

HB323 INTRODUCED



1 PSQFER-1

2 By Representatives Pettus, Treadaway, Stringer, Rehm

3 RFD: County and Municipal Government

4 First Read: 13-Apr-23

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SYNOPSIS:

Under existing workers' compensation law, an occupational disease is not considered to include a mental illness, including post-traumatic stress disorder (PTSD), unless a physical injury accompanies the mental illness.

This bill would require certain benefits be provided to first responders who suffer from work-related PTSD, including reimbursement for certain out-of-pocket treatment expenses and paid time off for employed first responders for treatment. It would provide eligibility requirements for participants to receive the benefits.

This bill would authorize a fund to disburse the benefits, to be established by the Alabama League of Municipalities and regulated by the Secretary of the Department of Labor.

This bill would also exempt paid benefits from state income tax liability.

Section 111.05 of the Constitution of Alabama of 2022 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the



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29 Legislature appropriates funds, or provides a local
30 source of revenue, to the entity for the purpose.

31 The purpose or effect of this bill would be to
32 require a new or increased expenditure of local funds
33 within the meaning of the amendment. If this bill is not
34 enacted by a 2/3 vote, it will not become effective with
35 regard to a local entity or until, and only as long as,
36 the Legislature appropriates funds or provides for a
37 local source of revenue.

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A BILL

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TO BE ENTITLED

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AN ACT

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Relating to first responders; to require certain
benefits be made available to first responders suffering from
work-related post-traumatic stress disorder; to make a certain
leave benefit available to employed first responders; to
authorize the Secretary of the Department of Labor to regulate
a fund established by the Alabama League of Municipalities to
provide the benefits payable to first responders; to exempt
benefit payments from the fund from state income tax; and to
have as its purpose or effect the requirement of a new or
increased expenditure of local funds within the meaning of
Section 111.05 of the Constitution of Alabama of
2022.

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BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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57 Section 1. For the purposes of this act, the
58 following terms have the following meanings:

59 (1) AUTHORIZED TREATING PHYSICIAN. A licensed
60 clinical psychologist or board-certified psychiatrist licensed
61 to practice in this state and with experience diagnosing PTSD,
62 utilizing an evaluation that includes symptom validity testing
63 and other procedures to rule out the presence of malingering
64 PTSD by using established guidelines and criteria.

65 (2) BENEFITS. The coverage provided under this act
66 as described in Section 3(b) through (d).

67 (3) COVERED PARTICIPANT. A first responder whose
68 annual premium has been paid in full into the fund.

69 (4) EMPLOYER. The employing municipality or fire
70 district entity which employs participants.

71 (5) FIRST RESPONDER: Any of the following:

72 a. CAREER FIREFIGHTER. Any individual employed by a
73 municipality or a fire district who has obtained certification
74 as a firefighter through, and as defined by, the Alabama
75 Firefighters' Personnel Standards and Education Commission.

76 b. VOLUNTEER FIREFIGHTER. Any individual who is an
77 active member of a volunteer or combination career and
78 volunteer fire department, as recognized by the Alabama
79 Forestry Commission, regardless of whether the individual is
80 certified as a volunteer firefighter through, and as defined
81 by, the Alabama Firefighters' Personnel Standards and
82 Education Commission, who may or may not receive remuneration
83 for firefighting activities, but is not offered typical
84 employment benefits, including health insurance coverage.



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85 c. OFFICER. A law enforcement officer certified by
86 the Alabama Peace Officers' Standards and Training Commission
87 and employed by a municipality.

88 (6) FUND. A legal entity established by the Alabama
89 League of Municipalities to administer the benefits provided
90 for in this act, subject to rules adopted by the Department of
91 Labor.

92 (7) GOVERNING BODY. The board, authority, or
93 individuals designated by the Alabama League of Municipalities
94 to administer the fund.

95 (8) POST-TRAUMATIC STRESS DISORDER (PTSD). A mental
96 health condition that meets the diagnostic criteria in the
97 Diagnostic and Statistical Manual of Mental Disorders, Fifth
98 Edition, published by the American Psychiatric Association.

