

1 SB159  
2 174122-4  
3 By Senators Glover and Whatley  
4 RFD: Governmental Affairs  
5 First Read: 09-FEB-16

1 SB159

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4 ENROLLED, An Act,

5 Relating to rescue squads; to amend Sections  
6 36-21-101, 36-21-102, 36-30-1 to 36-30-5, inclusive, and  
7 36-30-7, Code of Alabama 1975, by allowing certain surviving  
8 beneficiaries of a member of a rescue squad who is killed in  
9 the line of duty to receive free college tuition and  
10 compensation.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 36-21-101, 36-21-102, 36-30-1 to  
13 36-30-5, inclusive, and 36-30-7, Code of Alabama 1975, are  
14 amended to read as follows:

15 "§36-21-101.

16 "As used in this article, unless the context  
17 requires otherwise, the following terms shall have the  
18 following meanings:

19 "(1) BOARD. Tuition Eligibility Board.

20 "(2) ELIGIBLE PROGRAM. Any program leading to a  
21 diploma, certificate, or undergraduate degree in a state  
22 college, state community college, state junior college, state  
23 technical college, or state university.

24 "(3) RESCUE SQUAD MEMBER. A member of an organized  
25 rescue squad of a city, town, county, or other subdivision of

1 the state or of a public corporation, organized for the  
2 purpose of providing, within the scope of his or her practice:  
3 First aid, treatment or transport of the sick or injured;  
4 rescue or recovery operations at incidents of drowning; search  
5 and rescue of individuals lost or incapable of self rescue; or  
6 any other emergency or non-emergency incident where the  
7 services provided by the rescue squad are deemed necessary for  
8 incident stabilization. The term includes all commanders,  
9 officers, and member of organized rescue squads that are  
10 members of the Alabama Association of Rescue Squads.

11 ~~"(3)~~ (4) TUITION. The cost of instruction and fees  
12 to the student as stated in the institution's catalog, plus  
13 the cost of books and supplies.

14 ~~"(4)~~ (5) VOLUNTEER FIREFIGHTER. Any person who meets  
15 all requirements set forth by his or her department, as  
16 attested by the chief of that department, and who is any of  
17 the following:

18 a. A member of a certified volunteer fire department  
19 as provided in Section 9-3-17.

20 b. A volunteer firefighter of a fire department of  
21 an incorporated municipality.

22 c. A volunteer firefighter of a fire district  
23 established pursuant to state law.

24 "§36-21-102.

1           ~~"Upon the effective date of Act 2009-631, when~~ When  
2 a full-time law enforcement officer or full-time firefighter  
3 employed by the state, by any county, or by any municipality,  
4 ~~or a volunteer firefighter,~~ or a rescue squad member is or was  
5 killed or becomes totally disabled in the line of duty, free  
6 tuition for undergraduate study at any state college, state  
7 community college, state junior college, state technical  
8 college, in the State of Alabama, and other costs officially  
9 prescribed for the classes in the course of study, shall be  
10 paid for the following:

11           "(1) Any dependent child, natural or adopted, under  
12 21 years of age at the time of death or total disability of  
13 the law enforcement officer, ~~or firefighter,~~ or rescue squad  
14 member;

15           "(2) A spouse who has not remarried, provided  
16 initial enrollment is within five years of the death or total  
17 disability of the law enforcement officer, ~~or firefighter,~~ ~~or~~  
18 volunteer firefighter, or rescue squad member.

19           "§36-30-1.

20           "(a) For the purposes of this chapter, the following  
21 words and phrases shall have the following meanings:

22           "(1) AWARDING AUTHORITY. The State Board of  
23 Adjustment, created and existing pursuant to Article 4,  
24 Chapter 9 of Title 41.

1           "(2) COMPENSATION. The money benefits paid on  
2 account of injury or death which occurred during the course of  
3 employment or activity as a peace officer or firefighter and  
4 is in the nature of workers' compensation.

5           "(3) DEPENDENT CHILD. An unmarried child under the  
6 age of 18 years, or one over the age of 18 who is physically  
7 or mentally incapacitated from earning.

