

By: Blackmon

To: Judiciary A;  
Appropriations

HOUSE BILL NO. 895

1 AN ACT TO CREATE A CIVIL RIGHTS COMMISSION; TO PROVIDE FOR  
2 THE APPOINTMENT OF THE MEMBERS OF THE CIVIL RIGHTS COMMISSION; TO  
3 PROVIDE THE POWERS AND DUTIES OF THE CIVIL RIGHTS COMMISSION; AND  
4 FOR RELATED PURPOSES.

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

6 SECTION 1. (1) It is the public policy of the state to  
7 provide all of its citizens equal opportunity for education,  
8 employment, access to public conveniences and accommodations and  
9 acquisition through purchase or rental of real property,  
10 including, but not limited to, housing and to eliminate  
11 segregation or separation based solely on race, religion, color,  
12 sex, disability, national origin or ancestry since such  
13 segregation is an impediment to equal opportunity. Equal  
14 education and employment opportunities, equal access to and use of  
15 public accommodations and equal opportunity for acquisition of  
16 real property are declared to be civil rights.

17 (2) The practice of denying these rights to properly  
18 qualified persons by reason of the race, religion, color, sex,  
19 disability, national origin or ancestry of such person is contrary  
20 to the principles of freedom and equality of opportunity and is a  
21 burden to the objectives of the public policy of this state and  
22 shall be considered as discriminatory practices. The promotion of

23 equal opportunity without regard to race, religion, color, sex,  
24 disability, national origin or ancestry through reasonable methods  
25 is the purpose of this act.

26 (3) It is also the public policy of this state to protect  
27 employers, labor organizations, employment agencies, property  
28 owners, real estate brokers, builders and lending institutions  
29 from unfounded charges of discrimination.

30 (4) It is declared to be contrary to the public policy of  
31 the state and an unlawful practice for any person, for profit, to  
32 induce or attempt to induce any person to sell or rent any  
33 dwelling by representations regarding the entry or prospective  
34 entry into the neighborhood of a person or persons of a particular  
35 race, religion, color, sex, disability, national origin or  
36 ancestry.

37 SECTION 2. As used in this act:

38 (a) "Person" means one or more individuals,  
39 partnerships, associations, organizations, limited liability  
40 companies, corporations, labor organizations, cooperatives, legal  
41 representatives, trustees, trustees in bankruptcy, receivers and  
42 other organized groups of persons.

43 (b) "Commission" means the Civil Rights Commission  
44 created under Section 3 of this act.

45 (c) "Director" means the Director of the Civil Rights  
46 Commission.

47 (d) "Deputy director" means the Deputy Director of the  
48 Civil Rights Commission.

49 (e) "Commission attorney" means the Attorney General,  
50 such assistants of the Attorney General as may be assigned to the  
51 commission or such other attorney as may be engaged by the  
52 commission.

53 (f) "Consent agreement" means a formal agreement

54 entered into in lieu of adjudication.

55 (g) "Affirmative action" means those acts that the  
56 commission determines necessary to assure compliance with  
57 Mississippi law.

58 (h) "Employer" means the state or any political or  
59 civil subdivision thereof and any person employing six (6) or more  
60 persons within the state, except that the term "employer" does not  
61 include:

62 (i) Any nonprofit corporation or association  
63 organized exclusively for fraternal or religious purposes;

64 (ii) Any school, educational or charitable  
65 religious institution owned or conducted by or affiliated with a  
66 church or religious institution; or

67 (iii) Any exclusively social club, corporation or  
68 association that is not organized for profit.

69 (i) "Employee" means any person employed by another for  
70 wages or salary. However, the term does not include any  
71 individual employed:

72 (i) By his parents, spouse or child; or

73 (ii) In the domestic service of any person.

74 (j) "Labor organization" means any organization that  
75 exists for the purpose in whole or in part of collective  
76 bargaining or of dealing with employers concerning grievances,  
77 terms or conditions of employment or for other mutual aid or  
78 protection in relation to employment.

79 (k) "Employment agency" means any person undertaking  
80 with or without compensation to procure, recruit, refer or place  
81 employees.

82 (1) "Discriminatory practice" means:

83 (i) The exclusion of a person from equal  
84 opportunities because of race, religion, color, sex, disability,  
85 national origin or ancestry;

86 (ii) A system that excludes person from equal  
87 opportunities because of race, religion, color, sex, disability,  
88 national origin or ancestry;

89 (iii) The promotion of racial segregation or  
90 separation in any manner, including, but not limited to, the  
91 inducing of or the attempting to induce for profit any person to  
92 sell or rent any dwelling by representations regarding the entry  
93 or prospective entry in the neighborhood of a person or persons of  
94 a particular race, religion, color, sex, disability, national  
95 origin or ancestry;

96 (iv) Any practice that excludes persons from equal  
97 opportunities relating to the acquisition or sale of real estate,  
98 education, public accommodations, employment or the extending of  
99 credit because of race, religion, color, sex, disability, national  
100 origin or ancestry unless it is specifically exempted by this act.

