

**Sixty-second Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2011**

HOUSE BILL NO. 1051  
(Legislative Management)  
(Workers' Compensation Review Committee)

AN ACT to amend and reenact section 65-05-09.3 of the North Dakota Century Code, relating to workers' compensation benefits upon attaining retirement age; and to provide for application.

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

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

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

1. An employee who has retired or voluntarily withdrawn from the labor force and who, at that time, was not eligible to receive temporary total disability, temporary partial disability, or permanent total disability benefits; or to receive a rehabilitation allowance from the organization is presumed retired from the labor market. The presumption may be rebutted by a preponderance of the evidence; however, the subjective statement of an employee that the employee is not retired is not sufficient in itself to rebut objective evidence of retirement.
2. An injured employee who begins receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits; or who attains retirement age for social security retirement benefits, unless the employee proves the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, is considered retired. The organization may not pay any disability benefits, rehabilitation benefits, or supplementary benefits to an employee who is considered retired; however, the employee remains eligible for medical benefits, permanent partial impairment benefits, and the additional benefit payable under section 65-05-09.4.
3. The organization retains liability for disability benefits, rehabilitation benefits, permanent partial impairment benefits, and medical benefits for an injured employee who is receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits or who attains retirement age for social security retirement benefits, unless the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, and who is gainfully employed and who suffers an injury arising out of and in the course of that employment. The organization may not pay disability or rehabilitation benefits under this subsection for more than three years, subject to section 65-05-09.2, for injuries occurring after August 1, 1997.
4. If an employee is injured within the two years preceding the employee's presumed retirement date, the organization shall pay disability benefits, rehabilitation benefits, or a combination of both benefits for no more than two years. If the duration of disability benefits, rehabilitation benefits, or a combination of both benefits extends beyond the presumed retirement date, the organization shall convert the benefit to an additional benefit payable at the date the disability ends or when two years of benefits have been paid, whichever occurs first.
5. This section applies to ~~all persons~~ an individual who ~~begin~~ begins receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits; or who ~~attain~~ attains retirement age for social security retirement benefits unless the employee proves the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, after July 31, 1995.

**SECTION 2. APPLICATION.** This Act applies to an injured employee who attains retirement age for purposes of social security retirement on or after the effective date of this Act.

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Speaker of the House

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President of the Senate

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Chief Clerk of the House

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Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-second Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1051.

House Vote:    Yeas 94            Nays 0            Absent 0

Senate Vote:    Yeas 47            Nays 0            Absent 0

\_\_\_\_\_  
Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2011.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2011,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State