

By: Representatives Janus, Akins, Aldridge,
Beckett, Bentz, Davis, Fillingane, Hamilton
(6th), Lott, Martinson, Mims, Moore, Simpson,
Wells-Smith, Zuber

To: Appropriations

HOUSE BILL NO. 1307

1 AN ACT TO AMEND SECTION 25-9-107, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THROUGH JUNE 30, 2005, ALL EMPLOYEES OF EACH STATE
3 AGENCY FOR WHICH THE GOVERNOR IS SPECIFICALLY AUTHORIZED BY STATE
4 LAW TO APPOINT THE ADMINISTRATIVE HEAD, EXCEPT FOR THE MILITARY
5 DEPARTMENT, SHALL BE NONSTATE SERVICE EMPLOYEES; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 25-9-107, Mississippi Code of 1972, is
9 amended as follows:

10 25-9-107. The following terms, when used in this chapter,
11 unless a different meaning is plainly required by the context,
12 shall have the following meanings:

13 (a) "Board" means the State Personnel Board created
14 under the provisions of this chapter.

15 (b) "State service" means all employees of state
16 departments, agencies and institutions as defined in this section,
17 except those officers and employees excluded by this chapter.

18 (c) "Nonstate service" means the following officers and
19 employees excluded from the state service by this chapter. The
20 following are excluded from the state service:

21 (i) Members of the State Legislature, their staffs
22 and other employees of the legislative branch;

23 (ii) The Governor and staff members of the
24 immediate Office of the Governor;

25 (iii) Justices and judges of the judicial branch
26 or members of appeals boards on a per diem basis;

27 (iv) The Lieutenant Governor, staff members of the
28 immediate Office of the Lieutenant Governor and officers and
29 employees directly appointed by the Lieutenant Governor;

30 (v) Officers and officials elected by popular vote
31 and persons appointed to fill vacancies in elective offices;

32 (vi) Members of boards and commissioners appointed
33 by the Governor, Lieutenant Governor or the State Legislature;

34 (vii) All academic officials, members of the
35 teaching staffs and employees of the state institutions of higher
36 learning, the State Board for Community and Junior Colleges, and
37 community and junior colleges;

38 (viii) Officers and enlisted members of the
39 National Guard of the state;

40 (ix) Prisoners, inmates, student or patient help
41 working in or about institutions;

42 (x) Contract personnel; however, any agency that
43 employs state service employees may enter into contracts for
44 personal and professional services only if those contracts are
45 approved in compliance with the rules and regulations promulgated
46 by the State Personal Service Contract Review Board under Section
47 25-9-120(3). Before paying any warrant for those contractual
48 services in excess of One Hundred Thousand Dollars (\$100,000.00),
49 the State Fiscal Officer shall determine whether the contract
50 involved was for personal or professional services, and, if so,
51 was approved by the State Personal Service Contract Review Board;

52 (xi) Part-time employees; * * * however, part-time
53 employees shall only be hired into authorized employment positions
54 classified by the board, shall meet minimum qualifications as set
55 by the board, and shall be paid in accordance with the Variable
56 Compensation Plan as certified by the board;

57 (xii) Persons appointed on an emergency basis for
58 the duration of the emergency; the effective date of the emergency
59 appointments shall not be earlier than the date approved by the
60 State Personnel Director, and shall be limited to thirty (30)
61 working days. Emergency appointments may be extended to sixty
62 (60) working days by the State Personnel Board;

63 (xiii) Physicians, dentists, veterinarians, nurse
64 practitioners and attorneys, while serving in their professional
65 capacities in authorized employment positions who are required by
66 statute to be licensed, registered or otherwise certified as such,
67 provided that the State Personnel Director shall verify that the
68 statutory qualifications are met before issuance of a payroll
69 warrant by the State Fiscal Officer;

70 (xiv) Personnel who are employed and paid from
71 funds received from a federal grant program that has been approved
72 by the Legislature or the Department of Finance and Administration
73 whose length of employment has been determined to be time-limited
74 in nature. This subparagraph shall apply to personnel employed
75 under the provisions of the Comprehensive Employment and Training
76 Act of 1973, as amended, and other special federal grant programs
77 that are not a part of regular federally funded programs in which
78 appropriations and employment positions are appropriated by the
79 Legislature. Those employees shall be paid in accordance with the
80 Variable Compensation Plan and shall meet all qualifications
81 required by federal statutes or by the Mississippi Classification
82 Plan;

83 (xv) The administrative head who is in charge of
84 any state department, agency, institution, board or commission, in
85 which the statute specifically authorizes the Governor, board,
86 commission or other authority to appoint the administrative
87 head; * * * however, * * * the salary of that administrative head
88 shall be determined by the State Personnel Board in accordance
89 with the Variable Compensation Plan unless otherwise fixed by
90 statute;

91 (xvi) The State Personnel Board shall exclude top
92 level positions if the incumbents determine and publicly advocate
93 substantive program policy and report directly to the agency head,
94 or the incumbents are required to maintain a direct confidential
95 working relationship with a key excluded official. * * * A

96 written job classification shall be approved by the board for each
97 such position, and positions so excluded shall be paid in
98 conformity with the Variable Compensation Plan;

99 (xvii) Employees whose employment is solely in
100 connection with an agency's contract to produce, store or
101 transport goods, and whose compensation is derived therefrom;

102 (xviii) Repealed;

103 (xix) The associate director, deputy directors and
104 bureau directors within the Department of Agriculture and
105 Commerce;

106 (xx) Personnel employed by the Mississippi
107 Industries for the Blind; however, any agency may enter into
108 contracts for the personal services of MIB employees without the
109 prior approval of the State Personnel Board or the State Personal
110 Service Contract Review Board; and any agency contracting for the
111 personal services of an MIB employee shall provide the MIB
112 employee with not less than the entry level compensation and
113 benefits that the agency would provide to a full-time employee of
114 the agency who performs the same services;

115 (xxi) Personnel employed by the Mississippi
116 Department of Wildlife, Fisheries and Parks as law enforcement
117 trainees (cadets); those personnel shall be paid in accordance
118 with the Colonel Guy Groff State Variable Compensation Plan;

119 (xxii) Through June 30, 2005, all employees of
120 each state agency, board, commission, department or institution
121 for which the Governor is specifically authorized by state law to
122 appoint the administrative head, except for the Military
123 Department.

124 (d) "Agency" means any state board, commission,
125 committee, council, department or unit thereof created by the
126 Constitution or statutes if the board, commission, committee,
127 council, department, unit or the head thereof, is authorized to
128 appoint subordinate staff by the Constitution or statute, except a

129 legislative or judicial board, commission, committee, council,
130 department or unit thereof.

131 **SECTION 2.** This act shall take effect and be in force from
132 and after its passage.