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ROLL NUMBER

DESCRIPTION

2113

2001 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2113

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2113

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 15, 2001.

Tape Number	Side A	Side B	Meter #
1	x		26.7 to 47.2
(Feb. 13/01) 3	x		0 to 1.1
Committee Clerk Signature <i>Donis E. Perez</i>			

Minutes:

The meeting was called to order. All committee members present. Hearing was opened on SB 2113 relating to the time frame and type of complaint filed for appropriate relief for back-pay, 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.

WAYNE WENSTROM, NDDOL, in favor. Written testimony attached. Eliminate sworn statement requirement which would present an impediment to some for filing a complaint.

JOHN RISCH, UTU, in favor of this bill.

MARK BACHMEIER, NDNOL, in favor of this bill.

No opposing testimony. Hearing closed.

Feb. 13/01. Tape 3-A- 0 to 1.1

Committee reconvened. All members, except SENATOR ESPEGARD, present. Discussion held.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2113

Hearing Date January 15, 2001.

SENATOR KLEIN: Motion: do pass. SENATOR KREBSBACH: Second. Roll call vote: 6 yes;

0 no; 1 absent not voting. Carrier: SENATOR KREBSBACH.

Date: 2/13/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2113

Senate Industry, Business and Labor Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Klein Seconded By Sen Krebsbach

Senators	Yes	No	Senators	Yes	No
Senator Mutch - Chairman	✓		Senator Every	✓	
Senator Klein - Vice Chairman	✓		Senator Mathern	✓	
Senator Espegard	A				
Senator Krebsbach	✓				
Senator Tollefson	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen Klein

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 14, 2001 8:07 a.m.

Module No: SR-27-3265
Carrier: Klein
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2113: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2113 was placed on the Eleventh order on the calendar.

2001 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2113

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2113b

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 03-27-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 855
TAPE I		x	4530 to 5255
Committee Clerk Signature <i>Joan Pietsch</i>			

Minutes: Chairman Berg called the committee to order on SB 2113. The clerk will call the attendance roll. He called on Rep Pietsch to explain the amendments.

Rep Pietsch: explains the bill, it clarifies for a person who wants to file a claim for back pay, it clarifies the starting date as the time period within which that needs to be resolved. Current law says, upon a dully filed affidavit. Now it would start the clock of years of resolution of this issue by the date that the complaint is filed with the Labor Department. It clarifies that, that is the agency that you have to appeal too, and the clock starting is when you file your claim. The second part, I am looking at the testimony of the Labor Commissioner, it allows the department to provide certain otherwise closed records relating to employment discrimination cases to the DEOC, if it is necessary to process the case. Currently they cannot release that information. There was another bill, it wouldn't hurt anything if we passed them both, and let the Legislative Council meld the wording together.

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House Industry, Business and Labor Committee

Bill/Resolution Number SB 2113

Hearing Date 03-27-01

Chairman Berg: we did not have any opposition to the bill. I think that it is appropriate to act on the bill and let the council meld them. Rep Pietsch: I would move a DO PASS.

Rep Klein: Second.

DISCUSSION

Chairman Berg: we can hold this motion and go to another bill and then come back to this one.

Rep Severson: I move to table the bill.

Rep Johnson: Second.

Chairman Berg: Let us go back to 2113.

Rep Klein: Made a motion to take it off the table.

Rep Severson: Second:

Chairman Berg: Motion to take it off the table, voice vote, motion carries. There was a question on line ten and eleven.

Rep Lemieux: Why would we want to remove, but is not limited to. When we are talking about a court enjoining.

Intern Nickie Meyer: My guess would be it would be to limit it to injunctions.

Rep Ruby: It almost seems with it in it would imply that there is some other punishment or penalty.

Intern Nickie Meyer: makes a comment.

Rep Ruby: right, but without it and just saying may include, I think does the same thing.

Chairman Berg: I know in Mar's testimony, he did not address that.

Intern Nickie Meyer: It may be the Legislative Council cleaning up the bill.

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House Industry, Business and Labor Committee

Bill/Resolution Number SB 2113

Hearing Date 03-27-01

Chairman Berg: We have a motion for a DO PASS and a second for the bill. The clerk will call the roll. The motion passes with 13 YES, 0 NO and 2 ABSENT. carrier Rep Pietsch.

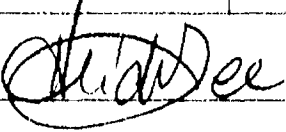
2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2113

House Industry, Business and Labor Committee

Conference Committee

Hearing Date March 14, 2001

Tape Number	Side A	Side B	Meter #
1		X	29.6-35.8
Committee Clerk Signature 			

Minutes: Chairman R. Berg, Vice-Chair G. Keiser, Rep. M. Ekstrom, Rep. R. Froelich, Rep. G. Froseth, Rep. R. Jensen, Rep. N. Johnson, Rep. J. Kasper, Rep. M. Klein, Rep. Koppang, Rep. D. Lemieux, Rep. B. Pietsch, Rep. D. Ruby, Rep. D. Severson, Rep. E. Thorpe.

Mark Bachmeier: *Commissioner of Labor* Written testimony sponsoring bill.

