

LABOR AND EMPLOYMENT

CHAPTER 291

SENATE BILL NO. 2267

(Senator Holmberg)

AN ACT to amend and reenact section 34-11.1-04 of the North Dakota Century Code, relating to whistleblower protection for public employees; and to provide for a legislative council study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

34-11.1-04. Violations for misuse reported by employee - Reprisals prohibited - Furnishing false information - Labor department.

1. An employee may, without fear of reprisal, report in writing to the employee's respective agency head, a state's attorney, the attorney general, or an employee organization the existence of:
 - a. A job-related violation of local, state, or federal law, rule, regulation, or ordinance.
 - b. The job-related misuse of public resources.
2. For having made a report under subsection 1, no employee will:
 - a. Be dismissed from employment.
 - b. Have salary increases or employment-related benefits withheld.
 - c. Be transferred or reassigned.
 - d. Be denied a promotion that the employee otherwise would have received.
 - e. Be demoted.
 - f. Be discriminated against in any term or condition of employment.
3. An employee who intentionally furnishes false information is subject to disciplinary action, including suspension or dismissal as determined by the employee's appointing authority or designee. An employee ~~dismissed under this subsection~~ claiming reprisal under this section may appeal first to the state personnel board human resource management services division and then to the district court in the manner prescribed by chapter 28-32, or to other appropriate offices and

then to district court if the employee is not under the jurisdiction of the ~~state personnel board~~ human resource management services division.

4. The labor department shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. To receive assistance from the labor department, a person claiming to be aggrieved by a violation of this section shall file a complaint with the department within three hundred days after the alleged act of wrongdoing. An employee is not prohibited from filing, or required to file, a complaint with the labor department under this subsection before proceeding under other provisions of this section.
5. An employee of the state may appeal a claim of reprisal under this section in the manner prescribed for a classified employee under chapter 54-44.3. This subsection does not apply to an employee under the jurisdiction of the state board of higher education or the judicial branch of government.

SECTION 2. LEGISLATIVE COUNCIL STUDY - WHISTLEBLOWER LAWS.

During the 2009-10 interim, the legislative council shall consider studying the state's whistleblower protection laws, including whether the laws adequately address the public policy issues related to whistleblower protection. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-second legislative assembly.

Approved May 1, 2009

Filed May 5, 2009

CHAPTER 292**HOUSE BILL NO. 1099**

(Industry, Business and Labor Committee)
(At the request of the Labor Commissioner)

AN ACT to amend and reenact section 34-14-09 of the North Dakota Century Code, relating to employees' remedies and the limitations on wages collectible.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 34-14-09 of the North Dakota Century Code is amended and reenacted as follows:

34-14-09. Employees' remedies - Limitation on wages collectible. An employee may file a claim for wages due under this chapter or under chapter 34-06 with the department not later than two years from the date the wages are due. For purposes of this section, wages are due at each regular payday immediately following the work period during which wages were earned. Whenever the labor commissioner determines that wages have not been paid and that the unpaid wages constitute an enforceable claim, the commissioner, upon request of the employee, may take an assignment in trust for the wages or a claim for liquidated damages in amounts the commissioner deems valid and enforceable without being bound by any of the technical rules respecting the validity of any assignments and may bring any legal action necessary to collect the claim. The limitation of action under section 34-01-13 is tolled by the filing of a claim with the commissioner until the commissioner determines the claim is not enforceable or the commissioner reassigns the claim to the employee. With the consent of the assigning employee at the time of the assignment, the commissioner may settle and adjust the claim to the same extent as the assigning employee.

Approved March 19, 2009
Filed March 24, 2009