

**FIRST ENGROSSMENT
with Conference Committee Amendments**

Fifty-sixth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1171

Introduced by

Government and Veterans Affairs Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact sections 54-44.3-03, 54-44.3-12.2, 54-44.3-15, and
2 54-44.3-16 of the North Dakota Century Code, relating to membership and voting on the state
3 personnel board, employee complaints, certification of payroll by the central personnel division
4 director, and agency personnel officers.

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

6 **SECTION 1. AMENDMENT.** Section 54-44.3-03 of the 1997 Supplement to the North
7 Dakota Century Code is amended and reenacted as follows:

8 **54-44.3-03. State personnel board - Composition - Terms - Vacancies -**
9 **Qualifications.**

- 10 1. The state personnel board is composed of the director, who must be the chairman
11 of the board; ~~a member appointed by the board of higher education;~~ one member
12 appointed by the governor; ~~and~~ two members elected by employees classified
13 under sections 54-44.3-19 and 54-44.3-20; and one member with a professional
14 human resource background appointed by the governor.
- 15 2. The term of ~~the~~ each member of the board ~~appointed by the governor and the~~
16 ~~respective terms of the members of the board elected by classified employees,~~
17 except the director, must be for six years. ~~However, the member of the board~~
18 ~~appointed by the governor in 1995 shall serve for a period of six years. Thereafter,~~
19 ~~all appointments and elections to the personnel board must be for six years'~~
20 ~~duration.~~ The director's term coincides with employment as director.
- 21 ~~3.~~ Any permanent vacancy in office must be filled for the unexpired term in the same
22 manner as the selection of the person vacating the office. ~~However, if a board~~
23 ~~member voluntarily withdraws from deliberation and voting on an appeal where~~
24 ~~there may be a possible conflict of interest, the vacancy will be filled temporarily in~~

1 ~~the same manner as the selection of the person vacating the office. When a~~
2 ~~temporary vacancy involves a member of the board elected by classified~~
3 ~~employees, the automatic substitute must be the candidate that received the~~
4 ~~second highest number of votes in the election that elected the board member.~~
5 ~~Temporary board members will be used only in situations when a permanent board~~
6 ~~member voluntarily vacates the position due to a possible conflict of interest.~~
7 4. 3. ~~The Each~~ member of the board ~~appointed by the governor~~ must be a resident of
8 the state for at least sixty days and must be known to be in sympathy with the
9 application of merit principles to public employment. ~~Each member of the board~~
10 ~~elected by classified employees must be a resident of the state for at least sixty~~
11 ~~days and must be known to be in sympathy with the application of merit principles~~
12 ~~to public employment.~~ No member of the board ~~appointed by the governor or~~
13 ~~elected by classified employees~~ may have held a position in a political party within
14 four years immediately preceding the member's appointment or election to the
15 board, and those members of the board elected by classified employees must be
16 full-time employees in good standing of the classified service.

17 **SECTION 2. AMENDMENT.** Section 54-44.3-12.2 of the 1997 Supplement to the
18 North Dakota Century Code is amended and reenacted as follows:

19 **54-44.3-12.2. Employee complaints - Cooperation in development and**
20 **implementation of basic agency grievance procedures and a statewide appeal**
21 **mechanism - Appeals.** It is the intent of the state of North Dakota to assure fair and equitable
22 treatment and promote harmony between and among all classified employees. To ensure this
23 the state desires to resolve bona fide employee complaints as quickly as possible. The division
24 shall cooperate with and assist the various departments, agencies, and institutions of the state
25 in the development and implementation of basic agency grievance procedures and a statewide
26 appeal mechanism. The division shall certify appeals from nonprobationary employees in the
27 classified service which are related to discrimination, merit system qualification, reprisals,
28 reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and
29 dismissal, and from applicants for positions in the classified service related to discrimination.
30 Upon receipt of an appeal, the division shall submit a written request to the director of the office
31 of administrative hearings to designate an administrative hearing officer for the division to

1 conduct the hearing and related proceedings, including receiving evidence and preparing
2 findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial
3 action bears the burden of proof in the appeal. An appeal to the district court from the
4 determination of the ~~office of administrative hearings~~ hearing officer must be filed according to
5 chapter 28-32, but neither the division nor the office of administrative hearings may be named
6 as a party to the appeal under chapter 23-32 unless an employee of one of those two agencies
7 is involved in the grievance.

8 **SECTION 3. AMENDMENT.** Section 54-44.3-15 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-44.3-15. ~~Payrolls must be certified by director before payment can be made~~**
11 **Payment disapproved by director.** ~~No state disbursing or auditing officer~~ The director may
12 ~~make or approve or take any part in making or approving any~~ disapprove the payment for
13 personal service ~~to~~ for any person holding a position in the classified service, except a person
14 appointed to a position for the duration of an emergency, ~~unless if the director or the director's~~
15 ~~authorized agent has certified~~ determines that the person named therein has not been
16 classified and is not imminently to receive classification in accordance with the provisions of
17 this chapter and the rules and orders thereunder and or that the rate of pay is legal not
18 authorized.

19 **SECTION 4. AMENDMENT.** Section 54-44.3-16 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-44.3-16. Agency personnel officers.** The elected or appointed chief officer of
22 each agency or department of the service shall designate a staff employee to serve as
23 personnel officer for that division of the service to assist ~~him~~ the chief officer in ~~his~~ that person's
24 duty to administer personnel responsibilities specified in this chapter and by the personnel rules
25 ~~and regulations.~~ The designated personnel officer of each agency or department shall certify to
26 the agency elected or appointed chief officer that each person holding a position in the
27 classified service authorized for payment through payroll has been classified in accordance
28 with the provisions of this chapter and the rules and orders under this chapter and that the rate
29 of pay is within established current salary ranges or excepted from the ranges by written
30 authorization by the director.