

By: Representative Fleming

To: Fees and Salaries of
Public Officers;
Appropriations

HOUSE BILL NO. 13

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
2 ALLOW STATE EMPLOYEES AND APPOINTED OFFICERS TO BE PAID FOR NOT
3 MORE THAN 30 DAYS OF MAJOR MEDICAL LEAVE UPON TERMINATION OF
4 EMPLOYMENT; AND FOR RELATED PURPOSES.

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

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

8 25-3-95. (1) All employees and appointed officers of the
9 State of Mississippi, except employees of the public universities
10 who do not contribute to the Mississippi Public Employees'
11 Retirement System or the State Institutions of Higher Learning
12 Optional Retirement Program, shall accrue credits for major
13 medical leave as follows:

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

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

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

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

33 Part-time employees shall accrue major medical leave on a pro
34 rata basis. There shall be no maximum limit to major medical
35 leave accumulation. Upon termination of employment, each employee
36 shall be paid for not more than thirty (30) days of accumulated
37 major medical leave. All unused major medical leave in excess of
38 thirty (30) days shall be counted as creditable service for the
39 purposes of the retirement system as provided in Sections
40 25-11-103 and 25-13-5.

41 (2) Major medical leave may be used for the illness or
42 injury of an employee or member of the employee's immediate family
43 as defined in subsection (3) of this section, only after the
44 employee has used one (1) day of accrued personal or compensatory
45 leave for each absence due to illness, or leave without pay if the
46 employee has no accrued personal or compensatory leave. Provided
47 that faculty members employed by the eight (8) public universities
48 on a nine-month basis may use major medical leave for the first
49 day of absence due to illness. However, major medical leave may
50 be used, without prior use of personal leave, to cover regularly
51 scheduled visits to a doctor's office or a hospital for the
52 continuing treatment of a chronic disease, as certified in advance
53 by a physician. For the purposes of this section, "physician"
54 means a doctor of medicine, osteopathy, dental medicine, podiatry
55 or chiropractic. For each absence due to illness of thirty-two
56 (32) consecutive working hours (combined personal leave and major
57 medical leave) major medical leave shall be authorized only when
58 certified by their attending physician.

59 (3) An employee may use up to three (3) days of earned major
60 medical leave for each occurrence of death in the immediate family
61 requiring the employee's absence from work. No qualifying time or

62 use of personal leave will be required prior to use of major
63 medical leave for this purpose. For the purpose of this
64 subsection (3), the immediate family is defined as spouse, parent,
65 stepparent, sibling, child, stepchild, grandchild, grandparent,
66 son- or daughter-in-law, mother- or father-in-law or brother- or
67 sister-in-law. Child means a biological, adopted or foster child,
68 or a child for whom the individual stands or stood in loco
69 parentis.

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

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

79 Sick Leave	Percentage	Percentage
80 Balance as of	Converted to	Converted to
81 June 30, 1984	Personal Leave	Major Medical Leave
82 1 - 200 hours	20%	80%
83 201 - 400 hours	25%	75%
84 401 - 600 hours	30%	70%
85 601 or more hours	35%	65%

86 (5) Upon retirement from active employment each faculty
87 member of the state-supported public universities who is employed
88 on a nine-month basis shall receive credit and be paid for not
89 more than thirty (30) days of unused major medical leave for
90 service as a state employee. Unused major medical leave in excess
91 of thirty (30) days shall be counted as creditable service for the
92 purposes of the retirement system as provided in Sections
93 25-11-103 and 25-13-5.

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

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

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

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

121 (b) The maximum amount of earned personal leave that an
122 employee may donate to any other employee may not exceed a number
123 of days that would leave the donor employee with fewer than seven
124 (7) days of personal leave left, and the maximum amount of earned
125 major medical leave that an employee may donate to any other
126 employee may not exceed fifty percent (50%) of the earned major

127 medical leave of the donor employee. All donated leave shall be
128 in increments of not less than twenty-four (24) hours.

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

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

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

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

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

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

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

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

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

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

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

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

191 (m) Donated leave shall not be used in lieu of
192 disability retirement.

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

196 **SECTION 2.** This act shall take effect and be in force from
197 and after July 1, 2006.