

SB1 INTRODUCED



1 SB1
2 WQG35E5-1
3 By Senator Givhan
4 RFD: Finance and Taxation Education
5 First Read: 04-Feb-25
6 PFD: 21-May-24



SYNOPSIS:

Under existing law, public education employees who are injured on the job must pay out-of-pocket expenses and seek reimbursement from the Board of Adjustment for any on-the-job injury.

This bill would provide compensation benefits to full-time public education employees who are injured on the job.

A BILL
TO BE ENTITLED
AN ACT

Relating to public education; to amend Section 16-1-18.1, Code of Alabama 1975; and to add Chapter 1A to Title 16 of the Code of Alabama 1975, creating the Public Education Employee Injury Compensation Program, the Public Education Employee Injury Compensation Trust Fund, and the Public Education Employee Injury Compensation Board; and to provide compensation to full-time public education employees who are injured on the job.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 16-1-18.1, Code of Alabama 1975, is amended to read as follows:



SB1 INTRODUCED

"§16-1-18.1

(a) ~~Definitions.~~ When used in this section, the following terms have the following meanings:

(1) EMPLOYEE. Any individual employed ~~full~~full-time as provided by law by those employers enumerated in this section~~;~~ and adult bus drivers.

(2) EMPLOYER. All public city and county boards of education; the Board of Trustees of the Alabama Institute for the Deaf and Blind; the Alabama Youth Services Department District Board in its capacity as the Board of Education for the Youth Services Department District; the Board of Directors of the Alabama School of Fine Arts; the Board of Trustees of the Alabama High School of Mathematics and Science; the Board of Trustees of the Alabama School of Cyber Technology and Engineering; for purposes of subsection (c) only, the Alabama State Senate, the Lieutenant Governor, the Office of the Senate President Pro Tempore, the Speaker of the House of Representatives, the Alabama House of Representatives, the Legislative Services Agency; any organization participating in the Teachers' Retirement System, excluding any state governmental department not listed herein; the Board of Trustees of the Alabama Community College System; and for the purposes of subsection (c) only, ~~all~~or any four-year public ~~institutions~~institution of higher learning.

(3) EXECUTIVE OFFICER. The superintendent of any public county school system or any public city school system; the President of the Alabama Institute for the Deaf and Blind; the president of any two-year school or college under the auspices



SB1 INTRODUCED

of the Board of Trustees of the Alabama Community College System; the Superintendent of the Department of Youth Services School District; the Executive Director of the Alabama School of Fine Arts; the Executive Director of the Alabama High School of Mathematics and Science; the President of the Alabama School of Cyber Technology and Engineering; the Secretary of the Senate; the Clerk of the House of Representatives; the Lieutenant Governor; the Speaker of the House of Representatives; the Director of the Legislative Services Agency; and the chief executive officer of any other employer as provided in this section.

(4) ON-THE-JOB INJURY. Any accident or injury to the employee arising out of and in the course of employment or occurring during the performance of duties or when directed or requested by the employer to be on the property of the employer ~~which prevents the employee from working or returning to his or her job.~~

(5) SICK LEAVE. The absence from duty by an employee as a result of any of the following:

- a. Personal illness or doctor's quarantine.
- b. Incapacitating personal injury.
- c. Attendance upon an ill member of the employee's immediate family (parent, spouse, child, foster child currently in the care and custody of the employee, sibling, child currently in the care and custody of the employee for whom a petition for adoption has been filed); or an individual with a close personal tie.
- d. Death in the family of the employee (parent, spouse,



SB1 INTRODUCED

child, sibling, parent-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, nephew, niece, grandchild, grandparent, uncle, or aunt).

e. Death, injury, or sickness of another individual who has unusually strong personal ties to the employee, such as a person who stood in loco parentis.

f. Attendance upon an adopted child⁷ who is three years of age or younger.

(b) Sick leave for employees.

(1) ~~EARNINGS.~~ The employee shall earn one sick leave day per month of employment.

