

LETTER OPINION
93-L-238

August 25, 1993

Mr. Milton W. Kane
Department of Veterans Affairs
P.O. Box 9003
Fargo, ND 58106-9003

Dear Mr. Kane:

Thank you for your letter asking whether the Administrative Committee on Veterans' Affairs has authority to relocate the office of the Commissioner of Veterans' Affairs to Bismarck under North Dakota Century Code (N.D.C.C.) § 37-18-08 without any statutory change.

Initially, I note that N.D.C.C. § 37-18-08 leaves no discretion on the part of the Department of Veterans Affairs or the Administrative Committee. N.D.C.C. § 37-18-08 specifically provides that "[t]he office of the commissioner shall be located in the same city as the principal office of the veterans' administrator for this state" and if the "veterans' administrator is removed from the state, [the] commissioner's office must be located in the state capitol."

Prior to the creation of the Department of Veterans' Affairs, there was the office of the Veterans' Service Commissioner. See 1943 Rev. Code ch. 37-13. Section 37-1306 of the 1943 revised code established where the office of the Veterans' Service Commissioner was to be located:

37-1306. Office of Commissioner; Where Located.

The office of the veterans' service commissioner shall be located in the same city as the office of the United States veterans' bureau for this district. If the veterans' bureau is removed from this state, such commissioner's office shall be located in the state capitol building.

In 1930, Congress provided for the establishment of a Veterans' Administration to consolidate and coordinate the duties, powers, and functions previously vested in other federal bureaus, agencies, or offices, including the United States Veterans' Bureau, to be headed by an Administrator of Veterans' Affairs. See Act of July 3, 1930, ch. 863, 46 Stat. 1016. These federal changes ostensibly were incorporated into the legislation redesignating and transferring the Office of Veterans' Service Commissioner to the Department of Veterans' Affairs. See 1945 N.D. Sess. Laws ch. 237.

Based on a review of the history of the state and federal legislation, it is my opinion that the phrase "principal office of the veterans' administrator for this state" as used in N.D.C.C. § 37-18-08 refers to the physical office established by the Secretary of Veterans' Affairs (formerly "Administrator of Veterans Affairs") pursuant to 38 U.S.C. § 315. The principal office for North Dakota is in Fargo.

You indicate in your letter that in the past, both the Department and the Committee have concluded that they would need to amend N.D.C.C. § 37-18-08 before the office of the Commissioner of Veterans' Affairs could be moved to Bismarck. In 1985, Senate Bill 2120 was introduced on behalf of the Department of Veterans' Affairs to facilitate this change. That bill failed in the North Dakota Legislature. As a general rule, long-standing practical construction of a statute by those charged with executing and applying the same and long-standing acquiescence on the part of the Legislature is entitled to significant weight when interpreting a statute of ambiguous meaning. See generally Horst v. Guy, 219 N.W.2d 153 (N.D. 1974); Skinner v. American State Bank, 189 N.W.2d 665 (N.D. 1971).

Given the above, it is my opinion that the Committee on Veterans' Affairs does not have authority to move the office of the Commissioner of Veterans' Affairs to Bismarck under N.D.C.C. § 37-18-08 without a statutory change or the removal of the principal office established in North Dakota by the Secretary of Veterans' Affairs.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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