

Meeting Minutes: Plumbing Board (Special Meeting)

Date: March 17, 2022
Time: 9:30 a.m.
Minutes by: Lyndy Logan
Location: WebEx Event

Members

1. Sam Arnold
2. Richard Becker (Chair)
3. Mike Dryke
4. Kent Erickson (Secretary)
5. Justin Parizek
6. Troy Seitz
7. Scott Stewart
8. Rick Wahlen
9. Mike Westemeier (DLI Commissioner's Designee)
10. Shane Willis
David Weum (MDH Commissioner's Designee)

Members Absent

Mike Herman (Vice Chair)
Natasha Lawrence

DLI Staff & Visitors

Suzanne Todnem (Gen. Counsel, DLI)
Brittany Wysokinski (Gen. Counsel, DLI)

DLI Staff & Visitors continued

Lyndy Logan (DLI)
Brad Jensen (DLI)
Greg Metz (DLI)
Senator Jason Rarick
Forrest Cyr (MN Nursery & Landscape)
Christopher Gareis (City of St. Louis Park)
Adam Hanson (MN ABC)
Megan Hennen (MN ABC)
Rick Jacobs (Plumbers Local 34)
Mike Johnson (J-Berd Mechanical)
Larry Justin (KFI Engineers)
Troy Lindenfelser (City of Edina)
Timothy Malooly (MN Nursery)
Kristen Ober (Housing First)
Tom Pahkala (UA Plumbers Local 15)
John Parizek (MCHSI)
Tim Power (MN Nursery)
G. Schick (City of Rochester)
David Skallet (City of St. Louis Park)
Terry Strong (Hobart)

1. **Call to Order, Chair Presiding**

- A. The meeting was called to order and roll call was taken by Chair Becker at 9:36 AM. A quorum was declared with 9 of 12 voting members, and one non-voting member, present via WebEx. (Erickson joined the meeting at 9:50 resulting in 10 voting members, and one non-voting member).
- B. Announcements – Introductions (members and attendees)
 - **Remote meeting statement:** Thank you for joining this remote meeting via WebEx. As the board chair, I have determined today's meeting is via the WebEx platform due to the COVID-19 pandemic. Per Minnesota Statutes, section 13D.021, of the Open Meeting Law, electronic meetings are acceptable when an in-person meeting is "not practical or prudent because of a health pandemic or an emergency declared under Chapter 12." It is not practical or prudent to hold an in-person meeting because, consistent with MDH guidance, the usual meeting place is not open to the public due to the COVID-19 pandemic.
 - Board members and attendees present are able to hear all discussions and all handouts discussed and WebEx instructions are posted on the Board's website at: <https://www.dli.mn.gov/about-department/boards-and-councils/plumbing-board>
 - All votes will be by roll call. WebEx instructions/procedures were read aloud.

2. **Approval of meeting agenda**

A motion was made by Wahlen, seconded by Dryke, to approve the agenda as presented. The roll call vote was unanimous with 9 votes in favor; the motion carried.

3. **Regular Business**

A. Approval of expense reports

4. **Special Business**

A. Review, discuss and determine response, if any, to proposed legislation relevant to or within the scope of the Minnesota Plumbing Board – the Minnesota Plumbing Code and plumber licensing requirements – including SF183A-1 (**Attachment A**).

- **Senator Rarick** – Senator Rarick thanked the Board for calling this special meeting. He stated that SF183A-1 is legislation they've been working on with the pipe fitters and landscape industry regarding training required for the repair of backflow valves specific to irrigation and landscape work.
- **Tim Power** – Mr. Power represents the Minnesota Nursery and Landscape Association (MNLA), is a retired nursery grower, past MNLA president and longtime government affairs volunteer. Mr. Power stated the following: The MNLA has been following this issue for a number of years because, with the adoption of a new plumbing code in 2011, new backflow prevention assemblies were adopted and regulated. As of 2015, irrigation contractors get the same certification that licensed plumbers do to become certified testers. It is impractical if a certified tester with an irrigation contractor discovers an issue with the backflow prevention assembly because they need to stop their process and engage a plumber to repair or rebuild the device. He also stated that the current bill addresses previous concerns, in that it limits the type of backflow prevention assemblies it covers to those associated with systems used to supply water to soil and plant materials or landscape features. It also requires any non-plumber seeking this certification to have a nationally recognized 3rd party certification as a prerequisite.
- **Rick Jacobs** – Mr. Jacobs introduced himself as a 30-year master plumber, certified 5110 tester, 5120 surveyor, and ASSE 5130 rebuilder, and former chair of the MN Plumbing Board. He stated that the proposed legislation effects assemblies that are considered high-hazard devices and could potentially cause major health issues. If repairs are done incorrectly, it can negatively impact public health. Therefore, the work on these complex water systems should be performed by a licensed plumber who has an education on the systems that these assemblies affect. He stated that the ASSE 5130 backflow prevention assembly repairer certification requirement is intended to supplement the training of a licensed plumber with additional education on these specific devices. The intent was never to forgo the plumbing license requirements and replace it solely with a 3rd party certification. Finally, he stated that if any changes are made, it should be only that the language "reduced pressure backflow prevention assembly" be changed to "all back flow prevention assemblies and devices."

