at the will and
42 pleasure of the Governor, and until his successor is appointed and
43 qualified. The Executive Director of Human Services shall possess
44 the following qualifications:

45 (a) A bachelor's degree from an accredited institution
46 of higher learning and ten (10) years' experience in management,
47 public administration, finance or accounting; or

48 (b) A master's or doctoral degree from an accredited
49 institution of higher learning and five (5) years' experience in
50 management, public administration, finance or accounting.

51 Those qualifications shall be certified by the State
52 Personnel Board.

53 (3) There shall be a Joint Oversight Committee of the
54 Department of Human Services composed of the respective Chairmen
55 of the Senate Public Health and Welfare Committee, the Senate
56 Appropriations Committee, the House Public Health and Welfare
57 Committee and the House Appropriations Committee, two (2) members
58 of the Senate appointed by the Lieutenant Governor to serve at the
59 will and pleasure of the Lieutenant Governor, and two (2) members
60 of the House of Representatives appointed by the Speaker of the
61 House to serve at the will and pleasure of the Speaker. The
62 chairmanship of the committee shall alternate for twelve-month
63 periods between the Senate members and the House members, with the
64 Chairman of the Senate Public Health and Welfare Committee serving

65 as the first chairman. The committee shall meet once each month,
66 or upon the call of the chairman at such times as he deems
67 necessary or advisable, and may make recommendations to the
68 Legislature pertaining to any matter within the jurisdiction of
69 the Mississippi Department of Human Services. The appointing
70 authorities may designate an alternate member from their
71 respective houses to serve when the regular designee is unable to
72 attend such meetings of the oversight committee. For attending
73 meetings of the oversight committee, such legislators shall
74 receive per diem and expenses which shall be paid from the
75 contingent expense funds of their respective houses in the same
76 amounts as provided for committee meetings when the Legislature is
77 not in session; however, no per diem and expenses for attending
78 meetings of the committee will be paid while the Legislature is in
79 session. No per diem and expenses will be paid except for
80 attending meetings of the oversight committee without prior
81 approval of the proper committee in their respective houses.

82 (4) The State Department of Human Services shall provide the
83 services authorized by law to every individual determined to be
84 eligible therefor, and in carrying out the purposes of the
85 department, the executive director is authorized:

86 (a) To formulate the policy of the department regarding
87 human services within the jurisdiction of the department;

88 (b) To adopt, modify, repeal and promulgate, after due
89 notice and hearing, and where not otherwise prohibited by federal
90 or state law, to make exceptions to and grant exemptions and
91 variances from, and to enforce rules and regulations implementing
92 or effectuating the powers and duties of the department under any
93 and all statutes within the department's jurisdiction, all of
94 which shall be binding upon the county departments of human
95 services;

96 (c) To apply for, receive and expend any federal or
97 state funds or contributions, gifts, devises, bequests or funds
98 from any other source;

99 (d) Except as limited by Section 43-1-3, to enter into
100 and execute contracts, grants and cooperative agreements with any
101 federal or state agency or subdivision thereof, or any public or
102 private institution located inside or outside the State of
103 Mississippi, or any person, corporation or association in
104 connection with carrying out the programs of the department; and

105 (e) To discharge such other duties, responsibilities
106 and powers as are necessary to implement the programs of the
107 department.

108 (5) The executive director shall establish the
109 organizational structure of the Mississippi Department of Human
110 Services which shall include the creation of any units necessary
111 to implement the duties assigned to the department and consistent
112 with specific requirements of law, including, but not limited to:

113 (a) Office of Family and Children's Services;

114 (b) Office of Youth Services;

115 (c) Office of Economic Assistance;

116 (d) Office of Child Support.

117 (6) The Executive Director of Human Services shall appoint
118 heads of offices, bureaus and divisions, as defined in Section
119 7-17-11, who shall serve at the pleasure of the executive
120 director. The salary and compensation of such office, bureau and
121 division heads shall be subject to the rules and regulations
122 adopted and promulgated by the State Personnel Board as created
123 under Section 25-9-101 et seq. The executive director shall have
124 the authority to organize offices as deemed appropriate to carry
125 out the responsibilities of the department. The organization
126 charts of the department shall be presented annually with the
127 budget request of the Governor for review by the Legislature.

128 (7) This section shall stand repealed on July 1, 2006.

