

Senate Bill 254

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

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 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 or part-time basis ~~of at least 40 hours per week~~ by any
 10 municipal, county, or state government fire department employing three or more
 11 firefighters and who has the responsibility of preventing and suppressing fires,
 12 protecting life and property, enforcing municipal, county, and state fire prevention
 13 codes, enforcing any law pertaining to the prevention and control of fires or who
 14 performs any acts or actions while on duty or when responding to a fire or emergency
 15 during any fire or other emergency or while performing duties intended to protect life
 16 and property.

17 (B) 'Firefighter' or 'fireman' shall also mean any individual serving as an officially
 18 recognized or designated member of a legally organized volunteer fire department, or
 19 any employee of the Georgia Forestry Commission whose job duties include fire
 20 mitigation, who performs any acts or actions while on duty or when responding to a fire
 21 or emergency during any fire or other emergency or while performing duties intended
 22 to protect life and property.

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

32 ~~(5)~~(6) 'In the line of duty' means:

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

1 (B) With respect to a volunteer firefighter, while on duty and when responding to or
 2 returning from a fire or other emergency or performing duties during any fire or other
 3 emergency or performing duties intended to protect life and property including, without
 4 limitation, actual participation in a training exercise;

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

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

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

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

34 ~~(6)~~(7) 'Law enforcement officer' means any agent or officer of this state, ~~or~~ a political
 35 subdivision or municipality ~~thereof,~~ of this state, or an authority of this state or a political
 36 subdivision of this state who, as a full-time or part-time employee, is vested either
 37 expressly by law or by virtue of public employment or service with authority to enforce

1 the criminal or traffic laws with the power of arrest and whose duties include the
 2 preservation of public order, the protection of life and property, or the prevention,
 3 detection, or investigation of crime. Such term also includes the employees designated
 4 by the commissioner of juvenile justice of the Department of Juvenile Justice pursuant
 5 to paragraph (2) of subsection (i) of Code Section 49-4A-8, which employees have the
 6 duty to investigate and apprehend delinquent and unruly children who have escaped from
 7 a facility under the jurisdiction of the Department of Juvenile Justice or who have broken
 8 the conditions of supervision. Such term also includes members of the Georgia National
 9 Guard, the composition of which is set forth in Code Section 38-2-3, who have been
 10 called into active state service by the Governor.

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

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

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

15 (B) Loss of one hand;

16 (C) Loss of one leg; or

17 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
 18 which so affects the functions of balance or propulsion as to preclude locomotion
 19 without the use of a wheelchair for all but very short distances.

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

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

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

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

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

27 ~~(E) Organic brain damage resulting from direct physical trauma incurred after January~~
 28 ~~1, 1973, which so affects the mental capacity as to preclude ability to function~~
 29 ~~productively in any employment.~~

30 ~~(8)~~(10) 'Prison guard' means any person employed by the state or any political
 31 subdivision thereof whose principal duties relate to the supervision and incarceration of
 32 persons accused or convicted of the violation of the criminal laws of this state or any
 33 political subdivision thereof. Such term shall also mean any probation supervisor or
 34 parole officer who is required to be certified under Chapter 8 of Title 35, the 'Georgia
 35 Peace Officer Standards and Training Act,' and whose principal duties directly relate to
 36 the supervision of adult probationers or adult parolees. Such term also means any person
 37 employed by the state or any political subdivision thereof whose principal duties include

1 the supervision of youth who are charged with or adjudicated for an act which if
2 committed by adults would be considered a crime.

3 ~~(9)~~(11) 'State highway employee' means an employee of the Georgia Department of
4 Transportation who receives compensation directly therefrom and regularly engages in
5 duties necessary for the construction, maintenance, or operation of roadways on or within
6 the public roads of this state as defined in paragraph (24) of Code Section 32-1-3.

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

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

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

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

11 (D) Loss of a lower extremity or the residual effect of an organic disease or injury
12 which so affects the functions of balance or propulsion as to preclude locomotion
13 without resort to a wheelchair at all times; or

14 (E) Organic brain damage.

15 45-9-82.

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

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

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

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

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

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

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

30 45-9-83.

