

June 30, 1995

David D. Duthie, Deputy Director
Department of Labor & Industrial Services
STATEHOUSE MAIL

**THIS CORRESPONDENCE IS A LEGAL GUIDELINE OF THE
ATTORNEY GENERAL SUBMITTED FOR YOUR GUIDANCE**

Re: Opinion Regarding H.B. 100 (Idaho Code § 44-2206)

Dear Mr. Duthie:

You have requested an Attorney General's opinion regarding issues you identify as having been raised by the enactment of H.B. No. 100 (codified at Idaho Code § 44-2206). This bill was passed by the 1995 Idaho Legislature and takes effect July 1, 1995. H.B. 100, as amended, states:

INSTALLATION OF ELECTRICAL SERVICE EQUIPMENT.
Electrical service equipment shall be permitted to be installed in or on a manufactured home, provided that all of the following conditions are met:
(1) the service equipment must be completely installed by either the manufacturer of the structure or an Idaho licensed electrical contractor

Idaho Code § 44-2206(1) (emphasis added).

The amendments to H.B. 100 raise the following questions:

1. Does H.B. 100 conflict with the National Electrical Code (1993 edition) regarding the onsite installation of electrical service equipment in or on a manufactured home? If so, which standard takes precedence?
2. Does the portion of H.B. 100 that authorizes an electrical contractor to undertake onsite installation of electrical service equipment in or on a manufactured home conflict with the scope of authority otherwise afforded electrical contractors in the State of Idaho?
3. Does the Department of Labor and Industrial Services have the authority to inspect onsite installations of electrical service equipment in or on a manufactured home if such installations are undertaken in accordance with the terms of H.B. 100?

The National Electrical Code (NEC) has been adopted by rule as the prevailing authority in the State of Idaho. IDAPA 07.01.06011. The NEC would therefore govern the installation of electrical service on a manufactured home in the absence of H.B. 100.

ANALYSIS

1. **H.B. 100 Conflicts With, and Takes Precedence Over, the National Electrical Code Regarding the Onsite Installation of Electrical Service Equipment for Manufactured Homes**

On its face, H.B. 100 presents a direct conflict with the National Electrical Code (NEC) with respect to the installation of onsite electrical service equipment for manufactured homes. H.B. 100 authorizes the installation of an electrical service directly “in or on” a manufactured home at the onsite location. By contrast, the NEC, Article 550-23(q) states:

(a) **Service Equipment.** The mobile home service equipment shall be located adjacent to the mobile home and not mounted in or on the mobile home.

(Emphasis added.) Article 550-2 of the NEC defines a “mobile home” to include manufactured homes.

In short, H.B. 100 authorizes the installation of an electrical service directly upon a manufactured home at the onsite location. The relevant provisions of the NEC, which constitutes the sole adopted standard for electrical installations in Idaho, precludes the onsite installation of an electrical service upon a manufactured home. Therefore, a direct conflict exists between the two standards.

When a conflict exists between two standards having the force and effect of law, the principles of statutory construction dictate that the later in time prevail. Union Pacific Railroad Co. v. Board of Tax Appeals, 103 Idaho 808, 654 P.2d 901 (1982). Thus, H.B. 100 takes precedence over the parallel provisions of the NEC. It follows that, in Idaho, electrical service equipment may be installed in or on a manufactured home, despite the provision of the National Electrical Code that such electrical service equipment must be located adjacent to the manufactured home and not mounted in or on it.

2. **H.B. 100 may be Harmonized With the Other Provisions of the Idaho Code Governing Installation of Electrical Service Equipment, and an Electrical Contractor may Install Electrical Service Equipment Upon a Manufactured Home so Long as Said Contractor is Properly Qualified or Supervised**

H.B. 100 authorizes an “Idaho licensed electrical contractor” to install electrical service equipment in or on a manufactured home. You ask whether this provision of Idaho Code § 44-2206 conflicts with Idaho Code § 54-1010(1), which states:

On and after July 1, 1961, any electrical contractor who works as a journeyman electrician, as herein defined, shall be required to have a journeyman electrician’s license issued under the provisions of this act. All installations of electrical wiring, equipment or apparatus made by an electrical contractor shall be done by or under the direct supervision of a licensed journeyman electrician.

