

86, May 26

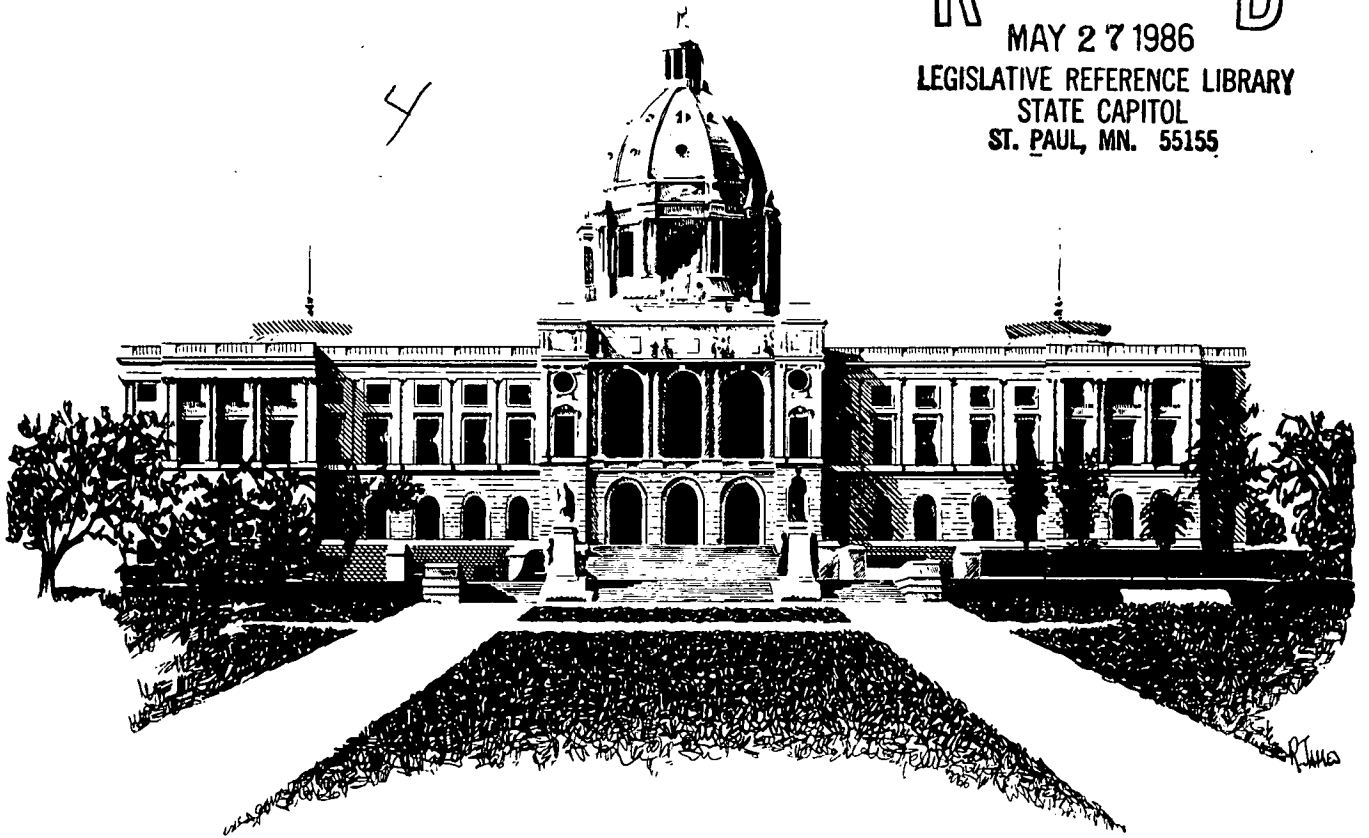
STATE REGISTER

STATE OF MINNESOTA

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VOLUME 10, NUMBER 48

Monday 26 May 1986

Pages 2341-2360

STATE REGISTER

Volume 10

Printing Schedule

Submission Deadlines

Vol. 10 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
48	Monday 12 May	Monday 19 May	Monday 26 May
49	Monday 19 May	Friday 23 May	Monday 2 June
50	Friday 23 May	Monday 2 June	Monday 9 June
51	Monday 2 June	Monday 9 June	Monday 16 June

*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, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *State Register* is published by the State of Minnesota, Minnesota 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*.

Governor: Rudy Perpich

**Director, Minnesota Documents
Division:** Stephen A. Ordahl

Editorial Staff: Paul Hoffman,
Ruth Werness

**Commissioner, Department of
Administration:** Sandra J. Hale

Editor: Robin PanLener

Circulation Manager: Debbie Kobold

Support Staff: Bonnie Karels

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate 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:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
Room 111 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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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:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issues 27-38, inclusive	

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

MINNESOTA RULES AMENDMENTS AND ADDITIONS

NOTE: This listing includes all proposed and adopted rules printed in this issue except emergency rules and errata for this issue. Please see those sections for the appropriate rule numbers.

