

1 HB255  
2 148295-1  
3 By Representatives Barton, Sessions and Fincher  
4 RFD: Ways and Means General Fund  
5 First Read: 12-FEB-13

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8 SYNOPSIS: Under existing law, there are specific  
9 compensation provisions for the death or disability  
10 due to occupational disease of a firefighter  
11 employed by a city. However, there are no specific  
12 compensation provisions for state firefighters.  
13 Also, the term "firefighter's occupational disease"  
14 does not include cerebral vascular accident or  
15 stroke.

16 This bill would include a cerebral vascular  
17 accident or stroke in the definition of a municipal  
18 firefighter's occupational disease.

19 This bill also would provide death or  
20 disability benefits due to occupational disease as  
21 defined for a firefighter employed by the state.  
22 The bill would also specify that, if a firefighter  
23 suffers from heart disease, hypertension,  
24 respiratory disease, cerebral vascular accident or  
25 stroke, cancer, HIV, or hepatitis, the state must  
26 prove by a preponderance of the evidence that the  
27 condition was caused by some means other than the

1 occupation to disqualify the firefighter from  
2 benefits.

3  
4 A BILL  
5 TO BE ENTITLED  
6 AN ACT

7  
8 To amend Section 11-43-144, Code of Alabama 1975, to  
9 include a cerebral vascular accident or stroke in the  
10 definition of a municipal firefighter's occupational disease;  
11 to provide death and disability benefits due to certain  
12 occupational diseases for firefighters employed by the state;  
13 to further define firefighter's occupational disease; and to  
14 provide that the state must prove by a preponderance of the  
15 evidence that the condition was caused by some means other  
16 than the occupation to disqualify the firefighter from  
17 benefits.

18 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

19 Section 1. Section 11-43-144, Code of Alabama 1975,  
20 is amended to read as follows:

21 "§11-43-144.

22 "(a) As used in this section the following words and  
23 terms shall have the meanings ascribed to them herein unless a  
24 contrary meaning is indicated by the context:

25 "(1) CITY. Any municipality of the state, regardless  
26 of its population.

1           "(2) FIREFIGHTER. A person employed as a firefighter  
2 by a city.

3           "(3) FIREFIGHTER'S OCCUPATIONAL DISEASE. Any  
4 condition or impairment of health caused by any of the  
5 following:

6           "a. Hypertension.

7           "b. Heart disease.

8           "c. Respiratory disease.

9           "d. A cerebral vascular accident or stroke.

10          "~~d.~~ e. Cancer which manifests itself in a  
11 firefighter during the period in which the firefighter is in  
12 the service of the city, provided the firefighter demonstrates  
13 that he or she was exposed, while in the employ of the city,  
14 to a known carcinogen which is reasonably linked to the  
15 disabling cancer, and the cancer shall be presumed to arise  
16 out of and in the course of the firefighter's employment  
17 unless the city demonstrates by a preponderance of the  
18 evidence that the cancer was caused by some other means.

19          "~~e.~~ f. AIDS which manifests itself in a firefighter  
20 during the period in which the firefighter is in the service  
21 of the city, provided the firefighter demonstrates that he or  
22 she was exposed to AIDS while in the line and scope of his or  
23 her employment with the city.

24          "~~f.~~ g. Hepatitis which manifests itself in a  
25 firefighter during the period in which the firefighter is in  
26 the service of the city, provided the firefighter demonstrates

1 that he or she was exposed to hepatitis while in the line and  
2 scope of his or her employment with the city.

3 "(4) DISABILITY. Disability to perform duties as a  
4 firefighter.

5 "(5) BENEFIT. Any monetary allowance, including  
6 injured with pay benefits, payable by a city or from a pension  
7 system established for the firemen of a city to a firefighter  
8 on account of his or her disability or to his or her  
9 dependents on account of his or her death, irrespective of  
10 whether the same is payable under a pension law of the state  
11 or under some other law of the state.

12 "(b) This section shall apply to firefighters who,  
13 upon entering the service of the city as firefighters, have  
14 successfully passed a physical examination which failed to  
15 reveal any evidence of a firefighter's occupational disease  
16 and who have completed at least three years' service as  
17 firefighters.

18 "If a physical examination was not required at the  
19 time of entry into service, a firefighter who has completed at  
20 least three years' continuous service as a firefighter next  
21 preceding September 8, 1967, shall be deemed eligible for  
22 benefits under this section.

