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2 State of Arkansas
3 88th General Assembly
4 Regular Session, 2011

A Bill

HOUSE BILL 2152

5
6 By: Representative Nickels

7 Filed with: Interim House Committee on Public Health, Welfare and Labor
8 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

9
10 AN ACT TO PROVIDE PROTECTION TO WORKERS' COMPENSATION
11 CLAIMANTS AGAINST RETALIATORY DISCRIMINATION; AND FOR
12 OTHER PURPOSES.

Subtitle

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15 TO PROVIDE PROTECTION TO WORKERS'
16 COMPENSATION CLAIMANTS AGAINST
17 RETALIATORY DISCRIMINATION; AND FOR OTHER
18 PURPOSES.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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24 SECTION 1. Arkansas Code § 11-9-107 is amended to read as follows:
25 11-9-107. Penalties for discrimination for filing claim.

26 (a)(1) Any employer who willfully discriminates in regard to the
27 hiring or tenure of work or any term or condition of work of any individual
28 on account of the individual's claim for benefits under this chapter, or who
29 in any manner obstructs or impedes the filing of claims for benefits under
30 this chapter, shall be subject to a fine of up to ten thousand dollars
31 (\$10,000) as determined by the Workers' Compensation Commission.

32 (2) This fine shall be payable to the ~~Second Injury Trust Fund~~
33 claimant and paid by the employer and not by the carrier.

34 (b)~~(1)~~ In addition, the prevailing ~~party~~ claimant shall be entitled to
35 recover costs and a reasonable attorney's fee payable ~~from the fine~~ by the
36 employer.

1 ~~(2) Provided, however, if the employee is the nonprevailing~~
2 ~~party, the attorney's fee and costs shall, at the election of the employer,~~
3 ~~be paid by the employee or deducted from future workers' compensation~~
4 ~~benefits.~~

5 (c) The employer may also be guilty of a Class D felony.

6 (d) This section shall not be construed as establishing an exception
7 to the employment at will doctrine.

8 (e) A purpose of this section is to preserve the exclusive remedy
9 doctrine and specifically annul any case law inconsistent ~~herewith~~ with this
10 section, including, ~~but not necessarily limited to~~ without limitation: Wal-
11 Mart Stores, Inc. v. Baysinger, 306 Ark. 239, 812 S.W.2d 463 (1991); Mapco,
12 Inc. v. Payne, 306 Ark. 198, 812 S.W.2d 483 (1991); and Thomas v. Valmac
13 Industries, Inc., 306 Ark. 228, 812 S.W.2d 673 (1991).

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16 Referred by the Arkansas House of Representatives

17 Prepared by: DLP/VJF