



Public Service Commission

Sheri Haugen-Hoffart

Randy Christmann

Jill Kringstad

600 East Boulevard Ave
Dept. 408
Bismarck, ND 58505-0480
701-328-2400
ndpsc@nd.gov

sent via email only

15 January 2025

The Honorable Brandy Pyle
North Dakota State Representative
bpyle@ndlegis.gov

RE: Public Service Commission Administrative Rules

Dear Chairman Pyle:

During the 2023 Regular Session of the 68th Legislative Assembly, H.B. 1191 amended and reenacted subsection 2 of section 12-60-24 and sections 49-07-01.1, 51-05.1-01, 51-05.1-01.2, 51-05.1-04.1, and 51-05.1-05 of the North Dakota Century Code to repeal the regulation of criminal history record checks of licenses, the registration of auctioneers and cross-references relating to auctioneers' and clerks' licenses. In effect, the Public Service Commission no longer regulates auctioneers and auction clerks. As a result, portions of administrative code are obsolete and no longer in compliance with current law.

Pursuant to N.D.C.C. § 28-32-18.1, the Commission is requesting the following changes to the administrative rules without complying with other N.D.C.C. ch. 28-32 requirements:

- Repeal of N.D. Admin. Code Article 69-08; and
- Amendment to N.D. Admin. Code ch. 69-01-01 to remove reference to public auctioneers and auction clerks.

The Commission does not foresee a detriment to the rights of the regulated community. The Commission will provide notice to the regulated community and interested persons on the time and place that the request will be considered.

I have attached a copy of the article that the Commission is requesting be repealed and the requested amendments to N.D. Admin. Code. ch. 69-01-01. Thank you for your consideration.

Respectfully,

A handwritten signature in blue ink, appearing to read "John Schuh".

John Schuh
General Counsel
NDPSC

attachments

cc:/w/attachments - via email only:
Liz Fordahl lfordahl@ndlegis.gov

1 AD-25-24 Filed 01/15/2025 Pages: 9

Letter to Administrative Rules Chairman Brandy Pyle RE: Proposed Rule Changes
Regarding Repealing Registration & Regulations of Auctioneers & Auction Clerks
Public Service Commission
John Schuh, General Counsel

REPEAL

ARTICLE 69-08 AUCTIONEERS AND AUCTION CLERKS

Chapter	
69-08-01	Licensing Requirements
69-08-02	Records

CHAPTER 69-08-01 LICENSING REQUIREMENTS

Section	
69-08-01-01	Approved Auction Schools
69-08-01-02	Conviction of Crimes

69-08-01-01. Approved auction schools.

Auction schools must apply to the commission to have their courses of study approved for use by North Dakota auctioneers. To be approved, a course of study must:

1. Require students to complete at least sixty hours of study in the presence of school instructors, at least forty hours of which is under the supervision of a licensed auctioneer with at least five years of experience.
2. Provide instruction in ethics, bid calling, sales management, advertising, contracts, accounting and bookkeeping, real estate, appraisals, closing statements, license law, uniform commercial codes, tax collection, bulk sales, and firearms.
3. Maintain a grading system that permits the issuance of diplomas or certificates only to students who successfully demonstrate competence in all required areas of study.

To have their course of study approved, an auction school must also provide the commission with a copy of the test instruments and grading standards used to determine student competence.

History: Amended effective January 1, 1994.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 51-05.1-02

69-08-01-02. Conviction of crimes.

Conviction of any crime of forgery, bribery, robbery, theft, misapplication of entrusted property, or deception shall be sufficient grounds to deny, suspend, or revoke a license under this chapter unless the commission, after hearing, determines that the applicant is sufficiently rehabilitated to perform the duties specified in this chapter.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 51-05.1-02, 51-05.1-03

REPEAL

CHAPTER 69-08-02 RECORDS

Section

69-08-02-01	Clerk to Retain Record of Sale
69-08-02-02	Closing Statement

69-08-02-01. Clerk to retain record of sale.

The clerk shall prepare and retain a record for two years of any auction sale which shall include but not be limited to the following:

1. The name and address of the owner or owners.
2. The date of the sale.
3. The name of the auctioneer and the clerk.
4. The gross proceeds.
5. The location and number of the custodial account.
6. All expenses associated with the sale including auctioneers' and clerks' fees, advertising, and such other expenditures as may be relevant to the conduct of the sale.
7. A list of all purchasers at the sale and a description and price of each item sold.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 51-05.1-03

69-08-02-02. Closing statement.

The owner and the auctioneer, if other than the clerk, shall be entitled to a full closing statement after each auction sale.

General Authority: NDCC 28-32-02

Law Implemented: NDCC 51-05.1-03

ARTICLE 69-01
GENERAL ADMINISTRATION

Chapter
69-01-01 Organization of Commission

CHAPTER 69-01-01
ORGANIZATION OF COMMISSION

Section
69-01-01-01 Organization and Functions of the Public Service Commission


69-01-01-01. Organization and functions of the public service commission.

