

STATE OF MINNESOTA

BOARD OF ASSESSORS

In the Matter of the
Proposed Adoption of
Rules Governing the
Licensure, Education and
Conduct of Assessors

Statement of Need
and Reasonableness

INTRODUCTION

The above captioned matter is being proposed in order to update the rules of the Board of Assessors. These rules, captioned as M.R. 1950.1000-1950.1090, were adopted by the Board in May of 1989. The adoption of the rules marked the first time the Board of Assessors had published a comprehensive set of rules governing the licensure, education, and conduct of Minnesota assessors. As with all matters of this kind, after the rule is published, errors and omissions are noted which must be corrected by subsequent rule-making procedures. The major purpose of this proposed rule is to correct errors present in the current rules, add language which was omitted during the first rule-making procedure, and address problems which have occurred since 1989.

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 Opinion in the preparation of these proposed rules was published in the State Register on December 24, 1990. In addition, a newsletter entitled From the Board, containing a reproduction of the Notice of Intent to Solicit Outside Opinion, was mailed on January 3, 1991, to all licensed Minnesota assessors. Written and oral comments were received from a number of assessors and were duly considered by the Board in the preparation of these 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 rule.

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 the Proposed Rules

These proposed revisions and additions to the existing rules of the Board of Assessors have nine parts. Each revision or addition has been carefully considered by the Board and is now being proposed in order to correct errors or omissions in the current rules, or to address a problem which was brought to the attention of the Board since the adoption of the current rules in 1989. Each of the nine revisions will be addressed separately and a rationale given for the adoption of each one.

The first change to the current rules is an addition to **Part 1950.1020 LICENSURE Subp. 3, Criteria for licensing levels.** The current rules state that the licensing level of a particular taxing jurisdiction is dependent upon four criteria; market value, population, commercial properties and the recommendation of the county assessor. From time to time conditions within a taxing jurisdiction may change and the value of these criteria vary from the values originally used to establish the jurisdiction's licensing level. If this happens the Board believes that the County Assessor should have the option to petition the Board and ask that the licensing level be reviewed for a particular taxing jurisdiction. Thus the Board proposes that the following new language be added to the current rules, "A county assessor may request that the board review the licensing level for a specific taxing jurisdiction within his county. The request must be in writing and should state the specific reasons the assessor is requesting the review." This proposal is reasonable in that one of the original criteria used to establish the licensing levels was the recommendation of the county assessor. This new language merely gives the assessor the opportunity to make a new recommendation. It is necessary because it provides a mechanism for licensing levels to be adjusted when changing conditions warrant a change.

The second revision is a change that is necessary to keep the rules in compliance with state law. The current rules state in **Part 1950.1020 LICENSURE, Subp. 4, New hires; deadline for upgrading license.** *A taxing jurisdiction requiring an assessor with a designation greater than certified Minnesota assessor may hire a person with a designation one level lower than the required designation. This person has one year from the date of hire to attain the required level. An assessor who fails to obtain the required designation must be dismissed.* Note that the rule states that a person has one year from the date of hire to attain the required license level. The 1989 Legislature amended M.S. 270.485 which deals with the licensing level needed by county assessors. This amendment provides that ... *"every county assessor within two years of the first appointment.....must obtain senior accreditation from the state board of assessors."* Since the current rules

provide for only a one year grace period they are in conflict with state law and must be revised in order to conform. Thus the Board proposes to add this phrase to the current rules. *"This person has one year from the date of hire, except for county assessors who have two years from the date of first hire, to attain the required level."* Obviously this addition is both needed and reasonable.

The third revision is also to **Part 1950.1020 LICENSURE** and provides a structured re-entry procedure for an assessor who has been absent from the assessment field for a number of years. The proposed rule provides that if an assessor has been unlicensed for a period of five years or more he must take the basic assessment course entitled "Week A: Assessment Laws, History and Procedures," pay a reinstatement fee and a license fee before he can be issued a current license. Since the laws regarding property taxation change with almost every legislative session it is important for assessors to keep abreast of the latest developments. This is one of the primary reasons the Board mandates continuing education for assessors. An assessor who has been out of the field for a five year period has not had the benefit of this continuing education and needs to be updated on law changes and policy decisions. Week A provides a mechanism to update the assessor on changes and developments and thus the requirement that an assessor successfully complete Week A is both reasonable and needed. The payment of the two fees will be addressed in another portion of this document.

The fourth revision is an addition to **Part 1950.1030 CERTIFIED MINNESOTA ASSESSOR**. The Board is proposing to add the following language to the current rules: *"Requirements for certified Minnesota assessor are.....one year's apprenticeship experience under a licensed assessor. In lieu of this requirement the board may consider alternate experience such as; employment in the appraisal field of another governmental agency, fee appraisal experience, or condemnation appraisal experience. Real estate sales experience will not be considered as qualifying experience."* This addition will rectify an oversight made by the Board in the drafting of the original rules. This language enables persons who are trained in appraising property an entry into the assessment profession without the one year apprenticeship requirement. The Board is not proposing to eliminate any educational requirements, even though many of the persons having appraisal experience may well meet all of the educational requirements, it is simply recognizing the fact that some types of appraisal experience are equivalent to assessment experience. The Board believes this proposal is reasonable and necessary to assure a pool of qualified persons entry into the assessment profession. The Board also believes that real estate sales experience, while valuable, does not meet the spirit of this one year experience requirement because the emphasis is on selling, not on establishing value.

