

86, July 21

STATE OF MINNESOTA

STATE REGISTER

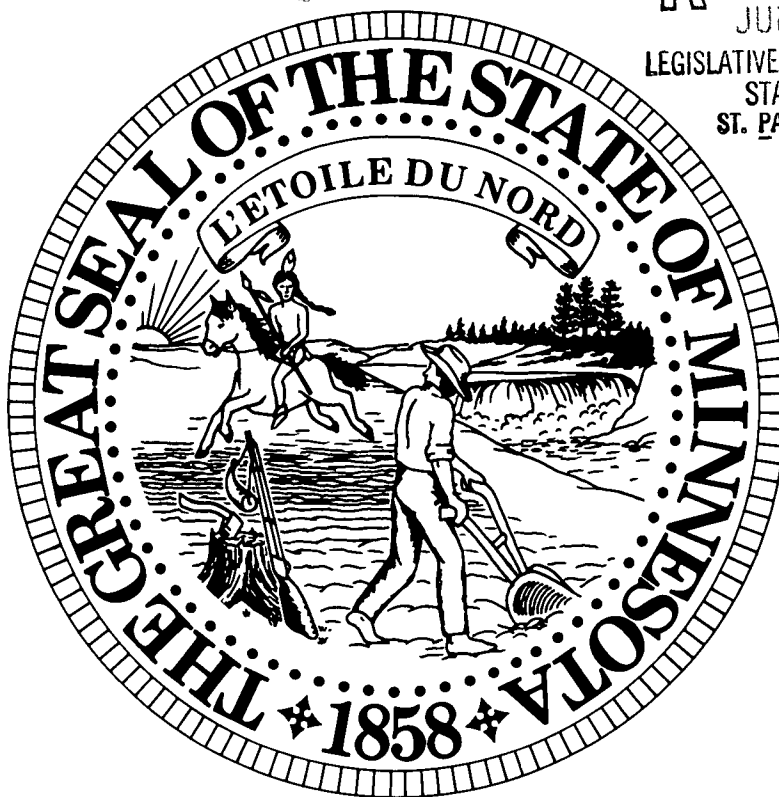
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VOLUME 11, NUMBER 3

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STATE REGISTER

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*.

Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
3	Monday 7 July	Monday 14 July	Monday 21 July
4	Monday 14 July	Monday 21 July	Monday 28 July
5	Monday 21 July	Monday 28 July	Monday 4 August
6	Monday 28 July	Monday 4 August	Monday 11 August

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

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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:

SENATE

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

Perspectives—Publication about the Senate.

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Contact: Senate Public Information Office
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(612) 296-0504

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

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Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

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

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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 also.

The PROPOSED RULES section contains:

- 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 requested by an agency.)
• 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 are included in a supplement published in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

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

Table with 2 columns: Issue range and Issue number. Rows include: 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.

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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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Human Services

Proposed Permanent Rules Relating to Commissioner's Consent to Paternity Suit Settlements

Notice of Proposed Adoption of a Rule without a Public Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is Minnesota Statutes, section 257.60.

All persons have 30 days or until 4:30 p.m. on August 20, 1986 in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to:

Mary Anderson
Office of Child Support Enforcement
444 Lafayette Road, 2nd Floor
St. Paul, MN 55101
Telephone: 612/296-2555

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

Minnesota Statutes, section 257.60, mandates the court to name the commissioner a party to a paternity suit in which a lump-sum settlement or compromise agreement is proposed. As a party to the paternity suits, the commissioner must decide whether to consent to the proposed lump-sum settlement or compromise agreement.

The purpose of proposed rule parts 9500.1650 through 9500.1663, therefore, is to govern the commissioner's decisions on whether to consent to a lump-sum settlement or compromise agreement proposed as part of a paternity suit. Proposed parts 9500.1650 through 9500.1663 apply to all parties of and persons concerned with a paternity suit involving a lump-sum settlement or compromise agreement proposal.

The proposed rules indicate that the commissioner will not consent to a compromise agreement, indicate that the commissioner

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PROPOSED RULES

will consent to lump-sum settlement proposal; describe the standards used by the commissioner to determine whether to consent to a proposed lump-sum settlement; describe the required contents of a proposed lump-sum settlement proposal; describe the documents that must accompany a proposed lump sum settlement agreement; and give timelines for submission of lump-sum settlement proposals to the commissioner.

The proposed rules also include definitions of terms necessary for uniform application of these rules; the process for the commissioner's review of submitted lump-sum settlements; and requirements for notifying the commissioner of the court's final orders pertaining to the lump-sum settlement or compromise agreement.

A free copy of the rule is available upon request from Mary Anderson.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Mary Anderson upon request.

The adoption of these rules will not result in additional spending by local public bodies in either of the first two years following implementation of the rule.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Mary Anderson.

Dated: 7 July 1986

Leonard W. Levine, Commissioner
Department of Human Services

Rules as Proposed (all new material)

9500.1650 APPLICABILITY.

Parts 9500.1650 to 9500.1663 govern the procedures and the standards applicable to the way in which the commissioner decides, as a party under Minnesota Statutes, section 257.60, whether to agree to a particular lump sum settlement or compromise agreement in a paternity action under Minnesota Statutes, sections 257.51 to 257.74. Parts 9500.1650 to 9500.1663 apply equally to lump sum settlements and compromise agreements proposed as part of a maternity suit under Minnesota Statutes, section 257.71.

9500.1655 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 9500.1650 to 9500.1663, the following terms have the meanings given to them in this part.

Subp. 2. **Admission of paternity.** "Admission of paternity" means a written acknowledgement by a male that he is the biological father of a child.

Subp. 3. **Aid to families with dependent children or AFDC.** "Aid to families with dependent children" or "AFDC" means the program authorized by title IV-A of the Social Security Act to provide financial assistance services to needy families with dependent children.

Subp. 4. **Alleged father.** "Alleged father" means a male alleged to be the biological father of a child.

Subp. 5. **Blood test.** "Blood test" means a test using blood group identification of a mother, child, and alleged father that is used to predict the probability or exclude the possibility that the alleged father is the biological father of the child.

Subp. 6. **Child.** "Child" means an individual under age 18 whose parental relationship with the alleged father is being determined and whose legal rights and privileges are at issue.

Subp. 7. **Commissioner.** "Commissioner" means the commissioner of the Department of Human Services or the commissioner's designated representative.

Subp. 8. **Compromise agreement.** "Compromise agreement" has the meaning given it by Minnesota Statutes, section 257.64, subdivision 1, clause (b).

Subp. 9. **Costs.** "Costs" has the meaning given it under Minnesota Statutes, section 257.69.

Subp. 10. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 11. **Depository.** "Depository" means a person or organization entrusted to safekeep a father's or an alleged father's lump sum settlement or compromise agreement payments and to make periodic payments of the money on behalf of the child.

Subp. 12. **Guardian ad litem.** "Guardian ad litem" means the person designated by the court to represent the interests of a child in a paternity suit, according to Minnesota Statutes, section 257.60.

Subp. 13. **Income.** "Income" has the meaning given it under Minnesota Statutes, section 518.54, subdivision 6.

Subp. 14. **Interest rate.** "Interest rate" means the rate of interest used to calculate the present value of periodic payments a father is required to pay and is equal to the current market rate of interest on a United States Treasury obligation using as its maturity date the child's 18th birthdate.

