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STATE REGISTER

STATE OF MINNESOTA

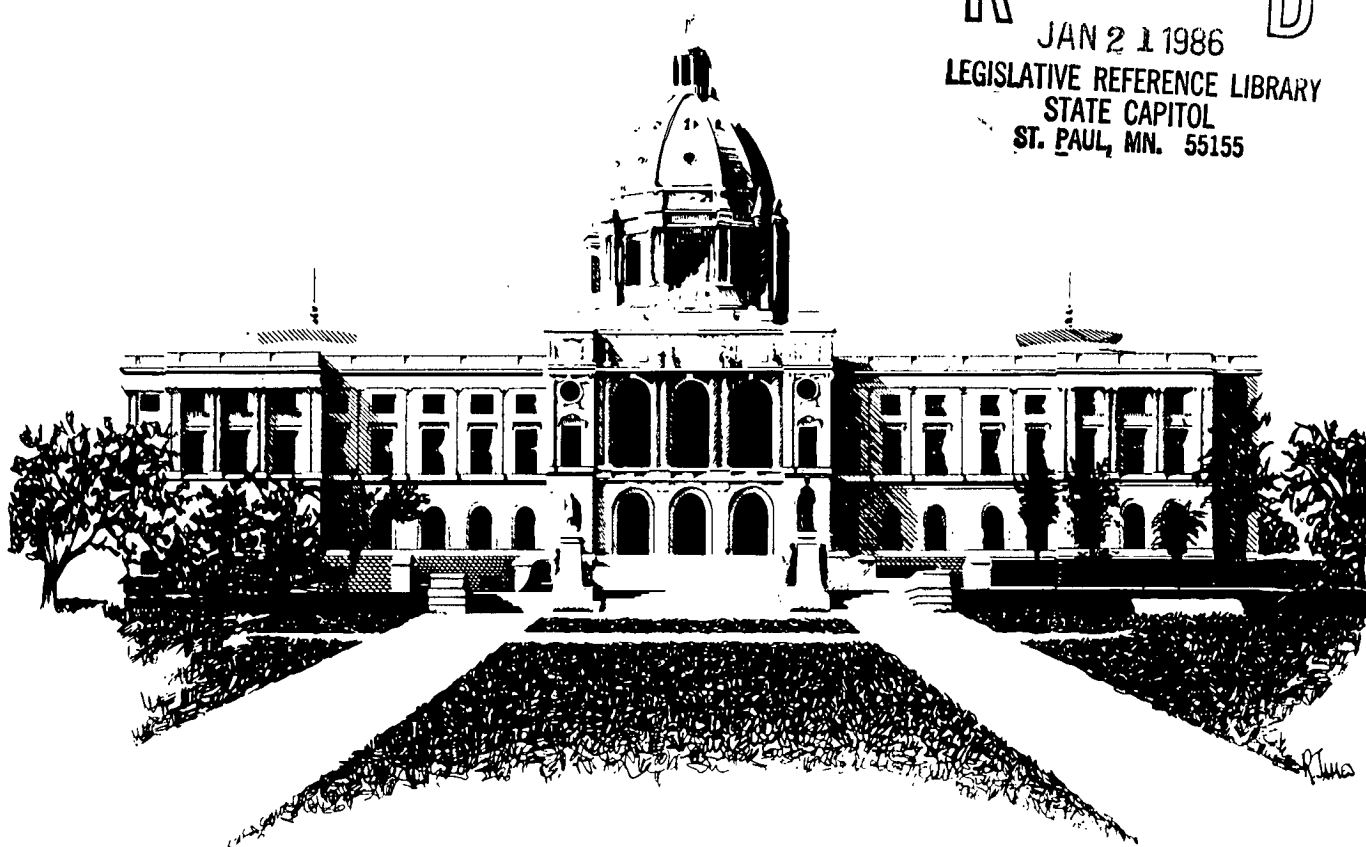
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VOLUME 10, NUMBER 30

January 20, 1986

Pages 1553-1568



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 10			
31	Monday January 13	Friday January 17	Monday January 27
32	Friday January 17	Monday January 27	Monday February 3
33	Monday January 27	Monday February 3	Monday February 10
34	Monday February 3	Monday February 10	Monday February 17

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Rudy Perpich
Governor

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Department of Administration

