

2023 SB 2175
Testimony before the Senate Industry and Business Committee
Presented by Tim Wahlin
Workforce Safety and Insurance
Date: January 17, 2023

Mr. Chairman and Members of the Committee:

My name is Tim Wahlin, Chief of Injury Services at Workforce Safety & Insurance (WSI). I am here today to provide testimony regarding Senate Bill No. 2175. The WSI Board opposes the bill.

As drafted, the bill requires WSI to provide notice to every injured employee when his or her aggregate disability benefits are subject to a reduction because of the required offset provisions when the employee becomes eligible or begins receiving Social Security Disability payments. The bill requires WSI to provide notice at one year, again at six months, and again at three months prior to the reduction occurring. The problem with this requirement is WSI does not know when or if the Social Security Disability payments begin, until they begin. This is because Social Security Disability payments are administered under a separate federal system that is not coordinated with WSI. This prevents the organization from being able to provide the notice required by this bill.

In communicating with Legislative Council following the bill's introduction, the notice impossibilities in this bill were pointed out. We understand the actual intent of the bill was to require the notices to an injured employee when disability benefits were about to be reduced because the injured employee reached the presumed Social Security retirement age. At this point, employees may transition from disability benefit payments to a reduced, post-retirement benefit called additional benefits payable as proscribed at NDCC 65-05-09.4 and 65-05-09.5. Currently, the injured employee generally receives notice within three months prior to the transition to additional benefits payable.

For employees electing to receive Social Security Retirement benefits early, the prior notice provisions remain impossible. WSI will generally find out about the election, after the election for early Social Security Retirement benefits has been made.

The organization acknowledges that a more proactive notice system is necessary, and we are currently reforming our system to address these needs. With the myriad of payments and individual situations, we are discovering there is not a viable "one size fits all" notice solution. Any solution requires a more nuanced system. Nonetheless, we understand it is important to allow our injured employees the ability to plan ahead, and we will address the notice issue as best we can.

Even if the bill is amended, it is highly unlikely a statutory approach to notice requirements will fully achieve the intended result. This is a complicated issue which is best solved by working internally with our resident experts. This process has begun and will be completed.

For these reasons, WSI opposes this legislation.

This concludes my testimony and I'd be happy to answer any questions you may have.