

SENATE BILL NO. 2113

Introduced by

Industry, Business and Labor Committee

(At the request of the Labor Commissioner)

1 A BILL for an Act to amend and reenact section 14-02.4-20 and section 14-02.4-21 of the North
2 Dakota Century Code, relating to the timeframe and type of complaint filed for appropriate relief
3 for backpay, the correct agency for filing a complaint of employment discrimination, and the
4 disclosure of anything said or done as part of informal negotiation or conciliation efforts.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

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

8 **14-02.4-20. Relief.** If the court determines that the respondent has engaged in or is
9 engaging in an unlawful practice, the court may enjoin the respondent from engaging in such
10 unlawful practice and order such appropriate relief as will be appropriate which may include, ~~but~~
11 ~~is not limited to,~~ temporary or permanent injunctions, equitable relief, and backpay limited to no
12 more than two years from the date the complainant has filed a ~~sworn charge~~ minimally
13 sufficient complaint with the ~~equal employment opportunity commission~~ North Dakota
14 department of labor on a form prescribed by the department or filed the complaint in the state
15 court. Interim earnings or amounts earnable with reasonable diligence by the person or
16 persons discriminated against shall operate to reduce the backpay otherwise allowable. In any
17 action or proceeding under this chapter the court may grant, in its discretion, the prevailing
18 party a reasonable attorney's fee as part of the costs.

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

21 **14-02.4-21. Optional mediation by department of labor - Relief - Appeals -**
22 **Records exempt.** The department of labor may receive complaints of discriminating
23 employment practices under this chapter and may investigate the complaints to determine if
24 there is probable cause to believe the complaint is meritorious and, if so, attempt to obtain

1 voluntary compliance with this chapter's employment requirements through informal advice,
2 negotiation, or conciliation. This chapter does not prohibit a person from filing, or require a
3 person to file, a complaint with the department of labor before using the provisions of this
4 chapter. A complaint received and information obtained during any investigation conducted
5 under this section are exempt from section 44-04-18 before the institution of any judicial
6 proceedings under this chapter. The commissioner may disclose to the complainant or the
7 respondent, or attorneys for the complainant or respondent, information obtained under this
8 section if deemed necessary by the commissioner for securing an appropriate resolution of a
9 complaint. Any record or information held by the department of labor pursuant to an agreement
10 with any federal agency for the enforcement of fair employment practices is exempt from
11 section 44-04-18, and the department of labor may disclose to federal officials information
12 obtained under this section if appropriate to carry out the enforcement of fair employment
13 practices pursuant to the agreement. The department of labor may not disclose anything said
14 or done as part of the informal negotiation or conciliation efforts under this section except to the
15 federal equal employment opportunity commission as needed for proper processing and
16 closure.