

2021 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1051

2021 HOUSE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee
Room JW327C, State Capitol

HB 1051
1/6/2021

Attorney's fees & reimbursement to employers, payment of fees associated with credit or debit card payments & settlements regarding amounts owed by employer

Chairman Lefor: Opens the hearing on HB 1051 at (11:15) Members present: Chairman Lefor, Vice Chairman Keiser, Rep Hagert, Rep Jim Kasper, Rep Scott Louser, Rep Nehring, Rep O'Brien, Rep Ostlie, Rep Ruby, Rep Schauer, Rep Stemen, Rep Thomas, Rep Adams, Rep P Anderson

Discussion Topics:

- Provides reimbursement of attorney fees to an employer faced with an uninsured or noncompliant status in a state other than North Dakota in need of legal representation.

Anne Jorgenson Gree~Legal Services Director & Staff Counsel at WSI (11:15): Introduced the bill & submitted testimony # 55 & 179.

Chairman Lefor (11:44): Closes the hearing.

Vice Chairman Keiser (11:44): Amend to put add emergency clause.

Rep D Ruby: Second.

Voice Vote~Motion carried.

Rep D Ruby (11:46): Moved a Do Pass as Amended.

Rep Kasper: Second.

Additional written testimony: No additional written testimony.

Representatives	Vote
Representative Mike Lefor	Y
Representative George Keiser	Y
Representative Mary Adams	Y
Representative Pamela Anderson	Y
Representative Jared C. Hagert	Y
Representative Jim Kasper	Y
Representative Scott Louser	Y
Representative Dave Nehring	Y
Representative Emily O'Brien	Y
Representative Mitch Ostlie	Y
Representative Dan Ruby	Y
Representative Austen Schauer	Y
Representative Greg Stemen	Y
Representative Paul J. Thomas	Y

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(11:48) Motion passed 14-0-0 & Rep Ostlie is the carrier.

Ellen LeTang, Committee Clerk

January 6, 2021


1/6/21

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1051

Page 1, line 7, remove the second "and"

Page 1, line 8, after "application" insert "; and to declare an emergency"

Page 4, after line 12, insert:

"SECTION 9. EMERGENCY. This Act is declared to be an emergency
measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1051: Industry, Business and Labor Committee (Rep. Lefor, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1051 was placed on the Sixth order on the calendar.

Page 1, line 7, remove the second "and"

Page 1, line 8, after "application" insert "; and to declare an emergency"

Page 4, after line 12, insert:

"SECTION 9. EMERGENCY. This Act is declared to be an emergency measure."

Re-number accordingly

2021 House Bill No. 1051
Testimony before the House Industry, Business and Labor Committee
Presented by Anne Jorgenson Green
Workforce Safety and Insurance
January 6, 2021

Mr. Chairman and Members of the Committee:

My name is Anne Jorgenson Green, Legal Services Director and Staff Counsel at WSI. I am here today to provide testimony regarding House Bill No. 1051. The WSI Board approves this bill.

Section 1. Section 1 proposes a new section to Chapter 65-02. Title 65 provides for payment of attorney fees for injured employees. This proposed provision provides reimbursement of attorney fees to an employer faced with an uninsured or noncompliant status in a state other than North Dakota and in need of legal representation. The situation typically presents itself when a claim for benefits is filed outside of North Dakota. This can happen when the place of injury is out of state or an injured employee's permanent address is out of state. Reimbursement is permissible only if WSI determines the employer did not have significant contacts in that other state.

Section 2. Section 2 creates a new section to Chapter 65-02 by creating a continuing appropriation for payment of fees attributable to credit and debit card payments made to WSI. These charges fluctuate substantially from year to year necessitating a more flexible option than estimating an amount for the biennial budget.

Section 3. The amendments contained in Section 3 of the bill propose to codify and clarify the application of audit findings of the Organization. The language makes clear that audit findings are applicable only to an audited period and the policy period following that audited period. An exception is contained in this proposed language which provides for further applicability to an audit finding in the case of intentional misrepresentation of premium.

Sections 4 and 5. The proposed changes to Section 4 and 5 permit WSI to retain attorneys on both a contingent and an hourly basis for their work on WSI litigation.

