

1 HB274
2 216262-4
3 By Representatives Pettus, Hill, Mooney, Brown (K), Bedsole,
4 Crawford, Ellis, Shedd, Farley, Robertson, Estes, Lee,
5 Reynolds, Whitt, Standridge, Drake, Greer, Simpson, Wheeler,
6 Shaver, Bracy, Hanes, Isbell and Lovvorn
7 RFD: Ways and Means General Fund
8 First Read: 03-FEB-22

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8 SYNOPSIS: Under existing workers' compensation law, an
9 occupational disease is not considered to include a
10 mental illness, including post-traumatic stress
11 disorder (PTSD), unless a physical injury
12 accompanies the mental illness.

13 This bill would require certain benefits be
14 provided to paid first responders who suffer from
15 work related PTSD, including reimbursement for
16 certain out-of-pocket treatment expense, paid time
17 off for treatment, and limited disability if a paid
18 first responder is not able to work due to PTSD.

19 This bill would provide for certain benefits
20 to be provided to volunteer first responders
21 suffering from PTSD.

22 This bill would authorize the Secretary of
23 the Department of Labor to regulate a fund
24 established by the Alabama League of Municipalities
25 to provide coverage for the benefits provided for
26 in this bill.

1 This bill would also provide for eligibility
2 requirements for participants to receive benefits
3 from the fund.

4 Amendment 621 of the Constitution of Alabama
5 of 1901, as amended by Amendment 890, now appearing
6 as Section 111.05 of the Official ReCompilation of
7 the Constitution of Alabama of 1901, as amended,
8 prohibits a general law whose purpose or effect
9 would be to require a new or increased expenditure
10 of local funds from becoming effective with regard
11 to a local governmental entity without enactment by
12 a 2/3 vote unless: it comes within one of a number
13 of specified exceptions; it is approved by the
14 affected entity; or the Legislature appropriates
15 funds, or provides a local source of revenue, to
16 the entity for the purpose.

17 The purpose or effect of this bill would be
18 to require a new or increased expenditure of local
19 funds within the meaning of the amendment. If this
20 bill is not enacted by a 2/3 vote, it will not
21 become effective with regard to a local entity
22 unless approved by the local entity or until, and
23 only as long as, the Legislature appropriates funds
24 or provides for a local source of revenue.

25
26 A BILL
27 TO BE ENTITLED

1 AN ACT

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3 Relating to first responders; to require certain
4 benefits be made available to certain paid first responders
5 suffering from work-related post-traumatic stress disorder; to
6 make certain benefits available to volunteer first responders;
7 to authorize the Secretary of the Department of Labor to
8 regulate a fund established by the Alabama League of
9 Municipalities to provide benefits for first responders; to
10 exempt payments from the fund for benefits from state income
11 tax; and in connection therewith to have as its purpose or
12 effect the requirement of a new or increased expenditure of
13 local funds within the meaning of Amendment 621 of the
14 Constitution of Alabama of 1901, as amended by Amendment 890,
15 now appearing as Section 111.05 of the Official Recompilation
16 of the Constitution of Alabama of 1901, as amended.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. For the purposes of this act, the
19 following terms shall have the following meanings:

20 (1) AUTHORIZED TREATING PHYSICIAN. A licensed
21 clinical psychologist or board-certified psychiatrist licensed
22 to practice in this state and with experience diagnosing PTSD,
23 utilizing an evaluation that includes symptom validity testing
24 and other procedures to rule out the presence of malingering
25 PTSD by using established guidelines and criteria.

1 (2) COVERED PARTICIPANT. A first responder listed in
2 paragraph (4)a. or (4)b. whose annual premium has been paid in
3 full into the fund.

4 (3) EMPLOYER. The employing municipality, airport
5 authority, or fire district entity who employs participants.

6 (4) FIRST RESPONDER: Any of the following:

7 a. CAREER FIREFIGHTER. Any individual employed by a
8 municipality, an airport authority, or a fire district who has
9 obtained certification as a firefighter through, and as
10 defined by, the Alabama Firefighters' Personnel Standards and
11 Education Commission.

12 b. OFFICER. A law enforcement officer certified by
13 the Alabama Peace Officers' Standards and Training Commission
14 and employed by a municipality.

15 c. CERTIFIED VOLUNTEER FIREFIGHTER. Any individual
16 who is an active member of a volunteer or combination career
17 and volunteer fire department, as recognized by the Alabama
18 Forestry Commission, and who has obtained certification as a
19 volunteer firefighter through and as defined by the Alabama
20 Firefighters' Personnel Standards and Education Commission,
21 who may or may not receive remuneration for firefighting
22 activities, but is not offered typical employment benefits,
23 including health insurance coverage.

24 d. NON-CERTIFIED VOLUNTEER FIREFIGHTER. Any
25 individual who is an active member of a volunteer or
26 combination career and volunteer fire department, as
27 recognized by the Alabama Forestry Commission, and who has not

1 obtained certification as a volunteer firefighter through and
2 as defined by the Alabama Firefighters' Personnel Standards
3 and Education Commission, who may or may not receive
4 remuneration for firefighting activities, but is not offered
5 typical employment benefits, including health insurance
6 coverage.

