

By: Senator(s) Albritton

To: Judiciary, Division B

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2354

1 AN ACT TO AMEND SECTION 45-2-21, MISSISSIPPI CODE OF 1972, TO
2 TRANSFER SUPERVISION AND RESPONSIBILITY OF THE LAW ENFORCEMENT
3 OFFICERS AND FIRE FIGHTERS DISABILITY BENEFITS TRUST FUND FROM THE
4 DEPARTMENT OF PUBLIC SAFETY TO THE DEPARTMENT OF FINANCE AND
5 ADMINISTRATION; TO AMEND SECTION 45-2-1, MISSISSIPPI CODE OF 1972,
6 TO INCLUDE CERTAIN COUNTY LEVEL HOMELAND SECURITY PERSONNEL AS
7 POTENTIAL BENEFICIARIES UNDER THE DEATH BENEFITS TRUST FUND
8 ADMINISTERED BY THE DEPARTMENT OF PUBLIC SAFETY; TO AMEND SECTION
9 99-19-73, MISSISSIPPI CODE OF 1972, TO CORRECT THE NAME OF THE
10 DISABILITY BENEFITS TRUST FUND CREATED TO BENEFIT LAW ENFORCEMENT
11 OFFICERS AND FIRE FIGHTERS; AND FOR RELATED PURPOSES.

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

13 **SECTION 1.** Section 45-2-21, Mississippi Code of 1972, is
14 amended as follows:

15 45-2-21. (1) Whenever used in this section, the term:

16 (a) "Covered individual" means a law enforcement
17 officer or fire fighter as defined in this section while actively
18 engaged in protecting the lives and property of the citizens of
19 this state when employed by an employer as defined in this
20 section; it does not include employees of independent contractors.

21 (b) "Employer" means a state board, commission,
22 department, division, bureau, or agency, or a county, municipality
23 or other political subdivision of the state, which employs,
24 appoints or otherwise engages the services of covered individuals.

25 (c) "Fire fighter" means an individual who is trained
26 for the prevention and control of loss of life and property from
27 fire or other emergencies, who is assigned to fire-fighting
28 activity, and is required to respond to alarms and perform
29 emergency actions at the location of a fire, hazardous materials
30 or other emergency incident.

31 (d) "Law enforcement officer" means any lawfully sworn
32 officer or employee of the state or any political subdivision of
33 the state whose duties require the officer or employee to
34 investigate, pursue, apprehend, arrest, transport or maintain
35 custody of persons who are charged with, suspected of committing,
36 or convicted of a crime.

37 (2) (a) The Department of Finance and Administration shall
38 make a monthly disability benefit payment equal to thirty-four
39 percent (34%) of the covered individual's regular base salary at
40 the time of injury when a covered individual, while engaged in the
41 performance of the individual's official duties, is accidentally
42 or intentionally injured in the line of duty as a direct result of
43 a single incident. The benefit shall be payable for the period of
44 time the covered individual is physically unable to perform the
45 duties of the covered individual's employment, not to exceed
46 twelve (12) total payments for any one (1) injury. Chronic or
47 repetitive injury is not covered. Benefits made available under
48 this section shall be in addition to any workers' compensation
49 benefits and shall be limited to the difference between the amount
50 of workers' compensation benefits and the amount of the covered
51 individual's regular base salary. Compensation under this section
52 shall not be awarded where a penal violation committed by the
53 covered individual contributed to the disability or the injury was
54 intentionally self-inflicted.

55 (b) Payments made under this subsection are exempt from
56 the claims and demands of creditors of the covered individual.

57 (3) (a) There is established in the State Treasury a
58 special fund to be known as the Law Enforcement Officers and Fire
59 Fighters Disability Benefits Trust Fund. The trust fund shall be
60 funded by any funds made available by the Legislature or by
61 donation, contribution, gift or any other source.

