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CHAPTER 89

STATE OF MISSISSIPPI

Office of the Governor

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HOUSE OF REPRESENTATIVES

April 21, 2014

TO THE MEMBERS OF THE HOUSE OF REPRESENTATIVES AND THE MISSISSIPPI SENATE:

GOVERNOR'S SIGNING STATEMENT FOR HOUSE BILL 1501

I am signing House Bill 1501, "AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF REHABILITIATION SERVICES FOR FISCAL YEAR 2015," despite unnecessary language in one section of the bill with which I disagree.

The first sentence of Section 10 of House Bill 1501 references a separate appropriation made to the Department of Mental Health (DMH) "to expand community services" for individuals with mental illnesses and intellectual or developmental disabilities. I fully support that appropriation and approved it as law by signing the DMH appropriations bill. Unfortunately, the remainder of this sentence and similar language in the DMH bill could be read to imply that the State of Mississippi is not in compliance with the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101 *et seq.*, as interpreted in *Olmstead v. L.C.*, 527 U.S. 581 (1999). In fact, the State is in compliance with the ADA and *Olmstead*. I understand that the United States Department of Justice (DOJ) has suggested otherwise; however, DOJ's expansive interpretation of *Olmstead* not only lacks legal support but also raises serious constitutional questions, and DOJ's factual allegations are unsubstantiated. A lawsuit that DOJ filed against one of our neighboring states based on similar theories and allegations was dismissed by a federal judge as without merit. *United States v. Arkansas*, 794 F. Supp. 2d 935 (E.D. Ark. 2011). In dismissing the lawsuit, the judge noted that DOJ was "in the odd position of asserting that certain persons' rights have been and are being violated while those persons—through their parents and guardians—disagree." *Id.* at 937. The situation in Mississippi appears to be much the same.

Nonetheless, I am signing House Bill 1501 because I support the underlying appropriation and have no other objection to the bill, and because the superfluous language in Section 10 has no legal significance.

Respectfully submitted,

Phil Bryant

Phil Bryant
GOVERNOR

Chapter No. 89
14/HR40/A330SG
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HOUSE BILL NO. 1501

Originated in House _____ Clerk

HOUSE BILL NO. 1501

AN ACT MAKING AN APPROPRIATION TO THE DEPARTMENT OF REHABILITATION SERVICES FOR FISCAL YEAR 2015.

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

SECTION 1. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in the State General Fund not otherwise appropriated, to the Department of Rehabilitation Services for the fiscal year beginning July 1, 2014, and ending June 30, 2015..... $ 22,037,453.00.

SECTION 2. The following sum, or so much thereof as may be necessary, is hereby appropriated out of any money in any special fund in the State Treasury to the credit of the Department of Rehabilitation Services which is comprised of special source funds collected by or otherwise available to the department for the support of the various offices of the department, for the purpose of defraying the expenses of the department for the fiscal year beginning July 1, 2014, and ending June 30, 2015..... $ 194,410,407.00.

SECTION 3. Of the funds appropriated under the provisions of Section 2, Three Million Six Hundred Eighty-one Thousand Eight Hundred Two Dollars ($3,681,802.00) shall be derived from the Health Care Expendable Fund created in Section 43-13-407, Mississippi Code of 1972. The above funds shall be allocated as follows:

Fully match all available federal funds	$	2,782,590.00
Independent Living Program which includes the State Attendant Care Program	$	854,903.00
Deaf and hard of hearing	$	44,309.00

SECTION 4. Of the funds appropriated under the provisions of Sections 1, 2 and 3, the following positions are authorized:

AUTHORIZED POSITIONS:

Permanent:	Full Time	988
	Part Time	8
Time-Limited:	Full Time	171
	Part Time	2

The Office of Vocational Rehabilitation for the Blind shall remain accredited by using not more than Five Hundred Dollars ($500.00) of the funds appropriated along with matching funds for payment of fees to an accreditation agency recommended by the Rehabilitation Services Administration.

With the funds herein appropriated, it is the intention of the Legislature that it shall be the agency's responsibility to make certain that funds required to be appropriated for "Personal Services" for Fiscal Year 2016 do not exceed Fiscal Year 2015 funds appropriated for that purpose, unless programs or positions are added to the agency's Fiscal Year 2015 budget by the Mississippi Legislature. Based on data provided by the Legislative Budget Office, the State Personnel Board shall determine and publish the projected annual cost to fully fund all appropriated positions in compliance with the provisions of this act. It shall be the responsibility of the agency head to ensure that no single personnel action increases this projected annual cost and/or the Fiscal Year 2015 appropriations for "Personal Services" when annualized, with the exception of escalated funds. If, at the time the agency takes any action to change "Personal Services," the State Personnel Board determines that the agency has taken an action which would cause the agency to exceed this projected annual cost or the Fiscal Year 2015 "Personal Services" appropriated level, when annualized, then only those actions which reduce the projected annual cost and/or the appropriation requirement will be processed by the State Personnel Board until such time as the requirements of this provision are met.

Funds are provided herein for a One Thousand Dollar ($1,000.00) salary increase for full-time employees, or pro-rated for part-time employees, which shall be awarded to each employee

that has not received a salary increase since July 1, 2010, and that is making an annual salary of less than Thirty Thousand Dollars ($30,000.00) as of June 30, 2014.

