

REPORT OF CONFERENCE COMMITTEE

2

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:

15 **SECTION 1.** Title. This act shall be known as "The
16 Mississippi Employment Protection Act of 2007."

17 **SECTION 2.** Definitions. For the purposes of this act only:

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

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

31 (c) The term "independent contractor" includes
32 individuals or entities in the State of Mississippi who carry on
33 independent business, contract to do a piece of work according to
34 their own means and methods, and are subject to control only as to
35 results. Whether an individual or entity is an independent
36 contractor, regardless of what the individual or entity calls

37 itself, will be determined on a case-by-case basis. Factors to be
38 considered in that determination include, but are not limited to,
39 whether the individual or entity: supplies the tools or
40 materials; makes services available to the general public; works
41 for a number of clients at the same time; has an opportunity for
42 profit or loss as a result of labor or services provided; invests
43 in the facilities for work; directs the order or sequence in which
44 the work is to be done and determines the hours during which the
45 work is to be done.

46 (d) The term "refer for a fee" means the act of sending
47 or directing a person or transmitting documentation or information
48 to another, directly or indirectly, with the intent of obtaining
49 employment in the State of Mississippi for such person, for
50 remuneration whether on a retainer or a contingency basis;
51 however, this term does not include union hiring halls that refer
52 union members or nonunion individuals who pay union membership
53 dues.

54 (e) The term "recruit for a fee" means the act of
55 soliciting a person, directly or indirectly, and referring that
56 person to another with the intent of obtaining employment in the
57 State of Mississippi for that person, for remuneration whether on
58 a retainer or contingency basis; however, this term does not
59 include union hiring halls that refer union members or nonunion
60 individuals who pay union membership dues.

61 (f) All other terms in this act shall be defined in
62 accordance with the definitions found in Title 8 of the United
63 States Code, Section 1324a and Title 8 of the Code of Federal
64 Regulations, Sections 274a.1 through 274a.11.

65 **SECTION 3. Employee verification.** Any employer in the State
66 of Mississippi and/or any individual or entity who refers or
67 recruits an employee or employees for a fee in the State of
68 Mississippi shall follow the verification of employment

69 eligibility procedures specified in 8 CFR Sections 274a.1 through
70 274a.11.

71 **SECTION 4. State contracts.** (1) Any public officer,
72 contractor, superintendent or agent engaged in or in charge of the
73 construction of any state or public building or public work of any
74 kind or engaged in or in charge of contracts of any kind for the
75 State of Mississippi or any of its agencies, institutions or
76 political subdivisions shall employ only employees who are not
77 unauthorized aliens, as defined by 8 USCS Section 1324a(h)(3), and
78 shall use all means available or required under federal law to
79 verify the employment eligibility of its employees.

80 (2) All contracts entered into by the State of Mississippi
81 or any of its agencies, institutions or political subdivisions
82 shall include a provision requiring the contractor, during the
83 terms of the contract, to be in compliance with federal law
84 prohibiting the employment of unauthorized aliens, as set forth in
85 8 USCS Section 1324a and 8 CFR Sections 274a.1 through 274a.11.

86 (3) The Office of Purchasing and Travel, the Personal
87 Service Contract Review Board and the Mississippi Department of
88 Information Technology Services shall adopt rules and regulations
89 to carry out the purposes of Section 4 of House Bill No. 1379,
90 2007 Regular Session.

91 **SECTION 5. Penalties.** Whenever a district attorney in the
92 State of Mississippi or the government of the United States,
93 acting through an agency charged with administering the provisions
94 of the Immigration and Nationality Act (8 USCS Section 1101 et
95 seq.) or exercising its judicial powers under same, issues a final
96 order determining that an employer or recruiter or referrer for a
97 fee in the State of Mississippi has violated the provisions of 8
98 USCS Section 1324a(a)(1)(A) or (a)(2) and the employer or
99 recruiter or referrer for a fee is subject to the penalties found

100 in 8 USCS Section 1324a(e)(4) or (f), then the following
101 supplemental penalties shall apply:

102 (a) The employer or recruiter or referrer for a fee
103 shall lose its license, permit or certificate to do business in
104 the State of Mississippi for up to one (1) year. This provision
105 shall not apply to personal or professional licenses.

106 (b) If the employer or recruiter or referrer for a fee
107 is a contractor with the State of Mississippi or any of its
108 agencies, institutions or political subdivisions, then the State
109 of Mississippi or any of its agencies, institutions or political
110 subdivisions with which the employer has formally contracted shall
111 debar the employer or recruiter or referrer for a fee from
112 receiving future state contracts for the period of up to three (3)
113 years from the date the government of the United States issues a
114 final order determining that a violation has been committed; and

115 (c) Any state or local government agency or agencies
116 shall withdraw any or all grants, tax incentives, tax exemptions
117 and/or tax waivers for the period of up to three (3) years from
118 the date the government of the United States issues a final order
119 determining that a violation has been committed.

