Senate Bill 60

By: Senators Thompson of the 14th, Albers of the 56th, Mullis of the 53rd, Robertson of the 29th, Payne of the 54th and others

AS PASSED

A BILL TO BE ENTITLED

AN ACT

To amend Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to the Georgia State Indemnification Fund, so as revise when indemnification shall be paid in instances of a heart attack, stroke, or vascular rupture suffered by a public safety officer resulting in certain disabilities or death; to provide for definitions; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

1 Part 1 of Article 5 of Chapter 9 of Title 45 of the Official Code of Georgia Annotated, relating to the Georgia State Indemnification Fund, is amended by revising Code Section 45-9-85, relating to payment of indemnification for death or disability, procedure for making payments, and appeal, as follows:

"45-9-85. (a) As used in this Code section, the term:

(1) 'Nonroutine stressful or strenuous physical activity' means actions that are not clerical, administrative, or nonmanual in nature.
(2) 'Public safety officer' means a law enforcement officer, firefighter, emergency medical technician, emergency management rescue specialist, state highway employee, or prison guard.

(3) 'Work related activity' means, while in the line of duty:

(A) Engaging in a situation involving nonroutine stressful or strenuous physical activity related to law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison or jail security, disaster relief, or any other emergency response as classified by the commission; or

(B) Participating in a training exercise involving nonroutine stressful or strenuous physical activity.

(b) Indemnification shall be paid under this article as follows:

(1) In the case of a partial permanent disability suffered in the line of duty by a law enforcement officer, firefighter, emergency medical technician, emergency management rescue specialist, state highway employee, or prison guard public safety officer, the eligible disabled person may elect payment of $35,000.00 paid in equal monthly installments for five years or a lump sum of such amount reduced to its present value upon the basis of interest calculated at the rate of 6 percent per annum;

(2) In the case of a total permanent disability suffered in the line of duty by a law enforcement officer, firefighter, emergency medical technician, emergency management rescue specialist, state highway employee, or prison guard public safety officer, the injured person may elect to receive a payment of $75,000.00 paid in equal monthly installments for five years or a lump sum of such amount reduced to its present value upon the basis of interest calculated at the rate of 6 percent per annum; or

(3)(A) In the case of death suffered in the line of duty by a law enforcement officer, firefighter, emergency medical technician, emergency management specialist, state highway employee, or prison guard public safety officer, payment shall be made to:

(i) The surviving unremarried spouse;
(ii) The surviving children who are under the age of 19 or, if a student enrolled in an
institution of postsecondary education at the time of such death, under the age of 24;
or
(iii) Individuals not otherwise provided for under this subparagraph who are the
dependents of the spouse or deceased person as shown in the spouse's or deceased
person's most recent tax return.

(B) In the case of organic brain damage suffered in the line of duty by a law
enforcement officer, firefighter, emergency medical technician, emergency
management specialist, state highway employee, or prison guard, payment shall be
made to the legal guardian of the organically brain damaged person.

(C) The surviving unremarried spouse, dependents, or the legal guardian may elect to
receive payment in a lump sum payment of $150,000.00 paid in equal monthly
installments for five years or a lump sum of such amount reduced to its present value
upon the basis of interest calculated at the rate of 6 percent per annum; or

(4) A heart attack, stroke, or vascular rupture suffered by a public safety officer shall be
presumed to qualify such public safety officer under this subsection if the heart attack,
stroke, or vascular rupture:

(A) Commenced:

(i) While such public safety officer was performing work related activity;
(ii) While such public safety officer was on duty after performing work related
activity; or
(iii) Not later than 24 hours after performing work related activity; and

(B) Directly or proximately resulted in the death or partial or permanent disability of
the public safety officer, unless competent medical evidence established that the heart
attack, stroke, or vascular rupture was not related to the work related activity or was
directly or proximately caused by something other than the mere presence of
cardiovascular disease risk factors.
(b)(c) After the department, or the commission upon review of a denial by the department, determines that a law enforcement officer, firefighter, emergency medical technician, emergency management rescue specialist, prison guard, or state highway employee public safety officer has suffered a total permanent disability, a partial permanent disability, organic brain damage, or death in the line of duty, the department shall be authorized to make the appropriate payments as provided in subsection (a) (b) of this Code section.

(e)(d) If the department denies a claim, any person seeking benefits pursuant to this part may appeal the department's decision to the commission. Any such appeal shall be filed with the commission within 60 days of receipt of the department's decision and shall identify the errors in the department's decision. Appeals shall be considered by the commission at the commission's semiannual meeting as provided in Code Section 45-9-84."

SECTION 2.
Said part is further amended by revising Code Section 45-9-88, relating to indemnification not to be awarded when penal violation, suicide, intentionally self-inflicted injuries, natural causes, or performance of certain routine duties caused or contributed to death or disability, as follows:

"45-9-88.

(a) No indemnification shall be awarded to any person otherwise entitled thereto who violates a penal law of this state which violation caused or contributed to the death or disability of the officer.

(b) Notwithstanding any other provision of this article, no payment shall be authorized if death, organic brain damage, total permanent disability, or partial permanent disability occurs from suicide, intentionally self-inflicted injuries, natural causes, or the performance of routine duties which would not be considered strenuous or dangerous by a reasonable person, except as provided for in subsection (b) of Code Section 45-9-85, provided, however, that this subsection shall not preclude the department or the commission from
considering competent, independent medical evidence as to whether a heart attack that occurs shortly after fighting a fire was caused by the strain of fighting the fire."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.