

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1123

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1123

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-17-05

Tape Number	Side A	Side B	Meter #
3	xx		0.9--7.0

Committee Clerk Signature 

Minutes: **Chair Keiser:** Open HB 1123. Rep. Kasper.

Rep. Kasper, Dist 46 - Fargo, ND: I introduce this bill on behalf of WSI. There are four areas: Specific authority of WSI to define coverage's, employer penalties, independent contractors, and out of state employer reciprocity. WSI representative will cover those areas.

Ann Green - Staff Council, WSI: I am here to support HB1123.(SEE ATTACHED)

Rep. N.Johnson: (3.8) What are the circumstances that would result in the uninsured status?

Ann: There are reasons for being uninsured that absolutely run the gamete. From an intentional, willful decision not to secure work comp coverage; to on the brand new business owner who pays some one \$50 to unload a truck. Because the reasons are so extensive, the provisions of this amendment gives the executive director the ability to waive what is currently a stringent rule.

Rep. Froseth: In section 2, is this retroactive and the injured then denied coverage?

Ann: There is a provision in title 65 whereby an injured worker is never compromised benefits based on the actions of their employer.

Chair Keiser: 5.4 What happens when independent contractors opt out and they get injured?

Ann: If an independent contractor has filed a statement WSI indicating he is an independent contractor, he must contract for optional coverage through WSI. If that person was hurt after an affirmative statement had been filed, there would be no coverage.

Rep. Kasper: Could you supply us a copy of the form that the independent contractor has to fill out?

Ann: Absolutely.

Rep. Thorpe: 6.0 You brought up "under present" with the independent contractors there may be a different form. Explain.

Ann: I miss spoke. If any legislation would pass regarding this absolute verification through WSI, we would take a look at the form we are currently using. In it's current form a good tool.

Rep. Thorpe: I'm sure you have that authority right now in WSI to determine if it is the right form?

Ann: Yes.

Chair Keiser: Any opposition?

Rep. Bernstein: I am here to support this bill. I was delayed in another committee. Sorry to be so late.

Chair Keiser: Hearing no opposition, this hearing is closed.

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 1-31-05

Tape Number

4

Side A

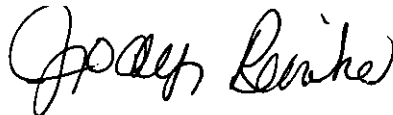
x

Side B

Meter #

0-2.

Committee Clerk Signature



Minutes:

Chairman Keiser: Opened the hearing on HB 1123. 13 committee members were present 1 absent (Rep. Ekstrom).

Representative Dosch: I move a DO PASS on HB 1123.

Representative N. Johnson: SECOND the motion on a DO PASS on HB 1123.

Motion carried. **VOTE 12-YES 1-NO 1-ABSENT.**

Representative N. Johnson will carry the bill on the floor.

FISCAL NOTE
 Requested by Legislative Council
 01/03/2005

Bill/Resolution No.: HB 1123

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues					
Expenditures					
Appropriations					

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

WORKFORCE SAFETY & INSURANCE
2005 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Employer Coverage

BILL NO: HB 1123

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation permits WSI to decline coverage to an employer attempting to establish a new account where an outstanding premium delinquency remains unresolved; vests discretion with the Executive Director in assessing the full value of a claim (paid costs plus reserves) for a noncomplying employer; allows WSI to set up a procedure for those asserting independent contractor status to annually file a statement with the organization certifying that status; and modifies the extraterritorial language relating to out of state employers conducting business in this state by identifying at what point they need to secure coverage in North Dakota.

FISCAL IMPACT: No significant fiscal impact is anticipated.

DATE: January 3, 2005

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name: John Halvorson
Phone Number: 328-3760

Agency: WSI
Date Prepared: 01/11/2004

Date: 1-31-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1123

House

INDUSTRY, BUSINESS AND LABOR

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Rep. Dosch Seconded By Rep. N. Johnson

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman		X
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	A	A
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	X				
Rep. G. Froseth	X				
Rep. J. Kasper	X				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	X				

Total (Yes) 13 No 1

Absent (1) Rep. Ekstrom

Floor Assignment Rep. N. Johnson

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 1, 2005 7:10 a.m.

Module No: HR-21-1508
Carrier: N. Johnson
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1123: Industry, Business and Labor Committee (Rep. Kelsner, Chairman)
recommends **DO PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING). HB 1123
was placed on the Eleventh order on the calendar.

2005 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1123

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1123

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-01-05

Tape Number	Side A	Side B	Meter #
1	xxxx		4380-end
1		xxx	0-350

Committee Clerk Signature



Minutes: **Chairman Mutch** opened the hearing on **HB 1123**. All Senators were present.

HB 1123 relates to premium installment payments.

Rep. Bernstein introduced the bill.

Rep. Bernstein: I am introducing this bill on behalf of the bureau. I looked at it and it has four very good points in it. I support it very much. I feel the bureau will do a very good job of explaining it.

Anne Jorgenson-Green, Staff Counsel of WSI, spoke in support of the bill. See attached testimony.

Senator Fairfield: In section 2, what happens currently as an employer that has an outstanding premium?

Anne: Currently, if an employer does not pay the workers compensation premium, they move through the in-house collections process. At some point, they are deemed uninsured. They no longer have protection from civil liability and their account is in delinquent status.