120 **SECTION 6. Relationship to other laws.** (1) Nothing in this
121 act shall alter, suspend, limit, supersede, supplement or repeal
122 the provisions of the Mississippi Anti-Human Trafficking Act,
123 codified at Sections 97-3-54 through 97-3-54.4, Mississippi Code
124 of 1972.

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

128 (3) Any individual employee who presents any fictitious,
129 fraudulently altered or fraudulently obtained Mississippi driver's
130 license for the purposes of securing authorization for employment

131 in the State of Mississippi shall be subject to the penalties set
132 forth in Section 63-1-60, Mississippi Code of 1972.

133 **SECTION 7. Mississippi Employment Protection Task Force.**

134 (1) There is created the Mississippi Employment Protection
135 Task Force, which shall be composed of nine (9) members as
136 follows:

137 (a) Two (2) members appointed by the Governor;

138 (b) Two (2) members of the Senate appointed by the
139 Lieutenant Governor;

140 (c) Two (2) members of the House of Representatives
141 appointed by the Speaker of the House;

142 (d) One (1) representative from the Mississippi
143 Department of Employment Security;

144 (e) One (1) representative from the Office of the
145 Secretary of State; and

146 (f) One (1) representative from the Office of the
147 Attorney General.

148 (2) All members of the task force shall be designated or
149 appointed in accordance with Section 1 above and shall be so
150 designated or appointed in sufficient time so as to allow for all
151 members of the task force to be identified prior to the first
152 meeting of the task force.

153 (3) The first meeting of the task force shall take place no
154 later than July 1, 2007, on the call of the Governor at a place
155 designated by him. At the first meeting of the task force, the
156 members shall elect a chairman and a vice chairman from its
157 membership. Following the election of the chairman and the vice
158 chairman, the task force shall adopt rules for transacting its
159 business and keeping records.

160 (4) The duties of the task force shall be to:

161 (a) Conduct a study of the status of the federal
162 immigration and nationality laws, acts and policies to determine
163 the implementation of state law;

164 (b) Review and determine the potential penalties,
165 judicial process and enforcement provisions applicable under state
166 law;

167 (c) Determine the adequate funding and personnel
168 requirements necessary to carry out any state laws;

169 (d) Make appropriate findings and recommendations
170 regarding the matters considered above in accordance with the
171 necessity for state laws regarding employment protection.

172 (5) Before December 31, 2007, the task force shall develop
173 and make a report presenting such findings and recommendations to
174 the Governor and to all members of the Legislature for
175 consideration during the 2008 Regular Session.

176 (6) The Mississippi Department of Employment Security shall
177 provide appropriate staff support and shall designate an
178 appropriate employee to act as a point of contact for the
179 provision of staff support to the task force. All other agencies,
180 departments, offices and institutions of the state, including all
181 state universities and community and junior colleges, shall
182 cooperate with the task force and provide such assistance as
183 requested by the task force.

184 (7) The task force shall be dissolved at the end of the 2008
185 Legislative Session.

186 **SECTION 8. Effective date and repealer.** This act shall take
187 effect and be in force from and after July 1, 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 DEFINITIONS; TO PROVIDE THAT EMPLOYERS IN THE STATE OF
3 MISSISSIPPI SHALL FOLLOW THE VERIFICATION OF EMPLOYMENT
4 ELIGIBILITY PROCEDURES PRESCRIBED IN APPLICABLE FEDERAL LAW; TO
5 REQUIRE PUBLIC CONTRACTORS AND STATE CONTRACTS TO PROVIDE BEFORE

6 THE EMPLOYMENT OF ONLY AUTHORIZED ALIENS, AND TO DIRECT THE OFFICE
7 OF PURCHASING TO ADOPT APPROPRIATE REGULATIONS REGARDING THE
8 EMPLOYMENT OF AUTHORIZED ALIENS; TO INCORPORATE FEDERAL PENALTIES
9 AND CERTAIN SUPPLEMENTAL PENALTIES FOR VIOLATIONS OF THIS EMPLOYEE
10 VERIFICATION REQUIREMENT; TO CREATE THE MISSISSIPPI EMPLOYMENT
11 PROTECTION TASK FORCE TO DEVELOP A REPORT TO THE GOVERNOR AND THE
12 LEGISLATURE ON THE NECESSITY OF LEGISLATION REGARDING IMMIGRATION
13 AND ALIEN CERTIFICATION; AND FOR RELATED PURPOSES.

CONFEREES FOR THE HOUSE

X (SIGNED)
Moss

(NOT SIGNED)
Buck

X (SIGNED)
Lott

CONFEREES FOR THE SENATE

(NOT SIGNED)
Doxey

X (SIGNED)
White

X (SIGNED)
Brown