

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

19285

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1285

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1285

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2401, 2406

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1285.

Rep. Bill Amerman, District 26: This is a simple bill that would enable the spouse to benefit, and collect the benefits of whichever spouse that's passed away. It just passes on to the surviving spouse the benefits that the deceased would have received before they passed away. It's pretty simple, and usually with an injured worker the spouse has probably had to give up employment to take care of the injured spouse maybe a number of years, maybe not so many, but I think it's just fair that they've shared their life together, and whatever hardship that was endured by the injury is certainly endured by the spouse. I think it's only fair and fitting that this be passed on to the surviving spouse.

Rep Keiser: As I look at this, you're dealing with really the most injured workers in this request.

Rep. Amerman: Yes.

Tim Effertz, Injured Worker: See written testimony #1.

David Kemnitz, AFLCIO: Support HB 1285. The caregivers don't get a lot of attention in the system, and there is bill provisions that I'm aware of that really provide for the domestic caregiver, their spouses. This adds other clients with a plain view in their eyes, and major

experiences are an important part of getting something back to a caregiver who over the years has selflessly provided some comfort to the individual. So, as the claimants come to you today, their explanation of it is their desire to see something passed down to someone, who in all those years has provided the very essence of a quality of life that only they could provide.

Sebald Vetter, CARE: Support of HB 1285.

Leroy Volk, Injured Worker: Support of HB 1285.

Kevin Paulson, Injured Worker: Support of HB 1285.

Dan Finneman, Injured Worker: Support of HB 1285.

See handout A.

Brenda Paulson: Support HB 1285.

Toby Lamare, Injured Worker: Support HB 1285.

Bill Shalhoob, Chamber of Commerce: Opposed to HB 1285. See written testimony #2.

Rep. Amerman: When workers comp was received, workers would be covered, and gave up the right to sue the employers. They'd be taken care of if they got hurt on the job. In your estimate, how many people that the chamber represents would vote just to do away with workers comp, and not have to pay any premiums?

Bill: We have had those discussions in terms of privatizing at workforce safety. The chamber is not in favor of privatizing workforce safety. We understand that this is an insurance fund, and as such, there will be winners and losers within it, the same as there is in house insurance, and the overall system in place in ND in terms of especially considering the small state that we are and population. It provides in terms of employers and employees the best coverage, and the benefit ratio given to employees is 26th in the country, best in good. The premiums are also good, so no we don't think that the whole sale will change the system in terms of privatization, which would be good for the state, and good for many employers.

Rep. Zaiser: Almost a century ago, the workers compensation program started to compensate workers for their loss for injury on the job, so they could get partial disability or permanent disability. You indicated winners and losers; I always thought it was set up to be a fair compensation for the injured. Wouldn't you say that's the way it should be done?

Bill: My reference to winners and losers had to do with employer groups and paying premiums. In terms of privatizing workforce safety, there would be winners and losers. Many employers premiums would go down substantially and they'd go up substantially. Our only opposition to this bill philosophically goes to the difference between a disability payment, and a survivor's benefit, and do we really want to go there. As a business concept, they are two entirely different things, and we're crossing a line here when we start to say workforce safety is dividing survivor benefits instead of disability benefits.

Rep. Thorpe: The workers insurance premium rate in the state is not the lowest, correct?

Bill: That is correct.

Rep. Thorpe: So, how do you correlate how we take care of injured workers, verses the lowest rate?

Bill: I'd say that one has nothing to do with the other in terms of philosophically. They can, but how it happens is that through the period of the 90's, rates were really high. Then as part of the 1995 reforms, one of the biggest reforms nobody talks about is that the employer now pays in affect a \$250.00 deductible. That is the first \$250.00 with every claim that comes in, and we're still doing that today. That coupled with the accounting change the chairman mentioned caused the fund to grow, which has to do with the rates. The benefits are set by the legislature. The money in the fund has to do with a lot of other things that are not necessarily related to the benefit package.

Jodi Bjornson, WSI: Neutral on HB 1285. See written testimony #3.

Rep. Amerman: The 1% just on average, is there a number you could give me?

Jodi: 1% would equate to approximately \$1 million.

Rep. Keiser: You said this would extend these benefits for someone who died as a result of a work related injury. I see it as the benefits are going to be extended. The death doesn't have to be work related.

