

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1424

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1424

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1424

House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: 01-29-2007

Recorder Job Number: 2218

Committee Clerk Signature

Lisa M Thomas

Minutes:

Chairman Keiser opened the hearing on HB 1424. HB 1424 relates to workforce safety and insurance pilot program for coverage of out-of-state employers. Rep. Dosch was absent.

Rep. Boe introduced the bill.

Rep. Boe: HB 1424 comes about because we ran into a problem with all of the construction going on in the state from out of state contractors and they don't have the ability to hire ND workers to make up part of their workforce because state law say that if they did hire one worker, they would have to put workers comp on all of the employees that they have got. Whether they are covered by another states policy or not.

HB 1424 is a study to allow it for a couple of years. We consulted with WSI and drafted it fairly narrow.

Anne Jorgenson-Greene, WSI, spoke in support of the bill and offered amendments. See *attached testimony.*

Rep. Nottestad: What do you mean specifically by out of state employer who has significant contact?

Greene: An out of state employer has significant contacts with ND if any employee earns twenty five percent of his gross annual income from that employer for services within the state, or twenty five percent of that employers gross annual payroll is expended in this state.

Rep. Thorpe: I thought that the out of state employer who has a contract in ND that his workers were all covered by his WSI out of state?

Greene: The issue is about an out of state employer who hires ND employees.

Rep. Keiser: We have reciprocity agreements with other states such as MN, MT, and SD?

Greene: We have reciprocity agreements with Washington, Wyoming, South Dakota and Montana.

Rep. Keiser: And we also have all states coverage?

Greene: Correct.

Rep. Keiser: Do those other states have all states coverage?

Greene: A private insurer probably has an all states rider that covers them in multiple private jurisdictions, but because ND is monopolistic in some respects you are talking about apples and oranges.

Rep. Keiser: If we had an employer who lived in a state we have reciprocity with that carries all-state, why wouldn't a ND employee of that company qualify?

Greene: The reciprocity agreement would apply and exactly as you have described.

Renaë Pfenning, ND Building and Construction Trades Council, spoke in support of the bill *See written testimony.*

Rep. Keiser: Northern Improvement is a big company that does a lot of contract work outside of the state of North Dakota. They bid a contract in Indiana and they go down there and they are going to take down their base crew and hire a lot of Indiana people and pay a premium based on one hundred percent of that jobs operation in Indiana. Now the Indiana company can

come in and bid ND contracts and only have to pay, not only the Indiana but only that portion of ND residents that they hire creating a unique advantage on the bidding process, is that true?

Pfenning: The possibility may be there.

Tim Forest, Business agent for the Laborer's local 563, spoke in support of the bill.

Forest: What Renae says is true. There is a gap or flaw in this law.

Bill Shalhoob, ND Chamber of Commerce, spoke in support of the bill. *See written testimony.*

Dave Kemnitz, AFL-CIO, spoke in support of the bill. *See written testimony.*

The hearing was closed. No action was taken at this time.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HB 1424

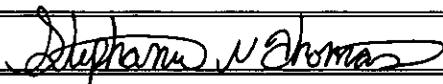
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: January 31, 2007

Recorder Job Number: 2497

Committee Clerk Signature



Minutes:

Chair Keiser opened the hearing on HB 1424, relating to workforce safety and insurance program for coverage of out of state employers, and to provide an expiration date. This would allow an out of state employer coming into the state to only be required to buy workers comp coverage on those employees that reside in the state, and go to work for that out of state firm. They would bring with them their out of state coverage for the remainder of the employees.

Rep. Boe: I move the amendment.

Rep. Ruby: Was this the one where if one of our employers went to another state, they'd have to pay for all their employees even in this state, but if somebody came in they'd only have to pay once, so it's kind of unfair and discriminatory.

Rep. Boe: My understanding is if they went out of state and didn't hire any workers from that state, they would be the same. If their workers come from here it would cover it.

Rep. Keiser: I believe that's correct, but we have to compare apples to apples. An employer that comes into the state of ND that hires 5 employees here under this bill would only be required to buy coverage on those 5 employees. They would not be required to buy coverage on 100 employees. Our employer that has 100 employees that goes to state X and hires 5 of their people would have to buy 100% coverage for their 100 people in that other state.

