

1 HB112
2 125417-1
3 By Representative Johnson (R)
4 RFD: County and Municipal Government
5 First Read: 01-MAR-11

8 SYNOPSIS: Under existing law, a policeman employed by
9 a municipality, except in Jefferson County or a
10 municipality which has elected to be covered by
11 workers' compensation, and a state trooper or other
12 law enforcement officer employed by the Department
13 of Public Safety, Alcoholic Beverage Control Board,
14 or the Department of Conservation and Natural
15 Resources is entitled to death and disability
16 benefits for a service connected occupational
17 disease based on a condition or impairment caused
18 by hypertension, heart disease, or respiratory
19 disease.

20 This bill would provide that the provisions
21 of this law would apply to any law enforcement
22 officer with the power of arrest employed by the
23 state or any municipality or county and would
24 expand the definition of occupational disease to
25 include cancer, AIDS, and hepatitis under certain
26 conditions.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of Amendment 621. If this bill is not enacted by a 2/3 vote, it will not become effective with regard to a local entity unless approved by the local entity or until, and only as long as, the Legislature appropriates funds or provides for a local source of revenue.

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 36-30-20, 36-30-21, 36-30-22, and 36-30-23, Code of Alabama 1975, relating to the eligibility for death or disability benefits of certain municipal policemen and state law enforcement officers; to further

1 provide for the definition of law enforcement officer to
2 include any law enforcement officer in this state and to
3 further define occupational disease; and in connection
4 therewith would have as its purpose or effect the requirement
5 of a new or increased expenditure of local funds within the
6 meaning of Amendment 621 of the Constitution of Alabama of
7 1901.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 36-30-20, 36-30-21, 36-30-22,
10 and 36-30-23, Code of Alabama 1975, are amended to read as
11 follows:

12 "§36-30-20.

13 "When used in this article, the following terms
14 shall have the following meanings, respectively, unless the
15 context clearly indicates otherwise:

16 "(1) ~~CITY. Any municipality of the state, regardless~~
17 ~~of its population; provided, however, that such term shall not~~
18 ~~include any municipality in any county having a population in~~
19 ~~excess of 600,000 according to the last federal decennial~~
20 ~~census.~~

21 "(2) ~~POLICEMAN. A person employed as a policeman or~~
22 ~~other law enforcement officer by a city.~~

23 "(3) ~~STATE TROOPER. State trooper, highway~~
24 ~~patrolman, crime investigation officer, driver's license~~
25 ~~examiner or other police officer personnel of the Alabama~~
26 ~~Department of Public Safety or law enforcement officer~~
27 ~~employed by the Alcoholic Beverage Control Board, those~~

1 officers of the Department of Conservation and Natural
2 Resources designated as conservation enforcement officers.

3 "(6) (1) BENEFIT. Any monetary allowance payable to
4 a law enforcement officer by a city or county or by the state
5 or from a pension system established for the policemen law
6 enforcement officers of a city or county or the state or, in
7 the case of a state trooper, from the state Employees'
8 Retirement System to a policeman or state trooper on account
9 of his or her disability or to his or her dependents on
10 account of his or her death, irrespective of whether the same
11 is payable under a pension law of the state or under some
12 other law of the state.

13 "(5) (2) DISABILITY. Disability to perform duties
14 as a policeman or state trooper law enforcement officer.

15 "(3) LAW ENFORCEMENT OFFICER. A full-time law
16 enforcement officer with the power of arrest who is employed
17 with any state agency, department, board, commission, or
18 institution or a full-time law enforcement officer employed by
19 any municipality or county within this state.

20 "(4) POLICEMAN'S LAW ENFORCEMENT OFFICER'S
21 OCCUPATIONAL DISEASE. Any condition or impairment of health
22 caused by hypertension, heart disease or respiratory disease.
23 any of the following:

24 "a. Hypertension.

25 "b. Heart disease.

26 "c. Respiratory disease.

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

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

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

"§36-30-21.

1 "(a) If a ~~policeman or state trooper~~ law enforcement
2 officer who qualifies for benefits under the provisions of
3 this article suffers disability as a result of a ~~policeman's~~
4 law enforcement officer's occupational disease, his or her
5 disability shall be compensable the same as any
6 service-connected disability under any law which provides
7 benefits for ~~policemen~~ the law enforcement officer of such
8 municipality, or, if a state ~~trooper~~ law enforcement officer,
9 under the state Employees' Retirement System, the same as if
10 injured in the line of duty. If a ~~policeman or state trooper~~
11 law enforcement officer who qualifies for benefits under the
12 provisions of this article dies as a result of a ~~policeman's~~
13 law enforcement officer's occupational disease, his or her
14 death shall be compensable to the same extent as the death of
15 a ~~policeman or state trooper~~ law enforcement officer killed in
16 the line of duty, provided, that this article shall not apply
17 to any ~~municipality~~ which has elected to be covered by the
18 ~~workers' compensation laws of this state~~.

19 "(b) In order to qualify for benefits under the
20 provisions of this article based on a law enforcement
21 officer's occupational disease caused by cancer, AIDS, or
22 hepatitis, the law enforcement officer shall demonstrate by
23 sufficient evidence all of the following:

24 "(1) That the disease was caused by significant
25 exposure to an agent known to cause the disease according to
26 current medical literature and research.

1 "(2) The exposure occurred while the claimant was
2 acting in the line and scope of employment as a law
3 enforcement officer.

4 "(3) The exposure to the causative agent must be in
5 excess of that experienced by the general population.

6 "Any sudden exposure to a causative agent from a
7 single event shall be reported by a claimant to his or her
8 supervisor within five days of the occurrence of exposure if
9 it is reasonable to believe the claimant was aware of both his
10 or her exposure to the agent and of the hazardous and harmful
11 effects of the sudden exposure to the agent.

12 "If an occupational disease results from long term
13 exposure to a causative agent, rather than from a single
14 event, a claimant shall notify his or her supervisor, within
15 90 days of a conclusive medical diagnosis of the occupational
16 disease and the determination by a medical doctor that the
17 diagnosis is, or may be, linked to the exposure.

18 "§36-30-22.

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

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

8 "§36-30-23.

9 "(a) If a physical examination was not required at
10 the time of entry into service, a policeman or state trooper
11 who has had at least three years' continuous service as a
12 policeman or state trooper next preceding September 8, 1967,
13 shall be deemed eligible for benefits under the provisions of
14 this article.

15 "(b) If a physical examination was not required at
16 the time of entry into service, a law enforcement officer who
17 became covered by this article pursuant to the act adding this
18 subsection who has had at least three years' continuous
19 service as a law enforcement officer next preceding the
20 effective date of this amendatory act, shall be eligible for
21 benefits under the provisions of this article provided the
22 eligibility requirements as provided in subdivision (4) of
23 Section 36-30-20 are met.

24 "(c) The provisions of this article shall not affect
25 or modify the Workers' Compensation Law except that no county
26 law enforcement officer who receives benefits under this

1 article may receive benefits under the Workers' Compensation
2 Law for the same occupational disease."

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