

By: Representative Warren

To: Fees and Salaries of
Public Officers;
Appropriations

HOUSE BILL NO. 211

1 AN ACT TO AMEND SECTIONS 25-3-93 AND 25-3-95, MISSISSIPPI
2 CODE OF 1972, TO EXTEND THE DATE OF REPEAL ON THE SECTIONS OF LAW
3 WHICH REGULATE THE DONATION OF PERSONAL LEAVE BY PUBLIC OFFICERS
4 AND EMPLOYEES; AND FOR 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 and shall be used for
51 illnesses of the employee requiring absences of one (1) day or
52 less. Accrued personal or compensatory leave shall be used for
53 the first day of an employees illness requiring his absence of
54 more than one (1) day. Accrued personal or compensatory leave may
55 also be used for an illness in the employee's immediate family as
56 defined in Section 25-3-95. There shall be no limit to the
57 accumulation of personal leave. Upon termination of employment
58 each employee shall be paid for not more than thirty (30) days of
59 accumulated personal leave. Unused personal leave in excess of
60 thirty (30) days shall be counted as creditable service for the

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

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

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

73 This subsection shall stand repealed from and after July 1,
74 2007.

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

77 25-3-95. (1) All employees and appointed officers of the
78 State of Mississippi, except temporary employees of the public
79 universities who work less than twenty (20) hours per week for a
80 period of less than five (5) months during a fiscal year and
81 recipients of full-time educational leave, while on such leave,
82 shall accrue credits for major medical leave as follows:

83 Continuous	Accrual Rate	Accrual Rate
84 Service	(Monthly)	(Annually)
85 1 month to 3 years	8 hours per month	12 days per year
86 37 months to 8 years	7 hours per month	10.5 days per year
87 97 months to 15 years	6 hours per month	9 days per year
88 Over 15 years	5 hours per month	7.5 days per year

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

92 Continuous	Accrual Rate	Accrual Rate
93 Service	(Per Month)	(Per Academic Year)

94	1 month to 3 years	13-1/3 hours per month	15 days per
95			academic year
96	37 months to 8 years	14-1/5 hours per month	16 days per
97			academic year
98	97 months to 15 years	15-2/5 hours per month	17 days per
99			academic year
100	Over 15 years	16 hours per month	18 days per
101			academic year

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

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

125 (3) An employee may use up to three (3) days of earned major
126 medical leave for each occurrence of death in the immediate family

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

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

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

145 Sick Leave	Percentage	Percentage
146 Balance as of	Converted to	Converted to
147 June 30, 1984	Personal Leave	Major Medical Leave
148 1 - 200 hours	20%	80%
149 201 - 400 hours	25%	75%
150 401 - 600 hours	30%	70%
151 601 or more hours	35%	65%

152 (5) Upon retirement from active employment each faculty
153 member of the state-supported public universities who is employed
154 on a nine-month basis shall receive credit and be paid for not
155 more than thirty (30) days of unused major medical leave for
156 service as a state employee. Unused major medical leave in excess
157 of thirty (30) days shall be counted as creditable service for the
158 purposes of the retirement system as provided in Sections
159 25-11-103 and 25-13-5.

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

164 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
165 earned major medical leave of each employee shall be credited
166 monthly after the completion of each calendar month, and the
167 appointing authority shall not increase the amount of major
168 medical leave to an employee's credit. It shall be unlawful for
169 an appointing authority to grant major medical leave in an amount
170 greater than was earned and accumulated by the officer or
171 employee.

172 (8) Any employee may donate a portion of his or her earned
173 personal leave or major medical leave to another employee who is
174 suffering from a catastrophic injury or illness, as defined in
175 Section 25-3-91, or to another employee who has a member of his or
176 her immediate family who is suffering from a catastrophic injury
177 or illness, in accordance with the following:

178 (a) The employee donating the leave (the "donor
179 employee") shall designate the employee who is to receive the
180 leave (the "recipient employee") and the amount of earned personal
181 leave and major medical leave that is to be donated, and shall
182 notify the donor employee's appointing authority or supervisor of
183 his or her designation. The donor employee's appointing authority
184 or supervisor then shall notify the recipient employee's
185 appointing authority or supervisor of the amount of leave that has
186 been donated by the donor employee to the recipient employee.

187 (b) The maximum amount of earned personal leave that an
188 employee may donate to any other employee may not exceed a number
189 of days that would leave the donor employee with fewer than seven
190 (7) days of personal leave left, and the maximum amount of earned
191 major medical leave that an employee may donate to any other
192 employee may not exceed fifty percent (50%) of the earned major

193 medical leave of the donor employee. All donated leave shall be
194 in increments of not less than twenty-four (24) hours.

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

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

204 (e) If an employee is aggrieved by the decision of his
205 or her appointing authority that the employee is not eligible to
206 receive donated leave because the injury or illness of the
207 employee or member of the employee's immediate family is not, in
208 the appointing authority's determination, a catastrophic injury or
209 illness, the employee may appeal the decision to the employee
210 appeals board.

211 (f) * * * The maximum period of time that an employee
212 may use donated leave without resuming work at his or her place of
213 employment is ninety (90) days, which commences on the first day
214 that the recipient employee uses donated leave. Donated leave
215 that is not used because a recipient employee has used the maximum
216 amount of donated leave authorized under this paragraph shall be
217 returned to the donor employees in the manner provided under
218 paragraph (g) of this subsection.

219 (g) If the total amount of leave that is donated to any
220 employee is not used by the recipient employee, the donated leave
221 shall be returned to the donor employees on a pro rata basis,
222 based on the ratio of the number of days of leave donated by each
223 donor employee to the total number of days of leave donated by all
224 donor employees.

225 (h) The failure of any appointing authority or
226 supervisor of any employee to properly deduct an employee's
227 donation of leave to another employee from the donor employee's
228 earned personal leave or major medical leave shall constitute just
229 cause for the dismissal of the appointing authority or supervisor.

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

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

242 (k) Recipient employees of agencies with more than five
243 hundred (500) employees as of March 25, 2003, may receive donated
244 leave only from donor employees within the same agency. A
245 recipient employee in an agency with five hundred (500) or fewer
246 employees as of March 25, 2003, may receive donated leave from any
247 donor employee.

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

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

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

257 (m) Donated leave shall not be used in lieu of
258 disability retirement.

259 (n) For the purposes of this subsection, "immediate
260 family" means spouse, parent, stepparent, sibling, child or
261 stepchild.

262 (o) This subsection shall stand repealed from and after
263 July 1, 2007.

264 **SECTION 3.** This act shall take effect and be in force from
265 and after July 1, 2005.