

803035

REPORT
OF THE
ATTORNEY GENERAL
1979 - 1980

KFM
5827.5
.A8
A133ax
1979/80

LEGISLATIVE REFERENCE LIBRARY
STATE OF MINNESOTA

M.S. 8.08

TABLE OF CONTENTS

	PAGE
INTRODUCTION	1
CONSUMER	3
CRIME	6
ANTITRUST	8
CHARITIES	10
TORT CLAIMS	12
CIVIL LITIGATION	13
UTILITIES/ENERGY/AGRICULTURE	15
ENVIRONMENTAL QUALITY BOARD & STATE PLANNING AGENCY	18
POLLUTION CONTROL	19
EDUCATION	23
HUMAN RIGHTS	24
COMMERCE	26
BANKING	26
SECURITIES AND REAL ESTATE	27
INSURANCE	28
CONSUMER SERVICES	30
LICENSING BOARDS	31
HEALTH	32
LABOR AND INDUSTRY	34
SPECIAL COMPENSATION FUND	34
OCCUPATIONAL SAFETY AND HEALTH	35
EMPLOYEE RELATIONS	36
ECONOMIC SECURITY	38
PUBLIC SAFETY	38
DEPARTMENT OF REVENUE	39

	PAGE
PUBLIC WELFARE	40
OPINIONS	43
ADMINISTRATIVE AGENCIES	47
MINNESOTA HOUSING FINANCE AGENCY	49
NATURAL RESOURCES	51
RETIREMENT AND VETERANS	53
TRANSPORTATION	54
REAL ESTATE	55
LEGISLATION	56 *

INTRODUCTION

The Attorney General is the chief legal officer for the state of Minnesota. As such, he and his assistants represent not only the agencies, boards, commissions and departments of the state, but the citizens of Minnesota as well.

In that effort our staff attorneys have over the last biennium pursued a wide range of legal matters from litigating constitutional challenges, human rights, criminal, consumer protection and anti-trust cases to providing a variety of legal services to state agencies in the areas of commerce, the environment, energy, natural resources, health, education and many other areas of state concern.

Approximately 1,263 new cases were open between July 1, 1979 and June 30, 1980, and, as this report is written, there are approximately 2,200 cases open on the office's central docket.

Consumer protection continued to be a principal focus of our office's affirmative efforts over the last biennium. Much of the Consumer Division's activity involved litigating such cases as bait-and-switch operations, fraud in automobile repairs and sales, landlord-tenant disputes, fraudulent business opportunity schemes and the like. Over the last two years we initiated over 75 investigations and 20 lawsuits. At this writing we have 34 lawsuits pending.

Consumer protection was not the only area of affirmative litigation, of course. Our attorneys initiated a number of criminal, antitrust and environmental lawsuits as well. Over the biennium the antitrust division distributed over \$450,000 in damages and costs to state universities, cities, counties, hospitals, and school districts.

In the environmental area we were involved in 60 state and federal judicial proceedings and participated in 13 contested case proceedings among many other legal activities. Our attorneys have been very active in energy issues, particularly those that relate to nuclear power generation. We filed an amicus curiae in the U.S. Court of Appeals for the Ninth Circuit supporting the authority of the state to prevent construction of new nuclear plants in the absence of an approved facility for the safe disposal of nuclear waste. And we appeared a number of times on behalf of the Minnesota Pollution Control Agency (MPCA) before the U.S. Nuclear Regulatory Commission, the Minnesota Environmental Quality Board and the state Environmental Energy Agency.

We also began assisting the MPCA in its effort to carry out the requirements of the state's new Waste Management Act. In addition to these activities, our lawyers participated in a host of other legal matters providing legal counsel to all state political subdivisions, interpreting statutes, issuing opinions, defending agencies, drafting legislation, collecting

taxes and arguing state positions at all judicial levels from the county court to the U.S. Supreme Court.

We worked hard for Minnesot'a citizens over the last biennium. The following presents in greater detail just what that has meant.

OFFICE ACTIVITIES

CONSUMER

The Consumer Division protects and assists the public, both consumers and businesses, through its trade regulation activity. Our functions fall into three primary areas:

1. Public assistance and information. We answer inquiries and requests for information and assistance from both consumers and businesses.
2. Conciliation. We assist with the resolution of consumer complaints by facilitating communication and encouraging voluntary resolution by the parties.
3. Investigation and law enforcement. We investigate potential violations of trade regulation laws. Where necessary, the Division initiates legal action to enforce trade regulation laws through declaratory and injunctive relief, civil penalties, and in appropriate circumstances, restitution for injured consumers.

During the past six months we have experienced an unprecedented increase in the number of requests for information, assistance, and complaint resolution. We are currently receiving around 150 telephone calls per day (annual rate exceeding 39,000) and approximately 40 written requests or complaints per day (annual rate exceeding 10,000). In many instances we are able to assist in voluntary resolution of business related complaints through our efforts in providing information, facilitating communication, and encouraging resolution.

The Division continues to prepare and to distribute, on request, the following informational pamphlets: The Garnishment Process, Conciliation Court, Truth in Repairs Law, Summary of Consumer Laws, and Tenant Rights and Landlord Responsibilities.

We also provide information and assistance to businesses in an effort to encourage voluntary compliance with trade regulation laws. For example, the Consumer Division was instrumental in organizing and programming an inter-agency seminar for members of the solar industry, designed to explain the various State laws and trade regulation principles which apply to the sale of solar energy devices. We aided the mobile home industry by assisting with the revision and adoption of a standard lease agreement for mobile home parks. This should greatly improve relationships between mobile home park owners

and their tenants within the State of Minnesota. We are assisting with advertising problems through a joint effort with the Better Business Bureau monitoring and seeking voluntarily resolution of problems regarding misleading or unsubstantiated advertising claims.

During the biennium we have experienced several successes in resolving matters of widespread public concern arising from the marketplace. For example, Zayre's Shoppers City agreed to roll back its prices and correct its advertising in connection with its Going-Out-of-Business sale. A permanent injunction and civil penalties were awarded in favor of the State after trial of our lawsuit against a chain letter scheme known as the Business List Concept. A radio station agreed to make restitution to consumers who lost money as a result of a coupon promotional program jointly sponsored by the radio station and an out-of-state promoter. A Minneapolis area car dealer discontinued certain bait and switch types of advertisements in connection with new car sales.

We have begun to seek expedited remedies and protections where situations involving consumer fraud threaten irreparable harm. Temporary injunctions were obtained in three cases to protect the public during pending litigation. One case involves sales practices and financial management of a public cemetery association. Two cases involve mobile home laws -- one a mobile home park which was unlawfully imposing a visitor

charge, and the other a mobile home dealer who was failing to turn over proceeds of sale to mobile home sellers. In another matter, a prejudgment writ of attachment was obtained to seize the truck being used by itinerant blacktop salesmen in southwestern Minnesota.

During the past two years, we initiated over 75 new investigations, commenced over 20 new lawsuits, and obtained over a dozen assurances of discontinuances from businesses and individuals. Thirty-four lawsuits are pending.

CRIME

The Criminal Division has continued to expand its efforts to provide prosecutorial assistance on trial and appellate levels to the state's 87 county attorneys, to provide concomitant investigative assistance and to provide a complete line of legal services to those state agencies most involved in the criminal justice system. The Criminal Division also has continued to represent the state before the Supreme Court in virtually all criminal appeals coming from the non-metropolitan counties. This accounts for 35-50 percent of all criminal appeals decided by the court.

