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DESCRIPTION

1239

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1239

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1239

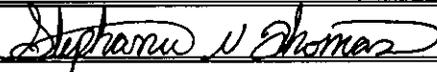
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2400

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1239.

Rep. Bill Amerman, District 26: This bill comes from many areas. It comes from my experience with 15 years working at the Bobcat Company listening to employees about problems with WSI. Some of the bills have come from what I've heard, and being a part of the interim committee for WSI review committee, some comes from constituents, and most of them are a combination of all the things I've mentioned. This bill deals with the offset from social security retirement under 65-05-09.2, and to explain this I'm going to go back to the one section 65-09.1, and that deals with disability under workers comp plus social security disability. Under that there is a federal mandate that there has to be an offset from the federal government. It's my understanding it can be offset on the social security side, or it can be offset by WSI. It is offset by WSI, because that saves them money, and I have no problem with that, but there has to be an offset, and there are two things WSI disability, and social security disability. What this bill deals with is when it gets to social security retirement, when you hit the age to get social security retirement, then there is no federal mandate to offset that. The federal government says your at social security retirement age, and we no longer feel we

need to offset that, but we still offset it in the state through workers comp, WSI. This bill tries to correct that.

Rep. Zaiser: When does the federal government make that determination, or has it been since day 1?

Rep. Amerman: I'm not sure. All I know is that it's in code.

David Kemnitz, AFLCIO: Support HB 1239. There is no reason for that offset; in fact it's an unjust admission of the fund.

Sebald Vetter, CARE: Support HB 1239.

Linda Johnson Wurtz, AARP: Support HB 1239.

Kevin Paulson, Injured Worker: Support HB 1239.

Brenda Paulson, Spouse of Injured Worker: Support HB 1239.

Ed Christianson, CARE: Support HB 1239.

Anne Jorgenson Green, WSI: Opposed to HB 1239. See written testimony #1.

Rep. Zaiser: Can you tell me what kind of impact that would have on the actual rate to business owners?

Anne: Since we are talking about a fiscal impact only on pre 1995 claims, there is no impact on rates.

Rep. Zaiser: So, if there would be no impact on rates, then where do you get the money?

Anne: That would come out of the fund surplus.

Rep. Kasper: How many people right now qualify for this bill's benefits?

Anne: At this point there are 763 known permanent and totally disabled workers who fall under the pre 1995 law.

Rep. Kasper: Have you looked at what the average monthly additional benefit for each of these 763 people would be?

Anne: I have not looked at that. That would depend on each individual average weekly wage at the time of injury.

Rep. Kasper: Getting to this \$14 million dollar projected cost, you said that would come out of the surplus, and it won't affect the rates. So, you're giving us this information only from the fact that you're suspecting to payout \$14 million dollars to the 763 people, but it won't affect the rates at all, so it won't affect the current employers and cost, is that correct?

Anne: Correct.

Rep. Amerman: Of the \$14 million, how far out is it that you project what this might cost? How many years on it?

Anne: That is a question that's derived out of our conversations with our actuary. It's based on the life expectancy of injured workers, and based on the number of known permanent and totally disabled injured workers who would fall under this particular bill.

Rep. Amerman: You mentioned that this would affect 763 pre 1995, so the 763 are now being offset under the retirement, correct?

Anne: That's correct.

Rep. Amerman: They're getting regular social security retirement, and WSI has been offsetting this, and it's not mandatory. The federal government needs to be offset, so why have we always been offsetting these if the federal government feels they don't have to offset these?

Anne: The benefit that is paid to injured workers is a wage replacement. Once an injured worker reaches retirement age, he is no longer in the workforce, and that benefit converts from a wage replacement benefit to the federal system, which pays from the retirement fund. As a consequence, the federal government pays our retirees their retirement and the offset to the worker with a wage replacement by statute takes care of that.

Rep. Thorpe: Can you tell me the workers insurance when they said forward their need to reserve that which had a surplus, and payback to employees on their fund, or discount on what they paid? What was the amount on that?

