



**House Ways and Means Education Reported Substitute
for SB1**

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A BILL
TO BE ENTITLED
AN ACT

Relating to public education; to amend Section 16-1-18.1, 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, 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, or employed as an adult bus driver, by those employers enumerated in this section; ~~and adult bus drivers~~.

(2) EMPLOYER. All public city and county boards of education; the Board of Trustees of the Alabama Institute for the Deaf and Blind; the Alabama Youth Services Department



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

44 (3) EXECUTIVE OFFICER. The superintendent of any public
45 county school system or any public city school system; the
46 President of the Alabama Institute for the Deaf and Blind; the
47 president of any two-year school or college under the auspices
48 of the Board of Trustees of the Alabama Community College
49 System; the Superintendent of the Department of Youth Services
50 School District; the Executive Director of the Alabama School
51 of Fine Arts; the Executive Director of the Alabama High
52 School of Mathematics and Science; the President of the
53 Alabama School of Cyber Technology and Engineering; the
54 Secretary of the Senate; the Clerk of the House of
55 Representatives; the Lieutenant Governor; the Speaker of the
56 House of Representatives; the Director of the Legislative



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57 Services Agency; and the chief executive officer of any other
58 employer as provided in this section.

59 (4) ON-THE-JOB INJURY. Any accident or injury to the
60 employee arising out of and in the course of employment or
61 occurring during the performance of duties or when directed or
62 requested by the employer to be on the property of the
63 employer ~~which prevents the employee from working or returning~~
64 ~~to his or her job.~~ The term does not include a mental disorder
65 or mental injury that has neither been produced nor
66 proximately caused by some physical injury to the body.

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

69 a. Personal illness or doctor's quarantine.

70 b. Incapacitating personal injury.

71 c. Attendance upon an ill member of the employee's
72 immediate family (parent, spouse, child, foster child
73 currently in the care and custody of the employee, sibling,
74 child currently in the care and custody of the employee for
75 whom a petition for adoption has been filed); or an individual
76 with a close personal tie.

77 d. Death in the family of the employee (parent, spouse,
78 child, sibling, parent-in-law, son-in-law, daughter-in-law,
79 brother-in-law, sister-in-law, nephew, niece, grandchild,
80 grandparent, uncle, or aunt).

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

84 f. Attendance upon an adopted child~~r~~ who is three years



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85 of age or younger.

86 (b) Sick leave for employees.

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

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

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

99 (c) Sick leave accumulation and transfers.

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



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113 ~~Teacher's~~Teachers' Retirement System Board of Control may
114 adopt policies and procedures necessary to effectuate a
115 uniform policy pursuant to this section.

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

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

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

140 b. Other notification procedures ~~and forms~~ shall be as



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141 established by written policy of the employer.

142 (2) ~~PHYSICIAN CERTIFICATION.~~ The employer may require
143 medical certification from the employee's physician that the
144 employee was injured and cannot return to work as a result of
145 the injury. The executive officer, at his or her discretion,
146 may require a second opinion from another physician at the
147 expense of the employer. The employer may require a statement
148 from the physician that there is a reasonable expectation that
149 the employee will be able to return to work. A uniform
150 physician certification form shall be adopted by the State
151 Board of Education and distributed to each executive officer.

152 (3) ~~SALARY CONTINUED.~~ Upon determination by the
153 executive officer that an employee has been injured on the job
154 and cannot return to work as a result of the injury, the
155 salary and fringe benefits of the employee shall be continued
156 for a period of up to 90 working days consistent with the
157 employee's injury and the subsequent absence from work
158 resulting from the injury. This provision shall apply to the
159 temporary disability of the employee as applicable to the
160 job-related injury.

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

166 (5) ~~REIMBURSEMENT TO EMPLOYER.~~ Any reasonable
167 on-the-job injury costs incurred by the employer, to hire a
168 substitute, per absent injured employee in a fiscal year shall



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169 be reimbursed to the employer by the state during the next
170 succeeding fiscal year upon application by the employer to the
171 appropriate State Board of Education department on a form
172 adopted by the state board, not to exceed 90 working days. The
173 department shall subsequently submit the request to the
174 Legislature as a line-item in its budget request for
175 reimbursement to the employer, and, if approved by the
176 Legislature, shall reimburse the employer at the amount per
177 day for sick leave authorized and funded in the annual budget
178 act for public schools and colleges.

