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10/3/03  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1304

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1304

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date January 28, 2003

Tape Number	Side A	Side B	Meter #
4		X	4953-end
5	X		0-793
Committee Clerk Signature <i>Elizabeth R. Lein</i>			

Minutes: **VICE CHAIR SEVERSON**: Opened hearing on HB 1304

**GLENN BALTRUSCH**: Supports with written testimony.

**REP. KEISER**: How many states have this? Baltrusch noted that we have the Bank of ND and the State Mill and Elevator. Both are in competition with other banks and elevators. WCB should be the same.

**EVAN MANDIGO**: Opposes with written testimony.

**DAVID KEMNITZ (ND AFL-CIO)**: Opposes. The Bureau has changed its face and its positions. It's changed how it operates and changed how it delivers services. There is room for improvement with any of that, but the Bureau has made great strides in service and outreach and other things. Now there are places where we need to adjust those things, but at this point, I wouldn't know that competition would address that. I think legislative process would. Hearing what claimants have to say would. Regulatory change would and open processes would. But this would probably limit that.

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Date

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House Industry, Business and Labor Committee

Bill/Resolution Number 1304

Hearing Date January 28, 2003

**MARY SKAR (E.W. Wylle):** Opposes. Private insurers would go after businesses. The minimum premiums are so low now. He sees his premiums rising. This is not good for the state.

**BRENT EDISON (WCB):** Opposes with written testimony.

**CHUCK JOHNSON (ND Insurance Dept. General Counsel):** Neutral with testimony.

**CHAIR KEISER:** Closed hearing on HB 1304

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1304

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 1/29/03

Tape Number	Side A	Side B	Meter #
2		x	42.0-47.0
Committee Clerk Signature <i>Juana Hammer</i>			

Minutes: **Chairman Keiser** called for committee work on HB 1304.

**Rep. Ekstrom** moved a Do Not Pass. **Rep. Boe** seconded the motion.

**Chairman Keiser:** States with this type of statute, open workers compensation insurance, are in trouble. Those insurance companies are leaving those states as quickly as they can and the state itself must become the insurer of last resort.

**Rep. Klein:** Mr. Skar covered it very well at our hearing.

**Rep. Ekstrom:** Now is not the time to enact this type of legislation.

The results of the roll call vote were: 12-1-1.

**Rep. Kasper** will carry this bill on the floor.

P

**FISCAL NOTE**  
Requested by Legislative Council  
01/14/2003

Bill/Resolution No.: HB 1304

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.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 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.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 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.

NORTH DAKOTA WORKERS COMPENSATION  
2003 LEGISLATION  
SUMMARY OF ACTUARIAL INFORMATION

BILL DESCRIPTION: Privatization/Self-Insurance

BILL NO: HB 1304

SUMMARY OF ACTUARIAL INFORMATION: North Dakota Workers Compensation, 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 bill would allow for privatization and self-insurance of workers compensation in North Dakota.

FISCAL IMPACT: The proposed change should have little effect on NDWC's rate and reserve levels in the immediate future (2003-04 policy year). However, the long-term impact will likely be more significant. We cannot estimate the likely rate level impact of the changes because of the impossibility of predicting in advance how the marketplace will change under the proposed legislation.

DATE: January 22, 2003

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	Agency:	NDWC
Phone Number:	328-3760	Date Prepared:	01/23/2003

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Date

Date: 1/29/03  
Roll Call Vote #: 1304

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1304

House Industry, Business & Labor Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Not Pass

Motion Made By Ekstrom Seconded By Boe

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser	✓		Rep.Boe	✓	
Rep. Severson, Vice-Chair	✓		Rep. Ekstrom	✓	
Rep. Dosch			Rep. Thorpe	✓	
Rep. Froseth	✓		Rep. Zaiser	✓	
Rep. Johnson	✓				
Rep. Kasper	✓				
Rep. Klein	✓				
Rep. Nottlestad	✓				
Rep. Ruby	✓	✓			
Rep. Tieman	✓				