Trial and investigative assistance in criminal cases was most frequently provided in three categories of cases:

1. Cases wherein the county attorney had a conflict of interest.
2. Cases involving complex issues, often of an economic nature, which prompted the county attorney to utilize the resources and expertise of the Criminal Division.
3. Cases where the investigating or complaining party was a state agency, causing the state interest in pursuing prosecution to be paramount to any local interest. Criminal appellate assistance was provided for most appeals stemming from convictions in the non-metropolitan counties.

Services provided for state agencies involved in the criminal justice system included trial representation in state and federal courts, administrative litigation, legislative and rule making assistance, routine legal advice and training for public employees on criminal law and related subjects.

Principal state clients of the Criminal Division have been the Bureau of Criminal Apprehension, the Crime Control Planning Board, the Sentencing Guidelines Commission, the Board of Peace Officers Standards and Training, and the Board of Private Detective and Protective Agent Services. The Criminal Division also provided advice on questions of criminal law for such regulatory and enforcement agencies as the Department of Commerce, the Department of Revenue, the Department of Public Welfare, and the Minnesota State Patrol.

ANTITRUST

The Antitrust Division exists to promote free and open competition in the State of Minnesota. The Division's primary role is to investigate and prosecute alleged antitrust violations under state law, seeking injunctive relief, damages and both civil and criminal penalties. The Division also represents the State and local governmental subdivisions in federal court actions to recover damages under federal law where the state and local governmental entities have been injured by reason of an antitrust violation in their capacity as purchasers of goods and services. As the advocate for competition in the State, the Division also intervenes in rulemaking proceedings of State boards and other government agencies where proposed regulations may have an adverse effect on competition. The Division also responds to numerous inquiries from governmental units, businesses and individuals regarding antitrust law requirements.

In 1979-1980, the attorneys and investigators in the Antitrust Division worked on antitrust cases involving coal, paper products, petroleum products, sugar, ampicillin, public bid rigging, trash hauling, gas meters, wiring devices, mobile homes, air conditioners and sewing machines.

During this biennial period, the Division distributed over \$450,000 in antitrust damages and costs to the State, universities, cities, counties, hospitals and school districts.

Of this amount over \$100,000 was deposited in State general funds.

In addition, claims for significant additional damages and costs were negotiated in several other antitrust cases during 1979-80 and should be available for distribution within the next biennium. The Division is continuing to prepare for trial in antitrust cases pertaining to price fixing allegations against cement producers, drug (ampicillin) manufacturers, paper producers, coal companies, and art material manufacturers.

Under the State Antitrust Act, the Division has filed a number of enforcement actions, primarily in the price fixing area. Those cases involve moving services, retail gasoline sales, air conditioner sales, sewing machine sales, and trash hauling services. The Division obtained injunctive relief in the form of assurances of discontinuance from mobile home dealers and piano tuners.

Of significant note is our successful involvement in a landmark U.S. Supreme Court antitrust decision upholding the rights of consumers injured under the antitrust laws to recover proven damages. Reiter v. Sonotone Corp., 442 U.S. 330 (1979). In that case, the Division submitted two briefs to the court as amicus curiae on behalf of 49 states and their citizens, urging reversal of the Eighth Circuit's decision denying standing to consumers. Attorney General Spannaus personally argued this case before the Supreme Court.

Efforts by the Division to recover damages incurred by the State and its political subdivisions have been hampered by a U.S. Supreme Court Decision, the Illinois Brick case, in which the State of Minnesota was not a party. That case ruled that plaintiffs must purchase directly from price fixers in order to recover damages for Antitrust violations under federal law. Since the State and most political subdivisions purchase many commodities and services indirectly from middlemen, a number of pending and potential antitrust actions have been jeopardized. The Division has worked to seek corrective legislation from Congress, and has also continued to pursue such damage actions where it is thought that exceptions to the Illinois Brick rule could be sustained.

The Antitrust Division also appeared in a number of administrative agency hearings to promote competition in the sale of products and services to Minnesota consumers. Our lawyers and investigators are presently engaged in active investigations in a number of areas of commerce.

CHARITIES

The Charities Division is responsible for the enforcement of all non-tax laws related to the donation of property for charitable purposes and the management of that property for the use of the ultimate charitable beneficiaries. In October, 1979, a full-time attorney was assigned to this division for the first time. The current complement positions are one

attorney, one paralegal/investigator, and one certified public accountant.

Much of the litigation and specific enforcement activity commenced during 1979-80 was unresolved at the end of fiscal year 1980. A brief description of some of those projects is set out below.

1. Litigation commenced by a religious organization challenging the constitutionality of the solicitation laws as applied to religious organizations and all other charitable organizations. This litigation has proceeded through district court and is currently on appeal at the Eighth Circuit Court of Appeals.

2. Litigation against a professional fund raiser for receiving and retaining in excess of the statutory maximum profit as a result of participating in charitable solicitation.

3. Litigation challenging the fee paid to a trustee of a charitable trust.

4. An administrative cease and desist order obtained against a for-profit business organization representing representing itself to be a charitable organization.

5. Litigation against a charitable organization which sought to sell park land allegedly held in trust, and use the proceeds from the sale to pay off outstanding operating debts.

6. An investigation of a local arts organization for mismanagement and misuse of charitable funds.

A variety of probate and escheat proceedings, where participation was on behalf of unrepresented charitable organizations or the State of Minnesota.

Division staff members handled all citizen correspondence in charities and probate area, including all will and heirship questions, and a large number of phone calls from citizens with questions in these areas. Since the division's inception, the staff has frequently lectured charity managers, trustees, accountants, and directors of charitable corporations on their specific responsibilities.

TORT CLAIMS

The Tort Claims Division, which was first established in 1976 in response to abolition of state tort immunity by the Minnesota Supreme Court, processes approximately 475 claims a year and is currently defending the state or its officers in 175 tort cases. These cases are in every part of the state and in every court of the state, as well as in federal courts.

CIVIL LITIGATION

The Attorney General's Civil Litigation Division has the primary responsibility for civil litigation involving the state.

Its attorneys directly handled more than 280 cases and coordinated and assisted other attorneys on the staff of the Attorney General in litigation. Approximately 1,263 new cases were opened between July 1, 1979, and June 30, 1980, for the entire Attorney General's Office. There are approximately 2,200 cases open on the central docket of the Attorney General.

In addition to litigation duties, the Civil Litigation Division is responsible for providing legal counsel to a number of state agencies, such as the Ethical Practices Board, Public Employment Relations Board, the Bureau of Mediation Services, the State Zoo Board and the Minnesota State Agricultural Society (State Fair). Such state agency assistance includes litigation, contract review, handling real estate transactions, drafting opinions, representation at administrative hearings, etc.

Most of the Division's litigation function fell within four main categories: (1) Handling lawsuits challenging the constitutionality or legal validity of state statutes or actions of state officials; (2) Working with attorneys from other divisions in representing large state departments and their officers in complex cases; (3) Representing judges of the

Supreme Court, District and County Courts who are parties in lawsuits concerning their official responsibilities; and (4) Representing county boards of commissioners in cases presenting conflicts of interest for their respective county attorneys.

