

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

SENATE BILL NO. 2113
(Industry, Business and Labor Committee)
(At the request of the Labor Commissioner)

AN ACT to amend and reenact sections 14-02.4-20 and 14-02.4-21 of the North Dakota Century Code, relating to the timeframe and type of complaint filed for appropriate relief for backpay, the correct agency for filing a complaint of employment discrimination, and the disclosure of anything said or done as part of informal negotiation or conciliation efforts.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-20 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-20. Relief. If the court determines that the respondent has engaged in or is engaging in an unlawful practice, the court may enjoin the respondent from engaging in such unlawful practice and order such appropriate relief as will be appropriate which may include, ~~but is not limited to,~~ temporary or permanent injunctions, equitable relief, and backpay limited to no more than two years from the date the complainant has filed a ~~sworn charge~~ minimally sufficient complaint with the equal employment opportunity commission ~~North Dakota department of labor on a form prescribed by the department~~ or filed the complaint in the state court. Interim earnings or amounts earnable with reasonable diligence by the person or persons discriminated against shall operate to reduce the backpay otherwise allowable. In any action or proceeding under this chapter the court may grant, in its discretion, the prevailing party a reasonable attorney's fee as part of the costs.

SECTION 2. AMENDMENT. Section 14-02.4-21 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-21. Optional mediation by department of labor - Relief - Appeals - Records exempt. The department of labor may receive complaints of discriminating employment practices under this chapter and may investigate the complaints to determine if there is probable cause to believe the complaint is meritorious and, if so, attempt to obtain voluntary compliance with this chapter's employment requirements through informal advice, negotiation, or conciliation. This chapter does not prohibit a person from filing, or require a person to file, a complaint with the department of labor before using the provisions of this chapter. A complaint received and information obtained during any investigation conducted under this section are exempt from section 44-04-18 before the institution of any judicial proceedings under this chapter. The commissioner may disclose to the complainant or the respondent, or attorneys for the complainant or respondent, information obtained under this section if deemed necessary by the commissioner for securing an appropriate resolution of a complaint. Any record or information held by the department of labor pursuant to an agreement with any federal agency for the enforcement of fair employment practices is exempt from section 44-04-18, and the department of labor may disclose to federal officials information obtained under this section if appropriate to carry out the enforcement of fair employment practices pursuant to the agreement. The department of labor may not disclose anything said or done as part of the informal negotiation or conciliation efforts under this section except to the federal equal employment opportunity commission as needed for proper processing and closure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2113.

Senate Vote: Yeas 47 Nays 0 Absent 2

House Vote: Yeas 95 Nays 0 Absent 3

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,
at _____ o'clock _____ M.

Secretary of State