23 "(c) If a firefighter who qualifies for benefits  
24 under this section suffers disability as a result of a  
25 firefighter's occupational disease his or her disability shall  
26 be compensable the same as any service-connected disability,  
27 including injured with pay benefits, under any law which

1 provides benefits for firefighters of the city injured in the  
2 line of duty. If a firefighter who qualifies for benefits  
3 under this section dies as the result of a firefighter's  
4 occupational disease, his or her death shall be compensable to  
5 the same extent as the death of a firefighter killed in the  
6 line of duty, and shall be considered to have been killed in  
7 the line of duty for purposes of Sections 36-30-1 to 36-30-7,  
8 inclusive.

9 "(d) In the case of cancer, heart disease,  
10 hypertension, a cerebral vascular accident or stroke, and  
11 respiratory disease, the municipality must prove by a  
12 preponderance of the evidence that the condition was caused by  
13 some means other than the occupation to disqualify the  
14 firefighter from benefits."

15 Section 2. (a) As used in this section, the  
16 following terms shall have the following meanings:

17 (1) BENEFIT. Any monetary allowance, including  
18 injured with pay benefits, payable by the state and  
19 municipality for a firefighter on account of his or her  
20 disability or to his or her dependents on account of his or  
21 her death, irrespective of whether the same is payable under a  
22 pension law of the state or under some other law of the state.

23 (2) DISABILITY. Disability to perform duties as a  
24 firefighter.

25 (3) FIREFIGHTER. A person employed as a firefighter  
26 by the state or a municipality.

1 (4) FIREFIGHTER'S OCCUPATIONAL DISEASE. Any  
2 condition or impairment of health caused by any of the  
3 following:

4 a. Hypertension.

5 b. Heart disease.

6 c. Respiratory disease.

7 d. A cerebral vascular accident or stroke.

8 e. Cancer which manifests itself in a firefighter  
9 during the period in which the firefighter is in the service  
10 of the state, provided the firefighter demonstrates that he or  
11 she, while in the employ of the state, was exposed to a known  
12 carcinogen which is reasonably linked to the disabling cancer,  
13 and the cancer shall be presumed to arise out of and in the  
14 course of the firefighter's employment unless the state  
15 demonstrates by a preponderance of the evidence that the  
16 cancer was caused by some other means.

17 f. HIV which manifests itself in a firefighter  
18 during the period in which the firefighter is in the service  
19 of the state, provided the firefighter demonstrates by  
20 sufficient evidence that he or she was exposed to HIV while in  
21 the line and scope of his or her employment with the state.

22 g. Hepatitis which manifests itself in a firefighter  
23 during the period in which the firefighter is in the service  
24 of the state, provided the firefighter demonstrates that he or  
25 she was exposed to hepatitis while in the line and scope of  
26 his or her employment with the state.

1           (b) This section shall apply to firefighters who,  
2 upon entering the service of the state as firefighters, have  
3 successfully passed a physical examination which failed to  
4 reveal any evidence of a firefighter's occupational disease  
5 and who have completed at least three years' service as  
6 firefighters. If a physical examination was not required at  
7 the time of entry into service, a firefighter who completes an  
8 exam by January 1, 2013, shall be deemed eligible for benefits  
9 under this section.

10           (c) If a firefighter who qualifies for benefits  
11 under Chapter 29A of Title 36, Code of Alabama 1975, or any  
12 other law, including injured with pay benefits, suffers  
13 disability as a result of a firefighter's occupational  
14 disease, his or her disability shall be compensable the same  
15 as any service-connected disability under any law which  
16 provides benefits for firefighters of the state or a  
17 municipality injured in the line of duty. If a firefighter who  
18 qualifies for benefits under this section dies as the result  
19 of a firefighter's occupational disease, his or her death  
20 shall be compensable to the same extent as the death of a  
21 firefighter killed in the line of duty, and shall be  
22 considered to have been killed in the line of duty for  
23 purposes of Sections 36-30-1 to 36-30-7, inclusive, Code of  
24 Alabama 1975.

25           (d) In the case of an occupational disease as  
26 defined in this act, the state or municipality must prove by a  
27 preponderance of the evidence that the condition was caused by



1       some means other than the occupation to disqualify the  
2       firefighter from benefits.

3               Section 3. This act shall become effective on the  
4       first day of the third month following its passage and  
5       approval by the Governor, or its otherwise becoming law, and  
6       shall be retroactive to September 10, 2011.