

By: Representative Hines

To: Appropriations

HOUSE BILL NO. 1340

1 AN ACT TO REESTABLISH A DONATED LEAVE POLICY FOR STATE
 2 EMPLOYEES; TO DEFINE CERTAIN TERMS USED UNDER THE POLICY; TO
 3 AUTHORIZE STATE EMPLOYEES TO DONATE MAJOR MEDICAL LEAVE AND
 4 PERSONAL LEAVE TO OTHER EMPLOYEES WITHIN THE SAME AGENCY OR
 5 INSTITUTION WHO ARE SUFFERING FROM, OR HAVE AN IMMEDIATE FAMILY
 6 MEMBER SUFFERING FROM, A CATASTROPHIC INJURY OR ILLNESS; TO AMEND
 7 SECTION 25-3-91, MISSISSIPPI CODE OF 1972, IN CONFORMITY TO THE
 8 PROVISIONS OF THIS ACT; AND FOR RELATED PURPOSES.

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

10 **SECTION 1.** (1) For purposes of this section, the following
 11 words and phrases have the meanings ascribed in this subsection
 12 unless the context clearly indicates otherwise:

13 (a) "Catastrophic injury or illness" means a life
 14 threatening injury or illness of an employee or a member of an
 15 employee's immediate family which totally incapacitates the
 16 employee from work, as verified by a licensed physician, and
 17 forces the employee to exhaust all leave time earned by that
 18 employee, resulting in the loss of compensation from the state to
 19 the employee. Conditions that are short term in nature,
 20 including, but not limited to, common illnesses such as influenza
 21 and the measles, and common injuries, are not catastrophic.
 22 Chronic illnesses or injuries, such as cancer or major surgery,
 23 which result in intermittent absences from work and which are long
 24 term in nature and require long recuperation periods may be
 25 considered catastrophic.

26 (b) "Donor employee" means the state employee who is
 27 donating leave to another state employee.

28 (c) "Immediate family" means spouse, parent,
 29 stepparent, sibling, child or stepchild.

30 (d) "Recipient employee" means the state employee who
31 is designated by the donor employee to receive donated leave.

32 (2) Any employee may donate a portion of his or her earned
33 personal leave or major medical leave to another employee within
34 the same agency (as defined in Section 25-9-107), institution of
35 higher learning or community or junior college who is suffering
36 from a catastrophic injury or illness or who has a member of his
37 or her immediate family who is suffering from a catastrophic
38 injury or illness, in accordance with the following:

39 (a) The donor employee shall designate the recipient
40 employee and the amount of earned personal leave or major medical
41 leave, or both, which is to be donated and shall notify the
42 appointing authority or supervisor of his or her designation.

43 (b) The maximum amount of earned personal leave which
44 an employee may donate to any other employee may not exceed a
45 number of days that would leave the donor employee with fewer than
46 seven (7) days of personal leave. The maximum amount of earned
47 major medical leave which an employee may donate to any other
48 employee may not exceed fifty percent (50%) of the earned major
49 medical leave of the donor employee.

50 (c) An employee may donate earned personal leave or
51 major medical leave only in increments of eight-hour days.

52 (d) An employee must have exhausted all of his or her
53 earned personal leave and major medical leave before he or she may
54 be eligible to receive any leave donated by another employee.

55 (e) Before an employee may receive donated leave, he or
56 she must provide his or her appointing authority or supervisor
57 with a physician's statement that states the beginning date of the
58 catastrophic injury or illness, a description of the injury or
59 illness, a prognosis for recovery and the anticipated date that
60 the recipient employee will be able to return to work.

61 (f) If an employee is aggrieved by the decision of his
62 or her appointing authority that the employee is not eligible to

63 receive donated leave because the injury or illness of the
64 employee or member of the employee's immediate family is not, in
65 the appointing authority's determination, a catastrophic injury or
66 illness, the employee may appeal the decision to the employee
67 appeals board.

68 (g) The maximum period of time that an employee may use
69 donated leave without resuming work at his or her place of
70 employment is one (1) calendar year, which year commences on the
71 first day that the recipient employee uses donated leave. Donated
72 leave that is not used because a recipient employee has used the
73 maximum amount of donated leave authorized under this paragraph
74 will be returned to the donor employees in the manner provided
75 under paragraph (h) of this subsection.

76 (h) If the total amount of leave that is donated to any
77 employee is not used by the recipient employee, the donated leave
78 must be returned to the donor employees on a pro rata basis, based
79 on the ratio of the number of days of leave donated by each donor
80 employee to the total number of days of leave donated by all donor
81 employees.

82 (i) The intentional failure or neglect of any
83 appointing authority or supervisor of any employee to properly
84 deduct an employee's donation of leave to another employee from
85 the donor employee's earned personal leave or major medical leave
86 constitutes just cause for the dismissal of the appointing
87 authority or supervisor.

88 (j) Donated leave may not be used in lieu of disability
89 retirement.

90 **SECTION 2.** Section 25-3-91, Mississippi Code of 1972, is
91 amended as follows:

92 25-3-91. For purposes of Sections 25-3-91 through 25-3-99,
93 the following words and terms shall have the meaning ascribed in
94 this section, unless the context clearly requires otherwise:

95 (a) "Appointing authority" shall mean such person,
96 agency or authority authorized by law to employ individuals in
97 state government, but shall not include the Board of Directors of
98 the Mississippi Industries for the Blind.

99 * * *

100 **(b)** "Employee" means a person appointed to a position
101 in the state service or nonstate service as defined in Section
102 25-9-107, for which he is compensated on a full-time permanent or
103 provisional basis, a temporary basis, or a part-time basis.
104 However, in order for an employee to be eligible to receive
105 donated leave, the employee must meet the requirements provided in
106 Section 25-3-95(8).

107 **(c)** "Workday" shall mean a day as defined in Section
108 25-1-98.

109 **(d)** "Temporary employment" means the employment of a
110 person in a temporary or time-limited position not to exceed
111 twelve (12) months.

112 **(e)** "Part-time employment" means the employment of a
113 person in a part-time position.

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