

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 first 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. This was done by revisions to the original rules in 1991. The major purpose of this proposed rule is to add language to the existing rule which brings the rule into conformity with the wishes of the legislature, address situations which have caused problems for Minnesota assessors, and provide a mechanism to ensure that the Board has a balanced budget.

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 January 26, 1993. In addition, a newsletter entitled From the Board, containing a reproduction of the Notice of Intent to Solicit Outside Opinion, was mailed on January 16, 1993, 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

Minnesota Statutes 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 five parts. Each revision or addition has been carefully considered by the Board and is now being proposed in order to clarify certain portions of the rules, bring the rules into conformity with current legislative policy and intent, or to address a problem which was brought to the attention of the Board since the adoption of the present rules in 1991. Each of the five revisions will be addressed separately and a rationale given for the adoption of each one.

The first change to the current rules concerns additions to Part 1950.1000 DEFINITIONS. The Board is proposing four additions to this part. The first two additions concern the definition of Board educational units and continuing educational units. The Board is proposing to add a sentence to the existing definitions which describes the basis by which educational units are awarded; namely, .1 unit for each hour of instruction. The third proposal involves a change in the name of the University of Minnesota office which conducts a yearly educational program. The Institute of Agriculture, Office of Special Projects is no longer in existence; the new name for this office is "extension special programs". The appropriate definition has been changed accordingly. The last proposal to DEFINITIONS is the addition of a new term, "specific assessing jurisdiction". This term is used in a proposed change made to Part 1950.1090 CONDUCT AND DISCIPLINE. The Board believes all of these proposals are needed and reasonable because they serve to give a reader of the rules a better understanding of the meaning and intent of the rules. Additionally, it is very important to add the definition of the new term "specific assessing jurisdiction" in order to correctly interpret the provisions of the proposed addition to part 1950.1090.

The second revision to the existing rules concerns Part 1950.1050 ACCREDITED MINNESOTA ASSESSOR. This change is proposed by the Board as a reaction to legislative direction. The 1992 legislature amended M.S. 273.11 by adding the following Subd. 13. "Valuation of income-producing property. Beginning with the 1995 assessment, only accredited assessors or senior accredited assessors may value income-producing property for ad valorem tax purposes." The Board, through discussions with members of the legislature, was made aware of the fact that they considered the valuation of commercial income-producing property to be of prime importance. They believed that one way to ensure that the assessment of this type of property was done in an equitable manner was to have only trained persons

performing the appraisals. The Board has responded to this legislative direction by changing the requirements for the designation of Accredited Minnesota Assessor (AMA). Currently, this designation is primarily structured to train an assessor in the assessment of residential property. In order to make the designation compatible with the legislature's intent in M.S. 273.11 the Board now proposes to change the requirements for the designation to place more emphasis on training in the valuation of income-producing property. Beginning in 1995, in addition to the present requirements, earning the AMA designation will require assessors to complete at least one week long course dealing with the valuation of income-producing property. In addition, assessors will be required to complete a seminar dealing with standards of practice and professional ethics. The Board also proposes to recognize the value of additional education by proposing that a master's degree in a field related to assessment, such as economics, accounting or architecture, be considered the equivalent of one year of practical experience. Currently, the requirements for the AMA designation state that an assessor must have 3 years of experience. This proposal would mean that an assessor could have 2 years of experience and a masters degree in lieu of the three year requirement. The Board believes these proposals are both necessary and reasonable because they bring the rules into compliance with current legislative intent, and help to train assessors more thoroughly for the difficult task of valuing commercial property.

The third proposed change is to Part 1950.1060 SENIOR ACCREDITED MINNESOTA ASSESSOR. The logic of this proposal is very similar to the second proposal described above. Once again, acting on direction given to it by the legislature, the Board is proposing to strengthen the designation of Senior Accredited Minnesota Assessor (SAMA) in the area of valuing commercial properties for ad valorem tax purposes. We propose to do this by requiring that assessors successfully complete one additional week long income-producing property appraisal course. This course is in addition to the income course needed for the AMA designation. And again, the Board proposes to recognize the value of formal post-secondary education by proposing that a master's degree in a related field be considered as the equivalent of one year of practical experience. Presently the experience requirement for SAMA is 5 years. Additionally, in order to place even more emphasis on the concepts involved in the valuation of commercial properties, the Board proposes to offer a number of options to assessors who wish to obtain the designation of SAMA. The normal path to this designation involves successfully completing all the requirements for the AMA designation, including writing a demonstration narrative appraisal commonly using a residential property as a subject, and then writing an additional narrative appraisal using a commercial property as the subject. The Board proposes that in lieu of this commercial property narrative, the assessor may substitute the successful completion of the International Association of Assessing Officers (IAAO) series of courses dealing with computer assisted mass appraisal of properties, or the successful completion of the IAAO course 302 dealing with the mass appraisal of income-producing properties and a passing grade on the IAAO comprehensive case studies examination.

For a number of years, the Board has also had an alternative method of earning the SAMA designation called the "contract points method". Because this contract points method no longer is compatible with the current Board and legislative policies emphasizing the appraisal of income-producing properties, the Board is proposing to repeal the contract points method of earning the SAMA designation. In its place, the Board is proposing a method whereby an assessor who has a college degree can earn the SAMA designation by completing all the required educational and experience requirements and writing a demonstration narrative appraisal using an income producing property as a subject. The Board believes this recognizes the value of post secondary education while still preserving the announced goal of stressing training in the appraisal of commercial property.

