

9-18-2006

**BMS**  
**BUREAU OF MEDIATION SERVICES**  
State of Minnesota

September 15, 2006

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

Re: In The Matter Of The Proposed Rules Of The State Bureau of Mediation Services  
Governing Mediation Services; Labor Management Committee Grants, Minnesota Rules  
5520.0100-5520.0800; Governor' s Tracking #AR204

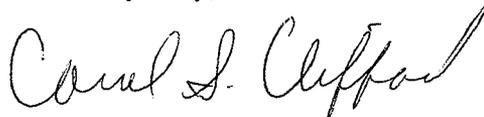
Dear Librarian:

The Minnesota Bureau of Mediation Services intends to adopt rules Governing Mediation Services; labor Management Committee Grants. We published a Notice of Intent to Adopt Rules without a Public Hearing in the June 5, 2006, State Register.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library a copy of the Statement of Need and Reasonableness.

If you have any questions, please contact me at 651-649-5423.

Yours very truly,



Carol S. Clifford  
Executive Assistant

Enclosure: Statement of Need and Reasonableness

**State of Minnesota Bureau of Mediation Services**

**STATEMENT OF NEED AND REASONABLENESS**

**Proposed Permanent Rules Governing Labor Management Committee Grants, Minnesota  
Rules 5520.0100 – 5520.0800**

**INTRODUCTION**

The Bureau of Mediation Services was established by the state legislature's 1939 enactment of the Minnesota Labor Relations Act as a means of peacefully settling disputes resulting from the growing size and strength of Minnesota's labor movement. Extension of collective bargaining to the public sector by the enactment of PELRA in 1971 substantially expanded the functions of the Bureau. The current mission of the Bureau of Mediation Services is to promote stable and constructive labor-management relations and the use of alternative disputes resolution and collaborative processes in areas other than labor-management. The mission is accomplished within through the following programmatic areas: mediation, representation, labor-management programs; training; alternative disputes resolution, and developing and maintaining a roster of labor arbitrators.

Minnesota Rules, Chapter 5520, applies to the preparation, submission, and approval of applications for grants under the Minnesota Area Labor-Management Committee Grant maintained by the Bureau of Mediation Services pursuant to Minn. Stat. § 179.81 - 179.85. This rule was originally adopted in 1989 and was amended in 1991.

The Bureau is considering rule amendments that change the grant application deadline, the grant period and quarterly report deadlines. This is being considered because the grant distribution has been changed from a calendar year basis to a fiscal year basis. We are also proposing minor editorial changes to reflect that information needs to be provided to the Commissioner of the Bureau, rather than to the Office of Cooperative Labor Management Programs. These changes were suggested by a recent audit conducted by the Office of the Legislative Auditor (OLA) for the period July 1, 2000, through June 30, 2004.

**ALTERNATIVE FORMAT**

Upon request, this Statement of Need and Reasonableness can be made available in an alternative format, such as large print, Braille, or cassette tape. To make a request, contact Carol Clifford at the Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, Minnesota, 55108, Phone: 651-649-5423, FAX: 651-643-3013. TTY users may call the Minnesota Relay Service at 1-800-627-3529.

**STATUTORY AUTHORITY**

Statutory authority to adopt the rules related to the Minnesota Labor Relations Act is set forth in Minnesota Statutes section 179.82, which provides:

**179.82 GRANT PROGRAM CREATED; APPLICATIONS.**

Subd. 2. Rules. Applications for area/statewide industry labor-management committee grants must be submitted to the bureau under rules adopted by the commissioner.

Under this statute, the Commissioner of the Bureau has the necessary statutory authority to adopt the proposed rules.

## REGULATORY ANALYSIS

Minnesota Statutes, section 14.131, sets out seven factors for a regulatory analysis that must be included in the SONAR. Paragraphs (1) through (7) below quote these factors and then give the agency's response

**“(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule”**

- The classes of affected persons are:
  - Public employers
  - Public employees
  - Labor organizations
  - Attorneys representing clients before the Bureau
  - Consultants representing clients before the Bureau
  - Private Employers
  - Area/Industry Labor-Management Committees
- Those that will bear the costs of the proposed rule; and
  - There will be minimal cost impact.
- Those that will benefit from the proposed rule.

All classes of affected persons benefiting now by the grants will continue to benefit.

**“(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues”**

- No increased costs to the agency are anticipated
- There will be minimal cost impact to any other agency.
- The effect anticipated on state revenues would be minimal.

**“(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule”**

- The agency does not believe there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

**“(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule”**

- No alternative methods for achieving the purpose of the proposed rule were considered

**“(5) the probable costs of complying with the proposed rule”**

- The proposed rules will not increase any costs, they merely change dates for grant applications and quarterly report due dates for committees receiving grants.

**“(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals”**

- The probable costs of not adopting the proposed rule would be minimal. The consequences of not adopting the rules would be that we would not be able to comply with our own rules because they are in conflict with the governing statutes.

**“(7) an assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference”**

- There are no analogous federal regulation to the rule.