99 (9) QUALIFYING EVENT. An isolated and
100 extraordinarily traumatic event involving a first responder
101 acting within the line and scope of duty and that includes the
102 first responder satisfying either of the following:

103 a. Witnessing or being directly engaged in actions
104 resulting in the death of an individual or individuals on the
105 scene of an event.

106 b. Witnessing or being directly engaged in actions,
107 during or in rapid emergency response immediately after the
108 occurrence, that resulted in injuries of such an extraordinary
109 and severe nature that they lead directly to the death of an
110 individual or individuals due to the injuries on the way to,
111 or no more than 48 hours after, reaching a hospital for
112 initial treatment.



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113 (10) SECRETARY. The Secretary of the Department of
114 Labor.

115 (11) VOLUNTEER FIRE DEPARTMENT. A group of area
116 residents organized to provide fire protection and recognized
117 by the Alabama Forestry Commission as a volunteer fire
118 department.

119 (12) VOLUNTEER PARTICIPANT. A first responder whose
120 annual premium has been paid in full into the fund.

121 Section 2. The secretary shall be responsible for
122 the regulation of the fund as it relates to the requirements
123 of this act, and he or she shall adopt rules, including, but
124 not limited to, investment policies for any monies held by the
125 fund in furtherance of this act. Provided, however, nothing in
126 this act shall limit or restrict the governing body from
127 providing additional benefits to some or all first responders
128 on matters outside the scope of this act.

129 Section 3. (a) To claim benefits under this act, a
130 covered participant or volunteer participant must satisfy all
131 of the following:

132 (1) Experiences a qualifying event during the
133 12-month period immediately preceding the date the first claim
134 for benefits is submitted.

135 (2) Agrees that the employer or volunteer fire
136 department is not liable under Chapter 5, Title 25, Code of
137 Alabama 1975, to the covered participant or volunteer
138 participant who elects to receive benefits under this act. The
139 exemption from liability provided in this subdivision is based



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140 on the specific diagnosis for which the covered participant or
141 volunteer participant elects to receive benefits.

142 (3) Participates in an applicable peer support
143 event, conducted by a certified peer support member where the
144 covered participant or volunteer participant received a
145 debriefing, defusing, or coaching session in accordance with
146 Section 36-21-14, Code of Alabama 1975.

147 (4) Receives certification from an authorized
148 treating physician providing both of the following:

149 a. That the covered participant or volunteer
150 participant has been diagnosed with PTSD and that the disorder
151 resulted solely from his or her involvement in a qualifying
152 event that occurred in the course of his or her employment, or
153 in the case of a volunteer participant, during the course of
154 his or her activities with a volunteer fire department, and
155 not from an event or events that occurred outside the line and
156 scope of, or prior to or after, his or her employment or
157 activities with a volunteer fire department.

158 b. That the treatment, including therapy or
159 counseling, is medically necessary.

160 (5) Authorizes the governing body to communicate
161 with the authorized treating physician for the limited and
162 sole purpose of confirming PTSD treatment to the extent
163 necessary to verify claims for benefits pursuant to
164 subsections (b) through (d).

165 (b) The fund shall reimburse a covered participant
166 or volunteer participant currently employed by an employer or
167 working with a volunteer fire department, respectively, for



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168 any co-payment or deductible not covered by the covered
169 participant or volunteer participant's health insurance and
170 paid by the covered participant or volunteer participant for
171 the treatment of PTSD. The total co-payment or deductible
172 benefits that a covered participant or volunteer participant
173 may receive may not exceed fifteen thousand dollars (\$15,000)
174 during his or her lifetime.

175 (c) (1) The fund shall reimburse a covered
176 participant or volunteer participant currently employed by an
177 employer or working with a volunteer fire department for
178 travel for PTSD treatment.

179 (2) The reimbursement shall be per mile for a round
180 trip at the current standard mileage rate set by the Internal
181 Revenue Service for medical care for income tax deduction if
182 the travel meets all of the following conditions:

183 a. The purpose is to visit an authorized treating
184 physician for PTSD treatment.

185 b. The mileage, one way, between the covered or
186 volunteer participant's residence and the authorized treating
187 physician is at least 25 miles.

