

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

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House Bill 5608 (Substitute H-1)
Sponsor: Rep. Wayne Schmidt
Committee: Appropriations

Complete to 6-10-14

A SUMMARY OF HOUSE BILL 5608 AS REPORTED FROM COMMITTEE 6-4-14

House Bill 5608 (H-1) 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-1) would require the state to provide the surviving spouse and other dependents of public safety officers who die 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 received by state police troopers, if the officer had a medical benefit plan 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).²

¹ Notably, but probably inadvertently, the bill would provide continued health coverage for deaths occurring 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. The bill, then, establishes a lower threshold for receiving benefits under the bill than the threshold for existing benefits under the act. As a result, the medical benefits paid under the bill would be paid out in situations that wouldn't be eligible for the basic \$25,000 lump-sum payment. See the discussion on the definition of "personal injury" in the section at the end of this summary providing background information.

² Under the federal Affordable Care Act, health insurance plans (including state employee benefit plans) that offer dependent coverage must make that coverage available until the adult child reaches 26 years of age, regardless of dependency.

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.

Rescue Squad/Ambulance Crew Member

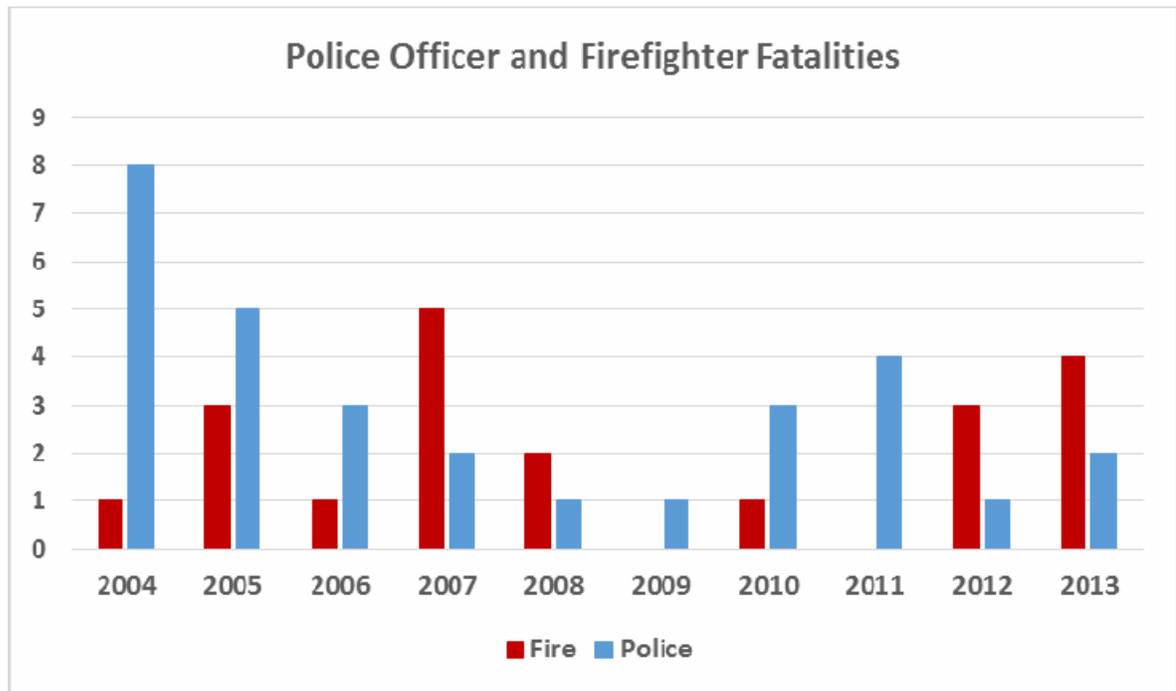
The act defines "public safety officer" to include individuals serving a public agency as a member of a rescue squad or ambulance crew, and further defines "member of a rescue squad or ambulance crew" to mean an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew. House Bill 5608 (H-1) 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.

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 grow to about \$709,500 after 10 years.

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.



