

By: Senator(s) Simmons

To: Fees, Salaries and Administration

SENATE BILL NO. 2077

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, TO ELIMINATE THE REQUIREMENT THAT STATE EMPLOYEES
3 USE PERSONAL LEAVE FOR THE FIRST DAY OF AN ILLNESS; AND FOR
4 RELATED PURPOSES.

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

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

8 25-3-93. (1) (a) Except as provided in subsection (1)(b),
9 all employees and appointed officers of the State of Mississippi,
10 who are employees as defined in Section 25-3-91, shall be allowed
11 credit for personal leave computed as follows:

12	Continuous	Accrual Rate	Accrual Rate
13	Service	(Monthly)	(Annually)
14	1 month to 3 years	12 hours per month	18 days per year
15	37 months to 8 years	14 hours per month	21 days per year
16	97 months to 15 years	16 hours per month	24 days per year
17	Over 15 years	18 hours per month	27 days per year

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

22 (b) Temporary employees who work less than a full
23 workweek and part-time employees shall be allowed credit for
24 personal leave computed on a pro rata basis. Faculty members
25 employed by the eight (8) public universities on a nine-month
26 contract, temporary employees of the public universities who work
27 less than twenty (20) hours per week for a period of less than
28 five (5) months during a fiscal year, and recipients of full-time

29 educational leave, while on such leave, shall not be eligible for
30 personal leave.

31 (2) For the purpose of computing credit for personal leave,
32 each appointed officer or employee shall be considered to work not
33 more than five (5) days each week. Leaves of absence granted by
34 the appointing authority for one (1) year or less shall be
35 permitted without forfeiting previously accumulated continuous
36 service. The provisions of this section shall not apply to
37 military leaves of absence. The time for taking personal leave,
38 except when such leave is taken due to an illness, shall be
39 determined by the appointing authority of which such employees are
40 employed.

41 (3) For the purpose of Sections 25-3-91 through 25-3-99, the
42 earned personal leave of each employee shall be credited monthly
43 after the completion of each calendar month of service, and the
44 appointing authority shall not increase the amount of personal
45 leave to an employee's credit. It shall be unlawful for an
46 appointing authority to grant personal leave in an amount greater
47 than was earned and accumulated by the officer or employee.

48 (4) Employees are encouraged to use earned personal leave.
49 Personal leave may be used for vacations and personal business as
50 scheduled by the appointing authority * * *. There shall be no
51 limit to the accumulation of personal leave. Upon termination of
52 employment each employee shall be paid for not more than thirty
53 (30) days of accumulated personal leave. Unused personal leave in
54 excess of thirty (30) days shall be counted as creditable service
55 for the purposes of the retirement system as provided in Sections
56 25-11-103 and 25-13-5.

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

61 (6) Any employee may donate a portion of his or her earned
 62 personal leave to another employee who is suffering from a
 63 catastrophic injury or illness, or to another employee who has a
 64 member of his or her immediate family who is suffering from a
 65 catastrophic injury or illness, in accordance with subsection (8)
 66 of Section 25-3-95.

67 This subsection shall stand repealed from and after July 1,
 68 2005.

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

71 25-3-95. (1) All employees and appointed officers of the
 72 State of Mississippi, except temporary employees of the public
 73 universities who work less than twenty (20) hours per week for a
 74 period of less than five (5) months during a fiscal year and
 75 recipients of full-time educational leave, while on such leave,
 76 shall accrue credits for major medical leave as follows:

77 Continuous	Accrual Rate	Accrual Rate
78 Service	(Monthly)	(Annually)
79 1 month to 3 years	8 hours per month	12 days per year
80 37 months to 8 years	7 hours per month	10.5 days per year
81 97 months to 15 years	6 hours per month	9 days per year
82 Over 15 years	5 hours per month	7.5 days per year

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

86 Continuous	Accrual Rate	Accrual Rate
87 Service	(Per Month)	(Per Academic Year)
88 1 month to 3 years	13-1/3 hours per month	15 days per 89 academic year
90 37 months to 8 years	14-1/5 hours per month	16 days per 91 academic year
92 97 months to 15 years	15-2/5 hours per month	17 days per 93 academic year

126 leave and personal leave as follows: All unused annual leave
127 shall be credited as personal leave.