**PERFORMANCE-BASED RULES**

Minnesota Statutes, sections 14.002 and 14.131, require that the SONAR describe how the agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

In developing this amendment the agency seeks to bring the relevant laws, rules and practices into congruence.

**ADDITIONAL NOTICE**

This Additional Notice Plan was reviewed by the Office of Administrative Hearings and approved in an April 18, 2005, letter by Administrative Law Judge George A. Beck.

Our Notice Plan includes giving notice[s] required by statute. We will mail the rules and Notice of Intent to Adopt to everyone who has registered to be on the Department's rulemaking mailing list under Minnesota Statutes, section 14.14, subdivision 1a. We will also give notice to the Legislature per Minnesota Statutes, section 14.116. We will also mail a copy of the Notice of Intent to Adopt Rules Without a Public Haring and a copy of the proposed rules to the following:

1. Significant users of Bureau services, including:
  - Employers and their representatives/advocates
  - Advocates
  - Public Employees
  - Labor Organizations
2. All persons representing labor-management committees currently receiving grants from the Bureau
3. Industry periodicals, including:
  - Union Advocate
  - Minneapolis Labor Review
  - Boardcaster (Minnesota School Board Association newsletter)
  - Cities Bulletin (League of Minnesota Cities newspaper)
  - Minnesota Counties (Association of Minnesota Counties newspaper)

We will also publish the information on the Bureau's web site. The web site address is [www.bms.state.mn.us](http://www.bms.state.mn.us).

We believe our Notice Plan complies with the statute because a notice will be published in the *State Register* and copies of the notice and proposed rules will also be mailed directly to principal clients of the Bureau of Mediation Services, as well as relevant industry periodicals as listed above.

## CONSULT WITH FINANCE ON LOCAL GOVERNMENT IMPACT

Minnesota Statutes, section 14.131 requires the agency to consult with the Department of Finance to help evaluate the fiscal impact and benefits of the proposed rules on local governments. Our Executive Budget Officer, Keith Bogut, from the Department of Finance was contacted and on February 3, 2006, notified the Bureau that he believes the proposed rule will have little fiscal impact on local units of government.

## [OTHER REQUIRED INFORMATION]

### LIST OF WITNESSES

We do not anticipate that these rules will go to a public hearing.

### RULE-BY-RULE ANALYSIS

#### 5520.0120 DEFINITIONS

~~Subp. 7. Office of Cooperative Labor Management Programs. "Office of Cooperative Labor Management Programs" means the office within the bureau created to administer the grant program.~~

#### NEED

This change needs to be made because the Office of Cooperative Labor-Management Programs no longer exists within the Bureau.

#### SUMMARY

This change deletes the reference to the Office of Cooperative Labor-Management Programs.

#### REASONABLENESS

It is reasonable to amend this rule to remove reference to an office which no longer exists.

#### 5520.0200 GRANT APPLICATIONS

Subp. 2. Notice and deadline. On or before ~~September~~ March 1 of each calendar year, the commissioner shall publish a notice of the availability of funds under the grant program in the State Register. An application for a grant must be submitted to the bureau by ~~October~~ April 15 of the previous year.

#### NEED

This change needs to be made to reflect that grants are now on a fiscal year basis rather than a calendar year.

#### SUMMARY

This would change the application publication date and application deadline.

#### REASONABLENESS

It is reasonable to amend this rule to comport with the date changes in the administration of grants.

Subp. 6. Financial plan. The application must include a ~~four~~ two-year financial plan detailing the revenues and expenditures anticipated over a ~~four~~ two-year period, commencing with the year for which the grant is being requested. The plan must identify the total amount of state funding necessary to carry out the committee's goals and objectives and the money to be raised from other sources to meet the guidelines of the grant program. The plan must be accompanied by a proposed committee budget over the ~~four~~ two-year period detailing how all money, including state grant money, is to be expended. Existing committees must also submit copies of actual financial statements for the ~~four~~ two-year period preceding the proposed grant period.

**NEED**

This change needs to be made to provide for consistency in the Bureau's receipt of the grant funds from the legislature through the administration of those funds to Bureau grant recipients.

**SUMMARY**

This change would require grant recipients to submit two-year rather than four-year financial plans, which is in line with the Bureau's receipt of said funds.

**REASONABLENESS**

It is reasonable to amend this rule to match grant recipients' budget cycle to the Bureau/ legislative budget cycle.

**5520.0300 GRANT PERIOD AND AMOUNT**

Subpart 1. Grant period. All grants are awarded for a 12-month period commencing January July 1.

**NEED**

This change needs to be made to reflect that grants are now awarded on a fiscal year rather than a calendar year basis.

**SUMMARY**

This change would change the application publication date and application deadline.

**REASONABLENESS**

It is reasonable to amend this rule to comport with the date changes in the administration of grants.

