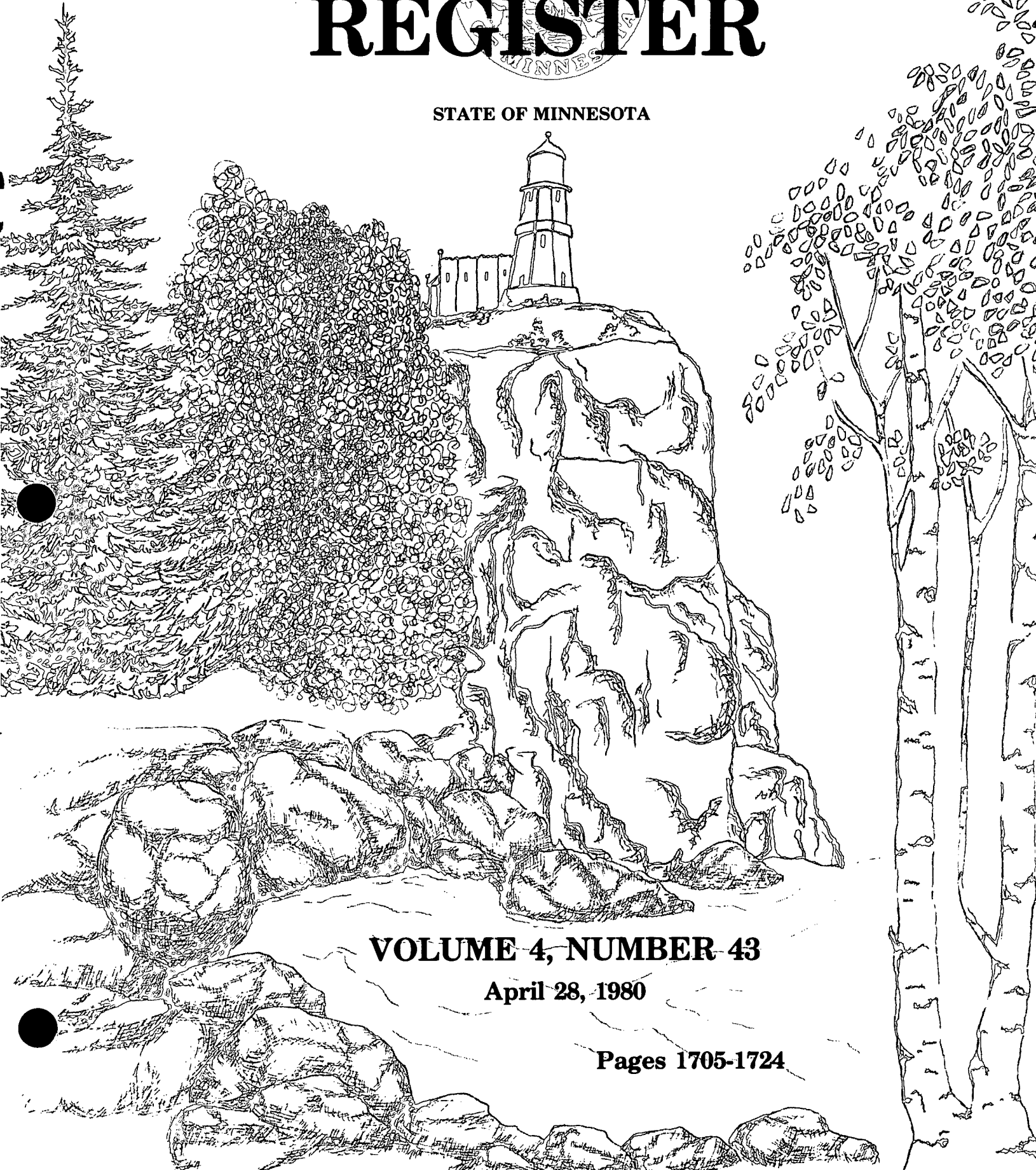


P182

# STATE REGISTER

STATE OF MINNESOTA



**VOLUME 4, NUMBER 43**

**April 28, 1980**

**Pages 1705-1724**



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**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			
44	Monday Apr 21	Monday Apr 28	Monday May 5
45	Monday Apr 28	Monday May 5	Monday May 12
46	Monday May 5	Monday May 12	Monday May 19
47	Monday May 12	Monday May 19	Monday May 26

\*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.

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

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**NOTICE**

**How to Follow State Agency Rulemaking Action in the *State Register***

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

**The PROPOSED RULES section contains:**

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

**The ADOPTED RULES section contains:**

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

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

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
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the MCAR.

