

**OPINION
60-101**

July 18, 1960(OPINION)

ELECTIONS

RE: Voting Machines - Use of Printed Ballots and Machines

Re: Chapter 16-21, 1957 Supplement to the North Dakota Revised Code of 1943 -
Voting Machines

This office acknowledges receipt of your letter of July 11, 1960, with reference to the use of voting machines for which provision is made in the above-captioned chapter. In your letter you enumerate some of the difficulties involved in the use of these machines in some of the cities in North Dakota, especially the delay in cases wherein the voter is compelled to wait a long period for his turn to vote.

You raise this question and ask our opinion on the same: "Is it permissible in a city to use voting machines in certain precincts and at the same time to make use of the regular printed ballots in other precincts in the same city?"

Section 16-2101 of the 1957 Supplement to the North Dakota Revised Code of 1943 reads as follows:

VOTING MACHINES AUTHORIZED IN CITY PRECINCTS. The use of voting machines, in accordance with the provisions of this Act (chapter), is hereby authorized in any city election precinct upon finding and declaration by resolution of the governing body of the city and also of the board of county commissioners of the county in which such city is located that such use is advisable or necessary in such precinct and procurement of such machines, on a temporary or permanent basis, under such terms and conditions, including assumption and division of cost of acquisition and maintenance by the city and county, as may be agreed upon by the respective boards, and such machines may thereupon be used in any state county, city, or district election in such precinct or other voting area of which such precinct is a part."

It is the opinion of this office, based upon the above section of the law, that the governing body of the city by proper resolution could authorize the use of voting machines in one or more precincts in the city and at the same time use the regular printed ballot forms in other precincts. It would be necessary also to obtain the approval by resolution of the board of county commissioners of the county in which the city is located. Such action should, of course, be based upon some good reason, as for example, the lack of the sufficient number of voting machines to provide facilities for voting as required by subsection 1 of section 16-2102. Where electors are compelled to

wait in line for a long period of time to exercise their franchise it could scarcely be said that adequate facilities had been provided for the elector. Furthermore, the city could use a sufficient number of machines in one precinct to accommodate the voters and use the old form of printed ballots in others until it is able to acquire the sufficient number of machines to supply all the precincts in the city. This would be a better policy than to distribute an insufficient number of machines in several precincts.

It is the opinion of this office that the city would not be justified in using voting machines and the old form of printed ballots in the same precinct.

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