

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 729 by Representative Billiot

FIRE PROTECT/FIREMEN: Provides workers' compensation coverage for volunteer firefighters

Synopsis of Senate Amendments

- 1. Makes technical amendment.
- 2. Extends the sunset provision of the Second Injury Fund from 2009 to 2011.

Digest of Bill as Finally Passed by Senate

Present law (R.S. 22:347(A)(1)) provides that monies collected, after being first credited to the Bond Security and Redemption Fund, shall be credited to a special fund known as the "Two Percent Fire Insurance Fund" and shall be appropriated annually by the legislature for the state fire marshal to purchase group insurance for volunteer firefighters.

Proposed law retains present law and requires the availability of monies in the fund for the purposes of purchasing workers' compensation insurance for volunteer firefighters.

Present law (R.S. 23:1036(A)) provides for workers' compensation benefits for volunteer firemen.

Present law provides that if a fire company decides to provide such coverage, workers' compensation benefits shall constitute the exclusive remedy of the volunteer member against the fire company.

Proposed law requires the state fire marshal to obtain workers' compensation coverage for volunteer members of fire companies.

Present law (R.S. 23:1036(C)(1)) provides that a fire company which is not a political subdivision or which is separate from any political subdivision may elect to obtain workers' compensation insurance coverage for its volunteer members who participate in the normal functions of the organization.

Proposed law requires the workers' compensation coverage and allows the state fire marshal to provide coverage for a single fire company or multiple fire companies.

Present law (R.S. 23:1036(C)(3)) provides that the volunteer who is entitled to temporary total disability benefits (TTD) or permanent total disability (PTD) benefits shall be paid the minimum weekly benefit amount which is 20% of the average weekly wage paid in all employment subject to the La. Employment Security Law.

Proposed law (R.S. 23:1036(C)(3)) changes present law and provides that any member who is not carried on the membership list of the organization as of the date of the member's injury shall not be entitled to benefits.

Proposed law (R.S. 23:1036(C)(4)) provides that the fire chief shall by written affidavit attest to the fact that the injury to the volunteer member occurred while the volunteer member was in the line of duty.

Present law provides for definitions of terms.

Present law (R.S. 23:1036(E)) provides that benefits shall be payable as follows:

- (1) No compensation shall be paid for the first week after the injury is received, but if the injury continues for six weeks or longer after the date of the accident, the first week shall be compensated.
- (2) The first installment for TTD, PTD, or death to be due on the 14th day after the notice of the injury or death.
- (3) The first installment for supplemental earnings benefits (SEB) shall become due the 14th day after notice of the claim.
- (4) The first installment for permanent partial disability benefits (PPD) shall become due on the 30th day after receiving the medical report giving notice of the injury.
- (5) The volunteer's right to PTD is limited to 520 weeks and provides for credit for benefits received for TTD, SEB, and PPD.
- (6) The volunteer's right to TTD is limited to the point in which the condition resolves itself so the degree of disability may be assessed or six months, whichever occurs first.

Proposed law repeals present law and provides that medical benefits shall be paid within 60 days of written notice.

Present law (R.S. 23:1036(F)) provides that the amount of SEB and PPD benefits shall be computed as though the volunteer's wage was the federal minimum wage times the hours actually spent participating in the normal functions of the organization.

Proposed law repeals present law.

Present law (R.S. 23:1036(G)) limits the volunteer's right to SEB to 260 weeks. Provides that it shall terminate: (1) at the end of a one-year period following TTD termination, unless SEB were payable for 13 consecutive weeks; (2) after 260 weeks with a credit for each week in which any type of indemnity benefits were paid; or (3) when the volunteer retires or begins to receive social security, whichever comes first; however, SEB shall be payable for at least 52 weeks.

Proposed law repeals present law.

Present law (R.S. 23:1036(H)) provides that for death within two years after the last treatment resulting from the accident, the volunteer's legal dependents shall be paid as provided in present law if: (1) the person claiming to be a legal dependent can demonstrate actual dependence for support on the volunteer member's earning from his other employment at the time of the accident and death; (2) only in proportion that the volunteer member's contribution to the person's support in the year prior to his death bears to the volunteer member's earnings at the time of death; and (3) volunteer member's wage shall be considered to be the federal minimum wage at the hours actually spent participating in the normal functions of the organization.

Proposed law repeals present law and provides for the payment of reasonable burial expenses, not to exceed \$7,500 for injury causing death within two years after the last treatment resulting from the accident.