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 .0890; .0900; .0910; .0920; .0930; .0940; .0950;
 .0960; .1120; .1130; .1140; .1150; .1160; .1170;
 .1180; .1190; .1200; .1210; .1220; .1230; .1240;
 .1250; .1260; .1270; .1280; .1290; .1300; .1310;
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 .4000; .4100; .5100; .5200; .5300; .5500; .5800;
 .5900; .6000; .6100; .6300; .6800; .6900; .7000;
 .7100; .7700; .7800; .7900; .8200; .8400; .8500;
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2700.2400-.2440 (adopted) 2260
 2700.2400-.2440 (adopted repealer 9/30/87) 2260
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 2747.0005-.0040 (proposed) 2311
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(Now JOBS AND TRAINING)**

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(Now HUMAN SERVICES)**

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9500.1200; .1206; .1258; .1260; .1262; .1264; .1266; .1268; .1270; .1300; .1302; .1304; .1306; .1308; .1310; .1312; .1314; .1316; .1318 (proposed)	2211
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9549.0050-.0059 (proposed temporary)	2016
9550.6200-.6240 (adopted)	2005

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.

Department of Commerce

Adopted Rule Governing Authorization to Issue Medical Malpractice Insurance

The rule proposed and published at *State Register*, Volume 10, Number 36, pages 1774-1776, March 3, 1986 (10 S.R. 1774) is adopted as proposed.

Department of Natural Resources

Adopted Rules Relating to Boat and Water Safety

Notice of Adoption

The rule amendment published in the *State Register* (10 S.R. 1905), on March 17, 1986 is now adopted as proposed.

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 Commerce

Notice of Temporary Activation of the Minnesota Joint Underwriting Association to Insure Specified Classes of Business

Notice is hereby given that, pursuant to Minnesota Statutes, section 62I.21, the Minnesota Joint Underwriting Association (MJUA) and the Market Assistance Plan (MAP) are activated to provide assistance to the following classes of business unable to obtain liability insurance from private insurers:

- day care providers
- foster parents
- foster homes
- developmental achievement centers
- group homes
- sheltered workshops
- citizen participation groups
- recreational facilities
- electrical inspectors
- architects
- design engineers
- asbestos abatement contractors
- environmental contractors

volunteer guardianship providers
directors and officers of nonprofit agencies
home health aides
crane operators

The MJUA and MAP are activated to provide assistance to the above classes of business for a period of 180 days following publication of this notice. Pursuant to the requirements of Minnesota Statutes 621.22, a hearing before an administrative law judge will be held to determine whether activation should continue beyond 180 days. Notice of the time, date, and place of the hearing will appear in the *State Register* at a later date.

Questions regarding the MJUA, the MAP, or this notice should be directed to:

David Corum
Research Analyst
Minnesota Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 297-3301

Michael A. Hatch
Commissioner

Energy and Economic Development Department Business Financial Management Division

Notice of Tax Exempt Financing Issuance Authority

Notice of Availability

Pursuant to Minn. Laws 1986, Ch. 465, Article I, Section 22

The Department gives notice that the amounts of tax exempt financing issuance authority available to qualified issuers as of May 19, 1986, is as follows:

Competitive Pool (Existing Law)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13

Total Pool Available (Priority to Manufacturing Projects)	\$ 305,422,800
For:	
Pollution Control/Waste Management Projects	\$ 70,064,560
Commercial Redevelopment Projects	\$ 95,312,980

Competitive Pool (Federal Volume Limitation Act)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 19

Total Pool Available (Priority to a-General Obligation Projects, b-Manufacturing Projects)	\$ 290,741,237
For:	
Pollution Control/Waste Management Projects	\$ 59,856,247
Commercial Redevelopment/Multifamily Housing Projects	\$ 101,008,432

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

Qualified 501c(3) Bond Pool (Federal Volume Limitation Act)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 20

Total Pool Available

\$ 78,300,000

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13, Subd. 2, Section 19, Subd. 2, Section 20, Subd. 3, and Section 21, Subd. 2, issuers requesting allocations of issuance authority must submit applications, any applicable deposit and any other supporting documents required. Application forms are available from the Department upon request.

Department of Health Emergency Medical Services Division

Outside Opinion Sought on Emergency Medical Services Licensure Application

As of May 26, 1986 a complete application was received from the City of West St. Paul for a basic life support transportation service license to serve the City of West St. Paul, Minnesota.

