

1 SB376  
2 138981-6  
3 By Senator Marsh  
4 RFD: Governmental Affairs  
5 First Read: 28-FEB-12

1 SB376

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 16-1-18.1, 36-26-35.2, 36-26-36,  
12 and 36-26-36.2 of the Code of Alabama 1975, relating to  
13 donations of leave; to provide further for the donation of  
14 leave; and to provide further for the accumulation of sick  
15 leave for purposes of retirement.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

17 Section 1. Sections 16-1-18.1, 36-26-35.2, 36-26-36,  
18 and 36-26-36.2 of the Code of Alabama 1975, are amended to  
19 read as follows:

20 "§16-1-18.1.

21 "(a) Definitions. When used in this section, the  
22 following terms shall have the following meanings,  
23 respectively:

24 "(1) EMPLOYEE. Any person employed full time as  
25 provided by law by those employers enumerated in this section;  
26 and adult bus drivers.

1           "(2) EMPLOYER. All public city and county boards of  
2 education; the Board of Trustees of the Alabama Institute for  
3 Deaf and Blind; the Alabama Youth Services Department District  
4 Board in its capacity as the Board of Education for the Youth  
5 Services Department District; the Board of Directors of the  
6 Alabama School of Fine Arts; the Board of Trustees of the  
7 Alabama High School of Mathematics and Science; for purposes  
8 of subsection (c) only, the Alabama State Senate, the  
9 Lieutenant Governor, the Office of the Senate President Pro  
10 Tempore, the Speaker of the House of Representatives, the  
11 Alabama House of Representatives, the Legislative Reference  
12 Service; any organization participating in the Teachers'  
13 Retirement System (excluding any state governmental department  
14 not listed herein); the State Board of Education as applied to  
15 two-year postsecondary education institutions; and for the  
16 purposes of subsection (c) only, all four year public  
17 institutions of higher learning.

18           "(3) EXECUTIVE OFFICER. The superintendent of any  
19 public county school system or any public city school system;  
20 the President of the Alabama Institute for Deaf and Blind; the  
21 president of any two-year school or college under the auspices  
22 of the State Board of Education; the Superintendent of the  
23 Department of Youth Services School District; the Executive  
24 Director of the Alabama School of Fine Arts; the Executive  
25 Director of the Alabama High School of Mathematics and  
26 Science; the Secretary of the Senate, the Clerk of the House

1 of Representatives, the Lieutenant Governor; the Speaker of  
2 the House of Representatives; the chief executive officer of  
3 any other employer as provided in this section.

4 "(4) SICK LEAVE. The absence from duty by an  
5 employee as a result of any of the following:

6 "a. Personal illness or doctor's quarantine.

7 "b. Incapacitating personal injury.

8 "c. Attendance upon an ill member of the employee's  
9 immediate family (parent, spouse, child, foster child  
10 currently in the care and custody of the employee, sibling);  
11 or an individual with a close personal tie.

12 "d. Death in the family of the employee (parent,  
13 spouse, child, sibling, parent-in-law, son-in-law,  
14 daughter-in-law, brother-in-law, sister-in-law, nephew, niece,  
15 grandchild, grandparent, uncle, or aunt).

16 "e. Death, injury, or sickness of another person who  
17 has unusually strong personal ties to the employee, such as a  
18 person who stood in loco parentis.

19 "(5) ON-THE-JOB INJURY. Any accident or injury to  
20 the employee occurring during the performance of duties or  
21 when directed or requested by the employer to be on the  
22 property of the employer which prevents the employee from  
23 working or returning to his or her job.

24 "(b) Sick leave for employees.

25 "(1) EARNINGS. The employee shall earn one sick  
26 leave day per month of employment.

1           "(2) REASONS FOR TAKING SICK LEAVE. The employee  
2 shall be allowed and authorized to take sick leave for any of  
3 the reasons so enumerated and defined in this section.

4           "(3) EMPLOYEE PAY WHILE ON SICK LEAVE. Reimbursement  
5 of pay for the employee per day of sick leave shall be at the  
6 daily rate of pay for the employee.

7           "(c) Sick leave accumulation and transfers. (1) An  
8 employee shall be allowed to accumulate an unlimited number of  
9 sick leave days. Earned sick leave days which have been  
10 accrued by an employee shall be transferrable from one  
11 employer to another. The executive officer of the employer  
12 shall take care to ensure that certification of the number of  
13 unused sick leave days is provided to the new employer when an  
14 employee transfers employment. All of the earned and unused  
15 sick leave days which an employee has accumulated shall be  
16 transferred to the new employer for use by the employee as  
17 provided by law. However, for purposes of applying accrued  
18 sick leave as credit for retirement purposes, an employee is  
19 limited to a maximum of sick leave as authorized in  
20 subdivision (1) of subsection (b). As pertains to receiving  
21 retirement credit for accrued sick leave, the Teacher's Board  
22 of Control shall have the authority to adopt such policies and  
23 procedures necessary to effectuate a uniform policy pursuant  
24 to this section.

