

Senate Bill 61

By: Senators Streat of the 19th, Tate of the 38th, Cheeks of the 23rd, Butler of the 55th and Bowen of the 13th

AS PASSED

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to
2 insuring and indemnification of public officers and employees, so as to provide for the
3 indemnification of state highway employees with respect to death or permanent disability;
4 to change certain provisions relating to definitions of terms; to provide for the inclusion of
5 certain persons in the Georgia State Indemnification Commission; to authorize appropriation
6 of funds to the Georgia State Indemnification Fund; to provide for the payment of
7 indemnification to state highway employees; to provide for requirements for applications for
8 indemnification; to change certain definitions; to change provisions relating to payment of
9 temporary disability compensation to certain public safety employees; to amend the Official
10 Code of Georgia Annotated so as to change references to "fireman" to "firefighter" and
11 references to "firemen" to "firefighters"; to provide an effective date; to repeal conflicting
12 laws; and for other purposes.

13 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

14 **SECTION 1.**

15 Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to insuring and
16 indemnification of public officers and employees, is amended by striking Code Section
17 45-9-80, relating to legislative purpose, and inserting in lieu thereof the following:

18 "45-9-80.

19 The purpose of this part is to:

- 20 (1) Implement the constitutional amendment ratified November 4, 1976, authorizing the
21 General Assembly to provide by law for the indemnification with respect to the death of
22 law enforcement officers, firemen, or prison guards who are killed or have been killed in
23 the line of duty subsequent to January 1, 1973;
- 24 (2) Provide by law for the indemnification with respect to the permanent disability of law
25 enforcement officers, firemen, or prison guards who are permanently disabled or have
26 been permanently disabled in the line of duty subsequent to January 1, 1973;

1 (3) Provide by law for the indemnification with respect to the death or permanent
 2 disability of publicly employed emergency medical technicians who are killed or
 3 permanently disabled or who have been killed or permanently disabled in the line of duty
 4 subsequent to January 1, 1977; ~~and~~

5 (4) Provide by law for the indemnification with respect to the death or permanent
 6 disability of emergency management rescue specialists who are killed or permanently
 7 disabled in the line of duty on or after January 1, 1991; and

8 (5) Provide by law for the indemnification with respect to the death or permanent
 9 disability of state highway employees who are killed or permanently disabled in the line
 10 of duty on or after January 1, 1990."

11 SECTION 2.

12 Said chapter is further amended by striking in their entirety paragraphs (4) and (5) of Code
 13 Section 45-9-81, relating to definitions of terms for purposes of indemnification, and
 14 inserting in lieu thereof the following:

15 "(4)(A) 'Firefighter' or 'fireman' ~~'Fireman'~~ means any person who is employed as a
 16 professional firefighter on a full-time basis of at least 40 hours per week by any
 17 municipal, county, or state government fire department employing three or more
 18 ~~firemen~~ firefighters and who has the responsibility of preventing and suppressing fires,
 19 protecting life and property, enforcing municipal, county, and state fire prevention
 20 codes, enforcing any law pertaining to the prevention and control of fires or who
 21 performs any acts or actions while on duty or when responding to a fire or emergency
 22 during any fire or other emergency or while performing duties intended to protect life
 23 and property.

24 (B) 'Firefighter' or 'fireman' ~~'Fireman'~~ shall also mean any individual serving as an
 25 officially recognized or designated member of a legally organized volunteer fire
 26 department who performs any acts or actions while on duty or when responding to a fire
 27 or emergency during any fire or other emergency or while performing duties intended
 28 to protect life and property.

29 (C) 'Firefighter' or 'fireman' ~~'Fireman'~~ shall also mean any individual employed by a
 30 person or corporation which has a contract with a municipal corporation or county to
 31 provide fire prevention and fire-fighting services to such municipal corporation or
 32 county and any such individual is employed on a full-time basis of at least 40 hours per
 33 week and has the responsibility of preventing and suppressing fires, protecting life and
 34 property, enforcing municipal or county fire prevention codes, enforcing any municipal
 35 or county ordinances pertaining to the prevention and control of fires or who performs

1 any acts or actions while on duty or when responding to a fire or emergency during any
 2 fire or other emergency or while performing duties intended to protect life and property.

