23.1009.01005

Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2296

Introduced by

Senators Paulson, Larsen, Weston

Representatives Christensen, Satrom, Vetter

A BILL for an Act to create and enact ~~two~~a new ~~sections~~section to chapter 28-32 of the North Dakota Century Code, relating to ~~agency adjudications and~~limiting judicial deference ~~in administrative hearings~~to governmental entities; and to provide for a legislative management study.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

~~**SECTION 1.** A new section to chapter 28-32 of the North Dakota Century Code is created and enacted as follows:~~

~~**Administrative hearings - Agency adjudications.**~~

~~Notwithstanding any other provision of law:~~

~~1. The administrative agency initiating a case may not supervise the administrative law judge's proceedings.~~

~~2. Except by proper evidence and legal argument, an administrative agency may not attempt to influence the findings of fact or the administrative law judge's application of the law in a contested matter.~~

~~3. Every decision made by an administrative law judge must contain findings of fact, conclusions of law, and a disposition of the case.~~

~~4. Unless a party files an appeal under section 28-32-42, every decision made by an administrative law judge is final.~~

SECTION 1. A new section to chapter 28-32 of the North Dakota Century Code is created and enacted as follows:

Judicial deference.

Notwithstanding any other provision of law~~:~~

~~1. When~~, in interpreting or applying a statute, regulation, or ~~regulatory document, an administrative law~~rule, a judge may not defer to ~~an administrative agency's~~a

governmental entity's interpretation of ~~a~~the statute, regulation, or ~~other regulatory document to determine the meaning.~~

~~2. In an action involving an administrative agency, the administrative law judge shall exercise doubt in favor of a reasonable interpretation that limits agency power and maximizes individual liberty~~rule. After applying all customary rules of interpretation, the court shall resolve any remaining ambiguity against increased agency authority.

SECTION 2. LEGISLATIVE MANAGEMENT STUDY - AUTHORITY OF HEARING OFFICERS. During the 2023-24 interim, the legislative management shall consider studying the impact of granting statutory authority under chapter 28-32 to a hearing officer, who may not be the agency head, to make findings of fact and conclusions of law, and issue orders. The study must include a review of chapter 28-32 and input from governmental entities and other interested parties. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.