

Regular Session, 2009

# ACT No. 304

HOUSE BILL NO. 729

BY REPRESENTATIVES BILLIOT, ARNOLD, AUBERT, BOBBY BADON, BALDONE, BARRAS, HENRY BURNS, TIM BURNS, CHAMPAGNE, CHANDLER, CHANEY, CONNICK, DIXON, DOERGE, GISCLAIR, GUINN, HARDY, HOFFMANN, HOWARD, MICHAEL JACKSON, JOHNSON, LABRUZZO, LAMBERT, LANDRY, LEBAS, LIGI, MILLS, MONICA, NORTON, PERRY, POPE, PUGH, RICHARD, RICHMOND, RITCHIE, ROY, SCHRODER, SIMON, GARY SMITH, PATRICIA SMITH, ST. GERMAIN, TEMPLET, THIBAUT, TUCKER, WADDELL, WHITE, WILLIAMS, WILLMOTT, AND WOOTON AND SENATORS CHEEK, MURRAY, RISER, AND WALSWORTH

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

1 AN ACT

2 To amend and reenact R.S. 22:347(A)(1) and R.S. 23:1036(A), (C)(1) and (3), (E), and (H),  
3 to enact R.S. 23:1036(C)(4) and (L), and to repeal R.S. 23:1036(D)(3), (F), (G), and  
4 (J), relative to workers' compensation for firefighters; to provide for the disposition  
5 of tax money for the state fire marshal; to require workers' compensation coverage  
6 for volunteer firefighters; to provide relative to medical benefits payable; to provide  
7 for burial expenses; to require fire companies to furnish certain documents to the fire  
8 marshal; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 22:347(A)(1) is hereby amended and reenacted to read as follows:

11 §347. Disposition of tax money

12 A. Monies collected under R.S. 22:342 through 349, after being first credited  
13 to the Bond Security and Redemption Fund in accordance with Article VII, Section  
14 9(B) of the Constitution of Louisiana, shall be credited to a special fund hereby  
15 established in the state treasury and known as the "Two Percent Fire Insurance Fund"  
16 hereinafter the "fund". Monies in the fund shall be available in amounts appropriated  
17 annually by the legislature for the following purposes in the following order of  
18 priority:

(1)(a) For the state fire marshal, an amount necessary to satisfy the requirements of R.S. 40:1593, relative to the purchase of group insurance for volunteer firefighters.

(b) For the state fire marshal, an amount necessary to satisfy the requirements of R.S. 23:1036, relative to the purchase of workers' compensation insurance for volunteer firefighters.

\* \* \*

Section 2. R.S. 23:1036(A), (C)(1) and (3), (E), and (H) are hereby amended and reenacted and R.S. 23:1036(C)(4) and (L) are hereby enacted to read as follows:

### §1036. Volunteer firefighters

A. It is hereby declared by the Legislature of Louisiana that the fire prevention and suppression services provided by volunteer fire companies are vital to the protection of the safety of the citizens of the state. This Section is intended to present the state fire marshal with a means by which he ~~may elect to~~ shall provide workers' compensation coverage to volunteer members of fire companies. ~~If the state fire marshal elects to provide workers' compensation coverage to volunteer fire company members, the~~ The remedies provided herein shall constitute the exclusive remedy of the volunteer member against the fire company as provided in R.S. 23:1032.

\* \* \*

C.(1) The state fire marshal ~~may~~ shall obtain workers' compensation insurance for ~~fire companies that are not political subdivisions or that are separate from any political subdivision to provide coverage for volunteer members, as defined herein,~~ who participate in the normal functions of the fire company. Nothing shall prohibit the state fire marshal from obtaining an insurance policy to provide coverage for a single fire company or multiple fire companies.

\* \* \*

~~(3) A person who establishes entitlement to temporary total disability benefits, or establishes entitlement to permanent total disability benefits, shall be paid the minimum weekly benefit as determined under R.S. 23:1202.~~

1        ~~notwithstanding any wages earned by the volunteer member in any other~~  
2        ~~employment or any other provision of law. Any member who is not carried on the~~  
3        ~~membership list of the organization as of the date of the member's injury shall not~~  
4        ~~be entitled to the benefits of this Section.~~

5                (4) The fire chief shall by written affidavit attest to the fact that the injury  
6        to the volunteer member occurred while the volunteer member was in the line of  
7        duty.

