

2011 HOUSE POLITICAL SUBDIVISIONS

HB 1372

2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee Prairie Room, State Capitol

HB 1372
February 10, 2011
Job # 14392

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to water-based fire protection system contractors.

Minutes:

Proposed amendment #1 & 2, Testimony , 3,4, 5.

Chairman Johnson: Opened the hearing on HB 1372.

Rep. Guggisberg: (See proposed amendment #1). Handed out the amendments. I was surprised to learn we do not have any requirements for people who install sprinkler systems. It is under the Chapter for contractors in the century code. Through his research he found there are only about 18 businesses that this will affect. So instead of setting up a whole another chapter or board we just decided to put it under there. As a firefighter I like to hear when the call comes in that there is a sprinkler activated because nobody has ever died in a building that had working sprinklers in it. If it is not a working sprinkler system that may not be true. I don't have all the technical answers so people coming behind me will.

Rep. Koppelman: What problem is this bill trying to solve? Are there a lot of inappropriately installed sprinkler systems?

Rep. Guggisberg: One is too many. There was a bill that dealt with licensing and installers and it was very long.

Rep. Shirley Meyer: Is there a way you would know they do not work before a fire starts?

Rep. Guggisberg: Where I live they are tested every year to make sure they have water in them and drained out so the rust is clear. Again they are not certified to do that testing.

Rep. Klemin: This whole section looks to deal with definitions. Maybe you could just expand on what these definitions apply to. What are these definitions doing?

Rep. Guggisberg: these definitions just add a section to the code. Basically we just wanted to make another check box for the Secretary of State. The problem is when we first went to the Fire Marshall with this and this isn't something he is going right now so we thought it would be better under the Secretary of State.

Rep. Klemin: Looking at Chapter 43-07; I don't have it in front of me so I don't know what it covers. What is the effect of these definitions?

Rep. Guggisberg: This has nothing to do with the actual installation of the sprinkler system. It will only certify that somebody working at the company that is going to be installing them is the responsible party. So it is similar to an electrician where somebody works for the person doing the electrical work in the building takes responsibility for it.

Rep. Klemin: All this is saying is a contractor has to employ someone who is certified to do the work.

Rep. Zaiser: Who does the inspections and how is the certification documented?

Rep. Guggisberg: It depends upon the city. In Fargo where we are they are inspected every year and then the fire inspectors for the city go around or firefighters to make sure it is done.

Rep. Zaiser: How do you know which locations have fire sprinklers and which ones don't?

Rep. Guggisberg: It is a local thing. When we approve the plan for building we know that there is a sprinkler system in it and we have that in our computer system. So we know in the city every building that has a sprinkler system. Residential we don't. There are very few residential that have sprinkler systems or than apartment buildings.

Rep. Hatelstad: do the installers inform you of places that they have installed sprinklers so you would be aware?

Rep. Guggisberg: I can only speak for one city. This isn't really what this bill deals with. They do let us know. It has to come through the fire department so we know whether it has a sprinkler system. The plans come through our fire department.

Rep. Hatelstad: does that include a home?

Rep. Guggisberg: No there is no residential.

Rep. Klemin: That National Institute for Certification in engineering technologies. Can you tell what is involved to become certified and where do they go to do that and how long it takes etc.

Rep. Guggisberg: I would feel more comfortable with the next person explaining that.

Rep. Koppelman: It talks about a nationally recognized certification. Is that defined anywhere?

Rep. Guggisberg: The question Rep. Klemin just asked about the application with the National Institute for Certification and Technology. Is that defined anywhere?

Rep. Guggisberg: Those definitions are best answered by someone else.

Rep. Koppelman: It appears a lot of the bill deals with employment status for the people involved and I am curious about that because it talks about the responsible managing employee and they have to be employed full time by the system after they are certified and they have to be an owner, partner or officer in a management position. Why is all that in there?

Rep. Guggisberg: We just want one person who is responsible that we know has been certified in this. The major reason for this bill is we don't want people figuring out how to install sprinklers systems on their own.

Rep. Koppelman: Would this certification be something a plumber could obtain?

Rep. Guggisberg: Let someone else answer that.

Rep. Koppelman: Would it be simpler to just allow certification that do work that is somewhat related. It sounds like if I am a company engaged in this I am going to have to pay a lot more money to train that person. I don't know how often people install sprinkler systems, but I think it might be hard to keep a person body working full time in that capacity.

Rep. Guggisberg: This is only going to affect one contractor who does this kind of work. Everyone else already has the certification; and they are working in the major cities and out of state and 42 states already have these requirements or stricter requirements.

Rep. Koppelman: In the beginning of the bill where it talks about if a contractor fails to comply with this section non compliance is a fraudulent act. I noticed your amendment doesn't delete that language, but it does add language that says that apparently their license can be in jeopardy. Is that license for a civil lawsuit?

Rep. Guggisberg: The fraudulent act would be not having the certificate. We also included the fire marshal as somebody who you can report it to basically. He did not want to be part of a new thing taking certificates. If you look in the contractor chapter there is civil penalties in here so that is what it would be referring to.

Rep. Koppelman: That seems to imply something like you can sue them, I am not sure.

Rep. Guggisberg: 43-07-15 of the code deals with revocation and suspension of license and civil penalties.

Rep. Zaiser: How many cities have codes that require sprinkler systems in commercial buildings?

Rep. Guggisberg: I don't know the exact number. I would say the entire state there are certain buildings that have to have sprinkler systems in them.

Daniel Phillips, from Fargo: and licensed journeymen from Minnesota: (See testimony 2, Handouts 3,). Pulled out a pile of books that he was referring to for sprinkler systems including installation, inspecting, and licensing for various buildings. Since 2005 in ND there have been 44 fires reported in buildings in which fire sprinklers were activated. Of those 44 there were 5 instances in which sprinklers were listed as ineffective. That is included in your paperwork as well. Went over all the handouts.

Rep. Koppelman: You mentioned there were 44 reports of fires with sprinklers and five with sprinklers that were listed ineffective. Do you know how many of those sprinkler systems that failed were installed by people with this certification?

