

Senate Bill 254

By: Senators Grant of the 25th, Mullis of the 53rd, Chance of the 16th and Whitehead, Sr. of the 24th

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 that the
3 Department of Administrative Services shall be the custodian and administrator of the
4 Georgia State Indemnification Fund; to define certain terms; to provide that the department
5 shall approve or deny claims for indemnification for permanent disability or death; to provide
6 for the composition of the Georgia State Indemnification Commission; to provide that such
7 commission shall review decisions of the department relative to the approval or denial of
8 claims for indemnification; to provide for a schedule of indemnification; to provide for the
9 payment of claims; to provide for the appeal of decisions; to provide for claims for
10 indemnification for temporary disability; to provide for restrictions; to provide for an
11 effective date and applicability; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to insuring and
15 indemnification of public officers and employees, is amended by revising Article 5, relating
16 to law enforcement officers, firefighters, prison guards, and publicly employed emergency
17 medical technicians, as follows:

18 style="text-align:center">"ARTICLE 5

19 style="text-align:center">Part 1

20 45-9-81.

21 As used in this part, the term:

22 (1) 'Commission' means the Georgia State Indemnification Commission.

23 (2) 'Department' means the Department of Administrative Services.

1 ~~(2)~~(3) 'Emergency management rescue specialist' means any person licensed as an
 2 emergency management rescue specialist pursuant to Code Section 38-3-36.

3 ~~(3)~~(4) 'Emergency medical technician' includes only persons who:

4 (A) Are certified as emergency medical technicians, paramedics, or cardiac technicians
 5 under Chapter 11 of Title 31; and

6 (B) Are employed in the capacity for which they are so certified by a department,
 7 agency, authority, or other instrumentality of state or local government.

8 ~~(4)~~(5)(A) 'Firefighter' or ~~'fireman'~~ means any person who is employed as a professional
 9 firefighter on a full-time basis of at least 40 hours per week by any municipal, county,
 10 or state government fire department employing three or more firefighters and who has
 11 the responsibility of preventing and suppressing fires, protecting life and property,
 12 enforcing municipal, county, and state fire prevention codes, enforcing any law
 13 pertaining to the prevention and control of fires or who performs any acts or actions
 14 while on duty or when responding to a fire or emergency during any fire or other
 15 emergency or while performing duties intended to protect life and property.

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

21 (C) 'Firefighter' or ~~'fireman'~~ shall also mean any individual employed by a person or
 22 corporation which has a contract with a municipal corporation or county to provide fire
 23 prevention and fire-fighting services to such municipal corporation or county and any
 24 such individual is employed on a full-time basis of at least 40 hours per week and has
 25 the responsibility of preventing and suppressing fires, protecting life and property,
 26 enforcing municipal or county fire prevention codes, enforcing any municipal or county
 27 ordinances pertaining to the prevention and control of fires or who performs any acts
 28 or actions while on duty or when responding to a fire or emergency during any fire or
 29 other emergency or while performing duties intended to protect life and property.

30 ~~(5)~~(6) 'In the line of duty' means:

31 (A) With respect to an emergency medical technician or an emergency management
 32 rescue specialist, while on duty and when responding to or returning from an
 33 emergency or performing duties at the scene of an emergency or transporting a person
 34 to a medical facility for emergency treatment or returning therefrom;

35 (B) With respect to a volunteer firefighter, while on duty and when responding to or
 36 returning from a fire or other emergency or performing duties during any fire or other
 37 emergency or performing duties intended to protect life and property;

1 (C) With respect to a law enforcement officer or firefighter, while on duty and
 2 performing services for and receiving compensation from the law enforcement and fire
 3 service agency which employs such officer or firefighter, while off duty when
 4 responding to any situation which would save a life or preserve the peace, or while
 5 preventing or attempting to prevent the commission of a crime or fire. A law
 6 enforcement officer or firefighter who is performing duties for and receiving
 7 compensation from a private employer at the time of such officer's or firefighter's death
 8 or bodily injury causing total permanent disability or partial permanent disability shall
 9 not be considered in the line of duty ~~unless if~~ the officer or firefighter has left the scope
 10 of his or her employment for the private employer for the direct purpose of enforcing
 11 or attempting to enforce fire service, the criminal or traffic laws, preserving or
 12 attempting to preserve public order, protecting or attempting to protect life or property,
 13 performing active state service as a member of the Georgia National Guard, preventing
 14 or attempting to prevent a crime, detecting or attempting to detect crime, or
 15 investigating or attempting to investigate crime. The determination that a law
 16 enforcement officer or firefighter was killed or permanently disabled in the line of duty
 17 and is entitled to indemnification pursuant to this part shall not be considered in the
 18 determination of the entitlement of such officer to workers' compensation, disability,
 19 health, or other benefits from such officer's or firefighter's public or private employer
 20 is entitled to worker's compensation benefits from the private employer or the private
 21 employer's insurer;