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

182 (7) ~~ADDITIONAL EXPENSES. Any unreimbursed medical~~
183 ~~expenses and costs.~~ For any employee not covered under Chapter
184 1A, the Maryann Leonard Educators' On-The-Job Injury Act, any
185 unreimbursed medical expense or cost that the employee incurs
186 as a result of an on-the-job injury may be filed for
187 reimbursement with the State Board of Adjustment.
188 Reimbursement to the employee shall be determined by the Board
189 of Adjustment's policies, rules, and regulations which may be
190 adopted from time to time. The Board of Adjustment shall adopt
191 appropriate rules, regulations, and forms for submission by
192 the employee.

193 (8) ~~The~~ For any employee not covered under Chapter 1A,
194 the Maryann Leonard Educators' On-The-Job Injury Act, the
195 executive officer, or his or her designee, shall inform the
196 employee who is injured on the job of his or her rights about



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197 appearing before the Board of Adjustment and ~~also about~~the
198 applicable written policies within ~~30~~seven calendar days after
199 notification of the injury.

200 (e) ~~Vacations and leaves of absences.~~ The employer,
201 under the rules and ~~regulations~~policies adopted from time to
202 time by the State Board of Education, may provide for paid
203 leaves of absences and vacations for its employees. Payment
204 may be from public funds. The employer may provide for leaves
205 of absence during the times the schools are, or are not, in
206 session when the teacher or employee devotes the leave to
207 instructing in or attending schools for appropriate training,
208 or when approved by the State Board of Education as beneficial
209 to the state's educational objectives. The employer may also
210 provide for the payment of any full-time teachers or employees
211 for absences during the time schools are in session when the
212 absence results from an unavoidable cause that prevents the
213 teacher or employee from discharging his or her duties. Pay
214 for the absences resulting from unavoidable causes other than
215 sickness shall not be allowed for a longer time than one week
216 during any one scholastic year.

217 (f) ~~Alabama Community College System annual leave.~~ As
218 applied to Alabama Community College System employers, any
219 employee who earns and accumulates annual leave may accumulate
220 up to 60 days of annual leave at a rate not to exceed that
221 provided in the policy established by the State Board of
222 Education.

223 (g) ~~Policies.~~ The policies and procedures required and
224 permitted by this section shall be adopted by the employer



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225 consistent with and as required by Section 16-1-30."

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

228 §16-1A-1

229 This chapter shall be known and cited as the **Maryann**
230 Leonard Educators' On-The-Job Injury Act.

231 §16-1A-2

232 As used in this chapter, the following terms have the
233 following meanings:

234 (1) BOARD. The Public Education Employee Injury
235 Compensation Board.

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

239 (3) EMPLOYER. All public city and county boards of
240 education; all public charter schools; the Board of Trustees
241 of the Alabama Community College System; the Board of Trustees
242 of the Alabama Institute for the Deaf and Blind; the Board of
243 Directors of the Alabama School of Fine Arts; the Board of
244 Trustees of the Alabama High School of Mathematics and
245 Science; the Board of Trustees of the Alabama School of Cyber
246 Technology and Engineering; and the Board of Trustees of the
247 Alabama School of Healthcare Sciences.

248 (4) EXECUTIVE OFFICER. The superintendent of any public
249 county school system or any public city school system; the
250 principal of any public charter school; the President of the
251 Alabama Institute for the Deaf and Blind; the president of any
252 two-year school or college under the auspices of the Board of



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253 Trustees of the Alabama Community College System; the
254 Executive Director of the Alabama School of Fine Arts; the
255 Executive Director of the Alabama High School of Mathematics
256 and Science; the President of the Alabama School of Cyber
257 Technology and Engineering; the President of the Alabama
258 School of Healthcare Sciences; and the chief executive officer
259 of any other employer.

260 (5) FUND. The Public Education Employee Injury
261 Compensation Trust Fund.

262 (6) ON-THE-JOB INJURY. Any accident or injury to an
263 employee arising out of and in the course of employment or
264 occurring during the performance of duties. The term does not
265 include a mental disorder or mental injury that has neither
266 been produced nor proximately caused by some physical injury
267 to the body.

