

84 April 30

STATE REGISTER

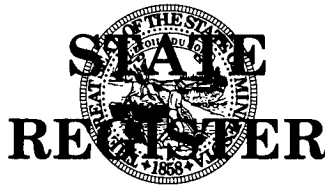
STATE OF MINNESOTA



VOLUME 8, NUMBER 44

April 30, 1984

Pages 2325-2356



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			
45	Monday Apr 23	Monday Apr 30	Monday May 7
46	Monday Apr 30	Monday May 7	Monday May 14
47	Monday May 7	Monday May 14	Monday May 21
48	Monday May 14	Monday May 21	Monday May 28

*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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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
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
Issues 40-51, inclusive
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The listings are arranged in the same order as the table of contents of the MCAR 1982 Reprint.

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EXECUTIVE ORDERS

Executive Order No. 84-7

Providing Clean Drinking Water to the Residents of Pine County, Minnesota

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, THE Minnesota Pollution Control Agency (MPCA), has determined that two municipal and several private wells in the City of Askov have been contaminated with the chemicals Benzene and Dichloroethylene and,

WHEREAS, the officials of the Minnesota Pollution Control Agency have requested assistance from the National Guard in providing clean drinking water to the affected residents of Pine County;

NOW, THEREFORE, I order:

1. The Adjutant General of Minnesota to order to active duty on and after April 7, 1984, in service of the State, such elements of the military forces of the State and equipment as are necessary to provide drinking water to the residents of Pine County. These forces shall be utilized for a period of time as necessary.

2. The costs of subsistence, transportation, fuel, and pay and allowances of said individuals shall be defrayed from the general fund of the State as provided for in Minnesota Statutes Sections 192.49, Subdivision 1; 192.51 and 192.52.

EXECUTIVE ORDERS

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 10th day of April, 1984.



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 Administration Cable Communications Board

Proposed Rules 4 MCAR §§ 4.260-4.263 Governing the Provision by Cable Companies Granted Access to Multiple Dwelling Complexes of Equipment with Sufficient Channel Capacity so as to Allow for Service by Alternative Providers

Notice of Intent to Adopt Rules without a Public Hearing in Accordance with the Procedures for Noncontroversial Rules set out in Minnesota Statutes §§ 14.21-14.28

Notice is hereby given that the Minnesota Cable Communications Board supplements the Notice of Proposed Rulemaking of the above contained rules published in the *State Register* on Monday, February 6, 1984 on pages 1807 to 1809 to assure compliance with Minnesota Statutes § 14.115 (Supp. 1983), the Small Business Considerations in Rulemaking.

Accordingly, affected parties are advised herewith that the proposed rules may have an impact on some small businesses in Minnesota that operate multiple dwelling complexes or furnish cable communication or similar services. These businesses would be required to use the procedures set forth in the rule to determine the conditions for access by alternative providers of television programming or cable communications services and the reimbursement to be provided for such access.

Owners and operators of small businesses described above should familiarize themselves with the procedures set forth in the rule. More detailed information concerning the nature of the rule and its possible impact on small businesses is contained in the agency's statement of Need and Reasonableness.

Additionally, the aforementioned Proposed Notice is amended to change the due date. Comments are due no later than 4:30 p.m., May 30, 1984.

W. D. Donaldson
Executive Director

Department of Commerce

Proposed Rules Regulating Self-Insurers Under the Minnesota No-Fault Automobile Insurance Act

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments. The proposed rules 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.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to David Corum, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-3301.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 65B.48. Additionally, a Statement of Need and Reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available upon request.

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 statement of such request to Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

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

Copies of this notice and the proposed rules are available and may be obtained by contacting Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

2770.6100 PURPOSE.

The purpose of parts 2770.6100 to 2770.7400 is to ensure that self-insurers under the Minnesota No-Fault Automobile Insurance Act have the financial and administrative resources needed to satisfy all obligations and responsibilities under the act.

2770.6200 DEFINITIONS.

Subpart 1. Scope. For the purpose of parts 2770.6100 to 2770.7400 the terms defined in this part have the meanings given them.

Subp. 2. Applicant. "Applicant" means a person or entity applying to the commissioner for authorization to self-insure under the no-fault act.

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

Subp. 3. Certified financial statement. "Certified financial statement" means a statement of the operating results and financial position of an applicant, authorized self-insurer, or parent company. A statement includes a balance sheet, income statement, statement of changes in financial position, or the equivalent in the case of nonprofit organizations and political subdivisions, and associated notes. A statement must include the professional opinion of an independent certified public accountant. A parent company's certified financial statement must be a consolidated statement combining the operating results and financial position of the parent company and its subsidiaries.

Subp. 4. Commissioner. "Commissioner" means the commissioner of the Department of Commerce.

Subp. 5. Licensed vendor of risk management services. "Licensed vendor of risk management services" means an entity authorized under Minnesota Statutes, section 60A.23, subdivision 8, to contract with self-insurers for the purpose of administering self-insurance programs.

Subp. 6. No-fault act. "No-fault act" means the automobile insurance system defined in Minnesota Statutes, sections 65B.41 to 65B.71.

Subp. 7. Parent company. "Parent company" means a company or organization that directly, or indirectly through one or more intermediaries, controls an applicant or authorized self-insurer, and that is not also controlled by another company or organization.

Subp. 8. Political subdivision. "Political subdivision" means a statutory or home rule charter city or county, the state of Minnesota, or any instrumentality of a statutory or home rule charter city or county or the state of Minnesota.

Subp. 9. Subsidiary. "Subsidiary" means a company or organization that is directly, or indirectly through one or more intermediaries, controlled by a parent company.

2770.6300 APPLICATION REQUIREMENT.

No person or entity may self-insure for no-fault act liabilities without the commissioner's authorization. The commissioner may only grant self-insurance authority to applicants that have followed the application procedures and that meet the authorization standards described in parts 2770.6100 to 2770.7400.

2770.6400 APPLICATION PROCEDURES.

Subpart 1. Application forms. An application for self-insurance authority must be made on forms prescribed and made available by the commissioner.

Subp. 2. Financial statements. Certified financial statements for an applicant's most recently ended fiscal year and for each of the three prior years must be included with an application. If an applicant is a subsidiary, then an application must also include certified financial statements for the parent company's most recently ended fiscal year and for each of the prior three years.

Subp. 3. Application fee. A \$500 application fee must be included with each application.

Subp. 4. Assumption of liability agreement. The parent company of an applicant must agree to assume the applicant's liabilities under the no-fault act if the applicant alone fails to satisfy part 2770.6500, subpart 2, item B, subitems 1 to 5. This agreement must be in a form prescribed by the commissioner. If required, a completed assumption of liability agreement form must be provided before an application can be considered complete.

Subp. 5. Resolution of governing body. If an applicant is a political subdivision, then a certified copy of a resolution from its governing body authorizing the political subdivision to seek self-insurance authority must be included with an application.

Subp. 6. Commissioner's action. The commissioner shall grant or deny authorization to self-insure within 60 days of receiving all application materials.

2770.6500 AUTHORIZATION STANDARDS.

Subpart 1. Political subdivision. The commissioner shall grant self-insurance authority to an applicant that is a political subdivision if it satisfies these conditions:

- A. at least 25 motor vehicles are registered in its name; and
- B. it has, or has contracted with a licensed vendor of risk management services to provide, the administrative resources needed to:
 - (1) process, review, and pay claims;
 - (2) evaluate the medical and rehabilitation needs of automobile accident victims; and
 - (3) estimate current and future loss liabilities.