62 (b) The State Treasurer shall invest the monies of the
63 trust fund in any of the investments authorized for the funds of

64 the Public Employees' Retirement System under Section 25-11-121,
65 and those investments shall be subject to the limitations
66 prescribed by Section 25-11-121.

67 (c) Unexpended amounts remaining in the trust fund at
68 the end of the state fiscal year shall not lapse into the State
69 General Fund, and any income earned on amounts in the trust fund
70 shall be deposited to the credit of the trust fund.

71 (4) The Department of Finance and Administration shall be
72 responsible for the management of the trust fund and the
73 disbursement of disability benefits authorized under this section.
74 The Department of Finance and Administration shall adopt rules and
75 regulations necessary to implement and standardize the payment of
76 disability benefits under this section, to administer the trust
77 fund created by this section and to carry out the purposes of this
78 section.

79 **SECTION 2.** Section 45-2-1, Mississippi Code of 1972, is
80 amended as follows:

81 45-2-1. (1) Whenever used in this section, the term:

82 (a) "Covered individual" means any of the persons
83 specified in this paragraph (a) * * *; it does not include
84 employees of independent contractors. * * *

85 (i) A fire fighter who is:

86 1. Trained for the prevention and control of
87 loss of life and property from fire or other emergencies, assigned
88 to fire-fighting activity and required to respond to alarms and
89 perform emergency actions at the location of a fire, hazardous
90 materials or other emergency incident; and

91 2. Either employed by an employer as defined
92 in this section or who is a volunteer fire fighter.

93 (ii) A law enforcement officer who is a lawfully
94 sworn officer or employee of the state or any political
95 subdivision of the state whose duties require the officer or
96 employee to investigate, pursue, apprehend, arrest, transport or

97 maintain custody of persons who are charged with, suspected of
98 committing, or convicted of a crime, whether the officer is on
99 regular duty on full-time status, an auxiliary or reserve officer,
100 or is serving on a temporary or part-time status; or

101 (iii) The director or any staff member of a local
102 emergency management agency as that term is defined in Section
103 33-15-5 and who is employed by an employer as defined in this
104 section.

105 (b) "Employer" means a state board, commission,
106 department, division, bureau, or agency, or a county, municipality
107 or other political subdivision of the state, which employs,
108 appoints or otherwise engages the services of covered individuals.

109 * * *

110 (2) (a) The Department of Public Safety shall make a
111 payment, as provided in this section, in the amount of Forty
112 Thousand Dollars (\$40,000.00) when a covered individual, while
113 engaged in the performance of the person's official duties, is
114 accidentally or intentionally killed or receives accidental or
115 intentional bodily injury that results in the loss of the covered
116 individual's life, provided that the killing is not the result of
117 suicide and that the bodily injury is not intentionally
118 self-inflicted.

119 * * *

120 (b) The payment provided * * * in this subsection shall
121 be made to the beneficiary who was designated in writing by the
122 covered individual, signed by the covered individual and delivered
123 to the employer during the covered individual's lifetime. If no
124 such designation is made, then the payment shall be made to the
125 surviving child or children and spouse in equal portions, and if
126 there is no surviving child or spouse, then to the parent or
127 parents. If a beneficiary is not designated and there is no
128 surviving child, spouse or parent, then the payment shall be made
129 to the covered individual's estate.

130 (c) The payment made in this subsection is in addition
131 to any workers' compensation or pension benefits and is exempt
132 from the claims and demands of creditors of the covered
133 individual.

134 (3) (a) There is established in the State Treasury a
135 special fund to be known as the Safety Officials Death Benefits
136 Trust Fund. The trust fund shall be funded by an initial
137 appropriation of Two Hundred Thousand Dollars (\$200,000.00), and
138 shall be comprised of any additional funds made available by the
139 Legislature or by donation, contribution, gift or any other
140 source.

141 (b) The State Treasurer shall invest the monies of the
142 trust fund in any of the investments authorized for the funds of
143 the Public Employees' Retirement System under Section 25-11-121,
144 and those investments shall be subject to the limitations
145 prescribed by Section 25-11-121.

