

CHAPTER 16B

DEPARTMENT OF ADMINISTRATION

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16B.055 LEAD AGENCY.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Expiration.** Notwithstanding section 15.059, the council expires June 30, 2003.

History: 2001 c 162 s 2

16B.126 FUNDS FOR ENERGY EFFICIENT BULBS.

State agencies in the executive, legislative, and judicial branches that purchase replacement bulbs in accordance with section 16B.61, subdivision 3, paragraph (k), must use money allocated for utility expenditures for the purchase.

History: 2001 c 7 s 8

16B.181 PURCHASES FROM CORRECTIONS INDUSTRIES.

[For text of subd 1, see M.S.2000]

Subd. 2. **Public entities; purchases from corrections industries.** (a) The commissioner of corrections, in consultation with the commissioner of administration, shall prepare updated lists of the items available for purchase from department of corrections industries and annually forward a copy of the most recent list to all public entities within the state. A public entity that is supported in whole or in part with funds from the state treasury may purchase items directly from corrections industries. The bid solicitation process is not required for these purchases.

(b) The commissioner of administration shall develop a contract or contracts to enable public entities to purchase items directly from corrections industries. The commissioner of administration, in consultation with the commissioner of corrections, shall determine the fair market price for listed items. The commissioner of administration shall require that all requests for bids or proposals, for items provided by corrections industries, be forwarded to the commissioner of corrections to enable corrections industries to submit bids. The commissioner of corrections shall consult with the commissioner of administration prior to introducing new products to the state agency market.

(c) No public entity may evade the intent of this section by adopting slight variations in specifications, when Minnesota corrections industry items meet the reasonable needs and specifications of the public entity.

(d) The commissioners of administration and corrections shall develop annual performance measures outlining goals to maximize inmate work program participation. The commissioners of administration and corrections shall appoint cochair for a task force whose purpose is to determine additional methods to achieve the performance

goals for public entity purchasing. The task force shall include representatives from the Minnesota house of representatives, Minnesota senate, the Minnesota state colleges and universities, University of Minnesota, Minnesota League of Cities, Minnesota Association of Counties, and administrators with purchasing responsibilities from the Minnesota state departments of corrections, public safety, finance, transportation, natural resources, human services, health, and economic security. Notwithstanding section 15.059, the task force created in this paragraph expires on June 30, 2003.

(e) If performance goals for public entity purchasing are not achieved in two consecutive fiscal years, public entities shall purchase items available from corrections industries. The commissioner of administration shall be responsible for notifying public entities of this requirement.

History: 2001 c 210 s 1

NOTE: Subdivision 2 was also amended by Laws 2001, chapter 161, section 4, to read as follows:

"Subd. 2. [PUBLIC ENTITIES; PURCHASES FROM CORRECTIONS INDUSTRIES.] (a) The commissioner of corrections, in consultation with the commissioner of administration, shall prepare updated lists of the items available for purchase from department of corrections industries and annually forward a copy of the most recent list to all public entities within the state. A public entity that is supported in whole or in part with funds from the state treasury may purchase items directly from corrections industries. The bid solicitation process is not required for these purchases.

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(c) No public entity may evade the intent of this section by adopting slight variations in specifications, when Minnesota corrections industry items meet the reasonable needs and specifications of the public entity.

(d) The commissioners of administration and corrections shall develop annual performance measures outlining goals to maximize inmate work program participation. The commissioners of administration and corrections shall appoint co-chairs for a task force whose purpose is to determine additional methods to achieve the performance goals for public entity purchasing. The task force shall include representatives from the Minnesota house of representatives, Minnesota senate, the Minnesota state colleges and universities, University of Minnesota, Minnesota League of Cities, Minnesota Association of Counties, and administrators with purchasing responsibilities from the Minnesota state departments of corrections, public safety, finance, transportation, natural resources, human services, health, and economic security. The task force required by this paragraph expires June 30, 2003.

(e) If performance goals for public entity purchasing are not achieved in two consecutive fiscal years, public entities shall purchase items available from corrections industries. The commissioner of administration shall be responsible for notifying public entities of this requirement."

16B.25 LOST PROPERTY ON STATE LANDS.

