

Sixty-fifth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1090

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 subsection 1 of section 37-19.1-04, subsection 6 of
2 section 44-04-18.4, subsection 8 of section 54-06-25, sections 54-06-26 and 54-44.3-01.2,
3 subsection 2 of section 54-44.3-03, and sections 54-44.3-05 and 54-44.4-02.1 of the North
4 Dakota Century Code, relating to bids and proposals received by public entities, notification of
5 nonapplicability of veteran's preference, electronic ballot submission, long distance tolls, salary
6 compensation comparison records, state personnel board vacancy filling procedures, secret
7 ballot election rules, and reports of services.

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

9 **SECTION 1. AMENDMENT.** Subsection 1 of section 37-19.1-04 of the North Dakota
10 Century Code is amended and reenacted as follows:

11 1. If a veteran, or a qualified veteran's spouse, hereafter known as the applicant, is not
12 given the preference provided in section 37-19.1-02 or 37-19.1-03, the applicant,
13 within fifteen calendar days after receipt of electronic notification by certified mail or
14 through the online recruiting solution system that employment has been refused, may
15 request a hearing as provided in subsection 3. The notification from the employer must
16 include the reasons for nonselection, inform the applicant of the right to an appeal
17 hearing, inform the applicant of the requirement that the request for a hearing must be
18 filed by certified mail within fifteen calendar days after the notification, inform the
19 applicant that a request for an appeal hearing must be made to the commissioner of
20 veterans' affairs at the included commissioner's mailing address, and inform the
21 applicant that if the applicant requests an appeal, the applicant must mail a copy of the
22 request for an appeal hearing to the employer or employing agency. The applicant's
23 request for a hearing must be in writing, must include a copy of the employer's
24 notification that employment has been refused, and must be mailed to the

1 commissioner of veterans' affairs by certified mail. A copy of the written request must
2 be mailed to the employer or employing agency by certified mail. The applicant is
3 entitled to immediate employment in the position for which application was originally
4 made, or an equivalent position, together with backpay and benefits from the date the
5 appointment should have been made less amounts otherwise earnable through due
6 diligence, if the hearing officer finds in favor of the applicant.

7 **SECTION 2. AMENDMENT.** Subsection 6 of section 44-04-18.4 of the North Dakota
8 Century Code is amended and reenacted as follows:

9 6. Unless made confidential under subsection 1 or made exempt under subsection 5,
10 bids;

11 (a) ~~Bids or proposals~~ received by a public entity in response to ~~a request for~~
12 ~~proposals~~ an invitation for bids by the public entity are exempt until all of the
13 ~~proposals~~ bids have been received and opened by the public entity ~~or until all oral~~
14 ~~presentations regarding the proposals, if any, have been heard;~~

15 b. Proposals received by ~~the~~ a public entity in response to a request for proposals
16 are exempt records until an award is made a notice of intent to award is issued.

17 c. Records included with any bid or proposal naming and generally describing the
18 entity submitting the proposal are open.

19 **SECTION 3. AMENDMENT.** Subsection 8 of section 54-06-25 of the North Dakota Century
20 Code is amended and reenacted as follows:

21 8. The ballot must be prepared by the division and distributed to each agency and
22 institution payroll officer. An officer of each agency and institution shall provide mailing
23 labels for all qualified employees to the division upon the division's request. A ballot for
24 the election must be distributed ~~with~~ to each employee's payroll check employee on the
25 employee's regularly scheduled payday. The division may allow for a process by which
26 electronic ballots are submitted by employees to elect a candidate to the commission.

27 **SECTION 4. AMENDMENT.** Section 54-06-26 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **54-06-26. Use of state telephones by state officials and employees.**

30 Notwithstanding any other provision of law, an appointed or elected state official or a state
31 employee may use a state telephone to receive or place a local call for essential personal

1 purposes to the extent that use does not interfere with the functions of the official's or
2 employee's agency, department, or institution. ~~When an appointed or elected state official or~~
3 ~~state employee is away from the official's or employee's residence for official state business and~~
4 ~~long distance tolls would apply for the official or employee to call the official's or employee's city~~
5 ~~of residence, the official or employee is entitled to make at least one long distance call per day~~
6 ~~at state expense.~~ Each state agency, department, or institution may establish guidelines
7 defining reasonable and appropriate use of state telephones for essential personal purposes.

