

North Dakota State Electrical Board Minutes
Wednesday March 23, 2022

The North Dakota State Electrical Board meeting was called to order at 8:30 a.m. by President Rodney Mayer at the Ramada by Wyndham hotel, 1400 E. Interchange Ave., Bismarck, North Dakota. Members Present: Rodney Mayer, Paul Durbin, Christina Roemmich, and Tom Paulson. Members absent: Mark Christopher. Also present: James Schmidt, Executive Director; Jon Saylor, Board Information and Inspection Compliance Administrator; Scott Halle, Training & Compliance Administrator; Scott Porsborg, Special Assistant Attorney General; Austin Lafferty, Special Assistant Attorney General; Curt Casper, NECA; Clay Nagel, IBEW ; William Dutton, Dept. of Labor; Jason Ehlert, North Dakota Building Trades Unions.

James Schmidt added three items to the agenda: “Pre-Sort,” “US Power Guard,” and “Chuck’s Electric”

Tom Paulson moved, and Christina Roemmich seconded, a motion to approve the consent agenda as read, and approve the added agenda items. The motion carried.

Mr. Schmidt informed the Board that Doug Grinde, Director of Inspections, was out training new district 6 inspector and would not be able to give a report on districts today so the item will be struck from the agenda. Mr. Schmidt did provide a new district map for the Board’s review.

Scott Halle presented to the board as to the latest in training and compliance. The Board sponsored 16 CEU classes in 2021, with 1103 attendees. This is down from the past two years, but Covid is the likely cause. He is currently scheduling 2022-23 classes. Scott traveled to West Fargo to work on a project house with West Fargo High Schools and a local contractor, attended the ND Chapter IEI meeting, the FFA Convention Trade Fair, met with the JATC apprentices, and traveled to several Marketplace for Kids alongside Jon Saylor. Halle and Josh Wilson attended a meeting with contractors put together by Cass County Rural Electric. Scott and James also attended ND State College of Science Advisor’s Meeting/job fair and visited with the students.

Jon Saylor spoke to the board about the latest actions taken as information and inspection compliance officer. He attended Marketplace for Kids and JATC Apprentice classes alongside Scott Halle. He also completed his ICC training in Minneapolis, and achieved his MCP Certification from ICC on January 31. He has been assisting James on the North Dakota Building Code Committee work, helping to proctor exams, and has been logging and tracking statistical data regarding the types of corrections needed in North Dakota.

Mr. Schmidt informed the Board that NDSCS had sent a thank you letter for the Board’s recent second semester scholarships for apprentice education (\$18,500).

Mr. Schmidt informed the Board that he had been working with Counsel to come up with an agreement between the NDSEB offices and Brady Martz, to allow Brady Martz to begin doing payroll for the Board. If successful, Brady Martz is able to do more of the board’s finances (i.e., payment of bills etc.) This will help with the items the Board is consistently being “dinged” on during audits. There will be no lag in payroll checks being issued.

Mr. Schmidt told the Board that he was informed that Pre-Sort mail costs will be increasing 5% due to ongoing labor struggles.

Mr. Schmidt informed the Board that he had been contacted by U.S. Power Guard about putting generators into large facilities for power shedding. Mr. Schmidt worked with the company to establish standards – the generators would be connected in the utility metering CT enclosure, ensuring the owner does not have a key for the genset and it remains utility controlled, etc. This matter has been resolved, but Mr. Schmidt wanted to inform the Board.

Mr. Schmidt informed the Board that Chuck's Electric has sent a letter to the Board regarding an apprentice, who does not have the required education but has 12,000 hours of work experience. Mr. Schmidt has spoken to the contractor and the apprentice, which the matter has been resolved.

Jacob Granger appeared before the Board, requesting the opportunity to review his written exam in person, something that has not been allowed in the past. Mr. Schmidt spoke with other NERA states (the Board is working towards a NERA Exam Bank of questions) and found the all responding NERA members do not allow this nor do they want the NERA question bank exposed. Mr. Granger was given the opportunity to explain his situation and the reasoning behind his request to the Board. Mr. Mayer questioned Mr. Granger regarding basic electrical principles, and Mr. Granger's education. Following discussion, the Board declined Mr. Granger's request.

