

Date Issued: July 9, 1981 (AGO 81-73)

Requested by: Darrell Farland, Executive Director
Governor's Council on Human Resources

- QUESTION PRESENTED -

Whether the executive director of the Governor's Council on Human Resources is authorized to sign expense vouchers on behalf of the chairman of the executive committee.

- ATTORNEY GENERAL'S OPINION -

It is my opinion that the executive director of the Governor's Council on Human Resources is not authorized to sign expense vouchers on behalf of the chairman of the executive committee.

- ANALYSIS -

Section 50-26-04 of the North Dakota Century Code provides for the membership and duties of the executive committee of the Council on Human Resources, including the appointment of a full-time director, and further provides as follows:

All expenditures from such fund shall be within the limits of legislative appropriations and shall be made upon vouchers, signed and approved by the chairman of the executive committee.

Section 50-26-05, N.D.C.C., provides in part as follows:

All expenses of any member of any committee of the governor's council on human resources or any employee thereof and any other expenses of the council shall be paid upon voucher signed by the chairman of the council's executive committee or other member of the executive committee if the chairman is unable to act.

These sections clearly establish that only the chairman of the executive committee or, if the chairman is unable to act, some other member of the executive committee is authorized to sign expense vouchers of the council. Such authority is not granted by the statutes to the executive director and the executive director is not made a member of the executive committee. Therefore, it is our opinion that the executive director has no authority to sign expense vouchers.

We note that section 1-01-11, N.D.C.C., provides that any duty imposed upon a ministerial officer may be performed by his lawful deputy, unless otherwise provided. It is our opinion that this section does not apply to the facts raised in your request for two reasons. First,

the chairman of the executive committee of the Governor's Council on Human Resources is not a ministerial officer.

Second, the fact that section 50-26-05, N.D.C.C., specifically provides for the signing of vouchers only by some other member of the executive committee if the chairman is unable to act provides an exception to the general rule stated in section 1-01-11, N.D.C.C.

- EFFECT -

This opinion is issued pursuant to section 54-12-01, N.D.C.C. It governs the actions of public officials until such time as the question presented is decided by the courts or the applicable provisions of law are amended or repealed.

ROBERT O. WEFALD
Attorney General

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