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CONTENTS

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 27-30, inclusive 1556

ADOPTED RULES

Housing Finance Agency

Adopted Rules Relating to Accessibility Deferred
Loan Program and Local Participation Home
Improvement Loans 1557

Adopted Rules Relating to Income Limits for
Limited Unit Developments and Eligibility for the
Homeownership Assistance Fund 1557

OFFICIAL NOTICES

Energy and Economic Development Division Financial Management Division

Availability of Issuance Authority in Competitive
Pool 1558

Full Productivity and Opportunity Office

Outside Opinion Sought on Proposed Rules Relating
to Displacement of Jobs Because Individuals Are
Placed in Subsidized Employment 1558

Health Department

Health Systems Development Office

Outside Opinion Sought Regarding Proposed Rules
Governing Health Maintenance Organizations 1559

Housing Finance Agency

Outside Opinion Sought Concerning Changes to the
Home Improvement Loan Program 1559

Human Services Department

Social Services Division

Outside Opinion Sought Concerning Amendments to
Subsidized Adoption Rule 1560

Pollution Control Agency

Water Quality Division

Outside Opinion Sought Regarding Proposed
Amendments to Rules Relating to Individual
Sewage Treatment Systems Standards 1560

Public Safety Department

Administration Division

Outside Opinion Sought Regarding Proposed Rules
Establishing Film Rental Fees for Traffic Safety
Films 1561

STATE CONTRACTS

Administration Department

Procurement Division

Commodities Contracts and Requisitions Currently
Open for Bidding 1562

Metropolitan Waste Control Commission

Request for Proposals for Metro Sludge Ash
Utilization, MWCC Resolution No. 85-385 1563

SUPREME COURT CALENDAR

Cases Scheduled, February, 1986 1564

SUPREME COURT DECISIONS

Decisions Filed Friday, January 10, 1986 1566

NOTICE

How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the State Register. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
• Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
• Proposed amendments to rules already in existence in the Minnesota Rules.
• Proposed emergency rules.
• Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the State Register unless an agency requests this.)
• Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
• Notice of adoption of emergency rules.
• Adopted amendments to emergency rules (changes made since the proposed version was published).
• Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
• Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before April 8, 1985 are published in the Minnesota Rules 1985. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The State Register publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Table with 2 columns: Issue range and Issue number. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issues 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the Minnesota Rules 1985.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

OFFICE OF THE ATTORNEY GENERAL

2000.0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .9900; .9905; .9910; .9915; .9920; .9925; .9930; .9935; .9940; .9945; .9950; .9955; .9960; .9965; .9970; .9975; .9977; .9980; .9983; .9985 (proposed repealer) 1457
2010.0200-.1400; .9900-.9960 (proposed) 1457
2000.0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .9900; .9905; .9910; .9915; .9920; .9925; .9930; .9935; .9940; .9945; .9950; .9955; .9960; .9965; .9970; .9975; .9977; .9980; .9983; .9985 (Errata) 1547
2010.0200-.1400; .9900-.9960 (Errata) 1547

DEPARTMENT OF COMMERCE

2700.3200 (adopted) 1499
2742.0100-.0400 [effective 60 days after adoption notice] (proposed) 1528
2875.1590 (proposed) 1525

ENERGY, PLANNING AND DEVELOPMENT

Energy Division

4200.2100-.4050; .4300 (adopted) 1501

4200.2100, s.3,6; .2200, s.3; .2400; .2500; .2700; .3000, s.3,4,9,10; .3300; .3400; .3500; .3600; .3700; .3800 (repealed) 1501
4200.4500; .4600; .4700; .4800; .4900; .5000 (adopted) 1500

DEPARTMENT OF HEALTH

4670.0100; .0900; .0930; .0950; .1000; .1200; .1220; .1320; .3070; .4050; .4200; .4210; .4220; .4230; .4240 (adopted) 1502
.4670.0930, s.3,4; .3900; .3910; .3920; .3930; .3940 (repealed) 1502
4695.0300; .0800 (second notice) 1473
4695.0300; .0800 (Errata) 1548

MN HOUSING FINANCE AGENCY

4900.0010; .1330 (adopted) 1557
4910.0010, s.23, i.B. (repealed) 1557
4900.0550; .0750; .0760; .0770; .0780 (adopted) 1557
4900.1800-.1803 (proposed) 1495
4900.1804-.1808 (proposed) 1497