8                                \*           \*           \*

9                E. ~~Benefits under this Section shall be payable as follows:~~

10                ~~(1) No compensation shall be paid for the first week after the injury is~~  
11        ~~received, provided that, in cases where disability from injury continues for six weeks~~  
12        ~~or longer after date of the accident, compensation for the first week shall be paid~~  
13        ~~after the first six weeks have elapsed.~~

14                ~~(2) The first installment of minimum weekly indemnity benefits payable for~~  
15        ~~temporary total disability, permanent total disability, or death shall become due on~~  
16        ~~the fourteenth day after the fire company or its insurer has knowledge of the injury~~  
17        ~~or death, on which date all such compensation then due shall be paid.~~

18                ~~(3) Installment benefits payable pursuant to R.S. 23:1221(3) shall become~~  
19        ~~due on the fourteenth day after the fire company or its insurer has knowledge of the~~  
20        ~~compensable claim for supplemental earnings benefits, on which date all such~~  
21        ~~compensation then due shall be paid.~~

22                ~~(4) Installment benefits payable pursuant to R.S. 23:1221(4) shall become~~  
23        ~~due on the thirtieth day after the fire company or its insurer receives a medical report~~  
24        ~~giving notice of the permanent partial disability, on which date all such~~  
25        ~~compensation then due shall be paid.~~

26                ~~(5) Medical benefits payable under this Section shall be paid within sixty~~  
27        ~~days after the fire company, its insurer, or ~~third-party~~ third-party administrator~~  
28        ~~receives written notice thereof. If the volunteer member or his ~~or her~~ representative~~  
29        ~~knows or reasonably should know that the fire company's coverage is administered~~  
30        ~~or underwritten by an insurance carrier or ~~third-party~~ third-party administrator, then~~

1 the sixty-day payment period begins when written notice is received by the carrier  
2 or ~~third party~~ third-party administrator.

3 ~~(6) The volunteer member's right to permanent total disability benefits shall~~  
4 ~~in no event exceed five hundred twenty weeks. Any week in which the volunteer~~  
5 ~~member receives payment under R.S. 23:1221(1), (3), or (4) shall be credited against~~  
6 ~~the five hundred twenty week maximum.~~

7 ~~(7) The volunteer member's right to temporary total disability benefits shall~~  
8 ~~be limited as provided in R.S. 23:1221(1)(d).~~

9 H. For injury causing death within two years after the last treatment resulting  
10 from the accident, there shall be paid ~~to the legal dependents of the volunteer~~  
11 ~~member a weekly sum as computed in accordance with R.S. 23:1232, provided all~~  
12 ~~of the following:~~ reasonable expenses of burial of the volunteer member, not to  
13 exceed seven thousand five hundred dollars.

14 ~~(1) The person claiming to be a legal dependent must demonstrate actual~~  
15 ~~dependence for support, whether in whole or in part, upon the volunteer member's~~  
16 ~~earnings from his other employment at the time of the accident and death.~~

17 ~~(2) The person claiming to be a legal dependent shall be entitled to a share~~  
18 ~~of the weekly payment under this Subsection only in the same proportion that the~~  
19 ~~volunteer member's contribution to the person's support in the year prior to his death~~  
20 ~~bears to the volunteer member's earnings at the time of death.~~

21 ~~(3) For purposes of calculating the weekly benefits payable under this~~  
22 ~~Subsection, the volunteer member shall be deemed to have wages equal to the federal~~  
23 ~~minimum wage rate. The benefits payable pursuant to this Subsection shall be~~  
24 ~~computed by multiplying the deemed wages by the hours actually spent participating~~  
25 ~~in the normal functions of the organization.~~

26 \* \* \*

27 L. A fire company shall provide upon request and within a reasonable time  
28 period documents, materials, or other information to the state fire marshal in order  
29 to effectuate the provisions of this Section.

30 Section 3. R.S. 23:1036(D)(3), (F), (G), and (J) are hereby repealed in their entirety.

1           Section 4. In order to implement the provisions of R.S. 23:1036, each fire  
2 department to which funds are allocated and paid pursuant to R.S. 22:347(B) shall pay to the  
3 state fire marshal from funds so paid to the fire department for the 2008-2009 Fiscal Year,  
4 an amount as requested by the state fire marshal, not to exceed three percent of the funds so  
5 paid to the fire department.

6           Section 5. This Act shall become effective upon signature by the governor or, if not  
7 signed by the governor, upon expiration of the time for bills to become law without signature  
8 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
9 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
10 effective on the day following such approval.

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_