

By: Representatives Turner, Ladner

To: Accountability,
Efficiency, Transparency

HOUSE BILL NO. 768

1 AN ACT TO AMEND SECTION 25-9-127, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE AN AGENCY REQUESTING AN EXEMPTION FROM THE MISSISSIPPI
3 STATE PERSONNEL BOARD OVERSIGHT TO CREATE A WRITTEN PLAN
4 DESCRIBING THE JUSTIFICATION FOR REQUESTING AN EXEMPTION AND THE
5 ACTIONS THE AGENCY PLANS TO IMPLEMENT IF THE EXEMPTION IS GRANTED;
6 TO REQUIRE ADDITIONAL REPORTING REQUIREMENTS FOR ANY AGENCY
7 GRANTED AN EXEMPTION; AND FOR RELATED PURPOSES.

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

9 **SECTION 1.** Section 25-9-127, Mississippi Code of 1972, is
10 amended as follows:

11 25-9-127. (1) No employee of any department, agency or
12 institution who is included under this chapter or hereafter
13 included under its authority, and who is subject to the rules and
14 regulations prescribed by the state personnel system, may be
15 dismissed or otherwise adversely affected as to compensation or
16 employment status except for inefficiency or other good cause, and
17 after written notice and hearing within the department, agency or
18 institution as shall be specified in the rules and regulations of
19 the State Personnel Board complying with due process of law; and
20 any employee who has by written notice of dismissal or action



21 adversely affecting his compensation or employment status shall,
22 on hearing and on any appeal of any decision made in such action,
23 be required to furnish evidence that the reasons stated in the
24 notice of dismissal or action adversely affecting his compensation
25 or employment status are not true or are not sufficient grounds
26 for the action taken; however, this provision shall not apply:
27 (a) to persons separated from any department, agency or
28 institution due to curtailment of funds or reduction in staff when
29 such separation is in accordance with rules and regulations of the
30 state personnel system; (b) during the probationary period of
31 state service of twelve (12) months; and (c) to an executive
32 officer of any state agency who serves at the will and pleasure of
33 the Governor, board, commission or other appointing authority.

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

40 (3) Beginning July 1, 1999, every male between the ages of
41 eighteen (18) and twenty-six (26) who is required to register
42 under the federal Military Selective Service Act, 50 USCS App.
43 453, and who is an employee of the state shall not be promoted to
44 any higher position of employment with the state until he submits
45 to the person, commission, board or agency by which he is employed



46 satisfactory documentation of his compliance with the draft
47 registration requirements of the Military Selective Service Act.
48 The documentation shall include a signed affirmation under penalty
49 of perjury that the male employee has complied with the
50 requirements of the Military Selective Service Act.

51 (4) For a period of two (2) years beginning July 1, 2014,
52 the provisions of subsection (1) shall not apply to the personnel
53 actions of the State Department of Education that are subject to
54 the rules and regulations of the State Personnel Board, and all
55 employees of the department shall be classified as nonstate
56 service during that period. However, any employee hired after
57 July 1, 2014, by the department shall meet the criteria of the
58 State Personnel Board as it presently exists for employment. The
59 State Superintendent of Public Education and the State Board of
60 Education shall consult with the Office of the Attorney General
61 before taking personnel actions authorized by this section to
62 review those actions for compliance with applicable state and
63 federal law.

64 It is not the intention or effect of this section to include
65 any school attendance officer in any exemption from coverage under
66 the State Personnel Board policy or regulations, including, but
67 not limited to, termination and conditions of employment.

68 (5) (a) For a period of two (2) years beginning July 1,
69 2015, the provisions of subsection (1) shall not apply to the
70 personnel actions of the Department of Corrections, and all



71 employees of the department shall be classified as nonstate
72 service during that period. However, any employee hired after
73 July 1, 2015, by the department shall meet the criteria of the
74 State Personnel Board as it presently exists for employment.

75 (b) Additionally, for a period of one (1) year
76 beginning July 1, 2016, the personnel actions of the Commissioner
77 of the Department of Corrections shall be exempt from State
78 Personnel Board rules, regulations and procedures in order to give
79 the commissioner flexibility in making an orderly, effective and
80 timely reorganization and realignment of the department.

81 (c) The Commissioner of Corrections shall consult with
82 the Office of the Attorney General before personnel actions
83 authorized by this section to review those actions for compliance
84 with applicable state and federal law.

85 (6) Through July 1, 2020, the provisions of subsection (1)
86 of this section shall not apply to the personnel actions of the
87 Department of Human Services that are subject to the rules and
88 regulations of the State Personnel Board, and all employees of the
89 department shall be classified as nonstate service during that
90 period. Any employee hired on or after July 1, 2020, by the
91 department shall meet the criteria of the State Personnel Board as
92 it presently exists for employment. The Executive Director of
93 Human Services shall consult with the Office of the Attorney
94 General before taking personnel actions authorized by this section



95 to review those actions for compliance with applicable state and
96 federal law.

97 (7) Through July 1, 2020, the provisions of subsection (1)
98 of this section shall not apply to the personnel actions of the
99 Department of Child Protection Services that are subject to the
100 rules and regulations of the State Personnel Board, and all
101 employees of the department shall be classified as nonstate
102 service during that period. Any employee hired on or after July
103 1, 2020, by the division shall meet the criteria of the State
104 Personnel Board as it presently exists for employment. The
105 Commissioner of Child Protection Services shall consult with the
106 Office of the Attorney General before taking personnel actions
107 authorized by this section to review those actions for compliance
108 with applicable state and federal law.

109 (8) Any agency requesting an exemption from the State
110 Personnel Board as it presently exists for employment shall submit
111 to the Legislature and State Personnel Board a written plan
112 describing the justification for the requested exemption and the
113 actions the agency plans to implement if granted the exemption.
114 The written plan shall include:

115 (a) Justification for the requested exemption,
116 including the identification of issues the agency intends to
117 address;

118 (b) Actions to be taken during the exemption period
119 including the reasons for such actions; and



120 (c) The number of affected positions, associated costs
121 and the source of funds to pay for each action.

122 (* * *9) Any state agency whose personnel actions are
123 exempted in this section from the rules, regulations and
124 procedures of the State Personnel Board shall file with the State
125 Personnel Board, Lieutenant Governor, Speaker of the House of
126 Representatives, Legislative Budget Office, Joint Legislative
127 Committee on Performance Evaluation and Expenditure Review (PEER),
128 and the members of the Senate and House Accountability, Efficiency
129 and Transparency Committees an annual report no later than July 1
130 of each year while under the exemption. Such annual report shall
131 contain the following information:

132 (a) The number of current employees who received an
133 increase in salary during the past fiscal year and the amount of
134 the increase;

135 (b) The number of employees who were dismissed from the
136 agency or otherwise adversely affected as to compensation or
137 employment status during the past fiscal year, including a
138 description of such adverse effects;

139 (c) The number of new employees hired during the past
140 fiscal year and the starting salaries of each new employee; * * *

141 (d) Quantifiable measures showing that the actions
142 taken under authority of an exemption granted by this section have
143 improved efficiency or effectiveness, or both, of the agency's
144 operations * * *;



145 (e) The number of staff hired or promoted without the
146 minimum qualifications for their positions during the exemption
147 period; and

148 (f) Evidence to demonstrate that staff hired without
149 minimum qualifications are competent to perform their job duties.

150 **SECTION 2.** This act shall take effect and be in force from
151 and after July 1, 2023.

