

## CHAPTER 326

## EMPLOYMENTS LICENSED BY STATE

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**326.01 DEFINITIONS.**

*[For text of subd 1, see M.S.2006]*

Subd. 2. **Class A master electrician.** "Class A master electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to perform and supervise any electrical work, and who is licensed as a Class A master electrician by the commissioner.

Subd. 3. **Class A journeyman electrician.** "Class A journeyman electrician" means an individual having the necessary qualifications, training, experience, and technical knowledge to perform and supervise any electrical work except for planning or laying out of electrical work, and who is licensed as a Class A journeyman electrician by the commissioner.

Subd. 4. [Repealed, 2007 c 140 art 5 s 33; art 13 s 3]

Subd. 4a. **Elevator constructor.** "Elevator constructor" means an individual having the necessary qualifications, training, experience, and technical knowledge to wire for, install, maintain, and repair electrical wiring, apparatus, and equipment for elevators and escalators and who is licensed as an elevator constructor by the commissioner.

Subd. 4b. **Elevator contractor.** "Elevator contractor" means a licensed contractor whose responsible licensed individual is a licensed master elevator constructor. An elevator contractor license does not itself qualify its holder to perform or supervise the electrical or elevator work authorized by holding any other personal license issued by the commissioner.

Subd. 4c. **Lineman.** "Lineman" means an individual having the necessary qualifications, training, experience, and technical knowledge to construct and maintain transmission

and distribution systems that are or will be owned or leased by an electrical utility, and who is licensed as a lineman by the commissioner.

Subd. 4d. **Maintenance electrician.** “Maintenance electrician” means an individual having the necessary qualifications, training, experience, and technical knowledge to properly maintain and repair electrical wiring, apparatus, and equipment, who is licensed as a maintenance electrician by the commissioner or who is exempt from licensing by sections 326.241 to 326.248.

Subd. 4e. **Master elevator constructor.** “Master elevator constructor” means an individual having the necessary qualifications, training, experience, and technical knowledge to properly plan, lay out, and supervise the installation, maintenance, and repair of wiring, apparatus, and equipment for elevators and escalators and who is licensed as a master elevator constructor by the commissioner.

Subd. 5. **Contractor.** “Contractor” means a person who performs or offers to perform any electrical work, with or without compensation, who is licensed as a contractor by the commissioner. A contractor’s license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of electrician’s or other personal electrical license. Contractor includes electrical contractors and technology system contractors.

Subd. 6. **Class B master electrician.** “Class B master electrician” means an individual having the necessary qualifications, training, experience, and technical knowledge to perform and supervise any electrical work for single phase systems of not over 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2,500 inhabitants, and who is licensed as a Class B master electrician by the commissioner.

Subd. 6a. **Class B journeyman electrician.** “Class B journeyman electrician” means an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, and supervise the installing, altering, or repairing of electrical wiring, apparatus, and equipment for single phase systems of not more than 200 ampere capacity for light, heat, power, and other purposes on any farm or in any single family dwelling located in any town or municipality which has a population of less than 2,500 inhabitants, and who is licensed as a Class B journeyman electrician by the commissioner.

Subd. 6b. **Class A installer.** “Class A installer” means an individual who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment for major electrical home appliances and such other electrical equipment as is determined by the commissioner pursuant to section 326.242, subdivision 3, on the load side of the main service on farmsteads or in any town or municipality with less than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a master electrician, and who is licensed as a Class A installer by the commissioner.

Subd. 6c. **Class B installer.** “Class B installer” means an individual who has the necessary qualifications, training, experience, and technical knowledge to properly lay out and install electrical wiring, apparatus, and equipment on center pivot irrigation booms on the load side of the main service on farmsteads, and install other electrical equipment determined by the commissioner, and who is licensed as a Class B installer by the commissioner.

Subd. 6e. **Owner.** An owner is an individual who physically performs electrical work on premises the individual owns and actually occupies as a residence or owns and will occupy as a residence upon completion of its construction.

Subd. 6f. **Electrical work.** “Electrical work” means the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for electrical light, heat, power, technology circuits or systems, or other purposes. The installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for electrical light, heat, power, technology circuits or systems, or other purposes includes, but is not limited to, the performance of any work regulated by the standards referred to in section 326.243.

Subd. 6g. **Direct supervision.** “Direct supervision” means:

(1) an unlicensed individual is being supervised by an individual licensed to perform the electrical work being supervised;

(2) during the entire working day of the unlicensed individual, the licensed individual is physically present at the location where the unlicensed individual is performing electrical work and immediately available to the unlicensed individual;

(3) the licensed individual is physically present and immediately available to the unlicensed individual at all times for assistance and direction;

(4) electronic supervision does not meet the requirement of physically present and immediately available;

(5) the licensed individual shall review the electrical work performed by the unlicensed individual before the electrical work is operated; and

(6) the licensed individual is able to and does determine that all electrical work performed by the unlicensed individual is performed in compliance with section 326.243.

The licensed individual is responsible for the compliance with section 326.243 of all electrical work performed by the unlicensed individual.

Subd. 6h. [Repealed, 2007 c 140 art 13 s 3]

*[For text of subd 6i, see M.S.2006]*

Subd. 6j. **Residential dwelling.** A “residential dwelling” is a single dwelling unit that is contained in a one-family, two-family, or multifamily dwelling as defined in the National Electrical Code pursuant to section 326.243. A residential dwelling includes a garage and accessory building that can only be used by the residents of the single dwelling unit.

Subd. 6k. **Power limited technician.** “Power limited technician” means an individual having the necessary qualifications, training, experience, and technical knowledge to install, alter, repair, plan, lay out, and supervise the installing, altering, and repairing of electrical wiring, apparatus, and equipment for technology circuits or systems, and who is licensed as a power limited technician by the commissioner.

Subd. 6l. **Technology circuits or systems.** “Technology circuits or systems” means class 2 or class 3 circuits or systems for, but not limited to, remote control, signaling, control, alarm, and audio signal, including associated components as covered by the National Electrical Code, articles 640, 645, 650, 725, 760, 770, and 780, and which are isolated from circuits or systems other than class 2 or class 3 by a demarcation and are not process control circuits or systems; antenna and communication circuits or systems as covered by chapter 8 of the National Electrical Code; and circuitry and equipment for indoor lighting and outdoor landscape lighting systems that are supplied by the secondary circuit of an isolating power supply operating at 30 volts or less as covered by the National Electrical Code, article 411. The planning, laying out, installing, altering, and repairing of technology circuits or systems must be performed in accordance with the applicable requirements of the National Electrical Code pursuant to section 326.243.

*[For text of subd 6m, see M.S.2006]*

Subd. 7. **Journeyman plumber.** A “journeyman plumber” is an individual, other than a master plumber, who, as a principal occupation, is engaged as an employee of, or is otherwise working under the direction of, a master plumber in the practical installation of plumbing.

Subd. 8. **Master plumber.** A “master plumber” is an individual who is skilled in the planning, superintending, and the practical installation of plumbing, who is otherwise lawfully qualified to contract for plumbing and installations and to conduct the business of plumbing and who is familiar with the laws and rules governing the same.

Subd. 9. [Repealed, 2007 c 140 art 6 s 16]

Subd. 10. [Repealed, 2007 c 140 art 13 s 3]

Subd. 11. [Repealed, 2007 c 140 art 13 s 3]

Subd. 12. [Repealed, 2007 c 140 art 13 s 3]

Subd. 13. [Repealed, 2007 c 140 art 13 s 3]

*[For text of subds 14 to 19, see M.S.2006]*

**History:** 2007 c 135 art 6 s 1; 2007 c 140 art 5 s 1–18; art 6 s 2,3

**326.241** [Repealed, 2007 c 135 art 2 s 40; 2007 c 140 art 5 s 33]

### **326.2411 BOARD OF ELECTRICITY.**

Subdivision 1. **Composition.** (a) The Board of Electricity shall consist of 12 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner's designee, who shall be a voting member. Of the 11 appointed members, the composition shall be as follows:

- (1) one member shall be an electrical inspector;
- (2) two members shall be representatives of the electrical suppliers in rural areas;
- (3) two members shall be master electricians, who shall be contractors;
- (4) two members shall be journeyman electricians;
- (5) one member shall be a registered consulting electrical engineer;
- (6) two members shall be power limited technicians, who shall be technology system contractors primarily engaged in the business of installing technology circuits or systems; and
- (7) one member shall be a public member as defined by section 214.02.

The electrical inspector shall be appointed to a term to end December 31, 2011. One of the rural electrical suppliers shall be appointed for a term to end December 31, 2011, and one rural electrical supplier shall serve for a term to end December 31, 2010. The consulting electrical engineer shall be appointed for a term to end December 31, 2011. One of the master electrician contractors shall be appointed for a term to end December 31, 2011, and one master electrician contractor shall be appointed for a term to end December 31, 2010. One of the journeyman electricians shall be appointed for a term to end December 31, 2011, and one journeyman electrician shall be appointed for a term to end December 31, 2010. One of the power limited technicians shall be appointed for a term to end December 31, 2011, and one power limited technician shall be appointed for a term to end December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The consulting electrical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of the term served on the board. All other appointed members, except the public member and the representatives of electrical suppliers in rural areas, must possess a current electrical license issued by the Department of Labor and Industry and maintain that license for the duration of their terms. All appointed members must be residents of Minnesota at the time of and throughout their terms. The term of any appointed member who does not maintain membership qualification status shall end on the date of status change and the governor shall appoint a replacement member. It is the responsibility of the member to notify the board of a change in the member's status.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on the first Monday in January. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for

the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and contain such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) the Minnesota Electrical Code shall be the most current edition of the National Electrical Code upon its adoption by the board and any amendments thereto as adopted by the board. The board shall adopt the most current edition of the National Electrical Code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b) and (c);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) adopt rules that regulate the licensure or registration of electrical businesses, electrical contractors, master electricians, journeyman electricians, class A installer, class B installer, power limited technicians, and other persons who perform electrical work. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (d) and (e);

(6) adopt rules that regulate continuing education for individuals licensed or registered as electrical businesses, electrical contractors, master electricians, journeyman electricians, class A installer, class B installer, power limited technicians, and other persons who perform electrical work. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraph (e);

(7) advise the commissioner regarding educational requirements for electrical inspectors;

(8) refer complaints or other communications, whether orally or in writing, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed electrical services to the commissioner under subdivision 8;

(9) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(10) approve license reciprocity agreements;

(11) select from its members individuals to serve on any other state advisory council, board, or committee; and

(12) recommend the fees for licenses and certifications.

Except for the powers granted to the Board of Electricity, the commissioner of labor and industry shall administer and enforce the provisions of sections 326.241 to 326.248 and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

**Subd. 3. Compensation.** (a) Members of the board may be compensated at the rate of \$55 per day spent on board activities, when authorized by the board, plus expenses, in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings,

incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

**Subd. 4. Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

**Subd. 5. Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a seat on the board becomes vacant within three months after being filled through the appointment process, the governor may, upon notification to the Office of the Secretary of State, choose a new member from the applications on hand and need not repeat the process.

**Subd. 6. Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each Electrical Code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next Electrical Code rulemaking proceeding initiated by the board. If an Electrical Code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all of the voting members of the board, the Electrical Code amendment shall not be included in the next Electrical Code rulemaking proceeding initiated by the board.

(c) The board may reconsider Electrical Code amendments during an active Electrical Code rulemaking proceeding in which the amendment previously failed to receive a two-thirds or more majority vote of all of the voting members of the board only if new or updated information that affects the Electrical Code amendment is presented to the board. The board may also reconsider failed Electrical Code amendments in subsequent Electrical Code rulemaking proceedings.

(d) Except as provided in paragraph (e), each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clauses (5) and (6), that receives an affirmative majority vote of the all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all of the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(e) The board may reconsider a proposed rule or rule amendment during an active rule-making proceeding in which the amendment previously failed to receive an affirmative majority vote of all of the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider a failed proposed rule or rule amendment in subsequent rulemaking proceedings.

**Subd. 7. Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. The timing and method of providing notice is governed by section 13D.04.

**Subd. 8. Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether in writing or orally, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide electrical services, the performance or offering to perform electrical services requiring licensure by an unlicensed person, or Electrical Code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of a complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

**Subd. 9. Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 135 art 6 s 2

### 326.2415 BOARD OF ELECTRICITY.

Subdivision 1. **Composition.** (a) The Board of Electricity shall consist of 12 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner's designee, who shall be a voting member. Of the 11 appointed members, the composition shall be as follows:

- (1) one member shall be an electrical inspector;
- (2) two members shall be representatives of the electrical suppliers in rural areas;
- (3) two members shall be master electricians, who shall be contractors;
- (4) two members shall be journeyman electricians;
- (5) one member shall be a registered consulting electrical engineer;
- (6) two members shall be power limited technicians, who shall be technology system contractors primarily engaged in the business of installing technology circuits or systems; and
- (7) one member shall be a public member as defined by section 214.02.

The electrical inspector shall be appointed to a term to end December 31, 2011. One of the rural electrical suppliers shall be appointed for a term to end December 31, 2011. The other rural electrical supplier shall be appointed for a term to end December 31, 2010. The consulting electrical engineer shall be appointed for a term to end December 31, 2011. One of the master electrician contractors shall be appointed for a term to end December 31, 2011. The other master electrician contractor shall be appointed for a term to end December 31, 2010. One of the journeyman electricians shall be appointed for a term to end December 31, 2011. The other journeyman electrician shall be appointed for a term to end December 31, 2010. One of the power limited technicians shall be appointed for a term to end December 31, 2011. The other power limited technician shall be appointed for a term to end December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The consulting electrical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of the term on the board. All other appointed members, except for the public member and the representatives of electrical suppliers in rural areas, must possess a current electrical license issued by the Department of Labor and Industry and maintain that license for the duration of their terms. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of their status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

Subd. 2. **Powers; duties; administrative support.** (a) The board shall have the power to:

- (1) elect its chair, vice-chair, and secretary;



(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) the Minnesota Electrical Code shall be the most current edition of the National Electrical Code upon its adoption by the board and any amendments thereto as adopted by the board. The board shall adopt the most current edition of the National Electrical Code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b) and (c);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) adopt rules that regulate the licensure or registration of electrical businesses, electrical contractors, master electricians, journeyman electricians, Class A installer, Class B installer, power limited technicians, and other persons who perform electrical work except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (d) and (e);

(6) adopt rules that regulate continuing education for individuals licensed or registered as electrical businesses, electrical contractors, master electricians, journeyman electricians, Class A installer, Class B installer, power limited technicians, and other persons who perform electrical work. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraph (e);

(7) advise the commissioner regarding educational requirements for electrical inspectors;

(8) refer complaints or other communications to the commissioner, whether oral or in writing, as provided in subdivision 8 that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, registration, or an offering to perform or performance of unlicensed electrical services;

(9) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(10) approve license reciprocity agreements;

(11) select from its members individuals to serve on any other state advisory council, board, or committee; and

(12) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by all of the other boards created pursuant to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

**Subd. 3. Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or

compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

**Subd. 4. Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the Senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.097, subdivisions 5 and 6.

**Subd. 5. Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of Secretary of State, choose a new member from the applications on hand and need not repeat the process.

**Subd. 6. Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Each electrical code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next electrical code rulemaking proceeding initiated by the board. If an electrical code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all of the voting members of the board, the electrical code amendment shall not be included in the next electrical code rulemaking proceeding initiated by the board.

(c) The board may reconsider electrical code amendments during an active electrical code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all of the voting members of the board only if new or updated information that affects the electrical code amendment is presented to the board. The board may also reconsider failed electrical code amendments in subsequent electrical code rulemaking proceedings.

(d) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clauses (5) and (6), that receives an affirmative majority vote of all of the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all of the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(e) The board may reconsider proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all of the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rule or rule amendment in subsequent rulemaking proceedings.

Subd. 7. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 8. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether in writing or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide electrical work, the performance or offering to perform electrical work requiring licensure or registration, or electrical code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

Subd. 9. **Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 140 art 5 s 19

**326.242 LICENSES.**

Subdivision 1. **Master electrician.** Except as otherwise provided by law, no individual shall perform or supervise electrical work unless the individual is: (a) licensed by the commissioner as a master electrician; and (b)(i) the electrical work is for a licensed contractor and the individual is an employee, partner, or officer of, or is the licensed contractor, or (ii) the electrical work is performed for the individual's employer on electrical wiring, apparatus, equipment, or facilities that are owned or leased by the employer and that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(1) An applicant for a Class A master electrician license shall (a) be a graduate of a four-year electrical course offered by an accredited college or university; or (b) shall have had at least one year of experience, acceptable to the commissioner, as a licensed journeyman; or (c) shall have had at least five years' experience, acceptable to the commissioner, in planning for, laying out, supervising and installing wiring, apparatus, or equipment for electrical light, heat and power.

(2) As of August 1, 1985, no new Class B master electrician licenses shall be issued. An individual who has a Class B master electrician license as of August 1, 1985, may retain and renew the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

Subd. 2. **Journeyman electrician.** (a) Except as otherwise provided by law, no individual shall perform and supervise any electrical work except for planning or laying out of electrical work unless:

(1) the individual is licensed by the commissioner as a journeyman electrician; and

(2) the electrical work is:

(i) for a contractor and the individual is an employee, partner, or officer of the licensed contractor; or

(ii) performed under the supervision of a master electrician also employed by the individual's employer on electrical wiring, apparatus, equipment, or facilities that are owned or leased by the employer and that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(b) An applicant for a Class A journeyman electrician license shall have had at least four years of experience, acceptable to the commissioner, in wiring for, installing, and repairing electrical wiring, apparatus, or equipment, provided however, that the commissioner may by rule allow one year of experience credit for the successful completion of a two-year post high school electrical course approved by the commissioner.

(c) As of August 1, 1985, no new Class B journeyman electrician licenses shall be issued. An individual who holds a Class B journeyman electrician license as of August 1, 1985, may retain and renew the license and exercise the privileges it grants, which include electrical work limited to single phase systems, not over 200 amperes in capacity, on farmsteads or on single-family dwellings located in towns or municipalities with fewer than 2,500 inhabitants.

Subd. 3. **Class A installer.** Notwithstanding the provisions of subdivisions 1, 2, and 6, any individual holding a Class A installer license may lay out and install and supervise the laying out and installing of electrical wiring, apparatus, or equipment for major electrical home appliances on the load side of the main service on farmsteads and in any town or municipality with fewer than 1,500 inhabitants, which is not contiguous to a city of the first class and does not contain an established business of a contractor. As of December 1, 2007, no new Class A installer licenses shall be issued. An individual who holds a Class A installer license as of December 1, 2007, may retain and renew the license and exercise the privileges it grants.

Subd. 3a. **Class B installer.** Notwithstanding the provisions of subdivisions 1, 2, and 6, any individual holding a Class B installer license may lay out and install electrical wiring, apparatus and equipment on center pivot irrigation booms on the load side of the main service

on farmsteads, and install such other electrical equipment as is approved by the commissioner.

**Subd. 3b. Coursework or experience.** An applicant for a Class A or B installer license shall have completed a post high school course in electricity approved by the commissioner or shall have had at least one year of experience, approved by the commissioner, in electrical wiring.

**Subd. 3c. Bond.** Every Class A and Class B installer, as a condition of licensure, shall give bond to the state in the sum of \$1,000 conditioned upon the faithful and lawful performance of all work contracted for or entered upon by the installer within the state of Minnesota, and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. Such bond shall be in lieu of all other license bonds to any political subdivision of the state. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

**Subd. 3d. Power limited technician.** (a) Except as otherwise provided by law, no individual shall install, alter, repair, plan, lay out, or supervise the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for technology circuits or systems unless:

- (1) the individual is licensed by the commissioner as a power limited technician; and
- (2) the electrical work is:

(i) for a licensed contractor and the individual is an employee, partner, or officer of, or is the licensed contractor; or

(ii) performed under the direct supervision of a master electrician or power limited technician also employed by the individual's employer on technology circuits, systems, apparatus, equipment, or facilities that are owned or leased by the employer and that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(b) An applicant for a power limited technician's license shall (1) be a graduate of a four-year electrical course offered by an accredited college or university; or (2) have had at least 36 months' experience, acceptable to the board, in planning for, laying out, supervising, installing, altering, and repairing wiring, apparatus, or equipment for power limited systems, provided however, that the board may by rule provide for the allowance of up to 12 months (2,000 hours) of experience credit for successful completion of a two-year post high school electrical course or other technical training approved by the board.

(c) Licensees must attain 16 hours of continuing education acceptable to the board every renewal period.

(d) A company holding an alarm and communication license as of June 30, 2003, may designate one individual who may obtain a power limited technician license without passing an examination administered by the commissioner by submitting an application and license fee of \$30.

(e) A person who has submitted an application by December 30, 2007, to take the power limited technician examination administered by the department is not required to meet the qualifications set forth in paragraph (b).

Subd. 4. [Repealed, 2007 c 140 art 13 s 3]

**Subd. 5. Unlicensed individuals.** (a) An unlicensed individual means an individual who has not been licensed by the department to perform specific electrical work. An unlicensed individual shall not perform electrical work required to be performed by a licensed individual unless the individual has first registered with the department as an unlicensed individual. Thereafter, an unlicensed individual shall not perform electrical work required to be performed by a licensed individual unless the work is performed under the direct supervision of an individual actually licensed to perform such work. The licensed individual and unlicensed individual must be employed by the same employer. Licensed individuals shall not permit unlicensed individuals to perform electrical work except under the direct supervision of an individual actually licensed to perform such work. Unlicensed individuals shall

not supervise the performance of electrical work or make assignments of electrical work to unlicensed individuals. Except for technology circuit or system work, licensed individuals shall supervise no more than two unlicensed individuals. For technology circuit or system work, licensed individuals shall supervise no more than three unlicensed individuals.

