

CHAPTER 16B

DEPARTMENT OF ADMINISTRATION

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16B.04 AUTHORITY.

[For text of subs 1 to 3, see M.S.1994]

Subd. 4. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

- (1) prevent the waste or unnecessary spending of public money;
- (2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;
- (3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;
- (4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;
- (5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A;
- (6) include specific objectives in the performance report required under section 15.91 to increase the efficiency of agency operations, when appropriate; and
- (7) recommend to the legislature, in the performance report of the department required under section 15.91, appropriate changes in law necessary to carry out the mission of the department.

History: 1995 c 248 art 11 s 2

16B.06 CONTRACT MANAGEMENT AND REVIEW.

[For text of subs 1 and 2, see M.S.1994]

Subd. 2a. **Exception.** The requirements of subdivision 2 do not apply to state contracts of the department of economic security distributing state and federal funds for the purpose of subcontracting the provision of program services to eligible recipients. For these contracts, the commissioner of economic security is authorized to directly enter into state contracts and encumber available funds. For contracts distributing state or federal funds pursuant to the

federal Economic Dislocation and Worker Adjustment Assistance Act, United States Code, title 29, section 1651 et seq.; or Minnesota Statutes, sections 268.9771, 268.978, 268.9781, and 268.9782, the commissioner of economic security is authorized to directly enter into state contracts with approval of the workforce development council and encumber available funds to ensure a rapid response to the needs of dislocated workers. The commissioner of economic security shall adopt internal procedures to administer and monitor funds distributed under these contracts.

[For text of subs 3 to 6, see M.S.1994]

Subd. 7. Compliance. The commissioner must develop procedures to audit agency personnel to whom the commissioner has delegated contracting authority, in order to ensure compliance with laws and guidelines governing issuance of contracts, including laws and guidelines governing conflicts of interest.

History: 1995 c 131 s 2; 1995 c 254 art 1 s 52; 1Sp1995 c 3 art 4 s 30

16B.08 BIDS NOT REQUIRED.

[For text of subs 1 to 4, see M.S.1994]

Subd. 5. Federal agency price schedules. Notwithstanding anything in this chapter to the contrary, the commissioner may, instead of soliciting bids, contract for purchases with suppliers who have published schedules of prices effective for sales to any federal agency of the United States. These contracts may be entered into, regardless of the amount of the purchase price, if the commissioner considers them advantageous and if the purchase price of all the commodities purchased under the contract do not exceed the price specified by the schedule.

[For text of subd 6, see M.S.1994]

Subd. 7. Specific purchases. (a) The following may be purchased without regard to the competitive bidding requirements of this chapter:

- (1) merchandise for resale at state park refectories or facility operations;
- (2) farm and garden products, which may be sold at the prevailing market price on the date of the sale;
- (3) meat for other state institutions from the technical college maintained at Pipestone by independent school district No. 583; and
- (4) products and services from the Minnesota correctional facilities.

(b) Supplies, materials, equipment, and utility services for use by a community-based residential facility operated by the commissioner of human services may be purchased or rented without regard to the competitive bidding requirements of this chapter.

(c) Supplies, materials, or equipment to be used in the operation of a hospital licensed under sections 144.50 to 144.56 that are purchased under a shared service purchasing arrangement whereby more than one hospital purchases supplies, materials, or equipment with one or more other hospitals, either through one of the hospitals or through another entity, may be purchased without regard to the competitive bidding requirements of this chapter if the following conditions are met:

- (1) the hospital's governing authority authorizes the arrangement;
- (2) the shared services purchasing program purchases items available from more than one source on the basis of competitive bids or competitive quotations of prices; and
- (3) the arrangement authorizes the hospital's governing authority or its representatives to review the purchasing procedures to determine compliance with these requirements.

History: 1995 c 207 art 2 s 2; 1995 c 224 s 49

16B.122 PURCHASE AND USE OF PAPER STOCK; PRINTING.

[For text of subs 1 and 2, see M.S.1994]

Subd. 3. Public entity purchasing. (a) Notwithstanding section 365.37, 375.21, 412.311, or 473.705, a public entity may purchase recycled materials when the price of the recycled materials does not exceed the price of nonrecycled materials by more than ten percent. In order to maximize the quantity and quality of recycled materials purchased, a public entity also may use other appropriate procedures to acquire recycled materials at the most economical cost to the public entity.

(b) When purchasing commodities and services, a public entity shall apply and promote the preferred waste management practices listed in section 115A.02, with special emphasis on reduction of the quantity and toxicity of materials in waste. A public entity, in developing bid specifications, shall consider the extent to which a commodity or product is durable, reusable, or recyclable and marketable through the applicable local or regional recycling program and the extent to which the commodity or product contains postconsumer material. When a project by a public entity involves the replacement of carpeting, the public entity may require all persons who wish to bid on the project to designate a carpet recycling company in their bids.

History: 1995 c 247 art 1 s 1

16B.124 CONSIDERATION OF ENVIRONMENTAL IMPACTS OF METAL RECYCLING FACILITIES.

(a) The state, counties, towns, and home rule charter or statutory cities shall include consideration of environmental impacts in selecting a recycling facility for the recycling of scrap metal.

(b) For the purposes of this section, "recycling facility" has the meaning given in section 115A.03, subdivision 25c.

History: 1995 c 247 art 1 s 2

16B.167 EMPLOYEE SKILLS INVENTORY.

The commissioners of employee relations and administration shall develop a list of skills that state agencies commonly seek from professional or technical service contracts, in consultation with exclusive representatives of state employees.

Before an agency may seek approval of a professional or technical services contract valued in excess of \$25,000, it must certify to the commissioner that it has publicized the contract by posting notice at appropriate worksites within agencies and has made reasonable efforts to determine that no state employee, including an employee outside the contracting agency, is able and available to perform the services called for by the contract. When possible this posting must be done electronically.

History: 1995 c 254 art 1 s 53

16B.17 PROFESSIONAL OR TECHNICAL SERVICES.

Subdivision 1. Terms. For the purposes of this section, "professional or technical services" means services that are intellectual in character; that do not involve the provision of supplies or materials; that include consultation analysis, evaluation, prediction, planning, or recommendation; and that result in the production of a report or the completion of a task.

Subd. 2. Procedure for professional or technical services contracts. Before approving a proposed state contract for professional or technical services, the commissioner must determine, at least, that:

(1) all provisions of section 16B.19 and subdivision 3 of this section have been verified or complied with;

(2) the work to be performed under the contract is necessary to the agency's achievement of its statutory responsibilities, and there is statutory authority to enter into the contract;

(3) the contract will not establish an employment relationship between the state or the agency and any persons performing under the contract;

(4) no current state employees will engage in the performance of the contract;

(5) no state agency has previously performed or contracted for the performance of tasks which would be substantially duplicated under the proposed contract;

(6) the contracting agency has specified a satisfactory method of evaluating and using the results of the work to be performed; and

(7) the combined contract and amendments will not extend for more than five years.

Subd. 3. Duties of contracting agency. Before an agency may seek approval of a professional or technical services contract valued in excess of \$5,000, it must certify to the commissioner that:

(1) no current state employee is able and available to perform the services called for by the contract;

(2) the normal competitive bidding mechanisms will not provide for adequate performance of the services;

(3) the contractor has certified that the product of the services will be original in character;

(4) reasonable efforts were made to publicize the availability of the contract to the public;

(5) the agency has received, reviewed, and accepted a detailed work plan from the contractor for performance under the contract;

(6) the agency has developed, and fully intends to implement, a written plan providing for the assignment of specific agency personnel to a monitoring and liaison function, the periodic review of interim reports or other indications of past performance, and the ultimate utilization of the final product of the services; and

(7) the agency will not allow the contractor to begin work before funds are fully encumbered.