**5520.0520 WORK PLAN**

Each grant application must include a work plan that describes the major work steps to be undertaken by the committee during the grant period in achieving its individual goals and objectives. Work plans should describe each area of substantial program activity contemplated by the committee, the key steps necessary to achieving each program activity, and a time frame for determining progress in each activity area. Grantees are responsible for compliance with their work plans and for advising the Commissioner or his or her designee ~~Office of Cooperative Labor-Management Programs~~ of any significant alterations in the goals, objectives, or work plans of the committee. Written quarterly reports, describing the progress and problems in adhering to the work plan, must accompany financial reports in conformance to the provisions of part 5520.0560.

**NEED**

This change needs to be made because the Office of Cooperative Labor-Management Programs no longer exists within the Bureau.

**SUMMARY**

This change deletes the reference to the Office of Cooperative Labor-Management Programs and replaces that reference with reference to the commissioner who has authority for awarding grants.

**REASONABLENESS**

It is reasonable to amend this rule to remove reference to an office which no longer exists.

**5520.0540 BUDGET ADJUSTMENTS**

Grant recipients must consult, in writing, with the Commissioner or his or her designee ~~Office of Cooperative Labor-Management Programs~~ before making budget adjustments that:

**NEED**

This change needs to be made because the Office of Cooperative Labor-Management Programs no longer exists within the Bureau.

**SUMMARY**

This change deletes the reference to the Office of Cooperative Labor-Management Programs and replaces that reference with reference to the commissioner who has authority for awarding grants and for monitoring grantees fiscal activities

**REASONABLENESS**

It is reasonable to amend this rule to remove reference to an office which no longer exists.

**5520.0560 QUARTERLY REPORTS**

Each grant recipient must file detailed financial and activity reports on a quarterly basis. The financial and activity reports shall be sufficient to demonstrate that the program objectives and results are being effectively and economically achieved. The quarterly reports shall be submitted in accordance with the following schedule:

**NEED**

This change needs to be made to ensure that grantee organizations are being accountable for the grant funds.

**SUMMARY**

This change increases the number of times that financial and activity reports are reviewed.

**REASONABLENESS**

It is reasonable to amend this rule to add an additional level of review for grant financial and activity reports.

**5520.0560 QUARTERLY REPORTS**

- A. Period covered: July 1 to September 30 ~~January 1 to March 31~~, date due: October 20 ~~April 20~~;
  - B. Period covered: October 1 to December 31 ~~April 1 to June 30~~, date due: January 20 ~~July 20~~;
  - C. Period covered: January 1 to March 31 ~~July 1 to September 30~~, date due: April 20 ~~October 20~~;
- and
- D. Period covered: April 1 to June 30 ~~October 1 to December 31~~, date due: July 20 ~~January 20~~.

**NEED**

This change needs to be made to reflect that grants are now on a fiscal year basis rather than a calendar year

**SUMMARY**

This change would change the dates for submission of quarterly reports from the grantees.

**REASONABLENESS**

It is reasonable to amend this rule to comport with the date changes in the administration of grants..

**5520.0620 AUDITS**

Subpart 1. Financial and compliance audits. All grant recipients must arrange for and undergo a financial and compliance audit at least once every two years. The audits must be performed by qualified individuals who are independent of those persons who authorize, manage, and carry out the expenditure of funds to ensure unbiased opinions, conclusions, or judgments. Grant recipients are responsible for arranging and paying for these audits. The purpose of the audit is to report on whether:

- A. the financial operations have been conducted properly;

B. financial and other reports submitted as a part of the program have been presented fairly and accurately;

C. the grantee has complied with applicable laws, regulations, and policies;

~~D. resources are used and managed in an economic and efficient manner; and~~

~~E. program objectives and results are being effectively and economically achieved.~~

**NEED**

This change needs to be made to allow grantee organizations to be accountable without having to incur excessive costs for compliance audits.

**SUMMARY**

This change would ease the administrative and financial burden of the grant recipients.

**REASONABLENESS**

It is reasonable to amend this rule so that grant recipients to do not incur additional expenses for compliance audits.

**5520.0710 SUBSEQUENT PAYMENTS**

Subsequent grant payments will be made on a quarterly basis based on submission of a payment request form and other required reports. ~~When computing requests for payment, the recipient should first apply any unused portions of a previous grant payment toward the next month's anticipated expenditures.~~

**NEED**

This change needs to be made To give the grantee organizations flexibility in determining how to best use the grant funds.

**SUMMARY**

This change would ease the administrative and financial burden of the grant recipients

**REASONABLENESS**

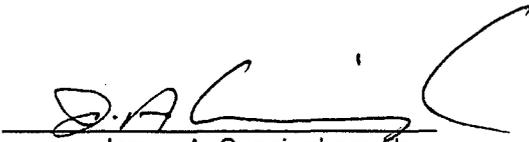
It is reasonable to amend this rule so that grant recipients have more flexibility in how they utilize the grant process.

**LIST OF EXHIBITS (Optional)**

**CONCLUSION**

Based on the foregoing, the proposed rules are both needed and reasonable.

2/7/06  
Date

  
James A. Cunningham, Jr.  
Commissioner