Dan Phillips: It is a pretty vague form apparently. He called me after I requested this information and he wanted to clarify what the reasons were. In four of them no reason was given and one was undetermined. He was not able to give any specifics.

Rep. Koppelman: Let's say those five were installed by people regardless of their qualifications or certifications; they were installed improperly by a contractor of some sort wouldn't there be civil liability there. Couldn't they be sued?

Dan Phillips: I have an incident with an assisted living home in Rolla, ND. They have limited resources for people who inspect those buildings. In this lawsuit it was pertaining to a contractor that had installed correctly. Went into detail and it ended up being a \$30,000 claim against them and it had to be redone after the fact.

Rep. Klemin: It seems to be the intent that the only persons who can install water based fire protection systems are people who have been certified to do that by this National Institute. Is that correct?

Dan Phillips: Yes the form would require that the responsible managing employee listed here given these three certifications they want someone in that office that certified and known knowledge of a fire sprinkler system.

Rep. Klemin: It seems to be the intent that the only persons who can install water based fire protection systems are people who have been certified to do that by this National Institute. Is that correct?

Dan Phillips: No, it would give the person installing a means of answering the questions in the office from a certified person. That is why I included the out of state stuff. Minnesota has issues and I put that in here as an addition because their qualifications are 10,000 hours of experience and I said certification. It is an examine given by the state fire marshal and they required 10 hours of continuing education.

Rep. Klemin: The answer to my question is you don't have to be certified in order to install a sprinkler system. You do have to have someone who is certified to be available to answer questions?

Dan Phillips: Yes. No, only to answer questions but available for a resource. He is the one shown to be competent in the field by being certified.

Rep. Klemin: Is he the one who designed the system and supervises the work or ensures that it meets all the applicable requirements?

Dan Phillips: Yes that person is in the office and does the design work; he could do a number of things. He could be the owner or manager of the company.

Rep. Klemin: Could he be the person who does the actual installation?

Dan Phillips: If the person doing the installation is certified as a NICET in layout and design or is a fire protection engineer or has a responsible managing employee certificate from another state yes he could be. Most likely not.

Rep. Klemin: We have a definition of Water Based Fire Protection Contract. That term does not include individuals employed by or working under the direction of a contractor. So is that person someone other than the general contractor?

Dan Phillips: No they are one of the same. But to define the water based fire protection contractor it had to be a general contractor that installs these systems.

Rep. Klemin: The only requirement here the only requirement to install a fire protection system all you have to do is have someone who is employed who is certified and you file that certification with the Secretary of State. Are there any other requirements to comply with this section?

Dan Phillips: There are not. As far as the fee we have not been able to come up with what that was going to be. If your certification expires to file your current certification.

Rep. Klemin: Secretary of State charges a fee for everything. You just mentioned the fee. You said the RME must file the certification with the Secretary of State and then there is an amendment that the Secretary of State doesn't verify that certification, but rather just files it. Have you contacted the Secretary of State to find out what kind of fee they would want for this?

Dan Phillips: I have. We had issues with the Secretary of State. To obtain a license under this chapter there is a statement there that says if the register deems it appropriate or necessary the register may also require any other information to assist the register in determining the applicant's fitness to act in the capacity of a contractor. I worded this carefully as to not say that the Secretary of State is licensing somebody simply they are filing their certifications with them in order to install water based systems.

Rep. Klemin: What does the Secretary of State do with these certifications?

Dan Phillips: They would just keep it on file.

Rep. Klemin: Are they supposed to establish a data base so someone could look it up?

Dan Phillips: Those were issues that were brought up and I was unclear how to address them.

Rep. Klemin: what is the intent of the fraudulent act sentence?

Dan Phillips: The council included that. As I read it because it was an addition to the chapter that all other sections of the chapter shall apply.

Rep. Klemin: what is NICET and how does it work?

Dan Phillips: It has been around for 30 years. The program was developed at the request of the industry. Went over a copy of the application in the handout.

Rep. Klemin: Do you meet these requirements yourself?

Dan Phillips: In water base system layout and design I don't.

Rep. Klemin: Does anyone around here meet those requirements?

Dan Phillips: Yes

Rep. Klemin: do you know what you have to do to get certified besides submit an application?

Dan Phillips: Show that you have experience in that area that you are testing on.

Rep. Klemin: You have to take a test. Would you have to have certain relative education and training to be eligible to take the test?

Dan Phillips: Yes you have to be certified and have the experience. No one could just cram for it and take it and be certified. They have to show they have the work experience and the knowledge. If you don't have the experience you probably shouldn't be doing it.

Rep. Klemin: Are there any continuing ed with those certifications?

Dan Phillips: That the continuing education is part of keeping those certifications current. I am not familiar with any other certifications.

Rep. Beadle: I think Rep. Klemin's last question answered one of the questions that I had. I recognize the idea that it seems like NICET is the benchmark standard for certification. Are they the only ones that administer this type of education or certification? You mentioned you are not sure. I was just wondering for clarification.

Dan Phillips: There could possibly be but I am not sure.

Rep. Beadle: If you are not certified how do you get the experience to begin with? You have the person on top and you have people working underneath of them and get the experience that way as they are working their way up to licensing. Is that what you envision?

Dan Phillips: Yes that is how it works now.

Rep. Beadle: What the Secretary of State would do, I think the idea of having it in registered and searchable so there is a catalog of it might be beneficial. I think we should have fully licensed installers around. Would it be beneficial for those who are licensed and certified that that is easily accessible by other general contractors and the general public in case they have a need for an installer.

Dan Phillips: Yes and yes. The State Fire Marshal said if there was such a list he would update his website and list those contractors to eliminate some phone calls from his office.

Rep. Zaiser: The people who design houses and buildings and sign off on them wouldn't that is equitant to what you are talking about. How would you check to make sure the sprinkler system is working and how often you do it?

Dan Phillips: In the NFPA book in the installation upon completion of the work you are to fill out a contractors material and test certificate for above ground piping and at that time you get the authority having jurisdiction come to witness the hydrostatic test and sign off on that. In most cases the only defects they are able to find is if there is a drip on a fitting. A certificate shall be filed and copies shall be prepared and approving authorities, owners and contractors signs it.