Subd. 3a. Renewals. The renewal of a professional or technical contract must comply with all requirements, including notice, applicable to the original contract. A renewal contract must be identified as such. All notices and reports on a renewal contract must state the date of the original contract and the amount paid previously under the contract.

Subd. 4. Reports. (a) The commissioner shall submit to the governor, the chairs of the house ways and means and senate finance committees, and the legislative reference library a monthly listing of all contracts for professional or technical services executed or disapproved in the preceding month. The report must identify the parties and the contract amount, duration, and tasks to be performed. The commissioner shall also issue quarterly reports summarizing the contract review activities of the department during the preceding quarter.

(b) The monthly and quarterly reports must:

(1) be sorted by agency and by contractor;

(2) show the aggregate value of contracts issued by each agency and issued to each contractor;

(3) distinguish between contracts that are being issued for the first time and contracts that are being renewed;

(4) state the termination date of each contract; and

(5) categorize contracts according to subject matter, including topics such as contracts for training, contracts for research and opinions, and contracts for computer systems.

(c) Within 30 days of final completion of a contract over \$40,000 covered by this subdivision, the chief executive of the agency entering into the contract must submit a one-page report to the commissioner who must submit a copy to the legislative reference library. The report must:

(1) summarize the purpose of the contract, including why it was necessary to enter into a contract;

(2) state the amount spent on the contract; and

(3) explain why this amount was a cost-effective way to enable the agency to provide its services or products better or more efficiently.

Subd. 5. Contract terms. (a) A professional or technical services contract must by its terms permit the agency to unilaterally terminate the contract prior to completion, upon payment of just compensation, if the agency determines that further performance under the contract would not serve agency purposes. If the final product of the contract is a written report, a copy must be filed with the legislative reference library.

(b) The terms of a contract must provide that no more than 90 percent of the amount due under the contract may be paid until the final product has been reviewed by the chief executive of the agency entering into the contract, and the chief executive has certified that the contractor has satisfactorily fulfilled the terms of the contract.

Subd. 6. Exclusions. This section and section 16B.167 do not apply:

(1) to Minnesota state college or university contracts to provide instructional services to public or private organizations, agencies, businesses, or industries;

(2) to contracts with individuals or organizations for administration of employee pension plans authorized under chapter 354B or 354C; or

(3) to instructional services provided to Minnesota state colleges or universities by organizations or individuals provided the contracts are consistent with terms of applicable labor agreements.

History: 1995 c 254 art 1 s 54

16B.175 PROFESSIONAL OR TECHNICAL SERVICE CONTRACT CONFLICT OF INTEREST GUIDELINES.

Subdivision 1. Development; applicability. The commissioner of administration must develop guidelines designed to prevent conflicts of interest for agency employees involved in professional or technical service contracts. The guidelines must apply to agency employees who are directly or indirectly involved in: developing requests for proposals; evaluating proposals; drafting and entering into professional or technical service contracts; evaluating performance under these contracts; and authorizing payments under the contract.

Subd. 2. Content. (a) The guidelines must attempt to ensure that an employee involved in contracting:

(1) does not have any financial interest in and does not personally benefit from the contract;

(2) does not accept from a contractor or bidder any promise, obligation, contract for future reward, or gift; and

(3) does not appear to have a conflict of interest because of a family or close personal relationship to a contractor or bidder, or because of a past employment or business relationship with a contractor or bidder.

(b) The guidelines must contain a process for making employees aware of guidelines and laws relating to conflict of interest, and for training employees on how to avoid and deal with potential conflicts.

(c) The guidelines must contain a process under which an employee who has a conflict or a potential conflict may disclose the matter, and a process under which work on the contract may be assigned to another employee if possible.

History: 1995 c 254 art 1 s 55

16B.181 PURCHASES FROM CORRECTIONS INDUSTRIES.

(a) The commissioner, in consultation with the commissioner of corrections, shall prepare a list of products and services that are available for purchase from department of corrections industries. After publication of the product and service list by the commissioner, state agencies and institutions shall purchase the listed products and services from department of corrections industries if the products and services are equivalent in price and quality to products and services available from other sources unless the commissioner of corrections certifies that the correctional institutions cannot provide them at a price within five percent of the fair market price for comparable level of quality and within a reasonable delivery time. In determining the fair market price, the commissioner of administration shall use competitive bidding or consider open market bid prices in previous years for similar products and services, plus inflationary increases.

(b) The commissioner of administration shall ensure that state agency specifications are not unduly restrictive as to prevent corrections industries from providing products or services that meet the needs of the purchasing department, institution, or agency.

(c) The commissioners of administration and corrections shall appoint a joint task force to explore additional methods that support the philosophy of providing a substantial market

opportunity to correctional industries that maximizes inmate work opportunities. The task force shall develop a plan and prepare a set of criteria with which to evaluate the effectiveness of the recommendations and initiatives in the plan.

History: 1995 c 226 art 5 s 1

16B.19 DESIGNATION OF PROCUREMENTS FROM SMALL BUSINESSES.

[For text of subs 1 and 1a, see M.S.1994]

Subd. 2. Professional or technical procurements. Every state agency shall for each fiscal year designate for awarding to small businesses at least 25 percent of the value of anticipated procurements of that agency for professional or technical services. The set-aside under this subdivision is in addition to that provided by subdivision 1, but must otherwise comply with section 16B.17.

[For text of subs 2a to 9, see M.S.1994]

Subd. 10. Applicability. This section does not apply to construction contracts or contracts for professional or technical services under section 16B.17 that are financed in whole or in part with federal funds and that are subject to federal disadvantaged business enterprise regulations.

History: 1995 c 254 art 1 s 56,57

16B.24 GENERAL AUTHORITY.

[For text of subs 1 to 3, see M.S.1994]

Subd. 3a. Sale of real property. By February 1 of each year, the commissioner shall report to the chairs of the senate committee on finance and the house of representatives committees on ways and means and capital investment all sales or other transfers of real property owned by the state that have taken place in the preceding calendar year. The report shall include a description of the property, reason for the sale, the name of the buyer, and the price for which the property was sold. Sales of easements need not be included. This subdivision does not apply to real property held by the department of natural resources, the department of transportation, or the board of water and soil resources, except for real property that has been used for office space by any of those agencies. This subdivision does not apply to property owned by the board of trustees of the Minnesota state colleges and universities or the University of Minnesota.

[For text of subs 4 to 11, see M.S.1994]

History: 1Sp1995 c 2 art 1 s 23

16B.335 REVIEW OF PLANS AND PROJECTS.

Subdivision 1. Construction and major remodeling. The commissioner, or any other recipient to whom an appropriation is made to acquire or better public lands or buildings or other public improvements of a capital nature, must not prepare final plans and specifications for any construction, major remodeling, or land acquisition in anticipation of which the appropriation was made until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate finance committee and the chair of the house ways and means committee and the chairs have made their recommendations, and the chair of the house capital investment committee is notified. "Construction or major remodeling" means construction of a new building or substantial alteration of the exterior dimensions or interior configuration of an existing building. The presentation must note any significant changes in the work that will be done, or in its cost, since the appropriation for the project was enacted. The program plans and estimates must be presented for review at least two weeks before a recommendation is needed. The recommendations are advisory only. Failure or refusal to make a recommendation is considered a negative recommendation. The chairs of the senate finance committee, the

house capital investment committee, and the house ways and means committee must also be notified whenever there is a substantial change in a construction or major remodeling project, or in its cost.

Subd. 2. Other projects. All other capital projects for which a specific appropriation is made must not proceed until the recipient undertaking the project has notified the chair of the senate finance committee, the chair of the house capital investment committee, and the chair of the house ways and means committee that the work is ready to begin. Notice is not required for capital projects needed to comply with the Americans with Disabilities Act or funded by an agency's operating budget or by a capital asset preservation and replacement account under section 16A.632, or a higher education capital asset preservation and renewal account under section 135A.046.

