

**TESTIMONY IN FAVOR OF HB 76**  
**Before the House Business and Labor Committee**  
**Jerry Keck, Administrator**  
**Employment Relations Division**  
**Department of Labor and Industry**  
**January 12, 2007**

Mr. Chairman, members of the committee, for your record my name is Jerry Keck. I am the administrator of the Employment Relations Division in the Department of Labor and Industry. It is my pleasure to appear before you as a proponent of HB 76. The Department thanks Rep. McNutt for sponsoring this bill.

The Employment Relations Division is charged with implementing a number of the state statutes that affect the employer – employee relationship. One of those areas is implementation of the Human Rights Act in Title 49 that prohibits discrimination.

As Rep. McNutt has described, he was the sponsor of legislation in the 1997 session that made significant changes to the administrative procedures for handling a discrimination complaint. Prior to the 1997 changes, the administrative process was all under the umbrella of the Human Rights Commission. Staff of the Commission conducted the initial investigation of complaints, conducted hearings on the appeal of those initial investigations, and then the Commission was the quasi-judicial body that conducted the first level of judicial review.

Following the 1997 changes, the administrative process was separated into three levels of review all serving distinct functions. The Human Rights Bureau in the Employment Relations Division receives and investigates complaints. The Hearings Bureau in the Centralized Services Division conducts formal legal hearings and issues a final agency decision. The Human Rights Commission conducts quasi-judicial review of agency decisions.

After 10 years of experience with this revised model of administrative procedure, the changes contained in HB 76 are needed to (1) clearly explain the functions and processes used in each of these three separate levels; and (2) clarify how a complaint proceeds through this administrative process and then into District Court.

Mr. Chairman, I will briefly explain each section of the bill. (See attached description)

Mr. Chairman, members of the committee, The Department believes these changes will simplify and clarify for everyone the process for handling a human rights complaint. I urge your support for HB 76. I will try to answer any questions that the committee may have. Thank you.

## **HB76 - Summary**

- Section 1:** The changes standardize language and clearly set out the appeal rights for an untimely complaint.
- Section 2:** The changes clean up the language and allow the department to pursue injunctive relief.
- Section 3:** The changes clean up the language, set out department's mediation efforts, conform to current practice regarding the release of information gathered during the informal investigation, and explain the end result and appeal process for the department's "findings."
- Section 4:** The changes set out the procedure for a contested case proceeding with the department. The revisions clarify the timing of an appeal to the (Human Rights) Commission and the standard of review used by the Commission. The new provisions clarify that a prevailing party can recover both fees and costs.
- Section 5:** The changes reflect the administrative process. The (Human Rights) Commission no longer conducts the contested case hearing to determine damages. The Commission reviews the department's relief award.
- Section 6:** This new section sets out the role of the (Human Rights) Commission in statute. It does not alter the role of the Commission.
- Section 7:** The changes allow the department to seek enforcement of an order.
- Section 8:** This new section replaces 49-2-509, MCA, and explains when a party may proceed to the district court setting.
- Section 9:** The changes clean up language and conform to the administrative practice. The time frame for seeking a district court setting is extended to 30 days making it parallel with Section 8 (2)(b)(i).
- Section 10:** This section repeals sections 49-2-507 and 49-2-509.
- Section 11:** Codification instructions.
- Section 12:** Effective date of the bill.