Subp. 2. All other applicants. The commissioner shall grant self-insurance authority to an applicant that is not a political subdivision if the following conditions are satisfied:

A. the applicant satisfies subpart 1, item B:

B. either the applicant alone or the parent company alone:

- (1) satisfies subpart 1, item A;
- (2) has existed for at least five years;
- (3) has a current net worth, or the equivalent, of at least \$5,000,000;
- (4) had positive net income, or the equivalent, during the last five-year period and in at least three of those years; and
- (5) had positive net funds flow during the last five-year period and in at least three of those years;

C. neither the applicant nor its parent company, if one exists, has sought protection under the United States Bankruptcy Code during the last three years; and

D. the funds flow, debt structure, profitability, and overall financial integrity of the applicant and its parent company, if one exists, demonstrate a continuing ability of the applicant to satisfy any financial obligations that have been and might be incurred under the no-fault act.

2770.6600 COMMISSIONER'S DECISION.

Subpart 1. Approval. The commissioner shall authorize an applicant to self-insure by issuing a self-insurance certificate to the applicant. The certificate must include the dates when self-insurance authority begins and ends.

Subp. 2. Denial. The commissioner may deny self-insurance authority by informing the applicant by mail of the decision.

2770.6700 RENEWAL.

Authorization to self-insure ends 150 days after the end of self-insurer's fiscal year. Authorization may be renewed for one year if a self-insurer informs the commissioner no later than 120 days after the end of its fiscal year that it wishes to continue to self-insure. The commissioner shall issue a new certificate of authority to each self-insurer whose self-insurance authority is renewed.

2770.6800 SECURITY REQUIREMENT.

Subpart 1. Surety bond required. An authorized self-insurer shall maintain a surety bond written by a corporate surety authorized to do business in Minnesota. The bond must be filed with the commissioner and name the "Commissioner of Commerce—State of Minnesota" as its obligee.

Subp. 2. Bond form. The surety bond must be executed on forms prescribed and made available by the commissioner, or on other forms not materially different from the forms prescribed by the commissioner. The commissioner shall refuse to accept surety bonds executed on forms that are not consistent with the requirements of this part or the purpose of parts 2770.6100 to 2770.7400.

Subp. 3. Condition, cancellation. The condition of the surety bond must be the execution of the self-insurer's legal obligations as a self-insurer. The bond cannot be canceled unless 30 days' notice is provided by the surety to the commissioner. After cancellation, the bond must remain in force for those liabilities incurred by the self-insurer from the time the bond first became effective until its cancellation, regardless of when compensation was or may be claimed, awarded, or paid.

Subp. 4. Penalty sum. The bond must provide a penalty sum of \$100,000 or 125 percent of the self-insurer's total outstanding liabilities, whichever is greater. The penalty sum must be consistent with the latest report of outstanding loss liabilities as required in part 2770.6900.

Subp. 5. Use of bond by commissioner. In the event the commissioner determines that the self-insurer has violated the condition of the bond, the commissioner may draw upon the penalty sum to pay any unpaid claim obligations incurred by the self-insurer and to recover any costs or expenses incurred by the Department of Commerce that are directly attributed to administering the self-insurer's claims.

2770.6900 REPORTING REQUIREMENTS.

Subpart 1. Financial statements. Authorized self-insurers shall provide these items to the commissioner no later than 120 days after the end of each fiscal year:

A. a certified financial statement for the self-insurer's most recently ended fiscal year, and a copy of the self-insurer's most recent form 10K filed with the Securities and Exchange Commission, if applicable;

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

B. a certified financial statement for the parent company's most recently ended fiscal year, if applicable, and a copy of the parent company's most recent form 10K filed with the Securities and Exchange Commission, if applicable; and

C. any quarterly financial statements for the applicant and the parent company, if applicable, issued since the end of the latest fiscal year for which a certified financial statement has been provided to the commissioner.

Subp. 2. Status report. Authorized self-insurers shall provide to the commissioner, on forms prescribed and made available by the commissioner, information needed to maintain accurate records of the self-insurers' address, relevant personnel, scope of self-insurance under the no-fault act, and other administrative matters. The status report shall be provided at the same time as the self-insurer notifies the commissioner of its intention to seek renewal of self-insurance authority, as required in part 2770.6700.

Subp. 3. Loss liabilities report. Authorized self-insurers shall provide, by March 1 of every year, a report of paid and outstanding loss liabilities incurred under the no-fault act evaluated as of December 31 of the prior year. The loss liabilities report must be on forms prescribed and made available by the commissioner.

2770.7000 QUARTERLY FINANCIAL STATEMENTS.

If the commissioner determines that a deterioration in the funds flow, net worth, debt structure, profitability, or general financial integrity of the self-insurer or its parent company, if a parent company exists, adversely affects the self-insurer's ability to satisfy its financial obligations under the no-fault act, then the commissioner shall require an authorized self-insurer to submit quarterly financial statements for the self-insurer and its parent company.

2770.7100 ASSIGNED CLAIMS PLAN, UNFAIR PRACTICES.

Self-insurers authorized under this chapter are reparation obligors under Minnesota Statutes, section 65B.43, subdivision 9, and shall participate in the assigned claims plan in Minnesota Statutes, section 65B.63. Self-insurers authorized under this chapter are also subject to Minnesota Statutes, sections 72A.17 to 72A.32, regulating trade and claim service practices.

2770.7200 TERMINATION OF SELF-INSURANCE STATUS.

An authorized self-insurer shall inform the commissioner at least 30 days after becoming insured. Self-insurance authority terminates immediately upon becoming insured.

2770.7300 REVOCATION OF SELF-INSURANCE AUTHORITY.

The commissioner shall revoke a self-insurer's authorization to self-insure:

A. if the commissioner determines that a self-insurer:

- (1) does not satisfy applicable authorization standards in part 2770.6500;
- (2) is not complying with a lawful order of the commissioner;
- (3) is not complying with Minnesota Statutes, chapter 65B;
- (4) has not complied with parts 2770.6700 to 2770.7100; or
- (5) is not complying, or has not complied with any other statutory requirement; and

B. if the commissioner determines that the self-insurer has failed, or is unable, to remedy circumstances that will, in the future, prevent the self-insurer from complying with standards or requirements of this chapter.

2770.7400 WAIVER OF STANDARDS.

Subpart 1. Standards. The commissioner shall waive the standards in part 2770.6500, and shall not revoke self-insurance authority under part 2770.7300, item A, if:

- A. an entity authorized to self-insure at the time this chapter becomes effective does not satisfy the standards in 2770.6500;
- B. the entity has been an authorized self-insurer for at least two years prior to this chapter becoming effective;
- C. the commissioner determines that the entity, while self-insured, has executed its responsibilities and obligations as a self-insurer; and
- D. the entity follows the procedures contained in subpart 2 for requesting a waiver of standards.

Subp. 2. Procedures. A self-insurer must request a waiver of standards under this part by applying, in writing, to the commissioner no later than 30 days after this chapter becomes effective. The commissioner shall either grant or deny a waiver of standards under this part no later than 30 days after receiving a request.

Subp. 3. Duration. A waiver of standards granted under this part shall be granted to a self-insurer only once and shall be effective for no more than three years. If the commissioner determines that a self-insurer for which a waiver of standards was previously granted no longer satisfies the conditions contained in subpart 1, then the commissioner shall revoke the waiver of standards.

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.

Higher Education Coordinating Board

Adopted Rules Governing State Scholarships and Grants-in-Aid and Part-Time Student Grants

The rules proposed and published at *State Register*, Volume 8, Number 32, pages 1812-1814, February 6, 1984 (8 S.R. 1812) are adopted as proposed.

