

By: Representative Bounds

To: Labor

HOUSE BILL NO. 1193

1 AN ACT TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT IN ORDER TO BE ELIGIBLE FOR UNEMPLOYMENT  
3 COMPENSATION BENEFITS, AN EMPLOYEE OF A TEMPORARY HELP CONTRACTING  
4 FIRM MUST CONTACT THE FIRM FOR REASSIGNMENT UPON COMPLETION OF AN  
5 ASSIGNMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-5-511, Mississippi Code of 1972, is  
8 amended as follows:

9 71-5-511. An unemployed individual shall be eligible to  
10 receive benefits with respect to any week only if the department  
11 finds that:

12 (a) (i) He has registered for work at and thereafter  
13 has continued to report to an employment office in accordance with  
14 such regulations as the department may prescribe; except that the  
15 department may, by regulation, waive or alter either or both of  
16 the requirements of this subparagraph as to such types of cases or  
17 situations with respect to which it finds that compliance with  
18 such requirements would be oppressive or would be inconsistent  
19 with the purposes of this chapter; and

20 (ii) He participates in reemployment services,  
21 such as job search assistance services, if, in accordance with a  
22 profiling system established by the department, it has been  
23 determined that he is likely to exhaust regular benefits and needs  
24 reemployment services, unless the department determines that:

25 1. The individual has completed such  
26 services; or

27 2. There is justifiable cause for the  
28 claimant's failure to participate in such services.

29           (b) He has made a claim for benefits in accordance with  
30 the provisions of Section 71-5-515 and in accordance with such  
31 regulations as the department may prescribe thereunder.

32           (c) He is able to work and is available for work.

33           (d) He has been unemployed for a waiting period of one  
34 (1) week. No week shall be counted as a week of unemployment for  
35 the purposes of this subsection:

36           (i) Unless it occurs within the benefit year which  
37 includes the week with respect to which he claims payment of  
38 benefits;

39           (ii) If benefits have been paid with respect  
40 thereto;

41           (iii) Unless the individual was eligible for  
42 benefits with respect thereto, as provided in Sections 71-5-511  
43 and 71-5-513, except for the requirements of this subsection.

44           (e) For weeks beginning on or before July 1, 1982, he  
45 has, during his base period, been paid wages for insured work  
46 equal to not less than thirty-six (36) times his weekly benefit  
47 amount; he has been paid wages for insured work during at least  
48 two (2) quarters of his base period; and he has, during that  
49 quarter of his base period in which his total wages were highest,  
50 been paid wages for insured work equal to not less than sixteen  
51 (16) times the minimum weekly benefit amount. For benefit years  
52 beginning after July 1, 1982, he has, during his base period, been  
53 paid wages for insured work equal to not less than forty (40)  
54 times his weekly benefit amount; he has been paid wages for  
55 insured work during at least two (2) quarters of his base period,  
56 and he has, during that quarter of his base period in which his  
57 total wages were highest, been paid wages for insured work equal  
58 to not less than twenty-six (26) times the minimum weekly benefit  
59 amount. For purposes of this subsection, wages shall be counted  
60 as "wages for insured work" for benefit purposes with respect to  
61 any benefit year only if such benefit year begins subsequent to

62 the date on which the employing unit by which such wages were paid  
63 has satisfied the conditions of Section 71-5-11, subsection I, or  
64 Section 71-5-361, subsection (3), with respect to becoming an  
65 employer.

66 (f) No individual may receive benefits in a benefit  
67 year unless, subsequent to the beginning of the next preceding  
68 benefit year during which he received benefits, he performed  
69 service in "employment" as defined in Section 71-5-11, subsection  
70 J, and earned remuneration for such service in an amount equal to  
71 not less than eight (8) times his weekly benefit amount applicable  
72 to his next preceding benefit year.

73 (g) Benefits based on service in employment defined in  
74 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,  
75 subsection (4) shall be payable in the same amount, on the same  
76 terms, and subject to the same conditions as compensation payable  
77 on the basis of other service subject to this chapter, except that  
78 benefits based on service in an instructional, research or  
79 principal administrative capacity in an institution of higher  
80 learning (as defined in Section 71-5-11, subsection O) with  
81 respect to service performed prior to January 1, 1978, shall not  
82 be paid to an individual for any week of unemployment which begins  
83 during the period between two (2) successive academic years, or  
84 during a similar period between two (2) regular terms, whether or  
85 not successive, or during a period of paid sabbatical leave  
86 provided for in the individual's contract, if the individual has a  
87 contract or contracts to perform services in any such capacity for  
88 any institution or institutions of higher learning for both such  
89 academic years or both such terms.

