

1 SB464
2 139593-2
3 By Senator Brooks
4 RFD: Governmental Affairs
5 First Read: 05-APR-12

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8 SYNOPSIS: Under existing law, there are specific
9 compensation provisions for the death or disability
10 due to occupational disease of a firefighter
11 employed by a city. However, there are no specific
12 compensation provisions for state firefighters.
13 Also, the term "firefighter's occupational disease"
14 does not include cerebral vascular accident or
15 stroke.

16 This bill would include a cerebral vascular
17 accident or stroke in the definition of a municipal
18 firefighter's occupational disease.

19 This bill also would provide death or
20 disability benefits due to occupational disease as
21 defined for a firefighter employed by the state.
22 The bill would also specify that, if a firefighter
23 suffers from heart disease, hypertension,
24 respiratory disease, cerebral vascular accident or
25 stroke, cancer, HIV, or hepatitis, the state must
26 prove by a preponderance of the evidence that the

1 condition was caused by some means other than the
2 occupation to disqualify the firefighter from
3 benefits.

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5 A BILL
6 TO BE ENTITLED
7 AN ACT
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9 To amend Section 11-43-144, Code of Alabama 1975, to
10 include a cerebral vascular accident or stroke in the
11 definition of a municipal firefighter's occupational disease;
12 to provide death and disability benefits due to certain
13 occupational diseases for firefighters employed by the state;
14 to further define firefighter's occupational disease; and to
15 provide that the state must prove by a preponderance of the
16 evidence that the condition was caused by some means other
17 than the occupation to disqualify the firefighter from
18 benefits.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 11-43-144, Code of Alabama 1975,
21 is amended to read as follows:

22 "§11-43-144.

23 "(a) As used in this section the following words and
24 terms shall have the meanings ascribed to them herein unless a
25 contrary meaning is indicated by the context:

1 "(1) CITY. Any municipality of the state, regardless
2 of its population.

3 "(2) FIREFIGHTER. A person employed as a firefighter
4 by a city.

5 "(3) FIREFIGHTER'S OCCUPATIONAL DISEASE. Any
6 condition or impairment of health caused by any of the
7 following:

8 "a. Hypertension.

9 "b. Heart disease.

10 "c. Respiratory disease.

11 "d. A cerebral vascular accident or stroke.

12 "~~d.~~ e. Cancer which manifests itself in a
13 firefighter during the period in which the firefighter is in
14 the service of the city, provided the firefighter demonstrates
15 that he or she was exposed, while in the employ of the city,
16 to a known carcinogen which is reasonably linked to the
17 disabling cancer, and the cancer shall be presumed to arise
18 out of and in the course of the firefighter's employment
19 unless the city demonstrates by a preponderance of the
20 evidence that the cancer was caused by some other means.

21 "~~e.~~ f. AIDS which manifests itself in a firefighter
22 during the period in which the firefighter is in the service
23 of the city, provided the firefighter demonstrates that he or
24 she was exposed to AIDS while in the line and scope of his or
25 her employment with the city.

1 ~~"f. g.~~ Hepatitis which manifests itself in a
2 firefighter during the period in which the firefighter is in
3 the service of the city, provided the firefighter demonstrates
4 that he or she was exposed to hepatitis while in the line and
5 scope of his or her employment with the city.

6 "(4) DISABILITY. Disability to perform duties as a
7 firefighter.

8 "(5) BENEFIT. Any monetary allowance, including
9 injured with pay benefits, payable by a city or from a pension
10 system established for the firemen of a city to a firefighter
11 on account of his or her disability or to his or her
12 dependents on account of his or her death, irrespective of
13 whether the same is payable under a pension law of the state
14 or under some other law of the state.

15 "(b) This section shall apply to firefighters who,
16 upon entering the service of the city as firefighters, have
17 successfully passed a physical examination which failed to
18 reveal any evidence of a firefighter's occupational disease
19 and who have completed at least three years' service as
20 firefighters.

21 "If a physical examination was not required at the
22 time of entry into service, a firefighter who has completed at
23 least three years' continuous service as a firefighter next
24 preceding September 8, 1967, shall be deemed eligible for
25 benefits under this section.

