

**SB278 ENGROSSED**



1 SB278

2 WUUH5EE-2

3 By Senators Givhan, Butler, Shelnett, Livingston, Stewart,  
4 Gudger, Beasley, Smitherman, Orr, Coleman-Madison, Williams

5 RFD: Finance and Taxation Education

6 First Read: 02-Apr-24



**SB278 Engrossed**

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A BILL  
TO BE ENTITLED  
AN ACT

Relating to public education; to amend Section 16-1-18.1, as last amended by Act 2023-352, 2023 Regular Session, Code of Alabama 1975; and to add Chapter 1A to Title 16 of the Code of Alabama 1975, creating the Public Education Employee Injury Compensation Program, the Public Education Employee Injury Compensation Trust Fund, and the Public Education Employee Injury Compensation Board; and to provide compensation to full-time public education employees who are injured on the job.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 16-1-18.1, as last amended by Act 2023-352, 2023 Regular Session, Code of Alabama 1975, is amended to read as follows:

"§16-1-18.1

(a) ~~Definitions.~~ When used in this section, the following terms have the following meanings:

(1) EMPLOYEE. Any individual employed ~~full~~full-time as provided by law by those employers enumerated in this section, and adult bus drivers.

(2) EMPLOYER. All public city and county boards of



## SB278 Engrossed

29 education; the Board of Trustees of the Alabama Institute for  
30 Deaf and Blind; the Alabama Youth Services Department District  
31 Board in its capacity as the Board of Education for the Youth  
32 Services Department District; the Board of Directors of the  
33 Alabama School of Fine Arts; the Board of Trustees of the  
34 Alabama High School of Mathematics and Science; the Board of  
35 Trustees of the Alabama School of Cyber Technology and  
36 Engineering; for purposes of subsection (c) only, the Alabama  
37 State Senate, the Lieutenant Governor, the Office of the  
38 Senate President Pro Tempore, the Speaker of the House of  
39 Representatives, the Alabama House of Representatives, the  
40 Legislative Services Agency; any organization participating in  
41 the Teachers' Retirement System, excluding any state  
42 governmental department not listed herein; Except for  
43 purposes of subsection (c), employer does not include any  
44 institution under the governance of the Board of Trustees of  
45 the Alabama Community College System; ~~and for the purposes of~~  
46 ~~subsection (c) only, all~~ or any four-year public  
47 ~~institutions~~institution of higher learning.

48 (3) EXECUTIVE OFFICER. The superintendent of any public  
49 county school system or any public city school system; the  
50 President of the Alabama Institute for Deaf and Blind; the  
51 president of any two-year school or college under the auspices  
52 of the Board of Trustees of the Alabama Community College  
53 System; the Superintendent of the Department of Youth Services  
54 School District; the Executive Director of the Alabama School  
55 of Fine Arts; the Executive Director of the Alabama High  
56 School of Mathematics and Science; the President of the



## SB278 Engrossed

57 Alabama School of Cyber Technology and Engineering; the  
58 Secretary of the Senate; the Clerk of the House of  
59 Representatives; the Lieutenant Governor; the Speaker of the  
60 House of Representatives; the Director of the Legislative  
61 Services Agency; and the chief executive officer of any other  
62 employer as provided in this section.

63 (4) ON-THE-JOB INJURY. Any accident or injury to the  
64 employee arising out of and in the course of employment or  
65 occurring during the performance of duties or when directed or  
66 requested by the employer to be on the property of the  
67 employer ~~which prevents the employee from working or returning~~  
68 ~~to his or her job.~~

69 (5) SICK LEAVE. The absence from duty by an employee as  
70 a result of any of the following:

- 71 a. Personal illness or doctor's quarantine.
- 72 b. Incapacitating personal injury.
- 73 c. Attendance upon an ill member of the employee's  
74 immediate family (parent, spouse, child, foster child  
75 currently in the care and custody of the employee, sibling,  
76 child currently in the care and custody of the employee for  
77 whom a petition for adoption has been filed); or an individual  
78 with a close personal tie.
- 79 d. Death in the family of the employee (parent, spouse,  
80 child, sibling, parent-in-law, son-in-law, daughter-in-law,  
81 brother-in-law, sister-in-law, nephew, niece, grandchild,  
82 grandparent, uncle, or aunt).
- 83 e. Death, injury, or sickness of another individual who  
84 has unusually strong personal ties to the employee, such as a



## SB278 Engrossed

85 person who stood in loco parentis.

