

SUBSTITUTE FOR
HOUSE BILL NO. 4729

A bill to amend 1969 PA 317, entitled
"Worker's disability compensation act of 1969,"
by amending section 405 (MCL 418.405), as amended by 2021 PA 129.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) For a **full-time, part-time, or paid on-call**
2 member of a ~~fully paid~~ fire department of an airport operated by a
3 county, public airport authority, or state university or college; a
4 **full-time, part-time, or paid on-call** member of a ~~fully paid~~ fire
5 ~~or~~ police department of a city, township, or village; ~~employed and~~
6 ~~compensated upon a full-time basis;~~ a **full-time, part-time, or paid**
7 **on-call** member of a ~~fully paid~~ **fire or public safety department of**
8 **a city, township, or village or a** public fire authority; ~~employed~~
9 ~~and compensated upon a full-time basis;~~ a county sheriff and the

1 deputies of the county sheriff; a member of the state police; a
 2 conservation officer; **a forest fire officer**; or an officer of the
 3 motor carrier enforcement division of the department of state
 4 police, "personal injury" includes respiratory and heart diseases ~~7~~
 5 or illnesses resulting ~~therefrom,~~ **from respiratory and heart**
 6 **diseases** that develop or manifest themselves during a period while
 7 the member of the department is in the active service of the
 8 department and that result from the performance of duties for the
 9 department.

10 (2) A full-time member, and, beginning January 1, 2022 for a
 11 cancer described in this subsection diagnosed on or after January
 12 1, 2022, a part-time, paid on-call, or volunteer member, of a fire
 13 department or public fire authority, and, beginning January 1, 2022
 14 for a cancer described in this subsection diagnosed on or after
 15 January 1, 2022, a former member who was a full-time, part-time,
 16 paid on-call, or volunteer member of a fire department or public
 17 fire authority, who has or had 60 months or more active service in
 18 the department or public fire authority at the time the cancer
 19 manifests itself, and who is or was exposed to the hazards
 20 incidental to fire suppression, rescue, or emergency medical
 21 services in the performance of his or her work-related duties with
 22 the department or authority shall suspend a claim he or she may
 23 have against his or her employer under this act and may claim like
 24 benefits from the Christopher R. Slezak first responder presumed
 25 coverage fund created under subsection (6) for any respiratory
 26 tract, bladder, skin, brain, kidney, blood, thyroid, testicular,
 27 prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer.
 28 Beginning January 1, 2022 for a cancer described in this subsection
 29 diagnosed on or after January 1, 2022, a full-time, part-time, paid

1 on-call, volunteer, or former forest fire officer or fire/crash
2 rescue officer who has or had 60 months or more active service at
3 the time the cancer manifests itself, and who is or was exposed to
4 the hazards incidental to fire suppression, rescue, or emergency
5 medical services in the performance of his or her work-related
6 duties shall suspend a claim he or she may have against his or her
7 employer under this act and may claim like benefits from the
8 Christopher R. Slezak first responder presumed coverage fund
9 created under subsection (6) for any respiratory tract, bladder,
10 skin, brain, kidney, blood, thyroid, testicular, prostate, or
11 lymphatic, ovarian, breast, or non-HPV cervical cancer. The cancers
12 described in this subsection are presumed to arise out of and in
13 the course of employment only with respect to a claim against the
14 fund and in the absence of non-work-related causation or specific
15 incidents that establish a cause independent of the employment.
16 Neither mere evidence that the condition was preexisting, nor an
17 abstract medical opinion that the employment was not the cause of
18 the disease or condition, is sufficient to overcome the presumption
19 for purposes of a claim against the Christopher R. Slezak first
20 responder presumed coverage fund. The presumption under this
21 subsection may be rebutted by scientific evidence that the member
22 or former member of the fire department or public fire authority
23 was a substantial and consistent user of cigarettes or other
24 tobacco products within the 10 years immediately preceding the date
25 of injury, and that this use was a significant factor in the cause,
26 aggravation, or progression of the cancer. The suspension of the
27 member's or former member's claim against his or her employer under
28 this subsection is in effect only during the period the member
29 receives like benefits from the Christopher R. Slezak first

1 responder presumed coverage fund. If a redemption agreement between
2 the Christopher R. Slezak first responder presumed coverage fund
3 and the claimant is approved, the suspension of a claim against an
4 employer under this subsection continues indefinitely. A claimant
5 may not receive benefits covering the same time period from both
6 the Christopher R. Slezak first responder presumed coverage fund
7 and the employer. The presumption created in this subsection
8 applies only to a claim for like benefits against the Christopher
9 R. Slezak first responder presumed coverage fund. For purposes of a
10 claim against the Christopher R. Slezak first responder presumed
11 coverage fund created under subsection (6), a fire department or
12 public fire authority is considered the employer of a volunteer
13 member.

14 (3) Respiratory and heart diseases or illnesses resulting
15 ~~therefrom~~ **from respiratory and heart diseases** as described in
16 subsection (1) are presumed to arise out of and in the course of
17 employment in the absence of evidence to the contrary.