Subp. 15. **Liability for past support.** "Liability for past support" means the financial obligation of the noncustodial parent to reimburse the local child support enforcement agency for all or a portion of past expenses furnished on behalf of a child under Minnesota Statutes, sections 257.66 and 257.67.

Subp. 16. **Local IV-D agency.** "Local IV-D agency" means the county or multicounty agency that is authorized under Minnesota Statutes, section 393.07, to administer the child support enforcement program under the requirements of title IV-D of the Social Security Act, United States Code, title 42, sections 651 to 658, 660, 664, 666, 667, 1302, 1396(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

Subp. 17. **Lump sum settlement.** "Lump sum settlement" means a single payment to satisfy the remaining obligations of a noncustodial parent for support of the parent's minor child.

Subp. 18. **Medical support.** "Medical support" has the meaning given it under Minnesota Statutes, section 518.171.

Subp. 19. **Mother.** "Mother" means a woman who was not married to her child's father when the child was born or when the child was conceived.

Subp. 20. **Office of Child Support Enforcement.** "Office of Child Support Enforcement" means the office within the department that administers the child support enforcement program for the purposes of locating absent parents, establishing paternity, and establishing and enforcing orders for support under the requirements of title IV-D of the Social Security Act, United States Code, title 42, sections 651 to 658, 660, 664, 666, 667, 1302, 1396(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1396(k).

Subp. 21. **Party.** "Party" means a person as defined in Minnesota Statutes, sections 257.57 and 257.60, who is involved in a paternity suit.

Subp. 22. **Paternity suit.** "Paternity suit" means a legal action brought to establish that a man is the biological father of a child and has legally enforceable duties and responsibilities in regard to that child.

Subp. 23. **Periodic payments.** "Periodic payments" means payments of support on a schedule established by the court under Minnesota Statutes, section 518.551, subdivision 5.

Subp. 24. **Present value.** "Present value" means the current monetary worth of future periodic payments. The formula used to determine present value is $An = V \frac{1 - (1 + i)^{-n}}{i}$ where:

"An" means present value of the periodic payments,

"V" means value of the periodic payments,

"n" means number of periodic payments, and

"i" means interest rate.

Subp. 25. **Reimbursement.** "Reimbursement" means payment of a sum for public funds expended for the care and support of a child under Minnesota Statutes, sections 256.87; 257.66, subdivisions 3 and 4; 257.69; and 393.07, subdivision 9.

Subp. 26. **Support.** "Support" has the meaning given to "support money" under Minnesota Statutes, section 518.54, subdivision 4.

9500.1656 CONSENT BY COMMISSIONER TO A COMPROMISE AGREEMENT.

The commissioner shall not consent to a compromise agreement.

9500.1657 COMMISSIONER'S CONSENT TO A LUMP SUM SETTLEMENT.

The commissioner shall consider each proposed lump sum settlement that is submitted to the commissioner. If a submitted proposed lump sum settlement does not comply with parts 9500.1650 to 9500.1663, the commissioner shall not consent to the proposed lump sum settlement.

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PROPOSED RULES

9500.1658 STANDARDS USED BY COMMISSIONER TO DETERMINE WHETHER TO CONSENT TO A PROPOSED LUMP SUM SETTLEMENT.

Subpart 1. **Standards.** The commissioner shall consent to a proposed lump sum settlement only if the conditions of subparts 2 to 6 are met.

Subp. 2. **Admission of paternity.** The alleged father must admit paternity and either waive blood tests or the results of blood tests indicate a likelihood of more than 92 percent that the alleged father is the biological father of the child.

Subp. 3. **Comparison of proposed lump sum settlement to present value of periodic payments.** The proposed lump sum settlement must be equal to or greater than the present value of periodic payments.

Subp. 4. **Liability for past support and costs.** A provision must be made for a partial or full reimbursement consisting of the alleged father's liability for past support and costs. The alleged father's liability for past support and costs includes:

A. all or a proportion of the amount of assistance furnished the child during the two years immediately preceding the start of the paternity action under Minnesota Statutes, section 256.66, subdivision 4;

B. expenses of the mother's pregnancy and confinement under Minnesota Statutes, section 257.66, subdivision 3; and

C. all or a proportion of costs and fees detailed under Minnesota Statutes, section 257.69, subdivision 2.

If a reimbursement is to be made through payments to the local IV-D agency, provisions for income withholding shall be included in the proposed lump sum settlement agreement under Minnesota Statutes, section 518.611.

Subp. 5. **Protection over lump sum settlement amount.** A plan to invest the lump sum settlement to meet the child's future needs and to prevent rapid depletion of the lump sum settlement must be made part of the lump sum settlement. The plan to invest the lump sum settlement must include:

A. an agreement to deposit the lump sum settlement amount in an interest bearing account with a rate of interest based on a United States Treasury obligation that matures on the date of the child's 18th birthday;

B. provisions for making periodic payments to the child until the child is 18 years of age;

C. provisions for making the periodic payments under item B to the public agency, if the child receives AFDC or becomes eligible to receive AFDC and rights to support are assigned under Minnesota Statutes, section 256.74, subdivision 5;

D. the name of the depository that will hold and disburse the lump sum settlement under this subpart;

E. the name of the person or agency designated to make decisions on managing the lump sum settlement account; and

F. the amounts charged by the depository for the costs of administering the lump sum settlement account.

Subp. 6. **Medical benefits.** The lump sum settlement must provide for maintenance of health and dental insurance for the child under Minnesota Statutes, section 518.171.

9500.1659 CONTENTS OF PROPOSED LUMP SUM SETTLEMENT AGREEMENT.

A proposed lump sum settlement must include:

A. the names and addresses of the parties to the paternity suit;

B. a statement indicating whether there has been an admission of paternity;

C. the amount of reimbursement agreed to be paid to the local IV-D agency and the method by which payments will be made as required under part 9500.1658, subpart 4;

D. the amount of the proposed lump sum settlement;

E. a plan for distributing the lump sum settlement amount on behalf of the child under part 9500.1658, subpart 5;

F. a written statement showing compliance with part 9500.1658, subpart 6, by the responsible parent; and

G. a signature line for each of the parties and the guardian ad litem.

9500.1660 DOCUMENTS THAT MUST ACCOMPANY A PROPOSED LUMP SUM SETTLEMENT AGREEMENT

The documents in items A to G must accompany the proposed lump sum settlement submitted to the commissioner:

A. the statement of blood test results or a statement that blood tests were waived by the alleged father;

B. a statement of the reasons a lump sum settlement is proposed rather than periodic payments;

C. a copy of the alleged father's affidavit of earnings, income, and resources, including real and personal property;

D. the mathematical calculation used to make the computation required under part 9500.1658, subpart 3;

E. an itemization of amounts previously expended by each public agency as support on behalf of the child, including dates and amounts of AFDC expended, pregnancy and confinement expenses, costs of blood tests, filing fees, service of process fees, and county attorney's fees;

F. a written statement showing how the plan for reimbursement of the alleged father's liability for support and costs owed to the local IV-D agency was derived; and

G. a written, signed statement from the guardian ad litem that indicates how the proposed lump sum settlement is in the best interest of the child.

9500.1661 TIME FOR SUBMISSION OF PROPOSAL.

The proposed lump sum settlement agreement under part 9500.1659 and documents required under part 9500.1660 must be submitted to the Office of Child Support Enforcement for review at least 30 days before the date scheduled for the court hearing on the proposed lump sum settlement. If the 30-day period is not complied with, parties must not presume that the commissioner has consented to the proposed lump sum settlement unless a written statement to that effect is made by the commissioner and submitted to the parties.