- **Timothy Malooly** – Mr. Malooly is a member of the MNLA, serves on its Government Affairs Committee, and just retired as MNLA’s president. He stated that his industry should be able to help protect the public good by adding additional qualified individuals to test and repair the tens of thousands of devices out in the State. He stated that they are not looking to reinstall the devices or to originally install the devices, but simply to make sure that the devices are in good working order using the 5110 and 5130 guidance that was accepted by the Board years ago. He stated that the bill adds a requirement for pre-qualification to obtain an industry certification that demonstrates competence in the field that person has selected. The irrigation industry, like the plumbing industry, requires several certifications and ongoing continuing education units.
- **Kent Erickson** – Mr. Erickson stated he is in agreement with Rick Jacobs. He believes the next step would be to test and rebuild them continually; therefore, he is very much opposed to this legislation.
- **David Weum** – Mr. Weum stated he would be interested in people’s experience in the field and stated that the legislation only contemplates the landscaping industry fixing/rebuilding something that is not functioning properly so the system could be protected and put right back where it was.
- **Justin Parizek** – Mr. Parizek stated that allowing this exception could open the door to allowing certified testers who are not plumbers to test many other types of systems, because the certification covers more than just pressure vacuum breakers.
- **David Weum** – Mr. Weum agreed with Mr. Parizek that it would be concerning if outside the scope, but the language says they’re only exempt from the licensing requirement if the backflow preventer is strictly for applying the water to soil and plant materials or provide water to landscape features; therefore, he isn’t sure if this includes more complex systems with the proposed language.
- **Rick Wahlen** – Mr. Wahlen stated that the busiest times of the entire year for a water utility is during irrigation turn-on season, and he sees things that are being missed already with regard to quality assurance, quality control and general awareness of RPZ’s (reduced pressure zone assemblies) that are in use in those situations. Due to this, he sees challenges in ensuring that a testable device is properly tested. He understands the concerns about the bill, and he also understands the concerns of the landscaping industry. As the public water supply board member, the last thing he wants is rushed-over RPZ to allow potential contaminants into a public water system. A licensed professional doing the work may make the public feel better, but it doesn't really help the irrigation contractor to meet the needs of his direct customers either. He believes there might be a balance to be achieved. If you have the ability to allow a contracting firm, who is not a licensed plumber, to inspect and repair these devices, then the person who is turning on/off that water system for irrigation purposes should also be that licensed individual. He doesn’t believe that irrigation contractors are prepared to have every one of their technicians be licensed, trained, and experienced as a licensed plumber.

