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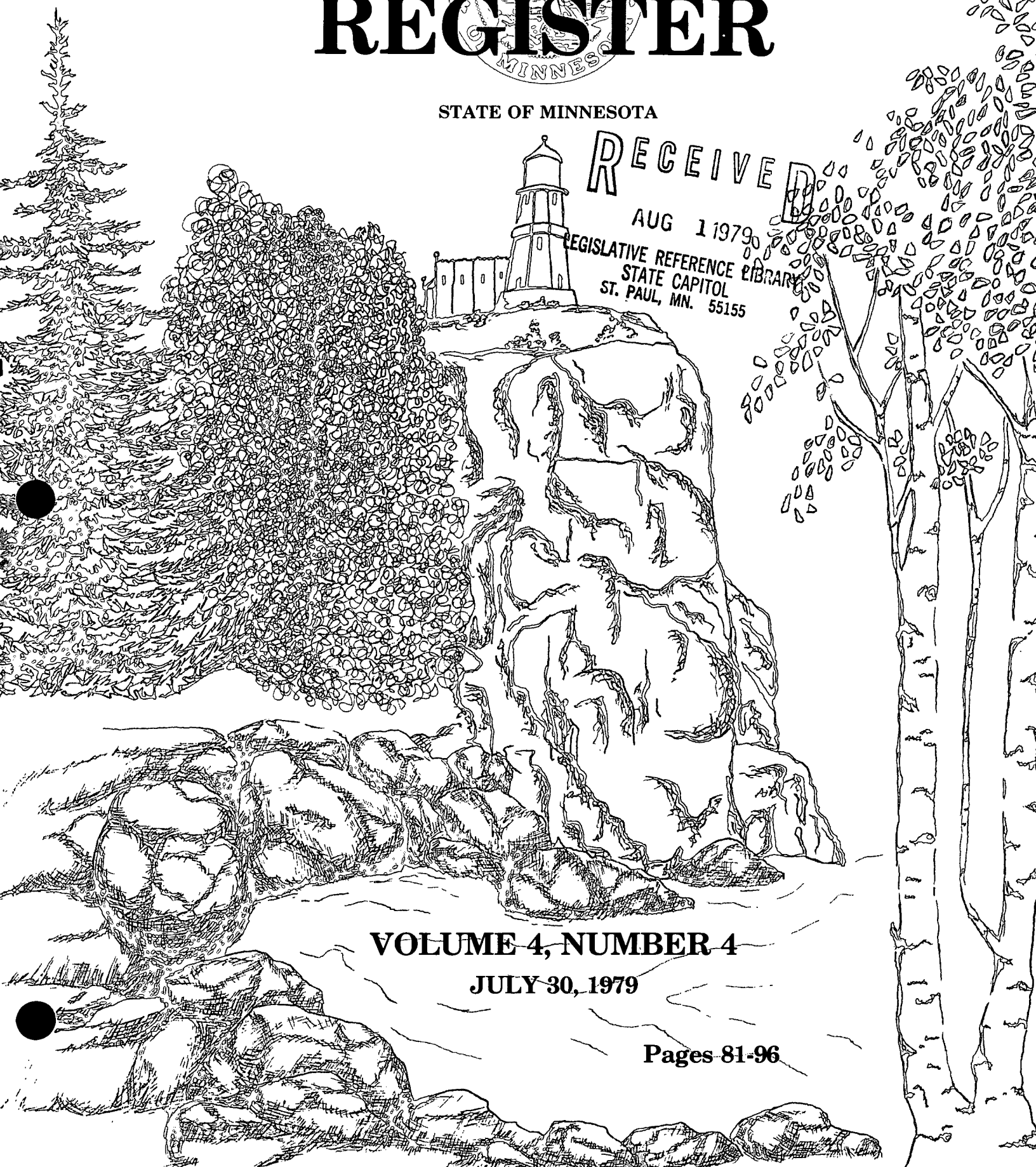
STATE REGISTER

STATE OF MINNESOTA

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VOLUME 4, NUMBER 4

JULY 30, 1979

Pages 81-96

STATE REGISTER

Volume 4 Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices.	Issue Date
SCHEDULE FOR VOLUME 4			
5	Monday July 23	Monday July 30	Monday Aug 6
6	Monday July 30	Monday Aug 6	Monday Aug 13
7	Monday Aug 6	Monday Aug 13	Monday Aug 20
8	Monday Aug 13	Monday Aug 20	Monday Aug 27

*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 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, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

The *State Register* is published by the State of Minnesota, Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in August. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$110 per year, and \$85 per year for additional subscriptions, 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 \$2.25 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*.