9500.1662 REVIEW PROCESS.

On receipt of a proposed lump sum settlement, the commissioner shall review the submitted proposal and documents for compliance with parts 9500.1650 to 9500.1663. If the commissioner consents to the proposal, the commissioner will sign the proposal and return it to the submitting party. If the commissioner does not consent to the proposal, the commissioner will send a letter to the submitting party indicating the reasons for not consenting to the proposal. The commissioner will send copies of either response to the court of jurisdiction. The commissioner will also send copies of either response to the other parties and guardian ad litem if addresses for those parties are provided by the submitting party.

9500.1663 NOTIFICATION OF FINAL DISPOSITION.

If the lump sum settlement or compromise agreement is approved by the court, a copy of the final order must be provided to the commissioner within 30 days of the date of the court order. If the submitted agreement is not approved by the court, the commissioner must be notified in writing of any other disposition made regarding the paternity suit. The parties other than the commissioner must agree between themselves as to the party responsible for notification to the commissioner in accordance with this part.

Public Employees Retirement Association

Proposed Permanent Rules Relating to Membership of Elected Officials

Notice of Withdrawal and Notice of Hearing

NOTICE IS HEREBY GIVEN that the Board of Trustees of the Public Employees Retirement Association (PERA), having reviewed the history and issues related to the above-titled rule and having approved its elements, proposes to adopt this rule following the procedures set forth in Minnesota Statutes, sections 14.131 to 14.20 (1984). PERA's specific authority to adopt the rule is Minnesota Statutes, sections 353.03 and 353.18. A public hearing on the proposed rule will be held in Room 15, State Capitol, Aurora Avenue, Saint Paul, Minnesota, 55155, on September 3, 1986, commencing at 9:00 a.m. and continuing until all interested or affected persons have had an opportunity to participate. The proposed rule may be modified as a result of the hearing process; therefore, all interested persons or groups are urged to participate in the rule hearing process.

A proposed rule on the same subject matter that was published in the May 12th issue of the *State Register*, pursuant to the procedures of Minnesota Statutes, sections 14.22 to 14.28 (1984) has been withdrawn. During the 30-day comment period on the original proposed rule, a number of valuable responses to it were received at the PERA office, including a written request for a public hearing signed by the requisite 25 or more persons. In light of the comments received, a new proposed rule was developed. It is this new proposed rule that will be the subject of the announced hearing.

Following PERA's presentation at the hearing, all interested or affected persons or groups will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record.

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PROPOSED RULES

All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota, 55415, telephone (612) 341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record to be kept open for a longer period not to exceed 20 calendar days.

The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the agency and all interested persons shall have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rule-making record.

Upon the close of the record, the Administrative Law Judge shall write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge at the above listed address and phone number.

Proposed Minnesota Rules, parts 7950.0100 to 7950.0500 include sections on: (1) definitions; (2) public official PERA membership status; (3) exercise of the option to become a PERA member; (4) general transition rule buy back of prior service; and (5) special transition rule buy back of prior service. The objectives of the proposed rule are to: (1) clarify that a PERA membership option may be exercised by a public official serving in an elective office at any time while in office but membership commences only from the date on which the option is exercised; and (2) phase out any option to buy back prior service (i.e., service rendered as a public official before the effective date of the rule) as a public official on the part of current appointed officials serving in nonelective offices and current public officials serving in elective offices.

Minnesota Statutes, chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) who spends more than \$250, not including traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, Saint Paul, Minnesota 55101, telephone (612) 296-5148.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available. The Statement of Need and Reasonableness describes the need for, and reasonableness of, the provisions of the proposed rule and identifies the data and information relied upon to support it. A copy of the Statement may be reviewed at the PERA offices located at 514 St. Peter Street, Suite 200—Skyway Level, Saint Paul, Minnesota, 55102, or may be obtained from Mr. Allen Eldridge at that address. The Statement may also be reviewed at the Office of Administrative Hearings; copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Notice: Any person may request notification of the date on which the Administrative Law Judge's report will be available after which date the agency may not take any final action on the rule for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rule was adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rule is filed. If you wish to be so notified you may so indicate at the hearing or send a request in writing to PERA at any time prior to the filing of the rule with the Secretary of State.

James M. Hacking, Executive Director
Public Employees Retirement Association

Rules as Proposed (all new material)

7950.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7950.0100 to 7950.0500, the following terms have the meanings given.

Subp. 2. **Public official.** "Public official" means a person who:

- A. is a public employee within the meaning of Minnesota Statutes, section 353.01, subdivision 2; and
- B. is elected to an elective office or appointed to fill a vacancy in an elective office.

Subp. 3. **PERA.** "PERA" means the Public Employees Retirement Association.

Subp. 4. **Date.** "Date" means calendar day.

Subp. 5. **New public official.** "New public official" means a public official who is elected to or appointed to fill a vacancy in an elective office and who commences employment in such office on or after the effective date of parts 7950.0100 to 7950.0500.

Subp. 6. **Current public official.** "Current public official" means a public official who was elected to or appointed to fill a vacancy in an elective office, who commences employment before the effective date of parts 7950.0100 to 7950.0500, and whose incumbency in the elective office continues through or beyond that effective date.

Subp. 7. **Public official eligible to become a member of PERA.** "Public official eligible to become a member of PERA" means a public official who is a public employee within the meaning of Minnesota Statutes, section 353.01, subdivision 2a, who is not or has ceased to be excluded from the class of public employees by the minimum earnings or other provisions of Minnesota Statutes, section 353.01, subdivision 2b.

Subp. 8. **Incumbency.** "Incumbency" means continuous uninterrupted service in the same elective office, regardless of the number of successive terms in office.

Subp. 9. **Prior service.** "Prior service" means service rendered:

- A. before the effective date of this rule;
- B. by a public official who was eligible to become a member of PERA but who was not a member of PERA at the time the service was rendered; and
- C. in an elective office which is the same as or different from the elective office with respect to service in which the option to become a member is or has been exercised.

Subp. 10. **Current appointed official.** "Current appointed official" means a person:

- A. who is a public employee and a member of PERA within the meaning of Minnesota Statutes, section 353.01;
- B. who is appointed to a nonelective office before the effective date of this rule; and
- C. whose term in the nonelective office continues through or beyond that effective date.

7950.0200 PUBLIC OFFICIAL MEMBERSHIP STATUS.

A public official who is not a member of PERA but who is eligible to become a member shall not be considered to be a member unless an option to become a member is exercised in accordance with part 7950.0300.

7950.0300 OPTION TO BECOME A MEMBER.

Subpart 1. **Option.** If, following the effective date of parts 7950.0100 to 7950.0500, a new or current public official is not a member of PERA but is eligible to become a member, the official shall have an option to become a member of PERA. The option may be exercised by filing an application for membership on forms provided by the executive director of PERA.

Subp. 2. **Effective date.** If an option to become a member of PERA is exercised in accordance with subpart 1, membership shall commence from the date the option is exercised. As provided in Minnesota Statutes, section 353.01, subdivision 7, membership cannot be withdrawn or terminated during incumbency in the elective office with respect to service in which the option is exercised.

