

**Board of Electricity
Meeting Minutes
December 9, 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
Kim Huxford
Daniel Klein
Timothy Malooly
John McConnell
Dick Owen
John Schultz (DLI Commissioner's Designee)
Tom Seanger

Members Available by Teleconference:

None

Members Absent:

Andy Toft
Joe Vespa

Staff Present:

Wendy Legge
Annette Trnka
Jim Lungstrom

Visitors:

John Ploetz
Phil Raines
Gary Thaden
Dan McConnell
Scott Nutting
Russ Ernst
Jim Nimlos
Judi Rubin

I. Call To Order

The meeting was called to order by Chair Freichels at 9:07 a.m. and role was taken.

II. Approval of Meeting Agenda

A motion was made by Owen and seconded by Fingerson to approve the meeting agenda. All voted in favor and the motion passed. Huxford and Klein were not present for this vote.

III. Approval of Previous Meeting Minutes

A motion was made by Owen, seconded by Seanger, to accept the previous Meeting Minutes. All voted in favor and the motion passed. Huxford and Klein were not present for this vote.

IV. Regular Business

- A. Expense Approval
 - i. A motion was made by Fingerson, seconded by Owen, to approve Expense Reports and Per Diems. The vote was unanimous, and the motion passed. Huxford and Klein were not present for this vote.
- B. Minnesota Electrical Code – Chapter 3800 – Legge discussed the Dual Notice which is going to be published on December 22, 2008. Legge stated that the Chief Administrative Law Judge has approved waiving the mailing and publication of the rules and instead posting the rules to the Board's website. The rules are now posted to the Board's website. Huxford arrived at 9:13 a.m.

Legge discussed the Hearing date, which had been set for January, 2009, but because the Governor's office delayed the approval, the hearing was moved to February 17, 2009. The deadline for comments and written requests for hearing is 4:30 p.m. on January 21st. If there are 25 requests for a hearing by January 21st, the Hearing will be held. If there are fewer than 25 requests for a hearing, the hearing will be cancelled. The Judge assigned to this rule is Barbara Neilson. The additional notice plan was questioned by Judge Neilson on what continuing education providers were receiving notice. Legge stated that the Additional Notice plan has been changed to include all the additional education providers that are listed on the DLI website, along with all MNSCU electrical program providers and Judge Neilson then approved the additional notice plan which is now stated in the final SONAR. Dan Klein arrived at 9:15 a.m.

Fingerson pointed out that on page three of the Dual Notice, the date states January 2008. This will be changed at the end of the meeting and Freichels will sign the corrected Dual Notice.

- C. Enforcement
 - i. None – the Report should be available at the end of the Quarter.

V. Special Business

- D. Reciprocal agreements
 - i. Update on MN State Master Reciprocity Agreement (with ND, NE, & SD) Schultz stated that both the North Dakota and Nebraska Boards have agreed to the language of the draft agreement. Schultz had a conversation with the new Executive Director of South Dakota last week. As he had just started the prior week, he hasn't had an opportunity to review the agreement language yet. The next commission meeting is in January 2009, and Schultz expects to hear something back from South Dakota at that point. He asked if the Board wants to move forward with individual agreements with ND and Nebraska and set the South Dakota agreement aside. Seanger made a motion, seconded by Hoskins, to move forward with the individual state reciprocity agreements with North Dakota and also Nebraska and set aside the agreement with South Dakota for now. The vote was unanimous and the motion passed.

- ii. Review Update on South Dakota's ICC Exam – Schultz spoke with Mr. Lynn, the new Executive Director of South Dakota, who hasn't had opportunity to familiarize himself with the issue yet.
- iii. Review new Multi State Reciprocity Agreement – Schultz stated there is a teleconference with the member states on February 10th at 10:00 a.m. (which is the same day as the Board of Electricity's meeting). Schultz stated that direction has to be decided by the Board on what Minnesota's input will be to that discussion. Schultz stated that he believes the member states teleconference's purpose will be to vote whether or not to adopt the draft agreement and language at that time.

Schultz pointed out the provision in the first paragraph on page 4 of the Agreement, in the first paragraph, where only a 4/5 vote of the voting members present is all that's required to approve membership request. As an example, earlier this year, the Board voted to not accept Texas as a member. Minnesota was the only state that voted not to accept Texas. With this "4/5 vote" language, then Texas would be a members and Minnesota would be required to accept Texas' license holders for licensure in Minnesota.

Schultz also added that on page 4 of the agreement, it appears that election of officers can be done at any time and not just at an annual meeting and that officers can be replaced at any time at any meeting, although the term of the officers are to be four years.

