

1 SB424  
2 159439-1  
3 By Senators Sanford, Holtzclaw, Allen, Fielding, Dial,  
4 Scofield, McGill, Holley, Glover, Ward, Waggoner, Bussman,  
5 Bedford, Smitherman and Irons  
6 RFD: Finance and Taxation General Fund  
7 First Read: 27-FEB-14

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8 SYNOPSIS: Under existing law, firefighters and law  
9 enforcement officers are eligible for compensation  
10 for death or disability from certain occupational  
11 diseases.

12 This bill, with certain exceptions, would  
13 provide there is no time limitation upon the filing  
14 of a claim for disability benefits or death  
15 benefits payable to a firefighter or law  
16 enforcement officer or to their family.

17 This bill would allow a claimant who was  
18 previously denied benefits because the claim was  
19 submitted after he or she was no longer employed as  
20 a peace officer or firefighter may resubmit claims  
21 for consideration under the terms of this section  
22 as amended without regard to any time limitations  
23 otherwise provided.

24  
25 A BILL  
26 TO BE ENTITLED  
27 AN ACT

1  
2 To amend Sections 11-43-144, 36-30-5, 36-30-20,  
3 36-30-22, 36-30-40, and 36-30-41, Code of Alabama 1975,  
4 relating to compensation for death or disability of  
5 firefighters or law enforcement officers from occupational  
6 diseases; to provide with certain exceptions that there is no  
7 time limitation upon the filing of a claim for disability  
8 benefits or death benefits payable to a firefighter, or law  
9 enforcement officer, or to their family; and to allow a  
10 claimant who was previously denied benefits because the claim  
11 was submitted after he or she was no longer employed as a  
12 firefighter or law enforcement officer may resubmit claims for  
13 consideration under the terms of this section as amended  
14 without regard to any time limitations otherwise provided.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. Sections 11-43-144, 36-30-5, 36-30-20,  
17 36-30-22, 36-30-40, and 36-30-41 of the Code of Alabama 1975,  
18 are amended to read as follows:

19 "§11-43-144.

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

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

25 "(2) FIREFIGHTER. A person who is currently employed  
26 or who was previously employed as a firefighter by a city.

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

4           "a. Hypertension.

5           "b. Heart disease.

6           "c. Respiratory disease.

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

16           "e. AIDS which manifests itself in a firefighter  
17 during the period in which the firefighter is in the service  
18 of the city, provided the firefighter demonstrates that he or  
19 she was exposed to AIDS while in the line and scope of his or  
20 her employment with the city.

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

26           "(4) DISABILITY. Disability to perform duties as a  
27 firefighter.

1           "(5) BENEFIT. Any monetary allowance payable by a  
2 city or from a pension system established for the firemen of a  
3 city to a firefighter on account of his or her disability or  
4 to his or her dependents on account of his or her death,  
5 irrespective of whether the same is payable under a pension  
6 law of the state or under some other law of the state.

7           "(b) This section shall apply to firefighters who,  
8 upon entering the service of the city as firefighters, have  
9 successfully passed a physical examination which failed to  
10 reveal any evidence of a firefighter's occupational disease  
11 and who have completed at least three years' service as  
12 firefighters.

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

18           "(c) If a firefighter who qualifies for benefits  
19 under this section suffers disability as a result of a  
20 firefighter's occupational disease his or her disability shall  
21 be compensable the same as any service-connected disability  
22 under any law which provides benefits for firefighters of the  
23 city injured in the line of duty. If a firefighter who  
24 qualifies for benefits under this section dies as the result  
25 of a firefighter's occupational disease, his or her death  
26 shall be compensable to the same extent as the death of a  
27 firefighter killed in the line of duty, and shall be

1 considered to have been killed in the line of duty for  
2 purposes of Sections 36-30-1 to 36-30-7, inclusive.

3 "(d) In the case of cancer, heart disease,  
4 hypertension, and respiratory disease, the municipality must  
5 prove by a preponderance of the evidence that the condition  
6 was caused by some means other than the occupation to  
7 disqualify the firefighter from benefits.

8 "(e) There is no time limitation for disability  
9 benefits or death benefits payable to a firefighter or to his  
10 or her family pursuant to this section. If a claim is filed  
11 more than 10 years from the last day of employment as a  
12 firefighter by the city, subsection (d) does not apply. If a  
13 claim is filed more than 10 years from the last day of  
14 employment, the firefighter or family must produce evidence  
15 that the disability or death was proximately caused by the  
16 firefighter's occupational disease during service as a  
17 firefighter under the provisions of this section. Provided, a  
18 claim for disability or death benefits must be filed with the  
19 awarding authority as defined in Section 36-30-1 within two  
20 years of the accrual of the claim.