101 (m) "Public accommodations" means any establishment  
102 that caters or offers its services or facilities or goods to the  
103 general public.

104 (n) "Complainant" means:

105 (i) Any individual charging on his own behalf to  
106 have been personally aggrieved by a discriminatory practice; or

107 (ii) The director or deputy director of the  
108 commission charging that a discriminatory practice was committed  
109 against a person other than himself or a class of people in order

110 to vindicate the public policy of the state.

111 (o) "Complaint" means any written grievance that is:

112 (i) Sufficiently complete, signed and verified  
113 before a notary public or other person authorized by law to  
114 administer oaths and take acknowledgments and filed by a  
115 complainant with the commission within one hundred eighty (180)  
116 days from the date of the occurrence of the alleged discriminatory  
117 practice; or

118 (ii) Filed by a complainant as a civil action in  
119 the circuit or chancery court having jurisdiction in the county in  
120 which the alleged discriminatory practice occurred within one  
121 hundred eighty (180) days from the date of the occurrence of the  
122 alleged discriminatory practice.

123 (p) "Sufficiently complete" refers to a complaint that  
124 includes:

125 (i) The full name and address of the complainant;

126 (ii) The name and address of the respondent  
127 against whom the complaint is made;

128 (iii) The alleged discriminatory practice and a  
129 statement of particulars thereof;

130 (iv) The date or dates and places of the alleged  
131 discriminatory practice and, if the alleged discriminatory  
132 practice is of a continuing nature, the dates between which  
133 continuing acts of discrimination are alleged to have occurred;  
134 and

135 (v) A statement as to any other action, civil or  
136 criminal, instituted in any other form based upon the same  
137 grievance alleged in the complaint, together with a statement as

138 to the status or disposition of the other action.

139 (q) "Sex" as it applies to segregation or separation in  
140 this act applies to all types of employment, education, public  
141 accommodations and housing. However:

142 (i) It shall not be a discriminatory practice to  
143 maintain separate rest rooms;

144 (ii) It shall not be an unlawful employment  
145 practice for an employer to hire and employ employees, for an  
146 employment agency to classify or refer for employment any  
147 individual, for a labor organization to classify its membership or  
148 to classify or refer for employment any individual or for an  
149 employer, labor organization or joint labor management committee  
150 controlling apprenticeship or other training or retraining  
151 programs to admit or employ any other individual in any program on  
152 the basis of sex in those certain instances where sex is a bona  
153 fide occupational qualification reasonably necessary to the normal  
154 operation of that particular business or enterprise; and

155 (iii) It shall not be a discriminatory practice  
156 for a private or religious educational institution to continue to  
157 maintain and enforce a policy of admitting students of one (1) sex  
158 only.

159 (r) "Disabled" or "disability" means the physical or  
160 mental condition of a person that constitutes a substantial  
161 disability. In reference to employment under this act, "disabled  
162 or disability" also means the physical or mental condition of a  
163 person that constitutes a substantial disability unrelated to the  
164 person's ability to engage in a particular occupation.

165 SECTION 3. (1) There is created a Civil Rights Commission

166 composed of seven (7) members, not more than four (4) of whom  
167 shall be members of the same political party, to be appointed by  
168 the Governor. In making such appointments, the Governor shall  
169 take into consideration all interests in the community, including,  
170 but not limited to, the interests of minority groups, employers,  
171 labor and the public.

172 (2) Successors to all members of the commission shall be  
173 appointed for terms of four (4) years except appointments to fill  
174 a vacancy, in which case, such appointment shall be for the  
175 unexpired term.

176 (3) Members of the commission may be removed by the Governor  
177 for cause but for no other reason.

178 (4) The members of the commission shall be paid per diem as  
179 provided in Section 25-3-69 and reimbursement of travel expenses  
180 as provided in Section 25-3-41 for attendance at meetings and  
181 hearings of the commission.

182 SECTION 4. The members of the commission shall be appointed  
183 within thirty (30) days after the effective date of this act and  
184 the first meeting thereof shall be called by the member first  
185 appointed within sixty (60) days after the effective date of this  
186 act.

