

By: Senator(s) Jackson (32nd)

To: Fees, Salaries and Administration

SENATE BILL NO. 2090

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, TO PROVIDE THAT A SWORN LAW ENFORCEMENT OFFICER OF A
3 STATE AGENCY WHO IS WOUNDED OR INJURED IN THE LINE OF DUTY SHALL
4 NOT BE REQUIRED TO USE EARNED PERSONAL LEAVE OR MAJOR MEDICAL
5 LEAVE DURING THE PERIOD OF RECOVERY; TO PROVIDE THAT A FIRE
6 FIGHTER, EMERGENCY MEDICAL SERVICE TECHNICIAN OR SWORN LAW
7 ENFORCEMENT OFFICER OF A COUNTY OR MUNICIPALITY WHO IS WOUNDED OR
8 INJURED IN THE LINE OF DUTY SHALL NOT BE REQUIRED TO USE EARNED
9 PERSONAL LEAVE OR MAJOR MEDICAL LEAVE DURING THE PERIOD OF
10 RECOVERY; AND FOR RELATED 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) Except as provided in subsection (1)(b),
15 all employees and appointed officers of the State of Mississippi,
16 who are employees as defined in Section 25-3-91, shall be allowed
17 credit for personal leave computed as follows:

Table with 4 columns: Continuous Service, Accrual Rate (Monthly), Accrual Rate (Annually). Rows include 1 month to 3 years, 37 months to 8 years, 97 months to 15 years, and Over 15 years.

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 (b) Temporary employees who work less than a full
29 workweek and part-time employees shall be allowed credit for
30 personal leave computed on a pro rata basis. Faculty members
31 employed by the eight (8) public universities on a nine-month

32 contract, temporary employees of the public universities who work
33 less than twenty (20) hours per week for a period of less than
34 five (5) months during a fiscal year, and recipients of full-time
35 educational leave, while on such leave, shall not be eligible for
36 personal leave.

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

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

54 (4) Employees are encouraged to use earned personal leave.
55 Personal leave may be used for vacations and personal business as
56 scheduled by the appointing authority and shall be used for
57 illnesses of the employee requiring absences of one (1) day or
58 less. Accrued personal or compensatory leave shall be used for
59 the first day of an employees illness requiring his absence of
60 more than one (1) day. Accrued personal or compensatory leave may
61 also be used for an illness in the employee's immediate family as
62 defined in Section 25-3-95. There shall be no limit to the
63 accumulation of personal leave. Upon termination of employment
64 each employee shall be paid for not more than thirty (30) days of

65 accumulated personal leave. Unused personal leave in excess of
66 thirty (30) days shall be counted as creditable service for the
67 purposes of the retirement system as provided in Sections
68 25-11-103 and 25-13-5.

69 (5) Any officer of the Mississippi Highway Safety Patrol or
70 any sworn law enforcement officer of a state agency who is injured
71 by wound or accident in the line of duty shall not be required to
72 use earned personal leave during the period of recovery from such
73 injury.

74 (6) Any employee may donate a portion of his or her earned
75 personal leave to another employee who is suffering from a
76 catastrophic injury or illness, or to another employee who has a
77 member of his or her immediate family who is suffering from a
78 catastrophic injury or illness, in accordance with subsection (8)
79 of Section 25-3-95.

80 This subsection shall stand repealed from and after July 1,
81 2005.

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

84 25-3-95. (1) All employees and appointed officers of the
85 State of Mississippi, except temporary employees of the public
86 universities who work less than twenty (20) hours per week for a
87 period of less than five (5) months during a fiscal year and
88 recipients of full-time educational leave, while on such leave,
89 shall accrue credits for major medical leave as follows:

90 Continuous	Accrual Rate	Accrual Rate
91 Service	(Monthly)	(Annually)
92 1 month to 3 years	8 hours per month	12 days per year
93 37 months to 8 years	7 hours per month	10.5 days per year
94 97 months to 15 years	6 hours per month	9 days per year
95 Over 15 years	5 hours per month	7.5 days per year

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

99	Continuous	Accrual Rate	Accrual Rate
100	Service	(Per Month)	(Per Academic Year)
101	1 month to 3 years	13-1/3 hours per month	15 days per
102			academic year
103	37 months to 8 years	14-1/5 hours per month	16 days per
104			academic year
105	97 months to 15 years	15-2/5 hours per month	17 days per
106			academic year
107	Over 15 years	16 hours per month	18 days per
108			academic year

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

114 (2) Major medical leave may be used for the illness or
115 injury of an employee or member of the employee's immediate family
116 as defined in subsection (3) of this section, only after the
117 employee has used one (1) day of accrued personal or compensatory
118 leave for each absence due to illness, or leave without pay if the
119 employee has no accrued personal or compensatory leave. Provided
120 that faculty members employed by the eight (8) public universities
121 on a nine-month basis may use major medical leave for the first
122 day of absence due to illness. However, major medical leave may
123 be used, without prior use of personal leave, to cover regularly
124 scheduled visits to a doctor's office or a hospital for the
125 continuing treatment of a chronic disease, as certified in advance
126 by a physician. For the purposes of this section, "physician"
127 means a doctor of medicine, osteopathy, dental medicine, podiatry
128 or chiropractic. For each absence due to illness of thirty-two

129 (32) consecutive working hours (combined personal leave and major
130 medical leave) major medical leave shall be authorized only when
131 certified by their attending physician.

132 (3) An employee may use up to three (3) days of earned major
133 medical leave for each occurrence of death in the immediate family
134 requiring the employee's absence from work. No qualifying time or
135 use of personal leave will be required prior to use of major
136 medical leave for this purpose. For the purpose of this
137 subsection (3), the immediate family is defined as spouse, parent,
138 stepparent, sibling, child, stepchild, grandchild, grandparent,
139 son- or daughter-in-law, mother- or father-in-law or brother- or
140 sister-in-law. Child means a biological, adopted or foster child,
141 or a child for whom the individual stands or stood in loco
142 parentis.