Minnesota Statutes, Section 144.802, requires in part that the Commissioner of Health publish the notice at the applicant's expense in the *State Register*.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Metropolitan Health Board, 7th and Robert, St. Paul, Minnesota 55101, Attn: Paul Riddle. The comments must reach the Health Systems Agency before June 26, 1986 or be submitted at the public hearing.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to the applicant.

State Board of Investment

Notice of Investment Advisory Council Meeting

The State Board of Investment will meet on Thursday, June 12, 1986 at 8:00 A.M. in Room 118, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet at 2:00 P.M. on Tuesday, June 3, 1986, in the MEA Building, 41 Sherburne Avenue, Conference Room "A", Saint Paul, MN.

Labor and Industry Prevailing Wage Division

Notice of Certified Prevailing Wage Rates for Commercial Construction

On June 1, 1986 the commissioner will certify prevailing wage rates for commercial construction projects in the following Minnesota counties: Anoka, Benton, Big Stone, Carver, Chippewa, Chisago, Dakota, Douglas, Grant, Hennepin, Isanti, Kanabec, Kandiyohi, McLeod, Meeker, Mille Lacs, Morrison, Pine, Pope, Ramsey, Scott, Sherburne, Stearns, Stevens, Swift, Todd, Traverse, Washington and Wright.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the *State Register* and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, phone (612) 297-3000. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is \$25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor & Industry

Public Utilities Commission

Outside Opinion Sought Concerning Amendments to Rules Governing the Certificate of Need Program for Electric Generating Facilities and High Voltage Transmission Lines

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) is considering amendments to Minnesota Rules, parts 4220.0100 to 4220.4100, governing the criteria for assessment of need and the contents of applications for certificates of need for large electric generating facilities and large high voltage transmission lines. These amendments will be promulgated under the authority of Minn. Stat. § 14.06 (1984), which authorizes the Commission to adopt rules setting forth the procedures which affect the public; Minn. Stat. § 216A.05, which authorizes the Commission to prescribe rules with respect to the control and conduct of the businesses coming within its jurisdiction; and Minn. Stat. § 216B.243, which requires the Commission to adopt rules and procedures regarding the certificate of need process.

The proposed amendments may address any of the sections of the rules, including: 1) definitions; 2) procedures for determining substantial completeness of applications; 3) the criteria for assessment of need; 4) application fees; 5) alternatives to proposed facilities; 6) technical, economic and environmental data for proposed facilities and reasonable alternatives; and 7) certificate of need modifications.

The Commission desires comments on any or all of these matters being considered. Interested or affected persons or groups may submit written statements of information or comment. Written statements should be addressed to:

David Jacobson
Minnesota Public Utilities Commission
780 American Center Building
160 East Kellogg Boulevard
St. Paul, MN 55101

All written statements of information and comment will be accepted during normal business hours (8:00 a.m.—4:30 p.m.) until June 27, 1986. In order to be considered, comments must be received no later than 4:30 p.m. on Friday, June 27, 1986. Any written material received by the Commission shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rules are amended.

19 May 1986

Mary Ellen Hennen, Executive Secretary

Department of Transportation

Notice of Petition of City of Winona for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of Winona has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a resurfacing project on Municipal State Aid Street 108 (Huff Street) from Sarnia Street to Broadway Street.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9919 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a street width of 36 feet instead of the required width of 56 feet with parallel parking on one side.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

15 May 1986

Richard P. Braun
Commissioner of Transportation

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. 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