Chairman Berg: We'll hold this bill for SB 2217 to go through. We'll close the hearing

Date: 03/27/01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. *Click here to type Bill/Resolution No. SB-2113*

House Industry, Business and Labor Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep Pietsch Seconded By Rep Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman- Rick Berg	✓		Rep. Jim Kasper	✓	
Vice-Chairman George Keiser	✓		Rep. Matthew M. Klein	✓	
Rep. Mary Ekstorm	✓		Rep. Myron Koppang	✓	
Rep. Rod Froelich			Rep. Doug Lemieux	✓	
Rep. Glen Froseth			Rep. Bill Pietsch	✓	
Rep. Roxanne Jensen	✓		Rep. Dan Ruby	✓	
Rep. Nancy Johnson	✓		Rep. Dale C. Severson	✓	
			Rep. Elwood Thorpe	✓	

Total (Yes) 13 No 0

Absent 2

Floor Assignment Rep Pietsch

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 27, 2001 11:25 a.m.

Module No: HR-53-6823
Carrier: Pietsch
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2113: Industry, Business and Labor Committee (Rep. Berg, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2113 was placed on the Fourteenth order on the calendar.

2001 TESTIMONY

SB 2113



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SB 2113

SENATE INDUSTRY, BUSINESS, AND LABOR COMMITTEE

January 15, 2001

Good Morning Chairman Mutch and members of the Senate Industry, Business, and Labor Committee. My name is Wayne Wenstrom and I am the Director of the Equal Employment Opportunity Division of the North Dakota Department of Labor (DOL).

The intent of SB 2113 is to address and clarify two issues that relate to the current processing of Charges of Discrimination by the DOL under the North Dakota Human Rights Act (NDHRA). The first issue deals with the potential effects of the current processing of complaints under the NDHRA on the remedy of backpay and the second deals with the release of documents to the Equal Employment Opportunity Commission (EEOC) made confidential under the NDHRA.

Before the issues are discussed further, it is necessary to give you a very basic idea of how a complaint is processed by the NDDOL. After the complainant party has contacted the NDDOL, we provide them with form SFN 14543, also known as an EQUAL EMPLOYMENT OPPORTUNITY QUESTIONNAIRE. This form is then completed by the complainant party and returned with the complainant party's statement to the NDDOL. Once the NDDOL has received minimally sufficient information – the names of both the complainant and the respondent and a general description of the alleged discriminatory action(s) taken by the respondent – and the complainant party has met jurisdictional requirements, the NDDOL will evaluate whether more information is needed or if a charge can be drafted. After all necessary information has been obtained, the NDDOL drafts a charge to be signed by the complainant party. When the charge is signed and received at the NDDOL, the case is opened, dual filed with the Equal Employment Opportunity Commission (EEOC), and served upon the respondent. Depending on the type of charge, the complaint could be investigated by either agency but neither requires a "sworn charge," which brings us to the first issue we would like to address.

As you can see, the NDHRA currently states that appropriate relief being sought by a complainant in the form of backpay will be limited to "no more than two years from the date the complainant has filed a *sworn charge* with the *equal employment opportunity commission*" (emphasis added). In a random search of files dating back to 1989, it appears that *sworn charges* have never been a requirement to opening a charge at the NDDOL. Our concern is twofold. First, the reason that a sworn charge is not required is that it creates an unnecessary barrier for those complainants who are disadvantaged and who would find it easier to just drop the issue

rather than pursue their rights. The second is that it is possible for a complainant to lose a portion or all of their backpay remedy under the current provisions of the NDHRA. Finally, we request the agency designated in this section of law be changed to the NDDOL as 95% of the charges received at the NDDOL are also originated by the NDDOL.

In summary we are requesting changes that more closely reflect the past and current practices of the processing of discrimination complaints in North Dakota and that protect the rights to remedy for those individuals harmed in violation of its provisions.

The second issue this bill addresses is with regard to the EEO Division's processing of complaints where the two parties have negotiated a settlement. In order for the NDDOL to meet its obligations under contract with the EEOC, we must release copies of the agreement(s) to receive credit and in order for the case to be closed at the EEOC. Currently, our law makes confidential anything done as a part our efforts to negotiate or conciliate a settlement between the parties. We ask that the NDHRA recognize our obligations to release this information to the EEOC for final processing.

The NDDOL urges a DO PASS recommendation on SB 2113 and myself or the Commissioner of labor, Mark Bachmeier will be happy to answer any questions the committee may have.

Thank You for your time!

John Hoeven
Governor

Mark D. Bachmeler
Commissioner



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Testimony on SB 2113
Prepared for the
House Industry, Business, and Labor Committee

March 14, 2001

Chairman Berg and members of the Committee, good morning. For the record, my name is Mark Bachmeier and I am the Commissioner of Labor.

SB 2113 proposes two changes relating to employment discrimination complaints. First, it clarifies when the time period for relief or damages in employment discrimination complaints gets established. The law currently provides that the time period is established as no more than two years from the date a *sworn* charge is filed with the *equal employment opportunity commission* (EEOC). This language is antiquated because neither the department nor the EEOC requires charges to be sworn (notarized) and because not all complaints are filed with the EEOC. It makes more sense to have the time period established under state law when a complaint is filed with the department of labor.

Secondly, it allows the department to provide certain otherwise closed records relating to employment discrimination cases to the EEOC if it is necessary for case processing and/or closure.

Thank you for your time. I would be pleased to answer any questions you may have.