

**Board of Electricity
Meeting Minutes
September 11, 2008**

**Minnesota Room – Department of Labor and Industry
443 Lafayette Road North, Saint Paul 55155**

DLI.CCLDBOARDS@State.MN.US

Members Present:

James Freichels
Willie Hoskins
Kim Huxford
Daniel Klein
John McConnell
John Schultz (DLI Commissioner's Designee)
Tom Seanger
Anthony Toft
Joe Vespa

Staff Present:

Wendy Legge
Annette Trnka
Kevin Wilkins

Visitors:

John Ploetz
Dan McConnell
Chad Kurdi
Gary Thaden
Jim Nimlos

Members Available by Teleconference:

None

Members Absent:

Douglas Fingerson
Timothy Malooly
Dick Owen

I. Call To Order

The meeting was called to order by Chair Freichels at 9:02 a.m. and role was taken.

II. Approval of Meeting Agenda

A motion was made by McConnell and seconded by Toft to move item IV(e) before IV(c) and to add an additional update under D(i) and E(i) approve the meeting agenda. The vote was unanimous and the motion passed.

III. Approval of Previous Meeting Minutes

Toft pointed out on page 3 in the first paragraph, the word "post" should be added before "high school." Legge pointed out that on page 2, the date "September 9" should be amended to "September 8," and on page three, in the second paragraph the word "over" should be inserted before 3800.3610 through 3800.3800. Seanger made a motion, seconded by Toft, to accept the previous Minutes as amended. The vote was unanimous and the motion passed.

IV. Regular Business

A. Expense Approval

- i. A motion was made by Hoskins, seconded by Seanger, to approve Expense Reports and Per Diems. The vote was unanimous and the motion passed.

B. Minnesota Electrical Code

- i. NEC 2008 Code to take Effect on September 15, 2008. Legge stated that the Notice Of Adoption was published in the State Register on September 8th, with an effective date of September 15th.

C. Board of Electricity Authority

- i. Update on the Attorney General's Thoughts on BOE authority vs. the DOLI authority – Legge stated that she does not represent the Board on this issue, and any comments she makes will be on behalf of the Department. Freichels reviewed the letter received from Bernie Johnson, of the Attorney General's Office. Legge stated she would like to make a comment regarding the memo from Mr. Johnson. She stated that the memo says that the argument can be made that program approval rules are part of the Board's authority, however, there's no comment on how good of an argument that is. Legge stated that the Department still maintains the Department has authority over rules 3800.3820 to 3800.3885 and she stated that if the Board would like to challenge that authority, the Department believes the Board would not prevail. Schultz stated he feels that the response from Mr. Johnson is not definitive and that the argument could be made that the authority lies with the Commissioner and not with the Board. Schultz made a motion that the Board not include 3800.3820 to 3800.3885 in any of its rulemaking. There was no second on this motion.

Legge stated that if the Board chooses to move ahead with this section included in the rulemaking, neither she nor any attorney at the Department of Labor and Industry can represent the Board on this rulemaking, and the Board would have to either seek outside counsel, or proceed without counsel. Legge stated that in Statute, Chapter 326B states that any rulemaking authority that is not specifically given to the Board is rulemaking authority of the Commissioner. Legge stated that the Department's view is that 3800.3820 to 3800.3885 are not rules regarding licensure and registration, but rather pre-licensure program approval. Toft stated that his view is that the Board determines whether a two-year program is acceptable for one year's credit or not, then the Board should have say over what that two year program is. He asked if the Board could change the rule to not accept any trade school credit. Schultz replied that the experience credit is in Statute, and not subject to change in rules.