[For text of subs 3 and 4, see M.S.1994]

Subd. 5. Information technology. Agency requests for construction and remodeling funds shall include money for cost-effective information technology investments that would enable an agency to reduce its need for office space, provide more of its services electronically, and decentralize its operations. The information policy office must review and approve the information technology portion of construction and major remodeling program plans before the plans are submitted to the chairs of the senate finance committee and the house of representatives ways and means committee for their recommendations and the chair of the house of representatives capital investment committee is notified as required by subdivision 1.

[For text of subd 6, see M.S.1994]

History: 1Sp1995 c 2 art 1 s 24-26

16B.405 SOFTWARE SALES.

[For text of subd 1, see M.S.1994]

Subd. 2. Software sale fund. (a) Except as provided in paragraph (b), proceeds of the sale or licensing of software products or services by the commissioner must be credited to the intertechnologies revolving fund. If a state agency other than the department of administration has contributed to the development of software sold or licensed under this section, the commissioner may reimburse the agency by discounting computer services provided to that agency.

(b) Proceeds of the sale or licensing of software products or services developed by the pollution control agency, or custom developed by a vendor for the agency, must be credited to the environmental fund.

History: 1995 c 220 s 27

16B.42 INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL.

Subdivision 1. Composition. The intergovernmental information systems advisory council is composed of (1) two members from each of the following groups: counties outside of the seven-county metropolitan area, cities of the second and third class outside the metropolitan area, cities of the second and third class within the metropolitan area, and cities of the fourth class; (2) one member from each of the following groups: the metropolitan council, an outstate regional body, counties within the metropolitan area, cities of the first class, school districts in the metropolitan area, school districts outside the metropolitan area, and public libraries; (3) one member each appointed by the state departments of children, families, and learning, human services, revenue, and economic security, the office of strategic and long-range planning, and the legislative auditor; (4) one member from the office of the state auditor, appointed by the auditor; (5) the assistant commissioner of administration for the information policy office; (6) one member appointed by each of the following organizations: league of Minnesota cities, association of Minnesota counties, Minnesota association of township officers, and Minnesota association of school administrators; and (7) one member

of the house of representatives appointed by the speaker and one member of the senate appointed by the subcommittee on committees of the committee on rules and administration. The legislative members appointed under clause (7) are nonvoting members. The commissioner of administration shall appoint members under clauses (1) and (2). The terms, compensation, and removal of the appointed members of the advisory council are as provided in section 15.059, but the council does not expire until June 30, 1997.

[For text of subd 2, see M.S.1994]

Subd. 3. Other duties. The intergovernmental information systems advisory council shall (1) recommend to the commissioners of state departments, the legislative auditor, and the state auditor a method for the expeditious gathering and reporting of information and data between agencies and units of local government in accordance with cooperatively developed standards; (2) elect an executive committee, not to exceed seven members from its membership; (3) develop an annual plan, to include administration and evaluation of grants, in compliance with applicable rules; (4) provide technical information systems assistance or guidance to local governments for development, implementation, and modification of automated systems, including formation of consortiums for those systems; (5) appoint committees and task forces, which may include persons other than council members, to assist the council in carrying out its duties; (6) select an executive director to serve the council and may employ other employees it deems necessary, all of whom are in the classified service of the state civil service; (7) may contract for professional and other similar services on terms it deems desirable; and (8) work with the information policy office to ensure that information systems developed by state agencies that impact local government will be reviewed by the council.

[For text of subd 4, see M.S.1994]

History: 1995 c 254 art 1 s 58; 1Sp1995 c 3 art 16 s 13

16B.43 EDUCATION MANAGEMENT INFORMATION SYSTEMS.

Subdivision 1. Application. The authority of the commissioner under sections 16B.40 to 16B.42, 16B.44, and 16B.45 applies to ESV-IS and to SDE-IS and computer-related services provided to the department of children, families, and learning by the department of administration's information services bureau. For purposes of this section, "ESV-IS" and "SDE-IS" have the meanings given them in section 121.93.

[For text of subd 2, see M.S.1994]

History: 1Sp1995 c 3 art 16 s 13

16B.465 STATEWIDE TELECOMMUNICATIONS ACCESS ROUTING SYSTEM.

Subdivision 1. Creation. The statewide telecommunications access routing system provides voice, data, video, and other telecommunications transmission services to state agencies; educational institutions, including public schools as defined in section 120.05, nonpublic, church or religious organization schools which provide instruction in compliance with sections 120.101 to 120.102, and private colleges; public corporations; and state political subdivisions. It is not a telephone company for purposes of chapter 237. It shall not resell or sublease any services or facilities to nonpublic entities except it may serve private schools and colleges. The commissioner has the responsibility for planning, development, and operations of a statewide telecommunications access routing system in order to provide cost-effective telecommunications transmission services to system users.

Subd. 2. Advisory council. The statewide telecommunications access and routing system is managed by the commissioner. Subject to section 15.059, subdivisions 1 to 4, the commissioner shall appoint an advisory council to provide advice in implementing and operating a statewide telecommunications access and routing system. The council shall represent the users of STARS services and shall include representatives of higher education, public and private schools, state agencies, and political subdivisions.

Subd. 3. Duties. The commissioner, after consultation with the council, shall:

(1) provide voice, data, video, and other telecommunications transmission services to the state and to political subdivisions through an account in the intertechnologies revolving fund;

(2) manage vendor relationships, network function, and capacity planning in order to be responsive to the needs of the system users;

(3) set rates and fees for services;

(4) approve contracts relating to the system;

(5) develop the system plan, including plans for the phasing of its implementation and maintenance of the initial system, and the annual program and fiscal plans for the system; and

(6) develop a plan for interconnection of the network with private colleges and public and private schools in the state.

Subd. 4. Program participation. (a) The commissioner may require the participation of state agencies, the state board of education, and the governing boards of the state universities, the community colleges, and the technical colleges, and may request the participation of the board of regents of the University of Minnesota, in the planning and implementation of the network to provide interconnective technologies. The commissioner shall establish reimbursement rates in cooperation with the commissioner of finance to be billed to participating agencies and educational institutions sufficient to cover the operating, maintenance, and administrative costs of the system.

(b) A direct appropriation made to an educational institution for usage costs associated with the STARS network must only be used by the educational institution for payment of usage costs of the network as billed by the commissioner of administration. The post-secondary appropriations may be shifted between systems as required by unanticipated usage patterns. An intersystem transfer must be requested by the appropriate system and may be made only after review and approval by the commissioner of finance, in consultation with the commissioner of administration.

Subd. 6. Revolving fund. Money appropriated for the statewide telecommunications access routing system and fees for telecommunications services must be deposited in an account in the intertechnologies revolving fund. Money in the account is appropriated annually to the commissioner to operate telecommunications services.

Subd. 7. Exemption. The system is exempt from the five-year limitation on contracts set by section 16B.07, subdivision 2.

History: *1Sp1995 c 3 art 12 s 1*

16B.485 INTERFUND LOANS.

The commissioner may, with the approval of the commissioner of finance, make loans from an internal service or enterprise fund to another internal service or enterprise fund, and the amount necessary is appropriated from the fund that makes the loan. The term of a loan made under this section must be not more than 24 months.

History: *1995 c 254 art 1 s 59*

16B.59 STATE BUILDING CODE; POLICY AND PURPOSE.

The state building code governs the construction, reconstruction, alteration, and repair of buildings and other structures to which the code is applicable. The commissioner shall administer and amend a state code of building construction which will provide basic and uniform performance standards, establish reasonable safeguards for health, safety, welfare, comfort, and security of the residents of this state and provide for the use of modern methods, devices, materials, and techniques which will in part tend to lower construction costs. The construction of buildings should be permitted at the least possible cost consistent with recognized standards of health and safety.

History: *1995 c 254 art 2 s 1*

16B.60 DEFINITIONS, STATE BUILDING CODE.

