Senate Bill 135
By: Senators Walker III of the 20th, Jones of the 25th, Martin of the 9th, Harbin of the 16th, Kirk of the 13th and others

AS PASSED

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, so as to change certain provisions related to workers' compensation administration and benefits; to change certain provisions relating to the eligibility for appointment as administrative law judge emeritus of the State Board of Workers' Compensation; to provide for terms of office and salary for the office of administrative law judge emeritus; to change certain provisions relating to the eligibility for appointment as director emeritus; to provide for terms of office and salary for the office of director emeritus; to provide that certain care, treatment, services, and items prescribed by an authorized physician for noncatastrophic injuries shall not be subject to the 400 week maximum period cap; to provide for definitions; to increase the compensation benefits for total disability and temporary partial disability; to increase the total compensation payable to a surviving spouse as a sole dependent at the time of death; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.
Chapter 9 of Title 34 of the Official Code of Georgia Annotated, relating to workers' compensation, is amended by revising Code Section 34-9-53, relating to directors emeritus of the State Board of Workers' Compensation and the eligibility and procedure for appointment, as follows:

"34-9-53. (a) There is created the office of director emeritus of the board.
(b) Any director of the board now or hereafter in office on June 30, 2019, shall be eligible for appointment as director emeritus, provided that once such member of the board has reached the age of 60 years and has also attained 20 consecutive years of service in the capacity of chairman chairperson, director, deputy director or administrative law judge, member of the General Assembly, or a combination of consecutive service in these offices;"
and provided, further, provided that not more than five years' service in the General Assembly shall be allowed as service credit under this Code section. The Governor shall appoint to the position of director emeritus anyone eligible under this Code section who shall advise the Governor in writing that he or she desires to resign from the office of director of the board and accept appointment as director emeritus of the board, stating in such notice the date upon which the resignation as director and appointment as director emeritus shall become effective; and upon such notice the Governor shall make such appointment effective upon the date requested, and the resignation as director of the board shall be automatically effective as of the same date as the appointment as director emeritus.

(c) Notwithstanding the provisions of subsection (b) of this Code section, all persons appointed to the office of director emeritus of the board prior to June 30, 2019, shall continue to hold such office for the term and salary provided for in Code Section 34-9-54."

SECTION 2.
Said chapter is further amended by revising Code Section 34-9-57, relating to the creation of administrative law judge emeritus of the State Board of Workers' Compensation, eligibility for and manner of appointment, and compensation, as follows:

"34-9-57.

(a) There is created the office of administrative law judge emeritus of the board.

(b) Any administrative law judge, formerly known as deputy director, of the board now or hereafter in office on June 30, 2019, shall be eligible for appointment as administrative law judge emeritus, provided he once he or she has reached the age of 70 years and has either:

(1) Attained attained 20 years of service in the capacity of administrative law judge or deputy director; or

(2) Attained attained 20 years of total service, aggregating his or her service as administrative law judge or deputy director with any years of prior service as director, member of the General Assembly of Georgia or the Georgia National Guard, or as special assistant attorney general, or any combination of services in these offices.

(c) An such administrative law judge emeritus shall be eligible for appointment by the Governor in the same manner as provided for appointment of a director emeritus under Code Section 34-9-53 and shall exercise the same duties as provided in Code Section 34-9-55 for a director emeritus.

(d) Notwithstanding the provisions of subsection (b) of this Code section, all persons appointed to the office of administrative law judge emeritus of the board prior to June 30, 2019, shall continue to hold such office and shall receive the annual salary provided for in subsection (e) of this Code section.
(e) All persons appointed to the office of administrative law judge emeritus as provided
in this Code section shall receive an annual salary equal to one-third of the annual salary
provided by law for an administrative law judge of the board at the time of appointment of
the administrative law judge emeritus under this Code section, such salary to be paid by the
board in semimonthly installments from funds provided by law for the operation of the
board."

SECTION 3.

Said chapter is further amended in subsection (a) of Code Section 34-9-200, relating to
compensation for medical care, artificial members, and other treatment and supplies, effect
of employee's refusal of treatment, and employer's liability for temporary care, by adding a
new paragraph to read as follows:

"(3)(A) For injuries arising on or after July 1, 2013, that are not designated as
catastrophic injuries pursuant to subsection (g) of Code Section 34-9-200.1, the
maximum period of 400 weeks referenced in paragraph (2) of this subsection shall not
be applicable to the following care, treatment, services, and items when prescribed by
an authorized physician:

(i) Maintenance, repair, revision, replacement, or removal of any prosthetic device,
provided that the prosthetic device was originally furnished within 400 weeks of the
date of injury or occupational disease arising out of and in the course of employment;
(ii) Maintenance, repair, revision, replacement, or removal of a spinal cord stimulator
or intrathecal pump device, provided that such items were originally furnished within
400 weeks of the date of injury or occupational disease arising out of and in the
course of employment; and
(iii) Maintenance, repair, revision, replacement, or removal of durable medical
equipment, orthotics, corrective eyeglasses, or hearing aids, provided that such items
were originally furnished within 400 weeks of the date of injury or occupational
disease arising out of and in the course of employment.

(B) For the purposes of this subsection, the term:

(i) 'Durable medical equipment' means an apparatus that provides therapeutic
benefits, is primarily and customarily used to serve a medical purpose, and is reusable
and appropriate for use in the home. Such term includes, but shall not be limited to,
manual and electric wheelchairs, beds and mattresses, traction equipment, canes,
crutches, walkers, oxygen, and nebulizers.
(ii) 'Prosthetic device' means an artificial device that has, in whole or in part, replaced
a joint lost or damaged or other body part lost or damaged as a result of an injury or
occupational disease arising out of and in the course of employment."

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SECTION 4.

Said chapter is further amended by revising Code Section 34-9-261, relating to compensation for total disability, as follows:

“34-9-261.

While the disability to work resulting from an injury is temporarily total, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the employee's average weekly wage but not more than $575.00 per week nor less than $50.00 per week, except that when the weekly wage is below $50.00, the employer shall pay a weekly benefit equal to the average weekly wage. The weekly benefit under this Code section shall be payable for a maximum period of 400 weeks from the date of injury; provided, however, that in the event of a catastrophic injury as defined in subsection (g) of Code Section 34-9-200.1, the weekly benefit under this Code section shall be paid until such time as the employee undergoes a change in condition for the better as provided in paragraph (1) of subsection (a) of Code Section 34-9-104.”

SECTION 5.

Said chapter is further amended by revising Code Section 34-9-262, relating to compensation for temporary partial disability, as follows:

“34-9-262.

Except as otherwise provided in Code Section 34-9-263, where the disability to work resulting from the injury is partial in character but temporary in quality, the employer shall pay or cause to be paid to the employee a weekly benefit equal to two-thirds of the difference between the average weekly wage before the injury and the average weekly wage the employee is able to earn thereafter but not more than $383.00 per week for a period not exceeding 350 weeks from the date of injury.”

SECTION 6.

Said chapter is further amended in Code Section 34-9-265, relating to compensation for death resulting from injury and other causes, penalty for death from injury proximately caused by intentional act of employer, and payment of death benefits where no dependents found, by revising subsection (d) as follows:

“(d) The total compensation payable under this Code section to a surviving spouse as a sole dependent at the time of death and where there is no other dependent for one year or less after the death of the employee shall in no case exceed $230,000.00 $270,000.00.”

SECTION 7.

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