

JUDICIAL PROCEDURE, CIVIL

CHAPTER 218

S. B. No. 203

Introduced by Committee on Judiciary

ADMINISTRATIVE AGENCIES, RULES OF PROCEDURE

An Act Amending and re-enacting subdivision 1 of Section 28-3205 of the Revised Code of North Dakota for 1943, pertaining to rules of procedure before administrative agencies, and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That subdivision 1 of Section 28-3205 of the North Dakota Revised Code of 1943 be amended and re-enacted to read as follows:

1. In all proceedings brought before an administrative agency having jurisdiction of the subject-matter, the petitioner, or the administrative agency when acting upon its own initiative, shall prepare and file a clear and concise statement or complaint with the agency having jurisdiction of said proceeding. Said complaint shall contain a concise statement of the claims or charges upon which the petitioner relies, and the relief sought. Upon the filing of such complaint, the appropriate administrative agency shall issue a notice for hearing, which shall fix the time and place for trial thereof upon its merits. Said notice shall inform the party proceeded against that unless an answer to such complaint is served upon the petitioner and agency giving such notice at least three days before the time specified for hearing therein that the complaint will be deemed admitted, and that the agency will enter such order as the facts and law may warrant. A true copy of the complaint and notice of hearing shall be served upon the respondent personally, or by registered mail, as the agency may direct, at least twenty days before the time specified for hearing thereof unless the service of such complaint or notice of hearing is waived, in writing, by the party proceeded against, or unless the parties agree upon a definite time and place for hearing thereof with the consent of the agency having jurisdiction. PROVIDED, HOWEVER, that in case of an emergency the agency, in its discretion, may notice a proceeding for hearing upon the merits upon less than twenty days' notice. Every party to such proceeding shall be given a reasonable time within which to prepare for such hearing, which may be extended by the agency upon good cause being shown by the applicant therefor.

§ 2. EMERGENCY.] This act is hereby declared to be an emer-

gency measure, and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1945.

CHAPTER 219

H. B. No. 52

Introduced by Representatives Ohnstad and Johnson of Richland

ADMINISTRATIVE AGENCIES, UNIFORM RULES OF PRACTICE IN HEARINGS AND INVESTIGATIONS

An Act Amending and re-enacting Section 28-3208 of the North Dakota Revised Code of 1943, relating to prescribing uniform rules of practice for administrative agencies from the determination of which an appeal to the Court is provided; and to provide a uniform method of reviewing determinations of administrative agencies by the Courts.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 28-3208 of the North Dakota Revised Code of 1943, is hereby amended and re-enacted to read as follows:

§ 28-3208. SPECIFICATIONS OF ANY ISSUES TO BE FURNISHED BY AGENCY.] Whenever an administrative agency, pursuant to authority conferred upon it by law, shall institute an investigation upon its own motion or without the filing of a specified complaint, or shall hold any hearing or make any independent investigation upon the claim or request of any person, no decision shall be made by the agency until all parties in interest shall have been furnished with a written specification of the issues which are to be considered and determined, nor until an opportunity shall have been afforded to such parties to present evidence and to be heard upon the precise issues so specified. Provided, however, that the Commissioners of the Workmen's Compensation Bureau may make awards without the giving of the notice herein provided for.

Approved February 17, 1945.

CHAPTER 220

H. B. No. 278

Introduced by Delayed Bills Committee

DIRECTED VERDICTS

An Act To Amend and Re-enact Section 28-1509 and Section 28-1510 of the North Dakota Revised Code of 1943 (Vol. 3), Relating to Directed Verdicts, and Judgment Notwithstanding Verdict in Civil Actions, in the District Court, and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] Section 28-1509 and Section 28-1510 of the North Dakota Revised Code of 1943 (Vol. 3), are hereby amended and re-enacted to read as follows:

