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ROLL NUMBER

DESCRIPTION

2226

2001 SENATE JUDICIARY

SB 2226

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2226

Senate Judiciary Committee

Conference Committee

Hearing Date January 22nd, 2001

Tape Number	Side A	Side B	Meter #
2	X		0
Committee Clerk Signature			

Minutes: **Senator Traynor** opened the hearing on SB 2226: A BILL FOR AN ACT TO AMEND AND REENACT SECTIONS 34-01-20 AND 34-11.1-04 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO PROHIBITED EMPLOYER RETALIATION FOR EMPLOYEE REPORTING OF VIOLATIONS OF LAWS, ORDINANCES, OR REGULAITONS.

Senator Watne: representing District 5, testified in favor of SB 2226. (testimony attached)

Deborah Earnest, from Minot ND, testified in favor of SB 2226. (testimony attached)

Senator Traynor: Employed by veterens affairs? Your supervisor asked you to do county work, not Federal Veterans administrative work?

John Risch, United Transprotation Union, supports SB 2226.

Dominic Volechkee, proclaimed himself a whistle blower. Believes line 22 page 1 needs more time attached. Line 10 page 2 also needs changes. The statement on page 2 line 17 didn't happen to him, nothing happened.

Page 2
Senate Judiciary Committee
Bill/Resolution Number SB 2226
Hearing Date January 22nd 2001

Senator Bercier, your not employed by the state anymore? Do they keep records of your violations? Do you still have them?

Dominic yes I do.

Corene Hoffman, state attorney, bill prohibits retaliation. Retaliation for individual attempting to follow the law.

John Emter, whistle blower. All law is, is paper.

John Risch page 2 line 7. One problem is a 90 day time frame limit. 90 days should be increased to 300 days. We should omit line 7 to end of the paragraph.

Senator Traynor page 2 line 7 to the end of the paragraph. You want this removed.

John Risch, it would make the language stronger.

Senator Traynor closed the hearing on SB 2226.

**MOTION WAS MADE BY SENATOR TRENBEATH TO AMEND LINE 13 ON PAGE 3.
SECONDED BY SENATOR BERCIER. VOTE INDICATED 7 YEAS, 0 NAYS, AND 0
ABSENT AND NOT VOTING. A SECOND MOTION WAS MADE BY SENATOR
WATNE TO DO PASS AS AMENDED. SECONDED BY SENATOR TRENBEATH.
VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING.**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2226

Page 3, ~~overstrike~~ line 3, ~~overstrike~~ "A job related violation of state or federal agency rules."

Page 3, line 4, overstrike "c." and insert immediately thereafter "b."

Renumber accordingly

Date: 1/22/01
Roll Call Vote #:)

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2226

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Amend in B pg. 3

Motion Made By Trenbeath Seconded By Bercier

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 1/22/11
Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 513 2226

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Watne Seconded By Trenbeath

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Watne

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

REPORT OF STANDING COMMITTEE (410)
January 23, 2001 12:39 p.m.

Module No: SR-11-1422
Carrier: Watne
Insert LC: 10283.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2226: Judiciary Committee (Sen. Traynor, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2226 was placed on the Sixth order on the calendar.

Page 3, line 3, overstrike "A job related violation of state or federal agency rules."

Page 3, line 4, overstrike "c."

Renumber accordingly

2001 HOUSE JUDICIARY

SB 2226

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2226

House Judiciary Committee

Conference Committee

Hearing Date 03-06-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 2498
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2226. Relating to prohibited employer retaliation for employee reporting of violations for employee reporting of violations of laws, ordinances or regulations.

Dina Butcher: Department of Labor, Director of Human Rights, I am here to say, the Labor Department has authority over the whistle blower provision at the state and federal level. This would extend those provisions to the local political subdivisions. It does not appear that it would add on to the case load, so we would be able to handle it. The commissioner asked me to relate that to the committee.

Rep Eckre: So the labor department says its fine with the legislation.

Dina Bucher: we are already doing this for the state and federal level, so this would extend to the political subdivisions.

Rep Eckre: So this would be expectable.

Dina Bucher: Yes.

Senator Watne: District 5, sponsor of the bill (see attached testimony).

Rep Mahoney: I was one of the original sponsor of the whistle blower law and I am sad to see this look hole. What type of local ordinance or regulation was violated.

Senator Watne: Her's was not a local ordinance.

Rep Mahoney: The lady will testify and she will tell us how to improve this law.

Senator Watne: No it was not a local ordinance, she was working for the VA administration.

Chairman DeKrey: Are there any further questions, seeing none, thank you for appearing. We will take further testimony in support of SB 2226.