DEPARTMENT OF LABOR AND INDUSTRY

5205.0010 [Standards, 10 SR 1150] (adopted) 1507

5221.0100-.3200 [republished] (Errata)	1548	.0650; .0700; .1000; .1100 (adopted)	1507
BOARD OF MEDICAL EXAMINERS		7520.0530, s.3-5 (repealed)	1507
5600.2500 (adopted)	1476	DEPARTMENT OF PUBLIC WELFARE	
MN POLLUTION CONTROL AGENCY		(Now HUMAN SERVICES)	
7002.0010-.0110 (adopted)	1537	9553.0010-.0080 (adopted)	1502
DEPARTMENT OF PUBLIC SAFETY		9575.0010; .0300; .0320; .0340; .0350; .1070; .1400;	
7520.0100; .0500; .0550; .0600; .0620; .0640;		.1500; .1550; .1570; .1580 (adopted)	1507
		9575.1580, s.4-6 (repealed)	1507

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Housing Finance Agency

Adopted Rules Relating to Accessibility Deferred Loan Program and Local Participation Home Improvement Loans

The rules proposed and published at *State Register*, Volume 10, Number 20, pages 1115-1117, November 11, 1985 (10 S.R. 1115) are adopted as proposed.

Housing Finance Agency

Adopted Rules Relating to Income Limits for Limited Unit Developments and Eligibility for the Homeownership Assistance Fund

The rules proposed and published at *State Register*, Volume 10, Number 20, pages 1117-1121, November 11, 1985 (10 S.R. 1117) are adopted as proposed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Energy and Economic Development Financial Management Division

Availability of Issuance Authority in Competitive Pool

Pursuant to Minn. Stats. (1984), § 474.20, the Department gives notice that the amount of Industrial Development Bond issuance authority available in the Competitive Pool as of January 5, 1986, is \$348,822,800.00 and will be available to qualifying Industrial Development Bond Issuers submitting qualification criteria applications by January 10/25, 1986. Pursuant to Minn. Stats. (1984), § 474.19, Issuers must submit an application, a preliminary resolution, an application deposit and any other supporting documents required.

Balance of Competitive Pool on January 1, 1986: \$350,322,800.00

Add:

Returned Allocations: \$ None

Total Pool Available as of January 5, 1986: \$350,322,800.00

Allocations awarded from the Competitive Pool during the month ending January 5, 1986 are:

<u>Issuer</u>	<u>Project</u>	<u>No. of Pts.</u>	<u>Amount</u>
City of Pipestone	Peacepipe Ltd.	9	\$ 500,000.00
Washington County HRA	Lowell Inn Expansion III	6	\$ 1,000,000.00

Total Allocations Awarded: \$ 1,500,000.00

Amount of Issuance Authority Available as of January 5, 1986: \$348,822,800.00

Office of Full Productivity and Opportunity

Outside Opinion Sought on Proposed Rules Relating to Displacement of Jobs Because Individuals Are Placed in Subsidized Employment

Notice is hereby given that the Minnesota Office of Full Productivity and Opportunity is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the displacement of jobs because individuals are placed in subsidized employment, including community investment programs, summer youth employment, the youth conservation corps, community work experience programs, employment experience programs, and wage subsidies. These rules will be primarily procedural in nature.

The adoption of the rules is authorized by Minnesota Special Session Laws 1985, Chapter 14, Article 9, Section 34.

The Minnesota Office of Full Productivity and Opportunity requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Kathryn R. Roberts, Coordinator
Office of Full Productivity and Opportunity
Suite 200, 375 Jackson Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2226 and in person at the above address.

All statements of information and comment shall be accepted until the rule has progressed to the point at which public comment is terminated pursuant to the Administrative Procedure Act. Any written material received by the Minnesota Office of Full Productivity and Opportunity shall become part of the rulemaking record in the event that the rule is adopted.

Department of Health Office of Health Systems Development

Outside Opinion Sought Regarding Proposed Rules Governing Health Maintenance Organizations

Notice is hereby given that the State Department of Health is seeking information or opinions from sources outside the agency in preparing to promulgate rules governing health maintenance organizations. In addition to those topics cited on page 394 of the August 12, 1985 edition of the *State Register* and on page 1181 of the November 18, 1985 edition of the *State Register*, topics currently under consideration also include:

1. Amendments to Minn. Rule part 4685.1900, Requirements for Complaint System;
2. Definition of "emergency" and procedures for obtaining emergency services;
3. Procedures for obtaining referral services; and
4. Procedures for filing documents with the Department of Health.

