

Sixtieth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1323

Introduced by

Representatives Zaiser, Amerman, S. Kelsh, Schmidt

1 A BILL for an Act to create and enact a new section to chapter 65-02 of the North Dakota
2 Century Code, relating to creation of an advisory board for the workers' compensation
3 department; to amend and reenact subsection 1 of section 21-10-01, subsections 7, 13, and 22
4 of section 65-01-02, sections 65-02-01, 65-02-01.1, 65-02-30, and 65-04-19.3, subdivision b of
5 subsection 3 of section 65-05-29, and section 65-05.1-08 of the North Dakota Century Code,
6 relating to reference to the workforce safety and insurance board of directors and changing the
7 name of workforce safety and insurance to the workers' compensation department; and to
8 repeal sections 65-02-03.1, 65-02-03.2, and 65-02-03.3 of the North Dakota Century Code,
9 relating to the workforce safety and insurance board of directors.

10 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

11 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-01 of the North Dakota
12 Century Code is amended and reenacted as follows:

13 1. The North Dakota state investment board consists of the governor, the state
14 treasurer, the commissioner of university and school lands, the executive director
15 of ~~workforce safety and insurance~~ the workers' compensation department, the
16 insurance commissioner, three members of the teachers' fund for retirement board
17 or the board's designees who need not be members of the fund as selected by that
18 board, and three of the elected members of the public employees retirement
19 system board as selected by that board. The executive director of ~~workforce~~
20 ~~safety and insurance~~ the workers' compensation department may appoint a
21 designee, ~~subject to approval by the workforce safety and insurance board of~~
22 ~~directors~~, to attend the meetings, participate, and vote when the director is unable
23 to attend. The teachers' fund for retirement board may appoint an alternate
24 designee with full voting privileges to attend meetings of the state investment board

when a selected member is unable to attend. The public employees retirement system board may appoint an alternate designee with full voting privileges from the public employees retirement system board to attend meetings of the state investment board when a selected member is unable to attend. The members of the state investment board, except elected and appointed officials and the executive director of ~~workforce safety and insurance~~ the workers' compensation department or the executive director's designee, are entitled to receive as compensation sixty-two dollars and fifty cents per day and necessary mileage and travel expenses as provided in sections 44-08-04 and 54-06-09 for attending meetings of the state investment board.

SECTION 2. AMENDMENT. Subsections 7, 13, and 22 of section 65-01-02 of the North Dakota Century Code are amended and reenacted as follows:

7. "Board" means the ~~workforce safety and insurance~~ workers' compensation department advisory board of directors.
13. "Director" means the executive director of the organization.
22. "Organization" means ~~workforce safety and insurance, or the workers' compensation department;~~ the director; or any department head, assistant, or employee of ~~workforce safety and insurance~~ the workers' compensation department designated by the director; to act within the course and scope of that ~~person's~~ individual's employment in administering the policies, powers, and duties of this title.

SECTION 3. AMENDMENT. Section 65-02-01 of the North Dakota Century Code is amended and reenacted as follows:

65-02-01. ~~Workforce safety and insurance~~ Workers' compensation department - Director Executive director - Division directors. The organization must be maintained for the administration of this title. The ~~board~~ governor shall appoint the executive director of the organization. The director is subject to the supervision and direction of the ~~board~~ governor and serves at the pleasure of the ~~board~~ governor. 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

established by the director. The appointment of a division director must be on a nonpartisan, merit basis.

SECTION 4. AMENDMENT. Section 65-02-01.1 of the North Dakota Century Code is amended and reenacted as follows:

65-02-01.1. ~~Workforce safety and insurance~~ Workers' compensation department.

The legislative council may delete, where appropriate, "~~workers compensation bureau~~", "~~North Dakota workers compensation bureau~~" "workforce safety and insurance", "workforce safety and insurance board", "workforce safety and insurance fund", or any derivatives of those terms, which when used in context indicate an intention to refer to those terms, wherever they appear in the North Dakota Century Code or in the supplements thereto and to insert in lieu of each deletion "~~workforce safety and insurance~~" "workers' compensation department", "workers' compensation department advisory board", "workers' compensation fund", or "workers' compensation" as appropriate. Such changes are to be made when any volume or supplement of the North Dakota Century Code is being reprinted. It is the intent of the legislative assembly that ~~workforce safety and insurance~~ the workers' compensation department be substituted for, shall take any action previously to be taken by, and shall perform any duties previously to be performed by ~~the workers compensation bureau~~ workforce safety and insurance. The legislative council may replace "bureau", where appropriate, wherever the term appears in the North Dakota Century Code or in the supplements of the North Dakota Century Code, with the term "organization". These changes are to be made when any volume or supplement is being reprinted.

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

Workers' compensation department advisory board - Composition - Compensation - Duties. The director shall appoint a workers' compensation department advisory board composed of an equal number of employer representatives and employee representatives who may be regarded fairly as representative because of the representative's vocation, employment, or affiliations, and members representing the general public as the director may designate. The board shall aid the organization in formulating policies, discussing problems related to the administration of the organization, and in assuring impartiality and freedom from political influence in the solution of these problems. The members of the board

1 may be reimbursed for expenses in the amounts provided by law for state officials but must
2 serve without further compensation except as may be authorized and fixed by the organization
3 by rule. The organization shall provide staff services to the board. The board shall assist the
4 organization in formulating policies and discussing problems related to the administration of the
5 organization, including adoption of rules, establishment of fees, determination of employer
6 premium rates, maintenance of the solvency of the workers' compensation fund, and provision
7 of rehabilitation services. The board may make recommendations and proposals for
8 consideration by the director.