[For text of subd 1, see M.S.2000]

Subd. 2. **Notice.** Lost or abandoned property found on state lands is placed in the custody of the commissioner. If the rightful owner is known, the owner must be notified by certified mail and may reclaim the property on paying the expenses of the search.

[For text of subds 3 and 4, see M.S.2000]

History: 1Sp2001 c 10 art 2 s 25

16B.27 GOVERNOR'S RESIDENCE.

[For text of subds 1 and 2, see M.S.2000]

Subd. 3. **Council.** The governor's residence council consists of the following 19 members: the commissioner; the spouse or a designee of the governor; the executive director of the Minnesota state arts board; the director of the Minnesota historical society; a member of the senate appointed pursuant to the rules of the senate; a member of the house of representatives appointed pursuant to the rules of the house of representatives; 13 persons appointed by the governor including one in the field of higher education, one member of the American Society of Interior Designers, Minnesota Chapter, one member of the American Institute of Architects, Minnesota chapter, one member of the American Society of Landscape Architects, Minnesota Chapter, one member of the family that donated the governor's residence to the state, if available, and eight public members with four public members' terms being coterminous with the governor who appoints them. Members of the council serve without

compensation. Membership terms, removal, and filling of vacancies for members appointed by the governor are governed by section 15.0575. The council shall elect a chair and a secretary from among its members. The council expires on June 30, 2003.

[For text of subs 4 and 5, see M.S.2000]

History: 2001 c 161 s 5; 2001 c 162 s 3

16B.32 ENERGY USE.

[For text of subd 1, see M.S.2000]

Subd. 2. Energy conservation goals. The commissioner of administration in consultation with the commissioner of commerce, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy conservation expenditures on state-owned and wholly state-leased buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency improvements in selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could exceed existing energy code by at least 30 percent. All agencies must report to the commissioner of administration their monthly energy usage, building schedules, inventory of energy-consuming equipment, and other information as needed by the commissioner to manage and evaluate the program.

[For text of subd 3, see M.S.2000]

History: 2001 c 212 art 1 s 1; 1Sp2001 c 4 art 6 s 7

NOTE: Subdivision 2 was also amended by Laws 2001, chapter 162, section 4, to read as follows:

"Subd. 2. [Energy conservation goals; efficiency program:] (a) The commissioner of administration in consultation with the department of public service, in cooperation with one or more public utilities or comprehensive energy services providers, may conduct a shared-savings program involving energy conservation expenditures on state-owned buildings. The public utility or energy services provider shall contract with appropriate state agencies to implement energy efficiency improvements in the selected buildings. A contract must require the public utility or energy services provider to include all energy efficiency improvements in selected buildings that are calculated to achieve a cost payback within ten years. The contract must require that the public utility or energy services provider be repaid solely from energy cost savings and only to the extent of energy cost savings. Repayments must be interest-free. The goal of the program in this paragraph is to demonstrate that through effective energy conservation the total energy consumption per square foot of state-owned and wholly state-leased buildings could be reduced by at least 25 percent from consumption in the base year of 1990. All agencies participating in the program must report to the commissioner of administration their monthly energy usage, building schedules, inventory of energy-consuming equipment, and other information as needed by the commissioner to manage and evaluate the program.

(b) The commissioner may exclude from the program of paragraph (a) a building in which energy conservation measures are carried out. "Energy conservation measures" means measures that are applied to a state building that improve energy efficiency and have a simple return of investment in ten years or within the remaining period of a lease, whichever time is shorter, and involves energy conservation, conservation facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities.

(c) This subdivision expires January 1, 2006."

16B.325 SUSTAINABLE BUILDING GUIDELINES.

The department of administration and the department of commerce, with the assistance of other agencies, shall develop sustainable building design guidelines for all new state buildings by January 15, 2003. The primary objectives of these guidelines are to ensure that all new state buildings initially exceed existing energy code, as established in Minnesota Rules, chapter 7676, by at least 30 percent. The guidelines must focus on achieving the lowest possible lifetime cost for new buildings and allow for changes in the guidelines that encourage continual energy conservation improvements in new buildings. The design guidelines must establish sustainability guidelines that include air quality and lighting standards and that create and maintain a healthy environment and facilitate productivity improvements; specify ways to reduce material costs; and must consider the long-term operating costs of the building, including the

use of renewable energy sources and distributed electric energy generation that uses a renewable source or natural gas or a fuel that is as clean or cleaner than natural gas. In developing the guidelines, the departments shall use an open process, including providing the opportunity for public comment. The guidelines established under this section are mandatory for all new buildings receiving funding from the bond proceeds fund after January 1, 2004.

