

**Fifty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 7, 2003**

SENATE BILL NO. 2092  
(Government and Veterans Affairs Committee)  
(At the request of the Office of Management and Budget)

AN ACT to amend and reenact subdivision a of subsection 2 of section 28-32-01, section 50-06.1-16, subsection 1 of section 52-02-06, sections 54-06-25, 54-23.3-05, 54-23.3-06, 54-44.3-01, 54-44.3-02, 54-44.3-11, and 54-44.3-30, subsection 3 of section 54-52.6-01, and subsection 5 of section 54-57-01 of the North Dakota Century Code, relating to changing the name of the central personnel division to North Dakota human resource management services and revising references to the central personnel system.

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

**SECTION 1. AMENDMENT.** Subdivision a of subsection 2 of section 28-32-01 of the North Dakota Century Code is amended and reenacted as follows:

- a. The office of management and budget except with respect to rules made under section 32-12.2-14, rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the ~~central personnel system~~ classified service as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.

**SECTION 2. AMENDMENT.** Section 50-06.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**50-06.1-16. Committee on employment of people with disabilities - Appointment - Expenses - Director - Duties.** There is established a committee on employment of people with disabilities. The committee consists of three members. The governor shall appoint each member for a term of three years, staggered so that the term of one member expires July first of each year. A vacancy occurring other than by reason of the expiration of a term must be filled in the same manner as original appointments, except that the appointment may be made for only the remainder of the unexpired term. The members are entitled to be paid for mileage and actual expenses incurred in attending meetings and in performance of their official duties in amounts provided by law for other state officers and employees. The committee, with the approval of the governor, shall appoint a full-time director to serve at the pleasure of the governor. For administrative purposes, the director is an unclassified employee of the department and is not included in the ~~central personnel system~~ classified service. The committee shall coordinate activities and serve as a clearinghouse for information relating to the employment of people with disabilities. The committee shall prepare for and perform followup duties in connection with state, regional, and national conferences, encourage interest, participation, and cooperation with state departments, agencies, and other organizations in developing needed services, facilities, and opportunities, and provide consultant help to local organizations created for the purpose of coordinating activities for the employment of people with disabilities.

**SECTION 3. AMENDMENT.** Subsection 1 of section 52-02-06 of the North Dakota Century Code is amended and reenacted as follows:

1. In accordance with chapter 54-44.3 and rules adopted thereunder and on the basis of the authority granted under section 52-02-02, the bureau shall select and prescribe the duties and powers of officers, employees, and other persons as may be necessary in the performance of its duties under the chapter; provided, that in cooperation with ~~the central personnel division~~ North Dakota human resource management services the bureau shall take such action as may be necessary to meet the personnel standards adopted by the

secretary of labor pursuant to the Social Security Act [42 U.S.C. 301 et seq.] and the Wagner-Peyser Act [48 Stat. 113; 29 U.S.C. 49-49k], both as amended.

**SECTION 4. AMENDMENT.** Section 54-06-25 of the North Dakota Century Code is amended and reenacted as follows:

**54-06-25. State employees compensation commission - Appointment of members.**

1. The state employees compensation commission shall make recommendations on appropriate levels of state employee compensation and fringe benefits. The commission may not consider conditions of employment other than salary and fringe benefit issues. The ~~central personnel~~ division shall provide staff services for the commission.
2. The governor or the governor's designee is a member of the commission and serves as chairman. Four members of the legislative assembly appointed by the chairman of the legislative council are members of the commission. Four state employees are members of the commission, three of whom must be members of the classified service of the state and one of whom must be a member of the nonclassified service of the state. The ~~central personnel~~ division shall conduct the election for the employee representatives. All elected commission members serve for a term of four years and may be reelected for additional terms of office. All appointed commission members serve for a term of two years and may be reappointed for additional terms of office. The state employee members' terms begin on October first of the year they are elected. The terms of office of members who are members of the legislative assembly and the governor's designee begin on October first of each odd-numbered year. Before the conclusion of each term, an election must be held to replace the two members whose terms will end in that year. The terms of those commission members elected on July 1, 1996, expire on September 30, 1999. No more than one employee from the same institution of higher education or agency may serve on the commission at the same time. If two or more employees from the same institution of higher education or agency appear on the ballot at the same time, the employee with the highest vote total is elected to the position. If a member of the commission moves to another agency where another current member of the commission is employed, then the moving member must resign. Vacancies on the commission must be filled by the person who received the next highest vote total in the previous election.
3. The commission shall meet at the call of the chairman as often as may be necessary, but at least once during each year of the biennium. The commission shall consider proper levels of compensation and fringe benefits for state employees and make its recommendations on these issues to the governor in time for consideration in preparation of the executive budget to be submitted to the next legislative assembly. The commission shall also submit its recommendations to the legislative council at the biennial meeting at which the legislative council receives the reports of its interim committees.
4. The members of the legislative assembly who are commission members are entitled to receive compensation from the legislative council for each day in attendance at commission meetings in the same manner as provided for members of the legislative council and reimbursement from the legislative council for travel and other necessary expenses incurred in performing commission duties in the amounts provided for state employees under section 54-06-09. The state employee members of the commission are entitled to receive reimbursement for necessary expenses incurred in attending commission meetings at the rates provided for state employees under section 54-06-09 and may not be assessed any annual leave or loss of salary for attendance at meetings of the commission. The employing agency of state employee members shall pay their expenses.
5. Each member of the classified service may be a candidate for election to the state employees compensation commission. A member of the nonclassified service may be a

