

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4172

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 2014 PA 515.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) ~~In the case of~~ **For** a member of a fully paid fire
2 department of an airport operated by a county, public airport
3 authority, or state university or college; a member of a fully paid
4 fire or police department of a city, township, or ~~incorporated~~
5 village employed and compensated upon a full-time basis; a member
6 of a fully paid public fire authority employed and compensated upon
7 a full-time basis; a county sheriff and the deputies of the county
8 sheriff; a member of the state police; a conservation officer; or
9 an officer of the motor carrier enforcement division of the

1 department of state police, "personal injury" includes respiratory
2 and heart diseases, or illnesses resulting therefrom, that develop
3 or manifest themselves during a period while the member of the
4 department is in the active service of the department and that
5 result from the performance of duties for the department.

6 (2) A **full-time member, and, beginning January 1, 2022 for a**
7 **cancer described in this subsection diagnosed on or after January**
8 **1, 2022, a part-time, paid on-call, or volunteer** member, of a ~~fully~~
9 ~~paid~~ fire department or public fire authority, **and, beginning**
10 **January 1, 2022 for a cancer described in this subsection diagnosed**
11 **on or after January 1, 2022, a former member** who ~~is in active~~
12 ~~service of the~~ **was a full-time, part-time, paid on-call, or**
13 **volunteer member of a** fire department or public fire authority, **who**
14 ~~has been employed or had~~ 60 months or more ~~in the~~ active service ~~of~~
15 **in** the department or public fire authority at the time the cancer
16 manifests itself, and **who is or was** exposed to the hazards
17 incidental to fire suppression, rescue, or emergency medical
18 services in the performance of his or her work-related duties with
19 the department or authority shall suspend a claim **he or she may**
20 **have** against his or her employer under this act and may claim like
21 benefits from the **Christopher R. Slezak** first responder presumed
22 coverage fund created under subsection (6) for any respiratory
23 tract, bladder, skin, brain, kidney, blood, thyroid, testicular,
24 prostate, ~~or~~ lymphatic, **ovarian, breast, or non-HPV cervical**
25 cancer. **Beginning January 1, 2022 for a cancer described in this**
26 **subsection diagnosed on or after January 1, 2022, a full-time,**
27 **part-time, paid on-call, volunteer, or former forest fire officer**
28 **or fire/crash rescue officer who has or had 60 months or more**
29 **active service at the time the cancer manifests itself, and who is**

1 or was exposed to the hazards incidental to fire suppression,
2 rescue, or emergency medical services in the performance of his or
3 her work-related duties shall suspend a claim he or she may have
4 against his or her employer under this act and may claim like
5 benefits from the **Christopher R. Slezak** first responder presumed
6 coverage fund created under subsection (6) for any respiratory
7 tract, bladder, skin, brain, kidney, blood, thyroid, testicular,
8 prostate, or lymphatic, ovarian, breast, or non-HPV cervical
9 cancer. The cancers described in this subsection are presumed to
10 arise out of and in the course of employment only with respect to a
11 claim against the fund and in the absence of non-work-related
12 causation or specific incidents that establish a cause independent
13 of the employment. Neither mere evidence that the condition was
14 preexisting, nor an abstract medical opinion that the employment
15 was not the cause of the disease or condition, is sufficient to
16 overcome the presumption for purposes of a claim against the
17 **Christopher R. Slezak** first responder presumed coverage fund. The
18 presumption under this subsection may be rebutted by scientific
19 evidence that the member **or former member** of the ~~fully paid~~ fire
20 department or public fire authority was a substantial and
21 consistent user of cigarettes or other tobacco products within the
22 10 years immediately preceding the date of injury, and that this
23 use was a significant factor in the cause, aggravation, or
24 progression of the cancer. The suspension of the member's **or former**
25 **member's** claim against his or her employer under this subsection is
26 in effect only during the period the member receives like benefits
27 from the **Christopher R. Slezak** first responder presumed coverage
28 fund. If a redemption agreement between the **Christopher R. Slezak**
29 first responder presumed coverage fund and the claimant is

1 approved, the suspension of a claim against an employer under this
 2 subsection continues indefinitely. A claimant may not receive
 3 benefits covering the same time period from both the **Christopher R.**
 4 **Slezak** first responder presumed coverage fund and the employer. The
 5 presumption created in this subsection applies only to a claim for
 6 like benefits against the **Christopher R. Slezak** first responder
 7 presumed coverage fund. **For purposes of a claim against the**
 8 **Christopher R. Slezak first responder presumed coverage fund**
 9 **created under subsection (6), a fire department or public fire**
 10 **authority is considered the employer of a volunteer member.**

11 (3) Respiratory and heart diseases or illnesses resulting
 12 therefrom as described in subsection (1) are presumed to arise out
 13 of and in the course of employment in the absence of evidence to
 14 the contrary.

