

By: Senator(s) Burton

To: Public Health and
Welfare; Appropriations

SENATE BILL NO. 2707

1 AN ACT CREATING THE MISSISSIPPI COMMISSION FOR THE BLIND, TO
2 PROVIDE FOR ITS MEMBERSHIP, AND TO SPECIFY THE POWERS AND DUTIES
3 OF THE COMMISSION; TO AMEND SECTIONS 37-33-53, 37-33-54 AND
4 37-33-55, MISSISSIPPI CODE OF 1972, TO TRANSFER THE FUNCTIONS OF
5 THE VOCATIONAL REHABILITATION FOR THE BLIND TO THE COMMISSION; AND
6 FOR RELATED PURPOSES.

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

8 **SECTION 1.** (1) The purpose of this act is to establish and
9 authorize a coordinated program of services, which will be
10 available to individuals who are blind throughout the state. The
11 program shall be designed to maximize employment opportunities for
12 such individuals and to increase their independence and
13 self-sufficiency and access to relevant reading material.

14 (2) It is the policy of the State of Mississippi that all
15 programs, projects and activities of the Commission shall be
16 carried out in a manner consistent with the following principles:

17 (a) Respect for individual dignity, personal
18 responsibility, self determination and pursuit of meaningful
19 career based on informed choice;

20 (b) Support for the involvement of an individual's
21 representative if an individual requests, desires or needs such
22 support;

23 (c) Respect for the individual's privacy and equal
24 access to programs and information, including the use of
25 accessible formats;

26 (d) Integration and full participation of individuals
27 who are blind in society on equal terms with others;



28 (e) Utilize a balanced approach to consumers and
29 consumer organizations to guarantee available and free exchange of
30 ideas from which informed choices can be made; and

31 (f) The Commission shall, wherever possible, employ
32 individuals who are blind or visually impaired throughout both its
33 administration and program positions.

34 **SECTION 2.** (1) The Mississippi Commission for the Blind is
35 hereby created. The Commission shall consist of five (5) members;
36 three (3) appointed by the Governor and two (2) appointed by the
37 Lieutenant Governor, with all five (5) to be confirmed by the
38 Senate. All members shall be qualified to serve based on
39 knowledge and experience in rehabilitation and related services
40 for the blind. A majority of the members shall be blind and
41 represent a balanced cross-section of the blindness organizations
42 and community. Two (2) years prior to being appointed to the
43 Commission, during the term of Commission membership, or two (2)
44 years after completing the appointed Commission term membership,
45 no member shall be employed by the Commission. No member of the
46 Commission shall be the director of any state agency during the
47 term of such membership. No member of the Commission shall serve
48 more than two (2) consecutive full terms. Except as provided by
49 this subsection, appointments to the commission shall be made
50 without regard to the race, color, disability, sex, religion, age,
51 or national origin of the appointees.

52 (2) The Governor shall consult with recognized consumer
53 groups of people who are blind within the state to obtain
54 recommendations of individuals to be appointed.

55 (3) The appointment of each Commissioner shall be for a
56 three-year term, except that the Governor shall specify shorter
57 terms in the initial appointment in order to establish a rotation.
58 Two (2) of the initial appointments (one (1) by the Governor and
59 one (1) by the Lieutenant Governor) shall be for two-year terms
60 and two (2) of the initial appointments (one (1) by the Governor



61 and one (1) by the Lieutenant Governor) shall be for one-year
62 terms. Thereafter, all Commissioners shall be appointed for
63 three-year terms.

64 (4) The Commission shall meet quarterly and at such other
65 times, as the Commissioners shall determine. The Chairman of the
66 Commission shall be elected by the members present and voting at
67 the first meeting of the Commission and annually thereafter.
68 Commissioners shall receive no salary, but shall be allowed the
69 usual mileage, subsistence and per diem as authorized by law. A
70 majority of the members of the Commission shall constitute a
71 quorum to transact business. Meetings will be conducted via
72 according to Roberts Rules of Order, Revised, until the Commission
73 develops specific policies and procedures which will govern the
74 manner in which it conducts business. All such policies and
75 procedures shall be filed with the Mississippi Secretary of State.
76 Meetings may be conducted via telephone or video conference
77 provided that at least one (1) fully accessible facility is made
78 available for public attendance of and participation in said
79 meetings, and that the public notice of such meetings clearly
80 identify the medium being used and the location for public access.
81 Said location shall contain the necessary equipment to clearly
82 amplify and broadcast the audio of the meeting throughout the
83 assembly room. Commissioners may be reimbursed for any telephone
84 expenses related to their participation in such meetings.

