

Date Issued: May 3, 1982 (AGO 82-36)

Requested by: Richard L. Schnell
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- QUESTION PRESENTED -

Whether that county judge candidate who receives a majority of the total combined votes in those counties which have entered into a multicounty agreement to share the services of one or more county judges is the elected county judge for such counties.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the county judge candidate who receives a majority of the total combined votes in those counties which have entered into a multicounty agreement to share the services of one or more county judge is the elected county judge for such counties.

- ANALYSIS -

Chapter 27-02.1 of the North Dakota Century Code establishes county courts in all counties following the completion of the terms of the present county judges, county justices, and judges of county courts with increased jurisdiction. Section 27-07.1-02, N.D.C.C., provides for multicounty agreements to share services of judges. That section, in part, states as follows:

The boards of county commissioners of any two or more counties may enter into an agreement to provide for the election of a single judge or any number of judges to serve the county courts of the several counties entering into the agreement.

Section 27-07.1-01, N.D.C.C., states, in part, as follows:

In those counties which have entered into an agreement pursuant to section 27-07.1-02, one or more judges of the county court shall be elected by the eligible voters of the counties entering into the agreement.

By the use of the phrases "may enter into an agreement to provide for the election of a single judge or any number of judges to serve the county courts of the several counties entering into the agreement" (section 27-07.1-02, N.D.C.C.) and "one or more judges of the county court shall be elected by the eligible voters of the counties entering into the agreement" (section 27-07.1-01, N.D.C.C.), the Legislature has clearly provided that the candidate who receives the majority of the total combined votes cast in such counties is then elected as county judge. The first sentence of section 27-07.1-02, N.D.C.C., shows the Legislature's intent that the multicounty agreements should "provide for the election" of one or more judges "to serve the county courts of the several counties entering into the agreement."

Therefore, where counties have entered into multicounty agreements providing for the election of a judge to serve the county courts of those counties, that candidate which receives the majority of the votes cast for that office in those counties entering into the agreement shall be the county judge. To require a county judge candidate to receive a majority vote in each of the counties which have entered into the multicounty agreement would condition the effectiveness of any multicounty agreement upon the ability of one candidate to receive the majority vote in each of the counties involved. Such an absurd result was clearly not intended.

- 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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