1. **Jurisdiction.** The commission's duties are prescribed by the legislative assembly. The commission has jurisdiction over railroads, telecommunications companies, pipeline, electric, and heating companies, weights and measures, ~~public auctioneers and auction clerks~~, siting of energy plants and transmission facilities, reclamation of mined lands, and all other public utilities engaged in business in this state.

The commission does not have jurisdiction over the rates of rural electric cooperatives, most small telephone companies, or cable television.

2. Organization.

- a. Commissioners. The three public service commissioners are statewide elected officials, each serving a six-year term with one commissioner's term expiring every two years. The commissioners are responsible for the exercise of the powers and duties of the commission. Although the workload is divided among the commissioners, each commissioner exercises equal power and shares equal responsibility for each decision.
- b. Executive secretary. The public service commission appoints an executive secretary who coordinates, supervises, and directs the commission's day-to-day operations and advises and assists the commission in the discharge of its statutory responsibilities. The executive secretary handles all administrative matters relating to personnel, accounting, purchasing, payroll, and budget preparation.

 Currently, the executive secretary also serves as the director of the public utilities division.

- c. Counsel. The attorney general is the attorney for the commission, but based on commission recommendation has appointed counsel to act as legal advisor to the commission.

d. Commission divisions. The commission has seven divisions:

Abandoned mine lands division

Accounting division

Legal division

~~Licensing division~~

Public utility division

Reclamation division

~~Testing and safety division~~

Compliance Division

3. Functions of the divisions.

- a. Abandoned mine lands division. The abandoned mine lands division administers a federal program to remove hazards and environmental problems associated with abandoned mines. The division investigates abandoned mine lands sites, designs reclamation projects, submits applications for federal funds, and manages construction projects under public contracts.
- b. Accounting division. The accounting division provides accounting and data processing services to all commission divisions.
- c. Legal division. The legal division provides legal representation, advice, and counsel to the commission and divisions. The legal division also provides assistance to the commission relating to railroads, including responsibilities associated with the intrastate regulation of railroads and assisting the commission in representing the state's rail interests at the federal level.
- ~~d. Licensing division. The licensing division helps the commission administer statutes and rules concerning the licensing and subsequent regulation of auctioneers and auction clerks.~~
- e. Public utility division. The public utility division provides technical and administrative assistance to the commission in regulating telecommunications and electric and gas utilities and in siting energy conversion and transmission facilities.

The division makes recommendations on applications for the siting of energy conversion and transmission facilities and on enforcement of commission orders permitting electric powerlines, gas pipelines, and electrical generation plants.

Compliance

The division also responds to complaints, inquiries, and requests for information about activities or companies within the commission's jurisdiction. It promotes consumer understanding of the regulatory process and facilitates public participation.

- f. Reclamation division. The reclamation division is responsible for the administration and enforcement of state environmental law regarding surface coal mining and reclamation operations. It also administers commission authority under the Surface Owner Protection Act.
 - g. Testing and safety division. The testing and safety division provides a fair basis for commercial transactions by maintaining the necessary standards of weight, volume, and length. It tests commercial weighing and measuring devices for accuracy to protect both the buyer and seller. It also administers the gas distribution and intrastate pipeline safety program.
4. **Inquiries.** General inquiries to the public service commission may be addressed to the executive secretary of the commission. Specific inquiries about the functions of each division may be addressed to the division director. Requests for hearings, rulings, or participation in rulemaking should be addressed to the executive secretary, unless the public notice directs otherwise.

The commission's telephone number is 701-328-2400. Fax: 701-328-2410. E-Mail: ndpsc@state.nd.us.

Correspondence should be addressed as follows:

Public Service Commission
600 East Boulevard Avenue, Dept. 408
Bismarck, ND 58505-0480