Albert H. Quie
Governor

Carol Anderson Porter
Editor

James Hiniker
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener
Editorial Staff

Stephen A. Ordahl
Manager
Office of the State Register

Jack Richter
Information Officer

Roy Schmidtke
Circulation Manager

Cindy Riehm
Secretarial Staff

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MCAR AMENDMENTS AND ADDITIONS

The following is a listing of all proposed and adopted rules published in Volume 4, Number 1 of the *State Register*. The listing is arranged in the same order as the table of contents of the *Minnesota Code of Agency Rules* (MCAR). All adopted rules published in the *State Register* and listed below amend the rules contained in the MCAR set. Both proposed temporary and adopted temporary rules are listed here although they

are not printed in the MCAR due to the short term nature of their legal effectiveness. During the term of their legal effectiveness, however, adopted temporary rules do amend the MCAR. A cumulative listing of all proposed and adopted rules is published each quarter and at the end of the volume year.

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There are several kinds of morel (morchella) mushrooms but all are similar in appearance and edibility. They appear in spring after abundant rainfall in wooded areas, but also come up in grassy pastures or in lawns around dead trees or stumps. Morels are 4 to 8 inches high, with light tan to brown caps and white stems. Both cap and stem are hollow and brittle. (Photograph by Ronald E. Welty)

EXECUTIVE ORDERS

Executive Order No. 79-32

Providing for a Governor's Planning Council on Developmental Disabilities and Assigning Responsibilities to the State Planning Agency

I, Albert H. Quie, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, provision of services to persons with developmental disabilities is of concern and importance to the state; and,

WHEREAS, Public Law 91-517, as amended, directs state participation in assisting the developmentally disabled, provides funds for such assistance, and requires the establishment of a planning council and the preparation of a state plan; and,

WHEREAS, no state agency has been designated by Law to apply for, to receive, to accept, and to expend federal funds for such purposes,

NOW, THEREFORE, I Order:

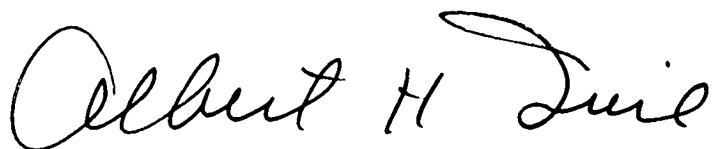
1. That, in accordance with Public Law 91-517, as amended, there be established the Governor's Planning Council on Developmental Disabilities, whose responsibility it shall be to supervise the development of an annual state plan describing the quality, extent, and scope of needed services being provided, or to be provided, to persons with developmental disabilities; to monitor and evaluate the implementation of the state plan; and to review state service plans for the developmentally disabled; and,

2. That, pursuant to Minn. Stat. § 4.07, the State Planning Agency be designated the state agency to act for the Governor in applying for, receiving, accepting, and expending federal funds granted to the State of Minnesota by Public Law 91-517, as amended; and,

3. That the State Planning Agency be designated as the responsible agency to provide staff and other administrative assistance to the Governor's Planning Council on Developmental Disabilities, and to carry out all other responsibilities relating to the developmental disabilities program as required under state and federal law.

Pursuant to Minn. Stat. § 4.035, this order shall be effective 15 days after publication in the *State Register* and shall be in force until superseded or rescinded by proper authority or it expires in accordance with Section 4.035.

IN TESTIMONY WHEREOF, I hereunto set my hand on this 13th day of July 1979.



SUPREME COURT

Decisions Filed Friday, July 20, 1979

Compiled by John McCarthy, Clerk

49373/303 In the Matter of the Welfare of Baby Girl Suchy, a.k.a. Rebecca Suchy, a.k.a. Lu-Ann Michelle Suchy, Ramsey County.

The record supports the termination of parental rights.

