

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

HOUSE BILL NO. 1440
(Representatives Skarphol, Boucher, Dalrymple)
(Senators Grindberg, Lips, Robinson)

AN ACT to create and enact a new subsection to section 65-01-02 and four new sections to chapter 65-02 of the North Dakota Century Code, relating to a workers compensation board of directors; to amend and reenact section 65-02-01 of the North Dakota Century Code, relating to the director and division directors of the workers compensation bureau; to repeal section 65-02-08.1 of the North Dakota Century Code, relating to the workers compensation state advisory council; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new subsection to section 65-01-02 of the North Dakota Century Code is created and enacted as follows:

"Board" means the North Dakota workers compensation board of directors.

SECTION 2. AMENDMENT. Section 65-02-01 of the North Dakota Century Code is amended and reenacted as follows:

65-02-01. Workers compensation bureau - ~~Executive director~~ Director - Division directors. The bureau must be maintained for the administration of this title. The ~~governor board~~ shall appoint the director of the bureau ~~who~~. The director is subject to the supervision and direction of the ~~governor board~~ and ~~who shall serve~~ serves at the pleasure of the ~~governor board~~. ~~The appointment must be on a nonpartisan, merit basis, in accordance with chapter 54-42. The governor shall set the compensation and prescribe the duties of the director.~~ The director may appoint the director of any division of the bureau which is established by the director. The appointment of a division director must be on a nonpartisan, merit basis.

SECTION 3. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Workers compensation board of directors - Appointment.

1. Beginning September 1, 1997, the initial board of directors shall consist of the members on the state advisory council on December 15, 1996. The initial board shall submit to the governor a list of three names of potential candidates for each of the employer member positions and the medical association position. From each list the governor shall select an individual to fill the member position of the subsequent board. An organization that is statewide in scope and which through its affiliates embraces a cross section and a majority of organized labor in this state shall submit to the governor a list of three names of potential candidates for one of the three employee positions. The governor shall select an individual to fill this organized labor employee member position, and the governor shall appoint two individuals to fill the remaining two employee positions. The subsequent board is effective January 1, 1998.
2. After December 31, 1997, the board consists of ten members. The appointment and replacement of the members must ensure that:
 - a. Six board members represent employers in this state that maintain active accounts with the bureau, at least one of which must be a participant in the risk management program, at least two of which must be employers with annual premiums greater than twenty-five thousand dollars, at least one of which must be an employer with an

annual premium of ten thousand dollars but less than twenty-five thousand dollars, and at least one of which must be an employer with an annual premium of less than ten thousand dollars.

- b. Three members represent employees; at least one member must have received workers' compensation benefits; and at least one member must represent organized labor.
 - c. One nonvoting member is a member of the North Dakota medical association.
3. Board members shall serve six-year terms, except of the initial board members, an employee representative and two employer representatives shall serve only through December 31, 1998; an employee representative and two employer representatives shall serve only through December 31, 2000; and an employee representative, two employer representatives, and the medical association representative shall serve only through December 31, 2002, as determined by lot to initiate a cycle that results in three members' terms expiring on December thirty-first of each even-numbered year, and beginning January first of each odd-numbered year. Board members may not serve more than two consecutive terms. A departing member representing an employer must be replaced by a member representing an employer, most of whose employees are in a different rate classification than those of the employer represented by the departing member. The governor shall appoint the replacement member for a departing employer representative or medical association representative from a list of three candidates submitted by the board. The governor shall select the replacement member for the departing organized labor employee representative from a list of three names of potential candidates submitted by an organization that is statewide in scope and which through its affiliates embraces a cross section and a majority of organized labor in this state, and the governor shall select the replacement member for a departing nonorganized labor employee representative.

SECTION 4. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Compensation of board members. A board member is entitled to receive compensation in the amount of sixty-two dollars and fifty cents per day for days spent in attendance at board meetings or other business as approved by the board. A board member is entitled to reimbursement for mileage and expenses as provided for state officers.