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

1 human resources, ~~the president of the Peace Officers' Association of Georgia, and the~~
 2 ~~president of the Georgia State Firemen's Association~~ one law enforcement officer who
 3 shall be a member of the Peace Officers' Association of Georgia appointed by the
 4 Governor from a list of five candidates provided by such organization, and one firefighter
 5 who shall be a member of the Georgia State Firemen's Association appointed by the
 6 Governor from a list of five candidates provided by such organization. The Governor shall
 7 be the chairperson of the commission and the commission shall be assigned to the
 8 ~~Department of Administrative Services~~ department for administrative purposes. The
 9 commission shall meet at least semiannually upon the call of the Governor.

10 45-9-84.

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

22 45-9-84.1.

23 There is created a fund to be known as the Georgia State Indemnification Fund. The
 24 custodian of the Georgia State Indemnification Fund shall be the ~~Department of~~
 25 ~~Administrative Services~~ department. The ~~Department of Administrative Services~~
 26 department shall administer the Georgia State Indemnification Fund and shall approve or
 27 deny claims for compensation filed pursuant to this article; provided, however, that any
 28 decision of the department shall be subject to review by the commission as provided in
 29 Code Section 45-9-84. Any amounts held by the Georgia State Indemnification Fund
 30 which are available for investment shall be paid over to the Office of Treasury and Fiscal
 31 Services. The director of the Office of Treasury and Fiscal Services shall deposit such
 32 funds in a trust account for credit only to the Georgia State Indemnification Fund. The
 33 director of the Office of Treasury and Fiscal Services shall invest such funds subject to the
 34 limitations of Code Section 50-5A-7 and Chapter 17 of Title 50. All income derived from
 35 such investments shall accrue to the Georgia State Indemnification Fund. When moneys

1 are paid over to the Office of Treasury and Fiscal Services, as provided in this Code
 2 section, the commissioner shall submit an estimate of the date such funds shall no longer
 3 be available for investment. When the commissioner wishes to withdraw funds from the
 4 trust account provided for in this Code section, he or she shall submit a request for such
 5 withdrawal, in writing, to the director of the Office of Treasury and Fiscal Services.

6 45-9-84.2.

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

23 45-9-84.3.

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

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

1 45-9-85.

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

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

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

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

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

24 ~~(ii) In the case of a state highway employee permanently disabled on or after January~~
 25 ~~1, 1990, the eligible disabled person pursuant to this article may elect payment of~~
 26 ~~\$25,000.00 in equal installments over a period of five years or a payment in lump sum~~
 27 ~~which shall consist of \$25,000.00 reduced to its present value upon the basis of~~
 28 ~~interest calculated at the rate of 6 percent per annum; and~~

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

35 ~~(ii) In the case of a state highway employee killed on or after January 1, 1990,~~
 36 ~~payment shall be made to the estate of a person who is eligible for indemnification~~
 37 ~~under this article as follows: the executor or administrator may elect payment of~~

1 ~~\$25,000.00 in equal installments over a period of five years or a payment in lump sum~~
2 ~~which shall consist of \$25,000.00 reduced to its present value upon the basis of~~
3 ~~interest calculated at the rate of 6 percent per annum.~~

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

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

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

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

23 ~~(1) In the case of a partial permanent disability suffered in the line of duty by a law~~
24 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
25 ~~rescue specialist, or prison guard, the eligible disabled person may elect payment of~~
26 ~~\$35,000.00 paid in equal monthly installments for five years or a lump sum of such~~
27 ~~amount reduced to its present value upon the basis of interest calculated at the rate of 6~~
28 ~~percent per annum;~~

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

33 ~~(3) In the case of a total permanent disability suffered in the line of duty by a law~~
34 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
35 ~~rescue specialist, or prison guard, the injured person may elect to receive a payment of~~
36 ~~\$75,000.00 paid in equal monthly installments for five years or a lump sum of such~~

1 amount reduced to its present value upon the basis of interest calculated at the rate of 6
2 percent per annum;

3 (4) In the case of a total permanent disability suffered in the line of duty by a state
4 highway employee, the eligible person may elect to receive a payment of \$25,000.00 paid
5 in equal monthly installments for five years or a lump sum of such amount reduced to its
6 present value upon the basis of interest calculated at the rate of 6 percent per annum;

7 (5) In the case of death or organic brain damage suffered in the line of duty by a law
8 enforcement officer, firefighter, emergency medical technician, emergency management
9 specialist, or prison guard, payment shall be made to the surviving unremarried spouse
10 or the dependents of the spouse or deceased person as shown in his or her most recent tax
11 return or to the legal guardian of the organically brain damaged person. The surviving
12 unremarried spouse, dependents, or the legal guardian may elect to receive payment in
13 a lump sum payment of \$100,000.00 paid in equal monthly installments for five years or
14 a lump sum of such amount reduced to its present value upon the basis of interest
15 calculated at the rate of 6 percent per annum; or

