

By: Representative Fleming

To: Fees and Salaries of
Public Officers;
Appropriations

HOUSE BILL NO. 21

1 AN ACT TO AMEND SECTIONS 25-3-95 AND 25-3-93, MISSISSIPPI
2 CODE OF 1972, TO REMOVE THE REQUIREMENT THAT STATE EMPLOYEES AND
3 APPOINTED OFFICERS USE ONE DAY OF ACCRUED PERSONAL OR COMPENSATORY
4 LEAVE FOR AN ABSENCE DUE TO ILLNESS OR INJURY BEFORE USING MAJOR
5 MEDICAL LEAVE; AND FOR RELATED PURPOSES.

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

7 **SECTION 1.** Section 25-3-95, Mississippi Code of 1972, is
8 amended as follows:

9 25-3-95. (1) All employees and appointed officers of the
10 State of Mississippi, except temporary employees of the public
11 universities who work less than twenty (20) hours per week for a
12 period of less than five (5) months during a fiscal year and
13 recipients of full-time educational leave, while on such leave,
14 shall accrue credits for major medical leave as follows:

15	Continuous	Accrual Rate	Accrual Rate
16	Service	(Monthly)	(Annually)
17	1 month to 3 years	8 hours per month	12 days per year
18	37 months to 8 years	7 hours per month	10.5 days per year
19	97 months to 15 years	6 hours per month	9 days per year
20	Over 15 years	5 hours per month	7.5 days per year

21 Faculty members employed by the eight (8) public universities
22 on a nine-month contract shall accrue credit for major medical
23 leave as follows:

24	Continuous	Accrual Rate	Accrual Rate
25	Service	(Per Month)	(Per Academic Year)
26	1 month to 3 years	13-1/3 hours per month	15 days per
27			academic year
28	37 months to 8 years	14-1/5 hours per month	16 days per

29 academic year
30 97 months to 15 years 15-2/5 hours per month 17 days per
31 academic year
32 Over 15 years 16 hours per month 18 days per
33 academic year

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

39 (2) * * * (a) Major medical leave may be used * * * to
40 cover regularly scheduled visits to a doctor's office or a
41 hospital for the continuing treatment of a chronic disease, as
42 certified in advance by a physician. For the purposes of this
43 section, "physician" means a doctor of medicine, osteopathy,
44 dental medicine, podiatry or chiropractic.

45 (b) For each absence due to illness of thirty-two (32)
46 consecutive working hours (combined personal leave and major
47 medical leave) major medical leave shall be authorized only when
48 certified by their attending physician.

49 (3) An employee may use up to three (3) days of earned major
50 medical leave for each occurrence of death in the immediate family
51 requiring the employee's absence from work. No qualifying time or
52 use of personal leave will be required prior to use of major
53 medical leave for this purpose. For the purpose of this
54 subsection (3), the immediate family is defined as spouse, parent,
55 stepparent, sibling, child, stepchild, grandchild, grandparent,
56 son- or daughter-in-law, mother- or father-in-law or brother- or
57 sister-in-law. Child means a biological, adopted or foster child,
58 or a child for whom the individual stands or stood in loco
59 parentis.

60 (4) Employees and appointed officers of the State of
61 Mississippi having unused, accumulated sick leave or annual leave

62 earned prior to July 1, 1984, shall be credited with major medical
63 leave and personal leave as follows: All unused annual leave
64 shall be credited as personal leave.

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

69 Sick Leave	Percentage	Percentage
70 Balance as of	Converted to	Converted to
71 June 30, 1984	Personal Leave	Major Medical Leave
72 1 - 200 hours	20%	80%
73 201 - 400 hours	25%	75%
74 401 - 600 hours	30%	70%
75 601 or more hours	35%	65%

76 (5) Upon retirement from active employment each faculty
77 member of the state-supported public universities who is employed
78 on a nine-month basis shall receive credit and be paid for not
79 more than thirty (30) days of unused major medical leave for
80 service as a state employee. Unused major medical leave in excess
81 of thirty (30) days shall be counted as creditable service for the
82 purposes of the retirement system as provided in Sections
83 25-11-103 and 25-13-5.

