

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

SENATE BILL NO. 2143
(Political Subdivisions Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact section 14-02.4-19 of the North Dakota Century Code, relating to the administrative adjudication of discriminatory practices.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 14-02.4-19 of the North Dakota Century Code is amended and reenacted as follows:

14-02.4-19. Actions - Limitations.

1. Any person claiming to be aggrieved by a discriminatory practice with regard to public services or public accommodations in violation of this chapter may file a complaint of discriminatory practices with the department or may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed or in the district in which the person would have obtained public accommodations or services were it not for the alleged discriminatory act within one hundred eighty days of the alleged act of wrongdoing.
2. Any person claiming to be aggrieved by any discriminatory practice other than public services or public accommodations in violation of this chapter may file a complaint of discriminatory practice with the department or, except as limited by this section, may bring an action in the district court in the judicial district in which the unlawful practice is alleged to have been committed, in the district in which the records relevant to the practice are maintained and administered, or in the district in which the person would have worked or obtained credit were it not for the alleged discriminatory act within three hundred days of the alleged act of wrongdoing.
3. If Except as otherwise limited by this section, if a complaint of a discriminatory practice is first filed with the department, the period of limitation for bringing an action in the district court is ninety days from the date the department dismisses the complaint or issues a written probable cause determination.
4. If a person elects to bring an action in the district court under this chapter, any ~~pending~~ administrative action pending before the department based upon the same discriminatory acts must be dismissed immediately.
5. A person whose collective bargaining agreement, employment contract, or public employee rights provides a process through which recourse for discriminatory acts is available must exercise that process to completion before commencing an action under this section, and if that process provides for judicial review by statutory appeal or through special proceedings, then that process must be followed to completion. The period of limitation for bringing an action in the district court if there is no statutory appeal is ninety days from the date the available process is completed or if a complaint is filed with the department, ninety days from the date the department dismisses a complaint or issues a written probable cause determination, whichever is greater. In those cases when there is no statutory appeal, a request for an administrative hearing under section 14-02.4-23 must be made within twenty days from the date the department dismisses a complaint or issues a probable cause determination, but no administrative hearing may be held until any available internal process is completed. A person found to have been subjected to a

discriminatory act through an administrative process may apply to the district court for an award of reasonable attorney's fees and costs. Nothing in this subsection limits the ability of the department to receive and investigate complaints of discrimination and engage in informal conciliation.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2143.

Senate Vote: Yeas 46 Nays 0 Absent 1

House Vote: Yeas 86 Nays 0 Absent 8

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State