

STATE OF MINNESOTA
BOARD OF ASSESSORS

**In the Matter of the
Proposed Repeal of Existing
Rules and the Adoption of a
New Rule Governing the
Licensure, Education and
Conduct of Assessors**

**Statement of Need
and Reasonableness**

The above-captioned matter is being proposed in order to update the rules of the Board of Assessors. The Board proposes to repeal the existing rules. These rules, captioned as M.R. 1950.0100-1950.0200, are very incomplete and do not address the central issues which the Board believes are of importance to assessors. The existing rules were promulgated in 1983 and contain only two paragraphs which address the issues of license fees and license period. Rather than add to this very small rule, the Board believes it best to repeal this rule in its entirety and promulgate all new rules which meet contemporary rule-making standards and address many important issues concerning assessors within Minnesota. To accomplish this end, the Board has written and proposes to adopt without a public hearing a comprehensive rule governing the licensure, education, and conduct of Minnesota assessors.

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need, and reasonableness of the proposed new rule. It is prepared and submitted pursuant to Minnesota Statutes 14.23 and Minnesota Rule 2010.0700 which require a Statement of Need and Reasonableness for all proposed rules.

A Notice of Intent to Solicit Outside Information or Opinion in the preparation of these proposed rules was published in the State Register on May 9, 1988 (12 S.R. 2426). Written comments were received from a number of assessors and assessor organizations and were considered by the Board in the preparation of these rules. Additionally, numerous discussions were held with various assessors, both in person and by telephone. The various suggestions and comments made during these discussions were duly considered by the Board in the preparation of these proposed rules. Copies of the rules promulgated by other boards and licensing agencies were also made available to the Board of Assessors and were studied for form and content to aid in the preparation of these new rules. Copies of all written comments and suggestions received by the Board will be submitted to the Attorney General for his review prior to the final adoption of the proposed rules.

Statutory Authority to Adopt Rules

M.S. 270.40 through 270.51 establish the Board of Assessors and describe its composition, duties, power, and responsibilities. A portion of this legislation, specifically M.S. 270.47, states that, "*The board shall establish the rules necessary to accomplish the purpose of section 270.41, and shall establish criteria required of assessing officials in the state.*" Additionally, the 1988 legislature in Chapter 719, Article 7, Section 2 enacted the following amendment to M.S. 270.41, "*The board of assessors may adopt rules under chapter 14 defining or interpreting grounds for refusing to grant or renew, and for suspending or revoking a license under this section.*" The promulgation of the proposed

rules governing the licensure, education, and conduct of assessors is encompassed within the statutory authority listed above.

Need and Reasonableness of Proposed Rules

The rules as proposed by the Board are divided into three major parts or sections. These major sections deal with the licensure, education, and conduct of Minnesota assessors. The need for a rule concerning each of these topics and the reasonableness of the proposed rules will be addressed in the subsequent paragraphs.

The need for proposed rule 1950.1020, licensure of assessors, is prescribed in statute. M.S. 270.47 states that, "*Separate criteria may be established [for licensing] depending on the responsibilities of the assessor.*" M.S. 270.48 states:

"The board shall license persons as possessing the necessary qualifications of an assessing official. Different levels of licensure may be established as to classes of property which assessors may be certified to assess at the discretion of the board. Every person, except a local or county assessor, regularly employed by the assessor to assist in making decisions regarding valuing and classifying property for assessment purposes shall be required to become licensed within three years of the date of employment or June 1, 1975, whichever is later. Licensure shall be required for local and county assessors as otherwise provided in sections 270.41 to 270.53."

Thus, it is apparent that the intent of the legislature in enacting this legislation was to establish a system of levels within the assessment profession, with the higher levels of licensure being required for the more difficult assessment jurisdictions. The statutes do not, however, specify the level of licensure or how the various levels are to be obtained. The proposed rule designated as 1950.1020 is needed to amplify and define the original intent of the legislature by specifying the various levels of licensure needed for each assessment district and by describing in detail the requirements necessary to obtain the various licensure levels.

The Board believes the proposed rule 1950.1020 to be reasonable because it establishes a hierarchy of licensure with the least demanding level used for the least problematical assessing jurisdiction and the highest or most demanding level used for the most difficult assessment jurisdiction. The lowest level, Certified Minnesota Assessor, requires only three basic educational courses and is the entry level license needed for basic competency in assessment. The Board believes that all persons involved in assessment decisions must have at least a basic understanding of assessment laws, history, procedures, and appraisal practices in order to perform these duties in a competent manner.

The highest level of licensure, Senior Accredited Minnesota Assessor, is also the one requiring the most education and experience. It is the level of licensure mandated by the legislature in M.S. 270.485 for all county assessors. Since the position of county assessor is the chief assessment position within the county and is responsible for the entire assessment within the county, it is reasonable to assume that the person holding this position should be a knowledgeable, professional assessor. The requirements specified for Senior Accredited are designed to ensure that a certain level of professionalism has been obtained by persons holding this designation and that this level of professionalism and knowledge will enable them to cope with difficult assessment problems.

Between this entry level of license and the highest designation, the Board saw a need to establish some intermediate levels of licensure, namely the Certified Minnesota Assessor Specialist and the Accredited Minnesota Assessor. The Board saw this policy as reasonable

because of the fact that assessment jurisdictions vary in complexity and difficulty, and it is not prudent to assume that only two levels of license would cover this broad spectrum. The Specialist level requires more education and experience than the entry level and is designed to equip assessors to handle the assessment problems of larger townships and small cities. The Accredited level requires still more education and experience and is designed for those assessors responsible for the assessment of larger cities. It also serves as a progressive step to the Senior Accredited designation and is an intermediate training step for future county assessors.