Subdivision 1. Scope. For the purposes of sections 16B.59 to 16B.75, the terms defined in this section have the meanings given them.

[For text of subs 2 and 3, see M.S.1994]

Subd. 4. Code. "Code" means the state building code adopted by the commissioner in accordance with sections 16B.59 to 16B.75.

[For text of subs 5 to 11, see M.S.1994]

History: 1995 c 254 art 2 s 2,3

16B.61 GENERAL POWERS OF COMMISSIONER; STATE BUILDING CODE.

Subdivision 1. Adoption of code. Subject to sections 16B.59 to 16B.75, the commissioner shall by rule establish a code of standards for the construction, reconstruction, alteration, and repair of buildings, governing matters of structural materials, design and construction, fire protection, health, sanitation, and safety. The code must conform insofar as practicable to model building codes generally accepted and in use throughout the United States. In the preparation of the code, consideration must be given to the existing statewide specialty codes presently in use in the state. Model codes with necessary modifications and statewide specialty codes may be adopted by reference. The code must be based on the application of scientific principles, approved tests, and professional judgment. To the extent possible, the code must be adopted in terms of desired results instead of the means of achieving those results, avoiding wherever possible the incorporation of specifications of particular methods or materials. To that end the code must encourage the use of new methods and new materials. Except as otherwise provided in sections 16B.59 to 16B.75, the commissioner shall administer and enforce the provisions of those sections.

Subd. 1a. Administration by commissioner. The commissioner shall administer and enforce the state building code as a municipality with respect to public buildings and state licensed facilities in the state. The commissioner shall establish appropriate permit, plan review, and inspection fees for public buildings and state licensed facilities. Fees and surcharges for public buildings and state licensed facilities must be remitted to the commissioner, who shall deposit them in the state treasury for credit to the special revenue fund.

Municipalities other than the state having a contractual agreement with the commissioner for code administration and enforcement service for public buildings and state licensed facilities shall charge their customary fees, including surcharge, to be paid directly to the contractual jurisdiction by the applicant seeking authorization to construct a public building or a state licensed facility. The commissioner shall contract with a municipality other than the state for plan review, code administration, and code enforcement service for public buildings and state licensed facilities in the contractual jurisdiction if the building officials of the municipality meet the requirements of section 16B.65 and wish to provide those services and if the commissioner determines that the municipality has enough adequately trained and qualified building inspectors to provide those services for the construction project.

The commissioner shall administer and enforce the provisions of the code relating to elevators statewide, except as provided for under section 16B.747, subdivision 3.

Subd. 2. Enforcement by certain bodies. Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations shall be enforced by the state board of electricity, pursuant to the Minnesota electrical act, the provisions relating to plumbing shall be enforced by the commissioner of health, the provisions relating to the Minnesota uniform fire code shall be enforced by the state fire marshal, the provisions relating to high pressure steam piping and appurtenances shall be enforced by the department of labor and industry. Fees for inspections conducted by the state board of electricity shall be paid in accordance with the rules of the state board of electricity.

Subd. 3. Special requirements. (a) **Space for commuter vans.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The state building code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a below ground space in a church building is exempt from the state building code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **Child care facilities in churches; vertical access.** Until August 1, 1996, an organization providing child care in an existing church building which is exempt from taxation under section 272.02, subdivision 1, clause (5), shall have five years from the date of initial licensure under chapter 245A to provide interior vertical access, such as an elevator, to persons with disabilities as required by the state building code. To obtain the extension, the organization providing child care must secure a \$2,500 performance bond with the commissioner of human services to ensure that interior vertical access is achieved by the agreed upon date.

(f) **Family and group family day care.** Until the legislature enacts legislation specifying appropriate standards, the definition of Group R-3 occupancies in the state building code applies to family and group family day care homes licensed by the department of human services under Minnesota Rules, chapter 9502.

(g) **Mined underground space.** Nothing in the state building codes shall prevent cities from adopting rules governing the excavation, construction, reconstruction, alteration, and repair of mined underground space pursuant to sections 469.135 to 469.141, or of associated facilities in the space once the space has been created, provided the intent of the building code to establish reasonable safeguards for health, safety, welfare, comfort, and security is maintained.

(h) **Enclosed stairways.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(i) **Double cylinder dead bolt locks.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(j) **Relocated residential buildings.** A residential building relocated within or into a political subdivision of the state need not comply with the state energy code or section 326.371 provided that, where available, an energy audit is conducted on the relocated building.

(k) **Automatic garage door opening systems.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(l) **Exit sign illumination.** For a new building on which construction is begun on or after October 1, 1993, or an existing building on which remodeling affecting 50 percent or more of the enclosed space is begun on or after October 1, 1993, the code must prohibit the use of internally illuminated exit signs whose electrical consumption during nonemergency operation exceeds 20 watts of resistive power. All other requirements in the code for exit signs must be complied with.

(m) **Exterior wood decks, patios, and balconies.** The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

[For text of subs 3a and 4, see M.S.1994]

Subd. 5. Accessibility. (a) Public buildings. The code must provide for making public buildings constructed or remodeled after July 1, 1963, accessible to and usable by physically handicapped persons, although this does not require the remodeling of public buildings solely to provide accessibility and usability to the physically handicapped when remodeling would not otherwise be undertaken.

(b) Leased space. No agency of the state may lease space for agency operations in a non-state-owned building unless the building satisfies the requirements of the state building code for accessibility by the physically handicapped, or is eligible to display the state symbol of accessibility. This limitation applies to leases of 30 days or more for space of at least 1,000 square feet.

(c) Meetings or conferences. Meetings or conferences for the public or for state employees which are sponsored in whole or in part by a state agency must be held in buildings that meet the state building code requirements relating to accessibility for physically handicapped persons. This subdivision does not apply to any classes, seminars, or training programs offered by a state university, the University of Minnesota, or a state community college. Meetings or conferences intended for specific individuals none of whom need the accessibility features for handicapped persons specified in the state building code need not comply with this subdivision unless a handicapped person gives reasonable advance notice of an intent to attend the meeting or conference. When sign language interpreters will be provided, meetings or conference sites must be chosen which allow hearing impaired participants to see their signing clearly.

(d) Exemptions. The commissioner may grant an exemption from the requirements of paragraphs (b) and (c) in advance if an agency has demonstrated that reasonable efforts were made to secure facilities which complied with those requirements and if the selected facilities are the best available for access for handicapped persons. Exemptions shall be granted using criteria developed by the commissioner in consultation with the council on disability.

(e) Symbol indicating access. The wheelchair symbol adopted by Rehabilitation International's Eleventh World Congress is the state symbol indicating buildings, facilities, and grounds which are accessible to and usable by handicapped persons. In the interests of uniformity, this symbol is the sole symbol for display in or on all public or private buildings, facilities, and grounds which qualify for its use. The secretary of state shall obtain the symbol and keep it on file. No building, facility, or grounds may display the symbol unless it is in compliance with the rules adopted by the commissioner under subdivision 1. Before any rules are proposed for adoption under this paragraph, the commissioner shall consult with the council on disability. Rules adopted under this paragraph must be enforced in the same way as other accessibility rules of the state building code.

(f) Municipal enforcement. Municipalities which have not adopted the state building code may enforce the building code requirements for handicapped persons by either entering into a joint powers agreement for enforcement with another municipality which has adopted the state building code; or contracting for enforcement with an individual certified under section 16B.65, subdivision 3, to enforce the state building code.

(g) Equipment allowed. The code must allow the use of vertical wheelchair lifts and inclined stairway wheelchair lifts in public buildings. An inclined stairway wheelchair lift must be equipped with light or sound signaling device for use during operation of the lift. The stairway or ramp shall be marked in a bright color that clearly indicates the outside edge of the lift when in operation. The code shall not require a guardrail between the lift and the stairway or ramp. Compliance with this provision by itself does not mean other handicap accessibility requirements have been met.