Rep. Ruby: I think it would be a great idea if there was reciprocity.

Rep. Boe: I agree reciprocity would be clearly the answer, but as I understand we run into problems with reciprocity because we are a monopolistic state, and for monopolistic states it gets to be a tough thing to accomplish that.

Rep. Keiser: That is correct, with the exception of a few states where we have negotiated reciprocity. I'm going to vote against it. One, I don't like the fact there's not reciprocity, but I think that the outcome would be just the opposite of the intention. It is designed hopefully for that out of state employer to come in and hire a few local people when they could add to their crew. So, they come in with 100 people to put up Staples, Lowe's, or Wal-Mart, but they need to fill a few vacancies so they hire those few local people. With this deal we'll get a lot more employers coming in from out of state to do business in the state bringing their 95 employees, instead of a local firm having the shot at the contract. I personally think it's going to have the opposite affect of what it was designed to do, which I think is a wonderful thing if it could work.

Rep. Zaiser: Second.

Voice vote taken, amendment adopted.

Rep. Boe: I move a do pass, as amended.

Rep. Amerman: Second.

Roll call vote was taken. 5 Yeas, 6 Nays, 3 Absent, Motion Fails

Rep. Nottestad: I move a do not pass, as amended.

Rep. Kasper: Second.

Roll call vote was taken. 6 Yeas, 5 Nays, 3 Absent, Carrier: Rep. Nottestad

Hearing closed.

FISCAL NOTE
Requested by Legislative Council
01/16/2007

Bill/Resolution No.: HB 1424

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 establishes a pilot program for coverage of out-of-state employers that temporarily employs North Dakota workers while working within the state.

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 1424

BILL DESCRIPTION: Coverage of Out-of-State Employer Pilot Program

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 establishes a pilot program for coverage of out-of-state employers that temporarily employs North Dakota workers while working within the state.

Fiscal Impact: Providing coverage under the proposed pilot program should not have an impact on statewide premium levels as premiums charged will be reflective of the anticipated exposures and losses.

DATE: January 26, 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:	01/26/2007

REPORT OF STANDING COMMITTEE

HB 1424: Industry, Business and Labor Committee (Rep. Keiser, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO NOT PASS (6 YEAS, 5 NAYS, 3 ABSENT AND NOT VOTING). HB 1424 was
placed on the Sixth order on the calendar.

Page 1, line 9, replace "limited to an employer that is within the rate" with "available to any out-of-state employer for which employment in this state"

Page 1, line 10, remove "classification of building construction or concrete work, for which employment"

Page 1, line 17, after the underscored period insert "The organization may require the employer to provide any information regarding the North Dakota resident employees hired."

Page 1, line 18, after the underscored comma insert "may conduct audits as necessary."

Renumber accordingly

2007 TESTIMONY

HB 1424

2007 House Bill No. 1424
Testimony before the House Industry, Business, and Labor Committee
Anne Jorgenson Green, Staff Attorney
Workforce Safety and Insurance
January 29, 2007

Mr. Chairman, Members of the Committee:

My name is Anne Jorgenson Green and I am staff counsel for Workforce Safety and Insurance (WSI). I am here to testify in support of House Bill 1424 and also to offer an amendment to the bill. The bill proposes a pilot program for out-of-state employers who hire North Dakota workers. WSI's Board of Directors supports this bill.

Under current law, an out-of-state employer who conducts temporary business in North Dakota with workers from *outside* the state may utilize their out-of-state workers' compensation insurance for a limited period of time. If the out-of-state employer has significant contacts with North Dakota, they are then required to establish a WSI account and pay premium. However, the current law requires that if an out-of-state employer hires North Dakota workers then that employer must pay premium for all of the workers under their employ –regardless of the existence of other coverage. Thus, the current law discourages out-of-state employers from hiring North Dakota workers because the employer may be forced to pay twice for the same exposure on their out-of-state employees.

