

REPORT OF CONFERENCE COMMITTEE

MR. SPEAKER AND MADAM PRESIDENT:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

H. B. No. 1379: Mississippi Employment Protection Act; create.

We, therefore, respectfully submit the following report and recommendation:

1. That the Senate recede from its Amendment No. 1.
2. That the House and Senate adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

6 **SECTION 1.** Title. This act shall be known as the
7 "Mississippi Employment Protection Act."

8 **SECTION 2.** The provisions of this act shall be enforced
9 without regard to race, gender, religion, ethnicity, or national
10 origin.

11 **SECTION 3.** Definitions. For the purpose of this act only,
12 the following words shall have the meanings ascribed herein unless
13 the content clearly states otherwise:

14 (a) The term "employee" means an individual who
15 provides services or labor in the State of Mississippi for an
16 employer for wages or other remuneration, but does not mean
17 independent contractors or those engaged in casual domestic
18 employment.

19 (b) The term "employer" means a person or entity,
20 including an agent or anyone acting directly or indirectly in the
21 interest thereof, who engages the services or labor of any
22 employee to be performed in the State of Mississippi for wages or
23 other remuneration. In the case of an independent contractor or
24 contract labor or services, the term employer shall mean the
25 independent contractor or contractor and not the person or entity
26 using the contract labor.

27 (c) The term "director" means the director of the
28 department or agency.

29 (d) The term "department" means any one (1) of the
30 following Mississippi agencies or departments: the Mississippi
31 Department of Employment Security, the Mississippi State Tax
32 Commission, the Mississippi Secretary of State, the Mississippi
33 Department of Human Services, and the Mississippi Attorney
34 General.

35 (e) The term "unauthorized alien" means the same as
36 defined in 8 USCS Section 1324a(h)(3).

37 **SECTION 4. Employment Verification.** (1) Departments or
38 agencies in Mississippi may interact and share necessary
39 information required in this act to assist in the enforcement of
40 this act.

41 (2) Within fifteen (15) working days after hiring a new
42 employee, each newly hired employee in Mississippi shall present
43 to the employer two (2) copies of a written affirmation of the
44 employee's legal work status which shall include the employee's
45 name, address, social security number, and date of birth. The
46 employee shall be under the penalty of perjury for providing false
47 information to the employer within the written affirmation. The
48 employer shall retain one (1) copy for the term of employment of
49 each employee and shall send the other copy to the Mississippi
50 Department of Human Services as required by Section 43-19-46,
51 Mississippi Code of 1972.

52 (3) Upon the request of the director, an employer shall
53 submit documentation to the director that demonstrates that the
54 employer is in compliance with the requirements of Section 4(2) of
55 this act. The director or the director's designee may conduct
56 random audits of employers in Mississippi to obtain the
57 documentation required from the employer or the employee. When
58 the director has reason to believe that an employer or an employee

59 has not complied with the employment verification and examination
60 requirements, the director shall make a request of the employer,
61 through certified mail or in person, to submit the documentation.

62 The employer shall have five (5) working days after the date
63 of receipt of the request to submit the required documentation to
64 the director for review.

65 **SECTION 5. Employer Liability.** (1) Any employer that
66 complies with the requirements of this act shall be held harmless,
67 provided the employer is not directly involved in the creation of
68 any false documents, and provided that the employer did not
69 knowingly and willfully accept false documents from the employee.

70 (2) If an employer, knowingly or in reckless disregard,
71 fails to submit the documentation required by this act, the
72 employer shall be subject to the following penalties:

73 (a) A monetary fine as established in Section 43-19-46,
74 Mississippi Code of 1972; or

75 (b) Loss of the employer's license to do business as an
76 employer in Mississippi for up to one (1) year. The provisions of
77 this paragraph shall not include personal or professional
78 licenses; or

79 (c) A monetary fine as established in Section 43-19-46,
80 Mississippi Code of 1972, and loss of the employer's license to do
81 business as an employer in Mississippi for up to one (1) year.
82 The provisions of this paragraph shall not include personal or
83 professional licenses; or

84 (d) If the employer is a contractor with the State of
85 Mississippi, then the state agency or agencies with which the
86 employer has formerly contracted shall cancel the current contract
87 and shall debar the employer from receiving future state contracts
88 for the period of one (1) year; or

89 (e) Any state or local government agency or agencies
90 may withdraw any or all grants, tax incentives, tax exemptions
91 and/or tax waivers for the period of one (1) year.

