

By: Senator(s) Thames, Gordon, Furniss

To: Fees, Salaries and Administration; Appropriations

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 2789

1 AN ACT TO AMEND SECTION 25-3-33, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT SALARIES OF CERTAIN APPOINTIVE STATE AND DISTRICT
3 OFFICIALS SHALL BE ESTABLISHED BY THE STATE PERSONNEL BOARD; TO
4 AMEND SECTION 25-3-39, MISSISSIPPI CODE OF 1972, TO LIMIT SALARIES
5 OF EXECUTIVE BRANCH EMPLOYEES TO 150% OF THAT SALARY PAID TO THE
6 GOVERNOR; TO AMEND SECTION 25-9-115, MISSISSIPPI CODE OF 1972, TO
7 CONFORM THERETO; AND FOR RELATED PURPOSES.

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

9 SECTION 1. Section 25-3-33, Mississippi Code of 1972, is
10 amended as follows:

11 25-3-33. (1) The annual salaries of the following
12 appointive state and district officials and employees shall be
13 established by the State Personnel Board subject to appropriations
14 by the Legislature:

15 Deputy Attorney General * * *

16 Assistant Attorneys General * * *

17 Military Department--National Guard: Adjutant General * * *

18 Department of Banking and Consumer Finance:

19 Commissioner * * *

20 Chairman of the State Tax Commission * * *

21 Associate Commissioners, each * * *

22 Director of Emergency Management Agency * * *

23 Department of Public Safety:

24 Commissioner of Public Safety * * *

25 * * *

26 Department of Human Services: Director * * *

27 Workers' Compensation Commission:

28 Chairman * * *

29 Members, each * * *



30 Executive Director * * *
 31 Administrative Judge, each * * *
 32 Archives and History: Director * * *
 33 State Forester * * *
 34 State Oil and Gas Board: Secretary-Supervisor * * *
 35 Educational Television Authority: Executive Director * * *
 36 Director, Mississippi Library Commission * * *
 37 Executive Secretary, Public Service Commission * * *
 38 Parole Board:
 39 Chairman * * *
 40 Administrative Assistant for Parole Matters * * *
 41 Members * * *
 42 Governor's State Bond Advisory Division: Director * * *
 43 Employment Security Commission: Executive Director * * *
 44 Executive Director, Department of Mental Health * * *
 45 Director, Division of Medicaid * * *
 46 Director, State Department of Transportation * * *
 47 State Entomologist * * *
 48 Clerk of the Supreme Court * * *
 49 State Aid Engineer, Division of State Aid
 50 Road Construction * * *
 51 Executive Director, Judicial Performance Commission * * *
 52 Executive Director, Department of Finance
 53 and Administration * * *
 54 * * *
 55 Executive Director, State Fair Commission * * *
 56 Executive Director, Department of Wildlife,
 57 Fisheries and Parks * * *
 58 Executive Director, Department of Environmental Quality * * *
 59 Executive Director, Pat Harrison Waterway District * * *
 60 Executive Director, Pearl River Basin
 61 Development District * * *



62 Executive Director, Pearl River Valley
63 Water Supply District * * *

64 Executive Director, Tombigbee River Valley
65 Water Management District * * *

66 Director, Soil and Water Conservation Commission * * *

67 Commissioner, Mississippi Department of Corrections * * *

68 Executive Director, Mississippi Department of Information
69 Technology Services * * *

70 Director, Mississippi Bureau of Narcotics * * *

71 Executive Secretary, State Veterans Affairs Board * * *

72 Executive Officer, Veterans' Home Purchase Board * * *

73 Chief Administrative Officer, Motor Vehicle Commission * * *

74 Stadium Manager, Mississippi Veterans Memorial Stadium * * *

75 Executive Director, Mississippi Arts Commission * * *

76 Director, Mississippi Board of Nursing * * *

77 Director, State Board of Pharmacy * * *

78 Director, State Board of Public Contractors * * *

79 Director, Real Estate Commission * * *

80 Director of Support Services, Department of
81 Rehabilitation Services * * *

82 Executive Director, State Fire Academy * * *

83 * * *

84 Executive Director, State Board of Accountancy * * *

85 Executive Director, Mississippi Gaming Commission * * *

86 Executive Director, Mississippi Department
87 of Marine Resources * * *

88 Executive Director, State Board of Registration for
89 Professional Engineers and Land Surveyors * * *

90 Executive Director, Public Utilities Staff * * *

91 State Law Librarian * * *

92 State Personnel Director * * *

93 Manager, Farmers Central Market, Department
94 of Agriculture and Commerce * * *



95 State Veterinarian * * *

96 Executive Director, Mississippi Ethics

97 Commission * * *

98 (2) In determining the annual salary to be paid to each
99 official listed in subsection (1), the State Personnel Board shall
100 consider the types and magnitude of the duties and
101 responsibilities of each, and shall compare and consider the
102 compensation paid to persons with similar competencies and
103 responsibilities in other public institutions and in the private
104 sector.

