81 Dec. 21

# STATE REGISTER

STATE OF MINNESOTA

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VOLUME 6, NUMBER 25

December 21, 1981

Pages 1153-1176

STATE REGISTER

## 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 6 | | |
| 26 | Monday Dec 14 | Friday Dec 18 | Monday Dec 28 |
| 27 | Monday Dec 21 | Monday Dec 28 | Monday Jan 4 |
| 28 | Monday Dec 28 | Monday Jan 4 | Monday Jan 11 |
| 29 | Monday Jan 4 | Monday Jan 11 | Monday Jan 18 |

*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. § 15.0411. 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 $3.00 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*.

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### 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. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

**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 Code of Agency Rules (MCAR).
- Proposed temporary rules.

**The ADOPTED RULES section contains:**

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
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All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

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

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Issues 14-25, inclusive
Issue 26, cumulative for 1-26
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# PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

## Ethical Practices Board

### Notice of Cancellation of Public Hearing on Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-623)

Notice is hereby given that the public hearing on the proposed rules as noticed in the December 7, 1981, issue of the *State Register* at 6 S.R. 1075 has been cancelled due to cuts in the agency budget. Certain portions of the proposed rules may be adopted later under the procedures set forth in Minn. Stat. § 15.0412, subd. 4h (1980) and another notice will be published in the near future. Questions regarding this matter should be directed to Mary Ann McCoy, Executive Director, 41 State Office Bldg., 435 Park St., St. Paul, MN 55155; (612) 296-5148.

December 2, 1981

Mary Ann McCoy, Executive Director

# Board of Psychology

## Proposed Amendments to Psych 2 (7 MCAR § 10.002) Relating to Application for Licensure

### Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Psychology proposes to amend the above-entitled rules without a public hearing. A copy of the proposed amendments is attached to this notice.

The board has determined that the proposed adoption of these rules will be noncontroversial in nature. Therefore, this proceeding is being made under the provisions of Minn. Stat. § 15.0412, subd. 4h (1980) which provides for an expedited process for the adoption of noncontroversial administrative rule changes without the holding of a public hearing.

The public is hereby advised that:

1. There is a period of 30 days in which to submit comment on the proposed rule;

2. No public hearing will be held on this matter unless seven or more persons make a written request for a hearing within the 30-day comment period;

3. All comments and any written requests for a public hearing may be submitted to Lois M. Mizuno, Executive Secretary, Minnesota Board of Psychology, Minnesota Department of Health Building, 717 Delaware Street Southeast, Minneapolis, Minnesota 55414;

4. The proposed amendments may be modified if modifications are supported by the data and views submitted, and do not result in a substantial change in the proposed language;

5. Authority to amend Psych 2 is contained in Minn. Stat. §§ 148.90, subd. 2 and 148.91 (1980). Additionally, a statement of need and reasonableness which describes the need for and reasonableness of each provision of the proposed amendments has been prepared and is now available. Anyone wishing to receive a copy of this document may contact Ms. Mizuno at the above-listed address;

6. Under this expedited procedure, the agency must submit its rules to the Attorney General for review of the form and legality of the rule change. Notice of the submission of this matter to the Attorney General will be made to all persons who request to be informed of the submission. Requests to be informed must be submitted to Ms. Mizuno at the above-listed address;

7. If seven or more persons request a public hearing on this matter, notice of any such hearing will be given in the same manner as has this notice, and the agency will then proceed pursuant to Minn. Stat. § 15.0412, subds. 4-4g (1980);

8. Any rule change made pursuant to this proceeding shall be effective five days after publication in the *State Register* of notice of the adoption of the change.

December 7, 1981

Lois E. Mizuno, Executive Secretary
Board of Psychology

### Rule as Proposed (all new material)

**7 MCAR § 10.002 General requirements for licensure.**

A. Licensure process. The process of licensure by the board is divided into two separate parts:

1. admission to examination; and

2. admission to licensure.

B. Requirements for admission to examination. In order to be admitted to examination an applicant must:

1. file with the board a completed notarized application for admission to examination which includes an affirmation that the statements made on the application are true and correct to the best of the knowledge and belief of the applicant, and which is accompanied by the current nonrefundable examination application fee;

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2. provide for transcripts of all graduate work, including verification of the degree granted, to be certified directly to the board from the institution granting the degree; and

3. for an application based upon the equivalent of a master of arts or science degree in a doctoral program, provide for that equivalency to be verified in writing directly to the board by an official of the institution attended.

C. Admission to examination. An applicant shall be admitted to the first regularly scheduled objective part of the examination occurring 40 days or more after the applicant has met the requirements of B., unless admission is denied under D.

D. Denial of admission to examination. Admission to examination shall be denied to an applicant who has not met the education requirements in Psych 3. An applicant who is denied admission to examination shall be informed in writing of the denial and the reasons for it. An application submitted after denial is a new application which must be accompanied by the current examination application fee.

E. Requirements for licensure. To be eligible for licensure the applicant must meet the following requirements in addition to those in B.:

1. file with the board a notarized application for licensure, which includes an affirmation that the statements made in the applicatoin are true and correct to the best knowledge and belief of the applicant and which is accompanied by the current licensure application fee;

2. have completed two years of post degree employment as stated in G. and Psych 4;

3. state at least one area of competence and have written endorsements from at least two qualified persons, as stated in H., for each area of competence stated;

4. have performed satisfactorily on both parts of the examination listed in Psych 6;

5. be of good moral character and not have engaged in conduct prohibited by Psych 10; and

6. for an application for licensure as a licensed psychologist, file an agreement to collaborate signed by a licensed consulting psychologist.