Jodi: Correct.

Rep. Dosch: In your testimony you indicate that supplement benefits are payable when an individual has been deemed permanently and total disabled, and has been receiving disability benefits for 7 consecutive years, or to a survivor who has been receiving death benefits for a period of 7 consecutive years. I'm confused by what exactly that is, what is a survivor receiving?

Jodi: Under our death benefit statute, an injured worker who dies on circumstances outlined in the death benefit statute, as it directly revolves around the working rate, their surviving spouse is entitled to up to \$250,000 in death benefits.

Rep. Kasper: So, on the \$250,000 death benefit, that is not a lump sum payment? It's a monthly benefit, or is that your choice of a survivor of how they receive the \$250,000, or is it in statute of how they receive it?

Jodi: A little bit of both. Your death benefit payment is usually equal to their disability benefit rate, which would be 50/50.

Rep. Kasper: So, if the surviving spouse said I just want my lump sum of \$250,000, then you pay it, or is it at the discretion of WSI to say no, we really want to pay this out to you over a period of time. How does that part work?

Jodi: There's a settlement committee within WSI.

Hearing closed.

Chair Keiser reopened the hearing on HB 1285.

Rep. Zaiser: I move a do pass.

Rep. Thorpe: Second.

Rep. Ruby: I do think this is a very good shift for what insurance is for, and this does make what is now a disability benefit a survivor's benefit.

Rep. Amerman: Workers comp was formed in 1919, and workers gave up the right to sue so they'd be taken care of, and share in certain relief. I don't think it would be sure and certain relief for this number of years, or is it sure and certain relief that if they never recovered from that injury that sure and certain relief would carry that and all the hardships, and sacrifices the family made, that they still would be taken care of.

Rep. Dosch: What we passed out of here last week or two, the \$250,000, we changed that to a death benefit, and that the spouse is entitled to if an injured worker dies, is that correct?

Rep. Keiser: Correct.

Roll call vote was taken. 5 Yeas, 8 Nays, 1 Absent, motion fails.

Rep. Vigesaa: I move a do not pass on HB 1285.

Rep. Ruby: Second.

Rep. Keiser: It is sad that the people that appear before this committee, and in our interim committee, they are suffering, and it's a very difficult situation.

Rep. Ruby: If the death benefit is changed from life insurance that we have now to something that's a online payment, that would be wonderful, and that payment of course is completed upon that death if it's the cause of a work related injury. I just think this is the wrong place to do this.

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

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
01/10/2007

Bill/Resolution No.: HB 1285

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 transfers permanent total disability and related benefits to a surviving spouse of an injured employee at the time of death of the injured employee regardless of cause of death and applies to claimants who die on or after the effective date of this act.

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 1285

BILL DESCRIPTION: Permanent Total Disability (PTD) Benefit Continuation for Spouse

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 transfers permanent total disability and related benefits to a surviving spouse of a permanently and totally disabled injured employee at the time of death of the injured employee regardless of cause of death and applies to claimants who die on or after the effective date of this act.

Reserve Level Impact: The proposed legislation can be expected to increase discounted reserve levels for known claims by more than \$13 million. To the extent additional claims emerge the cost estimates would be higher.

Rate Level Impact: The proposal will serve to increase the costs associated with future claims. Currently, it is estimated that 40 Permanent Total Disability claims will arise out of each injury year of which approximately 24 will have a spouse. Based on this assumption, the proposal will serve to increase statewide premium rate levels by approximately 1%.

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 1285

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. Thorpe

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			

Total Yes 5 No 8

Absent 1

Floor Assignment Rep. Dosch

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. HB 1285

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken DO NOT PASS

Motion Made By Rep Vigesaa Seconded By Rep Ruby

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				

Total Yes 8 No 5

Absent 1

Floor Assignment Rep. Dosch

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

REPORT OF STANDING COMMITTEE (410)
January 31, 2007 1:34 p.m.

Module No: HR-21-1658
Carrier: Dosch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1285: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **DO NOT PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING).
HB 1285 was placed on the Eleventh order on the calendar.

