

Post-Session Update: Electrician Registration

House Bill 3329, passed during the 2017 regular legislative session and effective on September 1, 2017, adds new Subsection (f) to Section 1305.201, Occupations Code, which provides as follows:

(f) A municipality or region may not collect a permit fee, registration fee, administrative fee, or any other fee from an electrician who holds a license issued under this chapter for work performed in the municipality or region. This subsection does not prohibit a municipality or region from collecting a building permit fee.

Some city officials were concerned that House Bill 3329 prohibits a city from requiring an electrician to pay for a building permit before doing electrical work in the city. The bill doesn't do that. To understand why, one must look to the rules of statutory construction. In construing a statute, a court's primary objective is to give effect to the legislature's intent as gleaned from the text. The Texas Supreme Court recently explained that in divining that intent:

[W]e further "presume the Legislature chose statutory language deliberately and purposefully." We endeavor to interpret each word, phrase, and clause in a manner that gives meaning to them all. We accordingly read statutes as a whole so as to render no part inconsistent, superfluous, or devoid of meaning.

Moreover, the rules of statutory construction demand that when general words follow specific and particularized enumerations of powers, the general words are treated as limited and applied only to the same kind or class of powers as those expressly mentioned. This rule ensures that terms are not construed more broadly than the legislature intended. In addition, the meaning of particular words in a statute may be ascertained by reference to other words associated with them in the same statute.

Using these canons of construction here, we construe the general prohibition in 1305.201(f) ("A municipality or region may not collect a permit fee, registration fee, administrative fee, or any other fee from an electrician who holds a license issued under this chapter for work performed in the municipality or region") in light of the specific fee authorization that remains in Section 1305.201: Subsection (f) *expressly authorizes* a city to continue to collect a building permit fee.

In other words, whatever fees the general prohibition may encompass, it does not include a building permit fee. To provide some guidance in that endeavor, the Building Officials of Texas (BOAT) has issued a recommended approach for permitting and registration under the bill, with the caveat that each city consult with legal counsel. The idea being that a unified approach is in cities' best interests. According to BOAT:

Permit Fees

The general consensus appears to be that cities can still charge for electrical permits as "building permits" under code. The term "building permit," as opposed to "electrical permit," is subject to interpretation by each jurisdiction, but a jurisdiction could change all the construction permit types to "building permits" with nomenclature, for example that could be:

- building permit (new single family residential) or (SFR)
- building permit (electrical) or (E)
- building permit (plumbing) or (P)

By changing the permit title, a city would be in conformance with subsection (f) of the bill because it would be issuing a building permit and it is not prohibited from collecting a building permit fee from an electrician.

Contractor Registration Fees

A city could register an electrical license free of charge verifying state license law requirements. A building permit fee for electrical work can offset administrative costs of enforcement verification.

How each city defines and charges for a building permit for electrical or other work should be decided by that individual city based on the advice of local legal counsel.

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