SECTION 5. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Board - Powers and duties. The board may authorize the bureau to transfer moneys between line items within the bureau's budget. The board shall:

- 1. Appoint a director on a nonpartisan, merit basis.
- 2. Set the compensation of the director.
- 3. Ensure a proper response to any audit recommendations.
- 4. Present an annual report to the legislative audit and fiscal review committee. The report must be presented by the chairman of the board and the director.
- 5. Prepare, with the assistance of the bureau, a bureau budget, beginning with the July 1, 1999, through June 30, 2001, biennium. The bureau shall present the budget to the governor for inclusion in the governor's budget. If the governor makes adjustments to the budget, the board may concur in the adjustments or may present testimony to the appropriations committees of the legislative assembly, requesting amendments to the budget to remove adjustments made by the governor. The deadline for submission of the budget is the same as the deadline for all executive agencies.

6. Assist the bureau in formulating policies and discussing problems related to the administration of the bureau, while ensuring impartiality and freedom from political influence.
7. Incorporate principles of continuous improvement goalsetting, a procedure for implementing a team-oriented continuous improvement program throughout all operations of the bureau. The program must include a number of challenging, measurable goals to ensure the bureau maintains focus on improving those areas most important to its primary mission.
8. Adopt internal management rules creating bylaws for the board and relating to the election of a board chairman, formation of committees, replacement of departing members, voting procedures, and other procedural matters.

SECTION 6. A new section to chapter 65-02 of the North Dakota Century Code is created and enacted as follows:

Independent audit - Bureau development of performance measurements. Biennially, the director shall request the state auditor to select an audit firm with extensive expertise in workers' compensation practices and standards to complete a performance audit of the functions and operations of the bureau during that biennium. The audit must evaluate the departments of the bureau to determine whether the bureau is providing quality service in an efficient and cost-effective manner. The firm also shall conduct a performance audit of the board to determine whether the board is operating within section 5 of this Act and within the board's bylaws. The audit report must contain recommendations for departmental improvement or an explanation of why no recommendations are being made. The director, the chairman of the board, and the auditor shall present the audit report and any action taken to the legislative council's legislative audit and fiscal review committee and to the house and senate industry, business and labor standing committees during the next regular session of the legislative session following the audit. The director shall provide a copy of the audit report to the state auditor. The bureau shall develop and maintain comprehensive, objective performance measurements. These measurements must be evaluated as part of the independent audit performed under this section.

SECTION 7. REPEAL. Section 65-02-08.1 of the North Dakota Century Code is repealed.

SECTION 8. EFFECTIVE DATE. Section 7 of this Act becomes effective September 1, 1997.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1440.

House Vote: Yeas 77 Nays 14 Absent 6

Senate Vote: Yeas 44 Nays 3 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at _____ o'clock _____ M.

Secretary of State

Date of Action: March 31, 1997

Honorable Alvin A. Jaeger
Secretary of State
Bismarck, North Dakota

I certify that this Act, House Bill No. 1440, together with the objections of Governor Edward T. Schafer, was returned to the House, being the body in which it originated, on March 28, 1997, at 3:45 p.m.; that the objections of the Governor were read at length and entered upon the Journal; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed; and that the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	80
	Nays	12
	Absent and not voting	5

Speaker of the House

Chief Clerk of the House

Date of Action: April 2, 1997

Honorable Alvin A. Jaeger
Secretary of State
Bismarck, North Dakota

I certify that this Act, House Bill No. 1440, together with the objections of Governor Edward T. Schafer, was received from the House, being the body in which it originated, on March 31, 1997; that the objections of the Governor were read at length; that the Bill was taken up for reconsideration; that the motion for reconsideration prevailed on April 2, 1997; and that the roll was called and the Bill did pass, with more than two-thirds of the members-elect voting in the affirmative.

Vote:	Yeas	41
	Nays	6
	Absent and not voting	2

President of the Senate

Secretary of the Senate