25           "(2) Employees of the Alabama State Senate, the  
26 Lieutenant Governor, the Office of the Senate President Pro

1 Tempore, the Speaker of the House of Representatives, the  
2 Alabama House of Representatives, and the Legislative  
3 Reference Service may only accrue unlimited sick leave under  
4 this section until January 1, 2013. On January 1, 2013, an  
5 employee subject to this section may carry over only the  
6 actual number of sick leave hours the employee has or the  
7 number allowed under Section 36-26-36, whichever is greater.  
8 After January 1, 2013, sick leave earned by an employee  
9 subject to this section in excess of the amount determined on  
10 January 1, 2013, is subject to Section 36-26-36(d).

11 "(d) On-the-job injury. The following regulations,  
12 procedures, and rights are established pertaining to employees  
13 who are injured while on the job:

14 "(1) NOTICE OF INJURY. The employee shall make  
15 proper notification of the injury to the executive officer (or  
16 to the principal of the school, if applicable), within 24  
17 hours after the injury occurred, or where the employee is not  
18 clinically able to make notification, it shall be permissible  
19 for another person who is reasonably knowledgeable to make the  
20 notification of the injury. Other notification procedures and  
21 forms shall be as established by written policy of the  
22 employer.

23 "(2) PHYSICIAN CERTIFICATION. The employer may  
24 require medical certification from the employee's physician  
25 that the employee was injured and cannot return to work as a  
26 result of the injury. The executive officer may, at his or

1 her discretion, require a second opinion from another  
2 physician at the expense of the employer. The employer may  
3 require a statement from the physician that there is a  
4 reasonable expectation that the employee will be able to  
5 return to work. A uniform physician certification form shall  
6 be adopted by the State Board of Education and distributed to  
7 each executive officer.

8 "(3) SALARY CONTINUED. Upon determination by the  
9 executive officer that an employee has been injured on the job  
10 and cannot return to work as a result of the injury, the  
11 salary and fringe benefits of the employee shall be continued  
12 for a period of up to ninety (90) working days consistent with  
13 the employee's injury and the subsequent absence from work  
14 resulting from the injury. This provision shall apply to the  
15 temporary disability of the employee as applicable to the  
16 job-related injury.

17 "(4) EXTENSION OF DAYS. The employer may adopt a  
18 written policy to extend the 90-day sick leave period for  
19 on-the-job injuries. Additional job-injury policies may be  
20 adopted by the employer if the policies do not conflict with  
21 the section.

22 "(5) REIMBURSEMENT TO EMPLOYER. Any reasonable  
23 on-the-job injury costs incurred by the employer (to hire a  
24 substitute) per absent injured employee in a fiscal year shall  
25 be reimbursed to the employer by the state during the next  
26 succeeding fiscal year upon application by the employer to the

1 appropriate State Board of Education department on a form  
2 adopted by the state board (not to exceed 90 work days). The  
3 department shall subsequently submit the request to the  
4 Legislature as a line-item in its budget request for  
5 reimbursement to the employer, and, if approved by the  
6 Legislature, shall reimburse the employer at the amount per  
7 day for sick leave authorized and funded in the annual budget  
8 act for public schools and colleges.

9 "(6) EMPLOYEE'S SICK LEAVE. Sick leave shall not be  
10 deducted from the employee's account if absence from work is  
11 found to be a result of an on-the-job injury as provided in  
12 this section.

13 "(7) ADDITIONAL EXPENSES. Any unreimbursed medical  
14 expenses and costs which the employee incurs as a result of an  
15 on-the-job injury may be filed for reimbursement with the  
16 State Board of Adjustment. Reimbursement to the employee  
17 shall be determined by the Board of Adjustment's policies,  
18 rules, and regulations which may be adopted from time to time.  
19 The Board of Adjustment shall adopt appropriate rules,  
20 regulations, and forms for submission by the employee.

21 "(8) The executive officer or his or her designee  
22 shall inform the employee who is injured on the job of his or  
23 her rights about appearing before the Board of Adjustment and  
24 also about applicable written policies within thirty (30)  
25 calendar days of notification of the injury.



