

Fifty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1262

Introduced by

Representative Hoffner

Senator DeMers

1 A BILL for an Act to amend and reenact section 65-05-09.3 of the North Dakota Century Code,
2 relating to the presumption of retirement for workers' compensation purposes; and to repeal
3 section 65-05-09.4 of the North Dakota Century Code, relating to workers' compensation
4 benefits for retired injured workers.

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

6 **SECTION 1. AMENDMENT.** Section 65-05-09.3 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **65-05-09.3. Retirement presumption** ~~—Termination of benefits upon retirement.~~

9 ~~4.~~ An employee who has retired or voluntarily withdrawn from the labor force ~~and~~
10 ~~who, at that time, was not eligible to receive temporary total disability, temporary~~
11 ~~partial disability, or permanent total disability benefits, or a rehabilitation allowance~~
12 ~~from the bureau~~ is presumed retired from the labor market and is ineligible for
13 receipt of disability benefits under this title. This presumption does not apply to any
14 employee permanently and totally disabled as defined under this title. The
15 presumption may be rebutted by a preponderance of the evidence; ~~however, the~~
16 ~~subjective statement of an employee that the employee is not retired is not~~
17 ~~sufficient in itself to rebut objective evidence of retirement. the worker:~~

18 1. Is actively seeking employment;

19 2. ~~An injured employee who begins receiving social security retirement benefits or~~
20 ~~other retirement benefits in lieu of social security retirement benefits, or who attains~~
21 ~~retirement age for social security retirement benefits unless the employee proves~~
22 ~~the employee is not eligible to receive social security retirement benefits or other~~
23 ~~benefits in lieu of social security retirement benefits is considered retired. The~~
24 ~~bureau may not pay any disability benefits, rehabilitation benefits, or~~

1 ~~supplementary benefits to an employee who is considered retired; however, the~~
2 ~~employee remains eligible for medical benefits, permanent partial impairment~~
3 ~~benefits, and the additional benefit payable under section 65-05-09.4. Is available~~
4 ~~for gainful employment;~~

- 5 3. ~~The bureau retains liability for disability benefits, rehabilitation benefits, permanent~~
6 ~~partial impairment benefits, and medical benefits for an injured employee who is~~
7 ~~receiving social security retirement benefits or other retirement benefits in lieu of~~
8 ~~social security retirement benefits or who attains retirement age for social security~~
9 ~~retirement benefits unless the employee is not eligible to receive social security~~
10 ~~retirement benefits or other benefits in lieu of social security retirement benefits~~
11 ~~and who is gainfully employed and who suffers an injury arising out of and in the~~
12 ~~course of that employment. The bureau may not pay disability or rehabilitation~~
13 ~~benefits under this subsection for more than three years, subject to section~~
14 ~~65-05-09.2, for injuries occurring after August 1, 1997. Has not rejected any job~~
15 ~~offer made by a former employer or other bona fide job offer by another employer;~~
16 ~~and~~

- 17 4. ~~This section applies to all persons who begin receiving social security retirement~~
18 ~~benefits or other retirement benefits in lieu of social security retirement benefits, or~~
19 ~~who attain retirement age for social security retirement benefits unless the~~
20 ~~employee proves the employee is not eligible to receive social security retirement~~
21 ~~benefits or other benefits in lieu of social security retirement benefits, after July 31,~~
22 ~~1995 Has not provided the employer, upon written request, with written notice of a~~
23 ~~scheduled retirement date.~~

24 **SECTION 2. REPEAL.** Section 65-05-09.4 of the 1997 Supplement to the North
25 Dakota Century Code is repealed.