

**OPINION
71-255**

June 3, 1971 (OPINION)

Mr. H. L. Thorndal

President

Bank of North Dakota

RE: Municipal Industrial Development Act - Projects - Location

This is in response to your letter of May 26, 1971, wherein you make inquiry of this office for an opinion concerning the Municipal Industrial Development Act of 1955. You submit the following facts and question in your inquiry:

The Bank of North Dakota has been asked to originate a Municipal Industrial Development Revenue Bond, under Chapter 50-47 (sic) of the North Dakota Century Code, for the 'Custom Feeders, Inc.', located north of Carrington in Foster County, North Dakota.

"The bonds are to be issued under the authorization and by the resolution of the City of New Rockford in Eddy County, inasmuch as the City of Carrington has refused the issue. There exists a doubt in our minds as to the ability of the City of New Rockford in Eddy County to issue bonds affecting property located in Foster County.

"The question is 'Can a municipality issue Municipal Industrial Development Act Bonds on a project in a different county?' We respectfully request your opinion."

While your inquiry refers to Chapter 50-47 of the North Dakota Century Code, we assume that such reference is a typographical error and that reference to Chapter 40-57 was intended.

Since your inquiry addresses itself directly to the powers of the municipality as it concerns the issuance of Municipal Industrial Development Bonds, we would note the provisions of section 40-57-03 of the North Dakota Century Code which provide in part:

"POWERS OF MUNICIPALITY. Any municipality, in addition to the powers prescribed elsewhere by the laws of this state, shall have the power to:

1. Acquire whether by purchase, lease, or gift, from any source whatsoever, any real property, buildings, improvements on real property or buildings, including but not limited to easements, profits, rights in land and water rights deemed necessary in connection therewith, and to construct, reconstruct, improve, better, or extend to real property, buildings, and improvements on real property and buildings of any project which shall be located within this state, whether wholly within or wholly without the

municipality, or partially within and partially without the municipality; * * *." (emphasis supplied)

With regard to location of such project then, it appears clear that the only requirement be that it be upon property "located within this state." Since specific provision is made that such project may be wholly within or wholly without the municipality itself, it would appear that county lines would not be a criteria in determination of whether the project is properly located. The reference of the statute to "wholly without the municipality" is without further restriction, qualification or limitation, excepting that the project must be within the state.

Accordingly, we can only conclude, that it is our opinion, that a municipality may issue Municipal Industrial Development Bonds on a project which may be located in a county other than the county wherein the municipality is itself located, so long as the same is within the confines of this state and otherwise complies with the applicable laws and regulations governing same.

HELGI JOHANNESON

Attorney General