F. Concurrent applications. An applicant may file both the application for admission to examination and the application for licensure at the same time if the employment requirements in G. and Psych 4 have been met.

G. Supervised employment. The application for licensure shall include the setting, nature and extent of the supervised employment, the time period involved, the number of hours per week engaged in professional duties, and the name and qualifications of each supervisor.

H. Requirements for endorsement. To qualify as an endorser a person listed on the application for licensure must be a licensee of the board, a person who is licensed to practice psychology by another state whose licensure standards are similar to the standards of this state, or a person whose education and experience meet the licensure standards of Minn. Stat. § 148.91 and Psych 1-13. An employee of an applicant may not be an endorser of that applicant. An endorser must have firsthand knowledge of the area of competency endorsed. A current member of the board may not be an endorser.

An applicant who has not received sufficient endorsements on a stated area of competence may submit the names of additional endorsers or an amended application with the area of competence deleted.

I. Adding areas of competence. A licensee may add an area of competence at any time if the added area of competence is documented as required in the application for licensure.

J. Inquiries regarding applicants. The board may make inquiries when there is a question as to whether an applicant meets the requirement of E.5.

K. Denial of licensure. An applicant who fails to meet all the requirements in E. shall be denied licensure. An applicant who is denied licensure shall be informed in writing of the denial and the reason for it. An application submitted following denial is a new application which must be accompanied by the current licensure application fee.

**Repealer.** Psych 2 is repealed.

# ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *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 strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

## Department of Administration Cable Communications Board

### Adopted Rule Repealing Certain Restrictions on Interests in or Ownership, Operation, and Control of Cable Communications Systems

Notice is hereby given that the repeal of 4 MCAR § 4.100 F., noticed in *State Register,* Volume 6, Number 7, August 17, 1981, page 185, was adopted by the Cable Communications Board on November 13, 1981. The repeal of 4 MCAR § 4.100 E., also noticed in *State Register,* Volume 6, Number 7, August 17, 1981, page 185, was not adopted at that time, but was delayed for reconsideration on December 11, 1981.

## Board of Architecture, Engineering, Land Surveying and Landscape Architecture

### Adopted Rules Amending Licensing, Examination, Certification and Reporting Requirements

The rules proposed and published at *State Register,* Volume 6, Number 4, pages 102-108, July 27, 1981 (6 S.R. 102) are now adopted as follows:

#### Rules as Adopted

4 MCAR § 7.004 Fees.

A. Requirements. Application for examination for certification as an engineer-in-training, landscape architect-in-training, or licensure, including renewal of licensure, as an architect, professional engineer, land surveyor, or landscape architect, shall be accompanied by a fee in the amount provided for in this rule. The fee for examination for certification as land surveyor-in-training shall be paid upon approval of the application by the board.

B. Refunds; validity of application. Examination or registration fees may not be refunded. Applications for examination shall be valid for a period of one year following notification of the date of examination, except as hereinafter provided. An applicant who fails to appear for examination shall be required to resubmit his application, together with an examination fee, unless his failure to appear is due to circumstances which, in the opinion of the board, justify relief from the requirement. Any application which is still pending three years after the date of its receipt by the board shall be void.

C. Initial licensure and renewal. The fee for licensure, or renewal of licensure, as an architect, professional engineer, land surveyor, or landscape architect is $17 per year. The initial license fee is prorated at six month intervals during each biennium. The fee for months 24 to 18 is $34; for months 18 to 12, $25.50; for months 12 to 6, $17; and for months 6 to 0, $8.50. The renewal fee shall be paid biennially on or beforeJune 30 of each even-numbered year. The board may delete from the roster the name of

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any licensee who fails to timely pay the required renewal fee. The renewal fee, when paid by mail, is not timely paid unless it is postmarked on or before June 30 of each even-numbered year.

D. Delayed renewal fee. A renewal fee is a "delayed renewal fee" within the meaning of Minn. Stat. § 326.10, subd. 5 if it is not postmarked on or before June 30 of the year specified in C. The delayed renewal fee is $5 per month, or any portion thereof, not to exceed $15. It is in addition to the renewal fee provided in C. The delayed renewal fee is computed from July 1 of any even-numbered year.

E. Certification of licensure examination fee. The fee for examination for certification or licensure as an architect, professional engineer, land surveyor, or landscape architect is as follows:

1. Architect

| | |
|---|---|
| a. Application for admission to examination | $25.00 |
| ~~b. Qualifying Test in 1981~~ | ~~$40.00~~ |
| ~~c.~~ b. Qualifying Test in 1982 and thereafter | $60.00 |
| ~~d. Section A, Professional Examination in 1981~~ | ~~$45.00~~ |
| ~~e.~~ c. Section A, Professional Examination in 1982 and thereafter | $50.00 |
| ~~f. Section B, Professional Examination in 1981~~ | ~~$65.00~~ |
| ~~g.~~ d. Section B, Professional Examination in 1982 and thereafter | $75.00 |

2. Professional engineer

| | |
|---|---|
| a. Fundamentals of Engineering Examination | $30.00 |
| b. Principles and Practice of Engineering Examination | $100.00 |

The fee for the Fundamentals of Engineering Examination taken for the board will be credited to the applicant toward the fee for application for the Principles and Practice of Engineering Examination for up to ten years.