The State Personnel Board shall not approve or process personnel action for any employee unless the employee has not received a salary increase since July 1, 2010, and for such an employee the increased amount shall not exceed Five Percent (5%); however, the following conditions are to be exempted: the award of teacher salary increments; the advancement of a trainee/cadet to the next level of a bona fide career ladder; the award of an educational benchmark for the attainment of a Certified Public Accountant License or higher level professional certification; the immediate replacement of a departing employee with an employee from within state service at a salary level of the departing employee or the FY 2015 promotional formula, whichever is less; the emergency appointment of nurses, pharmacists or other health care and child protection professionals at a salary to be determined by the State Personnel Board or any other requested action of the agency that has been specifically authorized by the Legislature.

Any transfers or escalations shall be made in accordance with the terms, conditions and procedures established by law or allowable under the terms set forth within this act. The State Personnel Board shall not escalate positions without written approval from the Department of Finance and Administration. The

Department of Finance and Administration shall not provide written approval to escalate any funds for salaries and/or positions without proof of availability of new or additional funds above the appropriated level.

No general funds authorized to be expended herein shall be used to replace federal funds and/or other special funds which are being used for salaries authorized under the provisions of this act and which are withdrawn and no longer available.

SECTION 5. It is the intention of the Legislature that the Department of Rehabilitation Services shall maintain complete accounting and personnel records related to the expenditure of all funds appropriated under this act and that such records shall be in the same format and level of detail as maintained for Fiscal Year 2014. It is further the intention of the Legislature that the agency's budget request for Fiscal Year 2016 shall be submitted to the Joint Legislative Budget Committee in a format and level of detail comparable to the format and level of detail provided during the Fiscal Year 2015 budget request process.

SECTION 6. Of the funds appropriated herein, the Mississippi Department of Rehabilitation Services through the Office of Vocational Rehabilitation for the Blind is authorized to expend an amount not to exceed One Hundred Thousand Dollars ($100,000.00) for the National Federation for the Blind (NFB) News line service to allow blind and visually impaired persons to access newspapers through toll-free telephone calls.

SECTION 7. It is the intention of the Legislature that whenever two (2) or more bids are received by this agency for the purchase of commodities or equipment, and whenever all things stated in such received bids are equal with respect to price, quality and service, the Mississippi Industries for the Blind shall be given preference. A similar preference shall be given to the Mississippi Industries for the Blind whenever purchases are made without competitive bids.

SECTION 8. In compliance with the "Mississippi Performance Budget and Strategic Planning Act of 1994," it is the intent of the Legislature that the funds provided herein shall be utilized in the most efficient and effective manner possible to achieve the intended mission of this agency. Based on the funding authorized, this agency shall make every effort to attain the targeted performance measures provided below:

Performance Measures	FY2015 Target
Disability Determination Svcs	
Dispositions (Number of)	102,000
Processing Time (Days)	99
Voc Rehab For The Blind	
Blind & Visually Impaired Served (Persons)	2,390
Persons Rehabilitated (Number of)	576
Number Served, Independent Living	725
Vocational Rehabilitation	

Clients Served (Number of)	19,982
Clients Rehabilitated (Number of)	4,000
Spinal Cord & Head Injury Prg	
Clients Served (Number of)	1,281
Special Disability Prgs	
Clients Served (Number of)	3,654
Administration	
Percentage of Total Budget	17.88

A reporting of the degree to which the performance targets set above have been or are being achieved shall be provided in the agency's budget request submitted to the Joint Legislative Budget Committee for Fiscal Year 2016.

SECTION 9. Of the funds appropriated herein, an additional One Million Dollars ($1,000,000.00) of Special Funds to be transferred from the Division of Medicaid are provided to fund the Independent Living, Home and Community Based Medicaid Waiver Program in the Office of Special Disability Programs.

SECTION 10. It is the intention of the Legislature that the Department of Rehabilitation Services shall have the authority to receive, escalate spending authority, and expend such sums as may be received from the Department of Mental Health, not to exceed Twenty Million Dollars ($20,000,000.00), to expand community services identified by the Mississippi Department of Mental Health that will improve the State of Mississippi's compliance with the Olmstead decision of the United States Supreme Court. Further, it

is the intention of the Legislature that any sums received from this source that are not expended during the fiscal year ending June 30, 2015, by the Department of Rehabilitation Services shall be reappropriated for the same purpose during the fiscal year ending June 30, 2016. Further, it is the intention of the Legislature that the Department of Rehabilitation Services shall account for the expenditure of these funds in sufficient detail to clearly show the purposes for which such funds were expended.

SECTION 11. Of the funds herein appropriated, an amount not to exceed One Hundred Eighty-seven Thousand Dollars ($187,000.00) shall fund the AmeriCorp Northtown Family Readiness Program.

SECTION 12. It is the intention of the Legislature that the funds herein appropriated shall be expended in compliance with Section 27-104-25, Mississippi Code of 1972, that no state agency shall incur obligations or indebtedness in excess of their appropriation and that the responsible officers, either personally or upon their official bonds, shall be held responsible for actions contrary to this provision.

SECTION 13. Of the funds appropriated under the provisions of Section 2, Six Hundred Thousand Dollars ($600,000.00), or so much thereof, shall be derived out of any money in the State Treasury to the credit of the Capital Expense Fund, as created in Section 27-103-303, Mississippi Code of 1972, and allocated in a manner as determined by the Treasurer's Office.

SECTION 14. The money herein appropriated shall be paid by the State Treasurer out of any money in the State Treasury to the credit of the proper fund or funds as set forth in this act, upon warrants issued by the State Fiscal Officer; and the State Fiscal Officer shall issue his warrants upon requisitions signed by the proper person, officer or officers, in the manner provided by law.

SECTION 15. This act shall take effect and be in force from and after July 1, 2014.

PASSED BY THE HOUSE OF REPRESENTATIVES
March 31, 2014

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 31, 2014

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

GOVERNOR

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