

Legislative Analysis



PUBLIC SAFETY OFFICER LINE OF DUTY DEATH BENEFITS: CONTINUE HEALTH CARE BENEFITS

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House Bill 5608

Sponsor: Rep. Wayne Schmidt

Committee: Appropriations

Complete to 6-2-14

A SUMMARY OF HOUSE BILL 5608 AS INTRODUCED 5-28-14

House Bill 5608 would amend the Public Safety Officers Benefit Act (2004 PA 46) to provide continuing health care coverage to the surviving spouse and dependents of officers who die in the line of duty.

Under the Public Safety Officers Benefit Act, if a public safety officer dies or is totally and permanently disabled as the direct and proximate result of a personal injury sustained in the line of duty, the officer's surviving spouse and dependents are eligible for a one-time payment of \$25,000. The act provides that "public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, rescue squad member, or ambulance crew member.

House Bill 5608 would require the state to provide the surviving spouse and other dependents of firefighters, law enforcement officers, and emergency first responders who die in the line of duty on or after the bill's effective date with continued health insurance coverage that is comparable to the coverage the officer had from any source at the time of death.¹

Coverage payable to the surviving spouse would cease if the spouse qualifies for and receives comparable health insurance coverage from another source. Coverage payable to the other surviving dependents would cease if the dependent qualifies for and obtains coverage from another source or the dependent turns 18 years of age (26 years, if a full-time student).

Additionally, House Bill 5608 would revise the definition of "public safety officer" to include an emergency first responder licensed by the Department of Community Health (MDCH) under the Public Health Code (MCL 333.20950), including medical first responders, emergency medical technicians, Specialist/Advanced EMT, paramedic, and emergency services instructor-coordinator.

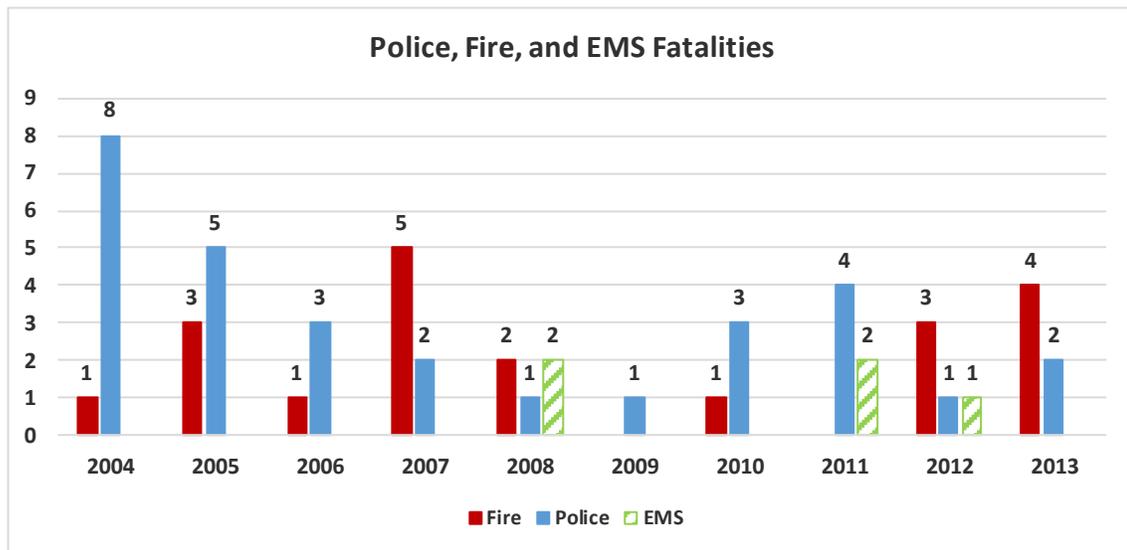
¹ Notably, but probably inadvertently, the bill would provide continued health coverage for deaths occurred in the line of duty, without the requirement that the death be the direct and proximate result of a personal injury sustained in the line of duty. As a result, the health benefits paid under the bill would be paid out in situations that wouldn't be eligible for the basic \$25,000 payment. Also, the bill provides benefits upon the death of law enforcement officers, firefighters, and emergency first responders, rather than "public safety officers".

