

February 14, 2019

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1521

Page 1, line 1, replace "two" with "a"

Page 1, line 1, replace "sections" with "section"

Page 1, line 2, after "contributions" insert "and expenditures"

Page 1, line 8, replace the second "section" with "sections"

Page 1, line 8, after "28-32-27" insert ", 28-32-47, 28-32-48, and 28-32-49"

Page 1, line 9, remove "hearing"

Page 1, line 10, replace "officers" with "agency heads in quasi-judicial proceedings, implementing article XIV of the Constitution of North Dakota"

Page 13, line 17, replace "impose a fine" with "assess a civil penalty"

Page 13, line 18, after "who" insert "knowingly"

Page 13, line 18, after the underscored period insert "The assessment of a civil penalty may be appealed to the district court of Burleigh County."

Page 13, line 18, after "subsequent" insert "knowing"

Page 13, line 19, replace "A" with "B"

Page 13, line 25, replace "file a claim" with "commence an action"

Page 13, line 25, remove "with competent"

Page 13, line 26, remove "jurisdiction"

Page 13, line 28, replace "remains in violation of" with "has failed to comply with"

Page 13, line 28, remove the second "violation"

Page 13, line 29, replace "of" with "failure to comply with"

Page 13, remove lines 30 and 31

Page 14, remove lines 1 through 6

Page 19, line 5, after the first underscored comma, insert "as specified"

Page 28, line 22, overstrike "such"

Page 34, line 18, remove "and shall"

Page 34, remove lines 19 through 24

Page 34, line 25, remove "shared by the general public"

Page 34, line 26, after "3." insert "A hearing officer who is a director, officer, commissioner, head, or other executive of an agency shall self-disqualify in a proceeding in which a reasonable, disinterested observer would believe the hearing officer is biased due to:

- a. A contribution by one of the parties supporting the hearing officer's most recent campaign for public office; or
- b. An ownership interest, other than investment in a mutual fund, of the hearing officer in one of the parties to the proceeding if the ownership interest is not shared by the general public.

4."

Page 34, line 28, overstrike "4." and insert immediately thereafter "5."

Page 34, line 30, overstrike "5." and insert immediately thereafter "6."

Page 35, line 9, overstrike "6." and insert immediately thereafter "7."

Page 35, line 11, overstrike "7." and insert immediately thereafter "8."

Page 35, line 19, replace "8." with "9."

Page 35, line 19, replace "impose upon" with "assess"

Page 35, line 19, after "who" insert "knowingly"

Page 35, line 20, replace "this section" with "subsection 3"

Page 35, line 20, replace "fine of one" with "civil penalty of five"

Page 35, line 21, after "subsequent" insert "knowing"

Page 35, line 21, replace "an infraction" with "a class B misdemeanor"

Page 35, after line 21 insert:

**"SECTION 29. AMENDMENT.** Section 28-32-47 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-47. Scope of and procedure on appeal from agency rulemaking.**

1. A judge of the district court shall review an appeal from an administrative agency's or ethics commission's rulemaking action based only on the record filed with the court. If an appellant requests documents to be included in the record but the agency or commission does not include them, the court, upon application by the appellant, may compel their inclusion. After a hearing, the filing of briefs, or other disposition of the matter as the judge may reasonably require, the court shall affirm the agency's rulemaking action unless it finds that any of the following are present:
  1. a. The provisions of this chapter have not been substantially complied with in the agency's rulemaking actions.
  2. b. A rule published as a result of the rulemaking action appealed is unconstitutional on the face of the language adopted.
  3. c. A rule published as a result of the rulemaking action appealed is beyond the scope of the agency's or commission's authority to adopt.

4. d. A rule published as a result of the rulemaking action appealed is on the face of the language adopted an arbitrary or capricious application of authority granted by statute.
2. If the rulemaking action of the agency or commission is not affirmed by the court, ~~if the rulemaking action~~ must be remanded to the agency or commission for disposition in accordance with the order of the court, or the rule or a portion of the rule resulting from the rulemaking action of the agency or commission must be declared invalid for reasons stated by the court.

**SECTION 30. AMENDMENT.** Section 28-32-48 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-48. Appeal - Stay of proceedings.**

An appeal from an order or the rulemaking action of an administrative agency or the commission does not stay the enforcement of the order or the effect of a published rule unless the court to which the appeal is taken, upon application and after a hearing or the submission of briefs, orders a stay. The court may impose terms and conditions for a stay of the enforcement of the order or for a stay in the effect of a published rule. This section does not prohibit the operation of an automatic stay upon the enforcement of an administrative order or commission order as may be required by another statute.