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

<u>Commodity for Bid</u>	<u>Bid Closing Date at 2 pm</u>	<u>Department or Division</u>	<u>Delivery Point</u>	<u>Requisition #</u>
Modular Cooling Units	May 23, 1986	State University System	Mankato	26-137-03507 Rebid
Displays	May 27, 1986	Agriculture	St. Paul	04-661-34761 Rebid
Trinocular/Microscope Lenses	May 28, 1986	Natural Resources	St. Paul	29-000-43780
Steel, Common Use Items	May 28, 1986	Various State Agencies	Various	Price-Contract
Xyplex Controllor	May 28, 1986	Mn Pollution Control Agency	Roseville	02-310-14760
Taxiway Markers	May 28, 1986	Transportation— Aeronautics	St. Paul	79-000-52811
Traffic Control Materials	May 28, 1986	Transportation	Various	Price-Contract
Boat Trailers	May 28, 1986	Natural Resources— Fisheries	Duluth	29-002-12007
General Info. Posters	May 28, 1986	State University System	Mankato	26-071-16564- 7516-21
Explore Mn Minnetours	May 28, 1986	Energy & Economic Development—Tourism	St. Paul	22-400-01186-7652
Modular HPCL Systems	May 28, 1986	Winona State University	Winona	26-074-10674
Detection System	May 28, 1986	Community College	Hibbing	27-143-48513
Custom Built Fiberglass Canoe	May 29, 1986	Rainy River Community College	Int'l Falls	27-155-48267
Purchase of Photocopy Machine	May 29, 1986	Austin Community College	Austin	27-139-49131
Purchase of Photocopy Machine	May 29, 1986	State University System	Bemidji	26-070-11619
Vending Machines	May 29, 1986	Transportation— Jobs & Training	Bloomington	21-700-12459
Purchase of Photocopy Machine	May 29, 1986	State University	St. Cloud	26-073-18450
Repair Skid Pad	May 29, 1986	State University	St. Cloud	26-073-18815
Telephone System	May 29, 1986	North Hennepin Community College	Minneapolis	02-430-47194 Rebid
Outboard Motors	May 30, 1986	Natural Resources	Various	29-000-43775
Telephone System	May 30, 1986	Correctional Facility	Shakopee	02-430-47198
Purchase of Data Entry Computer System	May 30, 1986	Revenue	St. Paul	67-150-11403
Car	May 30, 1986	Natural Resources	Grand Rapids	29-002-12121
Floor Maint. Equip.	May 30, 1986	State University System	Mankato	26-071-16593 Rebid
Radio Comm. Equip.	June 2, 1986	Transportation	St. Paul	07-500-36653

<u>Commodity for Bid</u>	<u>Bid Closing Date at 2 pm</u>	<u>Department or Division</u>	<u>Delivery Point</u>	<u>Requisition #</u>
Gas Chromatograph	June 2, 1986	Pollution Control Agency	Roseville	32-200-14271
Breath Test Screening Device	June 2, 1986	Natural Resources	St. Paul	29-000-43806
Truck & Tractor Attachments	June 2, 1986	Natural Resources	Grand Rapids	29-002-12010
1986 State Telephone Directory Outstate Section Only	June 2, 1986	Dept. of Administration— Telecommunications	St. Paul	02-430-48779-7796

Department of Human Services

Notice of Availability of Information Management Resources Contract for Backup Systems Analysis Services

The Minnesota Department of Human Services is requesting a proposal from qualified firms to provide backup systems analysis services to be used by the Department on an as-needed basis. This will involve basic systems analysis, using systems development methodology and structured systems design. This may involve backup technical assistance or consultation to a staff analyst of the Department on specific phases of a project, or taking responsibility for implementing specific project phases. This work will be assigned at the discretion of the Department. The total amount expended for these services will not exceed \$200,000.00 for fiscal year 1987 (i.e. July 1, 1986 through June 30, 1987). Proposals limited to a part of this work will be considered (i.e., responders are not required to commit to services totalling the entire \$200,000.00). The Department reserves the right to contract this work out to several responders, or to award the entire amount to one responder.

The full text of the Request For Proposal is available on request. Inquiries and responses must be directed to:

Norbert A. Bohn, Director
Management Resources
Space Center
444 Lafayette Road
Saint Paul, Minnesota 55101
(612) 296-6429

Responses must be received no later than 4 p.m. on June 16, 1986.

Department of Human Services Cambridge Regional Human Services Center

Notice of Request for Proposal for Medical Services

Notice is hereby given that Cambridge Regional Human Services Center, Dept. of Human Services is seeking the following services for the period July 1, 1986 through June 30, 1987. These services are to be performed as requested by the Administration of the Cambridge Regional Human Services Center.

This request for proposals does not obligate the state to complete the projects, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

1. Services of a qualified interpreter are sought to provide consultation to the hearing impaired residents, provide manual sign language inservice to the staff, participate and interpret for meetings that are scheduled by the Medical Director, Speech Pathologist and other staff. Supervision of work will be provided. Estimated amount of this contract will not exceed \$17,600.00.

Responses must be received by June 16, 1986.

Direct inquiries to:

Dorothy J. Johnson, Accounting Officer Supervisor
Cambridge Regional Human Services Center
Cambridge, MN 55008
Phone: (612) 689-2121 Ext. 206

STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Housing Finance Agency

Notice of Fund Availability and Request for Proposals Elderly Home Sharing Program

Introduction

The Minnesota Housing Finance Agency announces the availability of \$100,000 in grant funds to eligible sponsors for the purpose of establishing and/or operating Elderly Home Sharing Programs within the State of Minnesota. These funds were appropriated by the 1985 Minnesota Legislature.

