

# LABOR AND EMPLOYMENT

## CHAPTER 242

H. B. No. 160—(Bagge, Wolf, Brady, Johnson of Cass & Luick)

### REGULATING LABOR REGULATIONS, UNIONS OR OTHER ASSOCIATIONS, STRIKES, ETC.

#### AN ACT

To declare the public policy of the State of North Dakota relating to the rights of workers to associate with their fellows, to organize and to designate representatives to act as bargaining agents to negotiate as to rates of pay, hours and working conditions, and the right of workers to decline to associate with their fellows and their right to be free to obtain employment wherever possible without interference; to require labor unions to file certain statements and reports with the Secretary of State as a pre-requisite to their right to operate as labor unions, to act as bargaining agents for workers and to negotiate and execute contracts relating to wages, hours and working conditions of workers and requiring labor unions to file a statement of their name, by which name they may proceed and be proceeded against in the courts of this state; to make null and void contracts executed by labor unions without having complied with the provisions of this act; to provide for the fair and impartial conduct of elections by employees on the questions of appointing a bargaining agent and of calling a strike; to permit peaceful picketing of employers and making picketing unlawful unless a majority of the employees vote to strike; to make boycotting, secondary boycotting and sympathy strikes illegal; to provide for issuance of injunctive relief by the courts; and repealing all acts or parts of acts in conflict herewith.

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

§ 1. DECLARATION OF PUBLIC POLICY.] The public policy of this state is declared to be that a worker shall be free to decline to associate with his fellows and shall be free to obtain employment wherever possible without interference or being hindered in any way, but that he shall also have the right to association and organization with his fellow employees and designation of representatives of his own choosing. That a contract made and entered into between an employer of labor and a worker or workers or any agent, bargaining agent or representative of a worker or workers shall be binding and equally enforceable upon both parties to said contract. That elections by secret ballot held to determine the question of who shall be the bargaining representative of a worker or workers or whether a worker or workers shall

strike against an employer shall be free and impartial without being influenced by either an employer or worker or any third parties. That secondary boycotts and sympathy strikes are hereby declared to be against public interest and unlawful.

§ 2.] No person or association of persons shall operate or maintain a labor union or any other association acting or purporting to act as a bargaining agent for workers unless and until there has been filed with the Secretary of State a statement in writing signed and verified under oath by the president or secretary of such labor union or association, setting forth the names and addresses of all of the officers and their official names of such union, a general statement of the aims and objects of said union, the scale of dues, initiation fees, fines and assessments to be charged to the members and the salaries to be paid to the officers, and setting forth the full and actual name of the labor union, under which it shall operate and be known.

§ 3.] The president or secretary of such labor union shall thereafter make an annual written report verified under oath on or before the anniversary date of such original report as required by Section 2 to the Secretary of State, in such form as he may prescribe, setting forth the amount of money collected for initiation fees, dues, fines, assessments, and names of employees and setting forth the amount paid in salaries to officers, listing their names and addresses and the amount paid to each of such officers.

§ 4.] The Secretary of State shall keep a record of all statements and reports submitted to him under the provisions of this act, all of which shall be open to public inspection.

§ 5.] That after a labor union has complied with all the provisions of this act, it shall then and then only have the right to act as a bargaining agent for workers, if lawfully selected and appointed, and all such bargaining by the labor union shall be in the name of the union as disclosed in the statement filed with the Secretary of State as provided in Sections 2 and 3.

§ 6.] That any contract entered into between the employer and a labor union shall be executed on behalf of the employer in his or its true name and signed by the employer, or in case of a corporation by the proper officers authorized by law and the by-laws of such corporation to execute valid and binding contracts on behalf of the corporation, and any such contract shall be executed on behalf of the labor union in the name of the labor union as disclosed in the statement in writing filed with the Secretary of State as hereinbefore provided and signed by the president or secretary of such labor

union, authorized by the By-Laws of such union.

§ 7.] That any such contract made and executed as hereinafore provided shall be equally binding as to all its terms and conditions against both the employer and the labor union who executed it.

§ 8.] That said contract may be enforced by either party by an action to be commenced in a district court of the State of North Dakota and that in such an action a labor union may proceed or be proceeded against in the name disclosed in the statement in writing filed in the office of the Secretary of State as hereinbefore provided and all orders and decrees issued by such court in favor of or against such labor union or employer shall be binding upon both such employer and such employees and such labor union.