(b) Notwithstanding any other provision of this section, no individual other than a master electrician or power limited technician shall plan or lay out electrical wiring, apparatus, or equipment for light, heat, power, or other purposes, except circuits or systems exempted from personal licensing by subdivision 12, paragraph (b).

(c) Contractors employing unlicensed individuals to perform electrical work shall maintain records establishing compliance with this subdivision that shall identify all unlicensed individuals performing electrical work, except for individuals working on circuits or systems exempted from personal licensing by subdivision 12, paragraph (b), and shall permit the department to examine and copy all such records.

(d) When a licensed individual supervises the electrical work of an unlicensed individual, the licensed individual is responsible for ensuring that the electrical work complies with the Minnesota Electrical Act and all rules adopted under the act.

**Subd. 5a. Registration of unlicensed individuals.** Unlicensed individuals performing electrical work for a contractor or employer shall register with the department in the manner prescribed by the commissioner. Experience credit for electrical work performed in Minnesota after January 1, 2008, by an applicant for a license identified in this section shall not be granted where the applicant has not registered with or is not licensed by the department.

**Subd. 6. Contractor's license required.** Except as otherwise provided by law, no individual other than an employee, partner, or officer of a licensed contractor, as defined by section 326B.31, subdivision 12, shall perform or offer to perform electrical work with or without compensation unless the individual obtains a contractor's license. A contractor's license does not of itself qualify its holder to perform or supervise the electrical work authorized by holding any class of personal license.

**Subd. 6a. Bond required.** As a condition of licensing, each contractor shall give and maintain bond to the state in the sum of \$25,000 conditioned upon the faithful and lawful performance of all work contracted for or performed by the contractor within the state of Minnesota and such bond shall be for the benefit of persons injured or suffering financial loss by reason of failure of such performance. The bond shall be filed with the commissioner and shall be in lieu of all other license bonds to any other political subdivision. Such bond shall be written by a corporate surety licensed to do business in the state of Minnesota.

**Subd. 6b. Insurance required.** Each contractor shall have and maintain in effect general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$50,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. Such insurance shall be written by an insurer licensed to do business in the state of Minnesota and each contractor shall maintain on file with the commissioner a certificate evidencing such insurance which provides that such insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner of such cancellation.

**Subd. 6c. Employment of master electrician or power limited technician.** (a) Each contractor must designate a responsible master electrician or power limited technician, who shall be responsible for the performance of all electrical work in accordance with the requirements of sections 326B.31 to 326B.399 or any rule or order adopted or issued under these sections. The classes of work that a licensed contractor is authorized to perform shall be limited to the classes of work that the responsible master electrician or power limited electrician is licensed to perform.

(b) When a contractor's license is held by an individual, sole proprietorship, partnership, limited liability company, or corporation and the individual, proprietor, one of the partners, one of the members, or an officer of the corporation, respectively, is not the responsible

master electrician or power limited technician, all requests for inspection shall be signed by the responsible master electrician or power limited technician. If the contractor is an individual or a sole proprietorship, the responsible licensed individual must be the individual, proprietor, or managing employee. If the contractor is a partnership, the responsible licensed individual must be a general partner or managing employee. If the licensed contractor is a limited liability company, the responsible licensed individual must be a chief manager or managing employee. If the contractor is a corporation, the responsible licensed individual must be an officer or managing employee. If the responsible licensed individual is a managing employee, the responsible licensed individual must be actively engaged in performing electrical work on behalf of the contractor, and cannot be employed in any capacity as an electrician or technician by any other contractor or employer designated in subdivision 12. An individual may be the responsible licensed individual for only one contractor or employer.

(c) All applications and renewals for contractor licenses shall include a verified statement that the applicant or licensee has complied with this subdivision.

**Subd. 7. Examination.** In addition to the other requirements described in this section and except as provided in subdivision 11, as a precondition to issuance of a personal license, each applicant must pass a written or oral examination developed and administered by the commissioner to ensure the competence of each applicant for license. An oral examination shall be administered only to an applicant who furnishes a written statement from a certified teacher or other professional, trained in the area of reading disabilities stating that the applicant has a specific reading disability which would prevent the applicant from performing satisfactorily on a written test. The oral examination shall be structured so that an applicant who passes the examination will not impair the applicant's own safety or that of others while acting as a licensed individual. No individual failing an examination may retake it for six months thereafter, but within such six months the individual may take an examination for a lesser grade of license. Any individual failing to renew a personal license for two years or more after its expiration, and any licensee whose personal license is revoked under this chapter, shall be required to retake the examination before being issued a new license. An individual whose personal license is revoked under any other chapter is not required to retake the examination before being issued a new license, unless the personal license was revoked two years or more before the commissioner received the completed application for a new license. A licensee whose personal license is suspended for any reason is not required to retake the examination before the personal license is reinstated, unless the personal license has not been reinstated within two years after the suspension began.

An applicant for a personal license shall submit to the commissioner an application and examination fee at the time of application. Upon approval of the application, the commissioner shall schedule the applicant for the next available examination, which shall be held within 60 days. The applicant shall be allowed one opportunity to reschedule an examination without being required to submit another application and examination fee. Additionally, an applicant who fails an examination, or whose application was not approved, shall submit another application and examination fee.

**Subd. 8. License, registration, and renewal fees; expiration.** (a) Unless revoked or suspended under this chapter, all licenses issued or renewed under this section expire on the date specified in this subdivision. Master licenses expire March 1 of each odd-numbered year after issuance or renewal. Electrical contractor licenses expire March 1 of each even-numbered year after issuance or renewal. Technology system contractor licenses expire August 1 of each even-numbered year after issuance or renewal. All other personal licenses expire two years from the date of original issuance and every two years thereafter. Registrations of unlicensed individuals expire one year from the date of original issuance and every year thereafter.

(b) Fees for application and examination, and for the original issuance and each subsequent renewal, are:

- (1) For each personal license application and examination: \$35;

(2) For original issuance and each subsequent renewal of:

Class A Master or master special electrician, including master elevator constructor: \$40 per year;

Class B Master: \$25 per year;

Power Limited Technician: \$15 per year;

Class A Journeyman, Class B Journeyman, Installer, Elevator Constructor, Lineman, or Maintenance Electrician other than master special electrician: \$15 per year;

Contractor: \$100 per year;

Unlicensed individual registration: \$15 per year.

(c) If any new license is issued in accordance with this subdivision for less than two years, the fee for the license shall be prorated on an annual basis.

(d) A license fee may not be refunded after a license is issued or renewed. However, if the fee paid for a license was not prorated in accordance with this subdivision, the amount of the overpayment shall be refunded.

(e) Any contractor who seeks reissuance of a license after it has been revoked or suspended under this chapter shall submit a reissuance fee of \$100 before the license is reinstated.

(f) The fee for the issuance of each duplicate license is \$15.

(g) An individual or contractor who fails to renew a license before 30 days after the expiration or registration of the license must submit a late fee equal to one year's license fee in addition to the full renewal fee. Fees for renewed licenses or registrations are not prorated. An individual or contractor that fails to renew a license or registration by the expiration date is unlicensed until the license or registration is renewed.

Subd. 9. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9a. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9b. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9c. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9d. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9e. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9f. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9g. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9h. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9i. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9j. [Repealed, 2007 c 140 art 13 s 3]

Subd. 9k. [Repealed, 2007 c 140 art 13 s 3]

Subd. 10. [Repealed, 2007 c 140 art 13 s 3]

Subd. 11. **Reciprocity.** The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a personal license without requiring the applicant to pass an examination provided the applicant:

(a) submits an application under this section;

(b) pays the fee required under this section; and

(c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

(1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.

(2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.



(3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this subdivision.

(4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.

(5) An applicant is not eligible for a license under this subdivision if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.

(6) An applicant who has failed to renew a personal license for two years or more after its expiration is not eligible for a license under this subdivision.

Subd. 12. **Exemptions from licensing.** (a) An individual who is a maintenance electrician is not required to hold or obtain a license under sections 326B.31 to 326B.399 if:

(1) the individual is engaged in the maintenance and repair of electrical equipment, apparatus, and facilities that are owned or leased by the individual's employer and that are located within the limits of property operated, maintained, and either owned or leased by the individual's employer;

(2) the individual is supervised by:

(i) the responsible master electrician for a contractor who has contracted with the individual's employer to provide services for which a contractor's license is required; or

(ii) a licensed master electrician, a licensed maintenance electrician, an electrical engineer, or, if the maintenance and repair work is limited to technology circuit and system work, a licensed power limited technician; and

(3) the individual's employer has filed with the commissioner a certificate of responsible person, signed by the responsible master electrician of the contractor, the licensed master electrician, the licensed maintenance electrician, the electrical engineer, or the licensed power limited technician, and stating that the person signing the certificate is responsible for ensuring that the maintenance and repair work performed by the employer's employees complies with the Minnesota Electrical Act and the rules adopted under that act.

(b) Employees of a licensed electrical or technology systems contractor or other employer where provided with supervision by a master electrician in accordance with subdivision 1, or power limited technician in accordance with subdivision 3d, paragraph (a), clause (1), are not required to hold a license under sections 326B.31 to 326B.399 for the planning, laying out, installing, altering, and repairing of technology circuits or systems except planning, laying out, or installing:

(1) in other than residential dwellings, class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3, except circuits that interconnect these systems through communication, alarm, and security systems are exempted from this paragraph;

(2) class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or

(3) technology circuits and systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code.

(c) Companies and their employees that plan, lay out, install, alter, or repair class 2 and class 3 remote control wiring associated with plug or cord and plug connected appliances other than security or fire alarm systems installed in a residential dwelling are not required to hold a license under sections 326B.31 to 326B.399.

(d) Heating, ventilating, air conditioning, and refrigeration contractors and their employees are not required to hold or obtain a license under sections 326B.31 to 326B.399 when performing heating, ventilating, air conditioning, or refrigeration work as described in section 326.245.

(e) Employees of any electrical, communications, or railway utility, cable communications company as defined in section 238.02, or a telephone company as defined under section 237.01 or its employees, or of any independent contractor performing work on behalf of any such utility, cable communications company, or telephone company, shall not be required to hold a license under sections 326B.31 to 326B.399:

(1) while performing work on installations, materials, or equipment which are owned or leased, and operated and maintained by such utility, cable communications company, or telephone company in the exercise of its utility, antenna, or telephone function, and which

(i) are used exclusively for the generation, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence and do not have as a principal function the consumption or use of electric current or provided service by or for the benefit of any person other than such utility, cable communications company, or telephone company, and

(ii) are generally accessible only to employees of such utility, cable communications company, or telephone company or persons acting under its control or direction, and

(iii) are not on the load side of the service point or point of entrance for communication systems;

(2) while performing work on installations, materials, or equipment which are a part of the street lighting operations of such utility; or

(3) while installing or performing work on outdoor area lights which are directly connected to a utility's distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction.

(f) An owner shall not be required to hold or obtain a license under sections 326B.31 to 326B.399.

**History:** 2007 c 135 art 6 s 4-7; 2007 c 140 art 5 s 20

**NOTE:** Subdivision 3d was also amended by Laws 2007, chapter 135, article 6, section 3, to read as follows:

"Subd. 3d. **Power limited technician.** (a) Except as otherwise provided by law, no individual shall install, alter, repair, plan, lay out, or supervise the installing, altering, repairing, planning, or laying out of electrical wiring, apparatus, or equipment for technology circuits or systems unless:

(1) the individual is licensed by the commissioner as a power limited technician; and

(2) the electrical work is:

(i) for a licensed contractor and the individual is an employee, partner, or officer of, or is the licensed contractor; or

(ii) performed under the direct supervision of a master electrician or power limited technician also employed by the individual's employer on technology circuits, systems, apparatus, equipment, or facilities that are owned or leased by the employer that are located within the limits of property operated, maintained, and either owned or leased by the employer.

(b) An applicant for a power limited technician's license shall (1) be a graduate of a four-year electrical course offered by an accredited college or university; or (2) have had at least 36 months' experience, acceptable to the board, in planning for, laying out, supervising, installing, altering and repairing wiring, apparatus, or equipment for power limited systems, provided however, that the board may by rule provide for the allowance of up to 12 months (2,000 hours) of experience credit for successful completion of a two-year post high school electrical course or other technical training approved by the board.

(c) Licensees must attain 16 hours of continuing education acceptable to the board every renewal period.

(d) A company holding an alarm and communication license as of June 30, 2003, may designate one individual who may obtain a power limited technician license without passing an examination administered by the commissioner by submitting an application and license fee of \$30.

(e) A person who has submitted an application by December 31, 2007, to take the power limited technician examination administered by the department is not required to meet the qualifications set forth in paragraph (b)."

### 326.243 SAFETY STANDARDS.

All electrical wiring, apparatus and equipment for electrical light, heat and power, technology circuits or systems shall comply with the rules of the department and the board and be installed in conformity with accepted standards of construction for safety to life and property. For the purposes of this chapter, the rules and safety standards stated at the time the work is done in the then most current edition of the National Electrical Code as adopted by the National Fire Protection Association, Inc. and approved by the American National Standards Institute, and the National Electrical Safety Code as published by the Institute of Electrical and Electronics Engineers, Inc. and approved by the American National Standards In-

stitute, shall be prima facie evidence of accepted standards of construction for safety to life and property; provided further, that in the event a Minnesota Building Code is formulated pursuant to section 16B.61, containing approved methods of electrical construction for safety to life and property, compliance with said methods of electrical construction of said Minnesota Building Code shall also constitute compliance with this section, and provided further, that nothing herein contained shall prohibit any political subdivision from making and enforcing more stringent requirements than set forth herein and such requirements shall be complied with by all licensed electricians working within the jurisdiction of such political subdivisions.

**History:** 2007 c 140 art 5 s 21

### 326.244 INSPECTION.

*[For text of subd 1, see M.S.2006]*

Subd. 1a. **Technology systems.** (a) The installation of the technology circuits or systems described in paragraph (b), except:

(1) minor work performed by a contractor;

(2) work performed by a heating, ventilating, or air conditioning contractor as described in section 326.245; and

(3) work performed by cable company employees when installing cable communications systems or telephone company employees when installing telephone systems, must be inspected as provided in this section for compliance with the applicable provisions of the National Electrical Code and the applicable provisions of the National Electrical Safety Code, as those codes were approved by the American National Standards Institute.

(b) The inspection requirements in paragraph (a) apply to:

(1) class 2 or class 3 remote control circuits that control circuits or systems other than class 2 or class 3, except circuits that interconnect these systems exempted by section 326.242, subdivision 12, paragraph (b), other than fire alarm; class 2 or class 3 circuits in electrical cabinets, enclosures, or devices containing physically unprotected circuits other than class 2 or class 3; or technology circuits and systems in hazardous classified locations as covered by chapter 5 of the National Electrical Code;

(2) fire alarm systems, other than in one- or two-family dwellings, as defined in articles 100 and 760 of the National Electrical Code;

(3) technology circuits and systems contained within critical care areas of health care facilities as defined by the safety standards identified in section 326.243, including, but not limited to, anesthesia and resuscitative alarm and alerting systems, medical monitoring, and nurse call systems;

(4) physical security systems within detention facilities; and

(5) circuitry and equipment for indoor lighting systems as defined in article 411 of the National Electrical Code.

(c) For the purposes of this subdivision "minor work" means the adjustment or repair and replacement of worn or defective parts of a technology circuit or system. Minor work may be inspected under this section at the request of the owner of the property or the person doing the work.

(d) Notwithstanding this subdivision, if an electrical inspector observes that a contractor, employer, or owner has not complied with accepted standards when the work was performed, as provided in the most recent editions of the National Electrical Code and the National Electrical Safety Code as approved by the American National Standards Institute, the inspector may order the contractor, employer, or owner who has performed the work to file a request for electrical inspection, pay an inspection fee, and make any necessary repairs to comply with applicable standards and require that the work be inspected.

Subd. 1b. **Licenses; bond.** All inspectors shall hold licenses as master or journeyman electricians under this chapter. All inspectors under contract with the department to provide

electrical inspection services shall give bond in the amount of \$1,000, conditioned upon the faithful performance of their duties.

**Subd. 2. Procedure.** (a) At or before commencement of any installation required to be inspected by the commissioner, the contractor, installer, special electrician, or owner making the installation shall submit to the commissioner a request for inspection, in a form prescribed by the commissioner, together with the fees required for the installation.

(b) The fees required are a handling fee and an inspection fee. The handling fee shall be set by the commissioner in an amount sufficient to pay the cost of printing and handling the form requesting an inspection. The inspection fee shall be set by the commissioner in an amount sufficient to pay the actual costs of the inspection and the commissioner's costs in administering the inspection. All fees shall be set pursuant to the procedure of sections 14.001 to 14.69.

(c) If the inspector finds that the installation is not in compliance with accepted standards of construction for safety to life and property as required by section 326.243, the inspector shall by written order condemn the installation or noncomplying portion thereof, or order service to the installation disconnected, and shall send a copy of the order to the commissioner. If the installation or the noncomplying part will seriously and proximately endanger human life and property, the order of the inspector, when approved by the inspector's superior, shall require immediate condemnation or disconnection. In all other cases, the order of the inspector shall permit a reasonable opportunity for the installation to be brought into compliance with accepted standards of construction for safety to life and property prior to the effective time established for condemnation or disconnection.

(d) Copies of each condemnation or disconnection order shall be served personally or by mail upon the property owner, and the contractor, installer, or special electrician making the installation, and other persons as the commissioner by rule may direct. An aggrieved party may appeal any condemnation or disconnection order by filing with the commissioner a notice of appeal within ten days after (1) service upon the aggrieved party of the condemnation or disconnection order, if this service is required, or (2) filing of the order with the commissioner, whichever is later. The appeal shall proceed and the order of the inspector shall have the effect the order, by its terms, and the rules of the commissioner provides. The commissioner shall adopt rules providing procedures for the conduct of appeals, including provisions for the stay of enforcement of the order of the inspector pending such appeal when justified by the circumstances.

**Subd. 3. Duty of electrical utility.** No electrical installation subject to inspection by the commissioner shall be newly connected or reconnected for use until there is filed with the electrical utility supplying power a certificate of the property owner or licensed electrician, directing the work that inspection has been requested and that the conditions of the installation are safe for energization, provided further, that in all cases where an order of condemnation or disconnection has been issued against the installation or any part thereof, prior to connection or reconnection there shall also first be filed with the electrical utility supplying the power a copy of an order of the inspector or the commissioner dismissing such prior order of condemnation or disconnection or approving the installation as being in compliance with accepted standards of construction for safety to life and property. With respect to transient projects, the aforesaid certificate shall also contain a certification that the request for inspection has been or will be filed with the commissioner so as to be received by it at least five days prior to the date and time energization of the installation by the utility is to occur, and that the request for inspection states such date and time, and it shall be the responsibility of the commissioner to have inspection of such transient project occur prior to the date and time at which the request states energization is to occur.

**Subd. 4. Powers of political subdivisions.** Any political subdivision or the University of Minnesota may make provision for inspection of electrical installations within its jurisdiction, in which case it shall keep on file with the commissioner copies of its current inspection ordinances and codes. No political subdivision or the University of Minnesota shall require any individual, partnership, corporation or other business association holding a license from

the commissioner under sections 326B.31 to 326B.399 to pay any license or registration fee, provided however, that any such political subdivision or the University of Minnesota may provide by ordinance a requirement that each individual, partnership, corporation or other business association doing electrical work within the jurisdiction of such political subdivision or the University of Minnesota have on file with said political subdivision a copy of the current license issued by the commissioner or such other evidence of such license as may be provided by the commissioner.

Each electrical inspector of any political subdivision or the University of Minnesota shall be a licensed master or journeyman electrician under section 326.242, subdivision 1, paragraph (1), or 2, paragraph (b), and shall not otherwise engage or be employed in the sale, installing, altering, or repairing of electrical wiring, apparatus, or equipment for light, heat, power, and other purposes and shall have no financial interest in any concern engaged in any such business.

**Subd. 5. Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections 326B.31 to 326B.399:

(1) when owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326B.31 to 326B.399, while performing electrical maintenance work only as defined by board rule;

(2) when owned or leased, and operated and maintained by any electrical, communications, or railway utility, cable communications company as defined in section 238.02, or telephone company as defined under section 237.01, in the exercise of its utility, antenna, or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility, cable communications company, or telephone company; and

(ii) are generally accessible only to employees of such utility, cable communications company, or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the service point or point of entrance for communication systems;

(3) when used in the street lighting operations of an electrical utility;

(4) when used as outdoor area lights which are owned and operated by an electrical utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction;

(5) when the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act; or

(6) when the installation, material, and equipment is part of an elevator installation for which the elevator contractor, licensed under section 326.242, is required to obtain a permit from the authority having jurisdiction as provided by section 16B.747, and the inspection has been or will be performed by an elevator inspector certified and licensed by the department. This exemption shall apply only to installations, material, and equipment permitted or required to be connected on the load side of the disconnecting means required for elevator equipment under National Electrical Code Article 620, and elevator communications and alarm systems within the machine room, car, hoistway, or elevator lobby.

Subd. 6. [Repealed, 2007 c 140 art 13 s 3]

**History:** 2007 c 140 art 5 s 22-27

### 326.2441 INSPECTION FEE SCHEDULE.

Subdivision 1. **Schedule.** State electrical inspection fees shall be calculated in accordance with subdivisions 2 to 15.

**Subd. 2. Fee for each separate inspection.** The minimum fee for each separate inspection of an installation, replacement, alteration, or repair is \$35. Except as otherwise provided in this section, the maximum number of separate inspections allowed without payment of an additional fee is the whole number resulting from dividing by 35 the total fee calculated in accordance with this section. Where additional separate inspections are necessary, additional fees are required to result in a value equal to the total number of separate inspections multiplied by 35. The fee for any inspections needed after a "final inspection" is performed shall be calculated without consideration of any fee paid before the final inspection.

