

**Adopted  
AMENDMENT NO 2 PROPOSED TO**

**Cmte Sub for House Bill No. 973**

**BY: Representative Frierson**

1           **AMEND** by striking lines 2615 through 2706 in their entirety  
2 and inserting in lieu thereof the following:

3           **SECTION 42.** Section 71-5-523, Mississippi Code of 1972, is  
4 amended as follows:

5           71-5-523. The board of review may on its own motion affirm,  
6 modify, or set aside any decision of an appeal tribunal on the  
7 basis of the evidence previously submitted in such case, or direct  
8 the taking of additional evidence, or may permit any of the  
9 parties to such decision to initiate further appeals before it.  
10 The board of review shall permit such further appeal by any of the  
11 parties to a decision of an appeal tribunal which is not  
12 unanimous, and by the examiner whose decision has been overruled  
13 or modified by an appeal tribunal. The board of review may remove  
14 to itself or transfer to another appeal tribunal the proceedings  
15 on any claim pending before an appeal tribunal. Any proceedings  
16 so removed to the board of review shall be heard by a quorum  
17 thereof in accordance with the requirements of Section 71-5-519  
18 and within fifteen (15) days after notice of appeal has been  
19 received by the executive director. No notice of appeal shall be  
20 deemed to be received by the executive director, within the  
21 meaning of this section, until all prior appeals pending before  
22 the board of review have been heard. The board of review shall,

23 within four (4) days after its decision, so notify the parties to  
24 any proceeding of its findings and decision. \* \* \*

25 **SECTION 43.** Section 71-5-525, Mississippi Code of 1972, is  
26 amended as follows:

27 71-5-525. The manner in which appealed claims shall be  
28 presented and the conduct of hearings and appeals shall be in  
29 accordance with regulations prescribed by the board of review for  
30 determining the rights of the parties, whether or not such  
31 regulations conform to common law or statutory rules of evidence  
32 and other technical rules of procedure. A full and complete  
33 record shall be kept of all proceedings in connection with an  
34 appealed claim. The department's entire file relative to the  
35 appealed claim shall be a part of such record and shall be  
36 considered as evidence. All testimony at any hearing upon an  
37 appealed claim shall be recorded, but need not be transcribed  
38 unless the claim is further appealed.

39 **SECTION 44.** Section 71-5-529, Mississippi Code of 1972, is  
40 amended as follows:

41 71-5-529. Any decision of the board of review, in the  
42 absence of an appeal therefrom as herein provided, shall become  
43 final ten (10) days after the date of notification or mailing  
44 thereof; and judicial review thereof shall be permitted only after  
45 any party claiming to be aggrieved thereby has exhausted his  
46 administrative remedies as provided by this chapter. The  
47 department shall be deemed to be a party to any judicial action  
48 involving any such decision, and may be represented in any such  
49 judicial action by any qualified attorney employed by the  
50 department and designated by it for that purpose or, at the  
51 department's request, by the Attorney General.

52 **SECTION 45.** Section 71-5-531, Mississippi Code of 1972, is  
53 amended as follows:

54           71-5-531. Within ten (10) days after the decision of the  
55 Board of Review has become final, any party aggrieved thereby may  
56 secure judicial review thereof by commencing an action, in the  
57 circuit court of the county in which the plaintiff resides,  
58 against the department for the review of such decision, in which  
59 action any other party to the proceeding before the Board of  
60 Review shall be made a defendant. In cases wherein the plaintiff  
61 is not a resident of the State of Mississippi, such action may be  
62 filed in the circuit court of the county in which the employer  
63 resides, the county in which the cause of action arose, or in the  
64 county of employment. In such action, a petition which need not  
65 be verified, but which shall state the grounds upon which a review  
66 is sought, shall be served upon the department or upon such person  
67 as the department may designate, and such service shall be deemed  
68 completed service on all parties; but there shall be left with the  
69 party so served as many copies of the petition as there are  
70 defendants, and the department shall forthwith mail one (1) such  
71 copy to each such defendant. With its answer, the department  
72 shall certify and file with said court all documents and papers  
73 and a transcript of all testimony taken in the matter, together  
74 with the Board of Review's findings of fact and decision therein.  
75 The department may also, in its discretion, certify to such court  
76 questions of law involved in any decision. In any judicial  
77 proceedings under this section, the findings of the Board of  
78 Review as to the facts, if supported by evidence and in the  
79 absence of fraud, shall be conclusive, and the jurisdiction of the  
80 court shall be confined to questions of law. Such actions, and  
81 the questions so certified, shall be heard in a summary manner and  
82 shall be given precedence over all other civil cases. An appeal  
83 may be taken from the decision of the circuit court of the county  
84 in which the plaintiff resides to the Supreme Court of  
85 Mississippi, in the same manner, but not inconsistent with the

86 provisions of this chapter, as is provided in civil cases. It  
87 shall not be necessary, in any judicial proceeding under this  
88 section, to enter exceptions to the rulings of the Board of  
89 Review, and no bond shall be required for entering such appeal.  
90 Upon the final determination of such judicial proceeding, the  
91 Board of Review shall enter an order in accordance with such  
92 determination. A petition for judicial review shall not act as a  
93 supersedeas or stay unless the Board of Review shall so order.