

By: Senator(s) Sparks, Suber

To: Economic and Workforce
Development

SENATE BILL NO. 2286

1 AN ACT TO AMEND SECTION 71-5-353, MISSISSIPPI CODE OF 1972,
2 TO STIPULATE THAT CERTAIN CONTRIBUTIONS TO THE WORKFORCE
3 ENHANCEMENT TRAINING FUND SHALL BE SUSPENDED IF THE INSURED
4 UNEMPLOYMENT RATE EXCEEDS AN AVERAGE OF FIVE AND FIVE-TENTHS
5 PERCENT FOR THE THREE CONSECUTIVE MONTHS ENDING ON SEPTEMBER 30TH
6 OF THE CALENDAR YEAR PRECEDING THE NEW RATE YEAR; AND FOR RELATED
7 PURPOSES.

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

9 **SECTION 1.** Section 71-5-353, Mississippi Code of 1972, is
10 amended as follows:

11 71-5-353. (1) (a) Each employer shall pay unemployment
12 insurance contributions equal to five and four-tenths percent
13 (5.4%) of taxable wages paid by him each calendar year, except as
14 may be otherwise provided in Section 71-5-361 and except that each
15 newly subject employer shall pay unemployment insurance
16 contributions at the rate of one percent (1%) of taxable wages,
17 for his first year of liability, one and one-tenth percent (1.1%)
18 of taxable wages for his second year of liability, and one and
19 two-tenths percent (1.2%) of taxable wages for his third and
20 subsequent years of liability unless the employer's



21 experience-rating record has been chargeable throughout at least
22 the twelve (12) consecutive calendar months ending on the most
23 recent computation date at the time the rate for a year is
24 determined; thereafter the employer's contribution rate shall be
25 determined in accordance with the provisions of Section 71-5-355.

26 (b) Notwithstanding the newly subject employer
27 contribution rate provided for in paragraph (a) of this
28 subsection, the contribution rate of all newly subject employers
29 shall be reduced by seven one-hundredths of one percent (.07%) for
30 calendar year 2013 only. The contribution rate of all newly
31 subject employers shall be reduced by three one-hundredths of one
32 percent (.03%) for calendar year 2014 only. For purposes of this
33 chapter, "newly subject employers" means employers whose
34 unemployment insurance experience-rating record has not been
35 chargeable throughout at least the twelve (12) consecutive
36 calendar months ending on the most recent computation date at the
37 time the contribution rate for a year is determined.

38 (2) (a) (i) There is hereby created in the Treasury of the
39 State of Mississippi special funds to be known as the "Mississippi
40 Workforce Enhancement Training Fund", the "Mississippi Works Fund"
41 and the "Mississippi Office of Workforce Development Fund" which
42 consist of funds collected pursuant to subsection (3) of this
43 section and any other monies that may be appropriated to the funds
44 from the Legislature.



(ii) Special funds collected shall initially be deposited into the Mississippi Department of Employment Security bank account for clearing contribution collections and subsequently appropriate amounts shall be transferred to the Mississippi Workforce Investment and Training Fund Holding Account described in Section 71-5-453. In the event any employer pays an amount insufficient to cover the total contributions due, the amounts due shall be satisfied in the following order:

1. Unemployment contributions;
2. Mississippi Workforce Enhancement Training contributions, Mississippi Office of Workforce Development contributions and the Mississippi Works contributions, known collectively as the Mississippi Workforce Investment and Training contributions, on a pro rata basis;
3. Interest and damages; then
4. Legal and processing costs.

The amount of unemployment insurance contributions due for any period will be the amount due according to the actual computations unless the employer is participating in the MLPP. In that event, the amount due is the MLPP amount computed by the department.