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

48273/7 Tony and Leo, Inc. vs. United States Fidelity and Guaranty Company and Carl H. Peterson Company, defendants and third party plaintiffs, AID Insurance Services, defendant and third party plaintiff, Appellant, vs. Minnehaha Terrazzo & Cement Corporation, third party defendant. Hennepin County.

Where an assignor principal seeks to prove a novation in order to be discharged from a binding contract to indemnify its surety, a clearly defined expression of consent by the surety to release the assignor principal must be shown.

Reversed with directions to the trial court to modify its judgment in accordance with this opinion. Rogosheske, J. Took no part, Otis, J.

48736/76 Northwestern College, etc., Appellant, vs. City of Arden Hills, et al, and Arden Hills No. 3 Association, etc., intervenor. Ramsey County.

Denial of special-use permit on ground that private college was not permitted use in residential district was discriminatory in light of numerous building permits granted to similarly situated private college.

Reversed. Peterson, J. Took no part, Todd, J.

48799/119 State of Minnesota vs. Timothy Allen Olsen, Appellant. Washington County.

Warrantless investigation into origin of fire, which was undertaken within 15 minutes after firefighters had left fire scene and which lasted about 2 hours, was unreasonable.

Simultaneous warrantless narcotics investigation was not justified by any exigent circumstances and was illegal. Any information obtained by illegal search, however, was cumulative to that legally obtained.

Affirmed. Peterson, J.

49249/262 Janet M. Aker, widow of James A. Aker, deceased employee, vs. State of Minnesota, Department of Natural Resources, (self-insured), Relator. Workers' Compensation Court of Appeals.

The finding of the Workers' Compensation Court of Appeals that an employee's fatal myocardial infarction was work related is not without adequate evidentiary support.

Affirmed. Peterson, J.

49653/297 Dean M. Utterberg vs. Richard J. Cameron and Elaine L. Cameron, Appellants. Crow Wing County.

The statutory defense of usury, Minn St. § 334.03, is available only to the victim and not to the user. Seehold v. Eustermann, 216 Minn. 56t, 13 N.W. 2d 739 (1964), overruled.

Affirmed. Peterson, J.

49086/123 Moorhead Machinery and Boiler Company vs. Employers Commercial Union Insurance Co. of America, Great American Insurance Co. Hennepin County.

Under the facts of this case the policy was not ambiguous and an exception to an exclusion would not be considered a grant of coverage where other exclusions clearly precluded coverage.

Affirmed. Kelly, J. Took no part, Todd, J.

49324/257 Harold J. Jackson, Relator, vs. Cedar Grove Construction Company, et al. Workers' Compensation Court of Appeals.

The Workers' Compensation Court of Appeals did not abuse its discretion in denying employee's petition to vacate.

Affirmed. Kelly, J. Took no part, Todd, J.

48921/132 Donald Lewis, Director, Department of Human Rights ex rel. Leonard Quinn, complainant, Appellant, vs. Ford Motor Company. Ramsey County.

A defense to disability discrimination contained in a state statute applies in a discrimination action brought under a city ordinance even though the ordinance does not expressly contain the defense.

Although it is a defense to a disability discrimination action when the complainant's disability poses a serious threat to his health or safety, summary judgment on the basis of this defense was improper because the record in this case shows a genuine issue of whether the complainant had an asthmatic condition which posed a serious threat to his health or safety.

Affirmed in part; reversed in part; and remanded. Todd, J. Took no part, Otis, J.

48897/209 Housing and Redevelopment Authority of the City of St. Paul, Minnesota, petitioner, Appellant, vs. Naegele Outdoor Advertising Company of the Twin Cities, Inc., et al, Bud George. Ramsey County.

SUPREME COURT

The going-concern value of an on-sale liquor business may not be recovered in a condemnation proceeding unless the condemnee shows (1) that such value will in fact be directly destroyed by the condemnation and (2) that the business cannot be practically relocated or that relocation would cause irreparable harm.

Reversed and remanded. Todd, J. Took no part, Otis, J.

49657/265 Hans R. Peterson, petitioner, Appellant, vs. State of Minnesota. Blue Earth County.

Under the facts of this case, the evidence was sufficient to support the finding, as an element of the crime, that defendant's sexual misconduct occurred under circumstances when the victim had a "reasonable fear of imminent great bodily harm."