85 Any member of the Commission who is absent from two (2)
86 consecutive meetings, including those held by telephone or video
87 conference, without a documented excuse from the chairperson,
88 shall receive a written warning from the chairperson that a third
89 consecutive absence will result in the automatic termination of
90 the appointment. Anyone losing an appointment in this manner
91 shall not be eligible for a future appointment to the Commission
92 for the following three (3) years.



93 **SECTION 3.** (1) The Commission shall appoint an executive
94 director with knowledge and experience in rehabilitation and
95 related services for the blind and with relevant administrative
96 experience. The executive director shall serve as secretary to
97 the Commission and shall be the chief administrative officer of
98 the agency. The executive director's appointment shall be for an
99 indefinite period but may be terminated for cause as determined by
100 a majority of the Commission. Preference shall be given to
101 employing an individual who is blind and who meets the
102 qualifications specified by the Commission for the position of
103 executive director.

104 (2) The executive director shall employ such personnel as
105 needed to fulfill the mission of the agency, and shall fix their
106 compensation in a manner consistent with state law. The
107 Commission shall, wherever possible, employ individuals who are
108 blind or visually impaired throughout both its administration and
109 program positions.

110 (3) Upon its establishment, the Mississippi Commission for
111 the Blind shall receive one hundred eight (108) PINS related to
112 the Office of Rehabilitation for the Blind from Mississippi
113 Department of Rehabilitation Services, and nine (9) PINS currently
114 employed by the Mississippi Library Commission, Blind and
115 Physically Handicapped Library Services.

116 (4) In order to more effectively recruit qualified
117 personnel, and to encourage the personal growth and advancement
118 potential of all employees, the positions of program or department
119 director and of immediate assistant directors within the agency
120 shall be permanent positions, and shall not be filled on a "will
121 and pleasure" basis.

122 **SECTION 4.** (1) The Commission shall:

123 (a) Develop and carry out a state plan for vocational
124 rehabilitation services for individuals who are blind pursuant to
125 Section 101 of the Rehabilitation Act of 1973, as amended.



126 (b) Provide independent living and social services for
127 blind and visually impaired individuals, including, but not
128 limited to, services for older blind individuals pursuant to Title
129 VII of the Rehabilitation Act of 1973, as amended.

130 (c) Establish, equip and maintain a personnel
131 adjustment center or centers to provide pre-vocational and other
132 training (such as, but not limited to, Braille, use of the white
133 cane for independent travel, and computer and adaptive technology
134 training) to prepare blind and visually impaired persons for
135 eventual vocational training, job placement and maximum
136 independence in the community.

137 (d) Establish and carry out a small business enterprise
138 program for individuals who are blind, and serve as the state
139 licensing agency for blind individuals pursuant to the Randolph
140 Sheppard Act.

141 (e) Purchase specialized equipment and technology for
142 the blind and visually impaired directly from specialty vendors.
143 Such purchases shall be exempt from state centralized purchasing
144 procedures.

145 (f) Establish and operate the Blind and Physically
146 Handicapped Library Services, which is currently operated by the
147 Mississippi Library Commission. This library shall establish and
148 maintain a full and current collection of reading material in
149 braille, large print, audio and video recordings, audio tape
150 players, and other related forms of media that will enable the
151 Commission, the Blind and Physically Handicapped Library Services,
152 and associated volunteer organizations involved in the production
153 of braille or recorded materials for use by this library, the
154 Library of Congress, and related types of organizations to work
155 together more closely and effectively. This library shall
156 establish and maintain a facility which shall be used by trained
157 volunteers for the repair of special media and other reading and
158 writing equipment required by individuals who are unable to use



159 ordinary print, and for the production of materials in special
160 media by volunteer organizations.

161 (g) Provide technical assistance in cooperation with
162 other appropriate agencies to assist the state education agency
163 and local education agencies in the provision of auxiliary aids
164 and services to blind students and their parents in complying with
165 the Americans with Disabilities Act and the Individuals with
166 Disabilities Education Act, as amended.

167 (h) Provide technical assistance to agencies within the
168 state in order to assure that information technology purchased or
169 used by such agencies (including agency websites) is accessible to
170 and useable by individuals who are blind at the time the
171 technology is purchased or used.