2007 TESTIMONY

HB 1285

#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

#2



**Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1285
January 31, 2007**

Mr. Chairman and members of the committee, my name is Bill Shalhoob and I am here today representing the ND Chamber of Commerce, the principle business advocacy group in North Dakota. Our organization is an economic and geographic cross section of North Dakota's private sector and also includes state associations, local chambers of commerce, development organizations, convention and visitors bureaus and public sector organizations. For purposes of this hearing we are also specifically representing sixteen local chambers with a total membership of 7,236 and eleven employer associations. Lists of the specific members and associations are attached to my testimony. As a group we stand in opposition to HB 1285 and urge a do not pass vote from the committee on this bill.

Survivor benefits like the one proposed in this bill have a place in retirement vehicles like social security, pension plane, IRA's or 401K's. In fact those benefits are either considered or actually earned throughout one's work career. Workforce Safety disability payments are just that, a disability payment. If we go down this road where do we stop? One could argue in the event of the death of a spouse minor children are entitled to the benefit. Then the benefit should be extended to children to age 22 if they go to college. We do not believe an extension of benefits in this direction is either warranted or good policy and urge a do not pass on this bill.

Thank you for the opportunity to appear before you today in opposition to HB 1285.

I would be happy to answer any questions.



**The following chambers are members of a coalition that support our 2007
Legislative Policy Statements:**

Beulah Chamber of Commerce - 107

Bismarck - Mandan Chamber of Commerce - 1080

Cando Area Chamber of Commerce - 51

Chamber of Commerce Fargo Moorhead - 1800

Crosby Area Chamber of Commerce - 50

Devils Lake Area Chamber of Commerce - 276

Dickinson Chamber of Commerce - 527

Greater Bottineau Area Chamber of Commerce - 153

Hettinger Area Chamber of Commerce - 144

Langdon Chamber of Commerce - 112

Minot Chamber of Commerce - 700

North Dakota Chamber of Commerce - 1058

Wahpeton Breckenridge Area Chamber of Commerce - 293

Watford City Area Chamber of Commerce - 84

Williston Chamber of Commerce - 401

West Fargo Chamber of Commerce - 400

Total Businesses Represented = 7236 members

Associated General Contractors of North Dakota

Independent Community Banks of ND

Johnsen Trailer Sales Inc.

North American Coal

North Dakota Auto/Implement Dealers Association

North Dakota Bankers Association

North Dakota Healthcare Association

North Dakota Motor Carriers Association

North Dakota Petroleum Council

North Dakota Retail/Petroleum Marketers Association

Utility Shareholders of North Dakota

North Dakota Hospitality Association

2007 House Bill No. 1285
Testimony before the Senate Industry, Business, and Labor Committee
Presented by: Jodi Bjornson, General Counsel
Workforce Safety & Insurance
January 31, 2007

Mr. Chairman, Members of the Committee:

My name is Jodi Bjornson, General Counsel with Workforce Safety & Insurance (WSI). I am here to testify on HB 1285. The WSI Board of Directors has taken a neutral position on this legislation as it proposes prospective changes to the workers' compensation benefit scheme and the Board believes future changes are best left to the Legislature to determine.

This bill proposes to extend permanent total disability (PTD) and related benefits of a permanently and totally disabled employee to the surviving spouse upon the injured employee's death. An injured employee is generally entitled to PTD benefits when a work injury prevents the employee from performing any type of work at all.

PTD benefit recipients are also eligible for supplementary benefits which are better known as cost of living adjustments (COLAs). Supplementary benefits are payable when an individual has been deemed permanently and totally disabled and has been receiving disability benefits for seven consecutive years; or to a survivor who has been receiving death benefits for a period of seven consecutive years.

