Sixty-third
Legislative Assembly
of North Dakota

SENATE BILL NO. 2080

Introduced by

Industry, Business and Labor Committee

(At the request of Workforce Safety and Insurance)

A BILL for an Act to amend and reenact sections 65-04-20 and 65-04-22, subsection 3 of section 65-04-33, subsection 1 of section 65-05-29, sections 65-06-03 and 65-06-04, subsection 2 of section 65-07-03, section 65-07.1-02, and subsection 5 of section 65-08-01 of the North Dakota Century Code, relating to premium payments, workers' compensation premiums, penalties for failure to secure coverage, assignment of claims, and volunteer health practitioner benefits; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 65-04-20 of the North Dakota Century Code is amended and reenacted as follows:

65-04-20. Installment payment of premiums - Interest required.

An employer, subject to section 65-04-22, may pay the annual premium in installments.

Interest must be charged at the prevailing base rate posted by the Bank of North Dakota plus two and one-half percent. The interest charged must be at least six percent per annum. Interest must be charged on all premiums deferred under this section. Upon default in payment of any installment, the penalties apply which are provided in sections 65-04-22 and 65-04-33.

SECTION 2. AMENDMENT. Section 65-04-22 of the North Dakota Century Code is amended and reenacted as follows:

65-04-22. Organization may make premium due immediately - When premium is in default.

The organization~~, by its proper order, and notification upon the premium billing statement sent to an employer,~~ may require payment of a premium, including an advance premium, within any time ~~less than one month~~ which, in the judgment of the organization, is reasonable and necessary to secure the payment of the premium by any employer ~~whose employment within this state is likely to continue for less than one month, and in such case, default shall begin at~~

~~the end of the time allowed by the organization for the payment of the premium. In the absence of an order and notification, the~~. The premium, whether ~~the same is to be~~ paid in full or in installments, shall be in default one month from the payment due date specified in the premium billing statement.

Default of any installment payment will, at the option of the organization, make the entire remaining balance of the premium due and payable. The organization may declare an employer ~~to be~~ uninsured at any time after forty-five days have passed from the due date specified in the premium billing statement and the employer has failed to make a payment to the organization. The organization may decline coverage to any employer that has been determined to be uninsured under this section ~~and the~~or where a premium delinquency remains unresolved.

SECTION 3. AMENDMENT. Subsection 3 of section 65-04-33 of the North Dakota Century Code is amended and reenacted as follows:

3. An employer who is uninsured is liable for any premiums plus penalties and interest due on those premiums, plus a penalty of twenty-five percent of all premiums due during the most recent year of noncompliance. An additional five percent penalty is due for each year of noncompliance before the most recent year beginning on the date the organization became aware of the employer's uninsured status, resulting in the penalty for the second most recent year being thirty percent, for the third most recent year being thirty-five percent, for the fourth most recent year being forty percent, for the fifth most recent year being forty-five percent, and for the sixth most recent year being fifty percent. In addition, the organization may assess a penalty of two thousand dollars for each premium period the employer was uninsured. The organization may not assess a penalty for more than six years of past noncompliance. The organization may assess additional penalties, from the date the organization became aware of the employer's uninsured status continuing until the effective date of coverage, equal to twenty-five percent of the premium due for that period. The penalties for employers are in addition to any other penalties provided by law. The organization may reduce these penalties. However, the amount due from an employer may not be less than the actual cost and reserves of any claim attributable to the employer during the time the employer was uninsured, unless authorized by the

director. An employer may not appeal an organization decision not to reduce a penalty under this subsection.

