

By: Senator(s) Thames

To: Fees, Salaries and Administration

SENATE BILL NO. 2660

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
2 DELETE THE REPEALER ON THE PROVISION WHICH AUTHORIZES A STATE
3 EMPLOYEE TO DONATE A PORTION OF HIS EARNED PERSONAL OR MAJOR
4 MEDICAL LEAVE TO ANOTHER EMPLOYEE WHO IS SUFFERING FROM A
5 CATASTROPHIC INJURY OR ILLNESS; 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) Major medical leave may be used for the illness or
40 injury of an employee or member of the employee's immediate family
41 as defined in subsection (3) of this section, only after the
42 employee has used one (1) day of accrued personal or compensatory
43 leave for each absence due to illness, or leave without pay if the
44 employee has no accrued personal or compensatory leave. Provided
45 that faculty members employed by the eight (8) public universities
46 on a nine-month basis may use major medical leave for the first
47 day of absence due to illness. However, major medical leave may
48 be used, without prior use of personal leave, to cover regularly
49 scheduled visits to a doctor's office or a hospital for the
50 continuing treatment of a chronic disease, as certified in advance
51 by a physician. For the purposes of this section, "physician"
52 means a doctor of medicine, osteopathy, dental medicine, podiatry
53 or chiropractic. For each absence due to illness of thirty-two
54 (32) consecutive working hours (combined personal leave and major
55 medical leave) major medical leave shall be authorized only when
56 certified by their attending physician.

57 (3) An employee may use up to three (3) days of earned major
58 medical leave for each occurrence of death in the immediate family
59 requiring the employee's absence from work. No qualifying time or
60 use of personal leave will be required prior to use of major
61 medical leave for this purpose. For the purpose of this

62 subsection (3), the immediate family is defined as spouse, parent,
63 stepparent, sibling, child, stepchild, grandchild, grandparent,
64 son- or daughter-in-law, mother- or father-in-law or brother- or
65 sister-in-law. Child means a biological, adopted or foster child,
66 or a child for whom the individual stands or stood in loco
67 parentis.

68 (4) Employees and appointed officers of the State of
69 Mississippi having unused, accumulated sick leave or annual leave
70 earned prior to July 1, 1984, shall be credited with major medical
71 leave and personal leave as follows: All unused annual leave
72 shall be credited as personal leave.

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

77 Sick Leave	Percentage	Percentage
78 Balance as of	Converted to	Converted to
79 June 30, 1984	Personal Leave	Major Medical Leave
80 1 - 200 hours	20%	80%
81 201 - 400 hours	25%	75%
82 401 - 600 hours	30%	70%
83 601 or more hours	35%	65%

84 (5) Upon retirement from active employment each faculty
85 member of the state-supported public universities who is employed
86 on a nine-month basis shall receive credit and be paid for not
87 more than thirty (30) days of unused major medical leave for
88 service as a state employee. Unused major medical leave in excess
89 of thirty (30) days shall be counted as creditable service for the
90 purposes of the retirement system as provided in Sections
91 25-11-103 and 25-13-5.

92 (6) Any officer of the Mississippi Highway Safety Patrol who
93 is injured by wound or accident in the line of duty shall not be

94 required to use earned major medical leave during the period of
95 recovery from such injury.

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

104 (8) Any employee may donate a portion of his or her earned
105 personal leave or major medical leave to another employee who is
106 suffering from a catastrophic injury or illness, as defined in
107 Section 25-3-91, or to another employee who has a member of his or
108 her immediate family who is suffering from a catastrophic injury
109 or illness, in accordance with the following:

110 (a) The employee donating the leave (the "donor
111 employee") shall designate the employee who is to receive the
112 leave (the "recipient employee") and the amount of earned personal
113 leave and major medical leave that is to be donated, and shall
114 notify the donor employee's appointing authority or supervisor of
115 his or her designation. The donor employee's appointing authority
116 or supervisor then shall notify the recipient employee's
117 appointing authority or supervisor of the amount of leave that has
118 been donated by the donor employee to the recipient employee.

119 (b) The maximum amount of earned personal leave that an
120 employee may donate to any other employee may not exceed a number
121 of days that would leave the donor employee with fewer than seven
122 (7) days of personal leave left, and the maximum amount of earned
123 major medical leave that an employee may donate to any other
124 employee may not exceed fifty percent (50%) of the earned major
125 medical leave of the donor employee. All donated leave shall be
126 in increments of not less than twenty-four (24) hours.

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

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

136 (e) If an employee is aggrieved by the decision of his
137 or her appointing authority that the employee is not eligible to
138 receive donated leave because the injury or illness of the
139 employee or member of the employee's immediate family is not, in
140 the appointing authority's determination, a catastrophic injury or
141 illness, the employee may appeal the decision to the employee
142 appeals board.

143 (f) Beginning on March 25, 2003, the maximum period of
144 time that an employee may use donated leave without resuming work
145 at his or her place of employment is ninety (90) days, which
146 commences on the first day that the recipient employee uses
147 donated leave. Donated leave that is not used because a recipient
148 employee has used the maximum amount of donated leave authorized
149 under this paragraph shall be returned to the donor employees in
150 the manner provided under paragraph (g) of this subsection.

151 (g) If the total amount of leave that is donated to any
152 employee is not used by the recipient employee, the donated leave
153 shall be returned to the donor employees on a pro rata basis,
154 based on the ratio of the number of days of leave donated by each
155 donor employee to the total number of days of leave donated by all
156 donor employees.

157 (h) The failure of any appointing authority or
158 supervisor of any employee to properly deduct an employee's
159 donation of leave to another employee from the donor employee's

160 earned personal leave or major medical leave shall constitute just
161 cause for the dismissal of the appointing authority or supervisor.

162 (i) No person through the use of coercion, threats or
163 intimidation shall require or attempt to require any employee to
164 donate his or her leave to another employee. Any person who
165 alleges a violation of this paragraph shall report the violation
166 to the executive head of the agency by whom he or she is employed
167 or, if the alleged violator is the executive head of the agency,
168 then the employee shall report the violation to the State
169 Personnel Board. Any person found to have violated this paragraph
170 shall be subject to removal from office or termination of
171 employment.

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

174 (k) Recipient employees of agencies with more than five
175 hundred (500) employees as of March 25, 2003, may receive donated
176 leave only from donor employees within the same agency. A
177 recipient employee in an agency with five hundred (500) or fewer
178 employees as of March 25, 2003, may receive donated leave from any
179 donor employee.

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

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

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

189 (m) Donated leave shall not be used in lieu of
190 disability retirement.

191 (n) For the purposes of this subsection, "immediate
192 family" means spouse, parent, stepparent, sibling, child or
193 stepchild.

194 * * *

195 **SECTION 2.** This act shall take effect and be in force from
196 and after July 1, 2004.