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STATE REGISTER

STATE OF MINNESOTA



VOLUME 8, NUMBER 34

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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 8			
35	Monday Feb 13	Friday Feb 17	Monday Feb 27
36	Friday Feb 17	Monday Feb 27	Monday Mar 5
37	Monday Feb 27	Monday Mar 5	Monday Mar 12
38	Monday Mar 5	Monday Mar 12	Monday Mar 19

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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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:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- 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* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* 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
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PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
 2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
 3. of the manner in which persons shall request a hearing on the proposed rules;
- and
4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.13-14.20 which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 14.29, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

**Department of Public Safety
 Liquor Control Division**

Proposed Adoption of Rules of the State Department of Public Safety Governing Liquor Control, Delivery and Transportation, Vehicle Permits

Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.21 through 14.28.

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

PROPOSED RULES

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are desired. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.13 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Diane Dybevik
Department of Public Safety
211 Transportation Building
St. Paul, MN 55155

The Department's authority to adopt the proposed rules is contained in Minnesota Statutes Section 299A.02 and Chapter 340. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Department of Public Safety upon request.

You are hereby advised, pursuant to Laws 1983, Ch. 188, "Small business consideration in rulemaking", that the proposed rule amendments may have an impact on some small businesses in Minnesota. The portions of the rule as revised which may affect small businesses include:

1. The annual fee for regulatory permits, authorizing persons to engage in the purchase, sale or use other than consumption of intoxicating alcoholic beverages or ethyl alcohol, is increased from \$5 to \$12.
2. The requirement for common carriers to obtain a vehicle permit to transport distilled spirits, wine or malt liquor is repealed.
3. The requirement that off-sale liquor dealers have a vehicle permit to engage in home delivery of intoxicating liquor is repealed.

The department believes that items 2 and 3 above will benefit small businesses. The repeal of vehicle permits to transport liquor in common carriers and for deliveries eliminates an element of government regulation for 7,500 permit holders. Item 1 above, a fee increase, will cost an additional 7,500 holders of these permits \$7 more each or a total of \$52,500 more per year. Holders of liquor regulatory permits should review this rule to determine the impact on them.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, subdivision 11 defines a lobbyist 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 his own 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 his own 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. The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

The department estimates that the total cost to all local public bodies in the state is under \$2,000 to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 14.11, subdivision 1.

A copy of the proposed rules is attached to this notice.

Paul J. Tschida
Commissioner of Public Safety

Rules as Proposed**11 MCAR § 1.8025 Regulatory permits and fees.**

Any person engaged in the purchase, sale, or use for any purpose other than personal consumption of intoxicating alcoholic beverages or ethyl alcohol, ~~or any vehicle used to transport intoxicating alcoholic beverages or ethyl alcohol~~ shall obtain the appropriate regulatory permit and identification card from the commissioner as provided in this rule. The ~~regulatory~~ fee for each permit, ~~other than one issued to a state or federal agency,~~ is ~~\$5.00~~ \$12 and shall be submitted together with the appropriate application form provided by the commissioner. ~~All~~ Identification cards and permits shall ~~expire on December 31st of the year~~ be issued for a period coinciding with that of the appropriate state or municipal license and are not transferable. In instances where there is no annual license period, cards and permits shall expire one year after the date of issuance. The authority to engage in the purchase, sale, ~~or use of transport~~ granted by the card or permit ~~in this section~~ may be revoked by the commissioner upon evidence of a violation by the holder of such a card or permit of any of the provisions of Minnesota Statutes ~~ch.~~, chapter 340, or any rule of the commissioner made pursuant to law.

In order to coordinate the expiration date of permits and cards with that of the appropriate state or municipal license, permits and cards issued in January 1985 in conjunction with state or municipal licenses expiring prior to July 1, 1985, shall be issued for a term extending until the expiration date of the license in 1986. Permits and cards issued in January 1985 in conjunction with state or municipal licenses expiring after June 30, 1985, shall be issued for a term extending until the expiration date of the license in 1985. The fee for cards and permits issued during January 1985 for periods of more or less than one year shall be prorated at \$1 per month. Subsequent renewals shall be for a 12-month period.

A.-C. [Unchanged.]

