

HOUSE BILL NO. 6360

August 17, 2022, Introduced by Rep. Yaroch and referred to the Committee on Rules and Competitiveness.

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 2021 PA 129.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) For a member of a fully paid fire department of
2 an airport operated by a county, public airport authority, or state
3 university or college; a member of a fully paid fire or police
4 department of a city, township, or village employed and compensated
5 upon a full-time basis; a member of a fully paid public fire
6 authority employed and compensated upon a full-time basis; a county

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

9 **(2) Subsection (3) applies to all of the following covered**
 10 **individuals:**

11 **(a) ~~(2)~~A full-time member, ~~and, beginning of a fire~~**
 12 **department or public fire authority.**

13 **(b) Beginning** January 1, 2022 for a cancer described in ~~this~~
 14 subsection **(3)** diagnosed on or after January 1, 2022, ~~a~~ **all of the**
 15 **following:**

16 **(i) A part-time, paid on-call, ~~or~~ volunteer, or former member,**
 17 of a fire department or public fire authority. ~~, and, beginning~~
 18 ~~January 1, 2022 for a cancer described in this subsection diagnosed~~
 19 ~~on or after January 1, 2022, a former member who was a full-time,~~
 20 ~~part-time, paid on-call, or volunteer member of a fire department~~
 21 ~~or public fire authority,~~

22 **(ii) A full-time, part-time, paid on-call, volunteer, or former**
 23 **forest fire officer or fire/crash rescue officer.**

24 **(3) A covered individual described in subsection (2) who has**
 25 or had 60 months or more active service ~~in the department or public~~
 26 ~~fire authority as a covered individual~~ at the time the cancer
 27 manifests itself, and who is or was exposed to the hazards
 28 incidental to fire suppression, rescue, or emergency medical
 29 services in the performance of his or her work-related duties ~~with~~

~~1 the department or authority shall suspend a claim he or she may~~
~~2 have against his or her employer under this act and may claim like~~
~~3 benefits from the Christopher R. Slezak first responder presumed~~
~~4 coverage fund created under subsection (6)–(9) for any respiratory~~
~~5 tract, bladder, skin, brain, kidney, blood, thyroid, testicular,~~
~~6 prostate, lymphatic, ovarian, breast, or non-HPV cervical cancer.~~
~~7 Beginning January 1, 2022 for a cancer described in this subsection~~
~~8 diagnosed on or after January 1, 2022, a full-time, part-time, paid~~
~~9 on-call, volunteer, or former forest fire officer or fire/crash~~
~~10 rescue officer who has or had 60 months or more active service at~~
~~11 the time the cancer manifests itself, and who is or was exposed to~~
~~12 the hazards incidental to fire suppression, rescue, or emergency~~
~~13 medical services in the performance of his or her work-related~~
~~14 duties shall suspend a claim he or she may have against his or her~~
~~15 employer under this act and may claim like benefits from the~~
~~16 Christopher R. Slezak first responder presumed coverage fund~~
~~17 created under subsection (6) for any respiratory tract, bladder,~~
~~18 skin, brain, kidney, blood, thyroid, testicular, prostate, or~~
~~19 lymphatic, ovarian, breast, or non-HPV cervical cancer.~~

20 (4) The cancers described in ~~this~~ subsection (3) are presumed
 21 to arise out of and in the course of employment only with respect
 22 to a claim against the fund and in the absence of non-work-related
 23 causation or specific incidents that establish a cause independent
 24 of the employment. Neither mere evidence that the **disease or**
 25 condition was preexisting, nor an abstract medical opinion that the
 26 employment was not the cause of the disease or condition, is
 27 sufficient to overcome the presumption for purposes of a claim
 28 against the Christopher R. Slezak first responder presumed coverage
 29 fund. The presumption under this subsection may be rebutted by

1 scientific evidence that the ~~member or former member of the fire~~
2 ~~department or public fire authority~~ **covered individual** was a
3 substantial and consistent user of cigarettes or other tobacco
4 products within the 10 years immediately preceding the date of
5 injury, and that ~~this~~ **the use of cigarettes or other tobacco**
6 **products** was a significant factor in the cause, aggravation, or
7 progression of the cancer. **The presumption created in this**
8 **subsection applies only to a claim for like benefits against the**
9 **Christopher R. Slezak first responder presumed coverage fund. For**
10 **purposes of a claim against the Christopher R. Slezak first**
11 **responder presumed coverage fund created under subsection (9), a**
12 **fire department or public fire authority is considered the employer**
13 **of a volunteer member.**

