

By: Senator(s) Carmichael (By Request)

To: Fees, Salaries and Administration

SENATE BILL NO. 2838

1 AN ACT TO AMEND SECTION 25-1-98, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE THE STATE PERSONNEL BOARD TO REVISE PERSONAL AND SICK
3 LEAVE BENEFITS ACCRUED FOR CERTAIN EMERGENCY WORKERS; TO AMEND
4 SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI CODE OF 1972, IN
5 CONFORMITY THERETO; AND FOR RELATED PURPOSES.

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

7 SECTION 1. Section 25-1-98, Mississippi Code of 1972, is
8 amended as follows:

9 25-1-98. In addition to any other times required by statute,
10 all state offices shall be open and staffed for the normal conduct
11 of business from 8:00 a.m. until 5:00 p.m., Monday through Friday,
12 except on legal holidays as set forth in Section 3-3-7. The
13 Governor may designate certain state offices and institutions as
14 providers of essential services and require that they be open and
15 staffed on legal holidays. The Board of Directors of the
16 Mississippi Industries for the Blind may, in its discretion,
17 require that its offices and operations be open and staffed on
18 legal holidays. Employees required to work on legal holidays
19 shall earn compensatory leave under the provisions of Section
20 25-3-92. Except as otherwise provided herein, no employee shall
21 receive additional vacation or sick leave benefits for working on
22 a legal holiday, nor shall this section be construed to authorize
23 any additional compensation as an alternative to the accrual of
24 compensatory leave except as specifically provided for in a
25 legislative appropriation. The provisions of this section shall
26 not be construed to limit the hours of operation of any agency or
27 to abrogate any action taken during hours other than those stated,
28 nor shall these provisions apply to any offices that do not

29 customarily stay open five (5) days a week. The provisions of
 30 this section shall not apply to the military department of the
 31 State of Mississippi or to the fire fighters who work for the
 32 Mississippi Military Department or to the armories, field training
 33 sites, air bases or other installations of the Mississippi
 34 National Guard. The State Personnel Board shall develop rules and
 35 regulations to allow emergency workers, including the fire
 36 fighters who work for the Mississippi Military Department, to
 37 accrue additional personal and sick leave benefits for those days
 38 that they work over eight (8) hours.

39 A workday for a state employee in a full-time employment
 40 position shall be eight (8) hours in duration at a minimum
 41 exclusive of time off for meals. The appointing authority shall
 42 develop work schedules which ensure that each full-time employee
 43 works a full workday and shall provide the State Auditor with a
 44 copy of the regular work schedule of the appointing authority.

45 SECTION 2. Section 25-3-93, Mississippi Code of 1972, is
 46 amended as follows:

47 25-3-93. (1) (a) Except as provided in Section 25-1-98, as
 48 amended in Senate Bill No. 2838, 2001 Regular Session, and except
 49 as provided in subsection (1)(b) of this section, all employees
 50 and appointed officers of the State of Mississippi, who are
 51 employees as defined in Section 25-3-91, shall be allowed credit
 52 for personal leave computed as follows:

53 Continuous	Accrual Rate	Accrual Rate
54 Service	(Monthly)	(Annually)
55 1 month to 3 years	12 hours per month	18 days per year
56 37 months to 8 years	14 hours per month	21 days per year
57 97 months to 15 years	16 hours per month	24 days per year
58 Over 15 years	18 hours per month	27 days per year

59 However, employees who were hired prior to July 1, 1984, who
 60 have continuous service of more than five (5) years but not more

61 than eight (8) years shall accrue fifteen (15) hours of personal
62 leave each month.

63 (b) Temporary employees who work less than a full
64 workweek and part-time employees shall be allowed credit for
65 personal leave computed on a pro rata basis. Faculty members
66 employed by the eight (8) public universities on a nine-month
67 contract, temporary employees of the public universities who work
68 less than twenty (20) hours per week for a period of less than
69 five (5) months during a fiscal year, and recipients of full-time
70 educational leave, while on such leave, shall not be eligible for
71 personal leave.

72 (2) For the purpose of computing credit for personal leave,
73 each appointed officer or employee shall be considered to work not
74 more than five (5) days each week. Leaves of absence granted by
75 the appointing authority for one (1) year or less shall be
76 permitted without forfeiting previously accumulated continuous
77 service. The provisions of this section shall not apply to
78 military leaves of absence. The time for taking personal leave,
79 except when such leave is taken due to an illness, shall be
80 determined by the appointing authority of which such employees are
81 employed.

82 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
83 earned personal leave of each employee shall be credited monthly
84 after the completion of each calendar month of service, and the
85 appointing authority shall not increase the amount of personal
86 leave to an employee's credit. It shall be unlawful for an
87 appointing authority to grant personal leave in an amount greater
88 than was earned and accumulated by the officer or employee.

89 (4) Employees are encouraged to use earned personal leave.
90 Personal leave may be used for vacations and personal business as
91 scheduled by the appointing authority and shall be used for
92 illnesses of the employee requiring absences of one (1) day or
93 less. Accrued personal or compensatory leave shall be used for

94 the first day of an employee's illness requiring his absence of
95 more than one (1) day. Accrued personal or compensatory leave may
96 also be used for an illness in the employee's immediate family as
97 defined in Section 25-3-95. There shall be no limit to the
98 accumulation of personal leave. Upon termination of employment
99 each employee shall be paid for not more than thirty (30) days of
100 accumulated personal leave. Unused personal leave in excess of
101 thirty (30) days shall be counted as creditable service for the
102 purposes of the retirement system as provided in Sections
103 25-11-103 and 25-13-5.