3 (5) 'In the line of duty' means:

4 (A) With respect to an emergency medical technician, while on duty and when
 5 responding to or returning from an emergency or performing duties at the scene of an
 6 emergency or transporting a person to a medical facility for emergency treatment or
 7 returning therefrom;

8 (B) With respect to a ~~fireman~~ firefighter, while on duty and when responding to or
 9 returning from a fire or other emergency or performing duties during any fire or other
 10 emergency or performing duties intended to protect life and property;

11 (C) With respect to a law enforcement officer or ~~fireman~~ firefighter, while on duty and
 12 performing services for and receiving compensation from the law enforcement and fire
 13 service agency which employs such officer or ~~fireman~~ firefighter, while off duty when
 14 responding to any situation which would save a life or preserve the peace, or while
 15 preventing or attempting to prevent the commission of a crime or fire. A law
 16 enforcement officer or ~~fireman~~ firefighter who is performing duties for and receiving
 17 compensation from a private employer at the time of such officer's or ~~fireman's~~
 18 firefighter's death or bodily injury causing permanent disability shall not be considered
 19 in the line of duty unless the officer or ~~fireman~~ firefighter has left the scope of his or her
 20 employment for the private employer for the direct purpose of enforcing or attempting
 21 to enforce fire service, the criminal or traffic laws, preserving or attempting to preserve
 22 public order, protecting or attempting to protect life or property, performing active state
 23 service as a member of the Georgia National Guard, preventing or attempting to prevent
 24 a crime, detecting or attempting to detect crime, or investigating or attempting to
 25 investigate crime. The determination that a law enforcement officer or ~~fireman~~
 26 firefighter was killed or permanently disabled in the line of duty and is entitled to
 27 indemnification pursuant to this part shall not be considered in the determination of the
 28 entitlement of such officer to workers' compensation, disability, health, or other
 29 benefits from such officer's or ~~fireman's~~ firefighter's public or private employer; ~~or~~
 30 (D) With respect to a prison guard, while on duty and performing services for and
 31 receiving compensation from the public agency which employs such prison guard; or
 32 (E) With respect to a state highway employee, while on duty and performing any work
 33 necessary for the construction, maintenance, or operation of a roadway on or within the
 34 public roads of the state as defined in paragraph (24) of Code Section 32-1-3 when such
 35 employee is killed or permanently disabled as the result of working under hazardous
 36 conditions in close proximity to moving traffic or equipment."

1 be the ~~chairman~~ chairperson of the commission and the commission shall be assigned to
 2 the Department of Administrative Services for administrative purposes."

3 SECTION 6.

4 Said chapter is further amended by striking Code Section 45-9-84.2, relating to appropriation
 5 of funds to the Georgia State Indemnification Fund, and inserting in lieu thereof the
 6 following:

7 "45-9-84.2.

8 The General Assembly is authorized to appropriate funds to be placed in the Georgia State
 9 Indemnification Fund for the purpose of providing for indemnification with respect to the
 10 death or disability of any law enforcement officer, fireman, or prison guard who is or has
 11 been killed or permanently disabled in the line of duty subsequent to January 1, 1973, the
 12 death or disability of any emergency medical technician who is killed or permanently
 13 disabled or has been killed or permanently disabled in the line of duty subsequent to
 14 January 1, 1977, ~~and~~ the death or disability of any emergency management rescue
 15 specialist who is killed or permanently disabled on or after January 1, 1991, and the death
 16 or disability of any state highway employee who is or has been killed or permanently
 17 disabled in the line of duty subsequent to January 1, 1990, as well as defraying the
 18 expenses and costs incurred by the commission in the administration of this part. In
 19 addition, the Department of Administrative Services is authorized to accept for deposit in
 20 the Georgia State Indemnification Fund any other funds from any other source. All funds
 21 appropriated to the Georgia State Indemnification Fund shall be presumptively concluded
 22 to have been committed to the purpose for which they have been appropriated and shall not
 23 lapse."