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# EXECUTIVE ORDERS

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## Executive Order No. 80-2

### Providing for the Establishment of a Governor's Task Force on Juvenile Justice

I, ALBERT H. QUIE, Governor of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, including but not limited to Minn. Stat. § 15.0593, do hereby issue this Executive Order:

WHEREAS, the juvenile justice system in Minnesota has been the subject of numerous studies and there is currently concern among legislators, local elected officials, criminal and juvenile justice practitioners, state agencies, and citizens that the system lacks coordination and direction, resulting in juvenile treatment which is at times inconsistent, ineffective and lacking in accountability; and

WHEREAS, it is difficult for decisionmakers and practitioners to make informed and responsible decisions regarding resource allocation, program effectiveness and policy development because no comprehensive information exists on the service delivery system to juveniles; and

WHEREAS, the need to obtain complete and comprehensive information about the state's juvenile justice system requires the active cooperation and participation of the Legislature, local officials, criminal and juvenile justice practitioners, other state and private agencies and organizations, and citizens;

NOW, THEREFORE, I order:

1. The establishment of the Governor's Task Force on Juvenile Justice pursuant to Minn. Stat. § 15.0593 and other applicable state statutes.

a. The Task Force shall consist of 15 members and shall be composed of:

1. Four elected officials;
2. A juvenile court judge;
3. A county attorney;
4. A public defender;
5. A juvenile officer;
6. A law enforcement official;
7. An educator;
8. A member of court services;
9. A senior citizen;
10. A school administrator;
11. Two public members.

b. The members shall be appointed by the Governor pursuant to Minn. Stat. § 15.0597.

c. The Governor shall appoint a chairman and a vice-chairman.

d. Terms of the members shall be until the analysis required in paragraph 6 is complete but not longer than two years.

## EXECUTIVE ORDERS

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e. Per diem shall not be paid to members. Expenses shall be reimbursed by the Crime Control Planning Board.

2. Establishment of a corps of knowledgeable personnel and management professionals, including at least the commissioner of the departments of Education, Corrections and Public Welfare or their designee, to assist the Task Force.

3. That the responsibility of the Task Force is to provide to the Legislature and to the Governor an objective analysis of Minnesota's juvenile justice system from a statewide and system-wide perspective. This shall be achieved through completion of the following tasks:

a. identification, review and assessment of all research and evaluation projects conducted or being conducted on Minnesota's juvenile justice system;

b. identification of all juvenile justice programs in Minnesota, and their purpose, geographic location, clientele, funding sources, and any organization, agency or individual which regulates or evaluates the programs;

c. the review of all state and federal laws and regulations pertaining to juvenile justice and their influence on the Minnesota juvenile justice system;

d. a design for a comprehensive juvenile justice data base to include program and budget information on Minnesota's juvenile justice system;

e. identification of major accomplishments, problem areas, and issues in Minnesota's juvenile justice system;

f. examination of the relationship between the education system and the juvenile justice system;

g. identification of alternatives available for improvement of Minnesota's juvenile justice system and development of recommendations for administrative and legislative actions designed to implement these alternatives;

h. implementation of any other tasks determined necessary to carry out the responsibility of the Task Force.

4. That the Crime Control Planning Board shall provide the staff and technical assistance necessary for the Task Force to carry out its responsibilities.

5. That the Task Force, in performing its duties, shall receive assistance from the Departments of Education, Corrections, Labor and Industry, Public Welfare, Health, Economic Security, and any other state agency where appropriate.

6. That by February 15, 1981, the Task Force shall submit to the Governor and the Legislature its analysis of Minnesota's juvenile justice system and its recommendations for improvement of Minnesota's juvenile justice system.

7. That the Task Force has the authority to seek and receive additional funding if they deem it necessary.

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## EXECUTIVE ORDERS

Pursuant to Minn. Stat. § 4.035 (1978), this order shall be effective 15 days after filing with the Secretary of State and publication in the *State Register* and shall remain in effect until it is rescinded by proper authority or it expires in accordance with Minn. Stat. § 4.035 or 15.0593.

IN TESTIMONY WHEREOF, I hereunto set my hand this 28th day of March, 1980.

Albert H. Jule



**CAMPFIRE**, an ink drawing by Minnesota artist F. Lee Jaques, was produced for the book *The Singing Wilderness* by Sigurd F. Olson. The original was lent to the James Ford Bell Museum of Natural History, University of Minnesota, by its owners, Mr. and Mrs. Jerome Connolly of Stamford, CT. (Courtesy of J.F. Bell Museum)

# ADOPTED RULES

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The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

If an adopted rule differs from its proposed form, language which has

been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

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

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## Department of Commerce Insurance Division Adopted Temporary Rules Governing Self-Insurance for Workers' Compensation

### Notice of Extension of Temporary Rules

Temporary rules governing self-insurance for workers' compensation were adopted pursuant to Minn. Stat. § 15.0413,

subd. 5, on January 23, 1980, and published at 4 S.R. 1256 (February 11, 1980).

It is hereby ordered pursuant to Minn. Stat. § 15.0413, subd. 5, that the above-entitled rules are extended for an additional 90 days, effective April 24, 1980.

Michael D. Markman  
Commissioner of Insurance

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# TAX COURT

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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

The City of Bloomington, a  
Minnesota Municipal Corporation,

v.