An applicant for examination in more than one branch of engineering shall submit a separate examination fee for each additional branch of engineering for which the applicant has applied for examination.

3. Land surveyor

| | |
|---|---|
| a. Fundamentals of Land Surveying Examination | $30.00 |
| b. Principles and Practice of Land Surveying Examination | $100.00 |

4. Landscape architect

| | |
|---|---|
| a. Application for admission to examination | $25.00 |
| ~~b. Uniform National Examination in 1981~~ | ~~$135.00~~ |
| ~~c.~~ b. Uniform National Examination in 1982 and 1983 | $150.00 |
| ~~d.~~ c. Uniform National Examination in 1984 and 1985 | $165.00 |

F. Reexamination fees. The fee for retaking all or any part of any examination for certification or registration is as follows each time the examination, or any part of it, is retaken:

1. Architect~~:~~

| | |
|---|---|
| a. Qualifying Test per part retaken~~:~~ | $15.00 |
| ~~b. Section A, Professional Examination in 1981.~~ | ~~$45.00~~ |
| ~~c.~~ b. Section A, Professional Examination in 1982 and thereafter~~:~~ | $50.00 |
| ~~d. Section B, Professional Examination in 1981.~~ | ~~$65.00~~ |
| ~~e.~~ c. Section B, Professional Examination in 1982 and thereafter~~:~~ | $75.00 |

2. Professional engineer~~:~~

| | |
|---|---|
| a. Fundamentals of Engineering~~:~~ | $20.00 |
| b. Principles and Practice of Engineering~~:~~ | $20.00 |

3. Land surveyor~~:~~

| | |
|---|---|
| a. Fundamentals of Land Surveying~~:~~ | $20.00 |

b. Principles and Practice of Land Surveying~~.~~

(1) Part III~~.~~ $15.00

(2) Part IV~~.~~ $30.00

(3) Parts III and IV~~.~~ $45.00

4. Landscape architect~~.~~

a. Subject A—History~~.~~ $15.00

b. Subject B—Professional Practice~~.~~ $15.00

c. Subject C—Design~~.~~ $60.00

d. Subject D—Design Implementation~~.~~ $60.00

G. Additional fees. In addition to all other fees for examination or registration, as provided in this rule or Minn. Stat. § 326.10, subd. 1, the following schedule of fees is applicable:

1. For each application for registration by comity under the provisions of Minn. Stat. § 326.10, subd. 1, clause (2), applicable to any person registered in another state or territory of the United States, or in any province of Canada, a fee of $100;

2. For reissuance of a revoked, lost, destroyed or mutilated certificate of licensure or certificate as an engineer-in-training, land surveyor-in-training, or landscape architect-in-training, $5;

3. For certified copies or reproduction of any document required to be supplied on behalf of any applicant for registration in another state, the cost of reproducing the document, as the board determines.

**4 MCAR § 7.009 Examination of architect applicants.**

A. Education and experience. An applicant for licensure as an architect shall be required to pass a written examination as provided in C. and may be required to appear before the board for an oral examination for the purpose of verifying personal experience qualifications. To qualify for admission to the written examination, applicants shall present satisfactory evidence that they have:

1. Graduated from an architectural curriculum accredited by the National Architectural Accrediting Board at the time of their graduation or within two years subsequent to that graduation; and

**2. Completed at least three years of satisfactory professional experience after graduation under the supervision of licensed architects. Experience is credited as provided in Table III. In lieu of meeting the experience requirements set forth in Table III, an applicant may participate in the Intern Development Program under the auspices of the National Council of Architectural Registration Boards to satisfy the requisite experience requirements. A copy of the Intern Development Program experience criteria may be obtained from the board office. An Intern Development Program participant shall file annually with the board a report of training completed during the year being reported. The report is due within 30 days following the anniversary date of entry to the Intern Development Program. The board shall notify the Intern Development Program participant when the Intern Development Program experience requirements have been completed to the satisfaction of the board.

C. Written examination.

1. Qualifying Test. The Qualifying Test shall be administered once annually at a time and place determined by the board to those applicants approved by the board for admission to the examination. Qualification requirements for admission to the Qualifying Test include ten years of combined architectural education and experience as provided in Tables I, II, and III, or a degree from an architectural curriculum accredited by the National Architectural ~~Accreditation~~ Accrediting Board. All persons applying for registration as architect by examination after ~~June 30, 1981~~ April 1, 1981 will be required to take and pass the Qualifying Test before being admitted to a Section B, Professional Examination. Any person failing one or more parts of the Qualifying Test must retake the failed parts.

2. Section A, Professional Examination; Site Planning and Design Test. The Section A, Professional Examination; Site Planning and Design Test shall be administered once annually at a time and place as determined by the board to those applicants approved for admission to the examination. The qualification requirements for admission include a degree from an architectural

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curriculum accredited by the National Architectural ~~Accreditation~~ Accrediting Board or ten years of board approved combined education and experience as provided in Tables I, II, and III.

3. Section B, Professional Examination. The Section B, Professional Examination shall be administered once annually at a time and place as determined by the board to those applicants approved by the board for admission to the examination. Qualification requirements for admission to the Professional Examination include a degree from an architectural curriculum accredited by the National Architectural ~~Accreditation~~ Accrediting Board, a minimum of three years of diversified qualifying architectural experience and successful completion of the Qualifying Test. Any person making original application for admission to registration examinations after ~~June 30, 1981~~ April 1, 1982 shall take the Qualifying Test. Any person who fails only one part of this examination may retake that part during a subsequent examination. A person who fails more than one part of the examination shall retake the entire examination.