FISCAL IMPACT:

State Impact: The bill would have a negative fiscal impact on the state, directly related to the increase in state expenditures necessary to provide continued health insurance coverage and in the direct cost of administering the program. These costs would grow to about \$764,000 after 10 years.

Continued Health Care Coverage

Available data on public safety officer line of duty injury deaths indicate that over the last decade (2004-2013), there have been 20 firefighters, 30 non-MSP police officers, and at least 5 EMT's killed in the line of duty in Michigan. This equates to about 5 line of duty deaths annually.



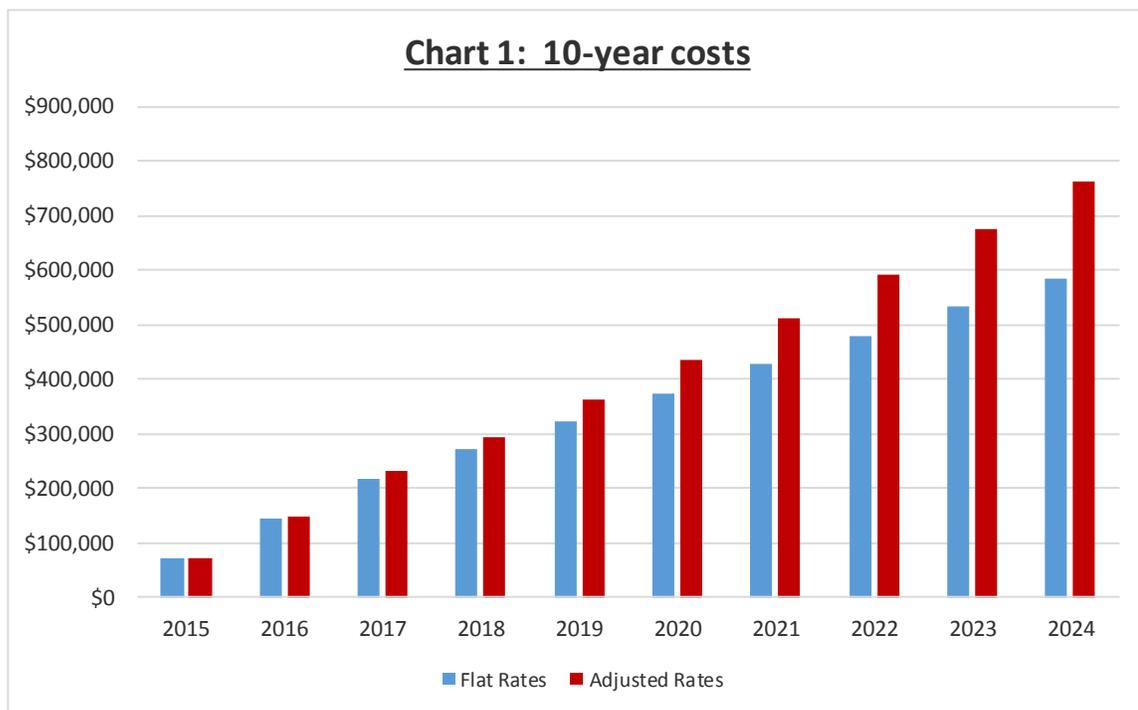
Source: U.S. Fire Administration – firefighter fatalities; Officer Down Memorial Page – police officer fatalities; and National EMS Memorial Service – EMS fatalities. Note: EMS fatalities were employees of private ambulance operations.