The Commissioner of Revenue,  
Docket No. 2837

## Tax Court

Appellant,

Appellee.

Order Dated April 14, 1980.

The City of Bloomington assesses each customer of its water utility a Basic Water Charge on each billing regardless of the amount of water used during the period. The city does not collect sales tax on this Basic Water Charge. The commissioner contends that this item should be subject to sales tax and by Order dated December 22, 1978 assessed additional sales tax against the city for the period beginning September 1, 1975 and ending June 30, 1978.

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



The question is whether or not sales tax is due on the Basic Water Charge.

Mr. Eric Berg, Assistant Bloomington City Attorney, represented the Appellant,

Mr. Thomas K. Overton, Special Assistant Attorney General, for the Appellee.

#### **Decision**

The Order of the Commissioner of Revenue is affirmed.

#### **Findings of Fact**

##### **Earl B. Gustafson**

1. Appellant, City of Bloomington, operates a municipal water utility service. Customers are billed for a minimum "Basic Water Charge" for each billing period, regardless of whether they use any water, along with a "usage fee" for the amount of water actually consumed.

2. Appellant collects sales tax for the amount of water consumed but does not collect sales tax upon the "Basic Water Charge."

3. On December 22, 1978, the Commissioner of Revenue issued an Order assessing additional sales tax against the appellant for failure to collect sales tax on the "Basic Water Charge" for the period beginning September 1, 1975 and ending June 30, 1978.

4. Appellant filed a timely appeal pursuant to Minn. Stat. ch. 271.06. The Tax Court has jurisdiction over the parties and subject matter hereto by virtue of Minn. Stat. ch. 271.01, subd. 5.

5. The minimum "Basic Water Charge" and the "usage charge" taken together comprise the complete consideration for "the furnishing for a consideration of . . . water . . ." within the meaning of Minn. Stat. ch. 297A.01, subd. 3(f).

#### **Conclusion of Law**

1. The minimum "Basic Water Charge" and "usage charge" together are the total consideration for "the furnishing for a consideration of . . . water . . ." within the meaning of Minn. Stat. § 297A.01, subd. 3(f) and hence includible in the computation of the "sales price" as that term is defined in Minn. Stat. ch. 297A.01, subd. 8 and therefore subject to the sales tax.

#### **Memorandum**

The appellant, City of Bloomington, operates a municipal water utility. The question is whether all charges the city makes to customers for furnishing water are subject to the sales tax, or if a minimum basic charge, separately stated, should be excluded from the sales tax.

As part of its water utility rate structure, Bloomington charges a \$2.75 Basic Water Charge to each of its water utility customers for each billing period. Customers with water lines of 1½ inches or larger (generally industrial users) are billed each month. Customers with smaller water lines (generally residential users) are billed bi-monthly and thus pay the \$2.75 Basic Water Charge once every two months. The size of the water line is a rough indication of water usage.

In addition to the Basic Water Charge, each water utility customer is assessed a separately stated water charge which varies according to the amount of water actually used by the customer during the billing period. The purpose of the Basic Water Charge is to guarantee the water utility a stable minimum income. The Basic Water Charge is not attributable to particular utility costs or expenses nor is it used to cover the cost of particular types of expenses. Likewise the usage charge is not attributable to particular costs or expenses. Revenue from the Basic Water Charge and the usage charge is part of the general revenue of the municipal utility which goes to pay all the costs of operating the utility.

Cost of the utility's operation includes the following: administration, mains, valves, lines, hydrants, meters, water storage, customer service, water purchase and treatment plant operation, billing and collection, capital outlays, debt service, and general operations. Ultimately all the costs of the utility's operations relate to supplying water to utility customers.

Minnesota's 4% sales tax is imposed upon the gross receipts from all retail "sales." Minn. Stat. § 297A.02. Gross receipts are measured by the "sales price" which is the total consideration for sales at retail. Minn. Stat. § 297A.01, subd. 9.

Minn. Stat. § 297A.01, subd. 3 in relevant part defines sale as follows:

A "sale" . . . includes, but is not limited to, each of the following transactions:

(a) Any transfer of title or possession . . . of tangible personal property . . . for a consideration. . . .

(f) *The furnishing for a consideration of . . . water. . . .* (Emphasis added)

Appellant argues that Minn. Stat. § 297A.01, subd. 3(f) of the sales tax only applies to sales of water, as such, so that only charges based on the metered volume of water physically transferred are taxable as "sales" leaving the periodic minimum Basic Water Charge excluded from taxation.

Without question the municipal utility receives consideration from its customers. Therefore, "the furnishing . . . of . . . water," to customers by special definition constitutes "sales" within the meaning of the sales tax law.

The water usage charge and the Basic Water Charge together represent the total consideration for "the furnishing for a consideration of . . . water." To set aside a portion of this consideration by giving it the name "Basic Water Charge" does not remove it from the sales tax as some kind of non-taxable service. There is no provision for making this deduction under clause (f) (furnishing water) as there is under clause (a) (transfer of title or possession of tangible personal property). In fact, such a deduction "for services that are part of the sale" is specifically prohibited by Minn. Stat. § 297A.01, subd. 8.