4. Effective January 1, 1991 only those persons holding a degree from an architectural curriculum accredited by the National Architectural ~~Accreditation~~ Accrediting Board, or an equivalent architectural degree acceptable to the board, will qualify for admission to the Professional Examination and for registration and licensure to practice architecture in the State of Minnesota.

5. Handbooks, tables, reference books and hand-held, battery-operated electronic calculators may be used only when authorized by the board.

**4 MCAR § 7.010 Examination of engineer applicants.**

B. Oral examination. An applicant may be required to appear before the board for oral examination and submit two exhibits of engineering work the applicant has performed in the event that the experience record does not clearly indicate four years of qualifying engineering experience, or the applicant does not hold a degree from an approved engineering program, or the applicant qualifies for waiver of the Fundamentals of Engineering Examination as provided in 4 MCAR § 7.010 D. ~~The~~ An applicant residing in an overseas area may be ~~given the option by the board~~ required to submit one exhibit of the applicant's engineering work with a written critique of that exhibit ~~in lieu of appearing before the board for an oral examination~~ in the event that the experience record does not clearly indicate four years of qualifying engineering experience.

**4 MCAR § 7.012 Rule of professional conduct.** This rule of professional conduct is adopted for the purpose of implementing the laws and rules governing the practice of architecture, engineering, land surveying and landscape architecture including Minn. Stat. § 326.11. This rule is applicable to and binding upon each person, corporation or partnership subject to the regulatory jurisdiction of the board and each person subject to the control of the licensee.

Each licensee who holds a certificate of licensure issued by the board is charged with knowledge of this rule. In the exercise of the privileges and rights granted by the certificate of licensure, the licensee shall conform his professional conduct to the public and to the board in accordance with the provisions of this rule, and shall, as a condition of licensure, subscribe to and agree that he will conduct his practice in accordance with the provisions of this rule.

C. Improper solicitation of employment.

1. A licensee shall seek and engage in only the professional work or employment the professional is competent and qualified to perform by reason of education, training or experience.

2. A licensee shall not falsify or misrepresent the extent of his education, training, experience or qualifications to any person or to the public; nor shall he misrepresent the extent of his responsibility in connection with any prior employment.

3. A licensee shall not transmit, distribute, or publish or allow to be transmitted, distributed, or published, any false or misleading information regarding his own qualifications, training, or experience or that of his employer, employees, associates, or joint venturers.

4. A licensee shall not tender any gift, pay, or offer to pay, directly or indirectly, anything of substantial value, whether in the form of a commission or otherwise, as an inducement to secure employment. A licensee is not prohibited from paying a commission to a licensed employment agency for securing a salaried position.

**4 MCAR § 7.014 Registration.** No corporation, partnership, or other firm engaged in the practice of architecture, engineering, land surveying, or landscape architecture, or two or more of these professions, shall contract with or accept employment for professional services of an architectural, engineering, land surveying, or landscape architectural character as defined in Minn. Stat. §§ 326.02-326.15 unless a member or employee of the corporation, partnership, or other firm, in responsible charge of the work is registered and licensed under the provisions of Minn. Stat. §§ 326.02-326.15 to practice the profession called for by the employment.

**4 MCAR § 7.015 Responsible charge and direct supervision.** A person in responsible charge of architectural, engineering, land surveying, or landscape architectural work as used in Minn. Stat. § 326.14 means the person who determines design policy, including technical questions, advises with the client, superintends subordinates during the course of the work and, in general,

the person whose professional skill and judgment are embodied in the plans, designs and advice involved in the work. Plans and specifications for buildings, structures, or projects of standard design which have been designed outside the state shall bear the certification of the design professional licensed in another United States licensing jurisdiction. In addition, a Minnesota licensed architect, professional engineer, or landscape architect shall review the design and certify that it is appropriate to the site on which construction is proposed and is in compliance with the state building code adopted by the Department of Administration where the building code is in effect.

A person in direct supervision of work as referred to in Minn. Stat. § 326.12, subd. 3, means that person who is the employer, an employee of the same firm, or who is under contract to or from another firm and who is in responsible charge of technical architectural, engineering, land surveying, or landscape architectural work in progress, whose professional skill and judgment are embodied in the plans, specifications, reports, plats, or other documents required to be certified pursuant to that subdivision. A person in direct supervision of work directs the work of other licensees, interns, draftspersons, technicians, or clerical persons assigned to that work and is in responsible charge of the project comprising the work being supervised.

**4 MCAR § 7.017 Certificates.**

A. Certificates of record. The board ~~may~~ shall issue to each applicant who successfully completes the Fundamentals of Engineering Examination, or land surveyor-in-training examination, a certificate indicating that the applicant's name has been recorded as such in the office of the board. The board ~~may~~ shall, upon written application, issue to each applicant who holds a degree from a landscape architectural curriculum approved by the board a certificate indicating that the applicant's name has been recorded as a landscape architect-in-training in the office of the board. The certificates of record as engineer-in-training, land surveyor-in-training, or landscape architect-in-training are permanent, subject only to suspension or revocation for cause in the manner provided by law.

