

1 HB94  
2 208174-3  
3 By Representatives Ingram and Hanes  
4 RFD: Ways and Means General Fund  
5 First Read: 02-FEB-21  
6 PFD: 12/17/2020

1 ENGROSSED

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4 A BILL  
5 TO BE ENTITLED  
6 AN ACT  
7

8 Relating to peace officers and firefighters; to  
9 amend Sections 36-30-1 and 36-30-2, Code of Alabama 1975,  
10 relating to the benefits awarded on account of injury or  
11 death, under certain conditions; to include a wildland  
12 firefighter employed by the Alabama Forestry Commission as a  
13 firefighter as eligible for injury or death benefits; and to  
14 specify that a volunteer firefighter or a member of an  
15 organized rescue squad who dies of cardiac arrest,  
16 cerebrovascular accident, or pulmonary edema within 24 hours  
17 of preparing to respond, responding, or serving in his or her  
18 capacity at an emergency or participating in a training  
19 exercise shall be presumptively deemed to have died in the  
20 performance of his or her duties.

21 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

22 Section 1. This act shall be known and may be cited  
23 as "The Joe Donaghue/Donna Jo Horton Act."

24 Section 2. Sections 36-30-1 and 36-30-2, Code of  
25 Alabama 1975, are amended to read as follows:

26 "§36-30-1.

1           "(a) For the purposes of this chapter, the following  
2 words and phrases shall have the following meanings:

3           "(1) AWARDING AUTHORITY. The State Board of  
4 Adjustment, created and existing pursuant to Article 4,  
5 Chapter 9 of Title 41.

6           "(2) COMPENSATION. The money benefits paid on  
7 account of injury or death which occurred during the course of  
8 employment or activity as a peace officer or firefighter and  
9 is in the nature of workers' compensation.

10           "(3) DEPENDENT CHILD. An unmarried child under the  
11 age of 18 years, or one over the age of 18 who is physically  
12 or mentally incapacitated from earning.

13           "(4) DIRECT AND PROXIMATE RESULT OF A HEART ATTACK  
14 OR STROKE. Death resulting from a heart attack or stroke  
15 caused by engaging or participating in a situation while on  
16 duty involving nonroutine stressful or strenuous physical law  
17 enforcement, fire suppression, rescue, hazardous material  
18 response, emergency medical service, prison security, disaster  
19 relief, other emergency medical response activity, or  
20 participation in a training exercise which involved nonroutine  
21 stressful or strenuous physical activity; and the heart attack  
22 or stroke is suffered while still on that duty after so  
23 engaging or participating or not more than 24 hours after so  
24 engaging or participating.

25           "(5) FIREFIGHTER or FIREFIGHTERS. A member or  
26 members of a paid or volunteer fire department of a city,  
27 town, county, or other subdivision of the state or of a public

1 corporation organized for the purpose of providing water,  
2 water systems, fire protection services, or fire protection  
3 facilities in the state; and shall include the chief,  
4 assistant chief, wardens, engineers, captains, firefighters,  
5 and all other officers and employees of such departments who  
6 actually engage in fire fighting or in rendering first aid in  
7 case of drownings or asphyxiation at the scene of action. The  
8 term also includes a firefighter who is employed by the  
9 Alabama Forestry Commission and who has been certified by the  
10 State Forester as having met the wildland firefighter training  
11 standards of the National Wildfire Coordinating Group.

12 "(6) PEACE OFFICER. All sheriffs, deputy sheriffs,  
13 constables, municipal police officers, municipal policemen,  
14 state and town marshals, members of the highway patrol, state  
15 troopers, Alcoholic Beverage Control Board Enforcement  
16 Division agents, enforcement officers of the Public Service  
17 Commission, revenue agents, and persons who are required by  
18 law to comply with the provisions of the Peace Officers'  
19 Minimum Standards, employees of the Board of Corrections,  
20 highway camp guards, law enforcement officers of the  
21 Department of Conservation and Natural Resources, all law  
22 enforcement officers of the Alabama Forestry Commission,  
23 livestock theft investigators of the Department of Agriculture  
24 and Industries, Capitol security guards, narcotic agents and  
25 inspectors of the State Board of Health, any other state,  
26 county, or municipal officer engaged in quelling a riot, or  
27 civil disturbance, and university police officers.