## TAX COURT

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In reaching this conclusion we are following the basic rule of statutory construction that the object of all interpretation and construction is to ascertain and effectuate the intention of the Legislature. The plain meaning of the applicable statutes we have discussed leads us to conclude the Legislature intended that a sales tax be imposed on all charges made by the City of Bloomington for furnishing water to its utility customers. We consider the words "furnishing water" as synonymous with "providing water" and "making water available." We have not adopted the narrower construction urged by appellant that only the actual cost of the water transferred can be taxed. This would allow any electrical, water, gas or steam utility to institute a periodic "basic charge" that would have the effect of splitting their billings into taxable and non-taxable divisions. We find no statutory authority for this practice.

Our view is reinforced by a 1979 amendment to Minn. Stat. § 297A.01, subd. 3(f) in which water service to residential property was removed from the sales tax by enactment of the following sentence:

The furnishing of water and sewer *services* for residential use shall not be considered a sale. Minn. Laws of 1979, ch. 303, art. 9.

The converse of this 1979 amendment is, of course, "The furnishing of water *services* for commercial and industrial use shall be considered a sale."

We find no language in the statutes discussed or in this recent 1979 amendment that leads us to find any legislative intent to tax only the cost of water actually transferred (an imprecise accounting task) and leave untaxed the remaining overhead costs and services involved in operating a municipal water utility (another imprecise if not impossible accounting task not attempted by Bloomington in setting its Basic Water Charge).

For the reasons stated, the commissioner's Order is affirmed.

Earl B. Gustafson, Judge

## SUPREME COURT

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### Decisions Filed Friday, April 18, 1980

#### Compiled by John McCarthy, Clerk

**49928/Sp.** Terry Twomey, Sheriff of Carlton County, et al., vs. Marvin Durkee, et al., Appellants. Carlton County.

Plaintiffs were estopped from asserting the nullity of the arbitrator's decision based on the expiration of a contractual obligation to arbitrate where the parties followed the arbitration procedure provided in the agreement.

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

**50278/Sp.** In Re the Marriage of: Pamela Kay Simonson, petitioner, vs. Donnie James Simonson, Appellant. Olmsted County.

The trial court abused its discretion by awarding custody of a minor child to a parent who is cohabiting with a person who has a record of sexually molesting children.

Reversed and remanded. Otis, J.

**50010, 50011/17** Nancy Johnson, Relator (50010), Sharyl Stenson, Relator (50011), vs. Independent School District No. 535, Rochester, Minnesota, Minnesota Department of Economic Security. Department of Economic Security.

A determination that a claimant is ineligible for unemployment benefits based on Minn. Stat. § 268.08, subd. 6(a) (1978) must rest on a finding that the employee has received reasonable written assurance of reemployment in the second academic term or year under terms and conditions that approximate or approach those of the first term or year.

The evidence in this record, taken as a whole, is insufficient to sustain the finding of ineligibility.

Reversed and remanded. Otis, J.

**50121/184** In the Matter of the Welfare of G. D. R. Hennepin County.

Evidence of juvenile's commission of criminal damage to drainage project on a particular day *held* legally insufficient to establish that the juvenile participated in act of criminal damage to the same property on a prior date.

Reversed. Otis, J.

**50358/Sp.** Francis J. Gilmore vs. Little Jack's Steak House, et al., Relators, Shieks, Inc., et al., Dyckman Hotel, Inc., et al. Workers' Compensation Court of Appeals.

Minn. Stat. § 176.101, subd. 7 (1976), is reasonably construed as entitling an employee to retraining benefits, if found necessary to reduce unemployability, and as imposing liability therefor on his employer when the employee by reason of an occupational disease is disabled from returning to his occupation either permanently or for an indefinite, continuous period in excess of 26 weeks.

Affirmed. Rogosheske, J.

**49584/304 City of Pipestone, by Warren Spannaus, Attorney General of the State of Minnesota, Appellant, vs. John Halbersma, et al., Edward Halbersma, et al. Pipestone County.**

City may exercise the power of eminent domain for purpose of airport expansion pursuant to Minn. Stat. § 360.032 (subd. 2) (1978). That statute requires the taking to be necessary only in the sense of being a reasonable means to accomplish a proper public purpose or use.

Review of record as a whole revealed that city's decision to condemn 91.4 acres for airport expansion was not arbitrary or capricious.

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

**49296/339 Aaron L. Brown vs. State Automobile & Casualty Underwriters, Appellant. Hennepin County.**

Intent to injure as a matter of law will not be inferred where the insured claimed he struck the injured party reflexively after suffering a deep cut on a finger as a result of an altercation between himself and the injured party.

The insurer is not collaterally estopped from litigating the question of intent to injure, determinative on the issue of policy coverage, where the finding on the question in a previous action between the insured and the injured person was not necessary or essential to the injured party's judgment.

