

HOUSE BILL NO. 1435

Introduced by

Representatives Boehning, Rick C. Becker, Kreidt, Schatz

1 A BILL for an Act to amend and reenact subsection 3 of section 44-04-21.2 and section
2 44-04-21.3 of the North Dakota Century Code, relating to the imposition of a civil penalty for
3 violations of open records and open meetings requirements; and to provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Subsection 3 of section 44-04-21.2 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 3. The remedies provided in this section are not available if a violation of section
8 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 has been corrected before a
9 civil action is filed and no person has been prejudiced or harmed by the delay or if the
10 attorney general has imposed and collected a civil penalty under section 44-04-21.3.
11 An interested person or entity may not file a civil action under this section seeking
12 attorney's fees or damages, or both, until at least three working days after providing
13 notice of the alleged violation to the chief administrative officer for the public entity.
14 This subsection does not apply if the attorney general has found under section
15 44-04-21.1, on a prior occasion, that the public entity has violated section 44-04-18,
16 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 and the attorney general has not
17 imposed and collected a civil penalty under section 44-04-21.3.

18 **SECTION 2. AMENDMENT.** Section 44-04-21.3 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **44-04-21.3. Attorney general referral, civil penalty, and criminal penalties.**

21 1. The attorney general may refer to the appropriate state's attorney any public servant
22 as defined in section 12.1-01-04 who has been found in more than one opinion issued
23 pursuant to under section 44-04-21.1 to have violated section 44-04-18, 44-04-19,
24 44-04-19.2, 44-04-20, or 44-04-21.

- 1 2. The attorney general may impose a civil penalty of five hundred dollars upon a
2 member of a state governing body who has been found in more than one opinion
3 issued under section 44-04-21.1 to have violated the provisions of sections 44-04-19,
4 44-04-19.1, 44-04-19.2, 44-04-20, or 44-04-21 which relate to meetings. An individual
5 may appeal the assessment of a civil penalty under the provisions of chapter 28-32 by
6 filing a written notice of appeal within twenty days after service of notice of the civil
7 penalty. Any civil penalty collected under this section must be deposited in the attorney
8 general's refund fund.
- 9 3. A public servant as defined in section 12.1-01-04 who knowingly violates section
10 44-04-18, 44-04-19, 44-04-19.2, 44-04-20, or 44-04-21 is guilty of an offense under
11 section 12.1-11-06.