

**OPINION  
49-99**

December 12, 1949           (OPINION)

LABOR

RE: Public Employees Have Right to Organize a Union  
and Bargain Collectively

I received your letter of December 10, 1949, wherein you state that the North Dakota Labor Division has had numerous requests to clarify the status of public employees as they relate to the legal right of such employees--state, county, and municipal--to join a union of their own choice and to engage in collective bargaining and negotiating procedure, and you state that you would like our opinion as to whether or not there are specific provisions in the state that you would like our opinion as to whether or not there are specific provisions in the state laws which would prohibit such public employees from joining a union or bargaining collectively.

"34-0902. LABOR UNION TO FILE STATEMENT WITH SECRETARY OF STATE; CONTENTS. No person or association of persons shall operate or maintain a labor union or any other association acting or purporting to act as bargaining agent for workers unless and until there has been filed with the Secretary of State a statement in writing signed and verified under oath by the president or secretary of such labor union or association, setting forth the names and addresses of all of the officers and their official names of such union, a general statement of the aims and objects of said union, the scale of dues, initiation fees, fines and assessments to be charged to the members and the salaries to be paid to the officers, and setting forth the full and actual name of the labor union, under which it shall operate and be known."

Section 34-0905 provides that after a labor union has complied with the provisions of the act it then may act as a bargaining agent. The same chapter goes on to provide for the conduct of an election and the appointing of a bargaining agent and the vote required to appoint a bargaining agent and to have a strike become effective, and other provisions of our North Dakota labor law.

In view of these sections, it is our opinion that if the statement as required by section 34-0902 is filed with the secretary of state and in view of the declaration of public policy involved in this statute, which specifically states that any worker shall have the right to association and organization with his fellow employees and designation of representatives of his own choosing, as well as being free to decline to associate with his fellows and shall be free to obtain employment wherever possible without interference or being hindered in any way, that there is no provision of our state which would prohibit public employees from joining a union or bargaining collectively.

I, however, further want to draw your attention to section 34-0114 of

the 1947 Supplement to the 1943 Revised Code, which provides that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization, and all contracts in negation or abrogation of such rights are hereby declared to be invalid, void, and unenforceable.

I also wish to draw to your attention that under section 34-0913 of the 1947 Supplement to the 1943 Revised Code the provisions of this labor act shall not apply to employers and employees engaged in interstate commerce and subject to the provisions of federal laws relating to labor relations and disputes.

WALLACE E. WARNER

Attorney General