86 f. Attendance upon an adopted child, who is three years  
87 of age or younger.

88 (b) Sick leave for employees.

89 (1) ~~EARNINGS.~~ The employee shall earn one sick leave  
90 day per month of employment.

91 (2) ~~REASONS FOR TAKING SICK LEAVE.~~ The employee may  
92 take sick leave for any of the reasons enumerated and defined  
93 in this section. Sick leave taken for the purpose of attending  
94 to an adopted child may be taken for a maximum of eight weeks,  
95 or 320 consecutive hours. Nothing in this section shall permit  
96 an employee to use sick leave that he or she has not earned or  
97 has not been donated.

98 (3) ~~EMPLOYEE PAY WHILE ON SICK LEAVE.~~ Reimbursement of  
99 pay for the employee per day of sick leave shall be at the  
100 daily rate of pay for the employee.

101 (c) Sick leave accumulation and transfers.

102 (1) An employee may accumulate an unlimited number of  
103 sick leave days. Earned sick leave days that have been accrued  
104 by an employee shall be transferrable from one employer to  
105 another. The executive officer of the employer shall ensure  
106 that certification of the number of unused sick leave days is  
107 provided to the new employer when an employee transfers  
108 employment. All of the earned and unused sick leave days that  
109 an employee has accumulated shall be transferred to the new  
110 employer for use by the employee as provided by law. However,  
111 for purposes of applying accrued sick leave as credit for  
112 retirement purposes, an employee is limited to a maximum of



## SB278 Engrossed

113 sick leave as authorized in subdivision (b) (1). As pertains to  
114 receiving retirement credit for accrued sick leave, the  
115 ~~Teacher's~~Teachers' Retirement System Board of Control may  
116 adopt policies and procedures necessary to effectuate a  
117 uniform policy pursuant to this section.

118 (2) Employees of the Alabama State Senate, the  
119 Lieutenant Governor, the Office of the Senate President Pro  
120 Tempore, the Speaker of the House of Representatives, the  
121 Alabama House of Representatives, and the Legislative Services  
122 Agency may only accrue unlimited sick leave under this section  
123 until January 1, 2013. On January 1, 2013, an employee subject  
124 to this section may carry over only the actual number of sick  
125 leave hours the employee has or the number allowed under  
126 Section 36-26-36, whichever is greater. After January 1, 2013,  
127 sick leave earned by an employee subject to this section in  
128 excess of the amount determined on January 1, 2013, is subject  
129 to Section 36-26-36(d).

130 (d) ~~On-the-job injury.~~ The following  
131 ~~regulations~~policies, procedures, and rights are established  
132 pertaining to employees who are injured while on the job:

133 (1) ~~NOTICE OF INJURY.~~ a. The employee shall ~~make proper~~  
134 ~~notification~~ provide verbal or written notice of the injury to  
135 an immediate supervisor, the executive officer, or to the  
136 principal of the school, if applicable, within ~~24 hours~~ five  
137 working days after the injury occurred, or where the employee  
138 has died or is not clinically able to make notification,  
139 another person who is reasonably knowledgeable may make the  
140 notification of the injury within 30 days of the date of the



## SB278 Engrossed

141 injury. Notice from the employee is not required where the  
142 employer has actual knowledge of the injury.

143 b. Other notification procedures and forms shall be as  
144 established by written policy of the employer. The State  
145 Superintendent of Education shall adopt and distribute uniform  
146 injury reporting forms to the institutions under his or her  
147 supervision. The employer shall prepare the first report of  
148 injury form and the employee shall sign the completed injury  
149 report form. The employer shall then forward the  
150 employee-signed form to the Public Education Employee Injury  
151 Compensation Board.

152 (2) ~~PHYSICIAN CERTIFICATION.~~ The employer may require  
153 medical certification from the employee's physician that the  
154 employee was injured and cannot return to work as a result of  
155 the injury. The executive officer, at his or her discretion,  
156 may require a second opinion from another physician at the  
157 expense of the employer. The employer may require a statement  
158 from the physician that there is a reasonable expectation that  
159 the employee will be able to return to work. A uniform  
160 physician certification form shall be adopted by the State  
161 Board of Education and distributed to each executive officer.

