

HOUSE BILL NO. 1090

Introduced by

Government and Veterans Affairs Committee

(At the request of the Office of Management and Budget)

1 A BILL for an Act to amend and reenact section 1-03-01, subsection 1 of section 37-19.1-04,
2 subsection 6 of section 44-04-18.4, subsection 8 of section 54-06-25, sections 54-06-26 and
3 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
4 the North Dakota Century Code, relating to holidays, bids and proposals received by public
5 entities, notification of nonapplicability of veteran's preference, electronic ballot submission, long
6 distance tolls, salary compensation comparison records, state personnel board vacancy filling
7 procedures, secret ballot election rules, and reports of services.

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

9 **SECTION 1. AMENDMENT.** Section 1-03-01 of the North Dakota Century Code is amended
10 and reenacted as follows:

11 **1-03-01. Holidays.**

12 Holidays are as follows:

- 13 1. ~~Every Sunday.~~
- 14 2. The first day of January, which is New Year's Day.
- 15 ~~3.2.~~ The third Monday of January, which is Martin Luther King Day, in recognition of the
16 life, legacy, and dream of Martin Luther King, Jr.
- 17 ~~4.3.~~ The third Monday in February, in recognition of the birthday of George Washington.
- 18 ~~5.4.~~ The Friday next preceding Easter Sunday and commonly known as Good Friday.
- 19 ~~6.5.~~ The last Monday in May, which is Memorial Day.
- 20 ~~7.6.~~ The fourth day of July, which is the anniversary of the Declaration of Independence.
- 21 ~~8.7.~~ The first Monday in September, which is Labor Day.
- 22 ~~9.8.~~ The eleventh day of November, which is Veterans' Day.
- 23 ~~10.9.~~ The fourth Thursday in November, which is Thanksgiving Day.
- 24 ~~11.10.~~ The twenty-fifth day of December, which is Christmas Day.

1 ~~42-11.~~ Every day appointed by the President of the United States or by the governor of this
2 state for a public holiday.

3 ~~Nothing in this~~ This section may not be construed to prevent the holding of legislative sessions
4 or the taking of final action on any legislative matter upon any ~~of such holidays other than~~
5 ~~Sunday~~. Any action heretofore taken upon any legislative matter upon any such holiday is valid
6 and legal for all purposes.

7 **SECTION 2. AMENDMENT.** Subsection 1 of section 37-19.1-04 of the North Dakota
8 Century Code is amended and reenacted as follows:

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

29 **SECTION 3. AMENDMENT.** Subsection 6 of section 44-04-18.4 of the North Dakota
30 Century Code is amended and reenacted as follows:

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

11 **SECTION 4. AMENDMENT.** Subsection 8 of section 54-06-25 of the North Dakota Century
12 Code is amended and reenacted as follows:

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

19 **SECTION 5. AMENDMENT.** Section 54-06-26 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **54-06-26. Use of state telephones by state officials and employees.**

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

1 **SECTION 6. AMENDMENT.** Section 54-44.3-01.2 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-44.3-01.2. Compensation philosophy statement.**

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

8 The compensation program must:

- 9 1. Provide a competitive employee compensation package based on job content
10 evaluation, internal equity, and external competitiveness balanced by the state's fiscal
11 conditions.
- 12 2. Be based on principles of fairness and equity.
- 13 3. Include a consistent compensation policy which allows for multiple pay structures to
14 address varying occupational specialties.
- 15 4. Set the external competitiveness target for salary range midpoints at a competitive
16 level of relevant labor markets. For purposes of this section, "relevant labor markets"
17 is defined as the labor markets from which the state attracts employees in similar
18 positions and the labor markets to which the state loses employees in similar
19 positions.
- 20 5. Include a process for providing compensation adjustments that considers a
21 combination of factors, including achievement of performance objectives or results,
22 competency determinations, recognition of changes in job content, and acquisition and
23 application of advanced skills or knowledge.
- 24 6. Provide funding for compensation adjustments based on the dollar amounts
25 determined necessary to provide competitive compensation in accordance with the
26 state's compensation philosophy. Funding for compensation adjustments may not be
27 provided as a statewide percentage increase attributable to all employees nor as part
28 of a statewide pool of funds designated for addressing equity issues.
- 29 7. Consider the needs of the state as an employer and the tax effect on North Dakota
30 citizens.

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

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

11 **SECTION 7. AMENDMENT.** Subsection 2 of section 54-44.3-03 of the North Dakota
12 Century Code is amended and reenacted as follows:

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

19 **SECTION 8. AMENDMENT.** Section 54-44.3-05 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **~~54-44.3-05. Election committee~~Secret ballot election - Rules.**

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

1 **SECTION 9. AMENDMENT.** Section 54-44.4-02.1 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **54-44.4-02.1. Procurement of services.**

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