

HOUSE BILL No. 6390

September 24, 2002, Introduced by Reps. Ehardt, Julian, Pappageorge, Richardville, Faunce, Mortimer, Pumford, Jelinek, Meyer and Toy and referred to the Committee on Employment Relations, Training and Safety.

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 a
5 ~~full~~ FULLY paid fire or police department of a city, township,
6 or incorporated village employed and compensated upon a full-time
7 basis, a county sheriff and the deputies of the county sheriff,
8 members of the state police, conservation officers, and OFFICERS
9 OF THE motor carrier ~~inspectors of the Michigan public service~~
10 ~~commission~~ ENFORCEMENT DIVISION OF THE DEPARTMENT OF STATE

1 POLICE, "personal injury" shall be construed to include

2 ~~respiratory~~ ANY OF THE FOLLOWING:

3 (A) RESPIRATORY and heart diseases or illnesses resulting
4 therefrom ~~which~~ THAT develop or manifest themselves during a
5 period while the member of the department is in the active serv-
6 ice of the department. ~~and result from the performance of duties~~
7 ~~for the department.~~

8 (B) INFECTIOUS DISEASES, INCLUDING, BUT NOT LIMITED TO, HIV,
9 HEPATITIS, AND TUBERCULOSIS, THAT MANIFEST THEMSELVES WITHIN 5
10 YEARS OF A PERIOD THAT THE MEMBER OF THE DEPARTMENT WAS IN THE
11 ACTIVE SERVICE OF THE DEPARTMENT.

12 (2) ~~Such respiratory~~ RESPIRATORY and heart diseases ~~or~~
13 AND illnesses AND INFECTIOUS DISEASES resulting therefrom are
14 ~~deemed~~ CONSIDERED to arise out of and in the course of employ-
15 ment in the absence of AFFIRMATIVE evidence ~~to the contrary~~ OF
16 NON-WORK-RELATED CAUSATION, THAT IS NOT MERELY EVIDENCE OF A PRE-
17 EXISTING HEART OR RESPIRATORY DISEASE NOR A MEDICAL OPINION THAT
18 THE OCCUPATION HAD NO EFFECT ON A PREVIOUSLY WEAKENED HEART.

19 (3) ~~As a condition precedent to~~ BEFORE filing an applica-
20 tion for benefits, the claimant, if he or she is one of those
21 enumerated in subsection (1), shall first ~~make application~~
22 APPLY for, and do all things necessary to qualify for any pension
23 benefits ~~which~~ THAT he or she, or his or her decedent, ~~may be~~
24 IS entitled to OR SHALL DEMONSTRATE THAT HE OR SHE, OR HIS OR HER
25 DECEDENT, IS INELIGIBLE FOR ANY PENSION BENEFITS. If a final
26 determination is made that pension benefits shall not be awarded
27 OR THAT THE APPLICANT, OR HIS OR HER DECEDENT, IS INELIGIBLE FOR

1 ANY PENSION BENEFITS, then the presumption of "personal injury"
2 as provided in this section ~~shall apply~~ APPLIES. ~~The employer~~
3 ~~or employee may request 2 copies of the determination denying~~
4 ~~pension benefits, 1 copy of which may be filed with the bureau.~~

5 (4) IF AN EMPLOYEE DESCRIBED IN SUBSECTION (1) IS ELIGIBLE
6 FOR ANY PENSION BENEFITS, THAT ELIGIBILITY SHALL NOT PROHIBIT THE
7 EMPLOYEE OR DEPENDENTS OF THAT EMPLOYEE FROM RECEIVING BENEFITS
8 UNDER SECTION 315 FOR THE MEDICAL EXPENSES OR PORTION OF MEDICAL
9 EXPENSES THAT ARE NOT PROVIDED FOR BY THE PENSION PROGRAM. THE
10 PRESUMPTION IN SUBSECTION (2) SHALL APPLY TO THE MEDICAL BENEFITS
11 PROVIDED UNDER SECTION 315.