[For text of subds 6 and 7, see M.S.1994]

History: 1995 c 100 s 1; 1995 c 166 s 1,2,17; 1995 c 213 art 1 s 1; 1995 c 254 art 2 s 4-6

16B.63 STATE BUILDING OFFICIAL.

[For text of subds 1 and 2, see M.S.1994]

Subd. 3. **Powers and duties.** The state building official may, with the approval of the commissioner, employ personnel necessary to carry out the inspector's function under sections 16B.59 to 16B.75. The state building official shall distribute without charge one copy of the code to each municipality within the state. Additional copies shall be made available to municipalities and interested parties for a fee prescribed by the commissioner. The state building official shall perform other duties in administering the code assigned by the commissioner.

[For text of subd 4, see M.S.1994]

History: 1995 c 254 art 2 s 7

16B.65 BUILDING OFFICIALS.

Subdivision 1. **Appointments.** The governing body of each municipality shall, unless other means are already provided, appoint a building official to administer the code. Two or more municipalities may combine in the appointment of a single building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been appointed, the state building inspector, with the approval of the commissioner, may appoint building officials to serve until the municipalities have made an appointment. If unable to make an appointment, the state building inspector may use whichever state employees or state agencies are necessary to perform the duties of the building official. All costs incurred by virtue of an appointment by the state building inspector or services rendered by state employees must be borne by the involved municipality. Receipts arising from the appointment must be paid into the state treasury and credited to the general fund.

[For text of subd 2, see M.S.1994]

Subd. 3. **Certification.** The commissioner shall:

- (1) prepare and conduct written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official;
- (2) accept documentation of successful completion of testing programs developed by nationally recognized testing agencies, as proof of qualification pursuant to subdivision 2; or
- (3) determine qualifications by both clauses (1) and (2).

Upon a determination of qualification under clause (1), (2), or both of them, the commissioner shall issue a certificate to the building official stating that the official is certified. Each person applying for examination and certification pursuant to this section shall pay a nonrefundable fee of \$70. The commissioner or a designee may establish classes of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. Except as provided by subdivision 2, no person may act as a building official for a municipality unless the commissioner determines that the official is qualified. The commissioner shall provide educational programs designed to train and assist building officials in carrying out their responsibilities.

The department of employee relations may, at the request of the commissioner, provide statewide testing services.

Subd. 4. **Duties.** Building officials shall, in the municipality for which they are appointed, attend to all aspects of code administration for which they are certified, including the issuance of all building permits and the inspection of all manufactured home installations. The commissioner may direct a municipality with a building official to perform services for another municipality, and in that event the municipality being served shall pay the municipality rendering the services the reasonable costs of the services. The costs may be subject to approval by the commissioner.

[For text of subs 5 and 6, see M.S.1994]

Subd. 7. **Continuing education.** Subject to sections 16B.59 to 16B.75, the commissioner may by rule establish or approve continuing education programs for municipal building officials dealing with matters of building code administration, inspection, and enforcement.

Effective January 1, 1985, each person certified as a building official for the state must satisfactorily complete applicable educational programs established or approved by the commissioner every three calendar years to retain certification.

Each person certified as a building official must submit in writing to the commissioner an application for renewal of certification within 60 days of the last day of the third calendar year following the last certificate issued. Each application for renewal must be accompanied by proof of satisfactory completion of minimum continuing education requirements and the certification renewal fee established by the commissioner.

For persons certified prior to January 1, 1985, the first three-year period commences January 1, 1985.

History: 1995 c 254 art 2 s 8-11

16B.67 APPEALS.

A person aggrieved by the final decision of any municipality as to the application of the code, including any rules adopted under sections 471.465 to 471.469, may, within 180 days of the decision, appeal to the commissioner. Appellant shall submit a nonrefundable fee of \$70, payable to the commissioner, with the request for appeal. An appeal must be heard as a contested case under chapter 14. The commissioner shall submit written findings to the parties. The party not prevailing shall pay the costs of the contested case hearing, including fees charged by the office of administrative hearings and the expense of transcript preparation. Costs under this section do not include attorney fees. Any person aggrieved by a ruling of the commissioner may appeal in accordance with chapter 14. For the purpose of this section "any person aggrieved" includes the council on disability. No fee or costs shall be required when the council on disability is the appellant.

History: 1995 c 254 art 2 s 12

16B.70 SURCHARGE.

Subdivision 1. Computation. To defray the costs of administering sections 16B.59 to 16B.75, a surcharge is imposed on all permits issued by municipalities in connection with the construction of or addition or alteration to buildings and equipment or appurtenances after June 30, 1971, as follows:

If the fee for the permit issued is fixed in amount the surcharge is equivalent to one-half mill (.0005) of the fee or 50 cents, whichever amount is greater. For all other permits, the surcharge is as follows:

(1) if the valuation of the structure, addition, or alteration is \$1,000,000 or less, the surcharge is equivalent to one-half mill (.0005) of the valuation of the structure, addition, or alteration;

(2) if the valuation is greater than \$1,000,000, the surcharge is \$500 plus two-fifths mill (.0004) of the value between \$1,000,000 and \$2,000,000;

(3) if the valuation is greater than \$2,000,000, the surcharge is \$900 plus three-tenths mill (.0003) of the value between \$2,000,000 and \$3,000,000;

(4) if the valuation is greater than \$3,000,000, the surcharge is \$1,200 plus one-fifth mill (.0002) of the value between \$3,000,000 and \$4,000,000;

(5) if the valuation is greater than \$4,000,000, the surcharge is \$1,400 plus one-tenth mill (.0001) of the value between \$4,000,000 and \$5,000,000; and

(6) if the valuation exceeds \$5,000,000, the surcharge is \$1,500 plus one-twentieth mill (.00005) of the value that exceeds \$5,000,000.

Subd. 2. Collection and reports. All permit surcharges must be collected by each municipality and a portion of them remitted to the state. Each municipality having a population greater than 20,000 people shall prepare and submit to the commissioner once a month a report of fees and surcharges on fees collected during the previous month but shall retain the greater of two percent or that amount collected up to \$25 to apply against the administrative expenses the municipality incurs in collecting the surcharges. All other municipalities shall submit the report and surcharges on fees once a quarter but shall retain the greater of four percent or that amount collected up to \$25 to apply against the administrative expenses the

municipalities incur in collecting the surcharges. The report, which must be in a form prescribed by the commissioner, must be submitted together with a remittance covering the surcharges collected by the 15th day following the month or quarter in which the surcharges are collected. All surcharges and other fees prescribed by sections 16B.59 to 16B.75, which are payable to the state, must be paid to the commissioner who shall deposit them in the state treasury for credit to a special revenue fund.

History: 1995 c 254 art 2 s 13

16B.72 REFERENDA ON STATE BUILDING CODE IN NONMETROPOLITAN COUNTIES.

Notwithstanding any other provision of law to the contrary, a county that is not a metropolitan county as defined by section 473.121, subdivision 4, may provide, by a vote of the majority of its electors residing outside of municipalities that have adopted the state building code before January 1, 1977, that no part of the state building code except the building requirements for handicapped persons and the requirements for elevator safety applies within its jurisdiction.

The county board may submit to the voters at a regular or special election the question of adopting the building code. The county board shall submit the question to the voters if it receives a petition for the question signed by a number of voters equal to at least five percent of those voting in the last general election. The question on the ballot must be stated substantially as follows:

“Shall the state building code be adopted in County?”

If the majority of the votes cast on the proposition is in the negative, the state building code does not apply in the subject county, outside home rule charter or statutory cities or towns that adopted the building code before January 1, 1977, except the building requirements for handicapped persons and the requirements for elevator safety do apply.

Nothing in this section precludes a municipality that did not adopt the state building code before January 1, 1977, from adopting and enforcing by ordinance or other legal means the state building code within its jurisdiction.

