

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1369
(Representatives Hawken, Thoreson, Guggisberg)
(Senators Holmberg, Mathern)

AN ACT to amend and reenact subsection 4 of section 14-02.4-02, subsection 5 of section 14-02.5-01, subsection 4 of section 34-01-20, sections 34-05-01.1 and 34-05-01.2, subsection 8 of section 34-05-01.3, sections 34-07-05, 34-11.1-04, 34-14-11, 34-14-12, and 34-14-13 of the North Dakota Century Code, relating to a name change from the department of labor to the department of labor and human rights.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 14-02.4-02 of the North Dakota Century Code is amended and reenacted as follows:

4. "Department" means the division of human rights within the ~~labor~~ department of labor and human rights.

SECTION 2. AMENDMENT. Subsection 5 of section 14-02.5-01 of the North Dakota Century Code is amended and reenacted as follows:

5. "Department" means the ~~labor~~ department of labor and human rights.

SECTION 3. AMENDMENT. Subsection 4 of section 34-01-20 of the North Dakota Century Code is amended and reenacted as follows:

4. The department of labor and human rights shall receive complaints of violations of this section and may attempt to obtain voluntary compliance with this section through informal advice, negotiation, or conciliation. In order to receive assistance from the department of labor and human rights, 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 department of labor and human rights under this subsection before proceeding under other provisions of this section.

SECTION 4. AMENDMENT. Section 34-05-01.1 of the North Dakota Century Code is amended and reenacted as follows:

34-05-01.1. Department of labor and human rights.

There is hereby created the North Dakota department of labor and human rights. All records, materials, supplies, and equipment used by the deputy commissioner of agriculture and labor in the official capacity as administrator of the labor division of the department of agriculture and labor must be transferred to the department of labor and human rights.

SECTION 5. AMENDMENT. Section 34-05-01.2 of the North Dakota Century Code is amended and reenacted as follows:

34-05-01.2. Labor commissioner to administer department of labor and human rights.

Beginning January 1, 1999, the governor shall appoint a labor commissioner to administer the department of labor and human rights. The labor commissioner shall serve at the pleasure of the governor.

SECTION 6. AMENDMENT. Subsection 8 of section 34-05-01.3 of the North Dakota Century Code is amended and reenacted as follows:

8. Report biennially to the governor and to the legislative assembly concerning activities of the department of labor and human rights, including in such report recommendations for legislation deemed necessary or desirable to effectuate the purposes of this chapter.

SECTION 7. AMENDMENT. Section 34-07-05 of the North Dakota Century Code is amended and reenacted as follows:

34-07-05. Who may issue certificates - Where certificates may be obtained.

An employment certificate must be in writing and must be issued by the minor's parent or guardian. The parent or guardian who certifies, or rejects, the employment certificate must file a completed copy with the department of labor and human rights, the employer, the principal of the school which the minor attends, or a principal in the municipality in which the minor resides, within ten days of certification or rejection. No employment certificate is required for any minor then in, or who is about to enter, the minor's own employment or the employment of a firm, corporation, or limited liability company of which the minor is a member, officer, or manager. The labor commissioner shall make the certificates of employment available.

SECTION 8. 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~~Department of labor and human rights.

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 claiming reprisal under this section may appeal first to the 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 human resource management services division.
4. The ~~labor~~ department of labor and human rights 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 of labor

and human rights, 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 of labor and human rights 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 9. AMENDMENT. Section 34-14-11 of the North Dakota Century Code is amended and reenacted as follows:

34-14-11. Reciprocal agreements for collection of wages.

The labor commissioner may enter into reciprocal agreements with the department of labor or corresponding agency of any other state, nation, or country or with the person, board, officer, or commission authorized to act for and on behalf of the department or agency, for the collection in the other state, nation, or country of claims or judgments for wages and other demands based upon claims previously assigned to the department of labor and human rights.

SECTION 10. AMENDMENT. Section 34-14-12 of the North Dakota Century Code is amended and reenacted as follows:

34-14-12. Actions in other states, nations, or countries for collection of claims - Assignments for collection.

The department of labor and human rights may, to the extent provided for by any reciprocal agreement entered into pursuant to section 34-14-11, or by the laws of any other state, nation, or country, maintain actions in the courts of the other state, nation, or country for the collection of such claims for wages, judgments, and other demands and may assign the claims, judgments, and demands to the department of labor or agency of the other state, nation, or country for collection to the extent that the same may be permitted or provided for by the laws of the state, nation, or country or by reciprocal agreement.

SECTION 11. AMENDMENT. Section 34-14-13 of the North Dakota Century Code is amended and reenacted as follows:

34-14-13. Claims assigned by other states, nations, or countries - Actions - Collection.

The department of labor and human rights may, upon the written request of the department of labor or other corresponding agency of any other state, nation, or country or of any person, board, officer, or commission of the state, nation, or country authorized to act for and on behalf of the department of labor or corresponding agency, maintain actions in the courts of this state upon assigned claims for wages, judgments, and demands arising in the other state, nation, or country in the same manner and to the same extent that the actions by the department of labor and human rights are authorized when arising in this state; provided, however, that the actions may be commenced and maintained only in those cases where the other state, nation, or country by appropriate legislation or by reciprocal agreement extends a like comity to cases arising in this state.

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-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1369.

House Vote: Yeas 69 Nays 22 Absent 3

Senate Vote: Yeas 46 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State