16 (6) In the case of death or organic brain damage suffered in the line of duty by a state
17 highway employee, payment shall be made to the surviving unremarried spouse or the
18 dependents of the spouse or deceased person as shown in his or her most recent tax return
19 or to the legal guardian of the organically brain damaged person. The surviving
20 unremarried spouse, dependents, or the legal guardian may elect to receive payment in
21 a lump sum payment of \$40,000.00 paid in equal monthly installments for five years or
22 a lump sum of such amount reduced to its present value upon the basis of interest
23 calculated at the rate of 6 percent per annum.

24 (b) After the department, or the commission upon review of a denial by the department,
25 determines that a law enforcement officer, firefighter, emergency medical technician,
26 emergency management rescue specialist, prison guard, or state highway employee has
27 suffered a total permanent disability, a partial permanent disability, organic brain damage,
28 or death in the line of duty, the department shall be authorized to make the appropriate
29 payments as provided in subsection (a) of this Code section.

30 (c) If the department denies a claim, any person seeking benefits pursuant to this part may
31 appeal the department's decision to the commission. Any such appeal shall be filed with
32 the commission within 60 days of receipt of the department's decision and shall identify
33 the errors in the department's decision. Appeals shall be considered by the commission at
34 the commission's semiannual meeting as provided in Code Section 45-9-84.

1 45-9-86.

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

9 (b) An application for indemnification with respect to a claim ~~filed on or after July 1,~~
10 ~~2002,~~ for the death of a law enforcement officer, firefighter, prison guard, emergency
11 medical technician, emergency management rescue specialist, or state highway employee
12 shall be submitted by ~~the individual authorized to administer the estate~~ or on behalf of the
13 surviving unremarried spouse or dependents eligible under this part.

14 ~~(b) An application for indemnification relative to any law enforcement officer, firefighter,~~
15 ~~or prison guard killed in the line of duty subsequent to January 1, 1973, and prior to~~
16 ~~January 1, 1981, must be made prior to January 1, 1982. An application for~~
17 ~~indemnification relative to any law enforcement officer, firefighter, or prison guard killed~~
18 ~~in the line of duty on and after January 1, 1981, and prior to January 1, 1984, must be made~~
19 ~~prior to January 1, 1986. An application for indemnification relative to any law~~
20 ~~enforcement officer, firefighter, or prison guard killed in the line of duty on or after January~~
21 ~~1, 1984, must be made within 24 months from the death of such law enforcement officer,~~
22 ~~firefighter, or prison guard.~~

23 ~~(c) An application for indemnification relative to any law enforcement officer, firefighter,~~
24 ~~or prison guard permanently disabled in the line of duty subsequent to January 1, 1973, and~~
25 ~~prior to January 1, 1979, must be made prior to January 1, 1989. An application for~~
26 ~~indemnification relative to any law enforcement officer, firefighter, or prison guard~~
27 ~~permanently disabled in the line of duty subsequent to January 1, 1979, and prior to~~
28 ~~January 1, 1980, must be made prior to January 1, 1982. An application for~~
29 ~~indemnification relative to any law enforcement officer, firefighter, or prison guard~~
30 ~~permanently disabled in the line of duty on and after January 1, 1980, and prior to January~~
31 ~~1, 1984, must be made prior to January 1, 1992. An application for indemnification~~
32 ~~relative to a permanent disability occurring on or after January 1, 1984, must be made~~
33 ~~within 24 months of the date the permanent disability occurred.~~

34 ~~(d) An application for indemnification with respect to the death or permanent disability of~~
35 ~~an emergency medical technician who was killed or permanently disabled subsequent to~~
36 ~~January 1, 1977, and prior to January 1, 1987, must be made prior to January 1, 1989. An~~
37 ~~application for indemnification with respect to the death or permanent disability of an~~

1 emergency medical technician who is killed or permanently disabled in the line of duty on
 2 or after January 1, 1987, must be made within 24 months after the date of death or
 3 disability.

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

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

14 (g)(1) An application for indemnification with respect to the death or permanent
 15 disability of a state highway employee who is killed or permanently disabled in the line
 16 of duty on or after January 1, 1990, and prior to July 1, 2002, must be made prior to July
 17 1, 2004.