History: 2001 c 212 art 1 s 2

16B.33 DESIGNER SELECTION BOARD.

[For text of subs 1 to 3a, see M.S.2000]

Subd. 4. Designer selection process. (a) **Publicity.** Upon receipt of a request from a user agency for a primary designer, the board shall publicize the proposed project in order to determine the identity of designers interested in the design work on the project. The board shall establish criteria for the selection process and make this information public, and shall compile data on and conduct interviews of designers. The board's selection criteria must include consideration of each interested designer's performance on previous projects for the state or any other person. Upon completing the process, the board shall select the primary designer and shall state its reasons in writing. Notification to the commissioner of the selection shall be made not more than 60 days after receipt from a user agency of a request for a primary designer. The commissioner shall promptly notify the designer and the user agency. The commissioner shall negotiate the designer's fee and prepare the contract to be entered into between the designer and the user agency.

(b) **Conflict of interest.** A board member may not participate in the review, discussion, or selection of a designer or firm in which the member has a financial interest.

(c) **Selection by commissioner.** In the event the board receives a request for a primary designer on a project, the estimated cost of which is less than the limit established by subdivision 3, or a planning project with estimated fees of less than the limit established by subdivision 3, the board may submit the request to the commissioner of administration, with or without recommendations, and the commissioner shall thereupon select the primary designer for the project.

(d) **Second selection.** If the designer selected for a project declines the appointment or is unable to reach agreement with the commissioner on the fee or the terms of the contract, the commissioner shall, within 60 days after the first appointment, request the board to make another selection.

(e) **Sixty days to select.** If the board fails to make a selection and forward its recommendation to the commissioner within 60 days of the user agency's request for a designer, the commissioner may appoint a designer to the project without the recommendation of the board.

(f) **Less than satisfactory performance.** The commissioner, or the University of Minnesota and the Minnesota state colleges and universities for projects under their supervision, shall forward to the board a written report describing each instance in which the performance of a designer selected by the board or the commissioner has been less than satisfactory. Criteria for determining satisfaction include the ability of the designer to complete design work on time, to provide a design responsive to program needs within the constraints of the budget, to solve design problems and achieve a design consistent with the proposed function of the building, to avoid costly design errors or omissions, and to observe the construction work. These reports are public data and are available for inspection under section 13.03.

History: 2001 c 33 s 1

16B.335 REVIEW OF PLANS AND PROJECTS.

Subdivision 1. Construction and major remodeling. (a) The commissioner, or any other recipient to whom an appropriation is made to acquire or better public lands or

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

(b) Capital projects exempt from the requirements of this subdivision include demolition or decommissioning of state assets, hazardous material projects, utility infrastructure projects, environmental testing, parking lots, exterior lighting, fencing, highway rest areas, truck stations, storage facilities not consisting primarily of offices or heated work areas, roads, bridges, trails, pathways, campgrounds, athletic fields, dams, floodwater retention systems, water access sites, harbors, sewer separation projects, water and wastewater facilities, port development projects for which the commissioner of transportation has entered into an assistance agreement under section 457A.04, ice centers, a local government project with a construction cost of less than \$1,500,000, or any other capital project with a construction cost of less than \$750,000.

[For text of subs 2 and 3, see M.S.2000]

Subd. 4. **Energy conservation.** A recipient to whom a direct appropriation is made for a capital improvement project shall ensure that the project complies with the applicable energy conservation standards contained in law, including sections 216C.19 to 216C.20, and rules adopted thereunder. The recipient may obtain information and technical assistance from the state energy office in the department of commerce on energy conservation and alternative energy development relating to the planning and construction of the capital improvement project.

[For text of subs 5 and 6, see M.S.2000]

History: *1Sp2001 c 4 art 6 s 8; 1Sp2001 c 12 s 12*

16B.465 STATE INFORMATION INFRASTRUCTURE.

