

By: Senator(s) Harden

To: Education;
Appropriations

SENATE BILL NO. 2155

1 AN ACT TO AMEND SECTION 37-7-307, MISSISSIPPI CODE OF 1972,
2 TO ALLOW TEACHERS TO ACCUMULATE PERSONAL LEAVE UP TO THREE DAYS;
3 AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 37-7-307, Mississippi Code of 1972, is amended
6 as follows:

7 37-7-307. (1) For purposes of this section, the term
8 "licensed employee" means any employee of a public school district
9 required to hold a valid license by the Commission on Teacher and
10 Administrator Education, Certification and Licensure and
11 Development.

12 (2) The school board of a school district shall establish by
13 rules and regulations a policy of sick leave with pay for licensed
14 employees and teacher assistants employed in the school district,
15 and such policy shall include the following minimum provisions for
16 sick and emergency leave with pay:

17 (a) Each licensed employee and teacher assistant, at
18 the beginning of each school year, shall be credited with a
19 minimum sick leave allowance, with pay, of seven (7) days for
20 absences caused by illness or physical disability of the employee
21 during that school year.

22 (b) Any unused portion of the total sick leave
23 allowance shall be carried over to the next school year and
24 credited to such licensed employee and teacher assistant if the
25 licensed employee or teacher assistant remains employed in the
26 same school district. In the event any public school licensed
27 employee or teacher assistant transfers from one public school

28 district in Mississippi to another, any unused portion of the
29 total sick leave allowance credited to such licensed employee or
30 teacher assistant shall be credited to such licensed employee or
31 teacher assistant in the computation of unused leave for
32 retirement purposes under Section 25-11-109. Accumulation of sick
33 leave allowed under this section shall be unlimited.

34 (c) No deduction from the pay of such licensed employee
35 or teacher assistant may be made because of absence of such
36 licensed employee or teacher assistant caused by illness or
37 physical disability of the licensed employee or teacher assistant
38 until after all sick leave allowance credited to such licensed
39 employee or teacher assistant has been used.

40 (d) For the first ten (10) days of absence of a
41 licensed employee because of illness or physical disability, in
42 any school year, in excess of the sick leave allowance credited to
43 such licensed employee, there may be deducted from the pay of such
44 licensed employee the established substitute amount of licensed
45 employee compensation paid in that local school district,
46 necessitated because of the absence of the licensed employee as a
47 result of illness or physical disability. Thereafter, the regular
48 pay of such absent licensed employee may be suspended and withheld
49 in its entirety for any period of absence because of illness or
50 physical disability during that school year.

51 (3) Beginning with the school year 1983-1984, each licensed
52 employee at the beginning of each school year shall be credited
53 with a minimum personal leave allowance, with pay, of three (3)
54 days for absences caused by personal reasons during that school
55 year. Such personal leave shall not be taken on the first day of
56 the school term, the last day of the school term, on a day
57 previous to a holiday or a day after a holiday. Personal leave
58 may be used for professional purposes, including absences caused
59 by attendance of such licensed employee at a seminar, class,
60 training program, professional association or other functions

61 designed for educators. No deduction from the pay of such
62 licensed employee may be made because of absence of such licensed
63 employee caused by personal reasons until after all personal leave
64 allowance credited to such licensed employee has been used.
65 However, the superintendent of a school district, in his
66 discretion, may allow a licensed employee personal leave in
67 addition to any minimum personal leave allowance, under the
68 condition that there shall be deducted from the salary of such
69 licensed employee the actual amount of any compensation paid to
70 any person as a substitute, necessitated because of the absence of
71 the licensed employee. Any unused portion of the total personal
72 leave allowance up to five (5) days shall be carried over to the
73 next school year and credited to such licensed employee if the
74 licensed employee remains employed in the same school district.

75 (4) Beginning with the school year 1992-1993, each licensed
76 employee shall be credited with a professional leave allowance,
77 with pay, for each day of absence caused by reason of such
78 employee's statutorily required membership and attendance at a
79 regular or special meeting held within the State of Mississippi of
80 the State Board of Education, the Commission on Teacher and
81 Administrator Education, Certification and Licensure and
82 Development, the Commission on School Accreditation, the
83 Mississippi Authority for Educational Television, the meetings of
84 the state textbook rating committees or other meetings authorized
85 by local school board policy.

86 (5) Upon retirement from employment, each licensed and
87 nonlicensed employee shall be paid for not more than thirty (30)
88 days of unused accumulated leave earned while employed by the
89 school district in which the employee is last employed. Such
90 payment for licensed employees shall be made by the school
91 district at a rate equal to the amount paid to substitute teachers
92 and for nonlicensed employees, the payment shall be made by the
93 school district at a rate equal to the federal minimum wage. The

94 payment shall be treated in the same manner for retirement
95 purposes as a lump-sum payment for personal leave as provided in
96 Section 25-11-103(e). Any remaining lawfully credited unused
97 leave, for which payment has not been made, shall be certified to
98 the Public Employees' Retirement System in the same manner and
99 subject to the same limitations as otherwise provided by law for
100 unused leave. No payment for unused accumulated leave may be made
101 to either a licensed or nonlicensed employee at termination or
102 separation from service for any purpose other than for the purpose
103 of retirement.