104 (5) Any officer of the Mississippi Highway Safety Patrol who
105 is injured by wound or accident in the line of duty shall not be
106 required to use earned personal leave during the period of
107 recovery from such injury.

108 (6) Any employee may donate a portion of his or her earned
109 personal leave to another employee who is suffering from a
110 catastrophic injury or illness, or to another employee who has a
111 member of his or her immediate family who is suffering from a
112 catastrophic injury or illness, in accordance with subsection (8)
113 of Section 25-3-95.

114 This subsection shall stand repealed from and after July 1,
115 2000.

116 SECTION 3. Section 25-3-95, Mississippi Code of 1972, is
117 amended as follows:

118 25-3-95. (1) All employees and appointed officers of the
119 State of Mississippi, except temporary employees of the public
120 universities who work less than twenty (20) hours per week for a
121 period of less than five (5) months during a fiscal year, fire
122 fighters who work for the Mississippi Military Department and
123 recipients of full-time educational leave, while on such leave,
124 shall accrue credits for major medical leave as follows:

125	Continuous	Accrual Rate	Accrual Rate
126	Service	(Monthly)	(Annually)

127	1 month to 3 years	8 hours per month	12 days per year
128	37 months to 8 years	7 hours per month	10.5 days per year
129	97 months to 15 years	6 hours per month	9 days per year
130	Over 15 years	5 hours per month	7.5 days per year

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

134	Continuous	Accrual Rate	Accrual Rate
135	Service	(Per Month)	(Per Academic Year)
136	1 month to 3 years	13-1/3 hours per month	15 days per
137			academic year
138	37 months to 8 years	14-1/5 hours per month	16 days per
139			academic year
140	97 months to 15 years	15-2/5 hours per month	17 days per
141			academic year
142	Over 15 years	16 hours per month	18 days per
143			academic year

144 Part-time employees shall accrue major medical leave on a pro
 145 rata basis. There shall be no maximum limit to major medical
 146 leave accumulation. All unused major medical leave shall be
 147 counted as creditable service for the purposes of the retirement
 148 system as provided in Sections 25-11-103 and 25-13-5. Fire
 149 fighters who work for the Mississippi Military Department shall
 150 accrue major medical leave in accordance with the rules and
 151 regulations of the State Personnel Board as provided in Section
 152 25-1-98, as amended in Senate Bill No. 2838, 2001 Regular
 153 Session.

154 (2) Major medical leave may be used for the illness or
 155 injury of an employee or member of the employee's immediate family
 156 as defined in subsection (3) of this section, only after the
 157 employee has used one (1) day of accrued personal or compensatory
 158 leave for each absence due to illness, or leave without pay if the
 159 employee has no accrued personal or compensatory leave. Provided

160 that faculty members employed by the eight (8) public universities
161 on a nine-month basis may use major medical leave for the first
162 day of absence due to illness. However, major medical leave may
163 be used, without prior use of personal leave, to cover regularly
164 scheduled visits to a doctor's office or a hospital for the
165 continuing treatment of a chronic disease, as certified in advance
166 by a physician. For the purposes of this section, "physician"
167 means a doctor of medicine, osteopathy, dental medicine, podiatry
168 or chiropractic. For each absence due to illness of thirty-two
169 (32) consecutive working hours (combined personal leave and major
170 medical leave) major medical leave shall be authorized only when
171 certified by their attending physician.

172 (3) An employee may use up to three (3) days of earned major
173 medical leave for each occurrence of death in the immediate family
174 requiring the employee's absence from work. No qualifying time or
175 use of personal leave will be required prior to use of major
176 medical leave for this purpose. For the purpose of this
177 subsection (3), the immediate family is defined as spouse, parent,
178 stepparent, sibling, child, stepchild, grandchild, grandparent,
179 son- or daughter-in-law, mother- or father-in-law or brother- or
180 sister-in-law. Child means a biological, adopted or foster child,
181 or a child for whom the individual stands or stood in loco
182 parentis.

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

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

192	Sick Leave	Percentage	Percentage
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193	Balance as of	Converted to	Converted to
194	June 30, 1984	Personal Leave	Major Medical Leave
195	1 - 200 hours	20%	80%
196	201 - 400 hours	25%	75%
197	401 - 600 hours	30%	70%
198	601 or more hours	35%	65%

199 (5) Upon retirement from active employment each faculty
200 member of the state-supported public universities who is employed
201 on a nine-month basis shall receive credit and be paid for not
202 more than thirty (30) days of unused major medical leave for
203 service as a state employee. Unused major medical leave in excess
204 of thirty (30) days shall be counted as creditable service for the
205 purposes of the retirement system as provided in Sections
206 25-11-103 and 25-13-5.

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

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.

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

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

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

257 (f) If the total amount of leave that is donated to any
258 employee is not used by the recipient employee, the donated leave
259 shall be returned to the donor employees on a pro rata basis,
260 based on the ratio of the number of days of leave donated by each
261 donor employee to the total number of days of leave donated by all
262 donor employees.

263 (g) The failure of any appointing authority or
264 supervisor of any employee to properly deduct an employee's
265 donation of leave to another employee from the donor employee's
266 earned personal leave or major medical leave shall constitute just
267 cause for the dismissal of the appointing authority or supervisor.

268 (h) Donated leave shall not be used in lieu of
269 disability retirement.

270 (i) For the purposes of this subsection, "immediate
271 family" means spouse, parent, stepparent, sibling, child or
272 stepchild.

273 (j) This subsection shall stand repealed from and after
274 July 1, 2000.

275 SECTION 4. This act shall take effect and be in force from
276 and after July 1, 2001.