[For text of subd 1, see M.S.2000]

Subd. 1a. **Creation.** Except as provided in subdivision 4, the commissioner, through the state information infrastructure, shall arrange for the provision of voice, data, video, and other telecommunications transmission services to state agencies. The state information infrastructure may also serve educational institutions, including public schools as defined in section 120A.05, subdivisions 9, 11, 13, and 17, nonpublic, church or religious organization schools that provide instruction in compliance with sections 120A.22, 120A.24, and 120A.41, and private colleges; public corporations; Indian tribal governments; and state political subdivisions. It is not a telephone company for purposes of chapter 237. The commissioner may purchase, own, or lease any telecommunications network facilities or equipment after first seeking bids or proposals and having determined that the private sector cannot, will not, or is unable to provide these services, facilities, or equipment as bid or proposed in a reasonable or timely fashion consistent with policy set forth in this section. The commissioner shall not resell or

sublease any services or facilities to nonpublic entities except to serve private schools and colleges. The commissioner has the responsibility for planning, development, and operations of the state information infrastructure in order to provide cost-effective telecommunications transmission services to state information infrastructure users consistent with the policy set forth in this section.

[For text of subds 3 to 7, see M.S.2000]

History: 2001 c 162 s 5

16B.54 CENTRAL MOTOR POOL; ESTABLISHMENT.

[For text of subd 1, see M.S.2000]

Subd. 2. **Vehicles.** (a) The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck currently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(b) To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck must be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide for the use of motor vehicles without marking by:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the division of criminal apprehension, the division of alcohol and gambling enforcement, and arson investigators of the division of fire marshal in the department of public safety;
- (4) the financial institutions division of the department of commerce;
- (5) the division of disease prevention and control of the department of health;
- (6) the state lottery;
- (7) criminal investigators of the department of revenue;
- (8) state-owned community service facilities in the department of human services;
- (9) the investigative staff of the department of economic security;
- (10) the office of the attorney general; and
- (11) the investigative staff of the gambling control board.

[For text of subds 3 to 8, see M.S.2000]

History: 1Sp2001 c 8 art 2 s 9

16B.55 USE OF STATE VEHICLES; COMPENSATION FOR USE OF PERSONAL VEHICLES.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Personal vehicles.** No state employee shall be compensated by the state for use of a personal vehicle for travel between the employee's residence and the state work station to which the employee is permanently assigned, except pursuant to a collective bargaining agreement negotiated under chapter 179A or a compensation plan adopted by the commissioner of employee relations under section 43A.05. A collective bargaining agreement or compensation plan may only provide for this compensation in cases in which an employee is called back to work during hours when the employee is not normally working.

[For text of subs 5 and 6, see M.S.2000]

History: 2001 c 7 s 9

16B.56 COMMUTER VANS; USE BY STATE EMPLOYEES AND SPOUSES AND OTHERS.

Subdivision 1. **Employee transportation program.** (a) **Establishment.** To conserve energy and alleviate traffic congestion around state offices, the commissioner shall, in cooperation with the commissioner of transportation, the state energy office in the department of commerce, and interested nonprofit agencies, establish and operate an employee transportation program using commuter vans with a capacity of not less than seven nor more than 16 passengers. Commuter vans may be used by state employees and others to travel between their homes and their work locations. However, only state employee drivers may use the van for personal purposes after working hours, not including partisan political activity. The commissioner shall acquire or lease commuter vans, or otherwise contract for the provision of commuter vans, and shall make the vans available for the use of state employees and others in accordance with standards and procedures adopted by the commissioner. The commissioner shall promote the maximum participation of state employees and others in the use of the vans.

(b) **Administrative policies.** The commissioner shall adopt standards and procedures under this section without regard to chapter 14. The commissioner shall provide for the recovery by the state of vehicle acquisition, lease, operation, and insurance costs through efficient and convenient assignment of vans, and for the billing of costs and collection of fees. A state employee using a van for personal use shall pay, pursuant to the standards and procedures adopted by the commissioner, for operating and routine maintenance costs incurred as a result of the personal use. Fees collected under this subdivision shall be deposited in the accounts from which the costs of operating, maintaining, and leasing or amortization for the specific vehicle are paid.

[For text of subs 2 to 5, see M.S.2000]

History: 1Sp2001 c 4 art 6 s 9

16B.58 STATE PARKING FACILITIES.

