

By: Representative Smith (39th)

To: Appropriations

HOUSE BILL NO. 1208

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, TO REMOVE THE REQUIREMENT THAT A STATE EMPLOYEE MUST
3 USE 1 DAY OF ACCRUED PERSONAL OR COMPENSATORY LEAVE BEFORE USING
4 MAJOR MEDICAL LEAVE; AND FOR RELATED PURPOSES.

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

6 **SECTION 1.** Section 25-3-93, Mississippi Code of 1972, is
7 amended as follows:

8 25-3-93. (1) (a) Except as provided in subsection (1)(b),
9 all employees and appointed officers of the State of Mississippi,
10 who are employees as defined in Section 25-3-91, shall be allowed
11 credit for personal leave computed as follows:

12	Continuous	Accrual Rate	Accrual Rate
13	Service	(Monthly)	(Annually)
14	1 month to 3 years	12 hours per month	18 days per year
15	37 months to 8 years	14 hours per month	21 days per year
16	97 months to 15 years	16 hours per month	24 days per year
17	Over 15 years	18 hours per month	27 days per year

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

22 (b) Temporary employees who work less than a full
23 workweek and part-time employees shall be allowed credit for
24 personal leave computed on a pro rata basis. Faculty members
25 employed by the eight (8) public universities on a nine-month
26 contract, temporary employees of the public universities who work
27 less than twenty (20) hours per week for a period of less than
28 five (5) months during a fiscal year, and recipients of full-time

29 educational leave, while on such leave, shall not be eligible for
30 personal leave.

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

41 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
42 earned personal leave of each employee shall be credited monthly
43 after the completion of each calendar month of service, and the
44 appointing authority shall not increase the amount of personal
45 leave to an employee's credit. It shall be unlawful for an
46 appointing authority to grant personal leave in an amount greater
47 than was earned and accumulated by the officer or employee.

48 (4) Employees are encouraged to use earned personal leave.
49 Personal leave may be used for vacations and personal business as
50 scheduled by the appointing authority * * *. There shall be no
51 limit to the accumulation of personal leave. Upon termination of
52 employment each employee shall be paid for not more than thirty
53 (30) days of accumulated personal leave. Unused personal leave in
54 excess of thirty (30) days shall be counted as creditable service
55 for the purposes of the retirement system as provided in Sections
56 25-11-103 and 25-13-5.

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

61 (6) Any employee may donate a portion of his or her earned
62 personal leave to another employee who is suffering from a
63 catastrophic injury or illness, or to another employee who has a
64 member of his or her immediate family who is suffering from a
65 catastrophic injury or illness, in accordance with subsection (8)
66 of Section 25-3-95.

67 This subsection shall stand repealed from and after July 1,
68 2005.

69 **SECTION 2.** Section 25-3-95, Mississippi Code of 1972, is
70 amended as follows:

71 25-3-95. (1) All employees and appointed officers of the
72 State of Mississippi, except temporary employees of the public
73 universities who work less than twenty (20) hours per week for a
74 period of less than five (5) months during a fiscal year and
75 recipients of full-time educational leave, while on such leave,
76 shall accrue credits for major medical leave as follows:

77 Continuous	Accrual Rate	Accrual Rate
78 Service	(Monthly)	(Annually)
79 1 month to 3 years	8 hours per month	12 days per year
80 37 months to 8 years	7 hours per month	10.5 days per year
81 97 months to 15 years	6 hours per month	9 days per year
82 Over 15 years	5 hours per month	7.5 days per year

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

86 Continuous	Accrual Rate	Accrual Rate
87 Service	(Per Month)	(Per Academic Year)
88 1 month to 3 years	13-1/3 hours per month	15 days per 89 academic year
90 37 months to 8 years	14-1/5 hours per month	16 days per 91 academic year
92 97 months to 15 years	15-2/5 hours per month	17 days per 93 academic year

126 sick leave balance on June 30, 1984. The rates of conversion
127 shall be as follows:

128 Sick Leave	Percentage	Percentage
129 Balance as of	Converted to	Converted to
130 June 30, 1984	Personal Leave	Major Medical Leave
131 1 - 200 hours	20%	80%
132 201 - 400 hours	25%	75%
133 401 - 600 hours	30%	70%
134 601 or more hours	35%	65%

135 (5) Upon retirement from active employment each faculty
136 member of the state-supported public universities who is employed
137 on a nine-month basis shall receive credit and be paid for not
138 more than thirty (30) days of unused major medical leave for
139 service as a state employee. Unused major medical leave in excess
140 of thirty (30) days shall be counted as creditable service for the
141 purposes of the retirement system as provided in Sections
142 25-11-103 and 25-13-5.

