

**SENATE
STATE OF MINNESOTA
NINETY-FIRST SESSION**

S.F. No. 4039

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Introduction and first reading
Referred to Jobs and Economic Growth Finance and Policy

OFFICIAL STATUS

1.1 A bill for an act
1.2 relating to construction codes; establishing a thermal system insulation board;
1.3 requiring licensing of thermal system insulation mechanics; authorizing rulemaking;
1.4 proposing coding for new law in Minnesota Statutes, chapter 326B.

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

1.6 Section 1. **326B.60** **DEFINITIONS.**

1.7 Subdivision 1. **Scope.** For the purposes of sections 326B.60 to 326B.64, the terms defined
1.8 in this section have the meanings given them.

1.9 Subd. 2. **Board.** "Board" means the Thermal System Insulation Board.

1.10 Subd. 3. **Building.** "Building" means a commercial, industrial, or residential building,
1.11 structure, or facility, but does not include a residential building, structure, or facility that
1.12 contains three or fewer residential units.

1.13 Subd. 4. **Construction code inspector.** "Construction code inspector" means an
1.14 individual who is in compliance with the competency criteria established under rules adopted
1.15 by the commissioner to conduct construction inspections and administration of the State
1.16 Building Code as provided for in section 326B.135.

1.17 Subd. 5. **Mechanic.** "Mechanic" means a person who installs or maintains thermal system
1.18 insulation in heating, ventilating, cooling, plumbing, and refrigerated systems.

1.19 Subd. 6. **State inspector.** "State inspector" means the state thermal system insulation
1.20 inspector.

1.21 Subd. 7. **Thermal system insulation.** "Thermal system insulation" means a product that
1.22 is used in a heating, ventilating, cooling, plumbing, or refrigeration system to insulate any

2.1 hot or cold surface, including a pipe, duct, valve, boiler, flue, or tank, or equipment on or
2.2 in a building. Thermal system insulation does not include refractory materials or preinsulated
2.3 duct products.

2.4 **Sec. 2. [326B.61] THERMAL SYSTEM INSULATION BOARD.**

2.5 Subdivision 1. **Composition.** (a) The Thermal System Insulation Board shall consist of
2.6 nine members. Seven members shall be appointed by the governor with the advice and
2.7 consent of the senate and shall be voting members. Appointments of members by the
2.8 governor shall be made in accordance with section 15.066. If the senate votes to refuse to
2.9 consent to an appointment of a member made by the governor, the governor shall appoint
2.10 a new member with the advice and consent of the senate. One member shall be the
2.11 commissioner of labor and industry or the commissioner's designee, who shall be a voting
2.12 member. One member shall be the state thermal system insulation inspector, who shall be
2.13 a nonvoting member. Of the seven appointed members, the composition shall be as follows:

2.14 (1) two members shall represent major insulation companies that sponsor an
2.15 apprenticeship training program in installing and maintaining thermal system insulation
2.16 that is approved by the department;

2.17 (2) one member shall be an architect licensed in this state with work experience in the
2.18 area of indoor air quality;

2.19 (3) two members shall be mechanics with at least ten years of experience in the area of
2.20 heat and frost insulation and who have successfully completed training in installing and
2.21 maintaining thermal system insulation under an apprenticeship program that is approved
2.22 by the department;

2.23 (4) one member shall be a general contractor in this state; and

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

2.25 One of the representatives of a major insulation company shall be appointed for a term to
2.26 end December 31, 2024. The other representatives of a major insulation company shall be
2.27 appointed for a term to end December 31, 2023. The architect shall be appointed for a term
2.28 to end December 31, 2024. One of the mechanics shall be appointed for a term to end
2.29 December 31, 2024. The other mechanic shall be appointed for a term to end December 31,
2.30 2023. The general contractor shall be appointed for a term to end December 31, 2024. The
2.31 public member shall be appointed for a term to end December 31, 2023.

2.32 (b) All appointed members must be residents of Minnesota at the time of and throughout
2.33 the member's appointment.

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

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

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

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

3.16 (3) recommend rules for promulgation by the department to establish standards for the
3.17 installation and maintenance of thermal system insulation in buildings;

3.18 (4) recommend to the department requirements for licensure of mechanics and
3.19 circumstances under which the department may take disciplinary action against a mechanic,
3.20 including suspension and revocation of a license;

3.21 (5) recommend to the department qualifications for the state inspector;

3.22 (6) recommend to the department training and continuing education requirements for
3.23 mechanics;

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

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

3.28 (9) recommend to the department the license fees for mechanics.

3.29 (b) Except for the powers granted to the Plumbing Board, Board of Electricity, the Board
3.30 of High Pressure Piping Systems, and Thermal System Insulation Board, the commissioner
3.31 of labor and industry shall administer and enforce the provisions of this chapter and any
3.32 rules promulgated pursuant thereto.