(2) ~~REASONS FOR TAKING SICK LEAVE.~~ The employee may take sick leave for any of the reasons enumerated and defined in this section. Sick leave taken for the purpose of attending to an adopted child may be taken for a maximum of eight weeks⁷ or 320 consecutive hours. Nothing in this section shall permit an employee to use sick leave that he or she has not earned or has not been donated.

(3) ~~EMPLOYEE PAY WHILE ON SICK LEAVE.~~ Reimbursement of pay for the employee per day of sick leave shall be at the daily rate of pay for the employee.

(c) Sick leave accumulation and transfers.

(1) An employee may accumulate an unlimited number of sick leave days. Earned sick leave days that have been accrued by an employee shall be transferrable from one employer to another. The executive officer of the employer shall ensure that certification of the number of unused sick leave days is provided to the new employer when an employee transfers



SB1 INTRODUCED

employment. All of the earned and unused sick leave days that an employee has accumulated shall be transferred to the new employer for use by the employee as provided by law. However, for purposes of applying accrued sick leave as credit for retirement purposes, an employee is limited to a maximum of sick leave as authorized in subdivision (b)(1). As pertains to receiving retirement credit for accrued sick leave, the ~~Teacher's~~Teachers' Retirement System Board of Control may adopt policies and procedures necessary to effectuate a uniform policy pursuant to this section.

(2) Employees of the Alabama State Senate, the Lieutenant Governor, the Office of the Senate President Pro Tempore, the Speaker of the House of Representatives, the Alabama House of Representatives, and the Legislative Services Agency may only accrue unlimited sick leave under this section until January 1, 2013. On January 1, 2013, an employee subject to this section may carry over only the actual number of sick leave hours the employee has or the number allowed under Section 36-26-36, whichever is greater. After January 1, 2013, sick leave earned by an employee subject to this section in excess of the amount determined on January 1, 2013, is subject to Section 36-26-36(d).

(d) ~~On-the-job injury.~~ The following ~~regulations~~policies, procedures, and rights are established pertaining to employees who are injured while on the job:

(1) ~~NOTICE OF INJURY.~~ a. The employee shall ~~make proper notification~~ provide written notice of the injury to an immediate supervisor, the executive officer, or to the



SB1 INTRODUCED

principal of the school, if applicable, within ~~24 hours~~ five working days after the injury occurred, or where the employee has died or is not clinically able to make notification, another person who is reasonably knowledgeable may make the notification of the injury within 30 days of the date of the injury.

b. Other notification procedures ~~and forms~~ shall be as established by written policy of the employer.

(2) ~~PHYSICIAN CERTIFICATION.~~ The employer may require medical certification from the employee's physician that the employee was injured and cannot return to work as a result of the injury. The executive officer, at his or her discretion, may require a second opinion from another physician at the expense of the employer. The employer may require a statement from the physician that there is a reasonable expectation that the employee will be able to return to work. A uniform physician certification form shall be adopted by the State Board of Education and distributed to each executive officer.

(3) ~~SALARY CONTINUED.~~ Upon determination by the executive officer that an employee has been injured on the job and cannot return to work as a result of the injury, the salary and fringe benefits of the employee shall be continued for a period of up to 90 working days consistent with the employee's injury and the subsequent absence from work resulting from the injury. This provision shall apply to the temporary disability of the employee as applicable to the job-related injury.

(4) ~~EXTENSION OF DAYS.~~ The employer may adopt a written



SB1 INTRODUCED

policy to extend the 90-day sick leave period for on-the-job injuries. Additional ~~job~~-on-the-job injury policies may be adopted by the employer if the policies do not conflict with ~~the~~-this section.

(5) ~~REIMBURSEMENT TO EMPLOYER.~~ Any reasonable on-the-job injury costs incurred by the employer, to hire a substitute, per absent injured employee in a fiscal year shall be reimbursed to the employer by the state during the next succeeding fiscal year upon application by the employer to the appropriate State Board of Education department on a form adopted by the state board, not to exceed 90 working days. The department shall subsequently submit the request to the Legislature as a line-item in its budget request for reimbursement to the employer, and, if approved by the Legislature, shall reimburse the employer at the amount per day for sick leave authorized and funded in the annual budget act for public schools and colleges.