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

132 Sick Leave	Percentage	Percentage
133 Balance as of	Converted to	Converted to
134 June 30, 1984	Personal Leave	Major Medical Leave
135 1 - 200 hours	20%	80%
136 201 - 400 hours	25%	75%
137 401 - 600 hours	30%	70%
138 601 or more hours	35%	65%

139 (5) Upon retirement from active employment each faculty
140 member of the state-supported public universities who is employed
141 on a nine-month basis shall receive credit and be paid for not
142 more than thirty (30) days of unused major medical leave for
143 service as a state employee. Unused major medical leave in excess
144 of thirty (30) days shall be counted as creditable service for the
145 purposes of the retirement system as provided in Sections
146 25-11-103 and 25-13-5.

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

151 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
152 earned major medical leave of each employee shall be credited
153 monthly after the completion of each calendar month, and the
154 appointing authority shall not increase the amount of major
155 medical leave to an employee's credit. It shall be unlawful for
156 an appointing authority to grant major medical leave in an amount
157 greater than was earned and accumulated by the officer or
158 employee.

159 (8) Any employee may donate a portion of his or her earned
160 personal leave or major medical leave to another employee who is
161 suffering from a catastrophic injury or illness, as defined in
162 Section 25-3-91, or to another employee who has a member of his or
163 her immediate family who is suffering from a catastrophic injury
164 or illness, in accordance with the following:

165 (a) The employee donating the leave (the "donor
166 employee") shall designate the employee who is to receive the
167 leave (the "recipient employee") and the amount of earned personal
168 leave and major medical leave that is to be donated, and shall
169 notify the donor employee's appointing authority or supervisor of
170 his or her designation. The donor employee's appointing authority
171 or supervisor then shall notify the recipient employee's
172 appointing authority or supervisor of the amount of leave that has
173 been donated by the donor employee to the recipient employee.

174 (b) The maximum amount of earned personal leave that an
175 employee may donate to any other employee may not exceed a number
176 of days that would leave the donor employee with fewer than seven
177 (7) days of personal leave left, and the maximum amount of earned
178 major medical leave that an employee may donate to any other
179 employee may not exceed fifty percent (50%) of the earned major
180 medical leave of the donor employee. All donated leave shall be
181 in increments of not less than twenty-four (24) hours.

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

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

191 (e) If an employee is aggrieved by the decision of his
192 or her appointing authority that the employee is not eligible to
193 receive donated leave because the injury or illness of the
194 employee or member of the employee's immediate family is not, in
195 the appointing authority's determination, a catastrophic injury or
196 illness, the employee may appeal the decision to the employee
197 appeals board.

198 (f) Beginning on the effective date of Senate Bill No.
199 2077, 2004 Regular Session, the maximum period of time that an
200 employee may use donated leave without resuming work at his or her
201 place of employment is ninety (90) days, which commences on the
202 first day that the recipient employee uses donated leave. Donated
203 leave that is not used because a recipient employee has used the
204 maximum amount of donated leave authorized under this paragraph
205 shall be returned to the donor employees in the manner provided
206 under paragraph (g) of this subsection.

207 (g) If the total amount of leave that is donated to any
208 employee is not used by the recipient employee, the donated leave
209 shall be returned to the donor employees on a pro rata basis,
210 based on the ratio of the number of days of leave donated by each
211 donor employee to the total number of days of leave donated by all
212 donor employees.

213 (h) The failure of any appointing authority or
214 supervisor of any employee to properly deduct an employee's
215 donation of leave to another employee from the donor employee's
216 earned personal leave or major medical leave shall constitute just
217 cause for the dismissal of the appointing authority or supervisor.

218 (i) No person through the use of coercion, threats or
219 intimidation shall require or attempt to require any employee to
220 donate his or her leave to another employee. Any person who
221 alleges a violation of this paragraph shall report the violation
222 to the executive head of the agency by whom he or she is employed
223 or, if the alleged violator is the executive head of the agency,

224 then the employee shall report the violation to the State
225 Personnel Board. Any person found to have violated this paragraph
226 shall be subject to removal from office or termination of
227 employment.

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

230 (k) Recipient employees of agencies with more than five
231 hundred (500) employees as of the effective date of Senate Bill
232 No. 2077, 2004 Regular Session, may receive donated leave only
233 from donor employees within the same agency. A recipient employee
234 in an agency with five hundred (500) or fewer employees as of the
235 effective date of Senate Bill No. 2077, 2004 Regular Session, may
236 receive donated leave from any donor employee.

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

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

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

246 (m) Donated leave shall not be used in lieu of
247 disability retirement.

248 (n) For the purposes of this subsection, "immediate
249 family" means spouse, parent, stepparent, sibling, child or
250 stepchild.

251 (o) This subsection shall stand repealed from and after
252 July 1, 2005.

253 **SECTION 3.** This act shall take effect and be in force from
254 and after July 1, 2004.