Subp. 3. **Failure to exercise.** If an option to become a member of PERA is not exercised in accordance with subpart 1 on or before the date on which status as a public official ceases, the option shall expire on that date.

Subp. 4. **Prior service not covered.** The exercise of an option to become a member of PERA in accordance with subpart 1 shall not cover or otherwise apply to any service as a public official rendered prior to the date on which the option is exercised.

Subp. 5. **Repayment of refunds.** Nothing contained in this part, part 7950.0400, or 7950.0500 shall circumscribe or otherwise limit the option of a former public official who was a PERA member at the time service as a public official was rendered, to repay refunds of contributions to restore past service credit in accordance with Minnesota Statutes, section 353.35.

7950.0400 GENERAL TRANSITION RULE BUY BACK OF PRIOR SERVICE.

Subpart 1. **Option.** A current appointed official or a current public official who is a member of PERA or a current public official who is eligible to become a member of PERA and who exercises the option to become a member in accordance with part 7950.0300,

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subpart 1, within one year after the effective date of parts 7950.0100 to 7950.0500, has the option to buy back credit for all or any part of prior service as a public official. The option shall be exercised by filing an application to buy back prior service as a public official on forms provided by the executive director of PERA. Prior service shall be bought back in order, beginning with the most recent period, by making payment of the appropriate amount of:

- A. the employee contribution at the rate in effect at the time the service was rendered plus six percent interest compounded annually;
- B. the employer contribution at the rate in effect at the time the service was rendered; and
- C. the employer additional contribution at the rate in effect at the time the service was rendered.

The governmental subdivision for which the prior service was rendered at its sole discretion may pay the required employer and employer additional contributions.

Subp. 2. Exercise, payment, and expiration. The option to buy back prior service may only be exercised by a current appointed official or by a current public official who is, or has exercised the option to become, a member of PERA. An option to buy back prior service must be exercised in accordance with subpart 1 before the expiration of one year after the effective date of this rule. Also, before the expiration of the one-year period, the amount of contributions required under subpart 1 must be paid to PERA in a lump sum. If the option to buy back prior service is not exercised within the one-year period, the option shall expire. If the required contributions are not remitted to PERA within the one-year period, the exercise of the option shall be void.

Subp. 3. Early expiration. A current appointed official or a current public official:

- A. who is a member of PERA;
- B. who has prior service as a public official of any governmental subdivision;
- C. whose status as an appointed official or public official ceases before the expiration of one year from the effective date of this rule; and
- D. who failed to exercise the option to buy back prior service in accordance with subpart 1 before such status as an appointed official or public official ceased, shall not have any further or future option to buy back prior service.

Subp. 4. No option for non-PERA member. A current public official:

- A. who is not a member of PERA but who is eligible to become a member of PERA;
- B. who has prior service as a public official of any governmental subdivision; and
- C. who failed to exercise the option to become a member of PERA in accordance with part 7950.0300, subpart 1, before the earlier of the date on which status as a public official ceases or before the expiration of one year from the effective date of parts 7950.0100 to 7950.0500, shall not have an option to buy back prior service.

7950.0500 SPECIAL TRANSITION RULE BUY BACK OF PRIOR SERVICE.

Subpart 1. Current public official. A current public official:

- A. who has prior service as a public official of any governmental subdivision;
- B. who was not eligible to become a member of PERA on the effective date of parts 7950.0100 to 7950.0500; but
- C. who exercises the option to become a member of PERA in accordance with part 7950.0300, subpart 1, within one year from the date on which the public official becomes eligible to become a member of PERA, shall have an option to buy back all or any part of the prior service provided that prior service shall be bought back in order, beginning with the most recent period.

Subp. 2. New public official. A new public official:

- A. who has prior service as a public official of any governmental subdivision;
- B. who was not a current appointed official or a current public official eligible to become a member of PERA on the effective date of this rule; and
- C. who exercises the option to become a member of PERA in accordance with part 7950.0300, subpart 1, within one year from the date on which the public official becomes eligible to become a member of PERA, shall have an option to buy back all or any part of the prior service, provided that prior service shall be bought back in order, beginning with the most recent period.

Subp. 3. Exercise, payment, and expiration. Before the expiration of one year from the date on which a public official described in subpart 1 or 2 becomes eligible to become a member of PERA but not before the date on which the option to become a member is exercised in accordance with subpart 1 of part 7950.0300:

- A. the option to buy back prior service must be exercised in accordance with the provisions of subpart 1 of part 7950.0400; and

B. the amount of contributions required must be remitted to PERA in a lump sum.

If the option is not exercised within the one-year period, the option shall expire. If the required contributions are not remitted to PERA within the one-year period, the exercise of the option shall be void.

EFFECTIVE DATE. Parts 7950.0100 to 7950.0500 are effective 90 days after the notice of adoption is published in the State Register.

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 Human Services

Adopted Permanent Rules Relating to Case Management Services to Persons with Mental Retardation

The rules proposed and published at *State Register*, Volume 10, Number 36, pages 1781-1797, March 3, 1986 (10 S.R. 1781) are adopted with the following modifications:

Rules as Adopted

9525.0015 DEFINITIONS.

Subp. 17. **Least restrictive environment.** "Least restrictive environment" means an environment where:

F. The physical surroundings, methods of interaction between the person and the provider and employees or subcontractors of the provider, and the materials used in training are appropriate for the person's chronological age and ~~adaptive behavior level~~ adapted to individual need.

Subp. 20. **Person with mental retardation.** "Person with mental retardation" means:

A. a person who has been diagnosed under part 9525.0045 as having significantly subaverage intellectual functioning existing concurrently with demonstrated deficits in adaptive behavior and who manifests these conditions before the person's 22nd birthday;

B. a person under the age of five who demonstrates significantly subaverage intellectual functioning concurrently with severe deficits in adaptive behavior, but for whom a licensed psychologist or licensed consulting psychologist determines that a diagnosis may not be advisable because of the person's age; and

C. a person who has a related condition. A related condition is a severe chronic disability that:

(1) is attributable to cerebral palsy, epilepsy, autism, or any other condition, other than mental illness, found to be closely related to mental retardation because the condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation;

(2) is likely to continue indefinitely;

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ADOPTED RULES

(3) results in substantial functional limitations in three or more of the following areas of major life activity:

- (a) self-care;
- (b) understanding and use of language;
- (c) learning;
- (d) mobility;
- (e) self-direction; or
- (f) capacity for independent living; and

(4) has been determined to be a related condition in accordance with rules adopted by the commissioner.

9525.0025 APPLICABILITY AND PURPOSE.

Subp. 2. **Purpose.** The purpose of parts 9525.0015 to 9525.0165 is to ensure that each person with mental retardation who applies for services ~~or~~, whose legal representative applies for services, or is determined by the county to be in need of services receives a diagnosis and assessment of current condition, and that, based on the information gathered, services are designed, arranged, provided, and monitored so that the services meet the level of the person's need in the least restrictive environment and in a cost-effective manner.

County boards are authorized and required to determine the adequacy and quality of services provided to meet the person's needs based on the cost and effectiveness of the services. Only services identified as needed in the individual service plan should be provided or paid for.

~~Parts 9525.0015 to 9525.0165 shall not be construed as requiring expenditure of money not available to county boards for case management and other services for persons with or who might have mental retardation.~~ Money expended for case management and other services for persons with or who might have mental retardation must be expended in accordance with parts 9525.0015 to 9525.0165.

