

**SB278 INTRODUCED**



1 SB278

2 WUUH5EE-1

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



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SYNOPSIS:

Under existing law, public education employees who are injured on the job must pay out-of-pocket expenses and seek reimbursement from the Board of Adjustment for any on-the-job injury.

This bill would provide compensation benefits to full-time public education employees who are injured on the job.

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



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29 2023-352, 2023 Regular Session, Code of Alabama 1975, is  
30 amended to read as follows:

31 "§16-1-18.1

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

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

37 (2) EMPLOYER. All public city and county boards of  
38 education; the Board of Trustees of the Alabama Institute for  
39 Deaf and Blind; the Alabama Youth Services Department District  
40 Board in its capacity as the Board of Education for the Youth  
41 Services Department District; the Board of Directors of the  
42 Alabama School of Fine Arts; the Board of Trustees of the  
43 Alabama High School of Mathematics and Science; the Board of  
44 Trustees of the Alabama School of Cyber Technology and  
45 Engineering; for purposes of subsection (c) only, the Alabama  
46 State Senate, the Lieutenant Governor, the Office of the  
47 Senate President Pro Tempore, the Speaker of the House of  
48 Representatives, the Alabama House of Representatives, the  
49 Legislative Services Agency; any organization participating in  
50 the Teachers' Retirement System, excluding any state  
51 governmental department not listed herein; the Board of  
52 Trustees of the Alabama Community College System; and for the  
53 purposes of subsection (c) only, all four-year public  
54 institutions of higher learning.

55 (3) EXECUTIVE OFFICER. The superintendent of any public  
56 county school system or any public city school system; the



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57 President of the Alabama Institute for Deaf and Blind; the  
58 president of any two-year school or college under the auspices  
59 of the Board of Trustees of the Alabama Community College  
60 System; the Superintendent of the Department of Youth Services  
61 School District; the Executive Director of the Alabama School  
62 of Fine Arts; the Executive Director of the Alabama High  
63 School of Mathematics and Science; the President of the  
64 Alabama School of Cyber Technology and Engineering; the  
65 Secretary of the Senate; the Clerk of the House of  
66 Representatives; the Lieutenant Governor; the Speaker of the  
67 House of Representatives; the Director of the Legislative  
68 Services Agency; and the chief executive officer of any other  
69 employer as provided in this section.

70 (4) ON-THE-JOB INJURY. Any accident or injury to the  
71 employee arising out of and in the course of employment or  
72 occurring during the performance of duties or when directed or  
73 requested by the employer to be on the property of the  
74 employer ~~which prevents the employee from working or returning~~  
75 ~~to his or her job.~~

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

- 78 a. Personal illness or doctor's quarantine.
- 79 b. Incapacitating personal injury.
- 80 c. Attendance upon an ill member of the employee's  
81 immediate family (parent, spouse, child, foster child  
82 currently in the care and custody of the employee, sibling,  
83 child currently in the care and custody of the employee for  
84 whom a petition for adoption has been filed); or an individual



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85 with a close personal tie.

86 d. Death in the family of the employee (parent, spouse,  
87 child, sibling, parent-in-law, son-in-law, daughter-in-law,  
88 brother-in-law, sister-in-law, nephew, niece, grandchild,  
89 grandparent, uncle, or aunt).

90 e. Death, injury, or sickness of another individual who  
91 has unusually strong personal ties to the employee, such as a  
92 person who stood in loco parentis.

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

95 (b) Sick leave for employees.

96 (1) ~~EARNINGS.~~—The employee shall earn one sick leave  
97 day per month of employment.

98 (2) ~~REASONS FOR TAKING SICK LEAVE.~~—The employee may  
99 take sick leave for any of the reasons enumerated and defined  
100 in this section. Sick leave taken for the purpose of attending  
101 to an adopted child may be taken for a maximum of eight weeks,  
102 or 320 consecutive hours. Nothing in this section shall permit  
103 an employee to use sick leave that he or she has not earned or  
104 has not been donated.

105 (3) ~~EMPLOYEE PAY WHILE ON SICK LEAVE.~~—Reimbursement of  
106 pay for the employee per day of sick leave shall be at the  
107 daily rate of pay for the employee.

108 (c) Sick leave accumulation and transfers.

