

By: Representative Manning

To: Appropriations

HOUSE BILL NO. 1261

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE PAYMENT TO TEACHERS FOR UNUSED ACCUMULATED
3 LEAVE AT THE TIME OF THEIR RETIREMENT SHALL BE MADE BY THE PUBLIC
4 EMPLOYEES' RETIREMENT SYSTEM FROM FUNDS OF THE SYSTEM AT A RATE
5 EQUAL TO THE SALARY BEING RECEIVED BY THE TEACHER AT THE TIME OF
6 HIS OR HER RETIREMENT; AND FOR RELATED PURPOSES.

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

8 SECTION 1. Section 37-7-307, Mississippi Code of 1972, is
9 amended as follows:

10 37-7-307. (1) For purposes of this section, the term
11 "licensed employee" means any employee of a public school district
12 required to hold a valid license by the Commission on Teacher and
13 Administrator Education, Certification and Licensure and
14 Development.

15 (2) The school board of a school district shall establish by
16 rules and regulations a policy of sick leave with pay for licensed
17 employees employed in the school district, and such policy shall
18 include the following minimum provisions for sick and emergency
19 leave with pay:

20 (a) Each licensed employee, at the beginning of each
21 school year, shall be credited with a minimum sick leave
22 allowance, with pay, of seven (7) days for absences caused by
23 illness or physical disability of the employee during that school
24 year.

25 (b) Any unused portion of the total sick leave
26 allowance shall be carried over to the next school year and
27 credited to such licensed employee if the licensed employee
28 remains employed in the same school district. In the event any

29 public school licensed employee transfers from one public school
30 district in Mississippi to another, any unused portion of the
31 total sick leave allowance credited to such licensed employee
32 shall be credited to such licensed employee in the computation of
33 unused leave for retirement purposes under Section 25-11-109.
34 Accumulation of sick leave allowed under this section shall be
35 unlimited.

36 (c) No deduction from the pay of such licensed employee
37 may be made because of absence of such licensed employee caused by
38 illness or physical disability of the licensed employee until
39 after all sick leave allowance credited to such licensed employee
40 has been used.

41 (d) For the first ten (10) days of absence of a
42 licensed employee because of illness or physical disability, in
43 any school year, in excess of the sick leave allowance credited to
44 such licensed employee, there may be deducted from the pay of such
45 licensed employee the established substitute amount of licensed
46 employee compensation paid in that local school district,
47 necessitated because of the absence of the licensed employee as a
48 result of illness or physical disability. Thereafter, the regular
49 pay of such absent licensed employee may be suspended and withheld
50 in its entirety for any period of absence because of illness or
51 physical disability during that school year.

52 (3) Beginning with the school year 1983-1984, each licensed
53 employee at the beginning of each school year shall be credited
54 with a minimum personal leave allowance, with pay, of two (2) days
55 for absences caused by personal reasons during that school year.
56 Such personal leave shall not be taken on the first day of the
57 school term, the last day of the school term, on a day previous to
58 a holiday or a day after a holiday. Personal leave may be used
59 for professional purposes, including absences caused by attendance
60 of such licensed employee at a seminar, class, training program,
61 professional association or other functions designed for
62 educators. No deduction from the pay of such licensed employee
63 may be made because of absence of such licensed employee caused by
64 personal reasons until after all personal leave allowance credited
65 to such licensed employee has been used. However, the

66 superintendent of a school district, in his discretion, may allow
67 a licensed employee personal leave in addition to any minimum
68 personal leave allowance, under the condition that there shall be
69 deducted from the salary of such licensed employee the actual
70 amount of any compensation paid to any person as a substitute,
71 necessitated because of the absence of the licensed employee.

72 (4) Beginning with the school year 1992-1993, each licensed
73 employee shall be credited with a professional leave allowance,
74 with pay, for each day of absence caused by reason of such
75 employee's statutorily required membership and attendance at a
76 regular or special meeting held within the State of Mississippi of
77 the State Board of Education, the Commission on Teacher and
78 Administrator Education, Certification and Licensure and
79 Development, the Commission on School Accreditation, the
80 Mississippi Authority for Educational Television and the meetings
81 of the state textbook rating committees.

82 (5) Upon retirement from employment, each licensed and
83 nonlicensed employee shall be paid for not more than thirty (30)
84 days of unused accumulated leave earned while employed by the
85 school district in which the employee is last employed. Such
86 payment for licensed employees shall be made by the Public
87 Employees' Retirement System from funds of the retirement system
88 at a rate equal to the salary being received by the licensed
89 employee at the time of his or her retirement. For nonlicensed
90 employees, the payment shall be made by the school district at a
91 rate equal to the federal minimum wage. The payment shall be
92 treated in the same manner for retirement purposes as a lump sum
93 payment for personal leave as provided in Section 25-11-103(e).
94 Any remaining lawfully credited unused leave, for which payment
95 has not been made, shall be certified to the Public Employees'
96 Retirement System in the same manner and subject to the same
97 limitations as otherwise provided by law for unused leave.

