

By: Stringer

To: Fees and Salaries of
Public Officers

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 531

1 AN ACT TO REENACT SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, WHICH AUTHORIZE PERSONAL AND MAJOR MEDICAL LEAVE FOR
3 STATE EMPLOYEES AND ALLOW STATE EMPLOYEES TO DONATE LEAVE TO OTHER
4 EMPLOYEES WITH A CATASTROPHIC ILLNESS OR INJURY; TO AMEND
5 REENACTED SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI CODE OF 1972,
6 TO PROVIDE THAT AGENTS OF THE MISSISSIPPI BUREAU OF NARCOTICS WHO
7 ARE INJURED IN THE LINE OF DUTY SHALL NOT BE REQUIRED TO USE
8 PERSONAL OR MAJOR MEDICAL LEAVE DURING THEIR RECOVERY, TO
9 ESTABLISH THE MAXIMUM AMOUNT OF DONATED LEAVE WHICH MAY BE USED BY
10 RECIPIENTS OF SUCH LEAVE AND TO EXTEND THE REPEALER ON THE DONATED
11 LEAVE POLICY; AND FOR RELATED PURPOSES.

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

13 SECTION 1. Section 25-3-93, Mississippi Code of 1972, is
14 reenacted and amended as follows:[BD1]

15 25-3-93. (1) (a) Except as provided in subsection (1)(b),
16 all employees and appointed officers of the State of Mississippi,
17 who are employees as defined in Section 25-3-91, shall be allowed
18 credit for personal leave computed as follows:

| 19 | Continuous | Accrual Rate | Accrual Rate |
|----|-----------------------|--------------------|------------------|
| 20 | Service | (Monthly) | (Annually) |
| 21 | 1 month to 3 years | 12 hours per month | 18 days per year |
| 22 | 37 months to 8 years | 14 hours per month | 21 days per year |
| 23 | 97 months to 15 years | 16 hours per month | 24 days per year |
| 24 | Over 15 years | 18 hours per month | 27 days per year |

25 However, employees who were hired prior to July 1, 1984, who
26 have continuous service of more than five (5) years but not more
27 than eight (8) years shall accrue fifteen (15) hours of personal
28 leave each month.

29 (b) Temporary employees who work less than a full
30 workweek and part-time employees shall be allowed credit for

31 personal leave computed on a pro rata basis. Faculty members
32 employed by the eight (8) public universities on a nine-month
33 contract, temporary employees of the public universities who work
34 less than twenty (20) hours per week for a period of less than
35 five (5) months during a fiscal year, and recipients of full-time
36 educational leave, while on such leave, shall not be eligible for
37 personal leave.

38 (2) For the purpose of computing credit for personal leave,
39 each appointed officer or employee shall be considered to work not
40 more than five (5) days each week. Leaves of absence granted by
41 the appointing authority for one (1) year or less shall be
42 permitted without forfeiting previously accumulated continuous
43 service. The provisions of this section shall not apply to
44 military leaves of absence. The time for taking personal leave,
45 except when such leave is taken due to an illness, shall be
46 determined by the appointing authority of which such employees are
47 employed.

48 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
49 earned personal leave of each employee shall be credited monthly
50 after the completion of each calendar month of service, and the
51 appointing authority shall not increase the amount of personal
52 leave to an employee's credit. It shall be unlawful for an
53 appointing authority to grant personal leave in an amount greater
54 than was earned and accumulated by the officer or employee.

55 (4) Employees are encouraged to use earned personal leave.
56 Personal leave may be used for vacations and personal business as
57 scheduled by the appointing authority and shall be used for
58 illnesses of the employee requiring absences of one (1) day or
59 less. Accrued personal or compensatory leave shall be used for
60 the first day of an employee's illness requiring his absence of
61 more than one (1) day. Accrued personal or compensatory leave may
62 also be used for an illness in the employee's immediate family as
63 defined in Section 25-3-95. There shall be no limit to the
64 accumulation of personal leave. Upon termination of employment
65 each employee shall be paid for not more than thirty (30) days of
66 accumulated personal leave. Unused personal leave in excess of
67 thirty (30) days shall be counted as creditable service for the

68 purposes of the retirement system as provided in Sections
69 25-11-103 and 25-13-5.

70 (5) Any officer of the Mississippi Highway Safety Patrol or
71 agent of the Mississippi Bureau of Narcotics who is injured by
72 wound or accident in the line of duty shall not be required to use
73 earned personal leave during the period of recovery from such
74 injury. The appointing authority may not authorize a period of
75 recovery which exceeds the time period that the officer or agent
76 is unable to perform his duty assignment, as certified by the
77 employee's attending physician.

78 (6) Any employee may donate a portion of his or her earned
79 personal leave to another employee who is suffering from a
80 catastrophic injury or illness, or to another employee who has a
81 member of his or her immediate family who is suffering from a
82 catastrophic injury or illness, in accordance with subsection (8)
83 of Section 25-3-95.

