

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Out File No. 695

Ted

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 4/23
DATE FOR REVIEW 5/4
DATE DUE 6/3

Adopted w/a hearing ✓
Adopted w/o a hearing _____
Temporary rule _____

Approved ✓ Disapproved _____ Returned to Agency 5/11

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 5/8

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 4.6.81

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
4.23.76 Date of Hearing

see memo from J.A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
3.18.76 At least 30 days prior to hearing/~~adoption~~

✓ ~~Mailing list~~ Certificate of Secy State
✓ Affidavit of receipt of Secy. State's List

_____ Publication in State Register
? At least 30/20 days prior to hearing/adoption
see my comment.

✓ Hearing Examiner's Report, labeled Findng's of Facts

✓ Chief Hearing Examiner's Report(s)
_____ ~~Approving H.E.'s Report~~ issued in accordance w/ APA
_____ ~~Approving agency action~~ in effect at time of HE rpt.

✓ Agency's Findings of Fact

_____ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A Petition for Adoption of a Rule

✓ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

✓ Certificate of Compliance w/Rulemaking Procedures

✓ Affidavit of Mailing Notice of Submission to Attorney General

N/A Notice of Submission to the Attorney General

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : GEORGE IWAN

DATE: May 11, 1981

ATTN: Jerry S. Anderson

FROM : H. Theodore Grindal HTG
Special Assistant
Attorney General

PHONE: 6-1288

SUBJECT: In the Matter of the Proposed Adoption of Rules of the State Designer Selection Board

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Please note that they have not been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages to the rules in the approved set.

If you have any questions in this regard, please contact me.

HTG:rg
Enc.
cc: Susan Robertson
Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Judith Wehrwein
Legal Assistant
Attorney General's Office

RECEIVED
APR 23 1981
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

DATE: 4/23/81

FROM : Jerry S. Anderson
Special Assistant
Attorney General

PHONE: 6-4692

SUBJECT: Rules of the State Designer Selection Board

Attached for review by the Attorney General, pursuant to Minn. Stat. § 15.0412 and 1 MCAR § 1.202, are the following documents relating to adoption of the above-referenced rules.

1. Rules as Adopted - original and three (3) copies, one of which shows changes from the Rules as Proposed
2. Order Adopting - two (2) copies
3. Certificate of Board's Resolution Adopting Rules
4. Order for Hearing
5. Notice of Hearing
6. Affidavit of Mailing with accompanying Affidavit and Certificate
7. Rules as Proposed
8. Findings of Fact, Conclusions and Recommendations of the Hearing Examiner
9. Order of the Chief Hearing Examiner
10. Findings of Fact and Conclusions of the agency
11. Statement of Need and Reasonableness
12. Transcript
13. Statement of Compliance with Rulemaking Procedures
14. Affidavit regarding notification of submission of the rules to the Attorney General

Undoubtedly, you will notice that this submission does not include a Certificate of Board's Authorizing Resolution (ordering a hearing) as required by 1 MCAR § 1.202 F. This document, however, did exist at one time. See Findings of Fact, Conclusions and Recommendations, Hearing Examiner Myron Greenberg, May 26, 1976, at Findings of Fact III 5. Its absence at this time should not be considered a procedural defect and should not affect the adoption of these rules.

If you have any questions regarding this matter, please contact me.

JSA/gy
Att.
cc: George Iwan

AG copy

State Designer Selection Board

Proposed Rules Governing the Organization of the State Designer Selection Board and the Selection of Designers.

Rules as Adopted.

Chapter One: Organization.

~~Design 1~~ 2 MCAR § 4.001 Officers.

~~(a)~~A. At the first meeting after the last day of June of each year, the voting members shall elect from among their numbers persons to serve as Chairman, Vice-Chairman, and Secretary.

~~(b)~~B. Persons so elected shall take office at the first meeting following their election and shall serve for one year or through the duration of the meeting at which their successors are elected.

~~(c)~~C. Officers may be reelected.

~~Design 2~~ 2 MCAR § 4.002 Quorum.

A quorum shall consist of three voting members. No business shall be transacted without a quorum.

~~Design 3~~ 2 MCAR § 4.003 Meetings.

~~(a)~~A. The Board shall meet at the call of the Chair or at the request of any two members.

~~(b)~~B. Notice of meetings shall be posted at an appropriate public place, and shall be published in the State Register.

~~(c)~~C. Meetings of the Board shall be public; ~~but there shall be no opportunity for~~ participation by ~~anyone except the~~ persons other than members of the Board, its staff, and the candidates~~, unless~~ shall be by express request or permission of the Board.

HE VIII

~~Design~~ 4 2 MCAR § 4.004 Restraints of Discussion.

