



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

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Joint Committee on Finance

Paper #246

Regulation of Thermal System Insulation Installation (Commerce)

[LFB 2011-13 Budget Summary: Page 130, #11 (part, see page 134)]

CURRENT LAW

Under 2009 Act 16, the Department of Commerce was required to regulate the business of installing and maintaining thermal system insulation installation under s. 101.136 of the statutes. Thermal system insulation is any product used in a heating, ventilating, cooling, plumbing, or refrigeration system to insulate any hot or cold surface, including a pipe, duct, valve, boiler, flue, or tank, or equipment on or in a building. Buildings include commercial, industrial, or residential buildings with four or more dwellings. The program was created to require: (a) Commerce to promulgate administrative rules establishing standards for the installation and maintenance of thermal system insulation in buildings; (b) thermal system insulation in buildings to conform to the standards as of February 1, 2011; (c) Commerce to employ a state thermal system insulation inspector with specified inspection duties; (d) Commerce to promulgate rules with requirements for the licensing of mechanics who install or maintain thermal system insulation, including payment of fees, and training and continuing education; (e) Commerce to promulgate rules with procedures for assessment of forfeitures for violations of the program; and (f) beginning on July 1, 2011, for persons who install or maintain thermal system insulation to be a mechanic licensed by Commerce. Commerce promulgated administrative rules for the program which completed legislative review in October, 2010, and became effective February 1, 2011. Commerce estimates program revenue from the fees under current law would be approximately \$41,000 in 2011-12 and \$98,000 in 2012-13.

Under 2009 Act 16, a Thermal System Insulation Council was created attached to Commerce under s. 15.157 (15). The Council has seven voting members appointed by the Governor. The membership includes two representatives of insulation companies, one architect, two thermal insulation mechanics, one contractor, and the Secretary of Commerce or his or her designee. In addition, the thermal system insulation inspector serves as a nonvoting member. The Council is required to advise Commerce regarding development of administrative rules for the program, requirements for licensure of mechanics, qualifications for the state thermal system

insulation inspector, and training and continuing education requirements for thermal system insulation mechanics.

GOVERNOR

Repeal the s. 101.136 requirement that Commerce regulate installation of thermal system insulation. Transfer the Thermal System Insulation Council created under s. 15.157(15) to the Department of Safety and Professional Services (DSPS) along with the rest of the Division of Safety and Buildings. Delete the duties of the Council and the thermal system insulation inspector designated under s. 101.136 who serves under s. 15.157(15) as a nonvoting secretary of the Council. Delete the thermal system insulation inspector position and associated funding under elimination of long-term vacancies.

DISCUSSION POINTS

1. In the Executive Budget Book, the administration indicates the program is recommended for deletion because there are no significant safety issues related to the profession of thermal system insulation mechanics, and the licensing requirements present a significant barrier and cost to individuals entering the profession. The Secretary of DOA submitted an errata memo to the Joint Committee on Finance requesting the bill be amended to also repeal the Thermal System Insulation Council. If the Committee chooses to repeal the program, the bill could be amended to repeal the Council [Alternative 1].

2. Commerce promulgated administrative rules in Comm 5.74 through 5.743 to establish requirements for thermal system mechanics (\$250 license fee for two years), apprentices (\$15 registration fee for one year) and helpers (\$15 registration fee for two years). Commerce has not begun to implement the administrative rule license and registration requirements, pending action on the 2011-13 biennial budget. The Council was not fully appointed (three of seven members were appointed) so there was no quorum, the Council never met to make recommendations to the Department regarding proposed administrative rules, and Commerce did not hire a thermal system insulation inspector.

3. Proponents of the legislation that was enacted in 2009 suggested the legislation would establish uniform standards for the industry, establish licensure and education requirements for persons who install thermal system insulation, and protect consumers from problems that could arise from improper installation of heat and frost insulation such as health threats from mold and mildew.

4. Opponents of the legislation or subsequent rules suggested regulation of the industry is not needed, the license fee is too high, and the program would be a burden on the industry.

5. Current law requires deposit of the fees in the Division of Safety and Buildings program revenue general operations appropriation. The appropriation receives fee revenues from many plan review, inspection, and credentialing activities such as commercial and residential building codes, plumbing, electrical, boilers, and heating, ventilation, and air conditioning systems.

During recent years of slowdown in construction activities, Commerce has had to make significant reductions in expenditures to maintain expenditures below available revenue. If the program is maintained, it is unsure when the Department would be able to fill the thermal system inspector position. However, the license and registration fees under the program are intended to provide sufficient revenue to fill the position.

6. If the Committee chooses to maintain the current program, the bill could be amended to transfer the program to DSPS, along with the Council [Alternative 2].

7. Since rules for the program have been promulgated, it could be argued that the main responsibility of the Council has been accomplished. If the Committee chooses to maintain the program, the Council could be repealed if it is determined it is not needed [Alternative 3].

ALTERNATIVES

1. Approve the Governor’s recommendation to repeal the requirement that Commerce regulate installation of thermal system insulation. In addition, repeal the Thermal System Insulation Council.

2. Approve the Governor’s recommendation to transfer the Thermal System Insulation Council to DSPS. In addition, maintain the current statutory requirements for regulation of thermal system insulation installation and transfer the program to DSPS. (DSPS would collect fees estimated at \$41,000 PR in 2011-12 and \$98,000 PR in 2012-13.)

ALT 2	Change to Bill Revenue
PR	\$139,000

3. Maintain the current statutory requirements for regulation of thermal system insulation installation and transfer the program to DSPS. Repeal the Thermal System Insulation Council. (DSPS would collect fees estimated at \$41,000 PR in 2011-12 and \$98,000 PR in 2012-13.)

ALT 3	Change to Bill Funding
PR	\$139,000

Prepared by: Kendra Bonderud