

OPINION
59-159

April 4, 1959 (OPINION)

LEGISLATIVE DEPARTMENT

RE: Referred Measure, Approved - Effective When

This is in reply to your letter of 30 March 1959 thanking us for our cooperation in providing you with information you have been requesting and requesting further information. Your specific question is stated as: "If Senate Bill 73 is referred to the general election of 1960 would this law go into effect prior to the general election of 1960? If so, when?"

In the terms of section 25 of the North Dakota Constitution: "Seven thousand electors at large may, by referendum petition, suspend the operation of any measure enacted by the legislature, except an emergency measure." Said section 25 of the North Dakota Constitution further provides in part that: "Each measure initiated by or referred to the electors, . . . shall be voted upon at any statewide election designated in the petition, or at a special election called by the Governor."

It is our thought that the point and purpose of the initiative and referendum provisions of the Constitution of this state were designed to allow the people of the state at large the opportunity to directly express their approval or disapproval of legislation enacted by the people's elected representatives and to give such expression the effect of law, rather than to allow such legislation to be defeated by the petition of a relatively small number of persons. Thus it seems very unlikely that said section 25 of our Constitution would be so construed as to allow filing this date of petitions designating for example the general election to be held in the year 2000 A.D. as the election at which the referred measure would be voted upon by the people of the state. On the other hand we find no decision of our supreme court on this precise point at the present time.

Numerous other random factors of course could enter into any consideration of such a question as you present. For example, we have no decisions of our supreme court that fully answer the question of when the final determination of the will of the people would be made if several referendum petitions, each designating a different time of election were filed. We do note the decision of our supreme court in State of North Dakota ex rel Frazier v. Hall, 50 N.D. 659, 197 N.W. 687, wherein the petition designated the date of the general election, the governor took action to accelerate the submission of same to the people for their determination of the matter, and said determination was in that instance actually made at the primary, rather than the fall election. The matter of the general legal sufficiency of any petition must, of course, enter in as does the matter of the legality and sufficiency of any and all signatures thereto. However, any of these factors must be recognized as merely one of practically an infinite variety of possibilities that might occur.

In conclusion to answer your question in its own terms, if Senate Bill 73 is first referred by a petition designating the general election of 1960 it is possible that this law would go into effect prior to the general election of 1960. It is also possible that under only the specific circumstances you suggest it might not go into effect prior to said general election. However, considering all possible contingencies that might arise, it is at this time impossible to predict the precise date that such Senate Bill 73 would go into effect, either before or after such general election of 1960; except that if no further action is taken and no referendum petition is filed Senate Bill 73 will go into effect 1 July 1959.

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