8           "(4) DIRECT AND PROXIMATE RESULT OF A HEART ATTACK  
9 OR STROKE. Death resulting from a heart attack or stroke  
10 caused by engaging or participating in a situation while on  
11 duty involving nonroutine stressful or strenuous physical law  
12 enforcement, fire suppression, rescue, hazardous material  
13 response, emergency medical service, prison security, disaster  
14 relief, other emergency medical response activity, or  
15 participation in a training exercise which involved nonroutine  
16 stressful or strenuous physical activity; and the heart attack  
17 or stroke is suffered while still on that duty after so  
18 engaging or participating or not more than 24 hours after so  
19 engaging or participating.

20           "(5) FIREFIGHTER or FIREFIGHTERS. A member or  
21 members of a paid or volunteer fire department of a city,  
22 town, county, or other subdivision of the state or of a public  
23 corporation organized for the purpose of providing water,  
24 water systems, fire protection services, or fire protection  
25 facilities in the state; and shall include the chief,

1 assistant chief, wardens, engineers, captains, firefighters,  
2 and all other officers and employees of such departments who  
3 actually engage in fire fighting or in rendering first aid in  
4 case of drownings or asphyxiation at the scene of action.

5 "(6) PEACE OFFICER. All sheriffs, deputy sheriffs,  
6 constables, municipal police officers, municipal policemen,  
7 state and town marshals, members of the highway patrol, state  
8 troopers, Alcoholic Beverage Control Board Enforcement  
9 Division agents, enforcement officers of the Public Service  
10 Commission, revenue agents, and persons who are required by  
11 law to comply with the provisions of the Peace Officers'  
12 Minimum Standards, employees of the Board of Corrections,  
13 highway camp guards, law enforcement officers of the  
14 Department of Conservation and Natural Resources, all law  
15 enforcement officers of the Alabama Forestry Commission,  
16 livestock theft investigators of the Department of Agriculture  
17 and Industries, Capitol security guards, narcotic agents and  
18 inspectors of the State Board of Health, any other state,  
19 county, or municipal officer engaged in quelling a riot, or  
20 civil disturbance, and university police officers.

21 "(7) RESCUE SQUAD MEMBER. A member of an organized  
22 rescue squad of a city, town, county, or other subdivision of  
23 the state or of a public corporation, organized for the  
24 purpose of providing, within the scope of his or her practice:  
25 First aid, treatment, or transport of the sick or injured;

1 rescue or recovery operations at incidents of drowning; search  
2 and rescue of individuals lost or incapable of self rescue; or  
3 any other emergency or non-emergency incident where the  
4 services provided by the rescue squad are deemed necessary for  
5 incident stabilization. The term includes all commanders,  
6 officers, and member of organized rescue squads that are  
7 members of the Alabama Association of Rescue Squads.

8 "(b) For the purposes of this chapter, the following  
9 described persons shall be conclusively presumed to be wholly  
10 dependent:

11 "(1) Spouse, unless it be shown that the spouse was  
12 voluntarily living apart from the peace officer, ~~or~~  
13 firefighter, or rescue squad member at the time of death, or  
14 unless it be shown that the peace officer, ~~or~~ firefighter, or  
15 rescue squad member was not in any way contributing to the  
16 spouse's support and had not in any way contributed to the  
17 spouse's support for more than 12 months next preceding the  
18 occurrence of the injury causing death.

19 "(2) Minor children under the age of 18 years and  
20 those over 18 if physically and mentally incapacitated from  
21 earning.

22 "(3) Spouse, child, mother, father, grandmother,  
23 grandfather, sister, brother, mother-in-law, and father-in-law  
24 who were wholly supported by a deceased peace officer ~~or~~  
25 firefighter, or rescue squad member at the time of his or her

1 death and for a reasonable period of time prior thereto shall  
2 be considered his or her dependents and payment of  
3 compensation may be made to them as hereinafter authorized.

4 "(c) If a paid or volunteer firefighter, peace  
5 officer, certified police officer, ~~or~~ reserve law enforcement  
6 officer, or rescue squad member is killed while engaged in the  
7 performance of his or her duties and there are no designated  
8 beneficiaries, then the compensation shall be paid to his or  
9 her dependents or partial dependents in the manner prescribed  
10 by Section 36-30-3, and if there are none, the compensation  
11 shall be paid to his or her non-dependent children, and if  
12 there are none, the compensation shall be paid to his or her  
13 parents, and if there are none, the compensation shall be paid  
14 to the estate of the deceased.