172 (i) Participate, through the designation of the
173 executive director or an appropriate staff member of the
174 commission, on boards, commissions, or bodies, which may exist or
175 be established within the state for the purpose of coordination
176 and planning of services for the blind.

177 (j) Conduct a review of consumer satisfaction with
178 programs of the commission and perform other functions of the
179 statewide Rehabilitation Council specified in Section 105(C) of
180 the Rehabilitation Act of 1973, as amended.

181 (k) Promulgate rules to carry out programs of the
182 commission.

183 (l) Apply for and receive money from any state or
184 federal agency to support the programs of the commission and
185 receive on behalf of the state any gifts, donations or bequests
186 from any source, to be used in carrying out the commission's
187 duties as described herein.

188 (m) Develop and administer any other program which will
189 further the provision of services to the blind and is determined
190 by the commission to fall within its scope of responsibility.



191 (n) Assist individuals who are blind in obtaining aids
192 and appliances (including low vision aids) which are used to
193 improve the individual's ability to function without normal sight.

194 (o) Provide all agency clients with current information
195 (including membership forms) for all recognized consumer groups of
196 people who are blind within the state. This information shall be
197 in the accessible format requested by the client. The executive
198 director shall maintain open lines of communications with these
199 organizations in order to assure that this information is always
200 current.

201 (2) The commission may carry out any of the powers and
202 duties enumerated in this section by contract or cooperative
203 agreement or by the direct administration of any program.

204 **SECTION 5.** The commission shall publish an annual report
205 including a list of accomplishments, findings and recommendations
206 for improvement based on the agency's performance during the year.
207 The report shall contain information needed to evaluate the
208 progress of the commission in meeting the needs of blind
209 individuals in the state. All public documents of the commission
210 shall be simultaneously published in Braille, large print, audio
211 cassette tape, and in files which are accessible via adaptive
212 computer technologies.

213 **SECTION 6.** (1) Any applicant for or recipient of services
214 from the commission who is dissatisfied with any action taken or
215 decision made regarding such services may file a complaint setting
216 forth the basis for the dissatisfaction and the remedy sought.
217 Upon receipt of the complaint, the executive director shall inform
218 the individual of the voluntary process available for mediation of
219 the dispute. If the individual chooses mediation, a qualified and
220 impartial mediator will conduct mediation, and the commission
221 shall pay the cost.

222 (2) If mediation or other informal means cannot resolve the
223 dispute, the executive director shall, upon request of the



224 individual, convene an arbitration panel, which shall give notice,
225 conduct a hearing and render a decision. The arbitration panel
226 shall be composed of three (3) members appointed as follows: one
227 (1) individual designated by the executive director; one (1)
228 individual designated by the individual filing the complaint; and
229 one (1) individual chosen by the other designees who is an
230 impartial hearing officer as defined in Section 102 of the
231 Rehabilitation Act of 1973, as amended, who shall serve as chair
232 of the arbitration panel and issue the decision. The commission
233 shall promulgate rules sufficient to regulate the conduct of all
234 proceedings required in this section and to assure the rights of
235 all parties participating therein.

236 **SECTION 7.** (1) All appropriations, real and personal
237 property, equipment, supplies, personnel, positions and money
238 which, prior to the effective date of the Mississippi Commission
239 for the Blind Act, were owner or controlled by the Mississippi
240 Department of Rehabilitation Services, or Mississippi Library
241 Commission, Blind and Physically Handicapped Library Services, in
242 providing services to the blind are hereby transferred to the
243 Mississippi Commission for the Blind.

244 (2) All existing contracts and agreements in effect
245 concerning the services for the blind shall be binding upon the
246 Commission for the Blind to the same extent that such contracts or
247 agreements were binding upon the agency from which they were
248 transferred to the Commission for the Blind.

249 (3) All reimbursements from the Social Security
250 Administration for the successful rehabilitation of blind
251 Supplemental Security Income or Social Security Disability
252 Insurance recipients which are either received or claimed after
253 the date of enactment of this legislation shall be assigned to the
254 Commission for the Blind.

255 (4) The division of federal matching funds for
256 rehabilitation shall be twenty-five percent (25%) for the



257 commission for the Blind and seventy-five percent (75%) for the
258 Mississippi Department of Rehabilitation Services.