Public Utilities Commission

Adopted Rules Governing Utility Delinquency Charges

The rules proposed and published at *State Register*, Volume 7, Number 37, pages 1289-1290, March 14, 1983 (7 S.R. 1289) and Volume 8, Number 3, pages 82-85, July 18, 1983 (8 SR 82) are adopted with the following modifications:

Rules as Adopted

4 MCAR § 3.0317 Definitions.

B. Delinquent ~~account~~ amount. "Delinquent ~~account~~ amount" means the portion of a customer's account representing charges for utility service or services past due. In the case of a residential customer on either a utility's budget billing plan or a payment schedule ~~under 4 MCAR § 3.0299 G.~~ "delinquent ~~account~~ amount" means the lesser of the outstanding account balance or the outstanding scheduled monthly payment payments.

C. Late payment charge. "Late payment charge" means the allowable charge a utility may impose upon a delinquent ~~account~~ amount.

D. Utility. "Utility" means a public utility as defined in Minnesota Statutes, section 216B.02, as modified by Minnesota Statutes, sections 216B.025 and 216B.026.

E. Residential customer. "Residential customer" means a customer of a utility whose principal use of gas or electricity is for household purposes such as lighting, cooking, water heating, and space heating in space occupied as living quarters. Utility service is normally supplied through a single meter to a single family dwelling unit, but apartments or other subdivided dwelling units may be classified as residential even though several individual units take service through the same meter.

4 MCAR § 3.0319 Determination of delinquency.

A utility which chooses to impose a late payment charge on its customers shall use two measures for determining when a customer's bill is delinquent:

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.

ADOPTED RULES

A. Residential customer. If a residential customer's ~~utility~~ bill payment is not ~~paid~~ received by the utility by the next scheduled billing date, which must be not less than 25 days from the current billing date, a late payment charge may be imposed. the current billing date must be no more than three working days before the date of mailing of the bill by the utility. The utility may print a due date on the bill which is not more than five days before the next scheduled billing date.

B. Nonresidential customer. If a nonresidential customer's utility bill is not ~~paid~~ received by the utility within a grace period of not less than 15 days from the current billing date, a late payment charge may be imposed. The current billing date must be no more than three working days before the date of mailing of the bill by the utility.

4 MCAR § 3.0320 Requirements for imposing late payment charge.

Before a utility may impose a late payment charge, the utility shall comply with the following requirements:

A. Tariffs. The utility shall file and have approved by the commission tariffs providing for the late payment charge and specifying the terms and conditions of the late payment charge. The filing must include substantiating documents and exhibits supporting the finance fee and grace periods proposed.

B. Bill content. The utility shall clearly indicate upon each bill the terms and conditions of the late payment charge, including the date after which the late payment charge is applied, the amount of the late payment charge after the charge is actually applied, and the monthly and the annual percentage rate of the late payment charge.

D. Implementation. Within 90 days of the effective date of this rule, the utility shall comply with the tariff, bill content, and uniformity requirements of A.-C.

4 MCAR § 3.0321 Amount of late payment charge.

A late payment charge imposed by a utility must ~~consist of the following two components~~ be calculated as follows:

A. Minimum delinquent amount. The utility shall not assess a late payment charge until the delinquent amount exceeds \$10.

B. Finance fee. The utility may impose a finance fee no greater than 1½ percent per ~~month~~ monthly billing period on the delinquent ~~account~~ amount.

~~B. Collection~~ C. Minimum finance fee. The utility may impose a ~~collection~~ minimum finance fee no greater than \$1.

OFFICIAL NOTICES

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

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

Board of Animal Health

Notice of Change of Meeting Date

The regular quarterly meeting of the Board of Animal Health scheduled for Friday, July 13, 1984, has been changed to Friday, July 6, 1984, starting at 9:30 a.m.

Dr. J. G. Flint
Secretary & Executive Officer

Board of Animal Health

Notice of Special Board Meeting

A special meeting has been called to consider adoption of proposed 3 MCAR § 2.026 Pseudorabies control and to interview applicants for the position of Secretary & Executive Officer to the Board. It will be held on Friday, June 1, 1984 at 9:30 a.m., at the Holiday Inn, New Ulm, Minnesota.

If the Board is unable to complete the agenda on June 1, 1984, the meeting will be continued to June 8, 1984 in the office of the Board of Animal Health, Dept. of Agriculture Bldg., 90 W. Plato Blvd., St. Paul, Minnesota.

Dr. J. G. Flint
Secretary & Executive Officer

Department of Energy and Economic Development Community Development Division

Notice of Adoption of Criteria Regarding Affordable Rents Under the Small Cities Development Program

Notice is hereby given that pursuant to the Federal Housing and Urban-Rural Recovery Act of 1983, the Department of Energy and Economic Development has adopted the following definition of affordable rents under its administration of the Small Cities Development Program.

"Affordable rents" for multi-unit structures are those rents which do not exceed 30 percent of adjusted gross income, including utilities, and/or do not exceed 120 percent of the fair market rent for the area in which the project is located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development.

April 18, 1984

Leland Newman
Director of Community Support Programs

Department of Finance

Notice of Municipal Obligations Maximum Interest Rate, May, 1984

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Gordon M. Donhowe, announced today that the maximum interest rate for municipal obligations in the month of May will be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

For further information contact:

Peter Sausen, Director
Debt Management
State of Minnesota
Department of Finance
(612) 296-8372

Pollution Control Agency

Outside Opinion Sought Regarding the Use of a State Uniform Manifest for the Shipment of Hazardous Waste

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) is seeking information from sources outside the Agency regarding a State required uniform manifest for the shipment of hazardous waste. The Agency is considering requiring the use of a specific uniform manifest form based on the federally required National Uniform Manifest Form.

The Agency requests information or comments on the State requiring the use of a specific State manifest form, and the information to be required on the form. Written or oral information or comments may be submitted to Karen Ryss at the address listed below or at 612/296-7776, during regular business hours.

Karen Ryss
Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B2
Roseville, Minnesota 55113

Information or comments will be accepted until May 18, 1984.

Sandra S. Gardebring
Executive Director

OFFICIAL NOTICES

State Planning Agency Minnesota Job Skills Partnership

Notice of Meeting

The Minnesota Job Skills Partnership Board has scheduled the following regular meetings at 1:00 p.m. on the days listed. For meeting location, please call Donna Schmidt at 296-0388.

Monday, May 21, 1984

Monday, August 20, 1984

Monday, November 19, 1984

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 by calling 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
02310-13195	Asbestos Removal for Bangsberg Hall at Bemidji St. Univ.	Administration	Bemidji State Univ.	Contact buyer
26-070-10380 776777	Recruitment Poster	Bemidji University	Bemidji	Contact buyer
29-000-35703	Outboard Motors	Natural Resources	St. Paul	Contact buyer
26-071-13863 Rebid	Track Lighting System	Mankato	Mankato	Contact buyer
26-071-13996-7	Purchase of Port Selector System Expansion	Mankato State University	Mankato	Contact buyer
29-000-35752	Marine Comm. Equip.	Natural Resources	Various	Contact buyer
67-190-09338	Folder/Inserter	Revenue	St. Paul	Contact buyer
79-000-41641	Portable Conveyors	Transportation	Willmar, Mn	Contact buyer
Price Contract	Unprinted Envelopes	Central Stores	St. Paul	75,000-80,000
Price Contract	Rubbish Disposal	DOT	Minneapolis, Mn	Contact buyer
27-150-40727 776540	1984-85/1985-86 College Catalog	Mesabi CC	Virginia, Mn	Contact buyer
78-890-01502	Supply Spray Foam & Equipment	Willow River	Willow River Camp	Contact buyer
29-002-09483	Tranceiver	Mn/DOT Elec.	St. Paul, Mn	Contact buyer

