

2019 Workforce Safety & Insurance (WSI) Legislative Quick Guide (as of 4/20/19)

SB 2021 (Eng w/House Amendments): WSI Appropriations Bill (Introduced by Appropriations Committee)

Senate App Vote: **DP 14-0 amended** Senate Vote: **46-0**
House App Vote: **DP 20-0 amended** House Vote: **84-7**
Senate Concurred: **47-0**
Signed by Governor: **18 Apr 19**

- Provides a WSI appropriation of \$68,747,842, and FTE authority for 260.14 FTEs for the 2019-21 biennium.

HB 1062: Terms of WSI Board Members [WSI Board Supports]

Sponsors: Rep. Keiser, Sen Klein
House IBL Vote: **DP 14-0** House Vote: **92-0**
Senate IBL Vote: **DP 6-0** Senate Vote: **43-0**
Signed by Governor: **13 Mar 19**

- Provides for the term of office for appointments to the WSI Board begin on January 1 of even-numbered years instead of odd-numbered years. This will allow new Board members a year to get acquainted with WSI prior to entering legislative session.
- Extends current terms of existing Board by one year to accommodate new appointment schedule.

Fiscal impact: No fiscal impact.

HB 1064 (Eng): Administrative Hearings [WSI Board Supports]

Sponsors: Rep. Keiser, Sen. Klein
House IBL Vote: **DP 10-3 Amended** House Vote: **81-11**
Senate IBL Vote: **DP 6-0 w/Senate Amend** Senate Vote: **44-1**
Signed by Governor: **10 Apr 19**

- Establishes case processing, tracking, and reporting requirements for OAH.

Fiscal impact: No impact to premium rate levels is anticipated.

HB 1072: WSI Employer Services Bill [WSI Board Supports]

(WSI Agency Bill)
House IBL Vote: **DP 13-0** House Vote: **91-0**
Senate IBL Vote: **DP 6-0** Senate Vote: **45-0**
Signed by Governor: **6 Mar 19**

- Defines noncompliance, payroll report, subcontractor, and uninsured within the definitions section.
- Adds an additional civil penalty for a contractor who uses the services of an uninsured employer under a cease and desist order.

- Removes references to “annual” and “twelve month” throughout Chapter 65-04.
- Establishes a penalty of \$5,000 for employers that offset premiums against an employee’s wages.
- Removes reference to organizational seal on certificates of coverage.
- Requires payment of premium and assessments to obtain a certificate of coverage.
- Provides WSI the ability to require payroll reporting more frequently than annually.
- Requires payroll reporting to be done electronically.
- Provides WSI the ability to send electronic billing notification.
- Relocated the penalty structure for an employer in default of payment from 65-04-33 to 65-04-22.
- Extends liability to any contractor for utilizing an uninsured subcontractor.
- Ensures consistency of language relating to notice of decisions within NDCC 65-04-32(3) with the notice of decision language contained in NDCC 65-01-16(5).
- Establishes an administrative penalty for an employer who willfully discharges an employee for seeking workers compensation benefits.
- Outlines the penalties for an employer who is uninsured for failing to secure coverage.
- Outlines the penalties for an employer who is noncompliant.
- Increases penalties for an employer failing to provide information from \$2,000 to \$5,000.
- Repeals section relating to the required biennial safety and performance reviews of Roughrider Industries.

Fiscal impact: No significant impact to premium rate levels is anticipated.

**HB 1073 (Eng): WSI Injury Services Bill [WSI Board Supports with amendment]
(WSI Agency Bill)**

House IBL Vote: DP 13-0 Amended House Vote: 93-0

Senate IBL Vote: DP 5-1 Senate Vote: 42-2

Signed by Governor: 13 Mar 19

- Defines valid functional capacity examination.
- Removes one of the medical exam requirements out of the firefighter/law enforcement presumption statute.
- Allows WSI to establish pilot programs to assess alternative forms of dispute resolution.
- Provides that physicians making utilization review determinations be licensed from a state licensing agency within the United States as opposed to just being licensed in North Dakota.
- Requires healthcare providers to submit medical bills and documentation electronically by no later than July 1, 2021.
- For recurrent disability claims, provides that wages used for benefit calculation to be wages received at time of the recurrence unless the wages at recurrence were lower than at time of initial injury due to limitations from the initial injury in which case wages from initial injury will be used for calculation of benefit purposes.
- Amends the combined benefit threshold for partial disability benefit recipients to a percentage of gross wages rather than net wages.
- Establishes parameters for medical non-compliance and a process for when disability and vocational rehabilitation benefits can be discontinued for medical non-compliance.
- Repeals statute requiring WSI to have an organizational seal.

Fiscal impact: No significant impact to premium rate and reserve levels is anticipated.

HB 1188: Post-Retirement Reapplications [WSI Board Supports]

Sponsors: Reps. Keiser & Jones

House IBL Vote: DP 13-0

House Vote: 93-0

Senate IBL Vote: DP 6-0

Senate Vote: 44-0

Signed by Governor: 13 Mar 19

- Provides for up to three years of disability benefits for injured workers that had disability benefits discontinued pre-retirement and a reapplication for benefits post-retirement.

Fiscal impact: No significant impact to rate and reserve levels is anticipated.

HB 1240 (Eng): Reporting of WSI Pilot Programs [WSI Board Supports]

Sponsors: Reps. Mitskog, Becker, Boschee, Roers Jones, D. Ruby & Sens. Burckhard, Oban, J. Roers

House IBL Vote: DP 14-0 Amended

House Vote: 93-0

Senate IBL Vote: DP 6-0

Senate Vote: 44-0

Signed by Governor: 13 Mar 19

- Requires WSI to report annually to Legislative Management the status of any current pilot programs.

