

2023 SENATE INDUSTRY AND BUSINESS

SB 2175

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2175
1/17/2023

A BILL for an Act relating to notices of disability benefit reduction.
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8:58 AM Chairman D. Larsen called the meeting to order.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Boehm, Senator Klein.

Discussion Topics

- Notices
- Proactive notice system

8:59 AM Senator Vedaa introduced SB 2175.

9:06 AM Tim Wahlin, Chief of Injury Services, Workforce Safety and Insurance testified in opposition of SB 2175. #13494

9:28 AM Art Thompson, Executive Director, Workforce Safety and Insurance testified verbally in opposition of SB 2175.

9:29 AM Chairman D. Larsen closed the meeting.

Brenda Cook, Committee Clerk

2023 SENATE STANDING COMMITTEE MINUTES

Industry and Business Committee Fort Union Room, State Capitol

SB 2175
1/18/2023

A bill for an act to create and enact NDCC, relating to notices of disability benefit reduction.
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1:59 PM Chairman D. Larsen opened the meeting.

Members present: Chairman D. Larsen, Vice Chairman Kessel, Senator Barta, Senator Boehm, Senator Klein.

Discussion Topics:

- Committee action

1:59 PM Chairman D. Larsen opened the meeting for discussion of SB 2175.

1:59 PM Senator Barta moved to adopt amendment LC 23.0632.01002.

Senator Klein seconded the motion.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0

2:07 PM Senator Klein moved to Do Not Pass as Amended on SB 2175.

Senator Kessel seconded the motion to Do Not Pass as Amended.

Roll call vote:

Senators	Vote
Senator Doug Larsen	Y
Senator Greg Kessel	Y
Senator Jeff Barta	Y
Senator Keith Boehm	Y
Senator Jerry Klein	Y

Vote: 5-0-0 Do Not Pass as Amended

Senator Barta will carry the bill.

2:08 PM Chairman D. Larsen closed the meeting.

Brenda Cook, Committee Clerk

January 18, 2023

DR
1/18/2023
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PROPOSED AMENDMENTS TO SENATE BILL NO. 2175

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 65-05-09.6 of the North Dakota Century Code, relating to notices of disability benefit reduction.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Section 65-05-09.6 of the North Dakota Century Code is created and enacted as follows:

65-05-09.6. Notice of disability benefit reduction.

The organization shall notify the injured employee, spouse, or dependent of an injured employee by mail, sent to the last-known post office address of the employee, spouse, or dependent, when disability benefits are subject to reduction as a result of application of section 65-05-09.3. To the extent possible, the organization shall provide written notice no less than six months and three months before the mandatory reduction under this section."

Renumber accordingly

REPORT OF STANDING COMMITTEE

SB 2175: Industry and Business Committee (Sen. Larsen, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2175 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact section 65-05-09.6 of the North Dakota Century Code, relating to notices of disability benefit reduction.

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Renumber accordingly

TESTIMONY

SB 2175

2023 SB 2175
Testimony before the Senate Industry and Business Committee
Presented by Tim Wahlin
Workforce Safety and Insurance
Date: January 17, 2023

Mr. Chairman and Members of the Committee:

My name is Tim Wahlin, Chief of Injury Services at Workforce Safety & Insurance (WSI). I am here today to provide testimony regarding Senate Bill No. 2175. The WSI Board opposes the bill.

As drafted, the bill requires WSI to provide notice to every injured employee when his or her aggregate disability benefits are subject to a reduction because of the required offset provisions when the employee becomes eligible or begins receiving Social Security Disability payments. The bill requires WSI to provide notice at one year, again at six months, and again at three months prior to the reduction occurring. The problem with this requirement is WSI does not know when or if the Social Security Disability payments begin, until they begin. This is because Social Security Disability payments are administered under a separate federal system that is not coordinated with WSI. This prevents the organization from being able to provide the notice required by this bill.

In communicating with Legislative Council following the bill's introduction, the notice impossibilities in this bill were pointed out. We understand the actual intent of the bill was to require the notices to an injured employee when disability benefits were about to be reduced because the injured employee reached the presumed Social Security retirement age. At this point, employees may transition from disability benefit payments to a reduced, post-retirement benefit called additional benefits payable as proscribed at NDCC 65-05-09.4 and 65-05-09.5. Currently, the injured employee generally receives notice within three months prior to the transition to additional benefits payable.

For employees electing to receive Social Security Retirement benefits early, the prior notice provisions remain impossible. WSI will generally find out about the election, after the election for early Social Security Retirement benefits has been made.

The organization acknowledges that a more proactive notice system is necessary, and we are currently reforming our system to address these needs. With the myriad of payments and individual situations, we are discovering there is not a viable "one size fits all" notice solution. Any solution requires a more nuanced system. Nonetheless, we understand it is important to allow our injured employees the ability to plan ahead, and we will address the notice issue as best we can.

Even if the bill is amended, it is highly unlikely a statutory approach to notice requirements will fully achieve the intended result. This is a complicated issue which is best solved by working internally with our resident experts. This process has begun and will be completed.

For these reasons, WSI opposes this legislation.

This concludes my testimony and I'd be happy to answer any questions you may have.