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

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

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

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

- Deputy Attorney General
- Assistant Attorney General
- Military Department--National Guard: Adjutant General
- Department of Banking and Consumer Finance: Commissioner
- Chairman of the State Tax Commission
- Associate Commissioners
- Director of Emergency Management Agency
- Department of Public Safety:
  - Commissioner of Public Safety
  - Director, Office of Mississippi Highway Safety Patrol, or his successor
  - Director, Office of Support Services, or his successor
- Department of Human Services: Director
Workers' Compensation Commission:

Chairman * * *
Members * * *
Executive Director * * *
Administrative Judge * * *

Archives and History: Director * * *

State Forester * * *
State Oil and Gas Board: Secretary-Supervisor * * *
Educational Television Authority: Executive Director * * *
Director, Mississippi Library Commission * * *
Executive Secretary, Public Service Commission * * *

Parole Board:

Chairman * * *
Administrative Assistant for Parole Matters * * *
Members * * *

Governor's State Bond Advisory Division: Director * * *
Employment Security Commission: Executive Director * * *
Executive Director, Department of Mental Health * * *
Director, Division of Medicaid * * *
Director, State Department of Transportation * * *
State Entomologist * * *
Clerk of the Supreme Court * * *

State Aid Engineer, Division of State Aid
Road Construction * * *
Executive Director, Judicial Performance Commission * * *
Executive Director, Department of Finance and Administration * * *

Superintendent, Mississippi School for the Blind * * *
Superintendent, Mississippi School for the Deaf * * *
Executive Director, State Fair Commission * * *
Executive Director, Department of Wildlife, Fisheries and Parks * * *
Executive Director, Department of Environmental Quality * * *

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Executive Director, Pat Harrison Waterway District

Executive Director, Pearl River Basin Development District

Executive Director, Pearl River Valley Water Supply District

Executive Director, Tombigbee River Valley Water Management District

Director, Soil and Water Conservation Commission

Commissioner, Mississippi Department of Corrections

Executive Director, Mississippi Department of Information Technology Services

Director, Mississippi Bureau of Narcotics

Executive Secretary, State Veterans Affairs Board

Executive Officer, Veterans' Home Purchase Board

Chief Administrative Officer, Motor Vehicle Commission

Stadium Manager, Mississippi Veterans Memorial Stadium

Executive Director, Mississippi Arts Commission

Director, Mississippi Board of Nursing

Director, State Board of Pharmacy

Director, State Board of Public Contractors

Director, Real Estate Commission

Director of Support Services, Department of Rehabilitation Services

Executive Director, State Fire Academy

Executive Director, Law Enforcement Officers Training Academy

Executive Director, State Board of Accountancy

Executive Director, Mississippi Gaming Commission

Executive Director, Mississippi Department of Marine Resources

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

Executive Director, Public Utilities Staff
State Law Librarian

State Personnel Director

Manager, Farmers Central Market, Department of Agriculture and Commerce

State Veterinarian

Executive Director, Mississippi Ethics Commission

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

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

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

(2) No public officer, employee or administrator shall be paid a salary or compensation, directly or indirectly, in excess of the salary of the executive head of the state agency or department in which he is employed. The State Personnel Board, based upon its findings of fact, may exempt physicians and actuaries from this subsection when the acquisition of such professional services is precluded based on the prevailing wage in the relevant labor market.

