

OPINION
72-384

March 2, 1972 (OPINION)

Mr. Jerome Jaynes
State's Attorney
Grant County

RE: Taxation - Assessors - Election

This is in response to your letter in which you state the following:

"The Grant County Director of Tax Equalization asks two questions relating to property tax administration which are of statewide interest. I would like to present them to you with a request for an official opinion.

"The first question has to do with the election or appointment of an assessor for an unorganized territory as set forth in Section 57-02-33 of the North Dakota Century Code. When the county commissioners districts are abolished or when county commissioners are elected at large, as set forth in Chapter 11-07 of the North Dakota Century Code, how is the district assessor elected or appointed?

"The second question has to do with the option of the electors to abolish the office of the township assessor at the annual township meeting as set forth in Section 58-05-02 of the North Dakota Century Code. If the electors decide by majority vote at an annual township meeting to abolish the office of township assessor, can the electors at some future annual meeting vote to reestablish the office of township assessor."

As to the first question, Section 57-02-33 provides in substance that the assessor districts shall comprise the same territory as the county commissioners of the county. The problem arises where the county fails to redistrict in accordance with the criteria set forth in Chapter 11-07 which, pursuant to the provisions of Section 11-07-03, abolishes the county commissioner districts if redistricting is not accomplished pursuant to law.

The provisions of Section 57-02-33 in effect adopt the existing county commissioner districts for purposes of establishing an area to be serviced by a district assessor. The fact that the commissioner districts are subsequently abolished does not automatically abolish the assessor districts. In the absence of any other provision of law, we would conclude that the commissioner districts as last legally existing would continue to constitute assessor districts until such time as new commissioner districts are created or until such time as the Legislature may provide for reestablishing such districts.

It would therefore be our opinion that the assessor districts as existing would continue until changed by legislative act or pursuant to direction contained in a legislative act.

It is our further opinion that if the office is not filled by election for whatever reason, that the same may be filled by appointment by the board of county commissioners.

As to the second question involving the township assessor, 58-05-02 provides that the electors at the annual township meeting may vote to abolish the office of township assessor. This section also provides that all of the duties and powers of the township assessor shall be vested in the county assessor as the successor.

We would note that no provision is made for recreating the office of township assessor.

It is therefore our opinion that if the electors at an annual meeting decide to abolish the office of township assessor, that office is forever abolished until such time as the Legislature authorizes the township to again create the office of township assessor.

HELGI JOHANNESON

Attorney General