D. ~~Vehicle permit.~~ All common carriers other than railroads, their motor affiliates, or public water transportation carriers, ~~transporting into or within the state of Minnesota, distilled spirits, wine, or malt beverages containing more than 3.2 percent of alcohol by weight shall apply to the commissioner on Form No. 38 for vehicle permits for each vehicle used in the transportation thereof. Such permit shall be issued only to common carriers licensed by the Minnesota Department of Public Service and to Minnesota manufacturers, winers, brewers, wholesale distributors, retail "off-sale" dealers licensed to sell intoxicating liquor, and other qualified persons, PROVIDED that no permits are required for trailers. Intoxicating liquor transported in any manner other than specified herein shall be confiscated and surrendered to the commissioner for final disposition~~ State or federal agency permits. Permits for state or federal agencies shall be issued without charge.

E. [Unchanged.]

11 MCAR § 1.8058 Delivery.

Licensed or authorized "off-sale" retail liquor dealers and no other class of dealers may make deliveries of intoxicating liquor from their stores to the residence of a purchaser or other location, provided however, that such delivery shall be made only to a person ~~eighteen~~ 18 or more years of age; and provided further, that such delivery shall not be made to beer taverns or other public or private place in violation of law or ordinance.

A.-C. [Unchanged.]

D. ~~Delivery vehicle permits required. See 11 MCAR Section 1.8025 D.~~

~~E.~~ Open stock deliveries prohibited. Only alcoholic beverages ordered and packed at the store for delivery shall be carried in the delivery vehicle.

11 MCAR § 1.8084 Transportation

Only common carriers or duly licensed Minnesota manufacturers or wholesale distributors shall transport distilled spirits, wine, ethyl alcohol, or malt beverages into this state.

~~A. All common carriers except railroads, their motor affiliates and public water transportation carriers, shall obtain a permit as provided in 11 MCAR Section 1.8025 D., for each vehicle used to transport alcoholic beverages in Minnesota.~~ Effective date. Rules 11 MCAR §§ 1.8025 D. and 1.8084 A., relating to the repeal of vehicle permits, are effective July 1, 1984, or five days after final publication in the State Register, whichever is later.

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

PROPOSED RULES

Department of Revenue Income Tax Division Estate and Fiduciary Tax Group

Proposed Adoption of a New Rule and Repeal of a Rule Relating to Estate Tax

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes §§ 14.21 to 14.28.

Persons interested in this rule shall have thirty days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the thirty-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statute §§ 14.13 to 14.20.

Persons who wish to submit such comments or a written request for a public hearing should submit such comments or requests to:

Luci Mitchell, Attorney
Commissioner's Staff
Minnesota Department of Revenue
P.O. Box 43446
St. Paul, Minnesota 55164
Telephone: (612) 296-1022

Authority for the adoption of this rule is contained in Minnesota Statutes § 291.31, subd. 2. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Luci Mitchell upon request. A copy of the proposed rule is also available from Luci Mitchell.

Upon adoption of the final rule without a public hearing, the proposed rule, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rule as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. 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 final rule as proposed for adoption, should submit a written statement of such request to Luci Mitchell.

The rule proposed for adoption relates to repeal of an obsolete inheritance tax rule and adoption of a new rule relating to inventory of safety deposit boxes. The new rule incorporates the previous exemption from the inventory requirement for safe deposit boxes rented by organizations. The exemption from inventory is effective upon application to and approval by the Commissioner of Revenue. The exemption is also extended to surviving spouses who are co-tenants with or personal representatives of their deceased spouse. An inventory is also not required upon death of an agent appointed by the tenant.

February 3, 1984

Arthur C. Roemer
Commissioner of Revenue

Rule as Proposed (all new material)

13 MCAR § 1.2220 Safe deposit boxes.

A. General rule. Except as provided in B., C., and D., the contents of a safe deposit box to which a decedent had access shall not be surrendered by the depository to any person until the contents have been inventoried by the county treasurer or a person authorized by the county treasurer to perform the inventory.

B. Exception for surviving spouse. If the person seeking access to a safe deposit box is a surviving spouse of the decedent and if the surviving spouse had a contractual right as a joint tenant to enter the safe deposit box prior to the decedent's death, the depository may grant access to the safe deposit box without requiring an inventory by the county treasurer or the county treasurer's designee. For purposes of B., the deceased tenant and spouse seeking access must be designated as joint tenants on the safe deposit box rental agreement.

If the person seeking access to a safe deposit box is a surviving spouse and the court-appointed personal representative of the decedent's estate, the depository may grant access to the safe deposit box without requiring an inventory by the county treasurer or the county treasurer's designee.

C. Exception for death of authorized agent. When an agent specifically authorized by a safe deposit box tenant dies, access may be granted to the tenant without an inventory by the county treasurer or the designee of the county treasurer. For purposes of C., an authorized agent does not include court-appointed fiduciaries. C. only applies to agents designated by individual renters of the safe deposit box and subject to the terms of the "Deputy Appointment" agreement.