In addition, the director of the Civil Litigation Division serves as the coordinator for all civil cases handled by the Attorney General's office. This responsibility includes serving as a permanent member of the office Civil Case Support Committee, monitoring the service of all civil complaints against the State and reviewing the pleadings and briefs drafted by office attorneys.

Examples of some of the significant cases handled by Civil Litigation Division attorneys during this report period include:

1. Litigation in federal district court concerning the constitutionality of the state Public Employees Labor Relations Act as it applies to community college faculty members.

2. A successful defense in federal district court of the Minnesota Comprehensive Health Insurance Act. A group of private insurance companies have challenged that Act on a variety of constitutional grounds. The matter is now on appeal to the Eighth Circuit Court of Appeals.

3. Litigation in federal district court concerning the validity of certain provisions of the Fair Campaign Practices Act. The suit was brought by the Minnesota Association of Commerce and Industry and is now being readied for trial. The case centers on the constitutionality of restrictions on contributions by corporations to political campaigns.

4. Defense of the so-called Fiscal Disparities Act, Minn. Stat., ch. 473F, a unique law that established a tax revenue pool for the Twin Cities metropolitan area counties to be distributed among those counties according a "need" formula. This case was tried in the Minnesota Tax Court, and the Court's decision is now pending.

5. A case concerning the adequacy of an environmental impact statement and other decisions by several state agencies in approving the location of an oil pipeline in southern Minnesota. The agencies' decisions were successfully defended in a state court trial. That court decision is now on appeal to the Minnesota Supreme Court.

6. Defending a constitutional challenge to the 1978 Family Planning Grants Act, which excluded pre-pregnancy family planning service public grants from private organizations which performed abortions. The United States Supreme Court affirmed the lower court's decision which struck down that statutory exclusion.

7. A successful defense of the decision by Department of Economic Security officers to suspend an employee for Hatch Act violations. This case was decided in the State's favor after a trial in federal district court.

8. A successful defense of Governor Albert Quie's appointment of a new member to the Public Service Commission. The Commission member whose position was deemed to have expired had challenged the appointment of his replacement on statutory grounds. The Minnesota Supreme Court upheld the lower court's ruling in favor of the Governor's appointment.

9. Litigation involving a decision by the federal Department of Energy to change the allocation standards for fuel oil to Minnesota. The federal district court granted the Attorney General's motion for a preliminary injunction to stop enforcement of the DOE order until a trial on the merits is held.

UTILITIES/ENERGY/AGRICULTURE

We appeared in 40 lawsuits on behalf of the Public Utilities Commission, 7 lawsuits on behalf of the Energy Agency and 17 lawsuits on behalf of the Department of Agriculture.

Most of the Public Utilities Commission appeals involved the defense of Public Utilities Commission orders. Of this number, 16 were from bus and truck orders concerning trucking authority, four concerned grain elevators and weights and measures, three concerned telephone matters, 11 gas and electric rates and other issues.

The Energy Agency lawsuits were in defense of certificate of need decisions.

We were before the Minnesota Supreme Court four times for the Commission and three times for the Energy Agency.

We have represented the Department of Public Service in 44 rate cases in which the role of the Department is to represent the public interests as an intervenor in the proceedings. In addition, we have participated on behalf of the Department in 17 other utility and transportation contested cases. Attorneys from our office have also advised the Commission in all of the rate cases and other matters that have been presented to the Commission. We have assisted the Commission in 11 rulemaking proceedings.

On behalf of the Energy Agency, we have actively participated in 12 contested cases, 6 rulemaking proceedings and have represented the Agency in an intervention before the U. S. Department of Energy.

We have represented the Department of Agriculture in four rule-making proceedings and nine contested cases.

ENVIRONMENTAL QUALITY BOARD
& STATE PLANNING AGENCY

The Environmental Planning unit represents the Minnesota Environmental Quality Board, and the State Planning Agency which includes the State Demographer, Office of Local and Urban Affairs, Human Resources Planning, Developmental Disabilities, and the Governor's Council on Rural Development. In addition to providing day-to-day legal advice and representing these clients in all legal proceedings, the unit assists the clients by: drafting model ordinances on the subject of environmental review processes, reviewing local governmental ordinances concerning environmental review processes which include Environmental Assessment Worksheets (EAW's) and Environmental Impact Statements, (EIS's); participating in the hearing mechanisms established for power plant and power line siting; assisting in the monitoring of the critical areas program; drafting and reviewing proposed legislation, rules and contracts for the clients.

During the last biennium, this unit was involved in 17 lawsuits of which eight are closed, one is pending before the Minnesota Supreme Court, and three depend on other cases before they may be closed. This unit also wrote five formal opinions, three informal opinions, and responded to numerous inquiries from local governmental units and citizens. It participated in three major electrical transmission line hearings. It was also

involved in 31 Environmental Impact Statement (EIS) proceedings.

POLLUTION CONTROL

Attorneys representing the Minnesota Pollution Control Agency (MPCA) were primarily involved in rule making proceedings, settlement negotiations, contested cases and litigation during the 1979-1980 biennium. The specific numbers of these activities are as follows:

State and Federal Judicial Proceedings	60
Contested Case Proceedings	13
Rule making Proceedings	25
Federal Administrative Proceedings (e.g. EPA, NRC)	12
Stipulation Agreements (settlements)	164

These activities cover all aspects of MPCA authority in carrying out its environmental duties and responsibilities concerning air, water, solid waste, nuclear matters, noise, and hazardous waste. However, it must be noted that the above enumerated activities do not include the general legal advice and counsel and contract work that is an important part of the legal services provided to the PCA. The following is a summary of the more significant activities that have occurred during the biennium.

Our attorneys represented the MPCA in major rule making hearings concerning the adoption of the new water quality standards intended to meet the national goal of making the nation's waters fishable and swimmable. One of our major lawsuits involving water quality commenced during the biennium involves an action to recover the state's clean-up expenses, including over \$300,000 in direct, out of pocket expenses, incurred as the result of a fire at the Howe Chemical Company pesticide storage facility in Brooklyn Center. Our case against the owners of the pesticides is presently pending in district court. We represented the MPCA in negotiations with the Metropolitan Waste Control Commission and the Metropolitan Council involving a stipulated compliance agreement for the Pigs Eye Sewage Treatment Plant.

In the area of air quality control, our attorneys have been heavily involved in the MPCA's effort to comply with the 1977 amendments to the Clean Air Act that require the state to revise its state implementation plan (SIP) to provide for compliance with national ambient air quality standards by December 31, 1982. As part of this effort, we represented the MPCA in three major rule making hearings and provided assistance in drafting and negotiating several permits and stipulation agreements with respect to major sources of air pollution in the state.