The promulgation of these rules is authorized by Minnesota Statutes § 62D.20 which permits the Commissioner of Health to promulgate such reasonable rules and regulations as are necessary or proper to carry out the provisions of section 62D.01 to 62D.29.

The State Department of Health requests information and comments orally or in writing. Written statements should be addressed to

Judith M. Walker
Alternative Delivery Systems
Room 216
Minnesota Department of Health
717 S.E. Delaware Street
Minneapolis, Minnesota 55440

Oral statements will be received during regular business hours over the telephone at 623-5545 and in person at the above address. Any written material received by the State Department of Health shall become part of the record in the event the rules are promulgated.

Sister Mary Madonna Ashton
Commissioner of Health

Housing Finance Agency

Outside Opinion Sought Concerning Changes To The Home Improvement Loan Program

Notice is hereby given that the Minnesota Housing Finance Agency is considering language to amend its Home Improvement Loan Program procedural manual to allow for the construction of accessory apartments.

The Minnesota Housing Finance Agency is authorized to make accessory apartment loans by MS 462A.05, Subd. 14. Rules pertaining to accessory apartment loans are contained in MCAR, Chapter 4900, Parts .0581 through .0584.

In its present structure, the Accessory Apartment Loan Program enables the Agency to purchase loans made to owner-occupants of single-family dwellings for the purpose of creating an apartment within the structure. To insure that the apartment meets local building and zoning codes and ordinances, the program presently requires the participation of a local government.

The proposed changes to the Home Improvement Loan Program procedural manual would make accessory apartments an eligible improvement in that program. If this change is adopted, the Agency will not require the participation of local government. Instead, the borrower will be required to produce evidence that the appropriate local official reviewed and approved the proposed improvements to insure that local building and zoning codes and ordinances were being met. It is expected that the proposed change will result in an increase in the number of apartments being constructed in single-family structures.

All interested or affected persons or groups may submit information on this subject. Statements of information or comment may

OFFICIAL NOTICES

be made orally or in writing. All statements of information and comment shall be accepted until February 21, 1986. Written statements should be addressed to:

Greg Baron, Coordinator
Accessory Apartment Loan Program
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 297-3123 or, toll-free, by dialing 1-800-652-9747 and asking for "Rehab".

Department of Human Services Social Services Division

Outside Opinion Sought Concerning Amendments to Subsidized Adoption Rule

Notice is hereby given that the Minnesota Department of Human Services is considering amendments to Minnesota Rules, parts 9560.0070 to 9560.0090, Subsidized Adoption.

The Commissioner is authorized to promulgate rules for subsidized adoption under Minnesota Statutes, section 259.40, subdivision 10. Adoption subsidies are provided for basic maintenance, supplemental needs, special needs as well as certain unmet Medical Needs. The Department of Human Services needs to clarify any general terms in the rule and define more specifically what are or what are not allowable expense items under special needs.

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Ruth Weidell, Supervisor
Adoption Unit
Minnesota Department of Human Services
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comments will be received by telephone at (612) 296-3740 between 9:00 a.m. and 4:00 p.m. Mondays through Fridays.

Statements of information and comment will be accepted until further notice. Any written material received by the Department shall become part of the hearing record. Oral statements will be considered but will not become part of the hearing record.

Pollution Control Agency Water Quality Division

Outside Opinion Sought Regarding Proposed Amendments to Rules Relating to Individual Sewage Treatment Systems Standards

Notice is hereby given that the Minnesota Pollution Control Agency, Water Quality Division, is seeking information or opinions from sources outside of the agency in preparing to propose the amendment of Minn. Rules Part 7080 (formerly WPC 40) Individual Sewage Treatment Systems ("ISTS") Standards. The amendment of these rules is authorized by Minnesota Statutes, § 115.03, subd. 1, which permits the agency to establish and amend standards to prevent, control or abate water pollution and for the installation or operation of wastewater treatment systems.

