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# HOUSE FILE NO. 927

## *FIRST COMMITTEE ENGROSSMENT*

February 19, 2009

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The bill was read for the first time and referred to the Committee on Commerce and Labor

March 19, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

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*Referred by Chair to Labor and Consumer Protection Division.*

March 13, 2009

*Returned to the Committee on Commerce and Labor as Amended.*

1.1 A bill for an act  
1.2 relating to labor and industry; modifying construction codes and licensing;  
1.3 requiring rulemaking; amending Minnesota Statutes 2008, sections 326B.082,  
1.4 subdivision 12; 326B.084; 326B.43, subdivision 1; 326B.435, subdivision 2;  
1.5 326B.475, subdivision 6; 326B.52; 326B.53; 326B.55; 326B.57; 326B.58;  
1.6 326B.59; 326B.801; 326B.84; 326B.921, subdivision 1; proposing coding for  
1.7 new law in Minnesota Statutes, chapter 326B; repealing Minnesota Statutes  
1.8 2008, section 326B.43, subdivision 5.

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

1.10 Section 1. Minnesota Statutes 2008, section 326B.082, subdivision 12, is amended to  
1.11 read:

1.12 Subd. 12. **Issuance of licensing orders; hearings related to licensing orders.**

1.13 (a) If the commissioner determines that a permit, license, registration, or certificate  
1.14 should be conditioned, limited, suspended, revoked, or denied under subdivision 11,  
1.15 or that the permit holder, licensee, registrant, or certificate holder should be censured  
1.16 under subdivision 11, then the commissioner shall issue to the person an order denying,  
1.17 conditioning, limiting, suspending, or revoking the person's permit, license, registration,  
1.18 or certificate, or censuring the permit holder, licensee, registrant, or certificate holder.

1.19 (b) Any order issued under paragraph (a) may include an assessment of monetary  
1.20 penalties and may require the person to cease and desist from committing the violation  
1.21 or committing the act, conduct, or practice set out in subdivision 11, paragraph (b). The  
1.22 monetary penalty may be up to \$10,000 for each violation or act, conduct, or practice  
1.23 committed by the person. The procedures in section 326B.083 must be followed when  
1.24 issuing orders under paragraph (a).

1.25 (c) The permit holder, licensee, registrant, certificate holder, or applicant to whom  
1.26 the commissioner issues an order under paragraph (a) shall have 30 days after ~~service~~

2.1 issuance of the order to request a hearing. The request for hearing must be in writing and  
2.2 must be served on or faxed to the commissioner at the address or fax number specified  
2.3 in the order by the 30th day after ~~service~~ issuance of the order. If the person does not  
2.4 request a hearing or if the person's written request for hearing is not served on or faxed  
2.5 to the commissioner by the 30th day after ~~service~~ issuance of the order, the order shall  
2.6 become a final order of the commissioner and will not be subject to review by any court or  
2.7 agency. The date on which a request for hearing is served by mail shall be the postmark  
2.8 date on the envelope in which the request for hearing is mailed. If the person submits to  
2.9 the commissioner a timely request for hearing, the order is stayed unless the commissioner  
2.10 summarily suspends the license, registration, certificate, or permit under subdivision 13,  
2.11 and a contested case hearing shall be held in accordance with chapter 14.

2.12 Sec. 2. Minnesota Statutes 2008, section 326B.084, is amended to read:

2.13 **326B.084 FALSE INFORMATION.**

2.14 Subdivision 1. False information. A person subject to any of the requirements in  
2.15 the applicable law may not make a false material statement, representation, or certification  
2.16 in; omit material information from; or alter, conceal, or fail to file or maintain a notice,  
2.17 application, record, report, plan, or other document required under the applicable law.

2.18 Subd. 2. Unlicensed advertising. No person shall offer to perform services for  
2.19 which a license issued by the commissioner is required unless the person holds an active  
2.20 license to perform those services. Nothing herein shall prohibit an offer to sell, repair, or  
2.21 perform services provided those services are performed by a licensed person.

2.22 Sec. 3. Minnesota Statutes 2008, section 326B.43, subdivision 1, is amended to read:

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

3.1 Except for powers granted to the Plumbing Board, the commissioner of labor and  
3.2 industry shall administer the provisions of sections 326B.42 to 326B.49 and for such  
3.3 purposes may employ plumbing inspectors and other assistants.