24 SECTION 7.

25 Said chapter is further amended by striking Code Section 45-9-85, relating to payment of
 26 indemnification for death and disability, and inserting in lieu thereof the following:

27 "45-9-85.

28 (a) The indemnification shall be paid by the commission when a law enforcement officer,
 29 fireman, emergency medical technician, emergency management rescue specialist, ~~or~~
 30 prison guard, or state highway employee who in the line of duty:

31 (1) Is killed or receives bodily injury which results in death within 12 months thereafter,
 32 if such death does not occur from natural causes while performing routine duties which
 33 would not be strenuous or dangerous if performed by citizens who are not law
 34 enforcement officers, firemen, emergency medical technicians, emergency management

1 rescue specialists, ~~or~~ prison guards, or state highway employees, and if such death is not
 2 the result of suicide and if such bodily injury is not intentionally self-inflicted; or

3 (2) Is permanently disabled, if the permanent disability does not occur from natural
 4 causes while performing routine duties which would not be strenuous or dangerous if
 5 performed by citizens who are not law enforcement officers, firemen, emergency medical
 6 technicians, emergency management rescue specialists, ~~or~~ prison guards, or state highway
 7 employees, and if the permanent disability is not intentionally self-inflicted.

8 (b)(1) Notwithstanding any provision of this part to the contrary, for any compensable
 9 claim filed on or after ~~July 1, 1995~~ July 1, 2002, payment shall be made as follows:

10 (A)(i) Except as otherwise provided by division (ii) of this subparagraph, in ~~the~~
 11 case of permanent disability, the eligible disabled person pursuant to this part may
 12 elect payment of \$75,000.00 in equal installments over a period of five years or a
 13 payment in lump sum which shall consist of \$75,000.00 reduced to its present value
 14 upon the basis of interest calculated at the rate of 6 percent per annum; ~~and~~ or

15 (ii) In the case of a state highway employee permanently disabled on or after January
 16 1, 1990, the eligible disabled person pursuant to this article may elect payment of
 17 \$25,000.00 in equal installments over a period of five years or a payment in lump sum
 18 which shall consist of \$25,000.00 reduced to its present value upon the basis of
 19 interest calculated at the rate of 6 percent per annum; and

20 (B)(i) Except as otherwise provided in division (ii) of this subparagraph, in ~~the~~
 21 case of death, payment shall be made to the estate of a person who is eligible for
 22 indemnification under this part as follows: the executor or administrator may elect
 23 payment of \$75,000.00 in equal installments over a period of five years or a payment
 24 in lump sum which shall consist of \$75,000.00 reduced to its present value upon the
 25 basis of interest calculated at the rate of 6 percent per annum; or

26 (ii) In the case of a state highway employee killed on or after January 1, 1990,
 27 payment shall be made to the estate of a person who is eligible for indemnification
 28 under this article as follows: the executor or administrator may elect payment of
 29 \$25,000.00 in equal installments over a period of five years or a payment in lump sum
 30 which shall consist of \$25,000.00 reduced to its present value upon the basis of
 31 interest calculated at the rate of 6 percent per annum.

32 (2) With respect to law enforcement officers, firemen, or prison guards who were killed
 33 prior to April 5, 1978, or who were permanently disabled prior to January 1, 1981, and
 34 who are entitled to indemnification under this part, payment shall be made in lump sum
 35 to the estate, in the case of death, or, in the case of permanent disability, to the person
 36 disabled.

1 (3) With respect to emergency medical technicians who were killed or permanently
 2 disabled prior to July 1, 1987, and who are entitled to indemnification under this part,
 3 payment shall be made in lump sum to the estate, in the case of death, or, in the case of
 4 permanent disability, to the person disabled.