268 (7) PEEHIP. The Public Education Employees' Health
269 Insurance Plan.

270 (8) PROGRAM. The Public Education Employee Injury
271 Compensation Program.

272 (9) REVIEW BOARD. The Public Education Employee Injury
273 Compensation Program Review Board, a panel composed of three
274 persons designated by the board to hear and consider claims by
275 employees who disagree with the determination by their
276 employer or its agent or service company as to the employee's
277 entitlement to compensation and medical benefits under this
278 program and to approve settlements, including lump sum
279 settlements, as well as settlements closing some or all
280 benefits, when agreed to by the parties and permitted by the



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281 program. No member or employee of the board may be a member of
282 the review board.

283 (10) TPA. Third-party administrator or adjuster.

284 §16-1A-3

285 (a) The following policies, procedures, and rights are
286 established pertaining to employees who are injured while on
287 the job:

288 (1) The employee shall provide written notice of the
289 injury to an immediate supervisor or the executive officer
290 within five working days after the injury occurred, or where
291 the employee has died or is not clinically able to make
292 notification, another individual who is reasonably
293 knowledgeable may make the notification of the injury within
294 90 days of the date of the injury. The board may adopt rules
295 to further provide for the notice requirements under this
296 subdivision.

297 (2) The board shall adopt uniform injury reporting
298 forms. The employer shall distribute the forms to the
299 institutions under his or her supervision. The employer shall
300 prepare the first report of injury form and the employee shall
301 sign the completed injury report form. The employer shall then
302 forward the employee-signed form to the Public Education
303 Employee Injury Compensation Board.

304 (3) Other notification procedures may be established by
305 written policy of the employer but shall not supersede
306 notification procedures established by the board or this
307 chapter.

308 (b) There is established a separate special trust fund



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309 in the State Treasury to be known as the Public Education
310 Employee Injury Compensation Trust Fund. All receipts
311 collected pursuant to this chapter shall be deposited in this
312 fund and used to carry out this chapter. Monies in the fund
313 unspent or unencumbered at the end of each fiscal year shall
314 not revert to any other fund in the State Treasury but shall
315 be carried forward to the succeeding fiscal year. All monies
316 in the fund may be invested and reinvested by the board. Any
317 monetary interest that accrues in the fund shall be retained
318 in the fund from year to year.

319 (c) (1) The program shall be governed by this chapter.

320 (2) Payments shall be made by PEEHIP pursuant to this
321 chapter to physicians licensed to practice medicine or other
322 medical providers for services to injured employees and shall
323 be in accordance with the schedule of maximum fees as
324 established by PEEHIP. The board, in its sole discretion, may
325 designate and authorize a licensed physician to perform an
326 Independent Medical Examination, or IME, of the employee to
327 assess an injured employee's physical or mental condition;
328 provided, that any physician designated by the board to
329 perform an IME shall be paid for by the board and not by
330 PEEHIP.

331 (3) An employee must use an authorized treating
332 physician covered by PEEHIP. For employees who do not
333 participate in PEEHIP, the board shall adopt rules for
334 selecting authorized treating physicians or other medical
335 providers and shall adopt rules for employees who dispute
336 treatment by an authorized treating physician. The board shall



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337 reimburse such injured employees for copayments and
338 deductibles not paid for by PEEHIP; provided, that the board
339 shall not be required to pay such copayments or deductibles
340 for any medical treatment or attention, physical
341 rehabilitation, medicine, medical or surgical supplies,
342 crutches, artificial members, or other apparatus, other than
343 as may be reasonably necessary and otherwise owed under the
344 Alabama Workers' Compensation Act. The board shall have the
345 absolute discretion to select an authorized treating physician
346 and shall not be responsible to reimburse any physician not so
347 authorized. If the employee is dissatisfied with the initial
348 treating physician selected by the board, and if further
349 treatment is required, the employee may so advise the board
350 and the employee shall be entitled to a second physician from
351 a panel or a list of four physicians selected by the board.
352 The intent of this subdivision is that the board and the
353 employee shall act in compliance with Section 25-5-77.

354 (4) Any rules adopted by the board to establish and
355 operate the program shall be subject to the Alabama
356 Administrative Procedure Act.

