

## **Senate Amendments to House Bill No. 863**

**TO THE CLERK OF THE HOUSE:**

**THIS IS TO INFORM YOU THAT THE SENATE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:**

### **AMENDMENT NO. 1**

**Amend by striking all after the enacting clause and inserting in lieu thereof the following:**

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

22           47-5-535. (1) Except as otherwise specifically provided by  
23 law, it is the intent of the Legislature that a nonprofit  
24 corporation be organized and formed, within sixty (60) days from  
25 April 4, 1990, to lease and manage the prison industry programs of  
26 the Mississippi Correctional Industries. The corporation created  
27 and established shall be a body politic and corporate, may acquire  
28 and hold real and personal property, may receive, hold and  
29 dispense monies appropriated to it by the Legislature of the State  
30 of Mississippi received from the federal government, received from  
31 the sale of products, goods, and services which it produces, and  
32 received from any other sources whatsoever.

33           (2) Except as otherwise specifically provided by law, it is  
34 the further intent of the Legislature that the nonprofit  
35 corporation shall create any additional prison industry program as

36 it deems fit, and any such program shall be created in compliance  
37 with the provisions of Sections 47-5-531 through 47-5-575.

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

44 (4) It is the further intent of the Legislature, that the  
45 nonprofit corporation which is required to be organized and formed  
46 under Sections 47-5-531 through 47-5-575 shall locate and operate  
47 prison industries at any state correctional facility with the  
48 approval of the Commissioner of Corrections. It is the intent of  
49 the Legislature that the nonprofit corporation locate and operate  
50 such industries in an orderly and expeditious manner. Such  
51 corporation may locate and operate prison industries at other  
52 prison satellites, at community work centers in the state, at any  
53 private correctional facility which houses state inmates and at  
54 any regional correctional facility as authorized under Section  
55 47-5-931. No industrial prison program shall be located at a site  
56 other than state prison facilities approved by the commissioner.

57 \* \* \*

58 **SECTION 2.** Section 47-5-541, Mississippi Code of 1972, is  
59 amended as follows:

60 47-5-541. (1) The corporation shall be governed by \* \* \*  
61 the Commissioner of Corrections. The board of directors of the

62 nonprofit corporation shall be composed of the following \* \* \*  
63 seven (7) members \* \* \*: the Commissioner of Corrections, the  
64 Deputy Commissioner of Workforce Development, the Executive  
65 Director of the Office of Workforce Development or his appointee,  
66 and four (4) members appointed by the Commissioner of Corrections  
67 who are involved in workforce development initiatives and/or  
68 economic development initiatives. Employees of the Department of  
69 Corrections or the corporation are eligible to be members of the  
70 board. The officers of the corporation shall consist of a  
71 chairman, vice chairman and a secretary-treasurer. The  
72 Commissioner of Corrections shall be the chairman of the board.  
73 The \* \* \* vice chairman and secretary-treasurer shall be selected  
74 by the members of the board. \* \* \*

75 (2) The \* \* \* Deputy Commissioner of Workforce Development  
76 shall \* \* \* be the chief executive officer of the  
77 corporation \* \* \*. The \* \* \* Commissioner of Corrections shall  
78 set the compensation of the chief executive officer. The chief  
79 executive officer shall be responsible for the general business  
80 and entire operations of the corporation, and shall be responsible  
81 for operating the corporation in compliance with the bylaws of the  
82 corporation and in compliance with any provision of law. The  
83 board shall be authorized and empowered to do only those acts  
84 provided by law and by the bylaws of the corporation. Except as  
85 otherwise specifically provided by law, such board shall have the  
86 authority to establish prison industries, to cease the operation  
87 of any industry which it deems unsuitable or unprofitable, to

88 enter into any lease or contract for the corporation and it shall  
89 have the full authority to establish prices for any industry good.

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

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

100 (5) Each member of the board of directors of the corporation  
101 shall receive per diem as provided in Section 25-3-69 for each day  
102 or fraction thereof spent in actual discharge of his official  
103 duties and shall be reimbursed for mileage and actual expenses  
104 incurred in the performance of his official duties in accordance  
105 with the requirements of Section 25-3-41, Mississippi Code of  
106 1972.

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

113 (7) The chief executive officer of the corporation shall:

114 (a) Employ all necessary employees of the corporation  
115 and dismiss them as is necessary;

116 (b) Administer the daily operations of the corporation;

117 (c) Upon approval of the board of directors, execute  
118 any contracts on behalf of the corporation; and

119 (d) Take any further actions which are necessary and  
120 proper toward the achievement of the corporation purposes.

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

128 **SECTION 3.** This act shall take effect and be in force from  
129 and after July 1, 2022, and shall be repealed from and after June  
130 30, 2022.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTION 47-5-535, MISSISSIPPI CODE OF 1972,  
2 TO DELETE THE PROVISION THAT PROVIDES THAT IT IS THE INTENT OF THE  
3 LEGISLATURE TO PROHIBIT THE CORPORATION FROM HAVING ANY RIGHTS TO  
4 OPERATE A PROGRAM UNDER THE PRISON AGRICULTURAL ENTERPRISES AND  
5 CREATING A PRISON INDUSTRY PROGRAM THAT DUPLICATES A PRISON  
6 AGRICULTURAL ENTERPRISES PROGRAM OR PRODUCT; TO DELETE THE  
7 PROVISION THAT PROVIDES THAT IT IS THE INTENT OF THE LEGISLATURE  
8 THAT THE DEPARTMENT OF CORRECTIONS RETAINS EXCLUSIVE RIGHTS TO  
9 CONDUCT ALL PRISON AGRICULTURAL AND RELATED ENTERPRISES; TO AMEND  
10 SECTION 47-5-541, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT THE  
11 CORPORATION SHALL BE GOVERNED BY THE COMMISSIONER OF CORRECTIONS;  
12 TO PROVIDE FOR APPOINTMENTS TO A BOARD OF DIRECTORS; TO PROVIDE

13 THAT EMPLOYEES OF THE DEPARTMENT OF CORRECTIONS OR THE CORPORATION  
14 ARE ELIGIBLE TO BE MEMBERS OF THE BOARD; TO PROVIDE THAT THE  
15 DEPUTY COMMISSIONER OF WORKFORCE DEVELOPMENT SHALL BE THE CHIEF  
16 EXECUTIVE OFFICER OF THE CORPORATION; TO PROVIDE THAT THE  
17 COMMISSIONER OF CORRECTIONS SHALL SET THE COMPENSATION OF THE  
18 CHIEF EXECUTIVE OFFICER; AND FOR RELATED PURPOSES.

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Eugene S. Clarke  
Secretary of the Senate