Rep. Zaiser: This NICET if they are not familiar with this agency and consequently get certified by the Secretary of State or Fire Marshal. Could that be a difficult process for somebody coming into the state from outside the state?

Dan Phillips: It is an application just like any other certification. I would find it hard to believe someone in this business would not know what NICET was?

Rep. Hatelstad: You own your own company?

Dan Phillips: No I do not.

Rep. Hatelstad: You work for someone?

Dan Phillips: Yes I do.

Rep. Hatelstad: Does your company employ certified plumbers and electricians that all work together to complete a project?

Dan Phillips: No.

Lee Shattuck, Sprinkler fitter: (See testimony #4). Went over each of the cases.

Rep. Klemin: All my questions are directing in trying to understand the bill that is before us. How does this bill provide for monitoring by the state?

Lee Shattuck: It is a foot in the door to get some type of licensing law and what they are going for is just getting someone knowledgeable in the office to do it. Maybe two years from now we can make this better. We need something to protect rural ND.

Rep. Klemin: I don't see in this bill any monitoring by the state.

Lee Shattuck: I am licensed in Minnesota. My company has nine certified IV and they have engineers and we are a reputable company that I work for. If this would stop in a small community I can do the same thing for half the price. If they had to be licensed maybe they couldn't say that. In ND anyone can do this so there are no regulations. Hopefully contractors hire someone reputable.

Rep. Klemin: Do you have a level III or IV certification?

Lee Shattuck: Yes they do. NICET is an organization and you have to pass tests which are very difficult. There is updated training you have to do each year. You have to ask my boss how you get the certification. It is a written test. There are six guys in the office and the head guy has the highest level and everyone else is working towards that as they design sprinkler systems.

Rep. Klemin: You personally do not qualify?

Lee Shattuck: I do not qualify to own a company.

Rep. Hatelstad: Do you have to have licensing in plumbing or electrical when you put the system in. When you put the system in obviously you are going to have to hook it to a water source. Does that require a plumber and do that? What exactly do you do?

Lee Shattuck: I am a sprinkler contractor and that is all I do. It has to be a licensed plumber to bring the pipe into the building. I put the sprinkler all together including the electrical components on the system and then a licensed electrician has to come and hook things up.

Rep. Beadle: I am a licensed realtor so in order to be a licensed realtor in the state of ND I have to take an examination provided by AMP. This exam is a written exam that I have to take. They do written exams for appraisers; realtors, brokers and a variety of individuals. It looks like NICET is used similarly by some of the other states that have certifications and they basically administer the test. Is that correct?

Lee Shattuck: Yes. They just give the test.

Rep. Beadle: Looks like they also do electrical engineering and electrical power and a couple other things. It is an industry standard.

Lee Stattuck: Around the state they have different sprinkler codes.

Rep. Beadle: So the local laws and how they apply is different however the actual standards as far as the installation are all similar. I am a licensed realtor. I can't just go off on my own and do real estate myself. I have to be affiliated with a licensed broker. That way we have someone who has shown proficiency high enough to be at this higher level; needs to be involved and affiliated with the company. The people that are at a lower level that are actually doing the stuff day to day merely uses that person as a resource to go to.

Lee Stattuck: That is exactly what this bill is doing. It is putting knowledge at the accessibility of the guy in the field.

Chairman Johnson: When you do a real estate license you are licensed by the board of realtors. The Secretary of State does not give licenses because it does not say you meet certain qualification. Secretary of State's office would just hold the certificate saying you had completed it. Contractors are not licensed by passing exams and tests. They just file with the Secretary of State that they are contractors so there is a little bit of difference on how they deal with those issues.

Rep. Zaiser: That is where the fire marshal would play a role, but apparently he does not believe in this process.

Renee Pfenning, ND Bldg & Construction Trades Council: We do support the concept of the HB 1372. We see it as an issue of public safety and consumer protection. I don't have any experience in being a sprinkler fitter but we do support the idea and recognize that the bill may need some work to apply to ND law.

Rep. Koppelman: What is the ND Bldg & Trades Council?

Renee Pfenning: We represent plumbers and electricians and iron workers etc.

Opposition:

Clara Jenkins, Director of Business Systems and Programs for Al Jaeger, Secretary of State: (Testimony #5). Handed out the testimony.

Rep. Beadle: I understand there are definitely some issues with this bill. Rep. Klemin among others have pointed those out as we have been going through the hearing so far. The idea is good, but the implementation might not be the best at this point. You mentioned under 43-07 there are no other licensing requirements for some of the other contractors and plumbers etc. I am assuming there are certain qualifications a lot of them have to meet for specializations within their various fields. Are there other commissioners or other groups that do monitor the licensing and certifications of some of these other levels of contractors?

Clara Jenkins: No we do not. We issue the general contractors license and if they are doing business in a specialized area it is up to them to approach those licensing boards like the electrical board and seek out those specialized licenses.

Rep. Beadle: Is there some state level agency that does monitor those licenses?

Clara Jenkins: I believe those licensing boards are doing their own monitoring and regulations of those industries.

Rep. Zaiser: Would the fire marshal's office have anything to do with the monitoring this particular industry?

Clara Jenkins: It seems logical but whether or not they are the proper agency I would leave up to the components of the bill to seek that out.

Rep. Mock: Is the Secretary of State's office opposed to the amendments that were brought in specifically changing the Secretary of State's responsibilities from verifying the certification to simply filing the certificate?

Clara Jenkins: We certainly could file a piece of paper. If it doesn't serve a purpose one would ask why does it? I think the ultimate goal here was to establish some type of registry or directory of who these people are. These certifications are issued to individuals and many of our general contractor's licenses are issued to the corporation or the LLC so there has to be some way of coordinating or tagging an individual sprinkler system installer to the company that they work for, but then again it might be a very temporary situation. How long do you keep this associated to the contractor and at what point do we get notified or do we seek out whether that association still exists.

