

**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. The cancers described in this subsection are presumed to
 26 arise out of and in the course of employment only with respect to a
 27 claim against the fund and in the absence of non-work-related
 28 causation or specific incidents that establish a cause independent
 29 of the employment. Neither mere evidence that the condition was

1 preexisting, nor an abstract medical opinion that the employment
 2 was not the cause of the disease or condition, is sufficient to
 3 overcome the presumption for purposes of a claim against the
 4 **Christopher R. Slezak** first responder presumed coverage fund. The
 5 presumption under this subsection may be rebutted by scientific
 6 evidence that the member **or former member** of the ~~fully paid~~ fire
 7 department or public fire authority was a substantial and
 8 consistent user of cigarettes or other tobacco products within the
 9 10 years immediately preceding the date of injury, and that this
 10 use was a significant factor in the cause, aggravation, or
 11 progression of the cancer. The suspension of the member's **or former**
 12 **member's** claim against his or her employer under this subsection is
 13 in effect only during the period the member receives like benefits
 14 from the **Christopher R. Slezak** first responder presumed coverage
 15 fund. If a redemption agreement between the **Christopher R. Slezak**
 16 first responder presumed coverage fund and the claimant is
 17 approved, the suspension of a claim against an employer under this
 18 subsection continues indefinitely. A claimant may not receive
 19 benefits covering the same time period from both the **Christopher R.**
 20 **Slezak** first responder presumed coverage fund and the employer. The
 21 presumption created in this subsection applies only to a claim for
 22 like benefits against the **Christopher R. Slezak** first responder
 23 presumed coverage fund. **For purposes of a claim against the**
 24 **Christopher R. Slezak first responder presumed coverage fund**
 25 **created under subsection (6), a fire department or public fire**
 26 **authority is considered the employer of a volunteer member.**

27 (3) Respiratory and heart diseases or illnesses resulting
 28 therefrom as described in subsection (1) are presumed to arise out
 29 of and in the course of employment in the absence of evidence to

1 the contrary.

2 (4) As a condition precedent to filing an application for
3 benefits, a claimant described in subsection (1) or a claimant
4 under subsection (2) ~~shall~~**must** first apply for and do all things
5 necessary to qualify for any pension benefits to which he or she,
6 or his or her decedent, may be entitled or ~~shall~~**must** demonstrate
7 that he or she, or his or her decedent, is ineligible for any
8 pension benefits. If a final determination is made that pension
9 benefits ~~shall~~**will** not be awarded or that the claimant or his or
10 her decedent is ineligible for any pension benefits, then the
11 ~~presumption~~**designation** of "personal injury" as provided in
12 subsection (1) or the presumption under subsection (2) applies. The
13 employer, ~~or~~ employee, **or former member described in subsection (2)**
14 may request 2 copies of the determination denying pension benefits,
15 1 copy of which ~~shall~~**must** be filed with the workers' compensation
16 agency upon request.

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

23 (6) The **Christopher R. Slezak** first responder presumed
24 coverage fund is created as a separate fund in the state treasury.
25 The state treasurer may receive money or other assets from any
26 source for deposit into the fund. The state treasurer shall direct
27 the investment of the fund. The state treasurer shall credit to the
28 fund interest and earnings from fund investments. The director
29 shall be the administrator of the fund for auditing purposes. The

1 director shall expend money from the fund only for the purpose of
2 paying claims authorized under subsection (2) and costs of
3 administration. The department of treasury shall cause to be paid
4 from the **Christopher R. Slezak** first responder presumed coverage
5 fund those amounts and at those times as are prescribed by the
6 director to pay claims under subsection (2) pursuant to this
7 subsection and subsection (7). Money in the fund at the close of
8 the fiscal year ~~shall~~**must** remain in the fund and ~~shall~~**does** not
9 lapse to the general fund. If there is insufficient money in the
10 fund to pay claims authorized under subsection (2), claims that are
11 approved but not paid ~~shall~~**must** be paid if fund revenues become
12 available, and those claims ~~shall~~**must** be paid before subsequently
13 approved claims. The director shall develop and implement a process
14 to notify the legislature that money in the **Christopher R. Slezak**
15 first responder presumed coverage fund may be insufficient to cover
16 future claims when the director reasonably believes that within 60
17 days the money in the fund will be insufficient to pay claims. The
18 process ~~shall~~**must**, at a minimum, do all of the following:

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

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

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

26 (7) The director shall develop the application, approval, and
27 compliance process necessary to operate and manage the **Christopher**
28 **R. Slezak first responder presumed coverage** fund. The director
29 shall develop and implement the use of an application form to be

1 used by a claimant for benefits payable by the fund under
2 subsection (2). When a claim under subsection (2) is received, the
3 director shall notify the employer against whom a claim is
4 suspended or the carrier. The employer or carrier may access all
5 information the agency receives respecting the claim and may
6 request that the agency obtain specific additional information. The
7 fund standards, guidelines, templates, and any other forms used by
8 the director to implement the **Christopher R. Slezak** first responder
9 presumed coverage fund ~~shall~~**must** be posted and maintained on the
10 department's website. The director shall review and consider claims
11 in the order in which they are received and shall approve or deny a
12 claim within 30 days after receipt of the claim.

13 (8) The director shall submit an annual report to the state
14 budget director and the senate and house of representatives
15 standing committees on appropriations not later than April 1 of
16 each year that includes, but is not limited to, all of the
17 following:

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

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

24 (c) The costs of administering the **Christopher R. Slezak** first
25 responder presumed coverage fund in the immediately preceding
26 calendar year.

27 ~~(9) The department shall not implement the first responder~~
28 ~~presumed coverage fund until the legislature has appropriated money~~
29 ~~to the fund.~~

1 (9) ~~(10)~~—By March 31 of each year, the worker's compensation
2 agency shall report to the chairs of the appropriations committees
3 of the senate and the house of representatives the estimated amount
4 of both of the following:

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

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

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

14 Enacting section 1. This amendatory act takes effect 180 days
15 after the date it is enacted into law.