

**Fifty-sixth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Tuesday, the fifth day of January,
one thousand nine hundred and ninety-nine**

HOUSE BILL NO. 1171
(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact sections 54-44.3-03, 54-44.3-12.2, 54-44.3-15, and 54-44.3-16 of the North Dakota Century Code, relating to membership and voting on the state personnel board, employee complaints, certification of payroll by the central personnel division director, and agency personnel officers.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

1. The state personnel board is composed of the director, who must be the chairman of the board; ~~a member appointed by the board of higher education;~~ one member appointed by the governor; ~~and two members elected by employees classified under sections 54-44.3-19 and 54-44.3-20; and one member with a professional human resource background appointed by the governor.~~
2. The term of the each member of the board ~~appointed by the governor and the respective terms of the members of the board elected by classified employees, except the director,~~ must be for six years. ~~However, the member of the board appointed by the governor in 1995 shall serve for a period of six years. Thereafter, all appointments and elections to the personnel board must be for six years' duration. The director's term coincides with employment as director.~~
- ~~3.~~ Any permanent vacancy in office must be filled for the unexpired term in the same manner as the selection of the person vacating the office. ~~However, if a board member voluntarily withdraws from deliberation and voting on an appeal where there may be a possible conflict of interest, the vacancy will be filled temporarily in the same manner as the selection of the person vacating the office. When a temporary vacancy involves a member of the board elected by classified employees, the automatic substitute must be the candidate that received the second highest number of votes in the election that elected the board member. Temporary board members will be used only in situations when a permanent board member voluntarily vacates the position due to a possible conflict of interest.~~
4. 3. The Each member of the board ~~appointed by the governor~~ must be a resident of the state for at least sixty days and must be known to be in sympathy with the application of merit principles to public employment. ~~Each member of the board elected by classified employees must be a resident of the state for at least sixty days and must be known to be in sympathy with the application of merit principles to public employment. No member of the board appointed by the governor or elected by classified employees may have held a position in a political party within four years immediately preceding the member's appointment or election to the board, and those members of the board elected by classified employees must be full-time employees in good standing of the classified service.~~

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

54-44.3-12.2. Employee complaints - Cooperation in development and implementation of basic agency grievance procedures and a statewide appeal mechanism - Appeals. It is the intent of the state of North Dakota to assure fair and equitable treatment and promote harmony between and among all classified employees. To ensure this the state desires to resolve bona fide employee complaints as quickly as possible. The division shall cooperate with and assist the various departments, agencies, and institutions of the state in the development and implementation of basic agency grievance procedures and a statewide appeal mechanism. The division shall certify appeals from nonprobationary employees in the classified service which are related to discrimination, merit system qualification, reprisals, reduction in force, forced relocation, demotion with loss of pay, suspension without pay, and dismissal, and from applicants for positions in the classified service related to discrimination. Upon receipt of an appeal, the division shall submit a written request to the director of the office of administrative hearings to designate an administrative hearing officer for the division to conduct the hearing and related proceedings, including receiving evidence and preparing findings of fact, conclusions of law, and issuing a final decision. The moving party in the initial action bears the burden of proof in the appeal. An appeal to the district court from the determination of the ~~office of administrative hearings~~ hearing officer must be filed according to chapter 28-32, but neither the division nor the office of administrative hearings may be named as a party to the appeal under chapter 23-32 unless an employee of one of those two agencies is involved in the grievance.

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

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

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

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-sixth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1171.

House Vote: Yeas 94 Nays 0 Absent 4

Senate Vote: Yeas 48 Nays 0 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1999.

Approved at _____ M. on _____, 1999.

Governor

Filed in this office this _____ day of _____, 1999,

at _____ o'clock _____ M.

Secretary of State