(6) ~~EMPLOYEE'S SICK LEAVE.~~ Sick leave shall not be deducted from the employee's account if absence from work is found to be a result of an on-the-job injury.

(7) ~~ADDITIONAL EXPENSES.~~ Any unreimbursed medical expenses and costs that the employee incurs as a result of an on-the-job injury may be filed for reimbursement with the State Board of Adjustment. Reimbursement to the employee shall be determined by the Board of Adjustment's policies, rules, and regulations which may be adopted from time to time. The Board of Adjustment shall adopt appropriate rules, regulations, and forms for submission by the employee.



SB1 INTRODUCED

(8) The executive officer, or his or her designee, shall inform the employee who is injured on the job of his or her rights about appearing before the Board of Adjustment and ~~also about the~~ applicable written policies within ~~30~~seven calendar days after notification of the injury.

(e) ~~Vacations and leaves of absences.~~ The employer, under the rules and ~~regulations~~policies adopted from time to time by the State Board of Education, may provide for paid leaves of absences and vacations for its employees. Payment may be from public funds. The employer may provide for leaves of absence during the times the schools are, or are not, in session when the teacher or employee devotes the leave to instructing in or attending schools for appropriate training, or when approved by the State Board of Education as beneficial to the state's educational objectives. The employer may also provide for the payment of any full-time teachers or employees for absences during the time schools are in session when the absence results from an unavoidable cause that prevents the teacher or employee from discharging his or her duties. Pay for the absences resulting from unavoidable causes other than sickness shall not be allowed for a longer time than one week during any one scholastic year.

(f) ~~Alabama Community College System annual leave.~~ As applied to Alabama Community College System employers, any employee who earns and accumulates annual leave may accumulate up to 60 days of annual leave at a rate not to exceed that provided in the policy established by the State Board of Education.



SB1 INTRODUCED

(g) ~~Policies.~~ The policies and procedures required and permitted by this section shall be adopted by the employer consistent with and as required by Section 16-1-30."

Section 2. Chapter 1A is added to Title 16 of the Code of Alabama 1975, to read as follows:

§16-1A-1

This chapter shall be known and cited as the Mary Anne Leonard Educators' On-The-Job Injury Act.

§16-1A-2

As used in this chapter, the following terms have the following meanings:

(1) BOARD. The Public Education Employee Injury Compensation Board.

(2) EMPLOYEE. Any individual employed full-time as provided by law by those employers enumerated in this section and adult bus drivers.

(3) EMPLOYER. All public city and county boards of education; all public charter schools; the Board of Trustees of the Alabama Community College System; the Board of Trustees of the Alabama Institute for the Deaf and Blind; the Board of Directors of the Alabama School of Fine Arts; the Board of Trustees of the Alabama High School of Mathematics and Science; the Board of Trustees of the Alabama School of Cyber Technology and Engineering; and the Board of Trustees of the Alabama School of Healthcare Sciences.

(4) EXECUTIVE OFFICER. The superintendent of any public county school system or any public city school system; the principal of any public charter school; the President of the



SB1 INTRODUCED

Alabama Institute for the Deaf and Blind; the president of any two-year school or college under the auspices of the Board of Trustees of the Alabama Community College System; the Executive Director of the Alabama School of Fine Arts; the Executive Director of the Alabama High School of Mathematics and Science; the President of the Alabama School of Cyber Technology and Engineering; the President of the Alabama School of Healthcare Sciences; and the chief executive officer of any other employer.

(5) FUND. The Public Education Employee Injury Compensation Trust Fund.

(6) ON-THE-JOB INJURY. Any accident or injury to an employee arising out of and in the course of employment or occurring during the performance of duties.

(7) PEEHIP. The Public Education Employees' Health Insurance Plan.

(8) PROGRAM. The Public Education Employee Injury Compensation Program.

(9) REVIEW BOARD. The Public Education Employee Injury Compensation Program Review Board, a panel composed of three persons designated by the board to hear and consider claims by employees who disagree with the determination by their employer or its agent or service company as to the employee's entitlement to compensation and medical benefits under this program and to approve settlements when required by the program. No member or employee of the board may be a member of the review board.