The trial court committed no prejudicial error by not instructing the jury on the definition of "great bodily harm" in a criminal prosecution for criminal sexual conduct in the first degree.

Defendant was not denied his Sixth Amendment right to effective assistance of counsel.

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

49106/292 Dale J. Buck, et al vs. Brenda K. Dibble, et al, Appellants. Dodge County.

Where two drivers approached an uncontrolled intersection at very nearly the same time and the driver on the left failed to yield the right-of-way, in the absence of credible evidence to excuse her failure, the trial court properly ruled that as a matter of law she was negligent and her negligence was a direct cause of the collision which occurred after she entered the intersection.

The trial court properly excluded testimony of a witness that the police officer who investigated the accident had expressed the opinion that the driver having the right-of-way was exceeding the speed limit since the officer disqualified himself from giving an opinion about the driver's speed and the excluded testimony did not impeach the officer's testimony.

The award of \$49,500 as damages to the driver who had the right-of-way although liberal, was not excessive and had sufficient evidentiary support.

Affirmed. Wahl, Took no part, Otis, J.

48639/283 State of Minnesota vs. Joe Eddie Hudson, Appellant. Hennepin County.

Defendant was not denied a fair trial by:

(a) the failure of the court to sua sponte sever the offenses—aggravated robbery and being a felon in possession of a pistol—and the admission of certified copies of prior convictions for the purpose of proving defendant's guilt of the possession charge;

(b) the admission of testimony about the content of statements made by the two men with whom he was arrested;

(c) the admission of certain other-crime evidence and the wording of the court's cautionary instruction concerning the use of this evidence;

(d) his counsel's failure to request an omnibus hearing; or

(e) the court's order requiring him to wear a hidden leg restraint during the trial.

Under the dangerous offender statute, defendant should have been sentenced to an extended or doubled term of 40 years for the offense charged, not a separate consecutive 20-year sentence.

Remanded for correction of sentence. Wahl, J.

48516/133 State of Minnesota vs. Robert C. Pietraszewski, Appellant. Nicollet County.

Defendant's conviction of introducing contraband into the Minnesota Security Hospital in violation of Minn. St. § 243.55 is affirmed. (1) Sufficient evidence supports the trial court's determination that defendant's waiver of a jury trial was voluntarily and intelligently made; (2) Minn. St. 1978, § 243.55 which prohibits the introduction of contraband into the state prison or the state reformatory or any other state institution is construed to include the Minnesota Security Hospital; (3) the warrantless search of defendant's cell did not violate his Fourth Amendment rights; (4) the trial court did not err in admitting the testimony of two state witnesses, whose names inadvertently had not been disclosed; (5) the conviction is supported by sufficient evidence and there is no merit to defendant's challenges to the evidentiary rulings of the trial court.

Affirmed. Per Curiam.

Decisions Filed Friday, July 13, 1979

48846/21 International State Bank vs. Richard Gamer and Linda Gamer, individually, and d.b.a. International Market Place, Appellants. Koochiching County.

The Minnesota attachment statute, Minn. St. ch. 570, comports with the due process standards set forth in *Mitchell v. W. T. Grant Co.*, 416 U.S. 600, 94 S. Ct. 1895, 40 L. ed. 2d 406 (1974), and was not applied in an unconstitutional manner in this case.

Affirmed. Wahl, J. Took no part, Otis, J.

**48526,
48548/35**

Joseph Sandhofer vs. The Abbott-Northwestern Hospital, Appellant (48526) Respondent (48548) Keith D. Millett, M.D., et al, Respondents (48526) Appellants (48548). Hennepin County.

The testimony of plaintiff's expert witness, which rested upon an adequate factual foundation, could form the basis for the jury's verdict in plaintiff's favor.

SUPREME COURT

The general jury instructions given by the trial court fairly laid down the law of the case. Because defendants did not show sufficient need for more specific instructions, the trial court did not abuse its discretion in refusing to give defendants' requested instructions.

On the issues of direct causation, concurring cause, the apportionment of negligence, the evidence was sufficient to support the jury's verdict.

The trial court did not abuse its discretion in excluding the testimony of a defense expert witness who was not disclosed until the first day of trial in violation of Fourth Judicial District Special Rule 28. Defendants failed to show special circumstances that would excuse noncompliance with the rule.

