

SENATE BILL NO. 244

March 23, 2023, Introduced by Senators BUMSTEAD, CHERRY, CHANG, DAMOOSE, HOITENGA, MCBROOM and OUTMAN and referred to the Committee on Labor.

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, paid on-call, or**
2 **volunteer** member of a ~~fully paid~~ fire department of an airport
3 operated by a county, public airport authority, or state university
4 or college; a **full-time, part-time, or paid on-call** member of a
5 ~~fully paid fire or~~ police department of a city, township, or

1 village; ~~employed and compensated upon a full-time basis;~~ a **full-**
 2 **time, part-time, paid on-call, or volunteer** member of a ~~fully paid~~
 3 **fire or public safety department of a city, township, or village or**
 4 **a public fire authority;** ~~employed and compensated upon a full-time~~
 5 ~~basis;~~ a county sheriff and the deputies of the county sheriff; a
 6 member of the state police; a conservation officer; **a forest fire**
 7 **officer;** or an officer of the motor carrier enforcement division of
 8 the department of state police, "personal injury" includes
 9 respiratory and heart diseases ~~, or illnesses resulting therefrom,~~
 10 **from respiratory and heart diseases** that develop or manifest
 11 themselves during a period while the member of the department is in
 12 the active service of the department and that result from the
 13 performance of duties for the department.

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

1 tract, bladder, skin, brain, kidney, blood, thyroid, testicular,
2 prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer.
3 Beginning January 1, 2022 for a cancer described in this subsection
4 diagnosed on or after January 1, 2022, a full-time, part-time, paid
5 on-call, volunteer, or former forest fire officer or fire/crash
6 rescue officer who has or had 60 months or more active service at
7 the time the cancer manifests itself, and who is or was exposed to
8 the hazards incidental to fire suppression, rescue, or emergency
9 medical services in the performance of his or her work-related
10 duties shall suspend a claim he or she may have against his or her
11 employer under this act and may claim like benefits from the
12 Christopher R. Slezak first responder presumed coverage fund
13 created under subsection (6) for any respiratory tract, bladder,
14 skin, brain, kidney, blood, thyroid, testicular, prostate, or
15 lymphatic, ovarian, breast, or non-HPV cervical cancer. The cancers
16 described in this subsection are presumed to arise out of and in
17 the course of employment only with respect to a claim against the
18 fund and in the absence of non-work-related causation or specific
19 incidents that establish a cause independent of the employment.
20 Neither mere evidence that the condition was preexisting, nor an
21 abstract medical opinion that the employment was not the cause of
22 the disease or condition, is sufficient to overcome the presumption
23 for purposes of a claim against the Christopher R. Slezak first
24 responder presumed coverage fund. The presumption under this
25 subsection may be rebutted by scientific evidence that the member
26 or former member of the fire department or public fire authority
27 was a substantial and consistent user of cigarettes or other
28 tobacco products within the 10 years immediately preceding the date
29 of injury, and that this use was a significant factor in the cause,

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

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

22 (4) As a condition precedent to filing an application for
23 benefits, a claimant described in subsection (1) or a claimant
24 under subsection (2) must first apply for and do all things
25 necessary to qualify for any pension benefits to which he or she,
26 or his or her decedent, may be entitled or must demonstrate that he
27 or she, or his or her decedent, is ineligible for any pension
28 benefits. If a final determination is made that pension benefits
29 will not be awarded or that the claimant or his or her decedent is

1 ineligible for any pension benefits, then the designation of
2 "personal injury" as provided in subsection (1) or the presumption
3 under subsection (2) applies. The employer, employee, or former
4 member described in subsection (2) may request 2 copies of the
5 determination denying pension benefits, 1 copy of which must be
6 filed with the workers' compensation agency upon request.

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

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

1 but not paid must be paid if fund revenues become available, and
2 those claims must be paid before subsequently approved claims. The
3 director shall develop and implement a process to notify the
4 legislature that money in the Christopher R. Slezak first responder
5 presumed coverage fund may be insufficient to cover future claims
6 when the director reasonably believes that within 60 days the money
7 in the fund will be insufficient to pay claims. The process must,
8 at a minimum, do all of the following:

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

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

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

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

1 in the order in which they are received and shall approve or deny a
2 claim within 30 days after receipt of the claim.

3 (8) The director shall submit an annual report to the state
4 budget director and the senate and house of representatives
5 standing committees on appropriations not later than April 1 of
6 each year that includes, but is not limited to, all of the
7 following:

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

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

14 (c) The costs of administering the Christopher R. Slezak first
15 responder presumed coverage fund in the immediately preceding
16 calendar year.

17 (9) By March 31 of each year, the worker's compensation agency
18 shall report to the chairs of the appropriations committees of the
19 senate and the house of representatives the estimated amount of
20 both of the following:

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

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

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