Homes sharing is an arrangement where two or more unrelated people share a dwelling, each having his or her own private space and sharing certain common living areas. A shared arrangement usually means that an elderly homeowner provides a bedroom for a renter. Homesharers may arrange a regular rental agreement or the renter may provide services for part or all of the rent. No two homesharing situations are alike; each is tailored to the needs and desires of the people involved.

The Minnesota Housing Finance Agency was established to assist in providing safe, appropriate and affordable housing for low- and moderate-income residents of Minnesota. For elderly persons, the options are often too limited. This Elderly Home Sharing Program is intended to make it possible for more elderly homeowners to remain in their homes. The MHFA will award grant funds to selected nonprofit organizations for the development and/or operation of elderly home sharing programs throughout Minnesota. These programs should match low- and moderate-income elderly homeowners with homeseekers who will contribute rent or services in exchange for sharing the home. This income and/or service should help the elderly homeowners stay in their homes longer than they would have without the tenants.

One excellent source of information for planning a Home Sharing Program is:

“Shared Housing For Older People, a Planning Manual for Match-up Programs”

available from:

National Shared Housing Resource Center, Inc.
6344 Greene Street
Philadelphia, PA 19144
(215) 848-1220

Applicant and Project Eligibility

Eligible grant applicants include nonprofit organizations that operate or propose to operate elderly home sharing programs within the State of Minnesota. Eligible applicants also include housing authorities and units of local government.

Availability of Funds

Applicants may request any size grant up to a maximum of \$100,000; however, it is the intent of this demonstration to assist in the development of home sharing programs in both urban and rural sections of the State with as wide a distribution as possible.

It is assumed that the grant will be utilized for program administration for a one-year period, but applicants may propose a different time period.

Those sponsors selected to participate in this program will receive one-half of their grant amount in advance for start-up costs. The balance will be released quarterly for the term of the program, based upon quarterly program progress reports from the sponsors.

Procedure

Applicants may request application packets by contacting staff at the MHFA. Any questions concerning the program or the application forms should also be directed to MHFA staff.

Minnesota Housing Finance Agency
Park Square Court Building—Suite 300
400 Sibley Street
St. Paul, MN 55101

Attention: Murray Casserly
(612) 296-9846

This Request for Proposals (RFP) is subject to all applicable federal, state and municipal laws, rules and regulations and may be amended from time to time. MHFA reserves the right to modify or withdraw this RFP at any time and is not able to reimburse any applicant for costs incurred in the preparation or submittal of applications.

Applications are due by 4:00 p.m. on July 14, 1986. Selections should be made by the end of July.

SUPREME COURT DECISIONS**Decisions Filed Friday, 16 May 1986****Compiled by Wayne O. Tschimperle, Clerk****C0-84-2016, C4-85-117 Francis L. Dennie, Appellant v. Metropolitan Medical Center, petitioner. Court of Appeals.**

Trial court abused its discretion in suppressing plaintiff's expert testimony requiring dismissal of action where there was no indication that plaintiff's counsel intentionally obstructed the discovery process and no prejudice came to defendant's case.

Affirmed. Amdahl, C.J.

Concurring specially, Simonett, J.

Took no part, Coyne, J.

C2-85-1847 In re Objections to Real Property Taxes: Donald P. Helgeson and Arline Helgeson, petitioners v. County of Hennepin, respondent, Relator. Tax Court.

The Minnesota Tax Court correctly held that a condominium periodically occupied as a residence while its owners enjoyed cultural and recreational events in the metropolitan area is "seasonal/recreational" property under Minn. Stat. § 273.13, subd. (a)(1984).

Affirmed. Yetka, J.

Dissenting, Scott, J., and Coyne, J.

C6-85-1866 Eugene C. Woehler, Relator v. Packaging Corp. of America (Tenneco), and Travelers Insurance Company and Minneapolis Retail Meat Cutters & Food Handlers Health & Welfare Fund, intervenor. Workers' Compensation Court of Appeals.

The finding that employee is permanently totally disabled due solely to a nonwork-related lung condition has substantial support in the evidence as a whole.

Affirmed. Yetka, J.

Dissenting, Wahl, J., and Scott, J.

C9-84-2175 Howard F. Young v. City of Duluth, petitioner, Appellant. Court of Appeals.

Where a public employer terminates the position of employment held by a veteran, written notice under the Veterans Preference Act must be given to the veteran and the 60-day limitation period in the Veterans Preference Act does not begin to run until such notice is received.

Affirmed as modified. Scott, J.

Concurring specially, Simonett, J., Kelley, J., and Coyne, J.

C7-85-1892 Bruce K. Mierau v. Alcon Industries, Inc., and St. Paul Risk Services, Inc., Relators. Workers' Compensation Court of Appeals.

