

By: Representative Hines

To: State Affairs

HOUSE BILL NO. 446

1 AN ACT TO AMEND SECTION 25-3-95, MISSISSIPPI CODE OF 1972, TO
2 REMOVE THE REQUIREMENT THAT A STATE EMPLOYEE MUST USE ONE DAY OF
3 ACCRUED PERSONAL OR COMPENSATORY LEAVE, OR LEAVE WITHOUT PAY IF
4 THE EMPLOYEE HAS NO ACCRUED PERSONAL OR COMPENSATORY LEAVE, BEFORE
5 THE EMPLOYEE MAY USE MAJOR MEDICAL LEAVE; AND FOR RELATED
6 PURPOSES.

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

8 **SECTION 1.** Section 25-3-95, Mississippi Code of 1972, is
9 amended as follows:

10 25-3-95. (1) All employees and appointed officers of the
11 State of Mississippi, except employees of the public universities
12 who do not contribute to the Mississippi Public Employees'
13 Retirement System or the State Institutions of Higher Learning
14 Optional Retirement Program, shall accrue credits for major
15 medical leave as follows:

Continuous	Accrual Rate	Accrual Rate
Service	(Monthly)	(Annually)
1 month to 3 years	8 hours per month	12 days per year
37 months to 8 years	7 hours per month	10.5 days per year
97 months to 15 years	6 hours per month	9 days per year



21 Over 15 years 5 hours per month 7.5 days per year
 22 Faculty members employed by the eight (8) public universities
 23 on a nine-month contract shall accrue credit for major medical
 24 leave as follows:

25 Continuous 26 Service	25 Accrual Rate 26 (Per Month)	25 Accrual Rate 26 (Per Academic Year)
27 1 month to 3 years	27 13-1/3 hours per month	27 15 days per 28 academic year
29 37 months to 8 years	29 14-1/5 hours per month	29 16 days per 30 academic year
31 97 months to 15 years	31 15-2/5 hours per month	31 17 days per 32 academic year
33 Over 15 years	33 16 hours per month	33 18 days per 34 academic year

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

40 (2) (a) Major medical leave may be used for the illness or
 41 injury of an employee or member of the employee's immediate family
 42 as defined in subsection (3) of this section * * *. * * * Major
 43 medical leave may be used * * * to cover regularly scheduled
 44 visits to a doctor's office or a hospital for the continuing
 45 treatment of a chronic disease, as certified in advance by a



46 physician. For the purposes of this section, "physician" means a
47 doctor of medicine, osteopathy, dental medicine, podiatry or
48 chiropractic. For each absence due to illness of thirty-two (32)
49 consecutive working hours * * *, major medical leave shall be
50 authorized only when certified by their attending physician.

51 (b) When an employee's absence is due to a work-related
52 injury for which the employee is receiving temporary disability
53 benefits under Section 71-3-17(b) or 71-3-21, the injured employee
54 shall not use accrued personal and/or medical leave and receive
55 workers' compensation benefits simultaneously if the combined
56 receipt of both benefits results in the employee being paid, while
57 absent due to the work-related injury, a total amount that exceeds
58 one hundred percent (100%) of his wages earned in state employment
59 at the time of injury. In such cases, the injured employee may
60 use only as much of his accrued personal and/or medical leave as
61 necessary, which may be fewer than eight (8) hours of accrued
62 personal and/or major medical leave in a day, to constitute the
63 difference between the amount of temporary disability workers'
64 compensation benefits received and one hundred percent (100%) of
65 his wages earned at the time of injury in state employment. It is
66 the intent of the Legislature that no state employee who is absent
67 and disabled from work due to a work-related injury shall receive
68 more than one hundred percent (100%) of his wages earned in state
69 employment at the time of injury through the use of accrued
70 personal and/or medical leave combined with temporary disability



71 benefits under the Workers' Compensation Law. The procedure for
72 implementing this paragraph (b) shall be as directed by the
73 applicable appointing authority. The receipt or payment of
74 benefits in compliance with this paragraph (b) shall be considered
75 the employee's exclusive remedy against the employer in accordance
76 with Section 71-3-9.

77 (3) An employee may use up to three (3) days of earned major
78 medical leave for each occurrence of death in the immediate family
79 requiring the employee's absence from work. No qualifying
80 time * * * will be required prior to use of major medical leave
81 for this purpose. For the purpose of this subsection (3), the
82 immediate family is defined as spouse, parent, stepparent,
83 sibling, child, stepchild, grandchild, grandparent, son- or
84 daughter-in-law, mother- or father-in-law or brother- or
85 sister-in-law. Child means a biological, adopted or foster child,
86 or a child for whom the individual stands or stood in loco
87 parentis.

88 (4) Employees and appointed officers of the State of
89 Mississippi having unused, accumulated sick leave or annual leave
90 earned prior to July 1, 1984, shall be credited with major medical
91 leave and personal leave as follows: All unused annual leave
92 shall be credited as personal leave.

