

Date Issued: May 21, 1981 (AGO 81-49)

Requested by: Jay H. Fiedler,
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- QUESTION PRESENTED -

Whether all municipalities, including home rule cities, are required as of January 1, 1983, to operate on a fiscal year which commences on the first day of January of each year and terminates on the thirty-first day of December of that same year.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that in accordance with the 1981 amendments to section 40-40-03 of the North Dakota Century Code, effective January 1, 1983, all municipalities, including home rule cities, are required to operate on a fiscal year which coincides with the calendar year.

- ANALYSIS -

The 1981 Legislative Assembly of North Dakota amended section 40-40-03 of the North Dakota Century Code (House Bill No. 1129) to read as follows:

40-40-03. FISCAL YEAR OF MUNICIPALITY. The fiscal year of each municipality shall commence on the first day of January of each year and shall terminate on the thirty-first day of December of that same year.

The term "municipality" is defined in section 40-40-02, N.D.C.C., to mean any city or park district within this state, and therefore the term includes home rule cities. There are no statutory exceptions to the requirements of section 40-40-03, N.D.C.C.

Thus, as of January 1, 1983, the effective date of the amendments to section 40-40-03, N.D.C.C., any city or park district in North Dakota shall operate on a fiscal year which commences on January first and terminates on December thirty-first of that same year. While there are no specific penalty provisions for failure to comply with the amendments to section 40-40-03, N.D.C.C., to allow a city to adopt an ordinance which establishes a different fiscal year would contravene the legislative mandate. All governmental bodies are required to comply with the law.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

ROBERT O. WEFALD
Attorney General

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