

By: Senator(s) Jordan, Dawkins, Thomas,
Jackson (11th), Horhn, Butler, Frazier,
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To: Labor; Appropriations

SENATE BILL NO. 2438

1 AN ACT TO ESTABLISH A MISSISSIPPI DEPARTMENT OF LABOR; TO SET
2 FORTH AND PRESCRIBE THE FUNCTIONS OF ADMINISTRATIVE OFFICES WITHIN
3 THE DEPARTMENT; TO PROVIDE FOR THE APPOINTMENT OF THE COMMISSIONER
4 OF LABOR BY THE GOVERNOR; TO AMEND SECTION 71-5-101, MISSISSIPPI
5 CODE OF 1972, TO PROVIDE THAT THE DUTIES, POWERS AND FUNDS OF THE
6 MISSISSIPPI DEPARTMENT OF EMPLOYMENT SECURITY, OFFICE OF THE
7 GOVERNOR, SHALL BE TRANSFERRED TO THE OFFICE OF EMPLOYMENT
8 SECURITY IN THE MISSISSIPPI DEPARTMENT OF LABOR; TO EMPOWER THE
9 DEPARTMENT OF LABOR TO ADMINISTER AND COORDINATE CERTAIN FEDERAL
10 AND STATE-FUNDED JOB TRAINING AND EMPLOYMENT-RELATED EDUCATION
11 PROGRAMS; TO AMEND SECTIONS 7-1-351, 7-1-355, 7-1-357, 7-1-361,
12 7-1-363 AND 7-1-365, MISSISSIPPI CODE OF 1972, IN CONFORMITY
13 THERETO; TO PRESCRIBE THE RESPONSIBILITIES OF THE OFFICE OF
14 INDUSTRY SERVICE AND INDUSTRY START-UP TRAINING, THE OFFICE OF
15 EMPLOYEE RELATIONS AND JOB DISCRIMINATION, AND THE OFFICE OF
16 DISABLED EMPLOYEE ASSISTANCE WITHIN THE DEPARTMENT; TO REPEAL
17 SECTION 71-5-107, MISSISSIPPI CODE OF 1972, WHICH PROVIDES FOR
18 APPOINTMENT OF A DIRECTOR FOR THE MISSISSIPPI DEPARTMENT OF
19 EMPLOYMENT SECURITY; AND FOR RELATED PURPOSES.

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

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

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

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

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

28 (d) "Office" means an administrative subdivision of the
29 department.

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

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

34 (b) To establish and oversee an effective and efficient
35 workforce development system in Mississippi to enable residents to

36 acquire skills necessary to maximize their economic
37 self-sufficiency; and

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

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

42 (a) The Office of Employment Security;

43 (b) The Office of Job Development and Training;

44 (c) The Office of Industry Service and Industry
45 Start-up Training;

46 (d) The Office of Employee Relations and Job
47 Discrimination; and

48 (e) The Office of Disabled Employee Assistance.

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

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

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

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

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

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

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

77 **SECTION 4.** (1) The chief officer of the department shall be
78 denominated the Commissioner of Labor who shall be appointed by
79 the Governor. His term of office shall be for four (4) years as
80 that of other state officials. The commissioner shall receive a
81 compensation to be fixed by law. The commissioner shall be
82 responsible for the proper administration of the programs of
83 labor-management relations provided under this act and shall be
84 responsible for appointing directors of offices and any necessary
85 supervisors, assistants and employees. The salary and
86 compensation of such employees shall be subject to the rules and
87 regulations adopted and promulgated by the State Personnel Board
88 as created under Section 25-9-101 et seq.

89 (2) In carrying out his duties under this act, the
90 Commissioner of Labor:

91 (a) Shall promulgate regulations governing personnel
92 standards, the protection of records and confidential information,
93 the manner and form of filing applications, eligibility and
94 investigation and determination therefor, for labor-management
95 services, procedures for fair hearings and such other regulations
96 as he finds necessary to carry out the purposes of this act and in
97 conformity with federal law;

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

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

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

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

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

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

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

119 71-5-101. From and after the effective date of this act, the
120 duties and powers of the Mississippi Department of Employment
121 Security, Office of the Governor, and all equipment, supplies,
122 records and any funds appropriated by the Legislature to the
123 Mississippi Employment Security Commission, and its successor, the
124 Mississippi Department of Employment Security, Office of the
125 Governor, shall be transferred to the Office of Employment
126 Security in the Mississippi Department of Labor created in Senate
127 Bill No. 2438, 2007 Regular Session. From and after the effective
128 date of this act, the Mississippi Department of Employment
129 Security, Office of the Governor, shall be abolished. Any
130 reference in this chapter to "Mississippi Employment Security
131 Commission" or "commission" or "Mississippi Department of
132 Employment Security, Office of the Governor," means the Office of

133 Employment Security within the Mississippi Department of Labor
134 created in this act.

135 **SECTION 6.** The Office of Job Development and Training of the
136 Mississippi Department of Labor shall administer and coordinate as
137 necessary the following federally- and state-funded employment,
138 training and employment-related education programs: (a) training
139 and employment-related education programs sponsored by the federal
140 Job Training Partnership Act; (b) employment programs under the
141 Wagner-Peyser Act; (c) employment, training and education programs
142 for welfare recipients funded by the federal JOBS and Basic Skills
143 Training Program within the Family Support Act; and (d) the
144 Comprehensive Employment and Training Act of 1973.

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

147 7-1-351. The Office of Job Development and Training of the
148 Department of Labor shall be the Division of Job Development and
149 Training and shall retain all powers and duties granted by law to
150 the Division of Job Development and Training and wherever the term
151 "Division of Job Development and Training" shall appear in any law
152 it shall mean the Department of Labor. The Commissioner of Labor
153 may assign to appropriate divisions powers and duties as deemed
154 appropriate to carry out the lawful functions of the department.

