

LETTER OPINION
97-L-168

October 7, 1997

Mr. Jeffrey J. Peterson
Burke County State's Attorney
PO Box 39
Bowbells, ND 58721-0039

Dear Mr. Peterson:

Thank you for your letter requesting my opinion regarding the composition and authority of a joint job development authority under N.D.C.C. ch. 11-11.1. Your letter explains that Burke County and Divide County have determined that the two counties should establish a joint job development authority. You also explain that the city of Grenora, which is in Williams County, North Dakota, has requested that it be allowed to join the joint job development authority. The proposed regulation for creation of the joint job development authority provides that the city of Grenora will be entitled to one member of the eleven-member board of directors and the member from the city of Grenora having full voting authority.

Based upon the above facts, you ask whether a joint job development authority may include on its board of directors a voting or non-voting member from a political entity which is not within the counties which are part of the joint job development authority. You also ask whether funds directed to the use of the joint job development authority may be used to encourage and assist in the development of employment in political entities or areas outside the boundaries of the counties which are part of the joint job development authority.

N.D.C.C. § 11-11.1-01.1 addresses the board of directors of joint job development authorities. That section provides, in relevant part:

The boards of county commissioners of two or more counties, by resolution, may create a joint job development authority for the counties. If the authority is created, boards of county commissioners shall appoint a board of directors in the size and manner established in the resolution.

Pursuant to the above language, the resolution creating the joint job development authority establishes the size of the board of directors and the manner in which the board of directors shall be appointed.

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N.D.C.C. ch. 11-11.1 does not establish the qualifications to be a member of a joint job development authority board of directors. Accordingly, a member of the board of directors may be from a political entity which is not within the counties which are part of the joint job development authority if the resolution provides for the appointment of such a member.

N.D.C.C. § 11-11.1-01.1 provides that the boards of county commissioners "of two or more counties" may create a joint job development authority for the counties. Section 11-11.1-01.1 does not authorize cities to be part of the joint job development authority. Section 11-11.1-01.1 specifically states that the joint job development authority is created "for the counties." N.D.C.C. § 11-11.1-03, which outlines the powers and duties of job development authorities, states a job development authority "shall use its financial and other resources to encourage and assist in the development of employment within the county or counties." This section does not authorize the joint job development authority to use its financial and other resources to encourage and assist in the development of employment in political subdivisions outside of the counties which are part of the joint job development authority.

Although N.D.C.C. § 11-11.1-01.1 is silent about counties and cities creating a joint job development authority, N.D.C.C. § 40-57.4-06 authorizes the governing body of a city "and one or more other political subdivisions" to create a joint job development authority. Thus, N.D.C.C. § 40-57.4-06 authorizes a city and a county to create a joint job development authority. To the extent N.D.C.C. § 11-11.1-01.1 and N.D.C.C. § 40-57.4-06 appear to conflict, N.D.C.C. § 40-57.4-06 controls because it was enacted later. See N.D.C.C. § 1-02-09; 1995 N.D. Sess. Laws ch. 395, § 1; 1993 N.D. Sess. Laws ch. 98, § 1.

Based upon N.D.C.C. § 40-57.4-06, it is my opinion a municipality may join a joint job development authority with one or more counties. It is my further opinion that a joint job development authority formed pursuant to N.D.C.C. § 40-57.4-06 could use its financial and other resources to encourage and assist in the development of employment within the political subdivisions which are a part of the joint job development authority. N.D.C.C. §§ 40-57.4-03, 40-57.4-06.

Sincerely,

Mr. Jeffrey J. Peterson
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Heidi Heitkamp
ATTORNEY GENERAL

dab/jjs