By the proposal of this rule, the Board has established a logical progression of licensure, each higher level requiring more education and experience than the previous level. The Board believes that this scheme is both needed to implement the wishes and intent of the legislature and reasonable in that each level of licensure is intended to equip the assessor for increasingly complex assessment problems, thus insuring taxpayers of a fair, competent, professional assessment of their property.

Proposed rule 1950.1070 concerns the fees that assessors must pay. M.S. 270.44 states that, *"The board may establish reasonable fees or charges for course examination or materials the proceeds of which shall be used to finance the activities and operation of the board."* Thus, the board is empowered to set fees. The question then becomes whether or not the proposed fees listed in part 1950.1070 are reasonable. M.S. 214.06 states:

"Subdivision 1. Notwithstanding any law to the contrary, the commissioner of health as authorized by section 214.13, all health-related licensing boards and all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which the commissioner of health or the board is empowered to assess a sufficient amount so that the total fees collected by each board will as closely as possible equal anticipated expenditures during the fiscal biennium, as provided in section 16A.123."

The proposed fees have been submitted to the commissioner of finance for his review as required by M.S. 16A.128, which states:

"Subd. 1a. Approval. Fees for accounts for which appropriations are made may not be established or adjusted without the approval of the commissioner. If the fee or fee adjustment is required by law to be fixed by rule, the commissioner's approval must be in the statement of need and reasonableness. These fees must be reviewed each fiscal year. Unless the commissioner determines that the fee must be lower, fees must be set or fee adjustments must be made so the total fees nearly equal the sum of the appropriation for the accounts plus the agency's general support costs, statewide indirect costs, and attorney general costs attributable to the fee function."

The commissioner of finance, after reviewing the proposed fees, has approved them as reasonable and proper in keeping with the provisions of M.S. 16A.128 and M.S. 214.06, which provide that the fees must be set at a level which makes the board self sufficient. The proposed fees meet that requirement.

The fees are structured in such a way as to provide a lower cost for the lower level of licensure and a higher cost for the more advanced levels. The board believes this to be a reasonable proposal since the more advanced license holders are generally involved in the assessment profession at a higher pay scale than those assessors holding the lower level of license. Thus, they are more able to pay the more costly license fee.

The need for proposed rule 1950.1080 dealing with continuing education of assessors, while not specifically mandated by statute, is referred to in M.S. 270.46 which states:

"The board shall establish training courses on assessment practices and shall review and approve courses on assessment practices offered by schools, colleges and universities as well as courses that are offered by any units of government on techniques of assessment. Courses shall be established in various places throughout the state and be offered on regular intervals."

The Board has interpreted this language to mean that, in addition to basic or core education required for licensure, assessors must also keep their assessment knowledge current through continuing education. Thus the need for this rule.

The field of assessment, like many other professions, is not static but dynamic. Other professional boards have recognized this fact and have required continuing education of their members; the Board of Assessors is merely following the lead of these other licensing bodies in requiring its members to keep abreast of current developments and trends through continuing education.

The Board believes proposed rule 1950.1080 to be reasonable because it provides for a two-tiered requirement for continuing education corresponding with the level of licensure described in proposed rule 1950.1020. The two lower levels of licensure, Certified and Certified Specialist, need only accumulate four CEU's during a four-year period while the two higher levels of license, Accredited and Senior Accredited, must obtain 5 CEU's during the same four-year period. The rationale being that because of the larger body of knowledge necessary to obtain the higher designation, more continuing education is needed to keep this knowledge current and useful. In addition, the proposed rule is reasonable because the Board has provided for a broad spectrum of training which can be used to earn CEU's. Assessors are not limited to only one or two continuing education courses each year but are encouraged to earn CEU's by attending seminars, professional conferences, management seminars as well as involvement in teaching and other professional assessment activities.

The final part of the proposed rule, part 1950.1090, dealing with the conduct and discipline of assessors is needed because of the action of the 1988 legislature. In Chapter 719, Article 7, Section 2 of the Laws of 1988, the legislature said, *"The board of assessors may adopt rules under chapter 14, defining or interpreting grounds for refusing to grant or renew, and for suspending or revoking a license under this section."* Clearly, part 1950.1090 is needed to comply with the wishes of the legislature that rules be promulgated dealing with the conduct and discipline of assessors.

The Board believes the rule proposed as 1950.1090 is reasonable because it prescribes penalties and sanctions against an assessor only for specific items. It does not give the Board wide, discretionary power to discipline an assessor, but limits and describes only a designated number of items for which an assessor may lose his license. The rule follows the lead of the legislature in that it prescribes different levels of discipline against an assessor--namely, refusal to grant, suspension, and revocation of a license--with each higher level of discipline imposed for a specified level of offense with the more serious offenses rating the higher levels of sanction.

The offenses listed in the rule are almost all objective with a clear-cut decision as to whether or not an assessor is guilty of a breach of conduct. For example, either an assessor has paid his income taxes or he has not; no subjectivity on the part of the Board is required. The more serious offenses--inefficiency of office, neglect of statutory duties,

and unprofessional conduct--are all caused by violation of Minnesota Statutes, and these offenses are not only not in keeping with the proposed rules but are also against state law.

In summary, the Board proposes these rules governing the licensure, education, and conduct of assessors for two reasons. First, to comply with the provisions of the law and the intent of the legislature. Second, and more importantly, to insure that the taxpayers of Minnesota are served by capable assessors with integrity and professionalism.

