

## HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2087

02/08/2012 Authored by LeMieur and Mahoney

The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

02/16/2012 Adoption of Report: Pass as Amended and Read Second Time

03/05/2012 By motion, re-referred to the Committee on Ways and Means

03/14/2012 Adoption of Report: Pass as Amended and Read Second Time

1.1 A bill for an act  
 1.2 relating to labor and industry; making changes to the State Building Code;  
 1.3 apprenticeship training; amending Minnesota Statutes 2010, sections 178.01;  
 1.4 178.03, subdivisions 3, 4; 178.05, subdivisions 1, 2; 178.06; 178.07; 178.08;  
 1.5 178.09, subdivisions 1, 2; 326B.092, subdivisions 2, 7; 326B.103, subdivision  
 1.6 3; Minnesota Statutes 2011 Supplement, sections 326B.46, subdivision 1a;  
 1.7 326B.49, subdivision 1; repealing Minnesota Rules, parts 1300.0230, subpart  
 1.8 4; 1301.1201; 1302.0600; 3801.3640; 3801.3650; 3801.3660; 3801.3670;  
 1.9 3801.3680; 3801.3690; 3801.3700; 3801.3710; 3801.3720; 3801.3730;  
 1.10 3801.3740; 3801.3760; 3801.3790; 3801.3800.

1.11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.12 Section 1. Minnesota Statutes 2010, section 178.01, is amended to read:

1.13 **178.01 PURPOSES.**

1.14 The purposes of this chapter are: to open to ~~young~~ all people regardless of race,  
 1.15 sex, creed, color or national origin, the opportunity to obtain training and on-the-job  
 1.16 learning that will equip them for profitable employment and citizenship; to establish as  
 1.17 a means to this end, a program of voluntary apprenticeship under approved ~~apprentice~~  
 1.18 apprenticeship agreements providing facilities for their training and guidance in the arts,  
 1.19 skills, and crafts of industry and trade or occupation, with concurrent, supplementary  
 1.20 instruction in related subjects; to promote apprenticeship opportunities under conditions  
 1.21 providing adequate training and on-the-job learning and reasonable earnings; to relate the  
 1.22 supply of skilled workers to employment demands; to establish standards for apprentice  
 1.23 training; to establish an Apprenticeship Board and apprenticeship committees to assist in  
 1.24 effectuating the purposes of this chapter; to provide for a Division of Labor Standards  
 1.25 and Apprenticeship within the Department of Labor and Industry; to provide for reports  
 1.26 to the legislature regarding the status of apprentice training in the state; to establish a

2.1 procedure for the determination of ~~apprentice~~ apprenticeship agreement controversies;  
2.2 and to accomplish related ends.

2.3 Sec. 2. Minnesota Statutes 2010, section 178.03, subdivision 3, is amended to read:

2.4 Subd. 3. **Duties and functions.** The director, under the supervision of the  
2.5 commissioner, and with the advice and consultation of the Apprenticeship Board, is  
2.6 authorized: to administer the provisions of this chapter; to promote apprenticeship and  
2.7 other forms of on-the-job learning; to establish, in cooperation and consultation with the  
2.8 Apprenticeship Board and with the apprenticeship committees, conditions, training, and  
2.9 learning standards for the approval of apprenticeship programs and agreements, which  
2.10 conditions and standards shall in no case be lower than those (1) prescribed by this chapter,  
2.11 and (2) established under Code of Federal Regulations, title 29, part 29; to promote equal  
2.12 employment opportunity in apprenticeship and other on-the-job learning and to establish  
2.13 a Minnesota plan for equal employment opportunity in apprenticeship which shall be  
2.14 consistent with standards established under Code of Federal Regulations, title 29, part 30,  
2.15 as amended; to issue certificates of registration to sponsors of approved apprenticeship  
2.16 programs; to act as secretary of the Apprenticeship Board; to approve, if of the opinion  
2.17 that approval is for the best interest of the apprentice, any apprenticeship agreement which  
2.18 meets the standards established hereunder; to terminate any apprenticeship agreement in  
2.19 accordance with the provisions of such agreement; to keep a record of apprenticeship  
2.20 agreements and their disposition; to issue certificates of completion of apprenticeship;  
2.21 and to perform such other duties as the commissioner deems necessary to carry out the  
2.22 intent of this chapter; provided, that the administration and supervision of supplementary  
2.23 instruction in related subjects for apprentices; coordination of instruction on a concurrent  
2.24 basis with job experiences, and the selection and training of teachers and coordinators  
2.25 for such instruction shall be the function of state and local boards responsible for  
2.26 vocational education. The director shall have the authority to make wage determinations  
2.27 applicable to the graduated schedule of wages and ~~journeymen~~ journeyworker wage rate  
2.28 for apprenticeship agreements, giving consideration to the existing wage rates prevailing  
2.29 throughout the state, except that no wage determination by the director shall alter an  
2.30 existing wage provision for apprentices or ~~journeymen~~ journeyworkers that is contained in  
2.31 a bargaining agreement in effect between an employer and an organization of employees,  
2.32 nor shall the director make any determination for the beginning rate for an apprentice that  
2.33 is below the wage minimum established by federal or state law.

