

STATE OF MINNESOTA
COUNTY OF RAMSEY

ETHICAL PRACTICES BOARD

In the matter of Proposed Rules governing Campaign Financing (Minnesota Rules parts 4500.0100-4500.4400); Economic Interest Disclosure (Minnesota Rules parts 4505.0100-4505.1000); Lobbyist Registration and Reporting (Minnesota Rules parts 4510.0100-4510.1400); Conflicts of Interest (Minnesota Rules parts 4515.0100-4515.0800); and Hearings (Minnesota Rules parts 4525.0100-4525.1000)

STATEMENT OF NEED
AND REASONABLENESS

The Ethics in Government Act, Minn. Stat. S 10A.02, subd.13, enacted in 1974, authorized the Ethical Practices Board to promulgate rules to carry out the purposes of the Act. Rules have been adopted governing Campaign Financing (Minnesota Rules parts 4500.0100-4500.4400) - adopted 1974; amended 1976, 1978, 1979, 1982, 1985; Economic Interest Disclosure (Minnesota Rules parts 4505.0100-4505.1000) - adopted 1974; amended 1976, 1978, 1979, 1982, 1985, 1986; Lobbyist Registration and Reporting (Minnesota Rules parts 4510.0100-4510.1400) - adopted 1974; amended 1979, 1982, 1985, 1986; Conflicts of Interest (Minnesota Rules parts 4515.0100-4515.0800) - adopted 1975; amended 1982, 1985, 1986; Representation Disclosure (Minnesota Rules parts 4520.0100-4520.0800) - adopted 1975; amended 1982, 1985, 1986; and Hearings (Minnesota Rules parts 4525.0100-4525.1000) - adopted 1976; amended 1982, 1986.

The need to amend these rules arises in order to implement registration and reporting requirements of Minn. Stat. ch. 10A enacted in Laws of 1987 Chapter 214; Laws of 1987 Chapter 268; Laws of 1st Special Session 1986 Chapter 3; Laws of 1985 Chapter 40; Laws of 1976 Chapter 307; enable the Board to provide direction to individuals and associations required to register and file statements and reports with the Board; guide the Board in providing forms and monitoring compliance; provide the public with information regarding the data collected by Minn. Stat. SS 10A.01-10A.34; and remove obsolete provisions and language from existing rules.

The following material describes the need for and reasonableness of each rule proposed. To assist members of the public who are not trained in the law or in political activities and who are involved in endeavors regulated and administered by Minn. Stat. ch. 10A, rules which consolidate and interpret statutory language are crucial to the understanding of the rules.

Minnesota Rules chapter 4500: CAMPAIGN FINANCING

4500.1200 CHANGE OF OFFICE SOUGHT BY CANDIDATE

Subpart 3. Public financing agreement. The rule is needed to remove reference to tax credit agreement because state income tax credits for contributions to candidates were repealed in Laws of Minnesota 1987, chapter 268, article I, section 127.

4500.1500 JUDICIAL CANDIDATE. This rule is needed to change the dollar amounts and method of notice as amended at Minnesota Statutes 1986, section 10A.20, subdivisions 3 and 5, in Laws of Minnesota 1987, Chapter 214, and Laws of Minnesota 1985, Chapter 40, respectively.

4500.2500 JOINT LIMITS FOR GOVERNOR AND LIEUTENANT GOVERNOR.

Subpart 1. Public financing agreement. This rule is needed to remove reference to tax credit agreement because state income tax credits for contributions to candidates were repealed in Laws of Minnesota 1987, chapter 268, article I, section 127.

Minnesota Rules chapter 4505: ECONOMIC INTEREST DISCLOSURE

4505.0300 LATE FILING FEES. This rule is needed to remove existing language that conflicts with Minn. Stat. S 10A.09, subd. 7. State law provides that a late filing fee begins to accrue on the eighth day after receipt of the certified notice. The existing rule appears to contradict statutory provisions by shortening the time between when an undelivered notice is deemed "received", for purposes of calculating the late filing fee as provided in Minn. Stat. S 10A.09, subd. 7., and the time when the late filing fee begins to accrue.

Minnesota Rules chapter 4510: LOBBYIST REGISTRATION AND REPORTING

4510.1200 LATE FILING FEES. This rule is needed to remove existing language that repeats a provision of Minn. Stat. S 10A.04, subd. 5, and the content of the first sentence of this rule. The new language proposed clarifies when an undelivered notice of late filing is deemed "received", for purposes of calculating the late filing fee as provided in Minn. Stat. S 10A.04, subd. 5. The proposed amendment provides uniform reference to the administration of late filing notices which is consistent with late filing provisions in other chapters of Board rules, for example: Minn. Rules, parts 4500.2600 and 4505.0300.

