

**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.

