

SENATE BILL NO. 2292

Introduced by

Senators Heitkamp, Fairfield, Nelson

Representatives Amerman, Glassheim, Gulleason

1 A BILL for an Act to create and enact a new section to chapter 65-02 of the North Dakota
2 Century Code, relating to creation of an advisory board for workforce safety and insurance; to
3 amend and reenact subsection 1 of section 21-10-01, subsections 7 and 13 of section
4 65-01-02, sections 65-02-01, 65-02-30, and 65-04-19.3, and subdivision b of subsection 3 of
5 section 65-05-29 of the North Dakota Century Code, relating to reference to the workforce
6 safety and insurance board of directors; and to repeal sections 65-02-03.1, 65-02-03.2, and
7 65-02-03.3 of the North Dakota Century Code, relating to the workforce safety and insurance
8 board of directors.

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

10 **SECTION 1. AMENDMENT.** Subsection 1 of section 21-10-01 of the North Dakota
11 Century Code is amended and reenacted as follows:

12 1. The North Dakota state investment board consists of the governor, the state
13 treasurer, the commissioner of university and school lands, the director of
14 workforce safety and insurance, the insurance commissioner, three members of
15 the teachers' fund for retirement board or the board's designees who need not be
16 members of the fund as selected by that board, and three of the elected members
17 of the public employees retirement system board as selected by that board. The
18 executive director of workforce safety and insurance may appoint a designee;
19 ~~subject to approval by the workforce safety and insurance board of directors,~~ to
20 attend the meetings, participate, and vote when the director is unable to attend.
21 The teachers' fund for retirement board may appoint an alternate designee with full
22 voting privileges to attend meetings of the state investment board when a selected
23 member is unable to attend. The public employees retirement system board may
24 appoint an alternate designee with full voting privileges from the public employees

1 retirement system board to attend meetings of the state investment board when a
2 selected member is unable to attend. The members of the state investment board,
3 except elected and appointed officials and the executive director of workforce
4 safety and insurance or the executive director's designee, are entitled to receive as
5 compensation sixty-two dollars and fifty cents per day and necessary mileage and
6 travel expenses as provided in sections 44-08-04 and 54-06-09 for attending
7 meetings of the state investment board.

8 **SECTION 2. AMENDMENT.** Subsections 7 and 13 of section 65-01-02 of the North
9 Dakota Century Code are amended and reenacted as follows:

10 7. "Board" means the workforce safety and insurance advisory board ~~of directors~~.

11 13. "Director" means the executive director of the organization.

12 **SECTION 3. AMENDMENT.** Section 65-02-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **65-02-01. Workforce safety and insurance - ~~Director~~ Executive director - Division**
15 **directors.** The organization must be maintained for the administration of this title. The ~~board~~
16 governor shall appoint the executive director of the organization. The director is subject to the
17 supervision and direction of the ~~board~~ governor and serves at the pleasure of the ~~board~~
18 governor. The appointment must be on a nonpartisan, merit basis, in accordance with chapter
19 54-42. The governor shall set the compensation and prescribed the duties of the director. The
20 director may appoint the director of any division established by the director. The appointment of
21 a division director must be on a nonpartisan, merit basis.

22 **SECTION 4.** A new section to chapter 65-02 of the North Dakota Century Code is
23 created and enacted as follows:

24 **Workforce safety and insurance advisory board - Composition - Compensation -**
25 **Duties.** The director shall appoint a workforce safety and insurance advisory board composed
26 of an equal number of employer representatives and employee representatives who may be
27 regarded fairly as representative because of the representative's vocation, employment, or
28 affiliations, and members representing the general public as the director may designate. The
29 board shall aid the organization in formulating policies, discussing problems related to the
30 administration of the organization, and in assuring impartiality and freedom from political
31 influence in the solution of these problems. The members of the board may be reimbursed for

1 expenses in the amounts provided by law for state officials but must serve without further
2 compensation except as may be authorized and fixed by the organization by rule. The
3 organization shall provide staff services to the board. The board shall assist the organization in
4 formulating policies and discussing problems related to the administration of the organization,
5 including adoption of rules, establishment of fees, determination of employer premium rates,
6 maintenance of the solvency of the workforce safety and insurance fund, and provision of
7 rehabilitation services. The board may make recommendations and proposals for consideration
8 by the director.

9 **SECTION 5. AMENDMENT.** Section 65-02-30 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **65-02-30. Independent performance evaluation - Organization development of**
12 **performance measurements - Continuing appropriation.** Biennially, the director shall
13 request the state auditor to select a firm with extensive expertise in workforce safety and
14 insurance practices and standards to complete a performance evaluation of the functions and
15 operations of the organization during that biennium. This may not be construed to require the
16 firm to be a certified public accounting firm. As determined necessary by the state auditor, but
17 at least once every other biennium, the biennial independent performance evaluation must
18 evaluate departments of the organization to determine whether the organization is providing
19 quality service in an efficient and cost-effective manner; evaluate the effectiveness of safety
20 and loss prevention programs under section 65-03-04; and evaluate the board to determine
21 whether the board is operating within section 65-02-03.3 and within the board's bylaws. The
22 firm's report must contain recommendations for departmental improvement or an explanation of
23 why no recommendations are being made. The director, ~~the chairman of the board,~~ and a
24 representative of the firm shall present the evaluation report and any action taken to the
25 legislative council's legislative audit and fiscal review committee and to the house and senate
26 industry, business and labor standing committees during the next regular session of the
27 legislative session following the performance evaluation. The director shall provide a copy of
28 the performance evaluation report to the state auditor. The organization shall develop and
29 maintain comprehensive, objective performance measurements. These measurements must
30 be evaluated as part of the independent performance evaluation performed under this section.

1 Money in the workforce safety and insurance fund is appropriated on a continuing basis for the
2 payment of the expense of conducting the performance evaluation.

3 **SECTION 6. AMENDMENT.** Section 65-04-19.3 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **65-04-19.3. Premium calculation programs - Authority.** ~~Upon approval of its board~~
6 ~~of directors, the~~ The organization may create and implement by emergency rulemaking
7 actuarially sound employer premium calculation programs, including dividends, group
8 insurance, premium deductibles, and reimbursement for medical expense assessments.
9 Programs under this section may be created or modified by emergency rulemaking and must
10 include requirements or incentives for the early reporting of injuries. An employer with a
11 deductible policy under this section, who chooses to pursue a third-party action under
12 section 65-01-09 after an injured worker and the organization have chosen not to pursue the
13 third-party action, may keep one hundred percent of the recovery obtained, regardless of the
14 expense incurred in covering the injury and regardless of any contrary provision in
15 section 65-01-09. If the employer pursues the third-party action pursuant to this section, neither
16 the organization nor the injured worker has any liability for sharing in the expense of bringing
17 that action.

18 **SECTION 7. AMENDMENT.** Subdivision b of subsection 3 of section 65-05-29 of the
19 North Dakota Century Code is amended and reenacted as follows:

20 b. An adjudication by the organization or by order of ~~the board~~ or any court, if
21 the final decision is that the payment was made under an erroneous
22 adjudication, in which cases the recipient shall repay it or recoupment of any
23 unpaid amount may be made from any future payments due to the recipient
24 on any claim with the organization;

25 **SECTION 8. REPEAL.** Sections 65-02-03.1, 65-02-03.2, and 65-02-03.3 of the North
26 Dakota Century Code are repealed.