

Legislative Analysis



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

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5608 (Substitute H-2, as amended)

Sponsor: Rep. Wayne Schmidt

Committee: Appropriations

Complete to 7-24-14

A SUMMARY OF HOUSE BILL 5608 AS PASSED BY THE HOUSE 6-12-14

House Bill 5608 (H-2) 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 defines "public safety officer" to mean 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.

Continued Medical Benefits

House Bill 5608 (H-2) would require the state to provide the surviving spouse and dependent children of public safety officers who die as a result of a direct and proximate result of a personal injury sustained in the line of duty on or after the bill's effective date with continued coverage through a medical benefit plan that is comparable to the medical benefit plan offered to retired state police troopers.¹ For surviving spouses the coverage would cease when s/he is eligible for Medicare.

The coverage would not have to be provided at any time during which the surviving spouse or dependent child qualified for and received comparable coverage under a medical benefit plan offered by another source. Additionally, coverage would not be provided to the surviving spouse or dependent child who would receive benefits under a medical benefit plan through a retirement system administered by the state.

Coverage for dependent children would cease when the child reached the limiting age or after another terminating event in the same manner as is provided under the medical benefit plan provided to retired state police troopers.² If, however, the federal Affordable Care Act (42 USC 300gg-14) requires that the coverage be provided more broadly,

¹ https://www.michigan.gov/documents/mdcs/Retiree_Rates_Monthly_Troopers_427585_7.pdf?20140612145920.

² http://www.michigan.gov/orsmsp/0,4652,7-224-40621_41942_41956---,00.html. ORS notes that dependent children remain eligible for health benefits through the month in which they turn 25 years of age or graduate, whichever comes first, if unmarried. Otherwise dependent coverage ends in the month they turn 19 years of age.

coverage under the bill would be provided in a manner that complies with those requirements.³

The bill defines dependent child to mean an unmarried natural or adopted child, a stepchild, or a child under the age of 18 if the officer was awarded full legal guardianship. The child of a dependent child receiving coverage under the bill would not be eligible for coverage.⁴

Under the bill, a "medical benefit plan" would be defined as a plan that is established and maintained by a carrier or one or more public employers to provide for the payment of medical, optical, or dental benefits to public employees, including, but not limited to, hospital and physician services, prescription drugs, and related benefits.

The DTMB Office of Retirement Services (ORS) would be responsible for administering the provisions of the bill. The office would have sole discretion to determine whether the benefits provided under the bill are comparable to the benefits provided to state police retirees.

Covered Public Safety Officers

The act defines "public safety officer" to include individuals serving a public agency, in an official capacity, with or without compensation, as a law enforcement officer, firefighter, or member of a rescue squad or ambulance crew. The act further 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. House Bill 5608 (H-2) would revise the definition of "member of a rescue squad or ambulance crew" to also include emergency medical technicians, medical first responders, and paramedics, as defined in Part 209 of the Public Health Code.

Additionally, the bill would clarify that the term "firefighters" includes firefighters from any authority, district, board, or other entity created by one or more cities, villages, townships, or counties.

FISCAL IMPACT:

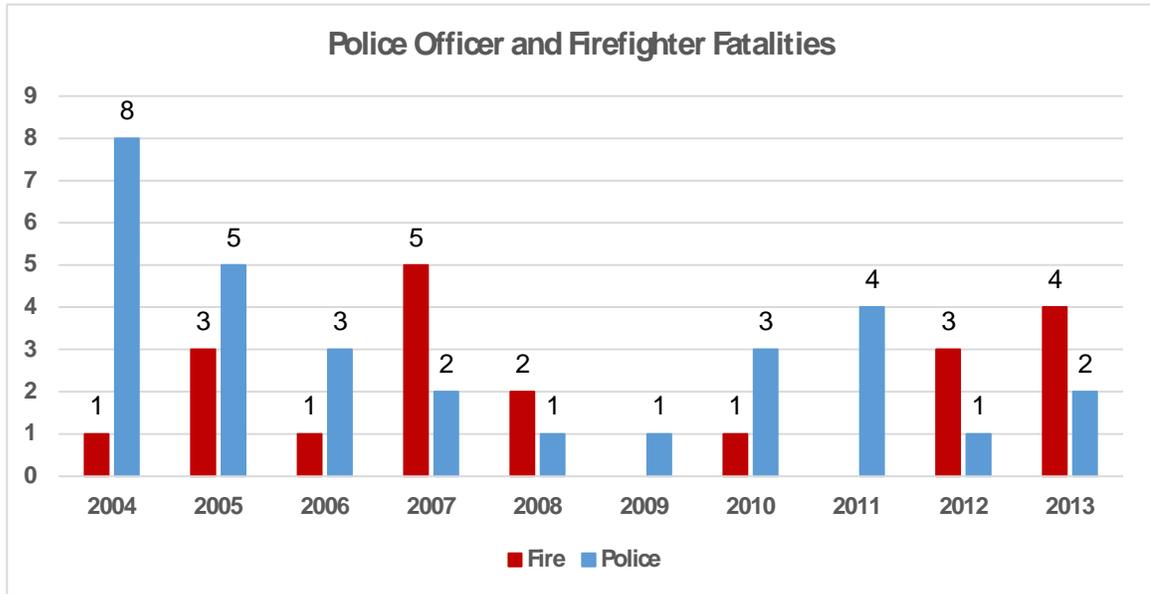
State Impact: The bill would have a negative fiscal impact on the state, directly related to the increase in state expenditures necessary to provide continued medical coverage and in the direct cost of administering the program. These costs could be up to \$59,000 in the first year, and grow to about \$709,000 after 10 years.

³ This provision requires that a group health plan and a health insurance issuer offering group or individual health insurance coverage that provides dependent coverage of children to continue to make such coverage available for an adult child until the child turns 26 years of age. Generally, this requirement does not apply to retiree health plans.

⁴ For the state police retirees health plan, if an enrolled dependent is an incapacitated child – i.e. unable to earn a living because of a mental or physical impairment and dependent on their parents for support and maintenance – health insurance coverage will continue as long as he or she became incapacitated before age 19, continues to be incapacitated, and the retiree's coverage does not terminate for any other reason. The bill's definition of "dependent child" would not extend coverage to incapacitated dependent (adult) children after they would otherwise age-out.

Continued Medical 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 and 30 non-MSP police officers killed in the line of duty over the last decade. This equates to an average of 5 deaths annually.

