

Fifty-seventh
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1281

Introduced by

Representatives Carlson, Hawken, Skarphol, Wald

Senators Klein, Nichols

1 A BILL for an Act to amend and reenact sections 65-01-13, 65-02-03.3, 65-02-05, 65-02-06.1,
2 65-02-13.1, 65-02-23, 65-02-30, and 65-05-20.1 of the North Dakota Century Code, relating to
3 removing the workers compensation bureau from the biennial appropriations process; to
4 provide for a legislative council study; and to provide an appropriation.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 65-01-13 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **65-01-13. Information fund –~~Continuing appropriation.~~** There is hereby created a
9 fund to be known as the information fund. The workers compensation bureau shall deposit into
10 this fund all moneys received from private citizens, businesses, associations, corporations, and
11 limited liability companies for providing these entities with publications and statistical
12 information concerning workers' compensation matters. The information must be provided at
13 cost. ~~The moneys in the fund are appropriated, as a standing and continuing appropriation, to~~
14 ~~the workers compensation bureau to pay publication and statistical processing expenses~~
15 ~~incurred by the bureau.~~ If on the first day of July in any year the amount of money in the
16 information fund is more than ten thousand dollars, the amount in excess of ten thousand
17 dollars must be transferred to the bureau's general fund.

18 **SECTION 2. AMENDMENT.** Section 65-02-03.3 of the 1999 Supplement to the North
19 Dakota Century Code is amended and reenacted as follows:

20 **65-02-03.3. Board - Powers and duties.** The board may authorize the bureau to
21 transfer moneys between line items within the bureau's budget. The board shall:

- 22 1. Appoint a director on a nonpartisan, merit basis.
23 2. Set the compensation of the director.

3. Ensure a proper response to any financial audit or performance evaluation 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 3. AMENDMENT. Section 65-02-05 of the North Dakota Century Code is amended and reenacted as follows:

65-02-05. Office space for bureau - Expenditures from fund for employees and supplies - Travel. The bureau must be provided with office space. The bureau, at the expense of the fund, shall provide all necessary equipment, supplies, stationery, and furniture, and all clerical and other help necessary to carry out the provisions of this title. The employees of the bureau are entitled to receive from the fund for each mile [1.61 kilometers] actually and necessarily traveled in the performance of official duty by motor vehicle the same rates in the

1 same manner as other state officials. If travel is by a motor vehicle owned by the state, or by
2 any department or political subdivision thereof, no allowance may be paid for the mileage.
3 Vouchers for travel and other administrative expenses must bear the approval of the bureau
4 and the office of management and budget before payment is made therefor. Travel and other
5 administrative expense payments must be made by warrant-check prepared by the office of
6 management and budget drawn upon the state treasurer against the fund. ~~Expenditures made~~
7 ~~under this section, however, must be within the limitations designated by the legislative~~
8 ~~assembly in appropriation measures adopted from time to time.~~

9 **SECTION 4. AMENDMENT.** Section 65-02-06.1 of the 1999 Supplement to the North
10 Dakota Century Code is amended and reenacted as follows:

11 **65-02-06.1. ~~Allocated loss adjustment expenses~~ - Continuing appropriation -**
12 **Annual review.** ~~Money in the workers' compensation fund is appropriated on a continuing~~
13 ~~basis for the payment of all allocated loss adjustment expenses experienced by the bureau in~~
14 ~~its administration of this title. All money in the workers' compensation fund is appropriated on a~~
15 continuing basis to the bureau to carry out the purposes of this title. In its annual audit and its
16 biennial report, the bureau shall include a breakdown of those allocated loss adjustment
17 expenses that reflect the attorney fees and costs paid to attorneys who represent injured
18 workers, the attorney fees and costs paid to attorneys with whom it contracts to represent the
19 bureau, the amount paid for administrative law judges for hearings, and the court reporter and
20 other legal expenses paid. Between the first and tenth legislative day of each regular legislative
21 session, the bureau shall file a report at a public hearing before the appropriations committee of
22 each house of the legislative assembly. The report must contain a summary of the bureau's
23 activities of the preceding biennium and must include a financial statement summarizing the
24 revenues and expenditures of the bureau for the current biennium and the expected revenues
25 and expenditures for the next biennium.

26 **SECTION 5. AMENDMENT.** Section 65-02-13.1 of the 1999 Supplement to the North
27 Dakota Century Code is amended and reenacted as follows:

28 **65-02-13.1. Expenditures by bureau for reinsurance and extraterritorial coverage**
29 **and other states' insurance - Report in annual financial audit.** ~~There is appropriated out of~~
30 ~~the workers' compensation fund, as a continuing appropriation, an amount necessary to allow~~
31 ~~the~~ The bureau to may establish a program of reinsurance and a program of extraterritorial

1 coverage and other states' insurance. The bureau may execute a contract for reinsurance and
2 a contract for extraterritorial coverage and other states' insurance binding on the bureau and
3 the contracting party. The term identified in the contract may extend past the end of the
4 biennium in which a contract under this section is executed. The independent annual financial
5 audit report on the bureau shall report on any contract executed pursuant to this section.

