

As Engrossed: 1/31/91

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**

A Bill ACT 91 OF 1991
HOUSE BILL 1263

4 **By: Representatives Stephens and Rice, Representative McCoy**

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For An Act To Be Entitled

8 "AN ACT TO AMEND TITLE 21, CHAPTER 4, SUBCHAPTER 2 OF THE
9 ARKANSAS CODE OF 1987 TO PROVIDE A CATASTROPHIC LEAVE BANK
10 PROGRAM; TO AUTHORIZE THE USE AND CHARGING OF CATASTROPHIC
11 LEAVE; AND FOR OTHER PURPOSES."

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13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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15 SECTION 1. Ark. Code §21-4-203 is hereby amended to read as follows:

16 "21-4-203. Definitions. As used in this subchapter, unless the context
17 otherwise requires:

18 (1) 'State agencies' means all agencies, departments, boards,
19 commissions, bureaus, councils, state-supported institutions of higher
20 learning, or other agencies except the following excluded agencies or]1
21 positions within agencies:

22 (A) The elected constitutional officers of this state and their
23 employees;

24 (B) The General Assembly and its employees, including employees
25 of the Bureau of Legislative Research of the Arkansas Legislative Council and
26 the Division of Legislative Audit;

27 (C) Members of the Arkansas Supreme Court, circuit and chancery
28 courts and prosecuting attorneys, and the Judicial Department;

29 (D) The Arkansas State Highway and Transportation Department;

30 (E) All administrative, academic, or other nonclassified
31 employees of the state-supported institutions of higher learning;

32 (2) 'Agency head' or 'agency director' means the executive head of
33 all agencies, departments, boards, commissions, bureaus, councils, or other
34 agencies of the state;

35 (3) 'Annual leave' means vacation time with pay but shall not include
36 compensatory time;

1 (4) 'Catastrophic illness' means a medical condition of an employee as
2 certified by a physician that requires an employee's absence from duty for a
3 prolonged period of time and which results in a substantial loss of income to
4 the employee because of the exhaustion of all earned sick and annual leave;

5 (5) 'Catastrophic leave' means leave granted to an employee as a
6 result of a catastrophic illness, upon the employee exhausting all sick and
7 annual leave;

8 (6) 'Catastrophic leave bank' means a pool of accrued annual leave
9 donated by employees;

10 (7) 'Compensatory time' means time off in lieu of payment for overtime
11 hours;

12 (8) 'Educational leave' means any period of out-service training during
13 which time the employee pursues a regular full-time course of instruction to
14 acquire a specific skill or skills needed;

15 (9) 'Employee' means a person regularly appointed or employed in a
16 position of state service by a state agency, as defined in subdivision (1) of
17 this section, for which he is compensated on a full-time basis;

18 (10) 'Probationary employee' means a person certified from a list of
19 eligibles or employed through a work test appointment and serving a
20 probationary period;

21 (11) 'Provisional employee' means a person who has been appointed to
22 fill a position pending the establishment of a register for such position;

23 (12) 'Temporary employee' means a person who has been
24 appointed from a register for a period of time not to exceed six (6) months;

25 (13) 'Working day' means all regularly prescribed days of employment in
26 which the employee performs those duties for which he was hired. For the
27 purposes of this subchapter, a working day shall consist of eight (8) hours;

28 (14) 'Years of service' includes the total number of years of
29 employment with all agencies of Arkansas state government whether such
30 employment is continuous or not."

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32 SECTION 2. Title 21, Chapter 4, Subchapter 2 of the Arkansas Code of
33 1987 is hereby amended by adding the following new section:

34 "21-4-214. Catastrophic Leave Program.

35 (a) The Department of Finance and Administration shall have
36 administrative responsibility for developing, implementing and maintaining a

1 catastrophic leave bank program. Each state agency approved by the Department
2 of Finance and Administration to participate in the catastrophic leave bank
3 program may establish a catastrophic leave bank for its employees or the state
4 agency may participate in a catastrophic leave bank to be administered by the
5 Office of Personnel Management of the Department of Finance and
6 Administration.

7 (b) *Accrued annual leave and sick leave of employees may be donated to*
8 *a catastrophic leave bank.*

9 (c) Catastrophic leave with pay may be granted to an employee when such
10 employee is incapacitated for the performance of the employee's duties due to
11 a catastrophic illness.

12 (d) An employee may be eligible for catastrophic leave when:

13 (1) The employee has been employed by the state for more than two

14 (2) years;

15 (2) The employee has exhausted all earned sick and annual leave;

16 (3) The illness or injury is not covered by Worker's Compensation
17 or such compensation benefit has been exhausted;

18 (4) An acceptable medical certificate from a physician supporting
19 the continued absence is on file; and

20 (5) The employee has not been disciplined for any leave abuse
21 during the past two (2) years;

22 (e) The Director of the Department of Finance and Administration, or
23 his designee, shall promulgate necessary rules and regulations as deemed
24 necessary to carry out the provisions of this act."

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26 SECTION 3. Arkansas Code §21-4-207 is hereby amended to read as
27 follows:

28 "(f) (1) Absences due to sick leave, except in the case of maternity
29 leave, shall be charged in the following order:

30 (A) Earned sick leave;

31 (B) Earned annual leave;

32 (C) Catastrophic leave, when authorized;

33 (D) Leave without pay, when authorized.

34 (2) Requests for sick leave shall be applied for in advance.

35 (A) If the nature of the sickness makes this impossible,
36 notification of absence on account of sickness shall be given as soon as

1 possible on the first day of absence to the head of the department or the
2 person in charge of the office, and application for sick leave shall be filed
3 within two (2) days after return to duty.

4 (B) If notification is not made in accordance with the
5 procedure herein, the absence shall be charged to annual leave or leave
6 without pay, at the discretion of the agency director."

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8 SECTION 4. All provisions of this act of a general and permanent nature
9 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
10 Revision Commission shall incorporate the same in the Code.

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12 SECTION 5. If any provision of this act or the application thereof to
13 any person or circumstance is held invalid, such invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provision or application, and to this end the provisions of this
16 act are declared to be severable.

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18 SECTION 6. All laws and parts of laws in conflict with this act are
19 hereby repealed.

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21 SECTION 7. EMERGENCY. *It is hereby found and determined by the General*
22 *Assembly that the various state agencies should be authorized to establish*
23 *catastrophic leave bank programs whereby state employees could contribute*
24 *accrued annual leave and sick leave to the bank so that employees who suffer*
25 *catastrophic illness could continue to be paid while off work for a length of*
26 *time in excess of the accrued annual leave and sick leave of the employee;*
27 *that this Act authorizes the establishment of such programs; and that this*
28 *Act should be given effect immediately in order to grant the various agencies*
29 *the power to institute the programs as soon as possible. Therefore, an*
30 *emergency is hereby declared to exist and this Act being immediately necessary*
31 *for the preservation of the public peace, health and safety shall be in full*
32 *force and effect from and after its passage and approval.*

33 /s/ B. Stephens et al

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35 APPROVED: 2-7-91