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

STATE CONTRACTS

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

Department of Administration procedures require that notice of any

consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contract person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

State Planning Agency Office of Local and Urban Affairs

Notice of Request for Proposals for Rural Housing Grant Evaluative Conference

The State Planning Agency's Office of Local and Urban Affairs is requesting proposals to set up and conduct an evaluative conference studying the long-term effects of the HUD Rural Innovative Housing Grant in outstate Minnesota. There will be a written analysis of the conference as well as follow-up activities such as writing newsletter and newspaper articles on the findings as well as notifying interested legislators of the effects of the original grant.

For further information contact:

Jane Stevenson
Office of Local and Urban Affairs
State Planning Agency
200 Capitol Square Building
St. Paul, MN 55101
(612) 296-2386

Office of the State Treasurer

Notice of Request for Consultant Services

The Unclaimed Property Division of the State Treasurer's Office is requesting the services of a consultant to assist in locating owners of unclaimed property and to inform businesses of their obligation to report unclaimed property.

For further information contact:

Faith E. Woodman
Director of Unclaimed Property
G-21 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone (612) 296-2568

Notice of Request For Accountant Services

The Unclaimed Property Division of the State Treasurer's Office is requesting services and technical advice of an accountant for the examination of banks, financial institutions, and corporations for compliance with the unclaimed property act. In addition, the consultant shall provide assistance as an inhouse analyst in dealing with ISD for the programming of unclaimed property.

For further information contact:

Faith E. Woodman
Director of Unclaimed Property
G-21 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
Telephone (612) 296-2568

STATE CONTRACTS

Department of Transportation Public Transportation Division

Notice of Availability of Contract for Minnesota Consulting Engineers

The Minnesota Department of Transportation requires the services of a qualified consultant to review wiring circuit diagrams for highway-railroad grade crossing signals to be installed or revised in Minnesota in accordance with "Public Service Commission, Department of Public Service, Chapter Eight, Rules and Specifications for Signs and Signals for Installation at Highway Railroad Grade Crossings," and in further accordance with accepted signal engineering practices. The consultant shall recommend corrective or remedial measures in any such wiring circuit diagrams to meet compliance with the above. In certain instances, upon the request of the Department, the consultant will inspect highway-railroad

grade crossing installations for compliance with approved wiring circuit diagrams and proper operation.

The consultant should be a registered professional engineer and shall certify all circuit plans to be approved. The circuit plans will be submitted to the consultant periodically during the term of the contract which shall conclude on June 30, 1980.

The estimated cost of these reviews is \$10,000. Payment for these services shall be based on the agreed upon hourly rates for the consultant's personnel performing the work.

Please submit five (5) copies of your proposal to:

G. W. Boldt
Chief, Railroad Operations
Room 419
Transportation Building
St. Paul, Minnesota 55155

His telephone number is (612) 296-2452. Those consultants interested in submitting a proposal should contact Mr. G. W. Boldt for detailed information relating to the form and content of the proposal.

Please submit your proposal within 21 days of publication of this notice.

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 Insurance Division

Notice of Intent to Solicit Outside Information on Proposed Rules Governing Life Insurance Contracts Issued on A Variable Basis

Notice is hereby given that the Department of Commerce, Insurance Division, has begun consideration of proposed permanent rules governing life insurance contracts issued on a variable basis mandated by Minn. Stat. § 61A.20 (1978). In order to adequately determine the nature and utility

of such rules, the Commerce Department, Insurance Division, hereby requests information and comments from all interested individuals or groups concerning the subject matter of the proposed rules.

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

Mr. John T. Ingrassia
Supervisor, Life and Health Section
Insurance Division
Department of Commerce
500 Metro Square Building
Saint Paul, Minnesota 55101

OFFICIAL NOTICES

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-2202 and in person at the above address.

The proposed rules, if adopted, would require insurers issuing life insurance policies issued on a variable basis to meet certain filing requirements. Variable life insurance contracts are defined as "any contract on either group or on individual plans issued by a life insurance company providing for a dollar amount of benefits, or other contractual payments of value thereunder, to vary as to reflect investment results of a separate account in which amounts have been placed in connection with such contracts." Such contracts may also provide benefits or values incidental thereto, payable in fixed or variable dollar amounts. Minn. Stat. § 61A.13 (1978).