Where a claim is arguably within the scope of coverage afforded by the policy, the insurer has a duty to defend its insured.

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

**49697/422 Ivadell G. Moe, et al., Frederick W. Johnson, et al., Forrest T. Monson, et al., Bruce A. Norback, et al., Willis N. Skiff, et al., Rosenthal Furniture Company Pension Plan and Trust, Howard Pearson, et al., Paul Eger, et al., Willard O. Whalen, et al., Marcella Yaeger, Clarence Schlauderaff, Wendall A. Ferguson, Michelle Egan (Sheehy), et al., vs. The Centurion Investment Company, et al., and State of Minnesota, by Mary Alice Brophy, Its Commissioner of Securities, Appellant. Hennepin County.**

The maximum liability of the Real Estate, Research, Education and Recovery Fund is \$20,000 for acts of a single licensee regardless of the number of transactions or claimants. Minn. Stat. § 82.34 (1978).

Reversed and remanded. Kelly, J.

**50804, 50805/78 Ramsey County Public Defender's Office and Colia F. Ceisel, Assistant Ramsey County Public Defender, Petitioners, vs. 50804 Hon. William J. Fleming and Daniel Anthony Barton, vs. 50805 Hon. William J. Fleming, et al. Ramsey County.**

Where the complainant in a paternity case is represented by the county attorney, a paternity defendant shall be informed of his right to court-appointed counsel before he is required to admit or deny the allegation of paternity.

In light of unique arrangements between the Ramsey County Board, the Ramsey County Attorney's office and Ramsey County Public Defender's office, Ramsey County public defenders may properly make an initial assessment of indigency and accompany an apparently qualified paternity defendant to his first court appearance.

While there is a conditional and tentative attorney-client relationship between the public defender and an apparently indigent paternity defendant at his initial court appearance, it is the court which formally and finally determines his indigency and appoints counsel to represent him.

In view of peculiar facts of this case, any possible contempt citation is vacated and a writ is to issue ordering that petitioner not be held in contempt of court.

Kelly, J.

**49780/15 George Barton vs. John Pfaff, Appellant. Ramsey County.**

In a suit to recover proceeds from the sale of a building against one of two cotenants, the equitable owner of the property may only collect one-half the value of the property, less one-half of the appropriate expenses.

Real estate sales commission is an appropriate closing expense under the facts of this case.

Affirmed in part; reversed in part; and remanded for entry of judgment consistent with this opinion. Todd, J.

**49508/63 State of Minnesota vs. Floyd Solomon Marshall, Appellant. Dakota County.**

Trial court did not err in admitting evidence of other offenses committed by defendant and evidence of defendant's guilt was sufficient to sustain the verdict.

Affirmed. Per Curiam.

# STATE CONTRACTS

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

Department of Administration procedures require that notice of any

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

## Department of Economic Security Office of Statewide CETA Coordination

### Notice of Request for Proposals for Projects under the Governor's Statewide CETA Youth Program

The Minnesota Department of Economic Security, Office of Statewide CETA Coordination, is requesting proposals to operate youth programs. Section 433(a) of the Comprehensive Employment and Training Act Amendments of 1978 (CETA) authorizes funds to be utilized "for Special Statewide Youth Services" which directly or indirectly impact on the employability of young people. Funds will be available to fund projects to operate from October 1, 1980 to September 30, 1981.

Request for Proposal applications are available upon request. Inquiries and requests should be directed to:

Susan Johnson  
Office of Statewide CETA Coordination  
690 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 296-6060

Request for Proposal applications will be accepted until 4:30 p.m., Friday, May 30, 1980.

### Notice of Request for Proposals for Operation of CETA/Education Linkage Projects

The Minnesota Department of Economic Security, Office of Statewide CETA Coordination, is requesting proposals to operate CETA/education linkage projects. Section 202(d) of the Comprehensive Employment and Training Act Amendments of 1978 (CETA) authorizes funds to be utilized "for encouraging coordination and establishing linkages between CETA prime sponsors and appropriate educational agencies and institutions." Funds will be available to fund linkage projects to operate from October 1, 1980 to September 30, 1981. Previous grants have ranged from \$15,000-\$50,000.

Request for Proposal applications are available upon request.

Inquiries and requests should be directed to:

James F. Korkki  
Office of Statewide CETA Coordination  
690 American Center Building  
150 East Kellogg Boulevard  
St. Paul, Minnesota 55101  
(612) 297-2059

Request for Proposal applications will be accepted until 4:30 p.m., Friday, May 30, 1980.

## Department of Health Environmental Health Division

### Notice of Request for Proposals for Analytical Laboratory Services

The Section of Analytical Services, Division of Environmental Health, is seeking proposals from analytical laboratories with capability to perform organic analyses on various environmental samples. These services, which are to be performed under contract, are outlined in detail in the Request for Proposals (RFP) Statement of Work. The formal RFP may be requested from and inquiries should be addressed to:

Mr. Allen Tupy  
Section of Analytical Services  
Minnesota Department of Health  
716 Delaware Street S.E.  
Minneapolis, Minn. 55440

It is anticipated that the services to be rendered under the contract will not exceed a total cost to the state of \$50,000. The deadline for the submission of completed proposals will be the close of the working day, May 19, 1980.

