

By: Representative Bounds

To: Labor

HOUSE BILL NO. 453

1 AN ACT TO AMEND SECTION 71-5-511, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT IN ORDER TO BE ELIGIBLE FOR UNEMPLOYMENT
3 COMPENSATION BENEFITS, AN EMPLOYEE OF A TEMPORARY HELP CONTRACTING
4 FIRM MUST CONTACT THE FIRM FOR REASSIGNMENT UPON COMPLETION OF AN
5 ASSIGNMENT; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-5-511, Mississippi Code of 1972, is
8 amended as follows:

9 71-5-511. An unemployed individual shall be eligible to
10 receive benefits with respect to any week only if the department
11 finds that:

12 (a) (i) He has registered for work at and thereafter
13 has continued to report to an employment office in accordance with
14 such regulations as the department may prescribe; except that the
15 department may, by regulation, waive or alter either or both of
16 the requirements of this subparagraph as to such types of cases or
17 situations with respect to which it finds that compliance with
18 such requirements would be oppressive or would be inconsistent
19 with the purposes of this chapter; and

20 (ii) He participates in reemployment services,
21 such as job search assistance services, if, in accordance with a
22 profiling system established by the department, it has been
23 determined that he is likely to exhaust regular benefits and needs
24 reemployment services, unless the department determines that:

25 1. The individual has completed such
26 services; or

27 2. There is justifiable cause for the
28 claimant's failure to participate in such services.

29 (b) He has made a claim for benefits in accordance with
30 the provisions of Section 71-5-515 and in accordance with such
31 regulations as the department may prescribe thereunder.

32 (c) He is able to work and is available for work.

33 (d) He has been unemployed for a waiting period of one
34 (1) week. No week shall be counted as a week of unemployment for
35 the purposes of this subsection:

36 (i) Unless it occurs within the benefit year which
37 includes the week with respect to which he claims payment of
38 benefits;

39 (ii) If benefits have been paid with respect
40 thereto;

41 (iii) Unless the individual was eligible for
42 benefits with respect thereto, as provided in Sections 71-5-511
43 and 71-5-513, except for the requirements of this subsection.

44 (e) For weeks beginning on or before July 1, 1982, he
45 has, during his base period, been paid wages for insured work
46 equal to not less than thirty-six (36) times his weekly benefit
47 amount; he has been paid wages for insured work during at least
48 two (2) quarters of his base period; and he has, during that
49 quarter of his base period in which his total wages were highest,
50 been paid wages for insured work equal to not less than sixteen
51 (16) times the minimum weekly benefit amount. For benefit years
52 beginning after July 1, 1982, he has, during his base period, been
53 paid wages for insured work equal to not less than forty (40)
54 times his weekly benefit amount; he has been paid wages for
55 insured work during at least two (2) quarters of his base period,
56 and he has, during that quarter of his base period in which his
57 total wages were highest, been paid wages for insured work equal
58 to not less than twenty-six (26) times the minimum weekly benefit
59 amount. For purposes of this subsection, wages shall be counted
60 as "wages for insured work" for benefit purposes with respect to
61 any benefit year only if such benefit year begins subsequent to

62 the date on which the employing unit by which such wages were paid
63 has satisfied the conditions of Section 71-5-11, subsection I, or
64 Section 71-5-361, subsection (3), with respect to becoming an
65 employer.

66 (f) No individual may receive benefits in a benefit
67 year unless, subsequent to the beginning of the next preceding
68 benefit year during which he received benefits, he performed
69 service in "employment" as defined in Section 71-5-11, subsection
70 J, and earned remuneration for such service in an amount equal to
71 not less than eight (8) times his weekly benefit amount applicable
72 to his next preceding benefit year.

73 (g) Benefits based on service in employment defined in
74 Section 71-5-11, subsection J(3) and J(4), and Section 71-5-361,
75 subsection (4) shall be payable in the same amount, on the same
76 terms, and subject to the same conditions as compensation payable
77 on the basis of other service subject to this chapter, except that
78 benefits based on service in an instructional, research or
79 principal administrative capacity in an institution of higher
80 learning (as defined in Section 71-5-11, subsection O) with
81 respect to service performed prior to January 1, 1978, shall not
82 be paid to an individual for any week of unemployment which begins
83 during the period between two (2) successive academic years, or
84 during a similar period between two (2) regular terms, whether or
85 not successive, or during a period of paid sabbatical leave
86 provided for in the individual's contract, if the individual has a
87 contract or contracts to perform services in any such capacity for
88 any institution or institutions of higher learning for both such
89 academic years or both such terms.