143 (4) Employees and appointed officers of the State of
144 Mississippi having unused, accumulated sick leave or annual leave
145 earned prior to July 1, 1984, shall be credited with major medical
146 leave and personal leave as follows: All unused annual leave
147 shall be credited as personal leave.

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

152 Sick Leave	Percentage	Percentage
153 Balance as of	Converted to	Converted to
154 June 30, 1984	Personal Leave	Major Medical Leave
155 1 - 200 hours	20%	80%
156 201 - 400 hours	25%	75%
157 401 - 600 hours	30%	70%
158 601 or more hours	35%	65%

159 (5) Upon retirement from active employment each faculty
160 member of the state-supported public universities who is employed
161 on a nine-month basis shall receive credit and be paid for not

162 more than thirty (30) days of unused major medical leave for
163 service as a state employee. Unused major medical leave in excess
164 of thirty (30) days shall be counted as creditable service for the
165 purposes of the retirement system as provided in Sections
166 25-11-103 and 25-13-5.

167 (6) Any officer of the Mississippi Highway Safety Patrol or
168 any sworn law enforcement officer of a state agency who is injured
169 by wound or accident in the line of duty shall not be required to
170 use earned major medical leave during the period of recovery from
171 such injury.

172 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
173 earned major medical leave of each employee shall be credited
174 monthly after the completion of each calendar month, and the
175 appointing authority shall not increase the amount of major
176 medical leave to an employee's credit. It shall be unlawful for
177 an appointing authority to grant major medical leave in an amount
178 greater than was earned and accumulated by the officer or
179 employee.

180 (8) Any employee may donate a portion of his or her earned
181 personal leave or major medical leave to another employee who is
182 suffering from a catastrophic injury or illness, as defined in
183 Section 25-3-91, or to another employee who has a member of his or
184 her immediate family who is suffering from a catastrophic injury
185 or illness, in accordance with the following:

186 (a) The employee donating the leave (the "donor
187 employee") shall designate the employee who is to receive the
188 leave (the "recipient employee") and the amount of earned personal
189 leave and major medical leave that is to be donated, and shall
190 notify the donor employee's appointing authority or supervisor of
191 his or her designation. The donor employee's appointing authority
192 or supervisor then shall notify the recipient employee's
193 appointing authority or supervisor of the amount of leave that has
194 been donated by the donor employee to the recipient employee.

195 (b) The maximum amount of earned personal leave that an
196 employee may donate to any other employee may not exceed a number
197 of days that would leave the donor employee with fewer than seven
198 (7) days of personal leave left, and the maximum amount of earned
199 major medical leave that an employee may donate to any other
200 employee may not exceed fifty percent (50%) of the earned major
201 medical leave of the donor employee. All donated leave shall be
202 in increments of not less than twenty-four (24) hours.

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

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

212 (e) If an employee is aggrieved by the decision of his
213 or her appointing authority that the employee is not eligible to
214 receive donated leave because the injury or illness of the
215 employee or member of the employee's immediate family is not, in
216 the appointing authority's determination, a catastrophic injury or
217 illness, the employee may appeal the decision to the employee
218 appeals board.

219 (f) Beginning on March 25, 2003, the maximum period of
220 time that an employee may use donated leave without resuming work
221 at his or her place of employment is ninety (90) days, which
222 commences on the first day that the recipient employee uses
223 donated leave. Donated leave that is not used because a recipient
224 employee has used the maximum amount of donated leave authorized
225 under this paragraph shall be returned to the donor employees in
226 the manner provided under paragraph (g) of this subsection.

227 (g) If the total amount of leave that is donated to any
228 employee is not used by the recipient employee, the donated leave
229 shall be returned to the donor employees on a pro rata basis,
230 based on the ratio of the number of days of leave donated by each
231 donor employee to the total number of days of leave donated by all
232 donor employees.

233 (h) The failure of any appointing authority or
234 supervisor of any employee to properly deduct an employee's
235 donation of leave to another employee from the donor employee's
236 earned personal leave or major medical leave shall constitute just
237 cause for the dismissal of the appointing authority or supervisor.

238 (i) No person through the use of coercion, threats or
239 intimidation shall require or attempt to require any employee to
240 donate his or her leave to another employee. Any person who
241 alleges a violation of this paragraph shall report the violation
242 to the executive head of the agency by whom he or she is employed
243 or, if the alleged violator is the executive head of the agency,
244 then the employee shall report the violation to the State
245 Personnel Board. Any person found to have violated this paragraph
246 shall be subject to removal from office or termination of
247 employment.

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

250 (k) Recipient employees of agencies with more than five
251 hundred (500) employees as of March 25, 2003, may receive donated
252 leave only from donor employees within the same agency. A
253 recipient employee in an agency with five hundred (500) or fewer
254 employees as of March 25, 2003, may receive donated leave from any
255 donor employee.

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

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

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

265 (m) Donated leave shall not be used in lieu of
266 disability retirement.

267 (n) For the purposes of this subsection, "immediate
268 family" means spouse, parent, stepparent, sibling, child or
269 stepchild.

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

272 **SECTION 3.** Any fire fighter, emergency medical service
273 technician or sworn law enforcement officer of a county or
274 municipality who is injured by wound or accident in the line of
275 duty shall not be required to use earned personal or major medical
276 leave during the period of recovery from such injury.

277 **SECTION 4.** This act shall take effect and be in force from
278 and after July 1, 2004.