Rep. Mock: In the bill it doesn't allow for how long the certification would have to stay on file or record that they are certified. If there are other documents that your department has to have on file and it's specify how long it has to stay on file; how long does the Secretary of State keep those on file?

Clara Jenkins: Many of our filing does have statutory reference regarding the retention of the record. In the event the article does not have a retention status established in statute it goes through a process and is reviewed then by the Attorney General, the State Archivist, and the records management folks to determine what the possible liability could be regarding this document.

Hearing closed.

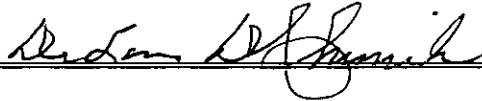
2011 HOUSE STANDING COMMITTEE MINUTES

House Political Subdivisions Committee
Prairie Room, State Capitol

HB 1372
February 11, 2011
Job # 14422

☐ Conference Committee

Committee Clerk Signature



Minutes:

Chairman Johnson: Reopened the hearing on HB 1372.

Do Not Pass Motion Made by Rep. Devlin: Seconded by Rep. Beadle

Discussion:

Chairman Johnson: I did talk to Rep. Guggisberg last night and the rest of you have also visited with him. I said I don't think we can fix this one. Maybe during the interim they could work with the fire marshal and try to put something together where it would be a workable system.

Rep. Beadle: Do we want withdraw the motion and put on the amendments?

Chairman Johnson: This is not a workable thing at all I don't think it would help.

Rep. Shirley Meyer: Is this something that should be studied? They had simply been installed in Watford City and did not work.

Rep. Beadle: I like the idea of looking at this a little farther. I don't think any of us will dispute the intent of the legislation is good. As a developer who commercial buildings frankly when we are putting in a system I would like to know that it is being done properly. This is really the responsibility of the fire marshal and that he is going to work through his department to try to be sure they get all their ducks in a row. He did not think we needed to study it legislatively.

Rep. Zaiser: I did talk to Ron and I think a study could not hurt.

Rep. Kretschmar: The study resolution can still be introduced up through the 27th of February so if a person wants to do that they still can.

Vote: 11 Yes 3 No 0 Absent Carrier: Rep. Beadle

Hearing closed.

Date: 2-11-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1372

House Political Subdivisions Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider _____

Motion Made By Rep. Devlin Seconded By Rep. Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Nancy Johnson	✓		Rep. Kilichowski	✓	
Vice Chairman Hatelstad	✓		Rep. Shirley Meyer		✓
Rep. Beadle	✓		Rep. Mock		✓
Rep. Devlin	✓		Rep. Zaiser		✓
Rep. Heilman	✓				
Rep. Klemin	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				
Rep. Maragos	✓				
Rep. Pietsch	✓				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Rep. Beadle

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1372: Political Subdivisions Committee (Rep. N. Johnson, Chairman) recommends **DO NOT PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1372 was placed on the Eleventh order on the calendar.

2011 TESTIMONY

HB 1372

1

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1372

Page 1, line 9, after the underscored period insert "The state fire marshal or deputy state fire marshal may file a complaint for the enforcement of an action on the license under this section."

Page 1, line 11, replace "certification by the national institute for certification engineering technologies" with "certificate"

Page 1, line 12, replace "verify this certification" with "file the certificate"

Page 1, line 16, replace "or" with "is a licensed fire protection engineer, is certified in"

Page 1, line 17, after "design" insert ", or has a managing employee certificate from another state"

Renumber accordingly

#2

February 10, 2011

To: Rep. Johnson, Chairman, and Members of the House Political Subdivision Committee

From: Daniel Phillips

Re: HB 1372—Fire Protection System Contractors

I am appearing today on my own behalf in favor of house bill 1372

Introducing a bill is a new experience for me and it has definitely been a great challenge to come this far. I have been a sprinkler fitter for 13 years. I am a licensed journeyman in MN and hold a NICET I certification in inspection and testing. NICET is the **National Institute for Certification in Engineering Technologies**. In a continuing education class, I was involved in a discussion about North Dakota licensing requirements for fire protection systems. Other than requiring a general contractor license, WE HAVE NONE.

Fire protection systems have been installed since 1878. They started out as simple systems with a limited number of sprinkler heads. Today they are hydraulically calculated and consist of over 900 heads for thousands of different applications. With these advances in technology and industry growth, it is imperative that contractors installing these life safety systems are competent to do so.

Since 1974, regulation or laws related to the licensing of fire protection contractors have been implemented in 42 states. In 1999, a bill was introduced in ND to provide for a fire sprinkler license. It did not pass, but the need is still present.

Article 10-07, the fire prevention rules state that the applicable standards of NFPA (National Fire Protection Association) shall be utilized for planning, installation, maintenance, and testing of all fire protection, alarm, extinguishing, and fire extinguishers in all instances. (show NFPA books to committee) But, there are examples in the state where fire sprinkler systems were not installed or maintained to these standards, and as a result may not operate as intended. Since 2005 in ND, there have been 44 fires reported in buildings in which the fire sprinkler systems

1
were activated. Of those 44 reports, there were 5 instances in which the sprinklers were listed as ineffective.


In an effort to create a bill that would ensure the competency of fire protection contractors and not create another licensing board or a new position in the state fire marshals office. A section is added to the Contractor Century Code that requires a contractor that is installing a water-based fire protection system to submit a Responsible Managing Employee (RME) Certification Form. The individual listed on this form will have proven their knowledge and skills in fire protection systems by a third-party, independent evaluator and submit a current NICET Water-Based Systems Layout certification, be a Licensed Fire Protection Engineer, or are an RME in another state.

** Refer to NICET overview*

This will also provide an accessible resource needed for installers when questions arise regarding hydraulic calculations and system plan changes. By providing this resource, the contractor is ensuring that these fire protection systems are being installed to the National Fire Protections Association Standards as required by century code 10-7.



Knowing a general contractors license is the only requirement to design and install a fire protection systems, I contacted the Secretary of State and requested the applications of general contractors who currently install Fire protection systems. I found 15. I reviewed these applications and was surprised to find out how vague one could be on the applicants experience and qualifications to act in the capacity of a contractor. One simply listed: *Fire Sprinkler Installation*.

