

**FIRST ENGROSSMENT  
with Senate Amendments**

Fifty-fifth  
Legislative Assembly  
of North Dakota

**ENGROSSED HOUSE BILL NO. 1440**

Introduced by

Representatives Skarphol, Boucher, Dalrymple

Senators Grindberg, Lips, Robinson

1 A BILL for an Act to create and enact a new subsection to section 65-01-02 and four new  
2 sections to chapter 65-02 of the North Dakota Century Code, relating to a workers  
3 compensation board of directors; to amend and reenact section 65-02-01 of the North Dakota  
4 Century Code, relating to the director and division directors of the workers compensation  
5 bureau; to repeal section 65-02-08.1 of the North Dakota Century Code, relating to the workers  
6 compensation state advisory council; and to provide an effective date.

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

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

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

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

13 **65-02-01. Workers compensation bureau - ~~Executive director~~ Director - Division**  
14 **directors.** The bureau must be maintained for the administration of this title. The ~~governor~~  
15 board shall appoint the director of the bureau ~~who~~. The director is subject to the supervision  
16 and direction of the ~~governor board~~ and ~~who shall serve~~ serves at the pleasure of the ~~governor~~  
17 board. ~~The appointment must be on a nonpartisan, merit basis, in accordance with chapter~~  
18 ~~54-42. The governor shall set the compensation and prescribe the duties of the director. The~~  
19 director may appoint the director of any division ~~of the bureau which is~~ established by the  
20 director. The appointment of a division director must be on a nonpartisan, merit basis.

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

23 **Workers compensation board of directors - Appointment.**

- 1       1. Beginning September 1, 1997, the initial board of directors shall consist of the  
2       members on the state advisory council on December 15, 1996. The initial board  
3       shall submit to the governor a list of three names of potential candidates for each  
4       of the employer member positions and the medical association position. From  
5       each list the governor shall select an individual to fill the member position of the  
6       subsequent board. An organization that is statewide in scope and which through  
7       its affiliates embraces a cross section and a majority of organized labor in this  
8       state shall submit to the governor a list of three names of potential candidates for  
9       one of the three employee positions. The governor shall select an individual to fill  
10      this organized labor employee member position, and the governor shall appoint  
11      two individuals to fill the remaining two employee positions. The subsequent board  
12      is effective January 1, 1998.
- 13      2. After December 31, 1997, the board consists of ten members. The appointment  
14      and replacement of the members must ensure that:
  - 15      a. Six board members represent employers in this state that maintain active  
16      accounts with the bureau, at least one of which must be a participant in the  
17      risk management program, at least two of which must be employers with  
18      annual premiums greater than twenty-five thousand dollars, at least one of  
19      which must be an employer with an annual premium of ten thousand dollars  
20      but less than twenty-five thousand dollars, and at least one of which must be  
21      an employer with an annual premium of less than ten thousand dollars.
  - 22      b. Three members represent employees; at least one member must have  
23      received workers' compensation benefits; and at least one member must  
24      represent organized labor.
  - 25      c. One nonvoting member is a member of the North Dakota medical association.
- 26      3. Board members shall serve six-year terms, except of the initial board members,  
27      an employee representative and two employer representatives shall serve only  
28      through December 31, 1998; an employee representative and two employer  
29      representatives shall serve only through December 31, 2000; and an employee  
30      representative, two employer representatives, and the medical association  
31      representative shall serve only through December 31, 2002, as determined by lot

1 to initiate a cycle that results in three members' terms expiring on December  
2 thirty-first of each even-numbered year, and beginning January first of each  
3 odd-numbered year. Board members may not serve more than two consecutive  
4 terms. A departing member representing an employer must be replaced by a  
5 member representing an employer, most of whose employees are in a different  
6 rate classification than those of the employer represented by the departing  
7 member. The governor shall appoint the replacement member for a departing  
8 employer representative or medical association representative from a list of three  
9 candidates submitted by the board. The governor shall select the replacement  
10 member for the departing organized labor employee representative from a list of  
11 three names of potential candidates submitted by an organization that is statewide  
12 in scope and which through its affiliates embraces a cross section and a majority of  
13 organized labor in this state, and the governor shall select the replacement  
14 member for a departing nonorganized labor employee representative.

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

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

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

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

- 25 1. Appoint a director on a nonpartisan, merit basis.
- 26 2. Set the compensation of the director.
- 27 3. Ensure a proper response to any audit recommendations.
- 28 4. Present an annual report to the legislative audit and fiscal review committee. The  
29 report must be presented by the chairman of the board and the director.
- 30 5. Prepare, with the assistance of the bureau, a bureau budget, beginning with the  
31 July 1, 1999, through June 30, 2001, biennium. The bureau shall present the

1 budget to the governor for inclusion in the governor's budget. If the governor  
2 makes adjustments to the budget, the board may concur in the adjustments or may  
3 present testimony to the appropriations committees of the legislative assembly,  
4 requesting amendments to the budget to remove adjustments made by the  
5 governor. The deadline for submission of the budget is the same as the deadline  
6 for all executive agencies.

7 6. Assist the bureau in formulating policies and discussing problems related to the  
8 administration of the bureau, while ensuring impartiality and freedom from political  
9 influence.

10 7. Incorporate principles of continuous improvement goalsetting, a procedure for  
11 implementing a team-oriented continuous improvement program throughout all  
12 operations of the bureau. The program must include a number of challenging,  
13 measurable goals to ensure the bureau maintains focus on improving those areas  
14 most important to its primary mission.

15 8. Adopt internal management rules creating bylaws for the board and relating to the  
16 election of a board chairman, formation of committees, replacement of departing  
17 members, voting procedures, and other procedural matters.

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

20 **Independent audit - Bureau development of performance measurements.**

21 Biennially, the director shall request the state auditor to select an audit firm with extensive  
22 expertise in workers' compensation practices and standards to complete a performance audit of  
23 the functions and operations of the bureau during that biennium. The audit must evaluate the  
24 departments of the bureau to determine whether the bureau is providing quality service in an  
25 efficient and cost-effective manner. The firm also shall conduct a performance audit of the  
26 board to determine whether the board is operating within section 5 of this Act and within the  
27 board's bylaws. The audit report must contain recommendations for departmental improvement  
28 or an explanation of why no recommendations are being made. The director, the chairman of  
29 the board, and the auditor shall present the audit report and any action taken to the legislative  
30 council's legislative audit and fiscal review committee and to the house and senate industry,  
31 business and labor standing committees during the next regular session of the legislative

1 session following the audit. The director shall provide a copy of the audit report to the state  
2 auditor. The bureau shall develop and maintain comprehensive, objective performance  
3 measurements. These measurements must be evaluated as part of the independent audit  
4 performed under this section.

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

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