9525.0035 COUNTY BOARD RESPONSIBILITIES.

Subp. 2. **Designation of case manager.** Within ten working days after receiving an application for service services or a determination by the social service agency that a person needs services, the county board shall designate a case manager who meets the requirements in part 9525.0155. A written notice that includes the name, telephone number, and location of the designated case manager must be sent to the person requesting services, and to the person's legal representative and advocate, if any.

9525.0055 STANDARDS FOR ASSESSMENT OF INDIVIDUAL SERVICE NEEDS.

Subpart 1. **Initial assessment of individual needs.** Each person determined by the diagnosis required in part 9525.0045 to be a person with mental retardation must be assessed to determine the person's individual needs. The assessment must include an analysis of: the person's current condition; the person's established support systems; the extent to which the person's skills or lack of skills enables or prevents the person's full integration into community settings ~~of~~ used by the general public; and the person's current status and need for assistance or supervision. The assessment must result in specific service recommendations. The county board shall ensure that each of the areas listed in items A to J are assessed and that the assessment is conducted under the supervision of a qualified mental retardation professional.

The assessment of individual service needs must address the following areas:

- A. medical status and ongoing health needs;
- B. physical development;
- C. intellectual functioning;
- D. social skills;
- E. self-care skills;
- F. communication skills;
- G. community living skills;
- H. vocational skills;
- I. physical and social environments; and
- J. legal representation.

9525.0065 SCREENING TEAMS.

Subpart 1. **Convening screening team.** The case manager shall convene a screening team whenever the assessment or reas-

assessment conducted under part 9525.0055 indicates that the person with mental retardation might need the level of care provided by an ICF/MR within one year. The county board must ensure that:

B. The members of the screening team, the regional service specialist, and the person's advocate, if any, are notified of the meeting prior to the meeting. The regional service specialist and the person's advocate may attend any meeting of the screening team. At the request of or with consent, under Minnesota Statutes, section 13.05, subdivision 4, of the person with mental retardation or the person's legal representative, the case manager may invite other persons to attend the screening team meeting.

Subp. 5. **Authorization of payment for ICF/MR and home and community-based services.** Upon completion of the waived services screening document, the case manager shall forward the completed document to the regional service specialist. The regional service specialist shall review the rates and shall authorize the payments for home and community-based services funded under the medical assistance program only if consistent with the criteria in parts 9525.1800 to 9525.1930. Payment for ICF/MR services shall not be made unless:

A. the person for ~~which~~ whom the payment is requested is determined to be a person with mental retardation;

9525.0075 STANDARDS FOR DEVELOPMENT OF INDIVIDUAL SERVICE PLAN.

Subp. 3. **Required review.** The development of an individual service plan must include a review of:

G. vocational training and habilitation services to ensure that the services are, or will be, appropriate to the person's chronological age, employment, and increased financial independence;

Subp. 5. **Request for reconsideration.** If the person with mental retardation or the person's legal representative, if any, disagrees with the contents of the individual service plan, the person with mental retardation or the person's legal representative, if any, may request a reconsideration of the contents of the plan by applying to the county board and requesting reconsideration. The county board shall establish written procedures for handling requests for reconsideration of the individual service plan contents. The procedure in this subpart does not replace the appeal of the case management and related services under part 9525.0135 and is not a prerequisite to filing an appeal.

9525.0095 CONTRACTS AND PROVIDER AGREEMENTS

Subpart 1. **Contracts for services.** A provider, including a social service, medical assistance, or other provider, must have a purchase of service contract developed in accordance with ~~parts 9550.0010 to 9550.0092~~ and meeting the requirements of part 9550.0040 and this part with the host county before the provider can receive payment for services. The county board of the county where the provider is located shall negotiate and administer host county purchase of service contracts ~~in accordance with parts 9550.0010 to 9550.0092~~ on behalf of other county boards requesting to purchase services from the provider.

The department is a third party beneficiary of any contract entered into by a county board and a provider, or a provider and a subcontractor, to provide services under this part. Each contract and subcontract must contain the following provision. If any contract does not contain the following provision, the provision shall be considered an implied provision of the contract.

"The provider acknowledges and agrees that the Minnesota Department of Human Services is a third-party beneficiary, and as such is an affected party under this contract. The provider specifically acknowledges and agrees that the Minnesota Department of Human Services has standing to and may take any appropriate administrative action or sue the provider for any appropriate relief in law or equity, including, but not limited to, rescission, damages, or specific performance, of all or any part of the contract between the county and the provider. The provider specifically acknowledges that the county and the Minnesota Department of Human Services are entitled to and may recover from the provider reasonable attorney's fees and costs and disbursements associated with any action taken under this paragraph that is successfully maintained. This provision shall not be construed to limit the rights of any party to the contract or any other third party beneficiary, nor shall it be construed as a waiver of immunity under the Eleventh Amendment to the United States Constitution or any other waiver of immunity."

9525.0105 STANDARDS FOR DEVELOPMENT OF INDIVIDUAL HABILITATION PLANS.

Subp. 6. **Request for reconsideration.** If the person with mental retardation or the person's legal representative, if any, disagrees with the contents of the individual habilitation plan, the person with mental retardation or the person's legal representative, if any, may request a reconsideration of the contents of the plan by applying to the county board and requesting reconsideration. The county

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ADOPTED RULES

board shall establish written procedures for handling requests for reconsideration of individual habilitation plan contents. The procedure in this subpart does not replace the appeal of the case management and related services under part 9525.0135 and is not a prerequisite to filing an appeal.

9525.0135 APPEALS OF CASE MANAGEMENT AND RELATED SERVICES.

Subpart 1. **Notification of right to appeal.** ~~The case manager must notify the person with mental retardation, the legal representative, and the advocate, if any, in writing, of the person's right to appeal. The notice must be written in language which can be understood by the person with mental retardation or the person's legal representative and the person's advocate, if any. If the case manager believes that the person with mental retardation is unable to read or understand such written notification, then the case manager shall make every attempt to explain the right of appeal to the individual. The case manager shall ensure that within 30 days of applying for services, the person with mental retardation, the legal representative, and advocate, if any, is informed in writing of the right to appeal. This notification shall also include the name, address, and telephone number of the individual from the county board who is available to the person, the person's legal representative, and advocate, if any, to answer questions about the notification in this subpart.~~

Subp. 3. **Notice of action.** The county board shall notify the person and the person's legal representative, if any, of any denial, suspension, reduction, or termination of services. Except as provided in subpart 4, the county board shall mail the notice to the person and the person's legal representative at least ~~ten~~ 20 days before the effective date of the denial, suspension, reduction, or termination. The notice shall clearly state the proposed action and the reason for the action. ~~If the A notice of any denial, suspension, reduction, or termination is appealable of services under subpart 2, the notice shall also state the person's right to appeal the proposed action.~~

9525.0145 SERVICE DEVELOPMENT AND NEED DETERMINATION.

Subp. 3. **Need determination by county board.** Based on the data referred to in subpart 2, the county board shall identify the need for new services, modification, expansion, or reduction of existing services, or services for which a change of ownership or location is proposed. Facilities licensed under parts 9525.0230 to 9525.0430 but not certified as an ICF/MR facility must ~~file~~ apply to the county board for a new need determination if the facility desires proposes to be reclassified certified as an ICF/MR. This subpart shall apply to any service licensed by the commissioner, except foster care.