Cost of collection and administration of the Mississippi Workforce Enhancement Training contribution, the Mississippi Office of Workforce Development contribution and the Mississippi Works contribution shall be allocated based on a plan approved by



70 the United States Department of Labor (USDOL). The Mississippi
71 Community College Board shall pay the cost of collecting the
72 Mississippi Workforce Enhancement Training contributions, the
73 Office of Workforce Development shall pay the cost of collecting
74 the Mississippi Office of Workforce Development contributions and
75 the Mississippi Department of Employment Security shall pay the
76 cost of collecting the Mississippi Works contributions. Payments
77 shall be made semiannually with the cost allocated to each based
78 on a USDOL approved plan on a pro rata basis, for periods ending
79 in June and December of each year. Payment shall be made by each
80 organization to the department no later than sixty (60) days after
81 the billing date. Cost shall be allocated under the USDOL's
82 approved plan and in the same ratio as each contribution type
83 represents to the total authorized by subparagraph (ii)2 of this
84 paragraph to be collected for the period.

85 (b) Mississippi Workforce Enhancement Training
86 contributions and Mississippi Office of Workforce Development
87 contributions shall be distributed for calendar years after
88 calendar year 2014 as follows, ninety-three and seventy-five
89 one-hundredths percent (93.75%) shall be distributed to the
90 Mississippi Workforce Enhancement Training Fund and the remainder
91 shall be distributed to the Mississippi Office of Workforce
92 Development Fund;

93 (c) All contributions collected for the State Workforce
94 Enhancement Training Fund, the Mississippi Office of Workforce



95 Development Fund and the Mississippi Works Fund will be initially
96 deposited into the Mississippi Department of Employment Security
97 bank account for clearing contribution collections and
98 subsequently transferred to the Workforce Investment and Training
99 Holding Account and will be held by the Mississippi Department of
100 Employment Security in such account for a period of not less than
101 thirty (30) days. After such period, the Mississippi Workforce
102 Enhancement Training contributions shall be transferred to the
103 Mississippi Community College Board Treasury Account, with
104 oversight provided by the Mississippi Office of Workforce
105 Development, the Mississippi Office of Workforce Development
106 contributions shall be transferred to the Mississippi Office of
107 Workforce Development Treasury Account and the Mississippi Works
108 contributions shall be transferred to the Mississippi Department
109 of Employment Security Mississippi Works Treasury Account. The
110 Mississippi Office of Workforce Development contributions and the
111 Mississippi Works contributions shall be transferred in the same
112 ratio as each contribution type represents to the total authorized
113 by paragraph (a)(ii)2 of this subsection to be collected for the
114 period and within the time frame determined by the department;
115 however, except in cases of extraordinary circumstances, these
116 funds shall be transferred within fifteen (15) days. Interest
117 earnings or interest credits on deposit amounts in the Workforce
118 Investment and Training Holding Account shall be retained in the
119 account to pay the banking costs of the account. If after the



period of twelve (12) months interest earnings less banking costs exceeds Ten Thousand Dollars (\$10,000.00), such excess amounts shall be transferred to the respective accounts within thirty (30) days following the end of each calendar year on the basis described in paragraph (b) of this subsection. Interest earnings and/or interest credits for the Mississippi Office of Workforce Development funds shall be used for the payment of banking costs and excess amounts shall be used in accordance with the rules and regulations of the Mississippi Office of Workforce Development expenditure policies.

(d) All enforcement procedures for the collection of delinquent unemployment contributions contained in Sections 71-5-363 through 71-5-383 shall be applicable in all respects for collections of delinquent unemployment insurance contributions designated for the Unemployment Compensation Fund, the Mississippi Workforce Enhancement Training Fund, the Mississippi Office of Workforce Development Fund and the Mississippi Works Fund.

