

Office of the Attorney General
State of North Dakota

Opinion No. 82-32

Date Issued: April 15, 1982

Requested by: Ben Meier
Secretary of State

--QUESTION PRESENTED--

Whether a county auditor must deliver ballots and election supplies to the precinct inspectors at least fifteen days before any election.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that a county auditor must deliver ballots and election supplies to precinct inspectors at least fifteen days before any election.

--ANALYSIS--

During the 1981 Legislative Session, House Bill No. 1225, relating to the new election code, was submitted. Within H.B. No. 1225 were Sections 16.1-05-03, 16.1-06-16, and 16.1-06-18 of the North Dakota Century Code. All of these sections were in agreement in requiring the county auditor to deliver official ballots and election supplies to precinct inspectors not more than eight days nor less than three days before each primary, general, or special statewide or legislative district election.

During committee hearings on this bill, however, amendments were suggested by Burleigh County Auditor Bernice Asbridge, Sioux County Auditor Ernest Halvorson, and Secretary of State Ben Meier to amend Section 16.1-06.16, N.D.C.C., to read, in part, as follows:

At least fifteen days before any election, each county auditor shall:

2. Deliver to the inspector in each precinct the number of ballots and blank forms of pollbooks, blanks for election returns with the proper captions, forms of oaths and certificates, and tally sheets necessary to carry out the provisions of this title.

Due to an oversight, no amendments were introduced to amend Sections 16.1-05-03 and 16.1-06-18, N.D.C.C., to reflect the changes made in the wording of Section 16.1-06-16, N.D.C.C. The result of all of this was the adoption of three separate

statutes dealing with the time within which election supplies and official ballots must be delivered by the county auditor. Two of the statutes required the delivery to take place not more than eight nor less than three days before the election, while one statute required the delivery to take place not less than fifteen days before the election.

Section 1-02-38(2), (3), N.D.C.C., states the presumption that the Legislature, in enacting a statute, presumes the entire statute should be effective and to intend a just and reasonable result. In reviewing the legislative history behind H.B. No. 1225, it is my opinion that the Legislature intended to require county auditors to deliver official ballots and election supplies not less than fifteen days before any election. As an amendment was made to only one of the three statutes which speak on this subject within H.B. No. 1225, this legislative intent was not fully carried out. Legislative history supports the view that the Legislature intended the county auditor to deliver the election ballots and supplies to the precinct inspectors not less than fifteen days before the election.

--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.

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Attorney General

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