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The original instrument was prepared by Jerry J. Guillot. The following digest, which does not constitute a part of the legislative instrument, was prepared by Benjamin A. Huxen, II.

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SB 222 Reengrossed

DIGEST  
2017 Regular Session

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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 who suffer a catastrophic injury caused by an individual having the specific intent to kill the officer and occur while the officer is engaged in the performance of his official duties. To qualify for the benefit, the individual's act must be the direct and proximate cause of the officer's catastrophic injury incurred on or after July 1, 2016, and the injury must render the officer, as provided by clear and convincing evidence unaided by any presumption of disability, permanently and totally disabled.

Proposed law provides the following definitions:

- (1) "Board" means the Law Enforcement Officers and Firemen's Survivor Benefit Review Board created in present law.
- (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 present law and "law enforcement officers" includes all sheriffs and deputy sheriffs in the state employed on a full-time basis, all members of the state police employed on a full-time basis, all municipal police officers in the state employed on a full-time basis, and all university and college police officers at state universities and colleges employed on a full-time basis.

Proposed law provides that in any case in which an officer is determined by the board or a court of competent jurisdiction pursuant to proposed law 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, the following shall be paid by the state risk manager out of the Self-Insurance Fund on behalf of the officer, from the date of the catastrophic injury as long as the officer is permanently and totally disabled:

- (1) Premiums due from the officer for the amount and type of life, health, accident, accidental death and dismemberment, hospital, surgical, and medical expense insurance covering the officer and maintained by the officer through the officer's employer at the time of the catastrophic injury.
- (2) Copayment and deductibles applicable to any insurance policy for which premiums are paid

pursuant to proposed law for healthcare benefits received by officer.

Proposed law defines "permanently and totally disabled" as "unable to engage in any employment or self-employment on a full-time basis, regardless of the nature or character of the employment or self-employment."

Proposed law 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.

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

Proposed law 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.

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

Proposed law 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.

Proposed law 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.
- (4) In the event that the officer qualifies for federal or state life, health, accident, accidental death

and dismemberment, hospital, surgical, or medical expense programs.

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 and 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 survivor and disability benefits as provided for in proposed law as a result of a specific appropriation received by the fund for that purpose. Otherwise retains present law.

Proposed law allows the Law Enforcement Officers and Firemen's Survivor Benefit Review Board to adopt rules and regulations to implement the proposed law's provisions.

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

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

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Judiciary B to the original bill

1. Adds payments for insurance copayments and deductibles to disability benefits.
2. Limits both survivors and disability benefits for firemen and law enforcement officers from the Self-Insurance Fund to specific appropriations received by the Fund for that purpose.

##### Committee Amendments Proposed by Senate Committee on Finance to the engrossed bill

1. Limits application to an injury incurred on or after July 1, 2016.
2. Provides that the "catastrophic injury" must be provided by clear and convincing evidence unaided by any presumption of disability, leaves the officer permanently and totally disabled.

3. Defines "law enforcement officer" and "permanently and totally disabled."
4. Changes the duration of payments from the Self-Insurance Fund from until the officer's death to as long as the officer is permanently and totally disabled.
5. Limits the payments for premiums to those covering only the officer.
6. Provides that no benefit shall be payable in the event that the officer qualifies for federal or state life, health, accident, accidental death and dismemberment, hospital, surgical, or medical expense programs.
7. Allows the Law Enforcement Officers and Firemen's Survivor Benefit Review Board to adopt rules and regulations to implement the provisions of the bill.