

House Bill 889

By: Representatives Gravley of the 67th, Hitchens of the 161st, Powell of the 32nd, Lumsden of the 12th, and Ridley of the 6th

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 revise when
3 indemnification shall be paid in instances of a heart attack, stroke, or vascular rupture
4 suffered by a law enforcement officer, firefighter, emergency medical technician, emergency
5 management rescue specialist, state highway employee, or prison guard resulting in certain
6 disabilities or death; to provide for definitions; to provide for related matters; to repeal
7 conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated,
11 relating to the Georgia State Indemnification Fund, is amended by revising Code Section
12 45-9-85, relating to payment of indemnification for death or disability, procedure for making
13 payments, and appeal, as follows:

14 "45-9-85.

15 (a) As used in this Code section, the term:

16 (1) 'Nonroutine stressful or strenuous physical activity' means actions that are not
17 clerical, administrative, or nonmanual in nature.

18 (2) 'Public safety officer' means a law enforcement officer, firefighter, emergency
19 medical technician, emergency management specialist, state highway employee, or prison
20 guard.

21 (3) 'Work-related activity' means, while in the line of duty:

22 (A) Engaging in a situation involving nonroutine stressful or strenuous physical
23 activity related to law enforcement, fire suppression, rescue, hazardous material
24 response, emergency medical services, prison or jail security, disaster relief, or any
25 other emergency response as classified by the commission; or

26 (B) Participating in a training exercise involving nonroutine stressful or strenuous
 27 physical activity.

28 (b) Indemnification shall be paid under this article as follows:

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

35 (2) In the case of a total permanent disability suffered in the line of duty by a ~~law~~
 36 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
 37 ~~rescue specialist, state highway employee, or prison guard~~ public safety officer, the
 38 injured person may elect to receive a payment of \$75,000.00 paid in equal monthly
 39 installments for five years or a lump sum of such amount reduced to its present value
 40 upon the basis of interest calculated at the rate of 6 percent per annum; or

41 (3) In the case of death or organic brain damage suffered in the line of duty by a ~~law~~
 42 ~~enforcement officer, firefighter, emergency medical technician, emergency management~~
 43 ~~specialist, state highway employee, or prison guard~~ public safety officer, payment shall
 44 be made to the surviving unremarried spouse or the dependents of the spouse or deceased
 45 person as shown in his or her most recent tax return or to the legal guardian of the
 46 organically brain damaged person. The surviving unremarried spouse, dependents, or the
 47 legal guardian may elect to receive payment in a lump sum payment of \$150,000.00 paid
 48 in equal monthly installments for five years or a lump sum of such amount reduced to its
 49 present value upon the basis of interest calculated at the rate of 6 percent per annum.

50 (4) A heart attack, stroke, or vascular rupture suffered by a public safety officer shall be
 51 presumed to qualify such public safety officer under subsection (b) of this Code section
 52 if the heart attack, stroke, or vascular rupture:

53 (A) Commenced:

54 (i) While such public safety officer was performing work-related activity;

55 (ii) While such public safety officer was on duty after performing work-related
 56 activity; or

57 (iii) Not later than 24 hours after performing work-related activity; and

58 (B) Directly or proximately resulted in the death or partial or permanent disability of
 59 the public safety officer, unless competent medical evidence established that the heart
 60 attack, stroke, or vascular rupture was not related to the work-related activity or was
 61 directly or proximately caused by something other than the mere presence of
 62 cardiovascular disease risk factors.

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

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

74 **SECTION 2.**

75 Said part is further amended by revising Code Section 45-9-88, relating to indemnification
 76 not to be awarded when penal violation, suicide, intentionally self-inflicted injuries, natural
 77 causes, or performance of certain routine duties caused or contributed to death or disability,
 78 as follows:

79 "45-9-88.

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

83 (b) Notwithstanding any other provision of this article, no payment shall be authorized if
 84 death, organic brain damage, total permanent disability, or partial permanent disability
 85 occurs from suicide, intentionally self-inflicted injuries, natural causes, or the performance
 86 of routine duties which would not be considered strenuous or dangerous by a reasonable
 87 person, except as provided for in subsection (b) of Code Section 45-9-85; ~~provided,~~
 88 ~~however, that this subsection shall not preclude the department or the commission from~~
 89 ~~considering competent, independent medical evidence as to whether a heart attack that~~
 90 ~~occurs shortly after fighting a fire was caused by the strain of fighting the fire."~~

91 **SECTION 3.**

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