155 **SECTION 8.** Section 7-1-355, Mississippi Code of 1972, is
156 amended as follows:

157 7-1-355. (1) The Office of Job Development and Training of
158 the Department of Labor is designated as the sole administrator of
159 all programs for which the state is the prime sponsor under Title
160 1(B) of Public Law 105-220, Workforce Investment Act of 1998, and
161 the regulations promulgated thereunder, and may take all necessary
162 action to secure to this state the benefits of that legislation.
163 The Mississippi Department of Employment Security, Office of the
164 Governor, may receive and disburse funds for those programs that
165 become available to it from any source.

166 (2) The Office of Job Development and Training of the
167 Department of Labor shall establish guidelines on the amount
168 and/or percentage of indirect and/or administrative expenses by
169 the local fiscal agent or the Workforce Development Center
170 operator. The Office of Job Development and Training of the
171 Department of Labor shall develop an accountability system and
172 make an annual report to the Legislature before December 31 of
173 each year on Workforce Investment Act activities. The report
174 shall include, but is not limited to, the following:

175 (a) The total number of individuals served through the
176 Workforce Development Centers and the percentage and number of
177 individuals for which a quarterly follow-up is provided;

178 (b) The number of individuals who receive core services
179 by each center;

180 (c) The number of individuals who receive intensive
181 services by each center;

182 (d) The number of Workforce Investment Act vouchers
183 issued by the Workforce Development Centers including:

184 (i) A list of schools and colleges to which these
185 vouchers were issued and the average cost per school of the
186 vouchers; and

187 (ii) A list of the types of programs for which
188 these vouchers were issued;

189 (e) The number of individuals placed in a job through
190 Workforce Development Centers;

191 (f) The monies and the amount retained for
192 administrative and other costs received from Workforce Investment
193 Act funds for each agency or organization that Workforce
194 Investment Act funds flow through as a percentage and actual
195 dollar amount of all Workforce Investment Act funds received.

196 **SECTION 9.** Section 7-1-357, Mississippi Code of 1972, is
197 amended as follows:

198 7-1-357. The Office of Job Development and Training,
199 Department of Labor, is hereby authorized to cooperate with or
200 enter into agreements with any agency, official, educational
201 institution or political subdivision of this state, any agency or
202 official of the government of the United States of America, or any
203 private person, firm, partnership or corporation in order to carry
204 out the provisions of Sections 7-1-351 through 7-1-371.

205 **SECTION 10.** Section 7-1-361, Mississippi Code of 1972, is
206 amended as follows:

207 7-1-361. The Office of Job Development and Training,
208 Department of Labor, is authorized to promulgate such rules and
209 regulations as may be necessary to carry out the provisions of
210 Sections 7-1-351 through 7-1-371.

211 **SECTION 11.** Section 7-1-363, Mississippi Code of 1972, is
212 amended as follows:

213 7-1-363. To the maximum extent practicable, the Department
214 of Labor shall contract with the Division of Vocational-Technical
215 Education of the State Department of Education all programs
216 embracing an institutional training component. Such programs
217 shall be contracted to the Division of Vocational-Technical
218 Education of the State Department of Education, except those
219 programs funded by the Governor's special grant, shall be
220 coordinated with and complementary to the existing state public
221 educational systems and shall not be duplicative or competitive in
222 nature to such systems.

223 **SECTION 12.** Section 7-1-365, Mississippi Code of 1972, is
224 amended as follows:

225 7-1-365. The State Department of Education,
226 Vocational-Technical Division, the board of trustees of any junior
227 college district, the board of trustees of any school district,
228 the Mississippi Employment Security Commission, and the Office of
229 Job Development and Training, Department of Labor, shall cooperate

230 in carrying out the provisions of Sections 7-1-351 through
231 7-1-371.

232 **SECTION 13.** The Office of Industry Service and Industry
233 Start-up Training in the Mississippi Department of Labor shall
234 contract with the State Board of Community/Junior Colleges, and
235 the Division of Vocational-Technical Education of the State
236 Department of Education to provide (a) all programs embracing an
237 existing industry or a new industrial training component, and (b)
238 all employment-related community/junior college or
239 employment-related secondary education programs.

240 **SECTION 14.** The Office of Employee Relations and Job
241 Discrimination in the Mississippi Department of Labor shall do all
242 in its power to promote the voluntary arbitration, mediation and
243 conciliation of disputes between employers and employees and to
244 avoid strikes, picketing, lockouts, boycotts, black list,
245 discriminations and legal proceedings in matters of employment.
246 In pursuance of this duty, the office may appoint temporary boards
247 of arbitration, provide necessary expenses of such boards, order
248 reasonable compensation for each member engaged in such
249 arbitration, prescribe rules for such arbitration boards, conduct
250 investigations and hearings, publish reports and advertisements,
251 and may do all things convenient and necessary to accomplish the
252 purpose. The office may designate a mediator and may detail
253 employees or persons not in the office from time to time for the
254 purpose of executing such provisions. Nothing in this section
255 shall be construed to in anywise prohibit or limit employees'
256 right to bargain collectively.

257 **SECTION 15.** The Office of Disabled Employee Assistance of
258 the Mississippi Department of Labor shall function as an
259 information clearinghouse and referral service for employees and
260 employers regarding any aspect of the federal Americans With
261 Disabilities Act, which prohibits discrimination in all terms and
262 conditions of employment regarding private and public employers.

263 **SECTION 16.** Section 71-5-107, Mississippi Code of 1972,
264 which provides for meetings and compensation of the Mississippi
265 Employment Security Commission, is repealed.

266 **SECTION 17.** This act shall take effect and be in force from
267 and after July 1, 2007.