D. Safe deposit boxes rented to organizations. For purposes of D., an organization may be an association, corporation, a partnership, or other organized group. Individuals renting boxes as joint tenants or tenants in common are excluded from this provision. When a safe deposit box is rented to an organization, the commissioner may waive the inventory requirement of the depository files with the commissioner of revenue a report prepared by an authorized representative of the organization. The report must state that the safe deposit box is rented to an organization which grants authority to certain of its officers, members, or agents to enter the safe deposit box in the course of the business or activities of the organization.

The report must contain the following information:

1. the name of the organization, association, partnership, or entity;
2. the type of activities in which applicant is engaged;
3. an itemized list of the property or documents usually stored in the safe deposit box;
4. the titles or names of all to whom right of access to the box is given; and
5. a statement, under oath, that no personal property of any officers, members, or agents will be kept in the box.

If the application is approved, the commissioner will notify the applicant that the death of a person authorized to enter the safe deposit box rented by the applicant will not require an inventory by the county treasurer. Upon presentation of the approved application, the depository may grant access without requiring an inventory.

If the report is not filed by the depository with the commissioner, then upon the death of a person authorized by the organization to enter the safe deposit box, access shall not be surrendered by the depository to any person until its contents have been inventoried by the county treasurer or a person authorized by the county treasurer to perform the inventory.

Repealer. Inh Tax 219 is repealed.

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 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. § 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 temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Labor and Industry Workers' Compensation Division

Adopted Rules of the State Department of Labor and Industry Governing Reimbursement of Supplementary Benefits

The rules proposed and published at *State Register*, Volume 8, Number 24, pages 1399-1402, December 12, 1983 (8 S.R. 1399) are adopted with the following modifications:

Rules as Adopted

8 MCAR § ~~1-9001~~ 1.9050 Definitions.

A. Generally. As used in 8 MCAR §§ ~~1-9001-1-9010~~ 1.9050-1.9059, the following terms have the meanings given them.

C. Effective date. "Effective date" as used in 8 MCAR § ~~1-9004~~ 1.9053 means the date on which the employer began or will begin to apply the offset provision of Minnesota Statutes, section 176.101, subdivision 4.

8 MCAR § ~~1-9002~~ 1.9051 Authority and purpose.

Rules 8 MCAR §§ ~~1-9001-1-9010~~ 1.9050-1.9059 are promulgated pursuant to the authority granted to the commissioner by Minnesota Statutes, sections 176.132, subdivision 4, and 175.17, clause (2); and by Laws of Minnesota 1983, chapter 290, section 165. The purpose of these rules is to specify the procedure by which employers may apply for an administrative finding of permanent total disability in order to obtain reimbursement for supplementary benefits pursuant to Minnesota Statutes, section 176.132: After an administrative finding is made, all past and future total disability benefits are deemed to be payments for permanent total disability pursuant to Minnesota Statutes, section 176.101, subdivision 4.

8 MCRA § ~~1-9003~~ 1.9052 Application.

Rules 8 MCAR §§ ~~1-9001-1-9010~~ 1.9050-1.9059 apply only if all of the following prerequisites are met:

8 MCAR § ~~1-9004~~ 1.9053 Procedure.

8 MCAR § ~~1-9005~~ 1.9054 Notice of decision.

Unless grounds for disapproval exist pursuant to 8 MCAR § ~~1-9006~~ 1.9055, the commissioner must approve an application for a finding of permanent total disability. An application is deemed approved unless notice of disapproval and the grounds for disapproval are mailed by first class mail within 30 calendar days of the commissioner's receipt of the application.

8 MCAR § ~~1-9006~~ 1.9055 Disapproval by commissioner.

An application for a finding of permanent total disability shall be disapproved if any of the following grounds are present:

A. The application is incomplete, is inaccurate, or is not in conformity with any part of 8 MCAR §§ ~~1-9001-1-9010~~ 1.9050-1.9059. For example, the submission of medical reports which fail to show that the employee is permanently totally disabled at the time of application renders an application incomplete and inaccurate and not in conformity with the rules. Applications which are disapproved on any of these grounds may be resubmitted under the procedure authorized in 8 MCAR § ~~1-9004~~ 1.9053;

8 MCAR § ~~1-9007~~ 1.9056 Effect of finding.

Approval or disapproval of an application by the commissioner is without prejudice to a party's right to petition a workers'

~~compensation settlement judge or other workers' compensation judge~~ for a hearing pursuant to Minnesota Statutes, section 176.305 for a finding or for a revision of a finding of permanent total disability.