1           "(e) Vacations and leaves of absences. The employer  
2 shall have the authority, under the rules and regulations  
3 promulgated from time to time by the State Board of Education,  
4 to provide for paid leaves of absences and vacations for its  
5 employees. Payment may be from public funds. The employer may  
6 provide for leaves of absence during the times the schools  
7 are, or are not, in session when the teacher or employee  
8 devotes the leave to instructing in or attending schools for  
9 appropriate training, or when approved by the State Board of  
10 Education as beneficial to the state's educational objectives.  
11 The employer may also provide for the payment of any full-time  
12 teachers or employees for absences during the time schools are  
13 in session when the absence results from an unavoidable cause  
14 which prevents the teacher or employee from discharging his or  
15 her duties. Pay for the absences resulting from unavoidable  
16 causes other than sickness shall not be allowed for a longer  
17 time than one week during any one scholastic year.

18           "(f) Postsecondary annual leave. As applied to  
19 postsecondary employers, any employee who earns and  
20 accumulates annual leave shall be entitled to accumulate up to  
21 60 days of annual leave at a rate not to exceed that in the  
22 policy established by the State Board of Education.

23           "(g) Policies. The policies and procedures required  
24 and permitted by this section shall be adopted by the employer  
25 consistent with and as required by Section 16-1-30.

26           "§36-26-35.2.

1           "Notwithstanding any other laws to the contrary, a  
2 state employee employed in any branch of state government may  
3 donate his or her accrued and unused annual, sick, or  
4 compensatory leave to another state employee who has qualified  
5 for catastrophic sick leave or maternity leave. ~~The state~~  
6 ~~employee receiving the donated leave may be in a position with~~  
7 ~~an equal, a higher, or a lower pay grade than the position of~~  
8 ~~the donor employee. Donated leave shall be calculated on an~~  
9 ~~hour for hour basis. There shall be no limitation on the~~  
10 ~~number of hours a state employee may donate or receive. All~~  
11 ~~leave donated to an employee shall remain in effect for 12~~  
12 ~~months after donation or until used by such employee,~~  
13 ~~whichever occurs first; provided however, such employee must~~  
14 ~~remain employed with the State of Alabama~~ The donation shall  
15 be subject to the approval of the appointing authority of the  
16 employee making the donation and, if the donating employee is  
17 in a position with a lower pay grade than the position of the  
18 employee receiving the donation, the approval of the State  
19 Personnel Board. The appointing authority of the employee  
20 receiving the donation may limit the number of hours an  
21 employee may receive per catastrophic illness or maternity  
22 leave. No employee may receive more than 480 hours of donated  
23 leave throughout his or her career with the state without the  
24 approval of the State Personnel Board.

25           "§36-26-36.

1           "(a) Upon retirement, each employee who acquires  
2 sick leave pursuant to the state Merit System shall receive  
3 payment of 50 percent of his or her accrued and unused sick  
4 leave, not to include escrowed sick leave as provided herein,  
5 at the time of his or her retirement, and payments for the  
6 sick leave shall be made at the same rate as his or her  
7 regular pay, not to exceed 600 hours.

8           "(b) When a state employee in the classified service  
9 dies while in active service to the state, the estate of the  
10 deceased employee shall receive a monetary payment of 50  
11 percent of the accrued and unused sick leave, not to exceed  
12 600 hours, which the employee was credited with at the time of  
13 his or her death.

14           "(c) The state shall calculate sick leave each pay  
15 period. Sick leave earned over 1200 hours shall be considered  
16 excess sick leave which shall be accrued and credited to the  
17 employee for use as sick leave in the year the excess sick  
18 leave is earned.

19           "~~(d) On December 31, 2000, and on December 31 of~~  
20 ~~each year thereafter and at no other time during the year,~~  
21 ~~excess~~ Excess sick leave over 1200 hours shall be placed in  
22 escrow for the state employee who earned the sick leave to be  
23 used only as may be provided by State Personnel Board rules.

24           "(e) This section does not preclude the accumulation  
25 of and payment for a greater number of hours of sick leave to  
26 an employee upon retirement pursuant to Section 16-1-18.1.

1                   "§36-26-36.2.

2                   "(a) Annual leave, compensatory leave, and sick  
3 leave donation programs for catastrophic illnesses or  
4 maternity leave of qualified state employees shall provide for  
5 donations of leave to occur between all state employees  
6 employed in the Executive, Legislative, and Judicial Branches  
7 of state government ~~so long as the state employee receiving~~  
8 ~~the donated leave is in a position with an equal or lower pay~~  
9 ~~grade than the donor state employee.~~

10                   "(b) The personnel departments of all branches of  
11 state government shall coordinate efforts to promulgate and  
12 implement the administrative rules and procedures necessary to  
13 implement this section."

14                   Section 2. This act shall become effective October  
15 1, 2012.

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Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 28-FEB-12

Read for the second time and placed on the calen-  
dar with 1 substitute and..... 20-MAR-12

Read for the third time and passed as amended .... 22-MAR-12

Yeas 27  
Nays 2

Patrick Harris  
Secretary