84 This subsection shall stand repealed from and after July 1,
85 2001.

86 SECTION 2. Section 25-3-95, Mississippi Code of 1972, is
87 reenacted and amended as follows:[BD2]

88 25-3-95. (1) All employees and appointed officers of the
89 State of Mississippi, except temporary employees of the public
90 universities who work less than twenty (20) hours per week for a
91 period of less than five (5) months during a fiscal year and
92 recipients of full-time educational leave, while on such leave,
93 shall accrue credits for major medical leave as follows:

| 94 Continuous | Accrual Rate | Accrual Rate |
|--------------------------|-------------------|--------------------|
| 95 Service | (Monthly) | (Annually) |
| 96 1 month to 3 years | 8 hours per month | 12 days per year |
| 97 37 months to 8 years | 7 hours per month | 10.5 days per year |
| 98 97 months to 15 years | 6 hours per month | 9 days per year |
| 99 Over 15 years | 5 hours per month | 7.5 days per year |

100 Faculty members employed by the eight (8) public universities

101 on a nine-month contract shall accrue credit for major medical
102 leave as follows:

| 103 | Continuous | Accrual Rate | Accrual Rate |
|-----|-----------------------|------------------------|---------------------|
| 104 | Service | (Per Month) | (Per Academic Year) |
| 105 | 1 month to 3 years | 13-1/3 hours per month | 15 days per |
| 106 | | | academic year |
| 107 | 37 months to 8 years | 14-1/5 hours per month | 16 days per |
| 108 | | | academic year |
| 109 | 97 months to 15 years | 15-2/5 hours per month | 17 days per |
| 110 | | | academic year |
| 111 | Over 15 years | 16 hours per month | 18 days per |
| 112 | | | academic year |

113 Part-time employees shall accrue major medical leave on a pro
114 rata basis. There shall be no maximum limit to major medical
115 leave accumulation. All unused major medical leave shall be
116 counted as creditable service for the purposes of the retirement
117 system as provided in Sections 25-11-103 and 25-13-5.

118 (2) Major medical leave may be used for the illness or
119 injury of an employee or member of the employee's immediate family
120 as defined in subsection (3) of this section, only after the
121 employee has used one (1) day of accrued personal or compensatory
122 leave for each absence due to illness, or leave without pay if the
123 employee has no accrued personal or compensatory leave. Provided
124 that faculty members employed by the eight (8) public universities
125 on a nine-month basis may use major medical leave for the first
126 day of absence due to illness. However, major medical leave may
127 be used, without prior use of personal leave, to cover regularly
128 scheduled visits to a doctor's office or a hospital for the
129 continuing treatment of a chronic disease, as certified in advance
130 by a physician. For the purposes of this section, "physician"
131 means a doctor of medicine, osteopathy, dental medicine, podiatry
132 or chiropractic. For each absence due to illness of thirty-two
133 (32) consecutive working hours (combined personal leave and major

134 medical leave) major medical leave shall be authorized only when
135 certified by their attending physician.

136 (3) An employee may use up to three (3) days of earned major
137 medical leave for each occurrence of death in the immediate family
138 requiring the employee's absence from work. No qualifying time or
139 use of personal leave will be required prior to use of major
140 medical leave for this purpose. For the purpose of this
141 subsection (3), the immediate family is defined as spouse, parent,
142 stepparent, sibling, child, stepchild, grandchild, grandparent,
143 son- or daughter-in-law, mother- or father-in-law or brother- or
144 sister-in-law. Child means a biological, adopted or foster child,
145 or a child for whom the individual stands or stood in loco
146 parentis.

147 (4) Employees and appointed officers of the State of
148 Mississippi having unused, accumulated sick leave or annual leave
149 earned prior to July 1, 1984, shall be credited with major medical
150 leave and personal leave as follows: All unused annual leave
151 shall be credited as personal leave.

152 Unused sick leave shall be divided between major medical
153 leave and personal leave at rates determined by the employee's
154 sick leave balance on June 30, 1984. The rates of conversion
155 shall be as follows:

| 156 Sick Leave | Percentage | Percentage |
|-----------------------|----------------|---------------------|
| 157 Balance as of | Converted to | Converted to |
| 158 June 30, 1984 | Personal Leave | Major Medical Leave |
| 159 1 - 200 hours | 20% | 80% |
| 160 201 - 400 hours | 25% | 75% |
| 161 401 - 600 hours | 30% | 70% |
| 162 601 or more hours | 35% | 65% |

163 (5) Upon retirement from active employment each faculty
164 member of the state-supported public universities who is employed
165 on a nine-month basis shall receive credit and be paid for not
166 more than thirty (30) days of unused major medical leave for

167 service as a state employee. Unused major medical leave in excess
168 of thirty (30) days shall be counted as creditable service for the
169 purposes of the retirement system as provided in Sections
170 25-11-103 and 25-13-5.

