

HOUSE BILL NO. 1188

Introduced by

Representatives Keiser, Jones

1 A BILL for an Act to amend and reenact section 65-05-09.3 of the North Dakota Century Code,
2 relating to the termination of benefits upon retirement; and to provide for application.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. AMENDMENT.** Section 65-05-09.3 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **65-05-09.3. Retirement presumption - Termination of benefits upon retirement.**

- 7 1. An employee who has retired or voluntarily withdrawn from the labor force and who, at
8 that time, was not eligible to receive temporary total disability, temporary partial
9 disability, or permanent total disability benefits or to receive a rehabilitation allowance
10 from the organization is presumed retired from the labor market. The presumption may
11 be rebutted by a preponderance of the evidence; however, the subjective statement of
12 an employee that the employee is not retired is not sufficient in itself to rebut objective
13 evidence of retirement.
- 14 2. An injured employee who begins receiving social security retirement benefits or other
15 retirement benefits in lieu of social security retirement benefits or who attains
16 retirement age for social security retirement benefits, unless the employee proves the
17 employee is not eligible to receive social security retirement benefits or other benefits
18 in lieu of social security retirement benefits, is considered retired. The organization
19 may not pay any disability benefits, rehabilitation benefits, or supplementary benefits
20 to an employee who is considered retired; however, the employee remains eligible for
21 medical benefits, permanent partial impairment benefits, and the additional benefit
22 payable under section 65-05-09.4.
- 23 3. The organization retains liability for disability benefits, rehabilitation benefits,
24 permanent partial impairment benefits, and medical benefits for an injured employee

1 who is receiving social security retirement benefits or other retirement benefits in lieu
2 of social security retirement benefits or who attains retirement age for social security
3 retirement benefits, unless the employee is not eligible to receive social security
4 retirement benefits or other benefits in lieu of social security retirement benefits, and
5 who is gainfully employed and who suffers an injury arising out of and in the course of
6 that employment. The organization may not pay disability or rehabilitation benefits
7 under this subsection for more than three years, subject to section 65-05-09.2, for
8 injuries occurring after August 1, 1997.

9 4. If an employee is injured within the two years preceding the employee's presumed
10 retirement date, the organization shall pay disability benefits, rehabilitation benefits, or
11 a combination of both benefits for no more than two years. If the duration of disability
12 benefits, rehabilitation benefits, or a combination of both benefits extends beyond the
13 presumed retirement date, the organization shall convert the benefit to an additional
14 benefit payable at the date the disability ends or when two years of benefits have been
15 paid, whichever occurs first.

16 5. This section applies to an individual who begins receiving social security retirement
17 benefits or other retirement benefits in lieu of social security retirement benefits or who
18 attains retirement age for social security retirement benefits unless the employee
19 proves the employee is not eligible to receive social security retirement benefits or
20 other benefits in lieu of social security retirement benefits, after July 31, 1995.

21 6. An injured employee who has received disability benefits that have been discontinued
22 before retirement in accordance with this section is eligible to receive disability
23 benefits after retirement if the injured employee meets the reapplication criteria under
24 subsection 1 of section 65-05-08. Disability and rehabilitation benefits received under
25 this subsection may not exceed three years.

26 **SECTION 2. APPLICATION.** This Act applies to reapplications filed after July 31, 2019.