357 (d) Nothing in this chapter shall be construed to
358 affect any benefit to which an employee is entitled under this
359 title.

360 (e) Sufficient appropriations to the fund for full
361 coverage shall be considered a mandate for local boards of
362 education to participate in the program pursuant to Section
363 25-5-50(d).

364 §16-1A-4



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

367 (1) One member appointed by the Governor.

368 (2) One member appointed by the President Pro Tempore
369 of the Senate.

370 (3) One member appointed by Speaker of the House of
371 Representatives.

372 (4) One member appointed on an alternating basis by the
373 Minority Leaders of the Senate and the House of
374 Representatives, with the Senate Minority Leader appointing
375 first.

376 (5) One member shall be the Director of the Workers'
377 Compensation Division of the Alabama Department of **Workforce**.

378 (b) (1) The terms of the board members shall be
379 staggered so that the initial appointees of the Speaker of the
380 House and the Minority Leader of the Senate shall serve two
381 years, with their successors serving a term of three years.
382 All other appointed members shall serve an initial term of
383 three years, and the successor shall serve a term of three
384 years. No appointed member may serve more than two consecutive
385 terms.

386 (2) A board member shall serve until his or her
387 successor is appointed.

388 (3) The appointing authorities shall coordinate their
389 appointments to **ensure** that the membership of the board is
390 inclusive and reflects the racial, gender, geographic, urban,
391 rural, and economic diversity of the state. The appointing
392 authorities shall coordinate to ensure that at least one



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393 member of the board has experience and familiarity with
394 workers' compensation.

395 (c) Initial appointments to the board shall be made by
396 the appointing authority on or before July 1, 2025.

397 (d) Members of the board shall receive no compensation
398 but shall be reimbursed by the fund for travel and per diem
399 expenses at the same rate and in the same manner as state
400 employees.

401 (e) The board shall have all of the following duties:

402 (1) To administer the programs, including, but not
403 limited to, establishing or contracting with a TPA to oversee
404 benefits paid to employees and coordinate with PEEHIP. A
405 contract for services of a TPA shall be procured pursuant to
406 Article 5 of Chapter 4 of Title 41, without regard to
407 exemptions. The TPA, whether contracted or otherwise
408 established, shall have no business or administrative
409 relationship with any education association in Alabama,
410 directly or indirectly.

411 (2) To manage the fund to ensure that adequate funds
412 are maintained to provide all injury program benefits to
413 employees.

414 (3) To provide reasonable compensation for hearing
415 officers who hear any dispute arising under this chapter.

416 (4) To employ professional, clerical, technical, and
417 administrative staff as the board may determine necessary to
418 carry out its duties and compensate staff accordingly.

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



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

425 (f) Except as otherwise required by the Health
426 Insurance Portability and Accountability Act, 42 U.S.C. §
427 1320d et seq., the board shall be subject to all applicable
428 open meetings and open records laws, shall adopt rules in
429 accordance with the Alabama Administrative Procedure Act, and
430 shall have a fiduciary duty to the fund and the program.

431 §16-1A-5

432 (a) There is established the Public Education Employee
433 Injury Compensation Program.

434 (b) (1) Except as provided in this section, the program
435 implemented pursuant to this section shall not be subject to
436 the provisions of Chapter 5 of Title 25, or its successor,
437 otherwise known as the Alabama Workers' Compensation Act.

438 (2) Notwithstanding subdivision (1), if an employee is
439 subject to this chapter then compensation, in accordance with
440 the Alabama Workers' Compensation Act, shall be paid by the
441 Public Education Employee Injury Compensation Trust Fund, as
442 established under this chapter, in accordance with the
443 statutes, provisions, defenses, and calculation methods set
444 forth in the Alabama Workers' Compensation Act and any case
445 law interpreting the same.

446 (c) (1) For injured employees covered by PEEHIP,
447 payments made to physicians licensed to practice medicine or
448 other medical providers for services to injured employees



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449 shall be paid by PEEHIP in accordance with the PEEHIP fee
450 schedule. The board shall reimburse such injured employees for
451 copayments and deductibles not paid for by PEEHIP; provided,
452 that board shall not be required to pay such copayments or
453 deductibles for any medical treatment or attention, physical
454 rehabilitation, medicine, medical or surgical supplies,
455 crutches, artificial members, or other apparatus, other than
456 as may be reasonably necessary and otherwise owed under the
457 Alabama Workers' Compensation Act.

