

HOUSE BILL NO.

Introduced by

Representative Brandenburg

1 A BILL for an Act to create and enact a new section to chapter 65-06 of the North Dakota
2 Century Code, relating to workers' compensation coverage for volunteer firefighters, emergency
3 or disaster volunteers, and community emergency response team members; and to amend and
4 reenact sections 18-05.1-02 and 65-06-03 of the North Dakota Century Code, relating to
5 payments from the firefighters death benefit fund for volunteer firefighters and workers'
6 compensation coverage for volunteer firefighters who are self-employed.

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

8 **SECTION 1. AMENDMENT.** Section 18-05.1-02 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **18-05.1-02. Payments from firefighters death benefit fund.** The governing body of a
11 municipality ~~having a paid fire department or the governing body of a city or rural fire protection~~
12 ~~district having no paid fire department,~~ rural fire protection district, rural fire department,
13 corporation, or federal or state agency may request that the insurance commissioner pay ten
14 thousand dollars from the firefighters death benefit fund to the estate of a firefighter who dies
15 from an injury sustained while serving for the requester and responding to, during, or within
16 forty-eight hours after a fire emergency or training activity. The insurance commissioner shall
17 pay ten thousand dollars to the deceased firefighter's estate upon receipt of the request for
18 payment and upon receipt of evidence that the death occurred from an injury sustained while
19 responding to, during, or within forty-eight hours after a fire emergency.

20 **SECTION 2. AMENDMENT.** Section 65-06-03 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **65-06-03. Compensation benefits - How determined.** ~~The~~

23 1. Except as provided in subsection 2, the organization shall determine the basis of
24 compensation and benefits to be paid to a volunteer firefighter, an emergency or

1 disaster volunteer, or a community emergency response team member under the
2 terms of this chapter ~~shall be determined~~ in accordance with the provisions of
3 section 65-05-09; provided, however, that the weekly wage of the claimant ~~shall~~
4 must be determined from a computation of income derived from the claimant's
5 business or employment.

6 2. Notwithstanding subsection 1 and the definition of average weekly wage under
7 section 65-01-02, if the volunteer firefighter, emergency or disaster volunteer, or
8 community emergency response team member is self-employed as a farmer,
9 rancher, or business owner, the organization shall compute the compensation and
10 benefits to be paid based on the higher of the calculation under subsection 1 or
11 this subsection. Under this subsection, an employee's average weekly wage is
12 calculated using the United States department of labor wage determination, or
13 other comparable calculation determined by job service North Dakota, for the
14 volunteer title, rank, or position in which the volunteer was serving at the time of
15 injury.

16 **SECTION 3.** A new section to chapter 65-06 of the North Dakota Century Code is
17 created and enacted as follows:

18 **Presumption of compensability for certain conditions of volunteer firefighters,**
19 **emergency or disaster volunteers, and community emergency response team members.**

20 1. If a volunteer firefighter, emergency or disaster volunteer, or community
21 emergency response team member suffers a heart attack or stroke while in training
22 or otherwise performing actual duties for the volunteer organization or within
23 forty-eight hours after completion of training or other actual duties, the heart attack
24 or stroke is presumed to be a compensable injury suffered in the line of duty. The
25 presumption may be rebutted by clear and convincing evidence the condition or
26 impairment is not work-related.

27 2. A volunteer firefighter, emergency or disaster volunteer, or community emergency
28 response team member who uses tobacco is not eligible for the benefits provided
29 under subsection 1 unless the chief or other administrator of the volunteer
30 department provides documentation the volunteer firefighter, emergency or

Sixty-first
Legislative Assembly

- 1 disaster volunteer, or community emergency response team member has not used
- 2 tobacco for the preceding two years.