98 (6) The school board may adopt rules and regulations which

99 will reasonably aid to implement the policy of sick and personal
100 leave, including, but not limited to, rules and regulations having
101 the following general effect:

102 (a) Requiring the absent licensed employee to furnish
103 the certificate of a physician or dentist or other medical
104 practitioner as to the illness of the absent licensed employee,
105 where the absence is for four (4) or more consecutive school days,
106 or for two (2) consecutive school days immediately preceding or
107 following a nonschool day;

108 (b) Providing penalties, by way of full deduction from
109 salary, or entry on the work record of the licensed employee, or
110 other appropriate penalties, for any materially false statement by
111 the licensed employee as to the cause of absence;

112 (c) Forfeiture of accumulated or future sick leave, if
113 the absence of the licensed employee is caused by optional dental
114 or medical treatment or surgery which could, without medical risk,
115 have been provided, furnished or performed at a time when school
116 was not in session;

117 (d) Enlarging, increasing or providing greater sick or
118 personal leave allowances than the minimum standards established
119 by this section in the discretion of the school board of each
120 school district.

121 (7) School boards may include in their budgets provisions
122 for the payment of substitute teachers, necessitated because of
123 the absence of regular licensed employees. All such substitute
124 teachers shall be paid wholly from district funds other than
125 minimum education program funds. Such school boards, in their
126 discretion, also may pay, from district funds other than minimum
127 education program funds, the whole or any part of the salaries of
128 licensed employees granted leaves for the purpose of special
129 studies or training.

130 (8) The school board may further adopt rules and regulations
131 which will reasonably implement such leave policies for all other

132 nonlicensed school employees as the board deems appropriate.

133 (9) (a) For the purposes of this subsection, the following
134 words and phrases shall have the meaning ascribed in this
135 paragraph unless the context requires otherwise:

136 (i) "Catastrophic injury or illness" means a
137 severe condition or combination of conditions affecting the mental
138 or physical health of an employee or a member of an employee's
139 immediate family, including pregnancy, that requires the services
140 of a licensed physician for an extended period of time and that
141 forces the employee to exhaust all leave time accumulated by that
142 employee, thereby resulting in the loss of compensation from the
143 school district for the employee.

144 (ii) "Immediate family" means spouse, parent,
145 stepparent, sibling, child or stepchild.

146 (b) Any school district employee may donate a portion
147 of his or her unused accumulated personal leave or sick leave to
148 another employee of the same or another school district who is
149 suffering from a catastrophic injury or illness or who has a
150 member of his or her immediate family suffering from a
151 catastrophic injury or illness, in accordance with the following:

152 (i) The employee donating the leave (the "donor
153 employee") shall designate the employee who is to receive the
154 leave (the "recipient employee") and the amount of unused
155 accumulated personal leave and sick leave that is to be donated,
156 and shall notify the school district superintendent or his
157 designee of his or her designation.

158 (ii) The maximum amount of unused accumulated
159 personal leave that an employee may donate to any other employee
160 may not exceed a number of days that would leave the donor
161 employee with fewer than seven (7) days of personal leave
162 remaining, and the maximum amount of unused accumulated sick leave
163 that an employee may donate to any other employee may not exceed
164 fifty percent (50%) of the unused accumulated sick leave of the

165 donor employee.

166 (iii) An employee must have exhausted all of his
167 or her accumulated personal leave and sick leave before he or she
168 will be eligible to receive any leave donated by another employee.
169 Eligibility for donated leave shall be based upon review and
170 approval by the donor employee's supervisor.

171 (iv) Before an employee may receive donated leave,
172 he or she must provide the school district superintendent or his
173 designee with a physician's statement that states the beginning
174 date of the catastrophic injury or illness, a description of the
175 injury or illness, and a prognosis for recovery and the
176 anticipated date that the recipient employee will be able to
177 return to work.

178 (v) If the total amount of leave that is donated
179 to any employee is not used by the recipient employee, the whole
180 days of donated leave shall be returned to the donor employees on
181 a pro rata basis, based on the ratio of the number of days of
182 leave donated by each donor employee to the total number of days
183 of leave donated by all donor employees.

184 (vi) Donated leave shall not be used in lieu of
185 disability retirement.

186 SECTION 2. This act shall take effect and be in force from
187 and after July 1, 1999.