On the contractor license renewal application, on line 10 of instructions it states, "In addition to a contractor's license, you may need to obtain other licenses or permits as required by law (for example, including but not limited to the State Electrical Board and the State Plumbing Board). The RME form would be one of these.



I was able to contact 12 of those 15 contractors to get support for this bill. None of them were opposed, they understand the need for such a law. I received letters from 5 of those contractors. I also have a statement from a retired firefighter who was involved in inspecting who was also in support of this bill.

The State Fire Marshal, Ray Lambert, informed me that his office receives a number of phone calls inquiring if ND has laws regarding licensing in fire protection system design. I believe it is time for North Dakota to answer that question...Yes, we do. The same answer that is given by 42 other states in our nation. We are asking for a requirement that is much less restrictive than other states, but, will hold contractors to a higher standard of qualification for installing fire protection systems. We owe this level of safety and protection to our children, the public, the fire fighters and business owners in this state.



#3

NICET Overview

The National Institute for Certification in Engineering Technologies (NICET) is a third-party, independent evaluator of knowledge and skills. NICET certified individuals have met criteria established by industry experts and peers. Certification is based on three categories: Knowledge is tested with an exam; a supervisor or other qualified individual verifies job performance; experience is evaluated through a thorough work history review, and in some cases a personal recommendation and a major project write-up.

NICET programs are developed at the request of industry. The process includes a needs assessment, practice analysis, validation survey, content outline, item writing, setting performance and experience requirements, scoring, statistical analysis, and updates on an ongoing basis.

Additional benefits of NICET certification include establishing a career track through certification levels, recertification requirements, a code of ethics agreement, and disciplinary action for violations. A career track provides appropriate certification requirements for varying levels of experience from entry to senior level. Recertification ensures active practice and ongoing training. The code of ethics establishes a commitment to public safety and professionalism.

Established in 1980, Water-Based (formerly Automatic Sprinkler) Systems Layout is NICET's oldest fire protection certification. NICET updated the program in 2010 and moved it to a computer-based delivery system. The new format features convenient testing locations and hours of operations (5 sometimes 7 days a week), professional test proctors, and immediate scoring.

This certification program is for engineering technicians engaged in the layout and detailing of water-based fire protection systems that must meet code and statutory requirements. Areas covered include plan and submittal preparation, applications of various types of water-based systems, equipment selection and application, and technical management of layout projects. Technical areas covered include types of water-based systems and their components; water supply requirements; hydraulics; building features, hazards, and occupancy considerations; system installation, inspection, and maintenance requirements; applicable codes and standards; and contract administration. More than 30 states have statewide or jurisdictional requirements that include NICET Water-Based (formerly Automatic Sprinkler) Systems Layout certification.

For additional information and program content visit
<http://www.nicet.org/candidates/programs/sprinklercbt.cfm>

NICET is an internationally recognized not-for-profit certification organization established in 1961, with over 25 engineering technology certification programs. NICET is a division of the National Society of Professional Engineers.

Contact: Chip Hollis
National Institute for Certification in Engineering Technologies
1420 King Street
Alexandria, VA 22314-2794
1-888-476-4238
www.nicet.org



Dan Phillips <danphillips60@gmail.com>

sprinkler activated

1 message

Hippen, Linda A. <lhippen@nd.gov>

Wed, Jan 19, 2011 at 4:31 PM

To: "danphillips60@gmail.com" <danphillips60@gmail.com>

Hi Dan,

The following are fires reported in which the sprinkler system was activated:

2005 – 5


2006 – 3

2007 – 9

2008 – 7

2009 – 9

2010 – 11


If you have any further questions, feel free to contact our office.

Linda Hippen
Administrative Assistant

NFIRS Program Manager
Office of Attorney General
Fire Marshal Division
(701) 328-5555

tyco

**Fire &
Security**

SimplexGrinnell

SimplexGrinnell LP
2821 Flechtner Dr SW
Fargo, ND 58103

Tele: 701-237-6712
Fax: 701-280-2955
www.simplexgrinnell.com

January 5, 2011

Mr. Ron Guggisberg
1621 17th Street South
Fargo, ND 58103-4027

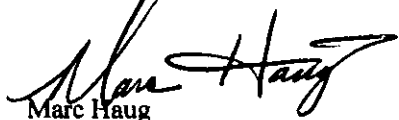
Re: Proposed State House Bill
Fire Sprinkler Contractor Licensing

Dear Mr. Guggisberg,

I am in support of a house bill that will provide guidance, oversight and licensing of Fire Sprinkler Contractors that practice their trade in the State of North Dakota. I am in favor of a bill that requires the license be held by a managing agent of the company and that he/she be NICET Certified in Water-Based Fire Protection Systems Layout of at least a Level III, Sprinkler Engineer/Mechanical Engineer or meet other requirements of the State Fire Marshal. I also favor a bill that requires contractors to be proficient and provide proof via NICET Certification and/or testing conducted by the State Fire Marshal office to prove that they are capable of design and installation of automatic fire sprinkler systems. In addition, I would be in favor of a bill that would hold each contractor, installing automatic fire sprinkler systems, accountable to the governing standards.

Please feel free to contact me at my office if you have any questions or concerns 701-639-1411.
Thank You.

Best Regards,
SimplexGrinnell LP



Marc Haug
Sprinkler System Sales Representative
Fargo, ND 385



January 31st, 2011

Mr. Ron Guggisberg
1621-17th Street South
Fargo, ND 58103-4027

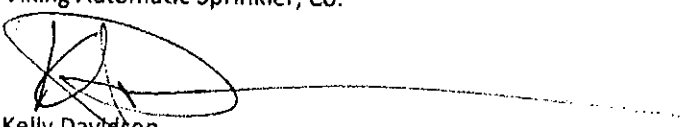
Re: Proposed State House Bill
Fire Sprinkler Contractor Licensing

Dear Mr. Guggisberg,

I am in support of a house bill that will provide guidance, oversight, and licensing of Fire Sprinkler Contractors that practice their trade in the state of North Dakota. I am in favor of a bill that requires the license be held by a managing agent of the company and that he/she be NICET Certified in Water-Based Fire Protection Systems Layout of at least a Level III, Sprinkler Engineer/Mechanical Engineer or meet other requirements of the State Fire Marshal. I also favor a bill that requires contractors to be proficient and provide proof via NICET Certification and/or testing conducted by the State Fire Marshal office to prove that they are capable of design and installation of automatic fire sprinkler systems. In addition, I would be in favor of a bill that would hold each contractor, installing automatic fire sprinkler systems, accountable to the governing boards.

