

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

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8 SYNOPSIS: Under existing law, a peace officer, a
9 firefighter, a volunteer firefighter who is a
10 member of an organized volunteer fire department
11 registered with the Alabama Forestry Commission, or
12 a rescue squad member who is injured or killed
13 under certain conditions in the performance of his
14 or her duties is eligible for disability or death
15 benefits under certain conditions.

16 This bill would include a wildland
17 firefighter employed by the Alabama Forestry
18 Commission within the definition of a firefighter
19 who is eligible for disability or death benefits
20 paid by the state for being injured or killed while
21 engaged in the performance of his or her duties.

22 This bill would also specify that a
23 volunteer firefighter or a member of an organized
24 rescue squad who dies of cardiac arrest,
25 cerebrovascular accident, or pulmonary edema within
26 24 hours of preparing to respond, responding, or
27 serving in his or her capacity at an emergency or

1 participating in a training exercise would be
2 presumptively deemed to have died in the
3 performance of his or her duties.

4 This bill would also provide that the
5 changes in law provided in this bill would be
6 retroactively applied to a death after January 1,
7 2019.

8
9 A BILL
10 TO BE ENTITLED
11 AN ACT

12
13 Relating to peace officers and firefighters; to
14 amend Sections 36-30-1 and 36-30-2, Code of Alabama 1975,
15 relating to the benefits awarded on account of injury or
16 death, under certain conditions; to include a wildland
17 firefighter employed by the Alabama Forestry Commission as a
18 firefighter as eligible for injury or death benefits; and to
19 specify that a volunteer firefighter or a member of an
20 organized rescue squad who dies of cardiac arrest,
21 cerebrovascular accident, or pulmonary edema within 24 hours
22 of preparing to respond, responding, or serving in his or her
23 capacity at an emergency or participating in a training
24 exercise shall be presumptively deemed to have died in the
25 performance of his or her duties; and to provide that this act
26 would be retroactive to January 1, 2019.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

3 "§36-30-1.

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

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

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

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

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

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

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

1 inspectors of the State Board of Health, any other state,
2 county, or municipal officer engaged in quelling a riot, or
3 civil disturbance, and university police officers.

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

16 "(b) For the purposes of this chapter, the following
17 described persons shall be conclusively presumed to be wholly
18 dependent:

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

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

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

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

22 "(d) Any member of the class named in subdivision
23 (3) of subsection (b) who regularly derived part of his or her
24 support from the earnings of the deceased peace officer,
25 firefighter, or rescue squad member, as the case may be, at
26 the time of his or her death and for a reasonable time
27 immediately prior thereto shall be considered his or her

1 partial dependent and payment of compensation may be made to
2 such partial dependent as hereinafter authorized.

3 "§36-30-2.

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

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

1 such volunteer firefighter disagrees with any officer, he or
2 she may appeal the determination to the State Board of
3 Adjustment in accordance with such board's procedures for such
4 appeals.

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

13 "(c) Any person who currently serves or previously
14 served as a firefighter or law enforcement peace officer who
15 dies as a result of a firefighter's occupational disease as
16 defined in Section 11-43-144 or 36-30-40, or law enforcement
17 peace officer's occupational disease as defined in Section
18 36-30-20 shall be qualified for a state death benefit as
19 provided in subsection (a) as if the person died in the
20 performance of his or her duties, provided he or she satisfies
21 the three years' service requirement and physical examination
22 requirements set forth in Section 11-43-144, 36-30-22, or
23 36-30-41, respectively.

24 "(d) Any application for the state death benefit
25 that was submitted during the period from April 29, 2010,
26 until May 27, 2015, and denied because the firefighter or law
27 enforcement peace officer was no longer employed on the date

1 of death may be resubmitted based on subsection (c) within six
2 months of May 27, 2015, and reconsidered and granted by the
3 awarding authority.

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

13 Section 2. This act shall become effective
14 immediately following its passage and approval by the
15 Governor, or its otherwise becoming law.