22 (D) With respect to a prison guard, while on duty and performing services for and
 23 receiving compensation from the public agency which employs such prison guard; or

24 (E) With respect to a state highway employee, while on duty and performing any work
 25 necessary for the construction, maintenance, or operation of a roadway on or within the
 26 public roads of the state as defined in paragraph (24) of Code Section 32-1-3 when such
 27 employee is killed or permanently disabled as the result of working under hazardous
 28 conditions in close proximity to moving traffic or equipment.

29 Such term shall not mean commuting to or from work or training.

30 ~~(6)~~(7) 'Law enforcement officer' means any agent or officer of this state, or a political
 31 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
 32 either expressly by law or by virtue of public employment or service with authority to
 33 enforce the criminal or traffic laws and whose duties include the preservation of public
 34 order, the protection of life and property, or the prevention, detection, or investigation of
 35 crime. Such term also includes the employees designated by the commissioner of
 36 juvenile justice of the Department of Juvenile Justice pursuant to paragraph (2) of
 37 subsection (i) of Code Section 49-4A-8, which employees have the duty to investigate

1 and apprehend delinquent and unruly children who have escaped from a facility under the
 2 jurisdiction of the Department of Juvenile Justice or who have broken the conditions of
 3 supervision. Such term also includes members of the Georgia National Guard, the
 4 composition of which is set forth in Code Section 38-2-3, who have been called into
 5 active state service by the Governor.

6 (8) 'Organic brain damage' means direct physical trauma to the brain which so affects the
 7 mental capacity as to preclude function productively in any employment.

8 (9) 'Partial permanent disability' means disability due to:

9 (A) Loss of the use of one eye or blindness in one eye with only light perception;

10 (B) Loss of one hand;

11 (C) Loss of one leg; or

12 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
 13 which so affects the functions of balance or propulsion as to preclude locomotion
 14 without the use of a wheelchair.

15 ~~(7) 'Permanent disability' means disability due to:~~

16 ~~(A) Loss of both eyes or blindness in both eyes with only light perception;~~

17 ~~(B) Loss or loss of use of both hands;~~

18 ~~(C) Loss or loss of use of both legs;~~

19 ~~(D) Loss of a lower extremity or residuals of organic disease or injury which so affect~~
 20 ~~the functions of balance or propulsion as to preclude locomotion without resort to a~~
 21 ~~wheelchair; or~~

22 ~~(E) Organic brain damage resulting from direct physical trauma incurred after January~~
 23 ~~1, 1973, which so affects the mental capacity as to preclude ability to function~~
 24 ~~productively in any employment.~~

25 ~~(8)~~(10) 'Prison guard' means any person employed by the state or any political
 26 subdivision thereof whose principal duties relate to the supervision and incarceration of
 27 persons accused or convicted of the violation of the criminal laws of this state or any
 28 political subdivision thereof. Such term shall also mean any probation supervisor or
 29 parole officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia
 30 Peace Officer Standards and Training Act,' and whose principal duties directly relate to
 31 the supervision of adult probationers or adult parolees. Such term also means any person
 32 employed by the state or any political subdivision thereof whose principal duties include
 33 the supervision of youth who are charged with or adjudicated for an act which if
 34 committed by adults would be considered a crime.

35 ~~(9)~~(11) 'State highway employee' means an employee of the Georgia Department of
 36 Transportation who receives compensation directly therefrom and regularly engages in

1 duties necessary for the construction, maintenance, or operation of roadways on or within
2 the public roads of this state as defined in paragraph (24) of Code Section 32-1-3.

3 (12) 'Total permanent disability' means disability due to:

4 (A) Loss of both eyes or blindness in both eyes with only light perception;

5 (B) Loss or loss of use of both hands;

6 (C) Loss or loss of use of both legs;

7 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
8 which so affects the functions of balance or propulsion as to preclude locomotion
9 without resort to a wheelchair; or

10 (E) Organic brain damage resulting from direct physical trauma which so affects the
11 mental capacity as to preclude ability to function productively in any employment.

