

N.D.A.G. Letter to Trotter (Oct. 16, 1991)

October 16, 1991

Ms. Donna M. Trotter
City Attorney, Watford City
233 N Main Box 1469
Watford City, ND 58854

Dear Ms. Trotter:

Thank you for your October 3, 1991, letter requesting an opinion as to how joint library services between a city and county may be established. Your question is raised in light of a perceived conflict in language in N.D.C.C. § 40-38-11(1) which seems to indicate that only a written agreement is required and N.D.C.C. § 40-38-11(10) which requires an election.

N.D.C.C. § 40-38-11 states, in relevant part:

Joint public library services by cities and counties.

1. Upon compliance with section 40-38-01 [requiring an election] for the establishment of public library services, public library services may be jointly provided through a written agreement between the governing bodies of any city or county or both to establish and maintain joint library services with one or more cities or counties or both.

. . . .

10. After July 1, 1981, the establishment of joint library services pursuant to this section shall not be permitted unless approved by the electors of each individual city or county considering the question.

When the Legislature enacts a statute, it is presumed that the entire statute is intended to be effective. N.D.C.C. § 1-02-38. The North Dakota Supreme Court has stated that "A statute is to be read to give effect to each of its provisions, whenever fairly possible." County of Stutsman v. State Historical Society, 371 N.W.2d 321, 325 (N.D. 1985).

The provisions of subsections 1 and 10 are not mutually exclusive. The election in subsection 10 authorizes the political subdivisions to enter into the joint library services agreement. Subsection 1 provides for that agreement. Therefore, both subsections 1 and 10 are effective, requiring an election by each individual city or county on the issue of establishment of joint library services as well as a written agreement between the governing bodies of any city or county seeking to maintain joint library services.

I trust this responds to your question.

Sincerely,

Nicholas J. Spaeth

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