Notice of Appointment of Board of Directors for Minnesota Workers' Compensation Reinsurance Association

Notice is hereby given that the following persons have been duly appointed as members of the board of directors of the Workers' Compensation Reinsurance Association pursuant to authority granted the Commissioner of Insurance by Laws of 1979, ch. 3, §§ 20 and 24 (Special Session):

Alan Brosius
Honeywell, Inc.
Honeywell Plaza
Minneapolis, Minnesota 55408

Dan Gustafson
AFL-CIO
175 Aurora Avenue
St. Paul, Minnesota 55103

John A. Jungbluth
Federated Mutual Insurance
Company
129 East Broadway
Owatonna, Minnesota 55060

Chester Morris
United Steel Workers of
America
Room 684, Midwest Building
St. Paul, Minnesota 55101

Brad Robinson
Robinson Rubber Products Co.,
Inc.
4600 Quebec Avenue North
Minneapolis, Minnesota 55428

Jerome Scheibl
Employers Mutual Liability
Insurance Co. of Wisconsin
2000 Westwood Drive
Wausau, Wisconsin 54401

Bob Smith
Aetna Casualty & Surety Co.
(The)
151 Farmington Avenue
Hartford, Connecticut 06156

Richard Tongen
The St. Paul Companies
385 Washington Street
St. Paul, Minnesota 55102

Howard Weber
Minnesota Mining &
Manufacturing Company
3M Center
St. Paul, Minnesota 55101

Department of Health Emergency Medical Services Section

Notice of Filing of Application for Licensure to Operate Emergency Land Ambulance Service in Minneapolis

On July 19, 1979, Medibus-Helpmobile, Inc., filed application with George R. Pettersen, M.D., Commissioner of Health, for a license to operate an emergency land ambulance service with a base of operation in Minneapolis, Minnesota. This notice is made pursuant to Minn. Stat. § 144.802 (Supp. 1977). Please be advised that subd. 2 of that statute states, in part: The Commissioner may grant or deny the license 30 days after notice of the filing has been fully published. If the Commissioner receives a written objection to the application from any person within 20 days of the notice having been fully published, the license shall be granted or denied only after a contested case hearing has been conducted on the application. The Commissioner may elect to hold a contested case hearing if no objections to the application are received. If a timely objection is not received, the Commissioner may grant or deny the requested license based upon the information contained in the license application. If licensure is denied without hearing, the applicant, within 30 days after receiving notice of denial, may request and shall be granted a contested case hearing upon the application, at which hearing all issues will be heard de novo.

Any objections to this service, pursuant to Minn. Stat. § 144.802 (Supp. 1977) may be made in writing to George R. Pettersen, M.D., within the time period outlined by statute.

Notice of Request for Proposals for Grants Management Consultant

The Minnesota Department of Health is soliciting proposals to select an outside consultant with an extensive knowledge of and experience with the current and past administration of the federal Emergency Medical Services Systems Act of 1973. The Consultant will:

(1) assist the Department in the preparation of grant applications for fiscal year 1980-81, including the gathering of data and other information to be included in the applications to assure compliance with federal requirements;

(2) assist the Department in evaluating the content and quality of regional applications so that grants can be prioritized by the State as required by the Department of Health, Education and Welfare;

OFFICIAL NOTICES

(3) revise a current site-assessment manual and conduct regional site assessments in EMS regions in accordance with established Department of Health procedures;

(4) provide technical assistance to assigned EMS regions including:

- needs assessment and prioritization of need in developing mandatory program components and critical care components;
- compliance with special terms and conditions of grant;
- development of recordkeeping and evaluation methodologies;
- conducting technical training workshops for regional staff regarding State and federal guidelines and policies.

Prospective responders who have any questions regarding this Request for Proposal may call or write:

J. M. Parker
Assistant Section Chief
Emergency Medical Services Section
Minnesota Department of Health
717 Delaware St. S.E.
Minneapolis, Minnesota 55440
(612) 296-5281

Please Note: Other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

The Department has estimated that the cost of this project should not exceed \$20,000 for all professional services and expenses.

