

Date Issued: July 6, 1982 (AGO 82-56)

Requested by: Robert W. Peterson, State Auditor

- QUESTION PRESENTED -

Whether the State Auditor has the authority to require counties to change their accounting and budgeting fiscal year to coincide with the calendar year.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the State Auditor has the authority to require counties to change their accounting and budgeting fiscal year to coincide with the calendar year.

- ANALYSIS -

Section 54-10-17 of the North Dakota Century Code reads in part:

The state auditor shall prepare and furnish for the use and guidance of county officers a manual of accounting and auditing procedures, and uniform accounting forms, so as to afford a convenient and uniform procedure for examining and auditing the books, records, and accounts of county officers and to establish, as far as practicable, a uniform method of keeping such books, records, and accounts. The state auditor shall require county officers to adopt such system of bookkeeping and accounting, and to conform to the accounting procedures prescribed by him. . . .

This section requires the State Auditor to establish a uniform method of bookkeeping and accounting. Additionally, the State Auditor shall require county officers to adopt the prescribed system. Section 54-10-17, N.D.C.C., allows the State Auditor, as circumstances and experience dictate, to amend and modify such accounting methods, forms, and procedures.

. . . From time to time, as circumstances and experience shall show to be advisable, he may amend and modify such accounting methods, forms, and procedures and county officers shall conform thereto.

Section 11-23-02, N.D.C.C., pertaining to county budgets does not define the term "fiscal year". Section 40-40-03, N.D.C.C., however, requires the fiscal year of municipalities to coincide with the calendar year. The legislative history of section 40-40-03, N.D.C.C., indicates that the Legislature was interested in enacting similar legislation pertaining to counties. The January 16, 1981, minutes of the House Political Subdivisions Committee discussion on House Bill 1129 and the February 20, 1981, minutes of the Senate Political Subdivisions Committee both reflect that the Legislature declined to act because it believed the State Auditor possessed the necessary authority to require a change in the fiscal year.

There is, however, no general uniformity as to the beginning of a fiscal year. In re: Opinion of the Justices, 32 N.E.2d 298, 304 (Mass. 1941). Either by statute or in the absence of a statutory provision to the contrary, a fiscal year may be coordinates with the calendar year. McGregor v. Miller, 293 S.W. 30, 31 (Ark. 1927).

Black's Law Dictionary 764 (Rev. Fourth Ed. 1978) defines fiscal year as "an accounting period of twelve months" and "at the end of which accounts are made up and the books balanced." An accounting period is defined as a period at the end of which, and for which, financial statements are prepared. See R. M. Mikesell and Leon E. Hay, Governmental Accounting, (1969) at 694.

Therefore, the language of section 54-10-17, N.D.C.C., embraces the term "fiscal year" as a uniform accounting "method" or "procedure" which may be changed at the discretion of the State Auditor.

It should be noted that sections 11-23-01, and 11-23-02, N.D.C.C., require county budgets to be acted on by July and submitted to the State Auditor by September. However, these statutes do not prohibit the changing the fiscal year to coincide with the calendar year.

-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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