

1 HB30  
2 164379-5  
3 By Representatives Treadaway and Drake  
4 RFD: State Government  
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ENROLLED, An Act,

To amend Section 36-30-2, Code of Alabama 1975, relating to firefighters and law enforcement peace officers; to provide that the families of a firefighter or law enforcement peace officer who currently serves or previously served and dies as a result of an occupational disease are eligible to receive the state death benefit as if the firefighter or law enforcement peace officer died in the performance of his or her duties; and to further provide that any application for the state death benefit that was submitted after April 29, 2010, and was denied because the decedent was not employed as a firefighter or law enforcement peace officer on the date of death may be resubmitted within six months of this bill becoming law and the awarding authority is permitted to reconsider and to grant the application.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§36-30-2.

"(a) In the event a peace officer, or a firefighter, or a volunteer firefighter, who is a member of an organized volunteer fire department registered with the Alabama Forestry Commission, is killed, either accidentally or deliberately, or dies as a result of injuries received while engaged in the

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

1 injury is incurred, then the firefighter shall be entitled to  
2 receive disability compensation in the amount of one hundred  
3 thousand dollars (\$100,000) to be paid from the State Treasury  
4 as provided in Section 36-30-3. The term total disability  
5 shall be interpreted to mean that the injured party is  
6 medically disabled to the extent that he or she cannot perform  
7 the duties of the job occupation or profession in which he or  
8 she was engaging at the time the injury was sustained. The  
9 State Health Officer may seek the assistance of any state  
10 agency in making the determination of disability and the state  
11 agencies shall cooperate with the State Health Officer in such  
12 regard. The State Health Officer shall render a decision  
13 within 30 days of the time a claim is filed. If such volunteer  
14 firefighter disagrees with any officer, he or she may appeal  
15 the determination to the State Board of Adjustment in  
16 accordance with such board's procedures for such appeals.

17 "(b) Beginning in calendar year 2009, the  
18 compensation amounts payable under this section shall be  
19 adjusted on January 1 of each year to reflect any increase  
20 during the preceding calendar year in the consumer price index  
21 as published by the U.S. Department of Labor, Bureau of Labor  
22 Statistics. The adjustment shall equal the percentage change  
23 in the consumer price index during the preceding calendar  
24 year.

1           "(c) Any person who currently serves or previously  
2 served as a firefighter or law enforcement peace officer who  
3 dies as a result of a firefighter's occupational disease as  
4 defined in Section 11-43-144 or 36-30-40, or law enforcement  
5 peace officer's occupational disease as defined in Section  
6 36-30-20 shall be qualified for a state death benefit as  
7 provided in subsection (a) as if the person died in the  
8 performance of his or her duties, provided he or she satisfies  
9 the three years' service requirement and physical examination  
10 requirements set forth in Section 11-43-144, 36-30-22, or  
11 36-30-41, respectively.

12           "(d) Any application for the state death benefit  
13 that was submitted during the period from April 29, 2010,  
14 until the effective date of the act adding this subsection and  
15 denied because the firefighter or law enforcement peace  
16 officer was ~~not~~ no longer employed on the date of death may be  
17 resubmitted based on subsection (c) within six months of the  
18 effective date of the act adding this subsection and  
19 reconsidered and granted by the awarding authority."

20           Section 2. This act shall become effective  
21 immediately following its passage and approval by the  
22 Governor, or its otherwise becoming law.