The Workers' Compensation Court of Appeals lacked jurisdiction to review an order compelling employee to attend a pretrial deposition because the order is not appealable under Minn. Stat. § 176.421, subd. 1 (1984).

Reversed. Scott, J.

C8-84-2152, CX-85-1935, C1-85-1936 Susan Gilchrist and Patricia Klein, individually and on behalf of all those similarly situated, Petitioner-Appellant (C1-85-1936) v. Norman Perl, individually and DeParcq, Anderson, Perl, Hunegs & Rudquist, P.A., Petitioners-Appellants (C8-84-2152 & CX-85-1935). Hennepin County District Court.

SUPREME COURT DECISIONS

Where an attorney breaches a fiduciary duty, but actual fraud is absent, the clients sustain no actual harm, and particularly where there are multiple client claims, the amount of the attorney's fee forfeiture may be adjusted to the degree of misconduct, having in mind the relevant factors set out in Minn. Stat. § 549.20, subd. 3 (1984).

A class action is proper here to litigate the claims of clients seeking a fee forfeiture from the defendant attorney for breach of a common fiduciary duty owed to them.

The plaintiff class is not entitled to recover interim attorney fees from defendants for bringing the class action against the defendants.

The trial court correctly rules that imposition of treble damages under Minn. Stat. §§ 481.07 and .071 (1984) was improper under the facts of this case.

Affirmed. *Gilchrist*, Case # C8-84-2152

Reversed in part, affirmed in part and remanded. *Klein*, Case ## CX-85-1935, C1-85-1936. Simonett, J.

Dissenting, Wahl, J., and Kelley, J.

Took no part, Coyne, J.

C1-83-135 Specialized Tours, Inc., v. Ronald D. Hagen, Appellant. Rice County.

A warranty by a sole stockholder of a travel tour corporation which warranted that the business, to the best of his personal knowledge, was in compliance with all laws, rules, and regulations, was not breached when he personally had no knowledge of non-compliance with a recently promulgated federal regulation.

Under the facts and circumstances of this case, the seller of a business corporation did not breach a warranty as to the accuracy of a mid-year balance sheet that was not completed according to generally accepted accounting principles.

Seller of a travel tour corporation breached a contract warranty that no material fact regarding the corporation had been omitted which would reasonably affect an investor's decision to purchase the corporation by neglecting to reveal that substantial tour prepayments were due shortly after the closing of the sale.

Seller of corporation did not fraudulently represent facts in a financial statement furnished buyer prior to execution of the sale contract.

Omission by seller of travel tour corporation to reveal to buyer that substantial prepayments from the corporation were due to promoters of the tours constituted common law fraud and a violation of the Minnesota Securities Act.

Settlement of a claim with one wrongdoer, without reservation of right to pursue claims against other wrongdoers, or without other contemporaneous manifestations of intent to hold the latter, supports the trial court's conclusion that the latter was likewise discharged from liability by the release.

A sale by the sole stockholder of a business corporation of 100 percent of the corporate stock to a buyer who was to solely operate the corporation is governed by the Minnesota Securities Act.

The Minnesota Securities Act does not unconstitutionally discriminate against the seller of 100 percent stock of a corporation.

The seller of 100 percent stock of a business corporation who had no personal knowledge that the corporation was in violation of recently promulgated CAB rules was not in violation of the Minnesota Securities Act when he failed to disclose that fact to buyer.

The seller of 100 percent stock of corporation did not violate the Minnesota Securities Act by not affirmatively telling buyer that tour tickets had not been confirmed when seller gave buyer, his accountant, and his employee access to all of the records of the tours showing that the accommodations had not, in fact, been confirmed.

Amount of costs awarded successful claimant for a violation of the Minnesota Securities Act is discretionary with the trial court operating within guidelines established by Minn. Stat. § 549.02 (1982); Minn. Stat. § 357.25 (1982); as well as Part 1, Rule 11 of the Code of Rules for District Courts.

Trial court correctly applied the rate found in Minn. Stat. § 334.01 (1982) in computing prejudgment interest on an award following violation of the Minnesota Securities Act.

In computing attorney fees recoverable under the Minnesota Securities Act by a party only partially successful, the court, in addition to computing hours spent times a reasonable hourly rate, should consider other factors, including the time spent on the successful issue, and the result obtained.

The trial court properly refused to relieve buyer of corporate stock from its contract performance under the facts and circumstances of this case.

Affirmed in part, reversed in part and remanded. Kelley, J.

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

State of Minnesota Tax Court, Regular Division

Findings of Fact, Conclusions of Law and Order for Judgement, Dated 15 May 1986

Docket Nos. 3401 and 3402 Westinghouse Electric Corporation and Thermo King Corporation, Appellants, vs. Commissioner of Revenue, Appellee.