Please feel free to contact me at my office if you have any questions or concerns: 218-733-0962.
Thank you.

Best Regards,
Viking Automatic Sprinkler, Co.



Kelly Davidson
Area Manager

VIKING SETS THE STANDARD...
FIRE PROTECTION SYSTEMS - SINCE 1924
4425 VENTURE AVENUE • DULUTH, MN 55811 • (218) 733-0962 • (800) 486-2150 • FAX: (218) 733-0249



Dan Phillips <danphillips60@gmail.com>

North Dakota

2 messages

Steve Cieslukowski <steve@brothersfire.com>

Wed, Jan 12, 2011 at 10:16 AM

To: "danphillips60@gmail.com" <danphillips60@gmail.com>

Dan:

This is Stephen Cieslukowski President of Brothers Fire Protection and Damian's Partner. I received your email and Brothers Fire Protection does support legislation that would require a fire contractor to have Nicet level III employee in layout and design. Keep me posted on the deveopments.

Steve

Dan Phillips <danphillips60@gmail.com>

Wed, Jan 12, 2011 at 10:36 AM

To: ron.guggisberg@gmail.com

[Quoted text hidden]

NOVA FIRE PROTECTION, INC.

304 41st Street SW * Fargo, ND 58103 * Ph. (701)282-0268 * Fax (701)282-0702

January 10, 2011

Mr. Ron Guggisberg
1621 17th Street S
Fargo, ND 58103-4027

Re: **Licensing Law**

Dear Mr. Guggisberg,

We support the proposed house bill that would require a license be held by a managing agent of any company installing fire sprinkler systems in the state of North Dakota.

If you have any questions please don't hesitate to contact our office.

Sincerely,



Mike Evans
President

October 25, 2010

Dan Phillips
1317 2nd Street North
Fargo, ND 58102

Regarding; Sprinkler Contractor Licensing

Dear Dan,

It was a pleasure visiting with you the other day, and thank you for thinking of me when considering sprinkler contractor licensing.

While serving 31 years as a Fargo Firefighter, 14 of those as an inspector, I worked with every sprinkler contractor in the area. Most of the contractors I worked with were honest, however some were not! I found it surprising I had more knowledge of water based fire protection systems (sprinkler systems) than these dishonest contractors. I was quite proud of the fact that I was not to be called for acceptance testing of sprinkler systems by these contractors—other city fire inspectors were called.

During my 14 years as a fire inspector I continually strived to train myself in the installation, testing and maintenance of fire protection systems so I was better able to serve our city's citizens. Contractor licensing is a logical step to help ensure a minimum education requirement for contractors.

Sprinkler contractor licensing would not only ensure contractor education, but would also ensure fire inspector education and training to ensure the building sprinkler system meets the minimum requirements of our fire code. It is just that simple. There is much more to acceptance testing than checking the sprinkler system for leaks.

When we sign the National Fire Protection Association (NFPA) 13 Contractors Material and Test Certificate, we are ensuring for the building owner that the building sprinkler system has met a minimum code standard. Some inspectors simply sign they have witnessed the hydrostatic test and checked the sprinkler

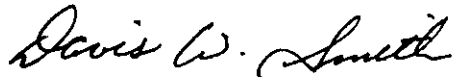
system for leaks. It is my guess they have never read this test certificate and do not understand its implications.

A sprinkler plan review fee of one to one and one-half percent would fund the local municipalities training of its fire inspectors and even fire suppression personnel in the installation and maintenance of water based fire protection systems. I speak from personal experience when I say little if any money is budgeted for this type of training.

We both have witnessed many, many poor fire sprinkler installations. With some luck and some positive legislation, hopefully you can prevent the next one. I truly believe training, education and tougher enforcement are the key.

If you have any questions do not hesitate to contact me. Good luck to you!

Sincerely,

A handwritten signature in cursive script that reads "Davis W. Smith".

Davis W. Smith, Retired
Fire Inspector
Fargo Fire Department



Dan Phillips <danphillips60@gmail.com>

Re: House Bill #1372

1 message

Ron Guggisberg <ron.guggisberg@gmail.com>

Mon, Jan 24, 2011 at 9:17 AM

To: Dan Phillips <danphillips60@gmail.com>

----- Forwarded message -----

From: "Mary Henninger" <alliedfirepro@yahoo.com>

Date: Jan 24, 2011 8:22 AM

Subject: House Bill #1372

To: <ron.guggisberg@gmail.com>, "Dave Sornsin" <dsornsin@nardinifire.com>

Rep. Guggisberg:

I cannot support this bill (#1372) unless it contains some verbiage pertaining to a grandfather's clause or honoring another states managing employee license such as Minnesota, which I possess. I have been in the fire protection business since 1975, initially as a licensed fitter and the last 16 years as an owner. I do not have a NICET III certification, but have an in-house designer with 35 years of experience, and hire out our engineering to such firms as Ulteig Engineering in Fargo, ND. We pride ourselves with quality work.

Gale W. Bergee

President

Allied Fire Protection, Inc.