21 "(f) Any claimant who was previously denied benefits  
22 because the claim was submitted after he or she was no longer  
23 employed as a firefighter by the city may resubmit claims for  
24 consideration under the terms of this section as amended  
25 without regard to any time limitations otherwise provided.

26 "§36-30-5.

1           "(a) (1) There is no time limitation for disability  
2 benefits or death benefits payable to a peace officer or a  
3 firefighter or to his or her family pursuant to this section.  
4 If a claim is filed more than 10 years from the last day of  
5 employment, the peace officer or the firefighter or family  
6 must produce evidence that the disability or death was  
7 proximately caused by the peace officer's or the firefighter's  
8 occupational disease during service as a peace officer or a  
9 firefighter under the provisions of this section.

10           "(2) Any claimant who was previously denied benefits  
11 because the claim was submitted after he or she was no longer  
12 employed as a peace officer or a firefighter may resubmit  
13 claims for consideration under the terms of this section as  
14 amended without regard to any time limitations otherwise  
15 provided.

16           "(a) All claims for compensation as provided in this  
17 article shall be presented to the awarding authority within  
18 two years from the date of the death of the peace officer or  
19 firefighter or the claims are forfeited.

20           (b) All such claims shall be presented in the form  
21 prescribed by the awarding authority, and proof of the facts  
22 and circumstances of the peace officer's or firefighter's  
23 death and, if necessary, the claimant's relationship to and  
24 dependence upon such peace officer or firefighter shall be  
25 made in the manner prescribed by the awarding authority.

26           ~~"(b) Notwithstanding the provisions of subsection~~  
27 ~~(a), any person who was previously ineligible to claim the~~

1 compensation provided in this article, but is now eligible to  
2 claim the compensation provided in this article because of the  
3 enactment of Act 2008-480, and who is making a claim based  
4 upon the death of a peace officer or firefighter who died on  
5 or after January 1, 2006, but prior to the enactment of Act  
6 2008-480, shall be able to present his or her claim for  
7 compensation to the awarding authority within one year of the  
8 date of enactment of Act 2008-480 regardless of whether the  
9 claim was presented within one year from the date of the death  
10 of the peace officer or firefighter.

11 "(c) The awarding authority is hereby authorized to  
12 prescribe such forms and adopt such rules of evidence and  
13 procedure as it deems necessary or proper, not inconsistent  
14 with the provisions of this article, for the proper  
15 determination of all claims for compensation under this  
16 article.

17 "§36-30-20.

18 "When used in this article, the following terms  
19 shall have the following meanings, respectively, unless the  
20 context clearly indicates otherwise:

21 "(1) BENEFIT. Any monetary allowance payable to a  
22 law enforcement officer by a city or county or by the state or  
23 from a pension system established for the law enforcement  
24 officers of a city or county or the state on account of his or  
25 her disability or to his or her dependents on account of his  
26 or her death, irrespective of whether the same is payable



1 under a pension law of the state or under some other law of  
2 the state.

3 "(2) DISABILITY. Disability to perform duties as a  
4 law enforcement officer.

5 "(3) LAW ENFORCEMENT OFFICER. A full-time law  
6 enforcement officer with the power of arrest who is currently  
7 employed with or who was previously employed with any state  
8 agency, department, board, commission, or institution, or a  
9 full-time law enforcement officer who is currently employed by  
10 or who was previously employed by any municipality or county  
11 within this state.

12 "(4) LAW ENFORCEMENT OFFICER'S OCCUPATIONAL DISEASE.  
13 Any condition or impairment of health caused by any of the  
14 following:

15 "a. Hypertension.

16 "b. Heart disease.

17 "c. Respiratory disease.

18 "d. Cancer which manifests itself in a law  
19 enforcement officer during the period in which the law  
20 enforcement officer is in the service of the city, county, or  
21 state, provided the law enforcement officer demonstrates by  
22 sufficient evidence that he or she was exposed, while in the  
23 employ of the city, county, or state to a known carcinogen  
24 which is reasonably linked to the disabling cancer, unless the  
25 employing entity demonstrates by sufficient evidence that the  
26 cancer may have been caused by some other means.

1            "e. HIV which manifests itself in a law enforcement  
2 officer during the period in which the law enforcement officer  
3 is in the service of the city, county, or state, provided the  
4 law enforcement officer demonstrates by sufficient evidence  
5 that he or she was exposed to HIV while in the line and scope  
6 of his or her employment with the employing entity unless the  
7 employing entity demonstrates by sufficient evidence that the  
8 HIV may have been caused by some other means.

9            "f. Hepatitis which manifests itself in a law  
10 enforcement officer during the period in which the law  
11 enforcement officer is in the service of the city, county, or  
12 state, provided the law enforcement officer demonstrates by  
13 sufficient evidence that he or she was exposed to hepatitis  
14 while in the line and scope of his or her employment with the  
15 employing entity unless the employing entity demonstrates by  
16 sufficient evidence that the hepatitis may have been caused by  
17 some other means.