162 (3) ~~SALARY CONTINUED.~~ Upon determination by the  
163 executive officer that an employee has been injured on the job  
164 and cannot return to work as a result of the injury, the  
165 salary and fringe benefits of the employee shall be continued  
166 for a period of up to 90 working days consistent with the  
167 employee's injury and the subsequent absence from work  
168 resulting from the injury. This provision shall apply to the



## SB278 Engrossed

169 temporary disability of the employee as applicable to the  
170 job-related injury.

171 (4) ~~EXTENSION OF DAYS.~~ The employer may adopt a written  
172 policy to extend the 90-day sick leave period for on-the-job  
173 injuries. Additional ~~job~~ on-the-job injury policies may be  
174 adopted by the employer if the policies do not conflict with  
175 ~~the~~ this section.

176 (5) ~~REIMBURSEMENT TO EMPLOYER.~~ Any reasonable  
177 on-the-job injury costs incurred by the employer, to hire a  
178 substitute, per absent injured employee in a fiscal year shall  
179 be reimbursed to the employer by the state during the next  
180 succeeding fiscal year upon application by the employer to the  
181 appropriate State Board of Education department on a form  
182 adopted by the state board, not to exceed 90 working days. The  
183 department shall subsequently submit the request to the  
184 Legislature as a line-item in its budget request for  
185 reimbursement to the employer, and, if approved by the  
186 Legislature, shall reimburse the employer at the amount per  
187 day for sick leave authorized and funded in the annual budget  
188 act for public schools and colleges.

189 (6) ~~EMPLOYEE'S SICK LEAVE.~~ Sick leave shall not be  
190 deducted from the employee's account if absence from work is  
191 found to be a result of an on-the-job injury.

192 (7) ~~ADDITIONAL EXPENSES.~~ Any unreimbursed medical  
193 expenses and costs that the employee incurs as a result of an  
194 on-the-job injury may be filed for reimbursement with the  
195 State Board of Adjustment. Reimbursement to the employee shall  
196 be determined by the Board of Adjustment's policies, rules,





## SB278 Engrossed

197 and regulations which may be adopted from time to time. The  
198 Board of Adjustment shall adopt appropriate rules,  
199 regulations, and forms for submission by the employee.

200 (8) The executive officer, or his or her designee,  
201 shall inform the employee who is injured on the job of his or  
202 her rights about appearing before the Board of Adjustment and  
203 ~~also about~~the applicable written policies within ~~30~~seven  
204 calendar days after notification of the injury. The employee's  
205 90 working days of paid injury leave provided in this section  
206 shall be extended by every working day past seven calendar  
207 days that the employer does not provide notification to the  
208 employee. The State Superintendent of Education shall adopt  
209 and distribute a uniform notice of rights to the employers  
210 under his or her supervision for distribution to injured  
211 employees.

212 (e) ~~Vacations and leaves of absences.~~ The employer,  
213 under the rules and ~~regulations~~ policies adopted from time to  
214 time by the State Board of Education, may provide for paid  
215 leaves of absences and vacations for its employees. Payment  
216 may be from public funds. The employer may provide for leaves  
217 of absence during the times the schools are, or are not, in  
218 session when the teacher or employee devotes the leave to  
219 instructing in or attending schools for appropriate training,  
220 or when approved by the State Board of Education as beneficial  
221 to the state's educational objectives. The employer may also  
222 provide for the payment of any full-time teachers or employees  
223 for absences during the time schools are in session when the  
224 absence results from an unavoidable cause that prevents the



## SB278 Engrossed

225 teacher or employee from discharging his or her duties. Pay  
226 for the absences resulting from unavoidable causes other than  
227 sickness shall not be allowed for a longer time than one week  
228 during any one scholastic year.

229 (f) ~~Alabama Community College System annual leave.~~ As  
230 applied to Alabama Community College System employers, any  
231 employee who earns and accumulates annual leave may accumulate  
232 up to 60 days of annual leave at a rate not to exceed that  
233 provided in the policy established by the State Board of  
234 Education.

235 (g) ~~Policies.~~ The policies and procedures required and  
236 permitted by this section shall be adopted by the employer  
237 consistent with and as required by Section 16-1-30."

