

# SENATE BILL No. 101

January 26, 2005, Introduced by Senators GARCIA, GOSCHKA, CROPSEY, PRUSI and BASHAM and referred to the Committee on Commerce and Labor.

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** paid  
2       fire department of an airport ~~run~~ **OPERATED** by a county, ~~read~~  
3       ~~commission in counties of 1,000,000 population or more~~ **PUBLIC**  
4       **AIRPORT AUTHORITY**, or ~~by a~~ state university or college; ~~or~~ **A**  
5       **MEMBER** of a ~~full~~ **FULLY** paid fire or police department of a city,  
6       township, or incorporated village employed and compensated upon a  
7       full-time basis; ~~or~~ a county sheriff and the deputies of the  
8       county sheriff; ~~or members~~ **A MEMBER** of the state police; ~~or~~ **A**

1 conservation ~~officers, and~~ OFFICER; OR AN OFFICER OF THE motor  
2 carrier ~~inspectors of the Michigan public service commission~~  
3 ENFORCEMENT DIVISION OF THE DEPARTMENT OF STATE POLICE, "personal  
4 injury" ~~shall be construed to include~~ INCLUDES respiratory and  
5 heart diseases, or illnesses resulting therefrom, ~~which~~ THAT  
6 develop or manifest themselves during a period while the member of  
7 the department is in the active service of the department and THAT  
8 result from the performance of duties for the department.

9 (2) FOR A MEMBER OF A FULLY PAID FIRE DEPARTMENT WHO IS  
10 EMPLOYED 24 MONTHS OR MORE, "PERSONAL INJURY" INCLUDES ALL  
11 RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND  
12 LYMPHATIC CANCERS.

13 (3) ~~—(2) Such respiratory~~ RESPIRATORY and heart diseases ~~or~~  
14 AND illnesses resulting therefrom UNDER SUBSECTION (1), AND  
15 RESPIRATORY TRACT, BLADDER, SKIN, BRAIN, KIDNEY, BLOOD, AND  
16 LYMPHATIC CANCERS UNDER SUBSECTION (2), are ~~deemed~~ CONSIDERED to  
17 arise out of and in the course of employment in the absence of  
18 AFFIRMATIVE evidence ~~to the contrary~~ OF NON-WORK-RELATED  
19 CAUSATION OR SPECIFIC INCIDENTS THAT ESTABLISH A CAUSE INDEPENDENT  
20 OF THE EMPLOYMENT AND NOT MERELY EVIDENCE OF A PREEXISTING  
21 CONDITION OR AN ABSTRACT MEDICAL OPINION THAT EMPLOYMENT WAS NOT  
22 THE CAUSE OF THE DISEASE OR CONDITION. RESPIRATORY TRACT, BLADDER,  
23 SKIN, BRAIN, KIDNEY, BLOOD, AND LYMPHATIC CANCERS OF A MEMBER OF A  
24 FULLY PAID FIRE DEPARTMENT ARE NOT CONSIDERED TO ARISE OUT OF AND  
25 IN THE COURSE OF EMPLOYMENT IF EVIDENCE IS SHOWN THAT THE MEMBER OF  
26 THE FULLY PAID FIRE DEPARTMENT WAS A CONSISTENT SMOKER OF  
27 CIGARETTES OR OTHER TOBACCO PRODUCTS WITHIN THE 5 YEARS IMMEDIATELY

1 PRECEDING THE DATE OF FILING A CLAIM UNDER THIS ACT.

2 (4) ~~—(3)—~~ As a condition precedent to filing an application  
3 for benefits, the claimant, if he or she is ~~one of those~~  
4 ~~enumerated~~ A PERSON DESCRIBED in subsection (1) OR (2), shall  
5 first make application for ~~—~~ and do all things necessary to  
6 qualify for any pension benefits TO which he or she, or his or her  
7 decedent, may be entitled ~~to~~ OR SHALL DEMONSTRATE THAT HE OR SHE,  
8 OR HIS OR HER DECEDENT, IS INELIGIBLE FOR ANY PENSION BENEFITS. If  
9 a final determination is made that pension benefits shall not be  
10 awarded OR THAT THE CLAIMANT OR HIS OR HER DECEDENT IS INELIGIBLE  
11 FOR ANY PENSION BENEFITS, then the presumption of "personal injury"  
12 as provided in this section shall apply. The employer or employee  
13 may request 2 copies of the determination denying pension benefits,  
14 1 copy of which may be filed with the ~~bureau~~ WORKERS' COMPENSATION  
15 AGENCY.

16 (5) IF AN EMPLOYEE DESCRIBED IN SUBSECTION (1) OR (2) IS  
17 ELIGIBLE FOR ANY PENSION BENEFITS, THAT ELIGIBILITY SHALL NOT  
18 PROHIBIT THE EMPLOYEE OR DEPENDENTS OF THAT EMPLOYEE FROM RECEIVING  
19 BENEFITS UNDER SECTION 315 FOR THE MEDICAL EXPENSES OR PORTION OF  
20 MEDICAL EXPENSES THAT ARE NOT PROVIDED FOR BY THE PENSION PROGRAM.  
21 THE PRESUMPTION IN SUBSECTION (3) SHALL APPLY TO THE MEDICAL  
22 BENEFITS PROVIDED UNDER SECTION 315.