

2017 Regular Session

SENATE BILL NO. 222

BY SENATOR ERDEY

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PUBLIC EMPLOYEES. Provides benefits for firemen and law enforcement officers with permanent and total disability resulting from a catastrophic injury sustained in the line of duty. (gov sig)

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AN ACT

To amend and reenact R.S. 39:1533(A) and to enact Chapter 7-C of Title 40 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 40:1668, relative to disability benefits for certain public employees; to provide benefits for firemen and law enforcement officers who are permanently and totally disabled as a result of a catastrophic injury sustained in the line of duty; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 39:1533(A) is hereby amended and reenacted to read as follows:

§1533. Self-Insurance Fund

A. There is hereby created in the Department of the Treasury a special fund to be known as the "Self-Insurance Fund". The fund shall consist of all premiums paid by state agencies under the state's risk management program as established by this Chapter, the investment income earned from such premiums and commissions retained in accordance with the provisions of this Title. This fund shall be used only for the payment of losses incurred by state agencies under the self-insurance program, premiums for insurance obtained through commercial carriers, administrative expenses associated with the management of the state's risk, law

1 enforcement officers and firemen's survivors benefits as provided for in R.S.
2 40:1665(C) and 1665.2(C), **law enforcement officer's and firemen's disability**
3 **benefits as provided for in R.S. 40:1668**, the payment of losses incurred by the
4 Jefferson Parish Human Services Authority in accordance with R.S. 28:831(J), the
5 payment of losses incurred by the Capital Area Human Services District in
6 accordance with R.S. 28:906, the payment of losses incurred by the Florida Parishes
7 Human Services Authority in accordance with R.S. 28:856, the payment of losses
8 incurred by the Metropolitan Human Services District in accordance with R.S.
9 28:866, the payment of losses incurred by the Northeast Delta Human Services
10 Authority in accordance with R.S. 28:896, the payment of losses incurred by the
11 South Central Louisiana Human Services Authority in accordance with R.S. 28:876,
12 and the funding of the legal services, such funds to be administered by the
13 commissioner of administration.

14 * * *

15 Section 2. Chapter 7-C of Title 40 of the Louisiana Revised Statutes of 1950,
16 comprised of R.S. 40:1668, is hereby enacted to read as follows:

17 **CHAPTER 7-C. FIREMEN AND LAW ENFORCEMENT OFFICERS**

18 **- DISABILITY BENEFITS**

19 **§1668. Benefits for disabled firemen and law enforcement officers in certain**
20 **cases**

21 **A. It is hereby declared to be the public policy of this state, under its**
22 **police power, to provide for certain benefits to firemen and law enforcement**
23 **officers determined to be permanently and totally disabled as the direct and**
24 **proximate result of a catastrophic injury arising out of and in the course of the**
25 **performance of their official duties.**

26 **B. As used in this Section, the following words have the following**
27 **meanings:**

28 **(1) "Board" means the Law Enforcement Officers and Firemen's**
29 **Survivor Benefit Review Board created and provided for in R.S. 40:1665.3.**

1 **(2) "Catastrophic injury" means an injury caused by an individual**
2 **having the specific intent to kill an officer who is engaged in the performance**
3 **of his official duties, the direct and proximate consequences of which**
4 **permanently prevent the officer from performing any gainful work.**

5 **(3) "Officer" includes firemen as defined in R.S. 40:1665 and law**
6 **enforcement officers as defined in R.S. 40:1665.2.**

7 **C.(1) In any case in which an officer is determined to be permanently**
8 **and totally disabled as the direct and proximate result of a catastrophic injury**
9 **arising out of and in the course of the performance of the officer's official**
10 **duties, premiums due from the officer for the amount and type of life, health,**
11 **accident, accidental death and dismemberment, hospital, surgical and medical**
12 **expense insurance maintained by the officer through the officer's employer at**
13 **the time of the catastrophic injury shall be paid by the state risk manager out**
14 **of the Self-Insurance Fund, from the date of the catastrophic injury until the**
15 **officer's death.**

16 **(2) The premiums paid pursuant to this Section shall be in addition to**
17 **any other benefit or income available and paid to the injured officer for the**
18 **disability due to the catastrophic injury.**

19 **D.(1) In order to facilitate the operation of this Section, within one year**
20 **after the employing authority has knowledge of the permanent and total**
21 **disability of an officer under circumstances covered by this Section, the**
22 **employing authority or officer shall notify the Law Enforcement Officers and**
23 **Firemen's Survivor Benefit Review Board of the disability, the date of the**
24 **catastrophic injury for which the disability is a result, the circumstances**
25 **surrounding the injury, and such other information as may be requested by the**
26 **board.**

27 **(2) The officer seeking the benefits provided in this Section may notify**
28 **the board providing the information listed in Paragraph (1) of this Subsection.**

29 **(3) Nothing in this Section shall prevent the board from initiating**

1 proceedings before being notified by the employing authority or officer.

2 E.(1) The board shall hear and decide by unanimous vote all claims for
3 disability benefits within sixty days after documentation is received. The board
4 may request any information necessary to make a determination of eligibility
5 for disability benefits.