3231 4th Ave S

Fargo, ND 58103

701-232-7008-W

701-371-6298-C

701-526-0705-F



**CONTRACTOR LICENSE
RENEWAL APPLICATION**
SECRETARY OF STATE
SFN 12011 (12-07)

DUE: MARCH 3, 2008

FOR OFFICE USE ONLY

ID #

WO #

License #	Class of License	Business Telephone #	Business Federal ID #	Business Type
Certificate of Liability Insurance expires on: If expiration date is prior to date of this renewal, please provide a current certificate			Renewal Fee \$	ND Sales and Use Tax Permit #
Applicant's name as currently licensed with this office.				
E-mail Address		Web Address		ND Workforce Safety & Insurance Account #

1. Do you have a North Dakota Sales and Use Tax permit? ☐ Yes ☐ No If yes, record the account number in the above box. For information regarding sales and use tax permits, contact the North Dakota Tax Department at 701-328-3470.
2. Did you have any employees during this reporting period? ☐ Yes ☐ No If yes, record the Workforce Safety & Insurance account number in the above box. For information regarding Workforce Safety & Insurance, contact 701-328-3800.
3. Is the information listed above, including address, still correct? ☐ Yes ☐ No If no, please make corrections.
4. Name of contact person for this report _____ Daytime Telephone # (____) _____

5. **MUST BE ANSWERED** Have you completed any work during the preceeding calendar year, in **NORTH DAKOTA**, where the project, contract, or subcontract amount has exceeded \$25,000 per job?
☐ Yes - If yes, continue with instructions ☐ No - If no, proceed to question #6

INSTRUCTIONS

1. List the names and addresses of any companies or individuals for whom you completed a project, contract, or subcontract during the preceeding calendar year in **North Dakota in excess of \$25,000.00**. (Reference North Dakota Century Code, Section 43-07-10.)
Identify the type of work completed.
Specify the dollar value of the work.
If a performance bond was required, list the name and address of the issuing company. If no performance bond was required, write "None".

1. NAME	CITY, STATE	2. TYPE OF WORK COMPLETED	3. VALUE OF WORK COMPLETED	4. PERFORMANCE BOND	
				NAME	CITY, STATE
(Example) John Doe Co.	Bismarck, ND	Concrete Work	\$25,000	None	

ALL OF THE FOLLOWING QUESTIONS MUST BE ANSWERED.

6. If your answer is "YES" to any of the following questions, give the details on a separate sheet and attach to this application.

a. Has any license been denied, suspended or revoked

For you?

☐ Yes ☐ No

For any officer?

☐ Yes ☐ No

For any partner?

☐ Yes ☐ No

For any entity with which you, officers or partners have any interest in or are associated with?

☐ Yes ☐ No

Have you or a corporation, limited liability company, or partnership of which you are or were an officer or partners, been charged with a civil lawsuit in which fraud or misrepresentation was charged or alleged?

☐ Yes ☐ No

(CONTINUED ON BACK)

c. Have you or a corporation, limited liability company, or partnership of which you are or were an officer or partner, been involved in or initiated bankruptcy or insolvency proceedings during the past five years?

☐ Yes ☐ No

d. Are there any judgments, arbitration awards, mechanics liens or federal or state tax liens against you, or a corporation, limited liability company, or partnership of which you are an officer or partner, in North Dakota or elsewhere?

☐ Yes ☐ No

e. Has the applicant, or officers or partners of the applicant been charged with or convicted of a felony or misdemeanor within the last five years?

☐ Yes ☐ No

If Yes, indicate the date, name of the individual charged or convicted, city, state, disposition, and whether a felony or misdemeanor. (This includes ALL crimes, including nonsufficient funds checks, no account checks, and DUIs.)

7. North Dakota Century Code, Section 43-07-19 states every applicant who is not a resident of the state of North Dakota, by signing and filing the application appoints the Secretary of State as the applicant's true & lawful agent upon whom may be served all lawful process in any action or proceeding against such non-resident contractor.

The undersigned, who is 18 years of age or older, hereby certifies that all payroll taxes (including North Dakota income tax and premiums for workforce safety & insurance and unemployment insurance) due and payable on the day of this application have been submitted and that all of the information provided on the renewal application is true and complete.

Signature of Owner*, Partner, or Authorized Officer

Date

FEES:

*If a sole proprietorship business structure, a spouse is not authorized to sign on behalf of the owner.

NEW LICENSE FEES	CONTRACTOR LICENSE	RENEWAL FEES	PENALTY FEES	TOTAL PAYABLE AFTER MARCH 3 AND ON OR BEFORE JUNE 2
Fee \$300.00	Class A for contracts over \$250,000	Fee \$60.00	Additional \$45.00	Total \$105.00
Fee \$200.00	Class B for contracts up to \$250,000	Fee \$40.00	Additional \$30.00	Total \$70.00
Fee \$150.00	Class C for contracts up to \$120,000	Fee \$30.00	Additional \$22.50	Total \$52.50
Fee \$50.00	Class D for contracts up to \$50,000	Fee \$10.00	Additional \$7.50	Total \$17.50

INSTRUCTIONS:

- The provisions for contractor licensing are found in Chapter 43-07 of the North Dakota Century Code.
- The renewal deadline for a contractor's license is March 3, 2008. If not renewed by that date, the current contractor's license automatically expires and completing any work over \$2,000 per job would be in violation of 43-07.
- If the license renewal application is filed after the deadline, state law requires the payment of a penalty fee. This penalty fee must be submitted along with the renewal application and renewal fee at the time the late application is filed. The penalty fees are listed above.
- Contractor license renewal applications will not be accepted after June 2, 2008. After that date, a previously licensed contractor must submit an application for a new license and pay the appropriate new contractor license fees.
- If the pre-printed information on this renewal application is incorrect, please cross out the incorrect information and provide the correct information and initial the change.
- By law, a contractor's license cannot be renewed unless a copy of the contractor's current certificate of liability insurance is on file with the Secretary of State's office. A new certificate is not needed if the pre-printed expiration date at the top of the front page is later than the filing date of this renewal application.
- Questions #5 and #6 must be answered with either a yes or no. If yes, provide the requested information. Use more sheets, if necessary.
- The renewal application must be signed by the owner, partner, or authorized officer. If the renewal application contains false information, the contractor's license is subject to revocation under the provisions of state law.
- Checks for renewal and penalty fees must be made payable to the Secretary of State. The Secretary of State accepts VISA, Master Card, and Discover charge cards. If you wish to pay by credit card, complete the enclosed charge card authorization.
- In addition to a contractor's license, you may need to obtain other licenses or permits as required by law (for example, including but not limited to the State Electrical Board and the State Plumbing Board).