109 (1) An employee may accumulate an unlimited number of  
110 sick leave days. Earned sick leave days that have been accrued  
111 by an employee shall be transferrable from one employer to  
112 another. The executive officer of the employer shall ensure



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113 that certification of the number of unused sick leave days is  
114 provided to the new employer when an employee transfers  
115 employment. All of the earned and unused sick leave days that  
116 an employee has accumulated shall be transferred to the new  
117 employer for use by the employee as provided by law. However,  
118 for purposes of applying accrued sick leave as credit for  
119 retirement purposes, an employee is limited to a maximum of  
120 sick leave as authorized in subdivision (b)(1). As pertains to  
121 receiving retirement credit for accrued sick leave, the  
122 ~~Teacher's~~Teachers' Retirement System Board of Control may  
123 adopt policies and procedures necessary to effectuate a  
124 uniform policy pursuant to this section.

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

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

140 (1) ~~NOTICE OF INJURY.~~ a. The employee shall ~~make proper~~



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141 ~~notification~~ provide verbal or written notice of the injury to  
142 an immediate supervisor, the executive officer, or to the  
143 principal of the school, if applicable, within ~~24 hours~~ 10  
144 working days after the injury occurred, or where the employee  
145 has died or is not clinically able to make notification,  
146 another person who is reasonably knowledgeable may make the  
147 notification of the injury within 30 days of the date of the  
148 injury. Notice from the employee is not required where the  
149 employer has actual knowledge of the injury.

150 b. Other notification procedures ~~and forms~~ shall be as  
151 established by written policy of the employer. The State  
152 Superintendent of Education and the Chancellor of the Alabama  
153 Community College System shall adopt and distribute uniform  
154 injury reporting forms to the institutions under their  
155 respective supervision. The employer shall prepare the first  
156 report of injury form and the employee shall sign the  
157 completed injury report form. The employer shall then forward  
158 the employee-signed form to the Public Education Employee  
159 Injury Compensation Board.

160 (2) ~~PHYSICIAN CERTIFICATION.~~ The employer may require  
161 medical certification from the employee's physician that the  
162 employee was injured and cannot return to work as a result of  
163 the injury. The executive officer, at his or her discretion,  
164 may require a second opinion from another physician at the  
165 expense of the employer. The employer may require a statement  
166 from the physician that there is a reasonable expectation that  
167 the employee will be able to return to work. A uniform  
168 physician certification form shall be adopted by the State



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169 Board of Education and distributed to each executive officer.

170 (3) ~~SALARY CONTINUED.~~ Upon determination by the  
171 executive officer that an employee has been injured on the job  
172 and cannot return to work as a result of the injury, the  
173 salary and fringe benefits of the employee shall be continued  
174 for a period of up to 90 working days consistent with the  
175 employee's injury and the subsequent absence from work  
176 resulting from the injury. This provision shall apply to the  
177 temporary disability of the employee as applicable to the  
178 job-related injury.

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

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





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

200 (7) ~~ADDITIONAL EXPENSES.~~ Any unreimbursed medical  
201 expenses and costs that the employee incurs as a result of an  
202 on-the-job injury may be filed for reimbursement with the  
203 State Board of Adjustment. Reimbursement to the employee shall  
204 be determined by the Board of Adjustment's policies, rules,  
205 and regulations which may be adopted from time to time. The  
206 Board of Adjustment shall adopt appropriate rules,  
207 regulations, and forms for submission by the employee.

208 (8) The executive officer, or his or her designee,  
209 shall inform the employee who is injured on the job of his or  
210 her rights about appearing before the Board of Adjustment and  
211 ~~also about the~~ applicable written policies within ~~30~~seven  
212 calendar days after notification of the injury. The employee's  
213 90 working days of paid injury leave provided in this section  
214 shall be extended by every working day past seven calendar  
215 days that the employer does not provide notification to the  
216 employee. The State Superintendent of Education and Chancellor  
217 of the Alabama Community College System shall adopt and  
218 distribute a uniform notice of rights to the employers under  
219 their respective supervision for distribution to injured  
220 employees.

