

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); Representation
Disclosure (Minnesota Rules parts 4520.0100-
4520.0800); 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); Economic Interest Disclosure (Minnesota
Rules parts 4505.0100-4505.1000) - adopted 1974; amended 1976, 1978, 1979,
1982, 1985; Lobbyist Registration and Reporting (Minnesota Rules parts
4510.0100-4510.1400) - adopted 1974; amended 1979, 1982, 1985; Conflicts
of Interest (Minnesota Rules parts 4515.0100-4515.0800) - adopted 1975;
amended 1982, 1985; Representation Disclosure (Minnesota Rules parts
4520.0100-4520.0800) - adopted 1975; amended 1982, 1985; and Hearings
(Minnesota Rules parts 4525.0100-4525.1000) - adopted 1976; amended 1982.

The need to amend these rules arises in order to implement registration
and reporting requirements of Minn. Stat. ch. 10A enacted in Laws of 1st
Special Session 1986 Chapter 3; 2nd District Court order, July, 1982;
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

4500.0100 DEFINITIONS

Subpart 1b. Address. This rule is needed to ensure that statutory mailings under Sec. 10A.02, subd. 8 (b) are sent properly; provide access to correct information, as required by law; and assist in enforcement matters.

4500.1600 CONTRIBUTIONS FROM ASSOCIATIONS. The present rule is inconsistent with Sec. 10A.22, subd. 7, which provides the option of furnishing a report to a recipient committee or fund, along with the contribution. The proposed rule does not restrict the option to non-Minnesota and domiciled, federally registered committees or funds. Clarifies current Board procedures regarding Hennepin County-registered committees or funds. Proposed subpart 2, however, limits most Minnesota-domiciled associations' excessive use of the option, which use could be deemed contrary to the registration requirements imposed by Sec. 10A.14.

4500.3900 RESPONSIBILITIES OF TREASURERS. This rule is needed to clarify the procedures to be followed when there is a change in treasurers and to ensure timely accurate information for purposes of Board notification under Sec. 10A.02, subd. 8 (b) and access to required information; makes reference to the time period in which changed information must be submitted in writing under Sec. 10A.23.

4500.4100 TAX CREDIT AGREEMENT. This rule is needed to clarify that the agreement must be filed within the time required; "file" is defined at part 4500.0100, subp. 4.

4500.4200 TAX CREDIT AGREEMENT AND PUBLIC FINANCING AGREEMENT. This rule is needed to clarify that each agreement must be filed within the time required; "file" is defined at part 4500.0100, subp. 4.

4500.4400 TERMINATION OF REGISTRATION. This rule is needed to clarify procedures which treasurers and candidates must follow when applying the provisions of Laws of 1st Special Session 1986 Chapter 3; incorporates the Board's response to a candidate's inquiry about transfer of debts, October, 1985.

Minnesota Rules chapter 4505: ECONOMIC INTEREST DISCLOSURE

4505.0100 DEFINITIONS.

Subpart 1b. Address. This rule is needed to ensure that statutory mailings under Sec.10A.02, subd. 8(b) are sent properly; provide access to correct information, as required by law; and assist in enforcement matters.

4505.0300 LATE FILING FEES. The proposed amendment provides uniform reference to the administration of late filing notices which is consistent with late filing fee provisions in other chapters of Board rules.

Minnesota Rules chapter 4510: LOBBYIST REGISTRATION AND REPORTING

4510.0100 DEFINITIONS.

Subpart 2. Address. This rule is needed to ensure that statutory mailings under Sec. 10A.02, subd. 8(b) are sent properly; provide access to correct information, as required by law; and assist in law enforcement.

4510.1000 LOBBYIST DISBURSEMENTS FOR ADMINISTRATIVE ACTIONS. This rule is needed to clarify that reporting of actual disbursements incurred for administrative lobbying is required, not optional, as current rule may appear to infer.

Minnesota Rules chapter 4515: CONFLICTS OF INTEREST

4515.0100 DEFINITIONS.

Subpart 2. Address. The proposed amendment to this rule provides uniform reference consistent with other proposed rules to ensure that statutory mailings under Sec. 10A.08, subd. 8(b) are sent properly; provides access to correct information, as required by law; and assist in enforcement matters.