The above-entitled matter came on for hearing before the Honorable Earl B. Gustafson, Judge of the Minnesota Tax Court, on April 14, 1986 at the Tax Court Hearing Room at 444 Lafayette Road, St. Paul, Minnesota.

Richard I. Diamond and Gene N. Fuller, of Larkin, Hoffman, Daly and Lindgren, Ltd., appeared for appellants.

Thomas R. Muck, Deputy Attorney General, appeared for appellee.

The Court, having heard and considered the arguments of counsel and upon all of the files and records herein, now make the following:

FINDINGS OF FACT

The parties stipulated to the following facts:

1. Appellant Westinghouse Electric Corporation (Westinghouse) is a Pennsylvania corporation which does business in the State of Minnesota.

2. Appellant Thermo King Corporation (Thermo King) is a Delaware corporation, which has its principal place of business in Minnesota, and is a wholly-owned subsidiary of Westinghouse.

3. Westinghouse Electric Export Corporation (WEEX), a Delaware corporation, is a wholly-owned subsidiary of Westinghouse which elected to be treated as a domestic international sales corporation (DISC) for federal income tax purposes under 26 U.S.C. §§ 991 *et seq.*, and was so treated for the years 1972 through 1976.

4. Westinghouse, Thermo King and WEEX keep their financial, tax and accounting records on the accrual method and all have December 31 year-ends.

5. WEEX was incorporated on December 22, 1971. It was organized and has been utilized to enable Westinghouse to receive the federal income tax benefits authorized in §§ 991-997 of the International Revenue Code, 26 U.S.C. §§ 991-97.

6. In the tax years prior to 1972, Westinghouse and Thermo King conducted their own export sales activity by use of a Swiss subsidiary of Westinghouse and independent or franchised foreign agents or dealers, and reported income from export sales as apportionable income on their pre-1972 Minnesota franchise tax returns.

7. For the tax years 1972 through 1976, inclusive, WEEX qualified as a DISC under Section 992(a) of the Internal Revenue Code of 1954 (the Code) and was exempt from federal income tax for such years under Section 991 of the Code. The federal tax law permitting the operation of DISC's did not take effect until January, 1972.

8. WEEX reported total income on federal form 1120-DISC for years 1972 through 1976 in the total sum of Three Hundred Twenty-two Million Eight Hundred Ninety-two Thousand Sixteen Dollars (\$322,892,016). All of the business income of WEEX for the tax years 1972 through 1976, inclusive, consisted of interest earned and commissions paid to it with respect to export sales of products and related services by Westinghouse, Thermo King and other wholly-owned subsidiaries of Westinghouse.

9. The following amounts paid by Westinghouse and Thermo King, respectively, to WEEX for DISC commissions were disallowed by the Commissioner of Revenue as deduction in computing income subject to Minnesota income tax for the following years:

<u>Year</u>	<u>Westinghouse</u>	<u>Thermo King</u>
1972	\$22,343,000	\$ 2,381,000
1973	44,497,105	2,735,820
1974	44,898,004	4,438,900
1975	43,351,989	5,601,753
1976	64,096,426	5,881,525

10. As the sole shareholder of WEEX, Westinghouse is the sole recipient of any distribution of WEEX income.

TAX COURT

11. During the tax years 1972 through 1976, inclusive, WEEX had no paid employees, other than employees of Westinghouse and its subsidiaries; did not engage in any business activities in Minnesota, except as to all business activities on its behalf, if any, performed by employees of Westinghouse or Thermo King in Minnesota; nor did it employ capital, own or lease real or tangible personal property, pay real estate rentals, or maintain an office in the State of Minnesota at any time during such years.

12. Employees of Westinghouse and its subsidiaries conducted all business operations of WEEX. WEEX had no paid employees of its own. All of the sales for which WEEX received the commissions described in this Stipulation were made by employees of Westinghouse, and its subsidiaries, including Thermo King. All billings and collections with respect to those sales were made by employees of Westinghouse and its subsidiaries, including Thermo King. The books and records of WEEX were kept by employees of Westinghouse and its subsidiaries. WEEX paid no salaries, but all persons performing actions on its behalf were employees of and paid by Westinghouse and its subsidiaries. WEEX had no physical assets of its own, but various expenses were allocated to WEEX for federal income tax purposes.

13. WEEX performed business by transacting producer loans and performing bookkeeping transactions related to its operation as a commission DISC. Specifically, booked to WEEX were interest income and DISC sales commissions from Westinghouse and its subsidiaries, including Thermo King. WEEX is deemed to have paid one-half of those commissions to Westinghouse as DISC dividends.

