

HOUSE BILL No. 4269

February 25, 2003, Introduced by Reps. Ehardt, Huizenga, Vander Veen and Voorhees
and referred to the Committee on Employment Relations, Training and Safety.

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 1980
PA 457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) In the case of a member of a ~~full~~ **fully**
2 paid fire department of an airport run by a county ~~read~~
3 ~~commission in counties of 1,000,000 population or more~~ **or a**
4 **public airport authority**, or by a state university or college, or
5 of a ~~full~~ **fully** paid fire or police department of a city,
6 township, or incorporated village employed and compensated upon a
7 full-time basis, a county sheriff and the deputies of the county
8 sheriff, members of the state police, conservation officers, and
9 **officers of the** motor carrier ~~inspectors of the Michigan public~~
10 ~~service commission~~ **enforcement division of the department of**

1 **state police**, "personal injury" ~~shall be construed to include~~
 2 ~~respiratory~~ **includes any of the following:**

3 **(a) Respiratory** and heart diseases or illnesses resulting
 4 therefrom ~~which~~ **that** develop or manifest themselves during a
 5 period while the member of the department is in the active
 6 service of the department. ~~and result from the performance of~~
 7 ~~duties for the department.~~

8 **(b) Infectious diseases**, including, but not limited to, HIV,
 9 hepatitis, and tuberculosis, that manifest themselves within 5
 10 years of a period that the member of the department was in the
 11 active service of the department.

12 (2) ~~Such respiratory~~ **Respiratory** and heart diseases ~~or~~
 13 **and illnesses and infectious diseases** resulting therefrom are
 14 ~~deemed~~ **considered** to arise out of and in the course of
 15 employment in the absence of **affirmative** evidence ~~to the~~
 16 ~~contrary~~ **of non-work-related causation, that is not merely**
 17 **evidence of a preexisting heart or respiratory disease nor a**
 18 **medical opinion that the occupation had no effect on a previously**
 19 **weakened heart.**

20 (3) ~~As a condition precedent to~~ **Before** filing an
 21 application for benefits, ~~the~~ **a claimant** ~~, if he or she is one~~
 22 ~~of those enumerated~~ **described** in subsection (1) ~~,~~ shall first
 23 ~~make application~~ **apply** for ~~,~~ and do all things necessary to
 24 qualify for any pension benefits ~~which~~ **that** he or she, or his
 25 or her decedent, ~~may be~~ **is** entitled to **or shall demonstrate**
 26 **that he or she, or his or her decedent, is ineligible for any**
 27 **pension benefits.** If a final determination is made that pension

1 benefits shall not be awarded **or that the applicant, or his or**
2 **her decedent, is ineligible for any pension benefits,** then the
3 presumption of "personal injury" as provided in this section
4 ~~shall apply~~ **applies.** ~~The employer or employee may request 2~~
5 ~~copies of the determination denying pension benefits, 1 copy of~~
6 ~~which may be filed with the bureau.~~

7 (4) If an employee described in subsection (1) is eligible
8 for any pension benefits, that eligibility shall not prohibit the
9 employee or dependents of that employee from receiving benefits
10 under section 315 for the medical expenses or portion of medical
11 expenses that are not provided for by the pension program. The
12 presumption in subsection (2) shall apply to the medical benefits
13 provided under section 315.