

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1525

Introduced by

Representatives Amerman, J. Kelsh, Wolf

Senator Pomeroy

1 A BILL for an Act amend and reenact section 65-05-09.3 of the North Dakota Century Code,
2 relating to the workers' compensation retirement presumption; and to repeal sections
3 65-05-09.4 and 65-05-09.5 of the North Dakota Century Code, relating to workers'
4 compensation additional benefits payable.

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

6 **SECTION 1. AMENDMENT.** Section 65-05-09.3 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **65-05-09.3. Retirement presumption –~~Termination of benefits upon retirement.~~**

- 9 1. An employee who has retired or voluntarily withdrawn from the labor force ~~and~~
10 ~~who, at that time, was not eligible to receive temporary total disability, temporary~~
11 ~~partial disability, or permanent total disability benefits, or a rehabilitation allowance~~
12 ~~from the organization~~ is presumed retired from the labor market and is ineligible for
13 receipt of disability benefits under this title. The presumption may be rebutted by a
14 preponderance of the evidence; ~~however, the subjective statement of an employee~~
15 ~~that the employee is not retired is not sufficient in itself to rebut objective evidence~~
16 ~~of retirement.~~
- 17 2. ~~An injured employee who begins receiving social security retirement benefits or~~
18 ~~other retirement benefits in lieu of social security retirement benefits, or who attains~~
19 ~~retirement age for social security retirement benefits unless the employee proves~~
20 ~~the employee is not eligible to receive social security retirement benefits or other~~
21 ~~benefits in lieu of social security retirement benefits is considered retired. The~~
22 ~~organization may not pay any disability benefits, rehabilitation benefits, or~~
23 ~~supplementary benefits to an employee who is considered retired; however, the~~

~~employee remains eligible for medical benefits, permanent partial impairment benefits, and the additional benefit payable under section 65-05-09.4.~~

~~3. The organization retains liability for disability benefits, rehabilitation benefits, permanent partial impairment benefits, and medical benefits for an injured employee who is receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits or who attains retirement age for social security retirement benefits unless the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits and who is gainfully employed and who suffers an injury arising out of and in the course of that employment. The organization may not pay disability or rehabilitation benefits under this subsection for more than three years, subject to section 65-05-09.2, for injuries occurring after August 1, 1997.~~

~~4. This section applies to all persons who begin receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits, or who attain retirement age for social security retirement benefits unless the employee proves the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, after July 31, 1995.:~~

~~a. Is actively seeking employment;~~

~~b. Is available for gainful employment;~~

~~c. Has not rejected any job offer made by a former employer or any other bona fide job offer made by another employ; and~~

~~d. Has not provided the employer, upon written request, with written notice of a scheduled retirement date.~~

~~2. The presumption under this section does not apply to an employee who is permanently and totally disabled.~~

SECTION 2. REPEAL. Sections 65-05-09.4 and 65-05-09.5 of the North Dakota Century Code are repealed.