

GARY K. NELSON, THE ATTORNEY GENERAL
STATE CAPITOL
PHOENIX, ARIZONA

August 1, 1968

DEPARTMENT OF LAW LETTER OPINION NO. 68-17-L (R-71)

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ARIZONA ATTORNEY GENERAL

REQUESTED BY: T. G. HAWKINS, Commissioner
Department of Finance

QUESTION:

1. Under the provisions of A.R.S. § 35-122.B.2, does the Commissioner of Finance have the powers to require that agencies which are not utilizing their equipment to its fullest perform work for other agencies which may not have data processing equipment or which are now using outside service bureaus?
2. If the Commissioner of Finance does have the above powers, does he also have authority to establish rates which can be charged to a using agency by the agency performing the services, and
3. If this is so, may the agency receiving compensation for its work use such compensation to offset the additional expense incurred by it in performing such work and not have to revert any funds so received to the General Fund?

ANSWER:

1. Yes.
2. Yes.
3. See body of opinion.

When the State Department of Finance was created by the Legislature in 1966, A.R.S. § 35-122 provided that the Commissioner of Finance shall, "install a uniform system

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of accounting for the various state departments, institutions, boards, and commissions, and recommend changes or improvements in accountancy he deems advisable, including but not limited to a system for maximum utilization of all data processing equipment. (Subsection B.2.)

In a letter to your office shortly after your inception, we advised that in our opinion the foregoing Subsection B.2. only authorized you to plan and recommend and that it did not grant the Department of Finance jurisdiction to require conformity to your suggestions or desires.

Subsequently the Legislature in the past regular session amended A.R.S. § 35-122 by adding Subsection B.2. which reads as follows:

"Provide for an efficient and coordinated utilization of data processing equipment, techniques and personnel to achieve optimum effectiveness and economy in collection, storage, interchange, retrieval, processing and transmission of information; develop, implement and maintain a coordinated state-wide plan for data processing and data communications systems, including but not limited to the consolidation, transfer or elimination of data processing activities, and the establishment of one or more centralized data processing operations centers, for the purpose of serving the management and other needs of the legislative, executive and judicial branches of state government."

In your letter request you state that,

"At the present time, there are a number of data processing systems in various agencies which are not being utilized to their 'optimum effectiveness and economy.' There are also a number of agencies

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which now do not utilize data processing equipment of any kind or utilize an outside service bureau for their requirements. If the work now being performed by outside service bureaus could be performed on state ADP equipment, it would result in a considerable monetary savings to the state."

and you ask your three questions in regard to this concern.

Our Supreme Court has said in many of its cases that in determining the intention of the Legislature that the words of a statute are to be given their ordinary meaning unless it appears from the context or otherwise that a different meaning is intended, and that in making such a determination that we should adopt the meaning that naturally attaches to the words used and which best harmonize with the context. State v. Robert Miller, 100 Ariz. 288, 413 P.2d 757, citing cases at page 296.

It is our opinion that the intent of the Legislature is clear and unambiguous, especially so in view of the history of the Department of Finance and the amendment of A.R.S. § 35-122. Their desire is clearly for coordination and economy and they have authorized the Department to achieve it through a statewide plan which includes all of the "budget units". This, we feel, is a special law which would govern over general laws in conflict with it.

Our answer to your first two questions is therefore affirmative.

Your third question relates primarily to financial administration and we therefore suggest that you contact the State Auditor and determine what method of financial

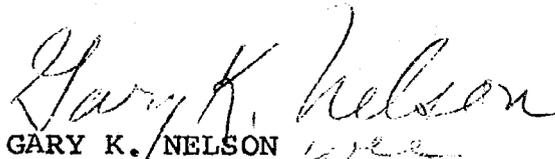
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participation would be the most convenient from the fiscal control standpoint. If a further legal opinion is required in this regard, we will be most happy to comply.

Respectfully submitted,



GARY K. NELSON
The Attorney General

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