12 (13) 'Volunteer firefighter' means a person who is appointed and regularly enrolled as
13 a volunteer with a class nine fire department; who, as a volunteer firefighter, has and
14 primarily performs the principal responsibility of preventing or suppressing fires; and
15 who satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section
16 25-3-23.

17 45-9-82.

18 (a) There is established a program to provide for indemnification with respect to the:

19 (1) Death of any law enforcement officer, firefighter, or prison guard who is or has been
20 killed in the line of duty subsequent to January 1, 1973;

21 (2) Permanent disability of any law enforcement officer, firefighter, or prison guard who
22 is or has been permanently disabled in the line of duty subsequent to January 1, 1973;

23 (3) Death or permanent disability of any emergency medical technician who is killed or
24 permanently disabled or who has been killed or permanently disabled in the line of duty
25 subsequent to January 1, 1977;

26 (4) Death or permanent disability of any emergency management rescue specialist who
27 is killed or permanently disabled on or after January 1, 1991; and

28 (5) Death or permanent disability of any state highway employee who is killed or
29 permanently disabled in the line of duty on or after January 1, 1990.

30 (b) Such program shall be administered by the ~~Georgia State Indemnification Commission~~
31 department, subject to review by the commission.

32 45-9-83.

33 There is created the Georgia State Indemnification Commission which shall be composed
34 of the Governor, the executive director of the Peace Officer Standards and Training
35 Council, the Secretary of State, the Commissioner of Insurance, the commissioner of public

1 safety, the commissioner of transportation, the commissioner of corrections, the
 2 commissioner of human resources, ~~the president of the Peace Officers' Association of~~
 3 ~~Georgia, and the president of the Georgia State Firemen's Association~~ one law enforcement
 4 officer appointed by the Governor, and one firefighter appointed by the Governor. The
 5 Governor shall be the chairperson of the commission and the commission shall be assigned
 6 to the ~~Department of Administrative Services~~ department for administrative purposes. The
 7 commission shall met at least semi-monthly upon the call of the Governor.

8 45-9-84.

9 The commission is authorized to ~~promulgate rules and regulations relative to the program~~
 10 ~~of indemnification. Such rules and regulations may provide for initial investigation of~~
 11 ~~claims and the issuance of subpoenas to facilitate such investigation, special masters,~~
 12 ~~hearings, procedures for applications for indemnification, and all other matters so as to~~
 13 ~~enable the commission to carry out its duties fairly, properly, and equitably~~ consider
 14 appeals of decisions of the department to correct any clear errors made by the department
 15 in approving or denying any claim filed pursuant to this article. The ~~chairman of~~
 16 department and the commission shall be authorized to contact other state agencies for the
 17 purpose of using the personnel and resources of such agencies to assist the commission in
 18 carrying out its duties.

19 45-9-84.1.

20 There is created a fund to be known as the Georgia State Indemnification Fund. The
 21 custodian of the Georgia State Indemnification Fund shall be the ~~Department of~~
 22 ~~Administrative Services~~ department. The ~~Department of Administrative Services~~
 23 department shall administer the Georgia State Indemnification Fund and shall approve or
 24 deny claims for compensation filed pursuant to this article; provided, however, that any
 25 decision of the department shall be subject to review by the commission as provided in
 26 Code Section 45-9-84. Any amounts held by the Georgia State Indemnification Fund
 27 which are available for investment shall be paid over to the Office of Treasury and Fiscal
 28 Services. The director of the Office of Treasury and Fiscal Services shall deposit such
 29 funds in a trust account for credit only to the Georgia State Indemnification Fund. The
 30 director of the Office of Treasury and Fiscal Services shall invest such funds subject to the
 31 limitations of Code Section 50-5A-7 and Chapter 17 of Title 50. All income derived from
 32 such investments shall accrue to the Georgia State Indemnification Fund. When moneys
 33 are paid over to the Office of Treasury and Fiscal Services, as provided in this Code
 34 section, the commissioner shall submit an estimate of the date such funds shall no longer
 35 be available for investment. When the commissioner wishes to withdraw funds from the

1 trust account provided for in this Code section, he or she shall submit a request for such
2 withdrawal, in writing, to the director of the Office of Treasury and Fiscal Services.

3 45-9-84.2.

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

20 45-9-84.3.