188 c. The travel is not outside the State of Alabama.

189 (d) An employer covered by this act shall provide a
190 covered participant who is employed full time by the employer
191 up to an additional 80 working hours of paid leave, per claim
192 related to a specific event, to seek treatment for PTSD.

193 (1) Any leave taken to seek treatment for PTSD shall
194 be without any loss of pay, shall be in addition to all types



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195 of leave otherwise applicable under the employer's policies,
196 including sick leave, personal leave, and annual vacation.

197 (2) Any leave taken to seek treatment for PTSD shall
198 not be used by the employer as a factor in any performance
199 evaluation given to the covered participant or any
200 disciplinary action required under the employer's policies to
201 be administered to the covered participant.

202 Section 4. (a) The governing body shall establish
203 the annual premium for each calendar year using an actuarial
204 study and shall have these rates approved by the secretary to
205 ensure adequate funding for the fund. The computation of
206 premium amounts shall be subject to generally accepted
207 adjustments for insurance underwriting.

208 (b) All employers shall pay the applicable annual
209 premium into the fund for all eligible participants in their
210 employment by December 31 of each calendar year in order to
211 provide coverage for the following calendar year.

212 (c) (1) A volunteer fire department is not required
213 to provide coverage under this act for volunteer firefighters.

214 (2) A volunteer firefighter may elect to pay the
215 premium into the fund by December 31 of each calendar year, at
216 his or her own expense, in order to provide coverage for the
217 following calendar year.

218 (3) Nothing in this subsection shall prevent a
219 volunteer fire department, regional association of volunteer
220 fire departments, a municipality, or any combination of these
221 from optionally contributing in part or in whole to the
222 premium of an individual volunteer firefighter.



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223 (d) The annual premium paid into the fund is fully
224 earned and is nonrefundable.

225 (e) If a covered participant leaves eligible
226 employment or retires during a covered year, the employer is
227 not entitled to any refund of any portion of the paid premium
228 for that calendar year. If a volunteer participant
229 discontinues service with a volunteer fire department during a
230 covered year, the volunteer participant, or in the case of a
231 volunteer fire department that has paid or contributed to the
232 volunteer participant's premium, is not entitled to any refund
233 of any portion of the paid premium for that calendar year.

234 (f) If a covered participant transfers to other
235 eligible employment with a different employer, the new
236 employer shall not be required to pay the premium on that
237 participant until the current calendar year's coverage expires
238 with the previous employer.

239 (g) A covered participant or volunteer participant
240 is no longer entitled to any benefits if he or she resigns, is
241 terminated, or retires from eligible employment with an
242 employer. A volunteer participant is no longer entitled to any
243 benefits if he or she is no longer associated with a volunteer
244 fire department or is otherwise ineligible to serve as a
245 volunteer firefighter.

246 (h) In the event a covered participant is employed
247 by multiple eligible employers simultaneously, the primary
248 employer shall be responsible for the requirements of this
249 act. The primary employer shall be identified as the employer



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250 who provides primary health insurance benefits to the
251 participant.

252 Section 5. (a) Any monies received by a covered
253 participant or volunteer participant pursuant to this act, to
254 any extent the amounts are included in the federal adjusted
255 gross income of the taxpayer, shall be excluded from taxable
256 income for state income tax purposes.

257 (b) Any monies received by the fund as premiums for
258 the coverage provided by this act may not be subject to any
259 premium taxes otherwise required by law.

260 (c) The reimbursement and benefits requirements of
261 this act shall not apply to PTSD resulting from events
262 occurring prior to the effective date of this act.

263 Section 6. The purpose or effect of this bill would
264 be to require a new or increased expenditure of local funds
265 within the meaning of Section 111.05 of the Constitution of
266 Alabama of 2022. If this bill is not enacted by a 2/3 vote, it
267 will not become effective with regard to a local entity unless
268 approved by the local entity or until, and only as long as,
269 the Legislature appropriates funds or provides for a local
270 source of revenue.

271 Section 7. This act shall become effective January
272 1, 2024, following its passage and approval by the Governor,
273 or its otherwise becoming law.