

OPINION
45-88

July 31, 1945 (OPINION)

ELECTION SUPPLIES

RE: To be Let on Bids

Your letter of July 27 addressed to the attorney general has been received and contents noted.

You call our attention to section 11-1130 of the North Dakota Revised Code of 1943, which provides that contracts for the furnishing of election ballots and supplies shall be let by the board of county commissioners at its first regular meeting in April of each year, to run for a period of one year.

You further call attention to section 1 of chapter 18 of the laws of the 1944 Extraordinary Session, which provides that the Secretary of State, County Auditor or any other officer by law required to prepare any general or primary election ballots, to prepare and have printed and delivered to the County Auditor at least sixty days prior to the holding of any general or primary election a sufficient number of absent voters' ballots provided for by law for use of all voters likely to be absent from such county on the day of such election.

You state that because of the short time between primary election and the April meeting it will be impracticable to comply with the provisions of said section 1 of chapter 18, and you suggest that it would be advisable, if permissible under the law, to call for bids late this summer or early fall for ballots and election supplies needed in 1946.

It is true that section 11-1130 provides that contracts for the furnishing of election ballots and supplies shall be let by the board of county commissioners at its first regular meeting in April of each year. However, the law does not contemplate impossibilities or any action that would nullify mandatory provisions of other laws. Therefore, section 11-1130 and chapter 18 of the Special Session Laws should be construed together, and in considering the status, section 11-1130 should not be so construed as to nullify important provisions in said chapter 18.

In view of the situation presented with reference to procuring absent voters' ballots in time to be sent to the voters as provided in said chapter 18, we see no reason why contracts could not be let by the county commissioners at a date earlier than the first regular meeting in April. We are rather of the opinion that the provisions of said section 11-1130 that contracts be let in April are directory rather than mandatory, and must be construed in connection with other laws so as to make them workable.

It is, of course, necessary that the county advertise for bids as provided by section 11-1126, if the amount involved exceeds three hundred dollars, and no one will be prejudiced by the fact that bids are called for and contracts let at a time earlier than the April

meeting.

It is the opinion of this office, therefore, that it would be perfectly permissible for the county commissioners to advertise for bids and let a contract at a time sufficiently early to enable the county auditor to comply with the provisions of chapter 18 of the 1944 Extraordinary Session Laws.

NELS G. JOHNSON

Attorney General