8 MCAR § ~~1.9008~~ 1.9057 Revision of finding.

A finding of permanent total disability pursuant to 8 MCAR §§ ~~1.9001-1.9010~~ 1.9050-1.9059 is subject to revision based on judicial order pursuant to rules of the office of administrative hearings or on future changes in the employee's employability, medical conditions, or other conditions which relate to permanent total disability under Minnesota Statutes, section 176.101 and applicable case law. A party seeking to revise a finding of permanent total disability may seek a judicial finding in the manner described in 8 MCAR § ~~1.9007-1.9008~~ 1.9056.

8 MCAR § ~~1.9009~~ 1.9058 Severability.

If any provision of 8 MCAR §§ ~~1.9001-1.9008~~ 1.9050-1.9057 is held to conflict with a governing statute, applicable provisions of the Minnesota Administrative Procedure Act, or other relevant law; to exceed the statutory authority conferred; to lack a reasonable relationship to statutory purposes or to be unconstitutional, arbitrary, or unreasonable; or to be invalid or unenforceable for any other reason; the validity and enforceability of the remaining provisions of the rule shall in no manner be affected.

8 MCAR § ~~1.9010~~ 1.9059 Effective date.

These rules shall apply to requests for reimbursement of supplementary benefits filed on or after the effective date of 8 MCAR §§ ~~1.9001-1.9009~~ 1.9050-1.9058.

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.

Ethical Practices Board

Notice of Advisory Opinion #86

Approved by the Ethical Practices Board on January 12, 1984

Issued to:

Steven Zupke, Administrator
Minnesota Trial Lawyers Political Action Committee
906 Midwest Plaza East
Minneapolis, MN 55402

RE: Contribution Plan

SUMMARY

86. A reverse checkoff system may be used by a membership association to increase the number of contributors to the association's political fund if:

1. a member can checkoff on the dues statement to indicate that the member does not agree to make any contribution to the association's political fund; and
2. a member is notified of protection from economic reprisals under Minn. Stat. Ch. 10A; and
3. dues paid from corporate funds are separated from dues paid by noncorporate funds.

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

OFFICIAL NOTICES

Department of Health Division of Environmental Health

Request for Information Regarding Capability to Perform Laboratory Analysis of Environmental Specimens

The Department of Health, Section of Analytical Services, hereby invites analytical laboratories which are capable of performing chemical analyses on environmental samples, to submit to the Department information about that capability. The Department is particularly interested in knowing which laboratories are capable of performing analyses for metals and organics, in accordance with U.S. Environmental Protection Agency methods or techniques.

Interested laboratories should submit information concerning their capability in all of the following areas:

- classes of parameters for which capability exists,
- costs for such analyses,
- possible turnaround times,
- ability to satisfy quality control and quality assurance conditions of various U.S. EPA programs,
- ability to handle large batches of samples on relatively short notice
- names of clients for whom the laboratory has performed some of the type of work about which this invitation is inquiring.

NOTE: This is not a request for proposals. This is merely a way for the Department to learn what capabilities are available at what cost. All responses will be reviewed and included on a list which will be updated periodically. If and when the Department determines that a need exists for work to be done by an outside laboratory, the Department will invite respondents to submit specific proposals to perform work under contract with the Department. All laboratories, whether private, governmental or educational, are invited to respond by March 15, 1984.

Please address responses and any questions or comments to:

Walter Jankowski, Chief (612/623-5300)
Section of Analytical Services
Minnesota Department of Health
717 Delaware Street S.E., P.O. Box 9441
Minneapolis, Minnesota 55440

Housing Finance Agency Home Improvement Division

Notice of Funding Availability for Residential Rental Energy Conservation

As announced by the Minnesota Housing Finance Agency in the *State Register* dated September 26, 1983, funds have been received from the Solar Energy and Energy Conservation Bank of the U.S. Dept. of Housing and Urban Development for the purpose of upgrading the energy efficiency of rental residential property, and are available in those communities participating in implementing the Rental Subsidy Program. In addition to those previously announced, the following communities and lenders are participating in implementing this program:

Community: City of St. Paul
Participating Lender:

Highland Bank
2004 Ford Parkway
St. Paul, MN 55116
(612) 698-2471

Additional communities and lenders participating in implementing the program will be identified in future Notices. For more information on the Program, contact:

Diane Sprague
Minnesota Housing Finance Agency
333 Sibley Street, Suite 200
St. Paul, MN 55101
(612) 296-7615

Department of Transportation

Petition of Anoka County for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of Anoka County has made a written request to the Commissioner of Transportation for a variance from minimum design standards for the reconstruction of CSAH 31 (4th Avenue) from Jackson Street to Grant Street in the City of Anoka.

