

# MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2073

2007 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2073

# 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2073**

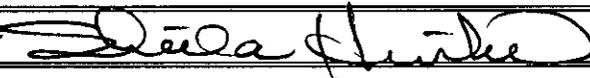
Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 16, 2007**

Recorder Job Number: **1221**

Committee Clerk Signature



Minutes:

**Jodi Bjornson - Board of Directors - In Favor**

**TESTIMONY #1** [:00-4:50 testimony]

**Bill Shalhoob - ND Chamber of Commerce - In Favor**

Straight forward bill, reasonable adjustments.

**Dave Kemnitz - ND AFLCIO - In Favor**

Yes, question on organized labor representatives. [m 5:49]

Discussed how representatives and how representatives selected.

What you're saying is it is not necessary?

**S Klein:** So this is not necessary?

**D Kemnitz:** With the change: suggest Page 1, line 2, change one to two. We would not be opposed to the bill.

**S Potter:** How likely is the governor to appoint you? You can suggest Governor can reject your names of the 3, I don't see that in this section of the code. It says specifically, the governor "shall" select.

**D Kemnitz:** If you had 3 names [tells of problem] Suggests Amendment

**D Kemnitz:** Do you need something if there were going to be an amendment?

**S Klein:** Whatever you'd like to do. This is open for lot of discussion before we make a decision.

**Opposition?**

**Seabald Vetter – Consumer rights – In Opposition** [m 13:00]

Concerned Rights for Employees

Right now I don't think anyone's liable. The board "don't" take no responsibility, I think this whole board should be removed and put back into the Industrial Commission. The Governor and the Agriculture Commissioner.

**S Hacker:** If it wasn't going to change, would you agree on Dave's amendment?

**S Vetter:** I agree with Dave, yes.

**O? CLOSE** [m 13:50]

## 2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2073 B**

Senate Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: **January 17, 2007**

Recorder Job Number: **1325**

Committee Clerk Signature

Minutes:

**S Potter MOTION**

**S Behm SECOND**

**DO PASS ON THE AMMENDMENT**

**S Klein:** go to line 23 and change the 1 to 2 . Discussions

**S Potter:** Brought this up to Bill Shalob. Said may be difficult to find 2 members, I ignored the comment.

**S Klein:** More discussion

**S Wanzek:** States that employee members 2 must have received benefits.

**S Klein:** One of other issues we may have had is that a labor guy is probably injured and looking for somebody else that is injured, whoever's going to be there anyway, this would expand that.

**S Potter:** If I get a chance to vote in favor of something that's wanted by AFLCIO and NDCC, I'm going to take that opportunity.

**S Andrist:** The only thing that troubles me about this amendment were for the most part saying, "an employee cannot be a member of the board unless he's had an injury."

I don't find that appropriate. [discuss variety of possibilities 46:09m]

**S Heitkamp:** I think he makes a good point, but also for the reason, you're dealing with the issue, you've been hurt, how WSI works with that, having that experience would be very necessary, you still have room.

**S Hacker:** [discussion of who can be on board 47:07m] Governor has the option to still have the one at large.

**S Heitkamp:** To pick or to approve?

**S Behm:** I think it would be a good idea to have two of them who had been hurt, that had experience with WSI.

**S Andrist:** 3 to represent employees. 1 has to represent organized labor, the other 2 represent workers but not organized labor, they both have to have injuries.

**S Heitkamp:** No, the one who represents organized labor could have had an injury and they could all be representing organized labor. 2 out of 3 had to have been hurt.

**S Andrist:** [example 48:34m] I thought organized labor meant you had to belong to the union.

**S Wanzek:** As I read this "three members represent employees" – "one must be organized labor, of the three, two must have received benefits." Isn't it possible that two that received benefits – one could be organized labor. that would still leave one open that's an employee. Couldn't you meet the criteria... you could meet the criteria, one individual could be someone who received benefits plus he/she in organized labor.

**S Andrist:** These are pegged. One is organized labor, that leaves 2 more, both of those had to have WSI protection.

**S Wanzek:** It says "of the three." See?

[discussion on who represents 50:05m]

**S Andrist** [then understands after discussion]

**ROLL ON DO PASS ON THE AMMENDMENT**

**VOTE 2073 AMMENDMENT 4 – 3 MOTION CARRIES**

**MOTION TO DO PASS AS AMMENDED by S Potter**

**SECOND by S Behm**

**S Klein:** We've changed the employer representatives – two employers at large...

**ROLL ON DO PASS AS AMMENDED SB 2073 4 – 3 MOTION CARRIES**

**CARRIER: S Potter**

**Amendment to SB 2073**

**Submitted by David L Kemnitz, President  
North Dakota AFL-CIO**

This legislation is not needed. Recent Attorney General's opinion of the governor's appointments of the employee representatives has clarified legislative intent.