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Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-071-14021	Refinish Gym Floor — Mankato St. Univ.	Mankato St. Univ.	Same	Contact buyer
Price Contract	Snow Removal Contract Vermilion CC	Vermilion Com. College	Ely, Mn	Contact buyer
Price Contract	Snow Removal — Willmar CC	Willmar CC	Willmar, Mn	Contact buyer
Price Contract	Snow Removal — Worthington CC	Worthington Com. College	Worthington, Mn	Contact buyer
Price Contract	Snow Removal — Austin CC	Austin CC	Austin, Mn	Contact buyer
07-700-29603	Install Vestibules	Public Safety	Public Safety	Contact buyer
78-550-04418	Aluminum Mini Blinds (ADD. #1)	Correctional Facility	Lino Lakes, Mn	Contact buyer
Sch, 170-C	Wire Rope	Various	Various	Contact buyer
37-050-93345	Acid Rain In Mn	Education	St. Paul, Mn	Contact buyer
776998				
07-700-29702	Prebill W/Title	Public Safety	St. Paul, Mn	Contact buyer
777031				
07-100-29671	Traffic Accident Report	Public Safety	St. Paul, Mn	Contact buyer
78-550-04369-70	Wood Stripping System	MN Correctional Facility-Ind.	Same	Contact buyer
29-008-32857	Explosives	Natural Resources	St. Paul	Contact buyer
Contract	Continuous Forms Warrants	Various Agencies	Various	20,000-30,000.
26-072-08626	Phototypesetting Paper	Moorhead State University	Moorhead	Contact buyer
04-511-22738	Office Furniture	Agriculture	St. Paul	Contact buyer
78-630-04432	Manila Tag	MN Correctional Facility	Oak Park Heights	Contact buyer
79-000-41611	FWD Tractor Shovels	Transportation	Various	Contact buyer
etc				
79-000-41744	Rotary Snowplows	Transportation	Various	Contact buyer
etc				
07-300-29617	Recorder System	Public Safety	St. Paul	Contact buyer
02-410-43529	Wire	Info Systems Bureau	St. Paul	Contact buyer
29-001-06985	Buchanan Lake Public Access Near Ottertail	Natural Resources	Bemidji	Contact buyer
26-175-05618	Purchase of Data Transmission System	Southwest State Univ.	Marshall	Contact buyer
78-000-13867-etc	Desk Transcribers	Dept. of Corrections	Various	Contact buyer
Contract	Snow Removal — Inver Hills Comm. College	Inver Hills Comm. Coll.	Inver Grove Heights	Contact buyer
Contract	Corrugated Metal Pipe, Culverts	Various	Various	65,000-75,000
79-050-14792	Treated Lumber	Transportation	Various	Contact buyer
21-200-07758	Cutting & Packaging USDA Surplus Cheese	Economic Security/OEO	Various	Contact buyer

Contact the receptionist at 296-2513 for referral to specific buyers.

Department of Administration Division of State Building Construction

Availability of Contracts for Architects, Engineers and Landscape Architects

The Department of Administration (DOA) intends to retain the services of qualified professionally registered architects, engineers and landscape architects, to design, prepare construction drawings and monitor construction of a number of projects

STATE CONTRACTS

during the year commencing July 1, 1984. These projects will be varied in nature and scope and will involve new construction, remodeling projects and facility studies. The cost of construction or remodeling projects will be less than \$400,000.00 and the fees associated with facility studies will be less than \$35,000.00. Particular emphasis will be placed on the background and experience of the firm on similar projects as well as the firm's geographic proximity to the project.

Firms wishing to be considered for these projects are asked to submit a short brochure or resume consisting of no more than 10 pages giving qualifications and experience of the firm to the Division of State Building Construction, **ATTENTION: George Iwan**. Qualified applicants will be contacted as the need arises and may be requested to appear in St. Paul for an interview. Firms which responded during the past year need only respond with a letter indicating continued interest as well as significant organization and experience changes since submission of their last brochure.

In submitting their brochures or resumes, firms shall indicate the area or areas of the list shown below in which they feel qualified.

- | | |
|------------------------------|------------------------------------|
| 1) Research and Programming | 9) Arts, including Performing Arts |
| 2) Educational | 10) Exhibition and Display |
| 3) Health and Medical | 11) Landscape and Site Planning |
| 4) Correctional | 12) Interiors |
| 5) Restoration | 13) Water and Waste Facilities |
| 6) Office and Administration | 14) Energy Supply and Distribution |
| 7) Recreational | 15) Pollution Control |
| 8) Service and Industrial | 16) Acoustics |

In some cases, DOA may enter into annual contracts for investigative studies, these annual contracts will be prepared on the basis of the needs of DOA.

The name of firms responding will be provided to other State Agencies having a need for the services described herein.

Names of qualified firms will be retained on file with DOA until June 30, 1985.

Designers for projects with estimated costs or fees in excess of those shown above will be selected by the State Designer Selection Board. Projects referred to the Board will be advertised in the *State Register*.

Department of Administration Division of State Building Construction

Availability of Contracts for Registered Professional Testing Services

The Department of Administration (DOA) intends to retain the services of qualified professionally registered individuals to conduct site surveys, materials testing and soil borings and tests during the year commencing July 1, 1984. These projects will be varied in nature and scope. The fees associated with these projects will generally be less than \$2,000.00, although the fees for some projects may exceed this amount.

As projects arise, it is the intention of DOA to contact firms who have expressed an interest in providing such services to the State. The final selection will be made on the basis of the background and experience of the firm, the geographic proximity of the firm to the project site, and an estimate of the fees to be charged for the specific project. Such estimates will be requested when a specific project exists.

Firms wishing to be considered for these projects are asked to submit a short brochure or resume consisting of no more than 10 pages outlining their background, qualifications, and fields of expertise to the Division of State Building Construction, Room G-10, State Administration Building, St. Paul, Minnesota 55155, **ATTENTION: George Iwan**. Qualified applicants will be contacted as the need arises and may be requested to appear in St. Paul for an interview.

Firms which have previously responded to this request need only provide a letter expressing continued interest as well as significant organization and experience changes since submission of their last brochure.

Names of qualified firms will be retained on file with DOA until June 30, 1985. Names of firms will be provided to other State agencies having a need for the services described herein.

Department of Corrections Minnesota Correctional Facility-Lino Lakes

Request for Proposals for Professional/Technical Services Contract for Certified Clinical Psychologist

In order to comply with state law, the Minnesota Correctional Facility-Lino Lakes, hereby publishes its intention to maintain a contract with a certified clinical psychologist for the period from July 1, 1984 to June 30, 1985. The contractor will provide the following services:

Develop psychological evaluations on adult male inmates as requested by program teams and Department of Corrections administrative personnel. Also will advise program staff concerning the treatment needs of residents. Consulting sessions to consist of two 5-hour visits per week with a limit of 90 visits per year. The estimated amount of the contract will not exceed \$18,000.

Desired qualifications include a doctorate in clinical psychology with at least five years of experience in an adult correctional institution.

Proposals for the above contract to be submitted by May 18, 1984, to W. J. McGrath, Business Manager, Minnesota Correctional Facility-Lino Lakes, 7525 Fourth Avenue, Lino Lakes, Minnesota 55014.

Department of Health Division of Maternal and Child Health

Request for Proposals for Counseling/Hotline Services

The Minnesota Department of Health is requesting proposals from public and private non-profit organizations to continue a toll-free family planning/VD information, counseling, and referral Hotline for Minnesota residents for a period of eighteen months. An amount not to exceed \$22,500.00 is available for this project from the Department, although the full cost of the service is expected to exceed \$55,000.00. Proposals must be submitted to the Department no later than 4:30 p.m., May 21, 1984.