**Subd. 3. Fee for services, generators, other power supply sources, or feeders to separate structures.** The inspection fee for the installation, addition, alteration, or repair of each service, change of service, temporary service, generator, other power supply source, or feeder to a separate structure is:

- (1) 0 ampere to and including 400 ampere capacity, \$35;
- (2) 401 ampere to and including 800 ampere capacity, \$60; and
- (3) ampere capacity above 800, \$100.

Where multiple disconnects are grouped at a single location and are supplied by a single set of supply conductors the cumulative rating of the overcurrent devices shall be used to determine the supply ampere capacity.

**Subd. 4. Fee for circuits, feeders, feeder taps, or sets of transformer secondary conductors.** The inspection fee for the installation, addition, alteration, or repair of each circuit, feeder, feeder tap, or set of transformer secondary conductors, including the equipment served, is:

- (1) 0 ampere to and including 200 ampere capacity, \$6; and
- (2) ampere capacity above 200, \$15.

Where existing feeders and circuits are reconnected to overcurrent devices installed as part of the replacement of an existing disconnect, switchboard, motor control center, or panelboard, the inspection fee for each circuit or feeder is \$2.

**Subd. 5. Inspection fee for dwellings.** (a) The inspection fee for a one-family dwelling and each dwelling unit of a two-family dwelling is the following:

- (1) the fee for each service or other source of power as provided in subdivision 3;
- (2) \$100 for up to 30 feeders and circuits; and
- (3) for each additional feeder or circuit, the fee as provided in subdivision 4.

This fee applies to each separate installation for new dwellings and where 15 or more feeders or circuits are installed or extended in connection with any addition, alteration, or repair to existing dwellings. Where existing feeders and circuits are reconnected to overcurrent devices installed as part of the replacement of an existing panelboard, the fee for each reconnected feeder or circuit is \$2. The maximum number of separate inspections shall be determined in accordance with subdivision 2. The fee for additional inspections or other installations is that specified in subdivisions 2, 4, 6, and 8. The installer may submit fees for additional inspections when filing the request for electrical inspection. The fee for each detached accessory structure directly associated with a dwelling unit shall be calculated in accordance with subdivisions 3 and 4. When included on the same request for electrical inspection form, inspection fees for detached accessory structures directly associated with the dwelling unit may be combined with the dwelling unit fees to determine the maximum number of separate inspections in accordance with subdivision 2.

(b) The inspection fee for each dwelling unit of a multifamily dwelling with three or more dwelling units is \$70 for a combination of up to 20 feeders and circuits and \$6 for each additional feeder or circuit. This fee applies to each separate installation for each new dwelling unit and where ten or more feeders or circuits are installed or extended in connection with any addition, alteration, or repair to existing dwelling units. Where existing feeders or circuits are reconnected to overcurrent devices installed as part of the replacement of an existing panelboard, the fee for each reconnected feeder or circuit is \$2. The maximum number of separate inspections for each dwelling unit shall be determined in accordance with subdivi-

sion 2. The fee for additional inspections or for inspection of other installations is that specified in subdivisions 2, 4, 6, and 8. These fees include only inspection of the wiring within individual dwelling units and the final feeder to that unit where the multifamily dwelling is provided with common service equipment and each dwelling unit is supplied by a separate feeder or feeders extended from common service or distribution equipment. The fee for multifamily dwelling services or other power source supplies and all other circuits is that specified in subdivisions 2 to 4.

(c) A separate request for electrical inspection form must be filed for each dwelling unit that is supplied with an individual set of service entrance conductors. These fees are the one-family dwelling rate specified in paragraph (a).

**Subd. 6. Additions to fees of subdivisions 3 to 5.** (a) The fee for the electrical supply for each manufactured home park lot is \$35. This fee includes the service or feeder conductors up to and including the service equipment or disconnecting means. The fee for feeders and circuits that extend from the service or disconnecting means is that specified in subdivision 4.

(b) The fee for each recreational vehicle site electrical supply equipment is \$6 for each circuit originating within the equipment. The fee for recreational vehicle park services, feeders, and circuits is that specified in subdivisions 3 and 4.

(c) The fee for each street, parking lot, or outdoor area lighting standard and each traffic signal standard is \$5. Circuits originating within the standard or traffic signal controller shall not be used when calculating the fee for each standard.

(d) The fee for transformers for light, heat, and power is \$15 for transformers rated up to ten kilovolt-amperes and \$30 for transformers rated in excess of ten kilovolt-amperes. The previous sentence does not apply to Class 1 transformers or power supplies for Class 1 power-limited circuits or to Class 2 or Class 3 transformers or power supplies.

(e) The fee for transformers and electronic power supplies for electric signs and outline lighting is \$5 per unit.

(f) The fee for technology circuits or systems, and circuits of less than 50 volts, is 75 cents for each system device or apparatus.

(g) The fee for each separate inspection of the bonding for a swimming pool, spa, fountain, an equipotential plane for an agricultural confinement area, or similar installation is \$35. Bonding conductors and connections require an inspection before being concealed.

(h) The fee for all wiring installed on center pivot irrigation booms is \$35 plus \$5 for each electrical drive unit.

(i) The fee for retrofit modifications to existing lighting fixtures is 25 cents per luminaire.

(j) When a separate inspection of a concrete-encased grounding electrode is performed, the fee is \$35.

(k) The fees required by subdivisions 3 and 4 are doubled for installations over 600 volts.

**Subd. 7. Investigation fees: work without a request for electrical inspection.** (a) Whenever any work for which a request for electrical inspection is required has begun without the request for electrical inspection form being filed with the commissioner, a special investigation shall be made before a request for electrical inspection form is accepted.

(b) An investigation fee, in addition to the full fee required by subdivisions 1 to 6, shall be paid before an inspection is made. The investigation fee is two times the minimum fee specified in subdivision 2 or the inspection fee required by subdivisions 1 to 6, whichever is greater, not to exceed \$1,000. The payment of the investigation fee does not exempt any person from compliance with all other provisions of the department rules or statutes nor from any penalty prescribed by law.

**Subd. 8. Reinspection fee.** Notwithstanding the provisions of subdivisions 2 and 5, when reinspection is necessary to determine whether unsafe conditions identified during a final inspection have been corrected and the conditions are not the subject of an appeal pend-

ing before the commissioner or any court, a reinspection fee of \$35 shall be assessed in writing by the inspector.

**Subd. 9. Supplemental fee.** When inspections scheduled by the installer are preempted, obstructed, prevented, or otherwise not able to be completed as scheduled due to circumstances beyond the control of the inspector, a supplemental inspection fee of \$35 shall be assessed in writing by the inspector.

**Subd. 10. Special inspection.** For inspections not covered in this section, or for requested special inspections or services, the fee is \$80 per hour, including travel time, plus the standard mileage rate per mile traveled, plus the reasonable cost of equipment or material consumed. This provision is applicable to inspection of empty conduits and other jobs as may be determined by the commissioner. This fee may also be assessed when installations are not accessible by roadway and require alternate forms of transportation or are located in the Northwest Angle, or when inspections are performed outside of Minnesota. For purposes of this subdivision, the standard mileage rate is the standard mileage rate effective at the time of travel, as established by the Internal Revenue Service for computing the deductible costs of operating an automobile for business expense purposes.

**Subd. 11. Inspection of transitory projects.** (a) For inspection of transitory projects including, but not limited to, festivals, fairs, carnivals, circuses, shows, production sites, and portable road construction plants, the inspection procedures and fees are as specified in paragraphs (b) to (i).

(b) The fee for inspection of each generator or other source of supply is that specified in subdivision 3. A like fee is required at each engagement or setup.

(c) In addition to the fee for generators or other sources of supply, there must be an inspection of all installed feeders, circuits, and equipment at each engagement or setup at the hourly rate specified in subdivision 10, with a one-hour minimum.

(d) An owner, operator, or appointed representative of a transitory enterprise including, but not limited to, festivals, fairs, carnivals, circuses, production companies, shows, portable road construction plants, and similar enterprises shall notify the commissioner of its itinerary or schedule and make application for initial inspection a minimum of 14 days before its first engagement or setup. An owner, operator, or appointed representative of a transitory enterprise who fails to notify the commissioner 14 days before its first engagement or setup may be subject to the investigation fees specified in subdivision 7. The owner, operator, or appointed representative shall request inspection and pay the inspection fee for each subsequent engagement or setup at the time of the initial inspection. For subsequent engagements or setups not listed on the itinerary or schedule submitted to the commissioner and where the commissioner is not notified at least 48 hours in advance, a charge of \$100 may be made in addition to all required fees.

(e) Amusement rides, devices, concessions, attractions, or other units must be inspected at their first appearance of the year. The inspection fee is \$35 per unit with a supply of up to 60 amperes and \$40 per unit with a supply above 60 amperes.

(f) An additional fee at the hourly rate specified in subdivision 10 must be charged for additional time spent by each inspector if equipment is not ready or available for inspection at the time and date specified on the application for initial inspection or the request for electrical inspection form.

(g) In addition to the fees specified in paragraphs (a) and (b), a fee of one hour at the hourly rate specified in subdivision 10 must be charged for inspections required to be performed on Saturdays, Sundays, holidays, or after regular business hours.

(h) The fee for reinspection of corrections or supplemental inspections where an additional trip is necessary may be assessed as specified in subdivision 8.

(i) The commissioner shall retain the inspection fee when an owner, operator, or appointed representative of a transitory enterprise fails to notify the commissioner at least 48 hours in advance of a scheduled inspection that is canceled.



Subd. 11a. **Negotiated fee.** When the fee calculated in accordance with subdivisions 2 to 11 results in a total fee that unreasonably exceeds the cost of inspection, the commissioner may negotiate a fee that more reasonably offsets the cost of inspection.

Subd. 12. **Handling fee.** The handling fee to pay the cost of printing and handling of the paper form requesting an electrical inspection is up to \$1.

Subd. 13. **National Electrical Code used for interpretation of provisions.** For purposes of interpretation of this section and Minnesota Rules, chapter 3800, the most recently adopted edition of the National Electrical Code shall be prima facie evidence of the definitions, interpretations, and scope of words and terms used.

**History:** 2007 c 135 art 6 s 8; 2007 c 140 art 5 s 28

### 326.245 MANUFACTURED ELECTRICAL PARTS; EXEMPTION.

Subdivision 1. **Manufacturers.** Electrical components, apparatus, or appliances being manufactured within the limits of property which is owned or leased by a manufacturer and such manufacturer's production employees are not covered by sections 326B.31 to 326B.399.

Subd. 2. **Electrical appliance units.** Installation, alteration, or repair of electrical appliance units are not covered by sections 326B.31 to 326B.399. For the purposes of this section, "electrical appliance units" means all electrical and fossil fuel appliances that use electricity including, but not limited to, furnaces, water heaters, stoves, clothes washers, dryers, and dishwashers. The installation of electrical wiring to an electrical appliance unit is covered by sections 326B.31 to 326B.399.

Subd. 3. **Other units.** Planning, laying out, and installation of heating, ventilating, air conditioning, or refrigeration units are not covered by sections 326B.31 to 326B.399. For purposes of this section, heating, ventilating, air conditioning, or refrigeration units include, but are not limited to, air conditioning units, air conditioning evaporators, air conditioning condensers, air conditioning and refrigeration chillers, boilers, furnaces, air handling units, rooftop units, humidifiers, ice makers, and supermarket, ice arena, and bar/restaurant equipment. The installation of electrical wiring to the unit is covered by sections 326B.31 to 326B.399.

Subd. 4. **Other equipment.** Planning, laying out, alteration, replacement, or repair of heating, ventilating, air conditioning, or refrigeration equipment, and associated devices, controls, and wiring including wiring in or on the equipment, are not covered by sections 326B.31 to 326B.399 when the work is performed by an employee of a heating, ventilating, air conditioning, or refrigeration contractor provided that the employee performing the work has received a certificate of completion from a heating, ventilating, air conditioning, or refrigeration apprenticeship program approved by the state of Minnesota or any class of personal license issued by the commissioner. Employees registered in an approved heating, ventilating, air conditioning, or refrigeration program may design, plan, alter, replace, or repair heating, ventilating, air conditioning, or refrigeration equipment, devices, and controls including wiring in or on the equipment, under the direction of an employee who has a certificate of completion from an approved program or any class of personal license issued by the commissioner. The installation of electrical wiring to the unit is covered by sections 326B.31 to 326B.399.

**History:** 2007 c 140 art 5 s 29

326.246 [Repealed, 2007 c 140 art 13 s 3]

326.2461 [Repealed, 2007 c 140 art 13 s 3]

326.247 [Repealed, 2007 c 140 art 5 s 33]

### 326.248 CITATION.

Sections 326B.31 to 326B.399 shall be known as the Minnesota Electrical Act.

**History:** 2007 c 140 art 5 s 30

**326.37 RULES; AGREEMENTS WITH MUNICIPALITIES; CAPACITY STANDARDS; LICENSE EXEMPTION.**

Subdivision 1. **Rules.** The Plumbing Board may, by rule, prescribe minimum standards which shall be uniform and which shall be effective for all new plumbing installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building, or any other place of business regardless of location or the population of the city or town in which the installation is to be located. Notwithstanding the provisions of Minnesota Rules, part 4715.3130, as they apply to review of plans and specifications, the commissioner may allow plumbing construction, alteration, or extension to proceed without approval of the plans or specifications by the commissioner.

Except for powers granted to the Plumbing Board, the commissioner of labor and industry shall administer the provisions of sections 326.361 to 326.44 and for such purposes may employ plumbing inspectors and other assistants.

Subd. 1a. **Agreements with municipalities.** The commissioner may enter into an agreement with a municipality, in which the municipality agrees to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, if:

(a) the municipality has adopted:

(1) the plumbing code;

(2) an ordinance that requires plumbing plans and specifications to be submitted to, reviewed, and approved by the municipality, except as provided in paragraph (h);

(3) an ordinance that authorizes the municipality to perform inspections required by the plumbing code; and

(4) an ordinance that authorizes the municipality to enforce the plumbing code in its entirety, except as provided in paragraph (p);

(b) the municipality agrees to review plumbing plans and specifications for all construction for which the plumbing code requires the review of plumbing plans and specifications, except as provided in paragraph (n);

(c) the municipality agrees that, when it reviews plumbing plans and specifications under paragraph (b), the review will:

(1) reflect the degree to which the plans and specifications affect the public health and conform to the provisions of the plumbing code;

(2) ensure that there is no physical connection between water supply systems that are safe for domestic use and those that are unsafe for domestic use; and

(3) ensure that there is no apparatus through which unsafe water may be discharged or drawn into a safe water supply system;

(d) the municipality agrees to perform all inspections required by the plumbing code in connection with projects for which the municipality reviews plumbing plans and specifications under paragraph (b);

(e) the commissioner determines that the individuals who will conduct the inspections and the plumbing plan and specification reviews for the municipality do not have any conflict of interest in conducting the inspections and the plan and specification reviews;

(f) individuals who will conduct the plumbing plan and specification reviews for the municipality are:

(1) licensed master plumbers;

(2) licensed professional engineers; or

(3) individuals who are working under the supervision of a licensed professional engineer or licensed master plumber and who are licensed master or journeyman plumbers or hold a postsecondary degree in engineering;

(g) individuals who will conduct the plumbing plan and specification reviews for the municipality have passed a competency assessment required by the commissioner to assess the individual's competency at reviewing plumbing plans and specifications;

(h) individuals who will conduct the plumbing inspections for the municipality are licensed master or journeyman plumbers, or inspectors meeting the competency requirements established in rules adopted under section 16B.655;

(i) the municipality agrees to enforce in its entirety the plumbing code on all projects, except as provided in paragraph (p);

(j) the municipality agrees to keep official records of all documents received, including plans, specifications, surveys, and plot plans, and of all plan reviews, permits and certificates issued, reports of inspections, and notices issued in connection with plumbing inspections and the review of plumbing plans and specifications;

(k) the municipality agrees to maintain the records described in paragraph (j) in the official records of the municipality for the period required for the retention of public records under section 138.17, and shall make these records readily available for review at the request of the commissioner;

(l) the municipality and the commissioner agree that if at any time during the agreement the municipality does not have in effect the plumbing code or any of ordinances described in item (a), or if the commissioner determines that the municipality is not properly administering and enforcing the plumbing code or is otherwise not complying with the agreement:

(1) the commissioner may, effective 14 days after the municipality's receipt of written notice, terminate the agreement;

(2) the municipality may challenge the termination in a contested case before the commissioner pursuant to the Administrative Procedure Act; and

(3) while any challenge is pending under item (2), the commissioner shall perform plan and specification reviews within the municipality under Minnesota Rules, part 4715.3130;

(m) the municipality and the commissioner agree that the municipality may terminate the agreement with or without cause on 90 days' written notice to the commissioner;

(n) the municipality and the commissioner agree that the municipality shall forward to the state for review all plumbing plans and specifications for the following types of projects within the municipality:

(1) hospitals, nursing homes, supervised living facilities, and similar health-care-related facilities regulated by the Minnesota Department of Health;

(2) buildings owned by the federal or state government; and

(3) projects of a special nature for which department review is requested by either the municipality or the state;

(o) where the municipality forwards to the state for review plumbing plans and specifications, as provided in paragraph (n), the municipality shall not collect any fee for plan review, and the commissioner shall collect all applicable fees for plan review; and

(p) no municipality shall revoke, suspend, or place restrictions on any plumbing license issued by the state.

**Subd. 1b. Existing agreements with municipalities.** Any agreement between the commissioner and a municipality in which the municipality has agreed to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, that is in effect on December 1, 2007, shall remain in effect and shall not be required to be in compliance with subdivision 1a. If any agreement to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, in effect on December 1, 2007, is later terminated by operation of the terms of the agreement or by either the commissioner or the municipality, or expires, then any new agreement between the commissioner and the municipality to perform plan and specification reviews required to be performed by the commissioner under Minnesota Rules, part 4715.3130, shall comply with subdivision 1a.

**Subd. 2. Standards for capacity.** All new floor-mounted water closets in areas under jurisdiction of the plumbing code may not have a flush volume of more than 1.6 gallons. The water closets must meet the standards in the plumbing code and the standards of the American National Standards Institute.

Subd. 3. **Exemption.** No license or registration authorized by sections 326.361 to 326.44 shall be required of any individual engaged in or employed by a person engaged in the work or business of pipe laying outside of buildings if such individual or employer is engaged in a business or trade which has traditionally performed such work within the state prior to January 1, 1994.

Subd. 4. **Air admittance valves and water-free urinals prohibited.** (a) Mechanical devices and fittings with internal moving parts are prohibited from installation in plumbing venting systems.

(b) All urinals covered under the jurisdiction of the State Plumbing Code must have a water flush device with a volume of not more than one gallon per use.

**History:** 2007 c 135 art 3 s 19,20; 2007 c 140 art 6 s 4

### 326.3705 PLUMBING BOARD.

Subdivision 1. **Composition.** (a) The Plumbing Board shall consist of 14 members. Twelve members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. One member shall be the commissioner of health or the commissioner of health's designee, who shall not be a voting member. Of the 12 appointed members, the composition shall be as follows:

(1) two members shall be municipal plumbing inspectors, one from the metropolitan area and one from greater Minnesota;

(2) one member shall be a licensed professional engineer specializing in plumbing designs or systems;

(3) two members shall be commercial/industrial plumbing contractors, one from the metropolitan area and one from greater Minnesota;

(4) one member shall be a residential plumbing contractor;

(5) two members shall be commercial/industrial journeymen, one from the metropolitan area and one from greater Minnesota;

(6) one member shall be a residential plumbing journeyman;

(7) one member shall be a water conditioning contractor;

(8) one member shall be a municipal public water supply system operator or superintendent; and

(9) one member shall be a public member as defined by section 214.02.

One of the municipal plumbing inspectors shall be appointed for an initial term to end on December 31, 2010. The other municipal plumbing inspector shall be appointed for an initial term to end on December 31, 2011. The professional engineer shall be appointed for an initial term to end on December 31, 2011. One of the commercial/industrial plumbing contractors shall be appointed for an initial term to end on December 31, 2010. The other commercial/industrial plumbing contractor shall be appointed for an initial term to end on December 31, 2011. The residential plumbing contractor shall be appointed for an initial term to end on December 31, 2010. One of the commercial/industrial plumbing journeymen shall be appointed for an initial term to end on December 31, 2011. The other commercial/industrial plumbing journeyman shall be appointed for an initial term to end on December 31, 2010. The residential plumbing journeyman shall be appointed for an initial term to end on December 31, 2011. The water conditioning contractor shall be appointed for an initial term to end on December 31, 2011. The municipal public water supply system operator or superintendent shall be appointed for an initial term to end on December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The licensed professional engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of their term. All other ap-

pointed members, except for the water conditioning contractor and the municipal public water supply system operator or superintendent, must possess a current plumbing license issued by the Department of Labor and Industry and maintain that license for the duration of their term. The water conditioning contractor must be licensed as a water conditioning contractor by the Department of Labor and Industry and maintain the license for the duration of the term on the board. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of the status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) adopt the plumbing code that must be followed in this state and any plumbing code amendments thereto. The board shall adopt the plumbing code and any amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of plumbing contractors, journeymen, apprentices, master plumbers, restricted master plumbers, and restricted journeymen and other persons engaged in the design, installation, and alteration of plumbing systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);

(6) advise the commissioner regarding educational requirements for plumbing inspectors;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 7, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed plumbing services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) approve license reciprocity agreements;

(10) select from its members individuals to serve on any other state advisory council, board, or committee; and

(11) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, the Board of Electricity, and the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant

to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

**Subd. 3. Compensation.** (a) Members of the board may be compensated at a rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

**Subd. 4. Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

**Subd. 5. Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the office of secretary of state, choose a new member from the applications on hand and need not repeat the process.

**Subd. 6. Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each plumbing code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next plumbing code rulemaking proceeding initiated by the board. If a plumbing code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the plumbing code amendment shall not be included in the next plumbing code rulemaking proceeding initiated by the board.

