

LEGISLATIVE BILL 217

Approved by the Governor April 17, 2019

Introduced by Pansing Brooks, 28; Cavanaugh, 6; Blood, 3; Hansen, M., 26.

A BILL FOR AN ACT relating to the Nebraska Fair Employment Practice Act; to amend section 48-1114, Reissue Revised Statutes of Nebraska; to prohibit discrimination against employees for communicating about employee wages, benefits, or other compensation as prescribed; and to repeal the original section.

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

Section 1. Section 48-1114, Reissue Revised Statutes of Nebraska, is amended to read:

48-1114 (1) It shall be an unlawful employment practice for an employer to discriminate against any of his or her employees or applicants for employment, for an employment agency to discriminate against any individual, or for a labor organization to discriminate against any member thereof or applicant for membership, because he or she (a) ~~(1)~~ has opposed any practice made an unlawful employment practice by the Nebraska Fair Employment Practice Act, (b) ~~(2)~~ has made a charge, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the act, (c) ~~or (3)~~ has opposed any practice or refused to carry out any action unlawful under federal law or the laws of this state, or (d) has inquired about, discussed, or disclosed information regarding employee wages, benefits, or other compensation. This subdivision (d) shall not apply to instances in which an employee who has authorized access to the information regarding wages, benefits, or other compensation of other employees as a part of such employee's job functions discloses such information to a person who does not otherwise have authorized access to such information, unless such disclosure is in response to a charge or complaint or in furtherance of an investigation, proceeding, hearing, or other action, including an investigation conducted by the employer.

(2) Nothing in this subsection or subdivision (1)(d) of this section shall be contrary to applicable state or federal law or:

(a) Create an obligation for any employer or employee to disclose information regarding employee wages, benefits, or other compensation;

(b) Permit an employee, without the written consent of the employer, to disclose proprietary information, trade secret information, or information that is otherwise subject to a legal privilege or protected by law. For purposes of this subdivision, proprietary information does not include information regarding employee wages, benefits, or other compensation;

(c) Permit an employee to disclose information regarding wages, benefits, or other compensation of other employees to a competitor of the employer;

(d) Apply to employers which are exempt from the Nebraska Fair Employment Practice Act under section 48-1102;

(e) Permit an employee to discuss information regarding employee wages, benefits, or other compensation during working hours, as defined in existing workplace policies, or in violation of specific contractual obligations; or

(f) Permit an employee to disseminate information regarding employee wages, benefits, or other compensation to the general public. For purposes of this subdivision, general public does not include public officials, judicial officers, legislators, trade associations, or other reasonable third parties for the employee's mutual aid or protection.

(3) The changes made to this section by this legislative bill shall not be construed so as to impair or affect the obligation of any lawful contract in existence prior to the effective date of this act.

Sec. 2. Original section 48-1114, Reissue Revised Statutes of Nebraska, is repealed.