Fiscal Impact: No fiscal impact

HCR 3030: WSI 100th Anniversary (WSI Board Supports)

Sponsors: Reps. Keiser, Boschee, Pollert & Sens Heckaman, Klein & Wardner

House IBL Vote: DP 13-1

House Vote: 63-25

Senate IBL Vote: DP 6-0

Senate Vote: Adopted

Filed with Secretary of State: 6 Mar 2019

- A concurrent resolution to recognize Monday, March 4, 2019, as "North Dakota Workforce Safety & Insurance Day" and to congratulate North Dakota Workforce Safety & Insurance on its 100th anniversary.

SB 2184: Allied Health Care Professionals [WSI Board Supports]

Sponsors: Sens. J. Lee, Hogan, Klein & Reps. P. Anderson, Keiser & Rohr

Senate IBL Vote: DP 6-0

Senate Vote: 47-0

House IBL Vote: DP 13-0

House Vote: 82-2

Signed by Governor: 1 Apr 2019

- Defines allied health care professionals, redefines healthcare provider while removing the definition of doctor, and cleans up various references throughout Title 65.

Fiscal impact: No fiscal impact is anticipated.

Failed Bills

HB 1063 (Eng): Duration-Dosing Limits for Certain Drug Therapies [WSI Board Supports w/ Amend]

Sponsors: Rep. Keiser, Sens. Klein & Anderson

House IBL Vote: DP 9-5 Amended House Vote: Failed 44-49

- Establishes duration limits and maximum payable dosing limits for opioid therapies.
- Establishes duration limits for benzodiazepines.
- Outlines dispute resolution process for requests to depart from the limits proposed.

Fiscal impact: To the extent there are improved return-to-work and medical outcomes resulting from the duration/dosing limitations for the identified drug therapies, there would be anticipated cost reductions which would be reflected in subsequent premium rate levels.

HB 1247 (Eng): Minimum Premiums [WSI Board Does Not Support]

Sponsors: Reps. Monson, Damschen, Hoverson, D. Ruby & Sens Luick, Myrdal

House IBL Vote: DNP 8-5 House Vote: 22-70

- Establishes the minimum premium as the higher of 10% of total annual wages or \$100.

Fiscal Impact: Reduces minimum premiums for certain minimum premium accounts.

HB 1456: Mental Mental, Preexisting, Compensable Injury, Claim Disputes, Claim Fraud, Compensation Benefits, Presumption of Treating Physician (Board Does Not Support)

Sponsors: Reps. M Nelson & Guggisberg

House IBL Vote: DNP 9-5 House Vote: 17-71

- Removes requirement that compensability of a mental or psychological condition is only covered if caused by a physical injury and the physical injury with reasonable medical certainty is at least fifty percent of the cause of the mental or psychological condition.
- Makes a mental injury arising from a mental stimulus compensable.
- Provides for the compensation of pre-existing conditions.
- Allows health insurers to dispute a workers compensation claim denial and for the insurance commissioner to hear any appeals relating to these types of disputes.
- In cases of employee fraud, requires WSI to establish by clear and convincing evidence an employee was not entitled to benefits and that any work performed must be paid labor.
- Provides that in determining compensation benefits for volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members that the organization utilize the greater of the average weekly wage from an injured employee's business or employment for which coverage is required or otherwise secured or the state's average weekly wage, regardless of whether coverage was secured.
- Creates presumption of compensability for volunteer firefighters, emergency or disaster volunteers, volunteer health practitioners, and community emergency response team members for injuries due to heart attack or other heart-related disease, stroke, or physical injury caused by mental stimulus if injury occurs within 24 hours of a volunteer performing services or participating in training.

- Allows injured employee's to appeal treatment decisions through the administrative hearing process and allows an injured employee to request the insurance commissioner to review an order issued by WSI and issue an opinion before filing a subsequent appeal.
- Alters injured worker attorney fees to an average rate paid by WSI for WSI's attorney in the three most recent appeals.
- Establishes that a treating physicians opinion or medical determination is correct.

Fiscal impact: Not quantifiable. Anticipate significant impact to rate and reserve levels.

HB 1484: (See HB 1509) Mandatory Paid Family Medical Leave Program Administered by WSI (Board Does Not Support)

Sponsors: Reps. Boschee, Boe, Holman & Mock & Sens Heckaman, Mathern & Robinson.

House IBL Vote: DNP 12-2 House Vote: Failed 15-78

- The relevant sections of this bill (Sections 4, 6, and 10) contain in large part the contents of HB 1509.

Fiscal Impact: To be determined

HB 1509: Mandatory Paid Family Medical Leave Program Administered by WSI (Board Does Not Support)

Sponsors: Reps. Hanson, Boschee, Dovervich, Meier, O'Brien and Sens Heckaman & Oban.

House IBL Vote: DNP 9-3 House Vote: 17-75

- Establishes a mandatory paid family medical leave program to be administered by WSI.
- Requires contributions from all employers with 50 or more employees and makes program optional for employers with less than 50 employees.
- Requires employee and employer to each contribute two cents for every ten dollars of wages earned (total contributions of four cents per \$10 earnings).
- Establishes family medical leave benefits of 66% of employee's wages, up to a maximum of \$4,000/month, for up to twelve calendar weeks per calendar year.
- Provides a transfer appropriation from the general fund to WSI of \$5,000,000 to administer the program. Requires funds to be paid back over a 20 year period.

Fiscal impact: To be determined.

HCR 3036: Chronic Pain Management (WSI Board Neutral)

Sponsors: Reps. M. Nelson

House IBL Vote: DP 14-0 House Vote: Passed House (Consent Calendar)

Senate IBL Vote: DNP 5-1 Senate Vote: Failed to Adopt

Signed by Governor:

- A concurrent resolution to consider a study of chronic pain management for injured workers.