

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 An employee who has retired or voluntarily withdrawn from the labor force ~~and~~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~~

- 1 ~~employee remains eligible for medical benefits, permanent partial impairment~~
2 ~~benefits, and the additional benefit payable under section 65-05-09.4.~~
- 3 ~~3. The organization retains liability for disability benefits, rehabilitation benefits,~~
4 ~~permanent partial impairment benefits, and medical benefits for an injured~~
5 ~~employee who is receiving social security retirement benefits or other retirement~~
6 ~~benefits in lieu of social security retirement benefits or who attains retirement age~~
7 ~~for social security retirement benefits unless the employee is not eligible to receive~~
8 ~~social security retirement benefits or other benefits in lieu of social security~~
9 ~~retirement benefits and who is gainfully employed and who suffers an injury arising~~
10 ~~out of and in the course of that employment. The organization may not pay~~
11 ~~disability or rehabilitation benefits under this subsection for more than three years,~~
12 ~~subject to section 65-05-09.2, for injuries occurring after August 1, 1997.~~
- 13 ~~4. This section applies to all persons who begin receiving social security retirement~~
14 ~~benefits or other retirement benefits in lieu of social security retirement benefits, or~~
15 ~~who attain retirement age for social security retirement benefits unless the~~
16 ~~employee proves the employee is not eligible to receive social security retirement~~
17 ~~benefits or other benefits in lieu of social security retirement benefits, after July 31,~~
18 ~~1995.:~~
- 19 ~~a. Is actively seeking employment;~~
20 ~~b. Is available for gainful employment;~~
21 ~~c. Has not rejected any job offer made by a former employer or any other bona~~
22 ~~fide job offer made by another employ; and~~
23 ~~d. Has not provided the employer, upon written request, with written notice of a~~
24 ~~scheduled retirement date.~~
- 25 ~~2. The presumption under this section does not apply to an employee who is~~
26 ~~permanently and totally disabled.~~

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28 Century Code are repealed.