In providing continued health care coverage to firefighters, law enforcement officers, and emergency first responders, the bill would increase state budget outlays, depending on the number of those officers that die in the line of duty, their specific family characteristics, the availability of surviving family members to obtain health insurance coverage through other sources, and the type of level of benefits provided.²

² For the continued health care benefit, the bill specifically lists firefighters, law enforcement officers, and emergency first responders rather than utilizing the existing definition of “public safety officer” (as amended by the bill). The definition of “public safety officer” includes only those firefighters, law enforcement officers, and emergency first responders that are “serving a public agency”, whereas the stand alone definitions of “law enforcement officer”, “firefighter” and “emergency first responder” do not contain a similar public agency qualifier. At a minimum, the bill would seem to include both public and private emergency first responders, and could conceivably include private police security and railroad police licensed by MCOLES as “law enforcement officers” that are eligible for the continued health care coverage. As a result, under the bill, the existing lump-sum payment is limited to public employees, whereas the health benefit could be provided to certain private employees.

Chart 1 shows the estimated near-term (10 years) costs of continued health benefits. This estimate assumes coverage equal to the maximum amount of publicly funded health insurance benefits in the 2014 calendar year (CY), as established under the Publicly Funded Health Insurance Contribution Act (2011 PA 152).³ Under PA 152, the CY2014 coverage limits are \$5,858 for single coverage, \$12,250 for employee-spouse coverage, and \$15,975 for family coverage.

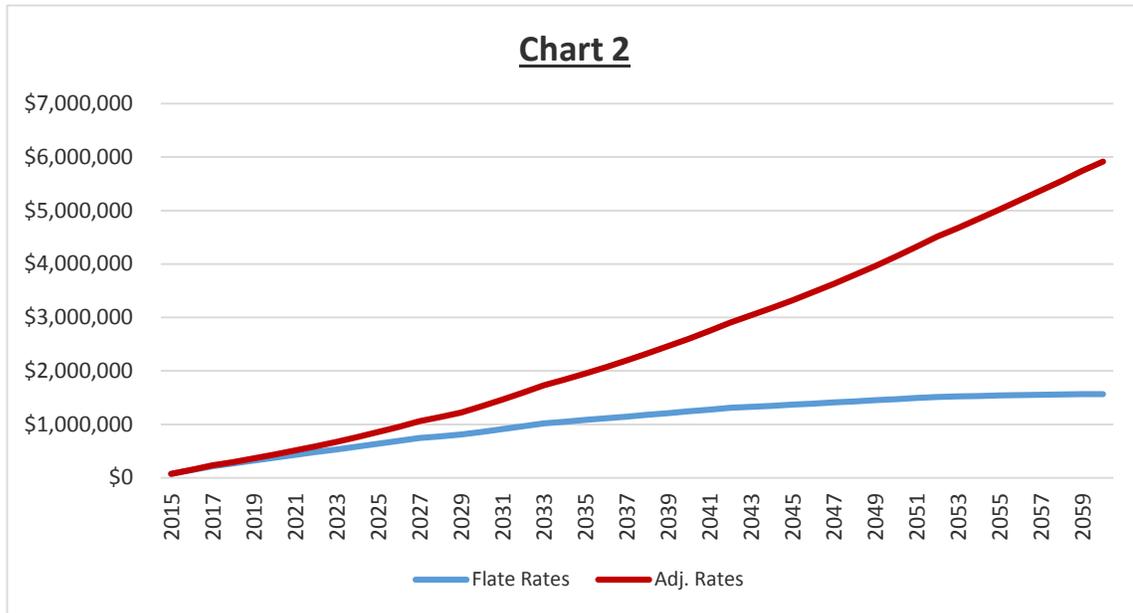
As shown in Chart 1, the first year costs, based on about 5 line of duty deaths, would total about \$73,000. Each year thereafter, as 5 more families are added (on average), the costs would increase by a similar amount, adjusted for increases (or decreases) in the baseline insurance rates, and changes in utilization rates – e.g., dependent children age-out of eligibility or surviving spouses obtain replacement coverage from other sources. The annual costs of providing continued health insurance coverage could grow to about \$764,000 after 10 years, assuming annual rate increases of 3%, dependent children remain covered through age 26 and no drop-offs because of replacement coverage.