During the biennium there continued to be a great deal of interest in nuclear power and our attorneys have been very active in the issues relating to nuclear power generation. We filed a brief amicus curiae in the U.S. Court of Appeal for the Ninth Circuit in support of the authority of state's to prevent construction of new nuclear plants in the absence of an approved facility for the safe disposal of nuclear waste. We represented the MPCA in an appeal of the U. S. Nuclear Regulatory Commission (NRC) decision which resulted in a U. S. Court of Appeals order to the NRC to address the question of whether nuclear waste will be disposed of safely when needed. The NRC rule making proceeding which resulted from this order is now in progress, and we are representing the MPCA and the Attorney General as full participants therein. We also represented the MPCA in three contested case proceedings that commenced during the biennium. These are ongoing at this time and concern proposed expansion of the spent fuel pool at Prairie Island. They include proceedings before the Minnesota Environmental Quality Board on the question of a need for an environmental impact statement, a proceeding before the Minnesota Environmental Energy Agency on the question of a state certificate of need for the project and a proceeding before the NRC on the question of a NRC license amendment. We have represented the MPCA in two proceedings involving the Monticello plant, one concerning defective spent fuel racks and

the other concerning issuance of the full-term operating license. Finally, we are assisting MPCA implementation of its authority to regulate radioactive air emissions, which authority was granted to it by the 1977 amendments to the Clean Air Act.

In the solid waste area we have represented the MPCA in several rule making proceedings and are presently assisting the agency in implementing its hazardous waste rules and programs. A major piece of legislation that passed the 1980 legislature was the Waste Management Act. We have commenced assisting the agency in implementing its responsibility and authority under that act. We have also begun assistance to the MPCA regarding its efforts in obtaining interim authorization to carry out the federal hazardous waste management program under the federal Resource Conservation and Recovery Act (RCRA).

The most significant environmental litigation in which we are representing the MPCA is entitled State of Minnesota et al. v. Reilly Tar and Chemical Company. This case involves hazardous waste materials in the form of coal tars and their derivatives that were allowed to accumulate on the ground in the area upon which the company operated in St. Louis Park, Minnesota. These pollutants have contaminated both the soil and groundwater of an extremely large area. The ground water pollution has reached major aquifers which serve as public water supplies for a significant portion of the Twin City area.

The waste materials involved are highly toxic, containing numerous substances including polyaromatic hydrocarbons (PAH) which are carcinogenic in nature. This case is the most important environmental case in Minnesota and is one of the major cases currently under litigation in the United States.

EDUCATION

Our lawyers represent the Community College Board, Department of Education, State University Board, Higher Education Coordinating Board, and Higher Education Facilities Authority.

While a majority of our efforts were expended in rendering advice on legal problems related to the operation of our clients' programs, we also were involved in providing a significant amount of advice to local governmental units. We issued five formal opinions and 14 informal letter opinions and responded to approximately 605 letters and calls from people in local government. In addition, we responded to approximately 1,100 citizen calls.

Some of our other responsibilities included 21 rule making hearings, 41 contested cases and 17 separate discrimination claims filed with various state and federal agencies.

Some of our most significant work involved litigation. We were involved in 41 lawsuits, of which 16 are pending. The lawsuits may be broken down into the following general categories:

Employee related matters. Five were won, three were settled, and six are pending.

Contract and breach of warranty cases. Three were won, and one was settled.

Challenges involving constitutional questions. Two were won, and one is pending.

Appeals from administrative decisions. Five were won, and three are pending.

Labor relations cases. Two were won, and one is still pending.

Declaratory judgment actions. We won two, and one became moot;

Tort cases. We won one and four are still pending.

Recoupment based on fraud. One is still pending.

HUMAN RIGHTS

The bulk of the work we performed for the Department of Human Rights was representation of the Department before administrative hearing examiners (complaints of discrimination are first heard here) and in the state district and supreme courts, which function as appellant courts in human rights cases. In addition, prior to issuing a complaint and sending a matter on for hearing before a hearing examiner, we attempt to resolve contested cases by settlement.

In the past biennium, we resolved through the above process, 107 cases of discrimination. Those resolutions included the payment of \$173,746.00 in damages to persons filing charges of

discrimination. In addition, disability benefits for women in State v. 3M will amount to \$400,000-\$500,000. Finally we resolved a number of disputes over employment, reemployment and promotion as well as obtaining restoration of seniority and other fringe benefits. These agreements also contain promises to cease and desist from such discriminatory practices as refusal to hire and promote because of race, sex, marital status and disability; refusal to rent on the basis of race and marital status, refusal to grant maternity leave and disability pay; and failure to provide equal medical insurance benefits on the basis of sex.

Three Minnesota Supreme Court decisions in the past biennium are noteworthy. The Court was one of the first state supreme courts to consider the issues in these cases.

State v. 3M and 3M v. State. This is a class action case involving 3M's policy of refusing to pay income maintenance benefits to women disabled by pregnancy or childbirth. The Minnesota Supreme Court ruled that 3M's policy constituted illegal sex discrimination, that class membership was limited by the filing of the charge and that ERISA, 29 U.S.C. §1144, did not preempt the Minnesota Human Rights Act. Class members will receive approximately \$400,000 to \$500,000 in income maintenance benefits as a result of this decision.

Kraft v. State. In this case the Minnesota Supreme Court held that the refusal of a company to employ an individual because his/her spouse was a full-time employee constituted illegal marital status discrimination.

Continental Can v. State. The Minnesota Supreme Court established the responsibility of an employer to eliminate sex based verbal and physical harassment of one co-worker by another.

COMMERCE

Legal representation is provided to the Minnesota Department of Commerce, including its four major divisions -- Banking, Insurance, Securities and Office of Consumer Services -- as well as various occupational licensing boards (e.g., Accountancy, Architects and Engineers, Cosmetologists and Electricity).

Banking. Lawyers representing the Banking Division routinely provide day-to-day legal advice to that agency-client on a broad range of subjects in addition to handling all litigation involving the Division before the Office of Administrative Hearings, as well as the state and federal courts. During the last two years legal representation was provided in approximately twenty cases involving bank charter applications or the approval/disapproval of detached facilities for state-chartered financial institutions. Several of those cases were appealed to and ultimately decided by the Minnesota Supreme Court.

Lawyers representing the Banking Division reviewed orders of the Commerce Commission relating to financial institutions and prepared legal interpretations of banking statutes. For instance, an official Attorney General's Opinion recently was issued relative to the powers and authorities of Minnesota's only mutual savings bank. Finally, all administrative rules promulgated by the

Commissioner of Banks were reviewed and approved as to form and legality by the lawyers assigned to the Division.

Securities and Real Estate. Lawyers representing the Securities Division provided daily legal advice to the Division and conducted both administrative proceedings and civil litigation under the real estate, securities, franchise, charitable solicitation, subdivided land and collection agency statutes.

In administrative proceedings, the lawyers processed approximately 200 files involving Cease and Desist Orders, Orders To Show Cause and other similar orders of the Commissioner of Securities. Those files involved disciplinary actions against licensed securities brokers and agents, as well as real estate brokers and salespersons. Such actions resulted in license revocation, suspension or other disciplinary measures by the Commissioner. We also conducted proceedings which prohibited the offer and sale of unregistered securities, including investment opportunities involving oil and gas lottery programs, as well as unregistered franchises and interests in unregistered subdivided lands. Since May, 1979, legal representation has been provided to the Securities Division in its enforcement of state laws relating to collection agencies. (Formerly another agency-client, the Office of Consumer Services, was responsible for this enforcement function.)