221 (e) ~~Vacations and leaves of absences.~~ The employer,  
222 under the rules and ~~regulations~~ policies adopted from time to  
223 time by the State Board of Education, may provide for paid  
224 leaves of absences and vacations for its employees. Payment



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225 may be from public funds. The employer may provide for leaves  
226 of absence during the times the schools are, or are not, in  
227 session when the teacher or employee devotes the leave to  
228 instructing in or attending schools for appropriate training,  
229 or when approved by the State Board of Education as beneficial  
230 to the state's educational objectives. The employer may also  
231 provide for the payment of any full-time teachers or employees  
232 for absences during the time schools are in session when the  
233 absence results from an unavoidable cause that prevents the  
234 teacher or employee from discharging his or her duties. Pay  
235 for the absences resulting from unavoidable causes other than  
236 sickness shall not be allowed for a longer time than one week  
237 during any one scholastic year.

238 (f) ~~Alabama Community College System annual leave.~~ As  
239 applied to Alabama Community College System employers, any  
240 employee who earns and accumulates annual leave may accumulate  
241 up to 60 days of annual leave at a rate not to exceed that  
242 provided in the policy established by the State Board of  
243 Education.

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

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

249 §16-1A-1

250 The following terms have the following meanings:

251 (1) BOARD. The Public Education Employee Injury  
252 Compensation Board.



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

256           (3) EMPLOYER. All public city and county boards of  
257 education; the Board of Trustees of the Alabama Institute for  
258 Deaf and Blind; the Alabama Youth Services Department District  
259 Board in its capacity as the Board of Education for the Youth  
260 Services Department District; the Board of Directors of the  
261 Alabama School of Fine Arts; the Board of Trustees of the  
262 Alabama High School of Mathematics and Science; the Board of  
263 Trustees of the Alabama School of Cyber Technology and  
264 Engineering; and the Board of Trustees of the Alabama  
265 Community College System.

266           (4) EXECUTIVE OFFICER. The superintendent of any public  
267 county school system or any public city school system; the  
268 President of the Alabama Institute for Deaf and Blind; the  
269 president of any two-year school or college under the auspices  
270 of the Board of Trustees of the Alabama Community College  
271 System; the Superintendent of the Department of Youth Services  
272 School District; the Executive Director of the Alabama School  
273 of Fine Arts; the Executive Director of the Alabama High  
274 School of Mathematics and Science; the President of the  
275 Alabama School of Cyber Technology and Engineering; and the  
276 chief executive officer of any other employer.

277           (5) FUND. The Public Education Employee Injury  
278 Compensation Trust Fund.

279           (6) ON-THE-JOB INJURY. Any accident or injury to the  
280 employee arising out of and in the course of employment or



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281 occurring during the performance of duties or when directed or  
282 requested by the employer to be on the property of the  
283 employer which prevents the employee from working or returning  
284 to his or her job.

285 (7) PEEHIP. The Public Education Employees' Health  
286 Insurance Plan.

287 (8) PROGRAM. The Public Education Employee Injury  
288 Compensation Program.

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

290 (b) For purposes of this chapter, any term used in this  
291 chapter, except the terms "employee" and "employer," that is  
292 defined in Section 25-5-1 shall have the same meaning as the  
293 term in that section.

294 (c) The following policies, procedures, and rights are  
295 established pertaining to employees who are injured while on  
296 the job:

297 (1)a. The employee shall provide verbal or written  
298 notice of the injury to an immediate supervisor, the executive  
299 officer, or to the principal of the school, if applicable,  
300 within 10 working days after the injury occurred, or where the  
301 employee has died or is not clinically able to make  
302 notification, another person who is reasonably knowledgeable  
303 may make the notification of the injury within 30 days of the  
304 date of the injury. Notice from the employee is not required  
305 where the employer has actual knowledge of the injury.

306 b. Other notification procedures shall be as  
307 established by written policy of the employer. The State  
308 Superintendent of Education and the Chancellor of the Alabama



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309 Community College System shall adopt and distribute uniform  
310 injury reporting forms to the institutions under their  
311 respective supervision. The employer shall prepare the first  
312 report of injury form and the employee shall sign the  
313 completed injury report form. The employer shall then forward  
314 the employee-signed form to the Public Education Employee  
315 Injury Compensation Board.

316 (d) There is established a separate special trust fund  
317 in the State Treasury to be known as the Public Education  
318 Employee Injury Compensation Trust Fund. All receipts  
319 collected pursuant to this chapter shall be deposited in this  
320 fund and used to carry out this chapter. Monies in the fund  
321 unspent or unencumbered at the end of each fiscal year shall  
322 not revert to any other fund in the State Treasury but shall  
323 be carried forward to the succeeding fiscal year. All monies  
324 in the fund may be invested and reinvested by the Director of  
325 Finance, through the Division of Risk Management, under the  
326 same terms as the State Insurance Fund. There is appropriated  
327 from the Public Education Employee Injury Compensation Trust  
328 Fund such amounts as are necessary to pay claims, benefits,  
329 administrative costs, and all other costs of the program.

