

By: Senator(s) Williams

To: Education

SENATE BILL NO. 2775

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT NONLICENSED EMPLOYEES SHALL RECEIVE PAYMENT FOR
3 UNUSED ACCUMULATED LEAVE FOR NOT MORE THAN THIRTY DAYS AT A RATE
4 SET BY SCHOOL DISTRICTS BUT SHALL NOT BE LESS THAN AT A RATE EQUAL
5 TO THE FEDERAL MINIMUM WAGE; AND FOR RELATED PURPOSES.

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

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

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

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



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

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

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

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



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

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



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

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

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



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

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

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

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

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



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

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



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

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

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

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

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

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



169 by this section in the discretion of the school board of each
170 school district.

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

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

188 (9) Vacation leave granted to either licensed or nonlicensed
189 employees shall be synonymous with personal leave. Unused
190 vacation or personal leave accumulated by licensed employees in
191 excess of the maximum five (5) days which may be carried over from
192 one year to the next may be converted to sick leave. The annual
193 conversion of unused vacation or personal leave to sick days for



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

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



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

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

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

241 (i) The employee donating the leave (the "donor
242 employee") shall designate the employee who is to receive the
243 leave (the "recipient employee") and the amount of unused



244 accumulated personal leave and sick leave that is to be donated,
245 and shall notify the school district superintendent or his
246 designee of his or her designation.

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

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

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



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

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

279 (vii) Donated leave shall not be used in lieu of
280 disability retirement.

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

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

