

LETTER OPINION
97-L-182

November 19, 1997

Mr. Doug Mattson
Ward County State's Attorney
315 3rd Street SE
Minot, ND 58701-3998

Dear Mr. Mattson:

Thank you for your letter requesting my opinion about a provision contained in the "tool chest" bill passed by the Legislative Assembly in 1993, N.D.C.C. § 40-01.1-02(2), concerning local advisory study committees. That subsection provides as follows:

Notwithstanding subsection 1, an election on the question of establishing a five-member advisory study committee for a county or city must be held at the next regular election in the county or city if five years have elapsed since the latter of:

- a. August 1, 1993;
- b. The date of the most recent election held on the question of establishing an advisory study committee pursuant to this subsection; or
- c. The date of issue of a written report prepared for a comprehensive study and analysis of the cooperative and restructuring options available to the county or city conducted by the governing body, an advisory study committee established pursuant to this section, a home rule charter commission, or through another study process for which a written report was prepared.

(Emphasis supplied.)

You ask whether the ballot question about establishing a five-member advisory study committee must appear on the November 1998 county ballot if the county has not previously held an election on the question pursuant to N.D.C.C. § 40-01.1-02(2)(b) or has not obtained a written report of the cooperative and restructuring options available to the county as provided in N.D.C.C. § 40-01.1-02(2)(c).

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You state that a literal reading of this subsection 2 does not require placing the question on the ballot in the November 1998 election since five years have not elapsed from the events specified in N.D.C.C. § 40-01.1-02(2)(b) or (c) because those events have not occurred.

In enacting a statute, it is presumed that the entire statute is intended to be effective, a reasonable result is intended, and a result feasible of execution is intended. N.D.C.C. § 1-02-38. In interpreting a statute, courts are to examine not only every word of a statute, but also all subsections of a statute with a view that the entire statute is intended to be effective. Salter v. Hjelle, 415 N.W.2d 801, 804 (N.D. 1987). Every effort must be made in construing a statute to give meaningful effect to each part without rendering one or the other useless; meaning must be given to every word, clause, and sentence, if possible. Fastow v. Burleigh County Water Resource District, 415 N.W.2d 505, 509-510 (N.D. 1987); DeLair v. LaMoure County, 326 N.W.2d 55, 60 (N.D. 1982). All sections of a statute must be construed to have meaning because the law neither does nor requires idle acts. Stutsman County v. State Historical Society of North Dakota, 371 N.W.2d 321, 325 (N.D. 1985); Keyes v. Amundson, 343 N.W.2d 78, 83 (N.D. 1983). Statutes are to be construed in a way which does not render them worthless because the law neither does nor requires idle acts nor will it be assumed that the Legislature intended that any sections be useless rhetoric. State v. Nordquist, 309 N.W.2d 109, 115 (N.D. 1981).

If subsection 2 of N.D.C.C. § 40-01.1-02 is read in the manner you suggest, the mandatory¹ ballot question may never be placed before the people since a county could merely fail to hold an election on the question or fail to authorize a study and a written report. This would be an unreasonable construction and would prevent the lead-in language of subsection 2 from having any meaning; the language would be mere useless rhetoric if placing the measure on the ballot could be so easily thwarted by a county or city by merely failing to act.

Consequently, it is my opinion that if a city or county fails to take one of the actions specified in N.D.C.C. § 40-01.1-02(2)(b) or (c) by the time of the first regular election of the county or city occurring five years after the effective date of the statute, August 1, 1993, then the ballot question must be placed on the ballot of such regular election. This construction, however, does not mean

¹ N.D.C.C. § 40-01.1-02(2) provides that the ballot question election "must be held at the next regular election. . . ."

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that the ballot question would necessarily have to be placed on the November 1998 ballot since there would still be time between now and November of 1998 to study the cooperative and restructuring options available to the county or city and have a written report prepared. If that were done, by the express terms of subsection 2 the ballot question could be put off for an additional five years from the date of the report.

This interpretation is consistent with the legislative history on this provision in the tool chest bill. Bruce Levy, a member of the North Dakota Consensus Council which was instrumental in drafting the tool chest bill, provided the only somewhat detailed section-by-section analysis of the bill before the Legislature. In his written statement dated February 24, 1993, presented to the Senate Political Subdivisions Committee, he indicated:

This section would also provide for an election on the question of establishing a citizens' study commission if five years have elapsed since the electors of the county or city voted on the question, since a previous vote on the same question, or since a "comprehensive" review of the form and powers of the county or city has occurred.

One of the more important specified powers would encourage the committee to allow for meaningful citizen participation in the process, and to share information about its study with citizens in order to encourage public discussion.

This statement evinces an intent that the public be involved in the process and that a vote occur on the question of establishing a study commission within five years of actual specified events. There is no indication of an intent that a city or county could thwart a public vote on the matter by merely failing to act to either hold an election on the question or authorize a study and report. Should a city or county in fact hold an election or authorize a study and report, the five-year period, pursuant to N.D.C.C. § 40-01.1-02(2), would commence to run from the later of the prior election or the date of the issuance of the report.

Sincerely,

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Heidi Heitkamp
ATTORNEY GENERAL

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