

1 HB491
2 158295-2
3 By Representative Treadaway
4 RFD: Public Safety and Homeland Security
5 First Read: 13-FEB-14

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

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

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 11-43-144 and 36-30-5 of the
14 Code of Alabama 1975, are amended to read as follows:

15 "§11-43-144.

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

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

21 "(2) FIREFIGHTER. A person employed as a firefighter
22 by a city.

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

26 "a. Hypertension.

27 "b. Heart disease.

1 "c. Respiratory disease.

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

11 "e. AIDS which manifests itself in a firefighter
12 during the period in which the firefighter is in the service
13 of the city, provided the firefighter demonstrates that he or
14 she was exposed to AIDS while in the line and scope of his or
15 her employment with the city.

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

21 "(4) DISABILITY. Disability to perform duties as a
22 firefighter.

23 "(5) BENEFIT. Any monetary allowance payable by a
24 city or from a pension system established for the firemen of a
25 city to a firefighter on account of his or her disability or
26 to his or her dependents on account of his or her death,

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

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

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

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

26 "(d) In the case of cancer, heart disease,
27 hypertension, and respiratory disease, the municipality must

1 prove by a preponderance of the evidence that the condition
2 was caused by some means other than the occupation to
3 disqualify the firefighter from benefits.

4 "(e) There is no time limitation for filing a claim
5 for disability benefits or death benefits payable to a
6 firefighter or to his or her family pursuant to this section.
7 If a claim is filed more than 10 years from the last day of
8 employment as a firefighter by the city, subsection (d) does
9 not apply. If a claim is filed after 10 years, the firefighter
10 or family must produce evidence that the disability or death
11 was proximately caused by the firefighter's occupational
12 disease during service as a firefighter under the provisions
13 of this section.

14 "(f) 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 city may resubmit claims for
17 consideration under the terms of this section as amended
18 without regard to any time limitations otherwise provided.

19 "§36-30-5.

20 "(a) (1) There is no time limitation for filing a
21 claim for disability benefits or death benefits payable to a
22 firefighter or to his or her family pursuant to this section.
23 If a claim is filed more than 10 years from the last day of
24 employment as a firefighter by the city, subsection (d) does
25 not apply. If a claim is filed after 10 years, the firefighter
26 or family must produce evidence that the disability or death
27 was proximately caused by the firefighter's occupational

1 disease during service as a firefighter under the provisions
2 of this section.

3 "(2) Any claimant who was previously denied benefits
4 because the claim was submitted after he or she was no longer
5 employed as a firefighter by the city may resubmit claims for
6 consideration under the terms of this section as amended
7 without regard to any time limitations otherwise provided.

8 ~~"(a) All claims for compensation as provided in this~~
9 ~~article shall be presented to the awarding authority within~~
10 ~~two years from the date of the death of the peace officer or~~
11 ~~firefighter or the claims are forfeited. (b) All such claims~~
12 ~~shall be presented in the form prescribed by the awarding~~
13 ~~authority, and proof of the facts and circumstances of the~~
14 ~~peace officer's or firefighter's death and, if necessary, the~~
15 ~~claimant's relationship to and dependence upon such peace~~
16 ~~officer or firefighter shall be made in the manner prescribed~~
17 ~~by the awarding authority.~~

18 ~~"(b) Notwithstanding the provisions of subsection~~
19 ~~(a), any person who was previously ineligible to claim the~~
20 ~~compensation provided in this article, but is now eligible to~~
21 ~~claim the compensation provided in this article because of the~~
22 ~~enactment of Act 2008-480, and who is making a claim based~~
23 ~~upon the death of a peace officer or firefighter who died on~~
24 ~~or after January 1, 2006, but prior to the enactment of Act~~
25 ~~2008-480, shall be able to present his or her claim for~~
26 ~~compensation to the awarding authority within one year of the~~
27 ~~date of enactment of Act 2008-480 regardless of whether the~~

1 ~~claim was presented within one year from the date of the death~~
2 ~~of the peace officer or firefighter.~~

3 "(c) The awarding authority is hereby authorized to
4 prescribe such forms and adopt such rules of evidence and
5 procedure as it deems necessary or proper, not inconsistent
6 with the provisions of this article, for the proper
7 determination of all claims for compensation under this
8 article."

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