5 (c) After determining that a law enforcement officer, fireman, emergency medical
 6 technician, emergency management rescue specialist, ~~or prison guard,~~ or state highway
 7 employee has been killed or permanently disabled in the line of duty and that he or she or
 8 his or her estate beneficiary is entitled to indemnification under this part, the commission,
 9 within ten days after such determination, shall forward a certified copy of the order
 10 granting such payment, which order shall include the person to whom such payment shall
 11 be made and the method of payment, to the commissioner of administrative services who
 12 is authorized to make the appropriate payments from funds appropriated or otherwise made
 13 available for the purpose of carrying out this part."

14 SECTION 8.

15 Said chapter is further amended by striking Code Section 45-9-86, relating to applications
 16 for indemnification, and inserting in lieu thereof the following:

17 "45-9-86.

18 (a) An application for indemnification with respect to a claim filed on or after ~~July 1, 1995~~
 19 July 1, 2002, for permanent disability of a law enforcement officer, fireman, prison guard,
 20 emergency medical technician, ~~or emergency management rescue specialist,~~ or state
 21 highway employee shall be submitted by that person unless the person is mentally
 22 incompetent, in which case the application may be made on such person's behalf by the
 23 parent, spouse, guardian, or other authorized individual. An application for
 24 indemnification with respect to a claim filed on or after ~~July 1, 1995~~ July 1, 2002, for the
 25 death of a law enforcement officer, fireman, prison guard, emergency medical technician,
 26 ~~or emergency management rescue specialist,~~ or state highway employee shall be submitted
 27 by the individual authorized to administer the estate.

28 (b) An application for indemnification relative to any law enforcement officer, fireman,
 29 or prison guard killed in the line of duty subsequent to January 1, 1973, and prior to
 30 January 1, 1981, must be made prior to January 1, 1982. An application for
 31 indemnification relative to any law enforcement officer, fireman, or prison guard killed in
 32 the line of duty on and after January 1, 1981, and prior to January 1, 1984, must be made
 33 prior to January 1, 1986. An application for indemnification relative to any law
 34 enforcement officer, fireman, or prison guard killed in the line of duty on or after January
 35 1, 1984, must be made within 24 months from the death of such law enforcement officer,
 36 fireman, or prison guard.

1 (c) An application for indemnification relative to any law enforcement officer, fireman,
2 or prison guard permanently disabled in the line of duty subsequent to January 1, 1973, and
3 prior to January 1, 1979, must be made prior to January 1, 1989. An application for
4 indemnification relative to any law enforcement officer, fireman, or prison guard
5 permanently disabled in the line of duty subsequent to January 1, 1979, and prior to
6 January 1, 1980, must be made prior to January 1, 1982. An application for
7 indemnification relative to any law enforcement officer, fireman, or prison guard
8 permanently disabled in the line of duty on and after January 1, 1980, and prior to January
9 1, 1984, must be made prior to January 1, 1992. An application for indemnification
10 relative to a permanent disability occurring on or after January 1, 1984, must be made
11 within 24 months of the date the permanent disability occurred.

12 (d) An application for indemnification with respect to the death or permanent disability of
13 an emergency medical technician who was killed or permanently disabled subsequent to
14 January 1, 1977, and prior to January 1, 1987, must be made prior to January 1, 1989. An
15 application for indemnification with respect to the death or permanent disability of an
16 emergency medical technician who is killed or permanently disabled in the line of duty on
17 or after January 1, 1987, must be made within 24 months after the date of death or
18 disability.

19 (e) An application for indemnification with respect to the death or permanent disability of
20 an emergency management rescue specialist who is killed or permanently disabled in the
21 line of duty on or after January 1, 1991, must be made within 24 months after the date of
22 the death or disability.

23 (f) An application for indemnification with respect to the death or permanent disability of
24 a member of the Georgia National Guard included in the definition of a law enforcement
25 officer pursuant to paragraph (6) of Code Section 45-9-81 who is killed or permanently
26 disabled in the line of duty while in active state service on or after July 1, 1995, must be
27 made within 24 months after the date of the death or disability.

28 (g)(1) An application for indemnification with respect to the death or permanent
29 disability of a state highway employee who is killed or permanently disabled in the line
30 of duty on or after January 1, 1990, and prior to July 1, 2002, must be made prior to July
31 1, 2004.