(c) If the plumbing code amendment considered by the board is to replace the Minnesota Plumbing Code with a model plumbing code, then the amendment may only be included in the next plumbing code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider plumbing code amendments during an active plumbing code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the plumbing code amendment is presented to the board. The board may also reconsider failed plumbing code amendments in subsequent plumbing code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clause (5), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider proposed rules or rule amendments during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

Subd. 6a. **Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

Subd. 7. **Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide plumbing services, the performance or offering to perform plumbing services re-

quiring licensure by an unlicensed person, or plumbing code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

**Subd. 8. Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

**Subd. 9. Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 140 art 6 s 5

### 326.372 PLUMBING BOARD.

**Subdivision 1. Composition.** (a) The Plumbing Board shall consist of 13 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the designee, who shall be a voting member. One member shall be the commissioner of health or the designee, who shall not be a voting member. Of the 11 appointed members, the composition shall be as follows:

- (1) two members shall be municipal plumbing inspectors, one from the metropolitan area and one from greater Minnesota;
- (2) one member shall be a licensed professional engineer specializing in plumbing designs or systems;
- (3) two members shall be commercial/industrial plumbing contractors, one from the metropolitan area and one from greater Minnesota;
- (4) one member shall be a residential plumbing contractor;
- (5) two members shall be commercial/industrial journeymen, one from the metropolitan area and one from greater Minnesota;
- (6) one member shall be a residential plumbing journeyman;
- (7) one member shall be a water conditioning contractor; and
- (8) one member shall be a municipal public water supply system operator or superintendent.

One of the municipal plumbing inspectors shall be appointed for an initial term to end on December 31, 2010, and one municipal plumbing inspector shall be appointed for an initial term to end on December 31, 2011. The professional engineer shall be appointed for an initial term to end on December 31, 2011. One of the commercial/industrial plumbing contractors shall be appointed for an initial term to end on December 31, 2010, and one commercial/industrial plumbing contractor shall be appointed for an initial term to end on December 31, 2011. The residential plumbing contractor shall be appointed for an initial term to end on December 31, 2010. One of the commercial/industrial plumbing journeymen shall be appointed for an initial term to end on December 31, 2011, and one commercial/industrial plumbing journeyman shall be appointed for an initial term to end on December 31, 2010. The residential plumbing journeyman shall be appointed for an initial term to end on December 31, 2011. The water conditioning contractor shall be appointed for an initial term to end



on December 31, 2010. The municipal public water supply system operator or superintendent shall be appointed for an initial term to end on December 31, 2011.

(b) The licensed professional engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of the term served on the board. All other appointed members, except the water conditioning contractor and the municipal public water supply system operator or superintendent, must possess a current plumbing license issued by the Department of Labor and Industry and maintain that license for the duration of their terms. The water conditioning contractor must be licensed as a water conditioning contractor by the department and maintain the license for the duration of the term served on the board. All appointed members must be residents of Minnesota at the time of and throughout their terms. The term of any appointed member who does not maintain membership qualification status shall end on the date of status change and the governor shall appoint a replacement member. It is the responsibility of the member to notify the board of a change in the member's status.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on the first Monday in January. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

- (1) elect its chair, vice-chair, and secretary;
- (2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and contain such other provisions as may be useful and necessary for the efficient conduct of the business of the board;
- (3) adopt the Plumbing Code that must be followed in this state and any Plumbing Code amendments thereto. The board shall adopt the Plumbing Code and any amendments thereto pursuant to chapter 14, and as provided in subdivision 6, paragraphs (b), (c), and (d);
- (4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;
- (5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of plumbing contractors, journeymen, apprentices, master plumbers, restricted master plumbers, and restricted journeymen and other persons engaged in the design, installation, and alteration of plumbing systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);
- (6) advise the commissioner regarding educational requirements for plumbing inspectors;
- (7) refer complaints or other communications, whether oral or written, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed plumbing services to the commissioner under subdivision 8;
- (8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;
- (9) approve license reciprocity agreements;
- (10) select from its members individuals to serve on any other state advisory council, board, or committee; and
- (11) recommend the fees for licenses and certifications.

Except for the powers granted to the Plumbing Board, the commissioner of labor and industry shall administer and enforce the provisions of sections 326.37 to 326.45 and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

**Subd. 3. Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

**Subd. 4. Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

**Subd. 5. Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a seat on the board becomes vacant within three months after being filled through the appointment process, the governor may, upon notification to the Office of the Secretary of State, choose a new member from the applications on hand and need not repeat the process.

**Subd. 6. Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each Plumbing Code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next Plumbing Code rulemaking proceeding initiated by the board. If a Plumbing Code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all of the voting members of the board,

the Plumbing Code amendment shall not be included in the next Plumbing Code rulemaking proceeding initiated by the board.

(c) If the Plumbing Code amendment considered by the board is to replace the Minnesota Plumbing Code with a model Plumbing Code, then the amendment may only be included in the next Plumbing Code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all of the voting members of the board.

(d) The board may reconsider Plumbing Code amendments during an active Plumbing Code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all of the voting members of the board only if new or updated information that affects the Plumbing Code amendment is presented to the board. The board may also reconsider failed Plumbing Code amendments in subsequent Plumbing Code rulemaking proceedings.

(e) Except as provided in paragraph (f), each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clauses (5) and (6), that receives an affirmative majority vote of all of the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all of the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider a proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all of the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider a failed proposed rule or rule amendment in subsequent rulemaking proceedings.

**Subd. 7. Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. The timing and method of providing notice is governed by section 13D.04.

**Subd. 8. Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide plumbing services, the performance or offering to perform plumbing services requiring licensure by an unlicensed person, or Plumbing Code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of a complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

**Subd. 9. Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

**Subd. 10. Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

*History: 2007 c 135 art 3 s 21*

### **326.38 LOCAL REGULATIONS.**

Any of the following entities may, by ordinance, adopt local regulations providing for plumbing permits, approval of plans and specifications, and inspections of plumbing, which regulations are not in conflict with the plumbing code: any city having a system of waterworks or sewerage, regardless of population; any town having a population of 5,000 or more according to the last federal census, exclusive of any statutory cities located therein; and the Metropolitan Airports Commission. No such entity shall prohibit plumbers licensed by the commissioner from engaging in or working at the business of plumbing, except cities and statutory cities which, prior to April 21, 1933, by ordinance required the licensing of plumbers. No such entity shall require any person who engages in the business of plumbing to post a bond as a prerequisite for engaging in the business of plumbing, except the bond to the state required under section 326.40 and except any performance bond required under a contract with the person for the performance of plumbing work for the entity. No such entity shall require any person who engages in the business of plumbing to maintain public liability insurance as a prerequisite for engaging in the business of plumbing, except the insurance required under section 326.40 and except any public liability insurance required under a contract with the person for the performance of plumbing work for the entity. No city or town may require a license for persons performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. Any city by ordinance may prescribe regulations, reasonable standards, and inspections and grant permits to any person engaged in the business of installing water softeners, who is not licensed as a master plumber or journeyman plumber by the commissioner, to connect water softening and water filtering equipment to private residence water distribution systems, where provision has been previously made therefor and openings left for that purpose or by use of cold water connections to a domestic water heater; where it is not necessary to rearrange, make any extension or alteration of, or addition to any pipe, fixture or plumbing connected with the water system except to connect the water softener, and provided the connections so made comply with minimum standards prescribed by the Plumbing Board.

*History: 2007 c 135 art 3 s 22; 2007 c 140 art 6 s 6*

**326.39 VIOLATIONS TO BE REPORTED TO COMMISSIONER.**

Such local authority as may be designated by any such ordinance for the issuance of such plumbing permits and approval of such plans shall report to the commissioner persistent or willful violation of the same and any incompetence of a licensed plumber observed by the local authority.

**History:** 2007 c 140 art 6 s 7

**326.40 LICENSING, BOND AND INSURANCE.**

Subdivision 1. **License required.** (a) No person shall engage in or work at the business of a master plumber, restricted master plumber, journeyman plumber, and restricted journeyman plumber unless licensed to do so by the state commissioner. A license is not required for individuals performing building sewer or water service installation who have completed pipe laying training as prescribed by the commissioner of labor and industry. A master plumber may also work as a journeyman plumber, a restricted journeyman plumber, and a restricted master plumber. A journeyman plumber may also work as a restricted journeyman plumber. Anyone not so licensed may do plumbing work which complies with the provisions of the minimum standards prescribed by the Plumbing Board on premises or that part of premises owned and actually occupied by the worker as a residence, unless otherwise forbidden to do so by a local ordinance.

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

Subd. 2. **Bond; insurance.** Any person contracting to do plumbing work must give bond to the state in the amount of \$25,000 for all work entered into within the state. The bond shall be for the benefit of persons injured or suffering financial loss by reason of failure to comply with the requirements of the State Plumbing Code. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in the state.

In addition, each applicant for a master plumber license or renewal thereof, shall provide evidence of public liability insurance, including products liability insurance with limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in the state of Minnesota and each licensed master plumber shall maintain on file with the commissioner a certificate evidencing the insurance providing that the insurance shall not be canceled without the insurer first giving 15 days written notice to the commissioner. The term of the insurance shall be concurrent with the term of the license.

Subd. 3. **Bond and insurance exemption.** If a master plumber who is in compliance with the bond and insurance requirements of subdivision 2 employs another master plumber, the employee master plumber shall not be required to meet the bond and insurance requirements of subdivision 2. A master plumber who is an employee working on the maintenance and repair of plumbing equipment, apparatus, or facilities owned or leased by their employer and which is within the limits of property owned or leased, and operated or maintained by their employer, shall not be required to meet the bond and insurance requirements of subdivision 2.

Subd. 4. [Repealed, 2007 c 140 art 13 s 3]

Subd. 5. **Fee.** Each person giving bond to the state under subdivision 2 shall pay the department an annual bond registration fee of \$40.

**History:** 2007 c 135 art 3 s 23; 2007 c 140 art 6 s 8

**326.401 PLUMBER'S APPRENTICES.**

Subdivision 1. **Registration.** All plumber's apprentices must be registered. To be a registered plumber's apprentice, an individual must either:

(1) be an individual employed in the trade of plumbing under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300; or

(2) be an unlicensed individual registered with the commissioner under subdivision 3. A plumber's apprentice is authorized to assist in the installation of plumbing only while under the direct supervision of a master, restricted master, journeyman, or restricted journeyman plumber. The master, restricted master, journeyman, or restricted journeyman plumber is responsible for ensuring that all plumbing work performed by the plumber's apprentice complies with the plumbing code.

Subd. 2. **Journeyman exam.** A plumber's apprentice who has completed four years of practical plumbing experience is eligible to take the journeyman plumbing examination. Up to 24 months of practical plumbing experience prior to becoming a plumber's apprentice may be applied to the four-year experience requirement. However, none of this practical plumbing experience may be applied if the individual did not have any practical plumbing experience in the 12-month period immediately prior to becoming a plumber's apprentice. The Plumbing Board may adopt rules to evaluate whether the individual's past practical plumbing experience is applicable in preparing for the journeyman's examination. If two years after completing the training the individual has not taken the examination, the four years of experience shall be forfeited.

The commissioner may allow an extension of the two-year period for taking the exam for cases of hardship or other appropriate circumstances.

Subd. 3. **Registration, rules, applications, renewals, and fees.** An unlicensed individual may register by completing and submitting to the commissioner a registration form provided by the commissioner. A completed registration form must state the date the individual began training, the individual's age, schooling, previous experience, and employer, and other information required by the commissioner. The board may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals. Each applicant for initial registration as a plumber's apprentice shall pay the department an application fee of \$25. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be for the period from July 1 of each year to June 30 of the following year. Applications for renewal registration must be received by the commissioner by June 30 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$25. An application for renewal registration received on or after July 1 in any year but no more than three months after expiration of the previously issued registration must pay the past due renewal fee plus a late fee of \$25. No applications for renewal registration will be accepted more than three months after expiration of the previously issued registration.

**History:** 2007 c 135 art 3 s 24; 2007 c 140 art 6 s 9

**326.402 RESTRICTED PLUMBER LICENSE.**

Subdivision 1. **Licensure.** The commissioner of labor and industry shall grant a restricted journeyman or restricted master plumber license to an individual if:

(1) the individual completes an application with information required by the commissioner of labor and industry;

(2) the completed application is accompanied by a fee of \$30;

(3) the commissioner of labor and industry receives the completed application and fee before January 1, 2008;

(4) the completed application demonstrates that the applicant has had at least two years for a restricted journeyman plumber license or four years for a restricted master plumber license of practical plumbing experience in the plumbing trade prior to the application; and

(5) during the entire time for which the applicant is claiming experience in contracting for plumbing work under clause (4), the applicant was in compliance with all applicable bond requirements of section 326.40.

**Subd. 2. Use of license.** A restricted master plumber and restricted journeyman plumber may engage in the plumbing trade in all areas of the state except in cities and towns with a population of more than 5,000 according to the federal census.

**Subd. 3. Application period.** Applications for restricted master plumber and restricted journeyman plumber licenses must be submitted to the commissioner prior to January 1, 2008.

**Subd. 4. Renewal; use period for license.** A restricted master plumber and restricted journeyman plumber license must be renewed annually for as long as that licensee engages in the plumbing trade. Failure to renew a restricted master plumber and restricted journeyman plumber license within 12 months after the expiration date will result in permanent forfeiture of the restricted master plumber and restricted journeyman plumber license.

**Subd. 5. Prohibition of transference.** A restricted master plumber and restricted journeyman plumber license may not be transferred or sold to any other person.

**Subd. 6. Bond; insurance.** A restricted master or a restricted journeyman plumber license is subject to the bond and insurance requirements of section 326.40, subdivision 2, unless the exemption provided by section 326.40, subdivision 3, applies.

**Subd. 7. Fee.** The annual fee for the restricted master plumber and restricted journeyman plumber licenses is the same fee as for a master or journeyman plumber license, respectively.

**History:** 2007 c 135 art 3 s 25; 2007 c 140 art 6 s 10

### 326.405 RECIPROCITY WITH OTHER STATES.

The commissioner may enter into reciprocity agreements for personal licenses with another state if approved by the board. Once approved by the board, the commissioner may issue a plumber's license without requiring the applicant to pass an examination provided the applicant:

- (a) submits an application under section 326.42;
- (b) pays the fee required under section 326.42; and
- (c) holds a valid comparable license in the state participating in the agreement.

Agreements are subject to the following:

- (1) The parties to the agreement must administer a statewide licensing program that includes examination and qualifying experience or training comparable to Minnesota's.
- (2) The experience and training requirements under which an individual applicant qualified for examination in the qualifying state must be deemed equal to or greater than required for an applicant making application in Minnesota at the time the applicant acquired the license in the qualifying state.
- (3) The applicant must have acquired the license in the qualifying state through an examination deemed equivalent to the same class of license examination in Minnesota. A lesser class of license may be granted where the applicant has acquired a greater class of license in the qualifying state and the applicant otherwise meets the conditions of this section.
- (4) At the time of application, the applicant must hold a valid license in the qualifying state and have held the license continuously for at least one year before making application in Minnesota.
- (5) An applicant is not eligible for a license under this section if the applicant has failed the same or greater class of license examination in Minnesota, or if the applicant's license of the same or greater class has been revoked or suspended.
- (6) An applicant who has failed to renew a plumber's license for two years or more after its expiration is not eligible for a license under this section.

**History:** 2007 c 135 art 3 s 26; 2007 c 140 art 6 s 11

**326.41** [Repealed, 2007 c 133 art 2 s 13; 2007 c 140 art 13 s 3]

**326.42 APPLICATIONS, FEES.**

Subdivision 1. **Application.** Applications for plumber's license shall be made to the commissioner, with fee. Unless the applicant is entitled to a renewal, the applicant shall be licensed by the commissioner only after passing a satisfactory examination developed and administered by the commissioner, based upon rules adopted by the Plumbing Board, showing fitness. Examination fees for both journeyman and master plumbers shall be \$50 for each examination. Upon being notified of having successfully passed the examination for original license the applicant shall submit an application, with the license fee herein provided. The license fee for each initial and renewal master plumber's license shall be \$120. The license fee for each initial and renewal journeyman plumber's license shall be \$55. The commissioner may by rule prescribe for the expiration and renewal of licenses. Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A journeyman or master plumber who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

Subd. 2. **Fees for plan reviews and audits.** Plumbing system plans and specifications that are submitted to the commissioner for review shall be accompanied by the appropriate plan examination fees. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid prior to plan approval. The commissioner shall charge the following fees for plan reviews and audits of plumbing installations for public, commercial, and industrial buildings:

- (1) systems with both water distribution and drain, waste, and vent systems and having:
  - (i) 25 or fewer drainage fixture units, \$150;
  - (ii) 26 to 50 drainage fixture units, \$250;
  - (iii) 51 to 150 drainage fixture units, \$350;
  - (iv) 151 to 249 drainage fixture units, \$500;
  - (v) 250 or more drainage fixture units, \$3 per drainage fixture unit to a maximum of \$4,000; and
  - (vi) interceptors, separators, or catch basins, \$70 per interceptor, separator, or catch basin design;
- (2) building sewer service only, \$150;
- (3) building water service only, \$150;
- (4) building water distribution system only, no drainage system, \$5 per supply fixture unit or \$150, whichever is greater;
- (5) storm drainage system, a minimum fee of \$150 or:
  - (i) \$50 per drain opening, up to a maximum of \$500; and
  - (ii) \$70 per interceptor, separator, or catch basin design;
- (6) manufactured home park or campground, one to 25 sites, \$300;
- (7) manufactured home park or campground, 26 to 50 sites, \$350;
- (8) manufactured home park or campground, 51 to 125 sites, \$400;
- (9) manufactured home park or campground, more than 125 sites, \$500;
- (10) accelerated review, double the regular fee, one-half to be refunded if no response from the commissioner within 15 business days; and
- (11) revision to previously reviewed or incomplete plans:
  - (i) review of plans for which the commissioner has issued two or more requests for additional information, per review, \$100 or ten percent of the original fee, whichever is greater;
  - (ii) proposer-requested revision with no increase in project scope, \$50 or ten percent of original fee, whichever is greater; and



(iii) proposer-requested revision with an increase in project scope, \$50 plus the difference between the original project fee and the revised project fee.

Subd. 3. **Inspection fees.** The commissioner shall charge the following fees for inspections under sections 326.361 to 326.44:

Residential inspection fee (each visit)	\$	50
Public, Commercial, and Industrial Inspections	Inspection Fee	
25 or fewer drainage fixture units	\$	300
26 to 50 drainage fixture units	\$	900
51 to 150 drainage fixture units	\$	1,200
151 to 249 drainage fixture units	\$	1,500
250 or more drainage fixture units	\$	1,800
Callback fee (each visit)	\$	100

**History:** 2007 c 135 art 3 s 27; 2007 c 140 art 6 s 12

**326.44** [Repealed, 2007 c 135 art 2 s 40; 2007 c 140 art 13 s 3]

**326.45** [Repealed, 2007 c 135 art 3 s 42; 2007 c 140 art 13 s 3]

### **326.46 DEPARTMENT TO SUPERVISE HIGH PRESSURE PIPING.**

The department shall supervise all high pressure piping used on all projects in this state.

The department shall employ inspectors and other assistants to carry out the provisions of sections 326.46 to 326.52.

**History:** 2007 c 135 art 4 s 1; 2007 c 140 art 10 s 1

### **326.461 DEFINITIONS.**

*[For text of subd 1, see M.S.2006]*

Subd. 1a. **Board.** “Board” means the Board of High Pressure Piping Systems.

Subd. 1b. **Contracting high pressure pipefitter.** “Contracting high pressure pipefitter” means an individual, such as a steamfitter, engaged in the planning, superintending, and practical installation of high pressure piping and appurtenances, and otherwise lawfully qualified to construct high pressure piping installations and make replacements to existing plants, who is also qualified to conduct the business of high pressure piping installations and who is familiar with the laws, rules, and minimum standards governing them.

*[For text of subd 2, see M.S.2006]*

Subd. 2a. **High pressure steam.** “High pressure steam” means a pressure in excess of 15 pounds per square inch.

Subd. 2b. **Journeyman high pressure pipefitter.** “Journeyman high pressure pipefitter” means an individual, such as a steamfitter, who is not a contracting high pressure pipefitter and who is engaged in the practical installation of high pressure piping and appurtenances in the employ of a contracting high pressure pipefitter.

*[For text of subd 3, see M.S.2006]*

Subd. 4. **Pipefitter apprentice.** A “pipefitter apprentice” is an individual employed in the trade of the practical construction and installation of high pressure piping and appurtenances under an apprenticeship agreement approved by the department under Minnesota Rules, part 5200.0300.

**History:** 2007 c 140 art 10 s 2–6

### **326.47 APPLICATION, PERMIT, FILING, AND INSPECTION FEES.**

Subdivision 1. **Required permit.** No person shall construct or install high pressure piping systems without first filing an application for a permit with the department or a municipality that has complied with subdivision 2.

Subd. 2. **Permissive municipal regulation.** The commissioner may enter into an agreement with a municipality, in which the municipality agrees to perform inspections and issue permits for the construction and installation of high pressure piping systems within the municipality's geographical area of jurisdiction, if:

(a) The municipality has adopted:

(1) the code for power piping systems, Minnesota Rules, parts 5230.0250 to 5230.6200;

(2) an ordinance that authorizes the municipality to issue permits to persons holding a high pressure piping business license issued by the department and only for construction or installation that would, if performed properly, fully comply with all Minnesota Statutes and Minnesota Rules;

(3) an ordinance that authorizes the municipality to perform the inspections that are required under Minnesota Statutes or Minnesota Rules of the construction and installation of high pressure piping systems; and

(4) an ordinance that authorizes the municipality to enforce the code for power piping systems in its entirety.

(b) The municipality agrees to issue permits only to persons holding a high pressure piping business license as required by law at the time of the permit issuance, and only for construction or installation that would, if performed properly, comply with all Minnesota Statutes and Minnesota Rules governing the construction or installation of high pressure piping systems.