92 (3) An employer who is convicted of producing or using
93 fraudulent documents for the purpose of assisting an unauthorized
94 alien shall be guilty of a felony.

95 **SECTION 6. Employee Liability.** (a) It shall be unlawful
96 for any person within the State of Mississippi to accept or
97 perform employment for compensation, knowingly or in reckless
98 disregard that the person is an unauthorized alien with respect to
99 employment during the period which such unauthorized employment
100 occurred. Any person who is convicted of violating this
101 provision, shall be charged for a first violation with a
102 misdemeanor, with a penalty of up to one (1) year in the custody
103 of the county jail. For a second violation, the charge shall be a
104 felony.

105 (b) It shall be unlawful in Mississippi for any person to
106 fraudulently use, produce, or submit documentation establishing
107 work authorization. Any person who is convicted of violating this
108 provision shall be guilty of a felony.

109 (c) For purposes of determining bail under this act it shall
110 be a rebuttable presumption that a defendant who has entered and
111 remains in the United States and Mississippi unlawfully is deemed
112 a risk of flight for purposes of such bail determination.

113 **SECTION 7. Coercion of involuntary servitude.** (1) A person
114 commits coercion of involuntary servitude if he or she coerces
115 another person to perform labor or services by:

116 (a) Withholding or threatening to destroy documents
117 relating to a person's immigration status; or

118 (b) Threatening to notify law enforcement officials
119 that a person is present in the United States in violation of
120 federal immigration laws.

121 (2) A person may commit coercion of involuntary servitude
122 regardless of whether the person provides compensation to the
123 person who is coerced.

124 (3) Coercion of involuntary servitude shall be a felony,
125 with penalty of no less than one (1) year and up to five (5) years
126 in the custody of the Mississippi Department of Corrections.

127 **SECTION 8. Right to Appeal.** Any person or entity that is
128 penalized under this act shall have the right to appeal to the
129 state agency bringing the charge and to the circuit court of
130 competent jurisdiction.

131 **SECTION 9. Enforcement.** The agencies listed in Section 3(4)
132 of this act shall have the authority to enforce the provisions of
133 this act and to bring charges for noncompliance against any
134 employer or employee.

135 **SECTION 10. Employer Exemptions.** (1) The provisions of
136 this act shall not apply to the following:

137 (a) Any employer who hires an employee through a state
138 or federal work program that requires verification of the
139 employee's social security number or provides for verification of
140 the employee's lawful presence in the United States in an
141 employment-authorized immigration status; or

142 (b) Any employer who uses any federal electronic
143 verification of work authorization program or any equivalent work
144 authorization program operated by the United States Department of
145 Homeland Security; or

146 (c) Any employer who verifies an employee's social
147 security number or employment-authorized immigration status
148 through the use of a criminal background check or any other lawful
149 program.

150 (2) To qualify for exemption under this section, the
151 employer must retain written or electronic proof of the employee's

152 lawful presence in an employment-authorized immigration status for
153 the duration of the employee's employment.

154 **SECTION 11. Relationship to other laws.** (1) Nothing in
155 this act shall alter, suspend, limit, supersede, supplement or
156 repeal the provisions of the Mississippi Anti-Human Trafficking
157 Act, as codified in Sections 97-3-54 through 97-3-54.4,
158 Mississippi Code of 1972.

159 (2) Nothing in this act shall alter, suspend, limit,
160 supersede, supplement or repeal the provisions of Section 57-1-371
161 or 57-1-373, Mississippi Code of 1972.

162 **SECTION 12. Federal Compliance.** (1) Compliance with the
163 sections of this statute shall not exempt the employer from
164 regulations and requirements related to any federal laws or
165 procedures related to employers.

166 (2) Any section of this act shall not be construed as an
167 attempt to preempt federal law.

168 **SECTION 13.** This act shall take effect and be in force from
169 and after July 1, 2007, and shall stand repealed on June 30, 2007.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO CREATE THE MISSISSIPPI EMPLOYMENT PROTECTION ACT;
2 TO PROVIDE PROCEDURES FOR NEWLY HIRED EMPLOYEES AND THEIR
3 EMPLOYERS; TO PROVIDE PENALTIES FOR VIOLATIONS OF THIS ACT; AND
4 FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)
Moss

(NOT SIGNED)
Buck

X (SIGNED)
Lott

CONFEREES FOR THE SENATE

X (SIGNED)
Doxey

X (SIGNED)
White

X (SIGNED)
Brown