

By: Senator(s) McDaniel

To: Accountability,
Efficiency, Transparency

SENATE BILL NO. 2880

1 AN ACT TO AMEND SECTION 25-3-93, MISSISSIPPI CODE OF 1972, TO
 2 ALLOW LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS WHO HAVE TAKEN
 3 PERSONAL LEAVE DUE TO A WORK-RELATED INJURY TO BUY BACK THOSE
 4 LEAVE HOURS UNDER CERTAIN CIRCUMSTANCES; TO AMEND SECTION 25-3-95,
 5 MISSISSIPPI CODE OF 1972, TO ALLOW LAW ENFORCEMENT OFFICERS AND
 6 FIREFIGHTERS WHO HAVE TAKEN MAJOR MEDICAL LEAVE DUE TO A
 7 WORK-RELATED INJURY TO BUY BACK THOSE LEAVE HOURS UNDER CERTAIN
 8 CIRCUMSTANCES; TO BRING FORWARD SECTION 25-11-117, MISSISSIPPI
 9 CODE OF 1972, FOR PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED
 10 PURPOSES.

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

12 **SECTION 1.** Section 25-3-93, Mississippi Code of 1972, is
 13 amended as follows:

14 25-3-93. (1) (a) (i) Except as provided in subsection
 15 (1)(b), all employees and appointed officers of the State of
 16 Mississippi, who are employees as defined in Section 25-3-91,
 17 shall be allowed credit for personal leave computed as follows:

| 18 | Continuous | Accrual Rate | Accrual Rate |
|----|-----------------------|--------------------|------------------|
| 19 | Service | (Monthly) | (Annually) |
| 20 | 1 month to 3 years | 12 hours per month | 18 days per year |
| 21 | 37 months to 8 years | 14 hours per month | 21 days per year |
| 22 | 97 months to 15 years | 16 hours per month | 24 days per year |



23 Over 15 years 18 hours per month 27 days per year

24 However, employees who were hired prior to July 1, 1984, who
25 have continuous service of more than five (5) years but not more
26 than eight (8) years shall accrue fifteen (15) hours of personal
27 leave each month.

28 (ii) A member of the Mississippi Public Employees'
29 Retirement System employed as a law enforcement officer or
30 firefighter who has used personal leave due to a work-related
31 injury shall be allowed to repurchase those hours for the purpose
32 of creditable service under Section 25-11-109.

33 (b) Temporary employees who work less than a full
34 workweek and part-time employees shall be allowed credit for
35 personal leave computed on a pro rata basis. Faculty members
36 employed by the eight (8) public universities on a nine-month
37 contract, and employees of the public universities who do not
38 contribute to the Mississippi Public Employees' Retirement System
39 or the State Institutions of Higher Learning Optional Retirement
40 Program, shall not be eligible for personal leave.

41 (2) For the purpose of computing credit for personal leave,
42 each appointed officer or employee shall be considered to work not
43 more than five (5) days each week. Leaves of absence granted by
44 the appointing authority for one (1) year or less shall be
45 permitted without forfeiting previously accumulated continuous
46 service. The provisions of this section shall not apply to
47 military leaves of absence. The time for taking personal leave,



48 except when such leave is taken due to an illness, shall be
49 determined by the appointing authority of which such employees are
50 employed.

51 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
52 earned personal leave of each employee shall be credited monthly
53 after the completion of each calendar month of service, and the
54 appointing authority shall not increase the amount of personal
55 leave to an employee's credit. It shall be unlawful for an
56 appointing authority to grant personal leave in an amount greater
57 than was earned and accumulated by the officer or employee.

58 (4) Employees are encouraged to use earned personal leave.
59 Personal leave may be used for vacations and personal business as
60 scheduled by the appointing authority and shall be used for
61 illnesses of the employee requiring absences of one (1) day or
62 less. Accrued personal or compensatory leave shall be used for
63 the first day of an employee's illness requiring his absence of
64 more than one (1) day. Accrued personal or compensatory leave may
65 also be used for an illness in the employee's immediate family as
66 defined in Section 25-3-95. There shall be no limit to the
67 accumulation of personal leave. Upon termination of employment
68 each employee shall be paid for not more than thirty (30) days of
69 accumulated personal leave. Unused personal leave in excess of
70 thirty (30) days shall be counted as creditable service for the
71 purposes of the retirement system as provided in Sections
72 25-11-103 and 25-13-5.



