

N.D.A.G. Letter to Leingang (Aug. 1, 1988)

August 1, 1988

Mr. Robert J. Leingang
Chief Secretary-Inspector
North Dakota State Plumbing Board
204 West Thayer Avenue
Bismarck, ND 58505

Dear Mr. Leingang:

Thank you for your July 12, 1988, letter requesting an opinion regarding the Plumbing Board and the central vehicle system.

N.D.C.C. § 24-02-03.3 directed the Highway Commissioner to establish a central vehicle system to regulate the operation, maintenance, and management of all motor vehicles owned or leased by the state. The statute further states that "[e]very state agency, institution, department, board, bureau, and commission unless exempted by the commissioner must use the system." (Emphasis supplied.) Id. The law also requires title or other ownership documents of state-owned or leased motor vehicles to be transferred to the Highway Commissioner on July 1, 1987. N.D.C.C. § 24-02-03.4.

The State Plumbing Board is a state board that is subject to the above statutes.

The State Plumbing Board was created and is given its authority by statute. N.D.C.C. ch. 43-18. The State Plumbing Board consists of five individuals. Four of these individuals are appointed by the Governor, and all five must take the oath of office as civil officers. N.D.C.C. §§ 43-18-02, 43-18-03. These factors demonstrate that the State Plumbing Board is a state board subject to the provisions of N.D.C.C. 24-02-03.3.

Additionally, the legislative history of N.D.C.C. ch. 24-02 shows that the Legislature considered vehicles owned or operated by the State Plumbing Board to be "state-owned vehicles" covered by the central vehicle system legislation. The Legislature counted the State Plumbing Board vehicle as a state-owned vehicle as part of its consideration of N.D.C.C. § 24-02-03.3. See 1983 N.D. Sess. Laws ch. 303, 1 (Senate Bill No. 2062). (See attached portions of legislative history.)

Thus, the State Plumbing Board is subject to N.D.C.C. § 24-02-03.3 and must transfer its vehicle to Fleet Services and use the Central Management System.

You asked which options are available to the Board if the current law requires it to use the Central Management System. First, the Legislature may exempt the Board from the system. For example, N.D.C.C. § 24-02-03.3 specifically exempts from its provisions the

Board of Higher Education. The statute also delegates to the Highway Commissioner the authority to exempt other state institutions, including state boards, from the system. Id. Although the State Plumbing Board is not now statutorily exempt, nor has it been exempted from the system by the Commissioner, if the State Plumbing Board believes there are extraordinary circumstances justifying its exemption from the system, it should request an exemption from the Highway Commissioner or the Legislature.

I hope this information is helpful.

Sincerely,

Nicholas J. Spaeth

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Enclosure