[For text of subs 1 to 6, see M.S.2000]

Subd. 7. [Repealed, 2001 c 162 s 10]

16B.60 DEFINITIONS, STATE BUILDING CODE.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Municipality.** "Municipality" means a city, county, or town, the University of Minnesota, or the state for public buildings and state licensed facilities.

[For text of subs 4 to 11, see M.S.2000]

Subd. 12. **Designate.** "Designate" means the formal designation by a municipality's administrative authority of a certified building official accepting responsibility for code administration.

Subd. 13. **Administrative authority.** "Administrative authority" means a municipality's governing body or their assigned administrative authority.

History: *1Sp2001 c 10 art 2 s 26-28*

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

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

The commissioner shall develop rules addressing the plan review fee assessed to similar buildings without significant modifications including provisions for use of building systems as specified in the industrial/modular program specified in section 16B.75. Additional plan review fees associated with similar plans must be based on costs commensurate with the direct and indirect costs of the service.

[For text of subd 1a, see M.S.2000]

Subd. 2. **Enforcement by certain bodies.** Under the direction and supervision of the commissioner, the provisions of the code relating to electrical installations shall be enforced by the state board of electricity, pursuant to the Minnesota Electrical Act, the provisions relating to plumbing shall be enforced by the commissioner of health, the provisions relating to high pressure steam piping and appurtenances shall be enforced by the department of labor and industry. Fees for inspections conducted by the state board of electricity shall be paid in accordance with the rules of the state board of electricity. Under direction of the commissioner of public safety, the state fire marshal shall enforce the Minnesota Uniform Fire Code as provided in chapter 299F. The commissioner, in consultation with the commissioner of labor and industry, shall adopt amendments to the mechanical code portion of the State Building Code to implement standards for process piping.

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

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

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

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

(e) **Child care facilities in churches; vertical access.** Until August 1, 1996, an organization providing child care in an existing church building which is exempt from taxation under section 272.02, subdivision 6, shall have five years from the date of initial licensure under chapter 245A to provide interior vertical access, such as an elevator, to persons with disabilities as required by the State Building Code. To obtain the extension, the organization providing child care must secure a \$2,500 performance bond with the commissioner of human services to ensure that interior vertical access is achieved by the agreed upon date.

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

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

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

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

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

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

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

[For text of subds 3a to 7, see M.S.2000]

History: 2001 c 7 s 10; 2001 c 207 s 1,2; 1Sp2001 c 10 art 2 s 29

16B.616 BLEACHER SAFETY.

[For text of subs 1 to 3, see M.S.2000]

Subd. 4. **Enforcement.** (a) A statutory or home rule charter city that is not covered by the code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the code's requirements for bleacher safety. In all other areas where the code does not apply because of action taken under section 16B.72 or 16B.73, the county is responsible for enforcement of those requirements.

(b) Municipalities that have not adopted the code may enforce the code requirements for bleacher safety by either entering into a joint powers agreement for enforcement with another municipality that has adopted the code or contracting for enforcement with a qualified and certified building official or state licensed design professional to enforce the code.

(c) Municipalities, school districts, organizations, individuals, and other persons operating or owning places of public accommodation with bleachers that are subject to the safety requirements in subdivision 3 shall provide a signed certification of compliance to the commissioner by January 1, 2002. For bleachers subject to the exception in subdivision 3, clause (1), entities covered by this paragraph must have on file a bleacher safety management plan and amortization schedule. The certification shall be prepared by a qualified and certified building official or state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements of this section and are structurally sound. For bleachers owned by a school district or nonpublic school, the person the district or nonpublic school designates to be responsible for buildings and grounds may make the certification.

[For text of subs 5 and 6, see M.S.2000]

History: *1Sp2001 c 6 art 4 s 1*

16B.62 STATE BUILDING CODE; APPLICATION.

Subdivision 1. **Municipal enforcement.** The State Building Code applies statewide and supersedes the building code of any municipality. A municipality must not by ordinance or through development agreement require building code provisions regulating components or systems of any residential structure that are different from any provision of the State Building Code. A municipality may, with the approval of the state building official, adopt an ordinance that is more restrictive than the State Building Code where geological conditions warrant a more restrictive ordinance. A municipality may appeal the disapproval of a more restrictive ordinance to the commissioner. An appeal under this subdivision is subject to the schedule, fee, procedures, cost provisions, and appeal rights set out in section 16B.67. The State Building Code does not apply to agricultural buildings except with respect to state inspections required or rulemaking authorized by sections 103F.141, 216C.19, subdivision 8, and 326.244. All municipalities shall adopt and enforce the State Building Code with respect to new construction within their respective jurisdictions.