14. Pursuant to § 1.992-1(a)(6) of the Internal Revenue Code, WEEX maintained bank accounts separate from Westinghouse and at the times required by law actually transferred cash funds between it and Westinghouse and its subsidiaries, including Thermo King.

15. WEEX did not file Minnesota corporate income tax returns for years 1972 through 1976, and was not required to do so.

16. Appellants timely filed their respective Minnesota income tax returns for the years 1972 through 1976, excluding therefrom amounts paid to WEEX. On June 15, 1981, the Commissioner of Revenue rendered his Order assessing additional taxes due.

17. On June 14, 1983, appellants paid to the State of Minnesota the additional amounts so ordered, plus accrued interest to that date, in order to terminate the accrual of additional interest. Said payments do not prejudice or in any way constitute a waiver of appellants' rights or claims to this action.

18. The Corporate Income Tax Division of the Minnesota Department of Revenue sent Westinghouse a letter dated July 5, 1984. Thereafter, for the purpose of this litigation, Westinghouse, Thermo King and WEEX have completed questionnaires from the Minnesota Department of Revenue regarding the unitary relationship between and among them.

19. The New York Court of Appeals decided the case of *Westinghouse Electric Corporation v. Tully*, 55 N.Y.2d 364, 469 N.Y.S.2d 677, 434 N.E.2d 1044 (N.Y. 1982), *rev'd*, 104 S.Ct. 1856, 80 L.Ed.2d (1984), by decision dated April 1, 1982. The United States Supreme Court on appeal considered the case in a decision dated April 24, 1984, 466 U.S. 388, 104 S.Ct. 1856, 80 L.Ed.2d 388 (1984).

20. For purposes of this case, Westinghouse, Thermo King and WEEX constitute a unitary business for the years at issue.

21. If Westinghouse, Thermo King and WEEX were taxed as a unitary business for the years at issue with the tax calculated on a unitary apportionment or combined reporting basis, the effect would be a refund of approximately \$2,000,000 plus interest.

22. The parties agree to reserve the calculation of the precise amount of any refund until the ultimate resolution of the issues raised in the petitions herein. In the event the parties are unable to agree within thirty (30) days of the Court's decision, the matter will be submitted to the Court for its determination.

23. The petitions in this action were timely filed on August 12, 1981, and have been consolidated for discovery and trial.

24. Westinghouse and Thermo King dismiss their appeals and withdraw that portion of their notices of appeal relating to interest income on producer loans, foreign taxes paid and dividends apportionable.

The Court finds the following additional facts:

25. Appellants filed no additional or amended returns.

26. Appellee did not abuse his discretion in failing to assess appellants' income taxes on a unitary basis.

CONCLUSIONS OF LAW

1. The Order of the Commissioner dated June 15, 1981, relating to the income tax liability of appellant Westinghouse Electric Corporation, is hereby affirmed.

2. The Order of the Commissioner dated June 15, 1981, relating to the income tax liability of appellant Thermo King Corporation, is hereby affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

15 May 1986

BY THE COURT,
Earl B. Gustafson, Judge
Minnesota Tax Court

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Banking Laws Supplement 1985. Department of Commerce. Statutes governing banks, savings banks, trust companies and other financial institutions. Looseleaf. Code #2-76s1. \$5.00.

RELATED PUBLICATIONS:

Aeronautical Chart, 1983. Map of Minnesota (folded 7½" × 10¼"; open 31" × 25") showing all airports in the state. Airport data includes radio facilities. Code #1-10. \$2.00.

Pilot's Handbook of Aeronautical Knowledge, 1980, U.S. Department of Aeronautics. Essential pilot training. How to use (a) flight information publications; (b) the Aircraft Flight Manual and Pilot's Operation Handbook. Paperback. 257 pp. Code #16-28. \$10.00.

Banking Laws and Related Statutes, 1984. Department of Commerce. Complete basic text of state law. Looseleaf. Code #2-76. \$26.00.

Banking Rules 1985. Department of Commerce. Chapter 2675 from the Minnesota Rules containing the complete rules relating to loans, investments and banking procedures. Saddlestitched. Code #3-81. \$5.00.

Minnesota Guidebook to State Agency Services 1984-85. Department of Administration. A 623-page guide describing all agencies in the three branches of state government, listing services, maps, guides, reports available from each. Includes explanation of administrative rulemaking, legislative lawmaking, and judicial processes in state. Paperback. Code #1-4. \$12.50 plus 75¢ tax.

Minnesota Laws 1985. All laws passed in the Regular and Special Sessions. Code #18-3. \$37.00, plus \$2.22 tax.

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