

March 7, 2019

Final Report – South Dakota Plumbing-Heating-Cooling Contractors

Bill Watch

House Bills

HB 1020
HB 1021
HB 1079

Senate Bills

SB 35
SB 120

Bills that are Struck Through have been killed in some manner, and are not included in this report.

** Signed by Governor*

Introduction

- There are one and one-half weeks left of Session.
- Final day for a bill to pass the second house is Thursday, March 7.

The following bills are of interest. Several bills were introduced with only a general title. We monitored those bills but most are resolved.

HOUSE BILLS

HB 1020 An Act to revise certain provisions regarding state building committees for capital improvement projects.

Sponsors: The Committee on Commerce and Energy at the request of the Bureau of Administration

Summary: This bill would amend the amount of money required to five million dollars or more in a capital improvement project in order for a state building committee to be involved.

***Status:** Signed by the Governor on February 14, 2019

HB 1021 An Act to revise certain provisions regarding bid bonds for public improvement contracts.

Sponsors: The Committee on Commerce and Energy at the request of the Bureau of Administration

Summary: This bill would require that bid bonds of all unsuccessful bidders be immediately destroyed. This bill also makes a change to state that no more than forty-five days may elapse between opening bids and accepting or rejection of bids.

***Status:** Signed by the Governor on March 1, 2019

HB 1079 An Act to allow a person to perform plumbing work on the person's own property without a license and establish a fee.

Sponsors: Representatives Otten (Herman), Barthel, Greenfield (Lana), Latterell, Marty, Mills, Pischke, Weis and Zikmund and Senators Otten (Ernie), Heinert, Nelson, Schoenbeck and Steinhauer

Summary: The bill says that a license is not required if an individual is doing plumbing on premises that are in the process of being constructed, if the person "owns the premises" and "intends to actually occupy the premises as the person's residence when construction is complete".

Despite our considerable efforts in both the House and Senate, HB 1079 passed both chambers with ease. We presented many concerns and arguments on behalf of the Association such as public health and safety – specifically how constructing plumbing from the ground up is much more important than

making repairs in a home. In addition, we attempted to emphasize that plumbing inspectors cannot catch everything the homebuilder may do with his or her plumbing. We also stressed that the State of South Dakota is looking over the individual's shoulder by having to send out plumbing inspectors so much. Finally, we addressed the ambiguous language in the bill, particularly what it means to have "intent" to reside in the home. Despite all this, there was very little interest to oppose the bill in either chamber.

There were many obstacles that we faced as we attempted to argue against the bill. First, the Plumbing Commission and Department of Labor lobbied in favor of the bill due to the amendment that increased fees if extra inspections were needed. Also, the proponents argued that the Plumbing Commission has been regularly allowing this activity for years and only now that a new administrator has been hired, have they changed their interpretation of the law. Finally, most legislators argued that freedom was their number one priority and that any plumbing deficiencies that might exist would be discovered by an inspector. Unfortunately, those association members who did reach out to contact legislators in opposition to the bill had little success.

We attempted to seek an amendment to HB 1079 that would partially address the Association's concerns. By the time the bill reached the Senate, it was clear that the bill was going to pass with ease. Due to this unfortunate reality, we worked with Kristie and received approval and direction to draft an amendment to the bill that would require any seller of a home to disclose if the plumbing had been constructed by himself/herself or a previous homeowner. Unfortunately, despite our efforts we were unable to find a senator in either Senate Local Government or on the Senate floor interested in introducing that amendment.

Finally, Representative Herman Otten, the bill's prime sponsor, approached us about future amendments to the law. He told us that if the Association still wanted an amendment that required disclosure, he would consider working with the Association in the future in such a law change.

***Status:** The bill passed out of the House floor 69-1 on February 6, 2019, after the prime sponsor, Representative Otten, amended the language to clarify that it only applied to "single family dwellings." The bill was then assigned to Senate Local Government where it passed 6-1 on February 13, 2019. The bill passed the Senate (33-1) on February 19, 2019 and was signed by the Governor on March 1, 2019.

SENATE BILLS

SB 35 An Act to revise and repeal provisions regarding revocation of occupational licenses.

Sponsors: The Committee on State Affairs at the request of the Department of Labor and Regulation

Summary: This bill would provide flexibility to the State Electric Commission to make restrictions on where criminally convicted licensees would be allowed to work.

***Status:** The Governor signed this bill into law on February 5, 2019.

SB 120 An act to modify the time period allowable for certain covenants not to compete.

Sponsor: Senators Greenfield (Brock), Langer, Maher and Nesiba, Representatives Peterson (Sue), Brunner, Greenfield (Lana), Johnson (David) and Rasmussen

Summary: This bill changes the term of certain covenants not to compete from two years to one year.

Status: Amended and passed in Senate Commerce and Energy (4-3) on February 12, 2019; Failed to pass Senate, (16-18), on February 21, 2019.

We have appreciated the opportunity to again assist you before the 2019 legislature. If you have any questions regarding this report or other matters which have arisen, please do not hesitate to contact us.