

OPINION  
73-416

May 16, 1973 (OPINION)

Mr. James O. Fine  
State Director  
Division of Vocational  
Rehabilitation  
P. O. Box 1037  
Bismarck, ND 58502

Dear Mr. Fine:

This is in reply to your letter of May 14, 1973, in which you set forth the following facts and questions:

"The last session of the legislature passed House Bill 1030 which transfers the North Dakota Division of Vocational Rehabilitation from the North Dakota Board of Vocational Education to the North Dakota State Social Service Board.

"I would like an opinion as to whether or not that action places the Division of Vocational Rehabilitation under the State Merit System Law, as provided in section 54-5206 of the North Dakota Code."

House Bill 1030, section 4, provides in part that the State Social Service Board shall be responsible for vocational rehabilitation. It further provides the executive director of the Division of Vocational Rehabilitation shall be appointed in accordance with established personnel standards and on the basis of his education, training, experience, and demonstrated ability. The director is given the authority to appoint, with the approval of the State Social Service Board, such personnel as he deems necessary for the efficient performance of the functions of the Division of Vocational Rehabilitation.

In your letter you refer to section 54-52-06. We believe the correct reference is section 54-42-06. Section 54-42-06 of the North Dakota Century Code provides in part:

" \* \* \* All personnel employed by the public (sic) welfare board of North Dakota \* \* \* shall be covered by the complete merit system provided in this chapter. \* \* \* "

The reference to the public welfare board in section 54-42-06 means State Social Service Board. See section 50-06-01.1 of the North Dakota Century Code, as amended.

From a reading of the provision of House Bill 1030, we can only conclude that the personnel employed for the Division of Vocational Rehabilitation are, in fact and in law, employed by the Social Services Board. It is, therefore, our opinion that after the effective date of the bill; i.e., July 1, 1973, the Division of Vocational Rehabilitation, as a part of the State Social Service Board, would be under the State Merit System as provided in section

54-42-06 of the North Dakota Century Code.

Very truly yours,

Allen I. Olson

Attorney General