Thus, at first blush, it appears that H.B. 100 in title 44 of the Idaho Code authorizes an electrical contractor to undertake actual physical installations of electrical service equipment in or on manufactured homes, whereas title 54 of the Idaho Code appears to restrict such installations to journeymen electricians.

It is a basic principle of statutory construction that when two statutes deal with the same subject matter, they must be construed harmoniously and consistently if at all possible. State v. Maland, 124 Idaho 537, 540, 861 P.2d 107, 110 (Ct. App. 1993); State v. Paul, 118 Idaho 717, 719, 800 P.2d 113, 115 (Ct. App. 1990). In the absence of repeal or amendment, new provisions enacted by the legislature are presumed to accord with the legislative policy embodied in prior statutes relating to the same subject matter. Cox v. Mueller, 125 Idaho 734, 736, 874 P.2d 545, 547 (1994).

We do not read H.B. 100 as extending the scope of permissible conduct by an electrical contractor. Rather, H.B. 100 should be read as harmonizing with chapter 10, title 54, which comprehensively regulates the conduct of electrical contractors and other professionals who work in this area.

In general, chapter 10, title 54 provides that an electrical contractor is the person or business entity which carries on the business (bidding, contracting, designing, etc.) of electrical installations. Idaho Code § 54-1003A(1). Only a journeyman electrician or a properly supervised apprentice electrician is statutorily authorized to personally perform the actual physical installation of electrical wiring or equipment. Idaho Code § 54-1003A(2) and (3). All actual electrical installation by an electrical contractor must be done by a journeyman electrician or a properly supervised apprentice electrician. Idaho Code § 54-1010(1).

Thus, read in the context of the entire Idaho Code, H.B. 100 provides that a licensed electrical contractor can install electrical service equipment upon a manufactured home if the electrical contractor (1) is also licensed as a journeyman electrician, (2) is undertaking the installation through the service of a journeyman electrician, or (3) is

undertaking the installation through the service of an apprentice electrician working under the direct supervision of a journeyman electrician.

This reading is bolstered by H.B. 100 itself which states that the installation of electrical service equipment in or on a manufactured home is permitted:

provided that all of the following conditions are met: . . . (2) The installation of the service equipment must otherwise comply with article 230 of the national electrical code, 1993 edition, . . .

Article 230-1 of the NEC covers service conductors and equipment for control and protection of services and their installation requirements. Article 230 details the standards for such electrical service components as drop conductors underground/lateral conductors, entrance conductors, disconnects, and overcurrent protection. Importantly, the statutory qualifications for an “electrical contractor” contained in title 54 of the Idaho Code do not include a prerequisite of any actual electrical installation experience. Idaho Code § 54-1007(1). Thus, the technical knowledge required to comply with article 230 of the NEC is beyond the scope of the statutory definition of an electrical contractor. We therefore conclude that the Idaho Legislature could not have intended that electrical contractors can personally undertake the physical installation of electrical service equipment set forth in H.B. 100. We cannot attribute to the Legislature an intent to authorize conduct so adverse to the public health and safety.

3. The Department of Labor and Industrial Services can Inspect the Electrical Service Equipment Installation Authorized by H.B. 100

The Department of Labor and Industrial Services is authorized to inspect any electrical installation in the State of Idaho coming under the provisions of chapter 10, title 54, Idaho Code. Idaho Code § 54-1004. Chapter 10, title 54, Idaho Code, addresses itself to all electrical installations in the State of Idaho which are addressed and controlled by the standards of the National Electrical Code. Idaho Code § 54-1001. The installation of electrical service equipment for manufactured homes is a matter coming within the scope of the NEC. Therefore, the Department’s electrical inspectors are statutorily authorized to inspect any such electrical installations.

I hope this adequately addresses your questions. If you have any additional questions with respect to this matter, please feel free to contact me.

Sincerely,

JOHN J. MCMAHON
Chief, Administrative

& Contract Law Division