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

22 45-9-86.1:

23 An application for indemnification relative to any part-time law enforcement officer killed
 24 in the line of duty subsequent to January 1, 1973, and prior to March 24, 1981, must be
 25 made no later than 12 months after March 24, 1981. An application for indemnification
 26 relative to any part-time law enforcement officer killed in the line of duty on or after March
 27 24, 1981, must be made within 12 months after the death of such part-time law
 28 enforcement officer.

29 45-9-86.2:

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

33 45-9-87:

34 Reserved.

1 ~~45-9-88.~~ 45-9-87.

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

4 ~~45-9-89.~~ 45-9-88.

5 (a) No indemnification shall be awarded to any person otherwise entitled thereto who
6 violates a penal law of this state which violation caused or contributed to the death or
7 disability of the officer.

8 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
9 death, organic brain damage, total permanent disability, or partial permanent disability
10 occurs from suicide, intentionally self-inflicted injuries, natural causes, or the performance
11 of routine duties which would not be considered strenuous or dangerous by a reasonable
12 person; provided, however, that this subsection shall not preclude the department or the
13 commission from considering competent, independent medical evidence as to whether a
14 heart attack that occurs shortly after fighting a fire was caused by the strain of fighting the
15 fire.

16 ~~45-9-90.~~ 45-9-89.

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

21 ~~45-9-91.~~ 45-9-90.

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

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

27 Part 2

28 ~~45-9-100.~~

29 ~~Reserved.~~

1 ~~45-9-101.~~ 45-9-100.

2 The purpose of this part is to implement the constitutional amendment ratified November
3 7, 2000, authorizing the General Assembly to provide a program of compensation for law
4 enforcement officers who become physically disabled, but not permanently disabled, as a
5 result of physical injury incurred in the line of duty and caused by a willful act of violence
6 and for firefighters who become physically disabled, but not permanently disabled, as a
7 result of physical injury incurred in the line of duty while fighting a fire, which program
8 shall entitle an injured law enforcement officer or firefighter to receive monthly
9 compensation from the state in an amount equal to such person's regular compensation for
10 the period of time that the law enforcement officer or firefighter is physically unable to
11 perform the duties of his or her employment, not exceeding 12 months, and to provide
12 certain exceptions and limitations with respect to such program of compensation.

13 ~~45-9-102.~~ 45-9-101.

14 As used in this part, the term:

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

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

18 ~~(2)~~(3) 'Firefighter' or 'fireman' means:

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

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

34 (C) Any employee at the Georgia Forestry Commission whose job duties include fire
35 mitigation.

36 ~~(3)~~(4) 'Full-time' means an employee who regularly works 30 hours or more each week.

1 ~~(4)~~(5) 'In the line of duty' means:

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

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

24 ~~(5)~~(6) 'Injured in the line of duty' means an injury which arises out of or in the course of
25 employment in the line of duty; or, with respect to a firefighter of a legally organized
26 volunteer fire department, such term means an injury while on duty and when responding
27 to a fire or emergency with the volunteer fire department during any fire or other
28 emergency or while performing duties intended to protect life and property. Going to or
29 from work shall not be considered in the line of duty; and going to a legally organized
30 volunteer fire department to begin a service of duty or traveling from such a fire
31 department after duties have been completed or traveling from the scene of a fire,
32 emergency, or other location where duties were being performed and have been
33 completed shall not be considered in the line of duty.

34 ~~(6)~~(7) 'Law enforcement officer' means any agent or officer of this state, or a political
35 subdivision or municipality thereof, who, as a full-time or part-time employee, is vested
36 either expressly by law or by virtue of public employment or service with authority to
37 enforce the criminal or traffic laws and whose duties include the preservation of public

1 order, the protection of life and property, or the prevention, detection, or investigation of
 2 crime. Such term also includes ~~prison guards as defined under Code Section 45-9-81 and~~
 3 the employees designated by the commissioner of juvenile justice of the Department of
 4 Juvenile Justice pursuant to paragraph (2) of subsection (i) of Code Section 49-4A-8,
 5 which employees have the duty to investigate and apprehend delinquent and unruly
 6 children who have escaped from a facility under the jurisdiction of the Department of
 7 Juvenile Justice or who have broken the conditions of supervision. Such term also
 8 includes members of the Georgia National Guard, the composition of which is set forth
 9 in Code Section 38-2-3, who have been called into active state service by the Governor.
 10 (8) 'Volunteer firefighter' means a person who is appointed and regularly enrolled as a
 11 volunteer with a legally organized fire department; who, as a volunteer firefighter, has
 12 and primarily performs the principal responsibility of preventing or suppressing fires; and
 13 who satisfies the requirements specified in subparagraph (a)(1)(D) of Code Section
 14 25-3-23.