84 (6) Any officer of the Mississippi Highway Safety Patrol who
85 is injured by wound or accident in the line of duty shall not be
86 required to use earned major medical leave during the period of
87 recovery from such injury.

88 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
89 earned major medical leave of each employee shall be credited
90 monthly after the completion of each calendar month, and the
91 appointing authority shall not increase the amount of major
92 medical leave to an employee's credit. It shall be unlawful for
93 an appointing authority to grant major medical leave in an amount
94 greater than was earned and accumulated by the officer or

95 employee.

96 (8) Any employee may donate a portion of his or her earned
97 personal leave or major medical leave to another employee who is
98 suffering from a catastrophic injury or illness, as defined in
99 Section 25-3-91, or to another employee who has a member of his or
100 her immediate family who is suffering from a catastrophic injury
101 or illness, in accordance with the following:

102 (a) The employee donating the leave (the "donor
103 employee") shall designate the employee who is to receive the
104 leave (the "recipient employee") and the amount of earned personal
105 leave and major medical leave that is to be donated, and shall
106 notify the donor employee's appointing authority or supervisor of
107 his or her designation. The donor employee's appointing authority
108 or supervisor then shall notify the recipient employee's
109 appointing authority or supervisor of the amount of leave that has
110 been donated by the donor employee to the recipient employee.

111 (b) The maximum amount of earned personal leave that an
112 employee may donate to any other employee may not exceed a number
113 of days that would leave the donor employee with fewer than seven
114 (7) days of personal leave left, and the maximum amount of earned
115 major medical leave that an employee may donate to any other
116 employee may not exceed fifty percent (50%) of the earned major
117 medical leave of the donor employee. All donated leave shall be
118 in increments of not less than twenty-four (24) hours.

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

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

128 (e) If an employee is aggrieved by the decision of his
129 or her appointing authority that the employee is not eligible to
130 receive donated leave because the injury or illness of the
131 employee or member of the employee's immediate family is not, in
132 the appointing authority's determination, a catastrophic injury or
133 illness, the employee may appeal the decision to the employee
134 appeals board.

135 (f) Beginning on March 25, 2003, the maximum period of
136 time that an employee may use donated leave without resuming work
137 at his or her place of employment is ninety (90) days, which
138 commences on the first day that the recipient employee uses
139 donated leave. Donated leave that is not used because a recipient
140 employee has used the maximum amount of donated leave authorized
141 under this paragraph shall be returned to the donor employees in
142 the manner provided under paragraph (g) of this subsection.

143 (g) If the total amount of leave that is donated to any
144 employee is not used by the recipient employee, the donated leave
145 shall be returned to the donor employees on a pro rata basis,
146 based on the ratio of the number of days of leave donated by each
147 donor employee to the total number of days of leave donated by all
148 donor employees.

149 (h) The failure of any appointing authority or
150 supervisor of any employee to properly deduct an employee's
151 donation of leave to another employee from the donor employee's
152 earned personal leave or major medical leave shall constitute just
153 cause for the dismissal of the appointing authority or supervisor.

154 (i) No person through the use of coercion, threats or
155 intimidation shall require or attempt to require any employee to
156 donate his or her leave to another employee. Any person who
157 alleges a violation of this paragraph shall report the violation
158 to the executive head of the agency by whom he or she is employed
159 or, if the alleged violator is the executive head of the agency,
160 then the employee shall report the violation to the State

161 Personnel Board. Any person found to have violated this paragraph
162 shall be subject to removal from office or termination of
163 employment.

164 (j) No employee can donate leave after tendering notice
165 of separation for any reason or after termination.

166 (k) Recipient employees of agencies with more than five
167 hundred (500) employees as of March 25, 2003, may receive donated
168 leave only from donor employees within the same agency. A
169 recipient employee in an agency with five hundred (500) or fewer
170 employees as of March 25, 2003, may receive donated leave from any
171 donor employee.

