

**Fifty-fifth Legislative Assembly, State of North Dakota, begun in the
Capitol in the City of Bismarck, on Monday, the sixth day of January,
one thousand nine hundred and ninety-seven**

SENATE BILL NO. 2138
(Senators Lips, Robinson)
(Representative Stenehjem)

AN ACT to amend and reenact section 54-06-25 of the North Dakota Century Code, relating to the appointment of members to the state employees compensation commission; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-06-25 of the 1995 Supplement to 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 commissioner of labor~~ 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 commissioner of labor~~ central personnel division shall conduct the election for the employee representatives. ~~All elected~~ commission members serve for a term of ~~two~~ four years and may be ~~reappointed or~~ 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 ~~July~~ 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 ~~July~~ October first of each odd-numbered year. ~~Of the initial state employees who are elected to the commission, one of the members of the classified service and the member of the nonclassified service must be elected for a one-year term and the other two elected state employees must be elected for a two-year term, and before~~ Before the conclusion of each ~~subsequent~~ 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 in section 54-35-10 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 ~~commissioner of labor~~ 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 ~~commissioner of labor~~ central personnel division for a petition form. The petition form must be returned to the ~~commissioner of labor~~ central personnel division no more than twenty calendar days after the publishing date of the notice by the ~~commissioner of labor~~ 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 ~~commissioner of labor~~ 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 ~~commissioner of labor~~ central personnel division upon the ~~commissioner's~~ 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 ~~commissioner of labor~~ 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 ~~commissioner of labor~~ central personnel division or the ~~commissioner's~~ division's representative shall decide if the complaint is valid and whether the ballot will be accepted. The decision of the ~~commissioner~~ central personnel division or the ~~commissioner's~~ 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 ~~commissioner~~ central personnel division or the ~~commissioner's~~ division's representative, the election is closed and results must be declared final. The ~~commissioner of labor~~ central personnel division shall notify all candidates of the election results within ten working days of the election.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Fifty-fifth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2138 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 48 Nays 0 Absent 1

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 88 Nays 3 Absent 6

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 1997.

Approved at _____ M. on _____, 1997.

Governor

Filed in this office this _____ day of _____, 1997,

at ___ o'clock _____ M.

Secretary of State