(e) (i) Except as otherwise provided for in this subparagraph (i), all monies deposited into the Mississippi Workforce Enhancement Training Fund Treasury Account shall be directed by the Mississippi Office of Workforce Development, in collaboration with the Mississippi Community College Board, in accordance with the Workforce Training Act of 1994 (Section 37-153-1 et seq.) and under policies approved by the Mississippi Office of Workforce Development for the following purposes: to



provide training in collaboration with the Mississippi Community College Board and individual community and junior colleges to employers and employees in order to enhance employee productivity. Such training may be subject to a minimal administrative fee of not more than five percent (5%) to be paid from the Mississippi Workforce Enhancement Training Fund as established by the Office of Workforce Development. The initial priority of these funds shall be for the benefit of existing businesses located within the state. Employers may request training for existing employees and/or newly hired employees from the Mississippi Office of Workforce Development. The office, in consultation with the Mississippi Community College Board, will be responsible for approving the training. A portion of the funds collected for the Mississippi Workforce Enhancement Training Fund shall be used for the development of performance measures to measure the effectiveness of the use of the Mississippi Workforce Enhancement Training Fund dollars. These performance measures shall be uniform for all training projects and shall be reported to the Governor, Lieutenant Governor, Speaker of the House, and members of the Legislature. Nothing in this section or elsewhere in law shall be interpreted as giving the Office of Workforce Development or State Workforce Investment Board authority to direct the Mississippi Community College Board or individual community or junior colleges on how to expend other funds, aside from funds appropriated to the Mississippi Workforce Enhancement Training



Fund and Mississippi Works Fund, appropriated or received for workforce training. The Mississippi Office of Workforce Development, Mississippi Community College Board, individual community or junior colleges, State Workforce Investment Board and other agencies implementing or coordinating state-funded workforce development programs under state law shall cooperate with each other to promote effective workforce training in Mississippi, under the direction of the office. Any subsequent changes to these performance measures shall also be reported to the Governor, Lieutenant Governor, Speaker of the House, and members of the Legislature. A performance report for each training project and community college, based upon these measures, shall be submitted annually to the Governor, Lieutenant Governor, Speaker of the House, and members of the Legislature.

(ii) Except as otherwise provided in this paragraph (e), all funds deposited into the Mississippi Office of Workforce Development Fund shall be used for any of the following purposes: administration of State Workforce Investment Board business, the Office of Workforce Development, grants related to training, the Mississippi K-12 Workforce Development Grant Program, and other projects as determined appropriate by the Office of Workforce Development. Any funds remaining in the State Workforce Investment board bank account on June 30, 2023, shall be transferred to the Mississippi Office of Workforce Development Fund.



195 (iii) All funds deposited into the Mississippi
196 Department of Employment Security Mississippi Works Fund shall be
197 disbursed exclusively by the Executive Director of the Mississippi
198 Department of Employment Security, in accordance with the rules
199 and regulations promulgated by the Office of Workforce
200 Development, in support of workforce training activities approved
201 by the Mississippi Office of Workforce Development in support of
202 economic development activities. Funds allocated by the executive
203 director under this subparagraph (iii) shall only be utilized for
204 the training of unemployed persons, for immediate training needs
205 for the net new jobs created by an employer, for the retention of
206 jobs, to create a work-ready applicant pool of Mississippians with
207 credentials and/or postsecondary education in accordance with the
208 state's Workforce Investment and Opportunity Act plan, or for the
209 support of local economic and community development activities
210 related to workforce development in the state. The Mississippi
211 Office of Workforce Development, in collaboration with the
212 Mississippi Public Community College System and its partners,
213 shall be the primary entity to facilitate training. Training
214 conducted utilizing these Mississippi Works funds may be subject
215 to a minimal administrative fee of not more than five percent (5%)
216 to be paid from the Mississippi Works Fund as authorized by the
217 Mississippi Office of Workforce Development. All costs associated
218 with the administration of these funds shall be reimbursed to the



Mississippi Department of Employment Security from the Mississippi Works Fund.

(iv) 1. The Department of Employment Security shall be the fiscal agent for the receipt and disbursement of all funds remaining in the State Workforce Investment Board bank account, subject to the administrative oversight of the Office of Workforce Development. The Mississippi Department of Employment Security shall be the fiscal agent for all funds appropriated to it for use by the Office of Workforce Development.