(c) The municipality agrees to issue permits only on forms approved by the department.

(d) The municipality agrees that, for each permit issued by the municipality, the municipality shall perform one or more inspections of the construction or installation to determine whether the construction or installation complies with all Minnesota Statutes and Minnesota Rules governing the construction or installation of high pressure piping systems, and shall prepare a written report of each inspection.

(e) The municipality agrees to notify the commissioner within 24 hours after the municipality discovers any violation of the licensing laws related to high pressure piping.

(f) The municipality agrees to notify the commissioner immediately if the municipality discovers that any entity has failed to meet a deadline set by the municipality for correction of a violation of the high pressure piping laws.

(g) The commissioner determines that the individuals who will conduct the inspections for the municipality do not have any conflict of interest in conducting the inspections.

(h) Individuals who will conduct the inspections for the municipality are permanent employees of the municipality and are licensed contracting high pressure pipefitters or licensed journeyman high pressure pipefitters.

(i) The municipality agrees to notify the commissioner within ten days of any changes in the names or qualifications of the individuals who conduct the inspections for the municipality.

(j) The municipality agrees to enforce in its entirety the code for power piping systems on all projects.

(k) The municipality shall not approve any piping installation unless the installation conforms to all applicable provisions of the high pressure piping laws in effect at the time of the installation.

(l) The municipality agrees to promptly require compliance or revoke a permit that it has issued if there is noncompliance with any of the applicable provisions of the high pressure piping laws in connection with the work covered by the permit. The municipality agrees to revoke the permit if any laws regulating the licensing of pipefitters have been violated.

(m) The municipality agrees to keep official records of all documents received, including permit applications, and of all permits issued, reports of inspections, and notices issued in connection with inspections.

(n) The municipality agrees to maintain the records described in paragraph (m) in the official records of the municipality for the period required for the retention of public records

under section 138.17, and shall make these records readily available for review according to section 13.37.

(o) Not later than the tenth day of each month, the municipality shall submit to the commissioner a report of all high pressure piping permits issued by the municipality during the preceding month. This report shall be in a format approved by the commissioner and shall include:

- (1) the name of the contractor;
- (2) the license number of the contractor's license issued by the commissioner;
- (3) the permit number;
- (4) the address of the job;
- (5) the date the permit was issued;
- (6) a brief description of the work; and
- (7) the amount of the inspection fee.

(p) Not later than the 31st day of January of each year, the municipality shall submit a summary report to the commissioner identifying the status of each high pressure piping project for which the municipality issued a permit during the preceding year, and the status of high pressure piping projects for which the municipality issued a permit during a prior year where no final inspection had occurred by the first day of the preceding year. This summary report shall include:

- (1) the permit number;
- (2) the date of any final inspection; and
- (3) identification of any violation of high pressure piping laws related to work covered by the permit.

(q) The municipality and the commissioner agree that if at any time during the agreement the municipality does not have in effect the code for high pressure piping systems or any of the ordinances described in paragraph (a), or if the commissioner determines that the municipality is not properly administering and enforcing the code for high pressure piping or is otherwise not complying with the agreement:

- (1) the commissioner may, effective 14 days after the municipality's receipt of written notice, terminate the agreement and have the administration and enforcement of the high pressure piping code in the involved municipality undertaken by the department;
- (2) the municipality may challenge the termination in a contested case before the commissioner pursuant to the Administrative Procedure Act; and
- (3) while any challenge under clause (2) is pending, the commissioner may exercise oversight of the municipality to the extent needed to ensure that high pressure piping inspections are performed and permits are issued in accordance with the high pressure piping laws.

(r) The municipality and the commissioner agree that the municipality may terminate the agreement with or without cause on 90 days' written notice to the commissioner.

(s) The municipality and the commissioner agree that no municipality shall revoke, suspend, or place restrictions on any high pressure piping license issued by the commissioner. If the municipality identifies during an inspection any violation that may warrant revocation, suspension, or placement of restrictions on a high pressure piping license issued by the commissioner, the municipality shall promptly notify the commissioner of the violation and the commissioner shall determine whether revocation, suspension, or placement of restrictions on any high pressure piping license issued by the commissioner is appropriate.

Subd. 5. [Repealed, 2007 c 140 art 13 s 3]

Subd. 6. **Filing and inspection fees.** (a) The department must charge a filing fee and an inspection fee for all applications for permits to construct or install high pressure piping systems. The filing fee shall be \$100. The inspection fee shall be calculated as follows:

- (1) When an application for a permit is filed prior to the start of construction or installation, the inspection fee shall be \$150 plus 0.022 of the first \$1,000,000, plus 0.011 of the next

\$2,000,000, plus 0.00055 of the amount over \$3,000,000 of the cost of construction or installation.

(2) Except as provided in paragraph (b), when an application for permit is filed after the start of construction or installation, the inspection fee shall be the greater of: \$1,100; or \$150 plus 0.033 of the first \$1,000,000, plus 0.0165 of the next \$2,000,000, plus 0.011 of the amount over \$3,000,000 of the cost of construction or installation.

(b) The commissioner shall consider any extenuating circumstances that caused an application for permit to be filed after the start of construction or installation. If warranted by such extenuating circumstances, the commissioner may calculate the inspection fee as if the application for permit had been filed prior to the start of construction or installation.

(c) Paragraphs (a) and (b) do not apply where a permit is issued by a municipality in accordance with an agreement under subdivision 2.

**History:** 2007 c 140 art 10 s 7

**NOTE:** Subdivision 2 was also amended by Laws 2007, chapter 135, article 4, section 2, to read as follows:

"Subd. 2. **Permissive municipal regulation.** A municipality may, by ordinance, provide for the inspection of high pressure piping system materials and construction, and provide that it shall not be constructed or installed except in accordance with minimum state standards. The authority designated by the ordinance for issuing high pressure piping permits and assuring compliance with state standards must report to the Department of Labor and Industry all violations of state high pressure piping standards.

A municipality may not adopt an ordinance with high pressure piping standards that does not conform to the uniform standards prescribed by the board. The board shall specify by rule the minimum qualifications for municipal inspectors."

### 326.471 BOARD OF HIGH PRESSURE PIPING SYSTEMS.

Subdivision 1. **Composition.** (a) The Board of High Pressure Piping Systems shall consist of 12 members. Eleven members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner's designee, who shall be a voting member. Of the 11 appointed members, the composition shall be as follows:

(1) one member shall be a high pressure piping inspector;

(2) one member shall be a licensed professional mechanical engineer;

(3) one member shall be a representative of the high pressure piping industry;

(4) four members shall be high pressure piping contractors engaged in the scope of high pressure piping, two from the metropolitan area and two from greater Minnesota;

(5) two members shall be high pressure piping journeymen engaged in the scope of high pressure piping systems installation, one from the metropolitan area and one from greater Minnesota; and

(6) two members shall be representatives of industrial companies which use high pressure piping systems in their industrial processes.

(b) The high pressure piping inspector shall be appointed for a term to end December 31, 2011. The professional mechanical engineer shall be appointed for a term to end December 31, 2010. The representative of the high pressure piping industry shall be appointed for a term to end December 31, 2011. Two of the high pressure piping contractors shall be appointed for a term to end December 31, 2011, and two high pressure piping contractors shall be appointed for a term to end December 31, 2010. One of the high pressure piping journeymen shall be appointed for a term to end December 31, 2011, and one high pressure piping journeyman shall be appointed for a term to end December 31, 2010. The two representatives of industrial companies that use high pressure piping systems in their industrial process shall be appointed for a term to end December 31, 2010.

(c) The licensed professional mechanical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of the term served on the board. All other appointed members, except for the representative of the piping indus-

try and the representatives of industrial companies that use high pressure piping systems in their industrial processes must possess a current high pressure piping license issued by the Department of Labor and Industry and maintain that license for the duration of their terms. All appointed members must be residents of Minnesota at the time of and throughout their terms. The term of any appointed member who does not maintain membership qualification status shall end on the date of status change and the governor shall appoint a replacement member. It is the responsibility of the member to notify the board of a change in the member's status.

(d) For appointed members, except for the initial terms designated in paragraph (a), each term shall be three years with the terms ending on the first Monday in January. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

- (1) elect its chair, vice-chair, and secretary;
- (2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and contain such other provisions as may be useful and necessary for the efficient conduct of the business of the board;
- (3) adopt the High Pressure Piping Code that must be followed in this state and any High Pressure Piping Code amendments thereto pursuant to chapter 14 and as provided in subdivision 6, paragraphs (b), (c), and (d);
- (4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;
- (5) adopt rules that regulate the licensure or registration of high pressure piping contractors, journeymen, and other persons engaged in the design, installation, and alteration of high pressure piping systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraph (e);
- (6) adopt rules that regulate continuing education for individuals licensed or registered as high pressure piping contractors, journeymen, or other persons engaged in the design, installation, and alteration of high pressure piping systems. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraph (e);
- (7) advise the commissioner regarding educational requirements for high pressure piping inspectors;
- (8) refer complaints or other communications, whether orally or in writing, that allege or imply a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed high pressure piping services to the commissioner under subdivision 8;
- (9) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;
- (10) select from its members individuals to serve on any other state advisory council, board, or committee; and
- (11) recommend the fees for licenses and certifications.

Except for the powers granted to the Board of High Pressure Piping Systems, the commissioner of labor and industry shall administer and enforce the provisions of sections 326.46 to 326.521 and any rules promulgated pursuant thereto.

- (b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

**Subd. 3. Compensation.** (a) Members of the board may be compensated at the rate of \$55 per day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

**Subd. 4. Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

**Subd. 5. Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a seat on the board becomes vacant within three months after being filled through the appointment process, the governor may, upon notification to the Office of the Secretary of State, choose a new member from the applications on hand and need not repeat the process.

**Subd. 6. Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that are not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each High Pressure Piping Code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all of the voting members of the board shall be included in the next High Pressure Piping Code rulemaking proceeding initiated by the board. If a High Pressure Piping Code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all of the voting members of the board, the High Pressure Piping Code amendment shall not be included in the next High Pressure Piping Code rulemaking proceeding initiated by the board.

(c) If the High Pressure Piping Code amendment considered by the board is to replace the Minnesota High Pressure Piping Code with a model High Pressure Piping Code, then the amendment may only be included in the next High Pressure Piping Code rulemaking pro-

ceeding if it receives an affirmative two-thirds or more majority vote of all of the voting members of the board.

(d) The board may reconsider High Pressure Piping Code amendments during an active High Pressure Piping Code rulemaking proceeding in which the amendment previously failed to receive a two-thirds or more majority vote of all of the voting members of the board only if new or updated information that affects the High Pressure Piping Code amendment is presented to the board. The board may also reconsider failed High Pressure Piping Code amendments in subsequent High Pressure Piping Code rulemaking proceedings.

(e) Except as provided in paragraph (f), each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clauses (5) and (6), that receives an affirmative majority vote of all of the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all of the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider a proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all of the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider a failed proposed rule or rule amendment in subsequent rulemaking proceedings.

**Subd. 7. Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. The timing and method of providing notice is governed by section 13D.04.

**Subd. 8. Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether in writing or orally, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the depart-

ment to provide high pressure piping services, the performance or offering to perform high pressure piping services requiring licensure by an unlicensed person, or high pressure code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of a complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

**Subd. 9. Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

**Subd. 10. Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 135 art 4 s 3

### 326.48 LICENSING AND REGISTRATION.

**Subdivision 1. License required; rules; time credit.** No individual shall engage in or work at the business of a contracting high pressure pipefitter unless issued an individual contracting high pressure pipefitter license to do so by the department under rules adopted by the board. No license shall be required for repairs on existing installations. No individual shall engage in or work at the business of journeyman high pressure pipefitter unless issued an individual journeyman high pressure pipefitter competency license to do so by the department under rules adopted by the board. A person possessing an individual contracting high pressure pipefitter competency license may also work as a journeyman high pressure pipefitter.

No person shall construct or install high pressure piping, nor install high pressure piping in connection with the dealing in and selling of high pressure pipe material and supplies, unless, at all times, an individual possessing a contracting high pressure pipefitter individual competency license or a journeyman high pressure pipefitter individual competency license is responsible for ensuring that the high pressure pipefitting work is in conformity with Minnesota Statutes and Minnesota Rules.

The board shall prescribe rules, not inconsistent herewith, for the examination and individual competency licensing of contracting high pressure pipefitters and journeyman high pressure pipefitters and for issuance of permits by the department and municipalities for the installation of high pressure piping.

An employee performing the duties of inspector for the department in regulating pipefitting shall not receive time credit for the inspection duties when making an application for a license required by this section.

**Subd. 2. High pressure pipefitting business license.** Before obtaining a permit for high pressure piping work, a person must obtain or utilize a business with a high pressure piping business license.

A person must have at all times as a full-time employee at least one individual holding an individual contracting high pressure pipefitter competency license. Only full-time employees who hold individual contracting high pressure pipefitter licenses are authorized to obtain high pressure piping permits in the name of the business. The individual contracting high pressure pipefitter competency license holder can be the employee of only one high pressure piping business at a time.

To retain its business license without reapplication, a person holding a high pressure piping business license that ceases to employ an individual holding an individual contracting high pressure pipefitter competency license shall have 60 days from the last day of employ-



ment of its previous individual contracting pipefitter competency license holder to employ another license holder. The department must be notified no later than five days after the last day of employment of the previous license holder.

No high pressure pipefitting work may be performed during any period when the high pressure pipefitting business does not have an individual contracting high pressure pipefitter competency license holder on staff. If a license holder is not employed within 60 days after the last day of employment of the previous license holder, the pipefitting business license shall lapse.

The board shall prescribe by rule procedures for application for and issuance of business licenses.

**Subd. 2a. Registration requirement.** All unlicensed individuals, other than pipefitter apprentices, must be registered under subdivision 2b. No licensed high pressure piping business shall employ an unlicensed individual to assist in the practical construction and installation of high pressure piping and appurtenances unless the unlicensed individual is registered with the department. A pipefitter apprentice or registered unlicensed individual employed by a high pressure piping business may assist in the practical construction and installation of high pressure piping and appurtenances only while under direct supervision of a licensed individual contracting high pressure pipefitter or licensed journeyman high pressure pipefitter employed by the same high pressure piping business. The licensed individual contracting high pressure pipefitter or licensed journeyman high pressure pipefitter shall supervise no more than two pipefitter apprentices or registered unlicensed individuals. The licensed individual contracting high pressure pipefitter or journeyman high pressure pipefitter is responsible for ensuring that all high pressure piping work performed by the pipefitter apprentice or registered unlicensed individual complies with Minnesota Statutes and Minnesota Rules.

The board shall make recommendations by October 1, 2008, to the chairs of the standing committees of the senate and house of representatives having jurisdiction over high pressure piping regulation on the ratio of licensed individual contracting high pressure pipefitters or licensed journeyman high pressure pipefitters to pipefitter apprentices or registered unlicensed individuals for purposes of supervision.

**Subd. 2b. Registration with commissioner.** An unlicensed individual may register to assist in the practical construction and installation of high pressure piping and appurtenances while in the employ of a licensed high pressure piping business by completing and submitting to the commissioner a registration form provided by the commissioner. The Board of High Pressure Piping Systems may prescribe rules, not inconsistent with this section, for the registration of unlicensed individuals.

An unlicensed individual applying for initial registration shall pay the department an application fee of \$50. Applications for initial registration may be submitted at any time. Registration must be renewed annually and shall be valid for one calendar year beginning January 1. Applications for renewal registration must be submitted to the commissioner before December 31 of each registration period on forms provided by the commissioner, and must be accompanied by a fee of \$50. There shall be no refund of fees paid.

**Subd. 3. Bond.** As a condition of licensing, each applicant for a high pressure piping business license or renewal shall give bond to the state in the total sum of \$15,000 conditioned upon the faithful and lawful performance of all work contracted for or performed within the state. The bond shall run to and be for the benefit of persons injured or suffering financial loss by reason of failure of payment or performance. Claims and actions on the bond may be brought according to sections 574.26 to 574.38.

The term of the bond must be concurrent with the term of the high pressure pipefitting business license and run without interruption from the date of the issuance of the license to the end of the calendar year. All high pressure pipefitting business licenses must be annually renewed on a calendar year basis.

The bond must be filed with the department and shall be in lieu of any other business license bonds required by any political subdivision for high pressure pipefitting. The bond must be written by a corporate surety licensed to do business in the state.

Subd. 4. **Insurance.** In addition to the bond described in subdivision 3, each applicant for a high pressure pipefitting business license or renewal shall have in force public liability insurance, including products liability insurance, with limits of at least \$100,000 per person and \$300,000 per occurrence and property damage insurance with limits of at least \$50,000.

The insurance must be kept in force for the entire term of the high pressure pipefitting business license, and the license shall be suspended by the department if at any time the insurance is not in force.

The insurance must be written by an insurer licensed to do business in the state and shall be in lieu of any other insurance required by any subdivision of government for high pressure pipefitting. Each person holding a high pressure pipefitting business license shall maintain on file with the department a certificate evidencing the insurance. Any purported cancellation of insurance shall not be effective without the insurer first giving 30 days' written notice to the department.

Subd. 5. **License fee.** The department shall charge the following license fees:

(a) application for journeyman high pressure piping pipefitter competency license, \$120;

(b) renewal of journeyman high pressure piping pipefitter competency license, \$80;

(c) application for contracting high pressure piping pipefitter competency license, \$270;

(d) renewal of contracting high pressure piping pipefitter competency license, \$240;

(e) application for high pressure piping business license, \$450;

(f) application to inactivate a contracting high pressure piping pipefitter competency license or inactivate a journeyman high pressure piping pipefitter competency license, \$40; and

(g) renewal of an inactive contracting high pressure piping pipefitter competency license or inactive journeyman high pressure piping pipefitter competency license, \$40.

If an application for renewal of an active or inactive journeyman high pressure piping pipefitter competency license or active or inactive contracting high pressure piping competency license is received by the department after the date of expiration of the license, a \$30 late renewal fee shall be added to the license renewal fee.

Payment must accompany the application for a license or renewal of a license. There shall be no refund of fees paid.

Subd. 6. **Reciprocity with other states.** The commissioner may issue a temporary license without examination, upon payment of the required fee, to nonresident applicants who are licensed under the laws of a state having standards for licensing which the commissioner determines are substantially equivalent to the standards of this state if the other state grants similar privileges to Minnesota residents duly licensed in this state. Applicants who receive a temporary license under this section may acquire an aggregate of 24 months of experience before they have to apply and pass the licensing examination. Applicants must register with the commissioner of labor and industry and the commissioner shall set a fee for a temporary license. Applicants have five years in which to comply with this section.

**History:** 2007 c 135 art 4 s 4-6; 2007 c 140 art 10 s 8

### 326.50 LICENSE APPLICATION AND RENEWAL.

Application for an individual contracting high pressure pipefitter competency or an individual journeyman high pressure pipefitter competency license shall be made to the department, with fees. The applicant shall be licensed only after passing an examination developed and administered by the department in accordance with rules adopted by the board. A competency license issued by the department shall expire on December 31 of each year. A renewal application must be received by the department within one year after expiration of the competency license. A license that has been expired for more than one year cannot be renewed, and can only be reissued if the applicant submits a new application for the compe-

tency license, pays a new application fee, and retakes and passes the applicable license examination.

**History:** 2007 c 135 art 4 s 7; 2007 c 140 art 10 s 9

### 326.505 BOARD OF HIGH PRESSURE PIPING SYSTEMS.

Subdivision 1. **Composition.** (a) The Board of High Pressure Piping Systems shall consist of 13 members. Twelve members shall be appointed by the governor with the advice and consent of the senate and shall be voting members. Appointments of members by the governor shall be made in accordance with section 15.066. If the senate votes to refuse to consent to an appointment of a member made by the governor, the governor shall appoint a new member with the advice and consent of the senate. One member shall be the commissioner of labor and industry or the commissioner of labor and industry's designee, who shall be a voting member. Of the 12 appointed members, the composition shall be as follows:

- (1) one member shall be a high pressure piping inspector;
- (2) one member shall be a licensed mechanical engineer;
- (3) one member shall be a representative of the high pressure piping industry;
- (4) four members shall be high pressure piping contractors engaged in the scope of high pressure piping, two from the metropolitan area and two from greater Minnesota;
- (5) two members shall be high pressure piping journeymen engaged in the scope of high pressure piping systems installation, one from the metropolitan area and one from greater Minnesota;
- (6) one member shall be a representative of industrial companies that use high pressure piping systems in their industrial process;
- (7) one member shall be a representative from utility companies in Minnesota; and
- (8) one member shall be a public member as defined by section 214.02.

The high pressure piping inspector shall be appointed for a term to end December 31, 2011. The professional mechanical engineer shall be appointed for a term to end December 31, 2010. The representative of the high pressure piping industry shall be appointed for a term to end December 31, 2011. Two of the high pressure piping contractors shall be appointed for a term to end December 31, 2011. The other two high pressure piping contractors shall be appointed for a term to end December 31, 2010. One of the high pressure piping journeymen shall be appointed for a term to end December 31, 2011. The other high pressure piping journeyman shall be appointed for a term to end December 31, 2010. The one representative of industrial companies that use high pressure piping systems in their industrial process shall be appointed for a term to end December 31, 2010. The one representative of a utility company in Minnesota shall be appointed for a term to end December 31, 2010. The public member shall be appointed for a term to end December 31, 2010.

(b) The licensed professional mechanical engineer must possess a current Minnesota professional engineering license and maintain the license for the duration of their term. All other appointed members, except for the representative of the piping industry, the representative of industrial companies that use high pressure piping systems, and the representative of public utility companies in Minnesota, must possess a current high pressure piping license issued by the Department of Labor and Industry and maintain that license for the duration of their term. All appointed members must be residents of Minnesota at the time of and throughout the member's appointment. The term of any appointed member that does not maintain membership qualification status shall end on the date of status change and the governor shall appoint a new member. It is the responsibility of the member to notify the board of the member's status change.