In representing the Division in civil litigation, lawsuits have been brought to enjoin the sale of unregistered franchises, to enjoin the sale of oil and gas interests which were not registered

under the Minnesota securities laws and to enjoin companies offering investment services in oil and gas lotteries which were not properly registered. We represented the Securities Division in an action to enforce the antifraud provisions of the Commodities Exchange Act and for the appointment of a receiver. We have also defended the Division in numerous actions, such as those seeking declaratory judgments against the state with regard to the application of the Minnesota Franchise Act and actions to enjoin administrative proceedings commenced by the Commissioner. We have, in addition, provided expertise in securities law in criminal prosecutions against persons who have fraudulently offered for sale investments and who have misappropriated customers' funds. Lawyers for the Division also handled claims proceedings under the Minnesota Real Estate Education, Research and Recovery Fund. Some of these involved several hundred thousand dollars and hundreds of potential claimants. We also have defended numerous court appeals from administrative orders of the Division issued in disciplinary actions against professional licensees and have commenced court actions to enforce administrative subpoenas.

Representation and legal advice has constantly been provided the Securities Division in rule-making proceedings, including one relating to uniform real estate conveyancy forms.

Insurance. Legal activities on behalf of the Insurance Division included:

1. Advising the Division on the propriety of initiating actions to discipline insurance agents and handling the ensuing administration proceedings. Sixteen orders were obtained revoking or suspending agents' licenses, imposing civil penalties, or ordering agents to cease and desist certain prohibited practices. Additionally, several other files were reviewed and referred to the appropriate authorities for criminal prosecution.

2. Advising and representing the Division in court on three rehabilitations of domestic insurance companies which were in financial difficulty. One company was removed from rehab during this period. We performed a similar function in four liquidations of companies which had ceased doing new business.

3. Advising the Division on the proper action to take against several companies which were in violation of the Minnesota Unfair Trade Practices Act and reporting requirements. This included obtaining civil penalties against some violators.

4. Assisting the Division in drafting legislation relating to the regulation of workers' compensation insurance rates and rating procedures. As an outgrowth of the enacted legislation, we represented the Division staff's intervention in a proposed \$230 million increase in workers' compensation insurance rates.

5. Representing the Division in its efforts to promulgate five sets of permanent rules and three sets of temporary rules wherein we provided legal advice and counsel during the drafting process and otherwise represented the Division during the formal rule-making hearings.

6. Advising the Division on the proper procedure for implementing new insurance laws and providing day-to-day legal advice on legal matters.

7. Advising the Division on applications for approval of the purchase of insurance companies, two of which involved initiating contested case proceedings.

8. Representing the Division and the Commissioner of Insurance in 15 lawsuits exclusive of those involving the rehabilitation or liquidation of insurance companies: three challenged the constitutionality of the Minnesota Comprehensive Health Insurance Act; one involved a constitutional challenge to the authority of the Commissioner of Insurance to enter into an agreement with the Commissioner of Human Rights concerning sex discrimination practices of insurers; and the remainder represented judicial appeals of various agency decisions and orders, or challenges to the agency's authority.

Consumer Services. Representation is provided to the Office of Consumer Services (OCS), including both the residential utility unit and the complaint mediation unit.

During the past two years, lawyers have represented the OCS as a party-intervenor in approximately 20 cases before the Public Utilities Commission. Such cases have involved complex telephone, electric and gas rate-setting procedures. In addition to representing the OCS in administrative proceedings before the hearing examiner and the Public Utilities Commission, lawyers have

appeared in district court and the Minnesota Supreme Court in at least five cases where judicial review was sought. Lawyers have also provided advice to the OCS regarding ancillary proceedings pending before the Federal Energy Regulatory Commission and have helped to coordinate the representation of OCS and its clientele, Minnesota's residential utility users, before that agency in Washington, D.C.

Lawyers provided day-to-day advice to the OCS investigative staff regarding ongoing consumer complaints, and have negotiated and secured several assurances of discontinuance, as well as injunctions, against domestic and foreign companies doing business in Minnesota. Legal assistance has also been provided with respect to the interpretation and enforcement of OCS rules.

Licensing Boards. Legal representation and investigative services are provided to the following seven occupational licensing Boards: Abstracters, Accountancy, Architecture and Engineering, Barbers, Cosmetology, Electricity and Watchmaking. In addition to responding to routine requests for legal advice, lawyers representing each of these Boards review, coordinate the investigation and handle contested cases involving disciplinary action against licensees. (Over 100 complaints were received and processed from the Board of Cosmetology alone.)

On occasion, there has been civil litigation involving some of those Boards. For example, a challenge to the constitutionality of the statutes and rules of the Barbers Board is currently pending before the Minnesota Supreme Court.

HEALTH

The attorneys of the Health Division represent the Department of Health, including the Office of Health Facilities Complaints, and the ten health related licensing boards. In addition to performing all of the legal services for these clients, the Division is statutorily responsible for investigating all complaints received by the boards which allege or imply a violation of the laws they are to administer "r enforce.

The investigative responsibility was first placed with the Division in FY '78. Since then the number of complaints have jumped dramatically. During the biennium 411 complaints were referred by the boards to the Division. Of those complaints, 234 required investigation. This represented a 20 percent increase for FY '79 and a 34 percent increase for FY '80. After a complaint has been verified by investigation, the licensee is often summoned to appear at a disciplinary conference. There was a corresponding increase in these conferences, to wit: 58 in FY '79 and 88 in FY '80. The types of discipline that can result from these conferences range from a reprimand to a revocation of license.

The Division was involved in 139 contested cases. A major number of those cases involved appeals of assessments issued by the Department of Health against health care facilities for violations of Department rules. As a result of our assistance, about \$10,000 in assessments were collected from health care facilities. The remainder of the contested cases were disciplinary actions against

persons or facilities licensed by the Department or the licensing boards.

Thirty-two lawsuits were handled by our attorneys. The majority of the cases related to appeals from health facility assessment hearings or licensing disciplinary proceedings. Other cases included the dismissal by a multi-district federal court of a challenge by naturopaths to the constitutionality of the medical and pharmacy practice acts. A receivership action was also successfully pursued on behalf of the Department of Health when it became necessary to take over the operation of a nursing home in order to assure continued services to the patients. In addition, the Brainerd fluoridation litigation was brought to a close when Brainerd, after exhausting every conceivable avenue of appeal, commenced fluoridation of its water supply.

In another major activity area, the Division's attorneys represented the state's health agencies in 29 rulemaking proceedings. In addition, the Division assisted its clients in its day to day activities by providing legal advice and opinions, reviewing contracts, assisting with citizen correspondence and inquiries, engaging in contested personnel matters, and providing many other services related to the legal needs of the clients.

LABOR AND INDUSTRY

The Attorney General's main task in the Department of Labor and Industry is to give day-to-day legal advice to the Commissioner and to the various divisions of that department: Labor Standards, Fee Employment Agencies, Boiler Inspection, and Apprenticeship.

Over the last biennium, a great deal of time was spent on prevailing wage litigation. The department was represented in rule making procedures, administrative hearings, and in one claim made under Minn. Stat. § 181.13. Attorney General's opinions were written as statutory problems arose.

(Labor and Industry)

SPECIAL COMPENSATION FUND

The legal problems of the Special Compensation Fund are handled by the Attorney General. Three attorneys are occupied entirely with Fund problems. The Fund has three tasks:

- (1) To encourage employers to hire persons with physical impairments.
- (2) To provide workers' compensation benefits to employees of uninsured employers.
- (3) To pay supplemental benefits to those long-time disabled employees being paid the low rate of years past.

The Fund disburses \$15 to \$20 million per year.

