

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1463

Introduced by

Representatives Weiler, Carlson, Grande, Iverson

1 A BILL for an Act to create and enact two new sections to chapter 54-06 of the North Dakota
2 Century Code, relating to qualifications for continued membership on boards and designation of
3 substitute members; and to amend and reenact sections 2-05-01, 12-59-01, 20.1-02-23,
4 43-03-04, 43-04-05, 43-11-03, 43-12.1-06, 43-17-05, 43-19.1-06, 43-23.3-02, 43-25-06,
5 43-29-02, 43-34-02, 43-36-05, 43-47-02, 43-49-03, and 61-28-03 of the North Dakota Century
6 Code, relating to removal of gubernatorial appointees.

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

8 **SECTION 1. AMENDMENT.** Section 2-05-01 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **2-05-01. Aeronautics commission - Creation - Membership.** The North Dakota
11 aeronautics commission consists of five members. The governor shall appoint each member
12 for a term of five years, except that a member appointed to fill a vacancy before the expiration
13 of the term for which the member's predecessor was appointed must be appointed only for the
14 remainder of the term. Each member shall serve until the appointment and qualification of the
15 member's successor. Each member of the commission must be a qualified elector of this state.
16 ~~Any~~ A member of the commission ~~may be removed by~~ serves at the pleasure of the governor
17 ~~for inefficiency, neglect of duty, or malfeasance in office.~~ Each member of the commission
18 ~~shall~~ is entitled to receive compensation of seventy-five dollars for each day or portion of a day
19 the member is actually engaged in the performance of the duties of the member's office and
20 payment for mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

21 **SECTION 2. AMENDMENT.** Section 12-59-01 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **12-59-01. State parole board - Membership.** The state parole board consists of six
24 members, who must be qualified electors of the state, appointed by the governor for terms of

three years, arranged so that the terms of two members must expire on December thirty-first of each year. One of the members must be a person experienced in law enforcement, which may include experience as a prosecuting attorney, one must be a licensed attorney, and four must be persons qualified by special experience, education, or training. ~~The Members serve at the pleasure of the governor may only remove a member of the parole board for disability, inefficiency, neglect of duty, or malfeasance in office.~~

SECTION 3. AMENDMENT. Section 20.1-02-23 of the North Dakota Century Code is amended and reenacted as follows:

20.1-02-23. Game and fish advisory board - Appointment - Qualifications - Term.

The state game and fish advisory board consists of eight members, one from each of the following districts, appointed by the governor:

1. District one shall consist of the counties of Divide, McKenzie, and Williams.
2. District two shall consist of the counties of Bottineau, Burke, McHenry, Mountrail, Pierce, Renville, and Ward.
3. District three shall consist of the counties of Benson, Cavalier, Eddy, Ramsey, Rolette, and Towner.
4. District four shall consist of the counties of Grand Forks, Nelson, Pembina, and Walsh.
5. District five shall consist of the counties of Cass, Ransom, Richland, Sargent, Steele, and Traill.
6. District six shall consist of the counties of Barnes, Dickey, Foster, Griggs, LaMoure, Logan, McIntosh, Stutsman, and Wells.
7. District seven shall consist of the counties of Burleigh, Emmons, Grant, Kidder, McLean, Mercer, Morton, Oliver, Sheridan, and Sioux.
8. District eight shall consist of the counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope, and Stark.

Four members must be bona fide farmers or ranchers and four members must be bona fide sportsmen. Each farmer or rancher appointment must be made from a list of three names submitted by agricultural organizations requested by the governor to submit the list and each sportsman appointment must be made from a list of three names submitted by outdoor, sportsmen, wildlife, and conservation organizations requested by the governor to submit the

list. Appointments are for a term of four years from the first day of July of the year of expiration of the basic term, and until a successor has been appointed and qualified. Vacancies occurring other than by the expiration of an appointive term may be filled by appointment for the remainder of the term only. No member of the board may serve longer than two full terms. The members of the advisory board ~~are subject to removal by~~ serve at the pleasure of the governor ~~for cause only~~. The advisory board shall select from their members a chairman, vice chairman, and secretary who serve in these positions until June thirtieth of the year next following their selection.