The Minnesota Pollution Control Agency requests information and opinions concerning the following subject matter of these rules amendments: 1) mandatory state-wide certification of all ISTS installers, pumpers, inspectors, and site evaluators; and 2) sit-

ing, design and construction requirements for ISTS. Interesting persons or groups may submit data or views on the subject matter of concern orally or in writing. Written statements should be addressed to:

Mr. Jerry Canfield
Technical Review Section—Part 7080 Rules Amendments
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

Oral statements will be received during regular business hours over the telephone at (612) 296-7389 and in person at the above address.

All statements of information and opinions shall be accepted until Friday, February 28, 1986. Any written material received by the Minnesota Pollution Control Agency shall become part of the rulemaking record to be submitted to the Attorney General or administrative law judge in the event that these amendments are adopted.

January 9, 1986

Thomas J. Kalitowski
Executive Director
Minnesota Pollution Control Agency

Department of Public Safety Administration Division

Outside Opinion Sought Regarding Proposed Rules Establishing Film Rental Fees for Traffic Safety Films

Notice is hereby given that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to promulgate rules establishing film rental fees for traffic safety films through the Department of Public Safety Film Library.

The promulgation of these rules is authorized by Minnesota Statutes section 299A.01, subd. 6 and 1985 Special Session I, Ch. 10, which requires the agency to establish film rental fees for traffic safety films at rates determined so as to collect \$40,000 each year.

The State Department of Public Safety requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Nancy Kelly
Room 211, Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-8453 and in person at the above address.

All statements of information and comment shall be accepted until February 26, 1986. Any written material received by the State Department of Public Safety shall become part of the rulemaking record in the event that the rules are promulgated.

Paul J. Tschida
Commissioner of Public Safety

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
78-550-05181	Carpeting & Install	MN Correctional Facility	Lino Lakes	Contact buyer
79-000-51935	Purchase of Drive Board & Monitors	Transportation—Systems & Support Services	St. Paul	Contact buyer
07-700-37637-5249	Driver License Applications	Public Safety	St. Paul	Contact buyer
07-500-37627-52407	Violation Warning	Public Safety	St. Paul	Contact buyer
22-300-01698-5234	Building Better Business Folder & Insert Sheets	Energy & Economic Development	St. Paul	Contact buyer
21-200-11988&9-5246&8	Benefit Payment Authorization With and Without Check	Jobs & Training	St. Paul	Contact buyer
21-200-11987-5245	Benefit Payment Statement	Jobs & Training	St. Paul	Contact buyer
79-000-51917-5351	1984 Metro Street & County & Municipal Traffic Flow Maps	Transportation	St. Paul	Contact buyer
29-002-11763-Rebid 55-304-06893	Fish Transportation Tank Carpet & Install	Natural Resources Human Services— Brainerd Regional Human Services Center	Grand Rapids Brainerd	Contact buyer Contact buyer
26-073-18546	Purchase of Printers	St. Cloud State University	St. Cloud	Contact buyer
79-000-50694	Luminaires	Transportation	St. Paul	Contact buyer
26-074-10678	Video Cassette Player	Winona State University	Winona	Contact buyer
99-909-27921-22	Office Chairs	Transportation Regulation Board	S. St. Paul	Contact buyer
29-004-07195	Ind. Tractor Loader	Natural Resources	New Ulm	Contact buyer
26-137-03254	Classroom chairs & stools	St. Cloud State University	St. Cloud	Contact buyer
Contract 26-175-06419	Tools: Trowel Trades Earth Station Satellite Receiving Equipment	Various Southwest State University	Various Marshall	\$3,000-8,000 Contact buyer
79-450-A	Aggregates	Transportation	Morris	Contact buyer
79-150A	Aggregates	Transportation	Virginia	Contact buyer
29-001-09796	Rental of Fully Operated Crawler Tractor for Dozing & Discing	Natural Resources— Wildlife	Bemidji	Contact buyer

<u>Requisition #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>
26-073-18558	Milling Machine	St. Cloud State University	St. Cloud	Contact buyer
79-000-50391	Telephone System	Transportation	Windom	Contact buyer
01-000-04515	Rubbish Disposal	Military Affairs	Duluth	Contact buyer
Contract				
26-073-18288	Purchase of Computer Equipment	St. Cloud State University	St. Cloud	Contact buyer
79-000-50650	Air Tools	Transportation	Various	Contact buyer
02-515-46377	Purchase Open Space Modular Office System	Administration— State Register & Public Division	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

Metropolitan Waste Control Commission

Request for Proposals for Metro Sludge Ash Utilization, MWCC Resolution No. 85-385

Proposals for Metro sludge ash utilization will be received by the Metropolitan Waste Control Commission at its offices in the Metro Square Building, Room 350, Seventh and Robert Streets, St. Paul, Minnesota, 55101, until 3:00 p.m. Wednesday March 5, 1986. Proposals submitted by mail and received after March 5, 1986, will be accepted providing they are postmarked no later than midnight, February 28, 1986.