Interested persons may obtain a Request for Proposals and further instructions by submitting a written request to:

Ms. Ruth Algren
Activity Manager
Family Planning/Reproductive Health Unit
Section of Maternal and Child Health Technical Services
Minnesota Department of Health
717 Delaware Street S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440

Iron Range Resources and Rehabilitation Board

Request for Proposals for Advertising and Public Relations Consultants

The Iron Range Resources and Rehabilitation Board is seeking proposals from Minnesota advertising and public relation firms to assist in the administration of an extensive program of advertising and promotion of the tourism activities of the Board, which includes, but is not limited to, the Iron Range Country Program, the Iron Range Interpretative Center, Giant's Ridge Recreational Ski Area, Hill Annex Mine Tours, Paulucci Planetarium, and the Croft Mine Park.

The program will involve the coordination of all advertising, the purchase of all time and space, assisting in the design lay-out and production of all print advertising and the production of radio and television commercials. The total cost of this project will not exceed \$320,000.

To receive the formal request for proposal, contact:

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Richard A. Nordvold
Iron Range Resources and Rehabilitation Board
P.O. Box 392
Chisholm, MN 55719

Deadline for submission of proposals is May 24, 1984, 4:30 p.m. Project will commence July 1, 1984 and continue through June 30, 1985.

Department of Natural Resources

Request for Proposals for Magneto Telluric Survey

The Minnesota Department of Natural Resources is requesting proposals from individuals and organizations capable of performing a magneto telluric survey in east-central Minnesota where there is a complex of tightly folded mafic extrusive and hypabyssal rocks interbedded with sulfide facies iron formation. This is an ideal geological setting for precious metals, or base metal mineral deposits. Further information on structural features or massive sulfide conductors is needed before planning drill holes. Recent magneto telluric surveys have provided excellent structural analysis to great depth along with location of conductive sulfide deposits.

The State of Minnesota is requesting a proposal for a minimum of twelve to fifteen miles of magneto telluric traverse, with receiver stations at approximately one-quarter mile intervals. In very complex areas a few additional stations may be required to provide needed detail. The survey will have a frequency range of + or - 30 hz to 4100 hz. The traverse will run along a state highway with numerous houses, usually on forty-acre tracts which are serviced with overhead power lines and underground cables. The contractor will provide equipment and personnel to do the field survey, process the data and provide a comprehensive report on the project. Mobilization and demobilization costs will be included in the proposal. Three-fourths of the survey is to be completed before June 30, 1984.

The estimated amount of the contract will not exceed \$40,000. The issuance of the request for proposals does not require the department to award a contract and the department reserves the right to withdraw this request if it is considered to be in its best interest. All proposals must be received no later than 4:30 p.m. on May 21, 1984.

All proposals and inquiries should be directed to:

Tom Lawler
Minnesota Department of Natural Resources
Division of Minerals
P. O. Box 567
Hibbing, Minnesota 55746
(218) 262-6767

Pollution Control Agency Division of Water Quality

Request for Proposal for Contractual Services to Perform Recovery, Removal or Remedial Actions Regarding Spills and Small Scale Hazardous Substances Removal or Remedial Actions

The Minnesota Pollution Control Agency (MPCA) is seeking proposals from contractors qualified in various specialized areas of pollutant response and cleanup of hazardous substances, pollutants or contaminants that may cause pollution of the waters of the state or present potential health or safety concerns for the public. The MPCA desires to contract with these qualified parties for services during fiscal year 1985. No actual work or payment is guaranteed pursuant to the contract, but services such as the removal, storage, sampling and analysis, transportation and disposal of hazardous substances, pollutants or contaminants are anticipated to be needed as a result of pollutant releases or threatened releases that may cause pollution of the waters of the state or present potential health or safety concerns for the public.

The duration of the contract with qualified parties is twelve (12) months with an execution date anticipated for July 1, 1984. Funding for this contract will be provided by Federal funds obtained by the State through Title 1, Section 106, Federal Water

Pollution Control Act, as amended and the Minnesota Environmental Response and Liability Act, Minn. Stat. § 115B (1983 Supp.). The contract, in an amount up to \$60,000, may include more than one responsive qualified party and the Agency reserves the right to limit the number of parties to the contract. If necessary, this contract may be amended to provide additional funds.

Request for the RFP document, which describes the requirements necessary for the contract, and inquiries should be directed to:

Mr. Pat Mader
Enforcement Section
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

The deadline for receipt of completed proposals is 5:00 p.m. on Tuesday, May 16, 1984. Proposals should be submitted to the attention of the above MPCA contact person. Late submittals will not be accepted.

April 19, 1984

Sandra S. Gardebring
Executive Director

Department of Public Welfare Anoka State Hospital

Request for Proposal for Medical Services

Notice is hereby given that the Anoka State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the services which are to be performed as requested by the Administration of Anoka State Hospital. Contracts will be written for the period beginning July 1, 1984, and ending June 30, 1985.

1. Psychiatric services. Responsibilities will include psychiatric assessments, psychiatric treatment, attendance at Medical Staff meetings, participation in the Utilization Review program, appearances at Special Review Board hearings, probate court hearings, and in-service education. The estimated total amount for all psychiatric contracts will not exceed \$183,000 annually.

2. Neurological services. Responsibilities will include the furnishing of computerized tomography (CAT-Scans) and interpretation of results, neurological consultation and supervisory training and assistance with neurological research and evaluation at Anoka State Hospital. The estimated total amount for all neurology contracts will not exceed \$15,000 annually.

3. Podiatry services. Responsibilities will include providing proper podiatry services in relation to Medical Assistance and Medicare guidelines, at times arranged by Medical Director or his designee. Total estimated amount of contract will not exceed \$2,000 annually.

4. Optometry services. Responsibilities will include eye exams and referrals, dispensing of eyewear, and consultation with medical staff. Total amount of contract will not exceed \$2,000 annually.

5. Radiology services. Responsibilities will include the interpretation of all x-rays and conduct fluoroscopy examinations, and provide consultation to medical staff. Total amount of contract will not exceed \$16,000 annually.

6. Electroencephalogram (EEG) testing. Responsibilities will include conducting the EEG tests with a tracing for each test. Equipment will be furnished by Anoka State Hospital. Total amount of contract will not exceed \$2,500 annually.

7. Interpretive service for hearing impaired patients. Responsibilities will include interpretation of treatment plans to hearing impaired patients, and daily interpretation during treatment, and assist in the communication of discharge plans. Total amount of contract will not exceed \$2,000 annually.

8. Quality Assurance. Responsibilities will include consultation and technical assistance service in the planning for QA, Medical Records, Program Evaluation, and Utilization Review. Total estimated amount of contract will not exceed \$60,000 annually.

9. Family Practice Services. Responsibilities will include specialized medical care for mentally ill and chemically dependent patients. Total estimated amount of contract will not exceed \$24,000 annually.

Responses must be received by May 22, 1984. Direct inquiries to: Mark Wilcox, Deputy Administrator, Anoka State Hospital, 3300—4th Avenue North, Anoka, Minnesota 55303. Telephone: 422-4300.

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Department of Public Welfare Health Care Programs Division

Request for Proposals for Services as a Medical Review Agent

The Department of Public Welfare is requesting proposals for statewide Pre-Admission Certification, activities, verification of admission necessity and appropriateness of treatment program of hospital admission on Medical Assistance recipients. The contract period will be 7/1/84 through 6/30/85.