21 The ~~Department of Administrative Services~~ department is authorized, subject to the
22 limitations contained in this part:

- 23 (1) To pay the appropriate indemnification to the persons eligible for indemnification
24 under this part or to the estate of such persons as provided in this part from the proceeds
25 of the Georgia State Indemnification Fund;
- 26 (2) To make such payments as may be necessary to defray the expenses and costs
27 incurred by the department and the commission in administering this part; and
- 28 (3) With the approval of the commission, to utilize the resources of the Georgia State
29 Indemnification Fund to purchase insurance to provide for such indemnification.

30 45-9-85.

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

1 ~~(1) Is killed or receives bodily injury which results in death within 12 months thereafter,~~
 2 ~~if such death does not occur from natural causes while performing routine duties which~~
 3 ~~would not be strenuous or dangerous if performed by citizens who are not law~~
 4 ~~enforcement officers, firefighters, emergency medical technicians, emergency~~
 5 ~~management rescue specialists, prison guards, or state highway employees, and if such~~
 6 ~~death is not the result of suicide and if such bodily injury is not intentionally~~
 7 ~~self-inflicted; or~~

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

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

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

20 ~~(ii) In the case of a state highway employee permanently disabled on or after January~~
 21 ~~1, 1990, the eligible disabled person pursuant to this article may elect payment of~~
 22 ~~\$25,000.00 in equal installments over a period of five years or a payment in lump sum~~
 23 ~~which shall consist of \$25,000.00 reduced to its present value upon the basis of~~
 24 ~~interest calculated at the rate of 6 percent per annum; and~~

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

31 ~~(ii) In the case of a state highway employee killed on or after January 1, 1990,~~
 32 ~~payment shall be made to the estate of a person who is eligible for indemnification~~
 33 ~~under this article as follows: the executor or administrator may elect payment of~~
 34 ~~\$25,000.00 in equal installments over a period of five years or a payment in lump sum~~
 35 ~~which shall consist of \$25,000.00 reduced to its present value upon the basis of~~
 36 ~~interest calculated at the rate of 6 percent per annum.~~

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

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

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

19 (a) Indemnification shall be paid under this article as follows:

20 (1) In the case of a partial permanent disability suffered in the line of duty by a law
 21 enforcement officer, firefighter, emergency medical technician, emergency management
 22 rescue specialist, or prison guard, the eligible disabled person may elect payment of
 23 \$35,000.00 paid in equal monthly installments for five years or a lump sum of such
 24 amount reduced to its present value upon the basis of interest calculated at the rate of 6
 25 percent per annum;

26 (2) In the case of a partial permanent disability suffered in the line of duty by a state
 27 highway employee, the eligible person may elect to receive a payment of \$12,000.00 paid
 28 in equal monthly installments for five years or a lump sum of such amount reduced to its
 29 present value upon the basis of interest calculated at the rate of 6 percent per annum;

30 (3) In the case of a total permanent disability suffered in the line of duty by a law
 31 enforcement officer, firefighter, emergency medical technician, emergency management
 32 rescue specialist, or prison guard, the injured person may elect to receive a payment of
 33 \$75,000.00 paid in equal monthly installments for five years or a lump sum of such
 34 amount reduced to its present value upon the basis of interest calculated at the rate of 6
 35 percent per annum;

36 (4) In the case of a total permanent disability suffered in the line of duty by a state
 37 highway employee, the eligible person may elect to receive a payment of \$25,000.00 paid

1 in equal monthly installments for five years or a lump sum of such amount reduced to its
 2 present value upon the basis of interest calculated at the rate of 6 percent per annum;

3 (5) In the case of death or organic brain damage suffered in the line of duty by a law
 4 enforcement officer, firefighter, emergency medical technician, emergency management
 5 specialist, or prison guard, payment shall be made to the estate of the deceased person or
 6 to the legal guardian of the organically brain damaged person. The administrator or
 7 executor of the estate or the legal guardian may elect to receive payment in a lump sum
 8 payment of \$100,000.00 paid in equal monthly installments for five years or a lump sum
 9 of such amount reduced to its present value upon the basis of interest calculated at the
 10 rate of 6 percent per annum; or

11 (6) In the case of death or organic brain damage suffered in the line of duty by a state
 12 highway employee, payment shall be made to the estate of the deceased person or to the
 13 legal guardian of the organically brain damaged person. The administrator or executor
 14 of the estate or the legal guardian may elect to receive payment in a lump sum payment
 15 of \$100,000.00 paid in equal monthly installments for five years or a lump sum of such
 16 amount reduced to its present value upon the basis of interest calculated at the rate of 6
 17 percent per annum.