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

147 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
148 earned major medical leave of each employee shall be credited
149 monthly after the completion of each calendar month, and the
150 appointing authority shall not increase the amount of major
151 medical leave to an employee's credit. It shall be unlawful for
152 an appointing authority to grant major medical leave in an amount
153 greater than was earned and accumulated by the officer or
154 employee.

155 (8) Any employee may donate a portion of his or her earned
156 personal leave or major medical leave to another employee who is
157 suffering from a catastrophic injury or illness, as defined in
158 Section 25-3-91, or to another employee who has a member of his or

159 her immediate family who is suffering from a catastrophic injury
160 or illness, in accordance with the following:

161 (a) The employee donating the leave (the "donor
162 employee") shall designate the employee who is to receive the
163 leave (the "recipient employee") and the amount of earned personal
164 leave and major medical leave that is to be donated, and shall
165 notify the donor employee's appointing authority or supervisor of
166 his or her designation. The donor employee's appointing authority
167 or supervisor then shall notify the recipient employee's
168 appointing authority or supervisor of the amount of leave that has
169 been donated by the donor employee to the recipient employee.

170 (b) The maximum amount of earned personal leave that an
171 employee may donate to any other employee may not exceed a number
172 of days that would leave the donor employee with fewer than seven
173 (7) days of personal leave left, and the maximum amount of earned
174 major medical leave that an employee may donate to any other
175 employee may not exceed fifty percent (50%) of the earned major
176 medical leave of the donor employee. All donated leave shall be
177 in increments of not less than twenty-four (24) hours.

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

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

187 (e) If an employee is aggrieved by the decision of his
188 or her appointing authority that the employee is not eligible to
189 receive donated leave because the injury or illness of the
190 employee or member of the employee's immediate family is not, in
191 the appointing authority's determination, a catastrophic injury or

192 illness, the employee may appeal the decision to the employee
193 appeals board.

194 (f) Beginning on March 25, 2003, the maximum period of
195 time that an employee may use donated leave without resuming work
196 at his or her place of employment is ninety (90) days, which
197 commences on the first day that the recipient employee uses
198 donated leave. Donated leave that is not used because a recipient
199 employee has used the maximum amount of donated leave authorized
200 under this paragraph shall be returned to the donor employees in
201 the manner provided under paragraph (g) of this subsection.

202 (g) If the total amount of leave that is donated to any
203 employee is not used by the recipient employee, the donated leave
204 shall be returned to the donor employees on a pro rata basis,
205 based on the ratio of the number of days of leave donated by each
206 donor employee to the total number of days of leave donated by all
207 donor employees.

208 (h) The failure of any appointing authority or
209 supervisor of any employee to properly deduct an employee's
210 donation of leave to another employee from the donor employee's
211 earned personal leave or major medical leave shall constitute just
212 cause for the dismissal of the appointing authority or supervisor.

213 (i) No person through the use of coercion, threats or
214 intimidation shall require or attempt to require any employee to
215 donate his or her leave to another employee. Any person who
216 alleges a violation of this paragraph shall report the violation
217 to the executive head of the agency by whom he or she is employed
218 or, if the alleged violator is the executive head of the agency,
219 then the employee shall report the violation to the State
220 Personnel Board. Any person found to have violated this paragraph
221 shall be subject to removal from office or termination of
222 employment.

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

225 (k) Recipient employees of agencies with more than five
226 hundred (500) employees as of March 25, 2003, may receive donated
227 leave only from donor employees within the same agency. A
228 recipient employee in an agency with five hundred (500) or fewer
229 employees as of March 25, 2003, may receive donated leave from any
230 donor employee.

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

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

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

240 (m) Donated leave shall not be used in lieu of
241 disability retirement.

242 (n) For the purposes of this subsection, "immediate
243 family" means spouse, parent, stepparent, sibling, child or
244 stepchild.

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

247 **SECTION 3.** This act shall take effect and be in force from
248 and after July 1, 2005.