458 (2) For injured employees not covered by PEEHIP, the
459 board shall provide payments for medical treatment for an
460 on-the-job injury. The liability of the board for payment of
461 services rendered by physicians, as well as any other medical
462 services, shall not exceed the maximum fees established under
463 Section 25-5-313. Employees shall not be liable to physicians,
464 or for any other medical services, for any amount in excess of
465 the schedule of maximum fees established under Section
466 25-5-313, and consistent with Section 25-5-314. This language
467 shall not prohibit the board from negotiating any rates, fees,
468 or levels of reimbursement which shall be mutually agreed upon
469 between the physicians, hospitals, any other healthcare
470 providers, and the board.

471 (d) (1) All undisputed medical reimbursements or
472 payments shall be made within 25 working days of receipt of
473 claims in the form specified in Section 25-5-3.

474 (2) An amount equal to 10 percent of any unpaid balance
475 shall be added to any undisputed medical invoice which is not
476 paid within 25 working days.



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477 (e) Any regulation, policy, or program directive for
478 the conduct of utilization review, bill screenings, and
479 medical necessity determinations related to services provided
480 by physicians licensed to practice medicine shall comply with
481 the rules adopted by the Workers' Compensation Medical
482 Services Board under Section 25-5-312.

483 (f) Any rules adopted by the board shall be subject to
484 the Alabama Administrative Procedure Act, and a final
485 determination as to benefits payable under the program shall
486 be subject to review by the Circuit Court in Montgomery County
487 in the manner prescribed by the Alabama Administrative
488 Procedure Act.

489 (g) Employers shall continue to make all required
490 health insurance contributions until any separation from
491 employment.

492 (h) The board shall establish procedures for employers
493 to be reimbursed by the fund for the costs of an employee's
494 compensation and benefits under this chapter; except for
495 salary and benefits provided by employers under Section
496 16-1-18.1.

497 (i) PEEHIP and the Public Education Employee Injury
498 Compensation Trust Fund established under Section 16-1A-3, as
499 to their respective payments, may subrogate, seek
500 reimbursement, or seek credit for any amount paid to an
501 injured employee under the program from any third party, or
502 the employee's insurer, responsible for the injury. Any action
503 to recover shall be filed in the Circuit Court of Montgomery
504 County.



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505 (j) Any on-the-job injuries suffered by individuals not
506 covered by this chapter, such as part-time, substitute,
507 temporary, non-full-time employees and volunteers, shall be
508 conducted in accordance with the Board of Adjustment process
509 outlined in Article 4 of Chapter 9 of Title 41.

510 §16-1A-6

511 (a) An employer shall complete an injury report upon
512 timely notice of an injury in accordance with this chapter. An
513 employer who refuses to complete and submit an injury report
514 form after timely notice of an injury by an employee pursuant
515 to this chapter shall provide notice in writing of its
516 findings of fact that support its decision. An employee may
517 challenge the employer's decision pursuant to the dispute
518 resolution provisions of this section.

519 (b) (1) The employer's executive officer or the board
520 shall refer any dispute that arises under this chapter between
521 an employee and employer or between an employee and a TPA
522 contracted with or established under this chapter to the
523 review board.

524 (2) Notwithstanding subdivision (1), if an employee,
525 employer, or TPA requests a hearing officer, the dispute shall
526 be referred to and adjudicated by a hearing officer appointed
527 from the panel of neutrals maintained by the Executive
528 Director of the Alabama State Bar Association pursuant to
529 subdivision (3). The hearing officer shall be selected using
530 the process provided in subdivision (3).

531 (3) The Alabama State Bar shall create and maintain a
532 roster of attorneys with significant experience in workers'



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533 compensation disputes. Upon a request pursuant to subdivision
534 (2), the Executive Director of the Alabama State Bar, on a
535 random and rotating basis, shall select a panel of five from
536 the roster and send the names to the parties. The parties may
537 select a hearing officer from the panel. If the parties cannot
538 agree, the parties shall select the hearing officer by a
539 process of alternating strikes in which the employee shall be
540 provided the first strike and the employer the last strike. No
541 deference is to be provided to either party and the Alabama
542 Rules of Evidence shall apply in hearings before the hearing
543 officer.