All proposals must be sent to and received by Mr. Parker at above address not later than 4:00 p.m., August 15, 1979.

Office of the Secretary of State Election and Legislative Manual Division

Notice of Vacancy in Multi- Member Agency — Application and Appointment Procedures

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Bldg., St. Paul, MN 55155; (612) 296-2805. **Application deadline is Tuesday, August 14, 1979.**

Minnesota Municipal Board: One vacancy open immediately for a resident of a city of the first class for a term

expiring June 30, 1985. The Board regulates incorporations and boundary adjustments for cities and towns; provides advisory services; conducts hearings and meetings; issues orders. The meeting schedule varies but meetings or hearings are held at least five times a month. Members receive \$50 per diem plus travel expenses. The appointing authority is the governor and Senate approval is required. For specific information, contact Patricia Lundy, 165 Metro Square Bldg., St. Paul, MN 55101; (612) 296-2428.

Governor's Task Force on Educational Policy: Eight vacancies open immediately for public members for terms expiring June 30, 1981. Members should be representative of public constituent groups in education, should be geographically balanced throughout the state and should have a demonstrated interest in elementary and secondary education. This Task Force was Created by Laws of 1979, ch. 333, § 9, and is composed of a maximum of fifteen members, at least eight of whom shall represent the public. The Task Force will conduct a review of major educational policy issues; examine alternative strategies for public policy action; make recommendations based on the findings. Meetings will be held at least monthly. Members are compensated for travel expenses. The governor is the appointing authority. For specific information, contact Donna Knight, 101 Capitol Square Building, St. Paul 55101; (612) 296-1755.

Department of Transportation

Notice of Application and Opportunity for Hearing Regarding Authority to Retire and Remove Track at Kasson, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove ICC track No. 295 located at Kasson, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, constitutes a continuing and burdensome maintenance expense, and is an unnecessary safety hazard. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. The only shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years is Kasson Livestock Exchange."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of

OFFICIAL NOTICES

Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before August 20, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

July 19, 1979

Richard P. Braun
Commissioner

Notice of Application and Opportunity for Hearing Regarding Authority to Retire and Remove Track at Plainview, Minnesota

Notice is hereby given that Chicago and North Western Transportation Company with attorneys at 4200 IDS Center, 80 South 8th Street, Minneapolis, Minnesota 55402 has filed a petition with the Commissioner of Transportation pursuant to Minn. Stat. § 219.741 and § 218.041, subd. 3 (10) to retire and remove ICC track No. 13 located at Plainview, Minnesota.

The petition recites among other matters that: "The subject track is no longer needed for rail transportation service, constitutes a continuing and burdensome maintenance expense, and is an unnecessary safety hazard. The track is not used at the present time, and there is no present prospect that the subject track will be needed in the future. The only shippers, patrons or members of the public who might have any interest in the retention of the tracks or facilities, or who have used the same to any substantial degree within the past several years is Doane Grain Service, Inc."

Any person may file a written objection to the proposed action by means of a letter addressed to the Commissioner of Transportation, Transportation Building, Saint Paul, Minnesota 55155, not later than the date specified below. An objection must be received on or before August 20, 1979. The objection should state specifically how the objector's interest will be adversely affected by the proposed action.

Upon receipt of a written objection, the Commissioner will, with respect to the named petitioner, set the matter down for hearing. If no objections are received, the Commissioner may grant the relief sought by the petitioner.

If this matter is set for hearing, any person who desires to become a Party to this matter must submit a timely Petition to Intervene to the Hearing Examiner pursuant to 9 MCAR § 2.210, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. All parties have the right to be represented by legal counsel or any other representative of their choice. In the event the objecting party does not do so, or otherwise does not participate in the hearing, the statements contained in the application filed may be taken as true.

July 19, 1979

Richard P. Braun
Commissioner

Errata

1. At 3 S.R. 1487, the following rule should have been included: "2 MCAR § 1.3005 Fees. Fees for services shall be prescribed by the commissioner unless otherwise authorized by law or rule and shall take into consideration the following factors: cost of publication, storage, handling, ~~post-
age,~~ and the operating expenses of the Documents Section. Fee schedules shown in catalogs and indices are subject to change without notice."

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