

**2013 SENATE INDUSTRY, BUSINESS, AND LABOR**

**SB 2134**

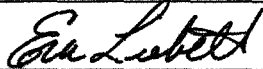
# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Industry, Business and Labor Committee  
Roosevelt Park Room, State Capitol

SB 2134  
January 23, 2013  
Job Number 17562

☐ Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the definition of law enforcement officers for workforce safety and insurance purposes

## Minutes:

Testimony Attached

Chairman Klein: Called the committee back to order.

Senator Lyson: Explained the bill and passed out an amendment, attachment (1).

Senator Andrist: Asked about the amendment and the effective date being July 1, 2013, which is the time all bills go into effect and then it says it attaches the emergency clause and that seems like a contradiction to him.

Anne Green, Attorney with Workforce Safety and Insurance: Said she is here to provide information on 2134. She said as a general rule legislation is effective on August 1 of 2013 however if the bill is declared to be an emergency or has fiscal or budgetary impact it will be effective on July 1, which is of course the beginning of the biennium. She said that on this bill the amendment effective date is July 1, 2013 to coincide with WSI's rate making process. She said that any change in the rate of any rate class is effective on July 1. Because the change in this particular law will change the premium owing for those individuals who are now covered under the presumption law, there will be a change in their premium. The premium will go up for those who are now covered by the presumption.

Chairman Klein: Asked Anne to speak about the presumption clause.

Anne: Explained the clause. (4:28)

Senator Murphy: Said that now that they are moved into this new category it is a more dangerous profession and if that is the reason for the rate hike?

Anne: Said that was correct.

Chairman Klein: Said it is more dangerous and they are now covered.

Erik Dietrich, Law Enforcement Training Coordinator for the North Dakota Parks and Recreation Department: Written Testimony Attached (2). (8:35)

Chairman Klein: Closed the hearing

Discussion of other security employees that would or would not be covered followed (11:00)

Senator Murphy: Moved to adopt the amendment, 13.8177.01001.

Senator Sinner: Seconded the motion.

Roll Call Vote: Yes - 7 No -0

Senator Murphy: Motioned a Do Pass and to adopt as amended.

Senator Sinner: Seconded the motion.

Roll Call Vote: Yes - 7 No - 0 Absent: 0

Floor Assignment: Senator Murphy

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/09/2013**

Amendment to: SB 2134

- 1 A. **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.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
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Expenditures						
Appropriations						

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

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- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation amends the definition of law enforcement officer to include full-time North Dakota Parks and Recreation department personnel appointed to peace officer status by the Director of North Dakota Parks and Recreation while they are in the employment of the department.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

see attachment

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.*
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**Name:** John Halvorson  
**Agency:** WSI  
**Telephone:** 328-6016  
**Date Prepared:** 01/14/2013

**WORKFORCE SAFETY & INSURANCE  
2013 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION**

**BILL NO: SB 2134**

**BILL DESCRIPTION: Definition of Law Enforcement Officer**

**SUMMARY OF ACTUARIAL INFORMATION:** Workforce Safety & Insurance, together with its actuarial firm, Bickerstaff, Whatley, Ryan & Burkhalter Consulting Actuaries, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation amends the definition of law enforcement officer to include full-time North Dakota Parks and Recreation department personnel appointed to peace officer status by the Director of North Dakota Parks and Recreation while they are in the employment of the department.

**Reserve Level Impact:** It is our understanding that the proposed legislation applies prospectively and should result in no impact to statewide reserve levels.

**Rate Level Impact:** The proposed legislation should result in no impact to statewide premium levels. It is our understanding the North Dakota Parks and Recreation Department currently has 22 full-time employees appointed to peace officer status. Those employees will be reclassified from the existing Park employee classification (Rate Class 9182) to the higher rated Law Enforcement classification (Rate Class 7720) resulting in an estimated increased premium for the ND Parks and Recreation Department of approximately \$6,936 per year.

**DATE: January 14, 2013**

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**DATE: January 14, 2013**

13.8177.01001  
Title.02000

Prepared by the Legislative Council staff for  
Senator Lyson  
January 14, 2013

  
1-23-13

PROPOSED AMENDMENTS TO SENATE BILL NO. 2134

Page 1, line 3, after "purposes" insert "; to provide for application; to provide an effective date; and to declare an emergency"

Page 1, replace lines 15 through 17 with:

**"SECTION 2. APPLICATION.** Section 1 of this Act applies only to injuries or conditions initially occurring on or after the effective date of this Act and to expenses related to those injuries and conditions.