- **Justin Parizek** – Mr. Parizek stated that the plumbing inspector provides normally provides enforcement; therefore, are we going to call for a plumbing inspector every single time that one of these are rebuilt or repaired.
- **Richard Becker** – Mr. Becker stated that the ultimate goal of these backflow devices is protecting the health of the public by having the licensed plumber be the person that is rebuilding. This device theoretically was installed and inspected, so it was installed correctly and code compliant, but what happens if someone altered the system upstream or downstream – licensed plumbers receive training to recognize and address these issues. If someone has only the 5000 series training, they know how the backflow preventer works and how to rebuild it, but they don't understand how the rest of the system could be affected and interact with it. He also noted that a licensed plumber has more training than someone who only has the 5000 series training. He stated that wanting to please customers by getting an irrigation system up and running faster isn't a good reason to risk having something done wrong.
- **Kent Erickson** – Mr. Erickson stated this isn't water that's used for sanitation, personal hygiene, bathing, and cooking, it's water to make lawns green. It is not a rush. Chair Becker agreed with Erickson's comments.
- **Rick Wahlen** – Mr. Wahlen stated that it would be very easy for an association, contractor, or owner of these devices to schedule annual testing and inspection of these devices, not when everyone is in a big rush to get them turned on. This takes away the urgency and the impracticality of having a licensed plumber do the work.
- **Tim Malooly** – Mr. Malooly repeated that he feels this legislation focuses on water in the outdoor living environment. In Minnesota the devices are generally limited to two types, the pressure vacuum breaker and reduced pressure zone assemblies (RPZ). He stated that the proposed training in the bill will provide a decent enough understanding of plumbing systems that they can go ahead and continue to do this work and that the landscaping industry is already onsite and know the devices used for these purposes. He also stated that right now some devices might be ignored because there aren't enough people to repair them.
- **Justin Parizek** – Mr. Parizek asked what is stopping irrigation companies from hiring a licensed plumber?
- **Rick Jacobs** – Mr. Jacobs stated that he has never heard that there weren't enough plumbers to go around to test or rebuild pressure vacuum breakers out of irrigation systems. He stated that the rebuilder also needs to send information to the local Authority Having Jurisdiction. He doesn't believe we should alter the requirements for safety out of sheer convenience simply because somebody happens to be onsite. He elaborated on comments made earlier by Justin Parizek and Rick Wahlen, irrigation contractors could hire a plumber. A plumber is already licensed to do this work without having to provide any kind of exemption. Devices could be tested throughout the year instead of in the spring which would alleviate the rush.
- **Richard Becker** – Mr. Becker said it appears from this discussion that the Board doesn't feel there is a need for legislation as there is a concern of having the potable water system contaminated due to a number of factors. The extra training afforded by having the plumbers license helps provide a backup and safety net.

- **Scott Stewart** – Mr. Stewart said that as a residential plumbing contractor, his job is to protect a complex system. Plumbing systems should only be serviced by licensed plumbers.
- **Justin Parizek** – Mr. Parizek confirmed Becker’s comment that he does not support the proposed legislation.

Chat messages:

- Rick Wahlen, Public Water System Operations Member to everyone: Reminder: An irrigation system is connected directly to the drinking water supply. The concern with public health does not involve the type of use (irrigation), it involves the potential for backflow into the water supply (either the drinking water internal to the building or to the public system itself).
- Timothy Malooly to everyone: You cannot schedule testing of devices when they are not in service. The devices must be tested at least annually and when placed into service

A motion was made by Parizek, seconded by Erickson, to authorize the Chair to draft and submit a letter to the author(s) summarizing the points made at the March 17, 2022, special Plumbing Board meeting. The roll call vote was unanimous with 10 votes in favor; the motion carried.

Kent Erickson joined the meeting at 9:50 a.m. resulting in 10 voting members and 1 non-voting member.

5. Announcements

Next regularly scheduled meetings in 2022, 9:30 AM – WebEx

- April 19, 2022

6. Adjournment

A motion was made by Erickson, seconded by Wahlen, to adjourn the meeting at 10:38 a.m. The roll call vote was unanimous with 10 votes in favor of the motion; the motion passed.

Respectfully submitted,

Kent Erickson

Kent Erickson
Secretary

Green meeting practices

The State of Minnesota is committed to minimizing in-person environmental impacts by following green meeting practices. DLI is minimizing the environmental impact of its events by following green meeting practices. DLI encourages you to use electronic copies of handouts or to print them on 100% post-consumer processed chlorine-free paper, double-sided.

1.1 Senator moves to amend S.F. No. 183 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. Minnesota Statutes 2020, section 326B.42, subdivision 1b, is amended to read:

1.4 Subd. 1b. **Backflow prevention rebuilder.** (a) A "backflow prevention rebuilder" is an
1.5 individual who is qualified by training prescribed by the Plumbing Board and possesses a
1.6 master or journeyworker plumber's license to engage in the testing, maintenance, and
1.7 rebuilding of ~~reduced-pressure-zone-type~~ backflow prevention assemblies as regulated by
1.8 the Plumbing Code.

1.9 (b) For the purposes of this section and section 326B.437, a backflow prevention rebuilder
1.10 who is qualified by training prescribed by the Plumbing Board and engages in rebuilding
1.11 of backflow prevention assemblies limited to systems used to apply water to soil and plant
1.12 materials or provide water to landscape features is exempt from the licensing requirements
1.13 of paragraph (a). Nothing in this paragraph allows an employee or delegate of the backflow
1.14 prevention rebuilder or tester to engage in the testing, maintenance, and rebuilding of
1.15 backflow prevention assemblies as regulated by the Plumbing Code, unless the employee
1.16 or delegate has the requisite backflow prevention tester or rebuilder training prescribed by
1.17 the Plumbing Board.

