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Sixty-eighth
Legislative Assembly
of North Dakota

SENATE BILL NO. 2208

Introduced by

Senators Magrum, Cleary

Representatives Christensen, S. Olson

A BILL for an Act to amend and reenact section 54-12-01 of the North Dakota Century Code, relating to mandating the attorney general to issue opinions requested by individual members of the legislative assembly.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 54-12-01 of the North Dakota Century Code is amended and reenacted as follows:

54-12-01. Attorney general - Duties.

The attorney general shall:

1. Appear for and represent the state before the supreme court in all cases in which the state is interested as a party.
2. Institute and prosecute all actions and proceedings in favor or for the use of the state which may be necessary in the execution of the duties of any state officer.
3. Appear and defend all actions and proceedings against any state officer in the attorney general's official capacity in any of the courts of this state or of the United States. If both parties to an action are state officers, the attorney general may determine which officer the attorney general will represent and the other officer may employ counsel to represent that other officer.
4. Consult with and advise the several state's attorneys in matters relating to the duties of their office.
5. Attend the trial of any party accused of crime and assist in the prosecution when in the attorney general's judgment the interests of the state require it.
6. Consult with and advise the governor and all other state officers and when requested give written opinions on all legal or constitutional questions relating to the duties of such officers respectively.

7. Prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the state is interested.

8. a. Give written opinions, ~~within three months from the date of the request,~~ when requested by ~~either branch~~a member of the legislative assembly, in writing, upon legal questions unless the request:

(1) ~~Is one of only fact, rather than of fact and law, or of law~~Requires the attorney general to make a factual determination;

(2) Involves the constitutionality of a statute;

(3) Concerns the internal operation or management of the judicial branch of government;

(4) Is likely to be or presently is pending before a court or a court has ruled on the issue;

(5) ~~Amounts to~~Provides private legal advice; or

(6) Involves matters regarding whether a criminal offense has occurred.

b. If the attorney general declines to issue an opinion for a reason in subdivision a, the attorney general shall inform the individual who requested the opinion in a written response.

~~c. A request from a member of the legislative assembly must be cosigned by at least five members of the legislative assembly before a request may be submitted to the attorney general under this subsection.~~

9. Enforce the proper application of funds appropriated to the public institutions of the state and prosecute breaches of trust in the administration of such funds.

10. Prosecute corporations and limited liability companies, when necessary, for failure or refusal to make the reports required by law.

11. Keep in proper books a register of all cases prosecuted or defended by the attorney general or the attorney general's assistants, in behalf of this state or its officers, and of all proceedings had in relation thereto, including a record of all actions wherein the state is a party, or is interested, prosecuted by the state's attorneys of the several counties and reported to the attorney general as provided by law, and deliver the same to the attorney general's successor in office.

12. Keep in the attorney general's office a book in which the attorney general shall record all the official opinions given by the attorney general during the attorney general's term of office, such book to be delivered by the attorney general to the attorney general's successor in office.
13. Pay into the state treasury all moneys received by the attorney general for the use of the state.
14. Serve as superintendent of the bureau of criminal investigation and perform all duties incident to the proper and efficient conduct of that office.
15. Attend to and perform any other duties which from time to time may be required by law.
16. Appoint the state fire marshal and supervise the operation of the state fire marshal department.
17. Give written opinions, when requested by the governing body or city attorney of a city in the state of North Dakota.
18. Repealed by S.L. 1991, ch. 637, § 9.
19. Give written opinions to public entities as defined in subdivision a or b of subsection 13 of section 44-04-17.1, when requested by an interested person under section 44-04-21.1.