2.34 Sec. 3. Minnesota Statutes 2010, section 178.03, subdivision 4, is amended to read:

3.1 Subd. 4. **Reciprocity approval.** The director, if requested by a sponsoring entity,  
 3.2 shall grant reciprocity approval to apprenticeship programs of employers and unions  
 3.3 who jointly form a sponsoring entity on a multistate basis in other than the building  
 3.4 construction industry if such programs are in conformity with this chapter and have been  
 3.5 registered in compliance with Code of Federal Regulations, title 29, part 29, by a state  
 3.6 apprenticeship council recognized by or registered with the ~~Bureau of Apprenticeship~~  
 3.7 ~~and Training~~, United States Department of Labor, Office of Apprenticeship, when such  
 3.8 approval is necessary for federal purposes under Code of Federal Regulations, title 29,  
 3.9 section 29.13(a) or 29.13(b)(7).

3.10 Sec. 4. Minnesota Statutes 2010, section 178.05, subdivision 1, is amended to read:

3.11 Subdivision 1. **Establishment of committees.** Apprenticeship committees may  
 3.12 be established by the director to supervise the operation of apprenticeship programs.  
 3.13 Establishment of a committee may be considered justified if either of the following  
 3.14 conditions are met:

3.15 (a) When the employers and employees in a trade or occupation or trades or  
 3.16 occupations are parties to a collective bargaining agreement requiring joint participation  
 3.17 in program operation; or

3.18 (b) When five or more apprentices are enrolled under a program.

3.19 Sec. 5. Minnesota Statutes 2010, section 178.05, subdivision 2, is amended to read:

3.20 Subd. 2. **Members.** (a) The total number of members on a committee may range  
 3.21 from four to twelve.

3.22 (b) In joint participation there shall be equal representation of employers and  
 3.23 employees.

3.24 (c) Members shall be selected by the group or groups they represent subject to  
 3.25 approval by the director.

3.26 ~~(d) A committee may have as one of its employee representatives, an active~~  
 3.27 ~~apprentice of record, provided that the apprentice has completed a minimum of 6,000~~  
 3.28 ~~hours of an apprenticeship term or has entered the fourth year of the term.~~

3.29 Sec. 6. Minnesota Statutes 2010, section 178.06, is amended to read:

3.30 **178.06 APPRENTICE.**

3.31 The term "apprentice," as used herein, means a person at least 16 years of age who  
 3.32 has entered into a written agreement, hereinafter called an apprentice apprenticeship  
 3.33 agreement, with a committee, an employer, an association of employers, or an organization

4.1 of employees, which ~~apprentice agreement~~ provides for learning consistent with this  
 4.2 chapter and Code of Federal Regulations, title 29, section 29.5(b)(1) and (b)(2):

4.3 (1) a time-based approach involving not less than 2,000 hours or one year  
 4.4 of reasonably continuous employment for such person and for participation in an  
 4.5 approved program of on-the-job learning through employment and through concurrent,  
 4.6 supplementary education in related subjects;

4.7 (2) a competency-based approach involving successful demonstration of acquired  
 4.8 skills and knowledge by an apprentice plus on-the-job learning; or

4.9 (3) a hybrid approach involving the completion of a specified minimum number of  
 4.10 hours plus the successful demonstration of competency.