The purpose of this request for proposals is to determine for an acceptable evaluated unit price per ton if there is a private individual, partnership, corporation, joint venture or other legal entity capable of transporting sludge ash from the MWCC Metro Plant, storing the ash off site, marketing the ash to be utilized in an acceptable product, or disposing of the ash in a manner meeting the requirement of the Minnesota Pollution Control Agency and other applicable laws, rules, and ordinances.

The MWCC Metro Plant currently produces about 70 tons of dry sludge ash per day (26,000 tons per year). In terms of volume this is 110 cubic yards per day (40,000 cubic yards per year).

For a proposal to be considered the proposer must be able to take at least 15,000 tons of dry ash per year, provide 15,000 tons of acceptable storage capacity and enter into a contract for at least five years.

Based on an evaluation of the proposals received in accordance with the request for proposals the MWCC may or may not recommend entering into a contract with one or more of the proposers. Concurrently, the MWCC is also continuing with its own program of research and development for ash utilization.

The Minnesota Pollution Control Agency has issued an ash utilization permit to the Metropolitan Waste Control Commission. The MWCC is aware of at least two methods of ash utilization. There are (1) the use of ash as a filler in asphalt and (2) the use of ash to manufacture aggregate pellets for use in concrete mixtures. However, the MWCC welcomes other concepts including long term disposal.

A pre-proposal meeting will be held on February 13, 1986, in the training room at the MWCC Metro Plant, located at 2400 Childs Road, St. Paul, Minnesota 55106. The meeting will begin promptly at 10:00 a.m. It is strongly recommended that all individuals planning to submit a proposal attend this meeting. Please contact Mr. Harry Grounds at (612)-222-8423 for a reservation to attend the meeting and to obtain a copy of the request for proposal.

December 20, 1985

By Order of the Metropolitan Waste Control Commission,
Louis J. Breimhurst, Chief Administrator

SUPREME COURT CALENDAR

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

FEBRUARY, 1985

MONDAY, FEBRUARY 3, 1986

85-857 GORGOS, G. M., In the Matter of the Application for the Discipline of (Attorney: Wernz, William, Director of Lawyers Professional Responsibility Board, and Bruce E. Martin) (Opposing Counsel: Gorgos, G. M.). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Petition for Disciplinary Action.

What discipline is appropriate for Respondent's repeated failures to cooperate with the Director of Lawyers Professional Responsibility's investigation, Respondent's neglect of two client matters and his failure to communicate with his clients? [As in brief of Director]

85-233 NORMAN, HARRY S., et al. (Attorney: DiLorenzo, James D.) vs. REFSLAND, GREG ALLEN, etc., et al (Attorney: Peterson, Larry J.). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Did the trial court order, denying intervention, constitute an abuse of judicial discretion?

Will the order denying Carver County intervention in this matter prejudice or impede Carver County's ability to protect its interest? [Issues as stated in Informal Brief of Appellant, Carver County]

84-2016 and 85-117 DENNIE, FRANCIS L. (Attorney: DeParcq, Perl, et al, and Barbara J. Rudquist) vs. METROPOLITAN MEDICAL CENTER (Attorney: Meagher, Geer, et al, and James F. Roegge). 9:00 a.m. State Capitol, St. Paul, ORIGIN: Court of Appeals.

Did the trial court properly exercise its discretionary authority to suppress the testimony of Plaintiff's expert witnesses where the record demonstrates that Plaintiff repeatedly thwarted the discovery process in violation of the Minnesota Rules of Civil Procedure, the Special Rules for the Fourth Judicial District and Court Orders?