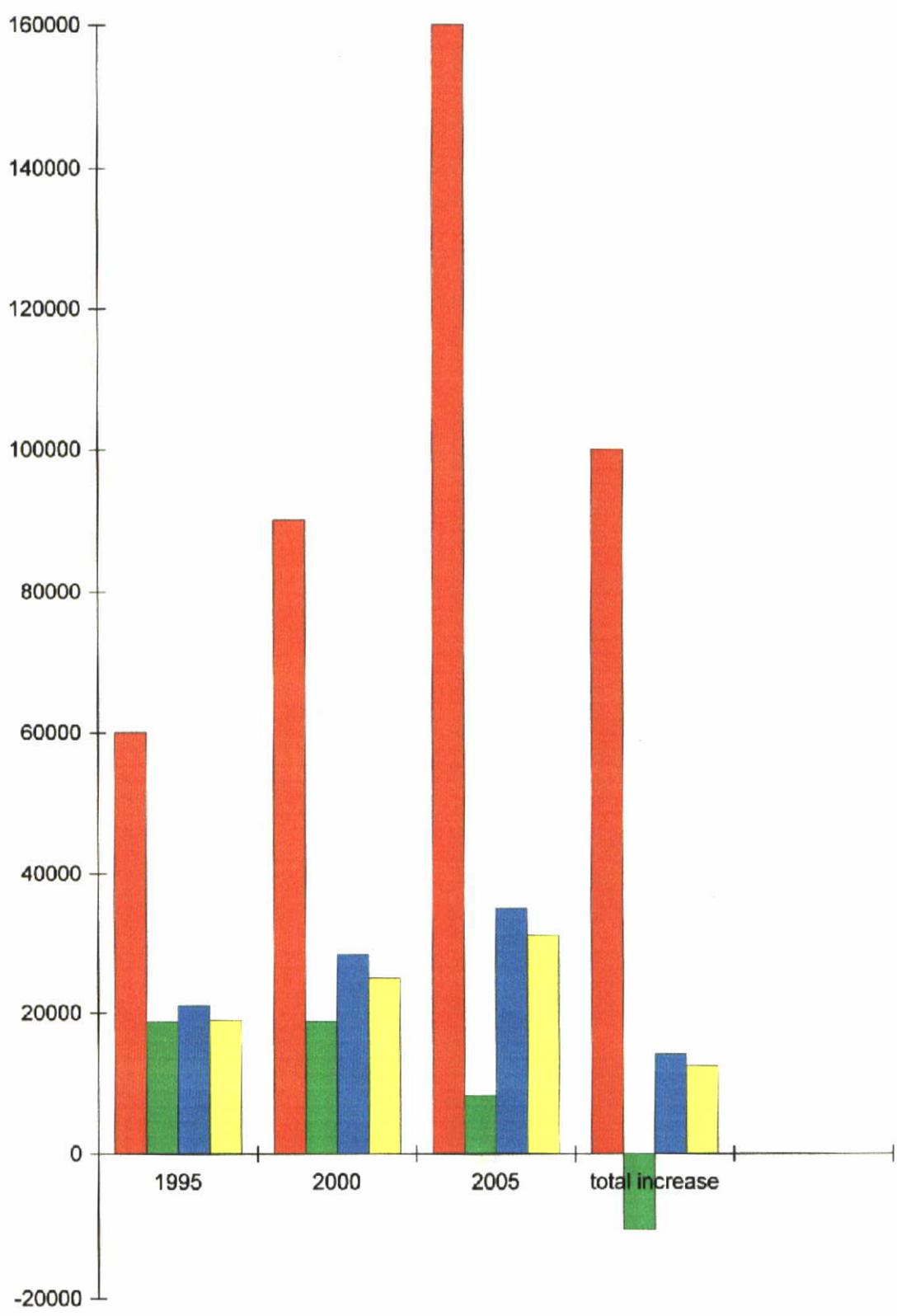
HB 1285 appears to provide benefits to a surviving spouse equal to what the disabled employee would have received had they still been alive. Additionally, the bill does not require that the death of the disabled employee be caused by the work injury. For example, under HB 1285, if a PTD benefit recipient was killed in a car accident, this bill would allow for the payment of any remaining PTD benefits to a surviving spouse.

The current law provides up to \$250,000 in death benefits to a surviving spouse when the death is directly related to a work injury and within six years of the date of the injury. 2007 HB 1038 proposes to expand these death benefits to the survivor(s) of long-term catastrophically-injured employees who die as a result of a work injury. WSI's initial interpretation of HB 1285 indicates a surviving spouse of a PTD benefit recipient who died as a result of a work injury may also be eligible for death benefit, in addition to the spousal continuation benefits proposed within the bill.

It is anticipated that the fiscal impact of this legislation would increase discounted reserve levels for existing claims by more than \$13 million. To the extent additional claims emerge, cost estimates would be higher. The anticipated premium rate level increase to cover the costs of future claims would be approximately one percent.

This concludes my testimony. I would be happy to answer any questions you may have at this time.

A



■ WSI CEO ■ INJURED WORKER
■ WSI employee ■ state avg