

**Sixtieth Legislative Assembly of North Dakota  
In Regular Session Commencing Wednesday, January 3, 2007**

HOUSE BILL NO. 1127  
(Government and Veterans Affairs Committee)  
(At the request of the Industrial Commission)

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

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

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

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

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

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

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

**Access to authority records - Confidentiality.**

1. Materials and data submitted to, or made or received by, the authority, to the extent that the authority determines the materials or data consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying to or contracting with the authority or receiving authority services under this chapter are subject to section 44-04-18.4.
2. A person or entity must file a request with the authority to have material designated as confidential under subsection 1. A request to have material designated as confidential is exempt as defined in section 44-04-17.1. The request must contain any information required by the authority and must include at least:
  - a. A general description of the nature of the information sought to be protected.
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons.
  - c. An explanation of why the information is not readily ascertainable by proper means by other persons.

- d. A general description of any person or entity that may obtain economic value from disclosure or use of the information and how the person or entity may obtain this value.
  - e. A description of the efforts used to maintain the secrecy of the information.
3. The information submitted under subsection 2 is confidential. The authority shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the authority determines the information is either not relevant or not a trade secret, the authority shall notify the requester and the requester may ask for the return of the information and request within ten days of the notice. If no return is sought, the information and request are a public record.

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

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

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

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

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

information and request within ten days of the notice. If no return is sought, the information and request are a public record.

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

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

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

\_\_\_\_\_  
Speaker of the House

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President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1127.

House Vote:      Yeas    91      Nays    0      Absent    3

Senate Vote:    Yeas    46      Nays    1      Absent    0

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2007.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2007,

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

\_\_\_\_\_  
Secretary of State