

N.D.A.G. Letter to Manbeck (Nov. 2, 1992)

November 2, 1992

Mr. Douglas G. Manbeck
Nelson County State's Attorney
P.O. Box 428
Lakota, ND 58344

Dear Mr. Manbeck:

Thank you for your October 27, 1992, letter requesting an opinion as to whether the proposed ballot language to form a new school district, enclosed in your letter, is legally sufficient.

The purpose of the vote in which the ballot will be utilized is to determine whether the qualified electors of seven school districts approve a reorganization to form one new school district. The vote is the culmination of approximately three to four years of cooperative effort between the school districts involved, as outlined in N.D.C.C. ch. 15-27.6.

The process required by N.D.C.C. ch. 15-27.6 is summarized as follows. The group of school districts initially receive a planning grant from the Department of Public Instruction to study the feasibility of cooperation among the districts. Thereafter, the districts complete a final report which includes a plan for restructuring the participating school districts. After the plan is approved by the State Board of Public School Education (hereafter State Board), the group of school districts form an interim district board which may receive supplemental payments for up to four years before the matter of reorganization must be put to a vote. Within this time period, the interim district board develops a reorganization proposal. After publication of notice, the interim district board conducts a public hearing, at which time input as to the reorganization proposal is received and considered. Thereafter, the county committee for the reorganization of school districts and the State Board may approve the reorganization proposal. If the reorganization proposal is approved by the State Board, the matter of reorganization is put to a vote of the qualified electors of the school districts involved.

Before the election, a notice must be published stating the time and place of the election and that the election has been called "for the purpose of affording the voters an opportunity to approve or reject a proposal for the formation of a new school district and [it] must also contain a description of the boundaries of the proposed new district, [and] a statement, if any, of the terms of adjustment of property, debts, and liabilities applicable to the proposal, and the proposed tax levy." N.D.C.C. §§ 15-27.3-08(3) and 15-27.6-10(1).

As to the wording of the ballot, the only language that appears to be required is a statement of the proposed tax levy of the new district; "[I]f approved by the county committee and the state committee, the proposed tax levy must be included as part of the

[reorganization] proposal and submitted to the electors of the proposed new district." N.D.C.C. § 15-27.6-08. For the purpose of the vote to be clear to the electors, the ballot should also state that the purpose of the vote is to approve or reject the proposal for the formation of a new school district. It should also state the school districts that are involved in the proposed reorganization.

The proposed ballot language included in your letter lists the seven school districts involved in the reorganization proposal and indicates clearly that the question before the electors is whether the seven school districts should form a new school district. The proposed language clearly indicates that the general fund levy would be 174.83 mills, indicating that such mill levy is in accordance with the reorganization proposal approved by the State Board. It is my opinion that the ballot language is clear and is legally sufficient.

Sincerely,

Nicholas J. Spaeth

las/pg