**SECTION 31. AMENDMENT.** Section 28-32-49 of the North Dakota Century Code is amended and reenacted as follows:

**28-32-49. Review in supreme court.**

The judgment of the district court in an appeal from an order or rulemaking action of an administrative agency or the commission may be reviewed in the supreme court on appeal in the same manner as provided in section 28-32-46 or 28-32-47, except that the appeal to the supreme court must be taken within sixty days after the service of the notice of entry of judgment in the district court. Any party of record, including the agency or commission, may take an appeal from the final judgment of the district court to the supreme court. If an appeal from the judgment of the district court is taken by an agency or the commission, the agency or commission may not be required to pay a docket fee or file a bond for costs or equivalent security."

Page 37, line 22, replace "file a claim" with "commence an action"

Page 37, line 22, remove "with competent"

Page 37, line 23, remove "jurisdiction"

Page 37, line 25, replace "remains in violation of" with "has failed to comply with"

Page 37, line 25, remove the second "violation"

Page 37, line 26, replace "of" with "failure to comply with"

Page 37, line 28, after "gift" insert "knowingly"

Page 37, line 29, remove "knowingly"

Page 37, line 30, after "lobbyist" insert "knowingly"

Page 38, line 19, replace "impose a fine" with "assess a civil penalty"

Page 38, line 19, replace "one" with "five"

Page 38, line 20, after "who" insert "knowingly"

Page 38, line 20, after "section" insert "and, if the person is a lobbyist, the secretary of state may revoke the lobbyist's registration under chapter 54-05.1"

Page 38, line 20, after "subsequent" insert "knowing"

Page 38, line 21, replace "an infraction" with "a class B misdemeanor"

Page 39, line 19, replace "verbally" with "orally"

Page 39, line 27, replace "verbally" with "orally"

Page 39, line 31, replace "14-02" with "12.1-15"

Page 40, line 4, replace "verbal" with "oral"

Page 40, line 6, after "writing" insert "within ten calendar days of receipt of the complaint or summary of the complaint"

Page 40, line 31, remove "and recommendations"

Page 41, line 1, remove "and recommendations"

Page 41, line 3, remove "and recommendations"

Page 41, line 4, remove "and recommendations"

Page 41, line 4, remove the underscored comma

Page 41, line 5, remove "recommendations."

Page 41, line 7, remove "and recommendations"

Page 41, line 9, remove the underscored comma

Page 41, line 10, remove "recommendations."

Page 41, line 12, remove "their"

Page 41, line 17, replace "impose a" with "assess a civil"

Page 41, line 18, replace "impose a" with "assess a civil"

Page 41, line 19, after "appeal" insert "and request judicial review of"

Page 41, line 20, remove "the office of administrative hearings, which shall"

Page 41, line 21, replace "designate an administrative law judge to hear the appeal. An appeal" with "the district court in the county in which the accused individual resides. A request for judicial review"

Page 41, line 22, replace "adjudicative proceedings" with "an appeal of a determination of an agency"

Page 41, line 22, after the underscored period insert "The scope of review and procedure on appeal from a determination of the commission must comply with section 28-32-47."

Page 41, line 29, replace "an administrative law judge" with "a court"

Page 42, line 13, remove "Disclosure of information included in subsections 1 and 2 by a person who knows the"

Page 42, remove line 14

Page 42, line 15, remove "4."

Page 42, line 17, replace "5." with "4."

Page 42, line 20, replace "impose a fine" with "assess a civil penalty"

Page 42, line 20, replace "one" with "five"

Page 42, line 20, after "who" insert "knowingly"

Page 42, line 21, after "subsequent" insert "knowing"

Page 42, line 22, replace "an infraction" with "a class B misdemeanor"

Page 42, after line 27, insert:

**"54-66-14. Prohibition on delivering campaign contributions - Penalty.**

A lobbyist may not deliver knowingly a campaign contribution made by another person in violation of subsection 3 of section 2 of article XIV of the Constitution of North Dakota. For a first violation, the secretary of state shall assess a civil penalty of five hundred dollars upon any person who knowingly violates this section and may revoke the lobbyist's registration. For a second and subsequent knowing violation of this section, the person is guilty of a class B misdemeanor."

Page 42, line 29, replace "\$100,000" with "\$300,000"

Page 43, line 1, after "authorized" insert "one and"

Page 43, line 1, remove "of a"

Page 43, line 1, remove "position for an administrative"

Page 43, line 2, replace "assistant" with "positions"

Page 43, line 3, after the fifth comma insert "and"

Page 43, line 3, remove ", and 29"

Page 43, line 4, replace "30" with "32"

Page 43, line 7, replace "30" with "32"

Page 43, line 9, replace "30" with "32"

Page 43, line 11, after "Sections" insert "8,"

Page 43, line 11, remove "and"

Page 43, line 11, after "20" insert ", 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, and 31"

Renumber accordingly