172 (l) In order for an employee to be eligible to receive
173 donated leave, the employee must:

174 (i) Have been employed for a total of at least
175 twelve (12) months by the employer on the date on which the leave
176 is donated; and

177 (ii) Have been employed for at least one thousand
178 two hundred fifty (1,250) hours of service with such employer
179 during the previous twelve-month period from the date on which the
180 leave is donated.

181 (m) Donated leave shall not be used in lieu of
182 disability retirement.

183 (n) For the purposes of this subsection, "immediate
184 family" means spouse, parent, stepparent, sibling, child or
185 stepchild.

186 (o) This subsection shall stand repealed from and after
187 July 1, 2005.

188 **SECTION 2.** Section 25-3-93, Mississippi Code of 1972, is
189 amended as follows:

190 25-3-93. (1) (a) Except as provided in subsection (1)(b),
191 all employees and appointed officers of the State of Mississippi,
192 who are employees as defined in Section 25-3-91, shall be allowed
193 credit for personal leave computed as follows:

194	Continuous	Accrual Rate	Accrual Rate
195	Service	(Monthly)	(Annually)
196	1 month to 3 years	12 hours per month	18 days per year
197	37 months to 8 years	14 hours per month	21 days per year
198	97 months to 15 years	16 hours per month	24 days per year
199	Over 15 years	18 hours per month	27 days per year

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

204 (b) Temporary employees who work less than a full
205 workweek and part-time employees shall be allowed credit for
206 personal leave computed on a pro rata basis. Faculty members
207 employed by the eight (8) public universities on a nine-month
208 contract, temporary employees of the public universities who work
209 less than twenty (20) hours per week for a period of less than
210 five (5) months during a fiscal year, and recipients of full-time
211 educational leave, while on such leave, shall not be eligible for
212 personal leave.

213 (2) For the purpose of computing credit for personal leave,
214 each appointed officer or employee shall be considered to work not
215 more than five (5) days each week. Leaves of absence granted by
216 the appointing authority for one (1) year or less shall be
217 permitted without forfeiting previously accumulated continuous
218 service. The provisions of this section shall not apply to
219 military leaves of absence. The time for taking personal leave,
220 except when such leave is taken due to an illness, shall be
221 determined by the appointing authority of which such employees are
222 employed.

223 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
224 earned personal leave of each employee shall be credited monthly
225 after the completion of each calendar month of service, and the
226 appointing authority shall not increase the amount of personal

227 leave to an employee's credit. It shall be unlawful for an
228 appointing authority to grant personal leave in an amount greater
229 than was earned and accumulated by the officer or employee.

230 (4) Employees are encouraged to use earned personal leave.
231 Personal leave may be used for vacations, personal business as
232 scheduled by the appointing authority and illnesses of the
233 employee. Accrued personal or compensatory leave may * * * be
234 used for an illness in the employee's immediate family as defined
235 in Section 25-3-95. There shall be no limit to the accumulation
236 of personal leave. Upon termination of employment each employee
237 shall be paid for not more than thirty (30) days of accumulated
238 personal leave. Unused personal leave in excess of thirty (30)
239 days shall be counted as creditable service for the purposes of
240 the retirement system as provided in Sections 25-11-103 and
241 25-13-5.

242 (5) Any officer of the Mississippi Highway Safety Patrol who
243 is injured by wound or accident in the line of duty shall not be
244 required to use earned personal leave during the period of
245 recovery from such injury.

246 (6) Any employee may donate a portion of his or her earned
247 personal leave to another employee who is suffering from a
248 catastrophic injury or illness, or to another employee who has a
249 member of his or her immediate family who is suffering from a
250 catastrophic injury or illness, in accordance with subsection (8)
251 of Section 25-3-95.

252 This subsection shall stand repealed from and after July 1,
253 2005.

254 **SECTION 3.** This act shall take effect and be in force from
255 and after July 1, 2004.