4.11 Whenever a minimum age exceeding 16 years is prescribed by federal or state law  
 4.12 to apply to workers in certain hazardous occupations, the minimum age so prescribed  
 4.13 shall be applicable to apprentices.

4.14 Sec. 7. Minnesota Statutes 2010, section 178.07, is amended to read:

4.15 **178.07 ~~APPRENTICE~~ APPRENTICESHIP AGREEMENTS.**

4.16 Every ~~apprentice~~ apprenticeship agreement entered into under this chapter shall  
 4.17 contain:

4.18 (1) the names of the contracting parties;

4.19 (2) the date of birth, and information as to the race and sex of the apprentice;

4.20 (3) a statement of the trade, craft, occupation, or business which the apprentice is to  
 4.21 be taught, and the time at which the apprenticeship will begin and end;

4.22 (4) a statement showing the number of hours to be spent by the apprentice in work  
 4.23 and the number of hours to be spent in concurrent, supplementary instruction in related  
 4.24 subjects, which instruction shall be not less than 144 hours during each year of the  
 4.25 apprenticeship term. The maximum number of hours of work per week not including time  
 4.26 spent in related and supplemental instruction for any apprentice shall not exceed either  
 4.27 the number prescribed by law or the customary regular number of hours per week for the  
 4.28 employees of the company by which the apprentice is employed. An apprentice may  
 4.29 be allowed to work overtime provided that the overtime work does not conflict with  
 4.30 supplementary instruction course attendance. All time in excess of the number of hours of  
 4.31 work per week as specified in the apprenticeship agreement shall be considered overtime.  
 4.32 For overtime, the apprentice's rate of pay shall be increased by the same percentage as the  
 4.33 ~~journeyman's~~ journeyworker's rate of pay for overtime is increased in the same industry or  
 4.34 establishment;

5.1 (5) a statement setting forth a schedule of the processes in the trade, occupation,  
 5.2 or industry divisions in which the apprentice is to be taught and the approximate time to  
 5.3 be spent at each process;

5.4 (6) a statement of the graduated scale of wages to be paid the apprentice and whether  
 5.5 the required school time shall be compensated;

5.6 (7) a statement providing for a period of probation of not more than 500 hours of  
 5.7 employment and instruction extending over not more than four months, during which time  
 5.8 the ~~apprentice~~ apprenticeship agreement shall be terminated by the director upon written  
 5.9 request of either party, and providing that after such probationary period the ~~apprentice~~  
 5.10 apprenticeship agreement may be terminated by the director by mutual agreement of all  
 5.11 parties thereto, or terminated by the director for good and sufficient reason;

5.12 (8) a provision that controversies or differences concerning the terms of the  
 5.13 ~~apprentice~~ apprenticeship agreement which cannot be resolved by the parties thereto, or  
 5.14 which are not covered by a collective bargaining agreement, may be submitted to the  
 5.15 director for determination as provided for in section 178.09;

5.16 (9) a provision that an employer who is unable to fulfill an obligation under the  
 5.17 ~~apprentice~~ apprenticeship agreement may, with the approval of the director, transfer such  
 5.18 contract to any other employer, provided that the apprentice consents and that such other  
 5.19 employer agrees to assume the obligations of the ~~apprentice~~ apprenticeship agreement; and

5.20 (10) such additional terms and conditions as may be prescribed or approved by the  
 5.21 director not inconsistent with the provisions of this chapter.