Anne: There have been two premium dividend discounts awarded to employers out of previous two policy periods. Those amounted to about 40% for each payroll period.

Rep. Thorpe: I'm wondering what the total amount was?

Anne: I don't know.

Rep. Dosch: You indicated that disparities already exist between the pre and post 1995 infrastructure. Can you just expand on that a little bit, what their disparities are?

Anne: What I can compare is the pre 1995 benefit and the post 1995 benefit. Under a pre 1995 retirement benefit an injured worker receives disability benefits for life. There is no end to the disability benefits. In addition, an injured worker will receive a cost of living adjustment, or supplementary benefits. Under this bill that injured worker would receive the lifetime benefit, a supplementary benefit, no offset of the social security amount, which you would receive upon retirement, and a cost of living increase that would accompany a social security amount. Under the post 1995 benefit structure, the benefits end upon retirement. There is an additional benefit payable to an injured worker based on the number of years that he is on the workers compensation system. Plus, the benefits for the post 1995 are offset by the amount of dollars you can receive under the social security program.

Rep. Kasper: Where does that additional benefit payment come from?

Anne: That is a WSI benefit.

Rep. Kasper: Is there an offset under the post 1995 for social security?

Anne: Yes.

Rep. Amerman: The \$14 million dollars is this a lifetime cost? If this bill passes, is there a cost for the next biennium? Do you have the cost broken down of what it would cost this biennium, or some years forward?

Anne: This is not broken down by biennium. This is the anticipated price tag of this particular bill for the entire benefit that we can pay them with, should this get passed.

Rep. Zaiser: There were 471 people that are affected by this. So, the \$14 million is the cost, right?

Anne: There are 763 at a cost of \$14 million dollars.

Rep. Kasper: Getting back to the post 1995 benefits at retirement converting to the additional benefit payable. If the WSI benefit that an injured worker were receiving pre retirement, lets just say \$1,000 a month, converts to a post retirement benefit, do they get more than the \$1,000, less then the \$1,000, or about the same as the \$1,000 compared to what they were getting post retirement?

Anne: Under an ABP, an ABP benefit is payable based on the number of years the injured worker has been on disability benefits, the percentage scheduled out on cash.

Rep. Kasper: So, what does that mean in terms of the amount that they receive? Let's say that they are totally disabled, and have been on claim for 5 years, and getting \$1,000 a month in benefits from WSI. Does that mean with a short duration of disability, their benefit will drop substantially?

Anne: That is correct.

Rep. Keiser: There is a surplus in the fund, because prior to last session the actuaries were required to look at the exposure to the fund and cover it 100% with a reserve dollar. That money came from the employers of our state. Two years ago, we passed a bill saying given that we're a monopolistic fund, given that the state of ND is behind this fund, it is probably

more reasonable to use a discounted approach to the reserve. It's going to create interest over the next 20 years, over which that period of time these claims will be paid out, but the only reason there's an excess in the fund was that we changed the accounting. The employers paid for that, so the reason we gave that money back to them is because they paid it.

Rep. Zaiser: Using \$14 million and 763 people, we're talking an average of \$29,732 per person. That seems like an awfully high number. Are there any other programs, or any other ways that you can provide benefits through WSI, where you use a COLA?

Anne: No.

Hearing closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1239

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2405

Committee Clerk Signature

Stephanus W Thomas

Minutes:

Chair Keiser opened the hearing on HB 1239. You have general funds and other funds, but actually when they put it into the reserve category it's not in the fund any longer, so it's not part of their funding, so it wouldn't qualify in the upper portions of this fiscal note paid.

Rep. Zaiser: I move a do pass.

Rep. Amerman: Second.

Rep. Kasper: I think that \$14 million hit to the fund when they're dealing with future benefits, discounted value of future benefits, what they're saying is you start paying these benefits out of a reserve, we're going to lose money out of the reserve, which is going to take of the principal, and future earnings on that amount we pay out. So, as time goes on where we compound the principal plus the loss of the future earnings that gets to the total of the \$14 million hit over time to the fund.