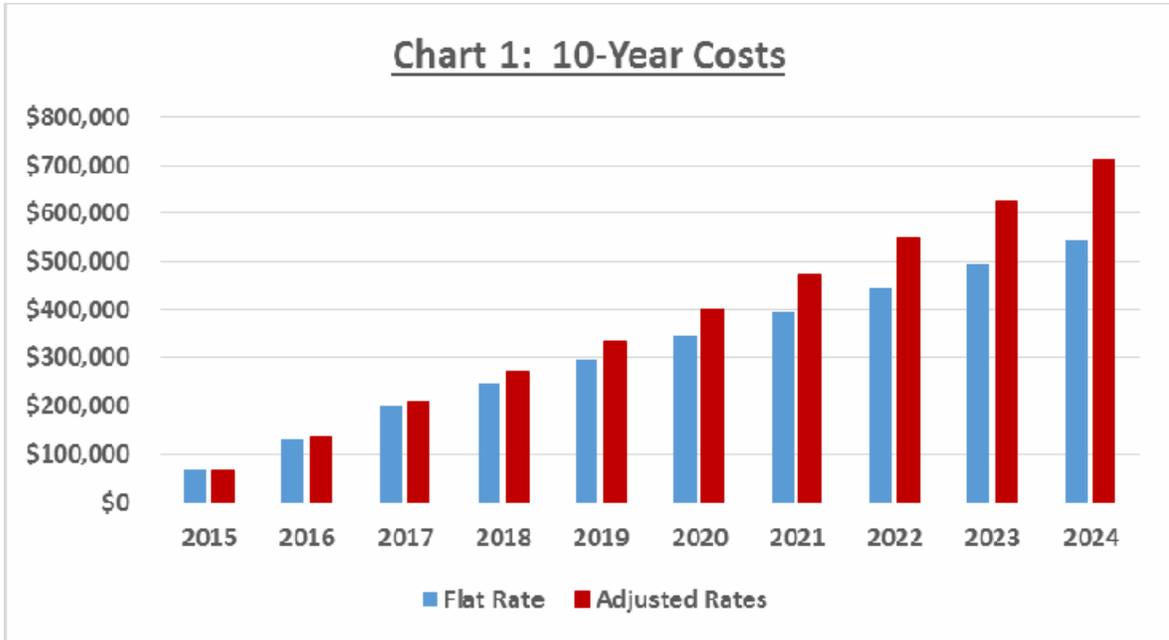
Source: U.S. Fire Administration – firefighter fatalities; Officer Down Memorial Page – police officer fatalities.

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.³

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.⁴ 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.

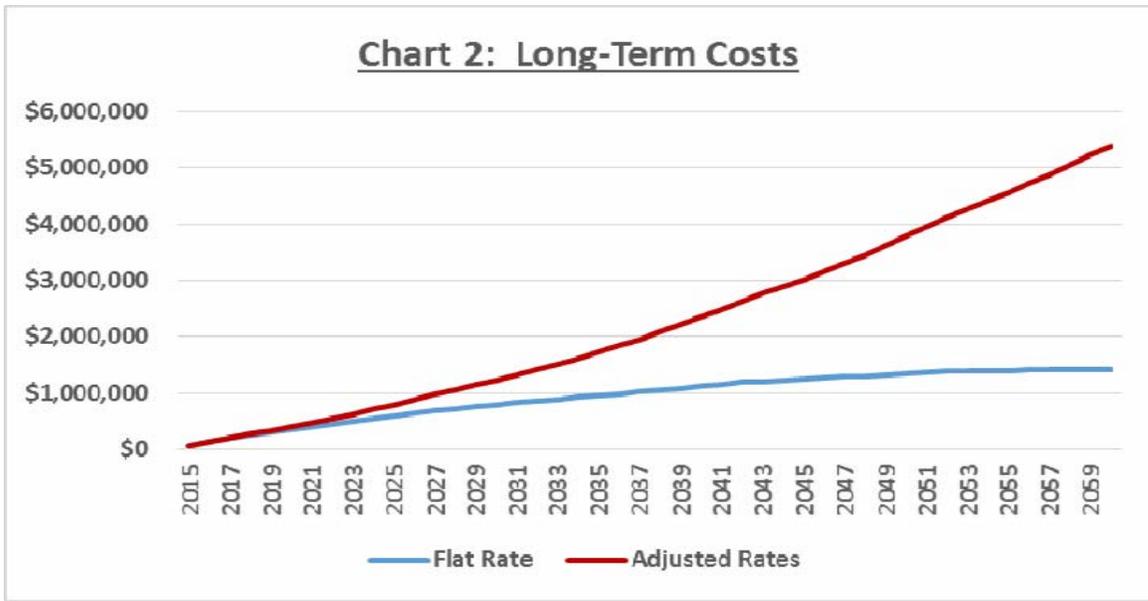
³ Contrast the bill with definitions in the federal PSOB law (42 USC 3796b). Prior to PL 112-239, the definition of "public safety officer" was the same as the definition in the state law, except the federal law specifically included chaplains. PL 112-239 amended the federal PSOB law to include EMS personnel 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 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.

⁴ 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.



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. Of note, this also assumes that the benefits are only paid under the bill to the surviving spouse and dependents of public safety officers who die as the direct and proximate result of a personal injury sustained in the line of duty, rather than simply in the line of duty as the bill provides.

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 children age out at age 26 and surviving spouses maintain coverage until they die.



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 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). Of note, this also assumes that the benefits are only paid under the bill to the surviving spouse and dependents of public safety officers who die as the direct and proximate result of a personal injury sustained in the line of duty, rather than simply in the line of duty as the bill provides.

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 "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.⁵ 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.

⁵ See the discussion in footnote 3.

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 lump-sum benefit. 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). It's unclear whether a surviving spouse or dependent who becomes ineligible for benefits because of other coverage could re-establish their eligibility if that coverage were to end.

The bill provides that "the state" provide medical benefits to surviving spouses and dependents, but otherwise doesn't specify how benefits would be provided. It's likely that DTMB would be responsible for this aspect of the bill, in terms of establishing a benefit structure, collecting the survivor's share of insurance premiums, and ensuring the state's share of premiums is paid.

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 number of line of duty deaths that affect police and fire departments in the state.⁶

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

⁶ 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>.

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 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.