If the county board identifies that a new service or a service for which a change in ownership or location is proposed, needed, or that the existing services need to be modified, expanded, or reduced, the county board shall submit an application for a need determination to the commissioner. Applications must include the following information:

Subp. 8. **Effect of need determination or redetermination.** ~~If the county board or the commissioner determines that the service, modification, or expansion is not needed, the service, modification, or expansion shall not be paid for or reimbursed from federal or state money for services to persons with mental retardation. An application for licensure submitted to the department or submitted for approval by the county will not be considered complete unless the county board and the commissioner determine~~ determines that the service modification or expansion is needed. If the determination or redetermination is appealed, the effect of this subpart may be stayed pending the outcome of the appeal.

Subp. 9. **Appeal of commissioner's determination.** The provider making the application or the county board may appeal:

9525.0155 STANDARDS FOR QUALIFICATIONS AND TRAINING OF CASE MANAGERS.

Subpart 1. **Staff qualifications.** Except as provided in item C, staff providing case management services to persons with mental retardation must meet the requirements in item A or B.

B. The county board may establish procedures permitting persons who do not meet the requirements in item A to assist in providing case management services, except those services under parts ~~9525.0063~~ 9525.0065, 9525.0075, and 9525.0095, under the supervision of a case manager who meets the qualifications in item A if the person assisting the case manager has completed 40 hours of training in case management and the education and treatment of persons with mental retardation or a related condition as defined in Minnesota Statutes, section 252.27, subdivision 1.

OFFICIAL NOTICES

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

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

Department of Energy and Economic Development Business Financial Management Division Tax Exempt Financing Issuance Authority Notice of Availability

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 22

The Department gives notice that the amounts of tax exempt financing issuance authority available to qualified issuers as of 14 July 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) \$302,972,800.

For:

Pollution Control/Waste Management Projects \$ 49,564,560.
Commercial Redevelopment Projects \$110,462,980.

Competitive Pool (Existing Law)

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

Total Pool Available (Priority to a-General Obligation Projects,
b-Manufacturing Projects) \$284,741,237.

For:

Pollution Control/Waste Management Projects \$ 59,856,247.
Commercial Redevelopment/Multifamily Housing Projects \$101,008,432.

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

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

Total Pool Available \$ 45,725,000.

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 Labor and Industry Notice of Adjustments in Prevailing Wage Rates

Due to contract negotiations, adjustments have been made to highway/heavy prevailing wage rates (certified February 1, 1986) determined as collectively bargained in the following Minnesota counties: Aitkin, Becker, Beltrami, Carlton, Cass, Clay, Clearwater, Cook, Crow Wing, Hubbard, Itasca, Kittson, Koochiching, Lake, Lake of the Woods, Mahnommen, Marshall, Norman, Ottertail, Pennington, Polk, Red Lake, Roseau, St. Louis, Wadena and Wilkin.

The adjusted rates may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155.

Steve Keefe, Commissioner
Department of Labor and Industry

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OFFICIAL NOTICES

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Secretary of State Joan Anderson Growe is seeking applications for 18 vacancies in the following state 5 agencies. In accordance with the Minnesota Open Appointments Law, application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN 55155-1299; (612) 296-2805. Application deadline is August 12, 1986.

MINNESOTA JOB SKILLS PARTNERSHIP BOARD has 1 vacancy open for a member. Members must have expertise in, and be representative of the following fields of education, job skills training, labor, and business government. The board shall bring together employers with specific training needs with educational or other non-profit institutions which can design programs to meet those needs. It shall train and place workers, and assist in development of training programs. Members are appointed by the Governor. Terms are staggered. Members receive no compensation. For specific information contact the Minnesota Job Skills Partnership Board, 406 Capitol Square Bldg., St. Paul 55101; (612) 296-0388.

ADVISORY COMMITTEE ON TECHNOLOGY IN EDUCATION has 1 vacancy open for a public school administrator knowledgeable about the use of technology in elementary and secondary education. The committee shall provide advice on the appropriate incorporation of technology into schools, assist in the determination of level of funding for each Technology Demonstration Site, monitor the evaluation of the Technology Demonstration Sites, and monitor the evaluation of the Courseware Integration Centers. Members are appointed by the Governor. For specific information contact the Advisory Committee on Technology in Education, 682 Capitol Square Bldg., 550 Cedar St., St. Paul 55101; (612) 296-4067.

ADVISORY COUNCIL ON THE MINNESOTA STATE ACADEMY FOR THE DEAF AND MINNESOTA STATE ACADEMY FOR THE BLIND has 2 vacancies open for the following members: 1 parent representative and 1 organizational representative. The council shall advise the Board of Education on policies pertaining to the control, management, and administration of these academies. Members shall be representative of the various geographic regions of the state. All members shall have knowledge, experience and interest in the problems of visually disabled or hearing impaired children. Members are appointed by the Board of Education. Members receive \$35 per diem. For specific information contact the Advisory Council on the Minnesota State Academy for the Blind, Wade M. Karli, P.O. Box 308, Faribault 55021; (507)332-3363.

POLLUTION CONTROL AGENCY has 1 vacancy open for a member. The agency shall meet the variety and complexity of problems relating to water, air and land resources of the state consistent with the maximum enjoyment and use thereof in furtherance of the welfare of the people of the State. Members are appointed by the Governor and confirmed by the Senate. Members must file with the Ethical Practices Board. Monthly meetings at the agency offices in Roseville. Members receive \$35 per diem. For specific information contact the Pollution Control Agency, 1935 W. County Rd. B-2, Roseville 55113; (612)296-7373.

TASK FORCE ON A COORDINATE CAMPUS OF ARROWHEAD COMMUNITY COLLEGE has 13 vacancies open for members. The task force shall study the feasibility of establishing a coordinate campus of Arrowhead Community College on the Fond du Lac Indian reservation that would be open and available to all. The task force shall report to the legislature on the result of its study by February 1, 1987. Members are appointed by the Governor. Members receive no per diem or compensation. For specific information contact the Task Force on a Coordinate Campus of Arrowhead Community College, Rachel Wobschall, 130 Capitol, St. Paul 55155; (612)296-0057.

Department of Transportation

Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minnesota Statutes § 169.825*

Whereas, the Commissioner of Transportation has made his Order No. 68884, as amended by Orders Nos. 69226, 69269, 69270, 69344, 69353, 69595, 69770, 69796, 70006, 70031, 70152, 70455, 70520, 70580, 70652, 70698, 70747, 70749, 70765, 71011, 71070, and 71172 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, and

Whereas, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

CITY STREETS

- Burnsville
- Dupont Avenue from Lady Bird Lane to proposed 126th Street. (12 month.)
 - Proposed 126th Street from Dupont Avenue to proposed C.S.A.H. 5. (12 month)

COUNTY ROADS

Dakota — From C.S.A.H. 5 to proposed 126th Street.