187 At its first meeting and at each annual meeting held  
188 thereafter, the commission shall organize by the election of a  
189 chairman and vice chairman from its membership, each of whom,  
190 except those first elected, shall serve for a term of one (1) year  
191 and until his successor is elected.

192 The commission shall hold one (1) regular meeting each month,  
193 and such called meetings as its chairman may deem to be necessary.

194 The April meeting shall be the annual meeting.

195 SECTION 5. (1) The commission shall establish and maintain  
196 a permanent office in the City of Jackson.

197 (2) The commission may appoint such attorneys and other  
198 employees and agents as it considers necessary, fix their  
199 compensation within the limitation provided by law and prescribe  
200 their duties. All these employees shall be appointed by the  
201 commission on the basis of training, practical experience,  
202 education and character. However, special consideration and due  
203 weight shall be given to the practical experience and training  
204 that a person may have for the particular position involved  
205 regardless of his academic training. Promotion, suspension and  
206 removal of persons appointed from such list shall be in accordance  
207 with applicable state laws. The reasonable and necessary  
208 traveling expenses of each employee of the commission while  
209 actually engaged in the performance of duties in behalf of the  
210 commission while actually engaged in the performance of duties in  
211 behalf of the commission shall be paid in accordance with state  
212 travel policies and procedures.

213 (3) Except as it concerns judicial review, the commission  
214 may adopt rules to implement this act.

215 (4) The commission shall formulate policies to effectuate  
216 the purposes of this act and make recommendations to agencies and  
217 officers of the state or local subdivisions thereof to effectuate  
218 such policies. The several departments, commissions, divisions,  
219 authorities, boards, bureaus, agencies and officers of the state  
220 or any political subdivision or agency thereof shall furnish the  
221 commission, upon its request, all records, papers and information



222 in their possession relating to any matter before the commission.

223 (5) The commission shall receive and investigate complaints  
224 alleging discriminatory practices. The commission shall not hold  
225 hearings in the absence of a complaint. All investigations of  
226 complaints shall be conducted by staff member of the Civil Rights  
227 Commission or their agents.

228 (6) The commission may create such advisory agencies and  
229 conciliation councils, local or statewide, as will aid in  
230 effectuating the purposes of this act. The commission may itself,  
231 or it may empower these agencies and councils to:

232 (a) Study the problems of discrimination in the areas  
233 covered by Section 2 of this act when based on race, religion,  
234 color, sex, handicap, national origin or ancestry; and

235 (b) Foster through community effort, or otherwise, good  
236 will among the groups and elements of the population of the state.  
237 These agencies and councils may make recommendations to the  
238 commission for the development of policies and procedures in  
239 general. Advisory agencies and conciliation councils created by  
240 the commission shall be composed of representative citizens  
241 serving without pay, but with reimbursement for reasonable and  
242 necessary actual expenses.

243 (7) The commission may issue such publications and such  
244 results of investigations and research as in its judgement will  
245 tend to promote good will and minimize or eliminate discrimination  
246 because of race, religion, color, sex, handicap, national origin  
247 or ancestry.

248 (8) The commission shall prevent any person from  
249 discharging, expelling or otherwise discriminating against any

250 other person because he files a complaint, testified in any  
251 hearing before this commission or in any way assisted the  
252 commission in any matter under its investigation.

253 (9) The commission may hold hearings, subpoena witnesses,  
254 compel their attendance, administer oaths, take the testimony of  
255 any person under oath and require the production for examination  
256 of any books and papers relating to any matter under investigation  
257 or in question before the commission. The commission may make  
258 rules as to the issuance of subpoenas by individual commissioners.  
259 Contumacy or refusal to obey a subpoena issued under this section  
260 shall constitute a contempt. All hearings shall be held within  
261 Mississippi at a location determined by the commission. A  
262 citation of contempt may be issued upon application by the  
263 commission to the circuit or chancery court in the county in which  
264 the hearing is held or in which the witness resides or transacts  
265 business.

266 (10) The commission may appoint administrative law judges  
267 other than commissioners when an appointment is deemed necessary  
268 by a majority of the commission. The administrative law judges  
269 shall be members in a good standing before the bar of Mississippi  
270 and shall be appointed by the chairman of the commission. An  
271 administrative law judge appointed under this subsection shall  
272 have the same powers and duties as a commissioner sitting as an  
273 administrative law judge. However, the administrative law judge  
274 may not issue subpoenas.