SECTION 4. AMENDMENT. Section 43-03-04 of the North Dakota Century Code is amended and reenacted as follows:

43-03-04. Qualifications of members of board - Removal of members. A member of the board must be an architect who has been a resident of and in active practice as principal in this state for not less than three years prior to appointment. ~~The Members of the board~~ serve at the pleasure of the governor ~~may remove any of the members of the board for inefficiency or neglect of duty.~~

SECTION 5. AMENDMENT. Section 43-04-05 of the North Dakota Century Code is amended and reenacted as follows:

43-04-05. Oath of office - How vacancies filled - Removal. Each member of the board shall qualify by taking the oath required for civil officers. A vacancy on the board must be filled by appointment by the governor for the unexpired term. Such appointment must be made from the list of five names submitted to the governor by the state barber association from which the original appointment was made. A member of the board ~~may be removed by~~ serves at the pleasure of the governor ~~for cause~~.

SECTION 6. AMENDMENT. Section 43-11-03 of the North Dakota Century Code is amended and reenacted as follows:

43-11-03. State board of cosmetology - Appointment - Term - Removal. The state board of cosmetology consists of three members appointed by the governor for three years each, with their terms of office so arranged that one term expires on June thirtieth of each year. Each member shall qualify by taking the oath required of civil officers and shall hold office until a successor is appointed and qualified. ~~The Members of the board~~ serve at the pleasure of the governor ~~may remove from office a member for misconduct, malfeasance, neglect of duty in~~

~~office, crime in office, gross incompetency, or habitual drunkenness.~~ A vacancy on the board must be filled by appointment by the governor for the unexpired term.

SECTION 7. AMENDMENT. Section 43-12.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-12.1-06. Qualifications of board members.

1. Each registered nurse must be an eligible voting resident of this state, possess an unencumbered registered nurse license under this chapter, and be currently engaged in practice as a registered nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
2. Each licensed practical nurse must be an eligible voting resident of this state, possess an unencumbered practical nurse license under this chapter, and be currently engaged in practice as a licensed practical nurse. A majority of the members under this subsection must be actively engaged in practice in a nurse-patient setting.
3. Each public member must be an eligible voting resident of this state and have no employment, professional license, or financial interest with any health care entity.
4. Each member appointed to the board shall maintain the qualifications for appointment for the duration of the appointment. ~~The governor may remove any member of the board for cause upon recommendation of two thirds of the~~ members of the board serve at the pleasure of the governor.

SECTION 8. AMENDMENT. Section 43-17-05 of the North Dakota Century Code is amended and reenacted as follows:

43-17-05. Removal of members of state board of medical examiners - Reelection.

~~The governor for good cause shown and upon the recommendation of three fourths of the members of the board may remove any member of such board for misconduct, incapacity, or neglect of duty~~ serve at the pleasure of the governor.

SECTION 9. AMENDMENT. Section 43-19.1-06 of the North Dakota Century Code is amended and reenacted as follows:

43-19.1-06. Board - Removal of members - Vacancies. ~~The governor may remove any member~~ members of the board ~~for misconduct, incompetency, neglect of duty, or for any sufficient cause, in the manner prescribed by law for removal of state officials~~ serve at the

1 pleasure of the governor. Vacancies in the membership of the board must be filled for the
2 unexpired term by appointment by the governor as provided in section 43-19.1-03.

3 **SECTION 10. AMENDMENT.** Section 43-23.3-02 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **43-23.3-02. North Dakota real estate appraiser qualifications and ethics board.**

6 The governor shall appoint the board. The board must consist of five members. One member
7 must represent the public, one member must represent the financial industry, and three
8 members must be appraisers, one of which is experienced in the appraisal of agricultural
9 property. The appraiser members first appointed to the board must be members in good
10 standing of an organization belonging to the appraisal foundation or have the equivalent of five
11 years of full-time experience as an appraiser in this state. Thereafter, each appraiser member
12 of the board must be either a licensed or certified appraiser, but at least two of the appraiser
13 members must be certified appraisers. The governor shall appoint the financial industry
14 representative from a list of qualified individuals submitted by the North Dakota bankers
15 associations, the North Dakota credit union league, and the North Dakota league of savings
16 institutions. Each of these entities may submit two names of candidates to the governor. The
17 public member of the board may not be engaged in the practice of real estate appraising. The
18 term of each member is five years, except that of the members first appointed, one shall serve
19 for five years, one shall serve for four years, one shall serve for three years, one shall serve for
20 two years, and one shall serve for one year. A member of the board continues to hold office
21 until the appointment and qualification of a successor. ~~The governor may remove a~~ A board
22 member ~~for cause~~ serves at the pleasure of the governor. The members annually shall elect a
23 chairman from among the members. At least two of the members who are appraiser members
24 must be present in order for a quorum to exist. The members are entitled to receive
25 compensation for each day actually engaged in the service of the board and actual and
26 necessary traveling expenses at the rate allowed other state officials, paid from the fees
27 collected by the board.