Did the trial court properly dismiss the action where Plaintiff's offer of proof was legally insufficient to make out a prima facie case? [Issues as in brief of Appellant, Metropolitan]

TUESDAY, FEBRUARY 4, 1986

85-1515 ACTON CONSTRUCTION CO., et al, (Attorney: Elmquist & Sarff and Jon G. Sarff) vs. COMMISSIONER OF REVENUE (Attorney: Overton, Thomas K., Special Assistant Attorney General, Dept. of Revenue). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order Tax Court.

Are Relators entitled to a refund of sales tax if Relators refuse to credit or return the refunded tax to the exempt public entities that ultimately paid the tax?

85-2010 JONES, LYNNE L., In the Matter of the Application for the Discipline of (Attorney: Wernz, William, Director, Lawyers Professional Responsibility Board, and Betty M. Shaw) (Opposing Counsel: Jones, Lynne L.). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Petition for Disciplinary Action.

84-2175 YOUNG, HOWARD F. (Attorney: Johnson, Fredin, et al, and Joseph J. Roby, Jr.) vs. DULUTH, CITY OF (Attorney: Dinan, William P., City Attorney and Bryan F. Brown, Deputy). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

In the absence of misconduct or incompetency, may a public employer remove a veteran and simultaneously assign the veteran's job duties to other employees?

Does the Veterans Preference Act contain a requirement that a veteran removed from public employment has 60 days from removal within which to demand a hearing?

Does the veteran's awareness of his rights impose a duty to demand a hearing within 60 days from removal?

Did Appellant deliberately choose not to assert his veteran's rights for personal or strategic reasons?

Was it immaterial for Respondent to fail to furnish Appellant with the notice required by the Veterans Preference Act? [Issues as in brief of Appellant, Young]

WEDNESDAY, FEBRUARY 5, 1986

85-177 and 85-500 WEST BEND MUTUAL INSURANCE COMPANY (Attorney: Moss & Barnett and Dale M. Wagner) vs. MILWAUKEE MUTUAL INSURANCE COMPANY, et al (Attorney: Peterson, Bell & Converse and Willard L. Converse). 5:30 p.m. William Mitchell College of Law. ORIGIN: Court of Appeals.

Is an automobile passenger's act of grabbing the steering wheel of a moving automobile a non-vehicle related act so as to be covered under a homeowner's insurance policy? [Per Dale M. Wagner, counsel for Appellant, West Bend]

THURSDAY, FEBRUARY 6, 1986

85-1861 DEROGATIS, FRANK (Attorney: Goldsmith, Gary) vs. MAYO CLINIC, et al (Attorney: Dorsey & Whitney and Thomas Tinkham). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Cert. Question, U.S. District Court, Fourth District.

Does the statute of limitations for a cause of action for wrongful death, based upon an alleged act of medical malpractice, begin to run upon accrual of the underlying medical malpractice action or upon the death of decedent?

83-1080 JONES, DIXON E., In the Matter of the Application for the Discipline of (Attorney: Wernz, Wm., Dir. Lawyers Prof'l Resp. and Bruce Martin) (Opposing Counsel: Jones, Dixon E.). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Petition for Disciplinary Action.

84-277 STATE OF MINNESOTA (Attorney: Mitchell, Alan L., County Attorney and John E. DeSanto, Assistant) vs. RACE, LARRY GENE (Attorney: David W. Larson & Associates and David W. Larson). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Judgment St. Louis County.

Was the circumstantial evidence introduced at Appellant's trial sufficient to sustain his conviction for murder in the first degree?

Was Appellant denied his Sixth Amendment constitutional right to effective assistance of counsel at trial in this case?

Was Appellant denied his constitutional right to a fair trial by anything the prosecutor said during his closing argument at Appellant's trial? [Issues as in brief of Respondent, State]

MONDAY, FEBRUARY 10, 1986

85-204 GERDIN, WILFORD HENRY (Attorney: Rosen, William S.) vs. PRINCETON STATE BANK, et al (Attorney: Arnold & McDowell and Michael B. LeBaron). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does a mortgagee have a duty to disclose to a potential purchaser of property at a mortgage foreclosure sale the existence of tax liens on the property? [Issue as stated in brief of Appellant, Princeton State Bank]

83-1121 STATE OF MINNESOTA (Attorney: Foley, Tom, Ramsey County Attorney and Steven C. DeCoster, Assistant) vs. KNOWLTAN, STUART WILLIS (Attorney: Jones, C. Paul, Public Defender and Lawrence Hammerling, Assistant) 9:00 a.m. State Capitol, St. Paul. ORIGIN: Judgment Ramsey County.