Note: The “flat rate” uses the CY2014 capped rates under the Publicly Funded Health Insurance Contribution Act as a baseline insurance rate. The “adjusted rate” adjusts the insurance rates by 3% annually. **Assumptions:** 2 firefighter deaths, each age 50 and married with 2 children (avg. 23 years old); 2 police officer deaths, each age 40 and married with two children (avg. age 13.5); 1 police officer death, age 33, married, no children; and 0.5 EMS death, age 36, married, no children.

³ http://www.michigan.gov/documents/treasury/PA152MedicalBenefitLimitsCY2014_434954_7.pdf. These limits apply to medical benefit plans covering hospital and physician services, prescription drugs, and related medical services. The Department of Treasury has interpreted the act to not apply to vision or dental insurance.

Over the long-term, annual costs would tend to flatten out (except due to annual changes in insurance rates), as dependents age out and surviving spouses obtain other coverage or pass away. Chart 2, below, shows the potential long term costs of the continued health benefits, assuming surviving spouses maintain coverage until they die.



Note: The “flat rate” uses the CY2014 capped rates under the Publicly Funded Health Insurance Contribution Act as a baseline insurance rate for all years. The “adjusted rate” adjusts the insurance rates by 3% annually. **Assumptions:** 2 firefighter deaths, each age 50 and married with 2 children (avg. 23 years old). 2 police officer deaths, each age 40 and married with two children (avg. age 13.5). 1 police officer death, age 33, married, no children. 0.5 EMS death, age 36, married, no children. Dependent children retain coverage until age 26, and surviving spouses are the same age as their spouse when coverage begins and retain coverage until they die (77.89 years old, on average).

The act provides that the payment of benefits is conditioned on the availability of sufficient appropriations by the Legislature. Claims are paid based on the order in which MCOLES determines the eligibility of claims. If the amount of claims exceeds available funds, any unpaid eligible claims are paid when sufficient funds are appropriated. (By rule, MCOLES must notify the legislature if MCOLES is appropriations to pay claims are insufficient.)

PSOB \$25,000 Payment

Expanding the definition of “public safety officer” to include licensed emergency first responders (e.g., EMTs) would likely have a minimal fiscal impact on the existing one-time \$25,000 payment payable to the surviving spouse and dependents of a public safety officer killed in the line of duty. The definition of “public safety officer” currently includes members of a “rescue squad” and “ambulance crew.” Although those terms are

undefined in the act, they would seem to already include emergency first responders.⁴ In its annual reports for the last several years, the Michigan Commission on Law Enforcement Standards (MCOLES) does not report any benefits being paid out because of a line of duty death of a member of a rescue squad or ambulance crew.

Administrative Costs

The PSOB Act is administered by the Michigan State Police (Michigan Commission on Law Enforcement Standards). Currently MCOLES requires less than one full-time equivalent position (FTE) to administer the PSOB Act. The bill would expand MCOLES responsibilities under the act, likely requiring additional staff time and resources, particularly over time as new claimants are added each year. At a minimum, MCOLES would continue to verify eligibility for assistance under the bill. This basic eligibility determination (for new claimants) could seemingly be made concurrently with MCOLES' verification of eligibility for the existing \$25,000 payment. It's unclear to what extent claimants would be required to demonstrate – and MCOLES would be required to verify – the continuing eligibility for continued health care coverage, given that the bill states that benefits would be provided until a claimant qualifies for and obtains cover through other means. Conceivably, that could require annual application and verification (at least).

The requirement that the state provide “comparable” benefits could require MCOLES to determine the levels of benefits afforded to officers. However, the bill provides that “the state” would be responsible for providing continued health care coverage, but otherwise doesn't specify how benefits would be provided. It's conceivable that the state (likely through DTMB rather than MCOLES) could extend the any one of the benefit options currently available to state employees to the surviving spouses and dependent children afforded benefits under the bill, assuming the existing state benefits would be considered “comparable.”