1.18 Sec. 2. Minnesota Statutes 2020, section 326B.42, subdivision 1c, is amended to read:

1.19 Subd. 1c. **Backflow prevention tester.** A "backflow prevention tester" is an individual
1.20 who is qualified by training prescribed by the Plumbing Board to engage in the testing of
1.21 ~~reduced-pressure-zone-type~~ backflow prevention assemblies as regulated by the Plumbing
1.22 Code.

1.23 Sec. 3. Minnesota Statutes 2020, section 326B.437, is amended to read:

1.24 **326B.437 REDUCED-PRESSURE BACKFLOW PREVENTION REBUILDERS**
1.25 **AND TESTERS.**

1.26 (a) No person shall perform or offer to perform the installation, ~~maintenance, repair, or~~
1.27 ~~replacement, or rebuilding of reduced-pressure-zone~~ of backflow prevention assemblies
1.28 unless the person obtains a plumbing contractor's license. An individual shall not engage
1.29 in the testing, maintenance, ~~repair,~~ or rebuilding of ~~reduced-pressure-zone~~ backflow
1.30 prevention assemblies, as regulated by the Plumbing Code, unless the individual is certified
1.31 by the commissioner as a backflow prevention rebuilder.

2.1 (b) An individual shall not engage in testing of a ~~reduced pressure zone~~ backflow
2.2 prevention assembly, as regulated by the Plumbing Code, unless the individual possesses
2.3 a backflow prevention rebuilder certificate or is certified by the commissioner as a backflow
2.4 prevention tester.

2.5 (c) Certificates are issued for an initial period of two years and must be renewed every
2.6 two years thereafter for as long as the certificate holder ~~installs, maintains, repairs,~~ rebuilds,
2.7 or tests ~~reduced pressure zone~~ backflow prevention assemblies. For purposes of calculating
2.8 fees under section 326B.092, an initial or renewed backflow prevention rebuilder or tester
2.9 certificate shall be considered an entry level license.

2.10 ~~(d) The Plumbing Board shall adopt expedited rules under section 14.389 that are related~~
2.11 ~~to the certification of backflow prevention rebuilders and backflow prevention testers.~~
2.12 ~~Section 326B.13, subdivision 8, does not apply to these rules. Notwithstanding the 18-month~~
2.13 ~~limitation under section 14.125, this authority expires on December 31, 2014.~~

2.14 ~~(e) The department shall recognize certification programs that are a minimum of 16~~
2.15 ~~contact hours and include the passage of an examination. The examination must consist of~~
2.16 ~~a practical and a written component. This paragraph expires when the Plumbing Board~~
2.17 ~~adopts rules under paragraph (d).~~

2.18 Sec. 4. Minnesota Statutes 2020, section 326B.46, subdivision 2, is amended to read:

2.19 Subd. 2. **Bond; insurance.** (a) The bond and insurance requirements of paragraphs (b)
2.20 and (c) apply to each person who performs or offers to perform plumbing work within the
2.21 state, including any person who offers to perform or performs sewer or water service
2.22 installation or backflow prevention testing or rebuilding as described under subdivision 1b,
2.23 paragraph (b), without a contractor's license. If the person performs or offers to perform
2.24 any plumbing work other than sewer or water service installation or backflow prevention
2.25 testing or rebuilding as described under subdivision 1b, paragraph (b), then the person must
2.26 meet the requirements of paragraphs (b) and (c) as a condition of holding a contractor's
2.27 license.

2.28 (b) Each person who performs or offers to perform plumbing work within the state shall
2.29 give and maintain bond to the state in the penal sum of at least \$25,000 for (1) all plumbing
2.30 work entered into within the state or (2) all plumbing work and subsurface sewage treatment
2.31 work entered into within the state. The bond must comply with section 326B.0921. If the
2.32 bond is for both plumbing work and subsurface sewage treatment work, the bond must
2.33 comply with the requirements of this section and section 115.56, subdivision 2, paragraph
2.34 (e).

3.1 (c) Each person who performs or offers to perform plumbing work within the state shall
3.2 have and maintain in effect public liability insurance, including products liability insurance
3.3 with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage
3.4 insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed
3.5 to do business in the state of Minnesota. Each person who performs or offers to perform
3.6 plumbing work within the state shall maintain on file with the commissioner a certificate
3.7 evidencing the insurance. In the event of a policy cancellation, the insurer shall send written
3.8 notice to the commissioner at the same time that a cancellation request is received from or
3.9 a notice is sent to the insured.