(c) For appointed members, except the initial terms designated in paragraph (a), each term shall be three years with the terms ending on December 31. Members appointed by the governor shall be limited to three consecutive terms. The governor shall, all or in part, reappoint the current members or appoint replacement members with the advice and consent of the senate. Midterm vacancies shall be filled for the remaining portion of the term. Vacancies

occurring with less than six months time remaining in the term shall be filled for the existing term and the following three-year term. Members may serve until their successors are appointed but in no case later than July 1 in a year in which the term expires unless reappointed.

**Subd. 2. Powers; duties; administrative support.** (a) The board shall have the power to:

(1) elect its chair, vice-chair, and secretary;

(2) adopt bylaws that specify the duties of its officers, the meeting dates of the board, and containing such other provisions as may be useful and necessary for the efficient conduct of the business of the board;

(3) adopt the high pressure piping code that must be followed in this state and any high pressure piping code amendments thereto. The board shall adopt the high pressure piping code and any amendments thereto pursuant to chapter 14, and as provided in subdivision 6, paragraphs (b), (c), and (d);

(4) review requests for final interpretations and issue final interpretations as provided in section 16B.63, subdivision 5;

(5) except for rules regulating continuing education, adopt rules that regulate the licensure or registration of high pressure piping contractors, journeymen, and other persons engaged in the design, installation, and alteration of high pressure piping systems, except for those individuals licensed under section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter 14 and as provided in subdivision 6, paragraphs (e) and (f);

(6) advise the commissioner regarding educational requirements for high pressure piping inspectors;

(7) refer complaints or other communications to the commissioner, whether oral or written, as provided in subdivision 7 that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to code compliance, licensure, or an offering to perform or performance of unlicensed high pressure piping services;

(8) approve per diem and expenses deemed necessary for its members as provided in subdivision 3;

(9) select from its members individuals to serve on any other state advisory council, board, or committee;

(10) recommend the fees for licenses and certifications; and

(11) approve license reciprocity agreements.

Except for the powers granted to the Plumbing Board, Board of Electricity, and the Board of High Pressure Piping, the commissioner of labor and industry shall administer and enforce the provisions of this chapter and any rules promulgated pursuant thereto.

(b) The board shall comply with section 15.0597, subdivisions 2 and 4.

(c) The commissioner shall coordinate the board's rulemaking and recommendations with the recommendations and rulemaking conducted by the other boards created pursuant to chapter 326B. The commissioner shall provide staff support to the board. The support includes professional, legal, technical, and clerical staff necessary to perform rulemaking and other duties assigned to the board. The commissioner of labor and industry shall supply necessary office space and supplies to assist the board in its duties.

**Subd. 3. Compensation.** (a) Members of the board may be compensated at the rate of \$55 a day spent on board activities, when authorized by the board, plus expenses in the same manner and amount as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings, incur child care expenses that would not otherwise have been incurred, may be reimbursed for those expenses upon board authorization.

(b) Members who are state employees or employees of the political subdivisions of the state must not receive the daily payment for activities that occur during working hours for which they are compensated by the state or political subdivision. However, a state or political

subdivision employee may receive the daily payment if the employee uses vacation time or compensatory time accumulated in accordance with a collective bargaining agreement or compensation plan for board activities. Members who are state employees or employees of the political subdivisions of the state may receive the expenses provided for in this subdivision unless the expenses are reimbursed by another source. Members who are state employees or employees of political subdivisions of the state may be reimbursed for child care expenses only for time spent on board activities that are outside their working hours.

(c) The board shall adopt internal standards prescribing what constitutes a day spent on board activities for purposes of making daily payments under this subdivision.

**Subd. 4. Removal; vacancies.** (a) An appointed member of the board may be removed by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three consecutive meetings. The chair of the board shall inform the governor of an appointed member missing the three consecutive meetings. After the second consecutive missed meeting and before the next meeting, the secretary of the board shall notify the appointed member in writing that the member may be removed for missing the next meeting. In the case of a vacancy on the board, the governor shall, with the advice and consent of the senate, appoint a person to fill the vacancy for the remainder of the unexpired term.

(b) Vacancies shall be filled pursuant to section 15.0597, subdivisions 5 and 6.

**Subd. 5. Membership vacancies within three months of appointment.** Notwithstanding any law to the contrary, when a membership on the board becomes vacant within three months after being filled through the appointments process, the governor may, upon notification to the Office of Secretary of State, choose a new member from the applications on hand and need not repeat the process.

**Subd. 6. Officers, quorum, voting.** (a) The board shall elect annually from its members a chair, vice-chair, and secretary. A quorum of the board shall consist of a majority of members of the board qualified to vote on the matter in question. All questions concerning the manner in which a meeting is conducted or called that is not covered by statute shall be determined by Robert's Rules of Order (revised) unless otherwise specified by the bylaws.

(b) Except as provided in paragraph (c), each high pressure piping code amendment considered by the board that receives an affirmative two-thirds or more majority vote of all the voting members of the board shall be included in the next high pressure piping code rulemaking proceeding initiated by the board. If a high pressure piping code amendment considered, or reconsidered, by the board receives less than a two-thirds majority vote of all the voting members of the board, the high pressure piping code amendment shall not be included in the next high pressure piping code rulemaking proceeding initiated by the board.

(c) If the high pressure piping code amendment considered by the board is to replace the Minnesota High Pressure Piping Code with a model high pressure piping code, then the amendment may only be included in the next high pressure piping code rulemaking proceeding if it receives an affirmative two-thirds or more majority vote of all the voting members of the board.

(d) The board may reconsider high pressure piping code amendments during an active high pressure piping code rulemaking proceeding in which the amendment previously failed to receive a two-thirds majority vote or more of all the voting members of the board only if new or updated information that affects the high pressure piping code amendment is presented to the board. The board may also reconsider failed high pressure piping code amendments in subsequent high pressure piping code rulemaking proceedings.

(e) Each proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2, paragraph (a), clause (5), that receives an affirmative majority vote of all the voting members of the board shall be included in the next rulemaking proceeding initiated by the board. If a proposed rule or rule amendment considered, or reconsidered, by the board receives less than an affirmative majority vote of all the voting members of the board, the proposed rule or rule amendment shall not be included in the next rulemaking proceeding initiated by the board.

(f) The board may reconsider the proposed rule or rule amendment during an active rulemaking proceeding in which the amendment previously failed to receive an affirmative majority vote of all the voting members of the board only if new or updated information that affects the proposed rule or rule amendment is presented to the board. The board may also reconsider failed proposed rules or rule amendments in subsequent rulemaking proceedings.

**Subd. 7. Board meetings.** (a) The board shall hold meetings at such times as the board shall specify. Notice and conduct of all meetings shall be pursuant to chapter 13D, and in such a manner as the bylaws may provide.

(b) If compliance with section 13D.02 is impractical, the board may conduct a meeting of its members by telephone or other electronic means so long as the following conditions are met:

(1) all members of the board participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;

(2) members of the public present at the regular meeting location of the board can hear clearly all discussion and testimony and all votes of members of the board and, if needed, receive those services required by sections 15.44 and 15.441;

(3) at least one member of the board is physically present at the regular meeting location; and

(4) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Each member of the board participating in a meeting by telephone or other electronic means is considered present at the meeting for purposes of determining a quorum and participating in all proceedings.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board, to the extent practical, shall allow a person to monitor the meeting electronically from a remote location. The board may require the person making such a connection to pay for documented costs that the board incurs as a result of the additional connection.

If telephone or other electronic means is used to conduct a regular, special, or emergency meeting, the board shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and that a person may monitor the meeting electronically from a remote location. Any person monitoring the meeting electronically from a remote location may be required to pay documented costs incurred by the board as a result of the additional connection. The timing and method of providing notice is governed by section 13D.04.

**Subd. 8. Complaints.** (a) The board shall promptly forward to the commissioner the substance of any complaint or communication it receives, whether written or oral, that alleges or implies a violation of a statute, rule, or order that the commissioner has the authority to enforce pertaining to the license or registration of any person authorized by the department to provide high pressure piping services, the performance or offering to perform high pressure piping services requiring licensure by an unlicensed person, or high pressure code compliance. Each complaint or communication that is forwarded to the commissioner shall be submitted on a form provided by the commissioner.

(b) The commissioner shall advise the board of the status of the complaint within 90 days after the board's written submission is received, or within 90 days after the board is provided with a written request for additional information or documentation from the commissioner or the commissioner's designee, whichever is later. The commissioner shall advise the board of the disposition of a complaint referred by the board within 180 days after the board's written submission is received. The commissioner shall annually report to the board a summary of the actions taken in response to complaints referred by the board.

**Subd. 9. Data Practices Act.** The board is subject to chapter 13, the Minnesota Government Data Practices Act, and shall protect from unlawful disclosure data classified as not public.

Subd. 10. **Official records.** The board shall make and preserve all records necessary to a full and accurate knowledge of its official activities in accordance with section 15.17.

**History:** 2007 c 140 art 10 s 10

**326.51** [Repealed, 2007 c 140 art 13 s 3]

**326.52** [Repealed, 2007 c 135 art 2 s 40; 2007 c 140 art 13 s 3]

**326.521** [Repealed, 2007 c 140 art 13 s 3]

### **326.56 LICENSES, CERTIFICATES OF REGISTRATION; RENEWALS.**

*[For text of subd 1, see M.S.2006]*

Subd. 2. **License or registration, renewal; exemption for military service.** (a) Notwithstanding any other provision of statutes, any person required by law to be licensed or registered by the state of Minnesota in order to carry on or practice a trade, employment, occupation or profession within this state who is also required by law to renew the license or certificate of registration at stated intervals and to pay a fee for such renewal on or before a specified date, or be subject to revocation of the license or certificate or other penalties, and who has been ordered into active military service, or who has been engaged, or shall hereafter be engaged, in employment outside of the United States essential to the prosecution of a war or to the national defense, whose license or certificate of registration was effective at the time of the person's entry into active military service or engagement in the employment, is hereby exempted from the payment of all renewal fees and from the filing of any application for renewal, which but for this section would have been required as a condition of the renewal of the license or certificate, during the time the person has been in active military service or that employment, and from any penalties for nonpayment or late payment, and is hereby exempted from further payment of such renewal fees and from the making of any application for renewal during the period the person shall remain in active military service or the employment, and for six months thereafter. The license or certificate in the meantime shall remain in full force and effect, and if it has been canceled or revoked solely on the basis of nonpayment of renewal fees or failure to apply for a renewal, it shall be reinstated upon the application of the licensee or registrant or by anyone on the person's behalf without the payment of any penalties or costs. Any such person may within six months from the date of release from active military service, or from the date of return within the boundaries of the United States if the person has been engaged in the essential employment, make application for a renewal of the license or certificate without penalty and in the same manner as if the person had made application therefor at the time or time specified by existing laws, irrespective of whether the license or certificate has expired or is due to expire within that time period.

(b) The phrase "license or certificate of registration" in paragraph (a) includes, but is not limited to, a license or certificate of registration for a trade, employment, occupation, or profession for which the state requires firearms and use of force training. Any compensatory job-related education or training considered necessary by the licensee's or registrant's employer must be provided and paid for by the employer and must not be permitted to delay the licensee's or registrant's reemployment.

**History:** 2007 c 51 s 1

### **326.57 WATER CONDITIONING CONTRACTOR AND INSTALLER STANDARDS.**

Subdivision 1. **Rulemaking by commissioner.** The commissioner shall, by rule, prescribe minimum standards which shall be uniform, and which standards shall thereafter be effective for all new water conditioning servicing and water conditioning installations, including additions, extensions, alterations, and replacements connected with any water or sewage disposal system owned or operated by or for any municipality, institution, factory, office building, hotel, apartment building or any other place of business, regardless of location or the population of the city, county or town in which located.

[For text of subd 2, see M.S.2006]

**History:** 2007 c 140 art 7 s 1

### 326.58 LOCAL REGULATIONS.

Any city or town with a population of 5,000 or more according to the last federal census may, by ordinance, adopt local regulations providing for water conditioning permits, bonds, approval of plans, and inspections of water conditioning installations and servicing, which regulations shall not be in conflict with the water conditioning standards on the same subject prescribed by the commissioner. No such city or town shall prohibit water conditioning contractors or installers licensed by the commissioner from engaging in or working at the business.

**History:** 2007 c 140 art 7 s 2

### 326.59 VIOLATIONS TO BE REPORTED TO COMMISSIONER.

Such local authority as may be designated by any such ordinance for the issuance of such water conditioning installation and servicing permits and approval of such plans shall report to the commissioner persistent or willful violations of the same and any incompetence of a licensed water conditioning contractor or licensed water conditioning installer observed by the local authority.

**History:** 2007 c 140 art 7 s 3

### 326.60 LICENSING IN CERTAIN CITIES; QUALIFICATIONS; RULES.

Subdivision 1. **Licensing in certain cities.** In any city or town having a population of 5,000 or more according to the last federal census, no person shall engage in or work at the business of water conditioning installation or servicing after January 1, 1970, unless (1) at all times an individual licensed as a water conditioning contractor by the commissioner shall be responsible for the proper water conditioning installation and servicing work of such person, and (2) all installations, other than exchanges of portable equipment, are performed by a licensed water conditioning contractor or licensed water conditioning installer. Any individual not so licensed may perform water conditioning work that complies with the minimum standard prescribed by the commissioner on premises or that part of premises owned and occupied by the worker as a residence, unless otherwise prohibited by a local ordinance.

Subd. 2. **Qualifications for licensing.** A water conditioning contractor license shall be issued only to an individual who has demonstrated skill in planning, superintending, and servicing water conditioning installations. A water conditioning installer license shall only be issued to an individual other than a water conditioning contractor who has demonstrated practical knowledge of water conditioning installation.

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

(1) prescribe rules, not inconsistent herewith, for the licensing of water conditioning contractors and installers;

(2) license water conditioning contractors and installers;

(3) prescribe rules not inconsistent herewith for the examining of water conditioning contractors and installers prior to first granting a license as a water conditioning contractor or water conditioning installer; and

(4) collect an examination fee from each examinee for a license as a water conditioning contractor and an examination fee from each examinee for a license as a water conditioning installer in an amount set forth in section 326.62. A water conditioning installer must successfully pass the examination for water conditioning contractors before being licensed as a water conditioning contractor.

**History:** 2007 c 140 art 7 s 4

### 326.601 ALTERNATIVE STATE BONDING AND INSURANCE REGULATION.

Subdivision 1. **Bonds.** (a) An applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to give a bond to ob-



tain or maintain the license, may comply with any political subdivision bonding requirement by giving a bond to the state as described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the bond under paragraph (b) shall be otherwise required to meet the bond requirements of any political subdivision.

(b) Each bond given to the state under this subdivision shall be in the total sum of \$3,000 conditioned upon the faithful and lawful performance of all water conditioning contracting or installing work done within the state. The bond shall be for the benefit of persons suffering injuries or damages due to the work. The bond shall be filed with the commissioner and shall be written by a corporate surety licensed to do business in this state. The bond must remain in effect at all times while the application is pending and while the license is in effect.

**Subd. 2. Insurance.** (a) Each applicant for a water conditioning contractor or installer license or renewal thereof who is required by any political subdivision to maintain insurance to obtain or maintain the license may comply with any political subdivision's insurance requirement by maintaining the insurance described in paragraph (b). No applicant for a water conditioning contractor or installer license who maintains the insurance described in paragraph (b) shall be otherwise required to meet the insurance requirements of any political subdivision.

(b) The insurance shall provide coverage, including products liability coverage, for all damages in connection with licensed work for which the licensee is liable, with personal damage limits of at least \$50,000 per person and \$100,000 per occurrence and property damage insurance with limits of at least \$10,000. The insurance shall be written by an insurer licensed to do business in this state and a certificate evidencing the insurance shall be filed with the commissioner. The insurance must remain in effect at all times while the application is pending and while the license is in effect. The insurance shall not be canceled without the insurer first giving 15 days' written notice to the commissioner.

**Subd. 3. Bond and insurance exemption.** A water conditioning contractor or installer who is an employee of a water conditioning contractor or installer, including an employee engaged in the maintenance and repair of water conditioning equipment, apparatus, or facilities owned, leased and operated, or maintained by the employer, is not required to meet the bond and insurance requirements of subdivisions 1 and 2 or of any political subdivision.

**Subd. 4. Fee.** The commissioner shall collect a \$40 bond registration fee from each applicant for issuance or renewal of a water conditioning contractor or installer license who elects to proceed under subdivisions 1 and 2.

**History:** 2007 c 140 art 7 s 5

### 326.61 DEFINITIONS; RULES.

**Subdivision 1. Water conditioning installation.** "Water conditioning installation" means the installation of appliances, appurtenances, and fixtures designed to treat water so as to alter, modify, add or remove mineral, chemical or bacterial content, said installation to be made in a water distribution system serving a single family residential unit, which has been initially established by a licensed plumber, and does not involve a direct connection without an air gap to a soil or waste pipe.

**Subd. 2. Water conditioning servicing.** "Water conditioning servicing" means the servicing (including servicing prior to installation) of a water conditioning installation.

**Subd. 3. Rules.** In order to provide effective protection of the public health, the commissioner may by rule prescribe limitations on the nature of alteration to, extension of, or connection with, the said water distribution system initially established by a licensed plumber which may be performed by a person licensed hereunder, and may by rule in appropriate instances require filing of plans, blueprints and specifications prior to commencement of installation. The installation of water heaters shall not constitute water conditioning installation and consequently such work shall be accomplished in accordance with the provisions of sections 326.361 to 326.44.

Subd. 4. **Single family residential unit.** “Single family residential unit” means a building or portion thereof which is arranged, designed, used or intended to be used for residential occupancy by one family, but not including a motel, hotel or rooming house.

**History:** 2007 c 140 art 7 s 6–9

### 326.62 FEES.

Unless examination fees have been set by a contract under section 326B.05, examination fees for both water conditioning contractors and water conditioning installers shall be \$50 for each examination. Each water conditioning contractor and installer license shall expire on December 31 of the year for which it was issued. The license fee for each initial water conditioning contractor’s license shall be \$70, except that the license fee shall be \$35 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning contractor’s license shall be \$70. The license fee for each initial water conditioning installer license shall be \$35, except that the license fee shall be \$17.50 if the application is submitted during the last three months of the calendar year. The license fee for each renewal water conditioning installer license shall be \$35. The commissioner may by rule prescribe for the expiration and renewal of licenses. Any licensee who does not renew a license within two years after the license expires is no longer eligible for renewal. Such an individual must retake and pass the examination before a new license will be issued. A water conditioning contractor or water conditioning installer who submits a license renewal application after the time specified in rule but within two years after the license expired must pay all past due renewal fees plus a late fee of \$25.

**History:** 2007 c 140 art 7 s 10

**326.64** [Repealed, 2007 c 135 art 2 s 40; 2007 c 140 art 13 s 3]

### 326.65 STATE LICENSE; EXAMINATION; APPLICATION; EXEMPTION.

The provisions of sections 326.57 to 326.65 that require licenses to engage in the work or business of water conditioning installation, and the provisions that provide for the examination of applicants for such licenses, shall only apply to work accomplished in cities or towns having populations of 5,000 or more according to the last federal census, and shall not apply to master plumbers and journeymen plumbers licensed under the provisions of sections 326.361 to 326.44.

**History:** 2007 c 140 art 7 s 11

### 326.83 DEFINITIONS.

*[For text of subs 1 and 2, see M.S.2006]*

Subd. 3. [Repealed, 2007 c 140 art 13 s 3]

Subd. 4. [Repealed, 2007 c 140 art 13 s 3]

*[For text of subd 5, see M.S.2006]*

Subd. 6. **Lessee.** “Lessee” means one who rents or leases residential real estate pursuant to a written lease agreement of at least one year’s duration.

Subd. 7. **Licensee.** “Licensee” means a residential building contractor, residential remodeler, manufactured home installer, or residential roofer licensed under sections 326.83 to 326.98.

*[For text of subs 8 to 10, see M.S.2006]*

Subd. 11. **Owner.** “Owner,” when used in connection with real property, means a person who has any legal or equitable interest in the real property.

Subd. 12. [Repealed, 2007 c 140 art 13 s 3]

Subd. 13. [Repealed, 2007 c 140 art 13 s 3]

[For text of subds 14 to 17, see M.S.2006]

Subd. 18. **Residential roofer.** "Residential roofer" means a person in the business of contracting, or offering to contract with an owner, to complete work on residential real estate in roof coverings, roof sheathing, roof weatherproofing and insulation, and repair of roof systems, but not construction of new roof systems.

Subd. 19. **Special skill.** "Special skill" means one of the following eight categories:

(a) **Excavation.** Excavation includes work in any of the following areas:

- (1) excavation;
- (2) trenching;
- (3) grading; and
- (4) site grading.

(b) **Masonry and concrete.** Masonry and concrete includes work in any of the following areas:

- (1) drain systems;
- (2) poured walls;
- (3) slabs and poured-in-place footings;
- (4) masonry walls;
- (5) masonry fireplaces;
- (6) masonry veneer; and
- (7) water resistance and waterproofing.

(c) **Carpentry.** Carpentry includes work in any of the following areas:

- (1) rough framing;
- (2) finish carpentry;
- (3) doors, windows, and skylights;
- (4) porches and decks, excluding footings;
- (5) wood foundations; and
- (6) drywall installation, excluding taping and finishing.

(d) **Interior finishing.** Interior finishing includes work in any of the following areas:

- (1) floor covering;
- (2) wood floors;
- (3) cabinet and counter top installation;
- (4) insulation and vapor barriers;
- (5) interior or exterior painting;
- (6) ceramic, marble, and quarry tile;
- (7) ornamental guardrail and installation of prefabricated stairs; and
- (8) wallpapering.