90 (h) Benefits based on service in employment defined in  
91 Section 71-5-11, subsection J(3) and J(4), shall be payable in the  
92 same amount, on the same terms and subject to the same conditions  
93 as compensation payable on the basis of other service subject to  
94 this chapter; except that:

95                   (i) With respect to service performed in an  
96 instructional, research or principal administrative capacity for  
97 an educational institution, benefits shall not be paid based on  
98 such services for any week of unemployment commencing during the  
99 period between two (2) successive academic years, or during a  
100 similar period between two (2) regular but not successive terms,  
101 or during a period of paid sabbatical leave provided for in the  
102 individual's contract, to any individual, if such individual  
103 performs such services in the first of such academic years or  
104 terms and if there is a contract or a reasonable assurance that  
105 such individual will perform services in any such capacity for any  
106 educational institution in the second of such academic years or  
107 terms, and provided that Section 71-5-511, subsection (g), shall  
108 apply with respect to such services prior to January 1, 1978. In  
109 no event shall benefits be paid unless the individual employee was  
110 terminated by the employer.

111                   (ii) With respect to services performed in any  
112 other capacity for an educational institution, benefits shall not  
113 be paid on the basis of such services to any individual for any  
114 week which commences during a period between two (2) successive  
115 academic years or terms, if such individual performs such services  
116 in the first of such academic years or terms and there is a  
117 reasonable assurance that such individual will perform such  
118 services in the second of such academic years or terms, except  
119 that if compensation is denied to any individual under this  
120 subparagraph and such individual was not offered an opportunity to  
121 perform such services for the educational institution for the  
122 second of such academic years or terms, such individual shall be  
123 entitled to a retroactive payment of compensation for each week  
124 for which the individual filed a timely claim for compensation and  
125 for which compensation was denied solely by reason of this clause.  
126 In no event shall benefits be paid unless the individual employee  
127 was terminated by the employer.

128                   (iii) With respect to services described in  
129 subsection (h)(i) and (ii), benefits shall not be payable on the  
130 basis of services in any such capacities to any individual for any  
131 week which commences during an established and customary vacation  
132 period or holiday recess if such individual performs such services  
133 in the first of such academic years or terms, or in the period  
134 immediately before such vacation period or holiday recess, and  
135 there is a reasonable assurance that such individual will perform  
136 such services in the period immediately following such vacation  
137 period or holiday recess.

138                   (iv) With respect to any services described in  
139 subsection (h)(i) and (ii), benefits shall not be payable on the  
140 basis of services in any such capacities as specified in  
141 subsection (h)(i), (ii) and (iii) to any individual who performed  
142 such services in an educational institution while in the employ of  
143 an educational service agency. For purposes of this subsection,  
144 the term "educational service agency" means a governmental agency  
145 or governmental entity which is established and operated  
146 exclusively for the purpose of providing such services to one or  
147 more educational institutions.

148                   (v) With respect to services to which Sections  
149 71-5-357 and 71-5-359 apply, if such services are provided to or  
150 on behalf of an educational institution, benefits shall not be  
151 payable under the same circumstances and subject to the same terms  
152 and conditions as described in subsection (h)(i), (ii), (iii) and  
153 (iv).

154                   (i) Subsequent to December 31, 1977, benefits shall not  
155 be paid to any individual on the basis of any services  
156 substantially all of which consist of participating in sports or  
157 athletic events or training or preparing to so participate, for  
158 any week which commences during the period between two (2)  
159 successive sports seasons (or similar periods) if such individual  
160 performs such services in the first of such seasons (or similar

161 periods) and there is a reasonable assurance that such individual  
162 will perform such services in the later of such seasons (or  
163 similar periods).

164 (j) (i) Subsequent to December 31, 1977, benefits  
165 shall not be payable on the basis of services performed by an  
166 alien, unless such alien is an individual who was lawfully  
167 admitted for permanent residence at the time such services were  
168 performed, was lawfully present for purposes of performing such  
169 services, or was permanently residing in the United States under  
170 color of law at the time such services were performed (including  
171 an alien who was lawfully present in the United States as a result  
172 of the application of the provisions of Section 203(a)(7) or  
173 Section 212(d)(5) of the Immigration and Nationality Act).

174 (ii) Any data or information required of  
175 individuals applying for benefits to determine whether benefits  
176 are not payable to them because of their alien status shall be  
177 uniformly required from all applicants for benefits.

178 (iii) In the case of an individual whose  
179 application for benefits would otherwise be approved, no  
180 determination that benefits to such individual are not payable  
181 because of his alien status shall be made, except upon a  
182 preponderance of the evidence.

183 (k) An individual shall be deemed prima facie  
184 unavailable for work, and therefore ineligible to receive  
185 benefits, during any period which, with respect to his employment  
186 status, is found by the department to be a holiday or vacation  
187 period.

188 An employee of a temporary help contracting firm will be  
189 presumed to have voluntarily left employment without good cause if  
190 the employee does not contact the firm for reassignment upon  
191 completion of an assignment; however, the failure to contact the  
192 firm will not be considered a voluntary departure from employment  
193 unless the employee has been advised in writing of the obligation

194 to contact the firm upon completion of assignments and has been  
195 advised in writing that unemployment benefits may be denied for  
196 failure to do so.

197       **SECTION 2.** This act shall take effect and be in force from  
198 and after July 1, 2007.