

NORTH DAKOTA LEGISLATIVE MANAGEMENT

Minutes of the

ADMINISTRATIVE RULES COMMITTEE

Thursday, June 6, 2013
Roughrider Room, State Capitol
Bismarck, North Dakota

Representative Kim Koppelman, Chairman, called the meeting to order at 10:00 a.m.

Members present: Representatives Kim Koppelman, Randy Boehning, Bill Devlin, Robert Frantsvog, David Monson, Mike Schatz, Blair Thoreson; Senators John Andrist, Joan Heckaman, Jerry Klein, Margaret Sitte

Members absent: Representatives Bill Amerman, Tracy Boe, Mark S. Owens; Senator David Hogue

Others present: See [Appendix A](#)

It was moved by Representative Thoreson, seconded by Representative Monson, and carried on a voice vote that the minutes of the March 13, 2013, meeting be approved as distributed.

EDUCATION STANDARDS AND PRACTICES BOARD

Chairman Koppelman said rules submitted by the Education Standards and Practices Board have been carried over for consideration at this meeting. He reviewed the timeline of legislation on teacher licensing and rulemaking activity of the Education Standards and Practices Board.

Chairman Koppelman called on Mr. Nick Archuleta, member, Education Standards and Practices Board, for a presentation ([Appendix B](#)) of testimony on behalf of the Education Standards and Practices Board. Mr. Archuleta said alternative access licenses and the teaching alternative flexibility endorsement rules are to provide an opportunity for North Dakota licensing for an applicant who holds a valid license from another state but has not completed regular preparation or the minimum of a bachelor's degree, as required for full licensing status.

Representative Koppelman described an issue that was brought to the attention of the committee several months previously relating to licensing for special education teachers. Mr. Archuleta said North Dakota is no longer a categorical state for special education licensing. He said North Dakota now offers more reciprocity for teachers from other states than ever before. He said much of the change in this respect is attributable to legislative changes. In response to a question from Representative Koppelman, Mr. Archuleta said these rules open it up more for candidates to obtain license status if they have not completed the classical teaching educational and training requirements.

Representative Koppelman asked what happens if an applicant from another state who has a bachelor's degree applies for licensing in North Dakota but the individual's training does not match all requirements. Mr. Archuleta said a transcript analysis has been done in the past to indicate if more training is needed in certain areas, but the 2013 legislation and rules probably eliminate the need for transcript analysis.

Representative Koppelman said North Dakota Century Code Section 15.1-13-20 provides that a North Dakota teaching license must be issued to an applicant who holds a license from another state and meets the issuing state's requirements. He asked if that means scrutiny of the courses taken by the individual would be eliminated. Mr. Archuleta said he believes that is the case.

Mr. Archuleta said the rules include a change relating to interim licenses for substitute teachers. He said the rule requires 48 semester hours postsecondary education. Senator Sitte said the rules provide a substitute may not spend more than 10 consecutive days in the same classroom, but some substitute teachers may provide services to more than one school district and more than one school and end up providing substitute teaching services on practically a full-time basis.

STATE ELECTRICAL BOARD

Chairman Koppelman called on Mr. James Schmidt, State Electrical Board, for testimony ([Appendix C](#)) relating to rules adopted by the State Electrical Board. Chairman Koppelman said the rules were carried over for consideration from the March 2013 committee meeting because no representative of the board was able to appear at that meeting.

Senator Andrist said the proposed rule change regarding master electricians could establish a slippery slope. He said questions of who owns the company can be difficult to determine. He said the question to be addressed is how to determine the level of involvement of a master electrician.

Mr. Schmidt said the root of the problem is that a master electrician does not have to be the owner of a business. He said a wiring certificate is required for every project over \$300, and a copy of that certificate goes to the board's inspectors. He said the objective of the board was to tie the business and master electrician somewhat but not based on ownership, so that when a master electrician leaves that business there is no mess of open wiring certificates that must be finished by someone else.

Representative Boehning said he sees a problem if a master electrician has wiring certificates open, the master electrician would not be able to terminate that employment or retire because certificates are open. Mr. Schmidt said that would not be the case. Representative Boehning said if a master electrician is working on a big project that takes two years or three years, the master electrician may be tied to completion of that project by the open wiring certificates in the electrician's name. Mr. Schmidt said the board would work on transfers of certificates. He said in the western part of the state with booming construction needs, some master electricians were basically renting out their licenses for use by others and not having any involvement with the project.

