

LEGISLATIVE BILL 265

Approved by the Governor April 21, 1973

Introduced by Fowler, 27

AN ACT to amend section 48-1118, Reissue Revised Statutes of Nebraska, 1943, and sections 48-1002 and 48-1102, Revised Statutes Supplement, 1972, relating to labor; to redefine terms; to change penalties; to change the time for filing charges and to provide a time for giving notice thereof; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 48-1002, Revised Statutes Supplement, 1972, be amended to read as follows:

48-1002. As used in sections 48-1001 to 48-1009, unless the context otherwise requires:

(1) Person shall include one or more individuals, partnerships, associations, labor organizations, corporations, business trusts, legal representatives, or any organized group of persons;

(2) Employer shall mean a person having in his employ twenty-five or more individuals, and any person acting for or in the interest of an employer, directly or indirectly, but such term does not include (a) the United States, or (b) a corporation wholly owned by the government of the United States, or (c) any person or political entity acting with respect to any peace officer or firefighter;

(3) Labor organization shall mean any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment, or for other mutual aid or protection in connection with employment; and

(4) Employee shall mean an individual employed by any employer.

Sec. 2. That section 48-1102, Revised Statutes Supplement, 1972, be amended to read as follows:

48-1102. As used in sections 48-1101 to 48-1125, unless the context otherwise requires:

(1) Person includes one or more individuals, labor unions, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, or receivers;

(2) Employer shall mean a person engaged in an industry who has ~~twenty-five~~ fifteen or more employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, and any agent of such a person, but such term does not include (a) the United States, a corporation wholly owned by the government of the United States, or an Indian tribe, or (b) a bona fide private membership club, other than a labor organization, which is exempt from taxation under section 501 (c) of the Internal Revenue Code of 1954; Provided, ~~that during the period ending July 2, 1966, persons having fewer than one hundred employees, and their agents, shall not be considered employers, and during the period from July 3, 1966, to July 2, 1967, persons having fewer than seventy-five employees, and their agents, shall not be considered employers, and during the period July 3, 1967, to July 2, 1968, persons having fewer than fifty employees, and their agents, shall not be considered employers; and provided further,~~ that in accordance with the fundamental condition accepted by the people of the State of Nebraska as shown by the acts of admission of this state into the Union that there shall be no denial of any right to any person by reason of race or color, it shall be the policy of the State of Nebraska and of its political subdivisions to insure equal employment opportunities for employees of the state and of its political subdivisions without discrimination because of race or color, and all officers of the state and of its political subdivisions shall use their existing powers to effectuate this policy;

(3) Labor organization shall mean any organization which exists wholly or in part for one or more of the following purposes: Collective bargaining; dealing with employers concerning grievances, terms, or conditions of employment; or of mutual aid or protection in relation to employment;

(4) Employment agency shall mean any person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such a person; but shall not include an agency of the United States, except that such term shall include the United States Employment Service and the system of state and local employment services receiving federal assistance;

(5) Privileges of employment shall mean terms and conditions of any employer-employee relationship, opportunities for advancement of employees, and plant conveniences;

(6) Employee shall mean an individual employed by an employer; and

(7) Commission shall mean the Equal Opportunity Commission.

Sec. 3. That section 48-1118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

48-1118. (1) Whenever it is charged in writing under oath by or on behalf of a person claiming to be aggrieved, and such charge sets forth the facts upon which it is based, that an employer, employment agency, or labor organization has engaged in an unlawful employment practice, the commission shall furnish such employer, employment agency, or labor organization with a copy of such charge within ten days, including a statement of the date, place, and circumstances of the alleged unlawful employment practice, and shall make an investigation of such charge, but such charge shall not be made public by the commission. If the commission shall determine, after such investigation, that there is reasonable cause to believe that the charge is true, the commission shall endeavor to eliminate any such alleged unlawful employment practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during and as a part of such endeavors may be made public by the commission without the written consent of the parties, or used as evidence in a subsequent proceeding. Any officer or employee of the commission, who shall make public in any manner whatever any information in violation of this subsection shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not more than one thousand hundred dollars or imprisoned not more than one-year thirty days.

(2) A written charge of violation of sections 48-1101 to 48-1125 shall be filed within ninety one hundred eighty days after the occurrence of the alleged unlawful employment practice and notice of the charge, including a statement of the date, place, and circumstances of the alleged unlawful employment practice, shall be served upon the person against whom such charge is made within ten days thereafter.

(3) In connection with any investigation of a charge filed under this section, the commission or its

authorized agents shall have at all reasonable times access to, for the purposes of examination, and the right to copy, any evidence or records of any person being investigated or proceeded against that relates to unlawful employment practices covered by sections 48-1101 to 48-1125 and is relevant to the charge under investigation.

Sec. 4. That original section 48-1118, Reissue Revised Statutes of Nebraska, 1943, and sections 48-1002 and 48-1102, Revised Statutes Supplement, 1972, are repealed.