B. Certificate of registration. The board ~~may~~ shall issue to each applicant who has successfully completed the Fundamentals of Engineering examination, unless the Fundamentals of Engineering examination is waived as stated under 4 MCAR § 7.010 D., applying only in the case of engineer applicants, or Land Surveyor-in-Training examination, or has been certified as a landscape architect-in-training, or has successfully completed the professional practice examination, a certificate of registration properly filled out, signed and sealed, giving the licensee proper authority to practice the profession of architecture, professional engineering, land surveying, or landscape architecture under the Registration Act of the State of Minnesota for a period ending June 30 of the even-numbered year of the biennium in which the certificate if issued after which date the certificate will expire unless renewed. Applicants who are registered by comity from other states, having met the Minnesota registration requirements, ~~may~~ shall be issued certificates of registration in the same manner as provided in this rule.

**4 MCAR § 7.019 Seal.** Each registrant may, upon licensure, also obtain a seal of a design approved by the board bearing the licensee's name and the legend, "Registered Architect," "Registered Professional Engineer," "Registered Land Surveyor," or "Registered Landscape Architect." Plans, specifications, plats, reports, and other documents prepared by a licensee may be stamped with the seal during the life of a licensee's certificate if the certificate remains unrevoked, has not expired, or has not been suspended. The stamped seal may be used on documents in addition to the signed and dated certificate required under 4 MCAR § 7.018.

**4 MCAR § 7.021 Professional corporations.** Professional corporations and foreign professional corporations are required to file periodic reports with the board in accordance with Minn. Stat. § 319A.21.

**Repealer.** 4 MCAR § 7.013 is repealed.

**Effective date.** 4 MCAR § 7.004 applies to all applications submitted to the board after the effective date of that rule.

# State Arts Board

## Adopted Rules Governing Review of Requests for and Distribution of Grants, Loans and other Forms of Assistance

The rules proposed and published at *State Register,* Volume 5, Number 44, pages 1707-1720, May 4, 1981 (5 S.R. 1707) are now adopted with the following modifications:

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.

## Rules as Adopted

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Rule

5 MCAR § 5.006 Eligibility requirements for individuals applying for grant assistance.

5 MCAR § 5.007 Eligibility requirements for organizations, governmental units and schools applying for grant assistance.

5 MCAR § 5.009 Process for obtaining regional block grants; ~~block grant application~~ regional plan review; regional arts council review; re-granting~~;~~ and reporting requirements.

**5 MCAR § 5.005 Advisory committees.**

G. Members of the advisory committees and regional arts task force shall be compensated for expenses incurred to attend advisory committee meetings as provided in Minn. Stat. ~~ch.~~ § 15.059, subd. 3, except that they shall not be eligible for the per diem.

H. Any member of an advisory panel with a direct financial or employment interest relating to any grant application before the advisory panel, or with a professional, employment or financial interest relating to any individual artist applicant, ~~which interest is reasonably likely to affect his/her impartiality or judgement in the review~~ will ~~be instructed to~~ inform the board of such an affiliation prior to the review of grant applications.

1. Affiliation of an advisory panel member with an applicant includes:

e. Recent ~~recipient~~ receipt of free tickets or other benefits from an applicant being reviewed.

**5 MCAR § 5.007 Eligibility requirements for organizations, governmental units and schools applying for grant assistance.**

A. Subject to 5 MCAR § 5.012 and the other provisions of these rules, non-profit, tax-exempt organizations, schools, governmental units and departments and agencies of the state are eligible to apply for:

1. Local/regional arts development assistance from regional arts councils if:

c. The project submitted is not limited in access to, or only serves, those attending schools, including the staff.

2. Sponsor assistance from the Minnesota State Arts Board if:

a. ~~Schools are seeking arts-in-education assistance for the support of artist residency projects of one week (5 school days) or longer~~ All applicants identified in A. submit projects which are within the definition of sponsor assistance in 5 MCAR § 5.004 P. of these rules.

b. The project submitted is not limited in access to, or only serves, those attending schools, including the staff.

c. This assistance is for projects in which more than $3,000 is requested.

d. In those cases in which a school is an applicant and is seeking arts-in-education assistance, the project to be supported must be an artist residency project of one week (5 school days) or longer.

3. General support from the Minnesota State Arts Board if:

a. The organization seeking support is an arts producing~~,~~ or exhibiting organization. Public broadcasting stations, schools, universities ~~and other organizations which primarily present rather than create or produce arts programs~~, colleges, libraries, governmental units, chambers of commerce and other community service organizations are not eligible to apply for this type of assistance.

b. The organization has been in existence ~~in its current form~~ two full years prior to applying.

d. The organization has ~~a commitment to~~ paid professional management~~—at least one full-time paid management (not clerical) position for 12 months per year.~~

e. ~~Have an annual budget of $100,000, less any other MSAB or regional arts council grants, for the fiscal year completed prior to applying for Group II, and~~ The organization has a cash revenue budget of at least $700,000 for its fiscal year completed prior to applying for Group I, and at least $100,000, but less than $700,000, for its fiscal year completed prior to applying for Group II. This budget shall be substantiated by certified audit.

**5 MCAR § 5.008 Process for obtaining grants in all categories except regional arts council block grants.**

Definitions. For the purpose of this rule the following terms shall have the meanings given to them.

1. "Applicant" means

~~(a)~~ a. Any Minnesota resident who submits an application for a grant, or

~~(b)~~ b. Any organization, department or agency of the state or political subdivision on whose behalf an application for a grant is submitted.

2. "Authorizing official" means

~~(a)~~ a. A person~~,~~ empowered to enter into contracts for and who signs the grant application of an organization, political subdivision, or department or agency of the state, or

~~(b)~~ b. In the case of individual artist applications, an individual artist who signs the grant application.