Board members shall not discuss with candidates any matters relating to the projects under consideration except during scheduled interviews before the Board.

~~Design~~ 5 - ~~10~~ 2 MCAR §§ 4.005-4.010 Reserved for Future Use.

Chapter Two: Selection of Designers.

~~Design~~ ~~11~~ 2 MCAR § 4.011 Selection Criteria.

In making its selection of designers the Board shall consider the criteria listed below. The criteria do not necessarily have the same weight, nor are their relative weights necessarily constant from one project to another. The Board may issue statements regarding criteria as they relate to individual projects.

~~(a)~~A. Qualifications and technical competence in the required field of design.

~~(b)~~B. Ability to deal with aesthetic factors.

~~(c)~~C. Capacity to accomplish the work and services within the required constraints.

~~(d)~~D. Availability of appropriate personnel.

~~(e)~~E. Geographic relationship of the designer's base to the project site.

~~(f)~~F. Awards previously made to a designer by the State. (This is in the interest of equitable distribution of commissions.) HE X

~~Design~~ ~~11~~ 2 MCAR §§ 4.012-4.020. Reserved for Future Use.

APPROVED AS TO FORM AND LEGALITY

May 8 1981

WARREN SPANNAUS, ATTORNEY GENERAL

BY H Theodore Trendel

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
MAY - 8 1981
Joan Anderson Growe
Secretary of State

3:30 p.m.

STATE OF MINNESOTA

STATE DESIGNER SELECTION BOARD

In the Matter of the Proposed Adoption of Rules of the State Designer Selection Board Governing the Organization of the State Designer Selection Board and the Selection of Designers.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before Hearing Examiner Myron Greenberg on the 23d day of April, 1976, at 9:00 A.M., in Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the State Designer Selection Board for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, and confirming the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules Governing the Organization of the State Designer Selection Board and the Selection of Designers are adopted this 6 day of April, 1981, pursuant to authority vested in the Board by Minnesota Statutes sections 16.824 and 16.826, subdivision 2.

STATE OF MINNESOTA

George Iwan

GEORGE IWAN
Executive Secretary

RECEIVED
APR 19 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE OFFICE OF

HEARING EXAMINERS

In the matter of the Proposed Adoption of Rules of the State Designer Selection Board

ORDER FOR HEARING

To effectively implement the State Designer Selection Board Act, the Designer Selection Board deems it necessary to consider adoption of the proposed rules captioned above pursuant to the authority of Minn. Stat. § 16.824 (1974).

NOW, THEREFORE, IT IS ORDERED this 15th day of March, 1976, that a public hearing on the proposed rules captioned above be held in Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota on April 23, 1976, commencing at 9:00 A.M. and continuing until all the representatives of the associations or other interested groups or persons have had an opportunity to be heard.

IT IS FURTHER ORDERED, that notice of said hearing be given to all representatives of associations or other interested groups or persons who have registered their names with the Secretary of State for that purpose and all persons who are presently members of Minnesota Legislature.

STATE OF MINNESOTA
DESIGNER SELECTION BOARD

by _____
LARRY K. SEVERSON
EXECUTIVE SECRETARY

RECEIVED
MAR 15 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE OFFICE OF HEARING EXAMINERS

In the matter of the Proposed Adoption of Rules of the State Designer Selection Board

NOTICE OF HEARING

Notice is hereby given that a public hearing will be held in the above-entitled matter at Room 1, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, April 23, 1976, commencing at 9:00 A.M. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements or arguments. Statements or briefs may be submitted without appearing at the hearing.

The proposed rules include general provisions relating to the operation of the Designer Selection Board. There are also provisions regarding the criteria used by the Board in its selection of design professionals.

Copies of the proposed rules are now available and may be obtained by writing to Mr. Larry S. Severson, G-10 Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota 55155.

The Designer Selection Board is required by Minn. Stat. § 16.824 (1974) to adopt rules governing its operation and the conduct of its meetings.

Under Minn. Stat. § 10A.01, subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Subsequent to completion of the hearings, written material may be submitted and recorded in the hearing record for twenty days.

STATE OF MINNESOTA
DESIGNER SELECTION BOARD

LARRY S. SEVERSON
EXECUTIVE SECRETARY

STATE OF MINNESOTA

COUNTY OF RAMSEY

RECEIVED
APR 19 1976
OFFICE OF HEARING EXAMINERS

BEFORE THE OFFICE OF

HEARING EXAMINERS

In the matter of the Proposed Adoption of Rules of the State Designer Selection Board

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Larry S. Severson, being first duly sworn, deposes and says:

That on the 18th day of March, 1976, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State as well as to all persons listed on the attached sheet as presently being members of the Minnesota Legislature.