Minnesota Rules chapter 4520: REPRESENTATION DISCLOSURE

4520.0100 DEFINITIONS.

Subpart 2. Address. The proposed amendment to this rule provides uniform reference consistent with other proposed rules to ensure that statutory mailings under Sec. 10A.08, subd. 8(b) are sent properly; provides access to correct information, as required by law; and assist in enforcement matters.

Minnesota Rules chapter 4525: HEARINGS

4525.0100 DEFINITIONS.

Subpart 1b. Address. This rule is needed to ensure that statutory mailings under Sec. 10A.08, subd. 8(b) are sent properly; provides access to correct information, as required by law; and assist in enforcement matters.

4525.0200 COMPLAINTS OF VIOLATIONS. This rule is needed to establish consistent procedures for complaints of potential violations of Minn. Stat. ch. 10A. Subparts 2, 3, 5, and 6 are presently in effect in parts 4500.1300, 4525.0200, 4525.0300, and 4525.0400. Subpart 4 incorporates Board practice since 1981, on advice of counsel, since testimony on a complaint, investigation, or audit may become part of findings which may be introduced in court, depending upon whether the findings are of probable cause. The proposed rule eliminates obsolete language and unnecessary repetition of statutes in present rules. Subpart 5 incorporates tape recordings along with minutes to clarify confidentiality under Sec. 10A.02, subd. 11.

4525.0500 INVESTIGATIONS AND AUDITS. This rule is needed to establish consistent procedures for investigations and audits of potential violations of Minn. Stat. ch. 10A. Subparts 3, 4, and 5 are presently in effect in parts 4500.1300, 4525.0600, 4525.0700, and 4525.0800. The proposed rule eliminates obsolete language and unnecessary repetition of statutes in present rules.

REPEALER

4500.1300 COMPLAINTS OF VIOLATIONS. This rule is repealed and is proposed with amendments as part 4525.0200 to clarify its application to potential violations of Minn. Stat. ch. 10A.

4500.3100 NONCAMPAIGN DISBURSEMENTS; CONSTITUENT SERVICES.

Subpart 6. Print media report. This rule is repealed because it is inconsistent with Sec. 10A.01, subds. 7 and 10, as noted in a 2nd District Court order, July, 1982.

4525.0300 CONTENTS OF COMPLAINT. This rule is repealed to remove obsolete language and repetition of statutory language in Sec. 10A.02. Substance of the rule is proposed as an amendment to part 4525.0200.

4525.0400 INFORMAL NOTIFICATION OF VIOLATIONS. Substance of the rule is proposed as an amendment to part 4525.0200.

4525.0600 CONTESTED CASE HEARING. Substance of the rule is proposed as an amendment to parts 4525.0200 and 4525.0500.

4525.0700 BOARD ACTION FOLLOWING INVESTIGATION, AUDIT, OR HEARING. This rule is repealed to remove obsolete language. Substance of the rule is proposed as an amendment to part 4525.0500.

4525.0800 CONFIDENTIALITY. This rule is repealed to remove obsolete language and repetition of statutory language in Sec. 10A.02. Substance of the rule is proposed as an amendment to parts 4525.0200 and 4525.0500.

SMALL BUSINESS CONSIDERATIONS IN RULEMAKING

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

It appears that the proposed amendments do not directly impact or affect small businesses, therefore, Minn.Stat. s 14.115 does not apply. Each amendment proposed regulates, by definition, individuals. Specifically, for part 4500.0100, subpt. 1b, individuals file registrations or reports of political committees or political funds. The amendments in chapters 4505, 4515, and 4520, which cover economic interest disclosure, conflicts of interest, and representation disclosure, govern candidates or public officials only (ss 10A.01, subd. 18; 10A.07; 10A.08; and 10A.09). The amendments in chapter 4510, affect lobbyists (s 10A.03), which 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.

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.

Dated: *November 24, 1986*

Mary Ann McCoy
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