If a city has adopted or is enforcing the State Building Code on June 3, 1977, or determines by ordinance after that date to undertake enforcement, it shall enforce the code within the city. A city may by ordinance extend the enforcement of the code to contiguous unincorporated territory not more than two miles distant from its corporate limits in any direction. Where two or more noncontiguous cities which have elected to enforce the code have boundaries less than four miles apart, each is authorized to enforce the code on its side of a line equidistant between them. Once enforcement authority is extended extraterritorially by ordinance, the authority may continue to be exercised in the designated territory even though another city less than four miles distant later elects to enforce the code. After the extension, the city may enforce the code in the designated area to the same extent as if the property were situated within its corporate limits.

A city which, on June 3, 1977, had not adopted the code may not commence enforcement of the code within or outside of its jurisdiction until it has provided written notice to the commissioner, the county auditor, and the town clerk of each town in which it intends to enforce the code. A public hearing on the proposed enforcement must be held not less than 30 days after the notice has been provided. Enforcement of the code by the city outside of its jurisdiction commences on the first day of January in the year following the notice and hearing.

Municipalities may provide for the issuance of permits, inspection, and enforcement within their jurisdictions by means which are convenient, and lawful, including by means of contracts with other municipalities pursuant to section 471.59, and with qualified individuals. The other municipalities or qualified individuals may be reimbursed by retention or remission of some or all of the building permit fee collected or by other means. In areas of the state where inspection and enforcement is unavailable from qualified employees of municipalities, the commissioner shall train and designate individuals available to carry out inspection and enforcement on a fee basis. Nothing in this section prohibits a municipality from adopting ordinances relating to zoning, subdivision, or planning unless the ordinance conflicts with a provision of the State Building Code that regulates components or systems of any residential structure.

[For text of subd 2, see M.S.2000]

History: 2001 c 207 s 3

16B.63 STATE BUILDING OFFICIAL.

[For text of subs 1 to 4, see M.S.2000]

Subd. 5. **Interpretative authority.** To achieve uniform and consistent application of the State Building Code, the state building official has final interpretative authority applicable to all codes adopted as part of the State Building Code except for the plumbing code and the electrical code when enforced by the state board of electricity. A final interpretative committee composed of seven members, consisting of three building officials, two inspectors from the affected field, and two construction industry representatives, shall review requests for final interpretations relating to that field. A request for final interpretation must come from a local or state level building code board of appeals. The state building official must establish procedures for membership of the interpretative committees. The appropriate committee shall review the request and make a recommendation to the state building official for the final interpretation within 30 days of the request. The state building official must issue an interpretation within ten business days from the recommendation from the review committee. A final interpretation may be appealed within 30 days of its issuance to the commissioner under section 16B.67. The final interpretation must be published within ten business days of its issuance and made available to the public. Municipal building officials shall administer all final interpretations issued by the state building official until the final interpretations are considered for adoption as part of the State Building Code.

History: 2001 c 207 s 4

16B.65 BUILDING OFFICIALS.

Subdivision 1. **Designation.** By January 1, 2002, each municipality shall designate a building official to administer the code. A municipality may designate no more than one building official responsible for code administration defined by each certification category established in rule. Two or more municipalities may combine in the designation of a building official for the purpose of administering the provisions of the code within their communities. In those municipalities for which no building officials have been designated, the state building official may use whichever state employees are necessary to perform the duties of the building official until the municipality makes a temporary or permanent designation. All costs incurred by virtue of these services rendered by state employees must be borne by the involved municipality and receipts

arising from these services must be paid into the state treasury and credited to the general fund.

Subd. 2. **Qualifications.** A building official, to be eligible for designation, must be certified and have the experience in design, construction, and supervision which the commissioner deems necessary and must be generally informed on the quality and strength of building materials, accepted building construction requirements, and the nature of equipment and needs conducive to the safety, comfort, and convenience of building occupants. No person may be designated as a building official for a municipality unless the commissioner determines that the official is qualified as provided in subdivision 3.