73 (5) Any state law enforcement officer who is injured by
74 wound or accident in the line of duty shall not be required to use
75 earned personal leave during the period of recovery from such
76 injury. As used in this subsection, the term "state law
77 enforcement officer" means a person employed by a state agency
78 who, as a condition of his or her employment, is required by law
79 to complete a course of study at the Law Enforcement Officers
80 Training Academy.

81 (6) Any employee may donate a portion of his or her earned
82 personal leave to another employee who is suffering from a
83 catastrophic injury or illness, or to another employee who has a
84 member of his or her immediate family who is suffering from a
85 catastrophic injury or illness, in accordance with subsection (8)
86 of Section 25-3-95.

87 **SECTION 2.** Section 25-3-95, Mississippi Code of 1972, is
88 amended as follows:

89 25-3-95. (1) (a) All employees and appointed officers of
90 the State of Mississippi, except employees of the public
91 universities who do not contribute to the Mississippi Public
92 Employees' Retirement System or the State Institutions of Higher
93 Learning Optional Retirement Program, shall accrue credits for
94 major medical leave as follows:

| 95 | Continuous | Accrual Rate | Accrual Rate |
|----|--------------------|-------------------|------------------|
| 96 | Service | (Monthly) | (Annually) |
| 97 | 1 month to 3 years | 8 hours per month | 12 days per year |



98 37 months to 8 years 7 hours per month 10.5 days per year
 99 97 months to 15 years 6 hours per month 9 days per year
 100 Over 15 years 5 hours per month 7.5 days per year

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

| 104 | Continuous | Accrual Rate | Accrual Rate |
|-----|-----------------------|------------------------|---------------------|
| 105 | Service | (Per Month) | (Per Academic Year) |
| 106 | 1 month to 3 years | 13-1/3 hours per month | 15 days per |
| 107 | | | academic year |
| 108 | 37 months to 8 years | 14-1/5 hours per month | 16 days per |
| 109 | | | academic year |
| 110 | 97 months to 15 years | 15-2/5 hours per month | 17 days per |
| 111 | | | academic year |
| 112 | Over 15 years | 16 hours per month | 18 days per |
| 113 | | | academic year |

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

119 (b) (ii) A member of the Mississippi Public Employees'
 120 Retirement System employed as a law enforcement officer or
 121 firefighter who has used major medical leave due to a work-related



122 injury shall be allowed to repurchase those hours for the purpose
123 of creditable service under Section 25-11-109.

124 (2) (a) Major medical leave may be used for the illness or
125 injury of an employee or member of the employee's immediate family
126 as defined in subsection (3) of this section, only after the
127 employee has used one (1) day of accrued personal or compensatory
128 leave for each absence due to illness, or leave without pay if the
129 employee has no accrued personal or compensatory leave; provided
130 that faculty members employed by the eight (8) public universities
131 on a nine-month basis may use major medical leave for the first
132 day of absence due to illness. However, major medical leave may
133 be used, without prior use of personal leave, to cover regularly
134 scheduled visits to a doctor's office or a hospital for the
135 continuing treatment of a chronic disease, as certified in advance
136 by a physician. For the purposes of this section, "physician"
137 means a doctor of medicine, osteopathy, dental medicine, podiatry
138 or chiropractic. For each absence due to illness of thirty-two
139 (32) consecutive working hours (combined personal leave and major
140 medical leave), major medical leave shall be authorized only when
141 certified by their attending physician.

