

By: Senator(s) Harden

To: Education

SENATE BILL NO. 2297

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO CLARIFY THAT SCHOOL DISTRICTS MAY PAY SUBSTITUTE TEACHERS FROM
3 ANY AVAILABLE FUND OF THE DISTRICT; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 37-7-307, Mississippi Code of 1972, is
6 amended as follows:

7 37-7-307. (1) For purposes of this section, the term
8 "licensed employee" means any employee of a public school district
9 required to hold a valid license by the Commission on Teacher and
10 Administrator Education, Certification and Licensure and
11 Development.

12 (2) The school board of a school district shall establish by
13 rules and regulations a policy of sick leave with pay for licensed
14 employees and teacher assistants employed in the school district,
15 and such policy shall include the following minimum provisions for
16 sick and emergency leave with pay:

17 (a) Each licensed employee and teacher assistant, at
18 the beginning of each school year, shall be credited with a
19 minimum sick leave allowance, with pay, of seven (7) days for
20 absences caused by illness or physical disability of the employee
21 during that school year.

22 (b) Any unused portion of the total sick leave
23 allowance shall be carried over to the next school year and
24 credited to such licensed employee and teacher assistant if the
25 licensed employee or teacher assistant remains employed in the
26 same school district. In the event any public school licensed
27 employee or teacher assistant transfers from one public school

28 district in Mississippi to another, any unused portion of the
29 total sick leave allowance credited to such licensed employee or
30 teacher assistant shall be credited to such licensed employee or
31 teacher assistant in the computation of unused leave for
32 retirement purposes under Section 25-11-109. Accumulation of sick
33 leave allowed under this section shall be unlimited.

34 (c) No deduction from the pay of such licensed employee
35 or teacher assistant may be made because of absence of such
36 licensed employee or teacher assistant caused by illness or
37 physical disability of the licensed employee or teacher assistant
38 until after all sick leave allowance credited to such licensed
39 employee or teacher assistant has been used.

40 (d) For the first ten (10) days of absence of a
41 licensed employee because of illness or physical disability, in
42 any school year, in excess of the sick leave allowance credited to
43 such licensed employee, there may be deducted from the pay of such
44 licensed employee the established substitute amount of licensed
45 employee compensation paid in that local school district,
46 necessitated because of the absence of the licensed employee as a
47 result of illness or physical disability. Thereafter, the regular
48 pay of such absent licensed employee may be suspended and withheld
49 in its entirety for any period of absence because of illness or
50 physical disability during that school year.

51 (3) Beginning with the school year 1983-1984, each licensed
52 employee at the beginning of each school year shall be credited
53 with a minimum personal leave allowance, with pay, of two (2) days
54 for absences caused by personal reasons during that school year.
55 Such personal leave shall not be taken on the first day of the
56 school term, the last day of the school term, on a day previous to
57 a holiday or a day after a holiday, unless on such days an
58 immediate family member of the employee is being deployed for
59 military service. Personal leave may be used for professional
60 purposes, including absences caused by attendance of such licensed

61 employee at a seminar, class, training program, professional
62 association or other functions designed for educators. No
63 deduction from the pay of such licensed employee may be made
64 because of absence of such licensed employee caused by personal
65 reasons until after all personal leave allowance credited to such
66 licensed employee has been used. However, the superintendent of a
67 school district, in his discretion, may allow a licensed employee
68 personal leave in addition to any minimum personal leave
69 allowance, under the condition that there shall be deducted from
70 the salary of such licensed employee the actual amount of any
71 compensation paid to any person as a substitute, necessitated
72 because of the absence of the licensed employee. Any unused
73 portion of the total personal leave allowance up to five (5) days
74 shall be carried over to the next school year and credited to such
75 licensed employee if the licensed employee remains employed in the
76 same school district.

77 (4) Beginning with the school year 1992-1993, each licensed
78 employee shall be credited with a professional leave allowance,
79 with pay, for each day of absence caused by reason of such
80 employee's statutorily required membership and attendance at a
81 regular or special meeting held within the State of Mississippi of
82 the State Board of Education, the Commission on Teacher and
83 Administrator Education, Certification and Licensure and
84 Development, the Commission on School Accreditation, the
85 Mississippi Authority for Educational Television, the meetings of
86 the state textbook rating committees or other meetings authorized
87 by local school board policy.

88 (5) Upon retirement from employment, each licensed and
89 nonlicensed employee shall be paid for not more than thirty (30)
90 days of unused accumulated leave earned while employed by the
91 school district in which the employee is last employed. Such
92 payment for licensed employees shall be made by the school
93 district at a rate equal to the amount paid to substitute teachers

94 and for nonlicensed employees, the payment shall be made by the
95 school district at a rate equal to the federal minimum wage. The
96 payment shall be treated in the same manner for retirement
97 purposes as a lump-sum payment for personal leave as provided in
98 Section 25-11-103(e). Any remaining lawfully credited unused
99 leave, for which payment has not been made, shall be certified to
100 the Public Employees' Retirement System in the same manner and
101 subject to the same limitations as otherwise provided by law for
102 unused leave. No payment for unused accumulated leave may be made
103 to either a licensed or nonlicensed employee at termination or
104 separation from service for any purpose other than for the purpose
105 of retirement.

