

Opinion No. 58-64

March 26, 1958

BY: OPINION OF FRED M. STANDLEY, Attorney General Hilton A. Dickson, Jr.,
Assistant Attorney General

TO: Honorable Natalie Smith Buck, Secretary of State, Santa Fe, New Mexico

QUESTION

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Whether a person or firm wishing to enter the electrical contracting business in New Mexico shall be licensed at State level solely by the Electrical Administrative Board or by that agency and also by the Contractors License Board?

CONCLUSION

Solely by the Electrical Administrative Board.

OPINION

ANALYSIS

By Chapter 192, Sec. 1, Laws of 1939, as amended 1941, there was provided:

"The provisions of this act (67-19-1 to 67-19-19) shall apply to all installations of electrical conductors, wiring, conduits, fixtures, devices, appliances or other electrical equipment or materials, hereinafter defined as 'electrical wiring' within or on public or private buildings, structures, or premises, except as hereinafter provided."

And further, Sec. 3, Laws, supra, an "electrical contractor" was defined as follows:

"(A) 'Electrical contractor' shall mean and include any person, firm, partnership or corporation engaged in the business of, or holding themselves out to the public as being engaged in the business of installing or repairing, or contracting to install or repair any electrical wiring, conduits, devices, fixtures, equipment, or other electrical materials for carrying, using or consuming electrical energy for which a permit is required by section 11 (67-19-10)."

Such contractor must be licensed in keeping with the following:

"No person, firm, partnership or corporation shall engage in the business of electrical contractor in political subdivisions to which this act (67-19-1 to 67-19-19) applies, unless

such person, firm, partnership or corporation shall have received a license from the board as such. . ."

From the foregoing, it may be concluded that the entire field in which electricians and electrical contractors may have a professional interest is covered or regulated. And, further, upon meeting the requirements of the Electricians' Code, it may be stated that a person is entitled to hold himself out to the public call, subject to additional qualifications, if such are by law provided.

It is suggested by the question above put that an "electrical contractor" may be required to also be licensed as a "contractor", under the provisions of Chapter 67, Art. 16, NMSA, 1953 Comp. Such suggestion, in our opinion, however, is not well founded in considering the following.

True, Sec. 67-16-1 provides in part:

"It shall be unlawful for any person, firm, copartnership, corporation, association or other organization, or any combination of any thereof, to engage in the business or act or offer to act in the capacity or purport to have the capacity of contractor within this state without having a license therefor as herein provided, unless such person, firm, copartnership, corporation, association or other organization is particularly exempt as provided in this act .67-16-1 to 67-16-9, 67-16-12 to 67-16-16) . . ."

And by Sec. 67-16-3:

"A contractor within the meaning of this act is a person, firm, copartnership, corporation, association, or other organization, or any combination of any thereof, who for either a fixed sum, price, fee, percentage, or other compensation other than wages, undertakes or offers to undertake, or purports to have the capacity to undertake to construct, alter, repair, add to or improve any building, excavation, or other structure, project, development or improvement, or any part thereof; . . ."

Also it may be presented that the Contractors' Code came into existence subsequent to the Electricians' Code, Chapter 197 and 192, respectively, Laws 1939, and thereby the earlier law is superseded, impliedly, by the later. Such repeal of a specific law is, however, not favored.

"Conversely, it is a general rule that an act is not impliedly repealed because of conflict, inconsistency, or repugnancy between it and a later act unless the conflict, inconsistency, or repugnancy is plain, unavoidable, and irreconcilable."

In the instant inquiry, we do not find an irreconcilable situation. Both laws may stand together and their respective areas of licensing and control administered without conflict. Such, in our opinion, was the intent of the Fourteenth State Legislature.

Accordingly, it is our opinion that a licensed electrical contractor need not also be licensed by the Contractors License Board.