

**OPINION
69-204**

April 24, 1969 (OPINION)

Mr. J. M. Glaser

Deputy Labor Commissioner

RE: Labor - Mediation Boards - Exemption of Political Subdivisions

This is in reply to your letter with regard to the application of a part of section 34-11-02 of the North Dakota Century Code. Your letter states that you would like our opinion as to whether a subdivision of government not specifically mentioned would be exempt from the provisions of this chapter although the reference is to public employees

Section 34-11-02 of the North Dakota Century Code provides:

"MEDIATION BOARD, HOW DESIGNATED - SELECTION OF CHAIRMAN. Whenever a public employer or the employing head of a board, commission, or department in the state service or in the services of any subordinate jurisdiction or whenever any union, association, or group of public employees of a public unit of government decides by vote of such group that a grievance or matter in dispute which has been considered between the employer and the employee cannot be settled amicably and without disruption of the public service it shall be the duty of the employer or the employees or both to request in writing of the chief executive officer of the unit of government, namely the governor in the state service, the chairman of the county board or commission in county services and the mayor or city manager of the city in city services, that it is the wish of one or both parties concerned in such dispute or grievance that the provisions of this chapter be made use of by the designation by such officer or two members of a mediation board, one to be recognized as a representative of the employer in the public service and one to be a bona fide employee who is a member of the union, association, or group of employees and who is interested in the point of view of such group of employees. The two persons so designated shall upon their appointment forthwith meet and agree upon a third person who shall be chairman of the mediation board."

We note that the above statutory provision mentions the state, county and city. We note further that section 34-11-03 of the North Dakota Century Code mentions state, county and city. Neither said section 34-11-02 nor section 34-11-03 mentions townships, school districts or other forms of political subdivision or quasi-political subdivision. We do not find in this chapter the use of the term "political subdivision." The references to its application contained in the chapter are to "unit of government" or such things as "the state or any subordinate jurisdiction thereof." The references to state, county and city in said sections 34-11-02 and 34-11-03 do not indicate that state, county and city are necessarily examples of the political subdivisions covered therein, but would rather indicate

that they are the political subdivisions covered therein.

In previous correspondence we have considered, in effect, the possibility of considering school district employees to be "public employees" within the meaning of this chapter. (See Xerox copy of letter attached) We note also that in a very recent decision of the District Court for Ward County, North Dakota, the memorandum opinion issued by the court indicates quite strongly that principles applying to "government employees" applied to the school district employees there concerned. In view of this situation we would be inclined to the view that the general principles stated in section 34-11-01 of the North Dakota Century Code might well be applicable to the employees of political subdivisions of the state other than state, city or county employees. However, in view of the very specific designation of state, city or county employees in said sections 34-11-02 and 34-11-03 we are not prepared to state that the procedures there provided for are available to employees or employers of other than the state, city or county.

HELGI JOHANNESON

Attorney General