MISSISSIPPI LEGISLATURE REGULAR SESSION 2011

By: Senator(s) Clarke To: Judiciary, Division A

SENATE BILL NO. 2421

AN ACT TO AMEND SECTION 71-3-51, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT DECISIONS MADE BY THE WORKERS' COMPENSATION COMMISSION MAY BE APPEALED DIRECTLY TO THE COURT OF APPEALS; TO AMEND SECTION 9-4-3, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 71-3-51, Mississippi Code of 1972, is amended as follows:

71-3-51. The final award of the commission shall be conclusive and binding unless either party to the controversy *** * ***, within thirty (30) days from the date of its filing in the office of the commission *** * ***, shall appeal therefrom to the Court of Appeals. Notice of the filing of the decision shall be sent by the commission to the parties. The commission shall review and decide a party's claim that timely notice was not received by utilizing by analogy the Mississippi Rule of Appellate Procedure applicable to failure to receive notice of the entry of a judgment.

Such appeal may be taken by filing notice of appeal with the commission, whereupon the commission shall under its certificate transmit to the Court of Appeals all documents and papers on file in the matter, together with a transcript of the evidence, the findings, and award, which shall thereupon become the record of the cause. If the notice of appeal is mistakenly filed with the clerk of the Court of Appeals, the clerk will note the date on which it was received and transmit the notice to the commission; such notice shall be considered received by the commission on the date received by the clerk of the Court of Appeals. Appeals shall

be considered only upon the record as made before the commission. * * * The Court of Appeals shall review all questions of law and of fact. If no prejudicial error is found, the matter shall be affirmed * * *. If prejudicial error is found, the commission's decision shall be reversed and the Court of Appeals shall enter such judgment or award as the commission should have entered or remand for further commission action, as warranted. Review of decisions of the Court of Appeals by the Supreme Court shall be by petition for certiorari as * * * required by law. An appeal from the commission to the Court of Appeals shall not act as a supersedeas unless the court * * * shall so direct, and then upon such terms as the court imposes.

No controversy shall be heard by the commission or an award of compensation made therein while the same matter is pending either before a federal court or in any court in this state. Once judicial review of a commission decision has been completed and no further review is procedurally available, the continuing jurisdiction of the commission and the jurisdiction of any court shall be as otherwise provided by statute.

Any award of compensation made by the Court of Appeals and reviewed by the Supreme Court shall bear the same interest and penalties as do other judgments awarded in the Court of Appeals.

SECTION 2. Section 9-4-3, Mississippi Code of 1972, is amended as follows:

9-4-3. (1) The Court of Appeals shall have the power to determine or otherwise dispose of any appeal or other proceeding assigned to it by the Supreme Court.

Except as otherwise provided by law, the jurisdiction of the Court of Appeals is limited to those matters which have been assigned to it by the Supreme Court.

The Supreme Court shall prescribe rules for the assignment of matters to the Court of Appeals. These rules may provide for the selective assignment of individual cases and may provide for the

assignment of cases according to subject matter or other general criteria. However, the Supreme Court shall retain appeals in cases imposing the death penalty, or cases involving utility rates, annexations, bond issues, election contests, or a statute held unconstitutional by the lower court.

(2) Decisions of the Court of Appeals are final and are not subject to review by the Supreme Court, except by writ of certiorari. The Supreme Court may grant certiorari review only by the affirmative vote of four (4) of its members. At any time before final decision by the Court of Appeals, the Supreme Court may, by order, transfer to the Supreme Court any case pending before the Court of Appeals.

(3) The Court of Appeals shall have jurisdiction to issue writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition or any other process when this may be necessary in any case assigned to it by the Supreme Court.

(4) The Court of Appeals shall issue a decision in every case heard before the Court of Appeals within two hundred seventy (270) days after the final briefs have been filed with the court.

(5) The Supreme Court shall issue a decision in every case within its original jurisdiction, including all direct and post-conviction collateral relief appeals or applications in cases imposing the death penalty, within two hundred seventy (270) days after the final briefs have been filed with the court. The Supreme Court shall issue a decision in every case received on certiorari from the Court of Appeals within one hundred eighty (180) days after the final briefs have been filed with the court.

SECTION 3. This act shall take effect and be in force from and after July 1, 2011.