On page 7, Article XXII is a concern because of the test scores by state. For example, if you have a license from Minnesota with a passing score of 70% some states won't recognize the examination unless you have 75%, because that corresponds with that state's statute. Another example is that North Dakota recently adopted a mandatory apprenticeship requirement. Schultz asked the Director in North Dakota if that will impact the reciprocal applicants from Minnesota who haven't completed an apprenticeship training program and was told that it won't unless an applicant from ND challenges that requirement.

Owen stated he has concerns regarding being able to be represented at the meetings, as it appears that teleconference attendance is acceptable except for the general meeting. Owen said he would have concerns about having this reciprocal agreement but not have a representative from Minnesota available to attend the general meetings. Schultz stated that he felt it's a good point because of the State of Minnesota's budget constraints. The next scheduled meeting is in New Hampshire (the last meeting was held in Alaska) and travel costs will be high and Schultz felt that getting approval for the expense would not be likely. Schultz went on to state that he felt that attendance by teleconference at the general meeting would be imperative.

McConnell stated that he had concerns regarding if the Multi-state Board decided to admit a state into the agreement that Minnesota opposes, and asked Legge what recourse does Minnesota have. Legge stated that, as stated on page 6 of the agreement, it states that termination of membership can be done with 30 days

notice. Schultz stated that the statute in Minnesota is clear in that any applicant must meet Minnesota's requirements and that should lessen some of the concern about the qualifications of applicants from other states.

Schultz stated that he feels that the "deal breaker" regarding the draft multi-state reciprocity agreement is the 4/5 vote on membership acceptance. It is a misconception that if you take one state, you take all states. He stated that at the Master license level in ND, they refuse to acknowledge that they want to be able to use discretion. In MN you can qualify for the master license examination without any practical experience by getting an EE degree. ND will not accept an applicant from Minnesota who became licensed with just an EE degree and thereby is the double standard. Schultz stated that the most practical way to deal with this issue is as the language states in the individual agreements Minnesota has with North Dakota and Nebraska by allowing the individual state have the discretion to say that the applicant must meet that State's requirements

Freichels asked if some of the concerns that Minnesota has could be put into the draft multi-state agreement. Schultz stated that he's not aware of what the other states feelings were about the draft multi-state agreement and what, if any, objections other states may have to the agreement. Schultz stated that he is aware that some of the other participating states in the multi-state agreement have individual agreements with such states as Idaho and Utah. Schultz is aware that some of the states have expressed concern about the 4/5 vote on membership acceptance. Schultz stated that the majority of activity is with South Dakota, North Dakota and Nebraska.

McConnell asked what the advantage is for being a part of the multi-state agreement rather than just having agreements with individual states. Schultz answered that the advantage of being a part of the multi-state agreement is to have a forum for discussion of common issues such as continuing education and inspection, as well as licensing, and in fact there is a companion agreement for continuing education. However, Schultz doesn't like the language in the current draft agreement.

Legge had some suggestions. She stated that on Page 7, the conditions for journeyman reciprocity seem to state that reciprocity will be granted under these conditions. Legge stated that if there is concern regarding applicants who do not meet Minnesota's requirements it could be solved by adding the statement "The reciprocal state will grant reciprocity where the above requirements are met unless prohibited by the laws of the reciprocal state."

Seanger asked what happens if Minnesota were to take a stand on the "4/5 vote" portion of the agreement and Schultz stated if on February 10th the multi-state Board proceeds with the vote and the draft agreement is adopted, Minnesota would then have the option to withdraw from the multi-state agreement and just move forward with individual state agreements. Minnesota currently has individual agreements at the journeyman level with South Dakota, North Dakota and Nebraska, which are old, but have not been rescinded.

Fingerson asked if Schultz's opinion was that the draft agreement should have 100% agreement, not 4/5. Schultz responded that he feels the focus of the agreement is wrong; it should be the individual state whose requirements need to be met first, the agreement requirements second. Schultz states that it isn't right to treat an applicant from an outside state differently than Minnesota treats the applicants within its own state. Schultz stated the draft agreement allows more states to expand the membership of each state, but it doesn't address the problems created by the draft agreement for one state's requirements not being the same as another state's requirements and admitting applicants which are not meeting each state's requirements.

Fingerson asked what Schultz would propose in place of the 4/5 vote. Schultz stated that the purpose of the draft agreement is to increase the membership to include more states. The more states that are in the membership makes it more difficult because of all the variables that comes up with adding each new state. Schultz said there are states that are currently members of the multi-state reciprocity agreement which cannot accept other states' applicants because the applicant doesn't meet that state's statutory requirements. Schultz stated that if the agreement was changed to include the statement that Legge had suggested regarding "unless prohibited by the reciprocal state" then it wouldn't matter if the "4/5 vote" clause was left in the draft agreement.