238 Section 2. Chapter 1A is added to Title 16 of the Code  
239 of Alabama 1975, to read as follows:

240 §16-1A-1

241 The following terms have the following meanings:

242 (1) BOARD. The Public Education Employee Injury  
243 Compensation Board.

244 (2) EMPLOYEE. Any individual employed full-time as  
245 provided by law by those employers enumerated in this section  
246 and adult bus drivers.

247 (3) EMPLOYER. All public city and county boards of  
248 education; the Board of Trustees of the Alabama Institute for  
249 Deaf and Blind; the Alabama Youth Services Department District  
250 Board in its capacity as the Board of Education for the Youth  
251 Services Department District; the Board of Directors of the  
252 Alabama School of Fine Arts; the Board of Trustees of the



## SB278 Engrossed

253 Alabama High School of Mathematics and Science; and the Board  
254 of Trustees of the Alabama School of Cyber Technology and  
255 Engineering.

256 (4) EXECUTIVE OFFICER. The superintendent of any public  
257 county school system or any public city school system; the  
258 President of the Alabama Institute for Deaf and Blind; the  
259 Superintendent of the Department of Youth Services School  
260 District; the Executive Director of the Alabama School of Fine  
261 Arts; the Executive Director of the Alabama High School of  
262 Mathematics and Science; the President of the Alabama School  
263 of Cyber Technology and Engineering; and the chief executive  
264 officer of any other employer.

265 (5) FUND. The Public Education Employee Injury  
266 Compensation Trust Fund.

267 (6) ON-THE-JOB INJURY. Any accident or injury to the  
268 employee arising out of and in the course of employment or  
269 occurring during the performance of duties or when directed or  
270 requested by the employer to be on the property of the  
271 employer which prevents the employee from working or returning  
272 to his or her job.

273 (7) PEEHIP. The Public Education Employees' Health  
274 Insurance Plan.

275 (8) PROGRAM. The Public Education Employee Injury  
276 Compensation Program.

277 (9) TPA. Third-party administrator or adjuster.

278 (b) For purposes of this chapter, any term used in this  
279 chapter, except the terms "employee" and "employer," that is  
280 defined in Section 25-5-1 shall have the same meaning as the



## SB278 Engrossed

281 term in that section.

282 (c) The following policies, procedures, and rights are  
283 established pertaining to employees who are injured while on  
284 the job:

285 (1)a. The employee shall provide verbal or written  
286 notice of the injury to an immediate supervisor, the executive  
287 officer, or to the principal of the school, if applicable,  
288 within 10 working days after the injury occurred, or where the  
289 employee has died or is not clinically able to make  
290 notification, another person who is reasonably knowledgeable  
291 may make the notification of the injury within 30 days of the  
292 date of the injury. Notice from the employee is not required  
293 where the employer has actual knowledge of the injury.

294 b. Other notification procedures shall be as  
295 established by written policy of the employer. The State  
296 Superintendent of Education shall adopt and distribute uniform  
297 injury reporting forms to the institutions under his or her  
298 supervision. The employer shall prepare the first report of  
299 injury form and the employee shall sign the completed injury  
300 report form. The employer shall then forward the  
301 employee-signed form to the Public Education Employee Injury  
302 Compensation Board.

303 (d) There is established a separate special trust fund  
304 in the State Treasury to be known as the Public Education  
305 Employee Injury Compensation Trust Fund. All receipts  
306 collected pursuant to this chapter shall be deposited in this  
307 fund and used to carry out this chapter. Monies in the fund  
308 unspent or unencumbered at the end of each fiscal year shall



## SB278 Engrossed

309 not revert to any other fund in the State Treasury but shall  
310 be carried forward to the succeeding fiscal year. All monies  
311 in the fund may be invested and reinvested by the Director of  
312 Finance, through the Division of Risk Management, under the  
313 same terms as the State Insurance Fund. There is appropriated  
314 from the Public Education Employee Injury Compensation Trust  
315 Fund such amounts as are necessary to pay claims, benefits,  
316 administrative costs, and all other costs of the program.

317 (e) (1) The program shall be governed by this chapter.

318 (2) Payments made pursuant to this chapter to  
319 physicians licensed to practice medicine for services to  
320 injured employees shall be in accordance with the schedule of  
321 maximum fees as established by PEEHIP.

322 (3)a. An employee who does not have PEEHIP coverage  
323 must use a physician authorized by the TPA or the employer.