(10) TPA. Third-party administrator or adjuster.



SB1 INTRODUCED

281 §16-1A-3

282 (a) The following policies, procedures, and rights are
283 established pertaining to employees who are injured while on
284 the job:

285 (1) The employee shall provide written notice of the
286 injury to an immediate supervisor or the executive officer
287 within five working days after the injury occurred, or where
288 the employee has died or is not clinically able to make
289 notification, another individual who is reasonably
290 knowledgeable may make the notification of the injury within
291 30 days of the date of the injury. The board may adopt rules
292 to further provide for the notice requirements under this
293 subdivision.

294 (2) The board shall adopt uniform injury reporting
295 forms. The employer shall distribute the forms to the
296 institutions under his or her supervision. The employer shall
297 prepare the first report of injury form and the employee shall
298 sign the completed injury report form. The employer shall then
299 forward the employee-signed form to the Public Education
300 Employee Injury Compensation Board.

301 (3) Other notification procedures may be established by
302 written policy of the employer but shall not supersede
303 notification procedures established by the board or this
304 chapter.

305 (b) There is established a separate special trust fund
306 in the State Treasury to be known as the Public Education
307 Employee Injury Compensation Trust Fund. All receipts
308 collected pursuant to this chapter shall be deposited in this



SB1 INTRODUCED

fund and used to carry out this chapter. Monies in the fund unspent or unencumbered at the end of each fiscal year shall not revert to any other fund in the State Treasury but shall be carried forward to the succeeding fiscal year. All monies in the fund may be invested and reinvested by the board. Any monetary interest that accrues in the fund shall be retained in the fund from year to year.

(c) (1) The program shall be governed by this chapter.

(2) Payments shall be made by PEEHIP pursuant to this chapter to physicians licensed to practice medicine or other medical providers for services to injured employees and shall be in accordance with the schedule of maximum fees as established by PEEHIP.

(3) An employee must use an authorized treating physician covered by PEEHIP. For employees who do not participate in PEEHIP, the board shall adopt rules for selecting authorized treating physicians or other medical providers and shall adopt rules for employees who dispute treatment by an authorized treating physician.

(4) Any rules adopted by the board to establish and operate the program shall be subject to the Alabama Administrative Procedure Act.

(d) Nothing in this chapter shall be construed to affect any benefit to which an employee is entitled under this title.

(e) Sufficient appropriations to the fund for full coverage shall be considered a mandate for local boards of education to participate in the program pursuant to Section



SB1 INTRODUCED

337 25-5-50(d) .

338 §16-1A-4

339 (a) The Public Education Employee Injury Compensation
340 Board shall be comprised of the following members:

341 (1) One member appointed by the Governor.

342 (2) One member appointed by the President Pro Tempore
343 of the Senate.

344 (3) One member appointed by Speaker of the House of
345 Representatives.

346 (4) One member appointed on an alternating basis by the
347 Minority Leaders of the Senate and the House of
348 Representatives, with the Senate Minority Leader appointing
349 first.

350 (5) One member shall be the Director of the Workers'
351 Compensation Division of the Alabama Department of Labor.

352 (b)(1) The terms of the board members shall be
353 staggered so that the initial appointees of the Speaker of the
354 House and the Minority Leader of the Senate shall serve two
355 years, with their successors serving a term of three years.
356 All other appointed members shall serve an initial term of
357 three years, and the successor shall serve a term of three
358 years. No appointed member may serve more than two consecutive
359 terms.

360 (2) A board member shall serve until his or her
361 successor is appointed.

362 (3) The appointing authorities shall coordinate their
363 appointments to assure that the membership of the board is
364 inclusive and reflects the racial, gender, geographic, urban,



SB1 INTRODUCED

rural, and economic diversity of the state. The appointing authorities shall coordinate to ensure that at least one member of the board has experience and familiarity with workers' compensation.

(c) Initial appointments to the board shall be made by the appointing authority on or before July 1, 2025.

(d) Members of the board shall receive no compensation but shall be reimbursed by the fund for travel and per diem expenses at the same rate and in the same manner as state employees.