142 (b) When an employee's absence is due to a work-related
143 injury for which the employee is receiving temporary disability
144 benefits under Section 71-3-17(b) or 71-3-21, the injured employee
145 shall not use accrued personal and/or medical leave and receive
146 workers' compensation benefits simultaneously if the combined



147 receipt of both benefits results in the employee being paid, while
148 absent due to the work-related injury, a total amount that exceeds
149 one hundred percent (100%) of his wages earned in state employment
150 at the time of injury. In such cases, the injured employee may
151 use only as much of his accrued personal and/or medical leave as
152 necessary, which may be fewer than eight (8) hours of accrued
153 personal and/or major medical leave in a day, to constitute the
154 difference between the amount of temporary disability workers'
155 compensation benefits received and one hundred percent (100%) of
156 his wages earned at the time of injury in state employment. It is
157 the intent of the Legislature that no state employee who is absent
158 and disabled from work due to a work-related injury shall receive
159 more than one hundred percent (100%) of his wages earned in state
160 employment at the time of injury through the use of accrued
161 personal and/or medical leave combined with temporary disability
162 benefits under the Workers' Compensation Law. The procedure for
163 implementing this paragraph (b) shall be as directed by the
164 applicable appointing authority. The receipt or payment of
165 benefits in compliance with this paragraph (b) shall be considered
166 the employee's exclusive remedy against the employer in accordance
167 with Section 71-3-9.

168 (3) An employee may use up to three (3) days of earned major
169 medical leave for each occurrence of death in the immediate family
170 requiring the employee's absence from work. No qualifying time or
171 use of personal leave will be required prior to use of major



172 medical leave for this purpose. For the purpose of this
173 subsection (3), the immediate family is defined as spouse, parent,
174 stepparent, sibling, child, stepchild, grandchild, grandparent,
175 son- or daughter-in-law, mother- or father-in-law or brother- or
176 sister-in-law. Child means a biological, adopted or foster child,
177 or a child for whom the individual stands or stood in loco
178 parentis.

179 (4) Employees and appointed officers of the State of
180 Mississippi having unused, accumulated sick leave or annual leave
181 earned prior to July 1, 1984, shall be credited with major medical
182 leave and personal leave as follows: All unused annual leave
183 shall be credited as personal leave.

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

| 188 Sick Leave | Percentage | Percentage |
|-----------------------|----------------|---------------------|
| 189 Balance as of | Converted to | Converted to |
| 190 June 30, 1984 | Personal Leave | Major Medical Leave |
| 191 1 - 200 hours | 20% | 80% |
| 192 201 - 400 hours | 25% | 75% |
| 193 401 - 600 hours | 30% | 70% |
| 194 601 or more hours | 35% | 65% |

195 (5) Upon retirement from active employment, each faculty
196 member of the state-supported public universities who is employed



197 on a nine-month basis shall receive credit and be paid for not
198 more than thirty (30) days of unused major medical leave for
199 service as a state employee. Unused major medical leave in excess
200 of thirty (30) days shall be counted as creditable service for the
201 purposes of the retirement system as provided in Sections
202 25-11-103 and 25-13-5.

203 (6) Any state law enforcement officer who is injured by
204 wound or accident in the line of duty shall not be required to use
205 earned major medical leave during the period of recovery from such
206 injury. As used in this subsection, the term "state law
207 enforcement officer" means a person employed by a state agency
208 who, as a condition of his or her employment, is required by law
209 to complete a course of study at the Law Enforcement Officers
210 Training Academy.

211 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
212 earned major medical leave of each employee shall be credited
213 monthly after the completion of each calendar month, and the
214 appointing authority shall not increase the amount of major
215 medical leave to an employee's credit. It shall be unlawful for
216 an appointing authority to grant major medical leave in an amount
217 greater than was earned and accumulated by the officer or
218 employee.

219 (8) Any employee may donate a portion of his or her earned
220 personal leave or major medical leave to another employee who is
221 suffering from a catastrophic injury or illness, as defined in



222 Section 25-3-91, or to another employee who has a member of his or
223 her immediate family who is suffering from a catastrophic injury
224 or illness, in accordance with the following:

225 (a) The employee donating the leave (the "donor
226 employee") shall designate the employee who is to receive the
227 leave (the "recipient employee") and the amount of earned personal
228 leave and major medical leave that is to be donated, and shall
229 notify the donor employee's appointing authority or supervisor of
230 his or her designation. The donor employee's appointing authority
231 or supervisor then shall notify the recipient employee's
232 appointing authority or supervisor of the amount of leave that has
233 been donated by the donor employee to the recipient employee.