The request is for a variance from 14 MCAR § 1.5032, H., 1., C., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 44 feet instead of the required street width of 46 feet.

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

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

February 10, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of Lake County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Lake County has made a written request to the Commissioner of Transportation for a variance from minimum design speed, surface width and shoulder width for a special resurfacing project on CSAH 18 from T.H. 169 to Lake One.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 35 instead of a required 45 miles per hour; a surface width of 22 instead of a required 24 feet; and a shoulder to shoulder width of 26 instead of a required 32 feet.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of Pope County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Pope County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for special resurfacing projects on CSAH 15 from CSAH 28 to the North County Line; and CSAH 29 from TH 104 to TH 55 in Sedan.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 40 miles per hour instead of a required design speed of 45 miles per hour.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

OFFICIAL NOTICES

Department of Transportation

Petition of Redwood County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Redwood County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for special resurfacing projects on CSAH 9 from CSAH 17 to 0.4 mile West; and CSAH 11 from CSAH 2 to the North County Line.

The request is for a variance from 14 MCAR § 1.5032, H. 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 43 miles per hour instead of a required design speed of 45 miles per hour.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of Rice County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Rice County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for special resurfacing projects on CSAH 12 from CSAH 16 to CSAH 13; and CSAH 13 from Jewetts Point (STA. 95+00) to the North Limits of Warsaw (STA. 202+00).

The request is for a variance from 14 MCAR § 1.5032, H. 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 40 miles per hour instead of a required design speed of 45 miles per hour.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Brainerd for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of Brainerd has made a written request to the Commissioner of Transportation for a variance from minimum design standards for street width for the construction of North and South Fourth Street from Laurel Street to Washington Street.

The request is for a variance from 14 MCAR § 1.5032, H. 1., c., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 64 feet instead of a required street width of 68.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Hastings for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of Hastings has made a written request to the Commissioner of Transportation for a variance from minimum design standards street width for 60-Degree Diagonal Parking on Second Street from TH 61 to Tyler Street.

The request is for a variance from 14 MCAR § 1.5032, H., 4., a., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a street width of 70 feet with 60-Degree Diagonal Parking instead of a required street width of 102 feet.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of Wabasha County for a Variance from State Aid Standards for Sidewalk Construction

Notice is hereby given that the County Board of Wabasha County has made a written request to the Commissioner of Transportation for a variance from standards for a sidewalk construction project on CSAH 9 from Cross Street to Seventh Street in Lake City.

The request is for a variance from 14 MCAR § 1.5032, K., 4., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit new sidewalk construction where no sidewalk exists instead of only permitting sidewalk construction where proposed construction causes the alteration of existing walks.

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

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

February 10, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of Watonwan County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Watonwan County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a special resurfacing project on CSAH 7 from CSAH 5 to the West Limits of Odin.

The request is for a variance from 14 MCAR § 1.5032, H., 1., d., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a design speed of 35 miles per hour instead of a required design speed of 45 miles per hour.

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

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

February 7, 1984

Richard P. Braun
Commissioner of Transportation

OFFICIAL NOTICES

Department of Transportation Technical Services Division

Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee who will conduct a meeting on Friday, March 9, 1984, at 9:30 A.M. in Room 410A, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by MCAR § 1.5032 M.4.b., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978), as amended.

The agenda will be limited to these questions:

1. Petition of the City of Minneapolis for a variance from standards for vertical clearance on the Burnham Road Bridge over the Chicago Northwestern Railroad.
2. Petition of the City of St. Cloud for a variance from standards for street width on Ninth-Tenth Avenue South from First Street South to six-hundred feet South.
3. Petition of the City of St. Louis Park for a variance from standards for street width on Louisiana Avenue (MSAS 276) from Cedar Lake Road (CSAH 15) to TH 12.
4. Petition of the County of Nicollet for a variance from standards for Design Speed on CSAH 1 from CSAH 16 to TH 15 at Lafayette.
5. Petition of the County of Lake for a variance from standards for surface width, shoulder width, and design speed on CSAH 18 from TH 169 to Lake One.
6. Petition of the County of Watonwan for a variance from standards for Design Speed on CSAH 7 from CSAH 5 to the West Limits of Odin.
7. Petition of the City of Hastings for a variance from standards for Street Width on Second Street from TH 61 to Tyler Street.
8. Petition of the County of Wabasha for a variance from standards for Sidewalk construction on CSAH 9 from Cross Street to Seventh Street in Lake City.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

- 9:30 A.M.—City of Minneapolis
- 9:50 A.M.—City of St. Cloud
- 10:10 A.M.—City of St. Louis Park
- 10:30 A.M.—Nicollet County
- 10:50 A.M.—Lake County
- 11:10 A.M.—Watonwan County
- 11:30 A.M.—City of Hastings
- 11:50 A.M.—Wabasha County

February 10, 1984

Richard P. Braun
Commissioner

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.