18 (b) After the department, or the commission upon review of a denial by the department,
 19 determines that a law enforcement officer, firefighter, emergency medical technician,
 20 emergency management rescue specialist, prison guard, or state highway employee has
 21 suffered a total permanent disability, a partial permanent disability, organic brain damage,
 22 or death in the line of duty, the department is authorized to make the appropriate payments
 23 as provided in subsection (a) of this Code section.

24 (c) If the department denies a claim, any person seeking benefits pursuant to this part may
 25 appeal the department's decision to the commission. Any such appeal must be filed with
 26 the commission within 60 days of receipt of the department's decision and must identify
 27 the errors in the department's decision. Appeals will be considered by the commission at
 28 the commission's semi-annual meeting.

29 45-9-86.

30 (a) An application for indemnification with respect to a claim ~~filed on or after July 1, 2002,~~
 31 ~~for total permanent disability or partial permanent disability~~ of a law enforcement officer,
 32 firefighter, prison guard, emergency medical technician, emergency management rescue
 33 specialist, or state highway employee shall be submitted by that person unless the person
 34 is mentally incompetent, in which case the application may be made on such person's
 35 behalf by ~~the parent, spouse, guardian, or other authorized individual~~ his or her legal
 36 guardian.

1 (b) An application for indemnification with respect to a claim filed on or after July 1,
2 2002, for the death of a law enforcement officer, firefighter, prison guard, emergency
3 medical technician, emergency management rescue specialist, or state highway employee
4 shall be submitted by or on behalf of the individual authorized to administer the estate.

5 ~~(b) An application for indemnification relative to any law enforcement officer, firefighter,
6 or prison guard killed in the line of duty subsequent to January 1, 1973, and prior to
7 January 1, 1981, must be made prior to January 1, 1982. An application for
8 indemnification relative to any law enforcement officer, firefighter, or prison guard killed
9 in the line of duty on and after January 1, 1981, and prior to January 1, 1984, must be made
10 prior to January 1, 1986. An application for indemnification relative to any law
11 enforcement officer, firefighter, or prison guard killed in the line of duty on or after January
12 1, 1984, must be made within 24 months from the death of such law enforcement officer,
13 firefighter, or prison guard.~~

14 ~~(c) An application for indemnification relative to any law enforcement officer, firefighter,
15 or prison guard permanently disabled in the line of duty subsequent to January 1, 1973, and
16 prior to January 1, 1979, must be made prior to January 1, 1989. An application for
17 indemnification relative to any law enforcement officer, firefighter, or prison guard
18 permanently disabled in the line of duty subsequent to January 1, 1979, and prior to
19 January 1, 1980, must be made prior to January 1, 1982. An application for
20 indemnification relative to any law enforcement officer, firefighter, or prison guard
21 permanently disabled in the line of duty on and after January 1, 1980, and prior to January
22 1, 1984, must be made prior to January 1, 1992. An application for indemnification
23 relative to a permanent disability occurring on or after January 1, 1984, must be made
24 within 24 months of the date the permanent disability occurred.~~

25 ~~(d) An application for indemnification with respect to the death or permanent disability of
26 an emergency medical technician who was killed or permanently disabled subsequent to
27 January 1, 1977, and prior to January 1, 1987, must be made prior to January 1, 1989. An
28 application for indemnification with respect to the death or permanent disability of an
29 emergency medical technician who is killed or permanently disabled in the line of duty on
30 or after January 1, 1987, must be made within 24 months after the date of death or
31 disability.~~

32 ~~(e)~~(c) An application for indemnification with respect to the death, organic brain damage,
33 total permanent disability, or partial permanent disability of an emergency management
34 rescue specialist who is killed or permanently disabled in the line of duty on or after
35 January 1, 1991, must be made within 24 months after the date of the incident giving rise
36 to the death, organic brain damage, or disability.