McConnell said that under the current multi-state reciprocity agreement the vote is 100% in order to accept a new state; what is the percentage of vote required to accept the amended By-Laws? Legge stated it would go by the current By-Laws on amendments. The current agreement was then reviewed and it was determined that 100% agreement is needed to amend the By-Laws.

Malooly asked what method Minnesota would use to communicate to the reciprocity council what changes Minnesota would like to see in the draft agreement. Freichels asked if the Board agrees that Schultz should put together some amended language to suggest to the Reciprocity council. Schultz stated it couldn't wait that long as the council meets on the same day as the Board of Electricity, and something should be put together before then.

Seanger made a motion that the Board notify NERA that the reciprocity agreement as written is not acceptable and to let the NERA know what the Board of Electricity's concerns are with the 4/5 voting and the requirements for the reciprocal license; to use the Minnesota language in Article XXII in the agreement and authorized Schultz to draft a letter to this effect, seconded by Hoskins. Owen made a friendly amendment to add the discussion regarding the term of officers, seconded by Schultz. The vote was unanimous on the friendly amendment and the motion passed. The vote on the original motions was unanimous and the motion passed.

Malooly asked if the document was initially drafted with the understanding in mind that the agreement couldn't supersede each individual state's requirements. Schultz stated he wasn't sure – the agreement was drafted by the state of Washington.

VI. Committee Reports

- A. Board on the Construction Codes Advisory Council – Tom Joachim stated the Construction Codes Advisory Council was put into law during the last legislative session. He stated that the appointments were not complete for the Council and applications are still being accepted for the member placements. The first meeting is tentatively planned for late January. The Construction Code Advisory Council has the responsibility to review any of the codes that is being proposed to adopt; either by the Department of Labor and Industry or any of the Boards. The energy and mechanical codes are currently being updated, which will also be reviewed by the Council.

Freichels asked who is appointed to the Construction Code Advisory Council besides the member from the Board of Electricity. Joachim stated there will be a total of 18 members on the Council, which includes a member from each of the Boards; (Plumbing, Electricity and High Pressure Piping Systems) a designee by the Commissioner of Labor and Industry; the Commissioner or Commissioner's designee from the Department of Public Safety; a licensed architect; a licensed engineer; a building official; a member of the fire service industry; a member from the manufactured housing industry; a member of the business trades industry; a representative from local government; a licensed residential builder; a licensed commercial builder; among others, appointed to the Council.

VII. Complaints

There have been no complaints to the Board.

VIII. Open Forum

Schultz stated the Revisor has published the new statute which is Chapter 326B, and the booklet which was included into today's meeting packet has an overview of statutes in 326B that pertain to the electrical and enforcement sections, and also includes a link to the website for Chapter 326B in its entirety. Legge stated that the booklet was printed for the convenience of the Board and that some of the statutes in the Booklet are actually out of order.

Scott Nutting introduced himself as the successor of Ron Beldo as the President of the Contract Electrical Inspectors Association (CEIA). He stated that approximately fifty percent of contract electrical inspectors are members of CEIA. He also stated that REI's are being processed faster, approximately ten days sooner, and that the addition of another employee had really helped. He stated that he looks forward to working with the Board of Electricity.

IX. Board Discussion

Seanger asked if the licensing department had replaced their help. Schultz stated that the licensing department was currently in the hiring process. Because of the hiring freeze, it has been more difficult to fill open positions; however, the positions are being recruited.

Schultz stated that there were a couple of points of interest. One is the inspection revenue, which is down approximately 9-10% compared to the same period last year. Also, on December 8, 2008, a Request For Proposals was published in the State Register relating to the new I.T. system for the division and the hope is that a contract will be in place by February 1, 2009.

X. Announcements

A. Next Regularly Scheduled Meetings

- i. Tuesday, January 27, 2009, 9:00 a.m. – Minnesota Room, DLI
- ii. Tuesday, February 10, 2009, 9:00 a.m. – Minnesota Room, DLI
- iii. Administrative Hearing on February 17, 2009, 9:30 a.m. – if required

XI. Adjournment

A motion was made by McConnell, seconded by Huxford, to adjourn the meeting of the Board of Electricity, the vote was unanimous and the motion passed. Board adjourned at 10:23 a.m.

Respectfully Submitted,

Douglas Fingerson

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