234 (b) The maximum amount of earned personal leave that an
235 employee may donate to any other employee may not exceed a number
236 of days that would leave the donor employee with fewer than seven
237 (7) days of personal leave left, and the maximum amount of earned
238 major medical leave that an employee may donate to any other
239 employee may not exceed fifty percent (50%) of the earned major
240 medical leave of the donor employee. All donated leave shall be
241 in increments of not less than twenty-four (24) hours.

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

245 (d) Before an employee may receive donated leave, he or
246 she must provide his or her appointing authority or supervisor



247 with a physician's statement that states the beginning date of the
248 catastrophic injury or illness, a description of the injury or
249 illness, and a prognosis for recovery and the anticipated date
250 that the recipient employee will be able to return to work.

251 (e) If an employee is aggrieved by the decision of his
252 or her appointing authority that the employee is not eligible to
253 receive donated leave because the injury or illness of the
254 employee or member of the employee's immediate family is not, in
255 the appointing authority's determination, a catastrophic injury or
256 illness, the employee may appeal the decision to the employee
257 appeals board.

258 (f) Beginning on March 25, 2003, the maximum period of
259 time that an employee may use donated leave without resuming work
260 at his or her place of employment is ninety (90) days, which
261 commences on the first day that the recipient employee uses
262 donated leave. Donated leave that is not used because a recipient
263 employee has used the maximum amount of donated leave authorized
264 under this paragraph shall be returned to the donor employees in
265 the manner provided under paragraph (g) of this subsection.

266 (g) If the total amount of leave that is donated to any
267 employee is not used by the recipient employee, the donated leave
268 shall be returned to the donor employees on a pro rata basis,
269 based on the ratio of the number of days of leave donated by each
270 donor employee to the total number of days of leave donated by all
271 donor employees.



272 (h) The failure of any appointing authority or
273 supervisor of any employee to properly deduct an employee's
274 donation of leave to another employee from the donor employee's
275 earned personal leave or major medical leave shall constitute just
276 cause for the dismissal of the appointing authority or supervisor.

277 (i) No person through the use of coercion, threats or
278 intimidation shall require or attempt to require any employee to
279 donate his or her leave to another employee. Any person who
280 alleges a violation of this paragraph shall report the violation
281 to the executive head of the agency by whom he or she is employed
282 or, if the alleged violator is the executive head of the agency,
283 then the employee shall report the violation to the State
284 Personnel Board. Any person found to have violated this paragraph
285 shall be subject to removal from office or termination of
286 employment.

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

289 (k) Recipient employees of agencies with more than five
290 hundred (500) employees as of March 25, 2003, may receive donated
291 leave only from donor employees within the same agency. A
292 recipient employee in an agency with five hundred (500) or fewer
293 employees as of March 25, 2003, may receive donated leave from any
294 donor employee.

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



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

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

304 (m) Donated leave shall not be used in lieu of
305 disability retirement.

306 (n) For the purposes of this subsection, "immediate
307 family" means spouse, parent, stepparent, sibling, child or
308 stepchild.

309 (9) An employee may use up to six (6) weeks of earned major
310 medical leave for the placement with the employee of a child for
311 adoption or foster care and to care for the newly placed child
312 within one (1) year of placement.

313 **SECTION 3.** Section 25-11-117, Mississippi Code of 1972, is
314 brought forward as follows:

315 25-11-117. (1) A member may be paid a refund of the amount
316 of accumulated contributions to the credit of the member in the
317 annuity savings account, provided that the member has withdrawn
318 from state service and has not returned to state service on the
319 date the refund of the accumulated contributions would be paid.
320 That refund of the contributions to the credit of the member in
321 the annuity savings account shall be paid within ninety (90) days



322 from receipt in the office of the retirement system of the
323 properly completed form requesting the payment. In the event of
324 death before retirement of any member whose spouse and/or children
325 are not entitled to a retirement allowance, the accumulated
326 contributions to the credit of the deceased member in the annuity
327 savings account shall be paid to the designated beneficiary on
328 file in writing in the office of the executive director of the
329 board of trustees within ninety (90) days from receipt of a
330 properly completed form requesting the payment. If there is no
331 such designated beneficiary on file for the deceased member in the
332 office of the system, upon the filing of a proper request with the
333 board, the contributions to the credit of the deceased member in
334 the annuity savings account shall be refunded under Section
335 25-11-117.1(1). The payment of the refund shall discharge all
336 obligations of the retirement system to the member on account of
337 any creditable service rendered by the member before the receipt
338 of the refund. By the acceptance of the refund, the member shall
339 waive and relinquish all accrued rights in the system.