544 (4) The decision of the hearing officer may be appealed
545 to the Circuit Court of Montgomery County. The court shall
546 review any decision pursuant to Section 41-22-20. Review by
547 the court shall be limited to the record on appeal and shall
548 not include a trial de novo. In reviewing pure findings of
549 fact, the finding of the hearing officer shall not be reversed
550 if that finding is supported by substantial evidence. The cost
551 of transcript preparation shall initially be paid by the
552 appealing party; such cost shall thereafter be taxed against
553 the losing party in the circuit court.

554 (5) The statute of limitations for a dispute under this
555 subsection is two years from the date of the injury, the date
556 of last diagnosis for occupational disease, or the date of the
557 last temporary total disability payment.

558 (c) The decision of the review board or hearing officer
559 shall be based on a preponderance of the evidence as contained
560 in the record of the hearing except in cases involving



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561 injuries which have resulted from gradual deterioration or
562 cumulative physical stress disorders, which shall be deemed
563 compensable only upon a finding of clear and convincing proof
564 that the injuries arose out of and in the course of the
565 employee's employment. For the purposes of this subsection,
566 "clear and convincing" means evidence that, when weighed
567 against evidence in opposition, will produce in the mind of
568 the trier of fact a firm conviction as to each essential
569 element of the claim and a high probability as to the
570 correctness of the conclusion. Proof by clear and convincing
571 evidence requires a level of proof greater than a
572 preponderance of the evidence or the substantial weight of the
573 evidence, but less than beyond a reasonable doubt.

574 (d) The Alabama Rules of Civil Procedure shall govern
575 the methods of discovery before a hearing officer, except that
576 the following limitations to pre-hearing discovery shall
577 apply:

578 (1) Two depositions for each side shall be permitted
579 without leave of the hearing officer. No additional
580 depositions shall be permitted except with leave of court for
581 good cause shown, including, but not limited to, a claim by
582 the employee for permanent total disability.

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

585 (3) No more than 25 interrogatories, with each subpart
586 to be considered a question, shall be permitted without leave
587 of the hearing officer for good cause shown.

588 (4) Copies of records obtained by one party shall be



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589 furnished to the other party by digital or electronic means
590 not less than 21 days prior to the hearing, unless the party
591 offering the records can establish unusual circumstances
592 justifying admission of the records.

593 (5) The party not offering the records of treatment by
594 a physician or other medical provider shall have the right to
595 depose the physician or medical provider whose records of
596 treatment are to be offered by any other party.

597 (g) The review board or hearing officer may award a
598 legal fee of up to 15 percent of the compensation awarded in a
599 contested case. This amount is discretionary and will only be
600 awarded if requested by legal counsel for the employee and
601 agreed to by the employee. The award shall be deducted from
602 compensation otherwise payable to the employee pursuant to
603 rules adopted by the board.

604 §16-1A-7

605 (a) The costs of the program, including administration
606 costs, shall be paid from the fund. The total amount to be
607 expended pursuant to the program shall not exceed the amount
608 provided for in annual appropriations.

609 (b) The program shall begin accepting on-the-job injury
610 claims on an implementation date declared and published by the
611 board in consultation with the Board of Adjustment but not
612 later than October 1, 2026.

613 (c) The program created by this chapter shall be the
614 sole remedy for employees who incur an on-the-job injury on or
615 after the implementation date established in subsection (b).
616 The Board of Adjustment shall have sole jurisdiction over



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617 on-the-job injury claims for injuries occurring before the
618 implementation date in subsection (b).

619 (d) Nothing in this chapter shall be construed as a
620 waiver by the state of its sovereign immunity under the
621 Constitution of Alabama of 2022.

622 Section 3. If any provision of this act is held invalid
623 by a court of competent jurisdiction, the invalidity shall not
624 affect the provisions that can be given effect without the
625 invalid provisions, and to this end, the provisions of this
626 act are declared to be severable.

627 Section 4. This act shall become effective immediately.
628