

State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 3049

03/13/2014 Authored by Howe, Newberger and Kresha

The bill was read for the first time and referred to the Committee on Jobs and Economic Development Finance and Policy

1.1 A bill for an act
1.2 relating to building officials; establishing the Building Code Administrators
1.3 and Inspections Board; amending Minnesota Statutes 2012, sections 326B.133,
1.4 subdivisions 2, 3, 8; 326B.135, subdivisions 1, 2; proposing coding for new law
1.5 in Minnesota Statutes, chapter 326B.

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

1.7 Section 1. **[326B.128] BUILDING CODE ADMINISTRATORS AND**
1.8 **INSPECTIONS BOARD.**

1.9 Subdivision 1. Establishment and membership. (a) The Building Code
1.10 Administrators and Inspections Board is established and shall consist of nine members
1.11 appointed by the governor with the advice and consent of the senate. All members shall be
1.12 voting members. Appointments of members by the governor shall be made in accordance
1.13 with section 15.066. If the senate votes to refuse to consent to an appointment of a
1.14 member made by the governor, the governor shall appoint a new member with the advice
1.15 and consent of the senate. Of the nine members, the composition shall be as follows:

1.16 (1) one member shall be an architect licensed under chapter 326 or an engineer
1.17 licensed under chapter 326;

1.18 (2) two members shall be certified building officials, one from the 13-county
1.19 metropolitan area and one from greater Minnesota;

1.20 (3) one member shall be a representative of the Minnesota Building Permit
1.21 Technicians Association;

1.22 (4) one member shall represent organized labor;

1.23 (5) one member shall be the commissioner of labor and industry or the
1.24 commissioner's designee;

1.25 (6) one member shall represent the League of Minnesota Cities;

(7) one member shall be the construction programs coordinator of the Minnesota State Colleges and Universities system and shall serve as an ex officio member of the board; and

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

Members shall be appointed for four-year terms. The governor shall initially appoint two members for a one-year term, two members for two-year terms, two members for three-year terms, and two members for four-year terms. The commissioner shall be appointed to a four-year term.

Subd. 2. **Powers, duties, and 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 rules that regulate the licensure and certification of building officials, building inspectors, and construction code inspectors;

(4) adopt rules that regulate continuing education and examination requirements for building officials, building officials limited, and accessibility specialists;

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

(6) recommend the fees for licenses and certifications.

(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 this chapter. 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.** Board members shall not receive compensation or reimbursement for expenses related to board activities.

Subd. 4. **Removal; vacancy.** (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 vacancy 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 from the vacating member's appointments process and need not repeat the process under subdivision 1.

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 proposed rule and rule amendment considered by the board pursuant to the rulemaking authority specified in subdivision 2 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.

(c) 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. 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;

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

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

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

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

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

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

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

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

4.28 Sec. 2. Minnesota Statutes 2012, section 326B.133, subdivision 2, is amended to read:

4.29 Subd. 2. **Qualifications.** A building official, to be eligible for designation, must
4.30 be certified and have the experience in design, construction, and supervision which the
4.31 ~~commissioner~~ board under section 326B.128 deems necessary and must be generally
4.32 informed on the quality and strength of building materials, accepted building construction
4.33 requirements, and the nature of equipment and needs conducive to the safety, comfort, and
4.34 convenience of building occupants. No person may be designated as a building official for

a municipality unless the ~~commissioner~~ board determines that the official is qualified as provided in subdivision 3.

Sec. 3. Minnesota Statutes 2012, section 326B.133, subdivision 3, is amended to read:

Subd. 3. **Certification criteria.** The ~~commissioner~~ board under section 326B.128 shall by rule establish certification criteria as proof of qualification pursuant to subdivision 2. The ~~commissioner~~ board may:

(1) develop and administer written and practical examinations to determine if a person is qualified pursuant to subdivision 2 to be a building official;

(2) accept documentation of successful completion of testing programs developed and administered by nationally recognized testing agencies, as proof of qualification pursuant to subdivision 2; or

(3) determine qualifications by satisfactory completion of clause (2) and a mandatory training program developed or approved by the ~~commissioner~~ board.

Upon a determination of qualification under clause (1), (2), or (3), the commissioner shall issue a certificate to the building official stating that the official is certified. The commissioner or a designee may establish categories of certification that will recognize the varying complexities of code enforcement in the municipalities within the state. The commissioner shall provide educational programs designed to train and assist building officials in carrying out their responsibilities.

Sec. 4. Minnesota Statutes 2012, section 326B.133, subdivision 8, is amended to read:

Subd. 8. **Continuing education requirements; extension of time.** (a) This subdivision establishes the number of continuing education units required within each two-year certification period.

A certified building official shall accumulate 16 continuing education units in any education program that is approved under Minnesota Rules, part 1301.1000.

A certified building official-limited shall, in each year of the initial two-year certification period, accumulate eight continuing education units in any education program that is approved under Minnesota Rules, part 1301.1000. Continuing education units shall be reported annually during the initial two-year certification period by the method established in rule. A certified building official-limited shall accumulate 16 continuing education units for each two-year certification period thereafter in any education program that is approved under Minnesota Rules, part 1301.1000.

An accessibility specialist must accumulate four continuing education units in any of the programs described in Minnesota Rules, part 1301.1000, subpart 1 or 2. The four

units must be for courses relating to building accessibility, plan review, field inspection, or building code administration.

Continuing education programs may be approved as established in rule.

(b) Subject to sections 326B.101 to 326B.194, the ~~commissioner~~ board may by rule establish or approve continuing education programs for certified building officials dealing with matters of building code administration, inspection, and enforcement.

Each person certified as a building official for the state must satisfactorily complete applicable educational programs established or approved by the ~~commissioner~~ board to renew certification.

(c) The state building official may grant an extension of time to comply with continuing education requirements if the certificate holder requesting the extension of time shows cause for the extension. The request for the extension must be in writing. For purposes of this section, the certificate holder's current certification effective dates shall remain the same. The extension does not relieve the certificate holder from complying with the continuing education requirements for the next two-year period.

Sec. 5. Minnesota Statutes 2012, section 326B.135, subdivision 1, is amended to read:

Subdivision 1. **Competency criteria.** ~~The commissioner of labor and industry~~
As provided under section 326B.128, subdivision 2, the Building Code Administrators and Inspections Board shall adopt rules establishing required competency criteria for individuals serving as construction code inspectors. For the purpose of this section, "construction code inspectors" means building inspectors, mechanical inspectors, plumbing inspectors, and combination inspectors under the supervision of the building official. Required competency criteria shall be relevant to the building, mechanical, and plumbing codes as adopted in Minnesota.

Sec. 6. Minnesota Statutes 2012, section 326B.135, subdivision 2, is amended to read:

Subd. 2. **Continuing education.** ~~The commissioner of labor and industry~~ As provided under section 326B.128, subdivision 2, the Building Code Administrators and Inspections Board shall adopt rules establishing or approving education programs for construction inspectors related to construction inspection and administration of the State Building Code. Each construction code inspector must satisfactorily complete continuing education requirements as established in rule by the ~~commissioner~~ board.