History: 1995 c 166 s 3

16B.73 STATE BUILDING CODE IN MUNICIPALITIES UNDER 2,500; LOCAL OPTION.

The governing body of a municipality whose population is less than 2,500 may provide that the state building code, except the requirements for handicapped persons and the requirements for elevator safety, will not apply within the jurisdiction of the municipality, if the municipality is located in whole or in part within a county exempted from its application under section 16B.72. If more than one municipality has jurisdiction over an area, the state building code continues to apply unless all municipalities having jurisdiction over the area have provided that the state building code, except the requirements for handicapped persons and the requirements for elevator safety, does not apply within their respective jurisdictions. Nothing in this section precludes a municipality from adopting and enforcing by ordinance or other legal means the state building code within its jurisdiction.

History: 1995 c 166 s 4

16B.74 DEFINITIONS.

Subdivision 1. As used in sections 16B.74 to 16B.746 the terms “passenger or freight elevator,” “automatic operation” and “continuous pressure operation” shall have the following meanings.

Subd. 2. **Passenger or freight elevator.** “Passenger or freight elevator” means all elevators except those that comply with the safety rules of the department of administration relating to construction and installation and that have automatic operation or continuous pressure operation.

Subd. 3. **Automatic operation** shall mean operation wherein the starting of the elevator car is effected in response to momentary actuation of operating devices at the landing or of

operating devices in the car identified with the landings, or both, or in response to an automatic starting mechanism and wherein the car is stopped automatically at the landings.

Subd. 4. Continuous pressure operation shall mean operation by means of buttons or switches in the car and at the landing, any one of which may be used to control the movement of the car as long as the button or switch is manually maintained in the actuating position.

Subd. 5. **Elevator.** As used in this chapter, "elevator" means moving walks and vertical transportation devices such as escalators, passenger elevators, freight elevators, dumbwaiters, handpowered elevators, endless belt lifts, and wheelchair platform lifts, but does not include external temporary material lifts or temporary construction personnel elevators at sites of construction of new or remodeled buildings.

Subd. 6. **Municipality.** "Municipality," as used in sections 16B.74 to 16B.748, means a city, county, or town meeting the requirements of section 368.01, subdivision 1.

History: 1955 c 561 s 1; Ex1967 c 1 s 6; 1985 c 248 s 70; 1989 c 303 s 5,6; 1995 c 166 s 5,6,17

16B.741 ELEVATOR AVAILABLE FOR INSPECTION.

A person, firm, entity, or corporation that owns or controls a building or other structure housing an elevator that is subject to inspection by the department, shall, upon request, provide access at a reasonable hour to the elevator for purposes of inspection.

History: 1989 c 303 s 4; 1995 c 166 s 17

16B.742 ELEVATOR OPERATORS.

The owner, manager, or lessee of any building in which there is installed a passenger or freight elevator, as hereinafter defined, shall designate a competent person or competent persons regularly to operate such elevator; provided, however, that any such owner, manager or lessee may arrange with one or more tenants of such building to designate one or more of their employees regularly to operate such elevator. No person not so designated shall operate any such elevator and no person shall employ or permit a person not so designated to operate any such elevator. The foregoing prohibitions shall not apply during any period of time when any such elevator is being constructed, installed, inspected, repaired or maintained.

History: 1955 c 561 s 1; 1986 c 444; 1995 c 166 s 17

16B.743 LICENSING AUTHORITIES.

Any municipality may by ordinance establish a licensing authority with jurisdiction over all passenger and freight elevators within such municipality, fix the initial and renewal fee for, and the period of duration of, licenses to operate such elevators, and setting forth the requirements for applicants for and the terms and conditions of licenses to operate such elevators.

History: 1955 c 561 s 2; 1973 c 123 art 5 s 7; 1995 c 166 s 7,17

16B.744 ELEVATORS, ENTRANCES SEALED.

It shall be the duty of the department of administration and the licensing authority of any municipality which adopts any such ordinance whenever it finds any such elevator under its jurisdiction in use in violation of any provision of sections 16B.74 to 16B.745 to seal the entrances of such elevator and attach a notice forbidding the use of such elevator until the provisions thereof are complied with.

History: 1955 c 561 s 3; Ex1967 c 1 s 6; 1973 c 123 art 5 s 7; 1995 c 166 s 8,17

16B.745 VIOLATIONS, PENALTIES.

Subdivision 1. **Removal of seal.** No person, firm, or corporation may remove any seal or notice forbidding the use of an elevator, except by authority of the department of administration or the licensing authority having jurisdiction over the elevator, or operate an elevator after a notice has been attached forbidding its use, unless the notice has been removed by authority of the department of administration or the licensing authority having jurisdiction over the elevator.

Subd. 2. False certification. No inspector, or other party authorized by this section or by rule to inspect elevators, may falsely certify the safety of an elevator, or grant a license or permit contrary to any provision of this chapter.

Subd. 3. Minimum requirements. No person, firm, or corporation may construct, install, alter, remove, or repair an elevator that does not meet the minimum requirements of this chapter, adopted rules, or national codes adopted by rule.

Subd. 4. Penalties. The commissioner of administration shall administer sections 16B.74 to 16B.749. In addition to the remedies provided for violations of this chapter, the commissioner may impose a penalty of up to \$1,000 for a violation of any provision of sections 16B.74 to 16B.749.

History: 1955 c 561 s 4; Ex1967 c 1 s 6; 1989 c 303 s 7; 1995 c 166 s 9-11,17

16B.746 LICENSES FOR OPERATORS.

In the event an operator is employed to operate an automatic elevator or continuous pressure elevator as provided in sections 16B.74 to 16B.745, such operator shall be duly licensed as provided in sections 16B.74 to 16B.745.

History: 1955 c 561 s 5; 1995 c 166 s 17

16B.747 FEES FOR LICENSURE AND INSPECTION.

Subdivision 1. Permits. No person, firm, or corporation may construct, install, alter, or remove an elevator without first filing an application for a permit with the department of administration or a municipality authorized by subdivision 3 to inspect elevators. Upon successfully completing inspection and the payment of the appropriate fee, the owner must be granted an operating permit for the elevator.

Subd. 2. Contractor licenses. The commissioner may establish criteria for the qualifications of elevator contractors and issue licenses based upon proof of the applicant's qualifications.

Subd. 3. Permissive municipal regulation. A municipality that conducts a system of elevator inspection on a periodic basis in conformity with this chapter, state building code requirements, and adopted rules, and that employs or contracts with inspectors meeting the minimum requirements established by rule, may provide for the inspection of elevator installation, repair, alteration, removal, construction, and the periodic routine inspection of elevators. A municipality may not adopt standards that do not conform to the uniform standards prescribed by the department.

If a municipality does not conduct elevator inspections as provided in this chapter, or if the commissioner determines that a municipality is not properly administering and enforcing the law, rules, and codes, the commissioner shall have the inspection, administration, and enforcement undertaken by a qualified inspector employed by the department.

Subd. 4. Deposit of fees. Fees received under this section must be deposited in the state treasury and credited to the special revenue fund.

History: 1989 c 303 s 8; 1995 c 166 s 12,13,17

16B.748 RULES.

The commissioner may adopt rules for the following purposes:

(1) to set a fee under section 16A.128 for processing a construction or installation permit or elevator contractor license application;

(2) to set a fee under section 16A.128 to cover the cost of elevator inspections;

(3) to establish minimum qualifications for elevator inspectors that must include possession of a current elevator constructor electrician's license issued by the state board of electricity and proof of successful completion of the national elevator industry education program examination or equivalent experience;

(4) to establish criteria for the qualifications of elevator contractors;

(5) to establish elevator standards under sections 16B.61, subdivisions 1 and 2, and 16B.64;

(6) to establish procedures for appeals of decisions of the commissioner under chapter 14 and procedures allowing the commissioner, before issuing a decision, to seek advice from the elevator trade, building owners or managers, and others knowledgeable in the installation, construction, and repair of elevators; and

(7) to establish requirements for the registration of all elevators.