Total (Yes) 12 No 1

Absent 1

Floor Assignment ~~Kasper~~ Kasper

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



**REPORT OF STANDING COMMITTEE (410)**  
January 30, 2003 10:41 a.m.

Module No: HR-18-1338  
Carrier: Boe  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HB 1304: Industry, Business and Labor Committee (Rep. Kelsner, Chairman)**  
recommends **DO NOT PASS** (12 YEAS, 1 NAY, 1 ABSENT AND NOT VOTING).  
HB 1304 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-18-1338

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*10/3/03*  
Date

2003 TESTIMONY

HB 1304

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10/2/03  
Date

HOUSE BILL NO. 1304  
TESTIMONY BEFORE THE HOUSE  
INDUSTRY, BUSINESS, AND LABOR  
COMMITTEE  
JANUARY 28, 2003

Mr. Chairman, Members of the IBL Committee,  
First, I again want to thank Rep. Dekrey for  
sponsoring 1304 and putting before this com-  
mittee.

My name is Glen Baltrusch and I am here  
to testify in support for private insurance  
& self insurance workers compensation  
policies.

## COMPETITION OF

### WORKERS' COMPENSATION INSURANCE

- Legislators, it is a privilege to be able to address you here today.
- This is not the first time this bill has been before this committee.
- This bill has been here the last three sessions and unfortunately it has yet to receive a favorable vote out of this committee.
- As many of you who have served on this committee before are aware North Dakota is **only one of three other states** that does not permit competition in workers' compensation or an employer to self insure.
- The lobbyists from North Dakota Workers' Compensation have worked hard to kill this bill. We simply can't understand why anyone can honestly and sincerely deny employers freedom to chose alternative means of providing their employees workers' coverage.
- Everyone knows that North Dakota is the only state in the nation that is losing population. Over the last two years more than 500 people per month have moved from this state and all projections call for that number in increase.
- We have to ask ourselves why? The answer is obvious to those that care to learn why. People are leaving North Dakota because there are not job opportunities that meet their needs either in terms of career goals or pay sufficient to provide the type of lifestyle the desire for themselves or their families.
- We have to ask ourselves, why aren't there sufficient job opportunities? Again, for those who care to learn why the answer is clear. Business and industry will not move to locations where the taxes, rules and regulations are hostile to their ability to function and compete.
- North Dakota's Workers' Compensation laws ARE HOSTILE. In fact, they are not simply hostile but also vindictive. This isn't simply the rhetoric of this businessman, taxpayer and citizen. Unfortunately, it is well known and heeded by business and industry around the country.
- There is no need for it to be this way. All we have to do is permit competition in the provision worker's compensation insurance. This will remove one of the barriers, which discourage business and industry from moving any operation to North Dakota.

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- You will the Workers' Compensation lobbyists, if you haven't already heard it this session, that NDWC is one of the best, if not the best, in the nation. While I can testify personally that this is not the case, let us assume for the moment that this were the case. What does NDWC have to fear? They will have all the business.
- You will hear hypothetical horror stories of how workers in other states end up without "proper coverage" under private insurers and self-insurers. Challenge this assertion. It simply isn't true. If you want to look to worker's complaints just look at the claims from employees against NDWC. What you will see isn't pretty.
- Are you aware that NDWC has to protect its workers from employees with bulletproof glass? It's true. I wonder why, if North Dakota employees are treated fairly and humanely?
- On Monday Spectrum Care, LLC, a small business located in Minot filed an appeal against NDWC and expect this appeal to end up in District Court and eventually the State Supreme Court. Why? Because the NDWC monopoly, when challenged about the categories it placed our employees in decided to "teach us a lesson" and proceeded to vindictively seek the highest possible category to place our employees in and raise our rate by thousands of dollars a year. This was done for one reason only, as an attempt to punish us for being so bold as to challenge the decision of NDWC.
- This specific situation will, I must tell you today, be reported in business journals across the country. Further, I will tell you that this along with other hostile rules, regulations and taxing mandates unique to North Dakota guarantee that our small company will not expand in this state. We wish we could, however, as a business decision we simply can not afford to do business here.
- While our story is only one, we would hope you as legislators -- the only people in this state that can remove these barriers do so -- unless you take action our state will continue to lose its people and its economic viability.