7 (5) FUND. A legal entity established by the Alabama
8 League of Municipalities under the administration of a
9 governing body to administer the benefits provided for in this
10 act, subject to rules adopted by the Department of Labor.

11 (6) POST-TRAUMATIC STRESS DISORDER (PTSD). A mental
12 health condition that meets the diagnostic criteria in the
13 Diagnostic and Statistical Manual of Mental Disorders, Fifth
14 Edition, published by the American Psychiatric Association.

15 (7) SECRETARY. The Secretary of the Department of
16 Labor.

17 (8) SPECIFIC EVENT. An isolated and extraordinarily
18 traumatic event involving a first responder acting within the
19 line and scope of duty and that includes the first responder
20 satisfying either of the following:

21 a. Witnessing or being directly engaged in actions
22 resulting in the death of an individual or individuals on the
23 scene of an event.

24 b. Witnessing or being directly engaged in actions,
25 during or in rapid emergency response immediately after the
26 occurrence, that resulted in injuries of such an extraordinary
27 and severe nature that they lead directly to the death of an

1 individual or individuals due to the injuries on the way to,
2 or no more than 48 hours after, reaching a hospital for
3 initial treatment.

4 (9) VOLUNTEER FIRE DEPARTMENT. A group of area
5 residents organized to provide fire protection and recognized
6 by the Alabama Forestry Commission as a volunteer fire
7 department.

8 (10) VOLUNTEER PARTICIPANT. A first responder listed
9 in paragraph (4)c. or (4)d. whose annual premium has been paid
10 in full into the fund.

11 Section 2. The secretary shall be responsible for
12 the regulation of the fund as it relates to the requirements
13 of this act, and he or she shall adopt rules including, but
14 not limited to, investment policies for any monies held by the
15 fund in furtherance of this act. Provided, however, nothing in
16 this act shall limit or restrict the governing body of the
17 fund from providing additional benefits to some or all first
18 responders on matters outside the scope of this act.

19 Section 3. (a) To claim benefits under this act, a
20 covered participant or volunteer participant must satisfy all
21 of the following:

22 (1) Have experienced a qualifying specific event
23 during the 12-month period immediately preceding the date the
24 first claim for benefits is submitted.

25 (2) Agree that the employer or volunteer fire
26 department is not liable under Chapter 5, Title 25, Code of
27 Alabama 1975, to the covered participant or volunteer

1 participant who elects to receive benefits under this act. The
2 exemption from liability provided in this subdivision is based
3 on the specific diagnosis for which the covered participant or
4 volunteer participant elects to receive benefits.

5 (3) Have participated in an applicable peer support
6 event, conducted by a certified peer support member where the
7 covered participant or volunteer participant received a
8 debriefing, defusing, or coaching session in accordance with
9 Section 36-21-14, Code of Alabama 1975.

10 (4) Receive certification from an authorized
11 treating physician providing both of the following:

12 a. That the covered participant or volunteer
13 participant has been diagnosed with PTSD and that the disorder
14 resulted solely from his or her involvement in a specific
15 event that occurred in the course of his or her employment, or
16 in the case of a volunteer participant, during the course of
17 his or her activities with a volunteer fire department, and
18 not from an event or events that occurred outside the line and
19 scope of, or prior to or after, his or her employment or
20 activities with a volunteer fire department.

21 b. That the treatment, including therapy or
22 counseling, is medically necessary.

23 (5) Authorize the fund to communicate with the
24 authorized treating physician for the limited and sole purpose
25 of confirming compliance with subsection (e).

26 (b) If all of the criteria in subsection (a) have
27 been met, the fund shall reimburse a covered participant or

1 volunteer participant currently employed by an employer or
2 working with a volunteer fire department, respectively, for
3 any co-payment or deductible, not covered by the participant
4 or volunteer participant's health insurance and paid by the
5 participant or volunteer participant for the treatment of
6 PTSD. The total co-payment or deductible benefits that a
7 covered participant or volunteer participant may receive may
8 not exceed fifteen thousand dollars (\$15,000) during his or
9 her lifetime.

10 (c) An employer covered by this act shall provide a
11 covered participant who is employed full time by the employer
12 up to an additional 80 working hours of paid leave, per claim
13 related to a specific event, to seek treatment for PTSD. Any
14 leave taken to seek treatment for PTSD shall be without any
15 loss of pay, time, efficiency, rating, annual vacation, or
16 sick leave.

17 (d) (1) Beginning January 1, 2025, if a determination
18 is made in writing by the authorized treating physician that a
19 covered participant is disabled as a result of PTSD related to
20 a specific event and is required to refrain from his or her
21 normal assigned work duties and is not able to perform
22 alternate work duties in a position at his or her normal
23 compensation, the fund shall pay disability compensation at
24 the rate of three thousand dollars (\$3,000) per month for up
25 to 12 months. The total disability compensation benefits
26 received by a covered participant may not exceed thirty six
27 thousand dollars (\$36,000) during his or her lifetime.

