

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 who suffer a catastrophic injury resulting in permanent and total disability caused by an individual with the specific intent to kill an officer while the officer is engaged in the performance of his official duties. (gov sig)

1 AN ACT

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

7 Be it enacted by the Legislature of Louisiana:

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

9 §1533. Self-Insurance Fund

10 A.(1) There is hereby created in the Department of the Treasury a special
11 fund to be known as the "Self-Insurance Fund". The fund shall consist of all
12 premiums paid by state agencies under the state's risk management program as
13 established by this Chapter, the investment income earned from such premiums and
14 commissions retained in accordance with the provisions of this Title. This fund shall
15 be used only for the payment of losses incurred by state agencies under the
16 self-insurance program, premiums for insurance obtained through commercial
17 carriers, administrative expenses associated with the management of the state's risk,

1 law enforcement officers and firemen's survivors benefits as provided for in R.S.
 2 40:1665(C) and 1665.2(C), **law enforcement officers 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 **(2) Payments for law enforcement officers and firemen survivor and**
 15 **disability benefits as provided for in R.S. 40:1665(C), R.S. 40:1665.2(C), and**
 16 **R.S. 40:1668, shall be made by the office of risk management on behalf of the**
 17 **Law Enforcement Officers and Firemen's Survivor Benefit Review Board as a**
 18 **result of a specific appropriation received for that purpose.**

19 * * *

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

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

23 **- DISABILITY BENEFITS**

24 **§1668. Benefits for disabled firemen and law enforcement officers in certain**
 25 **cases**

26 **A. It is hereby declared to be the public policy of this state, under its**
 27 **police power, to provide for certain benefits to firemen and law enforcement**
 28 **officers determined to be permanently and totally disabled as the direct and**
 29 **proximate result of a catastrophic injury arising out of and in the course of the**

1 performance of their official duties.

2 B. As used in this Section, the following words have the following
3 meanings:

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

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

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

12 C.(1) In any case in which an officer is determined by the board or a
13 court of competent jurisdiction pursuant to Paragraph (E)(2) of this Section to
14 be permanently and totally disabled as the direct and proximate result of a
15 catastrophic injury arising out of and in the course of the performance of the
16 officer's official duties, the following shall be paid by the state risk manager out
17 of the Self-Insurance Fund on behalf of the officer, from the date of the
18 catastrophic injury until the officer's death:

19 (a) Premiums due from the officer for the amount and type of life,
20 health, accident, accidental death and dismemberment, hospital, surgical, and
21 medical expense insurance maintained by the officer through the officer's
22 employer at the time of the catastrophic injury.

23 (b) Copayments and deductibles applicable to any insurance policy for
24 which premiums are paid pursuant to Subparagraph (a) of this Paragraph for
25 healthcare benefits received by the officer.

26 (2) The premiums, deductibles, and copayments paid pursuant to this
27 Section shall be in addition to any other benefit or income available and paid to
28 the injured officer for the disability due to the catastrophic injury.

29 D.(1) In order to facilitate the operation of this Section, within one year

1 after the employing authority has knowledge of the permanent and total
2 disability of an officer under circumstances covered by this Section, the
3 employing authority or officer shall notify the Law Enforcement Officers and
4 Firemen's Survivor Benefit Review Board of the disability, the date of the
5 catastrophic injury for which the disability is a result, the circumstances
6 surrounding the injury, and such other information as may be requested by the
7 board.

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

10 (3) Nothing in this Section shall prevent the board from initiating
11 proceedings before being notified by the employing authority or officer.

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

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

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

24 G.(1) No benefit is payable under this Section with respect to the
25 disability of an officer if a benefit is payable under R.S. 40:1665, 1665.1, or
26 1665.2 with respect to the death of the officer.

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

1 **H. No benefit shall be payable pursuant to this Section if any of the**
 2 **following applies:**

3 **(1) The catastrophic injury was caused by the intentional misconduct of**
 4 **the officer or by the officer's intention to bring about his death, disability, or**
 5 **injury.**

6 **(2) The officer was voluntarily intoxicated at the time of his catastrophic**
 7 **injury.**

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

10 Section 2. This Act shall become effective upon signature by the governor or, if not
 11 signed by the governor, upon expiration of the time for bills to become law without signature
 12 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 13 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 14 effective on the day following such approval.

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 Dawn Romero Watson.

DIGEST

SB 222 Engrossed

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 and the injury must render the officer permanently and totally disabled from performing any gainful work.

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" as defined in present law.

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 until the officer's death:

- (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 maintained by the officer through the officer's employer at the time of the catastrophic injury.
- (2) Co-payment and deductibles applicable to any insurance policy for which premium are paid pursuant to proposed law for healthcare benefits received by officer.

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.

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.

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.