Rep. Dosch: The issue I have with this bill, I certainly sympathize with the workers, but forgetting about WSI for a second and looking at the private sector, what happens if I'm driving home today and I get in a major car crash, and I am permanently and totally disabled. I have a separate disability policy, and that policy will offset against anything I would get whether it be a work injury, or disability from social security, that policy will offset.

Rep. Kasper: In most cases the offset is with a group disability policy, and employers purchase on a group basis for employees, and they have the offset with social security. If you purchase an individual policy, then you have the option as the purchaser. You can buy the policy that would offset against social security, or you could buy a policy that does not offset social security, and paid you the benefit regardless of what your other income is. You can also add writers that would build a retirement benefit for you like you would have if you put the money in 401K, or IRA. It all depends on the level of premium you wish to pay for the benefit you wish. What this bill does is the same thing; it's saying if we want more benefit, it's going to cost more money.

Rep. Thorpe: Ever since I started here we've been working with this workers insurance. A gentleman in my district has been greatly affected by this. As he got injured, and was unable to take care of himself, his wife has been a real saint taking care of him, and so he's lived well beyond those 6 years, and is still. So, I'm going to support this bill.

Rep. Zaiser: I support this bill for two reasons. We passed a bill that limited the amount that they could have in that bond, and these are helping people that are unable to buy the separate disability policy, because they're already put of work, and in most cases have very limited funds. Do to those factors, I support this bill.

Roll call vote was taken. Motion Fails, 6 Yeas, 7 Nays, 1 Absent.

Rep. Ruby: I move a do not pass.

Rep. Vigesaa: Second.

Rep. Thorpe: As I pay in my premiums, I certainly would want to be satisfied with the insurance company that was claiming that it's going to be taking care of the injured worker.

Roll call vote was taken. 8 Yeas, 5 Nays, 1 Absent, Carrier: Rep. Kasper

Hearing closed.

FISCAL NOTE
 Requested by Legislative Council
 01/10/2007

Bill/Resolution No.: HB 1239

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

| | 2005-2007 Biennium | | 2007-2009 Biennium | | 2009-2011 Biennium | |
|-----------------------|--------------------|-------------|--------------------|-------------|--------------------|-------------|
| | General Fund | Other Funds | General Fund | Other Funds | General Fund | Other Funds |
| Revenues | | | | | | |
| Expenditures | | | | | | |
| Appropriations | | | | | | |

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

| 2005-2007 Biennium | | | 2007-2009 Biennium | | | 2009-2011 Biennium | | |
|--------------------|--------|------------------|--------------------|--------|------------------|--------------------|--------|------------------|
| Counties | Cities | School Districts | Counties | Cities | School Districts | Counties | Cities | School Districts |
| | | | | | | | | |

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The proposed legislation would eliminate the workers compensation Social Security Retirement (SSR) offset for pre-August 1, 1995 injuries.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

WORKFORCE SAFETY & INSURANCE
 2007 LEGISLATION
 SUMMARY OF ACTUARIAL INFORMATION

BILL NO: HB 1239

BILL DESCRIPTION: Elimination of Social Security Retirement (SSR) Offset

SUMMARY OF ACTUARIAL INFORMATION: Workforce Safety & Insurance, together with its actuary, Glenn Evans of Pacific Actuarial Consultants, has reviewed the legislation proposed in this bill in conformance with Section 54-03-25 of the North Dakota Century Code.

The proposed legislation would eliminate the workers compensation Social Security Retirement (SSR) offset for pre-August 1, 1995 injuries.

Reserve Level Impact: We estimate the discounted value of SSR offsets on future benefit payments for known claims to be in excess of \$14 million. To the extent additional claims emerge the cost estimates would be higher.

Rate Level Impact: The proposed legislation does not apply to future claims and should not increase future premium rate levels as it applies to pre-August 1, 1995 injuries.