1           "(7) RESCUE SQUAD MEMBER. A member of an organized  
2 rescue squad of a city, town, county, or other subdivision of  
3 the state or of a public corporation, organized for the  
4 purpose of providing, within the scope of his or her practice:  
5 First aid, treatment, or transport of the sick or injured;  
6 rescue or recovery operations at incidents of drowning; search  
7 and rescue of individuals lost or incapable of self rescue; or  
8 any other emergency or non-emergency incident where the  
9 services provided by the rescue squad are deemed necessary for  
10 incident stabilization. The term includes all commanders,  
11 officers, and members of organized rescue squads that are  
12 members of the Alabama Association of Rescue Squads.

13           "(b) For the purposes of this chapter, the following  
14 described persons shall be conclusively presumed to be wholly  
15 dependent:

16           "(1) Spouse, unless it be shown that the spouse was  
17 voluntarily living apart from the peace officer, firefighter,  
18 or rescue squad member at the time of death, or unless it be  
19 shown that the peace officer, firefighter, or rescue squad  
20 member was not in any way contributing to the spouse's support  
21 and had not in any way contributed to the spouse's support for  
22 more than 12 months next preceding the occurrence of the  
23 injury causing death.

24           "(2) Minor children under the age of 18 years and  
25 those over 18 if physically and mentally incapacitated from  
26 earning.

1           "(3) Spouse, child, mother, father, grandmother,  
2 grandfather, sister, brother, mother-in-law, and father-in-law  
3 who were wholly supported by a deceased peace officer,  
4 firefighter, or rescue squad member at the time of his or her  
5 death and for a reasonable period of time prior thereto shall  
6 be considered his or her dependents and payment of  
7 compensation may be made to them as hereinafter authorized.

8           "(c) If a paid or volunteer firefighter, peace  
9 officer, certified police officer, reserve law enforcement  
10 officer, or rescue squad member is killed while engaged in the  
11 performance of his or her duties and there are no designated  
12 beneficiaries, then the compensation shall be paid to his or  
13 her dependents or partial dependents in the manner prescribed  
14 by Section 36-30-3, and if there are none, the compensation  
15 shall be paid to his or her non-dependent children, and if  
16 there are none, the compensation shall be paid to his or her  
17 parents, and if there are none, the compensation shall be paid  
18 to the estate of the deceased.

19           "(d) Any member of the class named in subdivision  
20 (3) of subsection (b) who regularly derived part of his or her  
21 support from the earnings of the deceased peace officer,  
22 firefighter, or rescue squad member, as the case may be, at  
23 the time of his or her death and for a reasonable time  
24 immediately prior thereto shall be considered his or her  
25 partial dependent and payment of compensation may be made to  
26 such partial dependent as hereinafter authorized.

27           "§36-30-2.

1           "(a) In the event a peace officer, a firefighter, a  
2 volunteer firefighter who is a member of an organized  
3 volunteer fire department registered with the Alabama Forestry  
4 Commission, or a rescue squad member is killed, either  
5 accidentally or deliberately, or dies as a result of injuries  
6 received while engaged in the performance of his or her  
7 duties, or dies as a direct and proximate result of a heart  
8 attack or stroke, his or her beneficiaries or dependents shall  
9 be entitled to compensation in the amount of one hundred  
10 thousand dollars (\$100,000) to be paid from the State Treasury  
11 as provided in Section 36-30-3, unless such death was caused  
12 by the willful misconduct of the officer, firefighter, or  
13 rescue squad member or was due to his or her own intoxication  
14 or his or her willful failure or refusal to use safety  
15 appliances provided by his or her employer or his or her  
16 willful refusal or neglect to perform a statutory duty or any  
17 other willful violation of a law or his or her willful breach  
18 of a reasonable rule or regulation governing the performance  
19 of his or her duties or his or her employment of which rule or  
20 regulation he or she had knowledge. Any peace officer,  
21 firefighter, volunteer firefighter, or rescue squad member  
22 whose death results proximately from an injury received while  
23 performing his or her duties shall, for the purposes of this  
24 article, be deemed to have been killed while in the  
25 performance of such duties. A volunteer firefighter or a  
26 member of an organized rescue squad who dies of cardiac  
27 arrest, cerebrovascular accident, or pulmonary edema within 24