William Dutton with the U.S. Dept. of Labor appeared before the Board. Ms. Roemmich had asked this be put on the agenda, due to Mr. Dutton reaching out about communications he had received from a few electrical contractors within the State of North Dakota. Mr. Schmidt explained the history of the Board's relationship with the Dept. of Labor, and explained what had prompted the communications – an apprentice has informed the Board he was utilizing NDSCS for education, but turned in a DOL certificate confirming he had met the education requirements necessary to sit for his journeyman's exam. The Board asked Mr. Schmidt questions to clarify the history of the issue, and the current status of this particular apprentice's situation had been rectified, before allowing Mr. Dutton to speak.

Mr. Dutton spoke to the board and explained this was a misunderstanding, he works for the US Dept. of Labor, and was there to protect the welfare of apprentices and sponsors in North Dakota. He explained his history, and his responsibilities. He also informed the board that he primarily follows Title 29 CFR, parts 29 and 30. Following questions from the Board, Mr. Dutton explained that the problem is that the Board is talking about regulating and deregulating programs, and that is something the DOL and not the Board is in charge of. The Board asked further questions of both Mr. Dutton and Mr. Schmidt in an attempt to understand what the issue before the Board was.

At 10:13 a.m., the Board took a brief recess.

The Board reconvened at 10:35 a.m.

The Board continued to discuss the issue brought forth regarding Mr. Dutton and the Dept. of Labor. Mr. Durban asked additional questions of Mr. Schmidt regarding the Board's role,

including asking how the Board can cancel or deregulate a program that was never approved by the Education Committee. Mr. Schmidt confirmed the Board wouldn't have to in that scenario, and that the future goals of the Education Committee was to monitor board approved programs, audit classes and periodically review curriculum approved by the board education committee.

Special Assistant Attorney General then asked Mr. Dutton some questions, confirming the Board had not denied a DOL certificate, that Mr. Dutton did not take issue with the Board auditing and policing curriculums, that the Board could investigate programs if needed, and the Board could approve programs that were not certified by the DOL. Mr. Dutton also confirmed that the Board could deregister a program that the Board had approved but the DOL had not. Mr. Porsborg then asked Mr. Dutton if the problem would arise if there is a DOL program the Board deemed deficient, and after referring and discussing with Mr. Dutton, the Board decided to deregister that program. After Mr. Dutton confirmed, Mr. Porsborg questioned where the problem was, as that had not happened thus far, and the Board's requirements mirrored the DOL's.

Mr. Porsborg then clarified that there is statutory language that imposes a duty on the Board as to what it takes to be an apprentice electrician, and implicit in that duty is that the Board confirms they are being adequately trained. Mr. Porsborg stated he did not believe the federal Department of Labor would say you cannot police these things, or make higher standards than the Fed. DOL, which Mr. Dutton agreed with.

Following additional discussion, the Board confirmed this was a complex issue, but was not an issue that needed to be decided now. It was decided that when the Education Committee begins auditing courses, that Mr. Schmidt will contact Mr. Dutton when it is a DOL program, and keep him informed of any deficiencies or issues. But no further action will be taken until the need arises.

Mr. Schmidt informed the Board that Ron Koch is retiring and has sent a letter to the Board.

Mr. Schmidt told the Board that the COBRA letter had been sent to all employees, and the only response he had received was from Rich Wolf (which was expected). Mr. Wolf provided email confirmation that his last day will be June 3, 2022, with the formal paperwork to follow.

Mr. Schmidt informed the Board that three new inspectors had been hired. Andrew Schwab will be the new inspector for District 6, and started two and a half weeks ago. He has been training with Doug for the past two weeks, and will be starting on his own next week. Brent Kubischta will be the new inspector for District 4 and starts March 28, 2022. Jordan Kannianen will be the new inspector for District 7 and starts May 2nd. Mr. Kannianen is a state senator and will need time off in 2023 for his final legislative session before he retires that position.

The Board discussed the DOL issue further, and Ms. Roemmich stated it appeared the primary issue was Mr. Dutton's concern with the language of the Board "registering" and "deregistering" programs, and advised the Board staff keep an updated list of DOL registered programs so the Board can work with Mr. Dutton up front.

Mr. Schmidt presented the Board with a draft Memorandum of Agreement between the Board and the MHA Nation. Attorney Porsborg explained how the Board arrived at this draft and had

incorporated the tribe's proposals, as well as ND Risk Management's concerns. Attorney Porsborg then answered the Board's questions regarding the potential risks of entering into this agreement. Mr. Schmidt explained the tribe was still reviewing the proposed agreement at this time.

