

Office of the Attorney General
State of North Dakota

Opinion No. 81-87

Date Issued: August 13, 1981

Requested by: Ronald G. Splitt
LaMoure County State's Attorney

--QUESTION PRESENTED--

Whether those county commissioners whose district boundaries are not changed by redistricting pursuant to Chapter 11-07 of the North Dakota Century Code must stand for election at the first general election following the redistricting.

--ATTORNEY GENERAL'S OPINION--

It is my opinion that all county commissioners, including those whose district boundaries are not changed, must stand for election at the first general election following redistricting pursuant to Chapter 11-07, N.D.C.C.

--ANALYSIS--

Section 11-07-04, N.D.C.C., provides as follows:

11-07-04. COMMISSIONERS' TERMS OF OFFICE--STAGGERED TERMS.--When redistricting is completed or if failure to redistrict required at large election of commissioners as provided in section 11-07-03, all commissioners then holding office shall continue in such office until the next general election. At the first general election following redistricting of the county or election of commissioners at large, if required, as provided in this chapter, all county commissioner offices shall be open for election. The newly elected commissioners shall be divided into two classes. If the county has been redistricted, those elected in commissioners' districts designated by even numbers shall constitute one class, and those elected in commissioners' districts designated by odd numbers shall constitute the other class. If election of commissioners at large is required, classes of such commissioners shall be determined by assigning a number to their respective offices according to the numerical total of the votes cast for them at the general election at which they were elected. The commissioners of one class elected in the first election held under the provisions of this chapter shall hold office for two years and those of the other class shall hold office four years. The determination of the two classes shall be by lot so that one-half of the commissioners, as nearly as practicable, may be elected

biennially. The county judge shall perform the lot in the presence of all of the newly elected commissioners within thirty days after the date of the first general election following redistricting or election of commissioners at large, if required, and shall certify in writing the results of such lot to the county auditor within five days after its performance. (Emphasis Supplied)

This section was not amended by the 1981 Legislative Assembly. The section plainly requires that all county commissioner offices be open for election at the first general election following redistricting and no exception is provided for those commissioners whose district boundaries are not altered.

--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 or the applicable provisions of law are amended or repealed.

Robert O. Wefald
Attorney General

Prepared by: John W. Morrison
Assistant Attorney General