In the 1978-80 biennium, the Fund attorneys were involved in about 850 claims, resulting settlements, pre-trials and hearings. There were about 125 appeals to the Workers' Compensation Court of Appeals. The Fund was a party in eight Supreme Court appeals.

(Labor and Industry)

OCCUPATIONAL SAFETY AND HEALTH

District Court. Commenced 47 actions to collect occupational safety and health penalties levied in amounts over \$100. It was necessary to obtain eleven judgments. Four cases were brought to the district court under the Minnesota Administrative Procedures Act.

Administrative Hearings. Four hundred fifty-eight administrative appeals taken by Minnesota employers and employees from occupational safety and health citations and civil penalty assessments were handled by our attorneys. In addition, our attorneys represented OSHA in thirteen appeals from hearing examiner decisions to the Occupational Safety and Health Review Board.

Search Warrants. Filed district court applications for twenty-one administrative search warrants.

Amicus. Prepared and filed an amicus curiae brief with the United States Supreme Court in Whirlpool v. Marshall, a major discrimination case under the federal Occupational Safety and Health Act.

EMPLOYEE RELATIONS

The Department of Employee Relations is the central personnel office for state government. It has two major divisions. The Personnel Division of the Department develops and carries out personnel policies, is responsible for recruiting and testing applicants for positions in the state service; for developing classification and compensation plans; for developing and carrying out state-wide equal opportunity plans; for providing services in the area of employee training and performance appraisal; and for selection and administration of state employee insurance benefits plans. It also administers the Inter-governmental Personnel Act program for the state of Minnesota; federal social security coverage for all state and local government employees; provides testing services for local governments; and certifies the bi-weekly state payroll period.

The other major division, the Division of Labor Relations, is headed by the State Labor Negotiator. This division represents the state as the employer of state employees for purposes of the Public Employment Labor Relations Act. It is responsible for representing the state in collective bargaining with all state employee unions including negotiations, coordinating administration of employee grievances, representing the state in all grievance arbitrations, and collective bargaining contract interpretation and administration. All collective bargaining agreements must be approved by the Legislature. During the last two legislative

sessions the Public Employment Labor Relations Act has been extensively amended affecting the Department's duties and responsibilities for the process of establishing wages, terms and conditions of employment for organized state employees.

One attorney, assisted part-time by another, has represented the Department of Employee Relations as well as the recently abolished Personnel Board, whose primary functions were to act as an independent quasi-judicial agency to hear appeals of disciplinary actions taken against state employees and to recommend salaries for constitutional officers, state department heads, judges and legislators. These attorneys have handled or assisted in approximately thirty (30) district court cases. They have approved numerous contracts for form and execution, advised the Department and the Board regarding a wide variety of legal problems arising in the course of their activities. They have also assisted the Department in reviewing, tracking and drafting legislation; worked on five administrative rules promulgation proceedings, approximately ten Human Rights Department charges, and several contested cases. In addition they consulted with and advised other attorneys on the Attorney General's staff regarding other agencies' personnel-related problems; drafted and assisted in formulating Attorney General's opinions in the subject area; participated in labor negotiations and arbitration-related matters.

ECONOMIC SECURITY

We represented the Department of Economic Security as follows:

Collection Activities to recover taxes, interest and penalties under the Minnesota Employment Services Law:

- 1489 suits were commenced in the district courts;
- 1424 items were collected for a total of \$813,215;
- 695 judgments were docketed;
- 322 proofs of claim were filed in bankruptcy, probate, receivership and corporate dissolution proceedings.

Other activities. The Department was represented in 123 cases before the Minnesota Supreme Court in matters involving unemployment compensation.

Approximately 1800 grants and contracts were approved by us as to form and execution for the Department.

PUBLIC SAFETY

The major activity of the Public Safety Division is the processing and prosecution of cases arising under the Implied Consent statutes, Minn. Stat. §§ 169.123 and 169.127. (In 1978, M. S. § 169.127 was merged into M.S. § 169.123, so that this section now provides for license revocations both for those who refuse to submit to testing to determine the presence of alcohol, but also to those who do submit to testing which discloses the presence of an alcohol concentration of .10 or more.)

Because of changes made in substance and procedure to make the statute more comprehensive, the total caseload has risen. On July 1, 1978, there were 1632 pending Implied Consent cases (652 refusals and 1080 cases involving tests). Since then, 12,750 new cases have been received.

During the biennium, a total of 10,716 cases were resolved. Of those, 10,014 are classed as "wins" for the Department of Public Safety, in that they resulted in the revocation of the license. The other 702 were "losses" resolved in favor of the driver.

As of July 1, 1980, therefore, our caseload includes 3766 pending Implied Consent cases.

We also represented the Department of Public Safety in approximately 150 driver license petitions for reinstatement in the District Court and Supreme Court, in addition to a variety of administrative proceedings, rulemaking hearings, personnel, and disciplinary matters, and provided advice to the various divisions of the Department of Public Safety.

DEPARTMENT OF REVENUE

Legal services for the Department of Revenue included:

<u>Minnesota Supreme Court:</u>	12 cases won, 8 lost, and 22 pending.
<u>District Court:</u>	9 cases won, 7 lost, 242 cases settled and 468 pending.
<u>Minnesota Tax Court:</u>	61 cases won, 29 lost, 250 cases settled and 391 pending.

Probate Court:

4 cases settled and 6 pending.

A total of \$2,342,453.03 was collected in taxes.

Remaining to be collected are 5,402 accounts.

WELFARE

The Welfare Division provides legal advice to the Commissioner, Deputy and Assistant Commissioners and other members of the Department on a day-to-day basis involving contracts, grants, legislative, regulatory and judicial changes, the operation of interstate compacts and the like. To illustrate, in fiscal year 1979 the Department issued some 198 information, instructional, request and policy bulletins, many of which were reviewed by our staff. In fiscal 1980 the comparable figure was 292. In fiscal 1979 we passed upon the form and execution of some 176 contracts by state hospitals alone. In fiscal 1980, the figure was 187.

Major shifts in direction, such as the Community Social Services Act, gave rise to new and difficult legal questions. We assisted the Department in dealing with such questions. We did some preventive counseling with the Department on such matters as welfare appeals procedures and data privacy. We would like to do much more along these lines.

The Division handled court cases on an on-going basis in three areas which generated a substantial number of cases. Appeals were frequently taken to state district courts by beneficiaries of various income maintenance programs; recent status reports indicate over 100 such appeals pending.

The Department is continually involved in seeking to collect from responsible persons and from estates of former patients for care rendered by state institutions. Some 75 of these cases were in court at last count. There is a very large number not yet brought to court.

The Department's benefit recovery program constantly seeks to recover from third parties for care provided by the state. Over 50 of these appeared on the last status report. Other groups of cases that arose with regularity over the biennium included actions by state hospital patients challenging their commitment status or the treatment being provided. The number of these cases is increasing.

The Division also represented the Department in a great many other litigated matters which did not fit these categories or which were significant enough to command special dedication of attorney time. The most prominent of these, the Welsch case, involved the right to treatment of the mentally retarded. This has demanded great efforts which are only now resulting in a settlement which appears to be beneficial to all concerned. Another major federal court suit concerned the reimbursement structure for nursing homes in this state.