History: 1989 c 303 s 9; 1995 c 166 s 14,17

16B.749 CONFLICT OF LAWS.

Nothing in sections 16B.74 to 16B.749 supersedes the Minnesota electrical act in chapter 326.

History: 1995 c 166 s 15,17

16B.75 INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS.

The state of Minnesota ratifies and approves the following compact:

INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS

ARTICLE I

FINDINGS AND DECLARATIONS OF POLICY

(1) The compacting states find that:

(a) Industrialized/modular buildings are constructed in factories in the various states and are a growing segment of the nation's affordable housing and commercial building stock.

(b) The regulation of industrialized/modular buildings varies from state to state and locality to locality, which creates confusion and burdens state and local building officials and the industrialized/modular building industry.

(c) Regulation by multiple jurisdictions imposes additional costs, which are ultimately borne by the owners and users of industrialized/modular buildings, restricts market access and discourages the development and incorporation of new technologies.

(2) It is the policy of each of the compacting states to:

(a) Provide the states which regulate the design and construction of industrialized/modular buildings with a program to coordinate and uniformly adopt and administer the states' rules and regulations for such buildings, all in a manner to assure interstate reciprocity.

(b) Provide to the United States Congress assurances that would preclude the need for a voluntary preemptive federal regulatory system for modular housing, as outlined in Section 572 of the Housing and Community Development Act of 1987, including development of model standards for modular housing construction, such that design and performance will insure quality, durability and safety; will be in accordance with life-cycle cost-effective energy conservation standards; all to promote the lowest total construction and operating costs over the life of such housing.

ARTICLE II

DEFINITIONS

As used in this compact, unless the context clearly requires otherwise:

(1) "Commission" means the interstate industrialized/modular buildings commission.

(2) "Industrialized/modular building" means any building which is of closed construction, i.e. constructed in such a manner that concealed parts or processes of manufacture cannot be inspected at the site, without disassembly, damage or destruction, and which is made or assembled in manufacturing facilities, off the building site, for installation, or assembly and installation, on the building site. "Industrialized/modular building" includes, but is not limited to, modular housing which is factory-built single-family and multifamily housing (including closed wall panelized housing) and other modular, nonresidential buildings. "Industrialized/modular building" does not include any structure subject to the requirements of the National Manufactured Home Construction and Safety Standards Act of 1974.

(3) "Interim reciprocal agreement" means a formal reciprocity agreement between a noncompacting state wherein the noncompacting state agrees that labels evidencing compliance with the model rules and regulations for industrialized/modular buildings, as autho-

alized in Article VIII, section (9), shall be accepted by the state and its subdivisions to permit installation and use of industrialized/modular buildings. Further, the noncompacting state agrees that by legislation or regulation, and appropriate enforcement by uniform administrative procedures, the noncompacting state requires all industrialized/modular building manufacturers within that state to comply with the model rules and regulations for industrialized/modular buildings.

(4) "State" means a state of the United States, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(5) "Uniform administrative procedures" means the procedures adopted by the commission (after consideration of any recommendations from the rules development committee) which state and local officials, and other parties, in one state, will utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard of requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies.

(6) "Model rules and regulations for industrialized/modular buildings" means the construction standards adopted by the commission (after consideration of any recommendations from the rules development committee) which govern the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building components. The construction standards and any amendments thereof shall conform insofar as practicable to model building codes and referenced standards generally accepted and in use throughout the United States.

ARTICLE III

CREATION OF COMMISSION

The compacting states hereby create the Interstate Industrialized/Modular Buildings Commission, hereinafter called commission. Said commission shall be a body corporate of each compacting state and an agency thereof. The commission shall have all the powers and duties set forth herein and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the compacting states.

ARTICLE IV

SELECTION OF COMMISSIONERS

The commission shall be selected as follows. As each state becomes a compacting state, one resident shall be appointed as commissioner. The commissioner shall be selected by the governor of the compacting state, being designated from the state agency charged with regulating industrialized/modular buildings or, if such state agency does not exist, being designated from among those building officials with the most appropriate responsibilities in the state. The commissioner may designate another official as an alternate to act on behalf of the commissioner at commission meetings which the commissioner is unable to attend.

Each state commissioner shall be appointed, suspended, or removed and shall serve subject to and in accordance with the laws of the state which said commissioner represents; and each vacancy occurring shall be filled in accordance with the laws of the state wherein the vacancy exists.

For every three state commissioners that have been appointed in the manner described, those state commissioners shall select one additional commissioner who shall be a representative of manufacturers of residential- or commercial-use industrialized/modular buildings. For every six state commissioners that have been appointed in the manner described, the state commissioners shall select one additional commissioner who shall be a representative of consumers of industrialized/modular buildings. In the event states withdraw from the compact or, for any other reason, the number of state commissioners is reduced, the state commissioners shall remove the last added representative commissioner as necessary to maintain the ratio of state commissioners to representative commissioners described herein.

Upon a majority vote of the state commissioners, the state commissioners may remove, fill a vacancy created by, or replace any representative commissioner, provided that any replacement is made from the same representative group and the ratio described herein is maintained. Unless provided otherwise, the representative commissioners have the same authority and responsibility as the state commissioners.

In addition, the commission may have as a member one commissioner representing the United States government if federal law authorizes such representation. Such commissioner shall not vote on matters before the commission. Such commissioner shall be appointed by the President of the United States, or in such other manner as may be provided by Congress.

ARTICLE V VOTING

Each commissioner (except the commissioner representing the United States government) shall be entitled to one vote on the commission. A majority of the commissioners shall constitute a quorum for the transaction of business. Any business transacted at any meeting of the commission must be by affirmative vote of a majority of the quorum present and voting.

ARTICLE VI ORGANIZATION AND MANAGEMENT

The commission shall elect annually, from among its members, a chairman, a vice chairman and a treasurer. The commission shall also select a secretariat, which shall provide an individual who shall serve as secretary of the commission. The commission shall fix and determine the duties and compensation of the secretariat. The commissioners shall serve without compensation, but shall be reimbursed for their actual and necessary expenses from the funds of the commission.

The commission shall adopt a seal.

The commission shall adopt bylaws, rules, and regulations for the conduct of its business, and shall have the power to amend and rescind these bylaws, rules, and regulations.

The commission shall establish and maintain an office at the same location as the office maintained by the secretariat for the transaction of its business and may meet at any time, but in any event must meet at least once a year. The chairman may call additional meetings and upon the request of a majority of the commissioners of three or more of the compacting states shall call an additional meeting.

The commission annually shall make the governor and legislature of each compacting state a report covering its activities for the preceding year. Any donation or grant accepted by the commission or services borrowed shall be reported in the annual report of the commission and shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender. The commission may make additional reports as it may deem desirable.

ARTICLE VII COMMITTEES

The commission will establish such committees as it deems necessary, including, but not limited to, the following:

(1) An executive committee which functions when the full commission is not meeting, as provided in the bylaws of the commission. The executive committee will ensure that proper procedures are followed in implementing the commission's programs and in carrying out the activities of the compact. The executive committee shall be elected by vote of the commission. It shall be comprised of at least three and no more than nine commissioners, selected from the state commissioners and one member of the industry commissioners and one member of the consumer commissioners.