(e) **Exterior finishing.** Exterior finishing includes work in any of the following areas:

- (1) siding;
- (2) soffit, fascia, and trim;
- (3) exterior plaster and stucco;
- (4) painting; and
- (5) rain carrying systems, including gutters and down spouts.

(f) **Drywall and plaster.** Drywall and plaster includes work in any of the following areas:

- (1) installation;
- (2) taping;
- (3) finishing;

- (4) interior plaster;
- (5) painting; and
- (6) wallpapering.

(g) **Residential roofing.** Residential roofing includes work in any of the following areas:

- (1) roof coverings;
- (2) roof sheathing;
- (3) roof weatherproofing and insulation; and
- (4) repair of roof support system, but not construction of new roof support system.

(h) **General installation specialties.** Installation includes work in any of the following areas:

- (1) garage doors and openers;
- (2) pools, spas, and hot tubs;
- (3) fireplaces and wood stoves;
- (4) asphalt paving and seal coating; and
- (5) ornamental guardrail and prefabricated stairs.

Subd. 20. **Specialty contractor.** "Specialty contractor" means a person in the business of contracting or offering to contract to build or improve residential real estate by providing only one special skill as defined in this section.

*[For text of subd 21, see M.S.2006]*

**History:** 2007 c 140 art 8 s 2-7

### 326.84 LICENSING REQUIREMENTS.

Subdivision 1. **Persons required to be licensed.** A person who meets the definition of a residential building contractor as defined in section 326.83, subdivision 15, must be licensed as a residential building contractor by the commissioner. A person who meets the definition of a residential remodeler as defined in section 326.83, subdivision 16, must be licensed by the commissioner as a residential remodeler or residential building contractor. A person who meets the definition of a residential roofer as defined in section 326.83, subdivision 18, must be licensed by the commissioner as a residential roofer, residential building contractor, or residential remodeler. A person who meets the definition of a manufactured home installer as defined in section 327.31, subdivision 6, must be licensed as a manufactured home installer by the commissioner.

Subd. 1a. **Persons who may be licensed.** A person who meets the definition of a specialty contractor as defined in section 326.83, subdivision 19, may be licensed by the commissioner as a residential building contractor or residential remodeler.

Subd. 1b. **Prohibition.** Except as provided in subdivision 3, no persons required to be licensed by subdivision 1 may act or hold themselves out as a residential building contractor, residential remodeler, residential roofer, or manufactured home installer for compensation without a license issued by the commissioner.

Subd. 1c. **Licensing criteria.** The examination and education requirements for licensure under sections 326.84 to 326.98 must be fulfilled by a qualifying person designated by the potential licensee. If the qualifying person is a managing employee, the qualifying person must be an employee who is regularly employed by the licensee and is actively engaged in the business of residential contracting or residential remodeling on behalf of the licensee. For a sole proprietorship, the qualifying person must be the proprietor or managing employee. For a partnership, the qualifying person must be a general partner or managing employee. For a limited liability company, the qualifying person must be a chief manager or managing employee. For a corporation, the qualifying person must be an owner, officer, or managing employee. A qualifying person for a corporation or limited liability company may act as the qualifying person for more than one corporation or limited liability company if there is com-

mon ownership of at least 25 percent among each of the licensed corporations or limited liability companies for which the person acts in the capacity of qualifying person.

Subd. 1d. **Required information.** (a) Each licensee or applicant for licensure shall provide to the commissioner a current street address and telephone number where the licensee resides, and a street address and telephone number where the licensee's business is physically located. A post office box address is not sufficient to satisfy this requirement. Each licensee or applicant for licensure must notify the commissioner in writing of any change in the required information within 15 days of the change.

(b) Each licensee or applicant for licensure must notify the commissioner in writing upon any change in control, ownership, officers or directors, personal name, business name, license name, or qualifying person, within 15 days of the change.

(c) Each licensee or applicant for licensure must notify the commissioner in writing if the licensee or applicant for licensure is found to be a judgment debtor based upon conduct requiring licensure pursuant to sections 326.83 to 326.98 within 15 days of the finding.

(d) Each licensee or applicant for licensure must notify the commissioner in writing within 15 days of filing a petition for bankruptcy.

(e) Each licensee or applicant for licensure must notify the commissioner in writing within ten days if the licensee or applicant for licensure has been found guilty of a felony, gross misdemeanor, misdemeanor, or any comparable offense related to residential contracting, including convictions of fraud, misrepresentation, misuse of funds, theft, criminal sexual conduct, assault, burglary, conversion of funds, or theft of proceeds in this or any other state or any other United States jurisdiction.

Subd. 3. **Exemptions.** The license requirement does not apply to:

- (1) an employee of a licensee performing work for the licensee;
- (2) a material person, manufacturer, or retailer furnishing finished products, materials, or articles of merchandise who does not install or attach the items;
- (3) an owner of residential real estate who builds or improves any structure on residential real estate, if the building or improving is performed by the owner's bona fide employees or by individual owners personally. This exemption does not apply to an owner who constructs or improves property for purposes of speculation if the building or improving is performed by the owner's bona fide employees or by individual owners personally. A residential building contractor or residential remodeler will be presumed to be building or improving for purposes of speculation if the contractor or remodeler constructs or improves more than one property within any 24-month period;
- (4) an architect or professional engineer engaging in professional practice as defined by section 326.02, subdivisions 2 and 3;
- (5) a person whose total gross annual receipts for performing specialty skills for which licensure would be required under this section do not exceed \$15,000;
- (6) a mechanical contractor;
- (7) a plumber, electrician, or other person whose profession is otherwise subject to statewide licensing, when engaged in the activity which is the subject of that licensure;
- (8) specialty contractors who provide only one special skill as defined in section 326.83;
- (9) a school district, or a technical college governed under chapter 136F; and
- (10) Habitat for Humanity and Builders Outreach Foundation, and their individual volunteers when engaged in activities on their behalf.

To qualify for the exemption in clause (5), a person must obtain a certificate of exemption from licensure from the commissioner.

A certificate of exemption will be issued upon the applicant's filing with the commissioner, an affidavit stating that the applicant does not expect to exceed \$15,000 in gross annual receipts derived from performing services which require licensure under this section.

To renew the exemption in clause (5), the applicant must file an affidavit stating that the applicant did not exceed \$15,000 in gross annual receipts during the past calendar year.

If a person, operating under the exemption in clause (5), exceeds \$15,000 in gross receipts during any calendar year, the person must immediately surrender the exemption certificate and apply for the appropriate license. The person must remain licensed until such time as the person's gross annual receipts during a calendar year fall below \$15,000. The person may then apply for an exemption for the next calendar year.

**History:** 2007 c 140 art 8 s 8

### **326.841 MANUFACTURED HOME INSTALLERS.**

(a) Manufactured home installers are subject to all of the requirements of sections 326.83 to 326.98, except for the following:

(1) manufactured home installers are not subject to the continuing education requirements of section 326.87, but are subject to the continuing education requirements established in rules adopted under section 327B.10;

(2) the examination requirement of section 326.89, subdivision 3, for manufactured home installers shall be satisfied by successful completion of a written examination administered and developed specifically for the examination of manufactured home installers. The examination must be administered and developed by the commissioner. The commissioner and the state building official shall seek advice on the grading, monitoring, and updating of examinations from the Minnesota Manufactured Housing Association;

(3) a local government unit may not place a surcharge on a license fee, and may not charge a separate fee to installers;

(4) a dealer or distributor who does not install or repair manufactured homes is exempt from licensure under sections 326.83 to 326.98;

(5) the exemption under section 326.84, subdivision 3, clause (5), does not apply; and

(6) manufactured home installers are not subject to the contractor recovery fund in section 326.975.

(b) The commissioner may waive all or part of the requirements for licensure as a manufactured home installer for any individual who holds an unexpired license or certificate issued by any other state or other United States jurisdiction if the licensing requirements of that jurisdiction meet or exceed the corresponding licensing requirements of the department.

**History:** 2007 c 140 art 8 s 9

### **326.842 RESIDENTIAL ROOFERS.**

Residential roofers are subject to all of the requirements of sections 326.83 to 326.98, except the recovery fund in section 326.975.

**History:** 2007 c 140 art 8 s 10

**326.85** [Repealed, 2007 c 140 art 13 s 3]

### **326.86 FEES.**

Subdivision 1. **Licensing fee.** The licensing fee for persons licensed pursuant to sections 326.83 to 326.98 is \$100 per year.

Subd. 2. **Local surcharge.** A local government unit may place a surcharge in an amount no greater than \$5 on each land use, zoning, or building permit that requires a licensed residential building contractor, residential remodeler, residential roofer, or manufactured home installer for the purpose of license verification. The local government may verify a license by telephone, facsimile or electronic communication. A local government unit shall not issue a land use, zoning, or building permit unless the required license has been verified and is current.

**History:** 2007 c 140 art 8 s 11

### **326.87 CONTINUING EDUCATION.**

Subdivision 1. **Standards.** The commissioner may by rule adopt standards for continuing education requirements and course and instructor approval. The standards must include

requirements for continuing education in the implementation of energy codes applicable to buildings and other building codes designed to conserve energy.

Subd. 2. **Hours.** A qualifying person of a licensee must provide proof of completion of seven hours of continuing education per year in the regulated industry in which the licensee is licensed.

Credit may not be earned if the licensee has previously obtained credit for the same course as either a student or instructor during the same licensing period.

Subd. 3. **Accessibility.** To the extent possible, the commissioner shall ensure that continuing education courses are offered throughout the state and are easily accessible to all licensees.

Subd. 4. **Renewal of approval.** The commissioner is authorized to establish a procedure for renewal of course approval.

Subd. 5. **Content.** (a) Continuing education consists of approved courses that impart appropriate and related knowledge in the regulated industries pursuant to sections 326.83 to 326.98. The burden of demonstrating that courses impart appropriate and related knowledge is upon the person seeking approval or credit.

(b) Course examinations will not be required for continuing education courses unless they are required by the sponsor.

(c) Textbooks are not required to be used for continuing education courses. If textbooks are not used, the coordinator must provide students with a syllabus containing, at a minimum, the course title, the times and dates of the course offering, the names and addresses or telephone numbers of the course coordinator and instructor, and a detailed outline of the subject materials to be covered. Any written or printed material given to students must be of readable quality and contain accurate and current information.

(d) Upon completion of an approved course, licensees shall earn one hour of continuing education credit for each hour approved by the commissioner. Each continuing education course must be attended in its entirety in order to receive credit for the number of approved hours. Courses may be approved for full or partial credit, and for more than one regulated industry.

Continuing education credit in an approved course shall be awarded to presenting instructors on the basis of one credit for each hour of preparation for the initial presentation, which may not exceed three hours total credit for each approved course. Continuing education credit may not be earned if the licensee has previously obtained credit for the same course as a licensee or as an instructor within the three years immediately prior.

(e) The following courses will not be approved for credit:

(1) courses designed solely to prepare students for a license examination;

(2) courses in mechanical office or business skills, including typing, speed reading, or other machines or equipment. Computer courses are allowed, if appropriate and related to the regulated industry of the licensee;

(3) courses in sales promotion, including meetings held in conjunction with the general business of the licensee;

(4) courses in motivation, salesmanship, psychology, time management, or communication; or

(5) courses that are primarily intended to impart knowledge of specific products of specific companies, if the use of the product or products relates to the sales promotion or marketing of one or more of the products discussed.

Subd. 6. **Course approval.** (a) Courses must be approved by the commissioner in advance and will be approved on the basis of the applicant's compliance with the provisions of this section relating to continuing education in the regulated industries. The commissioner shall make the final determination as to the approval and assignment of credit hours for courses. Courses must be at least one hour in length.

Individuals requesting credit for continuing education courses that have not been previously approved shall, on a form prescribed by the commissioner, submit an application for

approval of continuing education credit accompanied by a nonrefundable fee of \$10 for each course to be reviewed. To be approved, courses must be in compliance with the provisions of this section governing the types of courses that will and will not be approved.

Approval will not be granted for time spent on meals or other unrelated activities. Breaks may not be accumulated in order to dismiss the class early. Classes shall not be offered by a provider to any one student for longer than eight hours in one day, excluding meal breaks.

(b) Application for course approval must be submitted 30 days before the course offering.

(c) Approval must be granted for a subsequent offering of identical continuing education courses without requiring a new application if a notice of the subsequent offering is filed with the commissioner at least 30 days in advance of the date the course is to be held. The commissioner shall deny future offerings of courses if they are found not to be in compliance with the laws relating to course approval.

**Subd. 7. Courses open to all.** All course offerings must be open to any interested individuals. Access may be restricted by the sponsor based on class size only. Courses must not be approved if attendance is restricted to any particular group of people, except for company-sponsored courses allowed by applicable law.

**Subd. 8. Course coordinator.** (a) Each course of study shall have at least one coordinator, approved by the commissioner, who is responsible for supervising the program and ensuring compliance with all relevant law. Sponsors may engage an additional approved coordinator in order to assist the coordinator or to act as a substitute for the coordinator in the event of an emergency or illness.

(b) The commissioner shall approve as a coordinator a person meeting one or more of the following criteria:

(1) at least three years of full-time experience in the administration of an education program during the five-year period immediately before the date of application;

(2) a degree in education plus two years' experience during the immediately preceding five-year period in one of the regulated industries for which courses are being approved; or

(3) a minimum of five years' experience within the previous six years in the regulated industry for which courses are held.

**Subd. 9. Responsibilities.** A coordinator is responsible for:

(1) ensuring compliance with all laws and rules relating to continuing educational offerings governed by the commissioner;

(2) ensuring that students are provided with current and accurate information relating to the laws and rules governing their licensed activity;

(3) supervising and evaluating courses and instructors. Supervision includes ensuring that all areas of the curriculum are addressed without redundancy and that continuity is present throughout the entire course;

(4) ensuring that instructors are qualified to teach the course offering;

(5) furnishing the commissioner, upon request, with copies of course and instructor evaluations and qualifications of instructors. Evaluations must be completed by students at the time the course is offered and by coordinators within five days after the course offering;

(6) investigating complaints related to course offerings or instructors. A copy of the written complaint must be sent to the commissioner within ten days of receipt of the complaint and a copy of the complaint resolution must be sent not more than ten days after resolution is reached;

(7) maintaining accurate records relating to course offerings, instructors, tests taken by students if required, and student attendance for a period of three years from the date on which the course was completed. These records must be made available to the commissioner upon request. In the event that a sponsor ceases operation for any reason, the coordinator is responsible for maintaining the records or providing a custodian for the records acceptable to the



commissioner. The coordinator must notify the commissioner of the name and address of that person. In order to be acceptable to the commissioner, custodians must agree to make copies of acknowledgments available to students at a reasonable fee. Under no circumstances will the commissioner act as custodian of the records;

(8) ensuring that the coordinator is available to instructors and students throughout course offerings and providing to the students and instructor the name of the coordinator and a telephone number at which the coordinator can be reached;

(9) attending workshops or instructional programs as reasonably required by the commissioner;

(10) providing course completion certificates within ten days of, but not before, completion of the entire course. Course completion certificates must be completed in their entirety. Course completion certificates must contain the following statement: "If you have any comments about this course offering, please mail them to the Minnesota Department of Labor and Industry." The current address of the department must be included. A coordinator may require payment of the course tuition as a condition for receiving the course completion certificate; and

(11) notifying the commissioner in writing within ten days of any change in the information in an application for approval on file with the commissioner.

**Subd. 10. Instructors.** (a) Each continuing education course shall have an instructor who is qualified by education, training, or experience to ensure competent instruction. Failure to have only qualified instructors teach at an approved course offering will result in loss of course approval. Coordinators are responsible to ensure that an instructor is qualified to teach the course offering.

(b) Qualified continuing education instructors must have one of the following qualifications:

(1) a four-year degree in any area plus two years' practical experience in the subject area being taught;

(2) five years' practical experience in the subject area being taught; or

(3) a college or graduate degree in the subject area being taught.

(c) Approved instructors are responsible for:

(1) compliance with all laws and rules relating to continuing education;

(2) providing students with current and accurate information;

(3) maintaining an atmosphere conducive to learning in the classroom;

(4) verifying attendance of students, and certifying course completion;

(5) providing assistance to students and responding to questions relating to course materials; and

(6) attending the workshops or instructional programs that are required by the commissioner.

**Subd. 11. Prohibited practices for coordinators and instructors.** (a) In connection with an approved continuing education course, coordinators and instructors shall not:

(1) recommend or promote the services or practices of a particular business;

(2) encourage or recruit individuals to engage the services of, or become associated with, a particular business;

(3) use materials, clothing, or other evidences of affiliation with a particular entity;

(4) require students to participate in other programs or services offered by the instructor, coordinator, or sponsor;

(5) attempt, either directly or indirectly, to discover questions or answers on an examination for a license;

(6) disseminate to any other person specific questions, problems, or information known or believed to be included in licensing examinations;

(7) misrepresent any information submitted to the commissioner;

(8) fail to cover, or ensure coverage of, all points, issues, and concepts contained in the course outline approved by the commissioner during the approved instruction; or

(9) issue inaccurate course completion certificates.

(b) Coordinators shall notify the commissioner within ten days of a felony or gross misdemeanor conviction or of disciplinary action taken against an occupational or professional license held by the coordinator or an instructor teaching an approved course. The notification shall be grounds for the commissioner to withdraw the approval of the coordinator and to disallow the use of the instructor.

Subd. 12. **Fees.** Fees for an approved course of study and related materials must be clearly identified to students. In the event that a course is canceled for any reason, all fees must be returned within 15 days from the date of cancellation. In the event that a course is postponed for any reason, students shall be given the choice of attending the course at a later date or having their fees refunded in full within 15 days from the date of postponement. If a student is unable to attend a course or cancels the registration in a course, sponsor policies regarding refunds shall govern.

Subd. 13. **Facilities.** Each course of study must be conducted in a classroom or other facility that is adequate to comfortably accommodate the instructors and the number of students enrolled. The sponsor may limit the number of students enrolled in a course. Approved courses may be held on the premises of a company doing business in the regulated area only when the company is sponsoring the course offering, or where product application is appropriate and related.

Subd. 14. **Supplementary materials.** An adequate supply of supplementary materials to be used or distributed in connection with an approved course must be available at the time and place of the course offering in order to ensure that each student receives all of the necessary materials. Outlines and any other materials that are reproduced must be of readable quality.

Subd. 15. **Advertising courses.** (a) Paragraphs (b) to (g) govern the advertising of continuing education courses.

(b) Advertising must be truthful and not deceptive or misleading. Courses may not be advertised in any manner as approved unless approval has been granted in writing by the commissioner.

(c) No advertisement, pamphlet, circular, or other similar materials pertaining to an approved offering may be circulated or distributed in this state, unless the following statement is prominently displayed:

“This course has been approved by the Minnesota Department of Labor and Industry for ..... (approved number of hours) hours for continuing ..... (relevant industry) education.”

(d) Advertising of approved courses must be clearly distinguishable from the advertisement of other nonapproved courses and services.

(e) Continuing education courses may not be advertised before approval unless the course is described in the advertising as “approval pending” and an application for approval has been timely submitted to the commissioner and a denial has not been received.

(f) The number of hours for which a course has been approved must be prominently displayed on an advertisement for the course. If the course offering is longer than the number of hours of credit to be given, it must be clear that credit is not earned for the entire course.

(g) The course approval number must not be included in any advertisement.

Subd. 16. **Notice to students.** At the beginning of each approved offering, the following notice must be handed out in printed form or must be read to students:

“This educational offering is recognized by the Minnesota Department of Labor and Industry as satisfying ..... (insert number of hours approved) hours of credit toward continuing ..... (insert appropriate industry) education requirements.”

Subd. 17. **Audits.** The commissioner reserves the right to audit subject offerings with or without notice to the sponsor.

Subd. 18. **Falsification of reports.** A licensee, its qualified person, or an applicant found to have falsified an education report to the commissioner shall be considered to have violated the laws relating to the industry for which the person has a license and shall be subject to censure, limitation, condition, suspension, or revocation of the license or denial of the application for licensure.

The commissioner reserves the right to audit a licensee's continuing education records.

Subd. 19. **Waivers and extensions.** If a licensee provides documentation to the commissioner that the licensee or its qualifying person is unable, and will continue to be unable, to attend actual classroom course work because of a physical disability, medical condition, or similar reason, attendance at continuing education courses shall be waived for a period not to exceed one year. The commissioner shall require that the licensee or its qualifying person satisfactorily complete a self-study program to include reading a sufficient number of textbooks, or listening to a sufficient number of tapes, related to the regulated industry, as would be necessary for the licensee to satisfy continuing educational credit hour needs. The commissioner shall award the licensee credit hours for a self-study program by determining how many credit hours would be granted to a classroom course involving the same material and giving the licensee the same number of credit hours under this section. The licensee may apply each year for a new waiver upon the same terms and conditions as were necessary to secure the original waiver, and must demonstrate that in subsequent years, the licensee was unable to complete actual classroom course work. The commissioner may request documentation of the condition upon which the request for waiver is based as is necessary to satisfy the commissioner of the existence of the condition and that the condition does preclude attendance at continuing education courses.

Upon written proof demonstrating a medical hardship, the commissioner shall extend, for up to 90 days, the time period during which the continuing education must be successfully completed. Loss of income from either attendance at courses or cancellation of a license is not a bona fide financial hardship. Requests for extensions must be submitted to the commissioner in writing no later than 60 days before the education is due and must include an explanation with verification of the hardship, plus verification of enrollment at an approved course of study on or before the extension period expires.

Subd. 20. **Reporting requirements.** Required continuing education must be reported in a manner prescribed by the commissioner. Licensees are responsible for maintaining copies of course completion certificates.

Subd. 21. **Residential building contractor, residential remodeler, and residential roofer education.** (a) Each licensee must, during the licensee's first complete continuing education reporting period, complete and report one hour of continuing education relating to lead abatement rules in safe lead abatement procedures.