146 (c) Unexpended amounts remaining in the trust fund at
147 the end of the state fiscal year shall not lapse into the State
148 General Fund, and any income earned on amounts in the trust fund
149 shall be deposited to the credit of the trust fund.

150 (4) The Department of Public Safety shall be responsible for
151 the management of the trust fund and the disbursement of death
152 benefits authorized under this section. The Department of Public
153 Safety shall adopt rules and regulations necessary to implement
154 and standardize the payment of death benefits under this section,
155 to administer the trust fund created by this section and to carry
156 out the purposes of this section.

157 **SECTION 3.** Section 99-19-73, Mississippi Code of 1972, is
158 amended as follows:

159 99-19-73. (1) **Traffic violations.** In addition to any
160 monetary penalties and any other penalties imposed by law, there
161 shall be imposed and collected the following state assessment from
162 each person upon whom a court imposes a fine or other penalty for

163 any violation in Title 63, Mississippi Code of 1972, except
 164 offenses relating to the Mississippi Implied Consent Law (Section
 165 63-11-1 et seq.) and offenses relating to vehicular parking or
 166 registration:

167 FUND	AMOUNT
168 State Court Education Fund.....	\$ 1.50
169 State Prosecutor Education Fund.....	1.00
170 Vulnerable Adults Training, Investigation and Prosecution Trust Fund.....	.50
172 Child Support Prosecution Trust Fund.....	.50
173 Driver Training Penalty Assessment Fund.....	7.00
174 Law Enforcement Officers Training Fund.....	5.00
175 Spinal Cord and Head Injury Trust Fund (for all moving violations).....	6.00
177 Emergency Medical Services Operating Fund.....	15.00
178 Mississippi Leadership Council on Aging Fund.....	1.00
179 <u>Safety Officials</u> Death Benefits Trust Fund.....	.50
180 <u>Law Enforcement Officers and Fire Fighters</u> Disability Benefits Trust Fund.....	1.00
182 State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.50
185 Crisis Intervention Mental Health Fund.....	10.00
186 Drug Court Fund.....	10.00
187 Capital Defense Counsel Fund.....	1.89
188 Indigent Appeals Fund.....	2.29
189 Capital Post-Conviction Counsel Fund.....	2.33
190 Victims of Domestic Violence Fund.....	.49
191 TOTAL STATE ASSESSMENT.....	\$ 67.50

192 (2) **Implied Consent Law violations.** In addition to any
 193 monetary penalties and any other penalties imposed by law, there
 194 shall be imposed and collected the following state assessment from
 195 each person upon whom a court imposes a fine or any other penalty

196 for any violation of the Mississippi Implied Consent Law (Section
 197 63-11-1 et seq.):

198 FUND	AMOUNT
199 Crime Victims' Compensation Fund.....	\$ 10.00
200 State Court Education Fund.....	1.50
201 State Prosecutor Education Fund.....	1.00
202 Vulnerable Adults Training,	
203 Investigation and Prosecution Trust Fund.....	.50
204 Child Support Prosecution Trust Fund.....	.50
205 Driver Training Penalty Assessment Fund.....	22.00
206 Law Enforcement Officers Training Fund.....	11.00
207 Emergency Medical Services Operating Fund.....	15.00
208 Mississippi Alcohol Safety Education Program Fund....	5.00
209 Federal-State Alcohol Program Fund.....	10.00
210 Mississippi Crime Laboratory	
211 Implied Consent Law Fund.....	25.00
212 Spinal Cord and Head Injury Trust Fund.....	25.00
213 Capital Defense Counsel Fund.....	1.89
214 Indigent Appeals Fund.....	2.29
215 Capital Post-Conviction Counsel Fund.....	2.33
216 Victims of Domestic Violence Fund.....	.49
217 State General Fund.....	35.00
218 <u>Safety Officials</u> Death Benefits Trust Fund.....	.50
219 Law Enforcement Officers and <u>Fire Fighters</u> Disability	
220 Benefits Trust Fund.....	1.00
221 State Prosecutor Compensation Fund for the purpose	
222 of providing additional compensation for legal	
223 assistants to district attorneys.....	1.50
224 Crisis Intervention Mental Health Fund.....	10.00
225 Drug Court Fund.....	10.00
226 TOTAL STATE ASSESSMENT.....	\$191.50