Debra Earnest: She is the person who wrote the letter attached to Senator Watne's testimony. I was employed as a work study, under a contract to work for the Veterans Affairs. This contract said that I could only do veterans affairs work which was educational benefits for the veterans. Her supervisor (Garcia) brought in confidential work from another job (Ward County). I was threatened with dismissal if I didn't do the work that he laid out before me. Because she blew the whistle on her supervisor, she was fired. Veterans Affairs told him to stop doing this work and that was all that happened to him. I reported the offense to Protection and Advocacy and in turn was charged by the police with a felony, because she made copies of the work to take to the court house, nothing happened to him. I had no recourse, Veterans told him to quit, and the state told her it wasn't their problem. I tried to go through the court system, but it was rejected.

Rep Maragos: Reading through this letter, do you still feel that the supreme court acting illegally and in bad faith.

Debra Earnest: Yes, I do.

Rep Delmore: Were there others involved in doing this kind of work.

Page 3

House Judiciary Committee
Bill/Resolution Number SB 2226
Hearing Date 03-06-01

Debra Earnest: Yes, all the work study people.

Rep Delmore: No one else objected to this.

Debra Earnest: Nobody objected to him, we talked amongst ourselves.

Rep Delmore: Can you tell me why that might be.

Debra Earnest: The others depended on Mr Garcia for job recommendations. I did the work about I had no business dealing with those people. I had no business having access to that information.

Rep Mahoney: Your direct employer was Ward County.

Debra Earnest: No, the Department of Veterans Affairs, I was in the work study program.

Rep Mahoney: Have you tried to take this into federal court.

Debra Earnest: Not yet.

Rep Mahoney: Are you contemplating that.

Debra Earnest: Not yet, partially because my first attorney dropped the case and I had no knowledge, and I don't have the money.

Rep Mahoney: The additional work that you were doing, was that on extra time or while on the job.

Debra Earnest: I was paid hourly on the job.

Rep Mahoney: The extra work was that within the regular hours of work not after hours time.

Debra Earnest: No.

Rep Wrangham: If this bill goes into effect, how would it help you.

Debra Earnest: My supervisor's supervisor would have had to take action. His supervisor of the University system said that it wasn't their problem.

Page 4

House Judiciary Committee

Bill/Resolution Number SB 2226

Hearing Date 03-06-01

Rep Disrud: So your primary complaint was that Mr Garcia was using federal funds to do outside personal work. He was misusing grant funds for personal use.

Debra Earnest: That is correct.

Vice Chr Kretschmar: Just exactly what was your job.

Debra Earnest: Veterans that wanted to attend college, offered classes so veterans could brush up on those areas that were needed to do so.

Vice Chr Kretschmar: What type of work that Mr Garcia asked you to do that was not included in your contract.

Debra Earnest: He brought in Ward County work as a public administrator position. Had all the files mixed in with our files. We would take messages from clients, from attorneys, from the courthouse and his clients would come up to get checks.

Vice Chr Kretschmar: Were these people, primarily veterans, that you were working for.

Debra Earnest: No only veterans in the veterans reentry program.

Chairman DeKrey: If there are no further questions, thank you for appearing before the committee.

Senator Watne: I went over the Supreme Court decision with Jennifer Clark and one of the comments was the attorney had not filed enough papers. It was the opinion that she did not have adequate representation. She was getting the round around from different parts of the government. If this bill passes the Department of Labor would have to assist her.

Rep Maragos: What additional words prevent this from happening again.

Senator Watne: Because she was under a work study program through the college, working on a state issue, he had her working for Ward County, everyone said it was not their problem.

Page 5

House Judiciary Committee

Bill/Resolution Number SB 2226

Hearing Date 03-06-01

Rep Mahoney: Are you suggesting that the Labor Department would have helped her through this. Are you referring to the shall language. The only thing is, when I look at that, it leaves the discretion is in there.

Senator Watne: Labor Department needs the phrasing.

Rep Mahoney: I understand, but currently there is no way they can't receive the complaint. So I thing may or shall will not make a lot of difference. The problem is what they do with the complaint after they receive it.

Senator Watne: Someone else will have to answer that.

Rep Maragos: On page 3, line 3, why was that struck.

Senator Watne: That was struck because other language that was put in the other section that took care of it.

Chairman DeKrey: If there are no further questions, thank you for appearing. Anyone else wishing to testify, in opposition, if not we will close the hearing on SB 2226.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2226b

House Judiciary Committee

Conference Committee

Hearing Date 03-12-01

Tape Number	Side A	Side B	Meter #
TAPE I		x	5781 to 6231
TAPE II	x		01 to 163
Committee Clerk Signature <i>Juan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2226.

COMMITTEE ACTION

DISCUSSION

Chairman DeKrey: what are the wishes of the committee. Rep Wrangham moved the following amendment - on line 23, change to 180 days, seconded by Rep Mahoney. Voice vote on the amendment, motion carries. Rep Delmore moved a DO PASS as amend, seconded by Rep Disrud.

TAPE II SIDE A

DISCUSSION CONTINUES

Chairman DeKrey: the clerk will call the roll on a DO PASS as amend motion on SB 2226. The motion passes with 13 YES, 0 NO and 2 ABSENT. Carrier Rep Onstad.