8 **SECTION 5. AMENDMENT.** Section 54-44.3-01.2 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **54-44.3-01.2. Compensation philosophy statement.**

11 The compensation program for classified state employees must be designed to recruit,
12 retain, and motivate a quality workforce for the purpose of providing efficient and effective
13 services to the citizens of North Dakota. For purposes of this section, "compensation" is defined
14 as base salary and related fringe benefits.

15 The compensation program must:

- 16 1. Provide a competitive employee compensation package based on job content
17 evaluation, internal equity, and external competitiveness balanced by the state's fiscal
18 conditions.
- 19 2. Be based on principles of fairness and equity.
- 20 3. Include a consistent compensation policy which allows for multiple pay structures to
21 address varying occupational specialties.
- 22 4. Set the external competitiveness target for salary range midpoints at a competitive
23 level of relevant labor markets. For purposes of this section, "relevant labor markets"
24 is defined as the labor markets from which the state attracts employees in similar
25 positions and the labor markets to which the state loses employees in similar
26 positions.
- 27 5. Include a process for providing compensation adjustments that considers a
28 combination of factors, including achievement of performance objectives or results,
29 competency determinations, recognition of changes in job content, and acquisition and
30 application of advanced skills or knowledge.

- 1 6. Provide funding for compensation adjustments based on the dollar amounts
2 determined necessary to provide competitive compensation in accordance with the
3 state's compensation philosophy. Funding for compensation adjustments may not be
4 provided as a statewide percentage increase attributable to all employees nor as part
5 of a statewide pool of funds designated for addressing equity issues.
- 6 7. Consider the needs of the state as an employer and the tax effect on North Dakota
7 citizens.

8 The office of management and budget shall develop and consistently administer the
9 compensation program for classified state employees and ensure that state agencies adhere to
10 the components of the state's compensation philosophy. The office of management and budget
11 shall regularly conduct compensation comparisons to ensure that the state's compensation
12 levels are competitive with relevant labor markets. Any salary information collected from private
13 businesses for the purpose of conducting compensation comparisons is exempt from public
14 disclosure. Records naming private businesses from which salary information is collected are
15 open.

16 The legislative assembly recognizes the importance of providing annual compensation
17 adjustments to employees based on performance and equity to maintain the market
18 competitiveness of the compensation system.

19 **SECTION 6. AMENDMENT.** Subsection 2 of section 54-44.3-03 of the North Dakota
20 Century Code is amended and reenacted as follows:

- 21 2. The term of each member of the board, except the director, must be for six years. The
22 director's term coincides with employment as director. Any permanent vacancy in
23 office must be filled by the eligible person who received the next highest vote total in
24 the previous election. If the eligible person is not available for the unexpired term the
25 permanent vacancy in office must be filled in the same manner as the selection of the
26 person vacating the office.

27 **SECTION 7. AMENDMENT.** Section 54-44.3-05 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 ~~54-44.3-05. Election committee~~**Secret ballot election - Guidelines.**

30 The ~~governor, the secretary of state, and the attorney general~~ shall constitute a
31 ~~three member committee to develop rules and regulations~~guidelines for a secret ballot election

1 among all employees eligible under sections 54-44.3-19 and 54-44.3-20 to carry out the
2 election of the two members of the board elected by classified employees. All elections of
3 members of the board are the responsibility of the director who will ensure that proper and due
4 notification is given to all employees in sufficient time to enable potential candidates to initiate
5 necessary petitions and conduct campaigns. Nominees for candidacy are required to submit
6 petitions containing no less than ~~two~~one hundred names of employees in good standing
7 classified under sections 54-44.3-19 and 54-44.3-20. All elections will be conducted through a
8 secret ballot process.

9 **SECTION 8. AMENDMENT.** Section 54-44.4-02.1 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-44.4-02.1. Procurement of services.**

12 All services purchased by the office of management and budget or by an agency or
13 institution in the executive branch of state government must comply with the standards and
14 guidelines for procurement of services established by the office of management and budget.
15 ~~Before March first of each year, each agency or institution in the executive branch of state-~~
16 ~~government which purchases services shall file with the office of management and budget a-~~
17 ~~report regarding the services purchased the preceding year. The report must be provided on-~~
18 ~~forms established and made available by the office of management and budget.~~