32 (2) An application for indemnification with respect to the death or permanent disability
33 of a state highway employee who is killed or permanently disabled in the line of duty on
34 or after July 1, 2002, must be made within 24 months after the date of the death or
35 disability."

1 pursuant to this part shall not be considered in the determination of the entitlement of
 2 such officer to workers' compensation, disability, health, or other benefits from such
 3 officer's or ~~fireman's~~ firefighter's public or private employer.

4 (5) 'Injured in the line of duty' means an injury which arises out of or in the course of
 5 employment in the line of duty. Going to or from work shall not be considered in the line
 6 of duty.

7 (6) 'Law enforcement officer' means any agent or officer of this state, or a political
 8 subdivision or municipality thereof, who, as a full-time employee, is vested either
 9 expressly by law or by virtue of public employment or service with authority to enforce
 10 the criminal or traffic laws and whose duties include the preservation of public order, the
 11 protection of life and property, or the prevention, detection, or investigation of crime.
 12 Such term also includes prison guards as defined under Code Section 45-9-81 and the
 13 employees designated by the commissioner of juvenile justice of the Department of
 14 Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8,
 15 which employees have the duty to investigate and apprehend delinquent and unruly
 16 children who have escaped from a facility under the jurisdiction of the Department of
 17 Juvenile Justice or who have broken the conditions of supervision and employees
 18 designated and delegated law enforcement powers by the ~~Public Service Commission~~
 19 ~~pursuant to Code Sections 46-7-28 and 46-11-6~~ commissioner of motor vehicle safety,
 20 which personnel have the duty to enforce the laws relating to motor carriers and the
 21 transportation of hazardous materials."

22 SECTION 10.

23 Said chapter is further amended by striking in its entirety Code Section 45-9-103, relating
 24 to payment of compensation with respect to temporary disability of certain public safety
 25 employees, and inserting in lieu thereof a new Code Section 45-9-103 to read as follows:

26 "45-9-103.

27 (a) Any law enforcement officer who becomes physically disabled, but not permanently
 28 disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the
 29 line of duty and caused by a willful act of violence committed by a person other than a
 30 fellow employee shall be entitled to receive compensation as provided in this Code section.
 31 Any ~~fireman~~ firefighter who becomes physically disabled, but not permanently disabled,
 32 on or subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty
 33 while fighting a fire shall be entitled to receive compensation as provided in this Code
 34 section. The compensation shall be paid to eligible applicants by the commission from
 35 funds appropriated to the commission for such purpose.

1 (b) Except as otherwise provided in this part, any law enforcement officer or ~~fireman~~
 2 firefighter injured in the line of duty as provided in subsection (a) of this Code section shall
 3 receive monthly compensation from the commission in an amount equal to such person's
 4 regular compensation for the period of time that the law enforcement officer or ~~fireman~~
 5 firefighter is physically unable to perform the duties of his or her employment; provided,
 6 however, that such benefits provided pursuant to this Code section for injuries resulting
 7 from a single incident shall not be granted for more than a total of 12 months. A law
 8 enforcement officer or ~~fireman~~ firefighter shall be required to submit to the commission
 9 satisfactory evidence of such disability.

10 (c) Benefits made available under this Code section shall be subordinate to any workers'
 11 compensation benefits, disability and other compensation benefits from the person's
 12 employer which the law enforcement officer or ~~fireman~~ firefighter is awarded and shall be
 13 limited to the difference between the amount of workers' compensation benefits and other
 14 compensation benefits actually paid and the amount of the law enforcement officer's or
 15 ~~fireman's~~ firefighter's regular compensation.

16 (d) A law enforcement officer or ~~fireman~~ firefighter who collects benefits pursuant to this
 17 Code section shall not be entitled to any benefits under Code Section 45-7-9.