(e) The board shall have all of the following duties:

(1) To administer the programs, including, but not limited to, establishing or contracting with a TPA to oversee benefits paid to employees and coordinate with PEEHIP. A contract for services of a TPA shall be procured pursuant to Article 5 of Chapter 4 of Title 41, without regard to exemptions. The TPA, whether contracted or otherwise established, shall have no business or administrative relationship with any education association in Alabama, directly or indirectly.

(2) To manage the fund to ensure that adequate funds are maintained to provide all injury program benefits to employees.

(3) To provide reasonable compensation for hearing officers who hear any dispute arising under this chapter.

(4) To employ professional, clerical, technical, and administrative staff as the board may determine necessary to carry out its duties and compensate staff accordingly.



SB1 INTRODUCED

393 (5) To secure insurance, reinsurance, or other products
394 the board deems advisable in carrying out its duties.

395 (6) To retain and compensate legal counsel to represent
396 the board, employers, the fund, the program, and TPA
397 including, but not limited to, appearing before hearing
398 officers or judges in contested cases.

399 (f) Except as otherwise required by the Health
400 Insurance Portability and Accountability Act, 42 U.S.C. §
401 1320d et seq., the board shall be subject to all applicable
402 open meetings and open records laws, shall adopt rules in
403 accordance with the Alabama Administrative Procedure Act, and
404 shall have a fiduciary duty to the fund and the program.

405 §16-1A-5

406 (a) There is established the Public Education Employee
407 Injury Compensation Program.

408 (b) Except as provided in this section, the program
409 implemented pursuant to this section shall not be subject to
410 the provisions of Chapter 5 of Title 25, or its successor,
411 otherwise known as the Alabama Workers' Compensation Law or
412 any similar law.

413 (c) (1) Payments made to physicians licensed to practice
414 medicine or other medical providers for services to injured
415 employees shall be in accordance with the PEEHIP fee schedule.

416 (2) For injured employees not covered by PEEHIP, the
417 board shall provide medical treatment for an on-the-job
418 injury. Payments made under this subdivision shall be in
419 accordance with the schedule of maximum fees as established
420 under Section 25-5-313, or as otherwise permitted under



SB1 INTRODUCED

Section 25-5-314.

(d)(1) All undisputed medical reimbursements or payments shall be made within 25 working days of receipt of claims in the form specified in Section 25-5-3.

(2) An amount equal to 10 percent of any unpaid balance shall be added to any undisputed medical invoice which is not paid within 25 working days.

(e) Any regulation, policy, or program directive for the conduct of utilization review, bill screenings, and medical necessity determinations related to services provided by physicians licensed to practice medicine shall comply with the rules adopted by the Workers' Compensation Medical Services Board under Section 25-5-312.

(f) Any rules adopted by the board shall be subject to the Alabama Administrative Procedure Act, and a final determination as to benefits payable under the program shall be subject to review by the Circuit Court in Montgomery County in the manner prescribed by the Alabama Administrative Procedure Act.

(g) Employers shall continue to make all required health insurance contributions until any separation from employment.

(h) The board shall establish procedures for employers to be reimbursed by the fund for the costs of an employee's compensation and benefits under this chapter.

(i) PEEHIP may subrogate, seek reimbursement, or seek credit for any amount paid to an injured employee under the program from any third party, or the employee's insurer,



SB1 INTRODUCED

responsible for the injury. Any action to recover shall be filed in the Circuit Court of Montgomery County.

(j) Any on-the-job injuries suffered by individuals not covered by this chapter, such as part-time, substitute, temporary, non-full-time employees and volunteers, shall be conducted in accordance with the Board of Adjustment process outlined in Article 4 of Chapter 9 of Title 41.

§16-1A-6

(a) An employer who refuses to complete and submit an injury report form after timely notice of an injury by an employee pursuant to this chapter shall provide notice in writing of its findings of fact that support its decision. An employee may challenge the employer's decision pursuant to the dispute resolution provisions of this section.