The proposal may be comprised of a single or multiple bids. The total cost not to exceed \$750,000.00.

The guidelines to be used in the preparation of a proposal and a detailed description of the project are governed under DPW Temporary Rule 48 and available from the Professional Services Section, Department of Public Welfare. A detailed budget should also accompany the proposal. Deadline for receipt of proposals is 4:30 P.M., Friday, May 25, 1984.

Proposals and inquiries should be directed to:

Thomas L. JoliCoeur, Supervisor
Health Care Programs Division
Professional Services Section
Space Center
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-8822

Department of Public Welfare St. Peter State Hospital

Request for Proposals for Medical Services

Notice is hereby given that the St. Peter State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the services which are to be performed as requested by the Administration of St. Peter State Hospital. Contracts will be written for the period of July 1, 1984 thru June 30, 1985.

- 1) Services of a consulting psychologist to provide psychological evaluations and examinations of chemical dependent patients at the St. Peter State Hospital. Contract will not exceed \$16,500.
- 2) Services of an individual who specializes in internal medicine, to provide medical evaluations of mentally ill and chemically dependent patients at St. Peter State Hospital complex. Individual will provide primary care and act as a consultant to staff physicians. Contract will not exceed \$27,000.
- 3) Services of a consulting psychiatrist to provide psychiatric evaluations and make recommendations with regard to psychotropic medications at St. Peter State Hospital complex. Individual will give direct clinical service as well as train staff. Three individual contracts are proposed. Contracts will not exceed a total of \$79,750.
- 4) Services of a radiologist to study, interpret and dictate findings of x-ray films at the St. Peter State Hospital. Contract will not exceed \$12,000.
- 5) Services of a consulting psychiatrist to provide psychiatric examinations of men referred to the Intensive Treatment Program for Sexual Aggressives (ITPSA), at the Minnesota Security Hospital; participate in their evaluations and recommendations to courts. Contract will not exceed \$29,250.
- 6) Services of a consulting psychiatrist to provide general psychiatric care to patients at Minnesota Security Hospital, including diagnosis, treatment, progress notes and periodic assessments. Contract will not exceed \$16,200.
- 7) Services of a consulting interpreter that will service hearing impaired patients and also train staff in the art of signing at the St. Peter State Hospital complex. Two contracts are proposed not to exceed a total of \$31,500.
- 8) Services of a consulting neurologist who will do patient evaluations, implement and monitor on campus electroconvulsive (ECT) therapy at St. Peter State Hospital complex. Contract will not exceed \$22,500.

Responses must be received by May 21, 1984. Direct inquiries to:

Thomas R. Bolstad
Senior Accounting Supervisor
St. Peter State Hospital Complex
100 Freeman Drive
St. Peter, MN. 56082
Phone: (507) 931-7116

SUPREME COURT**Decisions of the Court of Appeals Filed Tuesday, April 17, 1984****Compiled by Wayne O. Tschimperle, Clerk**

CX83-1638 Atlen Cole, Relator, v. Holiday Inns, Inc., and Commissioner of Economic Security. Department of Economic Security.

The notice of determination of benefit rights, provided by the Commissioner of Economic Security, is in compliance with Minn. Stat. § 268.10, subd. 2(3). Dismissal of relator's appeal for failure to timely appeal did not violate her right to procedural due process under the Fourteenth Amendment to the Constitution of the United States.

Affirmed. Popovich, C.J.

C0-84-55 Phyllis P. Preiss, Relator, v. Commissioner of Economic Security. Department of Economic Security.

Relator's refusal to apply for or accept employment at a reasonable rate of pay, at reasonable hours, in a location 22 miles from her home, intending to wait for another opening, rendered her unavailable for work and ineligible for unemployment compensation benefits.

Affirmed. Popovich, C.J.

C3-83-1190 State of Minnesota v. Richard Lowell Evans, Appellant, Ramsey County.

The trial court did not commit reversible error by its instruction on abandonment or withdrawal and appellant did not make a reasonable effort to prevent the commission of the crime.

Felony murder instructions need not include a statement that intent to commit the underlying felony is required so long as the intent element is given subsequently where the underlying felony is a separate offense and the jury is appropriately charged on intent.

The trial court did not err in refusing to submit defense counsel's requested instruction on conspiracy to commit aggravated robbery, because there was no rational basis to convict appellant of conspiracy while acquitting him of aiding and abetting.

When attempted aggravated robbery is the underlying felony, aiding and abetting attempted aggravated robbery is an included offense to felony murder.

Appellant's multiple sentences for aiding and abetting felony murder and aiding and abetting attempted aggravated robbery were improper because the offenses arose out of the same behavioral incident.

Affirmed in part, vacated in part, with the sentence modified accordingly. Parker, J.

C2-83-1505 Janice Ann Rude v. Commissioner of Public Safety, Appellant. Goodhue County.

Reasonable and probable grounds existed to invoke the implied consent law where peace officer had a combination of objective indications of possible intoxication—the smell of alcohol on the driver's breath, a spilled glass which smelled of alcohol in the driver's car, and a serious accident.

Under the implied consent statute, any inquiry into the driver's capacity to make a knowing, voluntary or intelligent choice of whether to submit to chemical testing is immaterial.

Reversed. Parker, J.

C8-83-1816 Sherry Lynn Vaughn and Ramsey County v. Edward Love, Appellant. Ramsey County.

The trial court acted within its discretion when it denied defendant's motion to restrict the prosecution's impeachment by prior conviction.

SUPREME COURT

The trial court's refusal to admit a videotaped cross examination of the court-appointed expert in an unrelated case did not violate defendant's right to cross examination.

The trial court's suppression of testimony of undisclosed witnesses was not an abuse of discretion.

Affirmed. Parker, J.

C9-83-1940 Ronald Elmer Caldwell, Appellant, v. State of Minnesota. Ramsey County.

The right to confrontation was not violated when the defendant was not permitted to inquire into the procedure used for choosing his photo for inclusion in a photo display shown to the victim of aggravated robbery.

The pretrial 12-man photo display was not impermissibly suggestive. Further, its admission into evidence was not an abuse of discretion. The four-man lineup was merely confirmatory of the eyewitness' prior identification and did not create a substantial likelihood of misidentification.

The unimpeached testimony of a single eyewitness, the victim of an aggravated robbery, was sufficient to convict.

Affirmed. Parker, J.

CX-83-1672 State of Minnesota v. Earthia Wiley, Appellant. Hennepin County.

The en banc panel of the court being evenly divided, the trial court's decision that the affidavit in support of the search warrant was sufficient is affirmed.

Affirmed. Foley, J.

Dissenting, Sedgwick, J., Lansing, J., and Parker, J.

C2-83-1892 Marlin S. Skelton and Patricia Skelton, Appellants v. Donald Doble and Sylvia Doble, et al. Wright County.

Appellants have no enforceable right to the disputed property where they have no written conveyance which satisfies the statute of frauds and the doctrine of practical location is inapplicable.

The trial court erred in awarding damages for trespass when appellants occupied the disputed property under a claim of right.

Affirmed in part, reversed in part, remanded. Foley, J.

C0-83-1311 State of Minnesota v. Roger McLane, Appellant. Itasca County.

By failing to challenge a search warrant at the omnibus hearing, trial counsel waived any review on appeal unless ineffectiveness of counsel is shown.

Where the search warrant was not patently invalid, failure to challenge its validity at trial does not establish ineffectiveness of counsel.

Affirmed. Wozniak, J.

C1-83-1611 In the Matter of the Welfare of G.L.M. Dakota County.

The sufficiency of evidence resulting in a finding of delinquency is reviewed in the light of most favorable to the prosecution.