18            "§36-30-22.

19            "(a) The provisions of this article shall apply to a  
20 law enforcement officer who, upon entering the service of the  
21 city or county as a law enforcement officer, has successfully  
22 passed a physical examination which failed to reveal any  
23 evidence of a law enforcement officer's occupational disease  
24 and who has completed at least three years' service as a law  
25 enforcement officer, provided a physical examination was  
26 required at the time of entry into service, and shall apply to  
27 a state law enforcement officer who, upon entering the service

1 of the state as a law enforcement officer, successfully passed  
2 a physical examination which failed to reveal any evidence of  
3 a law enforcement officer's occupational disease and who has  
4 completed no less than three years' service as a state law  
5 enforcement officer.

6 "(b) There is no time limitation for disability  
7 benefits or death benefits payable to a law enforcement  
8 officer or to his or her family pursuant to this section. If a  
9 claim is filed more than 10 years from the last day of  
10 employment, the law enforcement officer or family shall  
11 produce evidence that the disability or death was proximately  
12 caused by the law enforcement officer's occupational disease  
13 during his or her service as a law enforcement officer under  
14 the provisions of this section.

15 "§36-30-40.

16 "As used in this article, the following terms shall  
17 have the following meanings:

18 "(1) BENEFIT. Any monetary allowance payable by the  
19 state for a firefighter on account of his or her disability or  
20 to his or her dependents on account of his or her death,  
21 irrespective of whether the same is payable under a pension  
22 law of the state or under some other law of the state.

23 "(2) DISABILITY. Disability to perform duties as a  
24 firefighter.

25 "(3) FIREFIGHTER. A person who is currently employed  
26 or who was previously employed as a firefighter by the state.

1           "(4) FIREFIGHTER'S OCCUPATIONAL DISEASE. Any  
2 condition or impairment of health caused by any of the  
3 following:

4           "a. Hypertension.

5           "b. Heart disease.

6           "c. Respiratory disease.

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

16           "e. HIV which manifests itself in a firefighter  
17 during the period in which the firefighter is in the service  
18 of the state, provided the firefighter demonstrates by  
19 sufficient evidence that he or she was exposed to HIV while in  
20 the line and scope of his or her employment with the state.

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

26           "§36-30-41.

1           "(a) This article shall apply to firefighters who,  
2 upon entering the service of the state as firefighters, have  
3 successfully passed a physical examination which failed to  
4 reveal any evidence of a firefighter's occupational disease  
5 and who have completed at least three years' service as  
6 firefighters. If a physical examination was not required at  
7 the time of entry into service, a firefighter who completes an  
8 exam by January 1, 2013, shall be deemed eligible for benefits  
9 under this section.

10           "(b) If a firefighter who qualifies for benefits  
11 under Chapter 29A, or any other law, suffers disability as a  
12 result of a firefighter's occupational disease, his or her  
13 disability shall be compensable the same as any  
14 service-connected disability under any law which provides  
15 benefits for firefighters of the state injured in the line of  
16 duty. If a firefighter who qualifies for benefits under this  
17 section dies as the result of a firefighter's occupational  
18 disease, his or her death shall be compensable to the same  
19 extent as the death of a firefighter killed in the line of  
20 duty, and the firefighter shall be considered to have been  
21 killed in the line of duty for purposes of Sections 36-30-1 to  
22 36-30-7, inclusive.

23           "(c) In the case of an occupational disease as  
24 defined in this article, the state must prove by a  
25 preponderance of the evidence that the condition was caused by  
26 some means other than the occupation to disqualify the  
27 firefighter from benefits.

1           "(d) There is no time limitation for disability  
2 benefits or death benefits payable to a firefighter or to his  
3 or her family pursuant to this section. If a claim is filed  
4 more than 10 years from the last day of employment as a  
5 firefighter by the state, subsection (c) does not apply. If a  
6 claim is filed more than 10 years from the last day of  
7 employment, the firefighter or family shall produce evidence  
8 that the disability or death was proximately caused by the  
9 firefighter's occupational disease during his or her service  
10 as a firefighter under the provisions of this section.  
11 Provided, a claim for disability or death benefits must be  
12 filed with the awarding authority as defined in Section  
13 36-30-1 within two years of the accrual of the claim.

14           "(e) Any claimant who was previously denied benefits  
15 because the claim was submitted after he or she was no longer  
16 employed as a firefighter by the state may resubmit claims for  
17 consideration under the terms of this section as amended  
18 without regard to any time limitations otherwise provided."

19           Section 2. This act shall become effective on the  
20 first day of the third month following its passage and  
21 approval by the Governor, or its otherwise becoming law.