candidate for election to the commission if the employee occupies a regularly funded and approved position. In order to vote for a candidate in the election to fill a vacancy on the commission, an employee must be a member of the classified service or must occupy a regularly funded and approved position. Student and temporary employees, elected state officials, and appointees of the governor are not eligible to serve on the commission, participate as a candidate for election to the commission, or vote for members of the commission. If after election to the commission, an employee moves from one type of service to another, that employee may continue serving on the commission until the regular expiration of that employee's term.

6. The ~~central personnel~~ division shall ensure that a notice of an opening on the commission and the election is provided to an officer at each agency and institution. The officer at each agency and institution shall post the notice in a conspicuous place. The notice must include a statement of voter and candidate eligibility, the candidate nomination requirements, the date of the election, and where to obtain the nomination petitions for filing.
7. In order to be placed on the commission ballot, an employee shall contact the ~~central personnel~~ division for a petition form. The petition form must be returned to the ~~central personnel~~ division no more than twenty calendar days after the publishing date of the notice by the ~~central personnel~~ division with at least one hundred signatures of eligible state employees. Petition forms that are not complete, or are returned after the required date, must be declared void.
8. The ballot must be prepared by the ~~central personnel~~ 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 ~~central personnel~~ division upon the division's request. A ballot for the election must be distributed with each employee's payroll check on the employee's regularly scheduled payday.
9. Employees of the ~~central personnel~~ division shall count the ballots following the final day that the ballots must be returned. Each candidate may have one overseer present at the ballot counting who may examine each ballot as to its sufficiency after the ballot has been counted. A candidate may act as that candidate's overseer. If a candidate wishes to designate a representative to act as that candidate's overseer, the candidate must provide a notarized authorization to the election committee at the counting of ballots. An overseer may act on behalf of more than one candidate; however, the overseer must show required authorization from each candidate represented. The overseer may question the decision of the ballot counters regarding a ballot immediately after the counting of the ballot. If questioned, the comments of the overseer must be heard. The ~~central personnel~~ division or the division's representative shall decide if the complaint is valid and whether the ballot will be accepted. The decision of the ~~central personnel~~ division or the division's representative is final and must be given in writing. Once all ballots have been counted and all questions raised by the overseers have been decided by the ~~central personnel~~ division or the division's representative, the election is closed and results must be declared final. The ~~central personnel~~ division shall notify all candidates of the election results within ten working days of the election.
10. As used in this section, "division" means North Dakota human resource management services.

**SECTION 5. AMENDMENT.** Section 54-23.3-05 of the North Dakota Century Code is amended and reenacted as follows:

**54-23.3-05. Appointment and removal of officers.** The director of the department of corrections and rehabilitation with the approval of the governor may appoint a director of the division of juvenile services, a director of the division of adult services, and other division directors and personnel

as deemed necessary for the effective and efficient operation of the department. The director of the division of juvenile services, the director of the division of adult services, and other division directors who may be appointed shall meet qualifications as established for the classified ~~positions under the central personnel classification system~~ service. The division directors may be removed by the director of the department, with the approval of the governor, for misconduct, neglect of duty, incompetency, or other cause showing an inability or refusal to properly perform the duties of their office. All other officers and employees of each division must be appointed and removed by the director of the division, subject to the approval of the director of the department of corrections and rehabilitation. All officers and employees of the department of corrections and rehabilitation are subject to the provisions of the state personnel policies.

