

**SUBSTITUTE FOR  
HOUSE BILL NO. 4063**

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~~ **on** a full-time basis; a  
6 member of a fully paid public fire authority employed and  
7 compensated ~~upon~~ **on** a full-time basis; a county sheriff and the  
8 deputies of the county sheriff; a member of the state police; a  
9 conservation officer; or an officer of the motor carrier



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

7 (2) A **full-time, part-time, paid on-call, or volunteer** member  
 8 of a ~~fully paid~~ fire department or public fire authority who is in  
 9 active service of the fire department or public fire authority, has  
 10 ~~been employed~~ 60 months or more ~~in the active service of~~ **in** the  
 11 department or public fire authority at the time the cancer  
 12 manifests itself, and is exposed to the hazards incidental to fire  
 13 suppression, rescue, or emergency medical services in the  
 14 performance of his or her work-related duties with the department  
 15 or authority shall suspend a claim **he or she may have** against his  
 16 or her employer under this act and may claim like benefits from the  
 17 first responder presumed coverage fund created under subsection (6)  
 18 for any respiratory tract, bladder, skin, brain, kidney, blood,  
 19 thyroid, testicular, prostate, or lymphatic cancer. The cancers  
 20 described in this subsection are presumed to arise out of and in  
 21 the course of employment only with respect to a claim against the  
 22 fund and in the absence of non-work-related causation or specific  
 23 incidents that establish a cause independent of the employment.  
 24 Neither mere evidence that the condition was preexisting, nor an  
 25 abstract medical opinion that the employment was not the cause of  
 26 the disease or condition, is sufficient to overcome the presumption  
 27 for purposes of a claim against the first responder presumed  
 28 coverage fund. The presumption under this subsection may be  
 29 rebutted by scientific evidence that the member of the ~~fully paid~~



1 fire department or public fire authority was a substantial and  
2 consistent user of cigarettes or other tobacco products within the  
3 10 years immediately preceding the date of injury, and that this  
4 use was a significant factor in the cause, aggravation, or  
5 progression of the cancer. The suspension of the member's claim  
6 against his or her employer under this subsection is in effect only  
7 during the period the member receives like benefits from the first  
8 responder presumed coverage fund. If a redemption agreement between  
9 the first responder presumed coverage fund and the claimant is  
10 approved, the suspension of a claim against an employer under this  
11 subsection continues indefinitely. A claimant may not receive  
12 benefits covering the same time period from both the first  
13 responder presumed coverage fund and the employer. The presumption  
14 created in this subsection applies only to a claim for like  
15 benefits against the first responder presumed coverage fund. **For**  
16 **purposes of a claim against the presumed coverage fund, a fire**  
17 **department or public fire authority is considered the employer of a**  
18 **volunteer member.**

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

23 (4) As a condition precedent to filing an application for  
24 benefits, a claimant described in subsection (1) or a claimant  
25 under subsection (2) shall first apply for and do all things  
26 necessary to qualify for any pension benefits to which he or she,  
27 or his or her decedent, may be entitled or ~~shall~~**must** demonstrate  
28 that he or she, or his or her decedent, is ineligible for any  
29 pension benefits. If a final determination is made that pension



1 benefits ~~shall~~**will** not be awarded or that the claimant or his or  
 2 her decedent is ineligible for any pension benefits, then the  
 3 ~~presumption~~**designation** of "personal injury" as provided in  
 4 subsection (1) or the presumption under subsection (2) applies. The  
 5 employer or employee may request 2 copies of the determination  
 6 denying pension benefits, 1 copy of which shall be filed with the  
 7 workers' compensation agency upon request.

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

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



1 available, and those claims ~~shall~~**must** be paid before subsequently  
2 approved claims. The director shall develop and implement a process  
3 to notify the legislature that money in the first responder  
4 presumed coverage fund may be insufficient to cover future claims  
5 when the director reasonably believes that within 60 days the money  
6 in the fund will be insufficient to pay claims. The process shall,  
7 at a minimum, do all of the following:

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

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

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

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



1 claim.

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

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

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

13 (c) The costs of administering the first responder presumed  
14 coverage fund in the immediately preceding calendar year.

15 ~~(9) The department shall not implement the first responder~~  
16 ~~presumed coverage fund until the legislature has appropriated money~~  
17 ~~to the fund.~~

18 **(9)** ~~(10)~~ By March 31 of each year, the worker's compensation  
19 agency shall report to the chairs of the appropriations committees  
20 of the senate and the house of representatives the estimated amount  
21 of both of the following:

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

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

28 **(10)** ~~(11)~~ The first responder presumed coverage fund has the  
29 same rights under this act as an employer or carrier.



1 Enacting section 1. This amendatory act takes effect 90 days  
2 after the date it is enacted into law.