**SECTION 3. EFFECTIVE DATE.** This Act becomes effective July 1, 2013.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

Date: 1/23/2013  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2134

Senate Industry, Business, and Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 13.8177.01001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Senator Murphy Seconded By Senator Sinner

Senators	Yes	No	Senator	Yes	No
Chairman Klein	✓		Senator Murphy	✓	
Vice Chairman Laffen	✓		Senator Sinner	✓	
Senator Andrist	✓				
Senator Sorvaag	✓				
Senator Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 1/23/2013  
Roll Call Vote #: 1

2013 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2134

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Senators	Yes	No	Senator	Yes	No
Chairman Klein	✓		Senator Murphy	✓	
Vice Chairman Laffen	✓		Senator Sinner	✓	
Senator Andrist	✓				
Senator Sorvaag	✓				
Senator Unruh	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Murphy

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

**REPORT OF STANDING COMMITTEE**

**SB 2134: Industry, Business and Labor Committee (Sen. Klein, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2134 was placed on the Sixth order on the calendar.

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**2013 HOUSE INDUSTRY, BUSINESS AND LABOR**

**SB 2134**

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Industry, Business and Labor Committee Peace Garden Room, State Capitol

SB 2134  
March 20, 2013  
Job 20214

☐ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

Relating to definition of law enforcement officers for workforce safety and insurance purposes emergency.

### Minutes:

Attachment 1

Hearing opened.

**Eric Dietrich, on behalf of the Law Enforcement Training Coordinator for the North Dakota Parks and Recreation Department:** Refer to written testimony, **attachment 1**.

**2:09 Chairman Keiser:** Tim or Anne, will you please explain the presumption clause and how it is regulated and enforced.

**2:29 Anne Jorgenson Green, Workforce Safety and Insurance:** Under North Dakota Workers Compensation law, the presumption clause is a little bit of an anomaly. It is a presumption, a law that presumes that certain conditions with which a full-time, paid law enforcement or firefighter is diagnosed are presumed to arise out of the employment. Gave examples of conditions or diseases. Under certain criteria specified in the statute, if a full-time peace officer is diagnosed with these conditions, they are presumed to be compensable, and WSI pays for them.

**3:33 Chairman Keiser:** If you are in one of the covered groups for the presumption clause and you are removing snow and have a heart attack...

**Anne Jorgenson Green:** That would not be compensable. It arises out of what you are doing at home.

**Chairman Keiser:** But if you are driving on the road as part of your job and you have a heart attack...

**Anne Jorgenson Green:** If you are an officer and are on patrol, that is potentially a compensable event.

**4:17 Representative Ruby:** How do you calculate for the risk for premiums?

**Anne Jorgenson Green:** The premiums that are calculated for law enforcement officers go through the regular rate-making process that is done annually by our actuaries. We take all of the claims costs associated with those particular risks, and the claims costs will include claims and medical expenses that have been attributable to conditions that we're paying under the presumption clause. All of those claims costs are crunched by the actuaries, and the ultimate premium is a reflection of that analysis.

5:09 **Representative Ruby:** Would an experience rating of a certain agency also play into the calculation of the premium?

**Anne Jorgenson Green:** Asked for clarification.

**Representative Ruby:** If there are past claims for that employer...

**Anne Jorgenson Green:** Absolutely.

**Chairman Keiser:** This group has a general classification, but if the Bismarck police department has an unusually high of claims relative to everyone else, their rate would be different than all of the other police departments in the state.

6:01 **Anne Jorgenson Green:** Their premium would likely be higher.

6:08 **Representative Vigesaa:** You answered that an officer driving down the road on patrol could potentially have a compensable situation. What determines whether it would be or not?

6:20 **Anne Jorgenson Green:** Any issue of compensability is always open to interpretation. WSI takes the facts and applies them to the law. In terms of the presumption, there are certain statutory elements that have to be met before a law enforcement officer would be potentially eligible for benefits. Gave examples. Referenced our state Supreme Court.

7:08 **Chairman Keiser:** Once they have met all those criteria, the ruling is going to be that it's compensable, that heart attack while driving down the road.

**Anne Jorgenson Green:** My experience is that typically presumption claims are compensable.

7:38 **Chairman Keiser:** Requested that Eric Dietrich come forward. Please review the two specific cases you mentioned. You named two officers or people.

7:51 **Eric Dietrich:** With the deaths of Officer Kenner and Deputy Sleeper, that particular clause came into view.

**Chairman Keiser:** Officer Kenner was with the Bismarck Police Department, not the Parks Department.



**Eric Dietrich:** Deputy Sleeper was with the Burleigh County Sheriff's Department. That was the reason everything came to light. We did some background searching on it, and our agency is the only one not included in that clause.

8:19 **Chairman Keiser:** The police and fire departments have made a legitimate argument, especially in the last ten years, that they are having to go into meth labs, and clearly lung disease and other things should be compensable. Policemen are in the line of fire on a regular basis. For your park service, what is the level of risk? Where is the high risk?