259 **SECTION 8.** The Central Office of the Mississippi Commission
260 for the Blind shall be located along easily accessible Public
261 Transportation Routes within the City of Jackson. All commission
262 offices and properties shall be fully accessible to people with
263 disabilities at all times, and shall be fully compliant with the
264 Americans with Disabilities Act.

265 **SECTION 9.** Section 37-33-53, Mississippi Code of 1972, is
266 amended as follows:

267 37-33-53. As used in the Vocational Rehabilitation for the
268 Blind Law:

269 (a) "Commission" shall mean the Mississippi Commission
270 for the Blind created in Senate Bill No. 2707, 2002 Regular
271 Session;

272 * * *

273 (b) "Director" shall mean the Director of the
274 Mississippi Commission for the Blind;

275 * * *;

276 (c) "Employment handicap" shall mean blindness as
277 defined in the Vocational Rehabilitation for the Blind Law;

278 (d) "Blind individual" shall mean any person with
279 insufficient vision to perform tasks for which sight is essential;

280 (e) "Vocational rehabilitation" and "vocational
281 rehabilitation services" shall mean any services, including
282 supported employment and rehabilitation engineering services,
283 provided directly or through public or private instrumentalities,
284 found by the director to be necessary to enable a blind individual
285 to overcome his employment handicap, and to enable him to engage
286 in an occupation, including, but not limited to, medical and
287 vocational diagnosis; vocational guidance, counseling and
288 placement; rehabilitation training; physical restoration;
289 transportation; occupational licenses; placement equipment,



290 supplies and tools; maintenance; and training equipment, books and
291 materials;

292 (f) "Rehabilitation training" shall mean all necessary
293 training provided to a blind individual to enable him to overcome
294 his employment handicap, including but not limited to manual,
295 preconditioning, prevocational, vocational, and supplementary
296 training and training provided for the purpose of developing
297 occupational skills and capacities;

298 (g) "Physical restoration" shall mean any medical,
299 surgical or therapeutic treatment necessary to correct or
300 substantially reduce a blind individual's employment handicap
301 within a reasonable length of time, including but not limited to
302 medical or nursing services, hospital care, convalescent home
303 care, drugs, medical and surgical supplies, and prosthetic
304 appliances; however, curative treatment for acute or transitory
305 conditions is excluded;

306 (h) "Prosthetic appliance" shall mean any artificial
307 device necessary to support, to take the place of, a part of the
308 body, or to increase the acuity of a sense organ;

309 (i) "Occupational licenses" shall mean any license,
310 permit or other written authority required by any government unit
311 to be obtained in order to engage in an occupation;

312 (j) "Maintenance" shall mean money payments not
313 exceeding the estimated cost of subsistence during vocational
314 rehabilitation;

315 (k) "Regulations" shall mean regulations made by the
316 director with the approval of the state board, including
317 regulations pertaining to independent living services;

318 (l) "Supported employment" services shall mean any
319 services designed to secure competitive work in an integrated work
320 setting with ongoing support services for individuals who are
321 blind or visually impaired for whom competitive employment has not



322 traditionally occurred or has been interrupted or intermittent as
323 a result of severe handicaps;

324 (m) "Rehabilitation engineering" services shall mean
325 any service which includes the systematic application of
326 technologies, engineering methodologies or scientific principles
327 to meet needs of and address the barriers confronted by
328 individuals with handicaps in areas which include education,
329 rehabilitation, employment, transportation, independent living and
330 recreation;

331 (n) "Independent living" services shall mean any
332 vocational rehabilitation service needed by a blind or visually
333 impaired individual to function more independently in his home or
334 community.

335 **SECTION 10.** Section 37-33-54, Mississippi Code of 1972, is
336 amended as follows:

337 37-33-54. The Mississippi Commission for the Blind shall
338 administer the Vocational Rehabilitation for the Blind Law as
339 prescribed in Sections 37-33-53 through 37-33-75, Sections 43-3-3
340 through 43-3-15 and Section 43-3-93. The executive director of
341 the department shall assign to the office such powers and duties
342 deemed appropriate to carry out the lawful functions of this law
343 and any federal law or regulation.

