S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
425 Fifth Avenue North
NASHVILLE, TENNESSEE 37243-0497

March 17, 2003

Opinion No. 03-029

Public Non-Profit Human Resource Agency's operation of rural van system; Tenn. Code Ann. §§ 7-56-101, *et seq*.

QUESTIONS

1. Is a public non-profit human resource agency that operates a rural transportation system covered by Tenn. Code Ann. §§ 7-56-101, *et seq*.?

2. If so, does that statute impose an obligation on the human resource agency to recognize and bargain collectively with a labor union that demonstrates majority status? If yes, what is the penalty for refusal to bargain?

3. In the event of a bargaining impasse, does Tenn. Code Ann. § 7-56-102(e) require the submission of the dispute to an arbitration panel for binding resolution? May the employer withhold its "written consent" to an arbitration panel?

4. May a public employee be discharged for engaging in a strike prohibited by Tenn. Code Ann. § 7-56-109?

OPINIONS

1. No.

2, 3 and 4. In light of our response to your first question, your remaining questions will not be addressed.

ANALYSIS

This Office has been provided with the following background information with regard to the questions set forth in your request for an opinion: a public, non-profit human resource agency that was created under, and which operates in accordance with, Tenn. Code Ann. § 13-26-101, *et seq*.[1], operates a small, rural transportation system consisting of approximately 100 vans that operate in the rural areas of 16 East Tennessee counties. This system is funded by a combination of federal grant moneys, state matching funds, contracts with TennCare managed care organizations (MCOs)

[1]The Human Resource Agency Act of 1973. *See* Tenn. Code Ann. § 13-26-101.

and fares. Your questions seek to determine whether this system of vans falls under the provisions of Tenn. Code Ann. § 7-56-101, *et seq.*[2]

Tenn. Code Ann. §7-56-101(a) states as follows:

> (a) ***Any municipality or county*** incorporated or existing under the laws of Tennessee, ***or any combination thereof***, intrastate or interstate, has authority to establish, acquire, purchase, construct, extend, improve, maintain, operate and/or franchise a public transportation system, including the acquisition of any type of vehicles necessary, car barns, terminals, garages, repair shops, buildings, lands, accessory apparatus, rights-of-way and easements, and all other appurtenances necessary, usual or proper to such a public transportation system for hire of passengers ***in the municipalities, counties, and the metropolitan area thereof***, including the right to extend such service beyond county lines in the state of Tennessee, and upon compliance with the laws of other states, into foreign states. Such a system for the transportation of passengers may be under the direct jurisdiction, control and management of ***such municipality, county, or combination thereof***, or any such municipality, county, or combination thereof, is hereby authorized to create a transit authority or other operating or management entity by ordinance or resolution, for the purpose of managing such a public transportation system, and to prescribe the qualifications and eligibility of members of such a transit authority, their terms of office, powers and duties.

(Emphasis added.).

As noted above, the human resource agency in question was created under, and operates in accordance with, Tenn. Code Ann. § 13-26-101, *et seq*., "The Human Resource Agency Act of 1973." While a human resource agency created pursuant to this act is a "body, politic and corporate" and a "public and governmental body" that acts as an agency and instrumentality of the creating and participating counties and cities[3], such a human resource agency is nonetheless different and

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[2]These statutes empower Tennessee counties and municipalities to "establish, acquire, purchase, construct, extend, improve, maintain, operate and/or franchise a public transportation system." Tenn. Code Ann. § 7-56-101 (a). Counties and municipalities may operate such a transportation system directly, or may create transit authorities or other operating or management entities for the purpose of managing such transportation systems. *Id*.

[3]*See* Tenn. Code Ann. § 13-26-105(a). *See also* Op. Tenn. Atty. Gen. 95-48 (May 15, 1995).

distinguishable from a municipality[4] or county[5].

One of the most basic principles of statutory construction requires the interpreter to ascertain and give effect to the intention and purpose of the legislature. That intent and purpose is to be ascertained primarily from the natural and ordinary meaning of the language used, eschewing any forced or subtle constructions that might artificially limit or extend the meaning of the language.[6] Where the statutory language is plain, clear, and unambiguous, one must avoid any interpretation or construction that departs from the words of the statute.[7] The plain language of Tenn. Code Ann. §§ 7-56-101, *et seq*., applies only to public transportation systems that are operated by municipalities or counties. Construing those statutes to include human resource agencies would therefore artificially extend the meaning of the plain language of those statutes.

Consequently, a system of vans created and operated by a human resource agency does not constitute a "public transportation system" within the meaning of Tenn. Code Ann. §§ 7-56-101, *et seq*. It therefore follows that the portions of Tenn. Code Ann. § 7-56-102 authorizing transit authorities, or counties or municipalities that operate transit authorities, to engage in collective bargaining with labor organizations[8], are similarly inapplicable to a human resource agency that operates a van system. The remaining questions set forth in your opinion request are therefore pretermitted by our response to question 1.

PAUL G. SUMMERS
Attorney General and Reporter

[4]*See* Title 6 of the Tennessee Code Annotated.

[5]*See* Tenn. Code Ann. § 5-1-101, *et seq*.

[6]*See, e.g., Tuggle v. Allright Parking Systems, Inc*., 922 S.W.2d 105, 107 (Tenn. 1996); *National Gas Distributors, Inc. v. State*, 804 S.W.2d 66, 67 (Tenn. 1991); *Worrall v. Kroger Co.*, 545 S.W.2d 736, 738 (Tenn. 1977).

[7]*Tuggle v. Allright Parking Systems, Inc*., 922 S.W.2d at 107.

[8]*See* Tenn. Code Ann. § 7-56-102(c), (d) and (e). *See also*, Tenn. Code Ann. § 7-56-109, prohibiting strikes by employees of transit authorities.

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MICHAEL E. MOORE
Solicitor General

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KEVIN STEILING
Deputy Attorney General

Requested by:

Senator Ben Atchley
303 War Memorial Building
Nashville, TN 37243-0206