

Opinion No. 53-5642

January 22, 1953

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. R. D. Chitwood Plumbing Engineer State Plumbing Administrative Board 1914 Broadway, NE Albuquerque, New Mexico

{*26} On January 20th you addressed an inquiry to this office concerning the qualifications of deputy and municipal plumbing inspectors as defined by Sections 51-3001 to 51-3021, inclusive. You ask us to define for you the qualifications and who is empowered to determine the qualifications of both the deputy inspector and the municipal plumbing inspectors on this state.

In Section 51-3006 the law sets forth the requirements and qualifications of a plumbing inspector and defines the qualifications of a plumbing inspector and defines the qualifications of a municipal plumbing inspector also. The law is as follows:

"The board is hereby authorized to appoint such **full time** deputy state plumbing inspectors, with the same qualifications required of the plumbing engineer, as may be necessary to enforce the provisions of this act, at a salary to be set by the said board with {*27} the approval of the governor. (Underscoring supplied.)

"The plumbing inspector of any incorporated municipality **who has qualifications satisfactory to the board** may be appointed as a **part-time** deputy state plumbing inspector with the consent and approval of the governing body of such municipality. Any municipal inspector so appointed shall inspect plumbing and fixtures within the limits or area specified by the board. In the performance of such duties they shall work under the direction and report to the plumbing engineer of the board, and the board is authorized to compensate such inspectors on a percentage of the fees for permits issued for installations, alterations, repairs or renovations made outside the corporate limits of such municipalities." (Underscoring supplied.)

You will note that this section requires that a full time deputy state plumbing inspector shall have the same qualifications required of the plumbing engineer. This is defined in Section 51-3005, which provides as follows:

"The board shall appoint a qualified person who shall act as plumbing engineer for the board. Any person so appointed shall be a citizen of the United States and resident of this state for a period of not less than five (5) years immediately preceding the time of his appointment and shall be a competent plumber of good moral character, and shall have had at least ten (10) years practical experience at the trade. He shall be well versed in the fundamentals of plumbing and the approved methods of design and installation of plumbing systems and other plumbing construction for safety to life and property."

Thus the law requires that a full time deputy state plumbing inspector have five years residence within the state, be a citizen of the United States, be a competent plumber of good moral character and shall have at least ten years experience in the trade. It would follow that the board would be the sole judge of the competence and whether or not this may or the deputy is well versed in the fundamentals of plumbing. This vests in the Plumbing Board the power to prescribe certain reasonable rules in regard to the qualifications of the man. Any qualifications prescribed for the state plumbing engineer must, of necessity and by direct and mandatory language, be prescribed for all **full time deputy state plumbing inspectors**.

As for municipal plumbing inspectors the law states that with the consent of the municipality the plumbing inspector may appoint a person as a part time deputy state plumbing inspector and specifies that that part time deputy plumbing inspector or municipal plumbing inspector shall have "qualifications satisfactory to the board". This does not require that the municipal or part time deputy plumbing inspectors have the same qualifications as a full time deputy plumbing inspector, but the board may set up under its administrative authority the qualifications necessary for these municipal or deputy plumbing inspectors. The municipal or deputy plumbing inspectors are required by law to work under the director and report to the plumbing engineer of the board and the board is required to pay them for inspections conducted outside the corporate limits of the incorporated municipality.

{*28} Section 51-3015 provides that an incorporated municipality that employs one or more full time plumbing inspectors **who meet the qualifications prescribed in this act for deputy state plumbing inspectors** shall have the right and authority to administer and enforce the provisions of the act, so far as the act applies to the municipality and installations in that municipality. This states a re-definition of the requirement that the board set up the requirements and qualifications of a municipal or part time deputy state plumbing inspector.

It is the opinion of this office that the board has the full right to determine the qualifications of a municipal inspector or, as used in the act, a part time deputy state plumbing inspector. No person who is not a deputy state plumbing inspector may inspect installations under this act and issue permits therefor. The definition of the qualifications of the deputy state plumbing inspectors is set out very clearly in Section 51-3006. These full time deputy plumbing inspectors must have the qualifications of an engineer, as set out in Section 51-3005.

We sincerely hope that this answers your inquiry on this matter.

By: Fred M. Standley

Assist. Attorney General