Where petition for delinquency recognizes the possibility that the crime charged was committed in one of two ways, and the evidence is sufficient to sustain a finding beyond a reasonable doubt that the crime was committed in one of those two ways, the finding of delinquency must stand.

Affirmed. Sedgwick, J.

C0-83-2023 Georgia-Pacific Corp., Appellants, v. Gypsum George's Cash & Carry Building Materials, Inc. and George Rybold. Hennepin County.

Supreme Court affirmance of a summary judgment in favor of Georgia-Pacific on contract claims against Gypsum George bars a later trial on Georgia-Pacific's claim for prejudgment interest arising from the contract claims.

Affirmed. Sedgwick, J.

C9-83-2053 Kenneth H. Westphal, Appellant, v. Richard W. Anderson. Hennepin County.

Where there is no written contract between the parties that would establish the existence of a joint venture, appellant's claim is insufficient to support a notice of lis pendens.

Affirmed. Sedgwick, J.

C2-83-1701 Blocher Outdoor Advertising Company, Inc., Appellant, v. Minnesota Department of Transportation. Ramsey County.

14 MCAR § 1.5037 E.10., a rule defining unzoned commercial or industrial activity, is a valid and binding rule promulgated pursuant to statutory authority, reasonable, and within the rulemaking power granted to the Commissioner of Transportation.

The Commissioner's conclusion that Randy's Salvage Service operation is not an "unzoned commercial or industrial activity" is supported by substantial evidence in view of the entire record.

Affirmed. Lansing, J.

C6-83-1880 Darlene Hollar, Relator, v. Richard Manufacturing Company, and Commissioner of Economic Security. Department of Economic Security.

Evidence that employee refused to be available for overtime hour as required by employer and left the plant after confrontation over issue with officer of employer reasonably supported Commissioner's finding that employee voluntarily quit.

Affirmed. Forsberg, J.

Decisions of the Supreme Court Filed Friday, April 20, 1984

Compiled by Wayne O. Tschimperle, Clerk

C9-83-349 Johnny Robertson v. Special School District No. 1, Appellant. Hennepin County.

A public employer is entitled to offset the amount of unemployment compensation benefits received by a discharged employee against the amount of backpay to which the employee, by virtue of his veteran status, is entitled. Public policy favors the offset to prevent a double recovery by the discharged employee.

Reversed in part and affirmed in part. Amdahl, C.J.

C0-83-935 Amcon Corporation and O-J Sporting Goods Company, Appellants, v. City of Eagan, defendant and third-party plaintiff. Dakota County.

Landowner's application for rezoning from agricultural did not specify categories being requested. But Eagan City Council had notice plaintiffs wished an underlying roadside business designation in addition to the planned development zoning granted. City council clearly evidenced its refusal to grant both designations. Therefore, issue was properly before the district court.

District court's holding that underlying rezoning was not required by the city ordinance effectively determined appellants' right to acquire both designations. Issue was thus properly before this court on appeal.

Where planned development ordinance was ambiguous as to whether underlying rezoning was required and city's comprehensive plan indicated roadside business zoning for plaintiffs' property and city advanced no reasons for denying underlying reclassification, such denial was arbitrary and capricious.

Reversed and remanded. Amdahl, C.J.

C1-83-118 Dennis L. Sharp, et al., v. Charles M. Laubersheimer, et al., Appellants. Hennepin County.

The trial court erred when it awarded plaintiffs compensation for services rendered in contradiction to the express partnership and joint venture agreements, the Minnesota Uniform Partnership Act, and Minnesota case law. Minn. Stat. § 323.17 (1982); *Breza v. Thaldorf*, 276 Minn. 180, 149 N.W.2d 276 (1967).

Affirmed in part and reversed in part and remanded with directions.

Peterson, J.

C4-82-1396 Ward Hauenstein, Appellant, v. The Loctite Corporation, and S.H. Ansell Company, Defendant and Third-Party Plaintiff, v. Michael P. Redmond and Charles K. Sumner, etc., Third-Party Defendants. Hennepin County.

A manufacturer's duty to warn in strict liability cases extends to all reasonably foreseeable users. Where a plaintiff seeks damages for both negligence and strict liability based solely on failure to warn, the plaintiff must submit the case to the jury on only one theory.

The jury's decision on causation is dispositive of both the strict liability and the negligence claims.

Affirmed. Peterson, J.

Dissenting, Yetka, J. & Todd, J.

Took no part, Coyne, J.

C4-83-825 In Re the Marriage of: Ann Moberg, petitioner, Appellant, v. Allen W. Moberg. Hennepin County.

Untimely service of order to show cause on contempt motions was improper basis for vacating judgment when those motions were not part of the judgment.

Family court could not review and vacate referee's judgment when respondent failed to move for amended findings, appeal, or otherwise object to the judgment and when there were no grounds for re-opening judgment.

SUPREME COURT

Respondent waived his right to object to lack of testimony supporting referee's award by failing to move for amended findings. to file an appeal, or to otherwise object until appellant's enforcement action 1 year later.

Reversed and remanded. Yetka, J.

C7-83-737, C3-83-850 Daniel C. Leslin, Relator, v. County of Hennepin and Commissioner of Economic Security, and Audley B. Dembley, Relator, v. University of Minnesota and Commissioner of Economic Security. Department of Economic Security.

Under Minn. Stat. § 268.09, subd. 1(2) (b) (1982), and employee suffering from a chemical dependency problem need not maintain total abstinence from chemicals or achieve total success in treatment to make reasonable efforts to retain his employment. However, to qualify for unemployment compensation benefits under that section, such an individual must "make consistent efforts to maintain the treatment he knows or has been professionally advised is necessary to control that illness."

The Commissioner of the Department of Economic Security was justified in concluding that both of these employees failed to make consistent efforts to maintain the necessary treatment.

Affirmed. Scott, J.

C4-82-1298 State of Minnesota v. William D. Jones, Appellant. Cass County.

The evidence was sufficient to prove beyond a reasonable doubt that the defendant aided in the commission of the homicide, that the homicide was not committed in the heat of passion and that the homicide was premeditated.

Where the trial court gave clear instructions on all the crimes charged and included an instruction on unconsidered or rash impulse and there was no objection or request for a specific instruction on heat of passion, the lack of such instruction was not error.

The trial court did not commit reversible error by allowing the use of defendant's prior conviction for impeachment purposes.

The trial court did not abuse its discretion by refusing to sequester the accomplice during the corroboration testimony where the request to sequester was not made until 11 of the 14 prosecution witnesses had testified and much of the corroboration testimony was already in evidence.

Affirmed. Wahl, J.

TAX COURT

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

State of Minnesota Tax Court

Lee A. Jackson, Appellant, v. the Commissioner of Revenue, Appellee, Docket No. 3974

Findings of Fact, Syllabus, Conclusions of Law, and Order for Judgement

This is an appeal from an order of the Commissioner dated June 22, 1983 assessing additional income tax against the Appellant for 1982. Additionally, the Appellant seeks a refund of income tax withheld from his wages in 1982 and remitted by his employer to the Commissioner. The matter came on for hearing at St. Paul before Judge Earl B. Gustafson on March 13, 1984 for pre-trial and on the Commissioner's motion for summary affirmance and on various motions filed by the Appellant.

Lee A. Jackson, appeared Pro Se for Appellant. Neil F. Scott, Special Assistant, Attorney General, appeared for the Appellee.

SYLLABUS

The issue in this case is whether the wages and other income earned by the Appellant in 1982 is subject to Minnesota income tax.

FINDINGS OF FACT

1. On or about April 15, 1983 the Appellant filed a 1982 state income tax return form with an attached wage and tax statement (form W-2) and federal tax return form.