## Minnesota State Retirement System

### Notice of Availability of Actuarial Consultant Contract for Fiscal Year Ending June 30, 1981

The Minnesota State Retirement System intends to engage the services of an "approved actuary" as defined in Minn. Stat. § 352.01, subd. 15, to perform the actuarial valuation required by

Minn. Stat. ch. 356; to prepare and submit the reports required therein; to provide consulting and advisory services to the management on technical, policy or administrative problems and to provide actuarial cost estimates of plan amendments as requested.

Estimated cost: \$35,000-\$45,000

Contact person: Paul L. Groschen, 529 Jackson, St. Paul, Minnesota 55101, Telephone No. 296-2761

Final submission date: May 29, 1980

## **Metropolitan Transit Commission**

### **Notice of Opening for Transportation Planner**

The Metropolitan Transit Commission announces an opening for a Transportation Planner to conduct and manage planning and feasibility studies, evaluate statistical data and prepare work program drafts. Good oral and written communication skills, familiarity with statistical methods, and experience in transit planning at local or state levels are required. Salary: \$16,800 to \$20,600. Send resume and salary requirements by May 5, 1980 to Janice C. Holthusen, Personnel Administrator.

Metropolitan Transit Commission  
801 American Center Building  
St. Paul, Minnesota 55101

Metropolitan Transit Commission is an Equal Opportunity Employer (M/F).

## **Department of Natural Resources Waters Division, Dam Safety Unit**

### **Notice of Request for Proposals for Contractual Services for 1980 Dam Safety Inspections in the State of Minnesota under the National Dam Safety Act**

Notice is hereby given to request proposals for engineering consultant contract services for the purposes of inspecting 8 "High Hazard" dams in Minnesota under the state and federal dam safety program.

The engineering consultant contractors will be required to provide a systematic inspection, evaluation and report on each of the (8) High Hazard dams listed below and selected for

inspection in accordance with the Scope of Work defined in the state contract with the U.S. Corps of Engineers.

The dams to be inspected:

1. Ottertail River (Frazee, Becker County)
2. Jonathan (East Creek, Carver County)
3. Erredge Group Detention (Bitter Creek, Goodhue County)
4. Brawner (Redwood River, Lyon County)
5. Dobbins Creek (Austin, Mower County)
6. Chippewa River (East Branch Chippewa River, Pope County)
7. Woolen Mill (Cannon River, Rice County)
8. Hartley Pond (Duluth, St. Louis County)

All applicants must also file Form 255 and related submittals with the:

Department of Army  
St. Paul District, U.S. Corps of Engineers  
1135 U.S. Post Office & Custom House  
St. Paul, Minnesota 55101

Contact Persons:

James F. Cooper  
or  
Memos Katsoulis  
Minnesota Department of Natural Resources  
Division of Waters, Dam Safety Section  
Space Center Building  
444 Lafayette Road  
St. Paul, Minnesota 55101  
phone: (612) 296-0510  
(612) 296-0525

Estimated cost: Not to exceed \$7,500 per dam inspection.

Submission deadline 4:30 p.m., May 19, 1980

Interested persons may submit proposal to the above state contact persons.

## **Department of Public Welfare**

### **Anoka State Hospital**

### **Notice of Request for Proposals for Services to be Performed on a Contractual Basis**

Notice is hereby given that the Anoka State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period of July 1, 1980 through June 30, 1981. These services are to be performed as requested by the administration of the Anoka State Hospital.

1) Services of two separate and distinct psychiatrists to work approximately 26 hours per month treating patients but to also

## STATE CONTRACTS

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include attendance at medical staff meetings, participation in Anoka State Hospital's Utilization Review activities, appearances at Special Review Board hearings and probate court hearings off campus and meetings with county social workers. The estimated amount of the contracts will not exceed \$17,720.00 per contract.

2) Services of an organization to perform diagnostic laboratory procedures as requested by Anoka State Hospital personnel, provide consultant and education seminars and technical coverage designated to meet laboratory diagnostic requirements of Anoka State Hospital personnel and to perform admission profiles on each patient unless otherwise stated. The estimated amount of the contract will not exceed \$70,000.00.

3) Services of an organization to furnish psychiatric consultants two days per week (approximately 69 hours per month) to include diagnosis on admission, formulation of individualized treatment plans, conduct clinics, meet with unit staff, emergency psychiatric consultation by phone, attendance at medical staff meetings and the submission of periodic reports of patients and time record keeping. The estimated amount of the contract will not exceed \$40,020.00.