129 **SECTION 3.** Section 43-1-3, Mississippi Code of 1972, is
130 amended as follows:

131 43-1-3. Notwithstanding the authority granted under
132 subsection (4)(d) of Section 43-1-2, the Department of Human
133 Services or the Executive Director of Human Services shall not be
134 authorized to delegate, privatize or otherwise enter into a
135 contract with a private entity for the operation of any office,
136 bureau or division of the department, as defined in Section
137 7-17-11, without specific authority to do so by general act of the
138 Legislature. However, nothing in this section shall be construed
139 to invalidate (i) any contract of the department that is in place
140 and operational before January 1, 1994; or (ii) the continued
141 renewal of any such contract with the same entity upon the
142 expiration of the contract; or (iii) the execution of a contract
143 with another legal entity as a replacement of any such contract
144 that is expiring, provided that the replacement contract is
145 substantially the same as the expiring contract. Notwithstanding
146 any other provision of this section, the department shall be
147 authorized to continue the operation of its child support
148 collection program with a private entity on a pilot program basis
149 in Hinds and Warren Counties in Mississippi, and the department
150 and the private entity shall specifically be prohibited from
151 expanding such pilot program to any counties other than Hinds and
152 Warren Counties without specific authority to do so by amendment
153 to this section by general act of the Legislature. Before
154 December 15, 1994, the department shall provide a detailed report
155 to the Joint Oversight Committee established by Section 43-1-2 and
156 to the Legislature that describes the results of the pilot program
157 for the privatization of the department's child support collection
158 program as of December 1, 1994, including an evaluation of whether
159 there has been substantial compliance with the performance
160 standards specified in the contract for the private entity in
161 conducting the pilot program.

162 This section shall stand repealed on July 1, 2006.

163 **SECTION 4.** Section 43-1-5, Mississippi Code of 1972, is
164 amended as follows:

165 43-1-5. It shall be the duty of the Department of Human
166 Services to:

167 (1) Establish and maintain programs not inconsistent with
168 the terms of this chapter and the rules, regulations and policies
169 of the State Department of Human Services, and publish the rules
170 and regulations of the department pertaining to such programs.

171 (2) Make such reports in such form and containing such
172 information as the federal government may, from time to time,
173 require, and comply with such provisions as the federal government
174 may, from time to time, find necessary to assure the correctness
175 and verification of such reports.

176 (3) Within ninety (90) days after the end of each fiscal
177 year, and at each regular session of the Legislature, make and
178 publish one (1) report to the Governor and to the Legislature,
179 showing for the period of time covered, in each county and for the
180 state as a whole:

181 (a) The total number of recipients;

182 (b) The total amount paid to them in cash;

183 (c) The maximum and the minimum amount paid to any
184 recipients in any one (1) month;

185 (d) The total number of applications;

186 (e) The number granted;

187 (f) The number denied;

188 (g) The number cancelled;

189 (h) The amount expended for administration of the
190 provisions of this chapter;

191 (i) The amount of money received from the federal
192 government, if any;

193 (j) The amount of money received from recipients of
194 assistance and from their estates and the disposition of same;

195 (k) Such other information and recommendations as the
196 Governor may require or the department shall deem advisable;

197 (l) The number of state-owned automobiles purchased and
198 operated during the year by the department, the number purchased
199 and operated out of funds appropriated by the Legislature, the
200 number purchased and operated out of any other public funds, the
201 miles traveled per automobile, the total miles traveled, the
202 average cost per mile and depreciation estimate on each
203 automobile;

204 (m) The cost per mile and total number of miles
205 traveled by department employees in privately-owned automobiles,
206 for which reimbursement is made out of state funds;

207 (n) Each association, convention or meeting attended by
208 any department employees, the purposes thereof, the names of the
209 employees attending and the total cost to the state of such
210 convention, association or meeting;

211 (o) How the money appropriated to the institutions
212 under the jurisdiction of the department has been expended during
213 the preceding year, beginning and ending with the fiscal year of
214 each institution, exhibiting the salaries paid to officers and
215 employees of the institutions, and each and every item of receipt
216 and expenditure;

217 (p) The activities of each division within the
218 Department of Human Services and recommendations for improvement
219 of the services to be performed by each division;

220 (q) In order of authority, the twenty (20) highest paid
221 employees in the department receiving an annual salary in excess
222 of Forty Thousand Dollars (\$40,000.00), by P.I.N. number, job
223 title, job description and annual salary.

224 Each report shall be balanced and shall begin with the
225 balance at the end of the preceding fiscal year, and if any
226 property belonging to the state or the institution is used for
227 profit such report shall show the expenses incurred in managing

228 the property and the amount received from the same. Such reports
229 shall also show a summary of the gross receipts and gross
230 disbursements for each fiscal year and shall show the money on
231 hand at the beginning of the fiscal period of each division and
232 institution of the department.

233 This section shall stand repealed on July 1, 2006.

234 **SECTION 5.** Section 43-1-6, Mississippi Code of 1972, is
235 amended as follows:

236 43-1-6. The following programs within the Division of
237 Federal-State Programs, Office of the Governor, shall be
238 transferred to the State Department of Human Services:

- 239 (a) Office of Energy and Community Services;
240 (b) Juvenile Justice Advisory Committee; and
241 (c) Mississippi Council on Aging.

242 All authority to implement those programs shall be vested in
243 the State Department of Human Services.

244 This section shall stand repealed on July 1, 2006.

245 **SECTION 6.** This act shall take effect and be in force from
246 and after June 30, 2004.