

OPINION
55-42

November 18, 1955 (OPINION)

COUNTY TREASURER

RE: Time of Qualification for Office

This is in reply to your letter of November 16, 1955, requesting an opinion from this office as to whether or not a county treasurer who is completing his second term would legally be able to be a candidate in the 1956 June primary. The question arises as a result of a petition to amend the state constitution so as to eliminate the two consecutive term limitation. You state that the required number of petitioners has been obtained and that the constitutional amendment will be voted on at the 1956 June primary.

An opinion on a similar question presented by county sheriffs was given by this office March 3, 1952.

It is our opinion now as it was then that a candidate for any office need not be qualified until the time of assuming the duties of the office to which he is elected. A candidate does not have to be qualified for the office in order to be a candidate at the election. Therefore, should a treasurer who is now completing his second term of office be a successful candidate at the primary election, and the constitutional amendment removing the disqualification of a treasurer from holding more than two terms be carried, he would be duly qualified at the time of taking office, if elected. The constitutional amendment would go into effect on the thirtieth day after the election at which it is approved by a majority of the state electors pursuant to sections 25 and 202 of the Constitution of North Dakota.

Therefore, a treasurer seeking a third consecutive term could qualify, if elected if such constitutional amendment was approved at either the 1956 June primary election or the 1956 November general election. If the amendment is not approved, he could not qualify for the office.

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