4) Services of a radiologist to work approximately 36 hours per month to interpret and dictate x-rays, do fluoroscopy examinations, and consult with medical staff regarding problem patients. Consultant will not inject radiopaque dyes as part of the procedure. The estimated amount of the contract will not exceed \$14,645.00.

Responses for the above services must be received by May 19, 1980. Direct inquiries to:

William C. Lightburn, Administrator  
Anoka State Hospital  
Box 511  
Anoka, Minnesota 55303

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

### Notice of Availability of A Contract for Research on Traffic Control for One-lane Bridges

The Department of Transportation requires the services of a consultant to conduct a study to evaluate factors affecting two way traffic operations on one-lane bridges and to develop guidelines for traffic control during such construction or maintenance projects. Field work would be conducted this summer with a report due next winter.

Those who are interested may obtain a request for proposal by writing or calling:

Ronald M. Canner, Jr. P.E.  
Research Coordination Engineer  
Minnesota Department of Transportation  
Transportation Building—Room G29-D  
St. Paul, Minnesota 55155  
(612) 296-6569

Requests for proposals will be available through May 16, 1980. All proposals will be due no later than May 19, 1980.

# OFFICIAL NOTICES

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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.

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## Department of Agriculture Agronomy Services Division

### Notice of Special Local Need Registration for Atroban 25 WP

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338B, the Minnesota Department of Agriculture on April 14, 1980 issued a Special Local Need Registration for Atroban 25 WP manufactured by Burroughs Wellcome Company, Research Triangle Park, North Carolina 27709.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

This Special Local Need Registration permits the use of this pesticide for premise fly control in beef, horse, dairy, poultry, and swine barns.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN # MN 80-0009) is on file for inspection at:

Minnesota Department of Agriculture  
Pesticide Control Section  
90 West Plato Boulevard  
Saint Paul, Minnesota 55107  
(612) 296-8379

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15 for the purpose of revoking, amending, or upholding this registration.

April 14, 1980

Mark W. Seetin, Commissioner  
Department of Agriculture

## Department of Administration Cable Communications Board

### Invitation to Comment on Proposed Cable Service Territory for the North Suburban Area Municipalities of Arden Hills, Falcon Heights, Lauderdale, Little Canada, Mounds View, New Brighton, North Oaks, Roseville, Saint Anthony and Shoreview, before June 13, 1980

On March 14, 1980, the City of Roseville, a Minnesota municipality, acting on behalf of adjacent communities, proposed a cable service territory (CST) consisting of the corporate limits of ten suburban municipalities in the northern section of the Twin Cities metropolitan area: Arden Hills, Falcon Heights, Lauderdale, Little Canada, Mounds View, New Brighton, North Oaks, Roseville, Saint Anthony and Shoreview.

The communities have already responded to the board's offer of counsel and advice during the period of the board's consideration of the CST proposal.

On June 13, 1980, the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, units of government and individuals.

The board will set aside a portion of its May 9, 1980 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103.

## Department of Commerce Securities Division

### Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Relating to Real Estate

Notice is hereby given that the Securities Division is soliciting opinions and comments relating to changes in the rules relating to real estate (4 MCAR §§ 1.41500-1.41513).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing and must be received by August 1, 1980. Written statements of information and comments may be addressed to:

Daniel W. Hardy  
Assistant to the Commissioner  
Securities Division  
Department of Commerce  
500 Metro Square Building  
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-5689 and in person at the above address. Any written material received by the above date will become part of the record of any rules hearing which might be held.

April 10, 1980

Daniel W. Hardy  
Assistant to the Commissioner

### Notice of Intent to Solicit Outside Opinion Concerning Amendments to Rules Relating to Franchises

Notice is hereby given that the Securities Division is soliciting opinions and comments relating to changes in the rules relating to franchises (SDiv 1701-SDiv 1722(a)).

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing and must be received by June 1, 1981. Written statements of information and comments may be addressed to:

Mr. Clifford G. Maine  
Senior Securities Examiner  
Securities Division  
Department of Commerce  
500 Metro Square Building  
St. Paul, Minnesota 55101

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-6328 and in person at the above address. Any written material

received by the above date will become part of the record of any rules hearing which might be held.

April 10, 1980

Daniel W. Hardy  
Assistant to the Commissioner

## Minnesota State Retirement System

### Special Meeting, Board of Directors

A special meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, May 2, 1980 at 10:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

## Department of Revenue Property Equalization Division

### Notice of Intent to Solicit Outside Opinion Regarding the Method of Apportioning the Value of Railroad Operating Property to Counties and Taxing Districts

The Department of Revenue, pursuant to Minn. Stat. § 270.86 (1979 Supp.), is seeking information and opinions from sources outside the department in preparation to propose rules governing the apportionment of the value of railroad operating property to the affected taxing districts in Minnesota. The Department of Revenue is charged under law to make a fair and equitable apportionment of the value of railroad property to taxing districts considering such factors as the physical situs of station houses, depots, docks, wharves and other buildings and structures; the length and type of railroad track within a county or taxing district; and other pertinent facts.