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 at the indicated phone numbers as soon as possible. If the specific buyer is not available, contact Barbara Jolly or Harvey Leach at 296-3779.

Department of Administration Procurement Division

Commodities Contracts Currently Open for Bidding

<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Contact Person</u>
Water softener salt	various	various	Harvey 296-3779
25-year service award plaques	Transportation	St. Paul DOT	Harvey 296-3779
License plate material	St. Cloud Reformatory	St. Cloud	Bernadette 296-2546
Prescription unit dose vials	various	various	Donnalee 296-3776
Tools: cutting, miscellaneous	various	various	Maurie 296-3772
Radio alarm & control system	Transportation	St. Paul DOT	Don 296-3777
Film transparencies	various	various	Bernadette 296-2546
Steel chain & accessories	Transportation	various	Maurie 296-3772
Trucks	various	various	Dale 296-3773
Laminated materials—formica, nevarmar	MCF Lino Lakes	MCF Lino Lakes	Jim Kinzie 296-3778
Federal signal vehicle warning lights (parts only)	Transportation	TC DOT	Harvey 296-3779

Department of Energy and Economic Development Energy Division Office of Energy Development

Request for Proposals for Business Development of Fiber Fuel Energy Resource

Proposals are requested from consulting firms to work with the Energy Division of the Minnesota Department of Energy and Economic Development, other State Agencies, and the fiber fuel industry, on a project to assess institutional barriers to development of Minnesota's fiber fuel resource by private businesses.

The objective of this program is to encourage private sector development in Minnesota's fiber fuel energy resources. Specifically, it will:

- Describe commercialization paths for selected fiber fuel energy technologies.
- Assess the institutional barriers which would frustrate business development in fiber fuel technologies.
- Identify specific actions which can be taken to reduce the negative impact of those barriers.
- Develop prototype business plans for selected new business in the fiber fuel resource area.

Funding for this study has been provided by the Legislative Commission on Minnesota Resources.

The work scope and project are outlined in the RFP document.

STATE CONTRACTS

Consultants that respond to this RFP should be familiar with Minnesota's fiber fuel industry and energy resources and have experience with new business planning and development. The formal RFP may be requested and inquiries should be directed to:

Ronald E. Sundberg, Manager Energy Development
Energy Division
Minnesota Department of Energy and Economic Development
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

It is anticipated that the activity to accomplish these services will not exceed a total cost to the State of \$25,000. The deadline for the submission of completed proposals will be 4:30 p.m., March 15, 1984.

This notice does not obligate the State to complete the project. The State reserves the right to cancel this solicitation if it is considered to be in the best interest of the State.

Department of Energy and Economic Development Energy Division Office of the Assistant Commissioner

Request for Proposals for a Market-Development Study in the Fiber Fuels Industries

Proposals are requested from consulting firms to work for the Energy Division of the Minnesota Department of Energy and Economic Development and in close association with the various members of the fiber fuels industries on a project intended to address market development issues in the emerging fiber fuels industry. Specifically, there appears to be a need for studying the level of receptivity on the part of prospective fiber fuel users and for developing a practical way by which confidence in a dependable supply of fiber fuels can be raised.

Objectives of this project will include:

- Studying the feasibility of forming some sort of a "Producers' Cooperative" or other fuel supply pool as a way to raise confidence with prospective users;
- Developing recommendations for fiber fuel producers such that their product gains additional visibility;
- Devising means whereby fiber fuels products are seen generally as a more reliable and viable energy source;
- Stimulating new markets for fiber fuels.

Funding for this project has been provided by the Council of Great Lakes Governors. The work scope and detailed project description are set forth in the RFP document which is available from:

Mr. Ken Yeager, Special Consultant
Energy Division
Minnesota Dept. of Energy & Economic Development
150 East Kellogg Blvd.
St. Paul, MN 55101

It is anticipated that the total cost for these consulting services will not exceed \$20,000. and will be completed not later than July 15, 1984. The deadline for submittal of proposals is 4:30 P.M., March 15th, 1984.

