

**OPINION
71-304**

April 19, 1971 (OPINION)

Mr. W. P. Sebens

Executive Secretary

North Dakota State Soil

Conservation Committee

RE: Soil Conservation Districts - Supervisors - Election

This is in reply to your letter of April 6, 1971, requesting an opinion of this office with regard to the effect of House Bill 1215 passed at the recent legislative assembly and approved by the governor changing the method and time of elections of Soil Conservation District supervisors.

You indicate that at present the Soil Conservation District supervisors are elected at the regular annual township elections held in March and take office the first Tuesday in April.

You mention further that under the new law Soil Conservation District supervisors will be elected at the regular general election held in November.

Your questions are stated as:

1. Will it be necessary for the Soil Conservation Districts to hold an election in March of 1972, since the new law will be in effect July 1, 1971, and they will be elected as provided in House Bill 1215, at the general election.
2. Would it be proper for the supervisors whose term of office expires in April 1972 to forego having an election in March and simply carryover until the general election date?"

We might point out in the first instance the authority for the proposition that "at present the Soil Conservation District supervisors are elected at the regular annual township elections held in March and take office the first Tuesday in April" is section 4-22-22 of the 1969 Supplement to the North Dakota Century Code. The authority for the proposition that "under the new law, Soil Conservation District Supervisors will be elected at the regular general election held in November" is section 13 of House Bill No. 1215 which amends and reenacts section 4-22-22 of the 1969 Supplement to the North Dakota Century Code by deleting the provisions for elections in March and taking office in April and inserting instead provision that: "At the general election to be held in 1972 three district supervisors shall be elected."

Thus, after the effective date of the act, July 1, 1971, there no longer is authority to hold Soil Conservation District elections in March; and the only authority to hold Soil Conservation District

elections is that provided in the new amended and reenacted section 4-22-22 to hold the elections at the same time as the general election.

Thus, in answer to your specific questions, it would not be necessary or possible for Soil Conservation Districts to hold an election in March of 1972 since the new law will be in effect July 1, 1971.

In direct response to your second question, it will not be possible for the supervisors of any North Dakota Soil Conservation District to hold an election in March for Soil Conservation District supervisors as there is no provision in the law then in effect for such elections. In the usual situation, we would thus assume that Soil Conservation District supervisors elected under the old law did receive terms of office of a definite number of years and "until his successor has been elected and qualified. There being no authority in the law as of the year 1972 for the election of Soil Conservation District supervisors other than at the general election, the previously elected Soil Conservation District supervisors will thus hold office until their successors are elected and qualified after the general election in the year 1972. Once such successors are duly elected and qualified under the 1972 general election, the terms of office commenced under the prior enactment will terminate and the new officers will commence terms as specified in the new act.

We hope the within and foregoing will be sufficient for your purposes.

HELGI JOHANNESON

Attorney General