5.22 Sec. 8. Minnesota Statutes 2010, section 178.08, is amended to read:

5.23 **178.08 DIRECTOR TO APPROVE ~~APPRENTICE~~ APPRENTICESHIP**  
 5.24 **AGREEMENTS.**

5.25 Every ~~apprentice~~ apprenticeship agreement is subject to approval by the director  
 5.26 and shall be signed by the committee, the employer, an association of employers, or  
 5.27 an organization of employees, and by the apprentice, and if the apprentice is a minor,  
 5.28 by a parent or legal guardian. When a minor enters into an ~~apprentice~~ apprenticeship  
 5.29 agreement under this chapter for a period of learning extending into majority the  
 5.30 ~~apprentice~~ apprenticeship agreement shall likewise be binding for such a period as may be  
 5.31 covered during the apprentice's majority.

5.32 Sec. 9. Minnesota Statutes 2010, section 178.09, subdivision 1, is amended to read:

5.33 Subdivision 1. **Complaint.** Upon the complaint of any interested person or upon  
 5.34 the director's own initiative the director may investigate to determine if there has been a

6.1 violation of the terms of an ~~apprentice~~ apprenticeship agreement made under this chapter.  
6.2 The director may conduct such proceedings as are necessary for that investigation and  
6.3 determination. All such proceedings shall be on a fair and impartial basis and shall be  
6.4 conducted according to rules promulgated under section 178.041.

6.5 Sec. 10. Minnesota Statutes 2010, section 178.09, subdivision 2, is amended to read:

6.6 Subd. 2. **Determination; appeal.** The determination of the director shall be filed  
6.7 with the commissioner and written notice shall be served on all parties affected by it.  
6.8 Any person aggrieved by any determination or action of the director may appeal to the  
6.9 commissioner. If no appeal is filed with the commissioner within ten days of the date  
6.10 of service, the director's determination shall become the order of the commissioner. If  
6.11 an appeal is filed, the commissioner shall appoint and convene a hearing board to be  
6.12 composed of three members of the ~~council~~ apprenticeship board appointed under section  
6.13 178.02, one member being a representative of an employer organization, one representative  
6.14 being a member of an employee organization, and one member representing the general  
6.15 public. The board shall hold a hearing on the appeal after due notice to the interested  
6.16 parties and shall submit to the commissioner findings of fact and a recommended decision  
6.17 accompanied by a memorandum of the reasons for it. Within 30 days after submission,  
6.18 the commissioner may adopt the recommended decision of the board, or disregard the  
6.19 recommended decision of the board and prepare a decision based on the findings of fact  
6.20 and accompanied by a memorandum of reasons for that decision. Written notice of the  
6.21 commissioner's determination and order shall be served on all parties affected by it. Any  
6.22 person aggrieved or affected by any determination or order of the commissioner may  
6.23 appeal from it to the district court having jurisdiction at any time within 30 days after the  
6.24 date of the order by service of a written notice of appeal on the commissioner. Upon  
6.25 service of the notice of appeal, the commissioner shall file with the court administrator  
6.26 of the district court to which the appeal is taken a certified copy of the order appealed  
6.27 from, together with findings of fact on which it is based. The person serving a notice of  
6.28 appeal shall, within five days after its service, file it, with proof of service, with the court  
6.29 administrator of the court to which the appeal is taken. The district court shall then have  
6.30 jurisdiction over the appeal and it shall be entered in the records of the district court and  
6.31 tried de novo according to the applicable rules. Any person aggrieved or affected by any  
6.32 determination, order, or decision of the district court may appeal as in other civil cases.

6.33 Sec. 11. Minnesota Statutes 2010, section 326B.092, subdivision 2, is amended to read:

7.1 Subd. 2. **Licenses not requiring examination administered by commissioner.** If  
 7.2 the applicant for a license is not required to pass an examination in order to obtain the  
 7.3 license, or is required to pass an examination that is not administered by the commissioner,  
 7.4 then the license fee must accompany the application for the license. If the application is  
 7.5 for a license issued under sections 326B.802 to 326B.885 and is not an application for  
 7.6 license renewal, then the contractor recovery fund fee required under section 326B.89,  
 7.7 subdivision 3, is due ~~after the department has determined that the applicant meets the~~  
 7.8 ~~qualifications for licensing and before the license is issued.~~

7.9 Sec. 12. Minnesota Statutes 2010, section 326B.092, subdivision 7, is amended to read:

7.10 Subd. 7. **License fees and license renewal fees.** (a) The license fee for each license  
 7.11 ~~except a renewed license shall be the base license fee plus any applicable board fee, as~~  
 7.12 ~~set forth in this subdivision. The license renewal fee for each renewed license is the~~  
 7.13 base license fee plus any applicable board fee, continuing education fee, and contractor  
 7.14 recovery fund fee and additional assessment, as set forth in this subdivision.