Section 6. The proposed amendment in section 6 corrects an error in the statute replacing the word "premium" with the word "payroll." There is no substantive intent associated with the change.

Section 7. Section 7 proposes to create a new section, this time to Chapter 65-04. Title 65 provides a number of references to the settlement authority of the agency. A collective read of these provisions provides authority for WSI to settle files on both the injured employee and employer sides of the business, however no section speaks directly to WSI's ability to settle premium disputes. Our experience tells us that in some cases, it makes fiscal sense to compromise premium owing to resolve outstanding unpaid workers' compensation premium.

Section 8. Section 8 provides an application to section 1 of the Bill. Under this application, fees are eligible for reimbursement if the fees are incurred after July 31, 2021.

That concludes my testimony. I am happy to answer any questions you may have.

**WORKFORCE SAFETY & INSURANCE
2021 LEGISLATION
SUMMARY OF ACTUARIAL INFORMATION**

BILL NO: HB 1051

BILL DESCRIPTION: WSI Employer Services Bill

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its consulting actuaries, The Burkhalter Group, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation:

- Provides for payment of attorney fees for an employer involved in a jurisdictional dispute in another state when WSI determines the employer did not have significant contacts in that other state.
- Establishes a continuing appropriation for the payment of fees associated with credit and debit card payments made to the organization.
- Provides explicit authority for the settlement of premium disputes.
- Clarifies the application of premium audit findings.
- Permits WSI to retain counsel on both a contingent and hourly basis for work on WSI litigation.

FISCAL IMPACT: No significant impact to premium rate levels is anticipated.

DATE: December 28, 2020

2021 SENATE INDUSTRY, BUSINESS AND LABOR

HB 1051

2021 SENATE STANDING COMMITTEE MINUTES

Industry, Business and Labor Committee Fort Union Room, State Capitol

HB 1051
2/10/2021

relating to audit of employers

Chair Klein opened the hearing at 10:15 a.m. All members were present. Senators Klein, Larsen, Burckhard, Vedaa, Kreun, and Marcellais.

Discussion Topics:

- Employee Benefits

Ann Green, WSI testified in support and submitted testimony #6134 [10:15].

Russ Hanson, Associated General Contractors of ND testified in favor [10:20].

Senator Burckhard moved a DO PASS [10:23]

Senator Larsen seconded the motion [10:23].

[10:23]

Senators	Vote
Senator Jerry Klein	Y
Senator Doug Larsen	Y
Senator Randy A. Burckhard	Y
Senator Curt Kreun	Y
Senator Richard Marcellais	Y
Senator Shawn Vedaa	Y

Motion Passed: 6-0-0

Senator Larsen will carry the bill [10:24].

Chair Klein closed the hearing at 10:25 a.m.

Isabella Grotberg, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1051, as engrossed: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1051 was placed on the Fourteenth order on the calendar.

2021 Engrossed House Bill No. 1051
Testimony before the Senate Industry, Business and Labor Committee
Presented by Anne Jorgenson Green
Workforce Safety and Insurance
February 10, 2021

Mr. Chairman and Members of the Committee:

My name is Anne Jorgenson Green, Legal Services Director and Staff Counsel at WSI. I am here today to provide testimony regarding Engrossed House Bill No. 1051. The WSI Board approves this bill.

Section 1. Section 1 proposes a new section to Chapter 65-02. Title 65 provides for payment of attorney fees for injured employees. This proposed provision provides reimbursement of attorney fees to an employer faced with an uninsured or noncompliant status in a state other than North Dakota and in need of legal representation. The situation typically presents itself when a claim for benefits is filed outside of North Dakota. This can happen when the place of injury is out of state or an injured employee's permanent address is out of state. Reimbursement is permissible only if WSI determines the employer did not have significant contacts in that other state.

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Section 8. Section 8 provides an application to section 1 of the Bill. Under this application, fees are eligible for reimbursement if the fees are incurred after July 31, 2021.

Section 9. Section 9 was added in the engrossed version of this bill, where this Act is declared an emergency measure.

That concludes my testimony. I am happy to answer any questions you may have.