(b) (1) The employer's executive officer or the board shall refer any dispute that arises under this chapter between an employee and employer or between an employee and a TPA contracted with or established under this chapter to the review board.

(2) Notwithstanding subdivision (1), if an employee, employer, or TPA requests a hearing officer, the dispute shall be referred to and adjudicated by a hearing officer appointed from the panel of neutrals maintained by the Executive Director of the Alabama State Bar Association pursuant to Section 16-24C-6(e). The hearing officer shall be selected using the same process provided in Section 16-24C-6(g).

(3) The hearing officer selected must certify that he or she has experience in adjudicating workers' compensation



SB1 INTRODUCED

disputes or refer the matter back to the state bar association to repeat the selection process. The hearing and appeals process shall be the same as provided in Section 16-24C-6, except that no deference is to be provided to either party and the Alabama Rules of Evidence shall apply in hearings before the hearing officer.

(4) The decision of the review board or hearing officer may be appealed to the Circuit Court of Montgomery County. The court shall review any decision pursuant to Section 41-22-20.

(5) The statute of limitations for a dispute under this subsection is two years from the date of the injury or the date of the last temporary total disability payment or the last date of payment for medical benefits.

(c) The decision of the review board or hearing officer shall be based on a preponderance of the evidence as contained in the record of the hearing except in cases involving injuries which have resulted from gradual deterioration or cumulative physical stress disorders, which shall be deemed compensable only upon a finding of clear and convincing proof that the injuries arose out of and in the course of the employee's employment. For the purposes of this subsection, "clear and convincing" means evidence that, when weighed against evidence in opposition, will produce in the mind of the trier of fact a firm conviction as to each essential element of the claim and a high probability as to the correctness of the conclusion. Proof by clear and convincing evidence requires a level of proof greater than a preponderance of the evidence or the substantial weight of the



SB1 INTRODUCED

505 evidence, but less than beyond a reasonable doubt.

506 (d) The Alabama Rules of Civil Procedure shall govern
507 the methods of discovery, except that the following
508 limitations to pre-hearing discovery shall apply:

509 (1) Two depositions for each side shall be permitted
510 without leave of court. No additional depositions shall be
511 permitted except with leave of court for good cause shown,
512 including, but not limited to, a claim by the employee for
513 permanent total disability.

514 (2) Notwithstanding subdivision (1), each party may
515 take the deposition of every other party.

516 (3) No more than 25 interrogatories, with each subpart
517 to be considered a question, shall be permitted without leave
518 of court for good cause shown.

519 (4) Certified sealed copies of records of medical
520 treatment and expenses shall be authenticated in accordance
521 with Rule 44(h) of the Alabama Rules of Civil Procedure,
522 without further need for authenticating testimony.

523 (5) Copies of records obtained by one party shall be
524 furnished by certified mail to the other party not less than
525 21 days prior to the hearing, unless the party offering the
526 records can establish unusual circumstances justifying
527 admission of the records.

528 (6) The party not offering the records of treatment by
529 a physician or other medical provider shall have the right to
530 depose the physician or medical provider whose records of
531 treatment are to be offered by any other party.

532 (g) The review board or hearing officer may award a



SB1 INTRODUCED

legal fee of up to 15 percent of the compensation awarded in a contested case. This amount is discretionary and will only be awarded if requested by legal counsel for the employee. The award shall be deducted from compensation otherwise payable to the employee pursuant to rules adopted by board.

§16-1A-7

(a) The costs of the program, including administration costs, shall be paid from the fund. The total amount to be expended pursuant to the program shall not exceed the amount provided for in annual appropriations.

(b) The program shall begin accepting on-the-job injury claims on an implementation date declared and published by the board in consultation with the Board of Adjustment but not later than October 1, 2026.

(c) The program created by this chapter shall be the sole remedy for employees who incur an on-the-job injury on or after the implementation date established in subsection (b). The Board of Adjustment shall have sole jurisdiction over on-the-job injury claims for injuries occurring before the implementation date in subsection (b).

(d) Nothing in this chapter shall be construed as a waiver by the state of its sovereign immunity under the Constitution of Alabama 2022.

Section 3. This act shall become effective immediately.