18 (e) A law enforcement officer or ~~fireman~~ firefighter who is disabled and who receives
 19 indemnification under Part 1 of this article as a result of an incident shall not be entitled to
 20 any compensation under this Code section for the disability resulting from the same
 21 incident. A law enforcement officer or ~~fireman~~ firefighter who initially receives benefits
 22 under this Code section but who is determined subsequently to be entitled to benefits under
 23 Part 1 of this article with respect to the same incident or whose beneficiary is determined
 24 subsequently to be entitled to benefits under Part 1 of this article shall be entitled only to
 25 the amount equal to the benefits to which the person would be entitled to under Part 1
 26 reduced by the total amount of benefits received under this Code section."

27 SECTION 11.

28 The Official Code of Georgia Annotated is amended by striking from the following Code
 29 sections the terms "fireman" and "firemen" wherever the same shall occur and inserting in
 30 lieu thereof, respectively, the terms "firefighter" and "firefighters":

- 31 (1) Code Section 8-2-51, relating to inspection of buildings and notifying owners
 32 regarding noncompliance with requirements relating to fire escapes;
- 33 (2) Code Section 16-10-24, relating to the offense of hindering certain public safety
 34 employees;
- 35 (3) Code Section 16-10-30, relating to the offense of refusal to obey official request at
 36 fire or other emergency;

- 1 (4) Code Section 17-10-30, relating to procedure for imposition of death penalty
- 2 generally;
- 3 (5) Code Section 20-3-451, relating to definitions applicable under Subpart 7 of Part 3
- 4 of Article 7 of Chapter 3 of Title 20, relating to grants to children of law enforcement
- 5 officers, firefighters, and prison guards;
- 6 (6) Code Section 20-3-453, relating to eligibility for grants to children of law
- 7 enforcement officers, firefighters, and prison guards;
- 8 (7) Code Section 25-4-9, relating to completion of basic firefighter training course and
- 9 establishment of requirements for course;
- 10 (8) Code Section 25-7-2, relating to the creation of the Georgia Fire Academy;
- 11 (9) Code Section 31-22-9.1, relating to HIV tests and who may perform tests;
- 12 (10) Code Section 34-3-1, relating to the hours of labor in cotton or woolen
- 13 manufacturing establishments;
- 14 (11) Code Section 40-1-1, relating to definitions applicable to Title 40;
- 15 (12) Code Section 40-6-2, relating to obedience to authorized persons directing traffic;
- 16 (13) Code Section 42-1-6, relating to injury or contact by inmate presenting possible
- 17 threat of transmission of communicable disease;
- 18 (14) Code Section 42-5-85, relating to leave privileges of inmates serving murder
- 19 sentences;
- 20 (15) Code Section 45-7-9, relating to compensation for line-of-duty injuries of full-time
- 21 state employees;
- 22 (16) Code Section 45-9-82, relating to establishment of indemnification program for
- 23 certain public safety employees;
- 24 (17) Code Section 45-9-84.2, relating to the Georgia State Indemnification Fund and
- 25 authorization for appropriation of moneys to the fund;
- 26 (18) Code Section 45-9-85, relating to payment of indemnification for death or disability
- 27 generally of certain public safety employees;
- 28 (19) Code Section 45-9-86, relating to application for indemnification with respect to
- 29 certain public safety employees;
- 30 (20) Code Section 45-9-86.2, relating to time limitation on applications for
- 31 indemnification with respect to certain public safety employees permanently disabled due
- 32 to organic brain damage;
- 33 (21) Code Section 45-9-101, relating to the purpose of Part 2 of Article 5 of Chapter 9
- 34 of Title 45 with respect to payment of compensation to certain public safety employees
- 35 for temporary disability;
- 36 (22) Code Section 45-9-104, relating to submission of application for payment of
- 37 compensation to certain public safety employees for temporary disability;

- 1 (23) Code Section 45-9-105, relating to effect of penal violations with respect to
2 payment of compensation to certain public safety employees for temporary disability; and
3 (24) Code Section 45-10-25, relating to exceptions to prohibitions on transactions with
4 state agencies.

5 **SECTION 12.**

6 This Act shall become effective on July 1, 2002.

7 **SECTION 13.**

8 All laws and parts of laws in conflict with this Act are repealed.