

By: Representative Hood

To: Appropriations

HOUSE BILL NO. 1056

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
 2 TO PROVIDE THAT WHEN NONLICENSED SCHOOL EMPLOYEES RETIRE FROM
 3 EMPLOYMENT, THE PAYMENT BY THE SCHOOL DISTRICT FOR UP TO THIRTY
 4 DAYS OF UNUSED EARNED ACCUMULATED LEAVE SHALL BE MADE AT THE RATE
 5 SET BY THE SCHOOL BOARD, WHICH SHALL NOT BE LESS THAN THE FEDERAL
 6 MINIMUM WAGE; AND FOR RELATED PURPOSES.

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

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

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

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



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

25 (b) Any unused portion of the total sick leave
26 allowance shall be carried over to the next school year and
27 credited to such licensed employee and teacher assistant if the
28 licensed employee or teacher assistant remains employed in the
29 same school district. In the event any public school licensed
30 employee or teacher assistant transfers from one public school
31 district in Mississippi to another, any unused portion of the
32 total sick leave allowance credited to such licensed employee or
33 teacher assistant shall be credited to such licensed employee or
34 teacher assistant in the computation of unused leave for
35 retirement purposes under Section 25-11-109. Accumulation of sick
36 leave allowed under this section shall be unlimited.

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

43 (d) For the first ten (10) days of absence of a
44 licensed employee because of illness or physical disability, in



45 any school year, in excess of the sick leave allowance credited to
46 such licensed employee, there shall be deducted from the pay of
47 such licensed employee the established substitute amount of
48 licensed employee compensation paid in that local school district,
49 necessitated because of the absence of the licensed employee as a
50 result of illness or physical disability. In lieu of deducting
51 the established substitute amount from the pay of such licensed
52 employee, the policy may allow the licensed employee to receive
53 full pay for the first ten (10) days of absence because of illness
54 or physical disability, in any school year, in excess of the sick
55 leave allowance credited to such licensed employee. Thereafter,
56 the regular pay of such absent licensed employee shall be
57 suspended and withheld in its entirety for any period of absence
58 because of illness or physical disability during that school year.

59 (3) (a) Beginning with the school year 1983-1984, each
60 licensed employee at the beginning of each school year shall be
61 credited with a minimum personal leave allowance, with pay, of two
62 (2) days for absences caused by personal reasons during that
63 school year. Effective for the 2010-2011 and 2011-2012 school
64 years, licensed employees shall be credited with an additional
65 one-half (1/2) day of personal leave for every day the licensed
66 employee is furloughed without pay as provided in Section
67 37-7-308. Except as otherwise provided in paragraph (b) of this
68 subsection, such personal leave shall not be taken on the first
69 day of the school term, the last day of the school term, on a day



70 previous to a holiday or a day after a holiday. Personal leave
71 may be used for professional purposes, including absences caused
72 by attendance of such licensed employee at a seminar, class,
73 training program, professional association or other functions
74 designed for educators. No deduction from the pay of such
75 licensed employee may be made because of absence of such licensed
76 employee caused by personal reasons until after all personal leave
77 allowance credited to such licensed employee has been used.
78 However, the superintendent of a school district, in his
79 discretion, may allow a licensed employee personal leave in
80 addition to any minimum personal leave allowance, under the
81 condition that there shall be deducted from the salary of such
82 licensed employee the actual amount of any compensation paid to
83 any person as a substitute, necessitated because of the absence of
84 the licensed employee. Any unused portion of the total personal
85 leave allowance up to five (5) days shall be carried over to the
86 next school year and credited to such licensed employee if the
87 licensed employee remains employed in the same school district.
88 Any personal leave allowed for a furlough day shall not be carried
89 over to the next school year.

90 (b) Notwithstanding the restrictions on the use of
91 personal leave prescribed under paragraph (a) of this subsection,
92 a licensed employee may use personal leave as follows:

93 (i) Personal leave may be taken on the first day
94 of the school term, the last day of the school term, on a day



95 previous to a holiday or a day after a holiday if, on the
96 applicable day, an immediate family member of the employee is
97 being deployed for military service.

