

2021 Engrossed House Bill No. 1051
Testimony before the Senate Industry, Business and Labor Committee
Presented by Anne Jorgenson Green
Workforce Safety and Insurance
February 10, 2021

Mr. Chairman and Members of the Committee:

My name is Anne Jorgenson Green, Legal Services Director and Staff Counsel at WSI. I am here today to provide testimony regarding Engrossed House Bill No. 1051. The WSI Board approves this bill.

Section 1. Section 1 proposes a new section to Chapter 65-02. Title 65 provides for payment of attorney fees for injured employees. This proposed provision provides reimbursement of attorney fees to an employer faced with an uninsured or noncompliant status in a state other than North Dakota and in need of legal representation. The situation typically presents itself when a claim for benefits is filed outside of North Dakota. This can happen when the place of injury is out of state or an injured employee's permanent address is out of state. Reimbursement is permissible only if WSI determines the employer did not have significant contacts in that other state.

Section 2. Section 2 creates a new section to Chapter 65-02 by creating a continuing appropriation for payment of fees attributable to credit and debit card payments made to WSI. These charges fluctuate substantially from year to year necessitating a more flexible option than estimating an amount for the biennial budget.

Section 3. The amendments contained in Section 3 of the bill propose to codify and clarify the application of audit findings of the Organization. The language makes clear that audit findings are applicable only to an audited period and the policy period following that audited period. An exception is contained in this proposed language which provides for further applicability to an audit finding in the case of intentional misrepresentation of premium.

Sections 4 and 5. The proposed changes to Section 4 and 5 permit WSI to retain attorneys on both a contingent and an hourly basis for their work on WSI litigation.

Section 6. The proposed amendment in section 6 corrects an error in the statute replacing the word "premium" with the word "payroll." There is no substantive intent associated with the change.

Section 7. Section 7 proposes to create a new section, this time to Chapter 65-04. Title 65 provides a number of references to the settlement authority of the agency. A collective read of these provisions provides authority for WSI to settle files on both the injured employee and employer sides of the business, however no section speaks directly to WSI's ability to settle premium disputes. Our experience tells us that in some cases, it makes fiscal sense to compromise premium owing to resolve outstanding unpaid workers' compensation premium.

Section 8. Section 8 provides an application to section 1 of the Bill. Under this application, fees are eligible for reimbursement if the fees are incurred after July 31, 2021.

Section 9. Section 9 was added in the engrossed version of this bill, where this Act is declared an emergency measure.

That concludes my testimony. I am happy to answer any questions you may have.