2. The Office of Workforce Development, in coordination with the Mississippi Department of Employment Security as fiscal agent, shall ensure that any funds expended for contractual services rendered to the Office of Workforce Development over Five Thousand Dollars (\$5,000.00) shall be paid only to service providers who have been selected on a competitive basis. Any contract for services entered into using funds appropriated to the Mississippi Department of Employment Security for the Office of Workforce Development shall meet the requirements established in policies approved by the State Workforce Investment Board's executive committee deemed to be practical, feasible and in the public interest.

3. Any commodities over Five Thousand Dollars (\$5,000.00) procured for the office to further its purpose shall be procured competitively, in accordance with office policies approved by the State Workforce Investment Board's executive



committee deemed to be practical, feasible and in the public interest.

(3) (a) (i) Mississippi Workforce Enhancement Training contributions and Mississippi Office of Workforce Development contributions shall be collected for calendar years after calendar year 2016 at a rate of twenty one-hundredths percent (.20%), based upon taxable wages, of which fifteen one-hundredths percent (.15%) shall be the Workforce Enhancement Training contribution, one-hundredths of one percent (.01%) shall be the Mississippi Office of Workforce Development contribution and four one-hundredths percent (.04%) shall be the Mississippi Works contribution. The Mississippi Works contribution shall be collected for calendar years in which the general experience ratio, adjusted on the basis of the trust fund adjustment factor and reduced by fifty percent (50%), results in a general experience rate of less than two-tenths percent (.2%). In all other years the Mississippi Works contribution shall not be in effect.

(ii) The Mississippi Workforce Enhancement Training Fund contribution, the Mississippi Office of Workforce Development Fund contribution and the Mississippi Works contribution shall be in addition to the general experience rate plus the individual experience rate of all employers but shall not be charged to reimbursing or rate-paying political subdivisions or



institutions of higher learning, or reimbursing nonprofit organizations, as described in Sections 71-5-357 and 71-5-359.

(b) All Mississippi Workforce Enhancement Training contributions, Mississippi Office of Workforce Development contributions and Mississippi Works contributions collected shall be deposited initially into the Mississippi Department of Employment Security bank account for clearing contribution collections and shall within two (2) business days be transferred to the Workforce Investment and Training Holding Account. Any Mississippi Workforce Enhancement Training Fund and/or Mississippi Office of Workforce Development Fund and/or Mississippi Works Fund transactions from the Mississippi Department of Employment Security bank account for clearing contribution collections that are deposited into the Workforce Investment and Training Fund Holding Account and are not honored by a financial institution will be transferred back to the Mississippi Department of Employment Security bank account for clearing contribution collections out of funds in the Mississippi Workforce Investment and Training Fund Holding Account.

(c) Suspension of the Workforce Enhancement Training Fund contributions required pursuant to this chapter shall occur if the insured unemployment rate ("IUR") exceeds an average of five and five-tenths percent (5.5%) for the three (3) consecutive months * * * ending on September 30th of the calendar year immediately preceding the new rate year following such occurrence



and shall remain suspended throughout the duration of that rate year. Such suspension shall continue until such time as the three (3) consecutive months * * * ending on September 30th of the calendar year preceding the next rate year that has an * * * IUR of less than an average of four and five-tenths percent (4.5%). Upon such occurrence, reactivation shall be effective upon the first day of the rate year following the event that lifts suspension and shall be in effect for that year and shall continue until such time as a subsequent suspension event as described in this chapter occurs.

(d) Notwithstanding any other provision contained herein, contribution collections for the Mississippi Office of Workforce Development Fund, Mississippi Works Fund and Mississippi Workforce Enhancement Training Fund shall not be suspended, under any circumstances, for tax rate year 2021, and the resulting contribution rate of twenty one-hundredths percent (.20%) shall be added to the employer's general and individual experience rate to obtain the total unemployment insurance rate for 2021.

(4) All collections due or accrued prior to any suspension of the Mississippi Workforce Enhancement Training Fund will be collected based upon the law at the time the contributions accrued, regardless of when they are actually collected.

SECTION 2. This act shall take effect and be in force from and after July 1, 2025.