SECTION 4. AMENDMENT. Subsection 1 of section 65-05-29 of the North Dakota Century Code is amended and reenacted as follows:

1. Any assignment of a claim for compensation under this title is void. All compensation and claims therefor are exempt from claims of creditors except any of the following:
   a. A child support obligation ordered by a court of competent jurisdiction.
   b. A claim by job service North Dakota for reimbursement of unemployment benefits, for the amount that was paid by job service North Dakota during the period for which the claimant is found eligible for temporary total or permanent total disability benefits, not to exceed the disability award actually made by the organization.
   c. A claim by the organization for any payments made due to:
      (1) Clerical error, mistake of identity, innocent misrepresentation by or on behalf of the recipient, or any other circumstance of a similar nature, all not induced by fraud, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the organization;
      (2) An adjudication by the organization or by order of any court, if the final decision is that the payment was made under an erroneous adjudication, in which cases the recipient shall repay it or recoupment of any unpaid amount may be made from any future payments due to the recipient on any claim with the organization;
      (3) Fraud, in which case the recipient shall repay the payment or the unpaid amount of the sum may be recouped from any future payments due to the recipient on any claim with the organization; ~~or~~
      (4) Overpayment due to application of section 65-05-09.1~~.~~; or
      (5) A claim by the organization for premiums, penalties, and interest under chapter 65-04.

SECTION 5. AMENDMENT. Section 65-06-03 of the North Dakota Century Code is amended and reenacted as follows:

65-06-03. Compensation benefits - How determined.

The basis of compensation and benefits to be paid to a volunteer firefighter, an emergency or disaster volunteer, volunteer health practitioner, or a community emergency response team member under the terms of this chapter shall be determined in accordance with the provisions of section 65-05-09; provided, however, that the weekly wage of the claimant shall be determined from a computation of income derived from the claimant's business or employment.

SECTION 6. AMENDMENT. Section 65-06-04 of the North Dakota Century Code is amended and reenacted as follows:

65-06-04. Assessment of premiums.

For the purpose of making assessments of premiums to be charged against municipalities for protection of volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members, the organization shall make such survey as may seem advisable to ascertain the probable annual expenditures necessary to be paid out of the fund to carry out ~~the provisions of~~ this chapter, and shall fix the annual charges and assessments which ~~shall~~must be made against municipalities employing volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members. ~~Such~~The charge ~~shall~~must be a fixed sum for each one hundred of the population of the municipality involved~~, the same to be~~ and uniform as to all such involved municipalities but in proportion to the population ~~thereof~~of the municipality. In determining the amount of premium charge, the organization may apply the system of experience rating provided in this title, as applied to other risks. The organization may ~~also~~ establish a minimum charge or assessment to be applicable to ~~municipalities where~~any municipality for which the fixed rate or charge multiplied by the number of hundreds of the population ~~thereof~~of the municipality would amount to less than the amount of ~~such~~the minimum charge or assessment. The population of a municipality shall be that shown by the latest official North Dakota state or United States government census, whichever may be the later.

SECTION 7. AMENDMENT. Subsection 2 of section 65-07-03 of the North Dakota Century Code is amended and reenacted as follows:

2. A reasonable wage or fee as determined by the organization for employees in the same class of industry that the volunteer organization is engaged.

SECTION 8. AMENDMENT. Section 65-07.1-02 of the North Dakota Century Code is amended and reenacted as follows:

65-07.1-02. Vocational training or work evaluation programs - Organization may contract.

Whenever an agency or organization has been approved as an employer under subsection 2 of section 65-07.1-01, the organization may contract with the agency or organization for the coverage of participants in a program of vocational training or work evaluation. The premium for the coverage ~~shall~~must be ~~computed at the rate in which each participant is engaged and shall be based on a reasonable weekly wage as established in the contract~~based on a reasonable wage or fee as determined by the organization for employees in the same class of industry that the employer is engaged.

SECTION 9. AMENDMENT. Subsection 5 of section 65-08-01 of the North Dakota Century Code is amended and reenacted as follows:

5. An employer who opens an employer account with the organization under this section is obligated to report all wages ~~paid~~earned in this state, regardless of whether the significant contacts factors set forth in subsection 4 have been met.

SECTION 10. APPLICATION. Section 3 applies to all accounts in noncompliance on or after the effective date of this Act. Section 4 applies to all claims by the organization for premiums, penalties, and interest after the effective date of this Act.