2. The Appellant failed to sign the return and wrote on the return "not a tax return—see attached letter". The attached letter states three reasons why the Appellant feels his income is not subject to taxation. The Appellant's reasoning will be discussed in the Court's Memorandum.

3. On May 20, 1983 the Department of Revenue demanded the Appellant file a full and complete 1982 state income tax return.

4. The Appellant did not comply with the Department of Revenue's request.

5. On June 22, 1983 the Department of Revenue, under Minn. Stat. § 290.47 filed a 1982 income tax return on the Appellant's behalf and sent the Appellant notice of additional tax due.

6. The Department of Revenue determined the Appellant's 1982 income by adding the income shown on the Form W-2 submitted by the Appellant together with additional income in an amount equal to additional income reported by the Appellant on his 1981 income tax return. Deductions were allowed for federal tax liability and standard deduction. Credit was allowed for income tax withheld by Appellant's employer, Richfield Public Schools, and a personal credit. Late payment and a 5% negligence penalty were added.

7. The Appellant appealed to this court for a redetermination of tax due and a refund of the income tax withheld from his wages by his employer, Richfield Public Schools.

8. The Commissioner moved for summary affirmance. The Appellant filed an affidavit and argued in opposition to the motion. The Appellant has not disputed the calculation of the tax by the Commissioner but disputes the right of the State to impose a tax on him.

CONCLUSIONS OF LAW

1. The wages paid to the Appellant by Richfield Public Schools and his income from other sources is includable in the Appellant's Minnesota gross income under Minn. Stat. 290.01, subd. 20.

2. The Appellant has failed to present any facts establishing the incorrectness of the tax return prepared by the Commissioner of Revenue under Minn. Stat. 290.47.

3. The Commissioner's order dated June 22, 1983 assessing additional tax is summarily affirmed.

4. The Appellant's claim for refund of tax withheld by his employer is summarily denied.

5. The various motions filed by the Appellant are moot and therefore, not ruled upon.

LET JUDGMENT BE ENTERED ACCORDINGLY.

April 19, 1984

By the Court,
Earl B. Gustafson, Judge

State of Minnesota Tax Court

Lee A. Jackson, Appellant, v. The Commissioner of Revenue, Appellee, Docket No. 3976

Findings of Fact, Conclusions of Law and Order for Judgement

This is an appeal from an order of the Commissioner dated June 23, 1983 changing withholding amounts claimed by the Appellant. The matter came on for hearing at St. Paul before Judge Earl B. Gustafson on March 13, 1984 for pre-trial, on the Commissioner's motion for summary affirmance and various motions by the Appellant.

Lee A. Jackson, appeared Pro Se for Appellant. Neil F. Scott, Special Assistant Attorney General, appeared for the Appellee.

FINDINGS OF FACT

1. The Appellant is a school teacher for Richfield Public School Systems, employed pursuant to contract on a 40-hour week basis.

2. In 1982 the Appellant earned in excess of \$30,000 from his employment. He earned a similar amount in 1983.

3. On March 15, 1983 the Appellant filed an Employee's Withholding Allowance Certificate (form W-4) with Richfield Public Schools stating that he had no tax liability for 1982 and did not expect one for 1983 and that is exempt from withholding tax.

4. On June 27, 1983 the Department of Revenue advised Richfield Public Schools and the Appellant that the Appellant's claimed "exempt status" was being disallowed and that he should be treated as single with one dependent until a corrected form W-4 was filed.

TAX COURT

5. The Appellant appealed the disallowance to this court.
6. The findings of the court in the companion file *Lee A. Jackson v. Commissioner of Revenue*, Tax Court Dkt. 3974 are incorporated into these findings of fact by reference.

CONCLUSIONS OF LAW

1. The Appellant has failed to establish that he is exempt from withholding tax under Minn. Stat. 290.92, subd. 19.
2. The order by the Commissioner dated June 23, 1983 is summarily affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY.

April 19, 1984

By the Court,
Earl B. Gustafson, Judge

State of Minnesota Tax Court County of Hennepin, Fourth Judicial District

**Northwest Airlines, Inc., Petitioner, v. State of Minnesota and County of Hennepin,
Respondents, Court File Nos. 735980, 0075, 0349, 0690, 1107 and 1824**

Findings of Fact, Conclusions of Law and Order for Judgment

The above-entitled matters, Chapter 278 tax petitions objecting to real estate taxes payable in 1978-1982, came on for hearing on the issue of valuation before Judge Earl B. Gustafson commencing December 16, 1982, and concluded January 27, 1983, with a viewing of the property. A separate hearing on the issue of unequal treatment for taxes payable 1981 and 1982 was commenced June 2, 1983, and concluded June 9, 1983. Post-trial briefs were ordered and the case was submitted to the Court for decision on January 23, 1984.

Ralph W. Peterson, Mark T. Solstad and Thomas F. Hutchinson of Eastlund, Peterson & Solstad, Ltd. appeared on behalf of Petitioner.

Robert R. Distad, Assistant County Attorney, appeared on behalf of Respondent.

The Court, after hearing the evidence adduced and being fully advised, finds the following:

FINDINGS OF FACT

1. Petitioner contests real estate taxes payable in 1978, 1979, 1980, 1981 and 1982 on property located at the Minneapolis-St. Paul International Airport in Hennepin County known as Parcel 8000.

2. Parcel 8000 is the Northwest Airlines, Inc. main base consisting of 89.67 acres with Petitioner's corporate headquarters, overhaul base and hangars. The original improvement, built in 1961, included the office building, test cell, Hangars 1-5, shops and stores, engine buildings, concrete apron and parking. In 1972 two larger hangars, 6 and 7, new shops, pumps and reservoir, boilers, test cells and guardhouses were added.

3. Petitioner leases the property from the Metropolitan Airports Commission and is obligated to pay all real estate taxes.

4. The taxes at issue are based on estimated market values determined by the Commissioner of Revenue as follows:

January 2, 1977	\$42,200,000
January 2, 1978	42,200,000
January 2, 1979	45,800,000
January 2, 1980	45,800,000
January 2, 1981	44,725,000

5. Petitioner claims that the estimated market values placed on its property by the Commissioner of Revenue exceeds its actual market value and, in addition, claims that its property is unfairly and unequally assessed.

6. The Court finds the actual market values of the subject property to be as follows:

January 2, 1977	\$40,480,000
January 2, 1978	40,663,000
January 2, 1979	43,780,000
January 2, 1980	43,616,000
January 2, 1981	43,721,000

7. The Court also finds that commercial property in Hennepin County during 1980 and 1981 was systematically valued at approximately 85% of market value and that this ratio should be applied to the above 1980 and 1981 market values.

8. The final equalized values for tax purposes are as follows:

January 2, 1977	\$40,480.000
January 2, 1978	40,663.000
January 2, 1979	43,780.000
January 2, 1980	37,073.600
January 2, 1981	37,162.850

9. The attached Memorandum is made a part of these Findings of Fact and Conclusions of Law.

CONCLUSIONS OF LAW

1. The correct assessor's estimated market values (EMV) for the subject property (Parcel 8000) are as follows:

January 2, 1977	\$40,480.000
January 2, 1978	40,663.000
January 2, 1979	43,780.000
January 2, 1980	37,073.600
January 2, 1981	37,162.850

2. Real estate taxes due and payable in 1978, 1979, 1980, 1981 and 1982 should be recomputed accordingly and refunds, if any, paid to Petitioner as required by such computations, together with interest from the date of original payment.

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

April 20, 1984.

By the Court,
Earl B. Gustafson, Judge

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