93 Unused sick leave shall be divided between major medical
94 leave and personal leave at rates determined by the employee's



95 sick leave balance on June 30, 1984. The rates of conversion
96 shall be as follows:

97	Sick Leave	Percentage	Percentage
98	Balance as of	Converted to	Converted to
99	June 30, 1984	Personal Leave	Major Medical Leave
100	1 - 200 hours	20%	80%
101	201 - 400 hours	25%	75%
102	401 - 600 hours	30%	70%
103	601 or more hours	35%	65%

104 (5) Upon retirement from active employment, each faculty
105 member of the state-supported public universities who is employed
106 on a nine-month basis shall receive credit and be paid for not
107 more than thirty (30) days of unused major medical leave for
108 service as a state employee. Unused major medical leave in excess
109 of thirty (30) days shall be counted as creditable service for the
110 purposes of the retirement system as provided in Sections
111 25-11-103 and 25-13-5.

112 (6) Any state law enforcement officer who is injured by
113 wound or accident in the line of duty shall not be required to use
114 earned major medical leave during the period of recovery from such
115 injury. As used in this subsection, the term "state law
116 enforcement officer" means a person employed by a state agency
117 who, as a condition of his or her employment, is required by law
118 to complete a course of study at the Law Enforcement Officers
119 Training Academy.



120 (7) For the purpose of Sections 25-3-91 through 25-3-99, the
121 earned major medical leave of each employee shall be credited
122 monthly after the completion of each calendar month, and the
123 appointing authority shall not increase the amount of major
124 medical leave to an employee's credit. It shall be unlawful for
125 an appointing authority to grant major medical leave in an amount
126 greater than was earned and accumulated by the officer or
127 employee.

128 (8) Any employee may donate a portion of his or her earned
129 personal leave or major medical leave to another employee who is
130 suffering from a catastrophic injury or illness, as defined in
131 Section 25-3-91, or to another employee who has a member of his or
132 her immediate family who is suffering from a catastrophic injury
133 or illness, in accordance with the following:

134 (a) The employee donating the leave (the "donor
135 employee") shall designate the employee who is to receive the
136 leave (the "recipient employee") and the amount of earned personal
137 leave and major medical leave that is to be donated, and shall
138 notify the donor employee's appointing authority or supervisor of
139 his or her designation. The donor employee's appointing authority
140 or supervisor then shall notify the recipient employee's
141 appointing authority or supervisor of the amount of leave that has
142 been donated by the donor employee to the recipient employee.

143 (b) The maximum amount of earned personal leave that an
144 employee may donate to any other employee may not exceed a number



145 of days that would leave the donor employee with fewer than seven
146 (7) days of personal leave left, and the maximum amount of earned
147 major medical leave that an employee may donate to any other
148 employee may not exceed fifty percent (50%) of the earned major
149 medical leave of the donor employee. All donated leave shall be
150 in increments of not less than twenty-four (24) hours.

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

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

160 (e) If an employee is aggrieved by the decision of his
161 or her appointing authority that the employee is not eligible to
162 receive donated leave because the injury or illness of the
163 employee or member of the employee's immediate family is not, in
164 the appointing authority's determination, a catastrophic injury or
165 illness, the employee may appeal the decision to the employee
166 appeals board.

167 (f) Beginning on March 25, 2003, the maximum period of
168 time that an employee may use donated leave without resuming work
169 at his or her place of employment is ninety (90) days, which



170 commences on the first day that the recipient employee uses
171 donated leave. Donated leave that is not used because a recipient
172 employee has used the maximum amount of donated leave authorized
173 under this paragraph shall be returned to the donor employees in
174 the manner provided under paragraph (g) of this subsection.

175 (g) If the total amount of leave that is donated to any
176 employee is not used by the recipient employee, the donated leave
177 shall be returned to the donor employees on a pro rata basis,
178 based on the ratio of the number of days of leave donated by each
179 donor employee to the total number of days of leave donated by all
180 donor employees.

181 (h) The failure of any appointing authority or
182 supervisor of any employee to properly deduct an employee's
183 donation of leave to another employee from the donor employee's
184 earned personal leave or major medical leave shall constitute just
185 cause for the dismissal of the appointing authority or supervisor.

186 (i) No person through the use of coercion, threats or
187 intimidation shall require or attempt to require any employee to
188 donate his or her leave to another employee. Any person who
189 alleges a violation of this paragraph shall report the violation
190 to the executive head of the agency by whom he or she is employed
191 or, if the alleged violator is the executive head of the agency,
192 then the employee shall report the violation to the State
193 Personnel Board. Any person found to have violated this paragraph



194 shall be subject to removal from office or termination of
195 employment.

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

198 (k) Recipient employees of agencies with more than five
199 hundred (500) employees as of March 25, 2003, may receive donated
200 leave only from donor employees within the same agency. A
201 recipient employee in an agency with five hundred (500) or fewer
202 employees as of March 25, 2003, may receive donated leave from any
203 donor employee.

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

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

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

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

215 (n) For the purposes of this subsection, "immediate
216 family" means spouse, parent, stepparent, sibling, child or
217 stepchild.



218 (9) An employee may use up to six (6) weeks of earned major
219 medical leave for the placement with the employee of a child for
220 adoption or foster care and to care for the newly placed child
221 within one (1) year of placement.

222 **SECTION 2.** This act shall take effect and be in force from
223 and after July 1, 2024.

