

SENATE BILL NO. 789

November 5, 1997, Introduced by Senators ROGERS,
DE BEAUSSAERT, STILLE and STEIL and referred to the
Committee on Human Resources, Labor and Veterans Affairs.

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 1980 PA
457.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 405. (1) In the case of a member of a ~~full~~ FULLY
2 paid fire department of an airport run by a county ~~road commis-~~
3 ~~sion in counties of 1,000,000 population or more~~ OR A PUBLIC
4 AIRPORT AUTHORITY, or by a state university or college; ~~,~~ or of
5 a ~~full~~ FULLY paid fire or police department of a city, town-
6 ship, or incorporated village employed and compensated upon a
7 full-time basis; ~~,~~ a county sheriff and the deputies of the
8 county sheriff; ~~,~~ members of the state police; ~~,~~ conservation
9 officers; ~~,~~ and OFFICERS OF THE motor carrier ~~inspectors of~~
10 ~~the Michigan public service commission~~ ENFORCEMENT DIVISION OF

1 THE DEPARTMENT OF STATE POLICE, "personal injury" shall be
2 construed to include respiratory and heart diseases, or illnesses
3 resulting therefrom, which develop or manifest themselves during
4 a period while the member of the department is in the active
5 service of the department and THAT result from the performance of
6 duties for the department.

7 (2) FOR MEMBERS OF FULLY PAID FIRE DEPARTMENTS, "PERSONAL
8 INJURY" SHALL BE CONSTRUED TO INCLUDE OCCUPATIONAL CANCER OR ILL-
9 NESSES RESULTING THEREFROM. AS USED IN THIS SUBSECTION,
10 "OCCUPATIONAL CANCER" MEANS A TYPE OF CANCER THAT HAS BEEN SHOWN
11 TO BE LINKED WITH EXPOSURE TO SMOKE, FUMES, OR CARCINOGENIC, POI-
12 SONOUS, TOXIC, OR CHEMICAL SUBSTANCES OR OTHER HAZARDS PRESENT
13 WHILE IN THE PERFORMANCE OF DUTIES FOR THE FIRE DEPARTMENT.

14 (3) ~~-(2)-~~ Such respiratory and heart diseases ~~or~~ AND ill-
15 nesses resulting therefrom, AND OCCUPATIONAL CANCER AND ILLNESSES
16 RESULTING THEREFROM are deemed to arise out of and in the course
17 of employment in the absence of evidence to the contrary. AN
18 OCCUPATIONAL CANCER AND ILLNESSES RESULTING THEREFROM OF A MEMBER
19 OF A FULLY PAID FIRE DEPARTMENT ARE NOT DEEMED TO ARISE OUT OF
20 AND IN THE COURSE OF EMPLOYMENT IF EVIDENCE IS SHOWN THAT THE
21 MEMBER OF THE FULLY PAID FIRE DEPARTMENT WAS A CONSISTENT SMOKER
22 OF CIGARETTES OR OTHER TOBACCO PRODUCTS WITHIN THE 5 YEARS IMME-
23 DIATELY PRECEDING THE DATE OF FILING A CLAIM UNDER THIS ACT.

24 (4) ~~-(3)-~~ As a condition precedent to filing an application
25 for benefits, the claimant, if he or she is one of those enumer-
26 ated in subsection (1) OR (2), shall first make application for,
27 and do all things necessary to qualify for any pension benefits

1 which he or she, or his or her decedent, may be entitled to. If
2 a final determination is made that pension benefits shall not be
3 awarded, then the presumption of "personal injury" as provided in
4 this section shall apply. The employer or employee may request 2
5 copies of the determination denying pension benefits, 1 copy of
6 which may be filed with the bureau.