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HOUSE BILL NO. 1738

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Quayle
on February 22, 2005)

(Patron Prior to Substitute—Delegate Cosgrove)

A *BILL to amend and reenact §§ 9.1-400 and 44-93.1 of the Code of Virginia, relating to line of duty benefits.*

Be it enacted by the General Assembly of Virginia:**1. That §§ 9.1-400 and 44-93.1 of the Code of Virginia are amended and reenacted as follows:**

§ 9.1-400. Title of chapter; definitions.

A. This chapter shall be known and designated as the Line of Duty Act.

B. As used in this chapter, unless the context requires a different meaning:

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city or town of the Commonwealth as an integral part of the official safety program of such county, city or town; a member of the Virginia National Guard or the Virginia State Defense Force while such member is serving in the Virginia National Guard or the Virginia State Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special game warden who receives compensation from a county, city or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; or any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115.

"Disabled person" means any individual who, as the direct or proximate result of the performance of his duty in any position listed in the definition of deceased person in this section, has become mentally or physically incapacitated *on or after January 1, 1972*, so as to prevent the further performance of duty where such incapacity is likely to be permanent.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

§ 44-93.1. Supplement of military pay and additional life insurance benefits for employees of Commonwealth or political subdivisions.

A. In addition to the paid military leave provisions of § 44-93, the Commonwealth or any political subdivision of the Commonwealth may supplement the military pay of its officers and employees who are reservists or national guard members called to federally funded military duty in an amount necessary to bring their total salary, inclusive of their base military pay, to the level earned at the time they were called to federally funded military duty. The employer may also, in its discretion, continue to provide any health insurance and other existing benefits to such officers and employees.

B. *In addition to any other benefit provided by law, if an employee of the Commonwealth or of any political subdivision has been called to federal active duty services under Title 10 of the United States Code, the Commonwealth shall provide an additional death benefit in the amount of \$20,000 to be paid if the employee is killed in action in any armed conflict while serving with any reserve component of the Army, Navy, Marine Corps, Air Force, or Coast Guard or with any unit of these respective services of*

60 *the United States.*

61 **2. That any person eligible for benefits solely by virtue of the provisions of § 9.1-400 of this act**
62 **shall be entitled to such benefits only on a prospective basis upon approval of a claim pursuant to**
63 **§§ 9.1-403 and 9.1-404 that is made on or after July 1, 2005.**