

May 14, 1998

Mr. Allen Koppy
Morton County State's Attorney
210 2nd Ave NW
Mandan, ND 58554

Dear Mr. Koppy:

Thank you for your March 20, 1998, letter asking whether statutory authority permitting a county commission to redesignate an elective county office as an appointive office under N.D.C.C. § 11-10.2-02(1) conflicts with Article VII, Section 9 of the North Dakota Constitution, which permits such questions to be placed on the ballot for an election by voters in the county. This question concerns a March 5, 1998, final resolution by the Morton County Board of Commissioners to redesignate the office of clerk of district court from elective to appointive.

A similar question is addressed in 1998 N.D. Op. Att'y Gen. 75 (May 12 Opinion to Burleigh County State's Attorney Patricia Burke) (copy enclosed). This opinion concerned eliminating the office of county treasurer and transferring the duties of that office to the county auditor. There is no significant distinction under Article VII, Section 9 between the redesignation of the elective county office of clerk of district court to an appointive office pursuant to N.D.C.C. § 11-10.2-02(1), and the elimination of the elective office of treasurer and transfer of that office's functions pursuant to the same statute. Therefore, it is my opinion that N.D.C.C. § 11-10.2-02(1) does not conflict with Article VII, Section 9 of the North Dakota Constitution when applied to the redesignation of the clerk of district court from an elective county office to an appointive county office.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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Enclosure