

SENATE BILL No. 290

March 11, 2003, Introduced by Senators BERNERO, BASHAM, OLSHOVE, SCHAUER, CLARK-COLEMAN, GOSCHKA, JELINEK, JACOBS, PRUSI, BRATER, CHERRY, PATTERSON, GARCIA, THOMAS and LELAND and referred to the Committee on Commerce and 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 1980 PA 457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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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;
 5 ~~—~~ or of a ~~full~~ **fully** paid fire or police department of a
 6 city, township, or incorporated village employed and compensated
 7 upon a full-time basis; ~~—~~ a county sheriff and the deputies of
 8 the county sheriff; ~~—~~ members of the state police; ~~—~~
 9 conservation officers; ~~—~~ and **officers of the** motor carrier
 10 ~~inspectors of the Michigan public service commission~~

1 enforcement division of the department of state police, "personal
2 injury" shall be construed to include respiratory and heart
3 diseases, or illnesses resulting therefrom, ~~which~~ **that** develop
4 or manifest themselves during a period while the member of the
5 department is in the active service of the department and **that**
6 result from the performance of duties for the department.

7 **(2) For members of fully paid fire departments employed 24**
8 **months or more whose primary duty for 24 months or more was**
9 **fighting fires or inspecting fire scenes, "personal injury" shall**
10 **be construed to include all respiratory tract, bladder, skin,**
11 **brain, kidney, blood, and lymphatic cancers.**

12 **(3) ~~(2)~~ Such respiratory and heart diseases ~~or~~ and**
13 **illnesses resulting therefrom, and respiratory tract, bladder,**
14 **skin, brain, kidney, blood, and lymphatic cancers** are deemed to
15 arise out of and in the course of employment in the absence of
16 evidence to the contrary. **Respiratory tract, bladder, skin,**
17 **brain, kidney, blood, and lymphatic cancers of a member of a**
18 **fully paid fire department are not deemed to arise out of and in**
19 **the course of employment if evidence is shown that the member of**
20 **the fully paid fire department was a consistent smoker of**
21 **cigarettes or other tobacco products within the 5 years**
22 **immediately preceding the date of filing a claim under this act.**

23 **(4) ~~(3)~~ As a condition precedent to filing an application**
24 **for benefits, the claimant, if he or she is one of those**
25 **enumerated in subsection (1) or (2), shall first make application**
26 **for, and do all things necessary to qualify for any pension**
27 **benefits which he or she, or his or her decedent, may be entitled**

1 to. If a final determination is made that pension benefits shall
2 not be awarded, then the presumption of "personal injury" as
3 provided in this section ~~shall apply~~ **applies**. The employer or
4 employee may request 2 copies of the determination denying
5 pension benefits, 1 copy of which may be filed with the bureau.

6 (5) The bureau shall research the financial and procedural
7 implications of applying a cancer presumption to volunteer
8 firefighters. The study shall include a description of the
9 necessary amendments to this act in order to apply a cancer
10 presumption on an equal basis to all classifications of
11 firefighters. The report shall be provided to the chair and
12 vice-chair of the senate and house committees that consider
13 worker's compensation legislation by June 30, 2004.