HB 1424 proposes, on a pilot basis, to permit an out-of-state employer working temporarily in the state to parse out the North Dakota workers and secure coverage for just the North Dakota employees if the employer already has coverage for their out-of-state employees in another jurisdiction.

In order to ensure the true picture of the exposure is understood and to protect all North Dakota workers, WSI is proposing an amendment to this bill that has been handed out with my testimony. The amendment would broaden HB 1424 to include all North Dakota rate classifications. As an additional safeguard, the amendment also allows WSI to audit accounts under this program and require employers to provide information on the North Dakota workers hired. Consequently, WSI is requesting that this amendment be accepted along with this bill.

That concludes my testimony. I would be happy to answer any questions that you may have.

PROPOSED AMENDMENTS TO HOUSE BILL 1424

Page 1, line 9, replace "is limited to an employer that is within the rate" with "is available to any out of state employer whose employment in this state"

Page 1, line 10, remove "classification of building construction or concrete work, for which employment"

Page 1, line 17, after the period, insert "The organization may require the employer to provide any information regarding the North Dakota resident employees hired."

Page 1, line 18, after the comma insert "may conduct audits as necessary."

Renumber accordingly

North Dakota Building and Construction Trades Council
Testimony on HB 1424
Monday, January 29, 2007

Chairman Keiser and House Industry, Business & Labor Committee members, for the record, Renee Pfenning on behalf of the North Dakota Building and Construction Trades Council, I appear here before you today in support of HB 1424.

HB 1424 allows an out-of-state contractor carrying workers' compensation insurance coverage reciprocal with North Dakota, the ability to purchase Workforce Safety and Insurance for only their North Dakota resident workers. Chapter 65-08-01 subsection 5 has placed North Dakota workers at a disadvantage by requiring an out-of-state contractor opening an account with Workforce Safety and Insurance to carry coverage on all workers, resident and non-resident, regardless if the non-resident worker is already insured. An out-of-state contractor working on a project in North Dakota with reciprocal insurance has a tendency to use only non-resident workers.

Therefore, we urge a do pass on HB 1424.

#3



**Testimony of Bill Shalhoob
North Dakota Chamber of Commerce
HB 1424
January 29, 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 support of HB 1424 and urge a do pass vote from the committee on this bill.

Increased specialization, general company growth from local to regional, national or even international markets, and sales opportunities has led businesses grow beyond traditional boundaries. HB 1424 seeks to begin to address one of the consequences of this new marketplace. In allowing for coverage of North Dakota workers by a firm temporarily employing them while doing work within the state we would accomplish two results. First, an injured worker would have relief provided in their home state which should be easier than dealing with another state's agency or a private insurance company located outside of North Dakota. Second, since our benefit package ranks 26th in the nation there is some reassurance that the claim would be adequately compensated. It will

be interesting to review the results of this pilot program in two years when we will be able to measure some results.

Thank you for the opportunity to appear before you today in support of HB 1424. 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

North Dakota AFL-CIO testimony at House IB&L hearings for January 29 and 31, 2007 on Workers' Compensation legislation.

HB 1424 -- sponsors--Representative Boe and Senator Christmann

We support HB 1424's attempt to both expose and fix a poor WSI underwriting practice. North Dakota Workers Compensation Bureau's premium assessment to out of state employers using both out of and in state workers has produced an inequity in that North Dakota workers are losing in-state work to out-of-state workers. This is an unbelievable situation that must be changed.

If we understand the situation as explained by WSI, an out-of-state employer bringing in workers insured by an out-of-state insurance carrier can continue that coverage if certain conditions are met. When that employer hires in-state workers, they and all workers must be then covered under North Dakota's Workers Compensation system. This requirement, as explained by North Dakota worker representatives, creates a situation in which the out-of-state employer/contractor doing work in North Dakota tends to use only out-of-state workers in that the employer has existing coverage for those workers and would have to pay for additional unneeded coverage if they employed North Dakota workers in addition.

While North Dakota workers should be covered under North Dakota Workers Compensation, it does not make economic sense to cover temporary out-of-state workers (already insured) when the premium for that coverage will be minimal while the exposure in liability could be great.