Dan McConnell of IBW stated that under Journeyman Electrician 326B.33, Subd.2(b), it states that the Commissioner has the authority over training, however under Power Limited Technician license, Chapter 326B.33, Subdivision 3d(2)(b)(2), it states that the "...successful completion of a two-year post high school electrical course or other technical training approved by the board." Mr. McConnell states that there would have to be two sets of rules under the current statute. Schultz stated that the booklet is based on the 2007 Session Laws, and it

should be confirmed that there have been no changes in the 2008 Session Laws that relate to this. (Please see link <https://www.revisor.leg.state.mn.us/laws/?key=57155> or <https://www.revisor.leg.state.mn.us/data/revisor/law/2008/0/2008-337.pdf>)

Toft made a motion, seconded by Hoskins, to table this issue until the October 14 Board meeting. The vote was unanimous and the motion passed. Seanger made a motion, seconded by Toft, to get representation from the Attorney General's office to be present at the October 14th Board Meeting. The vote was unanimous and the motion passed.

D. Electrical Licensing –

- i. Legge discussed the draft dated 09/02/08. McConnell stated 3800.3500, Subp. 13 line 2.20 isn't clear, and after discussion, it was decided to replace the word ~~who~~ as it appears the second time and insert and.

Seanger made a motion, seconded by McConnell, to amend the Revisor's draft line 2.20 to change the phrase "Employer who" to "Employer and." The vote was unanimous and the motion passed.

Legge discussed how these rules are different from code, that these rules don't have the same guideline of being effective six months after publication. These rules would be in effect five days after publication of the Notice of Adoption, unless stated otherwise by the Board. Legge stated there will be another Board meeting before the Notice of Adoption would be published if the Board decides to choose a specific date to make these rules effective, however, it must be published within six months of the Administrative Law Judge's decision, or the rulemaking has to start over.

Seanger made a motion, seconded by Huxford, to move these rules forward effective five days after publication of the Notice of Adoption and to adopt the following resolution:

1. The Chair of the Board of Electricity is authorized and directed to sign and to give the Notice of the Board's Intent To Adopt Rules, using alternate notices of whether a hearing will be held, in the Revisor of Statutes draft, file number RD3820, dated 09/02/08, identified as Minnesota Rules, parts 3800.3500 to 3800.3603, with any modifications approved by the Board. He must give this notice to all persons who have registered their names with the Board or with the Department of Labor and Industry for that purpose. He must also publish the Notice in the State Register. Furthermore, he is authorized and directed to do anything else needed to complete this Notice.
2. If there are fewer than 25 outstanding hearing requests, the Chair of the Board Of Electricity is authorized and directed to sign the Order Adopting Rules and to do anything else needed to adopt these rules without a hearing.
3. If there are 25 or more outstanding hearing requests, the Chair of the Board Of Electricity is authorized and directed to act as the Board's representative at the

hearing and do anything else needed to adopt these rules with a hearing. This includes authority to sign the Order Adopting Rules if there are no modifications to the rules other than modifications approved by the Board.

The vote was unanimous and the motion passed.

- ii. SONAR – The rules are ready to go to the Governor’s office as soon as the SONAR is written. The Chair will schedule to meet with Legge and draft the SONAR.
- E. Continuing Education
- i. SONAR – The Chair will schedule to meet with Legge and draft the SONAR.

Daniel Klein arrived at 9:57 a.m.

V. Special Business

- A. Reciprocal agreement(s)
- i. Update on South Dakota’s ICC exam – Schultz stated he previously sent all the Board Members a link to the South Dakota Interim Government Operations and Audit Committee web page that includes recording of their meetings, including discussion on reciprocal licensing and noted that yesterday a recording of the August committee meeting was posted. Schultz will be attending the Western Section Meeting of the International Association of Electrical Inspectors later this month and will be discussing the reciprocal agreements with North Dakota, South Dakota and Nebraska. Schultz stated that ND is concerned about licenses SD has issued to applicants that were approved to take the examinations without meeting the experience and/or training requirements.
 - ii. Other States in the Multi State Agreement using ICC exam – Schultz has not received a draft of the Minutes of the Multi State Reciprocal Meeting held in Sitka, Alaska in August, 2008.