Other major cases arose out of the Department's many programs and institutions. Many tort claims were handled in conjunction with the Tort Claim Division of the Attorney General's Office. Other disputes, such as the question of federal funds for the mentally ill, placed the Department in conflict with federal departments

involved in medical assistance and poverty programs. The continued growth of legal aid services continued to foster a substantial amount of complex litigation involving such diverse matters as medical eligibility, screening programs for children, and the involuntary administration of medication to patients in state hospitals.

During fiscal 1978, 24 contested cases and four rules hearings involving the Department of Public Welfare were opened in the Office of Hearing Examiners. During fiscal 1979, there were 26 such contested cases and 13 rules hearings. Most of the contested cases involved license revocations handled with the appropriate county attorney taking the lead role. Two major license revocation matters were handled solely by the Attorney General's Office as well as many others settled short of hearing. Other contested case hearings arose out of varied circumstances such as contests over the proper rate of reimbursement of long term care facilities, denial of catastrophic health expense benefits, and revocation of provisional discharges from state institutions. These were all handled solely by the Attorney General's Office. Current status reports indicate the Department has some 18 contested cases and approximately 25 rules in process. Some of these matters will involve a major commitment of time and resources.

One of the most serious problems confronting the Department now is the existence of a backlog of over 400 disputes relating to reimbursement of long term care facilities. Some of the larger

cases are being put on for hearing and the Department and the Attorney General's Office are searching for ways to arrive at some expeditious way to deal with this problem.

Many Department programs are administered in conjunction with the counties and other agencies. We provided some formal opinions and a great deal of informal written and oral advice requested by county attorneys, other agencies and units of local government.

We placed a high priority on responding to requests for information and assistance. Almost every day every lawyer in the Division received and handled inquiries from citizens.

OPINIONS

Several opinions rendered during the biennium warrant mention:

Aliens

A person, otherwise qualified, is not precluded from serving on municipal housing and redevelopment authority because he is not a U.S. citizen. Op. Atty. Gen. 430, Feb. 9, 1979.

Building Code

Municipalities were required to adopt and enforce the state building code by January 1, 1979. Op. Atty. Gen. 59a-9, Feb. 14, 1979.

1979 law permits counties outside the metropolitan area to hold elections to determine application of the state building code. Cities which adopted the code before 1977 must retain the code. Applicability of the code in other cities will continue unless it is rejected by county election. Cities are not authorized to hold separate elections. Op. Atty. Gen. 59a-9, Aug. 6, 1979.

A city which adopted the uniform building code in 1964 was deemed to have adopted the state building code prior to 1977, since, by law, the state building code replaced all other local codes in 1972. Op. Atty. Gen. 59a-9, Sept. 28, 1979.

An exception to the architects and engineers registration law permits licensed electrical contractors to prepare electrical plans within the scope of their license. Building permits should not be issued absent certification of plans by an architect or engineer except where others are authorized by law to prepare plans. Op. Atty. Gen. 10a-3, Nov. 15, 1979.

When the state building code is rejected by county referendum, municipalities must still adopt and enforce provisions of the code relating to accessibility and useability by handicapped persons. Furthermore, certain regulations, such as electrical and plumbing standards which are provided by statutes apart from the building code, will continue to apply. Op. Atty. Gen. 59a-9, Feb. 21, 1980.

Conflict of Interest

Rezoning of property owned by a city councilman is not a sale, lease, or contract prohibited by statute, but interested councilman would be disqualified from acting on the proposal. Op. Atty. Gen. 59a-32, Sept. 11, 1978.

Open Meeting Law

Separate communication by city manager to individual members of the city council not involving direct or indirect communication among the members would not, in itself, violate the open meeting law. Op. Atty. Gen. 471-e, April 22, 1980.

Public Officers and Employees

Occurrence of the First Monday in January on New Years Day does not affect the commencement of terms of office. Op. Atty. Gen. 359a-24, Dec. 26, 1978.

County employees not officially involved in a sale, may purchase surplus government property at auction or on sealed bids notwithstanding a general prohibition against their having a private interest in county business. Op. Atty. Gen. Aug. 17, 1979.

1979 law (since changed) limited mileage reimbursement for local government employees to the rate paid state employees. The law did not affect the power to make payments in lieu of mileage nor rates provided by pre-existing collective bargaining agreements. Op. Atty. Gen. 161a-12, Jan. 8, 1980.

A county hospital board may not award a gratuitous bonus to employees for past services absent prior agreement on ongoing bargaining. Op. Atty. Gen. 107a-3, Jan. 22, 1980.

Absent specific statutory or charter authority, municipalities may not reimburse employees for expenses incurred in defense against criminal charges. Op. Atty. Gen. 125-A-25, July 28, 1980.

Regional Development

Regional development commissions, once formed, have no power to dissolve themselves nor to be dissolved by withdrawal of local government units. Op. Atty. Gen. 1033, Nov. 28, 1978.

Schools

A school board may purchase a school house in an adjacent district. Op. Atty. Gen. 622-j-22, Dec. 18, 1978.

Counties are not authorized to expend in lieu of tax funds received under Minn. Stat. § 477A.14 for school district capital expenses and debt. Op. Atty. Gen. 125b-27, Dec. 21, 1979.

Minnesota law prohibits school district from renegotiating compensation for the second year of a two-year collective bargaining agreement with teachers. Op. Atty. Gen. 172c, June 30, 1980.

Procedures contained in the Pupil Fair Dismissal Act are not applicable to exclusion of students for failure to receive required immunizations. Some minimal due process procedures must, however, be provided. Op. Atty. Gen. 169-w, July 23, 1980.

Taxation

A surviving spouse is not entitled to exclude half of jointly-held property from estate tax calculation as being received in consideration of domestic services. The legislature has, however, accorded substantial estate tax relief specifically for surviving spouses. Op. Atty. Gen. 242a-18, Sept. 25, 1978.

City property leased to other governmental agencies remains tax exempt. Op. Atty. Gen. 414a-11, May 11, 1979.

Transit

The Metropolitan council is required to submit proposed fare changes to the Metropolitan Council for review and comment. Op. Atty. Gen. 1005, Apr. 27, 1979.

ADMINISTRATIVE AGENCIES

Our attorneys in this office unit provide all legal services to the Departments of Administration, Finance, Military Affairs, the State Treasurer, Armory Building Commission, Capitol Area Architectural and Planning Board, County Attorneys Council, Designer Selection Board, Executive Council, Intergovernmental Information Systems Advisory Council, Minnesota Educational Computing Consortium, Office of Administrative Hearings and the State Board of Investment. Additionally, our attorneys review administrative rules as to form and legality, provide legal assistance on all state computer purchases, review contracts prepared by the Governor, State Auditor and Minnesota Supreme Court and respond to numerous citizen inquiries in various legal areas.

Over the last biennium, our work included:

Litigation. We:

. Participated in three Supreme Court matters, winning one, losing one and having one remanded to District Court.

. Are involved in one suit in Federal District Court, which is pending.

. Handled 19 District Court matters, prevailing in six, losing two, settling four before trial, with seven units pending.

. Resolved six arbitration matters with one pending.

. Won three contested cases, lost one with three pending.

Citizen advice. We:

. Responded to approximately 2,200 citizen inquiries, primarily in the areas of public purchasing, data practices and real estate.

Client advice. We:

. Responded to approximately 18,000 requests for advice from our various clients.