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

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

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

(3) determine qualifications by both clauses (1) and (2).

Upon a determination of qualification under clause (1), (2), or both of them, the commissioner shall issue a certificate to the building official stating that the official is certified. Each person applying for examination and certification pursuant to this section shall pay a nonrefundable fee of \$70. The commissioner or a designee may establish 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.

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

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

Subd. 5. **Oversight committee.** (a) The commissioner shall establish a code administration oversight committee to evaluate, mediate, and recommend to the commissioner any administrative action, penalty, suspension, or revocation with respect to complaints filed with or information received by the commissioner alleging or indicating the unauthorized performance of official duties or unauthorized use of the title certified building official, or a violation of statute, rule, or order that the commissioner has issued or is empowered to enforce. The committee consists of five certified building officials, at least two of whom must be from nonmetropolitan counties. Committee members must be compensated according to section 15.059, subdivision 3. The commissioner's designee shall act as an ex-officio member of the oversight committee.

(b) If the commissioner has a reasonable basis to believe that a person has engaged in an act or practice constituting the unauthorized performance of official duties, the unauthorized use of the title certified building official, or a violation of a statute, rule, or order that the commissioner has issued or is empowered to enforce, the commissioner may proceed with administrative actions or penalties as described in subdivision 5a or suspension or revocation as described in subdivision 5b.

Subd. 5a. **Administrative action and penalties.** The commissioner shall, by rule, establish a graduated schedule of administrative actions for violations of sections 16B.59 to 16B.75 and rules adopted under those sections. The schedule must be based on and reflect the culpability, frequency, and severity of the violator's actions. The commissioner may impose a penalty from the schedule on a certification holder for a

violation of sections 16B.59 to 16B.75 and rules adopted under those sections. The penalty is in addition to any criminal penalty imposed for the same violation. Administrative monetary penalties imposed by the commissioner must be paid to the general fund.

Subd. 5b. Suspension; revocation. Except as otherwise provided for by law, the commissioner may, upon notice and hearing, revoke or suspend or refuse to issue or reissue a building official certification if the applicant, building official, or certification holder:

- (1) violates a provision of sections 16B.59 to 16B.75 or a rule adopted under those sections;
- (2) engages in fraud, deceit, or misrepresentation while performing the duties of a certified building official;
- (3) makes a false statement in an application submitted to the commissioner or in a document required to be submitted to the commissioner; or
- (4) violates an order of the commissioner.

Notice must be provided and the hearing conducted in accordance with the provisions of chapter 14 governing contested case proceedings. Nothing in this subdivision limits or otherwise affects the authority of a municipality to dismiss or suspend a building official at its discretion, except as otherwise provided for by law.

Subd. 6. Vacancies. In the event that a designated building official position is vacant within a municipality, that municipality shall designate a certified building official to fill the vacancy as soon as possible. The commissioner must be notified of any vacancy or designation in writing within 15 days. If the municipality fails to designate a certified building official within 15 days of the occurrence of the vacancy, the state building official may provide state employees to serve that function as provided in subdivision 1 until the municipality makes a temporary or permanent designation. Municipalities must not issue permits without a designated certified building official.

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

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

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

History: *1Sp2001 c 10 art 2 s 30*

16B.665 PERMIT FEE LIMITATION ON MINOR RESIDENTIAL IMPROVEMENTS.

A municipality as defined in section 16B.60, subdivision 3, or a town may not charge a permit fee that exceeds \$15 or 5 percent of the cost of the improvement, installation, or replacement, whichever is greater, for the improvement, installation, or replacement of a residential fixture or appliance that:

- (1) does not require modification to electric or gas service;
 - (2) has a total cost of \$500 or less, excluding the cost of the fixture or appliance;
- and
- (3) is improved, installed, or replaced by the home owner or a licensed contractor.

History: *2001 c 207 s 5*

16B.685 ANNUAL REPORT.

Beginning with the first report filed by April 1, 2003, each municipality shall annually report by April 1 to the department, in a format prescribed by the department, all construction and development-related fees collected by the municipality from developers, builders, and subcontractors. The report must include:

- (1) the number and valuation of units for which fees were paid;
- (2) the amount of building permit fees, plan review fees, administrative fees, engineering fees, infrastructure fees, and other construction and development-related fees; and
- (3) the expenses associated with the municipal activities for which fees were collected.