4.1 (c) The board may consult with engineering authorities and other organizations concerned
4.2 with safety and health issues related to thermal system insulation and mold in performing
4.3 its duties under this subdivision.

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

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

4.11 Subd. 3. **Compensation.** (a) Members of the board may be compensated at the rate of
4.12 \$55 a day spent on board activities, when authorized by the board, plus expenses in the
4.13 same manner and amount as authorized by the commissioner's plan adopted under section
4.14 43A.18, subdivision 2. Members who, as a result of time spent attending board meetings,
4.15 incur child care expenses that would not otherwise have been incurred, may be reimbursed
4.16 for those expenses upon board authorization.

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

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

4.29 Subd. 4. **Removal; vacancies.** (a) An appointed member of the board may be removed
4.30 by the governor at any time (1) for cause, after notice and hearing, or (2) after missing three
4.31 consecutive meetings. The chair of the board shall inform the governor of an appointed
4.32 member missing three consecutive meetings. After the second consecutive missed meeting
4.33 and before the next meeting, the secretary of the board shall notify the appointed member
4.34 in writing that the member may be removed for missing the next meeting. In the case of a

5.1 vacancy on the board, the governor shall, with the advice and consent of the senate, appoint
5.2 a person to fill the vacancy for the remainder of the unexpired term.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7.1 Sec. 3. [326B.62] STATE INSPECTOR.

7.2 (a) The commissioner shall appoint a state thermal system insulation inspector under
7.3 the direction and supervision of the commissioner. To be eligible for appointment as the
7.4 state thermal system insulation inspector, an individual must have at least ten years of
7.5 experience as a mechanic, and have successfully completed an apprenticeship program in
7.6 installing and maintaining thermal system insulation that is approved by the department.

7.7 (b) The state inspector shall:

7.8 (1) inspect buildings constructed, or in which the mechanical systems have been altered,
7.9 to determine whether the installation or maintenance of thermal system insulation in those
7.10 buildings complies with the standards established by the commissioner under section
7.11 326B.64. The state inspector shall conduct the inspections on a periodic basis and whenever
7.12 requested to do so by a construction code inspector;

7.13 (2) provide assistance and information to construction code inspectors who inspect
7.14 buildings for compliance with the standards established by the commissioner under section
7.15 326B.64; and

7.16 (3) keep complete and accurate records of all inspected buildings, including a list
7.17 identifying all buildings that are in compliance with the standards established by the
7.18 commissioner under section 326B.64, a list of all buildings that are not in compliance with
7.19 the standards, and a list of any orders issued by the state inspector.

7.20 Sec. 4. [326B.63] LICENSES.

7.21 Subdivision 1. **Mechanic.** Except as otherwise provided by law, no individual may
7.22 install or maintain thermal system insulation in any building unless that person is a mechanic
7.23 licensed by the department under this section, is working under the direct supervision of a
7.24 licensed mechanic, or is serving an apprenticeship in the installation and maintenance of
7.25 thermal system insulation that is approved by the department. This subdivision does not
7.26 apply to a person who makes only minor repairs to thermal system insulation. An individual
7.27 wishing to obtain a mechanic's license shall apply for a license by submitting an application
7.28 on a form provided by the department together with the applicable fee.

7.29 Subd. 2. **Experience.** An applicant for a thermal system insulation mechanic license
7.30 must have:

7.31 (1) at least 1,000 hours of experience in each of four consecutive years installing and
7.32 maintaining thermal system insulation under the supervision of a licensed mechanic and
7.33 has passed an examination approved by the department; or

8.1 (2) successfully completed training in installing and maintaining thermal system insulation
8.2 under an apprenticeship program that is approved by the department.

8.3 **Sec. 5. [326B.64] RULES.**

8.4 The commissioner shall adopt rules to establish:

8.5 (1) standards for the installation and maintenance of thermal system insulation in
8.6 buildings. The commissioner shall base the standards, to the extent possible, on national
8.7 industry standards for installing and maintaining thermal system insulation;

8.8 (2) minimum qualifications for the licensing of mechanics. The rules shall provide that
8.9 a license issued to a mechanic under this section is valid for three years and is renewable;

8.10 (3) license fees for mechanics; and

8.11 (4) training and continuing education requirements for mechanics.

8.12 **Sec. 6. APPOINTMENT AND FIRST MEETING OF BOARD.**

8.13 The governor must make the appointments to the Thermal System Insulation Board no
8.14 later than July 1, 2020. The commissioner of labor and industry must convene the first
8.15 meeting of the Thermal System Insulation Board no later than September 1, 2020.