If the Senate IBL Committee's intent is to give a Do Pass to SB 2073, we ask that an amendment be considered:

Page 1, line 23 replace the word "one" with the word "two"

#1  
2073





**REPORT OF STANDING COMMITTEE**

**SB 2073: Industry, Business and Labor Committee (Sen. Klein, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2073 was placed on the Sixth order on the calendar.**

Page 1, line 23, replace "one" with "two"

Renumber accordingly

2007 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2073

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2073

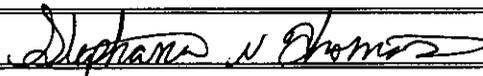
House Industry, Business and Labor Committee

Check here for Conference Committee

Hearing Date: February 27, 2007

Recorder Job Number: 3933

Committee Clerk Signature



Minutes:

**Chair Keiser** opened the hearing on SB 2073.

**Jodi Bjornson, WSI:** Support SB 2073. See written testimony #1.

**Rep. Keiser:** So, a person can turn on the board under US proposed bill 3 full terms, plus 3 ½ years. That would be almost 16 years.

**Jodi:** Correct, if they served their partial term.

**David Kemnitz, AFLCIO:** Support SB 2073.

**Rep. Johnson:** Have you seen WSI's proposed amendment?

**David:** It speaks to the Risk Management Program, and we don't have any problem with it.

**Rep. Keiser:** Don't you think that 15 or 16 years is too long for someone to serve on the board?

**David:** Depends if we like them or not.

**Ed Christensen, CARE:** Support SB 2073.

Hearing closed.

## 2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. **SB 2073**

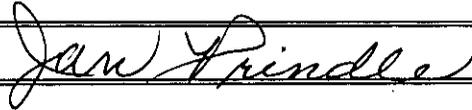
### House Industry, Business and Labor

Check here for Conference Committee

Hearing Date: **20 March 2007**

Recorder Job Number: **5322**

Committee Clerk Signature



Minutes:

**Chairman Kaiser opened discussion of SB 2073.** This is the third and final WSI bill. This bill has a few things on it that we may want to put on the other bill.

**Vice Chairman Johnson:** It has the board remain at eleven members, 6 employee reps, but because of the risk management program participant, it can have two members at large.

**Chairman Kaiser:** This has the language at the time of the individual appointment. What are the committee's feelings about that? Why should we review that again? Currently what do those six business members look like?

**Vice Chairman Johnson:** Currently the six members would be 2 with premiums greater than \$25,000, 1 with \$10-\$25,000, 1 less than \$10,000, 1 at-large, and 1 a member of the risk management program participant. The change was to put that risk management participant to the 2<sup>nd</sup> at-large. So the numbers stay the same.

**Representative Zaiser:** We also said they needed to be principal owner.

**Representative Ruby:** It also says board members cannot serve more than 3 consecutive full terms.

**Chairman Kaiser:** We're going to use HB 1460. We are going to kill this bill in a minute.

What I'm asking the committee to review what you may want our conference committee to take to HB 1460.

**Representative Zaiser:** Is it a total of three of those businesses? Or is it a selection of one from those groups.

**Vice Chairman Johnson:** It's a total of three from those businesses. Six total.

**Representative Dosch:** These premium limits now are in current law and the only thing we are changing is the at-large.

**Chairman Kaiser:** It should be brought in to 1460. This is really a technical amendment.

**Vice Chairman Johnson:** The second part of the amendment is 3 employee reps and it would be 1 representing organized labor and it would be 2 that had workforce safety benefits.

**Chairman Kaiser:** This also clarifies that one employee rep cannot fill two positions. Other than that the bills are fairly similar. We can take action on 2073. I'm comfortable that 1460 is the vehicle they will be using.

**Representative Nottestad:** I Move Do Not Pass.

**Representative Dosch:** I second.

**A roll call vote was taken: Yes: 13, No: 0, Absent: 1 (Thorpe)**

**Representative Johnson will carry the bill.**

Date: 3-20-07  
Roll Call Vote #: \_\_\_\_\_

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2073

House Industry Business & Labor Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken DO NOT Pass

Motion Made By Rep. Nottestad Seconded By Rep. Dosch

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

Total Yes 13 No 0

Absent 1

Floor Assignment Rep. Johnson

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

REPORT OF STANDING COMMITTEE (410)  
March 20, 2007 12:49 p.m.