9:16 **Eric Dietrich:** We are seeing it a lot in the western part of the state. They have seen within the last four years people brandishing weaponry within the park; drug arrests within the park system. It is moving entirely over the state. As far as risk, we are seeing it more and more all around, especially with the population in some of these parks. Referred to his testimony regarding population in the parks

**Chairman Keiser:** Do you guys carry guns on a daily basis?

**Eric Dietrich:** Yes.

10:31 **Representative Vigesaa:** Is your training as a law enforcement officer the same as police, sheriff, highway patrol?

**Eric Dietrich:** Yes, exactly the same training as all law enforcement within the state. We go through the academy in Bismarck.

**Representative Ruby:** How many officers are we talking about?

11:10 **Eric Dietrich:** Our agency as twenty-two full-time law enforcement officers.

**Support:**

**Opposition:**

**Neutral:**

**Hearing closed.**

Representative Boschee made a **motion for a Do Pass** recommendation. Representative Kasper seconded.

**Roll call vote on a Do Pass on SB 2134. Motion carried.**

**Yes = 13      No = 1      Absent = 1**

**Carrier:** Representative Beadle

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**01/09/2013**

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**Agency:** WSI  
**Telephone:** 328-6016  
**Date Prepared:** 01/14/2013

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**DATE: January 14, 2013**



Date: 3-20-2013

Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 2134**

**House Industry, Business, and Labor Committee**

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider ☐ Consent Calendar

Motion Made By Boschee Seconded By Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman George Keiser		✓	Rep. Bill Amerman	✓	
Vice Chairman Gary Sukut	✓		Rep. Joshua Boschee	✓	
Rep. Thomas Beadle	✓		Rep. Edmund Gruchalla	✓	
Rep. Rick Becker	✓		Rep. Marvin Nelson	ab	
Rep. Robert Frantsvog	✓				
Rep. Nancy Johnson	✓				
Rep. Jim Kasper	✓				
Rep. Curtiss Kreun	✓				
Rep. Scott Louser	✓				
Rep. Dan Ruby	✓				
Rep. Don Vigasaa	✓				

Total Yes 13 No 1

Absent 1

Floor Assignment Beadle

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



**REPORT OF STANDING COMMITTEE**

**SB 2134, as engrossed: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends DO PASS (13 YEAS, 1 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2134 was placed on the Fourteenth order on the calendar.**

**2013 TESTIMONY**

**SB 2134**

(1)

13.8177.01001  
Title.

Prepared by the Legislative Council staff for  
Senator Lyson

January 14, 2013

PROPOSED AMENDMENTS TO SENATE BILL NO. 2134

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**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

TESTIMONY – SENATE BILL 2134  
SENATE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
ROOSEVELT ROOM, 9:30 A.M.  
JANUARY 23<sup>rd</sup>, 2013

Mr. Chairman, members of the Senate Industry, Business and Labor Committee, my name is Erik Dietrich, Law Enforcement Training Coordinator for the North Dakota Parks and Recreation Department. I appear here today on behalf of the North Dakota Parks and Recreation Department, which is in support of Senate Bill 2134.

Annually, our State Park system hosts over one million visitors, with weekend populations greater than many towns. These visitors enjoy the safety and security provided by the 22 Law Enforcement officers of the North Dakota Parks and Recreation Department. Our officers must deal with similar situations any other law enforcement officer may face in the line of duty. This amendment would simply add department officers to the Workforce Safety and Insurance Presumption Clause.

The Presumption Clause, was established before the North Dakota Parks and Recreation Department became a law enforcement agency in the mid 1970's. Only with the tragic deaths of Officer Kenner and Deputy Sleeper did we realize the North Dakota Parks and Recreation Department was not included in this section. In fact, the North Dakota Parks and Recreation Department is the only law enforcement agency not included under the Presumption Clause.

Our officers have dealt with situations ranging from drug arrests to domestic violence situations and search and rescue operations all around the state. We do this with professionalism and dedication, while ensuring any visit to a state park is safe and secure. We are also called on by other agencies to assist with a wide-variety of enforcement related situations. Now we simply ask that the coverage provided by the Presumption Clause is extended to the officers of the North Dakota Parks and Recreation Department.

Mr. Chairman this concludes my remarks; I would be pleased to answer any questions the committee may have.

TESTIMONY – SENATE BILL 2134  
HOUSE INDUSTRY, BUSINESS AND LABOR COMMITTEE  
PEACE GARDEN ROOM, 8:00 A.M.  
MARCH 20<sup>th</sup>, 2013

(i) SB 2134  
3-20-2013

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The Presumption Clause was established in 1957, well before the North Dakota Parks and Recreation Department became a law enforcement agency in the mid 1970's. Only with the tragic deaths of Officer Kenner and Deputy Sleeper did we realize the North Dakota Parks and Recreation Department was not included in this section. In fact, the North Dakota Parks and Recreation Department is the only law enforcement agency not included under the Presumption Clause.

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