4. "Fiscal agent" means any Minnesota non-profit tax-exempt organization or governmental unit which applies to the board on behalf of an organization or group not meeting the non-profit, tax-exempt requirements. The fiscal agent must sign the application and, if a grant is received, sign the grant letter/contract. The fiscal agent is legally responsible for the completion of the project and for the proper management of the grant funds.

5. "Grant" means an allocation of funds to an applicant which is to be used for the purpose(s) described in the application ~~which~~. The funds are not repaid.

8. "Matching funds" means share of the financial support for a project or program raised by applicant from sources other than MSAB. Match for a project or program cannot be made up solely of in-kind contributions. The sources for matching funds may be one or more of the following: cash, in-kind items, revenue or other grants.

B. All applications for grants must be made ~~an~~ on official application forms for the appropriate program available at the offices of the board. Applicants must use grant application forms for the appropriate fiscal year. Requests for other forms of assistance may be made directly to the board at its offices.

C. A copy of these rules and appropriate program information will be provided upon request to all applicants and the public.

F. All applications submitted by individual artists to the board for grants must include examples of works of art of the applicant submitting. The type of examples required and the maximum number of examples to be submitted will be specified in current program information of the board. No exceptions will be made to these requirements ~~may be made on application to the Board.~~

H. The staff will review all applications submitted by the deadline for completeness.

1. The applicant is responsible for the completeness of the application.

2. An incomplete application is not eligible for review by the advisory committee or the board.

I. A late application will not be considered for review by the advisory committee or the board.

~~1. The applicant is responsible for the completeness of the application.~~

~~2. An incomplete application is not eligible for review by the advisory committee or the board.~~

J. A complete application includes the following:

8. ~~Postmarked~~ Postmark or ~~delivered~~ delivery by the stated deadline(s) in program information.

L. Advisory committees, when reviewing applications under the standards listed in 5 MCAR § 5.010, shall submit as recommendations:

1. Full funding~~.~~,

2. Partial funding, except for individual artist grants, which can only be for the full requested amount, or~~,~~

3. No funding.

Q. If the board awards a grant which is smaller than the amount requested, the applicant will be notified by mail~~,~~ and will be required to submit a revised budget before a grant contract will be sent.

**5 MCAR § 5.009 Process for obtaining regional block grants; regional plan review; regional arts council review; re-granting and reporting requirements.**

A. 2. The plan will include:

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e. Program information which describes grants and other forms of assistance available, the methods for such assistance, eligibility requirements, review standards, the review process, the terms of the grant contract with grant recipients, the time needed and process followed in paying ~~rent~~ grant recipients, and the responsibilities of the grantees.

f. The organizational structure which must include bylaws, an identification of the arts experience and background requirements for the members and job description of the staff of the~~,~~ organization, a description of the rotation system which will ensure replacement of members on a regular basis, and an outline of the open nominations process used to appoint the members.

B. The review of a block grant application is as follows:

3. The regional advisory committee shall submit as recommendations to the board one of the following:

a. Full funding based on the Minnesota State Arts Board allocation formula;

b. Partial funding; or~~;~~

c. No funding.

J. Regional arts councils must base decisions on local/regional arts development grant applications received through re-granting programs on the review standards listed in 5 MCAR § 5.010 A. ~~1.~~ These decisions must be made by citizen committees appointed for their expertise and experience in the arts according to 5 MCAR § 5.005 C.

K. Organizations which receive a grant from a regional arts council are subject to the provisions of 5 MCAR § ~~5.001~~ 5.011, Provisions affecting grantees.

L. Each regional arts council shall submit an annual report within 90 days~~,~~ after the end of the regional arts council's fiscal year which shall include:

1. Total fiscal statement, not an audit, for the years in which the plan was in effect.

**5 MCAR § 5.010 Standards for review of requests for grants ~~and other forms of assistance~~.**

A. Applications for special projects, sponsor assistance, local arts development and regional block grants will be reviewed ~~primarily~~ according to:

1. The merit and artistic quality of project or program. In the case of service programs and projects the merit and quality of the service being provided to the arts will be reviewed.

C. Applications for general support will be reviewed ~~primarily~~ according to:

2. The application is then reviewed according to the following standards~~:~~.

D. Individual artists' applications will be reviewed ~~primarily~~ for the quality of the artistic activity as demonstrated in the examples of the work submitted. If the artistic activity is determined to be of sufficient quality as to indicate further review the following standards will be applied:

1. The merit of the proposed activity as this relates to the artist's ability to execute the proposed activity and an examination of the artist's proposal, submitted work and career brief.

E. Because it is anticipated that there will be more qualified applicants than funds available~~;~~, funding decisions may be made by the board on the basis of the board's and advisory ~~committees determination~~ committees' determinations of the artistic quality as evidenced in the work submitted relative to the artistic work submitted in other applications.

**5 MCAR § 5.011 Provisions affecting grantees.**

A. The grantee or authorizing official must sign and return to the board, within 45 days from date of mailing, one copy of the grant contract and necessary attachments if notification is of grant approval. No action is required on notification of applications not recommended for funding.

**5 MCAR § 5.011 F.-H. [Reletter as 5 MCAR § ~~5.001~~ 5.011 G.-I.]**

J. A grant commitment to a grantee may be rescinded by the board if one of the following conditions exists:

1. The grantee does not return the signed grant contract and/or attachments ~~with~~ within 45 days of the date specified by the board letter or in program information.