Was Appellant's right to a fair trial prejudiced by denial of his request for a change of venue, which was not renewed nearly four months later when the matter came on for trial and when he elected to waive his right to a trial by jury and be tried to the Court?

Does the evidence support the trial court's findings of Appellant's guilt of the three counts of murder in the first degree with which he was charged?

Were Appellant's rights under either the Fifth or Sixth Amendments to the U. S. Constitution violated by the testimony of citizen-volunteers to whom he made admissions and/or confessions at a time when he was neither in custody nor charged with an offense? [Issues as in brief of Respondent, State]

TUESDAY, FEBRUARY 11, 1986

85-7 LEWIS, RUTH ADELINE, et al (Attorney: Grose, Von Holtum, et al, and Harry Sieben, Jr.) vs. PENNSYLVANIA GENERAL INSURANCE COMPANY (Attorney: Mahoney, Dougherty & Mahoney and Richard P. Mahoney). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Was the amount of coverage awarded under the Appellant/Defendant's policy, in effect on the date of the accident, a proper award in light of Appellant's failure to make an adequate offer as imposed by law? [Issue as in brief of Respondent, Lewis]

85-219 STATE OF MINNESOTA (Attorney: Schmitz, Raymond F., Olmstead County Attorney) vs. ANDOW, DEBORAH KAYE (Attorney: Schacht & Kerr and Jeff David Bagniefski) 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Does Minn. Stat. 609.26, subd. 5(a) mean that an abducting noncustodial parent must be allowed the benefit of a full 14-day grace period to voluntarily return the child, such that a felony charge brought under 609.26 must be dismissed where police recover the child within 14 days? [Issue as in brief of Appellant, State]

SUPREME COURT CALENDAR

WEDNESDAY, FEBRUARY 12, 1986

85-1355 MEYERING, FRED (Attorney: Erickson, Zierke, et al, and Michael D. LaFontaine) vs. WESSELS, MARVIN K. (Attorney: Johnson, Berens & Wilson and Richard D. Berens). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Order, Workers' Compensation Court of Appeals.

Does the Respondent employer qualify for the family farm exclusion set forth in Minn. Stat. 176.041, subd. 1 and Minn. Stat. 176.011, subd. 11a? [Issue before the Workers' Comp. Court of Appeals]

84-1647 and 84-2178 J.J.B., a minor child, In the Matter of the Welfare of: (Attorney: Schmidt, Thompson, et al, and Thomas G. Johnson) (Opposing Counsel: Lynch, Michael Q., Kandiyohi County Attorney). 9:00 a.m. State Capitol, St. Paul. ORIGIN: Court of Appeals.

Do the evidence and Findings of Fact support the trial court's determination of the Appellant's parental rights pursuant to Minn. Stat. 260.221 (b) (5)? [Issue as stated in brief of Appellant, Kandiyohi County]

SUPREME COURT DECISIONS

Decisions Filed Friday, January 10, 1986

Compiled by Wayne O. Tschimperle, Clerk

C0-84-1304 Wesley M. Haugen v. International Transport, Inc., Petitioner, Appellant. Court of Appeals.

An order granting a new trial is not appealable if neither the trial court's order nor memorandum states that the court based its ruling exclusively upon errors of law occurring at trial.

Affirmed. Amdahl, C.J.

Took no part, Peterson, J.

C4-84-1595 Atlantic Mutual Insurance Company, Petitioner, Appellant, v. The Judd Company and Harris Mechanical Contracting Company and The Central Foundry Company. Court of Appeals.

An exclusion in a comprehensive general liability insurance policy which excludes coverage for damages claimed for the withdrawal, inspection, repair, replacement, or loss of use of the insured's products if such products are withdrawn from the market or from use because of any known or suspected defect therein does not operate to preclude coverage where the only products withdrawn were those which had actually proven defective after being installed and tested.

Insurer's obligation to defend arises where claims against insured come within the coverage provisions of a comprehensive general liability insurance policy.

Insured is entitled to award of attorney fees incurred in successfully defending a declaratory judgment action initiated by insurer.

Affirmed. Amdahl, C.J.

Took no part, Peterson, J.

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