1 (2) A covered participant may not receive disability
2 compensation during any period in which the participant is
3 working in any capacity in other employment, including any
4 part-time employment. Any participant who violates this
5 subsection shall reimburse the fund for any compensation
6 benefits received and shall forfeit the right to receive any
7 benefits for the 12-month period succeeding the violation.

8 (3) Volunteer participants are not eligible for this
9 disability compensation.

10 (e) A covered participant who receives disability
11 compensation as provided in this section must remain in the
12 care of the authorized treating physician, and the covered
13 participant, either directly or through the authorized
14 treating physician, must provide to the fund monthly written
15 confirmation from the authorized treating physician of his or
16 her compliance with the treatment plan. A covered participant
17 who fails to report as required or is determined to be
18 noncompliant with the treatment plan as confirmed by the
19 authorized treating physician, shall forfeit any right to
20 further disability payments under this act. Before
21 discontinuing disability payments, the fund must confirm with
22 the authorized treating physician that the participant is no
23 longer in compliance with the treatment plan.

24 (f) A covered participant who receives benefits
25 under this act may only be eligible to return to work in the
26 same or similar role with an employer covered by this act when
27 the return is authorized in writing by the authorized treating

1 physician who certified eligibility for benefits under this
2 act. If the authorized treating physician who made the
3 original diagnosis is unavailable, a covered participant may
4 receive an authorization from another authorized treating
5 physician.

6 Section 4. (a) The governing body of the fund shall
7 establish the annual premium for each calendar year using an
8 actuarial study and shall have these rates approved by the
9 secretary to ensure adequate funding for the fund. The
10 computation of premium amounts shall be subject to generally
11 accepted adjustments for insurance underwriting.

12 (b) All employers shall pay the applicable annual
13 premiums into the fund for all eligible participants in their
14 employment by December 31st of each calendar year in order to
15 provide coverage for the following calendar year.

16 (c) A volunteer fire department is not required to
17 provide coverage under this act for either certified volunteer
18 firefighters or noncertified volunteer firefighters. An
19 individual certified volunteer firefighter or noncertified
20 volunteer firefighter may elect to pay premiums into the fund
21 by December 31st of each calendar year, at his or her own
22 expense, in order to provide coverage for the following
23 calendar year. Notwithstanding any law to the contrary,
24 nothing in this subsection prevents a volunteer fire
25 department, regional association of volunteer fire
26 departments, a municipality, or any combination of these, from
27 optionally contributing in part or in whole to the premiums of

1 an individual certified volunteer firefighter or noncertified
2 volunteer firefighter.

3 (d) The annual premiums paid into the fund are fully
4 earned and are nonrefundable.

5 (e) If a covered participant leaves eligible
6 employment or retires during a covered year, the employer is
7 not entitled to any refund of any portion of the paid premium
8 for that calendar year. If a volunteer participant
9 discontinues service with a volunteer fire department during a
10 covered year, the volunteer fire department, or in the case of
11 a volunteer participant who has paid his or her premium, is
12 not entitled to any refund of any portion of the paid premium
13 for that calendar year.

14 (f) If a covered participant transfers to other
15 eligible employment with a different employer, the new
16 employer shall not be required to pay premiums on that
17 participant until the current calendar year's coverage expires
18 with the previous employer.

19 (g) A covered participant or volunteer participant
20 is no longer entitled to any benefits if he or she resigns, is
21 terminated, or retires from eligible employment with an
22 employer. A covered volunteer participant is no longer
23 entitled to any benefits if he or she is no longer associated
24 with a volunteer fire department or is otherwise ineligible to
25 serve as a volunteer firefighter.

26 (h) In the event a covered participant is employed
27 by multiple eligible employers simultaneously, the primary

1 employer shall be responsible for the requirements of this
2 act. The primary employer shall be identified as the employer
3 who provides primary health insurance benefits to the
4 participant.

5 Section 5. (a) Any monies received by a covered
6 participant or volunteer participant pursuant to this act, to
7 any extent the amounts are included in the federal adjusted
8 gross income of the taxpayer, shall be excluded from taxable
9 income for state income tax purposes.

10 (b) Any monies received as premiums for the
11 coverages provided by this act may not be subject to any
12 premium taxes otherwise required by law.

13 (c) The reimbursement and benefits requirements of
14 this act shall not apply to PTSD resulting from events
15 occurring prior to the effective date of this act.

16 Section 6. The purpose or effect of this bill would
17 be to require a new or increased expenditure of local funds
18 within the meaning of Amendment 621 of the Constitution of
19 Alabama of 1901, as amended by Amendment 890, now appearing as
20 Section 111.05 of the Official ReCompilation of the
21 Constitution of Alabama of 1901, as amended. If this bill is
22 not enacted by a 2/3 vote, it will not become effective with
23 regard to a local entity unless approved by the local entity
24 or until, and only as long as, the Legislature appropriates
25 funds or provides for a local source of revenue.

1 Section 7. This act shall become effective January
2 1, 2024, following its passage and approval by the Governor,
3 or its otherwise becoming law.