

SENATE BILL NO. 222

BY SENATORS ERDEY, ALARIO, ALLAIN, APPEL, BARROW, BISHOP, BOUDREAUX, CARTER, CHABERT, CLAITOR, COLOMB, CORTEZ, DONAHUE, FANNIN, GATTI, HEWITT, JOHNS, LAFLEUR, LAMBERT, LONG, LUNEAU, MARTINY, MILKOVICH, MILLS, MIZELL, MORRELL, MORRISH, PEACOCK, PERRY, PETERSON, RISER, GARY SMITH, JOHN SMITH, TARVER, THOMPSON, WALSWORTH, WARD AND WHITE AND REPRESENTATIVES ABRAHAM, AMEDEE, ANDERS, ARMES, BACALA, BAGLEY, BAGNERIS, BARRAS, BERTHELOT, BILLIOT, BOUIE, BROADWATER, TERRY BROWN, CARMODY, CARPENTER, GARY CARTER, CHANEY, CONNICK, COUSSAN, COX, CREWS, CROMER, DANAHAY, DAVIS, DEVILLIER, DWIGHT, EDMONDS, EMERSON, FALCONER, FOIL, FRANKLIN, GISCLAIR, GLOVER, GUINN, HALL, HAVARD, HAZEL, HENSGENS, HILFERTY, HILL, HOFFMANN, HORTON, HOWARD, HUNTER, HUVAL, IVEY, JACKSON, JAMES, JENKINS, JORDAN, NANCY LANDRY, LEBAS, LEGER, LYONS, MACK, MAGEE, MARCELLE, MARINO, MCFARLAND, MIGUEZ, GREGORY MILLER, MORENO, JAY MORRIS, JIM MORRIS, NORTON, PIERRE, PRICE, PUGH, PYLANT, REYNOLDS, SCHEXNAYDER, SEABAUGH, SIMON, SMITH, STAGNI, STEFANSKI, STOKES, THOMAS AND ZERINGUE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

1 AN ACT

2 To amend and reenact R.S. 39:1533(A) and to enact Chapter 7-C of Title 40 of the Louisiana

3 Revised Statutes of 1950, to be comprised of R.S. 40:1668, relative to disability

4 benefits for certain public employees; to provide benefits for firemen and law

5 enforcement officers who are permanently and totally disabled as a result of a

6 catastrophic injury sustained in the line of duty; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 39:1533(A) is hereby amended and reenacted to read as follows:

9 §1533. Self-Insurance Fund

A.(1) There is hereby created in the Department of the Treasury a special fund to be known as the "Self-Insurance Fund". The fund shall consist of all premiums paid by state agencies under the state's risk management program as established by this Chapter, the investment income earned from such premiums, and commissions retained in accordance with the provisions of this Title. This fund shall be used only for the payment of losses incurred by state agencies under the self-insurance program, premiums for insurance obtained through commercial carriers, administrative expenses associated with the management of the state's risk, law enforcement officers and firemen's survivors benefits as provided for in R.S. 40:1665(C) and 1665.2(C), law enforcement officers and firemen's disability benefits as provided for in R.S. 40:1668, the payment of losses incurred by the Jefferson Parish Human Services Authority in accordance with R.S. 28:831(J), the payment of losses incurred by the Capital Area Human Services District in accordance with R.S. 28:906, the payment of losses incurred by the Florida Parishes Human Services Authority in accordance with R.S. 28:856, the payment of losses incurred by the Metropolitan Human Services District in accordance with R.S. 28:866, the payment of losses incurred by the Northeast Delta Human Services Authority in accordance with R.S. 28:896, the payment of losses incurred by the South Central Louisiana Human Services Authority in accordance with R.S. 28:876, and the funding of the legal services, such funds to be administered by the commissioner of administration.

(2) Payments for law enforcement officers and firemen survivor and disability benefits as provided for in R.S. 40:1665(C), R.S. 40:1665.2(C), and R.S. 40:1668 shall be made by the office of risk management on behalf of the Law Enforcement Officers and Firemen's Survivor Benefit Review Board as a result of a specific appropriation received for that purpose.

* * *

Section 2. Chapter 7-C of Title 40 of the Louisiana Revised Statutes of 1950, comprised of R.S. 40:1668, is hereby enacted to read as follows:

CHAPTER 7-C. FIREMEN AND LAW ENFORCEMENT OFFICERS

- DISABILITY BENEFITS

§1668. Benefits for disabled firemen and law enforcement officers in certain cases

A. It is hereby declared to be the public policy of this state, under its police power, to provide for certain benefits to firemen and law enforcement officers determined to be permanently and totally disabled as the direct and proximate result of a catastrophic injury arising out of and in the course of the performance of their official duties.

