

**Board of Electricity
Meeting Minutes
August 12, 2008
Minnesota Room – Department of Labor and Industry
443 Lafayette Road North, Saint Paul 55155
DLI.CCLDBOARDS@State.MN.US**

Members Present:

Douglas Fingerson
Jim Freichels
Willy Hoskins (arrived at 9:47 a.m.)
Kim Huxford
Daniel Klein
Tim Malooly (arrived at 9:40 a.m.)
John McConnell
Dick Owen
Tom Seanger
John Schultz (DLI Commissioner's Designee)
Andy Toft
Joe Vespa

Staff Present:

Wendy Legge
Annette Trnka

Visitors:

John Ploetz
Gary Thaden
Bill Heaney
Dan McConnell
Sam Paola

Members Available by Teleconference:

None

Members Absent:

None

I. Call To Order

The meeting was called to order by Chair Freichels at 9:03 a.m. and role was taken. The Chair announced that the November Board meeting has changed from November 11, 2008 to November 3 at 9:00 a.m., as November 11th is a holiday.

II. Approval of Meeting Agenda

Legge asked to move item IV(C)(ii) on the Agenda to IV(C)(i). A motion was made by Owen seconded by Seanger to approve the meeting agenda as amended. All voted in favor and the motion passed.

III. Approval of Previous Meeting Minutes

A motion was made by Owen, seconded by Vespa to accept the previous Meeting Minutes. All voted in favor and the motion passed.

IV. Regular Business

A. Expense Approval

- i. A motion was made by Fingerson and seconded by McConnell to approve Expense Reports and Per Diems. The vote was unanimous, and the motion passed.

B. Minnesota Electrical Code

- i. Rulemaking Update – Set Date for Publication. Discussion was held regarding the effective date of the 2008 NEC. Wendy Legge explained that the default effective date is 5 working days after publication of the Notice of Adoption and to have it be a later date, it would have to be identified in the Rule itself. The Board can dictate the effective date by selecting the publication date of the Notice of Adoption. Gary Thaden spoke, stating that NECA didn't want it postponed, but that they would like to have a couple of weeks for notification. Owen made a motion, seconded by Seanger to publish the Notice of Adoption in the State Register on September 8, 2008, to make the effective date for the Adoption of the 2008 NEC September 15, 2008. The vote was unanimous and the motion passed.

C. Electrical Licensing

- i. Separation of Board and Department of Labor and Industry Electrical Rules – Legge spoke regarding the rules governed by the Board and the rules governed by the Department of Labor and Industry. Legge suggested that the Board rules remain as Chapter 3800 and that the Department of Labor and Industry be changed to 3801 or whatever number the Revisor would assign. Legge stated that she is acting on behalf of the Department of Labor and Industry on this topic, that the Board has authority to amend rules 3500.3500 to 3800.3603 and the Department has authority over 3800.3610 to 3800.3885. Legge stated that if the Board disagreed, she would be happy to arrange for advisement from the Attorney General's office for their determination. Toft stated he would like to get advice from the Attorney General regarding the Board's authority over licensing to determine whether the Board does, in fact, have authority. Toft believes qualifications of electrical licenses and the courses determination is under the authority of the Board, as the Board does have authority over experience credit for completion of a two-year post high school electrical course, approved by the Department.

Legge read the rule (326B.33, Subdivision 2, – Journeyman Electrician, item B) where it states that the Commissioner may, by Rule, allow one year of experience credit for the successful completion of a two year post high school electrical course approved by the Commissioner. Legge's interpretation is that it's the Commissioner's Rule as to what particular electrical courses are going to be approved for experience credit. Legge stated another option available to the Board would be to seek legislative clarification. Legge then read the Statute on the Board's powers (326B.32, Subdivision 2, Powers of the Board) to adopt rules that regulate licensure or registration, and to adopt rules on continuing education. Legge states that it does not say anything regarding technical program approval rules and also stated that the prior statute for the former Board of Electricity specifically talked about technical program approval committee. Toft asked why the Board is able to change the rules for requirements for licensure, which one of

them is to accept a two-year trade school or whether to give one year's credit for a two-year trade school or not, but does not have authority as to what the qualification requirements are. Legge read the statute regarding experience, stating "the Commissioner may, by rule, allow one year of experience credit for the successful completion of a two-year post high school electrical course."