104 (6) The school board may adopt rules and regulations which
105 will reasonably aid to implement the policy of sick and personal
106 leave, including, but not limited to, rules and regulations having
107 the following general effect:

108 (a) Requiring the absent employee to furnish the
109 certificate of a physician or dentist or other medical
110 practitioner as to the illness of the absent licensed employee,
111 where the absence is for four (4) or more consecutive school days,
112 or for two (2) consecutive school days immediately preceding or
113 following a nonschool day;

114 (b) Providing penalties, by way of full deduction from
115 salary, or entry on the work record of the employee, or other
116 appropriate penalties, for any materially false statement by the
117 employee as to the cause of absence;

118 (c) Forfeiture of accumulated or future sick leave, if
119 the absence of the employee is caused by optional dental or
120 medical treatment or surgery which could, without medical risk,
121 have been provided, furnished or performed at a time when school
122 was not in session;

123 (d) Enlarging, increasing or providing greater sick or
124 personal leave allowances than the minimum standards established
125 by this section in the discretion of the school board of each
126 school district.

127 (7) School boards may include in their budgets provisions
128 for the payment of substitute employees, necessitated because of
129 the absence of regular licensed employees. All such substitute
130 employees shall be paid wholly from district funds, except as
131 otherwise provided for long-term substitute teachers in Section
132 37-19-20. Such school boards, in their discretion, also may pay,
133 from district funds other than adequate education program funds,
134 the whole or any part of the salaries of all employees granted
135 leaves for the purpose of special studies or training.

136 (8) The school board may further adopt rules and regulations
137 which will reasonably implement such leave policies for all other
138 nonlicensed and hourly paid school employees as the board deems
139 appropriate.

140 (9) Vacation leave granted to either licensed or nonlicensed
141 employees shall be synonymous with personal leave. Unused
142 vacation or personal leave accumulated by licensed employees in
143 excess of the maximum five (5) days which may be carried over from
144 one (1) year to the next may be converted to sick leave not to
145 exceed the conversion of ten (10) days of personal or vacation
146 leave days to sick days per year. In the case of unused vacation
147 or personal leave accumulated by nonlicensed employees, no more
148 than ten (10) days of unused personal or vacation leave may be
149 converted to sick leave per year. Any personal or vacation leave
150 previously converted to sick leave under a lawfully adopted policy
151 before May 1, 2004, shall be recognized as accrued leave by the
152 local school district and available for use by the employee. The
153 leave converted under a lawfully adopted policy may be certified
154 to the Public Employees' Retirement System upon termination of
155 employment and any such leave previously converted and certified
156 to the Public Employees' Retirement System shall be recognized.

157 (10) (a) For the purposes of this subsection, the following
158 words and phrases shall have the meaning ascribed in this
159 paragraph unless the context requires otherwise:

160 (i) "Catastrophic injury or illness" means a
161 life-threatening injury or illness of an employee or a member of
162 an employee's immediate family that totally incapacitates the
163 employee from work, as verified by a licensed physician, and
164 forces the employee to exhaust all leave time earned by that
165 employee, resulting in the loss of compensation from the state for
166 the employee. Conditions that are short-term in nature,
167 including, but not limited to, common illnesses such as influenza
168 and the measles, and common injuries, are not catastrophic.
169 Chronic illnesses or injuries, such as cancer or major surgery,
170 that result in intermittent absences from work and that are
171 long-term in nature and require long recuperation periods may be
172 considered catastrophic.

173 (ii) "Immediate family" means spouse, parent,
174 stepparent, sibling, child or stepchild.

175 (b) Any school district employee may donate a portion
176 of his or her unused accumulated personal leave or sick leave to
177 another employee of the same or another school district who is
178 suffering from a catastrophic injury or illness or who has a
179 member of his or her immediate family suffering from a
180 catastrophic injury or illness, in accordance with the following:

181 (i) The employee donating the leave (the "donor
182 employee") shall designate the employee who is to receive the
183 leave (the "recipient employee") and the amount of unused
184 accumulated personal leave and sick leave that is to be donated,
185 and shall notify the school district superintendent or his
186 designee of his or her designation.

187 (ii) The maximum amount of unused accumulated
188 personal leave that an employee may donate to any other employee
189 may not exceed a number of days that would leave the donor
190 employee with fewer than seven (7) days of personal leave
191 remaining, and the maximum amount of unused accumulated sick leave
192 that an employee may donate to any other employee may not exceed

193 fifty percent (50%) of the unused accumulated sick leave of the
194 donor employee.

195 (iii) An employee must have exhausted all of his
196 or her available leave before he or she will be eligible to
197 receive any leave donated by another employee. Eligibility for
198 donated leave shall be based upon review and approval by the donor
199 employee's supervisor.

200 (iv) Before an employee may receive donated leave,
201 he or she must provide the school district superintendent or his
202 designee with a physician's statement that states the beginning
203 date of the catastrophic injury or illness, a description of the
204 injury or illness, and a prognosis for recovery and the
205 anticipated date that the recipient employee will be able to
206 return to work.

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

213 (vi) Donated leave shall not be used in lieu of
214 disability retirement.

215 **SECTION 2.** This act shall take effect and be in force from
216 and after July 1, 2005.