LARRY S. SEVERSON

Subscribed and sworn to before me

this 19 day of March, 1976.

Notary Public

JOAN L. VOLZ
NOTARY PUBLIC, Hennepin County, Minn.
My Commission Expires June 10, 1980

MEMBERS OF THE MINNESOTA LEGISLATURE

Abeln, Lyle G.
Adams, Leo
Adams, Salisbury
Albrecht, Raymond J.
Anderson, Glen H.
Anderson, Irvin H.
Arlandson, John R.
Beauchamp, David
Begich, Joseph R.
Berg,Tom K.
Berglin, Linda L.
Biersdorf, John S.
Birnstihl, Orville E.
Braun, Arthur M.
Brinkman, Bernard J.
Byrne, Peggy
Carlson, Arne H.
Carlson, Lyndon R.
Carlson, Roy C.
Casserly, James R.
Clark, Janet H.
Clawson, John T.
Corbid, John
Dahl, Harold J.
Dean, William D.
DeGroat, Frank H.
Dieterich, Neil B.
Doty, Gary L.
Eckstein, A. J. "Tony"
Eken, Willis R.
Enebo, Stanley A.
Erickson, Wendell O.
Esau, Gilbert
Evans, Ronald G.
Ewald, Douglas R.
Faricy, Ray W.
Fjoslien, David O.
Forsythe, Mary M.
Friedrich, Donald
Fudro, Stanley J.
Fugina, Peter X.
George, Michael
Graba, Joseph P.
Hanson, Walter R.
Haugerud, Neil S.
Heinitz, O. J.
Hokanson, Shirley A.
Jacobs, Joel
Jaros, Mike
Jensen, Robert C.
Johnson, Carl M.
Johnson, Douglas J.

Jopp, Ralph

Jude, Tad

Kahn, Phyllis

Kaley, J. R. Dick

Kalis, Henry J.

Kelly, Randy C.

Kelly, William N.

Kempe, Arnold E.

Kempe, Ray

Ketola, Marvin E.

Knickerbocker, Gerald

Knoll, Franklin J.

Kostohryz, Richard J.

Kroening, Carl W.

Kvam, Adolph L.

Laidig, Gary W.

Langseth, Keith L.

Lemke, Richard R.

Lindstrom, John C.

Luther, William

Mangan, Thomas

Mann, George L.

McCarron, Paul

McCauley, M. J. "Mac"

McCollar, Maurice D.

McEachern, Bob

Meier, Claudia

Menning, Marion O. "Mike"

Metzen, James

Moe, Donald M.

Munger, Willard M.

Neisen, Howard

Nelsen, Bruce

Nelson, Ken

Niehaus, Joseph T.

Norton, Fred C.

Novak, Steve

Osthoff, Thomas C.

Parish, Richard J.

Patton, Al

Pehler, James

Peterson, Darrell

Petrafeso, Pete R.

Philbrook, B. J.

Pleasant, Ray O.

Prahl, Norman

Reding, Leo J.

Rice, James I.

Sabo, Martin Olav

St. Onge, Douglas J.

Samuelson, Donald B.

Sarna, John J.

Savelkoul, Henry J.

Schrieber, William H.

Schulz, Victor

Schumacher, Wayne O.

Searle, Rodney N.

Setzepfandt, A. O. H.

Sherwood, Glen A.

Sieben, Harry A., Jr.

Sieben, Michael R.

Sieloff, Ronald B.

Simoneau, Wayne A.

Skoglund, Wesley J.

Smith, Howard E.

Smogard, Ellsworth

Spanish, John J.

Stanton, Russell P.

Suss, Ted

Swanson, James C.

Tomlinson, John D.

Ulland, James

Vanasek, Robert E.

Vento, Bruce F.

Voss, Gordon O.

Wenstrom, Gene

Wenzel, Stephen G.

White, Jim F.

Wieser, Al, Jr.

Wigley, Richard E.

Williamson, Bruce

Zubay, Ken

Anderson, Jerald C.

Arnold, Norbert

Ashbach, Robert C.

Bang, Otto T., Jr.

Berg, Charles

Bernhagen, John

Blatz, Jerome V.

Borden, Winston W.

Brataas, Nancy

Brown, Robert J.

Chenoweth, John C.

Chmielewski, Florian

Coleman, Nicholas D.

Conzemius, George R.

Davies, Jack

Doty, Ralph R.

Dunn, Robert G.

Fitzsimons, Richard W.

Frederick, Mel

Gearty, Edward J.

Hansen, Baldy

Hansen, Mel

Hanson, Roger

Hughes, Jerome M.

Humphrey, Hubert H., III

Jensen, Carl A.