Dated: 9 July 1986

Richard P. Braun, Commissioner
Minnesota Department 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.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Computer Aided Drafting Supplies Rebid	July 18, 1986	Various	Various	Price-Contract
Rubber Footwear	July 22, 1986	Various	Various	Sch. 48
TI Microcomputers	July 22, 1986			26-071-16814
Monitors	July 22, 1986	Bemidji State University	Bemidji	26-070-12010
Disposal of Hazardous Waste Materials	July 22, 1986	Transportation	St. Paul	79-900-03150
1986-87 Schedule Quarterly	July 22, 1986	Minneapolis Community College	Minneapolis	27-151-47394 00012
Graduate Bulletin for Mankato St. University	July 22, 1986	Mankato State University	Mankato	26-071-16833 9085
Purchase of Automated Power Files	July 22, 1986	Human Services	St. Paul	55-000-93987
Photo Copy Machine Rental	July 22, 1986	Natural Resources	New Ulm	29-004-07814
Elec. Key Telephone Systems	July 23, 1986	Various	Various	Price-Contract
Aggregates—DOT Morris	July 23, 1986	Transportation	Morris	79-450-A-Rebid
Armored Car Service	July 23, 1986	Metropolitan Community College	Minneapolis	Price-Contract
MA Invoices	July 23, 1986	Human Services	St. Paul	Price-Contract
Spills and Hazardous Substances	July 24, 1986	Pollution Control Agency	Roseville	32-300-14532
Remodeling & Painting at MCF Sauk Centre	July 24, 1986	Corrections	Sauk Centre	78-770-02257 Rebid
Automated Office System	July 24, 1986	Lieutenant Governor	St. Paul	46-000-00031
Tires, Automotive: Police & Patrol Special	July 24, 1986	Various	Various	Price-Contract
Lounge Furniture Rebid	July 25, 1986	Correctional Facility	Shakopee	02-310-14538

STATE CONTRACTS

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Food Stamp and AFDC Household Report Envelopes	July 25, 1986	Human Services	St. Paul	55-000-00782 & 30152 & 3
Uniform Fabric	July 28, 1986	State Patrol	St. Paul	07-500-36667
Spindle Assemblies	July 28, 1986	MCF	Stillwater	78-620-00025
Transport of Used State Patrol Vehicles	July 28, 1986	Public Safety	St. Paul	07-500-36756

Department of Commerce

Request for Proposals for Provision of Policy Administration, Accounting, Claims Management, and other services for the Minnesota Medical Malpractice Joint Underwriting Association

The Department of Commerce, on behalf of the Minnesota Medical Malpractice Joint Underwriting Association, is soliciting proposals from vendors of risk management and insurance services to contract with the Association for the provision of policy administration, accounting, claims management, and such other services as are necessary to administer and conduct the affairs of the Association.

The expected contract period will be from October 21, 1986 through October 20, 1989. The estimated amount of compensation is around \$50,000, however because the compensation is based on premium volume there may be an unlimited deviation from that estimate. Parties interested in obtaining a copy of the Request for Proposals, which fully describes the requirements of the contract, can be obtained by contacting:

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

Proposals must be received by 4:30 p.m. August 31, 1986. All proposals received will be forwarded to the Board of Directors of the Association for its consideration.

Department of Health

Request for Proposals for a Plan for Marketing Minnesota's Health/Medical Care Services

The Minnesota Department of Health in conjunction with the Governor's Commission on Promoting Minnesota's Healthcare Resources is seeking individuals or organizations with demonstrated experience in marketing and public relations, preferably with knowledge of the health care field, to develop a plan for promoting Minnesota's health care services. The plan will include both in-state and out-of-state marketing strategies.

It is anticipated that this contract will not exceed \$75,000. The deadline for submission is August 4, 1986. To request copies of the complete RFP or for inquiries contact:

Commissioner's Office
Minnesota Department of Health
P.O. Box 9441
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
Phone (612) 623-5462

Department of Human Services: Chemical Dependency Program Division

Request for Proposals for Prevention Services for Southeast Asian Communities and Persons

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals for the provision of prevention services for Southeast Asian communities and persons experiencing chemical use problems. A grant award of up to \$20,000 is available for a single grantee. Continuation or second year funding may be awarded contingent upon satisfactory performance by the grantee. The project will begin on or about December 1, 1986 and continue for a minimum of one year.

All requests for further information or **copies of the complete Request for proposals (RFP) and application forms** can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD grant application form. Eight copies of the proposal must be in the CDPD office, 6th Floor, Space Center Building, 444 Lafayette Road, St. Paul, MN 55101, no later than 4:20 PM on **September 1, 1986**.

The Chemical Dependency Program Division and the State of Minnesota reserve the right to reject any and all proposals submitted and to reallocate funds contemplated for the purpose of this RFP to another purpose.

State Planning Agency: Developmental Disabilities Program Governor's Planning Council on Developmental Disabilities

Requests for Proposals to Assist in the Developing of a Micro Computer Based Case Management Information System for Dakota and Itasca Counties

On June 4, 1986, the Governor's Planning Council on Developmental Disabilities decided to award grants to Dakota and Itasca Counties for the development of a micro computer based case management information system. The purpose of the grants is to improve the effectiveness and efficiency of case managers. Dakota and Itasca Counties, in cooperation with the Governor's Council, are now seeking proposals from individuals and organizations interested in assisting with the development of such a system. Approximately \$55,000 are available for this project. The project will start October 1, 1986 and last for one year. Proposals are due before 4:30 p.m. on Friday, August 29, 1986.

For additional information and copies of the RFP contact:

Ronald E. Kaliszewski
Developmental Disabilities Program
201 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
Phone (612) 297-3207

State University System: Metropolitan State University

Request for Proposals for Conducting an Analysis of Metropolitan State University's Administrative and Instructional Facility Needs

Metropolitan State University is seeking administrative and instructional facilities consulting services to provide data to support long-term facilities planning. The data should include studies to (1) identify whether there should be one or several administrative/instructional sites; (2) identify whether there should be university satellites, and, if so, what services should be offered in them; (3) provide the space configuration that best provides improved access and services to students and the public and a more effective working environment for the staff and faculty; and (4) assess the significance of facilities visibility on market impact and identity

STATE CONTRACTS

of the university. These consulting services, which will be provided under contract, are outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Patricia J. Amlee
Director of Facilities
Metropolitan State University
121 Metro Square
Seventh Street and Robert Place
St. Paul, Minnesota 55101

It is anticipated that the activities to accomplish the stated goal will not exceed a total cost to the state of \$35,000. The deadline for the submission of completed proposals will be 2:00 p.m., Monday, August 11, 1986.

NON-STATE PUBLIC CONTRACTS

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Itasca County Highway Department

Notice of Contract Availability for Highway Reconstruction Preliminary Engineering and Environmental Studies

The Itasca County Highway Department in cooperation with the Office of State Aid, Minnesota Department of Transportation requires the services of a qualified consultant for Preliminary Engineering and Environmental Study for the reconstruction of County State Aid Highway No. 49 (Forest Highway No. 69) located approximately 14 miles north of Grand Rapids in Itasca County, Minnesota.

The services required are the preparation of a Project Development Report (draft and final), Location and Design Study Report (draft and final) and Environmental Assessment (draft and final). The consultant will also be required to conduct public meetings.

To be considered, consultants should submit their brochure and/or experience resume such as the Federal Forms 254 and 255 by August 1, 1986. This is not a Request for Proposal.

Please send your response to:

G. LeRoy Engstrom, Jr.
County Highway Engineer
Itasca County Courthouse
Grand Rapids, Minnesota 55744

SUPREME COURT DECISIONS

Decisions Filed Friday, 11 July, 1986

Compiled by Wayne O. Tschimperle, Clerk

C8-84-1647, C4-84-2178 In the Matter of the Welfare of: J.J.B., a minor child. Court of Appeals.

