

LETTER OPINION
93-L-123

April 5, 1993

Mr. Lyle V. Gallagher
Governor's Emergency Services
Communication System
Advisory Committee
State Radio Communications
PO Box 5511
Bismarck, ND 58502-5511

Dear Mr. Gallagher:

Thank you for your February 5, 1993, letter regarding the force and effect of standards and guidelines developed by the Governor's Emergency Services Communication System Advisory Committee for 911.

The Governor's Emergency Services Communication System Advisory Committee for 911 was established in 1987 and is responsible for establishing standards and guidelines for the development and operation of emergency 911 telephone systems. See 1987 N.D. Sess. Laws ch. 720, § 1, as amended by 1989 N.D. Sess. Laws ch. 726, § 1, and by 1991 N.D. Sess. Laws ch. 686, §§ 4 and 6. "The standards and guidelines are to establish the level of emergency 911 telephone system services to be provided and the uniformity and compatibility of emergency 911 telephone systems in the state." *Id.* In your letter you essentially ask whether "standards" developed by the committee are to have the force and effect of law or are merely advisory. —

In construing legislation, the primary objective is to fulfill the objectives and intent of the Legislature. *Larson v. Wells County Water Resource Bd.*, 385 N.W.2d 480 (N.D. 1986). The Legislature's intent must initially be sought from the statutory language. *Milbank Mutual Ins. Co. v. Dairyland Ins. Co.*, 373 N.W.2d 888 (N.D. 1985). In this case, the pertinent legislation provides that the committee is to "establish standards and guidelines . . . to establish the level of emergency 911 telephone system services

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to be provided and the uniformity and compatibility of emergency 911 telephone systems in the state." 1987 N.D. Sess. Laws ch. 720, ? 1 as amended. These clearly articulated policy objectives would not be fulfilled if the standards developed by the committee were only advisory in nature.

Additionally, North Dakota Century Code (N.D.C.C.) ? 57-40.6-05 in effect through June 30, 1994, restricting the use of tax proceeds obtained for the operation of an emergency services communication system, provides "[t]he county or city may not use the proceeds of the tax imposed under section 57-40.6-02 for any purpose other than establishing or operating the emergency services communication system in accordance with the standards and guidelines established by the emergency services communication advisory committee." A construction of the standards developed by the committee as merely advisory would in my opinion render this section meaningless. Statutes should not be construed in a manner which renders any part of the legislation meaningless. Fastow v. Burleigh County Water Resources District, 415 N.W.2d 801 (N.D. 1987). Further, the 1987 legislation contained the additional language "[t]he standards must require that systems installed after July 1, 1987, must identify the emergency caller's location." 1987 N.D. Sess. Laws ch. 720, ? 1. Mandating that the standards include certain requirements suggests that the standards adopted by the Committee are to be mandatory. Although this language was removed in the 1989 amendments, the legislative history does not indicate any intent for the standards set by the committee to have any decreased effect. Therefore, it is my opinion that the committee is granted authority, under 1987 N.D. Sess. Laws ch. 720, ? 1, as amended, to issue advisory and mandatory standards.

Finally, you inquire as to the enforcement of the committee's standards. As noted above, N.D.C.C. ? 57-40.6-05, in effect through June 30, 1994, provides that a city or county "may not use the proceeds of the tax imposed under section 57-40.6-02 for any purpose other than establishing or operating the emergency services communication system in accordance with the standards and guidelines established by the

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[committee]." Any person with knowledge that the tax money is misspent under N.D.C.C. ? 54-10-14 (including the state auditor) may report that fact to the county state's attorney for criminal prosecution pursuant to N.D.C.C. ? 12.1-11-06. Also, civil injunctive proceedings against the city or county could be initiated by any interested party.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

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