

By: Representative Moak

To: Insurance

HOUSE BILL NO. 853

1 AN ACT TO AMEND SECTION 71-3-85, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THAT A MEMBER OF THE WORKERS' COMPENSATION COMMISSION
3 SHALL BE AN ATTORNEY AT LAW OF RECOGNIZED ABILITY WITH A MINIMUM
4 OF FIVE YEARS' ACTIVE PRACTICE IN THE STATE OF MISSISSIPPI; TO
5 PROVIDE THAT THOSE MEMBERS SERVING AS COMMISSIONERS ON JULY 1,
6 2006, MAY REMAIN MEMBERS OF THE COMMISSION AND MAY BE REAPPOINTED
7 TO THE POSITION; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 71-3-85, Mississippi Code of 1972, is
10 amended as follows:

11 71-3-85. (1) There is hereby created a commission to be
12 known as the Workers' Compensation Commission, consisting of three
13 (3) members, who shall devote their entire time to the duties of
14 the office. The Governor shall appoint the members of the
15 commission, by and with the consent of the Mississippi State
16 Senate, one (1) for a term of two (2) years, one (1) for a term of
17 four (4) years, and one (1) for a term of six (6) years. Upon the
18 expiration of each term as above set forth, the Governor shall
19 appoint a successor for a term of six (6) years, and thereafter
20 the term of office of each commissioner shall be for six (6)
21 years. Until July 1, 2006, one (1) member shall be a person who
22 by reason of his previous vocation or affiliation can be classed
23 as a representative of employers; and one (1) member shall be a
24 person who by reason of his previous vocation or affiliation can
25 be classed as a representative of employees; and one (1) member
26 shall be an attorney at law of recognized ability with at least
27 five (5) years' active practice in Mississippi prior to his
28 appointment. Except as otherwise provided herein, for
29 appointments made after July 1, 2006, each member shall be an

30 attorney at law of recognized ability with at least five (5)
31 years' active practice in Mississippi before his appointment.
32 Those members whose terms have not expired on July 1, 2006, shall
33 continue to serve as members until such time as their terms
34 expire. Any member who was serving on July 1, 2006, may be
35 reappointed as a member regardless of whether or not he is an
36 attorney at law. The Governor shall designate the chairman of the
37 commission, whose term of chairman shall run concurrently with his
38 appointment as a commissioner.

39 The chairman shall be the administrative head of the
40 commission and shall have the final authority in all matters
41 relating to assignment of cases for hearing and trial and the
42 administrative work of the commission and its employees, except in
43 the promulgation of rules and regulations wherein the commission
44 shall act as a body, and in the trial and determination of cases
45 as otherwise provided.

46 Upon the expiration of the term of a commissioner, he shall
47 continue to serve until his successor has been appointed. Because
48 cumulative experience is conspicuously essential to the proper
49 administration of a Workers' Compensation Law, it is declared to
50 be in the public interest to continue Workers' Compensation
51 Commissioners in office as long as efficiency is demonstrated. A
52 commissioner may be removed for cause prior to the expiration of
53 his term, but shall be furnished a written copy of the charges
54 against him and shall be accorded a public hearing.

55 Each member of the commission and each administrative law
56 judge shall receive an annual salary fixed by the Legislature.

57 (2) A vacancy in the commission, if there remain two (2)
58 members of it, shall not impair the authority of such two (2)
59 members to act. In case of illness or continued absence for other
60 reasons, the same authority of such two (2) members shall apply.

61 (3) The commission shall have the powers and duties
62 necessary for effecting the purposes of this chapter, including

63 the powers of a court of record for compelling the attendance of
64 witnesses, examining them under oath, and compelling the
65 production of books, papers, documents and objects relevant to the
66 determination of a claim for compensation, and the power to adopt
67 rules and regulations and make or approve the forms relating to
68 notices of injuries, payment of claims and other purposes. The
69 authority of the commission and its duly authorized
70 representatives to investigate and determine claims for
71 compensation shall include the right to enter the premises where
72 an injury occurred, to ascertain its causes and circumstances.

73 (4) The office of the commission shall be situated in the
74 City of Jackson, but hearings may be held at such places as it may
75 deem most convenient for the proper and speedy performance of its
76 duties. The commission is authorized, if it deems it necessary
77 for the convenient and efficient dispatch of business, to lease
78 office space and facilities in other than publicly owned
79 buildings.

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

87 (6) The commission shall adopt or approve the forms required
88 for administering the chapter, such notices of injury, application
89 for benefits, receipts for compensation and all other forms needed
90 to assure the orderly and prompt operation of the law, and may
91 require the exclusive use of any or all such approved forms.

92 **SECTION 2.** This act shall take effect and be in force from
93 and after July 1, 2006.