Senator Sitte said perhaps the requirement should be that the master electrician must be onsite during projects under the electrician's license period.

Representative Koppelman said perhaps the approach should be to require that the master electrician be engaged in the oversight of the project.

Representative Frantsvog said requiring performance bonds may resolve some of the issues.

Representative Koppelman suggested the rules requirement be reworded to provide that a master or Class B electrician must be actively engaged in the supervision of every project certified under that electrician's license. Mr. Schmidt said that would accomplish the objectives of the board and would be agreeable. **It was moved by Representative Boehning, seconded by Representative Monson, and carried on a roll call vote that the Administrative Rules Committee agree with the State Electrical Board to replace the new language of the amendment to subsection 3 of North Dakota Administrative Code Section 54-02-01-02 with "a master or class B electrician must be actively engaged in the supervision of every project certified under that electrician's license."** Voting in favor of the motion were Representatives Koppelman, Boehning, Devlin, Frantsvog, Monson, Schatz, and Thoreson and Senators Andrist, Heckaman, Klein, and Sitte. No negative votes were cast.

HIGHWAY PATROL

Chairman Koppelman called on Colonel James J. Prochniak, Superintendent, Highway Patrol, for testimony ([Appendix D](#)) relating to rules adopted by the Highway Patrol.

GEOLOGICAL SURVEY

Chairman Koppelman called on Mr. Edward C. Murphy, State Geologist, Geological Survey, Industrial Commission, for testimony ([Appendix E](#)) relating to rules adopted by the Industrial Commission. In reviewing the testimony, Mr. Murphy said a comment was received from the Department of Transportation suggesting a change to the rules, but the comment was received after the close of the comment period. Chairman Koppelman said it may be possible to amend the rule with committee approval at this point. Committee Counsel said the statutory provision on comments submitted for agency consideration is that the agency must consider comments received during the comment period. He said the statute does not prohibit consideration of comments received after the comment period. Chairman Koppelman asked Mr. Murphy if he would consider language to suggest to resolve the concern of the Department of Transportation for committee consideration later in the meeting.

STATE BOARD OF MEDICAL EXAMINERS

Chairman Koppelman called on Mr. Duane Houdek, Executive Director, State Board of Medical Examiners, for testimony ([Appendix F](#)) relating to rules adopted by the board.

EDUCATION STANDARDS AND PRACTICES BOARD

In response to a question from Representative Koppelman, Committee Counsel said the revised rules submitted by the Education Standards and Practices Board would have to be approved by motion to replace the rules submitted previously. **It was moved by Representative Thoreson, seconded by Representative Sitte, and carried on a roll call vote that the Administrative Rules Committee agree with the Education Standards and Practices Board to the rules revisions as presented to the committee at this meeting and attached as [Appendix B](#).** Voting in favor of the motion were Representatives Koppelman, Boehning, Devlin,

Frantsvog, Monson, Schatz, and Thoreson and Senators Andrist, Heckaman, Klein, and Sitte. No negative votes were cast.

GEOLOGICAL SURVEY

Chairman Koppelman called on Mr. Murphy, who distributed copies of a letter ([Appendix G](#)) from the Department of Transportation suggesting changes to the Geological Survey rules. He said the suggested changes are identified as items one and two in the letter. He suggested that the requested additional language could be inserted following the third paragraph in North Dakota Administrative Code Section 43-02-02-20. **It was moved by Senator Heckaman, seconded by Representative Schatz, and carried on a roll call vote that the Administrative Rules Committee agree with the Geological Survey to insert additional language in Section 43-02-02-20 as suggested by the Geological Survey and the Department of Transportation.** Voting in favor of the motion were Representatives Koppelman, Boehning, Devlin, Frantsvog, Monson, Schatz, and Thoreson and Senators Andrist, Heckaman, Klein, and Sitte. No negative votes were cast.

Chairman Koppelman said the next meeting of the Administrative Rules Committee will be after the beginning of a new interim. He said the committee membership is likely to change, and he thanked the committee members for their service during this biennium.

No further business appearing, Chairman Koppelman adjourned the meeting at 12:00 noon.

John Walstad
Code Revisor

ATTACH:7