

**OPINION
67-193**

April 11, 1967 (OPINION)

Honorable M. F. Peterson

Superintendent

Public Instruction

RE: Schools - Publication of Minutes - Application of Statute

This is in reply to your letter of April 7, relative to Initiated Measure No. 5 on the 1966 General Election Ballot. You ask how much of the minutes shall be published. You further ask if it applies to all meetings, whether executive or general, special or regular.

Measure No. 5 on the November 8, 1966, General Election Ballot was an initiated measure approved by the electors of the State of North Dakota. It provides as follows:

"PUBLICATION OF SCHOOL BOARD PROCEEDINGS - (ELECTORATE TO DECIDE BIENNIALLY.) Biennially, commencing in the year 1967 at the annual election of school board members held in each school district, the question of whether a record of the proceedings of the school board shall be published in a newspaper of general circulation in such district shall be submitted to the electors of such district. If the publication of such proceedings is approved by a majority of the electors voting thereon, the records of such school board including an itemized list of obligations approved for payment, shall be published in a newspaper of general circulation in such school district as soon as available after each school board meeting for the succeeding two years, or until disapproved at a succeeding school board election."

The provision relative to publication of a record of the proceedings of the school board is similar to section 40-08-12 of the North Dakota Century Code which requires a city council "to publish a complete record of all its proceedings in its official newspaper." We would note that section 40-08-12 uses the adjective "complete" although no such term is found in the Initiated Measure quoted above. On November 17, 1958, this office had occasion to issue an opinion to Mr. August C. Draeb, City Attorney, Hebron, North Dakota, relative to this section. In that opinion we held section 40-08-12 does not require a verbatim publication of the minutes but rather that an analysis of the proceeding is showing the substantive actions of the council would suffice. We believe this same conclusion is applicable to the Initiated Measure quoted above with the following exception: The Initiated Measure requires the publication to include "an itemized list of obligations approved for payment." The term "itemize" is defined by Webster's New Twentieth Century Dictionary (Second Edition) as follows: "To state interns; to set down or describe by particulars; as, I will itemize the bill." Section 1-02-02 of the North Dakota Century Code provides that words used in any statute are to be understood in their ordinary sense, unless a

contrary intention plainly appears.

The Initiated Measure makes no distinction as to amount of the obligation approved for payment. We must therefore conclude that an "itemized" list of obligations, as defined above, approved for payment by the school board must be published in the newspaper if approved by the electorate.

With respect to the application of the Initiated Measure to all meetings, regular and special, executive or general, we again refer to the November 17, 1958, opinion of this office. In that opinion we concluded we were unable to see any basis of reasoning upon which special meetings would be excepted. This same conclusion would apply with respect to special meetings of school boards. This opinion is of long standing and its conclusions would be accepted as final until changed by legislative action.

Insofar as executive meetings of a school board are concerned, we realize there may be a very few instances in which such meetings are desirable. However the statutes are silent with respect to executive meetings with one exception. Senate Bill 94, enacted by the 1967 Legislative Assembly, effective July 1, 1967, provides that a teacher whose contract has not been renewed may request a meeting with the school board and such meeting shall be an executive session of the board unless both the school board and the teacher agree such meeting shall be open to other persons or the public. The obvious intent of this provision is to permit discussion without publication unless agreed upon and we do not believe the proceedings of such a meeting need be published in the newspaper under the provisions of the Initiated Measure. In those other instances in which the school board meets in executive session without taking any formal action, we do not believe same need be published in the newspaper. If, however, formal action is taken at such executive session it would require same must be published since the Measure makes no exceptions.

In summary, it is our opinion that if the publication of school board proceedings is approved by the electorate of a school district, as provided in the Initiated Measure, a verbatim publication of the minutes kept by the school board need not be published but rather an analysis of the proceedings showing the substantive actions of the council will suffice. It is our further opinion that such publication must include an itemized list of obligations approved for payment regardless of the amount of such obligation. Finally it is our opinion that the proceedings of all meetings of the school board, regular or special, general or executive, must be published if any formal action is taken at such meeting, with the exception of the executive meeting authorized by Senate Bill 94 of the 1967 Legislative Assembly.

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