

**OPINION
58-219**

August 4, 1958 (OPINION)

OCCUPATIONS AND PROFESSIONS

RE: Electricians - When License Not Required

We have your letter of July 18, 1958, requesting an opinion of this office. The question is asked whether it is within the purview of powers granted the State Electrical Board to:

1. Act as an examining board for journeymen, linemen and supervisors.
2. Issue certification of the qualification of linemen.
3. Accept examination fees from applicants.
4. Accept fees for certificates of qualification.

Chapter 43-09 of the 1957 Supplement to the N.D.R.C. of 1943 is the law governing electricians. This chapter also sets out the authority of the State Electrical Board. We note that three classes of electricians are defined under Section 43-0901 of the 1957 Supplement, Master, Journeyman and Class B. Section 43-0909 requires that an examination be taken before any person, partnership, company, corporation, or association undertakes to plan, lay out, supervise, install, make additions to, make alterations, or make repairs in the installation of wiring, apparatus, or equipment for light, heat or power. Section 43-0916 of the N.D.R.C. of 1943 states: "The following persons shall not be required to hold an electricians license: 1. Employees of public utilities engaged in the manufacture and distribution of electrical energy when engaged in work directly pertaining to the manufacture and distribution of electrical energy. . . ." It is apparent that linemen are not subject to licensure.

Section 43-0905 of the 1957 Supplement to the N.D.R.C. of 1943 empowers the State Electrical Board to make rules and regulations. If the Board acted affirmatively to any of the above questions it would be necessary that the board enact rules and regulations requiring examination of journeymen, linemen, issuing of certificates of qualification, and fees for applicants and certificates of qualification. It has been well established that an administrative agency has only such authority as derived from statutes or can be readily implied therefrom. It is also established case law that an administrative agency, if given the power to enact rules and regulations, may only enact those rules and regulations to carry into effect the will of the lawmakers and give effect to the law. Since certain persons are exempt from holding an electricians license and no other statutory enactment appears to provide for examination, certificates of qualifications, or fees, such requirements through rules and regulations would be deemed outside the purview of the powers of the State Board of Electricians.

It is, therefore, the opinion of this office from the foregoing that the four questions asked must be answered in the negative.

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