

**Sixty-fifth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2017**

HOUSE BILL NO. 1090
(Government and Veterans Affairs Committee)
(At the request of the Office of Management and Budget)

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

1. If a veteran, or a qualified veteran's spouse, hereafter known as the applicant, is not given the preference provided in section 37-19.1-02 or 37-19.1-03, the applicant, within fifteen calendar days after receipt of notification by certified mail or through the online recruiting solution system that employment has been refused, may request a hearing as provided in subsection 3. The notification from the employer must include the reasons for nonselection, inform the applicant of the right to an appeal hearing, inform the applicant of the requirement that the request for a hearing must be filed by certified mail within fifteen calendar days after the notification, inform the applicant that a request for an appeal hearing must be made to the commissioner of veterans' affairs at the included commissioner's mailing address, and inform the applicant that if the applicant requests an appeal, the applicant must mail a copy of the request for an appeal hearing to the employer or employing agency. The applicant's request for a hearing must be in writing, must include a copy of the employer's notification that employment has been refused, and must be mailed to the commissioner of veterans' affairs by certified mail. A copy of the written request must be mailed to the employer or employing agency by certified mail. The applicant is entitled to immediate employment in the position for which application was originally made, or an equivalent position, together with backpay and benefits from the date the appointment should have been made less amounts otherwise earnable through due diligence, if the hearing officer finds in favor of the applicant.

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

6. Unless made confidential under subsection 1 or made exempt under subsection 5, ~~bids or proposals;~~
 - a. Bids received by a public entity in response to ~~a request for proposals~~ an invitation for bids by the public entity are exempt until all of the ~~proposals~~ bids have been received and opened by the public entity ~~or until all oral presentations regarding the proposals, if any, have been heard.~~
 - b. Proposals received by the public entity in response to a request for proposals are exempt records until a notice of intent to award is issued.
 - c. Records included with any bid or proposal naming and generally describing the entity submitting the proposal are open.

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

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

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

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

Notwithstanding any other provision of law, an appointed or elected state official or a state employee may use a state telephone to receive or place a local call for essential personal purposes to the extent that use does not interfere with the functions of the official's or employee's agency, department, or institution. ~~When an appointed or elected state official or state employee is away from the official's or employee's residence for official state business and long distance tolls would apply for the official or employee to call the official's or employee's city of residence, the official or employee is entitled to make at least one long distance call per day at state expense.~~ Each state agency, department, or institution may establish guidelines defining reasonable and appropriate use of state telephones for essential personal purposes.

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

54-44.3-01.2. Compensation philosophy statement.

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

The compensation program must:

1. Provide a competitive employee compensation package based on job content evaluation, internal equity, and external competitiveness balanced by the state's fiscal conditions.
2. Be based on principles of fairness and equity.
3. Include a consistent compensation policy which allows for multiple pay structures to address varying occupational specialties.
4. Set the external competitiveness target for salary range midpoints at a competitive level of relevant labor markets. For purposes of this section, "relevant labor markets" is defined as the labor markets from which the state attracts employees in similar positions and the labor markets to which the state loses employees in similar positions.
5. Include a process for providing compensation adjustments that considers a combination of factors, including achievement of performance objectives or results, competency determinations, recognition of changes in job content, and acquisition and application of advanced skills or knowledge.
6. Provide funding for compensation adjustments based on the dollar amounts determined necessary to provide competitive compensation in accordance with the state's compensation philosophy. Funding for compensation adjustments may not be provided as a statewide

percentage increase attributable to all employees nor as part of a statewide pool of funds designated for addressing equity issues.

7. Consider the needs of the state as an employer and the tax effect on North Dakota citizens.

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

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

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

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

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

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

~~The governor, the secretary of state, and the attorney general shall constitute a three-member committee to develop rules and regulations~~guidelines for a secret ballot election among all employees eligible under sections 54-44.3-19 and 54-44.3-20 to carry out the election of the two members of the board elected by classified employees. All elections of members of the board are the responsibility of the director who will ensure that proper and due notification is given to all employees in sufficient time to enable potential candidates to initiate necessary petitions and conduct campaigns. Nominees for candidacy are required to submit petitions containing no less than ~~two~~one hundred names of employees in good standing classified under sections 54-44.3-19 and 54-44.3-20. All elections will be conducted through a secret ballot process.

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

54-44.4-02.1. Procurement of services.

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

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 Sixty-fifth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1090.

House Vote: Yeas 89 Nays 1 Absent 4

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2017.

Approved at _____ M. on _____, 2017.

Governor

Filed in this office this _____ day of _____, 2017,

at _____ o'clock _____ M.

Secretary of State