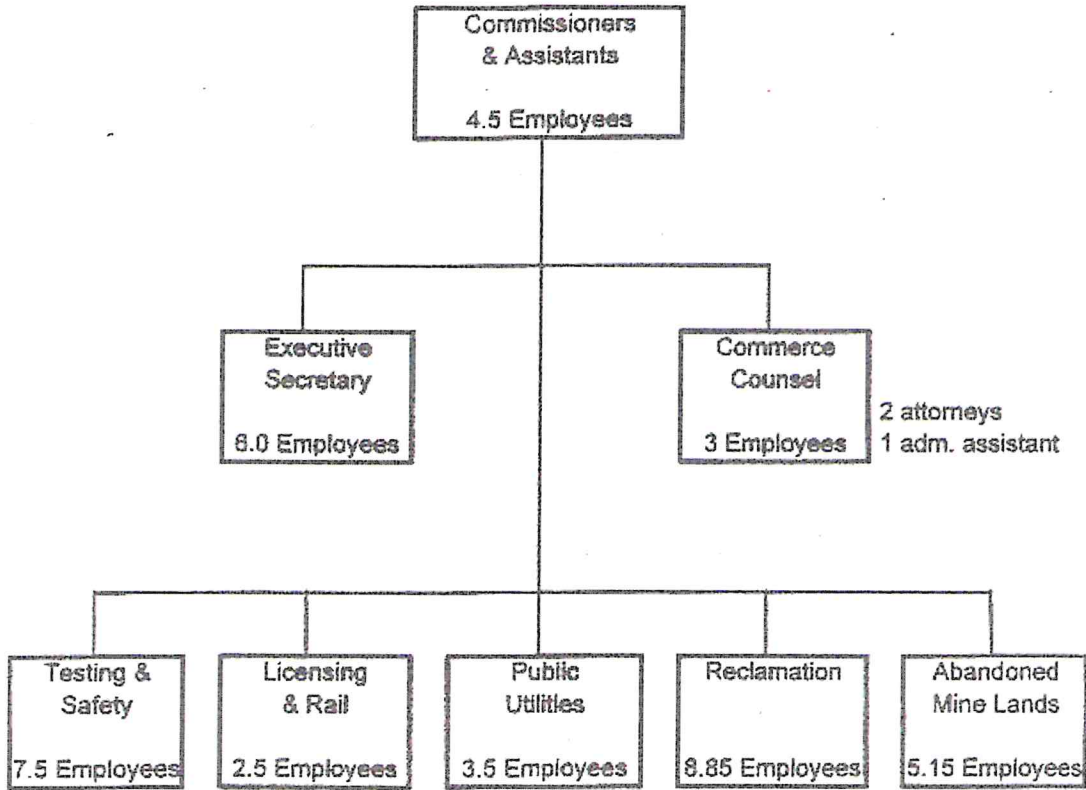
History: Amended effective August 1, 1981; December 1, 1981; August 1, 1983; March 1, 1986; October 1, 1987; October 1, 1989; February 1, 1992; May 1, 1993; April 1, 1994; May 1, 1995; February 1, 1998; February 1, 2000; June 1, 2005.

General Authority: NDCC 28-32-02.1

Law Implemented: NDCC 28-32-02.1

Public Service Commission

Organizational Chart



Full-time Employees: 41

July 1, 1997



Public Service Commission

State of North Dakota

COMMISSIONERS

Randy Christmann
Sheri Haugen-Hoffart
Julie Fedorchak

600 East Boulevard, Dept. 408
Bismarck, North Dakota 58505-0480
Web: www.psc.nd.gov
E-mail: ndpsc@nd.gov
Phone: 701-328-2400
ND Toll Free: 1-877-245-6685
Fax: 701-328-2410
TDD: 800-366-6888 or 711

PLEASE READ CAREFULLY **AUCTION LICENSING PROGRAM CHANGES**

October 2023

PLEASE NOTE: THIS LETTER TAKES THE PLACE OF YOUR 2024 LICENSE RENEWAL NOTICE AND WILL BE THE LAST COMMUNICATION YOU RECEIVE ON THIS SUBJECT FROM THE PUBLIC SERVICE COMMISSION.

The Public Service Commission Staff is providing this notice to make you aware of some significant changes to the Auctioneer and Auction Clerk Licensing Laws which will affect you directly.

During the 68th Legislative Assembly, House Bill No. 1191 amended North Dakota Century Code Chapter 51-05.1 which deals with the licensing of auctioneers and auction clerks. We have summarized the major changes below; however, as a professional, you are expected to keep current on the Laws and Rules which govern your profession. The full text of House Bill No. 1191 is available at the web address below:

<https://www.ndlegis.gov/assembly/68-2023/regular/documents/23-0560-04000.pdf>

ALL CHANGES TAKE EFFECT: JANUARY 1, 2024.

Effective January 1, 2024, you will no longer be licensed by the Public Service Commission as an auctioneer or auction clerk, and a bond will no longer be required for licensure.

Please note:

- **You must maintain a VALID bond through January 1, 2024.**
- The bond on file with the Public Service Commission will be maintained at the Commission's office for a period of six years from the date of cancellation and will not be returned to you.

(over)

**STEPS TO TAKE TO PRACTICE AUCTIONEERING AND/OR AUCTION CLERKING
IN NORTH DAKOTA BEGINNING ON JANUARY 1, 2024:**

- You must register as a business with the Office of the Secretary of State no later than January 1, 2024, to remain in compliance with North Dakota law (N.D.C.C. Chapter 51-05.1).
- The Office of the Secretary of State recommends consulting with an attorney or business advisor for specific advice on what type of business (such as sole-proprietor, corporation, limited liability company, etc.) is right for you.
- An overview of the various types of business structures may be found by visiting: <https://sos.nd.gov/business/business-services/business-structures>.
- To register, visit <https://firststop.sos.nd.gov/> and under the Business menu click on **Start a business** and answer the questions.
 - If registering as a sole proprietor, you will be asked to register a tradename in the last step of registration. Click the **Trade Name Registration** link to create a ND Login to complete this process.
- *You do NOT have to wait until January 1, 2024, to start the registration process with the Office of the Secretary of State. You can begin that process today!*
- If you are already registered with the Office of the Secretary of State for your auction and/or clerk business, call the Office of the Secretary of State prior to January 1, 2024 to verify that you have no additional requirements.

For questions about registering as a business, contact the Secretary of State's Business Services Division at 701-328-2900.

It has been our privilege to work with the auction industry and thank you for your cooperation and support during this transition.

Respectfully,



Konrad Crockford
Director, Compliance Division



Shelly Bauske
Administrative Officer