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

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

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



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

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

344           (f) Nothing in this chapter shall be construed to  
345 affect any benefit to which an employee is entitled under this  
346 title.

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

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

353           §16-1A-2

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

356           (1) One member appointed by the State Superintendent of  
357 Education.

358           (2) One member appointed by the PEEHIP Board of  
359 Control.

360           (3) One member appointed by the professional  
361 organization that represents the majority of employees  
362 statewide.

363           (b) The initial appointee of the State Superintendent  
364 of Education shall serve a term of one year and the successor



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365 shall serve a term of three years. The initial appointee of  
366 the PEEHIP Board of Control shall serve a term of two years  
367 and the successor shall serve a term of three years. All other  
368 members shall serve an initial term of three years and the  
369 successor shall serve a term of three years. No member may  
370 serve more than two consecutive terms. A board member shall  
371 serve until his or her successor is appointed.

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

374 (d) Members of the board shall receive no compensation  
375 but shall be reimbursed by the fund for travel and per diem  
376 expenses at the same rate and in the same manner as state  
377 employees.

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

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

383 (2) To manage the fund to ensure that adequate funds  
384 are maintained to provide all injury program benefits to  
385 employees.

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

388 (4) To employ professional, clerical, technical, and  
389 administrative staff as the board may determine necessary to  
390 carry out its duties pursuant to the state Merit System and  
391 compensate staff accordingly.

392 (5) To secure insurance, reinsurance, or other products



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393 the board deems advisable in carrying out its duties.

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

398 (f) Except as otherwise required by the Health  
399 Insurance Portability and Accountability Act, 42 U.S.C. §  
400 1320d et seq., the board shall be subject to all applicable  
401 open meetings and open records laws, shall adopt rules in  
402 accordance with the Alabama Administrative Procedure Act, and  
403 shall have a fiduciary duty to the fund and the program.

404 §16-1A-3

405 (a) There is established the Public Education Employee  
406 Injury Compensation Program.

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

410 (2) Benefits shall include, but not be limited to,  
411 compensation payments, medical benefits not otherwise paid by  
412 PEEHIP, vocational rehabilitation, and the provision of  
413 durable medical equipment. Compensation, including temporary  
414 total disability, temporary partial disability, permanent  
415 partial disability, and permanent total disability, shall be  
416 paid for all job injuries, including accidents, occupational  
417 disease, repetitive injury, and gradual deterioration and  
418 physical stress disorders. Injury does not include a mental  
419 disorder or mental injury that has neither been produced nor  
420 been proximately caused by some physical injury to the body.





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421 (3) Penalties, consistent with the then current  
422 Workers' Compensation Act, shall be assessed for untimely  
423 compensation payments.

424 (c) (1) An injured employee who has exhausted the 90-day  
425 on-the-job injury leave period provided by Section 16-1-18.1,  
426 and any extensions thereof, whose treating physician certifies  
427 that his or her injury continues to prevent a return to work  
428 or whose employer determines that the employee cannot safely  
429 perform the essential functions of his or her job with the  
430 limitations imposed by his or her treating physician, shall be  
431 placed on temporary disability status.

432 (2) The employee shall receive compensation equivalent  
433 to two-thirds of his or her salary based upon his or her  
434 placement on the employer's salary schedule in the same manner  
435 as benefits are paid to employees under the Alabama Workers'  
436 Compensation Act.

437 (3) Employers shall continue to make all required  
438 health insurance contributions until any separation from  
439 employment.

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

443 (d) An employee who suffers a permanent partial  
444 disability as a result of an on-the-job injury shall receive  
445 compensation for the number of weeks provided in Section  
446 25-5-57, with the number of weeks multiplied by five days, and  
447 that number of days multiplied by the employee's daily rate of  
448 pay as defined by the employer's salary schedule.



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449 (e) (1) If, upon reaching maximum medical improvement,  
450 the employee's treating physician determines that the employee  
451 cannot return to work or the employer determines that the  
452 employee's limitations will not allow him or her to perform  
453 the essential functions of his or her position, the employee  
454 shall revert to permanent disability status.