(b) Each licensee must, during each continuing education reporting period, complete and report one hour of continuing education relating to energy codes for buildings and other building codes designed to conserve energy.

Subd. 22. **Continuing education approval.** (a) Continuing education courses must be approved in advance by the commissioner of labor and industry. "Sponsor" means any person or entity offering approved education.

(b) For coordinators with an initial approval date before August 1, 2005, approval will expire on December 31, 2005. For courses with an initial approval date on or before December 31, 2000, approval will expire on April 30, 2006. For courses with an initial approval date after January 1, 2001, but before August 1, 2005, approval will expire on April 30, 2007.

Subd. 23. **Continuing education fees.** The following fees shall be paid to the commissioner:

(1) initial course approval, \$10 for each hour or fraction of one hour of continuing education course approval sought. Initial course approval expires on the last day of the 24th month after the course is approved;

(2) renewal of course approval, \$10 per course. Renewal of course approval expires on the last day of the 24th month after the course is renewed;

(3) initial coordinator approval, \$100. Initial coordinator approval expires on the last day of the 24th month after the coordinator is approved; and

(4) renewal of coordinator approval, \$10. Renewal of coordinator approval expires on the last day of the 24th month after the coordinator is renewed.

Subd. 24. **Refunds.** All fees paid to the commissioner under this section are nonrefundable, except that an overpayment of a fee shall be returned upon proper application.

**History:** 2007 c 140 art 8 s 12

**326.875** [Repealed, 2007 c 140 art 13 s 3]

### **326.88 LOSS OF QUALIFYING PERSON.**

Upon the departure or disqualification of a licensee's qualifying person because of death, disability, retirement, position change, or other reason, the licensee must notify the commissioner within 15 business days. The licensee shall have 120 days from the departure of the qualifying person to obtain a new qualifying person. Failure to secure a new qualifying person within 120 days will, with or without notice, result in the automatic termination of the license.

**History:** 2007 c 140 art 8 s 13

### **326.89 APPLICATION AND EXAMINATION.**

Subdivision 1. **Form.** An applicant for a license under sections 326.83 to 326.98 must submit an application, under oath and accompanied by the license fee required by section 326.86, on a form prescribed by the commissioner. Within 30 business days of receiving all required information, the commissioner must act on the license request. If one of the categories in the application does not apply, the applicant must identify the category and state the reason the category does not apply. The commissioner may refuse to issue a license if the application is not complete or contains unsatisfactory information.

Subd. 2. **Contents.** Each application must include the following information regarding the applicant:

- (1) Minnesota workers' compensation insurance certificate;
- (2) employment insurance account number;
- (3) certificate of liability insurance;
- (4) type of license requested;
- (5) name, current address, and telephone number where the applicant resides;
- (6) name and address of the applicant's qualifying person, if other than applicant;
- (7) if the applicant is a sole proprietorship, the name and address of the sole proprietor; if the applicant is a partnership, the name and address of each partner; if the applicant is a limited liability company, the name and address of each governor and manager; if the applicant is a corporation, the name and address of each of the corporate officers, directors, and all shareholders holding more than ten percent of the outstanding stock in the corporation;
- (8) name and address of the applicant's agent in this state authorized to receive service of process, and a consent to service of process as required by section 326.93;
- (9) current street address and telephone number where the business is physically located;
- (10) whether the applicant, any employee, or qualifying person has ever been licensed in this or any other state and has had a professional or vocational license reprimanded, censured, limited, conditioned, refused, suspended, or revoked, or has been the subject of any administrative action;

(11) whether the applicant, qualifying person, or any of the applicant's corporate or partnership directors, limited liability company governors, officers, limited or general part-

ners, managers, all shareholders holding more than ten percent of the share of the corporation that have been issued, or all members holding more than ten percent of the voting power of the membership interests that have been issued, has been convicted of a crime that either related directly to the business for which the license is sought or involved fraud, misrepresentation, or misuse of funds; has suffered a judgment in a civil action involving fraud, misrepresentation, construction defect, negligence, breach of contract, or conversion of funds within the ten years prior to the submission of the application; or has had any government license or permit reprimanded, censured, limited, conditioned, suspended, or revoked as a result of an action brought by a federal, state, or local governmental unit or agency in this or any other state;

(12) the applicant's and qualifying person's business history for the past five years and whether the applicant, a managing employee, or qualifying person has ever filed for bankruptcy or protection from creditors or has any unsatisfied judgments against the applicant, employee, or qualifying person;

(13) where the applicant is a firm, partnership, sole proprietorship, limited liability company, corporation, or association, whether there has been a sale or transfer of the business or other change in ownership, control, or name in the last five years and the details thereof, and the names and addresses of all prior, predecessor, subsidiary, affiliated, parent, or related entities, and whether each such entity, or its owners, officers, directors, members or shareholders holding more than ten percent of the stock, or an employee has ever taken or been subject to an action that is subject to clause (10), (11), or (12) in the last ten years; and

(14) whether the qualifying person is the qualifying person for more than one licensee.

For purposes of this subdivision, "applicant" includes employees who exercise management or policy control over the residential contracting, residential remodeling, residential roofing, or manufactured home installation activities in the state of Minnesota, including affiliates, partners, directors, governors, officers, limited or general partners, managers, all shareholders holding more than ten percent of the shares that have been issued, a shareholder holding more than ten percent of the voting power of the shares that have been issued, or all members holding more than ten percent of the membership interests that have been issued or more than ten percent of the voting power of the membership interests that have been issued.

The commissioner may require further information as the commissioner deems appropriate to administer the provisions and further the purposes of this chapter.

**Subd. 3. Examination.** (a) Each qualifying person must satisfactorily complete a written examination for the type of license requested. The commissioner may establish the examination qualifications, including related education experience and education, the examination procedure, and the examination for each licensing group. The examination must include at a minimum the following areas:

(1) appropriate knowledge of technical terms commonly used and the knowledge of reference materials and code books to be used for technical information; and

(2) understanding of the general principles of business management and other pertinent state laws.

(b) Each examination must be designed for the specified type of license requested.

(c) An individual's passing examination results expire two years from the examination date. An individual who passes the examination but does not choose to apply to act as a qualifying person for a licensee within two years from the examination date, must, upon application provide:

(1) passing examination results within two years from the date of application; or

(2) proof that the person has fulfilled the continuing education requirements in section 326.87 in the manner required for a qualifying person of a licensee for each license period after the expiration of the examination results.

**Subd. 4.** [Repealed by amendment, 2007 c 140 art 8 s 14]

**Subd. 5. Exemption.** A general retailer whose primary business is not being a residential building contractor, residential remodeler, residential roofer, or manufactured home in-

staller, and who has completed a license examination meeting or exceeding Minnesota's examination requirements in another state is exempt from subdivision 3 and sections 326.87 and 326.88.

**Subd. 6. Additional licensing requirements.** As an alternative to denying an application for licensure pursuant to section 326.91, subdivision 1, the commissioner may, as a condition of licensure and based upon information received pursuant to section 326.89, subdivision 2, clauses (6) to (8), or a finding pursuant to section 326.91, subdivision 1, clauses (1) to (9), impose additional insurance, bonding, reporting, record keeping, and other requirements on the applicant as are reasonable to protect the public.

**Subd. 7. License.** A nonresident of Minnesota may be licensed as a residential building contractor, residential remodeler, residential roofer, or manufactured home installer upon compliance with all the provisions of sections 326.83 to 326.98.

**History:** 2007 c 140 art 8 s 14

### 326.90 LOCAL LICENSES.

**Subdivision 1. Local license prohibited.** Except as provided in sections 326.90, subdivision 2, a political subdivision may not require a person licensed under sections 326.83 to 326.98 to also be licensed or pay a registration or other fee related to licensure under any ordinance, law, rule, or regulation of the political subdivision. This section does not prohibit charges for building permits or other charges not directly related to licensure.

*[For text of subd 2, see M.S.2006]*

**History:** 2007 c 140 art 8 s 15

### 326.91 DENIAL, SUSPENSION, OR REVOCATION OF LICENSES.

**Subdivision 1. Grounds.** In addition to the grounds set forth in section 326B.082, subdivision 11, the commissioner may deny, suspend, limit, place conditions on, or revoke a license or certificate of exemption, or may censure the person holding the license or certificate of exemption, if the applicant, licensee, certificate of exemption holder, qualifying person, or affiliate of an applicant, licensee, or certificate of exemption holder, or other agent owner:

(1) has filed an application for licensure or a certificate of exemption which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent, deceptive, or dishonest practice;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the business;

(4) has failed to reasonably supervise employees, agents, subcontractors, or salespersons, or has performed negligently or in breach of contract, so as to cause injury or harm to the public;

(5) has violated or failed to comply with any provision of sections 326.83 to 326.98, any rule or order under sections 326.83 to 326.98, or any other law, rule, or order related to the duties and responsibilities entrusted to the commissioner;

(6) has been convicted of a violation of the State Building Code or has refused to comply with a notice of violation or stop order issued by a certified building official, or in local jurisdictions that have not adopted the State Building Code has refused to correct a violation of the State Building Code when the violation has been documented or a notice of violation or stop order issued by a certified building official has been received;

(7) has failed to use the proceeds of any payment made to the licensee for the construction of, or any improvement to, residential real estate, as defined in section 326.83, subdivision 17, for the payment of labor, skill, material, and machinery contributed to the construction or improvement, knowing that the cost of any labor performed, or skill, material, or machinery furnished for the improvement remains unpaid;

(8) has not furnished to the person making payment either a valid lien waiver as to any unpaid labor performed, or skill, material, or machinery furnished for an improvement, or a payment bond in the basic amount of the contract price for the improvement conditioned for the prompt payment to any person or persons entitled to payment;

(9) has engaged in an act or practice that results in compensation to an aggrieved owner or lessee from the contractor recovery fund pursuant to section 36B.825, unless:

(i) the applicant or licensee has repaid the fund twice the amount paid from the fund, plus interest at the rate of 12 percent per year; and

(ii) the applicant or licensee has obtained a surety bond in the amount of at least \$40,000, issued by an insurer authorized to transact business in this state;

(10) has engaged in bad faith, unreasonable delays, or frivolous claims in defense of a civil lawsuit or arbitration arising out of their activities as a licensee or certificate of exemption holder under this chapter;

(11) has had a judgment entered against them for failure to make payments to employees, subcontractors, or suppliers, that the licensee has failed to satisfy and all appeals of the judgment have been exhausted or the period for appeal has expired;

(12) if unlicensed, has obtained a building permit by the fraudulent use of a fictitious license number or the license number of another, or, if licensed, has knowingly allowed an unlicensed person to use the licensee's license number for the purpose of fraudulently obtaining a building permit; or has applied for or obtained a building permit for an unlicensed person;

(13) has made use of a forged mechanic's lien waiver under chapter 514;

(14) has provided false, misleading, or incomplete information to the commissioner or has refused to allow a reasonable inspection of records or premises;

(15) has engaged in an act or practice whether or not the act or practice directly involves the business for which the person is licensed, that demonstrates that the applicant or licensee is untrustworthy, financially irresponsible, or otherwise incompetent or unqualified to act under the license granted by the commissioner; or

(16) has failed to comply with requests for information, documents, or other requests from the department within the time specified in the request or, if no time is specified, within 30 days of the mailing of the request by the department.

Subd. 2. [Repealed, 2007 c 140 art 13 s 3]

Subd. 3. [Repealed, 2007 c 140 art 13 s 3]

Subd. 4. [Repealed, 2007 c 140 art 13 s 3]

**History:** 2007 c 140 art 8 s 16

### 326.92 PENALTIES.

Subdivision 1. [Repealed by amendment, 2007 c 140 art 8 s 17]

Subd. 1a. **Gross misdemeanor.** An individual who violates an order of the commissioner or is the manager, officer, or director of a person who violates an order issued by the commissioner is guilty of a gross misdemeanor.

Subd. 2. **Lien rights.** An unlicensed person who knowingly violates sections 326.83 to 326.98 has no right to claim a lien under section 514.01 and the lien is void. Nothing in this section affects the lien rights of material suppliers and licensed contractors to the extent provided by law.

Subd. 3. [Repealed by amendment, 2007 c 140 art 8 s 17]

**History:** 2007 c 140 art 8 s 17

### 326.921 BUILDING PERMIT CONDITIONED ON LICENSURE; NOTICE OF PERMIT APPLICATION.

Subdivision 1. **Building permit.** A political subdivision shall not issue a building permit to an unlicensed person who is required to be licensed under sections 326.83 to 326.98. A

political subdivision that issues zoning or land use permits in lieu of a building permit shall not issue those permits to an unlicensed person who is required to be licensed under sections 326.83 to 326.98. The political subdivision shall report the person applying for the permit to the commissioner who may bring an action against the person.

**Subd. 2. Notice of building permit application.** A political subdivision shall notify the department when an application for a building permit involving the construction of new residential real estate has been received from an unlicensed person by submitting a copy of the application to the department within two business days of receipt of the application. The political subdivision may submit a copy of the building permit application by facsimile, United States mail, or electronic communication.

**History:** 2007 c 140 art 8 s 18

### 326.93 SERVICE OF PROCESS.

Subdivision 1. [Repealed by amendment, 2007 c 140 art 8 s 19]

Subd. 2. [Repealed by amendment, 2007 c 140 art 8 s 19]

**Subd. 3. Procedure.** Every applicant for licensure or certificate of exemption under sections 326.83 to 326.98 shall irrevocably consent to the appointment of the commissioner and successors in office to be the applicant's agent to receive service of any lawful process in any noncriminal suit, action, or proceeding against the applicant or a successor, executor, or administrator which arises under sections 326.83 to 326.98 or any rule or order thereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. Service under this section shall be made in compliance with subdivision 5.

**Subd. 4. Service on commissioner.** (a) When a person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 326.83 to 326.98, or any rule or order under those sections, and the person has not consented to service of process under subdivision 3, that conduct is equivalent to an appointment of the commissioner and successors in office as the person's agent to receive service of process in any noncriminal suit, action, or proceeding against the person that is based on that conduct and is brought under sections 326.83 to 326.98, or any rule or order under those sections, with the same force and validity as if served personally on the person consenting to the appointment of the commissioner and successors in office. Service under this section shall be made in compliance with subdivision 5.

(b) Subdivision 5 applies in all other cases in which a person, including a nonresident of this state, has filed a consent to service of process. This paragraph supersedes any inconsistent provision of law.

(c) Subdivision 5 applies in all cases in which service of process is allowed to be made on the commissioner.

(d) Subdivision 5 applies to any document served by the commissioner or the department under section 326B.08.

**Subd. 5. How made.** Service of process under this section may be made by leaving a copy of the process in the office of the commissioner, or by sending a copy of the process to the commissioner by certified mail, and is not effective unless:

(1) the plaintiff, who may be the commissioner in an action or proceeding instituted by the commissioner, sends notice of the service and a copy of the process by certified mail to the defendant or respondent at the last known address; and

(2) the plaintiff's affidavit of compliance is filed in the action or proceeding on or before the return day of the process, if any, or within further time as the court allows.

**History:** 2007 c 140 art 8 s 19

### 326.94 BOND; INSURANCE.

Subdivision 1. **Bond.** (a) Licensed manufactured home installers and licensed residential roofers must post a surety bond in the name of the licensee with the commissioner, condi-



tioned that the applicant shall faithfully perform the duties and in all things comply with all laws, ordinances, and rules pertaining to the license or permit applied for and all contracts entered into. The annual bond must be continuous and maintained for so long as the licensee remains licensed. The aggregate liability of the surety on the bond to any and all persons, regardless of the number of claims made against the bond, may not exceed the amount of the bond. The bond may be canceled as to future liability by the surety upon 30 days' written notice mailed to the commissioner by regular mail.

(b) A licensed residential roofer must post a bond of at least \$15,000.

(c) A licensed manufactured home installer must post a bond of at least \$2,500.

Bonds issued under sections 326.83 to 326.98 are not state bonds or contracts for purposes of sections 8.05 and 16C.05, subdivision 2.

Subd. 2. **Insurance.** Licensees must have public liability insurance with limits of at least \$300,000 per occurrence, which must include at least \$10,000 property damage coverage. The insurance must be written by an insurer licensed to do business in this state. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers.

**History:** 2007 c 140 art 8 s 20

**NOTE:** Subdivision 2 was also amended by Laws 2007, chapter 9, section 1, to read as follows:

"Subd. 2. **Insurance.** Each licensee shall have and maintain in effect commercial general liability insurance, which includes premises and operations insurance and products and completed operations insurance, with limits of at least \$100,000 per occurrence, \$300,000 aggregate limit for bodily injury, and property damage insurance with limits of at least \$25,000 or a policy with a single limit for bodily injury and property damage of \$300,000 per occurrence and \$300,000 aggregate limits. The insurance must be written by an insurer licensed to do business in this state. Each licensee shall maintain on file with the commissioner a certificate evidencing the insurance which provides that the insurance shall not be canceled without the insurer first giving 15 days' written notice of cancellation to the commissioner. The commissioner may increase the minimum amount of insurance required for any licensee or class of licensees if the commissioner considers it to be in the public interest and necessary to protect the interests of Minnesota consumers."

**326.945** [Repealed, 2007 c 140 art 13 s 3]

### **326.95 LICENSE NUMBER; ADVERTISING.**

*[For text of subd 1, see M.S.2006]*

Subd. 2. **Advertising.** The license number of a licensee must appear in any advertising by that licensee including but not limited to signs, vehicles, business cards, published display ads, flyers, brochures, Web sites, and Internet ads.

*[For text of subd 3, see M.S.2006]*

**History:** 2007 c 140 art 8 s 21

### **326.96 PUBLIC EDUCATION.**

The commissioner may develop materials and programs to educate the public concerning licensure requirements. The commissioner may develop materials for reporting unlicensed contracting activity. The commissioner shall provide information in other languages.

**History:** 2007 c 140 art 8 s 22

### **326.97 LICENSE RENEWAL.**

Subdivision 1. **Renewal.** A licensee whose fully completed renewal application has been properly and timely filed and who has not received a notice of denial of renewal is considered to have been approved for renewal and may continue to transact business whether or not the renewed license has been received. Applications are timely if received by March 1 of the renewal year. Applications must be made on a form approved by the commissioner. An application for renewal that does not contain all of the information requested is an incomplete application and will not be processed.

Subd. 1a. **Annual renewal.** Any license issued or renewed after August 1, 1993, must be renewed annually.

Subd. 2. **Failure to renew.** A person who has failed to make a timely application for renewal of a license is unlicensed at 11:59:59 p.m. central time on March 31 of the renewal year and remains unlicensed until a renewed license has been issued by the commissioner and is received by the applicant.

Subd. 3. **Expiration.** All licenses expire at 11:59:59 p.m. central time on March 31 of the renewal year if not properly renewed.

**History:** 2007 c 140 art 8 s 23

### 326.975 [Repealed, 2007 c 135 art 2 s 40; 2007 c 140 art 13 s 3]

**NOTE:** Subdivision 1 was also amended by Laws 2007, chapter 135, article 4, section 8, to read as follows:

"Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.43.

(b) The purpose of this fund is:

(1) to compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(2) to reimburse the Department of Labor and Industry for all legal and administrative expenses, including staffing costs, incurred in administering the fund.

Nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee.

Nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(c) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000."

**NOTE:** Subdivision 1 was also amended by Laws 2007, chapter 140, article 12, section 9, to read as follows:

"Subdivision 1. **Generally.** (a) In addition to any other fees, each applicant for a license under sections 326.83 to 326.98 shall pay a fee to the contractor's recovery fund. The contractor's recovery fund is created in the state treasury and must be administered by the commissioner in the manner and subject to all the requirements and limitations provided by section 82.43.

(1) The purpose of this fund is:

(i) to compensate any aggrieved owner or lessee of residential property located within this state who obtains a final judgment in any court of competent jurisdiction against a licensee licensed under section 326.84, on grounds of fraudulent, deceptive, or dishonest practices, conversion of funds, or failure of performance arising directly out of any transaction when the judgment debtor was licensed and performed any of the activities enumerated under section 326.83, subdivision 19, on the owner's residential property or on residential property rented by the lessee, or on new residential construction which was never occupied prior to purchase by the owner, or which was occupied by the licensee for less than one year prior to purchase by the owner, and which cause of action arose on or after April 1, 1994; and

(ii) to reimburse the Department of Commerce for all legal and administrative expenses, including staffing costs, incurred in administering the fund;

(2) nothing may obligate the fund for more than \$50,000 per claimant, nor more than \$75,000 per licensee; and

(3) nothing may obligate the fund for claims based on a cause of action that arose before the licensee paid the recovery fund fee set in clause (1), or as provided in section 326.945, subdivision 3.

(b) Should the commissioner pay from the contractor's recovery fund any amount in settlement of a claim or toward satisfaction of a judgment against a licensee, the license shall be automatically suspended upon the effective date of an order by the court authorizing payment from the fund. No licensee shall be granted reinstatement until the licensee has repaid in full, plus interest at the rate of 12 percent a year, twice the amount paid from the fund on the licensee's account, and has obtained a surety bond issued by an insurer authorized to transact business in this state in the amount of at least \$40,000."

### 326.98 [Repealed, 2007 c 140 art 13 s 3]

### 326.992 BOND REQUIRED FOR CERTAIN CONTRACTORS.

(a) A person contracting to do gas, heating, ventilation, cooling, air conditioning, fuel burning, or refrigeration work must give bond to the state in the amount of \$25,000 for all work entered into within the state. The bond must be for the benefit of persons suffering financial loss by reason of the contractor's failure to comply with the requirements of the State

Mechanical Code. A bond given to the state must be filed with the commissioner of labor and industry and is in lieu of all other bonds to any political subdivision required for work covered by this section. The bond must be written by a corporate surety licensed to do business in the state.

(b) The commissioner of labor and industry may charge each person giving bond under this section an annual bond filing fee of \$15.

**History:** 2007 c 135 art 4 s 9; 2007 c 140 art 4 s 28