275 (11) The commission shall state its findings of fact after a  
276 hearing and, if the commission finds a person has engaged in an  
277 unlawful discriminatory practice, shall cause to be served on this

278 person an order requiring the person to cease and desist from the  
279 unlawful discriminatory practice and requiring the person to take  
280 further affirmative action as will effectuate the purposes of this  
281 act, including, but not limited to, the power:

282           (a) To restore complainants' losses incurred as a  
283 result of discriminatory treatment as the commission may deem  
284 necessary to assure justice; however, this specific provision when  
285 applied to orders pertaining to employment shall include only  
286 wages, salary or commissions;

287           (b) To require the posting of notice setting forth the  
288 public policy of Mississippi concerning civil rights and  
289 respondent's compliance with the policy in places of public  
290 accommodations;

291           (c) To require proof of compliance to be filed by  
292 respondent at periodic intervals; and

293           (d) To require a person who has been found to be in  
294 violation of this act and who is licensed by a state agency  
295 authorized to grant a license to show cause to the licensing  
296 agency why his license should not be revoked or suspended.

297           (12) Judicial review of a cease and desist order or other  
298 affirmative action as referred to in this act may be obtained in  
299 the circuit court of the county in which the claim arose. If no  
300 proceeding to obtain judicial review is instituted within thirty  
301 (30) days from receipt of notice by a person that an order has  
302 been made by the commission, the commission, if it determines that  
303 the person upon whom the cease and desist order has been served is  
304 not complying or is making no effort to comply, may obtain a  
305 decree of a court of the enforcement of the order in circuit or

306 chancery court upon showing that the person is subject to the  
307 commission's jurisdiction and resides or transacts business within  
308 the county in which the petition for enforcement is brought.

309 (13) If, upon all the evidence, the commission shall find  
310 that a person has not engaged in any unlawful practice or  
311 violation of this act, the commission shall state its findings of  
312 facts and shall issue and cause to be served on the complainant an  
313 order dismissing the complaint as to the person.

314 (14) The commission may furnish technical assistance  
315 requested by persons subject to this act to further compliance  
316 with this act or with an order issued thereunder.

317 (15) The commission shall promote the creation of local  
318 civil rights agencies to cooperate with individuals, neighborhood  
319 associations and state, local and other agencies, both public and  
320 private, including agencies of the federal government and of other  
321 states.

322 (16) The commission may reduce the terms of conciliation  
323 agreed to by the parties to writing (to be called a consent  
324 agreement) that the parties and a majority of the commissioners  
325 shall sign. When signed, the consent agreement shall have the  
326 same effect as a cease and desist order issued under subsection  
327 (11) of this Section 5 of this act. If the commission determines  
328 that a party to the consent agreement is not complying with it,  
329 the commission may obtain enforcement of the consent agreement in  
330 a circuit or chancery court upon showing that the party is not  
331 complying with the consent agreement and the party is subject to  
332 the commission's jurisdiction and resides or transacts business  
333 within the county in which the petition for enforcement is

334 brought.

335           (17) In lieu of investigating a complaint and holding a  
336 hearing under this section, the commission may issue an order  
337 based on findings and determinations by the federal Department of  
338 Housing and Urban Development or the federal Equal Employment  
339 Opportunity Commission concerning a complaint that has been filed  
340 with one (1) of these federal agencies and with the commission.  
341 The commission shall adopt by rule standards under which the  
342 commission may issue such an order.

343           (18) Upon notice that a complaint is the subject of an  
344 action in federal court, the commission shall immediately cease  
345 investigation of the complaint and may not conduct hearings or  
346 issue findings of fact or orders concerning that complaint.

347           SECTION 6. In order to eliminate prejudice among the various  
348 racial, religious and ethnic groups in this state and to further  
349 goodwill among such groups, the commission, in cooperation with  
350 the State Department of Education and the universities and  
351 colleges of the state, and such other universities and colleges as  
352 are willing to cooperate, is directed to prepare a comprehensive  
353 educational program designed to emphasize the origin of prejudice  
354 against such minority groups, its harmful effects, its  
355 incompatibility with American principles of equality and fair play  
356 and violation of the brotherhood of man.

357           SECTION 7. The Governor shall select and appoint a director  
358 who shall be secretary of the commission and chief administrative  
359 officer for the commission. The director shall devote his entire  
360 time and effort to the administration of the provisions of this  
361 act and shall not engage in or have any interest in any business

362 or activity which may create a conflict of interests. The salary  
363 of the director shall be fixed by the Governor with the approval  
364 of the State Personnel Department.

365 SECTION 8. The director and the members of the commission  
366 before entering upon the discharge of their official duties shall  
367 each take and subscribe to an oath of office which shall be  
368 endorsed upon their respective certificates of appointment.