Thank you for taking my testimony. I would be more than happy to visit with any one of you about this issue and the other barriers that must be addressed if North Dakota is to reverse its downward economic and population spiral.

I request that you approve a "DO PASS" on House Bill No. 1304

La Costa Rickford  
Operator's Signature

10/3/03  
Date

**2003 HOUSE BILLS 1302, 1304, 1317, 1370 & 1455**

**Fifty-eighth Legislative Assembly  
Before the House Industry Business and Labor Committee  
Evan Mandigo, Member  
North Dakota Workers Compensation Board of Directors  
January 28, 2003**

Mr. Chairman, Members of the Committee:

My name is Evan Mandigo. I am a member of the Board of Directors of North Dakota Workers Compensation. It has been my pleasure to serve on the Board since 1998.

As each legislative session approaches, the Board, along with the staff of NDWC, carefully considers the legislative package ultimately presented to the Legislative Assembly. The process is thorough, analyzing all aspects of NDWC's operations. We believe the proposed legislation presented to this Committee last week represents the legislation that will allow us to improve and provide a system that ensures adequate benefits to our employees at a reasonable cost to employers.

During the legislative session, the Board meets frequently to discuss and evaluate other proposed legislation. The Board has carefully evaluated the legislation before you today and unanimously opposes House Bill No.'s 1302, 1304, 1317, and 1455. We are taking a neutral position on House Bill 1370.

The Executive Staff of NDWC will address the specific concerns we have with the bills we oppose, and provide further information to you regarding House Bill No. 1370. On behalf of the Board of Directors, I respectfully request this Committee recommend a "do not pass" on House Bill No.'s 1302, 1304, 1317, and 1455.

*Evan Mandigo*  
Operator's Signature

*10/3/03*  
Date

HOUSE BILL NO. 1304

Presented by: Charles E. Johnson  
General Counsel  
North Dakota Insurance Department

Before: Industry, Business and Labor Committee  
Representative George Keiser, Chairman

Date: January 28, 2003

TESTIMONY

Mr. Chairman and members of the committee:

Good afternoon, my name is Charles Johnson, General Counsel with the North Dakota Insurance Department. The Insurance Department appears here to provide the committee with an estimate of the cost to the Department of carrying out the duties assigned to it by this bill.

Attached is a summary of those costs which was prepared by Larry Maslowski in our office. He surveyed surrounding states that have both private and state-sponsored programs to develop a rough estimate of those costs.

The estimates are broken down into three columns depending on the estimated number of policyholders that might switch from the state-sponsored plan to private insurance or self-insurance. The estimate costs range from 5 FTEs to 10 FTEs and from \$255,295 to \$510,590.

Thank you. If there are any questions, I will try to answer them.



INSURANCE DEPARTMENT COST ESTIMATE FOR  
PRIVATE WORKERS COMPENSATION INSURANCE PROPOSAL  
HOUSE BILL NO. 1304

	25% of Market	50% of Market	75% of Market
Number of Accounts	5,035	10,071	15,107
Financial Examiner	1 FTE	1 FTE	1 FTE
Consumer Hotline	3,750 calls 1/2 FTE	7,500 calls 1 FTE	11,250 calls 1.5 FTE
Complaints/Disputes	76 1/5 FTE	152 2/5 FTE	222 3/5 FTE
Fraud Cases	138 2 FTE 1 support	276 4 FTE 1 support	414 5.5 FTE 1 support
Filings	1/5 FTE	1/5 FTE	1/5 FTE
Equipment per FTE	\$5,000	\$5,000	\$5,000
Total	5 FTE	8 FTE	10 FTE
Salary/Benefits	\$230,295	\$368,472	\$460,590
Equipment per FTE	<u>25,000</u>	<u>40,000</u>	<u>50,000</u>
	<u>\$255,295</u>	<u>\$408,472</u>	<u>\$510,590</u>

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**2003 House Bill No. 1304**  
**Testimony before the House Industry, Business, And Labor Committee**  
**Presented by: Brent J. Edison**  
**Executive Director and CEO**  
**North Dakota Workers Compensation**  
**January 28, 2003**

Mr. Chairman, Members of the Committee:

My name is Brent Edison and I am the Executive Director & CEO of North Dakota Workers Compensation. On behalf of the NDWC Board of Directors, I am here to testify in opposition to 2003 House Bill No. 1304. I will address NDWC's main concerns with this bill.