227 (3) **Game and Fish Law violations.** In addition to any
 228 monetary penalties and any other penalties imposed by law, there

229 shall be imposed and collected the following state assessment from
 230 each person upon whom a court imposes a fine or other penalty for
 231 any violation of the game and fish statutes or regulations of this
 232 state:

233 FUND	AMOUNT
234 State Court Education Fund.....	\$ 1.50
235 State Prosecutor Education Fund.....	1.00
236 Law Enforcement Officers Training Fund.....	5.00
237 Hunter Education and Training Program Fund.....	5.00
238 State General Fund.....	30.00
239 <u>Safety Officials</u> Death Benefits Trust Fund.....	.50
240 Law Enforcement Officers <u>and Fire Fighters</u> Disability	
241 Benefits Trust Fund.....	1.00
242 State Prosecutor Compensation Fund for the purpose	
243 of providing additional compensation for legal	
244 assistants to district attorneys.....	1.00
245 Crisis Intervention Mental Health Fund.....	10.00
246 Drug Court Fund.....	10.00
247 Capital Defense Counsel Fund.....	1.89
248 Indigent Appeals Fund.....	2.29
249 Capital Post-Conviction Counsel Fund.....	2.33
250 Victims of Domestic Violence Fund.....	.49
251 TOTAL STATE ASSESSMENT.....	\$ 72.00

252 (4) **Litter Law violations.** In addition to any monetary
 253 penalties and any other penalties imposed by law, there shall be
 254 imposed and collected the following state assessment from each
 255 person upon whom a court imposes a fine or other penalty for any
 256 violation of Section 97-15-29 or 97-15-30:

257 FUND	AMOUNT
258 Statewide Litter Prevention Fund.....	\$ 25.00
259 TOTAL STATE ASSESSMENT.....	\$ 25.00

260 (5) **Other misdemeanors.** In addition to any monetary
 261 penalties and any other penalties imposed by law, there shall be

262 imposed and collected the following state assessment from each
 263 person upon whom a court imposes a fine or other penalty for any
 264 misdemeanor violation not specified in subsection (1), (2) or (3)
 265 of this section, except offenses relating to vehicular parking or
 266 registration:

267 FUND	AMOUNT
268 Crime Victims' Compensation Fund.....	\$ 10.00
269 State Court Education Fund.....	1.50
270 State Prosecutor Education Fund.....	1.00
271 Vulnerable Adults Training, Investigation and Prosecution Trust Fund.....	.50
273 Child Support Prosecution Trust Fund.....	.50
274 Law Enforcement Officers Training Fund.....	5.00
275 Capital Defense Counsel Fund.....	1.89
276 Indigent Appeals Fund.....	2.29
277 Capital Post-Conviction Counsel Fund.....	2.33
278 Victims of Domestic Violence Fund.....	.49
279 State General Fund.....	30.00
280 State Crime Stoppers Fund.....	1.50
281 <u>Safety Officials</u> Death Benefits Trust Fund.....	.50
282 <u>Law Enforcement Officers and Fire Fighters</u> Disability Benefits Trust Fund.....	1.00
284 State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.50
287 Crisis Intervention Mental Health Fund.....	10.00
288 Drug Court Fund.....	8.00
289 Judicial Performance Fund.....	2.00
290 TOTAL STATE ASSESSMENT.....	\$ 80.00

291 (6) **Other felonies.** In addition to any monetary penalties
 292 and any other penalties imposed by law, there shall be imposed and
 293 collected the following state assessment from each person upon
 294 whom a court imposes a fine or other penalty for any felony