7.15 (b) For purposes of this section, "license duration" means the number of years for  
 7.16 which the license is issued except that:

7.17 (1) if the initial license is not issued for a whole number of years, the license duration  
 7.18 shall be rounded up to the next whole number; and

7.19 (2) if the department receives an application for license renewal after the renewal  
 7.20 deadline, license duration means the number of years for which the renewed license would  
 7.21 have been issued if the renewal application had been submitted on time and all other  
 7.22 requirements for renewal had been met.

7.23 (c) The base license fee shall depend on whether the license is classified as an entry  
 7.24 level, master, journeyman, or business license, and on the license duration. The base  
 7.25 license fee shall be:

License Classification	License Duration		
	1 Year	2 Years	3 Years
Entry level	\$10	\$20	\$30
Journeyman	\$20	\$40	\$60
Master	\$40	\$80	\$120
Business	\$90	\$180	\$270

7.32 (d) If there is a continuing education requirement for renewal of the license, then  
 7.33 a continuing education fee must be included in the renewal license fee. The continuing  
 7.34 education fee for all license classifications shall be: \$10 if the renewal license duration is  
 7.35 one year; \$20 if the renewal license duration is two years; and \$30 if the renewal license  
 7.36 duration is three years.

8.1 (e) If the license is issued under sections 326B.31 to 326B.59 or 326B.90 to  
8.2 326B.93, then a board fee must be included in the license fee and the renewal license fee.  
8.3 The board fee for all license classifications shall be: \$4 if the license duration is one year;  
8.4 \$8 if the license duration is two years; and \$12 if the license duration is three years.

8.5 (f) If the application is for the renewal of a license issued under sections 326B.802  
8.6 to 326B.885, then the contractor recovery fund fee required under section 326B.89,  
8.7 subdivision 3, and any additional assessment required under section 326B.89, subdivision  
8.8 16, must be included in the license renewal fee.

8.9 Sec. 13. Minnesota Statutes 2010, section 326B.103, subdivision 3, is amended to read:

8.10 Subd. 3. **Agricultural building.** "Agricultural building" means a structure that is:

8.11 (1) on agricultural land as ~~defined in~~ determined by the governing assessor for the  
8.12 municipality or county under section 273.13, subdivision 23;

8.13 (2) designed, constructed, and used to house farm implements, livestock, or  
8.14 agricultural produce or products under section 273.13, subdivision 23; and

8.15 (3) used by the owner, lessee, and sublessee of the building and members of their  
8.16 immediate families, their employees, and persons engaged in the pickup or delivery of  
8.17 agricultural produce or products.

8.18 Sec. 14. Minnesota Statutes 2011 Supplement, section 326B.46, subdivision 1a,  
8.19 is amended to read:

8.20 Subd. 1a. **Exemptions from licensing.** (a) An individual without a contractor  
8.21 license may do plumbing work on the individual's residence in accordance with  
8.22 subdivision 1, paragraph (a).

8.23 (b) An individual who is an employee working on the maintenance and repair of  
8.24 plumbing equipment, apparatus, or facilities owned or leased by the individual's employer  
8.25 and which is within the limits of property owned or leased, and operated or maintained by  
8.26 the individual's employer, shall not be required to maintain a contractor license as long  
8.27 as the employer has on file with the commissioner a current certificate of responsible  
8.28 individual. The responsible individual must be a master plumber or, in an area of the  
8.29 state that is not a city or town with a population of more than 5,000 according to the  
8.30 last federal census, a restricted master plumber. The certificate must be signed by the  
8.31 responsible individual and must state that the person signing the certificate is responsible  
8.32 for ensuring that the maintenance and repair work performed by the employer's employees  
8.33 complies with sections 326B.41 to 326B.49, all rules adopted under those sections and  
8.34 sections 326B.50 to 326B.59, and all orders issued under section 326B.082. The employer