FAX FILING: A document and Credit Card Payment Authorization may be faxed to 701-328-1690. A faxed filing does not expedite the process of the document in the office of the Secretary of State.

MAILING INSTRUCTIONS: Send the completed renewal application to:

Secretary of State
State of North Dakota
600 E Boulevard Ave Dept 108
Bismarck ND 58505-0500

Telephone: 701-328-3665 Toll Free: 800-352-0867 (ext. 8-3665) Fax: 701-328-1690 Web Page: www.nd.gov/sos/



APPLICATION FOR WATER-BASED FIRE PROTECTION CONTRACTOR'S CERTIFICATE

Name of Company:		
Address:		
City:	State:	Zip Code:
Email:	Phone: ()	
RESPONSIBLE MANAGING EMPLOYEE		
Name:		
Address:		
City:	State:	Zip Code:
Email:	Phone: ()	
Name of Engineering Certification Agency:		
Level of Certification:		
Engineering Certification #:	Expires:	
I certify that I am a full-time employee of:		
Signed:	Date:	
Liability Insurance Company:		
This application must include a \$100.00 (one –hundred dollars) fee check or money order, proof of insurance coverage and a copy of engineering certification. This certificate expires on September 30th of each year.		
New Certificate:	Test Date:	Test Location:
Renewal of Certificate:	Certificate #:	

MAIN OFFICE
246 SOUTH 14TH STREET
LINCOLN, NE 68508-1804
(402) 471-2027

ATTACHMENT A

4/17

Hello, my name is Lee Shattuck. I have been a sprinkler fitter for fire protection for over 25 years. I have installed sprinkler systems in schools, hospitals, commercial buildings, apartments, malls and industrial facilities. I also have done a lot of service work on these buildings and have found numerous installations that do not meet NFPA standards by which sprinklers systems are to be installed by.

Case 1

Assisted Living in Watford City there was a dry system where the main was not graded properly and after only a few short years the pipe was rusting out and needed to be replaced. This is a big cost to the owner

Case 2

Turtle Lake Hospital: During a remodeling project the plumber stated he could also do the sprinkler work and installed the wrong type of sprinkler heads for the job. The owner called me to come and check it out and told me to make it right. This also cost the customer extra money.

Case 3

North West North Dakota: A new hospital was sprinkled by a plumbing contractor. At the end of the project the state inspector brought up a list of deficiencies and the owner ended up hiring a licensed contractor to come in and bring it up to code.

Case 4

North Central North Dakota: An Assisted Living called for me to come repair frozen pipes in the attic and do an inspection on their new facility. It was not up to code and they were given a list of deficiencies.

In North Dakota the larger towns like, Fargo, Bismarck, Minot & etc, have good trained personnel to review and field check the installation of the sprinkler system but in rural ND there is not much protection for the customer. Rural ND deserves competent sprinkler companies and installers that are monitored by the state. A licensing law similar to Minnesota and Montana would help protect the intention of a sprinkler system.

If sprinkler systems are truly a life safety issue, they need to be installed properly by a trained person that is knowledgeable in the NFPA codes.

Thank you for your time in considering this issue.

Lee Shattuck

Lee Shattuck

ALVIN A. JAEGER
SECRETARY OF STATE

AGE www.nd.gov/sos



SECRETARY OF STATE
STATE OF NORTH DAKOTA
600 EAST BOULEVARD AVENUE DEPT 108
BISMARCK ND 58505-0500

#5
PHONE (701) 328-2900

FAX (701) 328-2992

E-MAIL sos@nd.gov

February 10, 2011

TO: Rep Johnson, Chairman, and Members of the House Political Subdivision Committee

FR: Al Jaeger, Secretary of State (presented by Clara Jenkins)

RE: HB 1372 – Fire Protection System Contractors

The Secretary of State's office was not contacted by the proponents of this bill until this past Tuesday regarding the provisions in Section 1, subsection 1. They were informed at that time that the agency was opposed to this subsection, as it was introduced, for the following reasons.

This subsection places a filing requirement on a water-based fire protection contractor with the Secretary of State's office and inserts it into the chapter that governs the licensing of all contractors. In addition, it places duties on the Secretary of State that are not clearly explained and which are not a normal function of the agency when filing documents or issuing licenses.

First, no other type of contractor, specialized or not, or one falling under additional licensing requirements (such as plumbers, electricians, asbestos removal, etc.) are separately identified in Chapter 43-07 of the North Dakota Century Code. The subsection in this bill would insert a specific type of contractor into a "general" chapter governing the licensing of all contractors regardless of the specialized type of work they perform. No other contractor granted a license under Chapter 43-07 is cross referenced in the Secretary of State's database to the varied "other" licensing requirements that may exist under the regulation of other agencies or boards.

Second, the bill does not identify a filing fee, how long the certification must remain on file, or if it must be renewed on a periodic or annual basis. It does not define the validity of the certification if the "responsible managing employee" is no longer employed with the contractor. In addition, it doesn't indicate if the Secretary of State must keep a record or somehow identify in the agency's database or verify the "responsible managing employee" who "shall" file the required certification.

Third, it places a "shall" duty on the Secretary of State to "verify the certification." It is not known what the bill's sponsor intended because this isn't a function currently carried out by the Secretary of State's office. When a document is filed with the Secretary of State, the agency does not contact the certifying entity to verify that the certification is valid. The document is accepted from the filer at face value. The agency is not authorized to make independent "certification" determinations as to the validity of the certification or of the organization that issued it. In other words, under current regulation and filing functions, the Secretary of State would not contact the National Institute for Certification Engineering Technologies to verify that the certification filed with the agency was indeed a valid one issued by that organization.

Fourth, this subsection states that if a contractor is noncompliant with this section, the contractor is guilty of a fraudulent act. It does not identify a criminal level (felony, misdemeanor, etc.) for the fraudulent act. Since the Secretary of State has no authority to investigate and prosecute, no provisions are provided as to who and how a referral of noncompliance is made to the appropriate legal authorities who have such power.