State acquisition of electronic data processing devices. We:

. Established a centralized mechanism through which all state agencies may obtain legal advice for the purchase or lease of computers on a standardized basis. To date, we have assisted agencies in 22 separate acquisitions.

Document preparation and approval. We:

- . Drafted approximately 775 legal instruments.
- . Reviewed more than 7,700 contracts as to form and execution.

Administrative rule activities. We:

- . Participated in 11 rulemaking proceedings.
- . Reviewed approximately 240 sets of administrative rules as to form and legality.

MINNESOTA HOUSING FINANCE AGENCY

In addition to the services of bond counsel appointed by the Attorney General, we provide legal advice to the Board of the Minnesota Housing Finance Agency. This includes matters relating to bond and note sales not within the purview of bond counsel's opinions. We provide all legal documentation and advice relating to legislative matters and to the commitment, disbursement, and security of loans and grants made by the Agency.

During the fiscal years ending June 30, 1979, and June 30, 1980, we provided legal advice relating to five revenue bond sales. These were: one sale, in the amount of \$123,790,000 to provide funds for below market interest rate single family purchase money mortgages for low and moderate income persons: two sales totaling \$61,055,000 for Title I insured low-interest rate remodeling loans for qualified borrowers; and two sales, totaling \$193,115,000, to provide low interest construction and long-term financing for multi-family rental developments for occupancy by qualified Minnesota Residents.

Our attorneys handled 90 multi-family initial loan closings for 5,731 rental units in the amount of \$193,247,488. We also handled the final loan closings for 73 multi-family developments containing 4,864 units.

In addition, we closed four multi-family construction loan participations with private lenders for 205 rental units, in the amount of \$6,907,707; and closed six loans for housing for the developmentally disabled, in the total amount of \$1,114,344.

We have provided legal advice on an ongoing basis concerning the acquisition, servicing, and disposition of the loans in the Agency's portfolio, which currently includes 192 multi-family mortgages, approximately 8,000 single family purchase money mortgages, and 27,000 Title I remodeling loans.

We have provided legal advice to the Agency for four regular rule making proceedings and three temporary rule procedures. We have assisted the Agency in drafting its legislative programs; and have provided all legal services relative to the drafting of the instruments for the making or acquisition of the loans funded with the proceeds of the bond sales referred to above, and the instruments relating to grant programs administered by the Agency.

NATURAL RESOURCES

Our attorneys representing the Department of Natural Resources are responsible for enforcing all state laws concerning the use and protection of Minnesota's natural resources including the state park system, hunting and fishing restrictions, Indian tribal and reservation matters, the Minnesota Wild and Scenic Rivers Act, as well as timber and resource development.

Over the last biennium, our work can be summarized as follows:

1. We litigated 124 District Court cases which are categorized below -

Condemnation	1	Pending
	<u>16</u>	Closed
Total	17	
Car Confiscation	4	Pending
	<u>7</u>	Closed
Total	11	
Quiet Title Action	0	Pending
	<u>2</u>	Closed
Total	2	
Title Registration Actions	7	Pending
	<u>90</u>	Closed
Total	97	

Other Federal, Supreme,
District, and
Municipal Court
Matters

106 Pending

18 Closed

Total 124

In addition:

2. We participated in 121 public hearings before the Commissioner of Natural Resources.

3. We prepared 139 orders for the department, the greatest number concerning game and fish and appointment and delegation.

4. We pursued 112 delinquent timber accounts and collected \$94,863.37.

5. We participated in 43 land exchange actions.

6. We drafted 42 bills for the DNR and other agencies served by the staff.

7. We processed 14 legislative claims, and wrote 11 formal opinions.

8. We approved 9,539 contracts for form and execution.

9. We examined abstracts, wrote title opinions and prepared deeds for tracts of land acquired by the state.

RETIREMENT AND VETERANS

Attorneys in this specialized area provide legal services to the Department of Education, Board of Teaching, State University Board, Community College Board, Higher Education Coordinating Board, Economic Security, Department of Veterans' Affairs, the State Historical Society, the Retirement Funds and the Housing Finance Agency.

Excluding HFA and unemployment compensation matters, over the last biennium we handled 178 lawsuits and participated in 24 rulemaking proceedings and 44 contested cases. We defended 25 discrimination complaints and responded to some 3,135 citizen queries, letters and calls.

We recovered \$813,215 in taxes stemming from probate and bankruptcy matters and from 1,489 suits concerning unpaid unemployment compensation taxes.

Work for the HFA included:

- a) Providing legal advice relating to five bond sales totaling \$377,960,000.
- b) Handling 90 initial closings for multi-family loans (total value of \$193,247,488).
- c) Handling 74 final closings for multi-family loans.
- d) Handling the closing for 4 multi-family construction loan participations with private lenders in the amount of \$6,907,707.
- e) Handling the closings for 7 home construction projects for the developmentally disabled (total value of \$1,114,344).

TRANSPORTATION

Much of the Attorney General's work for the Department of Transportation concerns contract litigation, property damage collections, contested cases and the like. The following summarizes this division's work over the last two years:

1. We had ten contract cases pending at the outset of the biennium (July 1, 1978). We filed 29 and settled ten.

2. We had only one highway environmental case pending at the biennium's outset. Three cases were filed and two were settled.

3. We filed and closed one civil rights case.

4. We filed three railroad cases and settled one

5. We had three property damage collection cases pending at the beginning of the biennium. We subsequently filed 19 more and settled five. Before collection matters were turned over to the Department of Transportation in January, 1980, we had collected \$899,656.38.

6. We had two pending contested cases at the outset. We took on eight more and settled nine.

In addition to these we participated in 10 rules hearings, processed 20 legislative claims and approved 4,420 contracts for form and execution.

REAL ESTATE

The Real Estate Division is responsible for litigation of eminent domain actions and real estate lawsuits involving the state and its agencies. We provide land title examinations services for real property acquisitions by the state.

Over the last biennium we completed 1,168 title requests and processed 4,276 title requests completed by the Department of Transportation. We completed 912 Direct Purchase transactions. We reviewed and approved 334 state leases and prepared 23 petitions, notices of hearings and orders concerning county and joint county ditches.

Other facets of our work involve condemnation proceedings. Legal action generated by that activity may be broken down as follows:

Petitions:

Hearings	153
Number of Parcels	1,668
Stipulations amending Petitions	42
Partial dismissals modifying Petitions	19
Dismissal of parcels from proceedings	417
Commissioners Hearings and Viewing	471

Reports of Commissioners:

Filed	237
Number of Parcels	683
Appeals from Awards of Commissioners	134
Settlements	56

Trials	14
Stipulations in lieu of judgment	10
Final Certificates processed	235

LEGISLATION

Over the last biennium, the legislature acted favorably on a number of proposals which we drafted and pushed. Among these bills was a measure to make theft of a child by his or her parent a crime. Another bill set out the rights and duties of mobile home park owners, tenants and mobile home dealers.

KFM 5827.5 .A8 A133ax 1979/8
 Minnesota. Attorney General.
 Report of the Attorney
 General to the Governor, S

KFM 5827.5 .A8 A133ax 1979/8
 Minnesota. Attorney General.
 Report of the Attorney
 General to the Governor, S

DEC 19 1980

Jae Robertson

KCR

74

AP

Robert Maier

LEGISLATIVE REFERENCE LIBRARY
 STATE OF MINNESOTA