340 (2) Under the Unemployment Compensation Amendments of 1992
341 (Public Law 102-318 (UCA)), a member or the spouse of a member who
342 is an eligible beneficiary entitled to a refund under this section
343 may elect, on a form prescribed by the board under rules and
344 regulations established by the board, to have an eligible rollover
345 distribution of accumulated contributions payable under this
346 section paid directly to an eligible retirement plan, as defined



347 under applicable federal law, or an individual retirement account.
348 If the member or the spouse of a member who is an eligible
349 beneficiary makes that election and specifies the eligible
350 retirement plan or individual retirement account to which the
351 distribution is to be paid, the distribution will be made in the
352 form of a direct trustee-to-trustee transfer to the specified
353 eligible retirement plan. A nonspouse beneficiary may elect to
354 have an eligible rollover distribution paid in the form of a
355 direct trustee-to-trustee transfer to an individual retirement
356 account established to receive the distribution on behalf of the
357 nonspouse beneficiary. Flexible rollovers under this subsection
358 shall not be considered assignments under Section 25-11-129.

359 (3) (a) If any person who has received a refund, reenters
360 the state service and again becomes a member of the system before
361 July 1, 2007, the member may repay all or part of the amounts
362 previously received as a refund, together with regular interest
363 covering the period from the date of refund to the date of
364 repayment; however, the amounts that are repaid by the member and
365 the creditable service related thereto shall not be used in any
366 benefit calculation or determination until the member has remained
367 a contributor to the system for a period of at least four (4)
368 years after the member's reentry into state service. Repayment
369 for that time shall be made beginning with the most recent service
370 for which refund has been made. Upon the repayment of all or part
371 of that refund and interest, the member shall again receive credit



372 for the period of creditable service for which full repayment has
373 been made to the system.

374 (b) If any person who has received a refund, reenters
375 the state service and again becomes a member of the system on or
376 after July 1, 2007, the member may repay all or part of the
377 amounts previously received as a refund, together with regular
378 interest covering the period from the date of refund to the date
379 of repayment; however, the amounts that are repaid by the member
380 and the creditable service related thereto shall not be used in
381 any benefit calculation or determination until the member has
382 remained a contributor to the system for a period of at least
383 eight (8) years after the member's reentry into state service.
384 Repayment for that time shall be made beginning with the most
385 recent service for which refund has been made. Upon the repayment
386 of all or part of that refund and interest, the member shall again
387 receive credit for the period of creditable service for which full
388 repayment has been made to the system.

389 (4) (a) In order to provide a source of income to members
390 who have applied for disability benefits under Section 25-11-113
391 or 25-11-114, the board may provide, at the employee's election, a
392 temporary benefit to be paid from the member's accumulated
393 contributions, if any, without forfeiting the right to pursue
394 disability benefits, provided that the member has exhausted all
395 personal and medical leave and has terminated his or her



396 employment. The board may prescribe rules and regulations for
397 carrying out the provisions of this subsection (4).

398 (b) If a member who has elected to receive temporary
399 benefits under this subsection later applies for a refund of his
400 or her accumulated contributions, all amounts paid under this
401 subsection shall be deducted from the accumulated contributions
402 and the balance will be paid to the member. If a member who has
403 elected to receive temporary benefits under this subsection is
404 later approved for a disability retirement allowance, and a
405 service retirement allowance or survivor benefits are paid on the
406 account, the board shall adjust the benefits in such a manner that
407 no more than the actuarial equivalent of the benefits to which the
408 member or beneficiary was or is entitled shall be paid.

409 (c) The board may study, develop and propose a
410 disability benefit structure, including short- and long-term
411 disability benefits, provided that it is the actuarial equivalent
412 of the benefits currently provided in Section 25-11-113 or
413 25-11-114.

414 **SECTION 4.** This act shall take effect and be in force from
415 and after July 1, 2023.

