

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1296

Introduced by

Representatives Carlson, Boucher, Berg

Senators G. Nelson, Solberg

1 A BILL for an Act to create and enact a new section to chapter 65-03 and a new section to
2 chapter 65-04 of the North Dakota Century Code, relating to protecting the health of employees
3 through workplace safety programs and to workers' compensation premium calculation
4 programs; to amend and reenact sections 65-02-13.1 and 65-04-17.1 of the North Dakota
5 Century Code, relating to expenditures by the workers compensation bureau for extraterritorial
6 coverage and other states' insurance and to retrospective rating; to provide an appropriation;
7 and to declare an emergency.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. AMENDMENT.** Section 65-02-13.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **65-02-13.1. Expenditures by bureau for reinsurance and extraterritorial coverage**
12 **and other states' insurance - Report to budget section in annual financial audit.** There is
13 appropriated out of the workers' compensation fund, as a continuing appropriation, an amount
14 necessary to allow the bureau to establish a program of reinsurance and a program of
15 extraterritorial coverage and other states' insurance. The bureau may execute a contract for
16 reinsurance ~~which is~~ and a contract for extraterritorial coverage and other states' insurance
17 binding on the bureau and the ~~reinsurer~~ contracting party. The term identified in the contract
18 may extend past the end of the biennium in which ~~the~~ a contract under this section is executed.
19 The independent annual financial audit report on the bureau shall report ~~to the legislative~~
20 ~~council's budget section annually~~ on any contract ~~negotiated between the bureau and an~~
21 ~~insurer for reinsurance~~ executed pursuant to this section.

22 **SECTION 2.** A new section to chapter 65-03 of the North Dakota Century Code is
23 created and enacted as follows:

1 **Safety programs.** The bureau shall create and operate work safety and loss
2 prevention programs to protect the health of covered employees and the financial integrity of
3 the fund, including programs promoting safety practices by employers and employees through
4 education, training, consultation, grants, or incentives. The biennial independent performance
5 audit of the bureau must evaluate and report on the effectiveness of these programs.

6 **SECTION 3.** A new section to chapter 65-04 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Premium calculation programs - Authority.** Upon approval of its board of directors,
9 the bureau may create and implement by emergency rulemaking actuarially sound employer
10 premium calculation programs, including dividends, group insurance, premium deductibles, and
11 reimbursement for medical expense assessments. Programs under this section may be
12 created or modified by emergency rulemaking and must include requirements or incentives for
13 the early reporting of injuries.

14 **SECTION 4. AMENDMENT.** Section 65-04-17.1 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **65-04-17.1. Retrospective rating ~~pilot~~ program.** The bureau may establish a ~~pilot~~
17 program to provide retrospective rating ~~to an employer whose annual workers' compensation~~
18 ~~premium is two hundred fifty thousand dollars or more.~~ The bureau may not require an
19 employer to participate in the program, but it may refuse to allow an employer to participate
20 when it determines that refusal is appropriate. The bureau shall establish formulas, based on
21 sound actuarial principles, for premium calculation under the program. Sections 65-04-01,
22 65-04-04, and 65-04-04.2 do not apply to retrospective premiums allowed under this section.
23 Any moneys held by the bureau for future claim payments must accrue interest at a reasonable
24 rate as determined by the bureau. The bureau may execute a contract with an employer to
25 establish a retrospective rating plan for that employer. The contract is binding on the employer
26 and the bureau for the term identified in the contract. The term identified in the contract may
27 extend past the end of the biennium in which the contract is executed but the term may not
28 exceed ten years. ~~The bureau may not enter any contract under this section after June 30,~~
29 ~~1999.~~ The bureau shall determine the amount of the deposit premium to be paid by an
30 employer participating in the program. The amount of the deposit premium must be based on
31 current rates, payroll, and experience rate factors. The bureau shall establish the maximum

1 premium liability of a participating employer. The maximum premium is not subject to the
2 limitations of section 65-04-17. The bureau may provide refunds from the workers'
3 compensation fund when it is determined appropriate under the retrospective rating formula
4 established. The bureau shall provide any refund due within thirty days after the date of the
5 retrospective premium valuation. The bureau may impose a penalty if an employer fails to pay
6 additional premium due within thirty days after the retrospective premium valuation. The
7 bureau may require an employer to provide a bond, letter of credit, or other security approved
8 by the bureau to guarantee payment of future employer obligations incurred by a retrospective
9 rating plan. The bureau may charge an employer participating in the program a nonrefundable
10 surcharge for the purpose of assisting retirement of any unfunded liability of the fund.

11 **SECTION 5. APPROPRIATION.** There is hereby appropriated out of the workers'
12 compensation fund the sum of \$2,044,763 to the bureau for the purpose of defraying the
13 expenses of operating workplace safety and loss prevention programs, for the biennium
14 beginning July 1, 1999, and ending June 30, 2001.

15 **SECTION 6. EMERGENCY.** This Act is declared to be an emergency measure.