

1 SB376
2 135176-4
3 By Senator Marsh
4 RFD: Governmental Affairs
5 First Read: 28-FEB-12

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8 SYNOPSIS: Under existing law, a state employee in any
9 branch of state government may donate his or her
10 accrued and unused annual, sick, or compensatory
11 leave to another employee who has qualified for
12 catastrophic sick leave or maternity leave.

13 This bill would delete the provision for
14 donation of annual leave and compensatory leave.
15 The bill would clarify that sick leave could be
16 donated only to employees in a position with a pay
17 grade equal to or lower than that of the donor
18 employee, and impose a maximum of 480 hours of
19 donated sick leave throughout the career of the
20 donee employee with the state.

21 Under existing law, on December 31 of each
22 year excess sick leave over 1200 hours must be
23 placed in escrow for the state employee who earned
24 the sick leave to be used only as may be provided
25 by State Personnel Board rules.

1 This bill would provide for excess sick
2 leave over 1200 hours to be placed in escrow as it
3 is earned.

4 Under existing law, state employees are
5 generally allowed to accumulate up to 1,200 hours
6 of sick leave and upon retirement may receive
7 retirement credit for the time or be paid for half
8 of the accumulated hours. K-12 public education and
9 certain employees of the Legislative Department,
10 among others, may accumulate more than 1,200 hours
11 and be paid one-half of that greater amount upon
12 retirement.

13 This bill would cap the amount of sick leave
14 for which the covered employees of the Legislative
15 Department may be paid at the number of hours
16 accumulated as of January 1, 2013, or 1,200 hours,
17 whichever is more.

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19 A BILL
20 TO BE ENTITLED
21 AN ACT

22
23 To amend Sections 16-1-18.1, 36-26-35.2, 36-26-36,
24 and 36-26-36.2 of the Code of Alabama 1975, relating to
25 donations of leave; to provide further for the donation of
26 leave; and to provide further for the accumulation of sick
27 leave for purposes of retirement.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

5 "§16-1-18.1.

6 "(a) Definitions. When used in this section, the
7 following terms shall have the following meanings,
8 respectively:

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

12 "(2) EMPLOYER. All public city and county boards of
13 education; the Board of Trustees of the Alabama Institute for
14 Deaf and Blind; the Alabama Youth Services Department District
15 Board in its capacity as the Board of Education for the Youth
16 Services Department District; the Board of Directors of the
17 Alabama School of Fine Arts; the Board of Trustees of the
18 Alabama High School of Mathematics and Science; for purposes
19 of subsection (c) only, the Alabama State Senate, the
20 Lieutenant Governor, the Office of the Senate President Pro
21 Tempore, the Speaker of the House of Representatives, the
22 Alabama House of Representatives, the Legislative Reference
23 Service; any organization participating in the Teachers'
24 Retirement System (excluding any state governmental department
25 not listed herein); the State Board of Education as applied to
26 two-year postsecondary education institutions; and for the

1 purposes of subsection (c) only, all four year public
2 institutions of higher learning.

3 "(3) EXECUTIVE OFFICER. The superintendent of any
4 public county school system or any public city school system;
5 the President of the Alabama Institute for Deaf and Blind; the
6 president of any two-year school or college under the auspices
7 of the State Board of Education; the Superintendent of the
8 Department of Youth Services School District; the Executive
9 Director of the Alabama School of Fine Arts; the Executive
10 Director of the Alabama High School of Mathematics and
11 Science; the Secretary of the Senate, the Clerk of the House
12 of Representatives, the Lieutenant Governor; the Speaker of
13 the House of Representatives; the chief executive officer of
14 any other employer as provided in this section.

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

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

18 "b. Incapacitating personal injury.

19 "c. Attendance upon an ill member of the employee's
20 immediate family (parent, spouse, child, sibling); or an
21 individual with a close personal tie.

22 "d. Death in the family of the employee (parent,
23 spouse, child, sibling, parent-in-law, son-in-law,
24 daughter-in-law, brother-in-law, sister-in-law, nephew, niece,
25 grandchild, grandparent, uncle, or aunt).

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

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

9 "(b) Sick leave for employees.

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

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

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

18 "(c) Sick leave accumulation and transfers. (1) An
19 employee shall be allowed to accumulate an unlimited number of
20 sick leave days. Earned sick leave days which have been
21 accrued by an employee shall be transferrable from one
22 employer to another. The executive officer of the employer
23 shall take care to ensure that certification of the number of
24 unused sick leave days is provided to the new employer when an
25 employee transfers employment. All of the earned and unused
26 sick leave days which an employee has accumulated shall be
27 transferred to the new employer for use by the employee as

1 provided by law. However, for purposes of applying accrued
2 sick leave as credit for retirement purposes, an employee is
3 limited to a maximum of sick leave as authorized in
4 subdivision (1) of subsection (b). As pertains to receiving
5 retirement credit for accrued sick leave, the Teacher's Board
6 of Control shall have the authority to adopt such policies and
7 procedures necessary to effectuate a uniform policy pursuant
8 to this section.

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

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

24 "(1) NOTICE OF INJURY. The employee shall make
25 proper notification of the injury to the executive officer (or
26 to the principal of the school, if applicable), within 24
27 hours after the injury occurred, or where the employee is not

1 clinically able to make notification, it shall be permissible
2 for another person who is reasonably knowledgeable to make the
3 notification of the injury. Other notification procedures and
4 forms shall be as established by written policy of the
5 employer.

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

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

26 "(4) EXTENSION OF DAYS. The employer may adopt a
27 written policy to extend the 90-day sick leave period for

1 on-the-job injuries. Additional job-injury policies may be
2 adopted by the employer if the policies do not conflict with
3 the section.

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

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

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

1 The Board of Adjustment shall adopt appropriate rules,
2 regulations, and forms for submission by the employee.

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

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

25 "(f) Postsecondary annual leave. As applied to
26 postsecondary employers, any employee who earns and
27 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,
8 subject to the approval of the appointing authority, a state
9 employee employed in any branch of state government may donate
10 his or her accrued and unused ~~annual, sick, or compensatory~~
11 leave to another state employee who has qualified for
12 catastrophic sick leave or maternity leave ~~. The state~~
13 ~~employee receiving the donated leave may be in a position with~~
14 ~~an equal, a higher, or a lower pay grade than the position of~~
15 ~~the donor employee. Donated leave shall be calculated on an~~
16 ~~hour for hour basis. There shall be no limitation on the~~
17 ~~number of hours a state employee may donate or receive. All~~
18 ~~leave donated to an employee shall remain in effect for 12~~
19 ~~months after donation or until used by such employee,~~
20 ~~whichever occurs first; provided however, such employee must~~
21 ~~remain employed with the State of Alabama~~ if the state
22 employee receiving the donated sick leave is in a position
23 with equal or lower pay grade than the position of the donor
24 employee. The appointing authority may limit the number of
25 hours an employee may receive per catastrophic illness or
26 maternity leave. No employee may receive more than 480 hours
27 of donated leave throughout his or her career with the state.

1 "§36-26-36.

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

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

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

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

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

1 "§36-26-36.2.

2 "(a) ~~Annual leave, compensatory leave, and sick~~ 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.