

**FIRST ENGROSSMENT
with Senate Amendments**

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1127

Introduced by

Government and Veterans Affairs Committee

(At the request of the Industrial Commission)

1 A BILL for an Act to create and enact a new section to chapter 49-24 of the North Dakota
2 Century Code, relating to confidentiality of transmission authority information; and to amend
3 and reenact subsection 12 of section 49-24-05, section 49-24-13, subsection 3 of section
4 54-17.5-04, section 54-17.5-06, and subsection 5 of section 54-44.4-02 of the North Dakota
5 Century Code, relating to powers of the transmission authority, procurement and borrowing by
6 the industrial commission, reporting requirements, and confidential records.

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

8 **SECTION 1. AMENDMENT.** Subsection 12 of section 49-24-05 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 12. Consult with the public service commission, regional organizations, and any other
11 relevant state or federal authority or persons as necessary and establish
12 reasonable fees, rates, tariffs, or other charges for transmission facilities and all
13 services rendered by the authority;

14 **SECTION 2. AMENDMENT.** Section 49-24-13 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **49-24-13. ~~Biennial report to legislative council~~ Reporting requirements.** The
17 authority shall deliver a written report on its activities to the legislative council each biennium.
18 Notwithstanding chapter 54-60.1, the authority shall provide an annual report to the industrial
19 commission detailing activities and expenditures incurred during the preceding year.

20 **SECTION 3.** A new section to chapter 49-24 of the North Dakota Century Code is
21 created and enacted as follows:

22 **Access to authority records - Confidentiality.**

23 1. Materials and data submitted to, or made or received by, the authority, to the
24 extent that the authority determines the materials or data consist of trade secrets

1 or commercial, financial, or proprietary information of individuals or entities
2 applying to or contracting with the authority or receiving authority services under
3 this chapter are subject to section 44-04-18.4.

4 2. A person or entity must file a request with the authority to have material designated
5 as confidential under subsection 1. A request to have material designated as
6 confidential is exempt as defined in section 44-04-17.1. The request must contain
7 any information required by the authority and must include at least:

8 a. A general description of the nature of the information sought to be protected.

9 b. An explanation of why the information derives independent economic value,
10 actual or potential, from not being generally known to other persons.

11 c. An explanation of why the information is not readily ascertainable by proper
12 means by other persons.

13 d. A general description of any person or entity that may obtain economic value
14 from disclosure or use of the information and how the person or entity may
15 obtain this value.

16 e. A description of the efforts used to maintain the secrecy of the information.

17 3. The information submitted under subsection 2 is confidential. The authority shall
18 examine the request and determine whether the information is relevant to the
19 matter at hand and is a trade secret under the definition in section 47-25.1-01 or
20 44-04-18.4. If the authority determines the information is either not relevant or not
21 a trade secret, the authority shall notify the requester and the requester may ask
22 for the return of the information and request within ten days of the notice. If no
23 return is sought, the information and request are a public record.

24 **SECTION 4. AMENDMENT.** Subsection 3 of section 54-17.5-04 of the North Dakota
25 Century Code is amended and reenacted as follows:

26 3. ~~To borrow money and~~ issue evidences of indebtedness as provided authorized in
27 this chapter and to borrow money in an amount not to exceed six million dollars
28 from the Bank of North Dakota for a period not to exceed five years on the terms
29 and conditions as the Bank of North Dakota and the industrial commission may
30 approve without the necessity of establishing or maintaining any reserve fund as
31 otherwise required by section 54-17.5-05.

1 **SECTION 5. AMENDMENT.** Section 54-17.5-06 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-17.5-06. Access to commission records.**

- 4 1. Materials and data submitted to, or made or received by, the commission, to the
5 extent that the commission determines the materials or data consist of trade
6 secrets or commercial, financial, or proprietary information of individuals or entities
7 applying to or contracting with the commission or receiving commission services
8 under this chapter, ~~are not public records subject to section 44-04-18 and section 6~~
9 ~~of article XI of the Constitution of North Dakota, and are subject to section~~
10 44-04-18.4.
- 11 2. A person or entity must file a request with the commission to have material
12 designated as confidential under subsection 1. A request to have material
13 designated as confidential is exempt as defined in section 44-04-17.1. The
14 request must contain any information required by the commission, and must
15 include at least the following:
- 16 a. A general description of the nature of the information sought to be protected.
17 b. An explanation of why the information derives independent economic value,
18 actual or potential, from not being generally known to other persons.
19 c. An explanation of why the information is not readily ascertainable by proper
20 means by other persons.
21 d. A general description of any person or entity that may obtain economic value
22 from disclosure or use of the information, and how the person or entity may
23 obtain this value.
24 e. A description of the efforts used to maintain the secrecy of the information.
- 25 3. Any ~~request~~ request information submitted under subsection 2 is confidential. The
26 commission shall examine the request and determine whether the information is
27 relevant to the matter at hand and is a trade secret under the definition in section
28 47-25.1-01 or 44-04-18.4. If the commission determines the information is either
29 not relevant or not a trade secret, the commission shall notify the requester and
30 the requester may ask for the return of the information and request within ten days

1 of the notice. If no return is sought, the information and request are a public
2 record.

3 4. The names or identities of independent technical reviewers on any project or
4 program and the names of individual lignite council members making
5 recommendations are confidential; and may not be disclosed by the commission;
6 ~~and are not public records subject to section 44-04-18 or section 6 of article XI of~~
7 ~~the Constitution of North Dakota.~~

8 **SECTION 6. AMENDMENT.** Subsection 5 of section 54-44.4-02 of the North Dakota
9 Century Code is amended and reenacted as follows:

10 5. Procurements through a contract or other instrument executed by the industrial
11 commission under ~~chapter~~ chapters 54-17.5 and 49-24.