6 **SECTION 6. AMENDMENT.** Section 65-02-23 of the 1999 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **65-02-23. Workers' compensation fraud unit –~~Continuing appropriation.~~** The
9 bureau shall establish a workers' compensation fraud unit. The bureau may employ
10 investigators and licensed attorneys, or contract with a private investigator whenever feasible or
11 cost effective, to investigate and review any alleged case of fraud against the fund by
12 employers, injured workers, or providers of medical or other services, including activities
13 described under section 65-04-14 or 65-05-33. The unit shall refer cases of fraud to the bureau
14 for the imposition of administrative penalties and may refer them to the appropriate authorities
15 for prosecution. ~~Money in the workers' compensation fund is appropriated on a continuing~~
16 ~~basis for payment of costs associated with identifying, preventing, and investigating employer or~~
17 ~~provider fraud. The biennial independent performance evaluation of the bureau must evaluate~~
18 ~~and report on the effectiveness of these expenditures.~~ The bureau may establish a process to
19 charge investigative costs against the rate class of an employer being investigated and to credit
20 any recoveries to that rate class. The biennial independent performance evaluation of the
21 bureau must evaluate and report on the effectiveness of these expenditures.

22 **SECTION 7. AMENDMENT.** Section 65-02-30 of the 1999 Supplement to the North
23 Dakota Century Code is amended and reenacted as follows:

24 **65-02-30. Independent performance evaluation - Bureau development of**
25 **performance measurements –~~Continuing appropriation.~~** Biennially, the director shall
26 request the state auditor to select a firm with extensive expertise in workers' compensation
27 practices and standards to complete a performance evaluation of the functions and operations
28 of the bureau during that biennium. This may not be construed to require the firm to be a
29 certified public accounting firm. The evaluation must evaluate the departments of the bureau to
30 determine whether the bureau is providing quality service in an efficient and cost-effective
31 manner. The firm also shall conduct a performance evaluation of the board to determine

1 whether the board is operating within section 65-02-03.3 and within the board's bylaws. The
2 firm's report must contain recommendations for departmental improvement or an explanation of
3 why no recommendations are being made. The director, the chairman of the board, and a
4 representative of the firm shall present the evaluation report and any action taken to the
5 legislative council's legislative audit and fiscal review committee and to the house and senate
6 industry, business and labor standing committees during the next regular session of the
7 legislative session following the performance evaluation. The director shall provide a copy of
8 the performance evaluation report to the state auditor. The bureau shall develop and maintain
9 comprehensive, objective performance measurements. These measurements must be
10 evaluated as part of the independent performance evaluation performed under this section.
11 ~~Money in the workers' compensation fund is appropriated on a continuing basis for the payment~~
12 ~~of the expense of conducting the performance evaluation.~~

13 **SECTION 8. AMENDMENT.** Section 65-05-20.1 of the 1999 Supplement to the North
14 Dakota Century Code is amended and reenacted as follows:

15 **65-05-20.1. (Effective through July 31, 2001) Scholarship fund - Rules.** The bureau
16 may establish a scholarship fund to provide scholarships for the spouse and dependent children
17 of a worker who dies as a result of a compensable work-related injury, if the spouse and
18 children have received benefits under section 65-05-17. The bureau may also grant
19 scholarships to injured workers for whom the bureau determines a scholarship would be
20 beneficial and appropriate because of exceptional circumstances as determined by the bureau.
21 Scholarships are payable to an accredited institution of higher education or an institution of
22 technical education on behalf of a student attending that institution. ~~The total amount awarded~~
23 ~~annually in scholarships may not exceed one hundred fifty thousand dollars.~~ The maximum
24 amount payable on behalf of an applicant is three thousand dollars per year for no more than
25 five years. Scholarships must be awarded by a panel chosen by the bureau. The bureau shall
26 adopt rules establishing selection criteria and obligations associated with the program and
27 identifying information an applicant is required to submit to determine an appropriate
28 scholarship award. There is no right to reconsideration, rehearing, or appeal from any decision
29 regarding the award, denial, or amount of a scholarship.

30 **SECTION 9. LEGISLATIVE COUNCIL STUDY.** During the 2001-2002 interim, the
31 legislative council shall study introducing competition into the North Dakota workers'

1 compensation system. The study must include the advantages and disadvantages of
2 competition, including the anticipated impact on rates and benefits, as well as the impact of
3 competition on the workers' compensation fund. The study must include recommendations on
4 costs of competition and the legislative council shall report its findings and recommendations,
5 together with any legislation required to implement the recommendations, to the fifty-eighth
6 legislative assembly.