

By: Senator(s) Jackson (32nd)

To: Fees, Salaries and Administration

SENATE BILL NO. 2104

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; AND FOR RELATED PURPOSES.

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

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

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

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

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

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

29 five (5) months during a fiscal year, and recipients of full-time
30 educational leave, while on such leave, shall not be eligible for
31 personal leave.

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

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

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

62 purposes of the retirement system as provided in Sections
63 25-11-103 and 25-13-5.

64 (5) Any officer of the Mississippi Highway Safety Patrol or
65 any sworn law enforcement officer of a state agency who is injured
66 by wound or accident in the line of duty shall not be required to
67 use earned personal leave during the period of recovery from such
68 injury. The period of recovery shall be approved by the agency
69 head only for the period certified by a physician that the
70 officer/agent is unable to perform his duty assignment.

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

77 This subsection shall stand repealed from and after July 1,
78 2005.

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

81 25-3-95. (1) All employees and appointed officers of the
82 State of Mississippi, except temporary employees of the public
83 universities who work less than twenty (20) hours per week for a
84 period of less than five (5) months during a fiscal year and
85 recipients of full-time educational leave, while on such leave,
86 shall accrue credits for major medical leave as follows:

87 Continuous	Accrual Rate	Accrual Rate
88 Service	(Monthly)	(Annually)
89 1 month to 3 years	8 hours per month	12 days per year
90 37 months to 8 years	7 hours per month	10.5 days per year
91 97 months to 15 years	6 hours per month	9 days per year
92 Over 15 years	5 hours per month	7.5 days per year

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

96	Continuous	Accrual Rate	Accrual Rate
97	Service	(Per Month)	(Per Academic Year)
98	1 month to 3 years	13-1/3 hours per month	15 days per
99			academic year
100	37 months to 8 years	14-1/5 hours per month	16 days per
101			academic year
102	97 months to 15 years	15-2/5 hours per month	17 days per
103			academic year
104	Over 15 years	16 hours per month	18 days per
105			academic year

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

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

126 (32) consecutive working hours (combined personal leave and major
127 medical leave) major medical leave shall be authorized only when
128 certified by their attending physician.

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

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

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

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

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

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

164 (6) Any officer of the Mississippi Highway Safety Patrol or
165 any sworn law enforcement officer of a state agency who is injured
166 by wound or accident in the line of duty shall not be required to
167 use earned major medical leave during the period of recovery from
168 such injury. The period of recovery shall be approved by the
169 agency head only for the period certified by a physician that the
170 officer/agent is unable to perform his duty assignment.

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

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

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

192 appointing authority or supervisor of the amount of leave that has
193 been donated by the donor employee to the recipient employee.

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

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

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

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

218 (f) Beginning on March 25, 2003, the maximum period of
219 time that an employee may use donated leave without resuming work
220 at his or her place of employment is ninety (90) days, which
221 commences on the first day that the recipient employee uses
222 donated leave. Donated leave that is not used because a recipient
223 employee has used the maximum amount of donated leave authorized

224 under this paragraph shall be returned to the donor employees in
225 the manner provided under paragraph (g) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

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