

12/11/89

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); and Economic Interest
Disclosure (Minnesota Rules parts 4505.0100
-4505.1000)

STATEMENT OF NEED
AND REASONABLENESS

The Ethics in Government Act, Minn. Stat. §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, 1986, 1988); Economic Interest Disclosure (Minnesota Rules parts 4505.0100-4505.1000) - adopted 1974; amended 1976, 1978, 1979, 1982, 1985, 1986, 1988.

The need to amend these rules arises in order to implement registration and reporting requirements of Minn. Stat. Ch. 10A and to 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. §§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 Ethics in Government Act.

Minnesota Rules chapter 4500: CAMPAIGN FINANCING

4500.0100 DEFINITIONS

Subpart 1b. **Anonymous contribution.** The rule is needed to clarify the application of Sec. 10A.15, subd. 1, and Pt. 4500.0600 to certain money received by a candidate or the treasurer of a committee or fund by defining "anonymous" as not being able to determine the name and address of a donor. The rule assists a committee or fund to comply with Sec. 10A.15, subd. 1, which requires the committee or fund to forward an anonymous contribution to the Board for deposit in the general account of the State Elections Campaign Fund.

Subpart 7b. **Statewide election.** The rule is needed to clarify that the term "statewide election" appearing in Sec. 10A.20, subd. 5, applies to the timely disclosure of a large contribution received just before an election by committees or funds organized to promote or defeat a state constitutional amendment as well as to principal campaign committees established by candidates for statewide executive and judicial offices.

4500.0600 ANONYMOUS CONTRIBUTIONS.

This rule is needed to clarify the application of Sec. 10A.15, subd. 1, to certain money received by a candidate or the treasurer of a committee or fund by defining "anonymous" as not being able to determine the name and address of a donor. The rule assists a committee or fund to comply with Sec. 10A.15, subd. 1, which requires the committee or fund to forward an anonymous contribution to the Board for deposit in the general account of the State Elections Campaign Fund.

4500.1200 CHANGE OF OFFICE SOUGHT BY CANDIDATE.

Subpart 3. **Public financing agreement.** This rule is needed to clarify that a candidate who has established principal campaign committees for more than one office, as provided in Secs. 10A.14 and 10A.19, is entitled to sign a public financing agreement for only the office for which the candidate files an affidavit of candidacy in the election year for the office sought or held, under Sec. 10A.32, subd. 3.

4500.1600 CONTRIBUTIONS FROM ASSOCIATIONS.

Subpart 1a. **Reporting period** This rule is needed to clarify that the disclosure by an unregistered association contributing more than \$100 to a registered political committee or fund cannot be limited to a matter of minutes or hours on the first day of a reporting period. The option provided in this rule is offered to assist an unregistered association that desires to make an occasional contribution to a candidate, political committee, or political fund, as defined in Minn. Stat. Ch. 10A. However, for the purpose of Sec. 10A.22, subd. 7, the proposed rule seeks to provide disclosure required by Sec. 10A.20 that is comparable to disclosure required of registered committees or funds, so that the public is informed about where the money comes from and where the money goes to influence Minnesota state elections.

4500.2500 JOINT LIMITS FOR GOVERNOR AND LIEUTENANT GOVERNOR

Subpart 3. **Registration of joint committee.** This rule is needed to ensure that when a governor candidate's committee joins with the committee established by the lieutenant governor candidate who jointly filed affidavits of candidacy, the joint committee provides a disclosure about the establishment of the candidates' joint committee.

Subpart 4. **Candidate for lieutenant governor.** This rule is needed to clarify the application of disclosure requirements, campaign expenditure and contribution limits imposed by Minn. Stat. Ch. 10A to candidates for governor and lieutenant governor, when the candidate for lieutenant governor named in the joint committee raises or spends more than \$100 to seek endorsement in the next following election year for the office of lieutenant governor.

Minnesota Rules chapter 4505: ECONOMIC INTEREST DISCLOSURE

4505.0100 DEFINITIONS.

Subpart 2. **Compensation; earned income.** This amendment is needed to clarify the rule and to combine in one place the definitions of similar terms. In addition, the amendment is needed to conform with Board interpretation and current practice, since 1977, as noted in Board minutes of August 3, 1977. Payments of social security and insurance benefits, such as workers compensation or unemployment compensation, are not ordinarily considered to be "earned income" or "compensation" and therefore need not be disclosed on the statement of economic interest filed by a candidate or a public official.

Subpart 6. **Accepting employment as a public official.** This rule is needed to clarify the date by which an original statement of economic interest must be filed by an individual appointed or employed in an office for which timely disclosure of the individual's economic interests is required by Sec. 10A.09, subd. 1 (a), (c), or (d).

4505.0600 OCCUPATION AND PRINCIPAL PLACE OF BUSINESS.

This rule is needed to provide guidance to a public official or candidate regarding disclosure of the individual's occupation, for purposes of filing a statement of economic interest. There is no substantive change in the rule as the rule incorporates the substance of Rule 4505.0100, subpart 5, to define "source of compensation" as applied to both "occupation" and "principal place of business" in Secs. 10A.01, subd. 4 and 10A.09, subd. 5 (a), (b).

4504.0800 SECURITIES

Subpart 1. **Securities, defined.** This rule is needed to clarify that United States treasury bills or bonds do not need to be listed as "securities" on a statement of economic interest. Since treasury bills and treasury bonds are virtually identical to treasury notes, and since treasury notes are already exempt from listing, treasury bills and treasury bonds should also be exempt. There is no reason to differentiate among treasury bills, bonds, or notes for purposes of economic interest disclosure under Secs. 10A.01, subd. 4, and 10A.09, subd. 5 (b).

4505.0900 FILING

Subpart 2. **Filing more than one statement in any year.** This rule is needed to clarify two conditions under which a public official may be required to file more than one statement in a calendar year: appointment to another office as a "public official" or filing an affidavit of candidacy for election to a state office.

Subpart 4. **Termination as a public official.** This rule is needed to clarify that an individual who ends service as a public officials within the year between filing an annual supplementary statement and April 15 of the following year must file a termination statement upon leaving the office. This is a third condition under which an individual may be required to file more than one statement in a calendar year.

Subpart 5. **Option.** This rule is needed in order to provide an option to a former public official regarding filing a termination statement of economic interest, so that the individual may may file a supplementary statement on or before April 15 of the year following the end of service as a public official or file a termination statement at the time the service ends.

Subpart 6. **Change of public official position.** This rule is needed to clarify that a public official is required to complete the economic interest disclosure filing for a former office, as well as to complete a separate, original statement for a new office, for which economic interest disclosure is required by Sec. 10A.09.

REPEALER

4505.0100 DEFINITIONS.

Subpart 5. **Source of compensation.** This rule is repealed because the substance of the rule is incorporated in 4505.0600 OCCUPATION AND PRINCIPAL PLACE OF BUSINESS.

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 proposed amendment to part 4500.0100, the proposed amendments do not directly impact or affect small businesses. A corporation establishing a political fund to support or oppose a state constitutional amendment should be aware that the treasurer of the fund must make the additional disclosure required by Minn. Stat. §10A.20, subd. 5, regarding large contributions received just before an election. Each of the other amendments proposed regulates, by definition, individuals. Specifically, for part 4500.1200, subp. 3, individuals file public financing agreements. The amendments in chapter 4505, which covers economic interest disclosure, govern candidates or public officials only (§§10A.01, subd. 18; and 10A.09).

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. §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 establishes 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 27, 1989



Mary Ann McCoy, Executive Director