

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2313
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE A MINIMUM SICK LEAVE ALLOWANCE FOR ASSISTANT TEACHERS,
3 AND TO PROVIDE THAT ACCRUED SICK LEAVE FOR TEACHER ASSISTANTS
4 SHALL BE UNLIMITED; AND FOR RELATED PURPOSES.

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

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

8 37-7-307. (1) For purposes of this section, the term
9 "licensed employee" means any employee of a public school district
10 required to hold a valid license by the Commission on Teacher and
11 Administrator Education, Certification and Licensure and
12 Development.

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

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

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



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

35 (c) No deduction from the pay of such licensed employee
36 or teacher assistant may be made because of absence of such
37 licensed employee or teacher assistant caused by illness or
38 physical disability of the licensed employee or teacher assistant
39 until after all sick leave allowance credited to such licensed
40 employee or teacher assistant 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 school
87 district at a rate equal to the amount paid to substitute teachers
88 and for nonlicensed employees, the payment shall be made by the
89 school district at a rate equal to the federal minimum wage. The
90 payment shall be treated in the same manner for retirement
91 purposes as a lump-sum payment for personal leave as provided in
92 Section 25-11-103(e). Any remaining lawfully credited unused
93 leave, for which payment has not been made, shall be certified to
94 the Public Employees' Retirement System in the same manner and



95 subject to the same limitations as otherwise provided by law for
96 unused leave.

97 (6) The school board may adopt rules and regulations which
98 will reasonably aid to implement the policy of sick and personal
99 leave, including, but not limited to, rules and regulations having
100 the following general effect:

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

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

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

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

120 (7) School boards may include in their budgets provisions
121 for the payment of substitute teachers, necessitated because of
122 the absence of regular licensed employees. All such substitute
123 teachers shall be paid wholly from district funds other than
124 minimum education program funds, except as otherwise provided for
125 long-term substitute teachers in Section 37-19-20. Such school
126 boards, in their discretion, also may pay, from district funds
127 other than minimum education program funds, the whole or any part



128 of the salaries of licensed employees granted leaves for the
129 purpose of special 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, 2003.