98 (ii) Personal leave may be taken on a day previous
99 to a holiday or a day after a holiday if an employee of a school
100 district has either a minimum of ten (10) years' experience as an
101 employee of that school district or a minimum of thirty (30) days
102 of unused accumulated leave that has been earned while employed in
103 that school district.

104 (iii) Personal leave may be taken on the first day
105 of the school term, the last day of the school term, on a day
106 previous to a holiday or a day after a holiday if, on the
107 applicable day, the employee has been summoned to appear for jury
108 duty or as a witness in court.

109 (iv) Personal leave may be taken on the first day
110 of the school term, the last day of the school term, on a day
111 previous to a holiday or a day after a holiday if, on the
112 applicable day, an immediate family member of the employee dies or
113 funeral services are held. Any day of the three (3) bereavement
114 days may be used at the discretion of the teacher, and are not
115 required to be taken in consecutive succession.

116 For the purpose of this subsection (3), the term "immediate
117 family member" means spouse, parent, stepparent, child or
118 stepchild, grandparent or sibling, including a stepbrother or
119 stepsister.



120 (4) Beginning with the school year 1992-1993, each licensed
121 employee shall be credited with a professional leave allowance,
122 with pay, for each day of absence caused by reason of such
123 employee's statutorily required membership and attendance at a
124 regular or special meeting held within the State of Mississippi of
125 the State Board of Education, the Commission on Teacher and
126 Administrator Education, Certification and Licensure and
127 Development, the Commission on School Accreditation, the
128 Mississippi Authority for Educational Television, the meetings of
129 the state textbook rating committees or other meetings authorized
130 by local school board policy.

131 (5) Upon retirement from employment, each licensed and
132 nonlicensed employee shall be paid for not more than thirty (30)
133 days of unused accumulated leave earned while employed by the
134 school district in which the employee is last employed. Such
135 payment for licensed employees shall be made by the school
136 district at a rate equal to the amount paid to substitute teachers
137 and for nonlicensed employees, the payment shall be made by the
138 school district at * * * the rate * * * set by the school board,
139 which shall not be less than the federal minimum wage. The
140 payment shall be treated in the same manner for retirement
141 purposes as a lump-sum payment for personal leave as provided in
142 Section 25-11-103(f). Any remaining lawfully credited unused
143 leave, for which payment has not been made, shall be certified to
144 the Public Employees' Retirement System in the same manner and



145 subject to the same limitations as otherwise provided by law for
146 unused leave. No payment for unused accumulated leave may be made
147 to either a licensed or nonlicensed employee at termination or
148 separation from service for any purpose other than for the purpose
149 of retirement.

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

154 (a) Requiring the absent employee to furnish the
155 certificate of a physician or dentist or other medical
156 practitioner as to the illness of the absent licensed employee,
157 where the absence is for four (4) or more consecutive school days,
158 or for two (2) consecutive school days immediately preceding or
159 following a nonschool day;

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

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



169 (d) Enlarging, increasing or providing greater sick or
170 personal leave allowances than the minimum standards established
171 by this section in the discretion of the school board of each
172 school district.

173 (7) School boards may include in their budgets provisions
174 for the payment of substitute employees, necessitated because of
175 the absence of regular licensed employees. All such substitute
176 employees shall be paid wholly from district funds, except as
177 otherwise provided for long-term substitute teachers in Section
178 37-19-20. Such school boards, in their discretion, also may pay,
179 from district funds other than adequate education program funds,
180 the whole or any part of the salaries of all employees granted
181 leaves for the purpose of special studies or training.

182 (8) The school board may further adopt rules and regulations
183 which will reasonably implement such leave policies for all other
184 nonlicensed and hourly paid school employees as the board deems
185 appropriate. Effective for the 2010-2011 and 2011-2012 school
186 years, nonlicensed employees shall be credited with an additional
187 one-half (1/2) day of personal leave for every day the nonlicensed
188 employee is furloughed without pay as provided in Section
189 37-7-308.