History: 2001 c 207 s 6

16B.70 SURCHARGE.

[For text of subs 1 and 2, see M.S.2000]

Subd. 3. **Revenue to equal costs.** Revenue received from the surcharge imposed in subdivision 1 should approximately equal the cost, including the overhead cost, of administering sections 16B.59 to 16B.75. By November 30 each year, the commissioner must report to the commissioner of finance and to the legislature on changes in the surcharge imposed in subdivision 1 needed to comply with this policy. In making this report, the commissioner must assume that the services associated with administering sections 16B.59 to 16B.75 will continue to be provided at the same level provided during the fiscal year in which the report is made.

History: 1Sp2001 c 10 art 2 s 31

16B.76 CONSTRUCTION CODES ADVISORY COUNCIL.

Subdivision 1. **Membership.** (a) The construction codes advisory council consists of the following members:

- (1) the commissioner of administration or the commissioner's designee representing the department's building codes and standards division;
- (2) the commissioner of health or the commissioner's designee representing an environmental health section of the department;
- (3) the commissioner of public safety or the commissioner's designee representing the department's state fire marshal division;
- (4) the commissioner of commerce or the commissioner's designee representing the department's state energy office; and
- (5) one member representing each of the following occupations or entities, appointed by the commissioner of administration:
 - (i) a certified building official;
 - (ii) a fire service representative;
 - (iii) a licensed architect;
 - (iv) a licensed engineer;
 - (v) a building owners and managers representative;
 - (vi) a licensed residential building contractor;
 - (vii) a commercial building contractor;
 - (viii) a heating and ventilation contractor;
 - (ix) a plumbing contractor;
 - (x) a representative of a construction and building trades union; and
 - (xi) a local unit of government representative.

(b) For members who are not state officials or employees, terms, compensation, removal, and the filling of vacancies are governed by section 15.059. The council shall select one of its members to serve as chair.

(c) The council expires June 30, 2003.

[For text of subs 2 and 3, see M.S.2000]

History: 2001 c 161 s 6; 2001 c 162 s 6; 1Sp2001 c 4 art 6 s 10

16B.85 RISK MANAGEMENT.

[For text of subd 1, see M.S.2000]

Subd. 2. **Risk management fund.** (a) All state agencies, political subdivisions, and the Minnesota state colleges and universities, may, in cooperation with the commissioner, participate in insurance programs and other funding alternative programs provided by the risk management fund.

(b) When an entity described in paragraph (a) enters into an insurance or self-insurance program, each entity shall contribute the appropriate share of its costs as determined by the commissioner.

(c) The money in the fund to pay claims arising from state activities and for administrative costs, including costs for the adjustment and defense of the claims, is appropriated to the commissioner.

(d) Interest earned from the investment of money in the fund shall be credited to the fund and be available to the commissioner for the expenditures authorized in this subdivision.

(e) The fund is exempt from the provisions of section 16A.152, subdivision 4. In the event that proceeds in the fund are insufficient to pay outstanding claims and associated administrative costs, the commissioner, in consultation with the commissioner of finance, may assess entities participating in the fund amounts sufficient to pay the costs. The commissioner shall determine the proportionate share of the assessment of each entity.

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

(1) review the state's exposure to various types of potential risks in consultation with affected entities and advise them as to the reduction of risk and fiscal management of those losses;

(2) be responsible for statewide risk management coordination, evaluation of funding and insuring alternatives; and the approval of all insurance purchases in consultation with affected entities;

(3) identify ways to eliminate redundant efforts in the management of state risk management and insurance programs;

(4) maintain the state risk management information system; and

(5) administer and maintain the state risk management fund.

[For text of subs 4 and 5, see M.S.2000]

History: 2001 c 162 s 7,8

16B.88 Subdivision 1. [Renumbered 4.50 subd 1]

Subd. 2. [Renumbered 4.50 subd 2]

Subd. 3. [Renumbered 4.50 subd 3]

Subd. 3a. [Renumbered 4.50 subd 4]

Subd. 4. [Renumbered 4.50 subd 5]

Subd. 5. [Repealed, 1999 c 86 art 2 s 6]

Subd. 6. [Repealed, 1997 c 206 s 13]