NDWC has operated as the exclusive source for workers' compensation insurance coverage in North Dakota since its inception in 1919. Since that time, NDWC has provided workers' compensation insurance protection for North Dakota employees and employers at cost, with no general fund obligation to the people of North Dakota. Under the proposed legislation, the workers compensation market would be opened to for-profit insurance carriers and self-insurance plans approved by the State Insurance Department.

Quite simply, this two-page bill is too simplistic and leaves far too many questions left unanswered. This can perhaps best be illustrated by example. In 2000, the State of Nevada changed from an exclusive state fund to a fully competitive environment. The Legislation authorizing this change was in excess of 150 pages and there were still significant issues that needed to be addressed after the legislation became effective.

The issue of introducing private insurance into the North Dakota Workers Compensation system is not new. According to Agnes Geelan's 1969 book entitled "*North Dakota Workmen's Compensation Bureau: Fifty Years of Progress*," the first private workers compensation insurance bill was introduced in 1963 and a second bill was introduced in 1969.

The NDWC Board welcomes the opportunity for a thorough discussion of competition and self-insurance but feels a comprehensive study of the implications is needed before an informed discussion can take place. During the 2001 Legislative Assembly, NDWC proposed legislation (2001 House Bill No. 1281) to remove NDWC from the biennial appropriations process and to conduct a comprehensive study of the advantages and disadvantages of introducing competition into the North Dakota workers compensation system. This bill was defeated. Similarly, 2001 House Bill No. 1419 proposed an independent study of the effects of competition and self-insurance. This bill was also defeated.

In light of the defeat of the privatization-study bills last session, the NDWC Board chose not to bring forward a study bill this session. Perhaps a more important factor, however, is that developments in the post-September 11 insurance market have made it clear that the timing is not right for such a study, much less a full-blown move to competition and self-insurance. In addition, at its retreat in May 2002, the NDWC Board adopted a strategic goal to remain the exclusive provider of workers compensation products and services in North Dakota.

The hard insurance market that we've seen since September 11, 2001 has resulted in large premium increases across all lines of insurance. The hard market has also led some property and casualty insurers to abandon the North Dakota market. Fortunately, NDWC has weathered this market storm and has been able to maintain premium levels, increase benefit levels, expand safety programs, and provide exceptional service. Today's hard insurance market and the success of our current system suggest the need for careful analysis before adopting any fundamental changes that could lead to unintended and potentially disastrous consequences.

Here are a few examples of questions left unanswered in this bill:

- Who will serve as the "carrier of last resort" to cover the least desirable accounts and to also cover uninsured losses?
- What will happen to premium rates for small, medium and large accounts if NDWC's best accounts are "cherry picked" and accounts with national programs leave the system for reasons other than price competition?
- When will duplicate structures be put in place for functions currently performed by NDWC, including its roles as the ratemaking and statistical organization (RSO), safety and compliance regulator, and fraud investigator?
- Where will aggrieved injured workers and employers turn when they are outside of NDWC's dispute resolution procedures, including administrative hearings, appellate review and assistance through the Office of Independent Review?
- Why make this move now, when other state workers' compensation funds in competitive environments are growing as a result of major insurance company failures and refusals by other workers' compensation carriers to offer workers' compensation insurance to certain employers?
- How will NDWC meet its future claims obligations if the introduction of competition and self-insurance have a greater than anticipated effect on its market share and premium income?

In the absence of answers to these and a multitude of other questions, the risks of passing this bill clearly outweigh the benefits. I therefore respectfully urge this committee to vote "do not pass" on House Bill No. 1304.

Thank you for your consideration. If you have any further questions I will be glad to answer them at this time.