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Joint Legislative Administrative Procedure Oversight Committee
Joint Legislative Oversight Committee on Justice & Public Safety
Attn: Jeff Hudson
545 Legislative Office Building
300 N. Salisbury Street
Raleigh, NC 27603

RE: House Bill 379; Session Law 2018-60
Required Report

Dear Committee Members:

As counsel to the State Board of Examiners Electrical Contractors, I attach the report of the Board with respect to the inquiry contained in Section 1 of the captioned Bill. Please advise if you need further assistance.

Sincerely yours,

YOUNG MOORE AND HENDERSON, P.A.

By:


John N. Fountain

JNF/kse
Enclosure
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HOUSE BILL 379 SESSION LAW 2018-69
REPORT OF STATE BOARD OF EXAMINERS ELECTRICAL CONTRACTORS ON
CREATION OF CRIMES BY THE BOARD

The State Board of Examiners Electrical Contractors is an occupational licensing board created by Article 4, Chapter 87 of the General Statutes. The Board has the power to conduct examinations, approve applications, discipline holders of license and pursue injunctions or contempt of court proceedings with regard to persons engaging in practice without a license. The Board does not seek the assistance of the district attorney nor seek to prosecute violations of the licensing statute as a criminal offense.

The relevant statute is G.S. §87-48(a) which provides as follows:

“Any person, partnership, firm or corporation who shall violate any of the provisions of this Article or any rule of the Board adopted pursuant to this Article or who shall engage or offer to engage in the business of installing, maintaining, altering or repairing within the State of North Carolina any electric wiring, devices, appliances or equipment without first having obtained a license under the provisions of this Article shall be guilty of a Class 2 misdemeanor.”

The foregoing statute appears to make violations of the rules of the Board a criminal offense. The Board has not sought to prosecute criminally any person for violation of the rules of the Board through the Court system in North Carolina. The Board, however, has adopted rules setting forth project limitations on scope of work for various categories of license, defining employment, requiring adherence to electrical code provisions adopted by the Building Code Council and similar matters.

It is the assessment of the Board that crimes are created by the General Assembly in the statutes and not by the rules of the Board even where the statutory provision receives clarification by Board rule.