

# MAINE STATE LEGISLATURE

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April 9, 1975

Charles F. Rogan, Acting Exec. Secretary

Electricians' Examining Board

David Roseman, Assistant

Attorney General

Purchase of National Electrical Code Books

By memo dated March 12, 1975, you have asked this Office whether the Electricians' Examining Board legally has the right to buy National Electrical Code books and sell them to electricians. Based upon the facts set forth in your memo and my telephone conversation of April 1, 1975, with Adelaide Tschalmer, Clerk of the Electricians' Examining Board, it is my understanding that the Board has ordered 5,000 of these books for 1975. The books cost \$5.75 each retail, but because the Board orders 2,500 books at one time, it is able to purchase them for \$3.58 each. The Board then sells these books to electricians in Maine for \$3.75 each, with the costs of mailing to electricians included in this latter price. The Board has purchased and sold National Electric Code books for 22 years.

32 M.R.S.A. § 1154 states in applicable part that:

"All fees received by the [Electricians' Examining] board shall be paid by the executive secretary to the Treasurer of State to be used for carrying out this chapter."

5 M.R.S.A. § 151 provides in applicable part that:

"All money received by the Treasurer of State from . . . the Electricians' Examining Board . . . shall constitute a fund, which shall be a continuous carrying account for the payment of the compensation and expenses of the members, the expenses of the board and for executing the law relating to each board respectively, and so much thereof as may be required is appropriated for said purposes. The secretary of each board shall be reimbursed for all expenditures for books, stationery, printing and other necessary expenses actually incurred in the discharge of his duties. All such payments shall be made from the respective funds held in the State Treasury after the approval of the State Controller. . . ."

(Emphasis added)

Therefore, while your question is more properly directed at this time to the State Controller (see also 5 M.R.S.A. § 1541(2) and (3)), we note that a reasonable argument can be made why the purchase of the

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books is proper. The statute relating to electricians and the Electricians' Examining Board, 32 M.R.S.A. § 1101 et seq., makes specific reference to the National Electrical Code in several sections. For example, 32 M.R.S.A. § 1153-A states that "[a]ll installations of electrical equipment shall comply with the current edition of the National Electrical Code. . ." and 32 M.R.S.A. § 1155 provides for suspension or revocation of an electrician's license upon ". . . [c]ontinued failure to conform with applicable regulations of the National Electrical Code. . . ." Thus, the argument could be made that by purchasing and selling the code books as it does, the Board is facilitating and making more effective the "carrying out" of the statute (see 32 M.R.S.A. § 1154 above). Also, that portion of 5 M.R.S.A. § 151, set out above, contains language that could be interpreted as allowing the purchase of the National Electrical Code books.

Since your question deals with purchasing, it should also be briefly noted here that the Board must, of course, comply with the provisions of the statute relating to the purchasing of services, supplies, materials and equipment, 5 M.R.S.A. § 1811, et seq.

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Assistant Attorney General

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