

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2445

1 AN ACT TO AMEND SECTION 71-3-37, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT BENEFITS COMMUTED BY ORDER OF THE WORKERS'
3 COMPENSATION COMMISSION SHALL BE DISCOUNTED TO PRESENT VALUE USING
4 VALID ACTUARIAL TABLES AS DETERMINED BY THE COMMISSION; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 71-3-37, Mississippi Code of 1972, is
8 amended as follows:

9 71-3-37. (1) Compensation under this chapter shall be paid
10 periodically, promptly, in the usual manner, and directly to the
11 person entitled thereto, without an award except where liability
12 to pay compensation is controverted by the employer.

13 (2) The first installment of compensation shall become due
14 on the fourteenth day (14th) after the employer has notice, as
15 provided in Section 71-3-35, of the injury or death, on which date
16 all compensation then due shall be paid. Thereafter, compensation
17 shall be paid in installments, every fourteen (14) days, except
18 where the commission determines that payment in installments
19 should be made at some other period.

20 (3) Upon making the first payment and upon suspension of
21 payment for any cause, the employer shall immediately notify the
22 commission in accordance with a form prescribed by the commission
23 that payment of compensation has begun or has been suspended, as
24 the case may be. No suspension in payments of compensation shall
25 be made for refusing to submit to medical or surgical treatment
26 until the reasonableness of such request or refusal has been
27 determined by the commission, and a written order suspending
28 payment issued.

29 (4) If the employer controverts the right to compensation he
30 shall file with the commission, on or before the fourteenth (14th)
31 day after he has knowledge of the alleged injury or death, a
32 notice in accordance with a form prescribed by the commission,
33 stating that the right to compensation is controverted, the name
34 of the claimant, the name of the employer, the date of the alleged
35 injury or death, and the grounds upon which the right to
36 compensation is controverted. Failure to file this notice shall
37 not prevent the employer raising any defense where claim is
38 subsequently filed by the employee, nor shall the filing of the
39 notice preclude the employer raising any additional defense.

40 (5) If any installment of compensation payable without an
41 award is not paid within fourteen (14) days after it becomes due,
42 as provided in subsection (2) of this section, there shall be
43 added to such unpaid installment an amount equal to ten percent
44 (10%) thereof, which shall be paid at the same time as, but in
45 addition to, such installment unless notice is filed under
46 subsection (4) of this section, or unless such nonpayment is
47 excused by the commission after a showing by the employer that
48 owing to conditions over which he had no control such installment
49 could not be paid within the period prescribed for the payment.

50 (6) If any installment payable under the terms of an award
51 is not paid within fourteen (14) days after it becomes due, there
52 shall be added to such unpaid installment an amount equal to
53 twenty percent (20%) thereof, which shall be paid at the same time
54 as, but in addition to, such compensation unless review of the
55 compensation order making such award is had.

56 (7) Within thirty (30) days after the final payment of
57 compensation has been made, the employer shall send to the
58 commission a notice in accordance with a form prescribed by the
59 commission, stating that such final payment has been made, the
60 total amount of compensation paid, the name of the employee and of
61 any other person to whom compensation has been paid, the date of

62 the injury or death, and the date to which compensation has been
63 paid. If the employer fails so to notify the commission within
64 such time, the commission may assess against such employer a civil
65 penalty in an amount not exceeding One Hundred Dollars (\$100.00).
66 No case shall be closed nor any penalty be assessed without notice
67 to all parties interested and without giving to all such parties
68 an opportunity to be heard.

69 (8) The commission (a) may upon its own initiative at any
70 time in a case in which payments are being made without an award,
71 and (b) shall in any case where right to compensation is
72 controverted or where payments of compensation have been stopped
73 or suspended, upon receipt of notice from any person entitled to
74 compensation or from the employer that the right to compensation
75 is controverted or that payments of compensation have been stopped
76 or suspended, make such investigations, cause such medical
77 examinations to be made, hold such hearings, and take such further
78 action as it considers will properly protect the rights of all
79 parties.

80 (9) Whenever the commission deems it advisable, it may
81 require any self-insurer to make a deposit with the State
82 Treasurer to secure prompt and convenient payment of such
83 compensation; and payments therefrom upon any awards shall be made
84 upon order of the commission.

85 (10) Whenever the commission determines that it is for the
86 best interests of a person entitled to compensation, the liability
87 of the employer for compensation, or any part thereof as
88 determined by the commission, may be discharged by the payment of
89 a lump sum equal to the present value of future compensation
90 payments commuted, computed at four percent (4%) true discount
91 compounded annually. The probability of the death of the injured
92 employee or other person entitled to compensation shall be
93 determined in accordance with validated actuarial tables or
94 factors as the commission finds equitable and consistent with the

95 purposes of the Workers' Compensation Law, and the probability of
96 the remarriage of the surviving spouse or other person entitled to
97 compensation may be determined in accordance with rules adopted by
98 the commission which shall apply validated actuarial tables or
99 factors as the commission finds equitable and consistent with the
100 purposes of the Workers' Compensation Law. The probability of the
101 happening of any other contingency affecting the amount or
102 duration of the compensation shall be disregarded. The commission
103 shall be the sole judge as to whether or not a lump-sum payment
104 shall be to the best interest of the injured worker or his
105 dependents.

106 (11) If the employer has made advance payments of
107 compensation, he shall be entitled to be reimbursed out of any
108 unpaid installment or installments of compensation due.

109 (12) An injured employee or, in case of death, his
110 dependents or personal representative shall give receipts for
111 payment of compensation to the employer paying the same; and
112 whenever required, such employer shall produce the same for
113 inspection by the commission.

114 (13) Whenever a dispute arises between two (2) or more
115 parties as to which party is liable for the payment of workers'
116 compensation benefits to an injured employee and there is no
117 genuine issue of material fact as to the employee's employment,
118 his average weekly wage, the occurrence of an injury, the extent
119 of the injury, and the fact that the injury arose out of and in
120 the course of the employment, the commission may require the
121 disputing parties involved to pay benefits immediately to the
122 employee and to share equally in the payment of those benefits
123 until it is determined which party is solely liable, at which time
124 the liable party must reimburse all other parties for the benefits
125 they have paid to the employee with interest at the legal rate.

126 **SECTION 2.** This act shall take effect and be in force from
127 and after its passage.