

**N.D.A.G. Letter to Manbeck (Oct. 12, 1989)**

October 12, 1989

Mr. Douglas G. Manbeck  
Nelson County State's Attorney  
P.O. Box 428  
Lakota, ND 58344

Dear Mr. Manbeck:

Thank you for your letter of September 11, 1989, regarding the legal duty of counties, cities, or townships to make sanitary landfill facilities and services available to their respective subdivisions.

Counties, cities, and townships do not have a legal duty to make sanitary landfill facilities and services available to residents of their respective subdivisions. However, counties and cities now have extensive authority to establish and provide such services. An interim study being conducted by the Legislature may look to counties and cities for assistance in resolving solid waste management problems in the future.

The primary authorities available to counties and cities for solid waste management are found in N.D.C.C. 11-11-14(13), 21-03-06, 23-29-05, 23-29-06, 40-05-01, and 40-05-18. Each of these statutes gives the respective political subdivision authority to undertake solid waste management activity but does not place a legal duty to take such action on the respective subdivision. In addition, all counties and cities have the authority to develop sanitary ordinances which may have an impact on solid waste management. I am enclosing a copy of each of these statutes for your information.

I am also enclosing a copy of Senate Concurrent Resolution No. 4058 regarding North Dakota Solid Waste Management concerns. This concurrent resolution was adopted during the 1989 Legislative Session.

The Legislative Council assigned the study proposed by this legislation to the Political Subdivisions Committee. The interim study is focusing on increasing county and city involvement in solving our solid waste management problems. A result of the interim study may be to look to individual subdivisions to assist the state of North Dakota in solving the problems of waste management.

In addition, the Governor has established a Solid Waste Management Task Force to review the problems associated with solid waste in North Dakota. The State Department of Health and Consolidated Laboratories, which is authorized to conduct a solid waste management program in the state of North Dakota through N.D.C.C. ch. 23-29 and N.D. Admin. Code ch. 33-20, is assisting in this effort. You may wish to contact the North Dakota Legislative Council for more information on the interim study. You might also

suggest to your county commission that they become involved in the interim study or the Task Force through the North Dakota Association of Counties.

I hope this information will be helpful to you.

Sincerely,

Nicholas J. Spaeth

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Enclosure