14 (5) The suspension of ~~the member's or former member's a~~
15 **covered individual's** claim against his or her employer under ~~this~~
16 subsection (3) is in effect only during the period the ~~member~~
17 **covered individual** receives like benefits from the Christopher R.
18 Slezak first responder presumed coverage fund. If a redemption
19 agreement between the Christopher R. Slezak first responder
20 presumed coverage fund and the ~~claimant~~ **covered individual** is
21 approved, the suspension of a claim against an employer under this
22 subsection continues indefinitely. A ~~claimant~~ **covered individual**
23 may not receive benefits covering the same time period from both
24 the Christopher R. Slezak first responder presumed coverage fund
25 and the employer. ~~The presumption created in this subsection~~
26 ~~applies only to a claim for like benefits against the Christopher~~
27 ~~R. Slezak first responder presumed coverage fund. For purposes of a~~
28 ~~claim against the Christopher R. Slezak first responder presumed~~
29 ~~coverage fund created under subsection (6), a fire department or~~

1 ~~public fire authority is considered the employer of a volunteer~~
 2 ~~member.~~

3 (6) ~~(3)~~ Respiratory and heart diseases or illnesses resulting
 4 therefrom as described in subsection (1) are presumed to arise out
 5 of and in the course of employment in the absence of evidence to
 6 the contrary.

7 (7) ~~(4)~~ As a condition precedent to filing an application for
 8 benefits, a claimant described in subsection (1) or a claimant
 9 under subsection ~~(2)~~ **(3)** must first apply for and do all things
 10 necessary to qualify for any pension benefits to which he or she,
 11 or his or her decedent, may be entitled or must demonstrate that he
 12 or she, or his or her decedent, is ineligible for any pension
 13 benefits. If a final determination is made that pension benefits
 14 will not be awarded or that the claimant or his or her decedent is
 15 ineligible for any pension benefits, then the designation of
 16 "personal injury" as provided in subsection (1) or the presumption
 17 under subsection ~~(2)~~ **(4)** applies. The **claimant or claimant's**
 18 employer, ~~employee, or former member described in subsection (2)~~
 19 may request 2 copies of the determination denying pension benefits,
 20 1 copy of which must be filed with the workers' compensation agency
 21 upon request.

22 (8) ~~(5)~~ If an employee described in subsection (1) or ~~(2)~~ **(3)**
 23 or a former member described in subsection ~~(2)~~ **(3)** is eligible for
 24 any pension benefits, that eligibility does not prohibit the
 25 employee **or former member** or dependents of that employee **or former**
 26 **member** from receiving benefits under section 315 for the medical
 27 expenses or portion of medical expenses that are not provided for
 28 by the pension program.

29 (9) ~~(6)~~ The Christopher R. Slezak first responder presumed

1 coverage fund is created as a separate fund in the state treasury.
2 The state treasurer may receive money or other assets from any
3 source for deposit into the fund. The state treasurer shall direct
4 the investment of the fund. The state treasurer shall credit to the
5 fund interest and earnings from fund investments. The director
6 shall be the administrator of the fund for auditing purposes. The
7 director shall expend money from the fund only for the purpose of
8 paying claims authorized under subsection ~~(2)~~-(3) and costs of
9 administration. The department of treasury shall cause to be paid
10 from the Christopher R. Slezak first responder presumed coverage
11 fund those amounts and at those times as are prescribed by the
12 director to pay claims under subsection ~~(2)~~-(3) pursuant to this
13 subsection and subsection ~~(7)~~-(10). Money in the fund at the close
14 of the fiscal year remains in the fund and does not lapse to the
15 general fund. If there is insufficient money in the fund to pay
16 claims authorized under subsection ~~(2)~~-(3), claims that are
17 approved but not paid must be paid if fund revenues become
18 available, and those claims must be paid before subsequently
19 approved claims. The director shall develop and implement a process
20 to notify the legislature that money in the Christopher R. Slezak
21 first responder presumed coverage fund may be insufficient to cover
22 future claims when the director reasonably believes that within 60
23 days the money in the fund will be insufficient to pay claims. The
24 process must, at a minimum, do all of the following:

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

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

29 (c) Outline a clear process indicating the order in which

1 claims that were pending with the fund when money became
2 insufficient will be paid, if money subsequently becomes available.

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

19 **(11)** ~~(8)~~—The director shall submit an annual report to the
20 state budget director and the senate and house of representatives
21 standing committees on appropriations not later than April 1 of
22 each year that includes, but is not limited to, all of the
23 following:

24 (a) The total number of claims received under the Christopher
25 R. Slezak first responder presumed coverage fund in the immediately
26 preceding calendar year.

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

1 (c) The costs of administering the Christopher R. Slezak first
2 responder presumed coverage fund in the immediately preceding
3 calendar year.

4 **(12)** ~~(9)~~—By March 31 of each year, the worker's compensation
5 agency shall report to the chairs of the appropriations committees
6 of the senate and the house of representatives the estimated amount
7 of both of the following:

8 (a) The anticipated cost of benefits in the next fiscal year
9 for claims authorized under subsection ~~(2)~~ **(3)** and payable by the
10 Christopher R. Slezak first responder presumed coverage fund.

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

15 **(13)** ~~(10)~~—The Christopher R. Slezak first responder presumed
16 coverage fund has the same rights under this act as an employer or
17 carrier.