

Sixty-second
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1051

Introduced by

Legislative Management

(Workers' Compensation Review Committee)

1 A BILL for an Act to amend and reenact section 65-05-09.3 of the North Dakota Century Code,
2 relating to workers' compensation benefits upon attaining retirement age; and to provide for
3 application.

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

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

7 **65-05-09.3. Retirement presumption - Termination of benefits upon retirement.**

- 8 1. An employee who has retired or voluntarily withdrawn from the labor force and who, at
9 that time, was not eligible to receive temporary total disability, temporary partial
10 disability, or permanent total disability benefits; or to receive a rehabilitation allowance
11 from the organization is presumed retired from the labor market. The presumption may
12 be rebutted by a preponderance of the evidence; however, the subjective statement of
13 an employee that the employee is not retired is not sufficient in itself to rebut objective
14 evidence of retirement.
- 15 2. An injured employee who begins receiving social security retirement benefits or other
16 retirement benefits in lieu of social security retirement benefits; or who attains
17 retirement age for social security retirement benefits, unless the employee proves the
18 employee is not eligible to receive social security retirement benefits or other benefits
19 in lieu of social security retirement benefits, is considered retired. The organization
20 may not pay any disability benefits, rehabilitation benefits, or supplementary benefits
21 to an employee who is considered retired; however, the employee remains eligible for
22 medical benefits, permanent partial impairment benefits, and the additional benefit
23 payable under section 65-05-09.4.

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

11 4. If an employee is injured within the two years preceding the employee's presumed
12 retirement date, the organization shall pay disability benefits, rehabilitation benefits, or
13 a combination of both benefits for no more than two years. If the duration of disability
14 benefits, rehabilitation benefits, or a combination of both benefits extends beyond the
15 presumed retirement date, the organization shall convert the benefit to an additional
16 benefit payable at the date the disability ends or when two years of benefits have been
17 paid, whichever occurs first.

18 5. This section applies to ~~all persons~~an individual who ~~begin~~begins receiving social
19 security retirement benefits or other retirement benefits in lieu of social security
20 retirement benefits; or who ~~attain~~attains retirement age for social security retirement
21 benefits unless the employee proves the employee is not eligible to receive social
22 security retirement benefits or other benefits in lieu of social security retirement
23 benefits, after July 31, 1995.

24 **SECTION 2. APPLICATION.** This Act applies to an injured employee who attains retirement
25 age for purposes of social security retirement on or after the effective date of this Act.