

OPINION
75-113

March 4, 1975 (OPINION)

The Honorable Wayne G. Sanstead
Lieutenant Governor
State of North Dakota
Office of Lieutenant Governor
State Capitol
Bismarck, ND 58505

Dear Lieutenant Governor:

This is in response to your letter of February 20, 1975, wherein you request an opinion of this office relative to House Bill No. 1204. You submit the following facts and inquiry in your letter:

Senator Holand has requested that I seek an Attorney General's Opinion regarding House Bill 1204 as amended and sponsored by Representative Eagles. The Senate Social Welfare and Veterans Affairs Committee, February 20, 1975, passed out of that committee House Bill 1204 as amended with a favorable recommendation.

Senator Holand believes that the intent and original purpose of the sponsor in introducing the legislation to deal with the "term of office of members of county welfare boards", and now having the title amended to read "relating to the compensation of county welfare boards". Amendments deleting language that dealt with the original purpose can be noted from the attached bill. Also, amendments have added language to raise the compensation "not to exceed twenty-five" dollars of county board members.

Senator Holand's question is: Can these amendments be considered proper in light of Section 58 of the Constitution of North Dakota which specifies: "No law shall be passed except by a bill adopted by both houses, and no bill shall be so altered and amended on its passage through either house as to change its original purpose."

You have also attached a copy of House Bill No. 1204, as amended.

Noting the statement beginning on line 1 of the Bill and the original amendment to Section 50-01-08 of the North Dakota Century Code proposed by the Bill, it is apparent that the intent of the Bill was to amend the term of office of members of the county welfare boards. All changes in the Bill related to such terms. There were no changes proposed by the original Bill as affecting compensation. The current changes in the Bill by way of amendment thereof relate solely to compensation and delete all reference or change as respecting the term of office of such board members.

You have correctly noted the provisions of Section 58 of the North Dakota Constitution providing that "No law shall be passed except by a bill adopted by both houses, and no bill shall be so altered and

amended on its passage through either house as to change its original purpose."

Since current amendments to the bill relate totally to compensation rather than terms of office, it would appear that the same may be in violation of Section 58 of the Constitution. If the changes proposed by the original Bill had referred to compensation in part, or if the current amendments to the Bill referred to terms of office in part, it may be that some redemptive argument could be made, however, in absence of some proposed change relating to the apparent proposed intent of the Bill, it would be our opinion that the same is very questionable. We have based our conclusions upon the general provisions and holdings set forth in 158 A.L.R. 421-431, wherein material changes are considered in the construction and application of constitutional provisions against changing purpose of a bill during passage.

We trust that the foregoing will adequately set forth our opinion upon the proposition set forth in your letter of inquiry.

Sincerely yours,

ALLEN I. OLSON

Attorney General