9.1 must pay a filing fee to file a certificate of responsible individual with the commissioner.  
9.2 The certificate shall expire two years from the date of filing. In order to maintain a  
9.3 current certificate of responsible individual, the employer must resubmit a certificate of  
9.4 responsible individual, with a filing fee, no later than two years from the date of the  
9.5 previous submittal. The filing of the certificate of responsible individual does not exempt  
9.6 any employee of the employer from the requirements of this chapter regarding individual  
9.7 licensing as a plumber or registration as a ~~plumber's apprentice~~ an unlicensed individual.

9.8 (c) If a contractor employs a licensed plumber, the licensed plumber does not need a  
9.9 separate contractor license to perform plumbing work on behalf of the employer within  
9.10 the scope of the licensed plumber's license.

9.11 (d) A person may perform and offer to perform building sewer or water service  
9.12 installation without a contractor's license if the person is in compliance with the bond and  
9.13 insurance requirements of subdivision 2.

9.14 Sec. 15. Minnesota Statutes 2011 Supplement, section 326B.49, subdivision 1, is  
9.15 amended to read:

9.16 Subdivision 1. **Application, examination, and license fees.** (a) Applications for  
9.17 master and journeyman plumber's licenses shall be made to the commissioner, with  
9.18 all fees required by section 326B.092. Unless the applicant is entitled to a renewal,  
9.19 the applicant shall be licensed by the commissioner only after passing a satisfactory  
9.20 examination developed and administered by the commissioner, based upon rules adopted  
9.21 by the Plumbing Board, showing fitness.

9.22 (b) All initial journeyman plumber's licenses shall be effective for more than one  
9.23 calendar year and shall expire on December 31 of the year after the year in which the  
9.24 application is made. All master plumber's licenses shall expire on December 31 of each  
9.25 even-numbered year after issuance or renewal. The commissioner shall in a manner  
9.26 determined by the commissioner, without the need for any rulemaking under chapter 14,  
9.27 phase in the renewal of master and journeyman plumber's licenses from one year to two  
9.28 years. By June 30, 2011, all renewed master and journeyman plumber's licenses shall be  
9.29 two-year licenses.

9.30 (c) Applications for contractor licenses shall be made to the commissioner, with all  
9.31 fees required by section 326B.092. All contractor licenses shall expire on December 31 of  
9.32 each odd-numbered year after issuance or renewal.

9.33 (d) For purposes of calculating license fees and renewal license fees required under  
9.34 section 326B.092:

10.1 (1) the following licenses shall be considered business licenses: plumbing contractor  
10.2 and restricted plumbing contractor;

10.3 (2) the following licenses shall be considered master licenses: master plumber and  
10.4 restricted master plumber;

10.5 (3) the following licenses shall be considered journeyman licenses: journeyman  
10.6 plumber and restricted journeyman plumber; and

10.7 (4) the registration of a ~~plumber's apprentice~~ an unlicensed individual under section  
10.8 326B.47, subdivision 3, shall be considered an entry level license.

10.9 (e) For each filing of a certificate of responsible individual by an employer, the  
10.10 fee is \$100.

10.11 (f) The commissioner shall charge each person giving bond under section 326B.46,  
10.12 subdivision 2, paragraph (b), a biennial bond filing fee of \$100, unless the person is a  
10.13 licensed contractor.

10.14 Sec. 16. **REPEALER.**

10.15 Minnesota Rules, parts 1300.0230, subpart 4; 1301.1201; 1302.0600; 3801.3640;  
10.16 3801.3650; 3801.3660; 3801.3670; 3801.3680; 3801.3690; 3801.3700; 3801.3710;  
10.17 3801.3720; 3801.3730; 3801.3740; 3801.3760; 3801.3790; and 3801.3800, are repealed.