324 b. If an employee without PEEHIP coverage requests a  
325 second opinion, he or she shall request a panel of four  
326 alternate physicians, in accordance with the Alabama Workers'  
327 Compensation Act.

328 (4) Any rules, policies, or guidelines adopted by the  
329 board to establish and operate the program shall be subject to  
330 the Alabama Administrative Procedure Act.

331 (f) Nothing in this chapter shall be construed to  
332 affect any benefit to which an employee is entitled under this  
333 title.

334 (g) Nothing in this chapter shall be construed as a  
335 waiver by the state of its sovereign immunity under the  
336 Constitution of Alabama 2022.



## SB278 Engrossed

337 (h) Appropriations to the fund shall be considered a  
338 mandate for local boards of education to participate in the  
339 program pursuant to Section 25-5-50(d).

340 §16-1A-2

341 (a) The Public Education Employee Injury Compensation  
342 Board shall be comprised of the following members:

343 (1) One member appointed by the State Superintendent of  
344 Education.

345 (2) One member appointed by the PEEHIP Board of  
346 Control.

347 (3) One member appointed by the professional  
348 organization that represents the majority of employees  
349 statewide.

350 (b) The initial appointee of the State Superintendent  
351 of Education shall serve a term of one year and the successor  
352 shall serve a term of three years. The initial appointee of  
353 the PEEHIP Board of Control shall serve a term of two years  
354 and the successor shall serve a term of three years. All other  
355 members shall serve an initial term of three years and the  
356 successor shall serve a term of three years. No member may  
357 serve more than two consecutive terms. A board member shall  
358 serve until his or her successor is appointed.

359 (c) Initial appointments to the board shall be made by  
360 the appointing authority within 60 days of October 1, 2024.

361 (d) Members of the board shall receive no compensation  
362 but shall be reimbursed by the fund for travel and per diem  
363 expenses at the same rate and in the same manner as state  
364 employees.



## SB278 Engrossed

365 (e) The board shall have all of the following powers,  
366 duties, and responsibilities:

367 (1) To administer the programs, including, but not  
368 limited to, establishing or contracting with a TPA to oversee  
369 benefits paid to employees and coordinate with PEEHIP.

370 (2) To manage the fund to ensure that adequate funds  
371 are maintained to provide all injury program benefits to  
372 employees.

373 (3) To provide reasonable compensation for the hearing  
374 officers who hear any dispute arising under this chapter.

375 (4) To employ professional, clerical, technical, and  
376 administrative staff as the board may determine necessary to  
377 carry out its duties pursuant to the state Merit System and  
378 compensate staff accordingly.

379 (5) To secure insurance, reinsurance, or other products  
380 the board deems advisable in carrying out its duties.

381 (6) To retain and compensate legal counsel to represent  
382 the board, employers, the fund, the program, and TPA  
383 including, but not limited to, appearing before hearing  
384 officers or judges in contested cases.

385 (f) Except as otherwise required by the Health  
386 Insurance Portability and Accountability Act, 42 U.S.C. §  
387 1320d et seq., the board shall be subject to all applicable  
388 open meetings and open records laws, shall adopt rules in  
389 accordance with the Alabama Administrative Procedure Act, and  
390 shall have a fiduciary duty to the fund and the program.

391 §16-1A-3

392 (a) There is established the Public Education Employee



## SB278 Engrossed

393 Injury Compensation Program.

394 (b) (1) Benefits provided under the program shall be no  
395 less than any benefits provided under the Alabama Workers'  
396 Compensation Act to employees who are injured on the job.

397 (2) Benefits shall include, but not be limited to,  
398 compensation payments, medical benefits not otherwise paid by  
399 PEEHIP, vocational rehabilitation, and the provision of  
400 durable medical equipment. Compensation, including temporary  
401 total disability, temporary partial disability, permanent  
402 partial disability, and permanent total disability, shall be  
403 paid for all job injuries, including accidents, occupational  
404 disease, repetitive injury, and gradual deterioration and  
405 physical stress disorders. Injury does not include a mental  
406 disorder or mental injury that has neither been produced nor  
407 been proximately caused by some physical injury to the body.

408 (3) Penalties, consistent with the then current  
409 Workers' Compensation Act, shall be assessed for untimely  
410 compensation payments.

