

July 8, 1997

Honorable Gary J. Schroeder
Idaho State Senate
STATEHOUSE MAIL

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

Re: State Licensing Requirements for Electrical Installations

Dear Senator Schroeder:

The following is in response to your request for legal guidance on the licensing requirements for electrical installations.

QUESTION PRESENTED

Do local governments have authority to preempt state licensing requirements by imposing stricter public safety rules?

CONCLUSION

No. As provided by Idaho Code § 54-1002(3), the licensure of electrical contractors and journeyman electricians is within the exclusive jurisdiction of the state. Consequently, local jurisdictions cannot require additional licensure. To contend that the additional language in Idaho Code § 54-1002(3) that “[n]othing in this chapter shall restrict a city or county from imposing stricter public safety rules” was intended to repeal by implication the state’s licensing authority is an unreasonable construction of the statute.

ANALYSIS

Article 12, section 2 of the Idaho Constitution provides that local ordinances may not conflict with state statutes:

Local police regulations authorized.—Any county or incorporated city or town may make and enforce, within its limits, all such local police, sanitary and other regulations as are not in conflict with its charter or with general laws.

When it comes to regulating who must be licensed to make electrical installations in the State of Idaho, the statutory provisions of Idaho Code § 54-1002 leave no doubt that the legislature intended to retain exclusive statewide jurisdiction. Section 54-1002(3) provides:

Licensure of the electrical contractors and journeyman electricians shall be within the exclusive jurisdiction of the state pursuant to this chapter and no local jurisdiction shall have the authority to require additional licensure or to issue licenses to persons licensed under this chapter which are inconsistent with the provisions of this chapter or rules promulgated by the division of building safety. The state shall investigate all local infractions and state violations of this chapter and prosecute the same. The local jurisdictions will assist the state by requesting investigations within their jurisdictions. Nothing in this chapter shall restrict a city or county from imposing stricter public safety rules, notwithstanding any provision of Idaho Code.

In fact, the entire purpose of title 54, chapter 10, is to establish uniform statewide regulations regarding licensing. For example, Idaho Code § 54-1003A defines a journeyman electrician as “any person who personally performs or supervises the actual physical work of installing electrical wiring or equipment to convey electrical current, or apparatus to be operated by such current.” (Emphasis added.) Idaho Code § 54-1002(2) makes it “unlawful for any person to act as a journeyman electrician in this state until such person shall have received a license as a journeyman electrician.” (Emphasis added.) Idaho Code § 54-1006 authorizes the Idaho Electrical Board to promulgate rules for the “examination and licensing of journeyman electricians.” Idaho Code §§ 54-1005, -1007 and -1009 give authority to a state agency, the Division of Building Safety, to issue revoke or suspend licenses. And, Idaho Code § 54-1016 creates a specific exemption from the licensing requirement for “persons making electrical installations on their own property.”

It is an unreasonable interpretation of the statute to contend that the last sentence of Idaho Code § 54-1002, which allows local jurisdictions to impose stricter public safety rules, was intended by the legislature to repeal by implication not only the state’s licensing authority, but also the specific licensing exemption given to property owners in Idaho Code § 54-1016. According to general principles of statutory construction, the implied repeal of inconsistent laws is not favored and will not be indulged if there is any other reasonable construction. State v. Martinez, 43 Idaho 180, 250 P. 239 (1926). Statutes, although in apparent conflict, are construed to be in harmony if reasonably possible. Cox v. Mueller, 125 Idaho 734, 874 P.2d 545 (1994). Only that part of an existing statute actually in conflict with a subsequent statute is repealed by implication. State v. Davidson, 78 Idaho 553, 309 P.2d 211 (1957). A specific statute will control

over a more general statute, especially when the more general statute is vague or ambiguous. Tomich v. City of Pocatello, 127 Idaho 394, 901 P.2d 501 (1995).

While it may be true that the term “public safety” is not defined by Idaho Code § 54-1002, a reasonable construction of this statute, especially in light of the overall purpose and intent of title 54, chapter 10, would be that it was not intended to include licensing regulations. This means that while local jurisdictions could adopt stricter “public safety” requirements affecting the manner and method of electrical installations, those local requirements could not interfere with the state’s exclusive authority to regulate who must be licensed to perform electrical work in the State of Idaho.

Sincerely,

CRAIG G. BLEDSOE
Deputy Attorney General