6 (2) Within ten days after the board has reached its decision, it shall
7 notify the officer of its decision by certified mail. If the board denies the claim,
8 the officer shall have one year from the date of denial to file suit against the
9 state through the board in the parish where the incident that brought about the
10 permanent and total disability occurred. The date of denial shall be calculated
11 as one year from date of receipt of the decision from the board.

12 F. If the board determines the officer qualifies for the benefit herein, the
13 board shall notify the state risk manager.

14 G.(1) No benefit is payable under this Section with respect to the
15 disability of an officer if a benefit is payable under R.S. 40:1665, 1665.1, or
16 1665.2 with respect to the death of the officer.

17 (2) No benefit is payable under R.S. 40:1665, 1665.1, or 1665.2 with
18 respect to the death of an officer if a benefit is payable under this Section with
19 respect to the disability of the officer.

20 H. No benefit shall be payable pursuant to this Section if any of the
21 following applies:

22 (1) The catastrophic injury was caused by the intentional misconduct of
23 the officer or by the officer's intention to bring about his death, disability, or
24 injury.

25 (2) The officer was voluntarily intoxicated at the time of his catastrophic
26 injury.

27 (3) The officer was performing his duties in a grossly negligent manner
28 at the time of his catastrophic injury.

29 Section 2. This Act shall become effective upon signature by the governor or, if not

1 signed by the governor, upon expiration of the time for bills to become law without signature
 2 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 3 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 4 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SB 222 Original 2017 Regular Session Erdey

Proposed law declares that the public policy of this state, under its police power, is to provide for certain benefits to firemen and law enforcement officers determined to be permanently and totally disabled as the direct and proximate result of a catastrophic injury arising out of and in the course of the performance of their official duties.

Contains the following definitions:

- (1) "Board" means the Law Enforcement Officers and Firemen's Survivor Benefit Review Board created and provided for in R.S. 40:1665.3.
- (2) "Catastrophic injury" means an injury caused by an individual having the specific intent to kill an officer who is engaged in the performance of his official duties, the direct and proximate consequences of which permanently prevent the officer from performing any gainful work.
- (3) "Officer" includes "firemen" as defined in R.S. 40:1665 and "law enforcement officers" as defined in R.S. 40:1665.2.

Provides that in any case in which an officer is determined to be permanently and totally disabled as the direct and proximate result of a catastrophic injury arising out of and in the course of the performance of the officer's official duties, premiums due from the officer for the amount and type of life, health, accident, accidental death and dismemberment, hospital, surgical and medical expense insurance maintained by the officer through the officer's employer at the time of the catastrophic injury shall be paid by the state risk manager out of the Self-Insurance Fund, from the date of the catastrophic injury until the officer's death and that the premiums paid are in addition to any other benefit or income due to the injured officer.

Provides that within one year after the employing authority has knowledge of the permanent and total disability of an officer under circumstances covered by proposed law, the employing authority of the office shall notify the Law Enforcement Officers and Firemen's Survivor Benefit Review Board of the disability, the date of the catastrophic injury for which the disability is a result, the circumstances surrounding the injury, and such other information as may be requested by the board. Provides that the officer seeking the benefits provided in proposed law may notify the board providing the required information. Provides that nothing in proposed law shall prevent the board from initiating proceedings before being notified by the employing authority or officer.

Requires that the board hear and decide by unanimous vote all claims for disability benefits within 60 days after documentation is received. Authorizes the board to request any information necessary to make a determination of eligibility for disability benefits.

Requires that within 10 days after the board has reached its decision, it notify the officer of

its decision by certified mail. If the board denies the claim, the officer shall have one year from the date of denial to file suit against the state through the board in the parish where the incident that brought about the permanent and total disability occurred. The date of denial shall be calculated as one year from date of receipt of the decision from the board.

Provides that if the board determines the officer qualifies for the benefit herein, the board shall notify the state risk manager.

Provides that no benefit is payable under proposed law with respect to the disability of an officer if a benefit is payable under present law with respect to the death of the officer. Further, no benefit is payable under present law with respect to the death of an officer if a benefit is payable under proposed law with respect to the disability of the officer.

Provides that no benefit shall be payable under proposed law if any of the following applies:

- (1) The catastrophic injury was caused by the intentional misconduct of the officer or by the officer's intention to bring about his death, disability, or injury.
- (2) The officer was voluntarily intoxicated at the time of his catastrophic injury.
- (3) The officer was performing his duties in a grossly negligent manner at the time of his catastrophic injury.

Present law creates the Self-Insurance Fund in the state treasury consisting of all premiums paid by state agencies under the state's risk management program, the investment income earned from such premiums and commissions. Present law provides that the fund shall be used only for the payment of losses incurred by state agencies under the self-insurance program, premiums for insurance obtained through commercial carriers, administrative expenses associated with the management of the state's risk, law enforcement officers and firemen's survivors benefits, the payment of losses incurred by the Jefferson Parish Human Services Authority, the Capital Area Human Services District, the Florida Parishes Human Services Authority, the Metropolitan Human Services District, the Northeast Delta Human Services Authority, and the South Central Louisiana Human Services Authority, and the funding of the legal services, such funds to be administered by the commissioner of administration.

Proposed law adds that the fund shall also be used to pay law enforcement officers' and firemen's disability benefits as provided for in proposed law. Otherwise retains present law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 39:1533(A); adds R.S. 40:1668)