

OPINION
73-486

March 23, 1973 (OPINION)

The Honorable Arthur A. Link
Governor
State Capitol
Bismarck, ND 58505

Dear Governor Link:

This is in reply to your letter of March 22, 1973, concerning Senate Bill 2209. You note the bill has been passed by the Legislative Assembly and, as amended, specifies that a vice chairwoman is to be selected as an officer of the district committee of a political party. You state the following additional facts and questions:

"It must be assumed that the 'vice chairwoman' must be a female. Must it also be assumed, therefore, that the bill would require that both the 'chairman' and 'vice chairman' must be males?

"I believe that the intent of the legislatures was not to restrict the officers of the district committee in such a manner. However, I am compelled to seek an opinion of the Attorney General to clarify this point."

The purpose of Senate Bill 2209 as set forth in its title is to "amend and reenact section 16-17-10 of the North Dakota Century Code relating to the membership of the district executive committee of each political party."

As originally introduced the bill amended the section to provide that the officers of the district committee need not be precinct committeemen and to provide the five to fifteen person membership limitation of the committee should include the officers of the executive committee. The officers of the district committee are members and officers of the executive committee of the district. As amended by the House, page 829 of the House Journal, the bill also provides that the officers of the district committee should include a "vice chairwoman" as well as a chairman, a vice chairman, a secretary and a treasurer.

Ordinarily we would agree with your assumption that the specific inclusion of the words "vice chairwoman" in the statute indicates such position must be held by a female because there would be no other logical reason for the use of that term. However we are limited by the construction of the statute by section 1-1-34 of the North Dakota Century Code, as amended, which provides:

"GENDER DEFINITION. Words of one gender include the other genders.

Thus the term "chairman" or "vice chairman" includes the terms "chairwoman" or "vice chairwoman." Conversely, the term "chairwoman" or "vice chairwoman" includes the terms "chairman" or "vice

chairman." In other words a female may hold the position of chairman or vice chairman and a male may hold the position of chairwoman or vice chairwoman. It is interesting to note that section 1-01-34 of the North Dakota Century Code, prior to its amendment by chapter 72 of the 1967 Session Laws, provided: "Words used importing masculine gender include the feminine and neuter." Under that provision the chairman and vice chairman could have been either male or female but the vice chairwoman would necessarily have been female.

We must assume the Legislature was aware of the current provisions of section 1-01-34 of the North Dakota Century Code, as amended, in enacting Senate Bill 2209. Its meaning is clear and leaves no room for interpretation. It is not a mere presumption nor does it apply only in the absence of a contrary intention.

It would appear to be the intent of the legislature that one male and one female be chose vice "chairpersons." However we must conclude that Senate Bill 2209 does not require that both the chairman and vice chairman of the district committee of a political party be male. It is our opinion that such positions may be held by either a male or a female.

Yours very truly,

Allen I. Olson

Attorney General