15 "(d) Any member of the class named in subdivision  
16 (3) of subsection (b) who regularly derived part of his or her  
17 support from the earnings of the deceased peace officer, ~~or~~  
18 ~~the deceased~~ firefighter, or rescue squad member, as the case  
19 may be, at the time of his or her death and for a reasonable  
20 time immediately prior thereto shall be considered his or her  
21 partial dependent and payment of compensation may be made to  
22 such partial dependent as hereinafter authorized.

23 "§36-30-2.

24 "(a) In the event a peace officer, ~~or~~ a firefighter,  
25 ~~or~~ a volunteer firefighter, who is a member of an organized



1 volunteer fire department registered with the Alabama Forestry  
2 Commission, or a rescue squad member is killed, either  
3 accidentally or deliberately, or dies as a result of injuries  
4 received while engaged in the performance of his or her  
5 duties, or dies as a direct and proximate result of a heart  
6 attack or stroke, his or her beneficiaries or dependents shall  
7 be entitled to compensation in the amount of one hundred  
8 thousand dollars (\$100,000) to be paid from the State Treasury  
9 as provided in Section 36-30-3, unless such death was caused  
10 by the willful misconduct of the officer, firefighter, or  
11 rescue squad member or was due to his or her own intoxication  
12 or his or her willful failure or refusal to use safety  
13 appliances provided by his or her employer or his or her  
14 willful refusal or neglect to perform a statutory duty or any  
15 other willful violation of a law or his or her willful breach  
16 of a reasonable rule or regulation governing the performance  
17 of his or her duties or his or her employment of which rule or  
18 regulation he or she had knowledge. Any peace officer, ~~or any~~  
19 firefighter, ~~or~~ volunteer firefighter, or rescue squad member  
20 whose death results proximately from an injury received while  
21 performing his or her duties shall, for the purposes of this  
22 article, be deemed to have been killed while in the  
23 performance of such duties. If the State Health Officer  
24 determines from all available evidence that a volunteer  
25 firefighter, who is a member of an organized volunteer fire

1 department registered with the Alabama Forestry Commission,  
2 has become totally disabled as a result of any injury received  
3 while engaged in the performance of his or her fire-fighting  
4 duties and the disability is likely to continue for more than  
5 12 months from the date the injury is incurred, then the  
6 firefighter shall be entitled to receive disability  
7 compensation in the amount of one hundred thousand dollars  
8 (\$100,000) to be paid from the State Treasury as provided in  
9 Section 36-30-3. The term total disability shall be  
10 interpreted to mean that the injured party is medically  
11 disabled to the extent that he or she cannot perform the  
12 duties of the job occupation or profession in which he or she  
13 was engaging at the time the injury was sustained. The State  
14 Health Officer may seek the assistance of any state agency in  
15 making the determination of disability and the state agencies  
16 shall cooperate with the State Health Officer in such regard.  
17 The State Health Officer shall render a decision within 30  
18 days of the time a claim is filed. If such volunteer  
19 firefighter disagrees with any officer, he or she may appeal  
20 the determination to the State Board of Adjustment in  
21 accordance with such board's procedures for such appeals.

22 "(b) Beginning in calendar year 2009, the  
23 compensation amounts payable under this section shall be  
24 adjusted on January 1 of each year to reflect any increase  
25 during the preceding calendar year in the consumer price index

1 as published by the U.S. Department of Labor, Bureau of Labor  
2 Statistics. The adjustment shall equal the percentage change  
3 in the consumer price index during the preceding calendar  
4 year.

5 "(c) Any person who currently serves or previously  
6 served as a firefighter or law enforcement peace officer who  
7 dies as a result of a firefighter's occupational disease as  
8 defined in Section 11-43-144 or 36-30-40, or law enforcement  
9 peace officer's occupational disease as defined in Section  
10 36-30-20 shall be qualified for a state death benefit as  
11 provided in subsection (a) as if the person died in the  
12 performance of his or her duties, provided he or she satisfies  
13 the three years' service requirement and physical examination  
14 requirements set forth in Section 11-43-144, 36-30-22, or  
15 36-30-41, respectively.