190 (9) Vacation leave granted to either licensed or nonlicensed
191 employees shall be synonymous with personal leave. Unused
192 vacation or personal leave accumulated by licensed employees in
193 excess of the maximum five (5) days which may be carried over from



194 one year to the next may be converted to sick leave. The annual
195 conversion of unused vacation or personal leave to sick days for
196 licensed or unlicensed employees shall not exceed the allowable
197 number of personal leave days as provided in Section 25-3-93. The
198 annual total number of converted unused vacation and/or personal
199 days added to the annual unused sick days for any employee shall
200 not exceed the combined allowable number of days per year provided
201 in Sections 25-3-93 and 25-3-95. Local school board policies that
202 provide for vacation, personal and sick leave for employees shall
203 not exceed the provisions for leave as provided in Sections
204 25-3-93 and 25-3-95. Any personal or vacation leave previously
205 converted to sick leave under a lawfully adopted policy before May
206 1, 2004, or such personal or vacation leave accumulated and
207 available for use prior to May 1, 2004, under a lawfully adopted
208 policy but converted to sick leave after May 1, 2004, shall be
209 recognized as accrued leave by the local school district and
210 available for use by the employee. The leave converted under a
211 lawfully adopted policy prior to May 1, 2004, or such personal and
212 vacation leave accumulated and available for use as of May 1,
213 2004, which was subsequently converted to sick leave may be
214 certified to the Public Employees' Retirement System upon
215 termination of employment and any such leave previously converted
216 and certified to the Public Employees' Retirement System shall be
217 recognized.



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

221 (i) "Catastrophic injury or illness" means a
222 life-threatening injury or illness of an employee or a member of
223 an employee's immediate family that totally incapacitates the
224 employee from work, as verified by a licensed physician, and
225 forces the employee to exhaust all leave time earned by that
226 employee, resulting in the loss of compensation from the local
227 school district for the employee. Conditions that are short-term
228 in nature, including, but not limited to, common illnesses such as
229 influenza and the measles, and common injuries, are not
230 catastrophic. Chronic illnesses or injuries, such as cancer or
231 major surgery, that result in intermittent absences from work and
232 that are long-term in nature and require long recuperation periods
233 may be considered catastrophic.

234 (ii) "Immediate family" means spouse, parent,
235 stepparent, sibling, child or stepchild, grandparent, stepbrother
236 or stepsister.

237 (b) Any school district employee may donate a portion
238 of his or her unused accumulated personal leave or sick leave to
239 another employee of the same school district who is suffering from
240 a catastrophic injury or illness or who has a member of his or her
241 immediate family suffering from a catastrophic injury or illness,
242 in accordance with the following:



243 (i) The employee donating the leave (the "donor
244 employee") shall designate the employee who is to receive the
245 leave (the "recipient employee") and the amount of unused
246 accumulated personal leave and sick leave that is to be donated,
247 and shall notify the school district superintendent or his
248 designee of his or her designation.

249 (ii) The maximum amount of unused accumulated
250 personal leave that an employee may donate to any other employee
251 may not exceed a number of days that would leave the donor
252 employee with fewer than seven (7) days of personal leave
253 remaining, and the maximum amount of unused accumulated sick leave
254 that an employee may donate to any other employee may not exceed
255 fifty percent (50%) of the unused accumulated sick leave of the
256 donor employee.

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

262 (iv) Before an employee may receive donated leave,
263 he or she must provide the school district superintendent or his
264 designee with a physician's statement that states that the illness
265 meets the catastrophic criteria established under this section,
266 the beginning date of the catastrophic injury or illness, a
267 description of the injury or illness, and a prognosis for recovery



268 and the anticipated date that the recipient employee will be able
269 to return to work.

270 (v) Before an employee may receive donated leave,
271 the superintendent of education of the school district shall
272 appoint a review committee to approve or disapprove the said
273 donations of leave, including the determination that the illness
274 is catastrophic within the meaning of this section.

275 (vi) If the total amount of leave that is donated
276 to any employee is not used by the recipient employee, the whole
277 days of donated leave shall be returned to the donor employees on
278 a pro rata basis, based on the ratio of the number of days of
279 leave donated by each donor employee to the total number of days
280 of leave donated by all donor employees.

281 (vii) Donated leave shall not be used in lieu of
282 disability retirement.

283 (11) Effective January 1, 2020, the provisions of this
284 section shall be fully applicable to any licensed employee of the
285 Mississippi School of the Arts (MSA).

286 **SECTION 2.** This act shall take effect and be in force from
287 and after July 1, 2023.