344 **SECTION 11.** Section 37-33-55, Mississippi Code of 1972, is
345 amended as follows:

346 37-33-55. Vocational rehabilitation for the blind shall be
347 administered by the director under supervision of the Mississippi
348 Commission for the Blind, in conformity with federal policies
349 adopted by the commission. The director shall be selected by the
350 commission in accordance with established personnel standards and
351 on the basis of his education, training, experience and
352 administrative ability. The director shall devote his full time
353 to the administration of vocational rehabilitation. In carrying



354 out his duties under the Vocational Rehabilitation for the Blind
355 Law, the director:

356 (a) Shall, with the approval of the commission, make
357 regulations in conformity with the Federal Vocational
358 Rehabilitation Act governing the protection of records and
359 confidential information, the manner and form of filing
360 applications, eligibility and investigations and determinations
361 thereof for vocational rehabilitation services, procedures for
362 fair hearings, and such other regulations as are found necessary
363 to carry out the purposes of that law;

364 (b) Shall, with the approval of the commission,
365 establish appropriate subordinate administrative units within the
366 office for providing vocational rehabilitation, independent
367 living, supported employment, rehabilitation engineering and other
368 services to children, adolescents and adults pursuant to federal
369 and state regulatory guidelines;

370 (c) Shall, with the approval of the commission,
371 recommend for appointment of such personnel as may be necessary
372 for the efficient performance of the functions of the office;

373 (d) Shall prepare and submit to the commission annual
374 reports of activities and expenditures and, before each regular
375 session of the Legislature, shall submit estimates of sums
376 required for carrying out the Vocational Rehabilitation for the
377 Blind Law and estimates of the amounts to be made available for
378 this purpose from all sources;

379 (e) Shall, if the commission so authorizes, make
380 certifications on behalf of the executive director for the
381 disbursement of funds available for vocational rehabilitation for
382 the blind;

383 (f) Shall, with the approval of the commission, take
384 such other action as he deems necessary or appropriate to carry
385 out the purposes of the Vocational Rehabilitation for the Blind
386 Law;



387 (g) May, with the approval of the commission, delegate
388 to any officer or employee of the office such of his powers and
389 duties, except the making of regulations and the making of
390 recommendations for appointment of personnel, as he finds
391 necessary to carry out the purposes of the Vocational
392 Rehabilitation for the Blind Law;

393 (h) Shall, with the approval of the commission, appoint
394 committees to serve as the governing authority for independent
395 living centers or other entities as required by federal law;

396 (i) Shall be authorized, in his discretion and with the
397 approval of the commission, to obtain and pay for liability
398 insurance covering each, all or any of the motor vehicles of the
399 office so as to cover the following damages for injury to persons
400 or property, or both, caused by negligence of any duly authorized
401 officer, agent, servant, attorney or employee of the office while
402 operating such motor vehicle in the performance of his official
403 duties, such policy to be written by the licensed resident agent
404 or agents of an insurance company or companies qualified to do and
405 authorized to do business in the State of Mississippi. On each
406 vehicle the insurance policy shall be limited to Ten Thousand
407 Dollars (\$10,000.00) for personal injury to any one (1) person in
408 any one (1) accident or Twenty Thousand Dollars (\$20,000.00) for
409 personal injury to two (2) or more persons in any one (1) accident
410 and Five Thousand Dollars (\$5,000.00) property damages. The
411 policy of insurance shall contain a provision to the effect that
412 the insurance company shall make no plea of the sovereign immunity
413 doctrine.

414 All policies shall be subject to the approval of the
415 director, and premiums thereon shall be paid from funds available
416 to the office.

417 The department may be sued by anyone affected by the
418 operation of the motor vehicles of the office which are covered by
419 such liability insurance, to the extent of such insurance carried



420 on the vehicle involved. However, immunity from suit is only
421 waived to the extent of such liability insurance carried, and a
422 judgment creditor shall have recourse only to the proceeds or
423 right to proceeds of such liability insurance. No attempt shall
424 be made in the trial of any case to suggest the existence of any
425 insurance which covers in whole or in part any judgment or award
426 rendered in favor of a claimant, but if the verdict rendered by
427 the jury exceeds the limit of applicable insurance, the court on
428 motion shall reduce the amount of the judgment, as against the
429 department only and not as to joint tort-feasors, if any, to a sum
430 equal to the applicable limit stated in the insurance policy.

431 This paragraph (i) shall stand repealed on the date that the
432 sovereign immunity of the state is waived as provided in Section
433 11-46-5.

434 **SECTION 12.** This act shall take effect and be in force from
435 and after July 1, 2002.

