MISSISSIPPI LEGISLATURE

REGULAR SESSION 2022

By: Representative Horan

To: Corrections

HOUSE BILL NO. 863
(As Sent to Governor)

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

SECTION 1. Section 47-5-535, Mississippi Code of 1972, is amended as follows:

47-5-535. (1) Except as otherwise specifically provided by law, it is the intent of the Legislature that a nonprofit corporation be organized and formed, within sixty (60) days from
April 4, 1990, to lease and manage the prison industry programs of the Mississippi Correctional Industries. The corporation created and established shall be a body politic and corporate, may acquire and hold real and personal property, may receive, hold and dispense monies appropriated to it by the Legislature of the State of Mississippi received from the federal government, received from the sale of products, goods, and services which it produces, and received from any other sources whatsoever.

(2) Except as otherwise specifically provided by law, it is the further intent of the Legislature that the nonprofit corporation shall create any additional prison industry program as it deems fit, and any such program shall be created in compliance with the provisions of Sections 47-5-531 through 47-5-575.

(3) Except as otherwise specifically provided by law, it is the further intent of the Legislature that such nonprofit corporation shall have exclusive rights to operate any prison industry program and when such corporation is lawfully formed, no other public or private entity shall be allowed to carry out the provisions of Sections 47-5-531 through 47-5-575.

(4) It is the further intent of the Legislature, that the nonprofit corporation which is required to be organized and formed under Sections 47-5-531 through 47-5-575 shall locate and operate prison industries at any state correctional facility with the approval of the Commissioner of Corrections. It is the intent of the Legislature that the nonprofit corporation locate and operate
such industries in an orderly and expeditious manner. Such
corporation may locate and operate prison industries at other
prison satellites, at community work centers in the state, at any
private correctional facility which houses state inmates and at
any regional correctional facility as authorized under Section
47-5-931. No industrial prison program shall be located at a site
other than state prison facilities approved by the commissioner.

** SECTION 2. ** Section 47-5-539, Mississippi Code of 1972, as
amended by Senate Bill No. 2437, 2022 Regular Session, is amended
as follows:

47-5-539. For the purposes of Sections 47-5-531 through
47-5-575, the following terms shall have the following meaning unless the context shall provide otherwise:

(a) "Chief executive officer" means the chief executive
officer of the corporation established under this chapter.

(b) "Corporation" means the private nonprofit
corporation which is required to be organized and formed to carry
out the provisions of Sections 47-5-531 through 47-5-575 regarding
prison industries.

c) "Department" means the State Department of
Corrections.

d) "Inmate" means any person incarcerated within
any state correctional facility.
(e) "Prison industry program" means any program which is considered to be a part of any prison industry in this state.

(f) "Prison agricultural enterprises" means all agricultural endeavors as defined in Section 47-5-353.

(g) "Work Initiative" or "initiative" means the program authorized in Section 47-5-579.

SECTION 3. Section 47-5-541, Mississippi Code of 1972, is amended as follows:

47-5-541. (1) The corporation shall be governed by a board of directors. The terms of the board of directors in place before July 1, 2022, shall expire June 30, 2022. From and after July 1, 2022, the board of directors of the nonprofit corporation shall be composed of the following five (5) members:

(a) The Commissioner of the Department of Corrections or his or her designee;

(b) One (1) representative of the faith-based community, appointed by the Commissioner of the Department of Corrections with the advice and consent of the Senate;

(c) One (1) representative of the business community, appointed by the Commissioner of the Department of Corrections with the advice and consent of the Senate;

(d) The Executive Director of AccelerateMS or his or her designee; and
(e) The Executive Director of the Mississippi Community College Board or his or her designee.

* * * For the initial appointments, * * * the representative of the faith-based community shall serve for a term of one (1) year; the representative of the business community shall serve for a term of two (2) years; the Executive Director of the AccelerateMS or his or her designee shall serve for a term of three (3) years and the Executive Director of the Mississippi Community College Board shall serve for a term of four (4) years.

All succeeding terms shall be for four (4) years from the expiration date of the previous term. The term of the Commissioner of Corrections shall run concurrent with his or her term or terms as commissioner. Initial appointments shall be made within thirty (30) days after * * * July 1, 2022. * * * Any vacancy on the board prior to the expiration of a term for any reason, including resignation, removal, disqualification, death or disability shall be filled in the manner prescribed in paragraphs (a) through (e) of this subsection for the balance of the unexpired term. The officers of the corporation shall consist of a chairman, vice chairman and a secretary-treasurer. The officers shall be selected by the members of the board. However, the Commissioner of Corrections * * * shall not be eligible to serve as an officer of the corporation.