171 (6) Any officer of the Mississippi Highway Safety Patrol or
172 agent of the Mississippi Bureau of Narcotics who is injured by
173 wound or accident in the line of duty shall not be required to use
174 earned major medical leave during the period of recovery from such
175 injury. The appointing authority may not authorize a period of
176 recovery which exceeds the time period that the officer or agent
177 is unable to perform his duty assignment, as certified by the
178 employee's attending physician.

179 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
180 earned major medical leave of each employee shall be credited
181 monthly after the completion of each calendar month, and the
182 appointing authority shall not increase the amount of major
183 medical leave to an employee's credit. It shall be unlawful for
184 an appointing authority to grant major medical leave in an amount
185 greater than was earned and accumulated by the officer or
186 employee.

187 (8) Any employee may donate a portion of his or her earned
188 personal leave or major medical leave to another employee who is
189 suffering from a catastrophic injury or illness, as defined in
190 Section 25-3-91, or to another employee who has a member of his or
191 her immediate family who is suffering from a catastrophic injury
192 or illness, in accordance with the following:

193 (a) The employee donating the leave (the "donor
194 employee") shall designate the employee who is to receive the
195 leave (the "recipient employee") and the amount of earned personal
196 leave and major medical leave that is to be donated, and shall
197 notify the donor employee's appointing authority or supervisor of
198 his or her designation. The donor employee's appointing authority
199 or supervisor then shall notify the recipient employee's

200 appointing authority or supervisor of the amount of leave that has
201 been donated by the donor employee to the recipient employee.

202 (b) The maximum amount of earned personal leave that an
203 employee may donate to any other employee may not exceed a number
204 of days that would leave the donor employee with fewer than seven
205 (7) days of personal leave left, and the maximum amount of earned
206 major medical leave that an employee may donate to any other
207 employee may not exceed fifty percent (50%) of the earned major
208 medical leave of the donor employee.

209 (c) An employee must have exhausted all of his or her
210 earned personal leave and major medical leave before he or she
211 will be eligible to receive any leave donated by another employee.

212 (d) Before an employee may receive donated leave, he or
213 she must provide his or her appointing authority or supervisor
214 with a physician's statement that states the beginning date of the
215 catastrophic injury or illness, a description of the injury or
216 illness, and a prognosis for recovery and the anticipated date
217 that the recipient employee will be able to return to work.

218 (e) If an employee is aggrieved by the decision of his
219 or her appointing authority that the employee is not eligible to
220 receive donated leave because the injury or illness of the
221 employee or member of the employee's immediate family is not, in
222 the appointing authority's determination, a catastrophic injury or
223 illness, the employee may appeal the decision to the employee
224 appeals board.

225 (f) Beginning on the effective date of House Bill No.
226 531, 2000 Regular Session, the maximum period of time that an
227 employee may use donated leave without resuming work at his or her
228 place of employment is one (1) calendar year, which year commences
229 on the first day that the recipient employee uses donated leave.
230 Any employee using donated leave on the effective date of House
231 Bill No. 531, 2000 Regular Session, who has been using donated
232 leave without resuming work at his or her place of employment for

233 a period of one (1) calendar year or greater and who has ninety
234 (90) or more days of unused donated leave to his or her credit may
235 continue to use donated leave until the employee has used ninety
236 (90) days of donated leave. If an employee using donated leave on
237 the effective date of House Bill No. 531, 2000 Regular Session,
238 has used donated leave without resuming work at his or her place
239 of employment for a period of less than one (1) calendar year and
240 the employee has unused donated leave to his or her credit, the
241 employee may continue to use donated leave until the first
242 anniversary of the date on which the employee began to
243 continuously use donated leave or until the employee has used
244 ninety (90) days of donated leave after the date on which House
245 Bill No. 531, 2000 Regular Session, becomes effective,
246 whichever occurs later. Donated leave that is not used because a
247 recipient employee has used the maximum amount of donated leave
248 authorized under this paragraph shall be returned to the donor
249 employees in the manner provided under paragraph (g) of this
250 subsection.

251 (g) If the total amount of leave that is donated to any
252 employee is not used by the recipient employee, the donated leave
253 shall be returned to the donor employees on a pro rata basis,
254 based on the ratio of the number of days of leave donated by each
255 donor employee to the total number of days of leave donated by all
256 donor employees.

257 (h) The failure of any appointing authority or
258 supervisor of any employee to properly deduct an employee's
259 donation of leave to another employee from the donor employee's
260 earned personal leave or major medical leave shall constitute just
261 cause for the dismissal of the appointing authority or supervisor.

262 (i) Donated leave shall not be used in lieu of
263 disability retirement.

264 (j) For the purposes of this subsection, "immediate
265 family" means spouse, parent, stepparent, sibling, child or

266 stepchild.

267 (k) This subsection shall stand repealed from and after
268 July 1, 2001.

269 SECTION 3. This act shall take effect and be in force from
270 and after July 1, 2000.