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EXPAND DEFINITION OF PERSONAL INJURY FOR WORKER'S COMPENSATION

House Bill 6390

Sponsor: Rep. Stephen Ehardt

Committee: Employment Relations,
Training and Safety

Complete to 9-26-02

A SUMMARY OF HOUSE BILL 6390 AS INTRODUCED 9-24-02

House Bill 6390 would amend the Worker's Disability Compensation Act to expand the definition of personal injury to include infectious diseases for certain classes of employees, and also change the class of employees who would be eligible, to both include and remove references to particular groups. The references that would be removed are underlined; those that would be added appear in italics.

Currently under the law, the definition of "personal injury" applies to a member of a full paid fire department of an airport run by a county road commission in counties of 1,000,000 population or more, or by a state university or college, or of a full paid fire or police department of a city, township, or incorporated village employed and compensated upon a full-time basis, a county sheriff and the deputies of a county sheriff, members of the state police, conservation officers, and motor carrier inspectors of the Michigan public service commission. In contrast, under the bill "personal injury" would apply to a fully paid fire department of an airport run by a county *or a public airport authority*, or by a state university or college, or of a fully paid fire or police department of a city, township, or incorporated village employed and compensated upon a full-time basis, a county sheriff and the deputies of the county sheriff, members of the state police, conservation officers, and *officers of the motor carrier enforcement division of the Department of State Police*.

Currently, the law specifies that a personal injury is construed to include respiratory and heart diseases or illnesses resulting therefrom which develop or manifest themselves during a period while the member of the department is in the active service of the department, and result from the performance of duties for the department. The bill would retain this provision, but remove the requirement that the illnesses "result from the performance of duties for the department." In addition, the bill would add a new category of personal injury to include "infectious diseases, including but not limited to, HIV, hepatitis, and tuberculosis, that manifest themselves within five years of a period that the member of the department was in the active service of the department.

Under the law, such respiratory and heart diseases or illnesses resulting therefrom are deemed to arise out of and in the course of employment in the absence of evidence to the contrary. Under the bill, the respiratory and heart diseases and illnesses, and infectious diseases resulting therefrom, would be considered to arise out of and in the course of employment in the absence of "affirmative evidence of non-work-related causation, that is not merely evidence of a

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pre-existing heart or respiratory disease nor a medical opinion that the occupation had no effect on a previously weakened heart."

Currently under the law, before filing an application for worker's compensation benefits, a claimant must first make application to qualify for any pension benefits that he or she, or his or her decedent, may be entitled. The bill would retain this provision but add that a claimant would also be required to demonstrate that he or she, or his or her decedent, was ineligible for any pension benefits. The bill would eliminate a provision that states an employer or employee can request two copies of the determination denying pension benefits, one copy of which was filed with the bureau.

Finally, the bill specifies that if an employee described above is eligible for any pension benefits, that eligibility would not prohibit the employee or his or her dependents from receiving benefits under section 315 for the medical expenses, or the portion of medical expenses, that were not provided for by the pension program. Finally, the bill specifies that the presumption of non-work-related causation noted above would apply to the medical benefits provided under section 315. [Section 315 of the act concerns the medical care, services, and procedures that are covered, and the maximum reimbursement fees and expenses that are set by the Bureau of Worker's Compensation.]

MCL 418.405

Analyst: J. Hunault

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