Present law (R.S. 23:1036(J)) allows offset available under present law and for disability payment to the volunteer member to the extent such disability payments are funded by the fire company or member's other employment.

Proposed law repeals present law.

Proposed law (R.S. 23:1036(L)) requires that a fire company provide upon request and

within a reasonable time period documents, materials, or other information to the state fire marshal in order to effectuate the provisions of proposed law.

In order to implement the provisions of R.S. 23:1036, each fire department to which funds are allocated and paid pursuant to R.S. 22:347(B) shall pay to the state fire marshal from funds so paid to the fire department for the 2008-2009 Fiscal Year, an amount as requested by the state fire marshal, not to exceed 3% of the funds so paid to the fire department.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, the employer operating under the provisions of present law who knowingly employs or knowingly retains in his employment an employee who has a permanent partial disability, as defined in present law, shall be reimbursed from the Second Injury Fund for all weekly compensation payments payable after the first 104 weeks of payments provided they are submitted to the board within one year of approval for reimbursement or within one year of the payment of such weekly compensation payments, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law also provides that for injuries occurring between July 1, 2004, and July 1, 2009, an employer who retains in his employment an employee who has a permanent partial disability shall be reimbursed from the Second Injury Fund for all weekly compensation payments payable after the first 130 weeks of payment provided they are submitted to the board within one year of approval for reimbursement or within one year of the payment of such weekly compensation payments, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, an employer operating under the provisions of present law who knowingly employs or knowingly retains in his employment an employee who has a permanent partial disability, as defined in present law, shall be reimbursed from the Second Injury Fund for all death benefit payments payable after the first 175 weeks of payments, provided that death benefits are actually paid by the employer or his insurer under the provisions of present law, and provided that the deceased employee of the employer died as a result of a combination of a preexisting permanent partial disability and a subsequent compensable injury or the employee's death would not have occurred but for the preexisting permanent partial disability. Payments shall be reimbursed provided they are submitted to the board within one year of the approval for reimbursement or within one year of the payment of such death benefits, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law also provides that for injuries occurring between July 1, 2004, and July 1, 2009, in the event an employer becomes liable for the payment of death benefits, he shall be entitled to reimbursement for all death benefit payments payable after the first 130 weeks, provided that the payments are actually paid by the employer or his insurer and that the deceased employee died as a result of a combination of a preexisting permanent partial disability and a subsequent compensable injury or that the employee's death would not have occurred but for the preexisting permanent partial disability. Payments must be submitted to the board for reimbursement within one year of approval for reimbursement or within one year of the payment of such death benefits, whichever occurs later.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1,

2009, an employer operating under the provisions of present law who knowingly employs or knowingly retains in his employment an employee who has a permanent partial disability, as defined in present law, shall be reimbursed from the Second Injury Fund for all medical expenses actually paid and payable in accordance with present law.

Proposed law retains present law but changes time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring before July 1, 2004, and on or after July 1, 2009, upon the board's approval of a claim for reimbursement, the insurer shall immediately certify to the board that the medical reserve has been reduced to no more than \$7,500, and the weekly disability benefits (indemnity) reserve does not exceed 104 weeks of indemnity. In the event of a death claim, the weekly benefits reserve will be no more than 175 weeks.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

Present law provides that for injuries occurring between July 1, 2004, and July 1, 2009, upon the board's approval for a claim for reimbursement, the insurer must immediately certify to the board that the medical reserve has been reduced to no more than \$25,000 and the weekly disability benefits reserve does not exceed 130 weeks of indemnity. For death claims, the weekly benefits reserve will be no more than 130 weeks. LIGA shall be entitled to reimbursement, but only to the extent of the proportion of the Second Injury Fund assessment paid by insurance companies.

Proposed law retains present law but changes the time period from July 1, 2009, to July 1, 2011.

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

(Amends R.S. 22:347(A)(1) and R.S. 23:1036(A), (C)(1) and (3), (E), and (H), R.S. 23:1378(A)(1), (2), (3)(a)(intro. para.) and (b)(intro. para.) and (7); Adds R.S. 23:1036(C)(4) and (L); Repeals R.S. 23:1036(D)(3), (F), (G), and (J))

House Floor Amendments to the engrossed bill.

1. Adds a provision allowing the state fire marshal to be paid up to 3% by each fire department from their funds for the 2008-09 Fiscal Year for the implementation of the volunteer workers' compensation coverage.