

**Sixty-sixth Legislative Assembly of North Dakota
In Regular Session Commencing Thursday, January 3, 2019**

HOUSE BILL NO. 1188
(Representatives Keiser, Jones)

AN ACT to amend and reenact section 65-05-09.3 of the North Dakota Century Code, relating to the termination of benefits upon retirement; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. An employee who has retired or voluntarily withdrawn from the labor force and who, at that time, was not eligible to receive temporary total disability, temporary partial disability, or permanent total disability benefits or to receive a rehabilitation allowance from the organization is presumed retired from the labor market. The presumption may be rebutted by a preponderance of the evidence; however, the subjective statement of an employee that the employee is not retired is not sufficient in itself to rebut objective evidence of retirement.
2. An injured employee who begins receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits or who attains retirement age for social security retirement benefits, unless the employee proves the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, is considered retired. The organization may not pay any disability benefits, rehabilitation benefits, or supplementary benefits to an employee who is considered retired; however, the employee remains eligible for medical benefits, permanent partial impairment benefits, and the additional benefit payable under section 65-05-09.4.
3. The organization retains liability for disability benefits, rehabilitation benefits, permanent partial impairment benefits, and medical benefits for an injured employee who is receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits or who attains retirement age for social security retirement benefits, unless the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, and who is gainfully employed and who suffers an injury arising out of and in the course of that employment. The organization may not pay disability or rehabilitation benefits under this subsection for more than three years, subject to section 65-05-09.2, for injuries occurring after August 1, 1997.
4. If an employee is injured within the two years preceding the employee's presumed retirement date, the organization shall pay disability benefits, rehabilitation benefits, or a combination of both benefits for no more than two years. If the duration of disability benefits, rehabilitation benefits, or a combination of both benefits extends beyond the presumed retirement date, the organization shall convert the benefit to an additional benefit payable at the date the disability ends or when two years of benefits have been paid, whichever occurs first.
5. This section applies to an individual who begins receiving social security retirement benefits or other retirement benefits in lieu of social security retirement benefits or who attains retirement age for social security retirement benefits unless the employee proves the employee is not eligible to receive social security retirement benefits or other benefits in lieu of social security retirement benefits, after July 31, 1995.

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1188.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 44 Nays 0 Absent 3

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2019.

Approved at _____ M. on _____, 2019.

Governor

Filed in this office this _____ day of _____, 2019,

at _____ o'clock _____ M.

Secretary of State