(2) A rules development committee appointed by the commission. The committee shall be consensus-based and consist of not less than seven nor more than 21 members. Committee members will include state building regulatory officials; manufacturers of industrialized/modular buildings; private, third-party inspection agencies; and consumers. This committee may recommend procedures which state and local officials, and other parties, in one state, may utilize to assure state and local officials, and other parties, in other states, of the substantial compliance of industrialized/modular building construction with the construction standard requirements of such other states; to assess the adequacy of building systems; and to verify and assure the competency and performance of evaluation and inspection agencies. This committee may also recommend construction standards for the design, manufacture, handling, storage, delivery and installation of industrialized/modular buildings and building

components. The committee will submit its recommendations to the commission, for the commission's consideration in adopting and amending the uniform administrative procedures and the model rules and regulations for industrialized/modular buildings. The committee may also review the regulatory programs of the compacting states to determine whether those programs are consistent with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings and may make recommendations concerning the states' programs to the commission. In carrying out its functions, the rules committee may conduct public hearings and otherwise solicit public input and comment.

(3) Any other advisory, coordinating or technical committees, membership on which may include private persons, public officials, associations or organizations. Such committees may consider any matter of concern to the commission.

(4) Such additional committees as the commission's bylaws may provide.

ARTICLE VIII

POWER AND AUTHORITY

In addition to the powers conferred elsewhere in this compact, the commission shall have power to:

(1) Collect, analyze and disseminate information relating to industrialized/modular buildings.

(2) Undertake studies of existing laws, codes, rules and regulations, and administrative practices of the states relating to industrialized/modular buildings.

(3) Assist and support committees and organizations which promulgate, maintain and update model codes or recommendations for uniform administrative procedures or model rules and regulations for industrialized/modular buildings.

(4) Adopt and amend uniform administrative procedures and model rules and regulations for industrialized/modular buildings.

(5) Make recommendations to compacting states for the purpose of bringing such states' laws, codes, rules and regulations and administrative practices into conformance with the uniform administrative procedures or the model rules and regulations for industrialized/modular buildings, provided that such recommendations shall be made to the appropriate state agency with due consideration for the desirability of uniformity while also giving appropriate consideration to special circumstances which may justify variations necessary to meet unique local conditions.

(6) Assist and support the compacting states with monitoring of plan review programs and inspection programs, which will assure that the compacting states have the benefit of uniform industrialized/modular building plan review and inspection programs.

(7) Assist and support organizations which train state and local government and other program personnel in the use of uniform industrialized/modular building plan review and inspection programs.

(8) Encourage and promote coordination of state regulatory action relating to manufacturers, public or private inspection programs.

(9) Create and sell labels to be affixed to industrialized/modular building units, constructed in or regulated by compacting states, where such labels will evidence compliance with the model rules and regulations for industrialized/modular buildings, enforced in accordance with the uniform administrative procedures. The commission may use receipts from the sale of labels to help defray the operating expenses of the commission.

(10) Assist and support compacting states' investigations into and resolutions of consumer complaints which relate to industrialized/modular buildings constructed in one compacting state and sited in another compacting state.

(11) Borrow, accept or contract for the services of personnel from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, association, person, firm or corporation.

(12) Accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services (conditional or otherwise) from any state or the United States or any subdivision or agency thereof, from any interstate agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same.

(13) Establish and maintain such facilities as may be necessary for the transacting of its business. The commission may acquire, hold, and convey real and personal property and any interest therein.

(14) Enter into contracts and agreements, including but not limited to, interim reciprocal agreements with noncompacting states.

ARTICLE IX FINANCE

The commission shall submit to the governor or designated officer or officers of each compacting state a budget of its estimated expenditures for such period as may be required by the laws of that state for presentation to the legislature thereof.

Each of the commission's budgets of estimated expenditures shall contain specific recommendations of the amounts to be appropriated by each of the compacting states. The total amount of appropriations requested under any such budget shall be apportioned among the compacting states as follows: one-half in equal shares; one-fourth among the compacting states in accordance with the ratio of their populations to the total population of the compacting states, based on the last decimal federal census; and one-fourth among the compacting states in accordance with the ratio of industrialized/modular building units manufactured in each state to the total of all units manufactured in all of the compacting states.

The commission shall not pledge the credit of any compacting state. The commission may meet any of its obligations in whole or in part with funds available to it by donations, grants, or sale of labels: provided that the commission takes specific action setting aside such funds prior to incurring any obligation to be met in whole or in part in such manner. Except where the commission makes use of funds available to it by donations, grants or sale of labels, the commission shall not incur any obligation prior to the allotment of funds by the compacting states adequate to meet the same.

The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission shall be subject to the audit and accounting procedures established under its bylaws. All receipts and disbursements of funds handled by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the commission.

The accounts of the commission shall be open at any reasonable time for inspection by duly constituted officers of the compacting states and any person authorized by the commission.

Nothing contained in this article shall be construed to prevent commission compliance relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the commission.

ARTICLE X ENTRY INTO FORCE AND WITHDRAWAL

This compact shall enter into force when enacted into law by any three states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof. The commission shall arrange for notification of all compacting states whenever there is a new enactment of the compact.

Any compacting state may withdraw from this compact by enacting a statute repealing the same. No withdrawal shall affect any liability already incurred by or chargeable to a compacting state prior to the time of such withdrawal.

ARTICLE XI RECIPROCITY

If the commission determines that the standards for industrialized/modular buildings prescribed by statute, rule or regulation of compacting state are at least equal to the commission's model rules and regulations for industrialized/modular buildings, and that such state standards are enforced by the compacting state in accordance with the uniform administrative procedures, industrialized/modular buildings approved by such a compacting state shall be deemed to have been approved by all the compacting states for placement in those states in accordance with procedures prescribed by the commission.

ARTICLE XII
EFFECT ON OTHER LAWS AND JURISDICTION

Nothing in this compact shall be construed to:

- (1) Withdraw or limit the jurisdiction of any state or local court or administrative officer or body with respect to any person, corporation or other entity or subject matter, except to the extent that such jurisdiction pursuant to this compact, is expressly conferred upon another agency or body.
- (2) Supersede or limit the jurisdiction of any court of the United States.

ARTICLE XIII
CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

History: 1995 c 254 art 4 s 1

16B.88 OFFICE ON VOLUNTEER SERVICES.

Subdivision 1. Information center for volunteer programs. (a) The office of citizenship and volunteer services is under the supervision and administration of a director appointed by the commissioner. The office shall: (1) operate as a state information, technical assistance, and promotion center for volunteer programs; and (2) promote and facilitate citizen participation in local governance and public problem solving.

(b) In furtherance of the mission in paragraph (a), clause (2), the office shall:

- (1) engage in education and other activities designed to enhance the capacity of citizens to solve problems affecting their communities;
- (2) promote and support efforts by citizens, community-based organizations, nonprofits, churches, and local governments to collaborate in solving community problems;
- (3) encourage local governments to provide increased opportunities for citizen involvement in public decision making and public problem solving;
- (4) refer innovative approaches to encourage greater public access to and involvement in state and local government decisions to appropriate state and local government officials;
- (5) encourage units of state and local government to respond to citizen initiatives and ideas;
- (6) promote processes for involving citizens in government decisions; and
- (7) recognize and publicize models of effective public problem solving by citizens.

Subd. 2. Cooperation with other groups. The director shall cooperate with national, state, and local groups in collecting information on federal, state, and private resources which may encourage and improve volunteer projects within the state. The office shall coordinate its research and other work on citizen engagement with the board of government innovation and cooperation, the Minnesota extension service, and Project Public Life, Humphrey Institute, University of Minnesota.

Subd. 3. Money. The director may accept and disburse public or private funds and gifts made available for the promotion of the office's programs.

[For text of subd 3a, see M.S. 1994]

Subd. 4. Research and information. The director shall: (1) identify methods for increasing the capacity of citizens to influence decisions affecting their lives, identify methods citizens can use to solve problems in their communities, and promote innovative techniques for citizen and community-based organizations to collaborate in understanding and solving

community problems; and (2) identify needs of volunteer programs. The director may issue informational materials relating to volunteer programs in Minnesota and results of the director's research.

[For text of subs 5 and 6, see M.S.1994]

History: 1995 c 254 art 1 s 60-63