Module No: HR-52-5740  
Carrier: N. Johnson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

SB 2073, as engrossed: Industry, Business and Labor Committee (Rep. Kelser, Chairman) recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). Engrossed SB 2073 was placed on the Fourteenth order on the calendar.

2007 TESTIMONY

SB 2073

2007 Engrossed Senate Bill No. 2073  
Testimony before the House Industry, Business, and Labor Committee  
Jodi Bjornson, General Counsel  
Workforce Safety & Insurance  
February 27, 2007

Mr. Chairman, Members of the Committee:

Good morning. My name is Jodi Bjornson and I am the General Counsel for Workforce Safety and Insurance (WSI). I am here to testify in support of Engrossed SB 2073. The WSI Board of Directors supports this bill. This bill proposes changes related to the eligibility and term requirements for members of the WSI Board of Directors. Specifically, this bill: changes the risk management employer representative of the Board to an employer at large representative; clarifies eligibility requirements for employee representatives on the Board; ensures Board eligibility is maintained if premium levels fluctuate for those premium-based employer representatives; and clarifies Board term limits when a vacancy is created. I will briefly address each proposed change in order of appearance.

**Change in Risk Management Employer Member.** Section 65-02-03.1 provides that at least one Board member must participate in WSI's risk management program. The risk management program referred to in this provision was amended in the 59<sup>th</sup> Legislative Assembly to outcome based safety incentive programs. Consistent with this change, the current risk management program representative would now become a more general employer at large representative. This would increase the employer at large representation to "at least two" members, rather than "at least one" member as the statute currently provides. In order to remove any ambiguity of applicability, WSI is proposing an amendment to this bill that has been handed out with my testimony. The amendment would ensure that the current risk management program representative would continue to serve as one of the employer at large representatives. Consequently, WSI is requesting that this amendment be accepted along with this bill.

**Clarification of Premium-Based Employer Eligibility.** Currently, four board members represent employers of various premium levels: At least two represent employers with premium of greater than \$25,000; at least one represents employers with premium between \$10,000 and \$25,000; and at least one represents employers with premium of less than \$10,000. The amendment to this subsection is intended to make it clear that eligibility for representation is based on premium at the time of initial appointment. Consequently, should a business' premium fluctuate either above or

below the indicated levels, there is no question a Board member maintains eligibility for membership.

**Clarification of Criteria for Employee Representatives.** The proposed amendment is brought to seek clarification from the Legislature on the appointment of employee representatives to the Board. In September 2006, the Attorney General determined that one member may not simultaneously serve as the employee representative who has received WSI benefits and as the employee representative from organized labor. Historically, Governor appointees under this provision have been made assuming the following: Of the three members who represent employees, at least one member must represent organized labor. Of that same three, including the labor representative, at least one must have received workers' compensation benefits. In other words, all three employee representatives could have received WSI benefits and also could be members of organized labor. The statute does not preclude any of the employee representatives from being members of organized labor and receiving benefits.

As a result, the possibilities of varying employee representative perspectives is open-ended. For example, one employee representative could represent organized labor and could have received workers' compensation benefits; one could have received no benefits but is a member of organized labor; one could have received benefits, but is not a member of organized labor; or one could have neither received benefits nor is a member of organized labor.

In its original form, SB 2073 intended to make it clear that of the three employee members, one must have received benefits. In other words, the Governor could appoint the employee representative in the same manner as appointments have been made since the Board of Directors was first established. The amendment passed by the Senate provides that of the three employee representatives, two must have received benefits.

**Eligibility for Three, Full Four-Year Terms.** This change is intended to clarify applicable term limits when a vacancy is created. Board members are currently eligible to serve three, four-year terms. The addition of the phrase "full" in this section is proposed to ensure a board member appointed to fill a vacancy may complete the partial term created by a vacancy, as well as three, full four-year terms thereafter.

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

**PROPOSED AMENDMENTS TO ENGROSSED SB 2073**

Page 2, after line 26, insert:

**“SECTION 2. APPLICATION.** The employer member appointed before the effective date of this Act as a representative of the risk management program continues as a Board member serving as an employer at large representative until completion of the term for which the member was appointed.”

Renumber accordingly