28 **SECTION 11. AMENDMENT.** Section 43-25-06 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **43-25-06. Removal of members of board of massage - Officers of the board -**
31 **Meeting.** ~~The governor may remove from office members of the board for neglect of duties as~~

~~required by this chapter or for malfeasance in office and incompetency, or for unprofessional~~
~~conduct~~ serve at the pleasure of the governor. The governor may fill any vacancy caused by
removal of any member of the board, on the member's resignation or death.

The board shall within two weeks after its appointment meet at some convenient place
within the state and shall annually elect a president from their own members, and a
secretary-treasurer. The secretary-treasurer must be bonded in the sum of one thousand
dollars for the faithful discharge of the secretary-treasurer's duties.

SECTION 12. AMENDMENT. Section 43-29-02 of the North Dakota Century Code is
amended and reenacted as follows:

**43-29-02. State board of veterinary medical examiners - Appointments -
Qualifications - Terms - Vacancies.** The state board of veterinary medical examiners
consists of three members appointed by the governor for terms of three years each, with their
terms of office so arranged that one term, and only one, expires each year. Members of the
board shall hold their respective offices until their successors are appointed and qualified.
Each member must be a reputable, practicing and licensed veterinarian in North Dakota for five
years immediately prior to the appointment, and must be the holder of a diploma or degree
granted by a veterinary school, or by a college or university recognized by the board.

If any vacancy occurs on the board due to resignation, death, removal from the state, or
suspension as herein provided, or for any other reason, the governor shall fill such vacancy.

~~The governor may, after due notice and hearing, remove any member~~ members of the
~~board of veterinary examiners for misconduct, incapacity, or neglect of duty~~ serve at the
pleasure of the governor.

SECTION 13. AMENDMENT. Section 43-34-02 of the North Dakota Century Code is
amended and reenacted as follows:

43-34-02. Composition of the board. There is ~~hereby~~ created the state board of
examiners for nursing home administrators which consists of nine members.

1. Two members of the board must be the state health officer and the executive
director of the department of human services.
2. One member of the board must be a physician appointed to the board for a
three-year term by the governor.

3. One member of the board must be a hospital administrator appointed to the board for a three-year term by the governor.

4. Four members of the board must be licensed nursing home administrators appointed to the board for three-year terms by the governor.

5. One member of the board must be a nurse appointed to the board for a three-year term by the governor.

6. Any vacancies occurring in the appointments made by the governor must be filled by the governor.

7. Appointive members ~~may be removed by~~ serve at the pleasure of the governor ~~for cause after due notice and hearing.~~

SECTION 14. AMENDMENT. Section 43-36-05 of the North Dakota Century Code is amended and reenacted as follows:

43-36-05. Board - Removal of members - Vacancies. ~~The governor may remove any member~~ members of the board ~~for misconduct, incompetency, neglect of duty or for any sufficient cause in the manner prescribed by law for the removal of state officials~~ serve at the pleasure of the governor. Vacancies in the membership of the board must be filled for the unexpired term by appointment by the governor as provided in section 43-36-02.

SECTION 15. AMENDMENT. Section 43-47-02 of the North Dakota Century Code is amended and reenacted as follows:

43-47-02. Board of counselor examiners - Qualifications - Appointment - Term of office - Compensation.

1. The governor shall appoint the board of counselor examiners which consists of five members, including two practicing counselors, one counselor educator, and two members of the public.

2. Members of the board are appointed for terms of three years, except of those first appointed, one must be appointed for terms of one year, two must be appointed for terms of two years, and two must be appointed for terms of three years. Each member holds office until the member's successor is duly appointed. The ~~governor may remove any member for misconduct, incompetency, or neglect of duty after providing the member with a written statement of the charges and an~~

~~opportunity for a hearing~~ members of the board serve at the pleasure of the governor.