3.4 Sec. 4. Minnesota Statutes 2008, section 326B.435, subdivision 2, is amended to read:

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

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

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

3.11 (3) adopt the plumbing code that must be followed in this state and any plumbing  
3.12 code amendments thereto. The Plumbing Code shall include the minimum standards  
3.13 described in sections 326B.43, subdivision 1, and 326B.52, subdivision 1. The board  
3.14 shall adopt the plumbing code and any amendments thereto pursuant to chapter 14 and  
3.15 as provided in subdivision 6, paragraphs (b), (c), and (d);

3.16 (4) review requests for final interpretations and issue final interpretations as provided  
3.17 in section 326B.127, subdivision 5;

3.18 (5) except for rules regulating continuing education, adopt rules that regulate the  
3.19 licensure or registration of plumbing contractors, journeymen, apprentices, master  
3.20 plumbers, restricted master plumbers, ~~and~~ restricted journeymen, water conditioning  
3.21 contractors, and water conditioning installers, and other persons engaged in the design,  
3.22 installation, and alteration of plumbing systems or engaged in or working at the business  
3.23 of water conditioning installation or service, except for those individuals licensed under  
3.24 section 326.02, subdivisions 2 and 3. The board shall adopt these rules pursuant to chapter  
3.25 14 and as provided in subdivision 6, paragraphs (e) and (f);

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

3.28 (7) refer complaints or other communications to the commissioner, whether oral or  
3.29 written, as provided in subdivision 8, that allege or imply a violation of a statute, rule, or  
3.30 order that the commissioner has the authority to enforce pertaining to code compliance,  
3.31 licensure, or an offering to perform or performance of unlicensed plumbing services;

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

3.34 (9) approve license reciprocity agreements;

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

4.3 (11) recommend the fees for licenses and certifications.

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

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

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

4.15 Sec. 5. Minnesota Statutes 2008, section 326B.475, subdivision 6, is amended to read:

4.16 Subd. 6. **Bond; insurance.** A restricted master ~~or a restricted journeyman~~ plumber  
 4.17 licensee is subject to the bond and insurance requirements of section 326B.46, subdivision  
 4.18 2, unless the exemption provided by section 326B.46, subdivision 3, applies.

4.19 Sec. 6. Minnesota Statutes 2008, section 326B.52, is amended to read:

4.20 **326B.52 WATER CONDITIONING CONTRACTOR AND INSTALLER**  
 4.21 **STANDARDS.**

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

4.30 Subd. 2. **Inspectors.** Except for powers granted to the Plumbing Board, the  
 4.31 commissioner shall administer the provisions of sections 326B.50 to 326B.59 and for such  
 4.32 purposes may employ water conditioning inspectors and other assistants.

5.1 Sec. 7. Minnesota Statutes 2008, section 326B.53, is amended to read:

5.2 **326B.53 LOCAL REGULATIONS.**

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

5.10 Sec. 8. Minnesota Statutes 2008, section 326B.55, is amended to read:

5.11 **326B.55 LICENSING IN CERTAIN CITIES; QUALIFICATIONS; RULES.**

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

5.23 Subd. 2. **Qualifications for licensing.** A water conditioning contractor license shall  
5.24 be issued only to an individual who has demonstrated skill in planning, superintending,  
5.25 and servicing water conditioning installations, and has successfully passed the examination  
5.26 for water conditioning contractors. A water conditioning installer license shall only be  
5.27 issued to an individual other than a water conditioning contractor who has demonstrated  
5.28 practical knowledge of water conditioning installation, and has successfully passed  
5.29 the examination for water conditioning installers. A water conditioning installer must  
5.30 successfully pass the examination for water conditioning contractors before being licensed  
5.31 as a water conditioning contractor.

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

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

5.35 ~~(2)~~ license water conditioning contractors and installers; and

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

6.4 ~~(4) (2) collect an examination fee from each examinee for a license as a water~~  
6.5 ~~conditioning contractor and an examination fee from each examinee for a license as~~  
6.6 ~~a water conditioning installer in an amount set forth in section 326B.58. A water~~  
6.7 ~~conditioning installer must successfully pass the examination for water conditioning~~  
6.8 ~~contractors before being licensed as a water conditioning contractor.~~

6.9 Sec. 9. Minnesota Statutes 2008, section 326B.57, is amended to read:

6.10 **326B.57 RULES.**

6.11 In order to provide effective protection of the public health, the ~~commissioner~~  
6.12 Plumbing Board may by rule prescribe limitations on the nature of alteration to, extension  
6.13 of, or connection with, the said water distribution system initially established by a  
6.14 licensed plumber which may be performed by a person licensed hereunder, ~~and~~. The  
6.15 commissioner may by rule in appropriate instances require filing of plans, blueprints and  
6.16 specifications prior to commencement of installation. The installation of water heaters  
6.17 shall not constitute water conditioning installation and consequently such work shall be  
6.18 accomplished in accordance with the provisions of sections 326B.42 to 326B.49.