In determining, upon proper petition, whether a termination of parental rights is appropriate, a trial court shall examine the record relative to the statutory criteria and order a disposition which promotes the best interests of the affected child.

The record demonstrates that the respondent was provided with a copy of the written plan detailing the efforts necessary to reunite parent and child, that the details were discussed with her, and that the court inquired of and was satisfied that her understanding of the plan was complete.

Reversed. Coyne, J.

C3-85-481 Hiawatha Aviation of Rochester, Inc. v. Minnesota Department of Health, petitioner, Relator. Court of Appeals.

The Federal Aviation Act of 1958, at 49 U.S.C. § 105(a)(1) (1982), preempts state regulation of entry into the field of air ambulance service.

Affirmed. Coyne, J.

C5-84-2223 In the Matter of the Application for the Discipline of Patrick K. Fallon, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Per Curiam.

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

Order Dated: July 8, 1986

Docket No. 4381

Ralph A. Nelson (Tem-trol Corporation), Appellant, vs. Commissioner of Revenue, Appellee.

The Minnesota Tax Court, Chief Judge Carl A. Jensen presiding, heard the above matter at the District Courthouse in Anoka, Minnesota, on January 21, 1986.

Paul E. Mattke, Attorney with Jensen, Hicken, Gedde & Soucie, P.A., appeared on behalf of appellant.

Michele M. Owen, Special Assistant Attorney General, appeared on behalf of appellee.

SYLLABUS

The appellant did not have sufficient control over corporate finances to make him personally responsible for unpaid sales taxes.

FINDINGS OF FACT

1. Tem-trol Corporation was engaged in making retail sales which were subject to Minnesota sales taxes. Appellee has assessed penalties for late payment of sales taxes for January and February, 1983. Appellee has also assessed unpaid sales taxes for March, 1985. The company stopped doing business around May 1, 1985 and subsequently filed for bankruptcy.

2. Appellee has assessed the above unpaid sales taxes and penalties against the appellant on the basis of Minn. Stat. § 297A.01 which provides that any person who is responsible for filing sales tax returns and making payment of the taxes is personally responsible for unpaid sales taxes.

3. Appellant started working for the company in 1970 in North Dakota. In 1981 he moved to Minneapolis as a sales manager. In 1982 he was elected to the Board of Directors and also to be a Vice President, but his duties remained as sales manager. In the spring of 1983 he took on additional duties, some of which the controller had previously handled. The controller left in early 1983 and the president of the company apparently took over the preparation of payroll and taxes. The January and February, 1983 sales tax returns were filed late because the controller left in January, 1983 and there was some confusion as to who was to handle sales tax matters. A penalty was subsequently assessed by the appellee.

4. The evidence is mixed as to exactly what duties the appellant had after the controller left, but it appeared that the president of the company practically always took care of the preparation of the sales tax returns, although appellant did have some responsibility relative to this. It appeared that appellant would not have been able to prepare the sales tax returns with the knowledge he had and that other parties had the necessary knowledge to prepare the sales tax returns. Appellant did acknowledge some responsibility for the returns because, when he left on vacation on April 19, 1985, he told the secretary or someone to be sure the sales tax returns for March, 1985 were mailed in before April 25th. There is some confusion as to what occurred around this time, but apparently the president of the company mailed the sales tax returns and a check to the appellee sometime around April 25, 1985. There is some confusion as to when this check may have been presented for payment, although it did appear that payment would have been made if it had been presented to the correct bank prior to perhaps May 1, 1985. However, the president also issued payroll checks around the end of April, 1985 and these were presented and paid. By the time the check for the sales taxes was presented there were insufficient funds to pay this and payment was refused.

5. The president of the company, at a Board of Directors meeting which appellant attended held about April 15, 1985, told the Directors that the company was doing fine, and the appellant had no knowledge of any kind that the company might close for business as of May 1, 1985. While appellant was on a vacation which had started April 19, 1985, his secretary called him about May 1st and notified him that the company was closing. When appellant returned on May 2, 1985, the company had closed for business and there was no way that appellant could have paid the sales taxes.

6. Appellant had no authority to sign the checks by himself to make payment of the sales taxes. Apparently the president of the company had the final authority to determine whether any payments of any accounts were to be made.

7. Appellant did not have the authority and was not ultimately responsible for making payment of the sales taxes involved in this proceeding.

CONCLUSIONS OF LAW AND ORDER FOR JUDGMENT

1. The Orders of appellee assessing penalties for sales taxes for January and February, 1983 and assessing sales taxes for March, 1985 are hereby cancelled insofar as they charge appellant with liability for such penalties and sales taxes.

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

Dated: 8 July, 1986.

BY THE COURT,
Carl A. Jensen, Chief Judge
Minnesota Tax Court

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Physicians Directory 1985. Names and addresses in alphabetical order of licensed chiropractors, doctors of medicine and osteopaths, optometrists, podiatrists and registered physical therapists. Code #1-1. \$15.00.

Health Care Facilities Directory 1986. Contains a list of hospitals and related institutions licensed and/or certified in Minnesota. Alphabetical listing by county. Includes town and facility name, ownership, capacity, available services, address, phone number, and director's name. Code #1-89. \$15.00.

OTHER PUBLICATIONS:

Legislative District Maps. A six-map set of Minnesota Legislative and U.S. Congressional Districts. Shows boundaries since redistricting. (3 maps 17" × 22", 1 map 25" × 29", 2 maps 28" × 40"). Sent to you in a sturdy mailing tube. Code #7-7. \$4.95.

MN Hazardous Waste Rules (as in effect 2-10-86). MN Rules Chapter 7045 and 7046. The rules governing the permits, storage, production and shipment of Hazardous Waste. Code #3-71. \$13.50.

Occupational Safety and Health Rules (as in effect 1-6-86). Chapters 5205-5206, 5210, 5215. State standards for safe working conditions including: personal protective equipment, walking and working surfaces, illumination and ventilation. 84 pp. Code #3-18. \$9.00.

The Medical Alley Directory. Reach the decision-makers without delay at more than 300 medical and bio-tech companies and healthcare delivery organizations. Entries include major products and/or services, company background, special interests, trade name(s), major activities, and addresses and phone numbers. (Code #40-7. \$109.00)

The following two publications are discounted more than 40%.

Education Laws 1984. A complete extract from the 1984 Minnesota Statutes of the empowering legislation relating to public schools. Code #2-83. ~~\$16.00~~ reduced to \$9.00.

Education Laws 1985 Supplement. The 1986 Education Laws (with changes incorporated from the 1986 Legislative Session) will not be available until the Winter of 1986. Code #2-83s1. ~~\$12.50~~ reduced to \$7.00.

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

* **Minnesota Rules 1985.** 10-volume set. Code #18-200. Single volumes: \$13.00 plus 78¢ tax; Full set: \$125.00 plus \$7.50 tax.

* **Minnesota Rules 1986 Supplement Number 1.** Code #18-200A. \$15.00 + 90¢ tax.

* **Minnesota Statutes 1985 Supplement.** Pocket part supplement to Minnesota Statutes 1984. Code #18-7. \$25.00 plus \$1.50 tax.

State Register Index. Contains cumulative finding aids to Volume 9 of the *State Register*, including Minnesota Rules Amendments and Additions. Executive Orders list & index. Agency & Subject Matter indices. Code #13-9 SR INDEX. \$5.00.

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