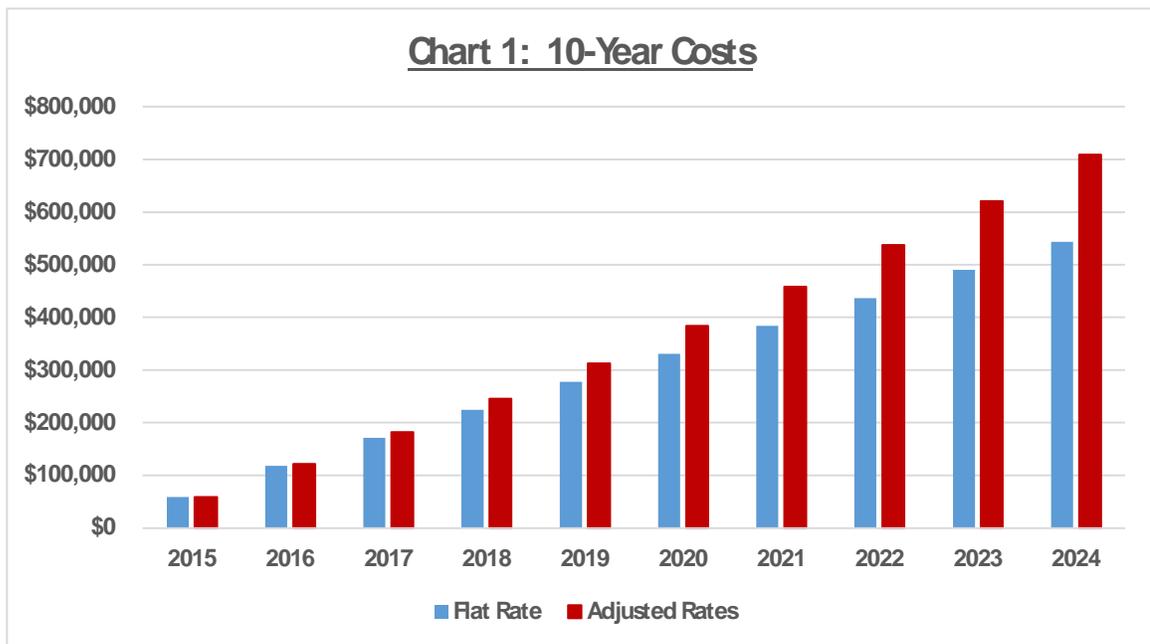


Source: U.S. Fire Administration – firefighter fatalities; Officer Down Memorial Page – police officer fatalities.

In providing continued medical coverage to the surviving spouse and dependents of public safety officers killed in the line of duty, the bill would increase state budget outlays, depending on the number of officers that die in the line of duty, their specific family characteristics, the ability of surviving family members to obtain medical coverage through other sources, and the amount/level of benefits provided. While the bill expands the definition of "member of a rescue squad or ambulance crew" to include EMTs, medical first responders, and paramedics, the bill doesn't eliminate the requirement that that these individuals must be public employees. Many EMS workers are actually private employees and would continue to be ineligible for assistance under the act, including continued medical coverage provided under the bill.⁵

⁵ Contrast the bill with definitions in the federal PSOB law (42 USC 3796b). Prior to PL 112-239, the definition of "public safety officer" was the same as the definition in the state law, except the federal law specifically included chaplains. PL 112-239 amended the federal PSOB law to include EMS personnel working for private, non-profit providers, defining "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 (including a ground or air ambulance service) that (a) is a public agency or (b) is, or is a part of, a nonprofit entity that is officially authorized or licensed to engage in rescue activity or to provide emergency medical services, and engages in rescue activities or provide 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 Part 209 (Emergency Medical Services) of the Public Health Code, the provision of emergency medical services are overseen by local

Chart 1 shows the estimated near-term (10 years) costs of continued health benefits, based on the 2013-2014 insurance rates for members of the Michigan State Police Troopers Association (MSPTA) bargaining unit.⁶ As shown in Chart 1, the first year costs, based on 5 line of duty deaths, would total about \$66,700. 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., as 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 \$709,500 after 10 years, assuming annual rate increases of 3%, dependent children remain covered through age 26 and no drop-offs because of replacement coverage.



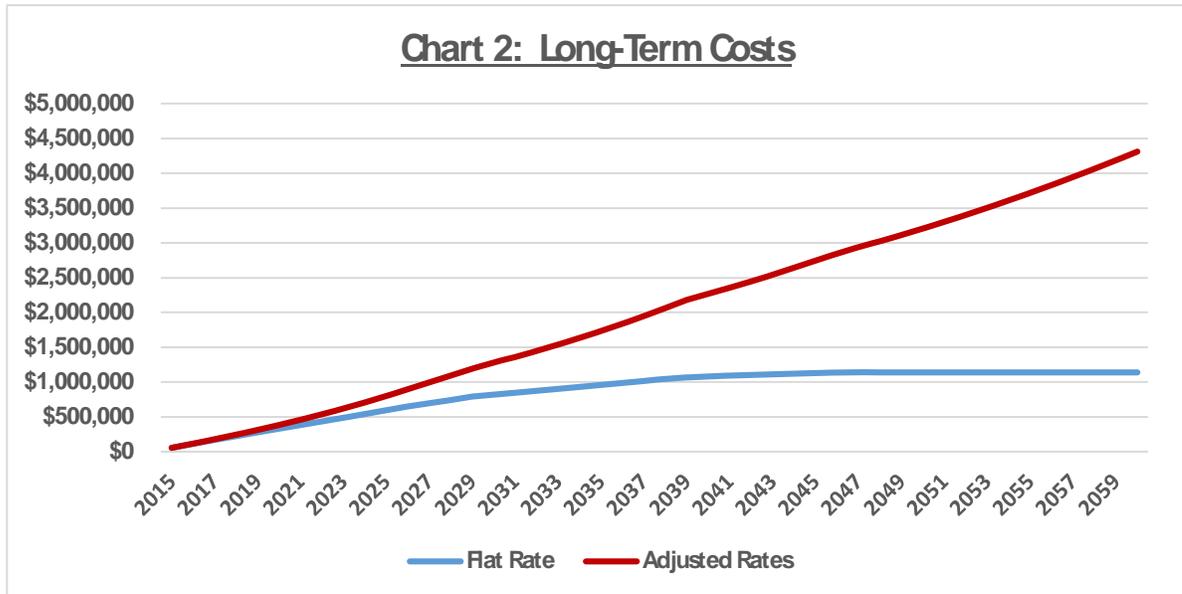
Note: The "flat rate" uses the FY2014 insurance rates for the state health, dental, and vision insurance rates for members of the Michigan State Police Troopers Association bargaining unit. (See footnote 4.) These costs are shared by both the employee and the state. The "adjusted rate" adjusts the insurance 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); and 1 police officer death, age 33, married, no children. Dependent child are covered through age 25, and surviving spouses are covered through age 65.