VI. Committee Reports

There are no committee reports.

VII. Complaints

There have been no complaints addressed to the Board.

VIII. Open Forum

John Ploetz, Minnesota Electrical Association, expressed concern that with the master licenses coming up for renewal at the end of February 2009, there will be delays in the Department’s processing of renewal of these licenses. Mr. Ploetz stated that the more the Department can communicate earlier, the more notice they can give to their members, letting them know to take the continuing education classes early, so their licenses can be renewed in a timely fashion. Freichels asked if the continuing education is taken one month before the expiration of their license, would they be in violation of the law. Schultz stated they would be in violation of the law if their license is not renewed by the expiration date.

Kevin Wilkins, DLI, explained that the continuing education requirements should be completed twelve weeks in advance of the expiration of the license. The providers of the continuing education classes need time to provide the rosters to the Department of Labor and Industry for data entry. Often, the license holders are not giving their license numbers on the rosters of the classes, which also results in delay. If everything is provided properly, the turn-around time should be 7-14 days.

Wilkins states that with the new system in place, the Department is now able to send out notifications to contractors who have a master license holder whose license expired and to cease and desist work. Vespa asked if there's a way to go on line and check the status of the master license holder's continuing education has been entered. Wilkins answered that within six weeks there will be posted on the Department's website a roster of continuing education classes, along with the status of license holder's continuing education. Wilkins states that if a license holder waits to satisfy their continuing education requirements it will cause delays in their license renewals. Schultz stated that it's more of a problem of license holders not taking any continuing education classes until their license expires and then expecting to be able to renew immediately. Wilkins stated the Department may send out a reminder postcard to license holders. Freichels asked how an employer will know that a master license holder has completed their continuing education classes to which Wilkins replied that it's in Statute that individuals are to get a certificate of completion from the provider, which the employee can provide to the employer. Toft asked if specific information could be provided to individuals who receive denial letters on why they were denied. Wilkins stated that the Department is working on being able to provide that information on the denial letters.

Wilkins distributed a report on percentages of "Electrical License Exam Performance in FY 2009." Gary Thaden stated that in an effort to help the industry, it would be of benefit if a paragraph could be provided to NECA and MEA from DLI reminding their members that the continuing education classes should be completed 12 weeks in advance of master license renewals. John Ploetz agreed with Mr. Thaden. He stated that his Association would like to provide its members with any changes in policies. Kevin Wilkins stated that there haven't been any changes in policy, but he'd be happy to provide a paragraph from DLI. The only change in procedure is that now the new system allows for quicker notification of those who haven't met the requirements.

Dan McConnell spoke regarding the complaints on the time to process requests for electrical inspection. Schultz stated that the Department has experienced some difficulties, one of which is related to the move to a new database system, which isn't working as well as anticipated. Another problem is the State hiring freeze, meaning employees cannot be hired from outside state employment and when employees take another position in the department, another employee must be recruited to fill the resulting vacancy. There is a resulting lag in productivity until the replacement learns the system. Also, there's the problem of the information not being provided correctly on submitted Request For Electrical Inspection forms. Requests for Electrical Inspections are currently being processed in approximately three weeks, but once the vacancy of one additional position has been filled, processing time of less than one week is expected. Schultz spoke about the conversion problems with the database program. The outside factors create a larger portion of the delay in processing.

IX. Board Discussion

There was no further Board discussion.

X. Announcements

A. Next Regularly Scheduled Meetings

- i. Tuesday, October 14, 2008, 9:00 a.m. – Minnesota Room, DLI
- ii. Monday, November 3, 2008, 9:00 a.m. – Minnesota Room, DLI

XI. Adjournment

A motion was made by Hoskins, seconded by McConnell, to adjourn the meeting of the Board of Electricity, the vote was unanimous and the motion passed. Board adjourned at 10:28 a.m.

Respectfully Submitted,

Willy Hoskins

William Hoskins