1 hours after preparing to respond to a called emergency or  
2 responding to an emergency; or after serving in his or her  
3 capacity at an emergency; or after participating in a required  
4 physical training exercise shall be presumed to have died in  
5 the performance of his or her duties. If the State Health  
6 Officer determines from all available evidence that a  
7 volunteer firefighter, who is a member of an organized  
8 volunteer fire department registered with the Alabama Forestry  
9 Commission, has become totally disabled as a result of any  
10 injury received while engaged in the performance of his or her  
11 fire-fighting duties and the disability is likely to continue  
12 for more than 12 months from the date the injury is incurred,  
13 then the firefighter shall be entitled to receive disability  
14 compensation in the amount of one hundred thousand dollars  
15 (\$100,000) to be paid from the State Treasury as provided in  
16 Section 36-30-3. The term total disability shall be  
17 interpreted to mean that the injured party is medically  
18 disabled to the extent that he or she cannot perform the  
19 duties of the job occupation or profession in which he or she  
20 was engaging at the time the injury was sustained. The State  
21 Health Officer may seek the assistance of any state agency in  
22 making the determination of disability and the state agencies  
23 shall cooperate with the State Health Officer in such regard.  
24 The State Health Officer shall render a decision within 30  
25 days of the time a claim is filed. If such volunteer  
26 firefighter disagrees with any officer, he or she may appeal

1 the determination to the State Board of Adjustment in  
2 accordance with such board's procedures for such appeals.

3 "(b) Beginning in calendar year 2009, the  
4 compensation amounts payable under this section shall be  
5 adjusted on January 1 of each year to reflect any increase  
6 during the preceding calendar year in the consumer price index  
7 as published by the U.S. Department of Labor, Bureau of Labor  
8 Statistics. The adjustment shall equal the percentage change  
9 in the consumer price index during the preceding calendar  
10 year.

11 "(c) Any person who currently serves or previously  
12 served as a firefighter or law enforcement peace officer who  
13 dies as a result of a firefighter's occupational disease as  
14 defined in Section 11-43-144 or 36-30-40, or law enforcement  
15 peace officer's occupational disease as defined in Section  
16 36-30-20 shall be qualified for a state death benefit as  
17 provided in subsection (a) as if the person died in the  
18 performance of his or her duties, provided he or she satisfies  
19 the three years' service requirement and physical examination  
20 requirements set forth in Section 11-43-144, 36-30-22, or  
21 36-30-41, respectively.

22 "(d) Any application for the state death benefit  
23 that was submitted during the period from April 29, 2010,  
24 until May 27, 2015, and denied because the firefighter or law  
25 enforcement peace officer was no longer employed on the date  
26 of death may be resubmitted based on subsection (c) within six

1 months of May 27, 2015, and reconsidered and granted by the  
2 awarding authority.

3 "(e) The provisions of this section as amended by  
4 the act adding this amendatory language shall be retroactive  
5 to any death covered by this chapter as amended after January  
6 1, 2019."

7 ~~"(e) The provisions of this section as amended by~~  
8 ~~the act adding this amendatory language shall be retroactive~~  
9 ~~to any death covered by this chapter as amended after January~~  
10 ~~1, 2019, including any individual application for death~~  
11 ~~benefits filed with the Board of Adjustment with a date of~~  
12 ~~death after January 1, 2019, and any claim denied by the board~~  
13 ~~with a date of death after January 1, 2019, shall be~~  
14 ~~reconsidered based on the amendments provided by the act~~  
15 ~~adding this amendatory language."~~

16 Section 3. This act shall become effective  
17 immediately following its passage and approval by the  
18 Governor, or its otherwise becoming law.

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House of Representatives

Read for the first time and re-  
ferred to the House of Representa-  
tives committee on Ways and Means  
General Fund..... 02-FEB-21

Read for the second time and placed  
on the calendar..... 24-FEB-21

Read for the third time and passed  
as amended..... 30-MAR-21

Yeas 96, Nays 0, Abstains 0

Jeff Woodard  
Clerk