16 "(d) Any application for the state death benefit  
17 that was submitted during the period from April 29, 2010,  
18 until May 27, 2015, and denied because the firefighter or law  
19 enforcement peace officer was no longer employed on the date  
20 of death may be resubmitted based on subsection (c) within six  
21 months of May 27, 2015, and reconsidered and granted by the  
22 awarding authority.

23 "§36-30-3.

24 "The compensation payable to surviving beneficiaries  
25 or dependents of peace officers, ~~and firemen~~ firefighters, or

1 rescue squad members who are killed under the circumstances  
2 prescribed in Section 36-30-2 shall be paid to the  
3 beneficiaries designated by those peace officers ~~or~~  
4 firefighters, or rescue squad members. If no beneficiaries  
5 have been designated, or if none remain, the compensation  
6 shall be paid to the persons entitled thereto without  
7 administration or to a guardian or such other person as the  
8 awarding authority may direct for the use of the persons  
9 entitled thereto, as follows:

10 "(1) If the deceased peace officer, ~~or~~ firefighter, ~~or~~  
11 or rescue squad member leaves a dependent spouse and no other  
12 dependents or partial dependents, the total amount of the  
13 compensation provided for in Section 36-30-2 shall be paid to  
14 the surviving spouse.

15 "(2) If the deceased peace officer, ~~or~~ firefighter, ~~or~~  
16 or rescue squad member leaves a dependent spouse and a  
17 dependent child or dependent children and no other dependents  
18 or partial dependents, then the total amount of the  
19 compensation provided for in Section 36-30-2 shall be paid to  
20 such surviving spouse for the benefit of herself or himself  
21 and such child or children, or, in its discretion, the  
22 awarding authority may determine what portion of the  
23 compensation shall be applied for the benefit of such child or  
24 children and may order the same paid to a guardian and then

1 order only the remainder of such compensation paid to the  
2 surviving spouse.

3 "(3) If the deceased peace officer ~~or~~ firefighter,  
4 or rescue squad member leaves a dependent child or children  
5 and no dependent spouse or other dependents or partial  
6 dependents, then such child or children shall be entitled to  
7 the total amount of the compensation authorized in Section  
8 36-30-2, and such compensation shall be paid to a duly  
9 appointed guardian of such child or children or, in the  
10 discretion of the awarding authority, such sum may be paid to  
11 the probate judge of the county of residence of the child or  
12 children. Any probate judge who receives any moneys due any  
13 child or children under this article shall handle and  
14 administer all such funds in the manner prescribed in Sections  
15 26-7-2 through 26-7-5.

16 "(4) If the deceased peace officer, ~~or~~ firefighter,  
17 or rescue squad member leaves no dependent spouse or dependent  
18 child or children but leaves other dependents or partial  
19 dependents, then such dependents and partial dependents  
20 jointly shall be entitled to the total amount of the  
21 compensation provided in Section 36-30-2, and subject to the  
22 limitations prescribed hereinbelow, such compensation shall be  
23 paid to them in the amounts and manner ordered by the awarding  
24 authority.

1           "(5) If a deceased peace officer,    ~~or~~ firefighter,     
2 or rescue squad member leaves a dependent spouse and other  
3 dependents or partial dependents but no dependent child or  
4 children, then the surviving spouse and the other dependents  
5 and partial dependents jointly shall be entitled to the total  
6 compensation provided in Section 36-30-2; and, subject to the  
7 limitations prescribed hereinbelow, such compensation shall be  
8 paid to such dependents in the proportions and in the manner  
9 ordered by the awarding authority; provided, however, that at  
10 least 50 percent of such compensation must be awarded to the  
11 dependent surviving spouse.

12           "(6) If a deceased peace officer,    ~~or~~ firefighter,     
13 or rescue squad member leaves a dependent spouse and a dependent  
14 child or children and other dependents and partial dependents,  
15 then the awarding authority shall determine what portion of  
16 such compensation shall be paid to the spouse and child or  
17 children and, in its discretion, may order all such  
18 compensation paid to such spouse and child or children, but  
19 must provide that at least 70 percent thereof is paid to them.

