

By: Senator(s) Thames

To: Fees, Salaries and Administration

SENATE BILL NO. 2662

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE THAT WHEN A STATE EMPLOYEE'S ABSENCE IS DUE TO A
3 WORK-RELATED INJURY FOR WHICH THE EMPLOYEE IS RECEIVING WORKERS'
4 COMPENSATION BENEFITS, THE EMPLOYEE SHALL CHOOSE EITHER TO RECEIVE
5 THE WORKERS' COMPENSATION BENEFITS OR TO USE MAJOR MEDICAL LEAVE;
6 AND FOR RELATED PURPOSES.

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

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

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

Table with 4 columns: Service, Continuous, Accrual Rate (Monthly), Accrual Rate (Annually). Rows include 1 month to 3 years, 37 months to 8 years, 97 months to 15 years, and Over 15 years.

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

Table with 4 columns: Service, Continuous, Accrual Rate (Per Month), Accrual Rate (Per Academic Year). Rows include 1 month to 3 years and 37 months to 8 years.

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

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

40 (2) Major medical leave may be used for the illness or  
41 injury of an employee or member of the employee's immediate family  
42 as defined in subsection (3) of this section, only after the  
43 employee has used one (1) day of accrued personal or compensatory  
44 leave for each absence due to illness, or leave without pay if the  
45 employee has no accrued personal or compensatory leave. Provided  
46 that faculty members employed by the eight (8) public universities  
47 on a nine-month basis may use major medical leave for the first  
48 day of absence due to illness. However, major medical leave may  
49 be used, without prior use of personal leave, to cover regularly  
50 scheduled visits to a doctor's office or a hospital for the  
51 continuing treatment of a chronic disease, as certified in advance  
52 by a physician. For the purposes of this section, "physician"  
53 means a doctor of medicine, osteopathy, dental medicine, podiatry  
54 or chiropractic. For each absence due to illness of thirty-two  
55 (32) consecutive working hours (combined personal leave and major  
56 medical leave) major medical leave shall be authorized only when  
57 certified by their attending physician. When an employee's  
58 absence is due to a work-related injury for which the employee is  
59 receiving temporary partial disability benefits pursuant to  
60 Section 71-3-21, the employee shall choose to either receive the  
61 temporary partial disability benefits or to use major medical  
62 leave, and shall not receive both such benefits.

63 (3) An employee may use up to three (3) days of earned major  
64 medical leave for each occurrence of death in the immediate family  
65 requiring the employee's absence from work. No qualifying time or  
66 use of personal leave will be required prior to use of major  
67 medical leave for this purpose. For the purpose of this  
68 subsection (3), the immediate family is defined as spouse, parent,  
69 stepparent, sibling, child, stepchild, grandchild, grandparent,  
70 son- or daughter-in-law, mother- or father-in-law or brother- or  
71 sister-in-law. Child means a biological, adopted or foster child,  
72 or a child for whom the individual stands or stood in loco  
73 parentis.

74 (4) Employees and appointed officers of the State of  
75 Mississippi having unused, accumulated sick leave or annual leave  
76 earned prior to July 1, 1984, shall be credited with major medical  
77 leave and personal leave as follows: All unused annual leave  
78 shall be credited as personal leave.

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

83 Sick Leave	Percentage	Percentage
84 Balance as of	Converted to	Converted to
85 June 30, 1984	Personal Leave	Major Medical Leave
86 1 - 200 hours	20%	80%
87 201 - 400 hours	25%	75%
88 401 - 600 hours	30%	70%
89 601 or more hours	35%	65%

90 (5) Upon retirement from active employment each faculty  
91 member of the state-supported public universities who is employed  
92 on a nine-month basis shall receive credit and be paid for not  
93 more than thirty (30) days of unused major medical leave for  
94 service as a state employee. Unused major medical leave in excess  
95 of thirty (30) days shall be counted as creditable service for the

96 purposes of the retirement system as provided in Sections  
97 25-11-103 and 25-13-5.

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

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

110 (8) Any employee may donate a portion of his or her earned  
111 personal leave or major medical leave to another employee who is  
112 suffering from a catastrophic injury or illness, as defined in  
113 Section 25-3-91, or to another employee who has a member of his or  
114 her immediate family who is suffering from a catastrophic injury  
115 or illness, in accordance with the following:

116 (a) The employee donating the leave (the "donor  
117 employee") shall designate the employee who is to receive the  
118 leave (the "recipient employee") and the amount of earned personal  
119 leave and major medical leave that is to be donated, and shall  
120 notify the donor employee's appointing authority or supervisor of  
121 his or her designation. The donor employee's appointing authority  
122 or supervisor then shall notify the recipient employee's  
123 appointing authority or supervisor of the amount of leave that has  
124 been donated by the donor employee to the recipient employee.

125 (b) The maximum amount of earned personal leave that an  
126 employee may donate to any other employee may not exceed a number  
127 of days that would leave the donor employee with fewer than seven  
128 (7) days of personal leave left, and the maximum amount of earned

129 major medical leave that an employee may donate to any other  
130 employee may not exceed fifty percent (50%) of the earned major  
131 medical leave of the donor employee. All donated leave shall be  
132 in increments of not less than twenty-four (24) hours.

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

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

142 (e) If an employee is aggrieved by the decision of his  
143 or her appointing authority that the employee is not eligible to  
144 receive donated leave because the injury or illness of the  
145 employee or member of the employee's immediate family is not, in  
146 the appointing authority's determination, a catastrophic injury or  
147 illness, the employee may appeal the decision to the employee  
148 appeals board.

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

157 (g) If the total amount of leave that is donated to any  
158 employee is not used by the recipient employee, the donated leave  
159 shall be returned to the donor employees on a pro rata basis,  
160 based on the ratio of the number of days of leave donated by each

161 donor employee to the total number of days of leave donated by all  
162 donor employees.

163 (h) The failure of any appointing authority or  
164 supervisor of any employee to properly deduct an employee's  
165 donation of leave to another employee from the donor employee's  
166 earned personal leave or major medical leave shall constitute just  
167 cause for the dismissal of the appointing authority or supervisor.

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

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

180 (k) Recipient employees of agencies with more than five  
181 hundred (500) employees as of March 25, 2003, may receive donated  
182 leave only from donor employees within the same agency. A  
183 recipient employee in an agency with five hundred (500) or fewer  
184 employees as of March 25, 2003, may receive donated leave from any  
185 donor employee.

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

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

191 (ii) Have been employed for at least one thousand  
192 two hundred fifty (1,250) hours of service with such employer

193 during the previous twelve-month period from the date on which the  
194 leave is donated.

195 (m) Donated leave shall not be used in lieu of  
196 disability retirement.

197 (n) For the purposes of this subsection, "immediate  
198 family" means spouse, parent, stepparent, sibling, child or  
199 stepchild.

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

202 **SECTION 2.** This act shall take effect and be in force from  
203 and after July 1, 2005.