

**OPINION
64-287**

June 8, 1964 (OPINION)

WORKMEN'S COMPENSATION BUREAU

RE: Records - Confidential

This is in response to your letter in which you ask for an opinion on the following situation. The tax commissioner has requested from you a list of all employers and their addresses as listed with the North Dakota Workmen's Compensation Bureau apparently for purposes of assisting him in determining whether any income tax liability exists on the part of said employers. You then ask if this information may be furnished to the tax commissioner.

Section 44-04-18 of the North Dakota Century Code provides as follows:

Except as otherwise specifically provided by law all records of public or governmental bodies, boards, bureaus, commissions of agencies of the state or any political subdivision of the state, or organizations or agencies supported in whole or in part by public funds, or expending public funds, shall be public records, open and accessible for inspection during reasonable office hours." (Emphasis supplied.)

It is specifically provided in section 65-04-15 of the North Dakota Century Code that:

INFORMATION IN EMPLOYERS' REPORTS CONFIDENTIAL - PENALTY IF EMPLOYEE OF BUREAU DIVULGES INFORMATION. The information contained in an employer's report to the bureau shall be for the exclusive use and information of the bureau in the discharge of its official duties and shall not be open to the public nor use in any court in any action or proceeding pending therein unless the bureau is a party thereto. The information contained in such report, however, may be tabulated and published by the bureau in statistical form for the use and information of the state departments and of the public. Any person in the employ of the bureau who, while acting as an employee of the bureau, shall divulge to any person other than an officer or employee of the bureau any information secured by him in respect to the transactions, property, or business of any company, firm, corporation, person, association, copartnership, or public utility, shall be guilty of a misdemeanor and, upon conviction thereof, shall be disqualified from holding any appointment with the bureau."

The name and address of an employer are part of the report to the bureau. This in effect constitutes information contained in the employer's report. This provision has been part of the Workmen's Compensation Act from the beginning (1919) and has been retained without any substantive change. This obviously shows a clear intent

that the Legislature wished to provide complete protection to the employer for submitting his report to the bureau and from having such report used for other purposes. It is specifically noted that the information contained in the report may not even be used in a court action unless the bureau is a party thereto. It is further observed that the penalty for disclosing such information is rather severe. Any departure from the ordinary meaning disclosed by the language used in section 65-04-15 should be by legislative action rather than by construction or administrative proceedings.

It is our opinion that the information requested is part of the employer's report submitted to the bureau, and under present statute may not be disclosed to any one other than an officer or employee of the bureau. This would prohibit the bureau from making this information available to some other department, including the tax department. While the request has merit and would be beneficial to the tax department, the statute prohibits this and the change if any should be by legislation.

HELGI JOHANNESON

Attorney General