90 (h) Benefits based on service in employment defined in
91 Section 71-5-11, subsection J(3) and J(4), shall be payable in the
92 same amount, on the same terms and subject to the same conditions
93 as compensation payable on the basis of other service subject to
94 this chapter; except that:

95 (i) With respect to service performed in an
96 instructional, research or principal administrative capacity for
97 an educational institution, benefits shall not be paid based on
98 such services for any week of unemployment commencing during the
99 period between two (2) successive academic years, or during a
100 similar period between two (2) regular but not successive terms,
101 or during a period of paid sabbatical leave provided for in the
102 individual's contract, to any individual, if such individual
103 performs such services in the first of such academic years or
104 terms and if there is a contract or a reasonable assurance that
105 such individual will perform services in any such capacity for any
106 educational institution in the second of such academic years or
107 terms, and provided that Section 71-5-511, subsection (g), shall
108 apply with respect to such services prior to January 1, 1978. In
109 no event shall benefits be paid unless the individual employee was
110 terminated by the employer.

111 (ii) With respect to services performed in any
112 other capacity for an educational institution, benefits shall not
113 be paid on the basis of such services to any individual for any
114 week which commences during a period between two (2) successive
115 academic years or terms, if such individual performs such services
116 in the first of such academic years or terms and there is a
117 reasonable assurance that such individual will perform such
118 services in the second of such academic years or terms, except
119 that if compensation is denied to any individual under this
120 subparagraph and such individual was not offered an opportunity to
121 perform such services for the educational institution for the
122 second of such academic years or terms, such individual shall be
123 entitled to a retroactive payment of compensation for each week
124 for which the individual filed a timely claim for compensation and
125 for which compensation was denied solely by reason of this clause.
126 In no event shall benefits be paid unless the individual employee
127 was terminated by the employer.

128 (iii) With respect to services described in
129 subsection (h)(i) and (ii), benefits shall not be payable on the
130 basis of services in any such capacities to any individual for any
131 week which commences during an established and customary vacation
132 period or holiday recess if such individual performs such services
133 in the first of such academic years or terms, or in the period
134 immediately before such vacation period or holiday recess, and
135 there is a reasonable assurance that such individual will perform
136 such services in the period immediately following such vacation
137 period or holiday recess.

138 (iv) With respect to any services described in
139 subsection (h)(i) and (ii), benefits shall not be payable on the
140 basis of services in any such capacities as specified in
141 subsection (h)(i), (ii) and (iii) to any individual who performed
142 such services in an educational institution while in the employ of
143 an educational service agency. For purposes of this subsection,
144 the term "educational service agency" means a governmental agency
145 or governmental entity which is established and operated
146 exclusively for the purpose of providing such services to one or
147 more educational institutions.

148 (v) With respect to services to which Sections
149 71-5-357 and 71-5-359 apply, if such services are provided to or
150 on behalf of an educational institution, benefits shall not be
151 payable under the same circumstances and subject to the same terms
152 and conditions as described in subsection (h)(i), (ii), (iii) and
153 (iv).

154 (i) Subsequent to December 31, 1977, benefits shall not
155 be paid to any individual on the basis of any services
156 substantially all of which consist of participating in sports or
157 athletic events or training or preparing to so participate, for
158 any week which commences during the period between two (2)
159 successive sports seasons (or similar periods) if such individual
160 performs such services in the first of such seasons (or similar

161 periods) and there is a reasonable assurance that such individual
162 will perform such services in the later of such seasons (or
163 similar periods).

164 (j) (i) Subsequent to December 31, 1977, benefits
165 shall not be payable on the basis of services performed by an
166 alien, unless such alien is an individual who was lawfully
167 admitted for permanent residence at the time such services were
168 performed, was lawfully present for purposes of performing such
169 services, or was permanently residing in the United States under
170 color of law at the time such services were performed (including
171 an alien who was lawfully present in the United States as a result
172 of the application of the provisions of Section 203(a)(7) or
173 Section 212(d)(5) of the Immigration and Nationality Act).

174 (ii) Any data or information required of
175 individuals applying for benefits to determine whether benefits
176 are not payable to them because of their alien status shall be
177 uniformly required from all applicants for benefits.

178 (iii) In the case of an individual whose
179 application for benefits would otherwise be approved, no
180 determination that benefits to such individual are not payable
181 because of his alien status shall be made, except upon a
182 preponderance of the evidence.

183 (k) An individual shall be deemed prima facie
184 unavailable for work, and therefore ineligible to receive
185 benefits, during any period which, with respect to his employment
186 status, is found by the department to be a holiday or vacation
187 period.

188 An employee of a temporary help contracting firm will be
189 presumed to have voluntarily left employment without good cause if
190 the employee does not contact the firm for reassignment upon
191 completion of an assignment; however, the failure to contact the
192 firm will not be considered a voluntary departure from employment
193 unless the employee has been advised in writing of the obligation

194 to contact the firm upon completion of assignments and has been
195 advised in writing that unemployment benefits may be denied for
196 failure to do so.

197 **SECTION 2.** This act shall take effect and be in force from
198 and after July 1, 2005.