295 violation not specified in subsection (1), (2) or (3) of this
 296 section:

297 FUND	AMOUNT
298 Crime Victims' Compensation Fund.....	\$ 10.00
299 State Court Education Fund.....	1.50
300 State Prosecutor Education Fund.....	1.00
301 Vulnerable Adults Training, Investigation and Prosecution Trust Fund.....	.50
303 Child Support Prosecution Trust Fund.....	.50
304 Law Enforcement Officers Training Fund.....	5.00
305 Capital Defense Counsel Fund.....	1.89
306 Indigent Appeals Fund.....	2.29
307 Capital Post-Conviction Counsel Fund.....	2.33
308 Victims of Domestic Violence Fund.....	.49
309 State General Fund.....	60.00
310 Criminal Justice Fund.....	50.00
311 <u>Safety Officials</u> Death Benefits Trust Fund.....	.50
312 <u>Law Enforcement Officers and Fire Fighters</u> Disability Benefits Trust Fund.....	1.00
314 State Prosecutor Compensation Fund for the purpose of providing additional compensation for legal assistants to district attorneys.....	1.50
317 Crisis Intervention Mental Health Fund.....	10.00
318 Drug Court Fund.....	10.00
319 TOTAL STATE ASSESSMENT.....	\$158.50

320 (7) If a fine or other penalty imposed is suspended, in
 321 whole or in part, such suspension shall not affect the state
 322 assessment under this section. No state assessment imposed under
 323 the provisions of this section may be suspended or reduced by the
 324 court.

325 (8) After a determination by the court of the amount due, it
 326 shall be the duty of the clerk of the court to promptly collect
 327 all state assessments imposed under the provisions of this

328 section. The state assessments imposed under the provisions of
329 this section may not be paid by personal check. It shall be the
330 duty of the chancery clerk of each county to deposit all such
331 state assessments collected in the circuit, county and justice
332 courts in such county on a monthly basis with the State Treasurer
333 pursuant to appropriate procedures established by the State
334 Auditor. The chancery clerk shall make a monthly lump-sum deposit
335 of the total state assessments collected in the circuit, county
336 and justice courts in such county under this section, and shall
337 report to the Department of Finance and Administration the total
338 number of violations under each subsection for which state
339 assessments were collected in the circuit, county and justice
340 courts in such county during such month. It shall be the duty of
341 the municipal clerk of each municipality to deposit all such state
342 assessments collected in the municipal court in such municipality
343 on a monthly basis with the State Treasurer pursuant to
344 appropriate procedures established by the State Auditor. The
345 municipal clerk shall make a monthly lump-sum deposit of the total
346 state assessments collected in the municipal court in such
347 municipality under this section, and shall report to the
348 Department of Finance and Administration the total number of
349 violations under each subsection for which state assessments were
350 collected in the municipal court in such municipality during such
351 month.

352 (9) It shall be the duty of the Department of Finance and
353 Administration to deposit on a monthly basis all such state
354 assessments into the proper special fund in the State Treasury.
355 The monthly deposit shall be based upon the number of violations
356 reported under each subsection and the pro rata amount of such
357 assessment due to the appropriate special fund. The Department of
358 Finance and Administration shall issue regulations providing for
359 the proper allocation of these special funds.

360 (10) The State Auditor shall establish by regulation
361 procedures for refunds of state assessments, including refunds
362 associated with assessments imposed before July 1, 1990, and
363 refunds after appeals in which the defendant's conviction is
364 reversed. The Auditor shall provide in such regulations for
365 certification of eligibility for refunds and may require the
366 defendant seeking a refund to submit a verified copy of a court
367 order or abstract by which such defendant is entitled to a refund.
368 All refunds of state assessments shall be made in accordance with
369 the procedures established by the Auditor.

370 **SECTION 4.** This act shall take effect and be in force from
371 and after July 1, 2006.