3.10 Sec. 5. Laws 2021, First Special Session chapter 10, article 3, section 14, subdivision 1,
3.11 is amended to read:

3.12 Subdivision 1. **License required.** (a) No individual shall engage in or work at the business
3.13 of a master plumber, restricted master plumber, journeyworker plumber, and restricted
3.14 journeyworker plumber unless licensed to do so by the commissioner. A license is not
3.15 required for individuals performing building sewer or water service installation who have
3.16 completed pipe laying training as prescribed by the commissioner. A license is not required
3.17 for individuals servicing or installing a commercial chemical dispensing system or servicing
3.18 or replacing a commercial dishwashing machine, including connecting a commercial chemical
3.19 dispensing system or commercial dishwashing machine to a water line or drain line, provided
3.20 that:

3.21 (1) the individual servicing or installing the commercial chemical dispensing system or
3.22 servicing or replacing the commercial dishwashing machine is an employee of the
3.23 manufacturer or distributor of the commercial chemical dispensing system or commercial
3.24 dishwashing machine;

3.25 (2) the individual servicing or installing the commercial chemical dispensing system or
3.26 servicing or replacing the commercial dishwashing machine has a minimum of 25 hours of
3.27 classroom or laboratory training, a minimum of 20 hours of in-field training with a qualified
3.28 technician on the types of systems being installed, followed by a minimum of 100 hours of
3.29 supervised field experience. The training and experience curriculum required under this
3.30 clause must be approved by the commissioner, in consultation with the manufacturer or
3.31 distributor, but the commissioner shall not require training or experience hours in excess
3.32 of the amounts specified in this clause;

4.1 (3) the manufacturer or distributor of the commercial chemical dispensing system or
 4.2 commercial dishwashing machine must meet the insurance requirements of section 326B.46,
 4.3 subdivision 2, paragraph (c);

4.4 (4) the connection is a push fit fitting, compression fitting, or threaded pipe fitting to an
 4.5 existing water line or drain, which has been initially installed by a licensed plumber; and

4.6 (5) the commercial chemical dispensing system complies with ASSE 1055 or contains
 4.7 code-approved integral backflow protection.

4.8 A license is not required for individuals performing backflow prevention rebuilding as
 4.9 described under subdivision 1b, paragraph (b), provided that the individual (1) has completed
 4.10 backflow prevention rebuilder training as prescribed by the Plumbing Board; and (2) has
 4.11 obtained a nationally recognized third-party accredited professional irrigation certification
 4.12 and any such professional certifications have been approved by the commissioner.

4.13 A master plumber may also work as a journeyworker plumber, a restricted journeyworker
 4.14 plumber, and a restricted master plumber. A journeyworker plumber may also work as a
 4.15 restricted journeyworker plumber. Anyone not so licensed may do plumbing work which
 4.16 complies with the provisions of the minimum standards prescribed by the Plumbing Board
 4.17 on premises or that part of premises owned and actually occupied by the worker as a
 4.18 residence, unless otherwise forbidden to do so by a local ordinance.

4.19 (b) No person shall engage in the business of planning, superintending, or installing
 4.20 plumbing or shall install plumbing in connection with the dealing in and selling of plumbing
 4.21 material and supplies unless at all times a licensed master plumber, or in cities and towns
 4.22 with a population of fewer than 5,000 according to the last federal census, a restricted master
 4.23 plumber, who shall be responsible for proper installation, is in charge of the plumbing work
 4.24 of the person.

4.25 (c) Except as provided in subdivision 1a, no person shall perform or offer to perform
 4.26 plumbing work with or without compensation unless the person obtains a contractor's license.
 4.27 A contractor's license does not of itself qualify its holder to perform the plumbing work
 4.28 authorized by holding a master, journeyworker, restricted master, or restricted journeyworker
 4.29 license."

4.30 Delete the title and insert:

4.31 "A bill for an act
 4.32 relating to Plumbing Code; exempting certain work on landscape irrigation systems
 4.33 from licensing requirements; amending Minnesota Statutes 2020, sections 326B.42,
 4.34 subdivisions 1b, 1c; 326B.437; 326B.46, subdivision 2; Laws 2021, First Special
 4.35 Session chapter 10, article 3, section 14, subdivision 1."