

House Bill 815

By: Representative Sims of the 169th

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia
2 Annotated, relating to the Georgia State Indemnification Fund, so as to provide that, for
3 purposes of indemnification of injured employees, the term "in the line of duty" includes
4 commuting to or from work; to remove state highway employees from the persons entitled
5 to indemnification; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated,
9 relating to the Georgia State Indemnification Fund, is amended by revising paragraph (6) of
10 Code Section 45-9-81, relating to definitions, as follows:

11 "(6) 'In the line of duty' means:

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

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

20 (C) With respect to a law enforcement officer or firefighter, while on duty and
21 performing services for and receiving compensation from the law enforcement and fire
22 service agency which employs such officer or firefighter, while off duty when
23 responding to any situation which would save a life or preserve the peace, or while
24 preventing or attempting to prevent the commission of a crime or fire. A law
25 enforcement officer or firefighter who is performing duties for and receiving
26 compensation from a private employer at the time of such officer's or firefighter's death

27 or bodily injury causing total permanent disability or partial permanent disability shall
 28 not be considered in the line of duty if the officer or firefighter is entitled to ~~worker's~~
 29 workers' compensation benefits from the private employer or the private employer's
 30 insurer; or

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

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

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

39 SECTION 2.

40 Said part is further amended by revising paragraph (11) of Code Section 45-9-81, relating
 41 to definitions, as follows:

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

47 SECTION 3.

48 Said part is further amended by revising subsection (a) of Code Section 45-9-82, relating to
 49 the establishment of the indemnification fund, as follows:

50 "(a) There is established a program to provide for indemnification with respect to the:
 51 (1) Death of any law enforcement officer, firefighter, or prison guard who is or has been
 52 killed in the line of duty subsequent to January 1, 1973;
 53 (2) Permanent disability of any law enforcement officer, firefighter, or prison guard who
 54 is or has been permanently disabled in the line of duty subsequent to January 1, 1973;
 55 (3) Death or permanent disability of any emergency medical technician who is killed or
 56 permanently disabled or who has been killed or permanently disabled in the line of duty
 57 subsequent to January 1, 1977; and
 58 (4) Death or permanent disability of any emergency management rescue specialist who
 59 is killed or permanently disabled on or after January 1, 1991; ~~and~~
 60 ~~(5) Death or permanent disability of any state highway employee who is killed or~~
 61 ~~permanently disabled in the line of duty on or after January 1, 1990."~~

62 **SECTION 4.**

63 Said part is further amended by revising Code Section 45-9-84.2, relating to the Georgia
 64 State Indemnification Fund, authorization for appropriation of moneys to the fund, and
 65 moneys from other sources, as follows:

66 "45-9-84.2.

67 The General Assembly is authorized to appropriate funds to be placed in the Georgia State
 68 Indemnification Fund for the purpose of providing for indemnification with respect to the
 69 death or disability of any law enforcement officer, firefighter, or prison guard who is or has
 70 been killed or permanently disabled in the line of duty subsequent to January 1, 1973, the
 71 death or disability of any emergency medical technician who is killed or permanently
 72 disabled or has been killed or permanently disabled in the line of duty subsequent to
 73 January 1, 1977, and the death or disability of any emergency management rescue
 74 specialist who is killed or permanently disabled on or after January 1, 1991, ~~and the death~~
 75 ~~or disability of any state highway employee who is or has been killed or permanently~~
 76 ~~disabled in the line of duty subsequent to January 1, 1990~~, as well as defraying the
 77 expenses and costs incurred by the department and the commission in the administration
 78 of this part. In addition, the department is authorized to accept for deposit in the Georgia
 79 State Indemnification Fund any other funds from any other source. All funds appropriated
 80 to the Georgia State Indemnification Fund shall be presumptively concluded to have been
 81 committed to the purpose for which they have been appropriated and shall not lapse."

82 **SECTION 5.**

83 Said part is further amended by revising Code Section 45-9-85, relating to payment of
 84 indemnification for death or disability, procedures for making payments, and appeal, as
 85 follows:

86 "45-9-85.

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

88 (1) In the case of a partial permanent disability suffered in the line of duty by a law
 89 enforcement officer, firefighter, emergency medical technician, emergency management
 90 rescue specialist, or prison guard, the eligible disabled person may elect payment of
 91 \$35,000.00 paid in equal monthly installments for five years or a lump sum of such
 92 amount reduced to its present value upon the basis of interest calculated at the rate of 6
 93 percent per annum;

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

98 ~~(3)~~(2) In the case of a total permanent disability suffered in the line of duty by a law
 99 enforcement officer, firefighter, emergency medical technician, emergency management
 100 rescue specialist, or prison guard, the injured person may elect to receive a payment of
 101 \$75,000.00 paid in equal monthly installments for five years or a lump sum of such
 102 amount reduced to its present value upon the basis of interest calculated at the rate of 6
 103 percent per annum; or

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

108 ~~(5)~~(3) In the case of death or organic brain damage suffered in the line of duty by a law
 109 enforcement officer, firefighter, emergency medical technician, emergency management
 110 specialist, or prison guard, payment shall be made to the surviving unremarried spouse
 111 or the dependents of the spouse or deceased person as shown in his or her most recent tax
 112 return or to the legal guardian of the organically brain damaged person. The surviving
 113 unremarried spouse, dependents, or the legal guardian may elect to receive payment in
 114 a lump sum payment of \$100,000.00 paid in equal monthly installments for five years or
 115 a lump sum of such amount reduced to its present value upon the basis of interest
 116 calculated at the rate of 6 percent per annum; ~~or~~

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

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

131 (c) If the department denies a claim, any person seeking benefits pursuant to this part may
 132 appeal the department's decision to the commission. Any such appeal shall be filed with
 133 the commission within 60 days of receipt of the department's decision and shall identify

134 the errors in the department's decision. Appeals shall be considered by the commission at
135 the commission's semiannual meeting as provided in Code Section 45-9-84."

136 **SECTION 6.**

137 Said part is further amended by revising Code Section 45-9-86, relating to application for
138 indemnification, as follows:

139 "45-9-86.

140 (a) An application for indemnification with respect to a claim for total permanent disability
141 or partial permanent disability of a law enforcement officer, firefighter, prison guard,
142 emergency medical technician, or emergency management rescue specialist, ~~or state~~
143 ~~highway employee~~ shall be submitted by that person unless the person is mentally
144 incompetent, in which case the application may be made on such person's behalf by his or
145 her legal guardian.

146 (b) An application for indemnification with respect to a claim for the death of a law
147 enforcement officer, firefighter, prison guard, emergency medical technician, or emergency
148 management rescue specialist, ~~or state highway employee~~ shall be submitted by or on
149 behalf of the surviving unremarried spouse or dependents eligible under this part.

150 (c) An application for indemnification with respect to death, organic brain damage, total
151 permanent disability, or partial permanent disability must be made within 24 months after
152 the date of the incident giving rise to the death, organic brain damage, or disability."

153 **SECTION 7.**

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