369 SECTION 9. Every contract to which the state or any of its  
370 political or civil subdivisions is a party, including franchises  
371 granted to public utilities, shall contain a provision requiring  
372 the contractor and his subcontractors not to discriminate against  
373 any employee or applicant for employment to be employed in the  
374 performance of such contract with respect to his hire, tenure,  
375 terms, conditions or privileges of employment or any matter  
376 directly or indirectly related to employment because of his race,  
377 religion, color, sex, disability, national origin or ancestry.  
378 Breach of this covenant may be regarded as a material breach of  
379 the contract.

380 SECTION 10. In addition to its power to investigate the  
381 discriminatory practices referred to in this act, the commission  
382 may receive written complaints of violations of this act or other  
383 discriminatory practices based upon race, religion, color, sex,  
384 national origin or ancestry and may investigate such complaints as  
385 it deems meritorious or may conduct such investigation in the  
386 absence of complaints whenever it deems it in the public interest.

387 It may transmit to the Legislature its recommendations for  
388 legislation designed to aid in the removing of such  
389 discrimination.

390        SECTION 11. (1) As used in this section, the term "state  
391 agency" means every office, officer, board, commission,  
392 department, division, bureau, committee, fund, agency and, without  
393 limitation by reason of any enumeration in this section, every  
394 other instrumentality of the state, every hospital, every penal  
395 institution and every other institutional enterprise and activity  
396 of the state, wherever located; the universities supported in  
397 whole or in part by state funds; and the judicial department of  
398 the state.

399        (2) Any city, town or county may adopt an ordinance or  
400 ordinances which may include establishment or designation of an  
401 appropriate local commission, office or agency to effectuate  
402 within its territorial jurisdiction the public policy of the state  
403 as declared in Section 2 of this act without conflict with any of  
404 the provision of this act. Any city or town may adopt such an  
405 ordinance or ordinances jointly with any other city or town  
406 located in the same county or jointly with that county. A city  
407 ordinance that establishes a local commission may provide that the  
408 members of the commission are to be appointed solely by the city  
409 executive or solely by the city legislative body or may provide  
410 for a combination of appointments by the city executive and the  
411 city legislative body. The board of commissioners of each county  
412 is also authorized to adopt ordinances in accordance with this  
413 section. An agency established or designated under this section  
414 has no jurisdiction over the state or any of its agencies.

415        (3) An ordinance adopted under this section may grant to the  
416 local agency the power to:

417            (a) Investigate, conciliate and hear complaints;

418           (b) Subpoena and compel the attendance of witnesses or  
419 production of pertinent documents and records;

420           (c) Administer oaths;

421           (d) Examine witnesses;

422           (e) Appoint hearing examiners or panels;

423           (f) Make findings and recommendations;

424           (g) Issue cease and desist orders or orders requiring  
425 remedial action;

426           (h) Order payment of actual damages, except that  
427 damages to be paid as a result of discriminatory practices  
428 relating to employment shall be limited to lost wages, salaries,  
429 commissions or fringe benefits;

430           (i) Institute actions for appropriate legal or  
431 equitable relief in a circuit or chancery court;

432           (j) Employ an executive director and other staff  
433 personnel;

434           (k) Adopt rules and regulations;

435           (l) Initiate complaints, except that no person who  
436 initiates a complaint may participate as a member of the agency in  
437 the hearing or disposition of the complaint; and

438           (m) Conduct programs and activities to carry out the  
439 public policy of the state, as provided in Section 2 of this act  
440 within the territorial boundaries of a local agency.

441           (4) Any person who files a complaint with any local agency  
442 may not also file a complaint with the Civil Rights Commission  
443 concerning any of the matters alleged in such complain, and any  
444 person who files a complaint with the Civil Rights Commission may  
445 not also file a complaint with any local agency concerning any of



446 the matters alleged in such complaint. Any complaint filed with  
447 the commission may be transferred by the commission to any local  
448 agency having jurisdiction. The local agency shall proceed to act  
449 on the complaint as if it had been originally filed with the local  
450 agency as of the date that the complaint was filed with the  
451 commission. Any complaint filed with a local agency may be  
452 transferred by the local agency to the commission if the  
453 commission has jurisdiction. The commission shall proceed to act  
454 on the complaint as if it had been originally filed with the  
455 commission as of the date that the complaint was filed with the  
456 local agency. Nothing in this subsection shall affect such  
457 person's right to pursue any and all other rights and remedies  
458 available in any other state or federal forum.

459 SECTION 12. This act shall take effect and be in force from  
460 and after its passage.