411 (c) (1) An injured employee who has exhausted the 90-day  
412 on-the-job injury leave period provided by Section 16-1-18.1,  
413 and any extensions thereof, whose treating physician certifies  
414 that his or her injury continues to prevent a return to work  
415 or whose employer determines that the employee cannot safely  
416 perform the essential functions of his or her job with the  
417 limitations imposed by his or her treating physician, shall be  
418 placed on temporary disability status.

419 (2) The employee shall receive compensation equivalent  
420 to two-thirds of his or her salary based upon his or her





## SB278 Engrossed

421 placement on the employer's salary schedule in the same manner  
422 as benefits are paid to employees under the Alabama Workers'  
423 Compensation Act.

424 (3) Employers shall continue to make all required  
425 health insurance contributions until any separation from  
426 employment.

427 (4) The board shall establish procedures for employers  
428 to be reimbursed by the fund for the costs of an employee's  
429 compensation and benefits under this chapter.

430 (d) An employee who suffers a permanent partial  
431 disability as a result of an on-the-job injury shall receive  
432 compensation for the number of weeks provided in Section  
433 25-5-57, with the number of weeks multiplied by five days, and  
434 that number of days multiplied by the employee's daily rate of  
435 pay as defined by the employer's salary schedule.

436 (e) (1) If, upon reaching maximum medical improvement,  
437 the employee's treating physician determines that the employee  
438 cannot return to work or the employer determines that the  
439 employee's limitations will not allow him or her to perform  
440 the essential functions of his or her position, the employee  
441 shall revert to permanent disability status.

442 (2) An employee on permanent total disability shall be  
443 entitled to two-thirds of his or her salary, plus an  
444 additional amount equal to two-thirds of the employer's  
445 average weekly contribution to health insurance benefits for  
446 the 52 weeks prior to the accident or injury. The board shall  
447 establish procedures to assist employees in applying for  
448 vested retirement benefits.



## SB278 Engrossed

449 (3) PEEHIP may not subrogate, seek reimbursement, or  
450 seek credit for any amount paid to an injured employee under  
451 the program.

452 (f) An employee who received health insurance benefits  
453 through PEEHIP at the time of his or her injury shall continue  
454 to receive such benefits while on temporary or permanent  
455 disability status as provided in Chapter 25A of Title 16 and  
456 may continue to use his or her preferred providers consistent  
457 with the PEEHIP plan.

458 (g) An employee who did not receive health insurance  
459 benefits through PEEHIP at the time of his or her injury  
460 shall notify the board on an approved form. The board shall  
461 provide medical benefits to the employee consistent with the  
462 Workers' Compensation Act.

463 (h) (1) Employees may file a claim with the board for  
464 reimbursement of out-of-pocket expenses that are related to  
465 treatment for an on-the-job injury, including, but not limited  
466 to, copays and mileage. Employees shall submit claims using  
467 forms adopted by the board for such purpose.

468 (2) Reimbursements to employees under this subsection  
469 shall be made from the fund.

470 (3) All undisputed claims for reimbursement of  
471 out-of-pocket expenses shall be paid within 25 working days of  
472 receipt by the board.

473 (i) The board shall establish procedures for employers  
474 to be reimbursed by the fund for payments to injured employees  
475 under the program.

476 (j) All undisputed medical reimbursements shall be made



## SB278 Engrossed

477 within 25 working days of receipt of medical charges by the  
478 TPA or the board; provided, PEEHIP payments shall be made  
479 within the same time schedules as currently exist. For  
480 non-PEEHIP reimbursements or payments, failure to comply with  
481 the 25-day deadline may result in the board being responsible  
482 for an additional amount.

483 (k) Any on-the-job injuries suffered by part-time,  
484 substitute, temporary, or any other non-full-time employees,  
485 or volunteers not covered by this chapter shall be conducted  
486 in accordance with the Board of Adjustment process outlined in  
487 Article 4 of Chapter 9 of Title 41.

488 §16-1A-4

489 (a) An employer who refuses to complete and submit an  
490 injury report form after timely notice of an injury by an  
491 employee pursuant to this chapter shall provide notice in  
492 writing of its findings of fact that support its decision. An  
493 employee may challenge the employer's decision pursuant to the  
494 dispute resolution provisions of this section.

