

N.D.A.G. Letter to Eckroth (Feb. 5, 1986)

February 5, 1986

Honorable Anthony G. Eckroth
State Representative
1701 2nd Street N.E.
Mandan, North Dakota 58554

Honorable Walter A. Meyer
State Senator
700 Old Red Trail
Mandan, North Dakota 58554

Dear Representative Eckroth and Senator Meyer:

I am writing to you in regard to my letter of January 17, 1986, pertaining to the referral of a county job development authority.

The information contained in my answer to your question was a correct analysis of the law. However, it has been brought to our attention that Morton County did not create a county job development authority pursuant to N.D.C.C. §§11-11.1-01 through 11-11.1-05. Instead, the Morton County commissioners acted pursuant to N.D.C.C. § 11-11.106 which provides as follows:

11-11.1-06. ALTERNATIVE LEVY FOR INDUSTRIAL DEVELOPMENT ORGANIZATIONS. In lieu of establishing a job development authority as provided in sections 11-11.1-01 through 11-11.1-05, the board of county commissioners in a county where an active industrial development organization exists may levy a tax not exceeding the limitation in subsection 29 of section 57-15-06.7. The funds from the levy may be used to enter into a contract with the industrial development organization for performance of the functions of a job development authority as provided in sections 11-11.1-01 through 11-11.1-05. [Emphasis supplied.]

Therefore, in counties where an active industrial development organization exists, the board of county commissioners may levy a property tax of up to four mills and may use the funds to enter into a contract with the industrial development organization.

In my January 17, 1986, letter, I outlined the referendum powers set forth in N.D.C.C. § 11-11.1-01 which permit the people to approve or reject at the polls a county job development authority. In the instant situation, clearly the industrial development organization performs the same functions and stands in place of a county job development authority. Moreover, the provisions of N.D.C.C. Ch. 11-11.1 were enacted by

the 1985 Legislature which amended the original bill to "allow the public to petition to remove the four mill levy." See Hearing on H.B. 1390 before the House Committee on Industry, Business and Labor, 49th Legislative Assembly, January 30, 1985.

Therefore, it is my opinion that the power of referendum was granted to the people to approve or reject at the polls the alternative levy for industrial development organizations.

A petition to refer an alternative levy for an industrial development organization should be in substantially the following form:

REFERENDUM PETITION

To the Morton County Auditor, State of North Dakota

We the undersigned, being qualified electors of the County of Morton, request that the July 2, 1985, resolution adopted by the Morton County Commissioners which provided for a four mill levy property tax to be used to enter into a contract with the Mandan Industrial Association for the performance of the functions of a county job development authority as provided for in Sections 11-11.1-01 through 11-11.105 of the North Dakota Century Code be referred to a vote of the qualified electors of Morton County as provided for by law.

Month Day, Year	Signature of Qualified Voter	Residential Address	City, State
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1. _____
2. _____

Furthermore, the ballot question should be in substantially the following form:

Referred Resolution of
Morton County Commissioners
No. _____

The referred resolution of the Morton County Commissioners provides for a property tax to fund contractual agreement with the Mandan Industrial Association for the performance of the duties of a county job development authority.

Ballot Title:

As adopted by the Morton County Commission on July 2, 1985, this referred resolution provides for a four mill levy property tax to fund a contract with the

Mandan Industrial Association for the performance of the duties of a county job development authority.

A "yes" vote means you approve the resolution providing for a four mill levy property tax to fund a contract with the Mandan Industrial Association.

A "no" vote means you reject the resolution providing for a four mill levy property tax to fund a contract with the Mandan Industrial Association.

Shall said referred resolution be approved?

Yes _____

No _____

My letter of January 17, 1986, applies in all other respects.

Sincerely,

Nicholas J. Spaeth

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cc: Paul Trauger Morton County Auditor