Once again, as was true for the proposed change to the requirements for the AMA designation, the Board believes that the proposed changes to the requirements for the SAMA designation are necessary in order for the rules to be in compliance with current legislative policy. We believe the proposed changes are reasonable because they provide assessors with a variety of avenues to obtain the SAMA designation but retain the needed training in commercial property appraisal. In addition, both the proposed changes to the AMA and SAMA designation are not effective until January 1, 1995. This effective date will give assessors currently working on completing the present requirements for the two designations ample time to complete their work, while putting other assessors on notice that additional education and training will be needed so that they can plan accordingly.

The fourth proposal concerns Part 1950.1070 FEES. The Board is proposing two additions to the current fee schedule. The first addition is a \$20.00 fee which must be paid in order to retake an examination of a Board sponsored educational course. The Board, in conjunction with the University of Minnesota, sponsors between eight and ten week long courses each year. Each course has a final comprehensive examination. In order for students to successfully complete the course, they must pass the examination. Approximately 5% of all students fail the examination. The Board presently allows these persons to retake the examination after 30 days at no charge. The University also allows persons to retake failed examinations; however, they charge \$20.00. This proposal merely puts the Board's re-test policy on an equal basis with that of the University. We anticipate that fewer than 10 persons per year will choose to re-test. The second proposed change to the current fee schedule concerns the amount charged each year for an assessor's license. The Board is proposing to add a surcharge to the current license fees in an amount sufficient to cover costs incurred as a result of conducting investigations of complaints against assessors. The current Rules provide that the Board may refuse to grant, renew, suspend or revoke an assessor's license for certain offenses. These disciplinary actions must be conducted in a manner commensurate with the provisions of M.S. 14 and 214. These statutes call for certain procedures to be followed concerning investigations and subsequent hearings. The costs of these investigations and hearings must be absorbed by the Board involved in the action. M.S. 14.53 states, "*In consultation with the commissioner of administration the chief administrative law*

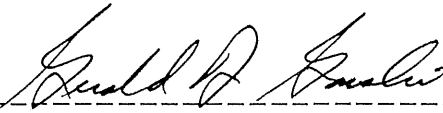
judge shall assess agencies the cost of services rendered to them in the conduct of hearings. All agencies shall include in their budgets provisions for such assessments." M.S. 214.06 speaks to the fees which must be charged by boards. It states in part,..."*all non-health-related licensing boards shall by rule, with the approval of the commissioner of finance, adjust any fee which 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...."* The Board of Assessors has rarely been involved in any formal investigations and at present its fees are sufficient to cover its expenses. However, when and if the Board is involved in an investigation and hearing it is imperative that it have the authority to charge the necessary fees to cover the costs of these proceedings. The Board believes this proposal is necessary because the statutes demand that license fees be sufficient to cover expenditures. We believe it is reasonable because we propose to adjust the license fees only in an amount sufficient to cover any investigation and hearing costs. No extra revenues will be raised, and no surplus fund balances will be accrued.

The proposed fees have been submitted to the commissioner of finance for his review as required by M.S. 16A.128, which states: "*Fees for accounts for which appropriations are made may not be established or adjusted without the approval of the commissioner. If a 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 that 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.

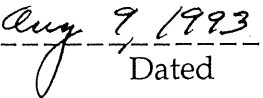
The final proposed change involves Part 1950.1090 CONDUCT AND DISCIPLINE. Once again, this proposed rule change is being made to ensure that the rules comply with legislative intent. The proposed change would give the Board the authority to refuse to grant or renew an assessor's license for any person who performed fee appraisals within the boundaries of the taxing jurisdiction which employed the person as an assessor. Further, if the holder of any assessor's license was known to be performing fee appraisals within the assessor's specific taxing jurisdiction, the license could be revoked. This proposed change is a direct result of action by the 1993 Legislature. The Legislature amended M.S. 270.41 by adding clause (d) which states, "*Any assessor, deputy assessor, assistant assessor, appraiser or other person employed by an assessment jurisdiction, or contracting with an assessment jurisdiction, for the purpose of valuing or classifying property for property tax purposes shall be prohibited from making appraisals, analyses, accepting an appraisal assignment or preparing an appraisal report as defined in Minnesota Statutes, section 82B.02, subdivisions 2, 3, 4 and 5, on any property within the assessment jurisdiction where the individual is employed or performing the duties*

of the assessor under contract. Violations of this prohibition shall result in immediate revocation of the individual's license to assess property for property tax purposes. This prohibition shall not be construed so as to prohibit an individual from carrying out any duties required for the proper assessment of property for property tax purposes." The Board believes that its proposal concerning fee appraisals by licensed assessors is both necessary and reasonable in order to carry out the charge given to the Board by the Legislature.

In summary, the Board has proposed five changes to the existing body of rules governing the licensure, education and conduct of assessors. Two of the changes, concerning definitions and fees, are proposals best categorized as housekeeping or technical changes. The other three changes; concerning the requirements for the designations of Accredited Minnesota Assessor and Senior Accredited Minnesota Assessor, and the prohibition against assessors performing fee appraisals within their employing taxing jurisdictions represent changes in Board policy. However, these changes have been prompted by legislative actions and the Board believes the changes are reasonable and necessary in order for the rules to be in compliance with current legislative intent.



Gerald D. Garski
Secretary-Treasurer



Dated