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 become eligible for Medicare. Chart 2, below, shows the potential long term costs of the

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.

⁶ http://www.michigan.gov/documents/mdcs/Active_Troopers_427482_7.pdf?20140610105905. According to the Civil Service Commission, surviving spouse (and dependents) of MSP troopers killed in the line of duty are eligible to enroll in the state retiree group health, dental, and vision insurance plans. See, http://www.michigan.gov/mdcs/0,4614,7-147-22854_22984-289811--.00.html.

continued health benefits, assuming children age out at age 25 and surviving spouses maintain coverage until age 65.



Note: The "flat rate" uses the FY2014 insurance rates for the state health, dental, and vision insurance rates for members of the Michigan State Police Troopers Association bargaining unit. (See footnote 4.) These costs are shared by both the employee and the state. 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. Dependent children retain coverage until age 25, and surviving spouses are the same age as their spouse when coverage begins and retain coverage until age 65.

PSOB \$25,000 Payment

Expanding the definition of "member of a rescue squad or ambulance crew" to include licensed emergency first responders (e.g., EMTs) would likely have minimal, if any, 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 the emergency medical personnel listed in the bill.⁷

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. Data from the National EMS Memorial Service indicate that 5 EMS personnel in Michigan have died in the line of duty over the last decade (2004-2013). All five were private employees.

⁷ See the discussion in footnote 3.

Additionally, the inclusion of authorities, boards, districts, and other entities in the definition of "firefighter" appears to be clarifying in nature, rather than expanding the eligibility for benefits under the act.⁸

Administrative Costs

The PSOB Act is administered by the Michigan State Police (Michigan Commission on Law Enforcement Standards), which requires less than one full-time equivalent position (FTE) to administer the PSOB Act. The bill would nominally increase MCOLES's administrative responsibilities, as the agency could determine initial eligibility for health benefits provided under the bill concurrently with its determination on the eligibility for the existing lump-sum payment.

The bill specifies that administration of the health benefits would be the responsibility of the DTMB Office of Retirement Services. At a minimum, ORS's responsibilities would include the collection of the spouse's/dependent's share of monthly insurance premiums. Establishing the structure of the benefits – carriers, coverage, and rates – would likely require some work on the part of the DTMB Civil Service Commission (Employee Benefits Division), as well.

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 (if one exists) and shift those costs onto the state. Any resulting cost savings would likely be minimal for most local governments, given the relatively few line of duty deaths that affect police and fire departments in the state.⁹

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

⁸ State financial data indicate that previously, MCOLES has provided the lump-sum \$25,000 PSOB payment to the surviving spouse of a fallen volunteer firefighter employed by a fire authority.

⁹ 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, at: <http://www.freep.com/article/20131222/NEWS01/312220057/Detroit-pensions-police-fire-widows>.

"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 one 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 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.