20           "(7) If a deceased peace officer,    ~~or~~ firefighter,     
21 or rescue squad member leaves a dependent child or children  
22 and other dependents and partial dependents but no dependent  
23 spouse, then the awarding authority shall determine what  
24 portion of such compensation such child or children are  
25 entitled to receive and, in its discretion, may order all such

1 compensation awarded to such child or children, but must award  
2 at least 60 percent thereof to such child or children.

3 "(8) If a deceased peace officer, ~~or~~ firefighter, or  
4 rescue squad member leaves no dependent spouse or child or  
5 children but leaves other dependents and partial dependents,  
6 the awarding authority shall determine what portion of such  
7 compensation each dependent and each partial dependent shall  
8 be entitled to receive, but such authority may not award to a  
9 partial dependent a greater percent of such compensation than  
10 the percent of the deceased peace officer's, ~~or~~ firefighter's, or  
11 rescue squad member's average monthly income which was  
12 regularly contributed toward such partial dependent's support  
13 for a reasonable time immediately prior to the death of such  
14 officer, ~~or~~ firefighter, or rescue squad member. In its  
15 discretion the awarding authority may award all of the  
16 compensation provided for in Section 36-30-2 to such total  
17 dependents of the deceased officer, ~~or~~ firefighter, or rescue  
18 squad member to the exclusion of partial dependents.

19 "§36-30-4.

20 "Compensation pursuant to this article for the death  
21 of a peace officer, ~~or a~~ firefighter, or rescue squad member  
22 shall be paid only to his or her designated beneficiaries or  
23 dependents who at the time of such officer's, ~~or~~  
24 firefighter's, or rescue squad member's death were actually  
25 residents of the United States.

1           "§36-30-5.

2           "(a) All claims for compensation as provided in this  
3 article shall be presented to the awarding authority within  
4 two years from the date of the death of the peace officer, ~~or~~  
5 firefighter, or rescue squad member or the claims are  
6 forfeited. All such claims shall be presented in the form  
7 prescribed by the awarding authority, and proof of the facts  
8 and circumstances of the peace officer's, ~~or~~ firefighter's, or  
9 rescue squad member's death and, if necessary, the claimant's  
10 relationship to and dependence upon such peace officer, ~~or~~  
11 firefighter, or rescue squad member shall be made in the  
12 manner prescribed by the awarding authority.

13           "(b) Notwithstanding the provisions of subsection  
14 (a), any person who was previously ineligible to claim the  
15 compensation provided in this article, but is now eligible to  
16 claim the compensation provided in this article because of the  
17 enactment of Act 2008-480, and who is making a claim based  
18 upon the death of a peace officer or firefighter who died on  
19 or after January 1, 2006, but prior to the enactment of Act  
20 2008-480, shall be able to present his or her claim for  
21 compensation to the awarding authority within one year of the  
22 date of enactment of Act 2008-480 regardless of whether the  
23 claim was presented within one year from the date of the death  
24 of the peace officer or firefighter.



1           "(c) The awarding authority is hereby authorized to  
2 prescribe such forms and adopt such rules of evidence and  
3 procedure as it deems necessary or proper, not inconsistent  
4 with the provisions of this article, for the proper  
5 determination of all claims for compensation under this  
6 article.

7           "§36-30-7.

8           "(a) This article shall not be construed to give any  
9 person a right of action against the State of Alabama in any  
10 court for the recovery of the compensation authorized by this  
11 article. This article shall not be construed to take away any  
12 right of action in any court under any other law for the  
13 recovery of damages for the death of a peace officer, ~~or a~~  
14 ~~fireman~~ firefighter, or rescue squad member; nor, in the event  
15 of the death of a peace officer, ~~or a fireman~~ firefighter, or  
16 rescue squad member who was an employee of the State of  
17 Alabama at the time of the injury which proximately caused his  
18 or her death, shall this article be construed to take away the  
19 right or privilege of the surviving dependents of such peace  
20 officer, ~~or fireman~~ firefighter, or rescue squad member to  
21 file a claim for damages with the State Board of Adjustment  
22 pursuant to any other law.

23           "(b) The decision of the awarding authority shall be  
24 final and shall not be subject to appeal or review by any  
25 court."

1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB159

Senate 15-MAR-16

I hereby certify that the within Act originated in and passed the Senate, as amended.

Patrick Harris  
Secretary

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House of Representatives  
Passed: 04-MAY-16

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By: Senator Glover