15 (4) As a condition precedent to filing an application for
 16 benefits, a claimant described in subsection (1) or a claimant
 17 under subsection (2) ~~shall~~**must** first apply for and do all things
 18 necessary to qualify for any pension benefits to which he or she,
 19 or his or her decedent, may be entitled or ~~shall~~**must** demonstrate
 20 that he or she, or his or her decedent, is ineligible for any
 21 pension benefits. If a final determination is made that pension
 22 benefits ~~shall~~**will** not be awarded or that the claimant or his or
 23 her decedent is ineligible for any pension benefits, then the
 24 ~~presumption~~**designation** of "personal injury" as provided in
 25 subsection (1) or the presumption under subsection (2) applies. The
 26 employer, ~~or~~ employee, **or former member described in subsection (2)**
 27 may request 2 copies of the determination denying pension benefits,
 28 1 copy of which ~~shall~~**must** be filed with the workers' compensation
 29 agency upon request.

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

7 (6) The **Christopher R. Slezak** first responder presumed
8 coverage fund is created as a separate fund in the state treasury.
9 The state treasurer may receive money or other assets from any
10 source for deposit into the fund. The state treasurer shall direct
11 the investment of the fund. The state treasurer shall credit to the
12 fund interest and earnings from fund investments. The director
13 shall be the administrator of the fund for auditing purposes. The
14 director shall expend money from the fund only for the purpose of
15 paying claims authorized under subsection (2) and costs of
16 administration. The department of treasury shall cause to be paid
17 from the **Christopher R. Slezak** first responder presumed coverage
18 fund those amounts and at those times as are prescribed by the
19 director to pay claims under subsection (2) pursuant to this
20 subsection and subsection (7). Money in the fund at the close of
21 the fiscal year ~~shall remain~~**remains** in the fund and ~~shall~~**does** not
22 lapse to the general fund. If there is insufficient money in the
23 fund to pay claims authorized under subsection (2), claims that are
24 approved but not paid ~~shall~~**must** be paid if fund revenues become
25 available, and those claims ~~shall~~**must** be paid before subsequently
26 approved claims. The director shall develop and implement a process
27 to notify the legislature that money in the **Christopher R. Slezak**
28 first responder presumed coverage fund may be insufficient to cover
29 future claims when the director reasonably believes that within 60

1 days the money in the fund will be insufficient to pay claims. The
2 process ~~shall, must~~, at a minimum, do all of the following:

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

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

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

10 (7) The director shall develop the application, approval, and
11 compliance process necessary to operate and manage the **Christopher**
12 **R. Slezak first responder presumed coverage** fund. The director
13 shall develop and implement the use of an application form to be
14 used by a claimant for benefits payable by the fund under
15 subsection (2). When a claim under subsection (2) is received, the
16 director shall notify the employer against whom a claim is
17 suspended or the carrier. The employer or carrier may access all
18 information the agency receives respecting the claim and may
19 request that the agency obtain specific additional information. The
20 fund standards, guidelines, templates, and any other forms used by
21 the director to implement the **Christopher R. Slezak** first responder
22 presumed coverage fund ~~shall must~~ be posted and maintained on the
23 department's website. The director shall review and consider claims
24 in the order in which they are received and shall approve or deny a
25 claim within 30 days after receipt of the claim.

26 (8) The director shall submit an annual report to the state
27 budget director and the senate and house of representatives
28 standing committees on appropriations not later than April 1 of
29 each year that includes, but is not limited to, all of the

1 following:

2 (a) The total number of claims received under the **Christopher**
3 **R. Slezak** first responder presumed coverage fund in the immediately
4 preceding calendar year.

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

8 (c) The costs of administering the **Christopher R. Slezak** first
9 responder presumed coverage fund in the immediately preceding
10 calendar year.

11 ~~(9) The department shall not implement the first responder~~
12 ~~presumed coverage fund until the legislature has appropriated money~~
13 ~~to the fund.~~

14 **(9)** ~~(10)~~ By March 31 of each year, the worker's compensation
15 agency shall report to the chairs of the appropriations committees
16 of the senate and the house of representatives the estimated amount
17 of both of the following:

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

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

24 **(10)** ~~(11)~~ The **Christopher R. Slezak** first responder presumed
25 coverage fund has the same rights under this act as an employer or
26 carrier.