105 **SECTION 2.** Section 25-3-39, Mississippi Code of 1972, is
106 amended as follows:

107 25-3-39. (1) No public officer, public employee,
108 administrator, or executive head of any arm or agency of the
109 state, in the executive branch of government, shall be paid a
110 salary or compensation, directly or indirectly, greater than one
111 hundred fifty percent (150%) of the salary fixed in Section
112 25-3-31 for the Governor. All academic officials, members of the
113 teaching staffs and employees of the state institutions of higher
114 learning, the State Board for Community and Junior Colleges, and
115 community and junior colleges, and licensed physicians who are
116 public employees, shall be exempt from this subsection. * * * The
117 Governor shall fix the annual salary of the Executive Director of
118 the Mississippi Development Authority and the annual salary of the
119 Chief of Staff of the Governor's Office, which salaries shall be
120 completely paid by the state and may not be supplemented with any
121 funds from any source, including federal or private funds.
122 Provided, however, that the salary of the Executive Director of
123 the Mississippi Development Authority and the Governor's Chief of
124 Staff shall not be greater than one hundred fifty percent (150%)
125 of the salary of the Governor.

126 (2) No public officer, employee or administrator shall be
127 paid a salary or compensation, directly or indirectly, in excess



128 of the salary of the executive head of the state agency or
129 department in which he is employed. The State Personnel Board,
130 based upon its findings of fact, may exempt physicians and
131 actuaries from this subsection when the acquisition of such
132 professional services is precluded based on the prevailing wage in
133 the relevant labor market.

134 **SECTION 3.** Section 25-9-115, Mississippi Code of 1972, is
135 amended as follows:

136 25-9-115. It shall be the specific duty and function of the
137 State Personnel Board to:

138 (a) Represent the public interest in the improvement of
139 personnel administration in the state departments, agencies and
140 institutions covered by the State Personnel System;

141 (b) Determine appropriate goals and objectives for the
142 State Personnel System and prescribe policies for their
143 accomplishment, with the assistance of the Mississippi Personnel
144 Advisory Council;

145 (c) Adopt and amend policies, rules and regulations
146 establishing and maintaining the State Personnel System. Such
147 rules and regulations shall not be applicable to the emergency
148 hiring of employees by the Public Employees' Retirement System
149 pursuant to Section 25-11-15(7). The rules and regulations of the
150 Mississippi Classification Commission and the Mississippi
151 Coordinated Merit System Council serving federal grant-aided
152 agencies in effect on February 1, 1981, shall remain in effect
153 until amended, changed, modified or repealed by the board;

154 (d) Ensure uniformity in all functions of personnel
155 administration in those agencies required to comply with the
156 provisions of this chapter. The board may delegate authority to
157 the State Personnel Director as deemed necessary for the timely,
158 effective and efficient implementation of the State Personnel
159 System;



160 (e) Appoint an employee appeals board, consisting of
161 three (3) hearing officers, for the purpose of holding hearings,
162 compiling evidence and rendering decisions on employee dismissals
163 and other personnel matters as provided for in Sections 25-9-127
164 through 25-9-131. Hearing officers are not entitled to serve
165 beyond their appointed term unless reappointed by the State
166 Personnel Board;

167 (f) Assure uniformity in the administration of state
168 and federal laws relating to merit administration;

169 (g) Establish an annual budget covering all the costs
170 of board operations;

171 (h) With the assistance of the Mississippi Personnel
172 Advisory Council, promote public understanding of the purposes,
173 policies and practices of the State Personnel System and advise
174 and assist the state departments, agencies and institutions in
175 fostering sound principles of personnel management and securing
176 the interest of institutions of learning and of civic,
177 professional and other organizations in the improvement of
178 personnel standards under the State Personnel System;

179 (i) Recommend policies and procedures for the
180 establishment and abolishment of employment positions within state
181 government and develop a system for the efficient use of personnel
182 resources;

183 (j) Cooperate with state institutions of higher
184 learning in implementing a career management program in state
185 agencies for graduate students in public administration in order
186 to provide state government with a steady flow of professional
187 public managerial talent;

188 (k) Prescribe rules which shall provide that an
189 employee in state service is not obliged, by reason of his
190 employment, to contribute to a political fund or to render
191 political service, and that he may not be removed or otherwise
192 prejudiced for refusal to do so;



193 (1) Prescribe rules which shall provide that an
194 employee in state service shall not use his official authority or
195 influence to coerce the political action of a person or body;

196 (m) Annually report to the Governor and Legislature on
197 the operation of the State Personnel System and the status of
198 personnel administration in state government;

199 (n) Require submission and approve organization and
200 staffing plans of departments and agencies in state and nonstate
201 service on such forms and according to such regulations as the
202 board may prescribe to control and limit the growth of subordinate
203 executive and administrative units and positions and to provide
204 for agency staff reorganization without prior board approval when
205 authority to reorganize has been delegated to an agency as
206 provided in paragraph (p);

