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SYLLABUS:

1. There is no specific provision of law authorizing a board of county commissioners to license electrical contractors, and authority to so license may not be implied from the provisions of Section 307.37, Revised Code.

2. A county building department, certified under Section 3781.10, Revised Code, has no authority to conduct examinations, issue licenses or charge a fee for the express purpose of regulating the electrical business within a county.

Columbus, Ohio, June 25, 1963

Hon. George E. Martin
Prosecuting Attorney
Portage County
Ravenna, Ohio

Dear Sir:

I am in receipt of your request for my opinion on the following questions:

“Do the County Commissioners have the authority to create a Board of Examiners and grant that board the power to conduct the examinations, issue licenses and charge a fee for the expressed purpose of regulating the electrical business within the county?”

“If the County Building Department is recognized and certified, by the State, as provided by Revised Code Section 3781.10, would this vest the above authority in that department?”

The issue of whether a board of county commissioners has the authority to license electrical contractors was considered by my predecessor in his Informal Opinion No. 539 published November 30, 1962 where it was observed that “there is no specific provision of law authorizing a board of county commissioners to license electrical contractors, and authority to so license may not be implied from the provisions of Section 307.37, Revised Code.” I believe that this opinion provides a complete answer to your first question.

Your second question concerns the propriety of creating a board of examiners under the auspices of the County Building

Department if such Department were certified by the state board of building standards as provided in Section 3781.10 (E), Revised Code. This section reads as follows:

“This board of building standards shall:

“(E) Certify municipal and county building departments to exercise enforcement authority and to accept and approve plans pursuant to sections 3781.03 and 3791.04 of the Revised Code. Said municipal and county building departments shall have jurisdiction within the meaning of said sections only with respect to the types of buildings and subject matters as to which they have been certified under this section and as to which such certification remains in effect. * * *.”

Thus, it may be observed that the power granted to a certified county building department is limited to the enforcement of regulations adopted by the state board of building standards and to approve plans under Sections 3781.03 and 3791.04, Revised Code. There is no authority granted to the county building departments to promulgate their own building regulations. Moreover, since the power of the county board is necessarily derived through the state board which must certify it, the county board could not have broader powers than are granted to the state board. It is helpful, therefore, in arriving at an answer to your question, to determine whether even the state board has the power to test and license electrical contractors in the manner which you propose.

Section 3781.10 (A), Revised Code, authorizes the board of building standards to:

“(A) Formulate and adopt regulations governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in section 3781.06 of the Revised Code, the installation of equipment wherein, the standards or requirements for materials to be used in connections therewith, and other requirements relating to the safety and sanitation of such buildings. * * *”

The code section governing the scope of these regulations is 3781.11, Revised Code, which reads as follows:

“The rules and regulations of the board of building standards shall:

“(A) Provide uniform minimum standards and requirements for construction and construction materials to make buildings safe and sanitary as defined in section 3781.06 of the Revised Code;

“(B) Formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability;

“(C) Permit, to the fullest extent feasible, the use of materials and technical methods, devices, and improvements which tend to reduce the cost of construction without affecting minimum requirements for the health, safety, and security of the occupants or users of buildings and without preferential treatment of types or classes of materials or products or methods of construction;

“(D) Encourage, so far as may be practicable, the standardization of construction practices, methods, equipment, materials, and techniques.

“The rules and regulations of the board of building standards shall supersede and govern any order, standard, rule or regulation of the department of commerce, division of fire marshal, the department of industrial relations and the division of workshops and factories therein, and the department of health, and of counties and townships, in all cases where such orders, standards, rules or regulations are in conflict with the rules and regulations of the board of building standards.

“The construction, alteration, and repair of buildings and the materials and devices of any kind used in connection therewith and the heating and ventilating thereof and the plumbing and electric wiring therein shall conform to the statutes of this state or the rules and regulations adopted and promulgated by the board of building standards, and to provisions of local ordinances not inconsistent therewith. Any building, structure, or part thereof, constructed, altered, or repaired not in accordance with the statutes of this state or with the rules and regulations of the board, and any building or structure or part thereof in which there is installed, altered, or repaired, any fixture, device, and material, or plumbing, heating, or ventilating system, or electric wiring not in accordance with such statutes, or rules and regulations, is a public nuisance.”

Nowhere in the statutes authorizing the existence of, or prescribing the powers for the state board is there any specific grant

of authority to license electrical contractors. The state board is empowered to regulate the erection, construction, repair, alteration and maintenance of certain buildings. The power to set construction standards and inspect buildings to see that these standards are met does not necessarily imply any authority to regulate the men who will perform the work.

If the power of the state board of building standards or the certified county building departments is to be expanded from that which now exists, it is up to the legislature, in its discretion to provide for it by appropriate statutory amendment. Since, as indicated, the state board of building standards has no statutory authority to license electricians, and since the county building departments derive their power through certification of the state board, and since a county building department must enforce the regulations adopted by the state board and has no authority to adopt its own standards, it follows that a certified county building department can have no authority to license electricians.

It is therefore my opinion and you are hereby advised that:

1. There is no specific provision of law authorizing a board of county commissioners to license electrical contractors, and authority to so license may not be implied from the provisions of Section 307.37, Revised Code.
2. A county building department, certified under Section 3781.10, Revised Code, has no authority to conduct examinations, issue licenses or charge a fee for the express purpose of regulating the electrical business within a county.

Respectfully,
WILLIAM B. SAXBE
Attorney General