455 (2) An employee on permanent total disability shall be  
456 entitled to two-thirds of his or her salary, plus an  
457 additional amount equal to two-thirds of the employer's  
458 average weekly contribution to health insurance benefits for  
459 the 52 weeks prior to the accident or injury. The board shall  
460 establish procedures to assist employees in applying for  
461 vested retirement benefits.

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

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

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

476 (h) (1) Employees may file a claim with the board for



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477 reimbursement of out-of-pocket expenses that are related to  
478 treatment for an on-the-job injury, including, but not limited  
479 to, copays and mileage. Employees shall submit claims using  
480 forms adopted by the board for such purpose.

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

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

486 (i) The board shall establish procedures for employers  
487 to be reimbursed by the fund for payments to injured employees  
488 under the program.

489 (j) All undisputed medical reimbursements shall be made  
490 within 25 working days of receipt of medical charges by the  
491 TPA or the local board of education; provided, PEEHIP payments  
492 shall be made within the same time schedules as currently  
493 exist. For non-PEEHIP reimbursements or payments, failure to  
494 comply with the 25-day deadline may result in the board being  
495 responsible for an additional amount.

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

501 §16-1A-4

502 (a) An employer who refuses to complete and submit an  
503 injury report form after timely notice of an injury by an  
504 employee pursuant to this chapter shall provide notice in



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505 writing of its findings of fact that support its decision. An  
506 employee may challenge the employer's decision pursuant to the  
507 dispute resolution provisions of this section.

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

512 (c) (1) The employer's executive officer or the board  
513 shall refer any dispute that arises under this chapter between  
514 an employee and employer or between an employee and a TPA  
515 contracted with or established under this chapter to the  
516 Executive Director of the Alabama State Bar Association. The  
517 dispute shall be adjudicated by a hearing officer appointed  
518 from the panel of neutrals maintained by the Executive  
519 Director of the Alabama State Bar Association pursuant to  
520 Section 16-24C-6(e). The hearing officer shall be selected  
521 using the same process provided in Section 16-24C-6(g).

522 (2) The hearing officer selected must certify that he  
523 or she has experience in adjudicating workers' compensation  
524 disputes or refer the matter back to the state bar association  
525 to repeat the selection process. The hearing and appeals  
526 process shall be the same as provided in Section 16-24C-6,  
527 except that no deference is to be provided to either party and  
528 the Alabama Rules of Evidence shall apply in hearings before  
529 the hearing officer.

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



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533 (d) The decision of the hearing officer and decision on  
534 appeal shall be based on a preponderance of the evidence as  
535 contained in the record of the hearing, except in cases  
536 involving injuries which have resulted from gradual  
537 deterioration or cumulative physical stress disorders, which  
538 shall be deemed compensable only upon a finding of clear and  
539 convincing proof that the injuries arose out of and in the  
540 course of the employee's employment. For the purposes of this  
541 section, "clear and convincing" shall mean evidence that, when  
542 weighed against evidence in opposition, will produce in the  
543 mind of the trier of fact a firm conviction as to each  
544 essential element of the claim and a high probability as to  
545 the correctness of the conclusion. Proof by clear and  
546 convincing evidence requires a level of proof greater than a  
547 preponderance of the evidence or the substantial weight of the  
548 evidence, but less than beyond a reasonable doubt.

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

552 (1) Two depositions for each side shall be permitted  
553 without leave of court. No additional depositions shall be  
554 permitted except with leave of court for good cause shown,  
555 including, but not limited to, a claim by the employee for  
556 permanent total disability.

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

559 (3) No more than 25 interrogatories, with each subpart  
560 to be considered a question, shall be permitted without leave



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561 of court for good cause shown.

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

566 (5) Copies of records obtained by one party shall be  
567 furnished by certified mail to the other party not less than  
568 21 days prior to the hearing, unless the party offering the  
569 records can establish unusual circumstances justifying  
570 admission of the records.

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

574 (g) In the same manner as provided in the Workers'  
575 Compensation Act, a hearing officer may award a legal fee of  
576 up to 15 percent of the compensation awarded in a contested  
577 case. This amount is discretionary and will only be awarded if  
578 requested by legal counsel for the employee. The award shall  
579 be deducted from compensation otherwise payable to the  
580 employee.

581 Section 3. This act shall become effective on October  
582 1, 2024.