

ENGROSSED HB 1024
TESTIMONY OF COMMISSIONER, PAUL RICHARD
NORTH DAKOTA ETHICS COMMISSION
BEFORE THE
SENATE APROPRIATIONS March 23, 2021

Mr. Chairman and Members of the Government Operations Division, my name is Paul Richard, Commissioner for the North Dakota Ethics Commission. Prior to my appointment as Commissioner with the ND Ethics Commission, I served as the Executive Vice President of Sanford Health Fargo until my retirement in 2018. I began my career with Sanford Health as General Counsel of MeritCare Health System (now Sandford Health) in 1998. Prior to that I practiced law for 20 years with Serkland Law Firm in Fargo.

I would like to provide some additional information on the North Dakota Ethics Commission in addition to an [email](#) to House appropriation members provided by Ronald Goodman, Chair of the North Dakota Ethics Commission, regarding the Ethics Commission's executive director salary. It is our understanding that during discussion of the Ethics Commission's budget in the House, concerns were expressed regarding the level of compensation paid to the executive director. In addition to the information provided by Ethics Commission Chair Goodman, we would like to offer the following information for your consideration.

When the Ethics Commission began its work in September 2019, we identified that one of the first orders of business would be to recruit and hire an experienced executive director to be located in Bismarck. We needed an executive director who could "hit the ground running" and guide the Commissioners in their work to implement Article XIV of the North Dakota Constitution, North Dakota Century Code Chapter 54-66, and other laws applicable to the work of the Commission. As the Commission discussed and planned for the work that needed to be accomplished, we concluded that the executive director must be a licensed attorney with extensive legal and legislative experience. We found that individual in Dave Thiele. His background as an

experienced lawyer, in particularly state experience, made him uniquely qualified to serve as the first executive director of the Ethics Commission, ([resume attached](#)). It has now been a little over one year since Mr. Thiele was hired and his performance has been exemplary. His legal skills, state work experience and knowledge, have enabled the Commission to complete the work that needed to be accomplished.

Given Mr. Thiele's background and experience, in March 2020, working with HRMS the Commission was comfortable setting Mr. Thiele's annual salary at \$135,000 which equates to \$64.90 per hour and does not exceed the HRMS salary range for a similar classified position- Attorney III position or a grade of 108. In addition, Mr. Thiele waived State employee medical benefits which would be approximately \$34,000 per biennium. To put this in perspective a contract Administrative Law Judge is reimbursed at a rate of \$150 per hour and investigators for WSI are reimbursed at \$85 per hour. ITD charges state agencies for their data processing services at various [hourly rates](#), the lowest of which is \$76 per hour with most services being charges at \$99 per hour or higher.

It is also important to highlight the nature and extent of the work performed, and to be performed, by Mr. Thiele in the position of executive director. While the following examples do not provide a complete list of what the Commissioners expect by way of performance, we believe they do illustrate why a lawyer with Mr. Thiele's background and experience is necessary for the executive director position.

1. In order to fulfill the Ethics Commission's duties as outlined in Article XIV of the North Dakota Constitution and North Dakota Century Code Chapter 54-66, the Commission needed to create the rules, procedures and documents needed for the receipt and processing of complaints. Similarly, under Article XIV, the Ethics Commission evaluated and considered exceptions to the lobbyist gift restrictions. Mr. Thiele's experience in research and drafting of proposed rules, procedures and forms, guided the Commission. His knowledge and experience with the administrative rules

processes assured that the final Commission rules were adopted and approved in a timely manner.

2. The Commission considers education to be an important function to be carried out by the executive director to inform the public of the Commission's role. Mr. Thiele's communication skills and ability have been invaluable to assure North Dakota citizens receive timely responses to their inquiries. The executive director must be comfortable with public speaking and communicate in a clear manner. Mr. Thiele has done an excellent job in his communication with members of the public.
3. The Commission has the expectation that complaints that warrant further investigation will be investigated by the executive director rather than employed or contracted investigators. With the exception of situations where Mr. Thiele may have a conflict, it is expected that he will conduct the investigations that may be needed to evaluate complaints. His background as a lawyer and compliance investigations were important considerations in the Commission's selection of Mr. Thiele. Mr. Thiele brought to the executive director role the integrity, common sense, and focus needed to conduct the evaluation and investigation of complaints filed with the Commission.
4. The Commission has been asked to provide advisory opinions to individuals to assist them in compliance with the requirements of Article XIV, North Dakota Century Code Chapter 54-66 and other State laws dealing with transparency, corruption, elections and lobbying. It is the Commission's expectation that the executive director will evaluate, research, and draft advisory opinions that will be considered by the Commission. As a North Dakota attorney, Mr. Thiele is familiar with a similar procedure used by the North Dakota Supreme Court to provide advisory opinions to licensed lawyers as they seek guidance to assure compliance with the North Dakota Rules of Professional Conduct.

5. Article XIV of the North Dakota Constitution identifies the authority of the Ethics Commission to adopt ethics rules related to transparency, corruption, elections and lobbying. Mr. Thiele is expected to research existing North Dakota laws as well as rules, regulations and laws from other states and jurisdictions to provide guidance to the Commission on potential ethics rules that may be appropriate.

The Ethics Commission strongly believed that the hiring of an executive director with the education, training and experience of Mr. Thiele was pivotal in assuring that the Ethics Commission achieved the expectations implemented in Article XIV of the North Dakota Constitution and North Dakota Century Code Chapter 54-66. Working with HRMS, Mr. Thiele's compensation was set within the normal salary range for an appointed position based on the level of responsibility and experience necessary to be successful. Mr. Thiele has performed in an exemplary manner and accomplished much in his first year as executive director.

The Commission appreciates the opportunity to present information to the Committee regarding the Commission's overall budget and, specifically, the executive director's compensation. Thank you.