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

6 ~~(g)(1) An application for indemnification with respect to the death or permanent~~
 7 ~~disability of a state highway employee who is killed or permanently disabled in the line~~
 8 ~~of duty on or after January 1, 1990, and prior to July 1, 2002, must be made prior to July~~
 9 ~~1, 2004.~~

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

14 ~~45-9-86.1.~~

15 ~~An application for indemnification relative to any part-time law enforcement officer killed~~
 16 ~~in the line of duty subsequent to January 1, 1973, and prior to March 24, 1981, must be~~
 17 ~~made no later than 12 months after March 24, 1981. An application for indemnification~~
 18 ~~relative to any part-time law enforcement officer killed in the line of duty on or after March~~
 19 ~~24, 1981, must be made within 12 months after the death of such part-time law~~
 20 ~~enforcement officer.~~

21 ~~45-9-86.2.~~

22 ~~An application for indemnification relative to any law enforcement officer, firefighter, or~~
 23 ~~prison guard permanently disabled as a result of organic brain damage subsequent to~~
 24 ~~January 1, 1979, and prior to January 1, 1983, must be made prior to January 1, 1984.~~

25 ~~45-9-87.~~

26 ~~Reserved.~~

27 ~~45-9-88.~~

28 ~~It is the intent of the General Assembly that indemnification paid pursuant to this part shall~~
 29 ~~not be taxable within this state for any purpose.~~

1 ~~45-9-89.~~ 45-9-87.

2 No indemnification shall be awarded to any person otherwise entitled thereto who violates
3 a penal law of this state which violation caused or contributed to the death or disability of
4 the officer.

5 ~~45-9-90.~~ 45-9-88.

6 The commission shall annually file a report of its activities with the General Assembly,
7 which report shall include the amount of funds paid under the program of indemnification.
8 It shall also include a copy of each order providing for payment or a summary of each such
9 order giving all pertinent details.

10 ~~45-9-91.~~ 45-9-89.

11 (a) Any person who shall knowingly give false information or false testimony causing or
12 intended to cause the payment of indemnification which would not otherwise be justified
13 under this part shall be guilty of a misdemeanor.

14 (b) Any such person convicted under subsection (a) of this Code section shall be liable to
15 the state for any funds paid as a result of such false information or testimony.

16 **Part 2**

17 ~~45-9-100.~~

18 ~~Reserved.~~

19 ~~45-9-101.~~ 45-9-100.

20 The purpose of this part is to implement the constitutional amendment ratified November
21 7, 2000, authorizing the General Assembly to provide a program of compensation for law
22 enforcement officers who become physically disabled, but not permanently disabled, as a
23 result of physical injury incurred in the line of duty and caused by a willful act of violence
24 and for firefighters who become physically disabled, but not permanently disabled, as a
25 result of physical injury incurred in the line of duty while fighting a fire, which program
26 shall entitle an injured law enforcement officer or firefighter to receive monthly
27 compensation from the state in an amount equal to such person's regular compensation for
28 the period of time that the law enforcement officer or firefighter is physically unable to
29 perform the duties of his or her employment, not exceeding 12 months, and to provide
30 certain exceptions and limitations with respect to such program of compensation.

1 ~~45-9-102:~~ 45-9-101.

2 As used in this part, the term:

3 (1) 'Commission' means the Georgia State Indemnification Commission created in Code
4 Section 45-9-83.

5 (2) 'Department' means the Department of Administrative Services.

6 ~~(2)~~(3) 'Firefighter' or 'fireman' means:

7 (A) Any person who is employed as a professional firefighter on a full-time basis by
8 any municipal, county, or state government fire department certified in writing by the
9 Georgia Firefighter Standards and Training Council pursuant to Code Section 25-3-22
10 employing three or more firefighters and who has the responsibility of preventing and
11 suppressing fires, protecting life and property, enforcing municipal, county, and state
12 fire prevention codes, enforcing any law pertaining to the prevention and control of
13 fires or who performs any acts or actions while on duty or when responding to a fire or
14 emergency during any fire or other emergency or while performing duties intended to
15 protect life and property; or

16 (B) Any individual serving as an officially recognized or designated member of a
17 legally organized volunteer fire department certified in writing by the Georgia
18 Firefighter Standards and Training Council pursuant to Code Section 25-3-22 who
19 performs any acts or actions while on duty and when responding to a fire or emergency
20 during any fire or other emergency or while performing duties intended to protect life
21 and property.

22 ~~(3)~~(4) 'Full-time' means an employee who regularly works 30 hours or more each week.