N. The board may recall uncommitted regional block grant funds at the end of ~~their~~ the board's fiscal year. A written request must be made by the regional arts council and submitted to the MSAB for approval to carry-forward unexpended funds from one fiscal year of the board to the next. This request from a regional arts council must be made by May 1 of the same fiscal year of the board and must outline the proposed allocation for any unexpended funds in narrative form and contain a budget for such use.

**5 MCAR § 5.012 Miscellaneous provisions.**

E. The board~~, in addition to the criteria set forth above,~~ may award all or most of the available grant funds at the first deadline of each fiscal year.

**5 MCAR § 5.013 Public participation in agency matters.**

A. Any applicant who disputes the decision of the board regarding his or her grant application on any issue other than artistic quality or merit may appeal the decision of the board. This appeal to the board will be conducted in the following way:

1. The applicant will submit a written request for consideration of his or her appeal within 45 days of notification of the board's decision on the application.

4. The board may take one of the following actions in response to the request for an appeal:

d. Determine that the applicant does show sufficient cause for appeal and offer ~~resolution~~ settlement to the applicant at the meeting.

5. ~~If the applicant for a grant does not receive satisfactory resolution of~~ Following the appeal to the board if the applicant continues to dispute the decision of the board regarding his or her appeal from the board, or if the board refers the appeal to a hearing examiner, this appeal will be conducted as a contested case pursuant to the Administrative Procedures Act, Minn. Stat. §§ 15.0418-15.0422 and 15.052.

# SUPREME COURT

## Decisions Filed Friday, December 11, 1981

### Compiled by John McCarthy, Clerk

**51491/Sp. Peggy L. Morehouse v. Geo. A. Hormel & Company, (self-insured), Relator. Workers' Compensation Court of Appeals.**

Although prior to August 1, 1974, the effective date of 1974 Minn. Laws, ch. 486, an injured employee was not entitled to compensation for temporary partial disability after his physical condition had stabilized and he had received compensation for permanent partial disability, that act amended Minn. Stat. § 176.021, subd. 3 (1973 Supp.) to direct that an employee receive compensation for temporary partial disability if he sustains a reduction in earning capacity due to injury or occupational disease without regard to whether his physical disability has become permanent.

Affirmed. Sheran, C. J.

**51784/Sp. Jean E. Bigelow v. Rev. Paul Halloran, as Personal Representative of the Estate of Ralph Mathias, Deceased, Appellant. Olmsted County.**

Under the rule announced by this court in *Milkovich v. Saari*, 295 Minn. 155, 203 N.W.2d 408 (1973), the trial court was correct in applying the Iowa survival statute to this case rather than the Minnesota survival statute.

Sufficient evidence was presented at trial to warrant a jury instruction on future loss of earning capacity.

Affirmed. Otis, J. Took no part, Sheran, C. J.

**81-410/Sp. State of Minnesota, Department of Public Safety, Petitioner, v. James Edward Habisch. Carver County.**

At appellant's license revocation hearing the state established sufficient foundation to introduce the results of a Breathalyzer test.

Reversed. Otis, J.

**81-585/Sp. State of Minnesota v. Marvin Ray Erickson, Appellant. Cottonwood County.**

Evidence was sufficient to support convictions of criminal sexual conduct in the third degree and false imprisonment.

Trial court did not err in permitting use of defendant's prior convictions to impeach his credibility when he testified.

The record does not support the trial court's decision to depart from the presumptive sentence established by the Sentencing Guidelines and accordingly defendant's sentence is modified.

One of defendant's two convictions of false imprisonment is vacated pursuant to a concession by the state.

Affirmed in part, with sentence modified and one conviction vacated. Peterson, J.

**51327, 51578/Sp. Crown Cork & Seal Company, Inc., etc., Appellant, v. City of Lakeville. Dakota County.**

The City of Lakeville has authority to pass on to users of municipal sewer facilities M.W.C.C. sewer availability charges paid by the City.

The City of Lakeville has discretionary authority to impose any combination of use, availability and connection charges to finance municipal sewer and water facilities.

A connection charge may be set by reference to cost of making and supervising the connection, or, in the discretion of the City, by any other method, as long as the charge is just and equitable.

The record does not support claim that trial court erred by disposing of the case without trial.

Affirmed. Todd, J.

**50571/Sp. Walter Ethen, *et al.*, Appellants, v. Reed Masonry, Inc. Beltrami County.**

We hold that a well is an appurtenance to the property conveyed, and that the seller, by his conveyance, breached the covenants when he did not possess the legal title to the property upon which the well was constructed.

Reversed and remanded. Scott, J.

**81-279, 81-403 Mitchell H. Costley, *et al.*, Appellant (81-279), v. Caromin House, Inc., City of Two Harbors, and Lori Marie Osbakken, etc., *et al.*, Applicants for intervention, Appellants (81-403). Lake County.**

A group home housing six retarded adults and two resident houseparents complies with the Two Harbors Zoning Ordinance as being a single-family dwelling.

The group home also complies with the restrictive covenant applicable to the property permitting one dwelling and one garage on each lot.

Permitting the construction of the group home was in keeping with public policy and therefore a denial of the temporary injunction was not an abuse of the trial court's discretion.

Future residents of the group home have a right to intervene in this action.

Denial of temporary injunction affirmed; denial of motion to intervene reversed. Scott, J.

