

Whether the local authorities consider the reporting of violations of the state law to the appropriate state agency an adequate remedy is for said local authorities to determine. Whatever determination is made does not preclude them from enacting appropriate ordinances not in conflict with state law.

This completes my answer to your several inquiries.

FRANK J. KELLEY,
Attorney General.

670908.1

ARCHITECTS, PROFESSIONAL ENGINEERS, LAND SURVEYORS:

Professional engineers who perform services as independent contractors for the federal government on property which is not federally owned under exclusive jurisdiction must comply with Act 240, P.A. 1937, as amended.

No. 4101

September 8, 1967.

Department of Licensing and Regulation
Board of Registration for Architects,
Professional Engineers, Land Surveyors
200 Lafayette Building
Detroit, Michigan

Attention: Henry G. Groehn
Executive Secretary

You have asked my opinion on the following questions:

"1. Whether individuals, corporations or partnerships or other organizations who offer professional engineering services to the federal government are subject to the provisions of Act 240, Public Acts of 1937, as amended.

"2. Are individuals who are not registered as professional engineers, or partnerships or corporations of which all the partners, officers, and directors of such organizations are not registered professional engineers subject to prosecution under Act 240, Public Acts of 1937, as amended, if professional engineering work is rendered by them to the federal government?

"3. If the work rendered by these individuals or firms to the federal government is on federal owned property, would they be subject to prosecution under Act 240, Public Acts of 1937, as amended?

"4. If the work rendered by these individuals or firms to the federal government is on property not owned by the federal government, would they be subject to prosecution under Act 240, Public Acts of 1937, as amended?"

The pertinent sections of Act 240, P.A. 1937, as amended,¹ are:

¹ C.L.S. 1961 § 338.551, et seq.; M.S.A. 1965 Cum. Supp. § 18.84(1), et seq.

"Sec. 17. An architectural or an engineering or a land surveying firm, or a copartnership, or a corporation, or a joint stock association may engage in the practice of architecture, professional engineering, or land surveying in this state: Provided, That all partners, officers, and directors of such organizations shall be registered architects, registered professional engineers, or registered land surveyors.

"Sec. 19. The following persons shall be exempt from the provisions of this act, to wit: * * *

"(c) Officers and employees of the United States of America or any agency or instrumentality thereof while engaged within this state in the practice of the profession of architecture, engineering, or land surveying for the United States of America, or any agency or instrumentality thereof."

In O.A.G. 1943-44, page 495, No. O-1013, the Attorney General concluded that "the federal government does not have exclusive jurisdiction over areas within the state leased but not owned by it, and the provisions of the Plumbing Law, Act 260, P.A. 1933, are applicable to such areas."

This opinion in reaching this conclusion said:

"Section 255, Title 40, United States Code Annotated, as amended in 1940, provides that the obtaining of exclusive jurisdiction in the United States over lands acquired is not required, but the head or other authorized officer of any department may accept from the state consent or cession of such jurisdiction, *exclusive or partial*, and indicate acceptance by filing a notice of acceptance with the Governor, or in such other manner as may be prescribed by state law. 'Unless and until the United States has accepted jurisdiction over lands hereafter to be acquired as aforesaid, it shall be conclusively presumed that no such jurisdiction has been accepted.'

"Act 3, Public Acts of 1942, First Extra Session, which became effective January 28, 1942, gives exclusive jurisdiction to the United States over lands acquired, for all purposes, the state retaining the right to serve civil and criminal process on such lands. However, acceptance by the appropriate federal official of jurisdiction, either exclusive or partial, must still be given, and will determine what kind of jurisdiction the federal government has acquired. For example, such acceptance may expressly reserve to the state the power to enforce the state's police regulations, such as the licensing of master plumbers. If no acceptance has been filed with the Governor, governing the area in question, then all state regulatory laws are in effect.

"It was quite recently decided by the Supreme Court of Maryland that if a federal area was leased by the federal government or one of its departments for a term of years, but the fee title to the property was not purchased or otherwise acquired, then the federal government had no jurisdiction. *Baltimore v. Linthicum*, 170 Md. 245, 183 A. 53 (1936).

"It is our opinion therefore that the provisions of Act 260, P.A. 1933, are applicable to the Detroit War Housing Project and that the

installation of plumbing must be in charge of a licensed master plumber, assuming that the plumbing act is constitutional.

"It has been held by the United States Supreme Court that no state law has force in a federal area if its enforcement would conflict with or burden the federal government in its purpose or policies in acquiring such federal area.

Penn. Dairies, Inc. v. Milk Control Commission, 87 L. Ed. 549;

Pacific Coast Dairy v. Department of Agriculture, 87 L. Ed. 560.

"This principle would probably apply to land acquired by lease as well as by the purchase of the fee title. It is our opinion that the requirements of the Michigan plumbing law would not conflict with any purpose or policy of the United States in the acquisition of land for a war housing project."

This same reasoning may be applied here unless the individuals performing the work are officers or employees of the United States.

Answering your questions specifically:

1. Individuals, corporations or partnerships or other organizations which offer professional engineering services to the federal government are subject to the provisions of Act 240, P.A. 1937, as amended, unless the land on which the services are performed is within the exclusive jurisdiction of the federal government or unless they are officers or employees of the federal government.

2. Unlicensed individuals, partnerships and corporations, and the partners and officers and directors thereof, will be subject to prosecution under Act 240 if they do not come within the exemptions discussed in the answer to your first question.

3 and 4. These questions are answered by 1 and 2 above.

FRANK J. KELLEY,
Attorney General.

670920.2

LEGISLATURE: Authority to investigate.

COLLEGES AND UNIVERSITIES: Investigation by legislative committees.

The legislature can conduct investigations of internal affairs of constitutionally established state institutions of higher education only when such investigations relate to the appropriation of funds for maintenance and support of such institutions.

No. 4606

September 20, 1967.

Honorable Emil Lockwood
State Senator
The Capitol
Lansing, Michigan

Prior to the decision of the Michigan Court of Appeals in *The Board of Control of Central Michigan University v. Members of the State Senate*