Schultz stated that the Board could make the argument that under 326.B.32 Subdivision 2(5) that it gives the Board authority, but in 326.B.33, Subdivision 2(B), it gives authority to the Commissioner. Schultz stated it could be argued that there is a conflict in how the Statute is worded. It could also be argued that the experience credit is the authority and not in approval of the two-year post high-school electrical course, however being that 326B, Subdivision 2(B) is more specific, therefore it would control over 326(B), Subdivision (2), which is more generic. Legge stated that it's the Department's position that the rules the Board is considering in the draft presented are not Department rules, however the rules on technical program approval are. Legge stated that she doesn't believe there is any dispute that the Department has authority over 3800.3610 through 3800.3800.

Toft made a motion, seconded by McConnell to seek counsel from the Attorney General's office regarding 3800.3820 through 3800.3885, for determination of whose authority the rules fall under. The vote was Freichels, Fingerson, Seanger, McConnell, Toft, Vespa, Klein, and Owen. Opposed were Huxford and Schultz. The majority ruled and the motion passed.

Seanger made a motion, seconded by Toft to recommend the Revisor move 3800.3610 to 3800.3800 to a separate chapter, designated as the Department of Labor and Industry electrical rules. The vote was unanimous and the motion passed. Malooly arrived at 9:40 a.m.

- ii. Move Rules Forward on July 8, 2008 Language – Legge went over her proposed changes to Chapter 3800. Klein made a motion, seconded by Seanger, to accept the changes proposed by Legge on Chapter 3800. The vote was Freichels, Fingerson, Seanger, McConnell, Toft, Vespa, Huxford, Klein, Owen and Schultz. Opposed was Malooly. The majority ruled and the motion passed.

D. Continuing Education

- i. Move Rules Forward on July 8, 2008 Language – Toft made a motion, seconded by Fingerson, to direct Legge to draft an additional sentence for 3800.3500, Subpart 1, cross referencing other definitions in 326B.31 and general definitions in 326B. The vote was unanimous and the motion passed. Hoskins arrived at 9:47 a.m.

E. Enforcement

- i. Review 2nd Quarter Electrical Enforcement Activity Report – Chair reviewed the Department of Labor and Industry's 2nd Quarter Activity Report of violations.

V. Special Business

- A. Elect a Board Member to Serve on the Construction Codes Advisory Council (CCAC). Freichels nominated Tom Seanger to represent the Board on the Construction Codes Advisory Council. The vote was unanimous and the motion passed.
- B. Reciprocal Agreement(s)
 - i. Discuss and take action on ND, SD, NE & MN Master Agreement – The Board reviewed the draft agreement with Legge’s suggested changes. Toft asked about the termination clause being on the old agreement, which he doesn’t see on this draft and asked if one could be added. Legge stated she would add a 30 day termination clause in writing by either party to this agreement. Toft made a motion to have Legge add a 30 day termination clause to the agreement, seconded by Vespa. The vote was unanimous and the motion passed. Fingerson made a motion, seconded by Seanger to accept the amended draft of the Reciprocity Agreement. The vote was unanimous and the motion passed.
 - ii. Update on South Dakota’s ICC Exam – Schultz stated that next month he will be meeting with the Executive Directors of North Dakota, South Dakota as well as Nebraska and discussing this agreement and the concerns that Minnesota (and others have) with the ICC exam. He stated there should be a report available at the October meeting.
 - iii. Other States in the Multi State Agreement using ICC Exam – There was an annual conference which took place last week. There should be a report available by the September or October meeting.

VI. Committee Reports

There are no committee reports.

VII. Complaints

There have been no complaints presented to the Board.

VIII. Open Forum

There were no requests for Open Forum.

IX. Board Discussion

Toft stated that on the State’s website, there’s the availability to track the master record for electrical contractors and asked about the ability to track the master record for schools and maintenance facilities as well. Schultz stated that there are still some issues to work out with the new version of the database, but that it will become available at some point in the future.

X. Announcements

A. Next Regularly Scheduled Meetings

- i. Thursday, September 11, 9:00 a.m. – Minnesota Room, DLI

- ii. Tuesday, October 14, 2008, 9:00 a.m. – Minnesota Room, DLI
- iii. Monday, November 3, 2008, 9:00 a.m. – Minnesota Room, DLI

XI. Adjournment

A motion was made by Klein, seconded by Vespa, to adjourn the meeting of the Board of Electricity, the vote was unanimous and the motion passed. Board adjourned at 10:13 a.m.

Respectfully Submitted,

Douglas Fingerson

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