15 ~~45-9-103.~~ 45-9-102.

16 (a) Any law enforcement officer who becomes physically disabled, but not permanently
 17 disabled, on or subsequent to July 1, 2001, as a result of a physical injury incurred in the
 18 line of duty and caused by a willful act of violence committed by a person other than a
 19 fellow employee shall be entitled to receive compensation as provided in this Code section.
 20 Any firefighter who becomes physically disabled, but not permanently disabled, on or
 21 subsequent to July 1, 2001, as a result of a physical injury incurred in the line of duty while
 22 fighting a fire shall be entitled to receive compensation as provided in this Code section.
 23 The compensation shall be paid to eligible applicants by the commission from funds
 24 appropriated to the commission for such purpose.

25 (b) Except as otherwise provided in this part, any law enforcement officer or firefighter
 26 injured in the line of duty as provided in subsection (a) of this Code section shall receive
 27 monthly compensation from the ~~commission~~ department in an amount equal to such
 28 person's regular compensation for the period of time that the law enforcement officer or
 29 firefighter is physically unable to perform the duties of his or her employment; provided,
 30 however, that such benefits provided pursuant to this Code section for injuries resulting
 31 from a single incident shall not be granted for more than a total of 12 months. For purposes
 32 of this subsection, the regular compensation of a volunteer firefighter covered under
 33 subparagraph (2)(B) of Code Section ~~45-9-102~~ 45-9-101 shall be deemed to be the Georgia
 34 average weekly earnings of production workers in manufacturing industries for the
 35 immediately preceding calendar year as published by the Georgia Department of Labor.
 36 A law enforcement officer or firefighter shall be required to submit to the ~~commission~~

1 department satisfactory evidence of such disability. A volunteer firefighter shall not be
2 considered disabled once he or she is able to perform the duties of his or her regular
3 employment or equivalent thereof.

4 (c) Benefits made available under this Code section shall be subordinate to any workers'
5 compensation benefits, disability and other compensation benefits from the person's
6 employer which the law enforcement officer or firefighter is awarded and shall be limited
7 to the difference between the amount of workers' compensation benefits and other
8 compensation benefits actually paid and the amount of the law enforcement officer's or
9 firefighter's regular compensation; provided, however, that benefits shall never exceed the
10 person's regular compensation minus the maximum weekly workers' compensation benefit
11 level for that person whether or not workers' compensation is available. For the purposes
12 of this subsection, the regular compensation of a firefighter covered under subparagraph
13 (2)(B) of Code Section 45-9-102 shall be deemed to be the Georgia average weekly
14 earnings of production workers in manufacturing industries for the immediately preceding
15 calendar year as published by the Georgia Department of Labor.

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

18 (e) A law enforcement officer or 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 firefighter who initially receives benefits under this
22 Code section but who is determined subsequently to be entitled to benefits under Part 1 of
23 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 under Part 1 reduced
26 by the total amount of benefits received under this Code section.

27 (f) After the department, or the commission upon review of a denial by the department,
28 determines that a law enforcement officer has been temporarily disabled due to a willful
29 act of violence or that a firefighter has been temporarily disabled while fighting a fire and
30 is entitled to indemnification under this part, the department shall be authorized to make
31 the appropriate payments to the temporarily disabled law enforcement officer or firefighter.

32 (g) If the department denies a claim, any person seeking benefits pursuant to this part may
33 appeal the department's decision to the commission. Any such appeal shall be filed with
34 the commission within 60 days of receipt of the department's decision and shall identify
35 the errors in the department's decision. Appeals shall be considered by the commission at
36 the commission's semiannual meeting as provided in Code Section 45-9-84.

1 ~~45-9-104.~~ 45-9-103.

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

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

13 ~~45-9-105.~~ 45-9-104.

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

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

21 ~~45-9-106.~~ 45-9-105.

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

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

27 **SECTION 2.**

28 This Act shall become effective on July 1, 2008, and shall apply to all incidents occurring
29 on or after that date.

30 **SECTION 3.**

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