

By: Representative Chism

To: Appropriations

HOUSE BILL NO. 1372

1 AN ACT TO AMEND SECTIONS 25-9-107 AND 25-9-127, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT FOR A PERIOD OF ONE YEAR, THE
3 PERSONNEL ACTIONS OF ALL EXECUTIVE AGENCIES SHALL BE EXEMPT FROM
4 CERTAIN STATE PERSONNEL BOARD PROCEDURES AND TO SUSPEND EMPLOYMENT
5 RIGHTS FOR ANY EMPLOYEE ADVERSELY AFFECTED DURING SUCH PERIOD; AND
6 FOR RELATED 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 herein, except
17 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; provided, that any agency
43 which employs state service employees may enter into contracts for
44 personal and professional services only if such 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 such contractual
48 services in excess of One Hundred Thousand Dollars (\$100,000.00),
49 the Auditor of Public Accounts, or the successor to those duties,
50 shall determine whether the contract involved was for personal or
51 professional services, and, if so, was approved by the State
52 Personal Service Contract Review Board;

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

59 (xii) Persons appointed on an emergency basis for
60 the duration of the emergency; the effective date of the emergency
61 appointments shall not be earlier than the date approved by the
62 State Personnel Director, and shall be limited to thirty (30)

63 working days. Emergency appointments may be extended to sixty
64 (60) working days by the State Personnel Board;

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

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

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

93 (xvi) The State Personnel Board shall exclude top
94 level positions if the incumbents determine and publicly advocate
95 substantive program policy and report directly to the agency head,

96 or the incumbents are required to maintain a direct confidential
97 working relationship with a key excluded official. Provided
98 further, a written job classification shall be approved by the
99 board for each such position, and positions so excluded shall be
100 paid in conformity with the Variable Compensation Plan;

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

104 (xviii) Repealed;

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

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

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

121 (xxii) For a period beginning with the effective
122 date of House Bill No. , 2005 Regular Session, through June
123 30, 2006, all employees in the executive branch of government who
124 are under the purview of the State Personnel Board.

125 (d) "Agency" means any state board, commission,
126 committee, council, department or unit thereof created by the
127 Constitution or statutes if such board, commission, committee,
128 council, department, unit or the head thereof, is authorized to

129 appoint subordinate staff by the Constitution or statute, except a
130 legislative or judicial board, commission, committee, council,
131 department or unit thereof.

132 **SECTION 2.** Section 25-9-127, Mississippi Code of 1972, is
133 amended as follows:

134 25-9-127. (1) No employee of any department, agency or
135 institution who is included under this chapter or hereafter
136 included under its authority, and who is subject to the rules and
137 regulations prescribed by the state personnel system may be
138 dismissed or otherwise adversely affected as to compensation or
139 employment status except for inefficiency or other good cause, and
140 after written notice and hearing within the department, agency or
141 institution as shall be specified in the rules and regulations of
142 the State Personnel Board complying with due process of law; and
143 any employee who has by written notice of dismissal or action
144 adversely affecting his compensation or employment status shall,
145 on hearing and on any appeal of any decision made in such action,
146 be required to furnish evidence that the reasons stated in the
147 notice of dismissal or action adversely affecting his compensation
148 or employment status are not true or are not sufficient grounds
149 for the action taken; provided, however, that this provision shall
150 not apply (a) to persons separated from any department, agency or
151 institution due to curtailment of funds or reduction in staff when
152 such separation is in accordance with rules and regulations of the
153 state personnel system; (b) during the probationary period of
154 state service of twelve (12) months; * * * (c) to an executive
155 officer of any state agency who serves at the will and pleasure of
156 the Governor, board, commission or other appointing authority; and
157 (d) All employees employed in the executive branch of
158 government who are under the purview of the State Personnel Board,
159 whose accumulated property interests in state service employment
160 shall be suspended for a period beginning upon the effective date
161 of House Bill No. , 2005 Regular Session, and through June 30,

162 2006, notwithstanding any existing statutory provision which
163 conveys state service status. The executive agencies named above
164 shall consult with the Office of the Attorney General before
165 taking personnel actions permitted by this section to review those
166 actions for compliance with applicable state and federal law.

167 (2) The operation of a state-owned motor vehicle without a
168 valid Mississippi driver's license by an employee of any
169 department, agency or institution that is included under this
170 chapter and that is subject to the rules and regulations of the
171 state personnel system shall constitute good cause for dismissal
172 of such person from employment.

173 (3) Beginning July 1, 1999, every male between the ages of
174 eighteen (18) and twenty-six (26) who is required to register
175 under the federal Military Selective Service Act, 50 USCS App.
176 453, and who is an employee of the state shall not be promoted to
177 any higher position of employment with the state until he submits
178 to the person, commission, board or agency by which he is employed
179 satisfactory documentation of his compliance with the draft
180 registration requirements of the Military Selective Service Act.
181 The documentation shall include a signed affirmation under penalty
182 of perjury that the male employee has complied with the
183 requirements of the federal selective service act.

184 **SECTION 3.** This act shall take effect and be in force from
185 and after its passage.