

that each signature contained on the attached petition was executed in my presence; and that to the best of my knowledge and belief each person

whose signature appears on the attached petition is a qualified elector; and that each signature contained on the attached petition is the genuine signature of the person whose name it purports to be.

(signature of circulator)

Subscribed and sworn to before me this ____ day of _____, 19____, at _____, North Dakota.
(city)

(Notary Seal)

(signature of notary)
Notary Public, North Dakota
My commission expires _____

To interpret the term "circulators," as it is found in N.D.C.C. § 16.1-01-12(11), to refer to only those persons who physically circulate petitions to initiate or refer a measure or to recall a public official does not make sense. The statute requires circulators to file their intent to remunerate prior to submitting the petitions to the Secretary of State. However, circulators do not submit their petitions to the Secretary of State. Instead, it is the sponsoring committee that submits those petitions to the Secretary of State on behalf of those persons sponsoring the initiative, referendum, or recall effort. Furthermore, the circulators may receive payment for their services, but do not make payment for services rendered.

The amendment to N.D.C.C. § 16.1-01-12(11) occurred as part of House Bill No. 1087 (1987 N.D. Sess. Law ch. 244). As introduced, House Bill No. 1087 did not contain any petition payment disclosure requirements. However, the House Judiciary Committee amended the bill to require full disclosure concerning persons who were paid to circulate petitions. Action by the House Judiciary Committee resulted in the addition of the language now found within the statute requiring circulators to file their intent to remunerate prior to submitting their petitions to the Secretary of State.

After listening to the tapes which were made of the House Judiciary Committee hearings as to House Bill No. 1087, there is no doubt but that the committee intended the disclosure requirement found within N.D.C.C. § 16.1-01-12(11) to refer to the sponsoring committee rather than to the individual circulators who were circulating petitions. The proposed amendment to House Bill No. 1087, as drafted by the committee members themselves, was described by several committee members as an attempt to require disclosure from those sponsoring the petition drives when such persons were paying persons to circulate petitions. In a discussion as to the meaning and scope of the phrase "to remunerate," Representative Lindgren stated that this phrase referred to the payment made by the sponsoring group to people who physically circulated petitions. Hearings on

H. 1087 Before the House Committee on the Judiciary, 50th Leg., (1987). (Statement of Representative Lindgren.)

The possible misuse of the phrase "circulators" was mentioned during the waning moments of the committee hearing considering the amendments. Representative Williams asked whether the use of the term "circulators" was accurate as she believed such persons were those physically circulating the petitions rather than those who were sponsoring the petition drive. A representative responded to the question of Representative Williams and stated that the circulators were those who were sponsoring the petition as opposed to those physically circulating the petitions themselves. He believed that those 25 persons required to sign a petition constituted the circulators.

I think those 25 are known as the circulators. That responsibility for this filing would be on that committee of 25.

Hearings on H. 1087 Before the House Committee on the Judiciary, 50th Leg., (1987). The reference to 25 sponsors of the petition drive was actually a reference to the sponsoring committee rather than the individual circulators. N.D. Const. art III, § 2; N.D.C.C. § 16.1-01-09(1).

The interpretation of statutes must be reasonable and consistent with legislative intent, and performed in a manner which will accomplish the policy goals and objectives of that statute. Heartview Foundation v. Glaser, 361 N.W.2d 232 (N.D. 1985). Although the initial ascertainment of legislative intent is taken from the language of the statute, adherence to statutes cannot occur where the result would be absurd or ludicrous. Stutsman County v. State Historical Society of North Dakota, 371 N.W.2d 321 (N.D. 1985); Litten v. City of Fargo, 294 N.W.2d 628 (N.D. 1980). Furthermore, where there is ambiguity in reviewing the language of a statute, legislative committee reports and statements may be considered in attempting to ascertain and fulfill legislative intent. State v. Knoefler, 279 N.W.2d 658 (N.D. 1979).

Clearly, the use of the term "circulators" within N.D.C.C. § 16.1-01-12(11) causes ambiguity and leads to absurd and unjust results. To require circulators to file a document as to their intent to pay themselves prior to submitting petitions to the Secretary of State (where circulators do not pay themselves and do not submit anything to the Secretary of State) is a ludicrous result which cannot be allowed to occur. Furthermore, the available legislative history clearly indicates a legislative intent to require the filing and disclosure requirements of this statute to apply to the sponsoring committee rather than to the circulators of the petition.

For these reasons, it is my opinion that the term "circulators" as found within N.D.C.C. § 16.1-01-12(11) should be construed to refer to the "sponsoring committee." The term "sponsoring committee" refers to those persons seeking to initiate or refer a measure and is further described in N.D. Const. art. III, § 2 and N.D.C.C. § 16.1-01-09(1).

Finally, your letter suggests that the disclosure filing requirements provided for by N.D.C.C. § 16.1-01-12 must occur prior to the submission of the petitions to the Secretary of State for approval as to form. Clearly, you are referring to the initial submission process described in N.D. Const. art. III, § 2. In reviewing the tapes made of the House Judiciary Committee hearings, which formulated this amendment to House Bill No. 1087, it is clear that this is not what the Legislature intended in enacting this particular statute.

During the various hearings held considering this bill and the amendments offered by committee members, the clear intent repeated over and over again was that the submission of the petition deadline referred to the final submission of the petitions rather than the initial submission of the petitions to the Secretary of State. Thus, the filing of the intent to remunerate required by N.D.C.C. § 16.1-01-12 must be submitted to the Secretary of State along with a full disclosure of all expenditures and revenues no later than the submission of the petitions to the Secretary of State for verification purposes as provided for at N.D. Const. art. III, § 5. The intent of the Legislature, by the way, in providing for this late submission deadline was to allow a sponsoring group to change its mind as to hiring persons to circulate petitions where it became obvious to that group that volunteers were not getting the job done.

I hope this information and clarification is helpful to you.

Sincerely,

Nicholas J. Spaeth

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