Mr. Schmidt updated the Board as to the office remodel. Seven Tables for the large conference room have been ordered and should arrive at the beginning of April. The current tables woodwork will be touched up as well. The other rooms are put together with minor touch-ups still taking place. One issue is that the large conference room ceiling is six inches lower than requested, due to a contractor mishap.

The Board discussed the potential for legislation regarding possible bond requirements. The Board has previously pushed for this type of legislation and failed. When asked how the Board could improve their chances, Attorney Porsborg stated it would come down to whether the contractors would support the legislation. Curt Casper with NECA stated that it would depend on the language, but it is like the contractors would oppose the legislation as it punishes the "good contractors." After discussion, the Board decided that while it still approves of the idea, it would not move forward in pushing for this type of legislation during the next legislative session.

The Board adjourned for a brief recess at 11:28 a.m.

The Board reconvened at 11:34 a.m.

The Board moved to agenda item 7(j) Tuition reimbursement.

Tom Paulson moved the Board enter executive session for the purpose of attorney consultation. Ms. Roemmich seconded. A roll call vote was held. Mr. Durbin – Aye, Ms. Roemmich – Aye, Mr. Paulson – Aye, Mr. Mayer – Aye.

The Board entered executive session at 11:36 a.m.

The Board exited Executive Session at 11:53 a.m.

Mr. Durbin moved to have the Board's attorney proceed as discussed in Executive Session. Mr. Paulson seconded. The motion passed unanimously.

Mr. Schmidt presented four (4) potential 22-23 budgets, based on the Board's requests at the last meeting. Mr. Schmidt informed the Board he preferred the option that adds an inspector and raises the employee's base salary plus the 6% maximum potential approved at the Board's January Meeting. The base salary range raise will allow the Board to be competitive with recruiting and retaining all employees and inspector employees.

The Board discussed the potential benefits of a budget with 13 rather than 14 inspection districts, and Mr. Paulson presented figures of average electrician wages in North Dakota. Upon request, Mr. Schmidt estimated the average expenditures and costs per employee. Mr. Schmidt explained the \$2.15 base wage employee increase would start new inspectors at a wage of \$42 an hour, with

the potential for merit-based wages. The proposed favored budget would allow for the base wage increase plus a maximum of 6%, based on the employees' annual evaluation.

Mr. Durbin asked Mr. Schmidt about the current range of inspector salaries. Following further discussion from the Board regarding the length of time it takes to hire and train an inspector, it was decided the Board first needed to decide if a new inspector would be hired to replace outgoing inspector Rich Wolf. Mr. Paulson moved the Board move forward with hiring a replacement for the retiring district 8 inspector. Ms. Roemmich seconded. The motion passed unanimously.

Mr. Schmidt requested the Board consider implement the base wage increase for the inspector's base range raise immediately, rather than waiting until the start of the new fiscal year in July. Mr. Durban calculated this would add approximately \$10,000 to the current years budget.

Ms. Roemmich moved the Board increase inspectors base pay by \$2.15 effective the next payroll period in support of being able to hire/retain people, due to worries of low pay. Mr. Durban seconded. Motion passed unanimously.

Ms. Roemmich questioned if the budget proposals submitted by Mr. Schmidt included Brady Martz's costs for doing payroll and potentially other financial duties. Mr. Schmidt confirmed it did not, but that would be a small addition to the budget.

Mr. Mayer asked how the office was handling the adjustment from three front office staff to two. Mr. Schmidt stated the office was adjusting very well to the change with no issues.

Mr. Schmidt advised the Board of a few legislators retiring prior to the upcoming legislative session and administrative rules committee hearings.

Mr. Paulson moved to approve the budget as presented for 14 inspectors which would still include the all-employee base increase and the 6% maximum potential wage increase based on the employee evaluations, Ms. Roemmich seconded. Motion passed unanimously.

The next Board meeting will take place May 25th, 2022.

Mr. Durban moved to adjourn. Ms. Roemmich seconded. Motion passed unanimously. Meeting adjourned at 12:47 p.m.

Date _____

Date _____

Rodney Mayer, PRESIDENT

Christina Roemmich, SECRETARY