Qualified respondents must exhibit recent and direct activities in the fiber fuels industry, a working familiarity with specifically fiber fuel-related market development issues, evidence of their experience in analyzing market development barriers and mitigating circumstances and a general working familiarity with renewable energy industry and industrial development issues.

This notice does not obligate the State to complete this project. The State reserves the right to cancel this solicitation if it is considered in the best interests of the State to do so.

SUPREME COURT

Decisions of the Court of Appeals Filed Wednesday, February 8, 1984

Compiled by Wayne O. Tschimperle, Clerk

C1-83-1530 State of Minnesota, Respondent, v. Willie James Evans, Appellant. District Court, Hennepin County.

1. Appendix A of appellant's brief in its entirety, is stricken; and
2. Respondent may serve and file its brief on or prior to February 28, 1984. Popovich, C.J.

C0-83-1602 Douglas M. Erickson, Relator, v. Super Valu, Respondent, and Commissioner of Economic Security, Respondent. Department of Economic Security.

1. An appeal from the decision of the appeal tribunal must be dismissed if it is not filed within the statutory time.
2. Minn. Stat. § 268.10, subd. 5, provides the procedure for appealing from the decision of the appeal tribunal. Minn. Stat. § 268.10, subd. 2(4), does not provide an additional appeal procedure.

Affirmed. Remanded for reconsideration of the repayment of benefits only. Parker, J.

CX-83-1168 National Recruiters, Inc., Respondent, v. The Toro Company, Appellant. District Court, Hennepin County.

1. The trial court did not err in failing to apply the doctrine of discharge by supervening frustration to relieve Toro of its obligation to pay National Recruiters its placement fee when Toro hired the candidate National Recruiters had referred, and then unilaterally eliminated the new employee's position before that person began working.
2. Toro failed to prove at trial that adverse business conditions beyond its control supervened and caused frustration of the contract between it and National and that the services of the new employee were no longer needed in any capacity.
3. The court did not err in awarding National reasonable attorney fees when Toro refused to settle the case at pretrial conference, claiming that it would present evidence at trial resolving the dispute, then failed to present any credible evidence at trial supportive of its position.

Affirmed. Foley, J.

C7-83-1788 State of Minnesota, Respondent, v. Wilfred James Hines, Appellant. District Court, Ramsey County.

The defendant was convicted of robbery and burglary of an occupied dwelling. The trial judge justifiably departed by doubling the robbery sentence because the defendant robbed a vulnerable 92-year old lady in her home by using cruel, gratuitous threats. The trial court was not justified in departing from the guidelines on the burglary of an occupied dwelling sentence. Entering an occupied dwelling, like the victim's home, is an element of the crime itself. However, in this case, the error is harmless.

Affirmed. Wozniak, J. Took no part, Foley, J.

C3-83-1125 State of Minnesota, Respondent, v. Frank James Wittig, Appellant. District Court, Hennepin County.

1. Trial court's triple departure from presumptive sentence and imposition of a 45-month stayed sentence for theft by swindle aggregating over \$2,500 was proper where defendant used a sophisticated scheme to steal \$55,000 in tax refunds from the state of Minnesota over a two year period, using part of the stolen money to make restitution for a previous felony.
2. Trial court's durational departure from presumptive sentence did not require rejection of guilty plea where court informed defendant at time of sentencing that the duration would be increased and defendant did not object.

Affirmed. Sedgwick, J.

C8-83-1279 Benny Hollom, Respondent, v. Joyce M. Carey, Appellant. District Court, Anoka County.

The trial court did not err in applying Minn. Stat. §§ 513.075 and 513.076 to bar appellant's claim for damages when the parties lived together in contemplation of sexual relations and out of wedlock, and there was no written contract regarding their financial relationship.

Affirmed. Sedgwick, J.

C6-83-1538 State of Minnesota, Plaintiff, v. Jay M. Corbin and Ronald R. Neibuhr, Defendants. District Court, Faribault County.

Minn. Stat. § 100.273 permits a hunter to enter on unposted agricultural land to retrieve a wounded deer even when orally notified not to do so.

Affirmed. Lansing, J.