23 ~~(4)~~(5) 'In the line of duty' means:

24 (A) With respect to a volunteer firefighter, while on duty and performing duties during
25 any fire or other emergency or performing duties intended to protect life and property;
26 or

27 (B) With respect to a law enforcement officer or firefighter, while on duty and
28 performing services for and receiving compensation from the law enforcement or fire
29 service agency which employs such officer or firefighter, while off duty and responding
30 to any situation which would save a life or preserve the peace, or while preventing or
31 attempting to prevent the commission of a crime or fire. A law enforcement officer or
32 firefighter who is performing duties for and receiving compensation from a private
33 employer at the time of such officer's or firefighter's bodily injury, but not permanent
34 disability, shall not be considered in the line of duty ~~unless~~ if the officer or firefighter
35 ~~has left the scope of his or her employment for the private employer for the direct~~
36 ~~purpose of enforcing or attempting to enforce fire service, the criminal or traffic laws,~~
37 ~~preserving or attempting to preserve public order, protecting or attempting to protect~~

1 ~~life or property, preventing or attempting to prevent a crime, detecting or attempting to~~
 2 ~~detect crime, or investigating or attempting to investigate crime. The determination that~~
 3 ~~a law enforcement officer or firefighter was disabled in the line of duty and is entitled~~
 4 ~~to compensation pursuant to this part shall not be considered in the determination of the~~
 5 ~~entitlement of such officer to workers' compensation, disability, health, or other~~
 6 ~~benefits from such officer's or firefighter's public or private employer is entitled to~~
 7 ~~worker's compensation benefits from the private employer or the private employer's~~
 8 ~~insurer.~~

9 ~~(5)~~(6) 'Injured in the line of duty' means an injury which arises out of or in the course of
 10 employment in the line of duty; or, with respect to a firefighter of a legally organized
 11 volunteer fire department, such term means an injury while on duty and when responding
 12 to a fire or emergency with the volunteer fire department during any fire or other
 13 emergency or while performing duties intended to protect life and property. Going to or
 14 from work shall not be considered in the line of duty; and going to a legally organized
 15 volunteer fire department to begin a service of duty or traveling from such a fire
 16 department after duties have been completed or traveling from the scene of a fire,
 17 emergency, or other location where duties were being performed and have been
 18 completed shall not be considered in the line of duty.

19 ~~(6)~~(7) 'Law enforcement officer' means any agent or officer of this state, or a political
 20 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
 21 either expressly by law or by virtue of public employment or service with authority to
 22 enforce the criminal or traffic laws and whose duties include the preservation of public
 23 order, the protection of life and property, or the prevention, detection, or investigation of
 24 crime. Such term also includes ~~prison guards as defined under Code Section 45-9-81 and~~
 25 ~~the employees designated by the commissioner of juvenile justice of the Department of~~
 26 ~~Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8,~~
 27 ~~which employees have the duty to investigate and apprehend delinquent and unruly~~
 28 ~~children who have escaped from a facility under the jurisdiction of the Department of~~
 29 ~~Juvenile Justice or who have broken the conditions of supervision. Such term also~~
 30 ~~includes members of the Georgia National Guard, the composition of which is set forth~~
 31 ~~in Code Section 38-2-3, who have been called into active state service by the Governor.~~

32 (8) 'Volunteer firefighter' means a person who is appointed and regularly enrolled as a
 33 volunteer with a class nine fire department; who, as a volunteer firefighter, has and
 34 primarily performs the principal responsibility of preventing or suppressing fires; and
 35 who satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section
 36 25-3-23.

1 ~~45-9-103~~; 45-9-102.

2 (a) Any law enforcement officer who becomes physically disabled, but not permanently
3 disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the
4 line of duty and caused by a willful act of violence committed by a person other than a
5 fellow employee shall be entitled to receive compensation as provided in this Code section.
6 Any firefighter who becomes physically disabled, but not permanently disabled, on or
7 subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty while
8 fighting a fire shall be entitled to receive compensation as provided in this Code section.
9 The compensation shall be paid to eligible applicants by the commission from funds
10 appropriated to the commission for such purpose.

11 (b) Except as otherwise provided in this part, any law enforcement officer or firefighter
12 injured in the line of duty as provided in subsection (a) of this Code section shall receive
13 monthly compensation from the ~~commission~~ department in an amount equal to such
14 person's regular compensation for the period of time that the law enforcement officer or
15 firefighter is physically unable to perform the duties of his or her employment; provided,
16 however, that such benefits provided pursuant to this Code section for injuries resulting
17 from a single incident shall not be granted for more than a total of 12 months. For purposes
18 of this subsection, the regular compensation of a volunteer firefighter covered under
19 subparagraph (2)(B) of Code Section ~~45-9-102~~ 45-9-101 shall be deemed to be the Georgia
20 average weekly earnings of production workers in manufacturing industries for the
21 immediately preceding calendar year as published by the Georgia Department of Labor.
22 A law enforcement officer or firefighter shall be required to submit to the ~~commission~~
23 department satisfactory evidence of such disability. A volunteer firefighter shall not be
24 considered disabled once he or she is able to perform the duties of his or her regular
25 employment or equivalent thereof.

