

Opinion No. 39-3308

October 18, 1939

BY: FILO M. SEDILLO, Attorney General

TO: Mr. W. T. Linam, City of Hobbs, Board of Electrical Examiners, Hobbs, New Mexico.

{*115} This office acknowledges receipt of your telegram requesting an opinion as to whether or not Chapter 192, of the Laws of 1939, takes away the licensing power of cities and towns to grant licenses to electricians and electrical contractors.

A similar case arose in the case of Willkie vs. Chicago, 80 American State Reports, page 182. In this case the City of Chicago by ordinance gave examination and issued a license to plumbers under the city ordinance of Chicago. Shortly after the City of Chicago revised its code, the Illinois Legislature {*116} passed an act to provide for the licensing of plumbers and to supervise and inspect plumbing. In this case the court decided that:

"While the legislature may delegate the powers to municipalities to grant a license for a particular occupation, and to exact a license fee, they may, at any time, take away such power or resume the exercise of it themselves."

In other words, the court decided that a statute providing for the examination of the followers of a particular occupation, and for the granting of certificates to follow such occupation, which shall be valid through the state, precludes a city from requiring the holders of such certificates to pay an additional license imposed by ordinance.

Under Chapter 192, of the Laws of 1939, the Legislature provided for the appointment of an electrical engineer, inspectors, and the licensing of electrical contractors and journeymen electricians, and in Section 1 thereof provided that this Act, shall become effective and operative in such subdivision from and after the adoption of such resolution or ordinance.

In Section 8 of said Chapter, the Legislature provided for the licensing and examination of electrical contractors and journeymen electricians, in sub-paragraph (a), (b), and (c).

It is plain that under this chapter the state took over the powers of examining and issuing licenses to electrical contractors and journeymen electricians, and in Section 3 of this chapter created an electrical administrative board thereby taking away the power of municipal electrical examiners appointed under municipal charters and ordinances.

This opinion assumes that the governing board of the City of Hobbs is subject to the provisions of Chapter 192, of the Laws of 1939, and, therefore, it is not authorized to require examination to secure licenses for the doing of electrical work.

By: GEORGE LOUGEE,

Asst. Atty. Gen.