Local Impact: The bill could reduce expenditures of local units of government, to the extent that they have policies and contracts in place that provide for the continuation of health insurance to the surviving spouse and other dependents of officers killed in the line of duty. The availability of state-paid health benefits would allow local units to stop that practice and shift those costs onto the state. Any resulting cost savings would likely be

⁴ The act defines “member of a rescue squad or ambulance crew” to mean “an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew.” The federal PSOB law (42 USC 3796b), however, defines “member of a rescue squad or ambulance crew” more fully as an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew (including a ground or air ambulance service) that is (1) a public agency; or (2) a nonprofit entity serving the public that is officially authorized or licensed to engage in rescue activity or to provide emergency medical services; and engages in rescue activities or provides emergency medical services as part of an official emergency response system. Further, federal regulations (32 CFR 32.3) define “rescue squad or ambulance crew” as a squad or crew whose members are rescue workers, ambulance drivers, paramedics, health care responders, emergency medical technicians, and other similar workers who (1) are trained in rescue activity or the provision of emergency medical services; and (2) as such members, have the legal authority and responsibility to engage in rescue activity or provide emergency medical services. Under the Part 209 (Emergency Medical Services) of the Public Health Code, the provision of emergency medical services are overseen by local medical control authorities (MCAs), which are organized and administered by local hospitals. Ambulance operations are licensed by DCH, but operate under the direction of local MCAs.

minimal for most local governments, given the relatively few number of line of duty deaths that occur each year.⁵

BACKGROUND INFORMATION:

Definition of “Personal Injury”

Benefits are provided under the act if the death or disability is the direct and proximate result of a personal injury sustained in the line of duty. MCOLES administrative rules define “personal injury” to mean any traumatic injury, as well as diseases which are caused by or result from such an injury, heart attack or stroke, but not an occupational disease. The rules further define “traumatic injury” to mean a wound or condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain. An “occupational disease” is a disease which routinely constitutes a special hazard in, or is commonly regarded as being concomitant to, the officer’s occupation.

The rules further provide that if an officer died as the direct and proximate result of a heart attack or stroke, the officer is presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty if the following apply:

- The officer, while on duty, engaged in a situation involving non-routine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity; or participated in a training exercise that involved non-routine stressful or strenuous physical activity.
- The officer died as a result of a heart attack or stroke suffered in 1 of the following time frames related to an activity described above: (1) while engaging or participating in the activity; (2) while still on duty after engaging or participating in the activity; or (3) not more than 24 hours after engaging or participating in the activity.

Federal PSOB Benefits

Under the federal Public Safety Officers’ Benefit Act of 1976 (42 USC 3796 et seq.), the federal government, through the Department of Justice, provides death, disability, and education benefits to public safety officers and their surviving spouses. The federal PSOB program provides a one-time lump sum death benefit to the surviving spouse and dependents of public safety officers whose death is the direct and proximate result of a traumatic injury sustained in the line of duty or from certain line-of-duty heart attacks, strokes, or vascular ruptures. The amount of the death benefit was increased to \$250,000

⁵ The exception could be Detroit, where its police and firefighters account for one-fifth (20%) of police officer and firefighter deaths in Michigan over the last decade, including 7 police officers and 3 firefighters. The city provides survivor’s benefits, although news accounts from December 2013 suggest that those benefits could be curtailed as part of the city’s restructuring in bankruptcy. See, Joe Guillen, “Detroit bankruptcy plan threatens survivor benefits of families of fallen cops, firefighters”, *Detroit Free Press*, December 22, 2013, <http://www.freep.com/article/20131222/NEWS01/312220057/Detroit-pensions-police-fire-widows>.

in 2001, and is adjusted annually for inflation. For deaths occurring after October 1, 2013, the benefit paid is \$333,605. [For further information see, www.psob.gov.]

MCOLES administrative rules state that if it is unable to make a conclusive determination on a claimant's eligibility for state PSOB benefits, it may wait for and rely upon determination on a claimant's eligibility for federal PSOB benefits.

Legislative/Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.