3. The board shall annually select a chairman from among its members. The board shall meet at least twice a year. Additional meetings may be held at the discretion of the chairman or upon written request of any three members of the board.

4. Each member shall serve without compensation but is entitled to receive expenses as provided in section 54-06-09 and per diem as must be fixed by the board.

SECTION 16. AMENDMENT. Section 43-49-03 of the North Dakota Century Code is amended and reenacted as follows:

43-49-03. Removal of members of the board. ~~The governor may remove from office any member~~ members of the board for neglect of duties under this chapter, malfeasance or incompetency in office, or unprofessional conduct ~~serve at the pleasure of the governor.~~ The governor may fill any vacancy resulting from removal, resignation, or death of any member of the board. An appointee under this section must be a reflexologist licensed by the board.

SECTION 17. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Qualifications for appointment to boards and commissions - Loss of qualification - Disqualification for continued membership on board. Notwithstanding any other specific provision of law, an individual who was appointed to a board or commission based on qualifications required by statute continues membership on that board or commission for the term of appointment only if the individual continues to have those qualifications. A member of a board or commission who loses any qualification required for appointment is deemed to have resigned from the board or commission effective on the date the qualification was lost. The appropriate appointing authority shall appoint a qualified individual to fill that vacancy for the unexpired term.

SECTION 18. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Membership on boards and commissions based on position - Designation of representative. Notwithstanding any express provision authorizing a state official to designate an individual to represent that official on any board or commission or any lack of such a provision, a state official who is designated a member of any statutory board or commission by

1 virtue of the office held by that official may designate an individual to act in that official's place
2 as a member of that board or commission unless otherwise restricted by the constitution. The
3 designated representative has the full authority of that individual while participating in the
4 board's or commission's activities.

5 **SECTION 19. AMENDMENT.** Section 61-28-03 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **61-28-03. State water pollution prevention agency - Board.**

- 8 1. The state water pollution control board consists of thirteen persons. The board
9 must include the state health officer, state engineer, director of the game and fish
10 department, state geologist, and nine other members appointed by the governor,
11 three of whom must be representatives of production agriculture, two of whom
12 must be representatives of manufacturing and processing, one of whom must be a
13 representative of the solid fuels industry, one of whom must be a representative of
14 the fluid and gas fuels industry, one of whom must be a representative of the
15 environmental sciences, and one of whom must be a representative of county or
16 municipal government.
- 17 2. Of the nine members appointed by the governor, each shall serve six-year terms.
18 Appointed members serve at the pleasure of the governor. The governor may fill
19 any vacancy in the appointed membership of the board, ~~and may remove any~~
20 ~~appointed member for cause.~~
- 21 3. The board shall select its own chairman from among its members. The heads of
22 departments on the board may, by official order filed with the executive secretary
23 of the board, designate a representative of the person's department to perform the
24 duties of the member making the designation. That person, if any, shall have the
25 powers and be subject to the duties and responsibilities of the appointing office.
- 26 4. All members of the board shall serve without compensation for their duties, but
27 must be reimbursed for necessary travel and other expenses incurred in the
28 performance of their official duties. Reimbursement must be paid out of funds
29 allocated to the department for water pollution control.
- 30 5. The department shall provide the board with copies of maps, plans, documents,
31 studies, surveys, and all other necessary information in order that the board may

- 1 be fully cognizant of the current status of water pollution and its control in the state
2 and to enable the board to advise the department in development of programs for
3 the prevention and control of pollution of waters in the state.
- 4 6. The board shall hold at least one regular meeting each year, and any additional
5 meetings the chairman deems necessary, at a time and place to be determined by
6 the chairman. Upon written request of any three members the chairman shall call
7 a special meeting. Seven members constitute a quorum.
- 8 7. The board shall consider and make recommendations regarding any rules and
9 standards relating to water quality or pollution, ground water protection, and safe
10 drinking of water that are adopted by the department. The department may not
11 take final action on any rules or standards without consulting the board. The board
12 shall consider any other matters related to the purposes of this chapter and may
13 make recommendations on its own initiative to the department concerning the
14 administration of this chapter.