207 (o) In coordination with appointing authorities, set
208 the annual salaries of those appointed officials whose salaries
209 are not otherwise set by statute who work on a full-time basis in
210 the capacity of agency head, executive director or administrator
211 of any state department, agency, institution, board or commission
212 under the jurisdiction of the State Personnel Board as provided in
213 Section 25-9-101 et seq., in conformity with the State Personnel
214 Board's compensation plan. Salaries of incumbents required by law
215 to serve in their professional capacity as a physician, dentist,
216 veterinarian or attorney shall be set in accordance with Section
217 25-9-107(c) (xiii);

218 (p) Authorize the director to enter into formal
219 agreements with department executive directors and agency
220 directors in which employment positions within their agencies may
221 be reallocated and organization charts amended without prior State
222 Personnel Board approval; however, such agreements shall be
223 revocable by the State Personnel Board and continuation shall be
224 contingent upon the reallocations and reorganizations being
225 conducted in accordance with rules and regulations promulgated by



226 the State Personnel Board. In the event the State Personnel Board
227 has delegated reallocation authority to an agency, this delegation
228 does not remove the requirement that agencies submit personal
229 services budget requests each fiscal year for the purpose of
230 preparing personal services continuation budget projections. Such
231 budget requests shall be prepared in accordance with the policies,
232 rules and regulations promulgated by the Department of Finance and
233 Administration, the Legislative Budget Office and the State
234 Personnel Board. Prior to making any reallocation or
235 reorganization effective, each appointing authority who has
236 entered into an agreement as provided in this paragraph shall
237 certify to the State Personnel Board that the total annualized
238 cost of any reallocation or reorganization shall be equal to or
239 less than the cost savings generated through downward reallocation
240 or position abolishment of vacant positions.

241 The personnel board shall maintain a record of every
242 personnel transaction executed under authority delegated pursuant
243 to this paragraph and shall annually report the total cost of
244 these transactions, by agency, to the Legislative Budget Office
245 and the Department of Finance and Administration.

246 The State Personnel Board shall prescribe rules requiring the
247 State Personnel Director to perform a compliance audit and
248 evaluation of personnel transactions executed under authority
249 delegated pursuant to this paragraph and to publish a report of
250 the audit listing exceptions taken by the State Personnel Director
251 not later than the first of October each year. In the event the
252 State Personnel Board determines that an agency has misclassified
253 an employee or position as a result of this delegated authority,
254 the State Personnel Board shall be authorized to correct such
255 misclassification regardless of the state service status of the
256 employee holding such position. Authority to correct such
257 misclassifications of filled positions shall be limited to one (1)



258 year from the date which the State Personnel Board receives
259 written notice of the reallocation;

260 (q) Require that if an employment position has been
261 determined to be in need of reallocation from one occupational
262 class to another, the employee occupying the position shall meet
263 the minimum qualifications for the occupational class to which the
264 position is being reallocated in order for the position to be
265 eligible for the reallocation. However, when a reallocation is
266 based upon an agency reorganization due to documented funds
267 constraints, documented change in agency function, or legislative
268 mandate, a position may be reallocated with prior approval of the
269 State Personnel Board;

270 (r) Implement a reduction-in-force policy which shall
271 apply uniformly to all state agencies and which shall require that
272 the appointing authority develop an equitable and systematic plan
273 for implementation of an agency-wide reduction-in-force. If a
274 proposed reduction-in-force is the result of a curtailment of
275 general funds, the State Personnel Board shall review the proposed
276 reduction-in-force plan only upon written certification of a
277 general funds shortage from the Department of Finance and
278 Administration. If a proposed reduction-in-force is the result of
279 a curtailment of special funds, the State Personnel Board shall
280 review the proposed reduction-in-force plan only upon written
281 certification of a special funds shortage from the agency.
282 Further, the State Personnel Board shall ensure that any
283 reduction-in-force plan complies with all applicable policies,
284 rules and regulations of the State Personnel Board;

285 (s) Implement a furlough (involuntary leave without
286 pay) policy which shall apply uniformly to all executive and
287 subordinate employees within an agency, regardless of job class.
288 The State Personnel Board shall review furlough plans only upon
289 written certification of a general funds shortage from the
290 Department of Finance and Administration or written certification



291 of a special funds shortage from the agency. The State Personnel
292 Board shall ensure that any furlough plan complies with all
293 applicable policies, rules and regulations of the State Personnel
294 Board;

295 (t) Establish policies in accordance with Section
296 25-3-39 which precludes any employee under the salary setting
297 authority of the State Personnel Board from receiving an annual
298 salary greater than one hundred fifty percent (150%) of the salary
299 of the Governor, and any employee within an agency from receiving
300 an annual salary greater than the agency head. Employees
301 currently receiving an annual salary exceeding the Governor or
302 their agency head may retain their present salary but shall not
303 receive an increase until such time as the provisions of this
304 paragraph are met.

305 This section shall stand repealed from and after June 30,
306 2003.

307 **SECTION 4.** This act shall take effect and be in force from
308 and after January 1, 2004.