Minnesota Rules chapter 4515: CONFLICTS OF INTEREST

4515.0300 APPLICABILITY OF THE CONFLICTS OF INTEREST PROVISIONS. This rule is needed to remove from the existing rule the phrase "business with which he is associated" which was removed from Minn. Stat. SS 10A.01, subd. 4, and 10A.07, subd. 1, in Laws of Minnesota, 1st Special Session 1986, chapter 3, article 1, section 2. The proposed new language, "associated business", is the same language that was added to Minn. Stat. SS 10A.01, subd. 4 and 10A.07, subd. 1, in the 1987 law cited above. The proposed change will clarify that the conflicts of interest provisions may apply to a public official's "associated business".

Minnesota Rules chapter 4525: HEARINGS

4525.0200 COMPLAINTS OF VIOLATIONS.

Subpart 6. Hearings. This rule is needed to clarify and ensure that a contested case hearing be held when required. The proposed rule is consistent with requirements of the state Administrative Procedures Act, Minn. Stat. Ch. 14, regarding contested cases.

4525.0500 INVESTIGATIONS AND AUDITS.

Subpart 3. Contested case hearing. This rule is needed to clarify and ensure that a contested case hearing be held when required. The proposed rule is consistent with requirements of the state Administrative Procedures Act, Minn. Stat. Ch. 14, regarding contested cases.

REPEALER

4500.0500 ALLOCATION OF MONEY FROM GENERAL ACCOUNT REFUSED BY A CANDIDATE.

This rule is repealed because it repeats statutory language in Sec. 10A.31.

4500.1800 EMPLOYEE VOLUNTARY CONTRIBUTION PLAN. This rule is repealed because the authority for the rule was repealed in Laws of 1976, chapter 307, section 8.

4500.4100 TAX CREDIT AGREEMENT. This rule is repealed because state income tax credits for contributions to candidates were repealed in Laws of 1987, chapter 268, article I, section 127.

4500.4200 TAX CREDIT AGREEMENT AND PUBLIC FINANCING AGREEMENT. This rule is repealed because state income tax credits for contributions to candidates were repealed in Laws of 1987, chapter 268, article I, section 127.

4500.4300 SPECIAL ELECTIONS.

Subpart 3. Official tax credit receipts prohibited. This rule is repealed because state income tax credits for contributions to candidates were repealed in Laws of Minnesota 1987, chapter 268, article I, section 127.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

When an agency amends an existing rule which may affect small businesses, Minn. Stat. § 14.115 requires that the agency consider certain methods for reducing the impact of the rule and to provide certain notices to small businesses.

After considering the methods for reducing the impact of the proposed rules as set forth in Minn. Stat. § 14.115, it appears that except for the repeal of part 4500.1800, the proposed amendments do not directly impact or affect small businesses. Since corporations who complied with the

provisions of part 4500.1800 were not required to register with or report to the Ethical Practices Board, repeal of this rule does not directly impact or affect small businesses. Each of the other amendments proposed regulates, by definition, individuals. Specifically, for part 4500.1200, subpt. 3, individuals file public financing agreements. The amendments in chapters 4505 and 4515, which cover economic interest disclosure and conflicts of interest disclosure, govern candidates or public officials only (SS 10A.01, subd. 18; 10A.07; and 10A.09). The amendments in chapter 4510, affect lobbyists (SS 10A.03; 10A.04), who can be only individuals (S 10A.01, subd. 11). The amendments in Chapter 4525, which cover hearings, govern individuals' actions.

However, these individuals' acts in complying with these regulations may affect small businesses, thus small business may be indirectly impacted by the regulations. To this end, the Board considered all of the methods for reducing the impact of the amendments on small businesses listed in Minn. Stat. S 14.115, subd. 2.

The proposed rules do not require businesses to make reports, so the requirements for reporting defined in items (a), (b), and (c) are not applicable. Compliance requirements of items (a), (b), and (c) and performance standards establishment requirements of item (d) are not applicable because the proposed rules do not require compliance by or set standards for businesses. Since the proposed rules do not require reporting, compliance, or standards for businesses, the method described at item (e) is not applicable.

However, none of the proposed amendments establish more stringent deadlines or regulations. In any case, the Board's position is that amending the rule to reduce the impact on small businesses would be contrary to the statutory objectives of Chapter 10A to promote public confidence in state government decision-making through development and administration of disclosure to ensure public access to information filed with the Board.

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