106 (6) The school board may adopt rules and regulations which
107 will reasonably aid to implement the policy of sick and personal
108 leave, including, but not limited to, rules and regulations having
109 the following general effect:

110 (a) Requiring the absent employee to furnish the
111 certificate of a physician or dentist or other medical
112 practitioner as to the illness of the absent licensed employee,
113 where the absence is for four (4) or more consecutive school days,
114 or for two (2) consecutive school days immediately preceding or
115 following a nonschool day;

116 (b) Providing penalties, by way of full deduction from
117 salary, or entry on the work record of the employee, or other
118 appropriate penalties, for any materially false statement by the
119 employee as to the cause of absence;

120 (c) Forfeiture of accumulated or future sick leave, if
121 the absence of the employee is caused by optional dental or
122 medical treatment or surgery which could, without medical risk,
123 have been provided, furnished or performed at a time when school
124 was not in session;

125 (d) Enlarging, increasing or providing greater sick or
126 personal leave allowances than the minimum standards established

127 by this section in the discretion of the school board of each
128 school district.

129 (7) School boards may include in their budgets provisions
130 for the payment of substitute employees, necessitated because of
131 the absence of regular licensed employees. All such substitute
132 employees shall be paid wholly from any legally available funds of
133 the district * * *, except as otherwise provided for long-term
134 substitute teachers in Section 37-19-20. Such school boards, in
135 their discretion, also may pay, from district funds other than
136 adequate education program funds, the whole or any part of the
137 salaries of all employees granted leaves for the purpose of
138 special studies or training.

139 (8) The school board may further adopt rules and regulations
140 which will reasonably implement such leave policies for all other
141 nonlicensed and hourly paid school employees as the board deems
142 appropriate.

143 (9) Vacation leave granted to either licensed or nonlicensed
144 employees shall be synonymous with personal leave. Unused
145 vacation or personal leave accumulated by licensed employees in
146 excess of the maximum five (5) days which may be carried over from
147 one year to the next may be converted to sick leave. The annual
148 conversion of unused vacation or personal leave to sick days for
149 licensed or unlicensed employees shall not exceed the allowable
150 number of personal leave days as provided in Section 25-3-93. The
151 annual total number of converted unused vacation and/or personal
152 days added to the annual unused sick days for any employee shall
153 not exceed the combined allowable number of days per year provided
154 in Sections 25-3-93 and 25-3-95. Local school board policies that
155 provide for vacation, personal and sick leave for employees shall
156 not exceed the provisions for leave as provided in Sections
157 25-3-93 and 25-3-95. Any personal or vacation leave previously
158 converted to sick leave under a lawfully adopted policy before May
159 1, 2004, or such personal or vacation leave accumulated and

160 available for use prior to May 1, 2004, under a lawfully adopted
161 policy but converted to sick leave after May 1, 2004, shall be
162 recognized as accrued leave by the local school district and
163 available for use by the employee. The leave converted under a
164 lawfully adopted policy prior to May 1, 2004, or such personal and
165 vacation leave accumulated and available for use as of May 1,
166 2004, which was subsequently converted to sick leave may be
167 certified to the Public Employees' Retirement System upon
168 termination of employment and any such leave previously converted
169 and certified to the Public Employees' Retirement System shall be
170 recognized.

171 (10) (a) For the purposes of this subsection, the following
172 words and phrases shall have the meaning ascribed in this
173 paragraph unless the context requires otherwise:

174 (i) "Catastrophic injury or illness" means a
175 life-threatening injury or illness of an employee or a member of
176 an employee's immediate family that totally incapacitates the
177 employee from work, as verified by a licensed physician, and
178 forces the employee to exhaust all leave time earned by that
179 employee, resulting in the loss of compensation from the local
180 school district for the employee. Conditions that are short-term
181 in nature, including, but not limited to, common illnesses such as
182 influenza and the measles, and common injuries, are not
183 catastrophic. Chronic illnesses or injuries, such as cancer or
184 major surgery, that result in intermittent absences from work and
185 that are long-term in nature and require long recuperation periods
186 may be considered catastrophic.

187 (ii) "Immediate family" means spouse, parent,
188 stepparent, sibling, child or stepchild.

189 (b) Any school district employee may donate a portion
190 of his or her unused accumulated personal leave or sick leave to
191 another employee of the same or another school district who is
192 suffering from a catastrophic injury or illness or who has a

193 member of his or her immediate family suffering from a
194 catastrophic injury or illness, in accordance with the following:

195 (i) The employee donating the leave (the "donor
196 employee") shall designate the employee who is to receive the
197 leave (the "recipient employee") and the amount of unused
198 accumulated personal leave and sick leave that is to be donated,
199 and shall notify the school district superintendent or his
200 designee of his or her designation.

201 (ii) The maximum amount of unused accumulated
202 personal leave that an employee may donate to any other employee
203 may not exceed a number of days that would leave the donor
204 employee with fewer than seven (7) days of personal leave
205 remaining, and the maximum amount of unused accumulated sick leave
206 that an employee may donate to any other employee may not exceed
207 fifty percent (50%) of the unused accumulated sick leave of the
208 donor employee.

209 (iii) An employee must have exhausted all of his
210 or her available leave before he or she will be eligible to
211 receive any leave donated by another employee. Eligibility for
212 donated leave shall be based upon review and approval by the donor
213 employee's supervisor.

214 (iv) Before an employee may receive donated leave,
215 he or she must provide the school district superintendent or his
216 designee with a physician's statement that states the beginning
217 date of the catastrophic injury or illness, a description of the
218 injury or illness, and a prognosis for recovery and the
219 anticipated date that the recipient employee will be able to
220 return to work.

221 (v) If the total amount of leave that is donated
222 to any employee is not used by the recipient employee, the whole
223 days of donated leave shall be returned to the donor employees on
224 a pro rata basis, based on the ratio of the number of days of

225 leave donated by each donor employee to the total number of days
226 of leave donated by all donor employees.

227 (vi) Donated leave shall not be used in lieu of
228 disability retirement.

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