

**OPINION  
58-139**

July 14, 1958           (OPINION)

INSANE, FEEBLEMINDED, ETC.

RE: School For the Blind - Construction, Hiring of Architect

This is in reply to your letter of July 7, 1958, requesting an opinion of this office in regard to the construction of facilities for the State School for the Blind at Grand Forks, North Dakota, pursuant to the initiated measure appropriating funds for the construction of such facilities.

You ask whether your board should proceed after notification of the availability of funds under this appropriation to hire an architect in order that you may let contracts by December 15, 1958 as specified in the measure. You also inform us that from previous experiences on institutional building contracts that it is questionable if a complete unit can be constructed for the sum specified. You ask whether if this proves to be true in this instance after bids are let, whether you would be compelled to proceed knowing that you would not be able to provide a completed unit for the requirements of your student population.

In reply to your first question, it is the opinion of this office that your board should proceed after notification of the availability of funds to hire an architect, in order that contracts may be let by December 15, 1958, as specified in the initiated measure.

In reply to your second question, it is the opinion of this office that while the board of administration would not, of course, be authorized to bind the state to pay an amount in excess of that appropriated, that it nevertheless should proceed to the extent possible under the present appropriation. The provision of the measure directed to action of the Board of Administration requires the letting of contracts for facilities for such School. Its terms do not limit the "facilities" to be constructed to a completed unit, nor do they prescribe the size of the facilities to be constructed.

On this basis, it is our conclusion that the board is required by the initiated enactment to exercise its discretion in the determination of the facilities to be constructed as of this time, but that the board is further required to commence proceedings hereunder by the letting of contracts not later than December 15, 1958.

LESLIE R. BURGUM

Attorney General