(2) The board of directors shall select and employ a chief executive officer of the corporation who shall serve at the
pleasure of the board. The board shall set the compensation of
the chief executive officer. The chief executive officer shall be
responsible for the general business and entire operations of the
corporation, and shall be responsible for operating the
corporation in compliance with the bylaws of the corporation and
in compliance with any provision of law. The board shall be
authorized and empowered to do only those acts provided by law and
by the bylaws of the corporation. Except as otherwise
specifically provided by law, such board shall have the authority
to establish prison industries, to cease the operation of any
industry which it deems unsuitable or unprofitable, to enter into
any lease or contract for the corporation and it shall have the
full authority to establish prices for any industry good.

(3) No member of the board of directors shall vote on any
matter that comes before the board that could result in pecuniary
benefit for himself or for any entity in which such member has an
interest.

(4) In addition to the board of directors, an advisory board
may be set up for the benefit of each industry which is
established pursuant to the provisions of Sections 47-5-531
through 47-5-575. Such boards shall be advisory only, and may be
set up in the discretion of the board of directors of the
corporation.

(5) Each member of the board of directors of the corporation
shall receive per diem as provided in Section 25-3-69 for each day
or fraction thereof spent in actual discharge of his official duties and shall be reimbursed for mileage and actual expenses incurred in the performance of his official duties in accordance with the requirements of Section 25-3-41, Mississippi Code of 1972.

(6) The board of directors shall make and publish policies, rules and regulations governing all business functions, including but not limited to accounting, marketing, purchasing and personnel, not inconsistent with the terms of Sections 47-5-531 through 47-5-575, as may be necessary for the efficient administration and operation of the corporation.

(7) The chief executive officer of the corporation shall:
   (a) Employ all necessary employees of the corporation and dismiss them as is necessary;
   (b) Administer the daily operations of the corporation;
   (c) Upon approval of the board of directors, execute any contracts on behalf of the corporation; and
   (d) Take any further actions which are necessary and proper toward the achievement of the corporation purposes.

(8) A member of the board of directors of the corporation shall not be liable for any civil damages for any personal injury or property damage caused to a person as a result of any acts or omissions committed in good faith in the exercise of their duties as members of the board of directors of the corporation, except
where a member of the board engages in acts or omissions which are intentional, willful, wanton, reckless or grossly negligent.

**SECTION 4.** Section 47-5-547, Mississippi Code of 1972, is amended as follows:

47-5-547. Except as otherwise specifically provided by law, any training program or auxiliary program associated with any existing prison industry shall be transferred to the corporation. The corporation is empowered and authorized to establish in partnership with any community or junior college or state institution of higher learning, any training or auxiliary program for existing prison industries or for any industries which the corporation might create. Such community or junior college or state institution of higher learning shall provide assistance in business planning, marketing and analysis of existing or projected industries. These industrial services shall be contracted with any appropriate community or junior college or state institution of higher learning when these industries are developed at other correction sites.

**SECTION 5.** The following shall be codified as Section 47-5-577, Mississippi Code of 1972:

47-5-577. Sections 47-5-531 through 47-5-575, which create the Mississippi Prison Industries Act of 1990, shall stand repealed from and after July 1, 2024.
SECTION 6. Section 47-5-1251, Mississippi Code of 1972, as amended by Senate Bill No. 2437, 2022 Regular Session, is amended as follows:

47-5-1251. (1) There is created the "Prison Industry Enhancement Program," through which the Department of Corrections may contract with the nonprofit corporation organized and formed under the "Mississippi Prison Industries Act of 1990" to employ offenders within the custody of the department or prison industries.

(2) Except as provided in Section 47-5-579, which is the provision authorizing a Work Initiative, the offenders must be under the supervision of the department at all times while working. The offenders shall be paid, by the entity or entities, wages at a rate which is not less than that paid for similar work in the locality in which the work is performed. The wages may be subject to deductions which shall not, in the aggregate, exceed eighty percent (80%) of gross wages. The deductions shall be limited to the following:

(a) To pay federal, state and local taxes;

(b) To pay reasonable charges for room and board as determined by regulations issued by the Commissioner of Corrections;

(c) To support the offender's family pursuant to state statute, court order or agreement by the offender; and
(d) To pay contributions equaling not less than five percent (5%) but not more than twenty percent (20%) of the offender's gross wages into the Crime Victims' Compensation Fund as created in Section 99-41-29.

(*) Notwithstanding any other provision of the law to the contrary, the offenders shall not be qualified to receive any payments for unemployment compensation while incarcerated. However, the offenders shall not solely by their status as offenders be deprived of the right to participate in benefits made available by the federal or state government to other individuals on the basis of their employment, such as workers' compensation.

(*) Offenders who participate in the employment must do so voluntarily and must agree in advance to the specific deductions made from gross wages pursuant to this section and to all other financial arrangements or benefits resulting from participation in the employment.

(*) The Department of Corrections shall develop rules and regulations to meet the criteria established by the Bureau of Justice Assistance under the Prison Industry Enhancement Certification Program.

(6) This section shall stand repealed on July 1, 2024.

SECTION 7. This act shall take effect and be in force from and after July 1, 2022.