The fifth revision is an addition to **Part 1950.1050 ACCREDITED MINNESOTA ASSESSOR**. In order to earn this designation a person must successfully complete a number of educational courses. In drafting the original rule, two courses which are acceptable in meeting this educational requirement, were inadvertently excluded from the rule. The Board now

proposes to correct this omission by allowing the International Association of Assessing Officers (IAAO) course 305: Computer Assisted Mass Appraisal Model Building and IAAO correspondence course: Mass Appraisal of Residential Property as acceptable alternates to the successful completion of the Board sponsored Course H: Techniques of Mass Appraisal.

The sixth proposed revision is to **Part 1950.1060 SENIOR ACCREDITED MINNESOTA ASSESSOR (SAMA)**. This part details the process whereby an individual may earn the designation of SAMA. There are two methods of earning this designation, the specific and the contract points method. The contract points method enables an assessor to earn this designation if he earns at least 34.6 points in addition to meeting a number of other requirements. Points are earned for assessment experience, education, educational course development, teaching, writing narrative appraisals, papers, presentations and a number of other assessor related activities. In drafting the original rules no point allowance was made for submitting an acceptable form appraisal to the Board. The submission of an acceptable form appraisal is a requirement for the designation of Certified Minnesota Assessor Specialist and is definitely an educational and learning experience for assessors. In order to correct this oversight the Board is now proposing that the submission of an acceptable form appraisal be given two (2) points toward the contract method of earning the SAMA designation. The Board believes the amount of points given for these form reports is reasonable in light of the time and knowledge needed to prepare an acceptable report, and the granting of points is necessary in order to correct an oversight by the Board when the original rules were adopted.

The seventh proposed change is to **Part 1950.1070 FEES**. The board is proposing to establish three new fees. These fees are: a \$20 reinstatement fee, a \$15 record retention fee and a \$10 educational transcript fee. M.S. 270.44 states that, *"The board may establish reasonable fees or charges for course examinations 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. 16A128 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 eighth proposed change is to **Part 1950.1080 CONTINUING EDUCATION** and involves the issue of record retention for unlicensed assessors. This issue is one which came to light after the current rules were adopted in 1989. The question of how long to retain the files of inactive assessors within the Board's record keeping system, and if any charge should be made for retaining the records, was presented to the Board. In order to answer this question and establish a formal policy the Board is proposing the following new language:

Subp. 5. Record Retention. An assessor who does not have the required CEU's for issuance of a license, or for any reason does not wish to obtain a license may pay an annual record retention fee. The payment of this fee will keep the individual's files in a current status and enable the assessor to receive all mailings sent from the board. If neither a licensing fee or a record retention fee is paid, the assessor's files will be purged from the system after a period of one year from the date the assessor's license expired. An assessor whose files have been purged must submit a reinstatement fee, the required license fee and supply documentation of all required education if he wishes to be re-licensed.

The Board believes this addition to the rules is reasonable because it enables assessors to keep their Board file active without the cost or educational requirements of licensing. Additionally, it establishes a firm date for purging the assessor's file from the Board's system and enables the Board to practice good record management techniques. The addition is necessary because it resolves a question brought to the Board by means of a positive action and statement of policy.

The final revision to the rules is an addition to **Part 1950.1090 CONDUCT AND DISCIPLINE**. Assessors are public figures engaged in a process which imposes a tax on property owners. Human nature dictates that most people do not like to pay taxes, and many are unfriendly to those engaged in taxing

them. This means that many assessors are closely watched by hostile witnesses. Some assessors may have outside activities which to these witnesses appear to be inappropriate to the assessor's office or a conflict of interest. The Board receives periodic complaints concerning these outside activities. One remedy which has been proposed to the Board is to ban assessors from many outside activities. The Board has chosen not to pursue this negative course of prohibition. The Board believes that the issue of outside employment is best settled between employer and employee. To this end the Board is proposing the following new language:

"Subp. 6. Outside activities. Certain activities outside of the assessor's office may give the appearance of a conflict of interest to the taxpayers of the assessor's jurisdiction. These activities include the performance of fee appraisals, tax representation or consultation, real estate sales, insurance sales and property management. In order to avoid situations which could compromise the integrity of the assessor's office each assessor applying for a license will be required to list on his license application any for-profit outside activities such as those stated above. All employers of assessors engaged in outside activities will be notified of this fact by the Board by December 31, of each year. Whether or not the assessor may continue the outside activities shall be a condition of the employer-employee agreement. The Board will not specifically prohibit any assessor from engaging in these outside activities. Any assessor who falsifies his license application by not listing his outside activities shall be subject to the penalties shown in Subp. 2."

The Board believes this addition to the rules is necessary because it attempts to remedy a situation which has caused problems for assessors in the past. It is a reasonable addition to the rules because the Board is not eliminating any right or privilege the assessor enjoys, it is simply letting the assessor's primary employer know that the assessor is engaged in certain outside activities which may give the hint of impropriety to the public. If the employer wishes to limit these outside activities that will be his choice.

In summary, the Board has proposed a number of revisions to the current rule governing the licensure, education and conduct of assessors. Some of the proposals are to correct errors, some to rectify omissions and some to resolve problems. The Board believes all the revisions are the product of careful consideration and discussion. The proposed revisions are necessary to make the rule of the Board of Assessors a viable instrument of policy; with the announced aim of that policy to insure that the taxpayers of Minnesota are served by capable assessors with integrity and professionalism.