

Date Issued: July 6, 1981 (AGO 81-68)

Requested by: Charles D. Orvik, States Attorney for Pierce County

- QUESTION PRESENTED -

Whether a county can withdraw from a health district by resolution of the county commissioners.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that a county by resolution of the board of commissioners cannot withdraw from a health district created pursuant to chapter 23-14 of the North Dakota Century Code.

- ANALYSIS -

Chapter 23-14 of the North Dakota Century Code provides for the creation, operation, and dissolution of health districts. There is no provision in chapter 23-14, N.D.C.C., for a county to withdraw from a health district by resolution of the county commissioners. Section 23-14-13, N.D.C.C., does provide for the dissolution of a district health unit as follows:

DISSOLUTION. After a district health unit organized as provided in this chapter has been in operation for two years, the same may be dissolved in the following manner: On a petition filed with the county auditor containing names of electors of the county equal to ten percent of the votes cast for governor at the last general election, an election on the question of dissolution shall be presented to the people at the next general or special election held in the county. If a majority of the votes cast favor dissolution, the health unit shall be dissolved on July first following the election. If a majority of the votes cast are against the dissolution, no other election shall be held until a period of two years has again expired.

It is clear from section 23-14-13, N.D.C.C., that a health district may only be dissolved by a vote of the people and no procedure is provided for the withdrawal of a county by a vote of the board of county commissioners thereby accomplishing indirectly what they cannot do directly, i.e., dissolve the health district. This is in accord with an Attorney General's Opinion issued June 24, 1975, to Mr. Frank Onufrey which stated that the only procedure for dissolution of a health district is that which is set out in section 23-14-13, N.D.C.C.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts.

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Attorney General

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