B. As used in this Section, the following words have the following meanings:

(1) "Board" means the Law Enforcement Officers and Firemen's Survivor Benefit Review Board created and provided for in R.S. 40:1665.3.

(2) "Catastrophic injury" means an injury incurred on or after July 1, 2016, caused by an individual having the specific intent to kill the officer who is engaged in the performance of his official duties, the direct and proximate consequences of which, as provided by clear and convincing evidence unaided by any presumption of disability, leaves the officer permanently and totally disabled.

(3) "Law enforcement officer" means the following:

(a) All sheriffs and deputy sheriffs in the state employed on a full-time basis.

(b) All members of the state police employed on a full-time basis.

(c) All municipal police officers in the state employed on a full-time basis.

(d) All university and college police officers at state universities and colleges employed on a full-time basis.

(4) "Officer" includes firemen as defined in R.S. 40:1665 and law enforcement officers as defined in Paragraph (3) of this Subsection.

(5) "Permanently and totally disabled" means the officer is unable to engage in any employment or self-employment on a full-time basis, regardless of the nature or character of the employment or self-employment.

1 C.(1) In any case in which an officer is determined by the board or a
2 court of competent jurisdiction pursuant to Paragraph (E)(2) of this Section to
3 be permanently and totally disabled as the direct and proximate result of a
4 catastrophic injury arising out of and in the course of the performance of the
5 officer's official duties, the following shall be paid by the state risk manager out
6 of the Self-Insurance Fund on behalf of the officer from the date of the
7 catastrophic injury as long as the officer is permanently and totally disabled:

8 (a) Premiums due from the officer for the amount and type of life,
9 health, accident, accidental death and dismemberment, hospital, surgical, and
10 medical expense insurance covering the officer and maintained by the officer
11 through the officer's employer at the time of the catastrophic injury. This
12 Subparagraph shall not apply to any premium due from the officer for
13 insurance covering any individual other than the officer.

14 (b) Copayments and deductibles applicable to any insurance policy for
15 which premiums are paid pursuant to Subparagraph (a) of this Paragraph for
16 healthcare benefits received by the officer.

17 (2) The premiums, deductibles, and copayments paid pursuant to this
18 Section shall be in addition to any other benefit or income available and paid to
19 the injured officer for the disability due to the catastrophic injury.

20 D.(1) In order to facilitate the operation of this Section, within one year
21 after the employing authority has knowledge of the permanent and total
22 disability of an officer under circumstances covered by this Section, the
23 employing authority or officer shall notify the Law Enforcement Officers and
24 Firemen's Survivor Benefit Review Board of the disability, the date of the
25 catastrophic injury for which the disability is a result, the circumstances
26 surrounding the injury, and such other information as may be requested by the
27 board.

28 (2) The officer seeking the benefits provided in this Section may notify
29 the board providing the information listed in Paragraph (1) of this Subsection.

30 (3) Nothing in this Section shall prevent the board from initiating

1 proceedings before being notified by the employing authority or officer.

2 E.(1) The board shall hear and decide by unanimous vote all claims for
3 disability benefits within sixty days after documentation is received. The board
4 may request any information necessary to make a determination of eligibility
5 for disability benefits.

6 (2) Within ten days after the board has reached its decision, it shall
7 notify the officer of its decision by certified mail. If the board denies the claim,
8 the officer shall have one year from the date of denial to file suit against the
9 state through the board in the parish where the incident that brought about the
10 permanent and total disability occurred. The date of denial shall be calculated
11 as one year from date of receipt of the decision from the board.

12 F. If the board determines the officer qualifies for the benefit payable
13 under this Section, the board shall notify the state risk manager.

14 G. No benefit shall be payable pursuant to this Section if any of the
15 following applies:

16 (1) The catastrophic injury was caused by the intentional misconduct of
17 the officer or by the officer's intention to bring about his death, disability, or
18 injury.

19 (2) The officer was voluntarily intoxicated at the time of his catastrophic
20 injury.

21 (3) The officer was performing his duties in a grossly negligent manner
22 at the time of his catastrophic injury.

23 (4) The officer qualifies for federal or state life, health, accident,
24 accidental death and dismemberment, hospital, surgical, or medical expense
25 programs.

26 H. The board may adopt rules and regulations to implement the
27 provisions of this Section.

28 Section 3. The Act shall be known and may be cited as "Nicholas Tullier's Law".

29 Section 4. This Act shall become effective upon signature by the governor or, if not

30 signed by the governor, upon expiration of the time for bills to become law without signature

1 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
2 vetoed by the governor and subsequently approved by the legislature, this Act shall become
3 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____