6.19 Sec. 10. Minnesota Statutes 2008, section 326B.58, is amended to read:

6.20 **326B.58 FEES.**

6.21 Examination fees for both water conditioning contractors and water conditioning  
6.22 installers shall be \$50 for each examination. Each water conditioning contractor and  
6.23 installer license shall expire on December 31 of the year for which it was issued. The  
6.24 license fee for each initial water conditioning contractor's license shall be \$70, except that  
6.25 the license fee shall be \$35 if the application is submitted during the last three months  
6.26 of the calendar year. The license fee for each renewal water conditioning contractor's  
6.27 license shall be \$70. The license fee for each initial water conditioning installer license  
6.28 shall be \$35, except that the license fee shall be \$17.50 if the application is submitted  
6.29 during the last three months of the calendar year. The license fee for each renewal water  
6.30 conditioning installer license shall be \$35. ~~The commissioner~~ Plumbing Board may by  
6.31 rule prescribe for the expiration and renewal of licenses. Any licensee who does not renew  
6.32 a license within two years after the license expires is no longer eligible for renewal. Such  
6.33 an individual must retake and pass the examination before a new license will be issued.  
6.34 A water conditioning contractor or water conditioning installer who submits a license

7.1 renewal application after the time specified in rule but within two years after the license  
7.2 expired must pay all past due renewal fees plus a late fee of \$25.

7.3 Sec. 11. Minnesota Statutes 2008, section 326B.59, is amended to read:

7.4 **326B.59 STATE LICENSE; EXAMINATION; APPLICATION; EXEMPTION.**

7.5 The provisions of sections 326B.50 to ~~326B.59~~ 326B.58 that require licenses to  
7.6 engage in the work or business of water conditioning installation, and the provisions that  
7.7 provide for the examination of applicants for such licenses, ~~shall only apply to work~~  
7.8 ~~accomplished in cities or towns having populations of 5,000 or more according to the last~~  
7.9 ~~federal census, and shall~~ do not apply to master plumbers and journeymen plumbers  
7.10 licensed under the provisions of sections 326B.42 to 326B.49. In all areas of the state  
7.11 except in cities or towns with a population of more than 5,000 according to the last federal  
7.12 census, the provisions of sections 326B.50 to 326B.58 that require licenses to engage in  
7.13 the work or business of water conditioning installation, and the provisions that provide for  
7.14 the examination of applicants for such licenses, do not apply to restricted master plumbers  
7.15 and restricted journeyman plumbers licensed under the provisions of section 326B.475.

7.16 Sec. 12. Minnesota Statutes 2008, section 326B.801, is amended to read:

7.17 **326B.801 SCOPE.**

7.18 Except as otherwise provided by law, ~~the provisions of sections 326B.801 to~~  
7.19 ~~326B.825~~ 326B.885 apply to residential contractors, residential remodelers, residential  
7.20 roofers, and manufactured home installers.

7.21 Sec. 13. Minnesota Statutes 2008, section 326B.84, is amended to read:

7.22 **326B.84 GROUNDS FOR LICENSE SANCTIONS.**

7.23 In addition to the grounds set forth in section 326B.082, subdivision 11, the  
7.24 commissioner may deny, suspend, limit, place conditions on, or revoke a license or  
7.25 certificate of exemption, or may censure the person holding the license or certificate of  
7.26 exemption, if the applicant, licensee, certificate of exemption holder, qualifying person,  
7.27 owner, officer, or affiliate of an applicant, licensee, or certificate of exemption holder, or  
7.28 other agent owner:

7.29 (1) has filed an application for licensure or a certificate of exemption which is  
7.30 incomplete in any material respect or contains any statement which, in light of the  
7.31 circumstances under which it is made, is false or misleading with respect to any material  
7.32 fact;

8.1 (2) has engaged in a fraudulent, deceptive, or dishonest practice;

8.2 (3) is permanently or temporarily enjoined by any court of competent jurisdiction  
8.3 from engaging in or continuing any conduct or practice involving any aspect of the  
8.4 business;

8.5 (4) has failed to reasonably supervise employees, agents, subcontractors, or  
8.6 salespersons, or has performed negligently or in breach of contract, so as to cause injury  
8.7 or harm to the public;

8.8 (5) has violated or failed to comply with any provision of sections 326B.802 to  
8.9 326B.885, any rule or order under sections 326B.802 to 326B.885, or any other law, rule,  
8.10 or order related to the duties and responsibilities entrusted to the commissioner;

8.11 (6) has been convicted of a violation of the State Building Code or has refused to  
8.12 comply with a notice of violation or stop order issued by a certified building official, or in  
8.13 local jurisdictions that have not adopted the State Building Code has refused to correct a  
8.14 violation of the State Building Code when the violation has been documented or a notice  
8.15 of violation or stop order issued by a certified building official has been received;