DATE: January 30, 2007

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. **Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

C. **Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.

| | | | |
|----------------------|----------------|-----------------------|------------|
| Name: | John Halvorson | Agency: | WSI |
| Phone Number: | 328-3760 | Date Prepared: | 01/30/2007 |

Date: 1-31-07
Roll Call Vote #: 1

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1239

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Zaiser Seconded By Rep. Amerman

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman Keiser | | X | Rep. Amerman | X | |
| Vice Chairman Johnson | | | Rep. Boe | X | |
| Rep. Clark | | X | Rep. Gruchalla | X | |
| Rep. Dietrich | | X | Rep. Thorpe | X | |
| Rep. Dosch | | X | Rep. Zaiser | X | |
| Rep. Kasper | X | | | | |
| Rep. Nottestad | | X | | | |
| Rep. Ruby | | X | | | |
| Rep. Vigasaa | | X | | | |
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Total Yes 6 No 17

Absent 1

Floor Assignment Rep. Kasper

If the vote is on an amendment, briefly indicate intent:

Date: 1-31-07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 1239

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Rep Ruby Seconded By Rep Vigesaa

| Representatives | Yes | No | Representatives | Yes | No |
|-----------------------|-----|----|-----------------|-----|----|
| Chairman Keiser | X | | Rep. Amerman | | X |
| Vice Chairman Johnson | | | Rep. Boe | | X |
| Rep. Clark | X | | Rep. Gruchalla | | X |
| Rep. Dietrich | X | | Rep. Thorpe | | X |
| Rep. Dosch | X | | Rep. Zaiser | | X |
| Rep. Kasper | X | | | | |
| Rep. Nottestad | X | | | | |
| Rep. Ruby | X | | | | |
| Rep. Vigesaa | X | | | | |
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Total Yes 8 No 5

Absent 1

Floor Assignment Rep. Kasper

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 31, 2007 1:35 p.m.

Module No: HR-21-1660
Carrier: Kasper
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1239: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING).
HB 1239 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1239

2007 House Bill No. 1239
Testimony before the House Industry, Business, and Labor Committee
Anne Jorgenson Green, Staff Attorney
Workforce Safety and Insurance
January 31, 2007

Mr. Chairman, Members of the Committee:

Good Morning. My name is Anne Jorgenson Green and I am staff counsel for Workforce Safety and Insurance (WSI). I am here to testify in opposition to HB 1239. The bill proposes the removal of the social security retirement (SSR) offset for a select group of permanently and totally disabled injured workers. The WSI Board of Directors opposes this bill. Variations of HB 1239 have been proposed unsuccessfully during the past two legislative sessions.

This proposed bill applies to only to pre-1995 injuries. The pre-1995 benefit structure allowed disability payments to extend into retirement with annual cost of living adjustments (COLAs) for the life of the injured worker.

Under the post-1995 benefit structure, disability benefits end at retirement eligibility and convert to a post-retirement benefit called an additional benefit payable. Disparities already exist between the pre-1995 (lifetime benefits) and post-1995 (benefits to retirement) benefit structures. The proposed bill will serve to widen that gap even further.

The fiscal impact of this proposal estimates an increase in the discounted value on future benefit payments for known claims to be in excess of \$14 million. To the extent additional claims emerge; the cost estimates would be higher.

For these reasons, WSI requests a "do not pass" on HB 1238. That concludes my testimony. I am happy to answer any questions that you may have.

#1

Amerman, Bill D.

From: efrpco@srt.com
Sent: Tuesday, January 30, 2007 11:44 PM
To: Amerman, Bill D.
Subject: Workers comp bills

Hi:

I am unable to come to testify on several work comp bills scheduled since HB 1038 was heard in IBL. January 31 is hearing day on workers comp bills. Please indicate for me that I believe HB 1285 has better language to provide death benefits for my wife than the mushy "catastrophic injury" language of HB1038.

HB 1239 addresses a matter I am currently bringing to appeal. The effect is positive for me.

Please reiterate my feelings in my absence. I am headed to Mayo Clinic this weekend.

Thank you for your help.

Tim

Timothy Effertz
11600 20 Ave. SE
Minot, ND 58701-2635