9 **SECTION 6. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **65-02-30. Independent performance evaluation - Organization development of**
12 **performance measurements - Continuing appropriation.** Biennially, the director shall
13 request the state auditor to select a firm with extensive expertise in ~~workforce safety and~~
14 ~~insurance~~ workers' compensation practices and standards to complete a performance
15 evaluation of the functions and operations of the organization during that biennium. This may
16 not be construed to require the firm to be a certified public accounting firm. As determined
17 necessary by the state auditor, but at least once every other biennium, the biennial independent
18 performance evaluation must evaluate departments of the organization to determine whether
19 the organization is providing quality service in an efficient and cost-effective manner; evaluate
20 the effectiveness of safety and loss prevention programs under section 65-03-04; and evaluate
21 the board to determine whether the board is operating within section ~~65-02-03.3 and within the~~
22 ~~board's bylaws~~ 5 of this Act. The firm's report must contain recommendations for departmental
23 improvement or an explanation of why no recommendations are being made. The director, ~~the~~
24 ~~chairman of the board,~~ and a representative of the firm shall present the evaluation report and
25 any action taken to the legislative council's legislative audit and fiscal review committee and to
26 the house and senate industry, business and labor standing committees during the next regular
27 session of the legislative session following the performance evaluation. The director shall
28 provide a copy of the performance evaluation report to the state auditor. The organization shall
29 develop and maintain comprehensive, objective performance measurements. These
30 measurements must be evaluated as part of the independent performance evaluation
31 performed under this section. Money in the ~~workforce safety and insurance~~ workers'

1 compensation fund is appropriated on a continuing basis for the payment of the expense of
2 conducting the performance evaluation.

3 **SECTION 7. AMENDMENT.** Section 65-04-19.3 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **65-04-19.3. Premium calculation programs - Authority.** ~~Upon approval of its board~~
6 ~~of directors, the~~ The organization may create and implement actuarially sound employer
7 premium calculation programs, including dividends, group insurance, premium deductibles, and
8 reimbursement for medical expense assessments. Programs created or modified under this
9 section are not subject to title 28-32 and may include requirements or incentives for the early
10 reporting of injuries. An employer with a deductible policy under this section, who chooses to
11 pursue a third-party action under section 65-01-09 after an injured worker and the organization
12 have chosen not to pursue the third-party action, may keep one hundred percent of the
13 recovery obtained, regardless of the expense incurred in covering the injury and regardless of
14 any contrary provision in section 65-01-09. If the employer pursues the third-party action
15 pursuant to this section, neither the organization nor the injured worker has any liability for
16 sharing in the expense of bringing that action.

17 **SECTION 8. AMENDMENT.** Subdivision b of subsection 3 of section 65-05-29 of the
18 North Dakota Century Code is amended and reenacted as follows:

- 19 b. An adjudication by the organization or by order of ~~the board or~~ any court, if
20 the final decision is that the payment was made under an erroneous
21 adjudication, in which cases the recipient shall repay it or recoupment of any
22 unpaid amount may be made from any future payments due to the recipient
23 on any claim with the organization;

24 **SECTION 9. AMENDMENT.** Section 65-05.1-08 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **65-05.1-08. ~~Workforce safety and insurance~~ Workers' compensation educational**
27 **revolving loan fund - Continuing appropriation.**

- 28 1. The organization may establish a revolving loan fund to provide a low-interest loan
29 to an individual who has suffered a compensable injury. The loan must be used to
30 pursue an education at an accredited institution of higher education or an institution
31 of technical education. In order to be eligible for a loan under this section, an

individual must have obtained a high school diploma or its equivalent and either must be ineligible for retraining under this chapter or must have exhausted training and education benefits. The Bank of North Dakota and the organization shall establish eligibility requirements and make application determinations based on the established criteria. The application must require an applicant to demonstrate a viable education plan that will enable the individual to achieve gainful employment.

2. The total amount loaned annually under this section may not exceed two million five hundred thousand dollars. The maximum amount payable on behalf of an applicant may not exceed fifty thousand dollars and must be payable within five years. A loan must be repaid within a period not to exceed twenty years at an interest rate of one percent below the Bank of North Dakota's prime interest rate. The organization shall pay the Bank of North Dakota a negotiated fee for administering and servicing loans under this section. At the ~~board's~~ director's discretion, moneys to establish and maintain the revolving loan fund must be appropriated from the organization's ~~workforce safety and insurance~~ workers' compensation fund. The revolving loan fund is a special fund and must be invested pursuant to section 21-10-06. Investment income and collections of interest and principal on loans made from the revolving loan fund are appropriated on a continuing basis to maintain the fund and provide loans in accordance with this section. The ~~board~~ director, as determined necessary, may transfer uncommitted moneys of the revolving loan fund to the ~~workforce safety and insurance~~ workers' compensation fund.

SECTION 10. REPEAL. Sections 65-02-03.1, 65-02-03.2, and 65-02-03.3 of the North Dakota Century Code are repealed.