**SECTION 6. AMENDMENT.** Section 54-23.3-06 of the North Dakota Century Code is amended and reenacted as follows:

**54-23.3-06. Salaries of division directors and other officers.** The director of the department of corrections and rehabilitation shall determine the salary of each division director within the limits of legislative appropriations and within the salary range of the classified position as established by ~~the central personnel division~~ North Dakota human resource management services for the position. All other officers and employees shall receive salaries determined by their division director and approved by the director of the department.

**SECTION 7. AMENDMENT.** Section 54-44.3-01 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-01. Purpose of chapter.** The general purpose of this chapter is to create ~~the division of central personnel~~ North Dakota human resource management services in order to establish a unified system of ~~personnel administration~~ human resource management for the classified service of the state based upon merit principles and scientific methods, governing the position classification, pay administration, and transfer of its employees. All appointments and promotions to positions in the state classified service must be made without regard to sex, race, color, national origin, age, religious affiliations, or political opinions on the basis of merit and fitness.

**SECTION 8. AMENDMENT.** Section 54-44.3-02 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-02. Definitions.** As used in this chapter, unless the context clearly requires otherwise:

1. "Appointing authority" means the authority to appoint to positions in the classified service and is reserved to officials and heads of departments and agencies within the government.
2. "Board" means the state personnel board.
3. "Director" means the director of ~~the central personnel division~~ North Dakota human resource management services.
4. "Division" means ~~the central personnel division~~ North Dakota human resource management services.
5. "Employee" means any person who occupies a position in the classified service.
6. "Officer" means an employee of the state government who is appointed and serves at the pleasure of an official, board, or commission.
7. "Official" means a member of the state government elected by popular vote.

**SECTION 9. AMENDMENT.** Section 54-44.3-11 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-11. ~~Central personnel division~~ North Dakota human resource management services - Director - Appointment - Removal.** ~~There~~ North Dakota human resource management services is created ~~a central personnel division~~ within the office of management and budget under the supervision and control of a director who is responsible for the performance and exercise of the duties, functions, and powers imposed upon the division.

1. The director must be experienced in the field of ~~personnel administration~~ human resource management and shall hold considerable knowledge of merit principles, goals, and their methods of operation.
2. The director of the office of management and budget shall appoint the director. The position of director is not a classified position and the director shall serve at the pleasure of the director of the office of management and budget.

**SECTION 10. AMENDMENT.** Section 54-44.3-30 of the North Dakota Century Code is amended and reenacted as follows:

**54-44.3-30. Agencies subject to merit system.** All personnel employed by the department of human services, the regional offices of that department, job service North Dakota, ~~the central personnel division~~ North Dakota human resource management services, the state department of health, and other agencies or political subdivisions as may by federal law or rule be required to be subject to a merit system in order to obtain federal grants-in-aid are covered by the merit system provided in this chapter. Merit system coverage must also be provided to personnel employed as purchasing agents or buyers in the purchasing division of the office of management and budget. Other agencies, departments, or divisions and positions must be placed under a merit system in the manner and to the extent required by law.

**SECTION 11. AMENDMENT.** Subsection 3 of section 54-52.6-01 of the North Dakota Century Code is amended and reenacted as follows:

3. "Eligible employee" means a permanent state employee, except an employee of the judicial branch or an employee of the board of higher education and state institutions under the jurisdiction of the board, who is eighteen years or more of age and who is in a position not classified by ~~the central personnel division~~ North Dakota human resource management services.

**SECTION 12. AMENDMENT.** Subsection 5 of section 54-57-01 of the North Dakota Century Code is amended and reenacted as follows:

5. The director of administrative hearings shall develop categories of positions in the classified service under class titles for the appointment or employment of administrative law judges and support staff in consultation with and approved by the director of ~~the central personnel division~~ North Dakota human resource management services, including the salary to be paid for each position or category of position.

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President of the Senate

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Speaker of the House

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Secretary of the Senate

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Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2092.

Senate Vote:    Yeas    46        Nays    0        Absent    1

House Vote:    Yeas    85        Nays    6        Absent    3

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Secretary of the Senate

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2003.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2003,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

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Secretary of State