

Opinion No. 68-119

December 10, 1968

BY: OPINION OF BOSTON E. WITT, Attorney General

TO: Mr. William Henry Mee Attorney Legislative Council 334 State Capitol Santa Fe, New Mexico

QUESTIONS

Does the Construction Industries Licensing Act (Section 67-35-1, et seq., N.M.S.A., 1953 Compilation (P.S.) authorize the adoption of a statewide code?

CONCLUSION

Yes.

OPINION

{*193} ANALYSIS

In 1967, the Construction Industries Licensing Act became law. It repealed all previous laws dealing with the Mechanical Board, the Electrical Board and the General Construction Board. Section 67-35-1, N.M.S.A., 1953 Compilation (P.S.) -- see Title of Act (page 93). Accordingly, any discussion of prior laws is irrelevant.

The pertinent section is Section 67-35-52, N.M.S.A., 1953 Compilation (P.S.). It states in pertinent part:

Trade boards -- Standards. -- A. The electrical board shall issue orders prescribing minimum standards for the installation or use of electrical wiring. The orders shall substantially embody the applicable provisions of electrical standards for safety to life and property promulgated by a nationally recognized underwriting laboratory, as approved by a nationally recognized standards association, which standards are in general use in the United States, or in a clearly defined region of the United States.

B. The mechanical board shall issue orders prescribing minimum standards for the installation of all fixtures, consumers' gas pipe, appliances and materials installed in the course of a mechanical installation. {*194} The orders shall substantially embody the applicable provisions of standards for the safety to life, health, welfare and property approved by a nationally recognized standards association, which standards are in general use in the United States, or in a clearly defined region of the United States, and shall give due regard to physical, climatic and other conditions peculiar to New Mexico.

C. The general construction board shall issue orders prescribing minimum standards for the construction, alteration or repair of buildings, except for those activities within the jurisdiction of the electrical board and the mechanical board. The orders shall substantially embody the applicable provisions of a nationally recognized building code which is in general use in the United States, or in a clearly defined region of the United States, and shall give due regard to physical, climatic and other conditions peculiar to New Mexico, including the authority to permit or deny occupancy of existing and new buildings or structures, and authority to accept or deny the use of materials manufactured within or without the state. The general construction board may set minimum fees or charges for conducting tests to verify claims or specifications of manufacturers.

* * *

E. All political subdivisions of this state are subject to the provisions of codes adopted and approved under the Construction Industries Licensing Act [67-35-1 to 67-35-63]. Such codes constitute a minimum requirement for the codes of political subdivisions. (Emphasis supplied)

In the opinion of this office, the language is clear. All political subdivisions are subject to the codes adopted by the Mechanical Board, the Electrical Board and the General Construction Board. The Boards' codes establish minimum requirements for all political subdivisions. All buildings in a political subdivision are so subject.

Counties, cities, towns and municipalities are political subdivisions. **Maricopa County Municipal Water Conservation District No. 1 v. La Prade**, 40 P.2d 94 (Ariz. 1935). Opinion of the Attorney General No. 67-90, issued July 14, 1967.

The answer to your question is yes.

By: Donald W. Miller

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