1 "(c) If a firefighter who qualifies for benefits
2 under this section suffers disability as a result of a
3 firefighter's occupational disease his or her disability shall
4 be compensable the same as any service-connected disability,
5 including injured with pay benefits, under any law which
6 provides benefits for firefighters of the city injured in the
7 line of duty. If a firefighter who qualifies for benefits
8 under this section dies as the result of a firefighter's
9 occupational disease, his or her death shall be compensable to
10 the same extent as the death of a firefighter killed in the
11 line of duty, and shall be considered to have been killed in
12 the line of duty for purposes of Sections 36-30-1 to 36-30-7,
13 inclusive.

14 "(d) In the case of cancer, heart disease,
15 hypertension, a cerebral vascular accident or stroke, and
16 respiratory disease, the municipality must prove by a
17 preponderance of the evidence that the condition was caused by
18 some means other than the occupation to disqualify the
19 firefighter from benefits."

20 Section 2. (a) As used in this section, the
21 following terms shall have the following meanings:

22 (1) BENEFIT. Any monetary allowance, including
23 injured with pay benefits, payable by the state and
24 municipality for a firefighter on account of his or her
25 disability or to his or her dependents on account of his or

1 her death, irrespective of whether the same is payable under a
2 pension law of the state or under some other law of the state.

3 (2) DISABILITY. Disability to perform duties as a
4 firefighter.

5 (3) FIREFIGHTER. A person employed as a firefighter
6 by the state or a municipality.

7 (4) FIREFIGHTER'S OCCUPATIONAL DISEASE. Any
8 condition or impairment of health caused by any of the
9 following:

10 a. Hypertension.

11 b. Heart disease.

12 c. Respiratory disease.

13 d. A cerebral vascular accident or stroke.

14 e. Cancer which manifests itself in a firefighter
15 during the period in which the firefighter is in the service
16 of the state, provided the firefighter demonstrates that he or
17 she, while in the employ of the state, was exposed to a known
18 carcinogen which is reasonably linked to the disabling cancer,
19 and the cancer shall be presumed to arise out of and in the
20 course of the firefighter's employment unless the state
21 demonstrates by a preponderance of the evidence that the
22 cancer was caused by some other means.

23 f. HIV which manifests itself in a firefighter
24 during the period in which the firefighter is in the service
25 of the state, provided the firefighter demonstrates by

1 sufficient evidence that he or she was exposed to HIV while in
2 the line and scope of his or her employment with the state.

3 g. Hepatitis which manifests itself in a firefighter
4 during the period in which the firefighter is in the service
5 of the state, provided the firefighter demonstrates that he or
6 she was exposed to hepatitis while in the line and scope of
7 his or her employment with the state.

8 (b) This section shall apply to firefighters who,
9 upon entering the service of the state as firefighters, have
10 successfully passed a physical examination which failed to
11 reveal any evidence of a firefighter's occupational disease
12 and who have completed at least three years' service as
13 firefighters. If a physical examination was not required at
14 the time of entry into service, a firefighter who completes an
15 exam by January 1, 2013, shall be deemed eligible for benefits
16 under this section.

17 (c) If a firefighter who qualifies for benefits
18 under Chapter 29A of Title 36, Code of Alabama 1975, or any
19 other law, including injured with pay benefits, suffers
20 disability as a result of a firefighter's occupational
21 disease, his or her disability shall be compensable the same
22 as any service-connected disability under any law which
23 provides benefits for firefighters of the state or a
24 municipality injured in the line of duty. If a firefighter who
25 qualifies for benefits under this section dies as the result
26 of a firefighter's occupational disease, his or her death

1 shall be compensable to the same extent as the death of a
2 firefighter killed in the line of duty, and shall be
3 considered to have been killed in the line of duty for
4 purposes of Sections 36-30-1 to 36-30-7, inclusive, Code of
5 Alabama 1975.

6 (d) In the case of an occupational disease as
7 defined in this act, the state or municipality must prove by a
8 preponderance of the evidence that the condition was caused by
9 some means other than the occupation to disqualify the
10 firefighter from benefits.

11 Section 3. This act shall become effective on the
12 first day of the third month following its passage and
13 approval by the Governor, or its otherwise becoming law, and
14 shall be retroactive to September 10, 2011.