§ 9.] That in the event any employee or employees shall desire to appoint a bargaining agent or strike against an employer, prior written notice thereof shall be given to the employer and it shall be the duty of the employer within two (2) days thereafter to designate a representative of the employer to act in the conduct of an impartial and secret ballot or election to determine such bargaining agent, or whether a strike shall be had and the employee or employees, either themselves, or through their collective bargaining agent shall likewise within two (2) days after such notice designate such a representative and the representative of the employer and the representative of the employees shall thereupon select a third individual, and the three individuals so selected shall constitute an election board to conduct such a vote. In the event the third member of such board cannot be agreed upon, then the District Court of the county where the dispute arose shall appoint the third member upon petition by either of such first two appointed members to such board. Such election board so appointed shall thereupon designate a reasonable and suitable place and time within ten (10) days after the appointment of such board when such vote shall be held, which place shall not be upon the premises belonging to or under the control of either the employer or employees, bargaining agent or a labor union, and at such time and place as the board shall designate, shall proceed to conduct an impartial secret ballot in which all employees of the particular separate establishment of the employer involved and then employed shall only have the right to cast a vote on the question of appointing a bargaining agent or whether a strike against that employer as to such particular, separate establishment should be called. A majority vote of the members of such board shall govern to all actions taken by the board hereunder.

§ 10.] Within twenty-four (24) hours after the completion of the election on the question of appointing a bargaining agent or of calling a strike, such election board shall make an accurate and complete tabulation of the votes cast in such election and shall prepare in writing a certificate over the signatures of at least two (2) members of such board and deliver a copy of such a certificate to the employer and to the employees or their bargaining agent. No strike shall begin or go into effect until thirty (30) days have expired following the date of such certificate.

§ 11.] No bargaining agent can be legally appointed and no strike shall be called or go into effect unless at least fifty-one percent (51%) of the employees who cast their vote shall cast a vote at such an election in favor of such strike, or appointment of a particular bargaining agent.

§ 12.] If after an election, as hereinbefore provided, fifty-one percent (51%) or more of the employees who cast their vote as provided in this act, vote in favor of a strike and a strike is called, it shall be lawful for only an employee of the particular, separate establishment of an employer so involved to picket such particular, separate establishment in a peaceful manner subject, however, to all of the laws of the State of North Dakota preserving the public peace and the health and safety of the citizens. If, however, less than fifty-one percent (51%) of the employees who cast their vote in such election vote in favor of a strike it shall be unlawful for any person to picket such particular, separate establishment or place of business and picketing in that event is hereby declared to be unlawful and against the peace and dignity of the State of North Dakota and subject to restraint by the District Court of this state of the county where such picketing occurs as well as suits for damages therefor.

§ 13.] Boycotting, secondary boycotting and sympathy strikes are hereby declared to be against the public policy and against the peace and dignity of the State of North Dakota and shall be subject to restraint by the District Courts of the State of North Dakota as well as suits for damages therein.

§ 14.] If, after the execution of any contract or agreement as provided by this act, such labor union executing such contract shall be dissolved, re-organized or merged or in any other way associated with any other labor union or organization, or shall change its name, such contract or agreement shall nevertheless be binding as to all its terms and conditions for the time specified in such contract.

§ 15.] If any section, subsection, clause, sentence or phrase of this act is, for any reason, held to be unconstitution-

al and invalid, such decision shall not affect the validity of the remaining portions of this act and the legislature hereby declares that it would have passed this act and each section, subsection, clause, sentence or phrase thereof irrespective of whether one or more of the sections, subsections, clauses, sentences or phrases be declared unconstitutional.

§ 16.] All acts or parts of acts in conflict herewith are hereby repealed.

§ 17.] The provisions of this Act shall not apply to employers and employees engaged in interstate commerce and subject to the provisions of federal laws relating to labor relations and disputes.

Approved March 13, 1947.

NOTE—H. B. 160 not effective until approved by referendum vote at primary election in June 1948.

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## CHAPTER 243

H. B. No. 151—(Fuglestad, Hofstrand, McInnes, and Stair)

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### RIGHT TO WORK NOT ABRIDGED ON ACCOUNT OF MEMBERSHIP OR NON-MEMBERSHIP IN LABOR ORGANIZATION

#### AN ACT

Providing that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization and providing that all contracts denying or abridging such right to work on account of such membership or nonmembership are invalid, void and unenforceable.

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

§ 1.] No person shall be deprived of life, liberty or property without due process of law. The right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization, and all contracts in negation or abrogation of such rights are hereby declared to be invalid, void and unenforceable.

Approved March 13, 1947.

NOTE—H B.. 151 not effective until approved by referendum vote at primary election in June 1948.