

By: Representative Shows

To: Forestry

HOUSE BILL NO. 1050

1 AN ACT TO AMEND SECTION 25-9-107, MISSISSIPPI CODE OF 1972,  
2 TO PROVIDE THAT THE STATE FORESTRY COMMISSION PERSONNEL SHALL BE  
3 EXCLUDED FROM STATE SERVICE AND CONSIDERED AS NONSTATE SERVICE;  
4 AND FOR RELATED PURPOSES.

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

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

8 25-9-107. The following terms, when used in this chapter,  
9 unless a different meaning is plainly required by the context,  
10 shall have the following meanings:

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

13 (b) "State service" means all employees of state  
14 departments, agencies and institutions as defined herein, except  
15 those officers and employees excluded by this chapter.

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

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

21 (ii) The Governor and staff members of the  
22 immediate Office of the Governor;

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

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

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

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

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

36 (viii) Officers and enlisted members of the  
37 National Guard of the state;

38 (ix) Prisoners, inmates, student or patient help  
39 working in or about institutions;

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

51 (xi) Part-time employees; provided, however,  
52 part-time employees shall only be hired into authorized employment  
53 positions classified by the board, shall meet minimum  
54 qualifications as set by the board, and shall be paid in  
55 accordance with the Variable Compensation Plan as certified by the  
56 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 prior to issuance of a payroll  
69 warrant by the auditor;

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

83 (xv) The administrative head who is in charge of  
84 any state department, agency, institution, board or commission,  
85 wherein the statute specifically authorizes the Governor, board,  
86 commission or other authority to appoint said administrative head;  
87 provided, however, that the salary of such 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. Provided  
96 further, a written job classification shall be approved by the  
97 board for each such position, and positions so excluded shall be  
98 paid in 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; provided, that 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; however, any agency contracting for  
111 the 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); such personnel shall be paid in accordance with  
118 the Colonel Guy Groff State Variable Compensation Plan.

119 (xxii) Personnel employed by the State Forestry  
120 Commission.

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

126 legislative or judicial board, commission, committee, council,  
127 department or unit thereof.

128           **SECTION 2.** This act shall take effect and be in force from  
129 and after July 1, 2005.