Any interested persons may submit data or comments on this subject by calling or writing to:

Gerald D. Garski, Manager  
State Assessed Property  
Property Equalization Division  
Department of Revenue  
Centennial Office Building  
St. Paul, Minnesota 55145  
(612) 296-5134

Any materials received by the department shall become a part of the hearing record at the time that rules are promulgated on the above subject. Any comments, views or data must be received by August 1 to be considered before the rules are drafted.

April 21, 1980

Clyde E. Allen, Jr.  
Commissioner of Revenue



## Secretary of State

### Notice of Vacancies in Multi-Member State Agencies

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 Building, St. Paul 55155; (612) 296-2805. Application deadline is Tuesday, May 13, 1980.

**Board of Teaching** has two vacancies open August 1, 1980, for terms expiring in January, 1984; at least one appointee must be either a current or past member of a local school board. Board establishes rules governing education, licensing, and relicensing of teachers; members must file with the Ethical Practices Board; monthly meetings; members are appointed by the Governor and receive \$35 per diem plus expenses. For specific information, call or write Board of Teaching, 608 Capitol Square Bldg., St. Paul 55101; (612) 296-2415.

**Board on Aging** has one vacancy open immediately for term expiring in January, 1983; appointee must live in First Congressional District. Board develops, coordinates, evaluates, and handles federal funds for programs for the aging; monthly meetings; members are appointed by the Governor, confirmed by the senate, and receive \$35 per diem plus expenses. For specific information, call or write Board on Aging, 204 Metro Square Bldg., St. Paul 55101; (612) 296-2770.

**Water Planning Board** has three vacancies open immediately for terms expiring June 30, 1982. Board directs preparation of state water plan, coordinates public water resource management and regulation, administers Federal Water Resources Planning Act, evaluates state participation in federal-state river basin commissions, and recommends changes in laws, rules and procedures; quarterly meetings; members are appointed by the Governor, confirmed by the Senate, and receive \$35 per diem, plus expenses. For specific information, call or write Water Planning Board, 600 American Center Bldg., St. Paul 55101; (612) 296-1424.

**Waste Management Board**, created by Chapter 564, Laws of 1980, has nine vacancies open immediately for four year terms; one member from each congressional district and a chair-

man. Board develops state hazardous waste management planning and waste facility promotion and siting; weekly meetings; members are appointed by the Governor, confirmed by the Senate, and receive \$50 per diem, plus expenses. For specific information, call or write the Governor's Special Assistant for Appointments, State Capitol, St. Paul 55155; (612) 296-6614.

**Workers' Compensation Court of Appeals** has one vacancy open immediately for six-year term. Court has appellate jurisdiction on all workers' compensation claims and original jurisdiction on peace officers' dependents' claims; establishes rules for workers' compensation division, Department of Labor and Industry; full time position; members are appointed by the Governor, confirmed by the Senate, file with Ethical Practices Board, and receive \$38,000 per year. For specific information, call or write Workers' Compensation Court of Appeals, M.E.A. Bldg., 55 Sherburne Ave., St. Paul, 55103; (612) 296-6409.

## Pollution Control Agency Water Quality Division

### Behind-Schedule and Substandard Project List

Minn. Stat. § 115.83 (1978) requires the Minnesota Pollution Control Agency ("agency") to issue an order incorporating a list of principal consultant engineers, contracting engineers, and principal contractors who are responsible for behind schedule or substandard municipal wastewater treatment projects. The statute also requires the list to be published in the *State Register*. A behind-schedule project is one which, due to failures of design or workmanship or other factors within the reasonable control of the contractor or engineer, the agency determines is more than 90 days behind schedule. A substandard project is one which, due to failures of design or workmanship, or other factors within the reasonable control of the contractor or engineer, the agency determines does not accomplish the purpose for which it was designed or constructed.

In accordance with the statute, the agency has issued an order incorporating the following list.

Terry Hoffman  
Executive Director

See following list.

**BEHIND-SCHEDULE AND SUBSTANDARD PROJECT LIST**  
**Behind-Schedule Projects**

<b>Firm</b>	<b>Municipality or Sanitary District</b>	<b>Nature of Deficiency (Number of Days Behind Schedule)</b>	<b>Project Description</b>
Bolton & Menk (Principal Consulting Engineer)	Waterville, Minnesota 56096	389 Days	Facilities Plan
KBM, Inc. (Principal Consulting Engineer)	Redwood Falls, Minnesota 56283	527 Days	Facilities Plan
Koehnlein, Lightowler, Johnson, Inc. (Principal Consulting Engineer)	Canby, Minnesota 56220	482 Days	Facilities Plan

**Substandard Projects**

<b>Firm</b>	<b>Municipality Sanitary District</b>	<b>Nature of Deficiency</b>	<b>Project Description</b>	<b>Nature of Correction</b>
		Entries withheld pending outcome of hearings		

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OFFICE OF THE STATE REGISTER

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**FOR LEGISLATIVE NEWS**

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

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

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

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

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

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