

N.D.A.G. Letter to Hagerty (April 11, 1985)

April 11, 1985

Ms. Gail Hagerty
Burleigh County State's Attorney
Burleigh County Courthouse
514 East Thayer Avenue
Bismarck, North Dakota 58501

Dear Ms. Hagerty:

Thank you for your letter of March 22, 1985, concerning three questions you have received from the Sterling Rural Fire Protection District.

I am in agreement with you as to the question concerning the number of signatures which must appear on fire department checks. There is no statutory requirement as to any minimum number of signatures which must appear on those checks.

As to the question concerning the authority of members of the board of directors to receive reimbursement for expenses incurred in attending meetings in other fire department business matters, it is noted that the last sentence of N.D.C.C. § 18-10-04(2) states as follows:

All officers shall serve without pay.

It should be noted this subsection distinguishes between members of the board of directors and officers (president, vice-president, and secretary-treasurer). This is readily apparent by the use of the phrase "all directors and officers" as it appears in this subsection. Furthermore, the term "officers" appears to refer only to the president, vice-president, and secretary-treasurer of the fire district and does not include the fire chief or other department supervisors or commanders.

However, as there is no provision for the payment of salaries to members of the board directors, it would appear that they must serve without pay as well as the officers. Instead, the crucial point is the term "pay" and whether that simply refers to a salary or whether it also refers to reimbursement for expenses incurred.

Words used in a statute which are not specifically defined must be understood in their ordinary sense. N.D.C.C. § 1-02-02. The term "pay" has an ordinary meaning synonymous with a salary or a wage which is received by an employee from the employer. Applying this definition to the term "pay" as found in this statute, the conclusion drawn is that the last sentence simply prohibits officers from receiving compensation in terms of a salary or a wage. As expenses incurred in attending meetings and other

functions do not constitute pay in terms of a salary or a wage, such reimbursement for expenses incurred would not be prohibited by this statute.

This conclusion is in line with many other statutes throughout the North Dakota Century Code dealing with public bodies, boards, and commissions. In many of these statutes, a clear distinction is made between compensation for services provided and reimbursement for expenses incurred. See, e.g., , N.D.C.C. § 4-34-07 (North Dakota Beef Commission, § 4-27-05 (North Dakota Dairy Promotion Commission), §4-10.3-05 (North Dakota Edible Bean Council), 43-11-06 (State Board of Hair Dressers and Cosmetologists) 43-15-05 (North Dakota Board of Pharmacy).

The last sentence of N.D.C.C. § 18-10-04(2) prohibits officers from receiving a salary or a wage. It does not prohibit reimbursements for expenses incurred. The authority to provide for such reimbursement is provided the board of directors by N.D.C.C. § 18-10-06(4), (9).

As to your last question concerning the authority to pay for expenses incurred by volunteer fireman for training sessions and other fire department business matters, explicit authority on this point is not provided N.D.C.C. Ch. 18-10. However, such authority is inferred with the board of directors by N.D.C.C. 18-10-06(4), (8), (9), which states as follows:

18-10-06. POWERS OF BOARD OF DIRECTORS. * * *

4. To manage and conduct the business affairs of the district.

* * *

8. To organize, establish, equip, maintain, and supervise a fire department or company to serve the district.

Generally to perform all acts necessary to fully carry out the purposes of this chapter.

* * *

Sincerely,

Nicholas J. Spaeth

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