

**OPINION
72-352**

June 2, 1972 (OPINION)

Mr. Al Bumann

Secretary

Public Service Commission

RE: State - Public Service Commission - Safety

Jurisdiction

This is in response to your request for an opinion of this office as to what the jurisdiction of the Public Service Commission of this state is in relation to safety practices relating to railroad facilities, equipment, rolling stock and operation in the State of North Dakota and as to the Commission's ability to conduct investigative and surveillance activities relating thereto.

The North Dakota Public Service Commission, (formerly Board of Railroad Commissioners of the State of North Dakota - see Chapter 192, 1919 Session Laws) has general jurisdiction of:

"Railroads, express companies, sleeping care companies, ferries, and other common carriers for the transportation of persons or property;" (subsection 1 section 49-02-01 North Dakota Century Code).

Pursuant to such jurisdiction, the Public Service Commission of the State of North Dakota is given power by section 49-02-02 of the of the North Dakota Century Code:

1. To investigate all methods and practices of public utilities or other persons, subject to the provisions of this title;
- . To require them to conform to the laws of this state and to all rules, regulations, and orders of the commission not contrary to law;
3. To require copies of reports, rates, classifications, schedules, and time tables in effect and used by such utilities or other persons and all other information desired by the commission relating to such investigations and requirements to be filled with the commission;
- . To compel obedience to its lawful orders by proceedings, in the name of the state, in any court having jurisdiction of the parties of the subject matter; * * *

In addition to its general powers and jurisdiction, the commission has many specific functions with regard to safety generally, (see for example section 23-13-09 of the of the North Dakota Century Code) and with specific regard to railroad safety. (See in this regard as

examples chapter 49-11 Railroad Bridges, Crossings and Fences, Chapter 49-13 Railroad Safety Requirements, sections 24-09-02, 24-09-04 and 24-09-05 of the North Dakota Century Code.) These are examples only, as could probably be assumed the legislature after giving the "railroad commission" its general jurisdiction in the field, has whenever any safety problems have arisen in the field since such establishment, almost automatically transferred jurisdiction and authority in such field to this commission, or enacted specific legislation to remove any doubts as to whether the general power and jurisdiction covers any particular specific problem.

It is thus our opinion that the North Dakota Public Service Commission does have full jurisdiction, necessary authority and powers in relating to safety practices relating to railroad facilities, and has full statutory ability to conduct investigative and surveillance activities relating thereto.

HELGI JOHANNESON

Attorney General