SECTION 3. Section 25-9-115, Mississippi Code of 1972, is amended as follows:
25-9-115. It shall be the specific duty and function of the State Personnel Board to:
   (a) Represent the public interest in the improvement of personnel administration in the state departments, agencies and institutions covered by the State Personnel System;
   (b) Determine appropriate goals and objectives for the State Personnel System and prescribe policies for their accomplishment, with the assistance of the Mississippi Personnel Advisory Council;
   (c) Adopt and amend policies, rules and regulations establishing and maintaining the State Personnel System. Such rules and regulations shall not be applicable to the emergency hiring of employees by the Public Employees' Retirement System pursuant to Section 25-11-15(7). The rules and regulations of the Mississippi Classification Commission and the Mississippi Coordinated Merit System Council serving federal grant-aided agencies in effect on February 1, 1981, shall remain in effect until amended, changed, modified or repealed by the board;
   (d) Ensure uniformity in all functions of personnel administration in those agencies required to comply with the provisions of this chapter. The board may delegate authority to

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the State Personnel Director as deemed necessary for the timely,
effective and efficient implementation of the State Personnel System;
(e) Appoint an employee appeals board, consisting of three (3) hearing officers, for the purpose of holding hearings,
compiling evidence and rendering decisions on employee dismissals and other personnel matters as provided for in Sections 25-9-127 through 25-9-131. Hearing officers are not entitled to serve beyond their appointed term unless reappointed by the State Personnel Board;
(f) Assure uniformity in the administration of state and federal laws relating to merit administration;
(g) Establish an annual budget covering all the costs of board operations;
(h) With the assistance of the Mississippi Personnel Advisory Council, promote public understanding of the purposes, policies and practices of the State Personnel System and advise and assist the state departments, agencies and institutions in fostering sound principles of personnel management and securing the interest of institutions of learning and of civic, professional and other organizations in the improvement of personnel standards under the State Personnel System;
(i) Recommend policies and procedures for the establishment and abolishment of employment positions within state government and develop a system for the efficient use of personnel resources;
(j) Cooperate with state institutions of higher learning in implementing a career management program in state agencies for graduate students in public administration in order to provide state government with a steady flow of professional public managerial talent;
(k) Prescribe rules which shall provide that an employee in state service is not obliged, by reason of his
employment, to contribute to a political fund or to render
political service, and that he may not be removed or otherwise
prejudiced for refusal to do so;

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

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

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

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

(p) Authorize the director to enter into formal
agreements with department executive directors and agency
directors in which employment positions within their agencies may
be reallocated and organization charts amended without prior State
Personnel Board approval; however, such agreements shall be
revocable by the State Personnel Board and continuation shall be
contingent upon the reallocations and reorganizations being
carried out in accordance with rules and regulations promulgated by
the State Personnel Board. In the event the State Personnel Board
has delegated reallocation authority to an agency, this delegation
does not remove the requirement that agencies submit personal
services budget requests each fiscal year for the purpose of
preparing personal services continuation budget projections. Such
budget requests shall be prepared in accordance with the policies,
rules and regulations promulgated by the Department of Finance and
Administration, the Legislative Budget Office and the State
Personnel Board. Prior to making any reallocation or
reorganization effective, each appointing authority who has
entered into an agreement as provided in this paragraph shall
certify to the State Personnel Board that the total annualized
cost of any reallocation or reorganization shall be equal to or
less than the cost savings generated through downward reallocation
or position abolition of vacant positions.

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

The State Personnel Board shall prescribe rules requiring the
State Personnel Director to perform a compliance audit and
evaluation of personnel transactions executed under authority
delegated pursuant to this paragraph and to publish a report of
the audit listing exceptions taken by the State Personnel Director
not later than the first of October each year. In the event the
State Personnel Board determines that an agency has misclassified
an employee or position as a result of this delegated authority,
the State Personnel Board shall be authorized to correct such
misclassification regardless of the state service status of the
Authority to correct such misclassifications of filled positions shall be limited to one (1) year from the date which the State Personnel Board receives written notice of the reallocation;

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

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

(s) Implement a furlough (involuntary leave without pay) policy which shall apply uniformly to all executive and subordinate employees within an agency, regardless of job class. The State Personnel Board shall review furlough plans only upon
written certification of a general funds shortage from the Department of Finance and Administration or written certification of a special funds shortage from the agency. The State Personnel Board shall ensure that any furlough plan complies with all applicable policies, rules and regulations of the State Personnel Board;

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

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

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