26 (c) Benefits made available under this Code section shall be subordinate to any workers'
27 compensation benefits, disability and other compensation benefits from the person's
28 employer which the law enforcement officer or firefighter is awarded and shall be limited
29 to the difference between the amount of workers' compensation benefits and other
30 compensation benefits actually paid and the amount of the law enforcement officer's or
31 firefighter's regular compensation; provided, however, that benefits shall never exceed the
32 person's regular compensation minus the maximum weekly workers' compensation benefit
33 level for that person whether or not workers' compensation is available. For the purposes
34 of this subsection, the regular compensation of a firefighter covered under subparagraph
35 (2)(B) of Code Section 45-9-102 shall be deemed to be the Georgia average weekly
36 earnings of production workers in manufacturing industries for the immediately preceding
37 calendar year as published by the Georgia Department of Labor.

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

3 (e) A law enforcement officer or firefighter who is disabled and who receives
4 indemnification under Part 1 of this article as a result of an incident shall not be entitled to
5 any compensation under this Code section for the disability resulting from the same
6 incident. A law enforcement officer or firefighter who initially receives benefits under this
7 Code section but who is determined subsequently to be entitled to benefits under Part 1 of
8 this article with respect to the same incident or whose beneficiary is determined
9 subsequently to be entitled to benefits under Part 1 of this article shall be entitled only to
10 the amount equal to the benefits to which the person would be entitled under Part 1 reduced
11 by the total amount of benefits received under this Code section.

12 (f) After the department, or the commission upon review of a denial by the department,
13 determines that a law enforcement officer has been temporarily disabled due to a willful
14 act of violence or that a firefighter has been temporarily disabled while fighting a fire and
15 is entitled to indemnification under this part, the department is authorized to make the
16 appropriate payments to the temporarily disabled law enforcement officer or firefighter.

17 (g) If the department denies a claim, any person seeking benefits pursuant to this part may
18 appeal the department's decision to the commission. Any such appeal must be filed with
19 the commission within 60 days of receipt of the department's decision and must identify
20 the errors in the department's decision. Appeals will be considered by the commission at
21 the commission's semi-annual meeting.

22 ~~45-9-104.~~ 45-9-103.

23 (a) An application for compensation with respect to a claim filed on or after July 1, 2001,
24 for the temporary disability of a law enforcement officer or firefighter shall be submitted
25 by that person within 60 days from the date of the incident resulting in disability.

26 ~~(b) The commission is authorized to promulgate rules and regulations relative to the~~
27 ~~program of compensation provided in this part. Such rules and regulations may provide~~
28 ~~for initial investigation of claims and the issuance of subpoenas to facilitate such~~
29 ~~investigation, special masters, hearings, procedures for applications for compensation, and~~
30 ~~all other matters so as to enable the commission to carry out its duties fairly, properly, and~~
31 ~~equitably. The chairperson of the commission shall be authorized to contact other state~~
32 ~~agencies for the purpose of using the personnel and resources of such agencies to assist the~~
33 ~~commission in carrying out its duties.~~

1 ~~45-9-105.~~ 45-9-104.

2 (a) No compensation shall be awarded to any person otherwise entitled thereto who
3 violates a penal law of this state which violation caused or contributed to the disability of
4 the law enforcement officer or firefighter.

5 (b) Notwithstanding any other provision of this article, no payment is authorized if
6 disability occurs from intentionally self-inflicted injuries or natural causes or while
7 performing routine duties which would not be strenuous or dangerous if performed by
8 persons of average physical abilities.

9 ~~45-9-106.~~ 45-9-105.

10 (a) Any person who shall knowingly give false information or false testimony causing or
11 intending to cause the payment of compensation which would not otherwise be justified
12 under this part shall be guilty of a misdemeanor.

13 (b) Any such person convicted under subsection (a) of this Code section shall be liable to
14 the state for any funds paid as a result of such false information or testimony."

15 **SECTION 2.**

16 This Act shall become effective on July 1, 2007, and shall apply to all incidents giving rise
17 to a disability occurring on or after that date.

18 **SECTION 3.**

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