495 (b) The submission by an employer of an injury report  
496 form to the board shall establish a rebuttable presumption  
497 that an employee was injured in the line and scope of his or  
498 her employment.

499 (c) (1) The employer's executive officer or the board  
500 shall refer any dispute that arises under this chapter between  
501 an employee and employer or between an employee and a TPA  
502 contracted with or established under this chapter to the  
503 Executive Director of the Alabama State Bar Association. The  
504 dispute shall be adjudicated by a hearing officer appointed



## SB278 Engrossed

505 from the panel of neutrals maintained by the Executive  
506 Director of the Alabama State Bar Association pursuant to  
507 Section 16-24C-6(e). The hearing officer shall be selected  
508 using the same process provided in Section 16-24C-6(g).

509 (2) The hearing officer selected must certify that he  
510 or she has experience in adjudicating workers' compensation  
511 disputes or refer the matter back to the state bar association  
512 to repeat the selection process. The hearing and appeals  
513 process shall be the same as provided in Section 16-24C-6,  
514 except that no deference is to be provided to either party and  
515 the Alabama Rules of Evidence shall apply in hearings before  
516 the hearing officer.

517 (3) The statute of limitations for a dispute under this  
518 subsection is two years from the date of the injury or the  
519 date of the last temporary total disability payment.

520 (d) The decision of the hearing officer and decision on  
521 appeal shall be based on a preponderance of the evidence as  
522 contained in the record of the hearing, except in cases  
523 involving injuries which have resulted from gradual  
524 deterioration or cumulative physical stress disorders, which  
525 shall be deemed compensable only upon a finding of clear and  
526 convincing proof that the injuries arose out of and in the  
527 course of the employee's employment. For the purposes of this  
528 section, "clear and convincing" shall mean evidence that, when  
529 weighed against evidence in opposition, will produce in the  
530 mind of the trier of fact a firm conviction as to each  
531 essential element of the claim and a high probability as to  
532 the correctness of the conclusion. Proof by clear and



## SB278 Engrossed

533 convincing evidence requires a level of proof greater than a  
534 preponderance of the evidence or the substantial weight of the  
535 evidence, but less than beyond a reasonable doubt.

536 (e) The Alabama Rules of Civil Procedure shall govern  
537 the methods of discovery, except that the following  
538 limitations to pre-hearing discovery shall apply:

539 (1) Two depositions for each side shall be permitted  
540 without leave of court. No additional depositions shall be  
541 permitted except with leave of court for good cause shown,  
542 including, but not limited to, a claim by the employee for  
543 permanent total disability.

544 (2) Notwithstanding subdivision (1), each party may  
545 take the deposition of every other party.

546 (3) No more than 25 interrogatories, with each subpart  
547 to be considered a question, shall be permitted without leave  
548 of court for good cause shown.

549 (4) Certified sealed copies of records of medical  
550 treatment and expenses shall be authenticated in accordance  
551 with Rule 44(h) of the Alabama Rules of Civil Procedure,  
552 without further need for authenticating testimony.

553 (5) Copies of records obtained by one party shall be  
554 furnished by certified mail to the other party not less than  
555 21 days prior to the hearing, unless the party offering the  
556 records can establish unusual circumstances justifying  
557 admission of the records.

558 (6) The party not offering the records of a physician's  
559 treatment shall have the right to depose the physician whose  
560 records of treatment are to be offered by any other party.



## SB278 Engrossed

561 (g) In the same manner as provided in the Workers'  
562 Compensation Act, a hearing officer may award a legal fee of  
563 up to 15 percent of the compensation awarded in a contested  
564 case. This amount is discretionary and will only be awarded if  
565 requested by legal counsel for the employee. The award shall  
566 be deducted from compensation otherwise payable to the  
567 employee.

568 Section 3. This act shall become effective on October  
569 1, 2024.

SB278 Engrossed



570  
571  
572 Senate

573 Read for the first time and referred .....02-Apr-24  
574 to the Senate committee on Finance  
575 and Taxation Education  
576  
577 Read for the second time and placed .....11-Apr-24  
578 on the calendar:  
579 1 amendment  
580  
581 Read for the third time and passed .....16-Apr-24  
582 as amended  
583 Yeas 28  
584 Nays 0  
585 Abstains 1  
586  
587

588 Patrick Harris,  
589 Secretary.  
590