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HOUSE BILL 254

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

Peter Wirth

FOR THE CORRECTIONS OVERSIGHT, COURTS AND JUSTICE COMMITTEE

AN ACT

RELATING TO HUMAN RIGHTS; CHANGING THE COURT OF REVIEW FOR A
DISTRICT COURT HUMAN RIGHTS APPEAL JUDGMENT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 28-1-13 NMSA 1978 (being Laws 1969,
Chapter 196, Section 12, as amended) is amended to read:

"28-1-13. APPEAL. --

A. ~~[Any]~~ A person aggrieved by an order of the
commission may obtain a trial de novo by filing a notice of
appeal in the district court of the county where the
discriminatory practice occurred or where the respondent does
business ~~[by filing a]~~. The notice of appeal must be filed
within thirty days from the date of service of the commission's
order. A copy of the notice of appeal shall be served
personally or by certified mail, return receipt requested, ~~[at~~

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 ~~their last known address~~] on all parties who appeared before
2 the commission [~~and~~] at their last known addresses. A copy of
3 the notice of appeal shall also be served at the division
4 office in Santa Fe. [~~No~~] An order of the commission shall not
5 be superseded or stayed during the appeal unless the district
6 court so directs after notice to the commission and a hearing.

7 B. If testimony at the hearing was transcribed, the
8 division shall, upon receipt of the notice of appeal, file so
9 much of the transcript of the record as the parties requesting
10 the transcript designate as necessary for the appeal with the
11 district court.

12 C. Upon appeal, either party may request a jury.
13 The jurisdiction of the district court is exclusive and its
14 judgment is final, subject to further appeal to the [~~supreme~~]
15 court of appeals.

16 D. If the complainant prevails in [~~any~~] an action
17 or proceeding under this section [~~if the complainant prevails~~],
18 the court in its discretion may allow actual damages and
19 reasonable [~~attorney's~~] attorney fees, and the state shall be
20 liable the same as a private person. "