18 (4) As a condition precedent to filing an application for
19 benefits, a claimant described in subsection (1) or a claimant
20 under subsection (2) must first apply for and do all things
21 necessary to qualify for any pension benefits to which he or she,
22 or his or her decedent, may be entitled or must demonstrate that he
23 or she, or his or her decedent, is ineligible for any pension
24 benefits. If a final determination is made that pension benefits
25 will not be awarded or that the claimant or his or her decedent is
26 ineligible for any pension benefits, then the designation of
27 "personal injury" as provided in subsection (1) or the presumption
28 under subsection (2) applies. The employer, employee, or former
29 member described in subsection (2) may request 2 copies of the

1 determination denying pension benefits, 1 copy of which must be
2 filed with the workers' compensation agency upon request.

3 (5) If an employee described in subsection (1) or (2) or a
4 former member described in subsection (2) is eligible for any
5 pension benefits, that eligibility does not prohibit the employee
6 or dependents of that employee from receiving benefits under
7 section 315 for the medical expenses or portion of medical expenses
8 that are not provided for by the pension program.

9 (6) The Christopher R. Slezak first responder presumed
10 coverage fund is created as a separate fund in the state treasury.
11 The state treasurer may receive money or other assets from any
12 source for deposit into the fund. The state treasurer shall direct
13 the investment of the fund. The state treasurer shall credit to the
14 fund interest and earnings from fund investments. The director
15 shall be the administrator of the fund for auditing purposes. The
16 director shall expend money from the fund only for the purpose of
17 paying claims authorized under subsection (2) and costs of
18 administration. The department of treasury shall cause to be paid
19 from the Christopher R. Slezak first responder presumed coverage
20 fund those amounts and at those times as are prescribed by the
21 director to pay claims under subsection (2) pursuant to this
22 subsection and subsection (7). Money in the fund at the close of
23 the fiscal year remains in the fund and does not lapse to the
24 general fund. If there is insufficient money in the fund to pay
25 claims authorized under subsection (2), claims that are approved
26 but not paid must be paid if fund revenues become available, and
27 those claims must be paid before subsequently approved claims. The
28 director shall develop and implement a process to notify the
29 legislature that money in the Christopher R. Slezak first responder

1 presumed coverage fund may be insufficient to cover future claims
2 when the director reasonably believes that within 60 days the money
3 in the fund will be insufficient to pay claims. The process must,
4 at a minimum, do all of the following:

5 (a) Identify a specific date by which the money in the fund
6 will become insufficient to pay claims.

7 (b) Outline a clear process indicating the order in which
8 claims pending with the fund will be paid.

9 (c) Outline a clear process indicating the order in which
10 claims that were pending with the fund when money became
11 insufficient will be paid, if money subsequently becomes available.

12 (7) The director shall develop the application, approval, and
13 compliance process necessary to operate and manage the Christopher
14 R. Slezak first responder presumed coverage fund. The director
15 shall develop and implement the use of an application form to be
16 used by a claimant for benefits payable by the fund under
17 subsection (2). When a claim under subsection (2) is received, the
18 director shall notify the employer against whom a claim is
19 suspended or the carrier. The employer or carrier may access all
20 information the agency receives respecting the claim and may
21 request that the agency obtain specific additional information. The
22 fund standards, guidelines, templates, and any other forms used by
23 the director to implement the Christopher R. Slezak first responder
24 presumed coverage fund must be posted and maintained on the
25 department's website. The director shall review and consider claims
26 in the order in which they are received and shall approve or deny a
27 claim within 30 days after receipt of the claim.

28 (8) The director shall submit an annual report to the state
29 budget director and the senate and house of representatives

1 standing committees on appropriations not later than April 1 of
2 each year that includes, but is not limited to, all of the
3 following:

4 (a) The total number of claims received under the Christopher
5 R. Slezak first responder presumed coverage fund in the immediately
6 preceding calendar year.

7 (b) The number of claims approved and the total dollar amount
8 of claims paid by the Christopher R. Slezak first responder
9 presumed coverage fund in the immediately preceding calendar year.

10 (c) The costs of administering the Christopher R. Slezak first
11 responder presumed coverage fund in the immediately preceding
12 calendar year.

13 (9) By March 31 of each year, the worker's compensation agency
14 shall report to the chairs of the appropriations committees of the
15 senate and the house of representatives the estimated amount of
16 both of the following:

17 (a) The anticipated cost of benefits in the next fiscal year
18 for claims authorized under subsection (2) and payable by the
19 Christopher R. Slezak first responder presumed coverage fund.

20 (b) The amount of any anticipated shortfall in the Christopher
21 R. Slezak first responder presumed coverage fund that would prevent
22 payment of claims under subsection (6) for the current fiscal year.

23 (10) The Christopher R. Slezak first responder presumed
24 coverage fund has the same rights under this act as an employer or
25 carrier.