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Chapter No. 383

12/HR07/R1911SG

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# ***HOUSE BILL NO. 1349***

Originated in House



Clerk

HOUSE BILL NO. 1349

AN ACT TO AMEND SECTION 25-3-39, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE SALARY OF THE EXECUTIVE DIRECTOR OF THE MISSISSIPPI DEVELOPMENT AUTHORITY TO BE GREATER THAN 150% OF THE SALARY OF THE GOVERNOR AND TO BE SUPPLEMENTED WITH FUNDS FROM ANY SOURCE, INCLUDING FEDERAL OR PRIVATE FUNDS; TO AMEND SECTION 99-18-1, MISSISSIPPI CODE OF 1972, TO REVISE THE SALARY OF THE STATE PUBLIC DEFENDER; AND FOR RELATED PURPOSES.

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

**SECTION 1.** Section 25-3-39, Mississippi Code of 1972, is amended as follows:

25-3-39. (1) (a) Except as otherwise provided in this section, 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, nor shall the salary of any public officer, public employee, administrator, or executive head of any arm or agency of the state, in the executive branch of government, be supplemented with any funds from any source, including federal or private funds. Such salaries shall be completely paid by the state. 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. \* \* \* All professional employees who hold a bachelor's degree or more advanced degree from an accredited four-year college or university or a certificate or license issued by a state licensing board, commission or agency and who are

employed by the Department of Mental Health shall be exempt from this subsection if the State Personnel Board approves the exemption.

(b) 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. The salary of the Governor's Chief of Staff shall not be greater than one hundred fifty percent (150%) of the salary of the Governor and shall be completely paid by the state without supplementation from another source. The salary of the Executive Director of the Mississippi Development Authority may be greater than one hundred fifty percent (150%) of the salary of the Governor and may be supplemented with funds from any source, including federal or private funds; however, any state funds used to pay the salary of the Executive Director of the Mississippi Development Authority shall not exceed one hundred fifty percent (150%) of the salary of the Governor. If the executive director's salary is supplemented with private funds, the Mississippi Development Authority shall publish on its website the amount of the supplement and the name of the donor of the private funds.

(2) No public officer, employee or administrator shall be paid a salary or compensation, directly or indirectly, in excess of the salary authorized to be paid 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.

(3) The executive head of any state agency or department appointed by the Governor, in such executive head's discretion, may waive all or any portion of the salary or compensation lawfully established for the position.

**SECTION 2.** Section 99-18-1, Mississippi Code of 1972, is amended as follows:

99-18-1. (1) There is hereby created the Office of State Public Defender. The Office of State Public Defender shall consist of a State Defender who shall be appointed by the Governor with the advice and consent of the Senate for a term of four (4) years and staffed by any necessary personnel as determined and hired by the State Defender.

(2) Funding for the Office of State Public Defender shall come from funds available in the Capital Defense Counsel Fund, the Indigent Appeals Fund and the Public Defenders Education Fund as determined by the State Defender. The State Defender shall have the authority to transfer funds between the various funds to efficiently and effectively accomplish the mission of the Office of State Public Defender and its divisions.

(3) The State Defender must be a duly licensed attorney admitted to the practice of law in this state, have practiced in the area of criminal law for at least five (5) years and shall meet all qualifications to serve as lead trial and appellate counsel in death penalty cases as may be set by the Supreme Court of Mississippi. The salary of the State Defender shall be no more than the maximum amount allowed by statute for a district attorney.

(4) The State Defender may be removed by the Governor upon finding that the State Defender is not qualified under law, has failed to perform the duties of the office, or has acted beyond the scope of the authority granted by law for the office.

(5) The Office of State Public Defender shall be responsible for the administration, budget and finances of the Divisions of Capital Defense Counsel, Indigent Appeals and Public Defender Training, which shall be divisions of the Office of State Public Defender.

(6) The State Defender may simultaneously serve as State Defender and as director of one or more divisions but shall receive no additional compensation for doing so. Nothing in this chapter shall prohibit the State Defender from directly representing clients of the office. Nothing in this chapter shall be construed to prevent an employee of one (1) division of the Office of the State Public Defender from working, in part or in whole, for another division.

(7) The State Defender shall coordinate the collection and dissemination of statistical data and make such reports as are required of the divisions, develop plans and proposals for further development of a statewide public defender system in coordination with the Mississippi Public Defenders Task Force and to act as spokesperson for all matters relating to indigent defense representation.

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

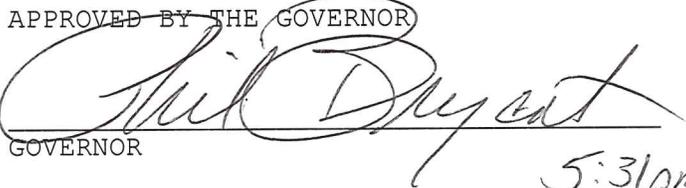
PASSED BY THE HOUSE OF REPRESENTATIVES  
March 14, 2012

  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE  
April 5, 2012

  
PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

  
GOVERNOR  
5:31pm