

1 SB376
2 138981-7
3 By Senator Marsh
4 RFD: Governmental Affairs
5 First Read: 28-FEB-12

1 SB376

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4 ENROLLED, An Act,

5 To amend Sections 16-1-18.1, 36-26-35.2, 36-26-36,
6 and 36-26-36.2 of the Code of Alabama 1975, relating to
7 donations of leave; to provide further for the donation of
8 leave; and to provide further for the accumulation of sick
9 leave for purposes of retirement.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

14 "§16-1-18.1.

15 "(a) Definitions. When used in this section, the
16 following terms shall have the following meanings,
17 respectively:

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

21 "(2) EMPLOYER. All public city and county boards of
22 education; the Board of Trustees of the Alabama Institute for
23 Deaf and Blind; the Alabama Youth Services Department District
24 Board in its capacity as the Board of Education for the Youth
25 Services Department District; the Board of Directors of the

1 Alabama School of Fine Arts; the Board of Trustees of the
2 Alabama High School of Mathematics and Science; for purposes
3 of subsection (c) only, the Alabama State Senate, the
4 Lieutenant Governor, the Office of the Senate President Pro
5 Tempore, the Speaker of the House of Representatives, the
6 Alabama House of Representatives, the Legislative Reference
7 Service; any organization participating in the Teachers'
8 Retirement System (excluding any state governmental department
9 not listed herein); the State Board of Education as applied to
10 two-year postsecondary education institutions; and for the
11 purposes of subsection (c) only, all four year public
12 institutions of higher learning.

13 "(3) EXECUTIVE OFFICER. The superintendent of any
14 public county school system or any public city school system;
15 the President of the Alabama Institute for Deaf and Blind; the
16 president of any two-year school or college under the auspices
17 of the State Board of Education; the Superintendent of the
18 Department of Youth Services School District; the Executive
19 Director of the Alabama School of Fine Arts; the Executive
20 Director of the Alabama High School of Mathematics and
21 Science; the Secretary of the Senate, the Clerk of the House
22 of Representatives, the Lieutenant Governor; the Speaker of
23 the House of Representatives; the chief executive officer of
24 any other employer as provided in this section.

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

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

4 "b. Incapacitating personal injury.

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

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

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

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

21 "(b) Sick leave for employees.

22 "(1) EARNINGS. The employee shall earn one sick
23 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.

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

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

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

1 "(2) PHYSICIAN CERTIFICATION. The employer may
2 require medical certification from the employee's physician
3 that the employee was injured and cannot return to work as a
4 result of the injury. The executive officer may, at his or
5 her discretion, require a second opinion from another
6 physician at the expense of the employer. The employer may
7 require a statement from the physician that there is a
8 reasonable expectation that the employee will be able to
9 return to work. A uniform physician certification form shall
10 be adopted by the State Board of Education and distributed to
11 each executive officer.

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

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

1 "(5) REIMBURSEMENT TO EMPLOYER. Any reasonable
2 on-the-job injury costs incurred by the employer (to hire a
3 substitute) per absent injured employee in a fiscal year shall
4 be reimbursed to the employer by the state during the next
5 succeeding fiscal year upon application by the employer to the
6 appropriate State Board of Education department on a form
7 adopted by the state board (not to exceed 90 work days). The
8 department shall subsequently submit the request to the
9 Legislature as a line-item in its budget request for
10 reimbursement to the employer, and, if approved by the
11 Legislature, shall reimburse the employer at the amount per
12 day for sick leave authorized and funded in the annual budget
13 act for public schools and colleges.

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

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

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

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

23 "(f) Postsecondary annual leave. As applied to
24 postsecondary employers, any employee who earns and
25 accumulates annual leave shall be entitled to accumulate up to

1 60 days of annual leave at a rate not to exceed that in the
2 policy established by the State Board of Education.

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

6 "§36-26-35.2.

7 "Notwithstanding any other laws to the contrary, a
8 state employee employed in any branch of state government may
9 donate his or her accrued and unused annual, sick, or
10 compensatory leave to another state employee who has qualified
11 for catastrophic sick leave or maternity leave. The donation
12 shall be subject to the approval of the appointing authority
13 of the employee making the donation and, if the donating
14 employee is in a position with a lower pay grade than the
15 position of the employee receiving the donation, the approval
16 of the State Personnel Board. The appointing authority of the
17 employee receiving the donation may limit the number of hours
18 an employee may receive per catastrophic illness or maternity
19 leave. No employee may receive more than 480 hours of donated
20 leave throughout his or her career with the state without the
21 approval of the State Personnel Board.

22 "§36-26-36.

23 "(a) Upon retirement, each employee who acquires
24 sick leave pursuant to the state Merit System shall receive
25 payment of 50 percent of his or her accrued and unused sick

1 leave, not to include escrowed sick leave as provided herein,
2 at the time of his or her retirement, and payments for the
3 sick leave shall be made at the same rate as his or her
4 regular pay, not to exceed 600 hours.

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

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

16 "(d) Excess sick leave over 1200 hours shall be
17 placed in escrow for the state employee who earned the sick
18 leave to be used only as may be provided by State Personnel
19 Board rules.

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

23 "§36-26-36.2.

24 "(a) Annual leave, compensatory leave, and sick
25 leave donation programs for catastrophic illnesses or

1 maternity leave of qualified state employees shall provide for
2 donations of leave to occur between all state employees
3 employed in the Executive, Legislative, and Judicial Branches
4 of state government.

5 "(b) The personnel departments of all branches of
6 state government shall coordinate efforts to promulgate and
7 implement the administrative rules and procedures necessary to
8 implement this section."

9 Section 2. This act shall become effective October
10 1, 2012.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB376

Senate 22-MAR-12

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris
Secretary

House of Representatives
Passed: 08-MAY-12

By: Senator Marsh