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number HB 1123

Hearing Date 3-01-05

Senator Heitkamp: In section 5, where you make it tougher on the independent contractor, why are you making them file annually?

Anne: There is the area of independent contractors is typically a very gray area. The purpose of section 5, is to permit them to come in, file annually, so there is no question down the line if somebody gets hurt. Then it is on record.

The hearing was closed.

Senator Heitkamp moved a DO PASS.

Senator Klein seconded.

Roll Call Vote: 7 yes. 0 no. 0 absent.

Carrier: Senator Espgaard

Date: 3-1-05
Roll Call Vote #: 7

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1123

Senate Industry, Business, and Labor

Committee

Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Heitkamp

Seconded By Klein

Senators	Yes	No	Senators	Yes	No
Chairman Mutch	X		Senator Fairfield	X	
Senator Klein	X		Senator Heitkamp	X	
Senator Krebsbach	X				
Senator Espegard	X				
Senator Nething	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Espegard

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 1, 2005 4:51 p.m.

Module No: SR-37-3918
Carrier: Espegard
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1123: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1123 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HB 1123

2005 House Bill No. 1123
Testimony before the House Industry, Business and Labor Committee
Presented by Anne Jorgenson Green, Staff Counsel
Workforce Safety & Insurance
January 17, 2005

Mr. Chairman, Members of the Committee:

Good Morning. My name is Anne Jorgenson Green and I am staff counsel for Workforce Safety and Insurance (WSI). I am here today to testify in support of House Bill 1123. This bill proposes changes related to WSI's policyholders. The WSI Board of Directors supports this bill.

Section 1. The minimum premium for a policyholder is \$125 annually. Current law does not permit the minimum premium to be paid in installments. Recognizing the need for flexibility in payment options, section 1 permits the payment of any premium in installments regardless of the premium amount.

Section 2. The proposed changes in section 2 permit WSI to decline coverage to an employer where an outstanding premium delinquency remains unresolved. WSI believes it is implicit in our mandate to protect the interest of the fund by declining coverage to an employer who has a delinquent debt. Section 2 outlines more clearly that an employer who owes WSI premium may not "recreate" them self under another business name to gain insured status and immunity from civil liability without first having resolved the old debt. This proposed change gives WSI an additional tool to hold delinquent employers accountable for premium owed to WSI, as well as leverage to collect a legitimate debt.

Section 3. Under current law, WSI must assess an uninsured employer actual claims costs attributable to the employer during the time the employer was uninsured --regardless of the circumstances resulting in the uninsured status. The proposed change vests discretion with the Executive Director to provide limited relief when fiscally prudent and warranted.

Section 4. Under WSI's extraterritorial coverage provision, employers based outside North Dakota are required to secure coverage with WSI if they have "significant contact" in the state. An employer is deemed to have significant contact when either an employee earns or is expected to earn at least twenty-five percent of their wages in the state or if the employer's gross annual payroll paid in the state is at least one hundred thousand dollars.

This section proposes to modify the one hundred thousand dollar "significant contact" provision by an employer to twenty five percent of the employer's gross annual payroll. As wages rise, the one hundred thousand dollar threshold is met sooner and requires an employer to secure coverage with WSI sooner adding potential liability to the fund. The proposed amendments are prudent adjustments to accommodate wage inflation and limit fund liability.

Section 5. North Dakota Law generally requires all employers to secure workers' compensation insurance to cover their employees. There are certain exceptions, one of which is the independent contractor exception.

Current law allows an individual to apply for a determination as to whether an employer status is met and coverage required. The proposed changes in this section would assist WSI in assuring that an employer is truly an independent contractor and can therefore opt out of the required coverage on them self. It would require all persons who hold themselves out as independent contractors to annually file a statement with WSI certifying their independent contractor status.

This concludes my testimony on HB 1123. Thank you for your consideration. I will be glad to answer any questions you might have.

WSI - PHS Related, Independent Contractor, Installment Premium Payments, etc

Sponsor: Rep. Leroy Bernstein, Co-Sponsors: Rep. Frank Wald and Rep. Jim Kasper

under Title 65 - that that clear

Specific Authority to Decline Coverage

- Permits WSI to decline coverage to an employer attempting to establish a new account where an outstanding premium delinquency remains unresolved.

WHY - Holds delinquent employer accountable for their owed liabilities to WSI.

Employer Penalties

- Vests discretion with the Executive Director to reduce stringent penalties on an employer's account.

WHY - Current law does not permit the waiver of penalties in certain employer situations. This amendment gives WSI the flexibility to respond to unique circumstances.

Independent Contractors

- Requires a person asserting independent contractor status to annually file a statement with the organization certifying that status.

WHY - Provides documentation to the agency when an employer asserts independent contractor status. Ensures accountability in North Dakota.

Out of State Employer Reciprocity

Modify the extraterritorial language to be based solely on a percentage of income per employee.

WHY - The current law considers more than 25% of an employees annual wages or more than \$100,000 paid in wages by an employer in the state. As wages rise, the necessity to monitor, insure out of state employers, and increase potential fund liabilities increases too.

place 25% in effect & remove \$100,000

FISCAL NOTE:

No significant fiscal impact is anticipated.

Independent Contractor Form -

2005 House Bill No. 1123
Testimony before the Senate Industry, Business and Labor Committee
Presented by Anne Jorgenson Green, Staff Counsel
Workforce Safety & Insurance
March 1, 2005

Mr. Chairman, Members of the Committee:

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