28-1509 and 28-1510. [MOTION FOR DIRECTED VERDICT, AND JUDGMENT NOTWITHSTANDING VERDICT.] When at the close of the testimony any party to the action moves the court to direct a verdict in his favor, and the adverse party objects thereto, such motion shall be denied and the Court shall submit to the jury such issue or issues, within the pleadings on which any evidence has been taken, as either or any party to the action shall request, but upon subsequent motion, by such moving party after verdict rendered in such action, that judgment be entered notwithstanding the verdict, or if the jury have failed to agree upon a verdict, for a directed verdict, the Court shall grant the same if, upon the evidence as it stood at the time such motion to direct a verdict was made, the moving party was entitled to such directed verdict. An order for judgment notwithstanding the verdict may also be made on a motion in the alternative form asking therefor, or if the same be denied, for a new trial. Such motion, singly or in the alternative, may be made either before or after entry of judgment. The ruling on the motion for a directed verdict may be reviewed by the Supreme Court without a motion for judgment notwithstanding the verdict or a motion in the alternative for such judgment or for a new trial having been first made in the trial court. If the motion for judgment notwithstanding the verdict be denied, the Supreme Court, on appeal from the judgment, may order judgment to be entered, when it appears from the testimony that a verdict should have been so directed; and it may also so order on appeal from the whole order denying such motion when made in the alternative form whether a new trial was granted or denied by such order.

§ 2. The terms and provisions of this act shall apply to any and all actions pending in any of the courts of the State.

§ 3. EMERGENCY.] An emergency is hereby declared to exist

and, therefore, this act shall be in full force and effect from and after its passage and approval.

Approved March 14, 1945.

CHAPTER 221

H. B. No. 276

Introduced by Delayed Bills Committee

NOTE OF ISSUE, CONTENTS, NOTICE AND ORDER OF TRIAL

An Act To amend and Re-enact Section 28-1208 of North Dakota Revised Code of 1943, volume 3, Relating to, Note of Issue, Contents, Notice of Trial, Order of Trial, and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 28-1208, North Dakota Revised Code of 1943, volume 3, be hereby amended and re-enacted to read as follows:

28-1208. NOTE OF ISSUE, CONTENTS, NOTICE OF TRIAL, ORDER OF TRIAL.] At any time after issue and at least ten days before the court, either party may give notice of trial. The party giving the notice shall furnish the clerk, at least eight days before the court, with a note of issue containing the title of the action, the names of the attorneys and the time when the last pleading was served, and the clerk shall thereupon enter the cause upon the calendar according to the date of the issue. The party upon whom notice of trial is served may also file the note of issue and cause the action to be placed on the calendar without further notice on his part. There need be but one notice of trial and one note of issue and the action must then remain on the calendar until disposed of. Either party, after the notice of trial—whether given by himself or by the adverse party—may bring the issue to trial. The issues on the calendar shall be disposed of in the following order unless, for the convenience of parties or the dispatch of business, the court shall otherwise direct:

1. Issues of fact to be tried by a jury.
2. Issues of fact to be tried by the court.
3. Issues of law.

§ 2. EMERGENCY.] This Act is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval.

Approved March 12, 1945.

CHAPTER 222

H. B. No. 277

Introduced by Delayed Bills Committee

SPECIAL VERDICTS AND FINDINGS, HOW PREPARED

An Act To Amend and Re-enact Section 28-1502 of North Dakota Revised Code of 1943, volume 3, Relating to Special Verdict, and Declaring an Emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. AMENDMENT.] That Section 28-1502 is hereby amended and re-enacted to read as follows:

28-1502. WHEN SPECIAL VERDICTS DIRECTED; SPECIAL FINDINGS; HOW PREPARED.] The Court in its discretion may upon the request of either party direct the jury to find a special verdict. Such verdict shall be prepared by the court in the form of questions in writing, which shall be confined to matters involving the merits of the case and shall admit of direct answer. Such questions shall be submitted by the court to the parties at or before the close of the testimony, and the court must incorporate therein such additional questions, of like character, as shall be demanded by either party, and the jury shall make their answers thereto in writing. The Court may also direct the jury, if they render a general verdict, to find in writing upon any particular question of fact, to be stated as aforesaid.

In every action for the recovery of money only or of specific real property, the jury may in their discretion, when not otherwise directed by the court render a general or special verdict. The special verdict or finding must be filed with the clerk and entered upon the minutes. When the special findings of fact are inconsistent with the general verdict, the former controls the latter and the court must give judgment accordingly.

§ 2. EMERGENCY.] An emergency is hereby declared to exist and this Act shall take effect and be in force from and after its passage and approval.

Approved March 12, 1945.