

Office of the Attorney General
State of North Dakota

Opinion No. 86-24

Date Issued: August 18, 1986

Requested by: Robert E. Hanson
State Treasurer

--QUESTION PRESENTED--

Whether the State Treasurer must distribute money from the coal development fund within fifteen days from the date the money is received from the State Tax Commissioner.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that the State Treasurer must distribute money from the coal development fund within fifteen days from the date the money is received from the State Tax Commissioner.

--ANALYSIS--

Two apparently conflicting statutes have caused this question to be raised.

As originally enacted, the statute establishing the coal development fund, codified as N.D.C.C. § 57-61-10, read as follows:

SECTION 10. COAL DEVELOPMENT FUND ESTABLISHED.) Moneys collected by the state tax commissioner pursuant to the provisions of sections 1 through 9 of this Act shall be paid to the state treasurer and shall be credited to a special fund in the state treasury, to be known as the coal development fund. The moneys accumulated in such fund shall be allocated as provided by law and as appropriated by the legislative assembly. [Emphasis supplied.]

1979 N.D. Sess. Laws 626, § 10.

Thus, as originally enacted, N.D.C.C. § 57-61-10 provided no time certain for the distribution of funds in the coal development fund. However, the statute providing for the allocation of moneys in the coal development fund (codified as N.D.C.C. § 57-62-02), as originally enacted, provided that the State Treasurer shall distribute these funds quarterly. In pertinent part, this section read as follows:

SECTION 12. ALLOCATION OF MONEYS IN COAL DEVELOPMENT FUND.)
Moneys deposited in the coal development fund shall be apportioned
quarterly by the state treasurer as follows:

[Emphasis supplied.]

1979 N.D. Sess. Laws 626, § 12.

The 1981 Legislative Assembly amended N.D.C.C. § 57-61-10 to
read as follows:

57-61-10. COAL DEVELOPMENT FUND ESTABLISHED. Moneys collected
by the state tax commissioner pursuant to the provisions of sections
57-61-01 through 57-61-09 shall be paid to the state treasurer within
fifteen days from the date they are received by the state tax
commissioner and shall be credited to a special fund in the state
treasury, to be known as the coal development fund. The moneys
accumulated in such fund shall be allocated as provided by law and as
appropriated by the legislative assembly and such allocation shall
occur within fifteen days from the date the moneys are received by
the state treasurer from the state tax commissioner. [Emphasis
supplied.]

1981 N.D. Sess. Laws 620, § 1.

While this legislation also amended N.D.C.C. § 57-62-02(3), it
failed to amend that part of N.D.C.C. § 57-62-02 which directs the
State Treasurer to distribute money in the coal development fund
quarterly. Although various provisions of N.D.C.C. § 57-62-02 have
been amended several times since 1981, this apparent conflict between
these two statutes has not been addressed by the Legislative
Assembly. 1983 N.D. Sess. Laws 78, § 5; 1983 N.D. Sess. Laws 668,
§ 1; and 1985 N.D. Sess. Laws 604, § 21.

A review of the legislative history which led to the 1981
amendment of N.D.C.C. § 57-61-10 reveals that it was the clear
intention of the bill's sponsor to expedite the distribution of funds
from the coal development fund. If ambiguity exists, it is proper to
consider the legislative history. N.D.C.C. § 1-02-39(3).

Furthermore, when there is an irreconcilable conflict between
two statutes, the latest legislative expression prevails to the
extent of the conflict. State v. Hagge, 224 N.W.2d 560, 565 (N.D.
1974).

Because the language directing the State Treasurer to distribute
money in the coal development fund within fifteen days from the State

Treasurer's receipt of those funds was enacted later in time, that language must prevail over the conflicting statute which provides that those distributions should be made quarterly.

Therefore, it is my opinion that the State Treasurer should distribute money from the coal development fund within fifteen days from the date the money is received from the State Tax Commissioner.

--EFFECT--

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.

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