Decisions of the Supreme Court Filed Friday, February 10, 1984**Compiled by Wayne O. Tschimperle, Clerk**

C4-83-1635 In the Matter of the Contest of Election in the DFL Primary Election held on Tuesday, September 13, 1983, for the purpose of nominating a DFL candidate to run for election as Alderman in the Third Ward of the City of Minneapolis, County of Hennepin, State of Minnesota. Patrick M. Daugherty, contestant, Petitioner, v. Sandra M. Hilary (candidate whose election is contested), contestee, Respondent, Lyal Schwarzkopf, Minneapolis City Clerk, and Lyle Lund, Assistant City Clerk, contestees, Respondents. District Court, Hennepin County.

1-3. Respondent's distribution of an "Official Sample Ballot" falsely implied party endorsement in violation of Minn. Stat. § 210 A.02 (1982). The violation was knowing, deliberate, material, and serious. The violation arose from a want of good faith.

Reversed. Election vacated and set aside. Peterson, J.

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

CX-82-1595 State of Minnesota, Respondent, v. Raymond Leonard Reinke, Appellant. District Court, Cass County.

Trial court did not commit prejudicial error in denying defense motion to bar use of defendant's prior conviction to impeach his credibility when he testified, and evidence supports defendant's conviction of criminal sexual conduct in the first degree.

Affirmed. Peterson, J.

CX-83-246 State of Minnesota, Respondent, v. Kevin Dean Faber, Appellant. District Court, Kandiyohi County.

Trial court, in prosecution of defendant for aggravated DWI, properly denied defendant's motion to suppress blood test results on fourth amendment grounds.

Affirmed. Yetka, J.

C9-83-1033 State of Minnesota, Appellant, v. Thomas Daniel Lepley, Respondent. District Court, Chisago County.

Motor homes, camper vans and similar vehicles used as motor vehicles are covered by the motor vehicle exception to the search warrant requirement.

Reversed and remanded for trial. Yetka, J.

C1-82-898 State of Minnesota, Respondent, v. Martin Czech, Appellant. District Court, Stearns County.

1. Evidence supports defendant's conviction of aggravated robbery.

2. Trial court did not err in admitting tape recording of conversation defendant had with undercover agents that tended to show defendant's involvement in the charged offense, even though the tape tended to show defendant's involvement in other offenses.

3. Trial court did not err in allowing jury to follow copies of transcript of tape as tape was played during trial.

5. Trial court, in sentencing defendant consecutively under Minnesota Sentencing Guidelines and Commentary, II.F.1. (1982), should have computed defendant's sentence duration using the zero criminal history column.

Affirmed as modified. Yetka, J.

C0-82-1332, C4-83-761 John M. Spaeth, Respondent, v. The City of Plymouth Appellant. District Court, Hennepin County.

1. The City has taken real property of the plaintiff in violation of U.S. Const., amend. V, and Minn. Const., art. 1, § 13, by permanently flooding it for use as a municipal storm water holding pond.

2. The trial court properly issued a writ of mandamus compelling defendant to commence eminent domain proceedings. Thus, plaintiff is entitled to an award of attorneys' and experts' fees pursuant to Minn. Stat. § 117.045 (1982) under the circumstances of this case.

3. Pre-litigation expenses are recoverable under Minn. Stat. § 117.045 when such expenses were necessary for the prosecution of the action.

4. A claim for attorneys' and experts' fees under Minn. Stat. § 117.045 raises a matter independent of the merits of the action. Thus, a trial court has continuing jurisdiction to issue an order awarding such fees under that statute, even after a party has perfected its appeal from the merits of the action.

Affirmed. Scott, J.

Took no part, Peterson, J.

CX-83-134 Gary Steven Johnson, petitioner, Appellant, v. Sheriff of Pine County, Minnesota, and Pine County County Attorney, Respondent. District Court, Pine County.

District court properly denied habeas corpus in extradition proceeding. Affirmed. Wahl, J.

C3-83-802 Carolyn Waller, Respondent, George T. Caldwell, Sr., etc., Respondent, v. Powers Department Store, etc., Petitioner. District Court, Hennepin County.

Minneapolis Ordinance § 141.80(c)(7) (1982), which authorizes the court to grant temporary relief against respondents in Minneapolis Department of Civil Rights administrative proceedings, does not permit courts to compel discovery as a means of affording such relief.

Writ issued. Coyne, J.

C1-82-836 In the Matter of the Petition for Disciplinary Action against Steven J. Daffer, a Minnesota Lawyer. Supreme Court.

In the circumstances presented, the lawyer's multiple violations of the rules of professional conduct warrant an indefinite suspension, with leave to apply for readmission in five years.

Per Curiam.

Errata

In *State Register*, Vol. 8, Issue No. 32, the Cable Communications Board was incorrectly classified as part of the Labor & Industry Department. The Board is actually part of the Department of Administration.

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