8.16 (7) has failed to use the proceeds of any payment made to the licensee for the  
8.17 construction of, or any improvement to, residential real estate, as defined in section  
8.18 326B.802, subdivision 13, for the payment of labor, skill, material, and machinery  
8.19 contributed to the construction or improvement, knowing that the cost of any labor  
8.20 performed, or skill, material, or machinery furnished for the improvement remains unpaid;

8.21 (8) has not furnished to the person making payment either a valid lien waiver as to  
8.22 any unpaid labor performed, or skill, material, or machinery furnished for an improvement,  
8.23 or a payment bond in the basic amount of the contract price for the improvement  
8.24 conditioned for the prompt payment to any person or persons entitled to payment;

8.25 (9) has engaged in an act or practice that results in compensation to an aggrieved  
8.26 owner or lessee from the contractor recovery fund pursuant to section 326B.89, unless:

8.27 (i) the applicant or licensee has repaid the fund twice the amount paid from the fund,  
8.28 plus interest at the rate of 12 percent per year; and

8.29 (ii) the applicant or licensee has obtained a surety bond in the amount of at least  
8.30 \$40,000, issued by an insurer authorized to transact business in this state;

8.31 (10) has engaged in bad faith, unreasonable delays, or frivolous claims in defense  
8.32 of a civil lawsuit or arbitration arising out of their activities as a licensee or certificate  
8.33 of exemption holder under this chapter;

8.34 (11) has had a judgment entered against them for failure to make payments to  
8.35 employees, subcontractors, or suppliers, that the licensee has failed to satisfy and all  
8.36 appeals of the judgment have been exhausted or the period for appeal has expired;



9.1 (12) if unlicensed, has obtained a building permit by the fraudulent use of a fictitious  
9.2 license number or the license number of another, or, if licensed, has knowingly allowed  
9.3 an unlicensed person to use the licensee's license number for the purpose of fraudulently  
9.4 obtaining a building permit; or has applied for or obtained a building permit for an  
9.5 unlicensed person;

9.6 (13) has made use of a forged mechanic's lien waiver under chapter 514;

9.7 (14) has provided false, misleading, or incomplete information to the commissioner  
9.8 or has refused to allow a reasonable inspection of records or premises;

9.9 (15) has engaged in an act or practice whether or not the act or practice directly  
9.10 involves the business for which the person is licensed, that demonstrates that the applicant  
9.11 or licensee is untrustworthy, financially irresponsible, or otherwise incompetent or  
9.12 unqualified to act under the license granted by the commissioner; or

9.13 (16) has failed to comply with requests for information, documents, or other requests  
9.14 from the department within the time specified in the request or, if no time is specified,  
9.15 within 30 days of the mailing of the request by the department.

9.16 Sec. 14. Minnesota Statutes 2008, section 326B.921, subdivision 1, is amended to read:

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

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

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

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

10.4 Sec. 15. **[326B.961] TRIENNIAL AUDITS AND TEAM LEADER**  
10.5 **CERTIFICATIONS.**

10.6 Subdivision 1. **Triennial audits; assignment; qualifications.** The chief boiler  
10.7 inspector shall assign a qualified ASME designee or team leader to perform triennial  
10.8 audits on ASME Code and national board stamp holders at the request of the stamp holder.  
10.9 The department shall maintain qualifications for ASME designees and national board team  
10.10 leaders in accordance with ASME and national board requirements.

10.11 Subd. 2. **Fees.** The fee for performing ASME and national board triennial audits  
10.12 shall be the hourly rate pursuant to section 326B.986, subdivision 4.

10.13 Sec. 16. **TIME LIMIT.**

10.14 Notwithstanding the lapse of the time limit to adopt rules under Minnesota Statutes,  
10.15 section 14.125, the commissioner of labor and industry's authority to adopt rules under  
10.16 Minnesota Statutes, section 326B.978, subdivisions 4 and 18, is extended by 18 months  
10.17 following the effective date of this section.

10.18 Sec. 17. **RULE CHANGE.**

10.19 The Plumbing Board shall amend Minnesota Rules, part 4715.0320, subpart 1, so  
10.20 that it conforms with Minnesota Statutes, sections 326B.43 and 326B.52, as amended  
10.21 by this act. The Plumbing Board may use the good cause exemption under Minnesota  
10.22 Statutes, section 14.388, subdivision 1, clause (3), in adopting the amendment, and  
10.23 Minnesota Statutes, section 14.386, does not apply.

10.24 Sec. 18. **REPEALER.**

10.25 Minnesota Statutes 2008, section 326B.43, subdivision 5, is repealed.