

N.D.A.G. Letter to McBeth (Sep. 11, 1990)

September 11, 1990

Mr. Ronald W. McBeth
Assistant State's Attorney
413 Third Avenue North
Wahpeton, ND 58075

Dear Mr. McBeth:

Thank you for your letter of August 11, 1990, asking whether a county may lease a vehicle pursuant to N.D.C.C. § 24-02-03.3.

N.D.C.C. § 24-02-03.3 provides for the management and maintenance of registered motor vehicles owned or leased by the state of North Dakota. It requires that all nonexempt state agencies use the system. The statute does not address the use of the system by the various political subdivisions of the state.

The words of a statute are to be understood in an ordinary sense, unless there is a plain intention to the contrary. N.D.C.C. § 1-02-02. The plain language of a statute is not to be ignored in favor of its spirit. N.D.C.C. § 1-02-05.

Throughout N.D.C.C. § 24-02-03.3, the political entity addressed is the state of North Dakota or its immediate agencies, institutions, departments, boards, bureaus, and commissions. No reference is made in the statute to a political subdivision, such as a county, township, city or other local political entity.

The word state is defined in its political sense as, "... one of the constituent units of a nation having a federal government. . . ." Webster's Ninth New Collegiate Dictionary 1151 (1986). On the other hand a county is defined as ". . . the largest territorial division for local government within a state of the U.S. . . ." Id. at 298.

The State Auditor's report to the 48th Legislative Assembly contained four major points. The State Auditor defined the motor pool to mean a central management concept for the "purchasing, replacing, repairing, maintaining, and utilizing state owned vehicles." (Emphasis supplied.) The Auditor also noted that the state had no singular agency to provide services and guidance to state agencies in managing and servicing "state owned" vehicles and for the utilization of privately owned vehicles for state purposes. The need for record keeping at the "state and agency level" was addressed as was the necessity of maintaining cost records for "state owned" vehicles.

During the legislative session the focus was also on a state motor pool. Gene Laske of the State Auditor's office appeared before the senate state and federal government committee as a proponent of SB 2062 and stated that the Auditor's office did a

performance review, and a management study on efficiency, economy and compliance for a state owned motor pool. He said the motor pool concept would save money on the maintenance and insurance of state vehicles. Hearing on S. 2062 Before the Senate Comm. on State and Federal Government, 48th N.D. Leg. (January 10, 1983) (statement of Gene Laske). The statement of Mr. Laske typified the testimony concerning the application of the provision of SB 2062 to vehicles owned by the state of North Dakota.

Finally, three separate fiscal notes were submitted during the course of the senate hearings. None of the fiscal notes recognized a fiscal impact upon counties or cities. The absence of any fiscal impact upon the counties further indicates that those entities were not considered within the scope of SB 2062.

It is therefor my opinion that neither the statutory language nor legislative history of the N.D.C.C. § 24-02-03.3 authorizes counties to participate in the central vehicle management system.

Sincerely,

Nicholas J. Spaeth

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