## Decision Filed Thursday, December 3, 1981

**81-600/Sp. State of Minnesota v. Danny Kwomi Barnes, Appellant. Ramsey County.**

Where record on appeal fails to reveal the presence of "substantial and compelling circumstances" that would justify a trial court's departure from the presumptive sentence adopted by the Sentencing Guidelines Commission, the sentence will be modified to that adopted by the Commission.

Affirmed as modified. Amdahl, J. Dissenting, Yetka, J.

## Decision Filed Monday, December 7, 1981

**81-929/Sp. State of Minnesota v. James Kindem, Appellant. Hennepin County.**

*Held*, trial court did not err in refusing to depart from presumptive sentence established by Sentencing Guidelines.

Affirmed. Amdahl, J.

# 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 final submission date of completed contract proposal.

## Department of Transportation
## Technical Services Division
## Research and Development Office

### Notice of Availability of a Contract for Implementation of Research Findings

The Department of Transportation acting as the agent for the Local Research Board requires the services of a consultant for implementation of research findings applicable to county highway and municipal streets in Minnesota. This contract involves the review of selected research, recommendation of implementation procedures and performance of effective implementation activities. Concurrent activity on several implementation projects may be anticipated.

A seasoned professional, with engineering and educational experience who is familiar with design, construction and maintenance practices and problems on Minnesota streets and highways, as well as national research trends, is desired.

The Local Road Research Board has budgeted a maximum of $30,000 per year for this two year contract. Interested bidders should note that the board may extend this project for an additional two years if they should decide to continue the project beyond the initial two year period.

Those interested may obtain a Request for Proposal from:

Gabriel S. Bodoczy
Research Services Engineer
Minnesota Department of Transportation
Research and Development Office
Room B-9, Transportation Building
St. Paul, Minnesota 55155
Telephone: (612) 296-4925

Request for Proposals will be available through January 15, 1982. All proposals will be due no later than January 26, 1982.

## Department of Transportation

### Notice to Consulting Engineers—Registered Civil and Structural

The Minnesota Department of Transportation (Mn/DOT) anticipates retaining bridge design consultants to design and prepare construction plans for a limited number of bridges of average complexity during 1982.

Applicants must have an office in Minnesota staffed to handle the work. Recent experience in the production of Bridge Plans for the State Highway System, the County State Aid Highway System, or equivalent, is required.

Eligible design firms desiring to be considered as design contractors are asked to submit a brochure or resume giving qualifications and experience to K. V. Benthin, State Bridge Engineer, 610D Transportation Building, Mn/DOT, St. Paul, Minnesota 55155. Identify personnel to conduct the project and detail their training and experience. Brochures and resumes will be received until 4:30 p.m., January 11, 1982. Qualified applicants will be contacted, and may be requested to appear at Mn/DOT Building in St. Paul for interviews.

Names of selected firms will be retained on file with Mn/DOT for consideration during 1982.

Design Projects which are above average complexity will be individually advertised for selection of design consultants.

# 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.

## Minnesota State Agricultural Society
## Minnesota State Fair

### Annual Meeting Notice

The 123rd annual meeting of the Minnesota State Agricultural Society, governing body of the State Fair, will be held Jan. 17, 18 and 19 at the Radisson St. Paul Hotel. The annual meeting will be followed by meetings of the society's board of managers January 19.

A complete schedule of all scheduled meetings is available during regular business hours at the Administration Building on the fairgrounds, St. Paul, or at the hotel during the meeting.

## Department of Commerce
## Office of Consumer Services, Cosmetology Unit

### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Practice of Cosmetology

Notice is hereby given that the Minnesota Office of Consumer Services, Cosmetology Unit, is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing all aspects of the practice of cosmetology, including but not limited to requirements for licensure of individual practitioners (cosmetologists, manicurists, estheticians, managers and instructors), cosmetology schools and beauty salons. The promulgation of these rules is authorized by Minnesota Statutes § 155A.05, which requires the agency to develop and adopt rules to carry out the provisions of §§ 155A.01 to 155A.18.

The Minnesota Office of Consumer Services, Cosmetology Unit, requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment in writing. Written statements should be addressed to:

Paula Stenlund, Supervisor
Minnesota Office of Consumer Services
Cosmetology Unit
Metro Square Building
7th and Robert Streets
St. Paul, Minnesota 55101

All statements of information and comment shall be accepted until March 31, 1982. Any written material received by the Minnesota Office of Consumer Services shall become part of the record in the event that the rules are promulgated.

Krista Sanda
Director

## Minnesota Pollution Control Agency

### Notice Regarding Metropolitan Council's 208 or Water Quality Management Plan

On November 1, 1981 the Minnesota Pollution Control Agency (MPCA) received the Metropolitan Council's submission of its 208 or Water Quality Management Plan for the 7-County Metropolitan Area. In accordance with Federal requirements the MPCA has 120 days to review and have the Governor certify the Metropolitan Council's 208 Plan to the U.S. Environmental Protection Agency. The staff of the MPCA will present the council's plan to the MPCA board at its January 1982 board meeting. All comments and observations on the plan should be submitted to the MPCA prior to January 13, 1982.

Following MPCA board action and prior to the Governor's certification, a public notice will be given of the board's action. Following this notice, the plan will be transmitted to the Governor for certification.

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

# ORDER FORM

***State Register.*** Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

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## FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

***Briefly/Preview***—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

***Perspectives***—Publication about the Senate. Contact Senate Information Office.

***Weekly Wrap-Up***—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

***This Week***—weekly interim bulletin of the House. Contact House Information Office.

Legislative Reference Library
Room 111 Capitol
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