Josefson, J. A.

Keefe, John B.

Keefe, Steve

Kirchner, William G.

Kleinbaum, Jack I.

Knutson, Howard A.

Kowalczyk, Al

Larson, Lew W.

Laufenburger, Roger

Lewis, B. Robert

McCutcheon, Bill

Merriam, Gene

Milton, John

Moe, Roger D.

Nelson, Rolf

North, Robert D.

Ogdahl, Harmon T.

Olhoft, Wayne

Olson, Alec G.

Olson, Howard D.

Olson, John L.

O'Neill, Joseph T.

Patton, John M.

Perpich, A. J.

Perpich, George F.

Pillsbury, George S.

Purfeerst, Clarence M.

Renneke, Earl W.

Schaaf, David D.

Schmitz, Robert J.

Schrom, Ed

Sillers, Douglas H.

Solon, Sam G.

Spear, Allan H.

Stassen, J. Robert

Stokowski, Eugene E.

Stumpf, Peter P.

Tennessen, Robert J.

Ueland, Arnulf, Jr.

Wegener, Myrton O.

Willet, Gerald L.

STATE OF MINNESOTA

COUNTY OF RAMSEY

RECEIVED
APR 19 1976
OFFICE OF HEARING EXAMINERS

BEFORE THE OFFICE OF

HEARING EXAMINERS

In the matter of the Proposed Adoption of Rules of the State Designer Selection Board

AFFIDAVIT

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Melody Bever, being duly sworn on oath deposes and says:

1) That she is an employee of the Department of Administration of the State of Minnesota.

2) That on the 12th day of March, 1976, she went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to Minn. Stat. § 15.0412.

3) That on the 12th day of March, 1976, in response to the above request, the Secretary of State provided her with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Melody Bever

Subscribed and sworn to before me

this 15 day of March, 1976.

Notary Public

JOAN L. VOLZ
NOTARY PUBLIC, Hennepin County, Minn.
My Commission Expires June 10, 1980

RECEIVED
APR 19 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed
Adoption of Rules of the
Designer Selection Board.

I hereby certify that the attached 471 cards ~~sheets~~ constitute the complete list of persons, associations, and other interested groups who as of 3:00 P.M., this 12th day of March, 1976, have requested pursuant to Minn. Stat. 1975, Chapter 383, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above, pursuant to Minn. Stat. § 15.0412.

Secretary of State

Joan Anderson Growe

By Neil Dion

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

BEFORE THE STATE DESIGNER SELECTION BOARD

HE Report.

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE STATE DESIGNER SELECTION BOARD

FINDINGS OF FACT, CONCLUSIONS AND RECOMMENDATIONS

The hearing in the above-entitled matter was convened by Myron Greenberg, duly appointed Hearing Examiner, on April 23, 1976, in Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota. The hearing continued until all representatives of associations or other interested groups or persons had an opportunity to participate and be heard concerning the adoption of the proposed rules.

The Hearing Examiner, based upon all of the records, files, evidence and written comments, makes the following as his:

FINDINGS OF FACT

I

That the Order for Hearing (Exhibit 1) dated March 15, 1976 signed by Larry S. Severson (hereinafter "Severson"), Executive Secretary of the State Designer Selection Board (hereinafter "Board"), was and is in all respects proper in form, content, execution and filing.

II

That the Notice of Hearing (Exhibit 2) executed for the Board by Severson was and is in all respects proper in form, content, execution and filing, and, according to the Affidavit of Mailing (Exhibit 3) signed by Severson, was mailed to persons and associations appearing on the Secretary of State's list (Exhibit 5) as well as to current members of the Minnesota Legislature (attached to Exhibit 3) on March 18, 1976 (which was more than 30 days prior to the date of hearing).

III

That the Board properly and timely filed with the Hearing Examiner all other required and useful documents, to wit:

1. An Affidavit of Melody Bever (Exhibit 4) indicating request for and receipt of the Secretary of State's list.

2. Certificate of the Secretary of State (Exhibit 5) by Ceil Dion, of delivery of the Secretary of State's list.

3. The Board's proposed rules (Exhibit 6).

4. A brief Statement of Need (Exhibit 7).

5. A Certificate of Authorizing Resolution (Exhibit 8) indicating that the Board authorized Severson to call a hearing in order to promulgate the Board's rules and to sign the Order and Notice relating thereto.

All other substantive and procedural requirements, statutes, or rules have been complied with.

IV

That the Board's Statement of Need (Exhibit 7), although brief, adequately refers to Minnesota Statutes §16.824 as its authority to make, propose and promulgate the rules and also describes generally the justification for the rules.

V

That there was no specific criticism of or objection to any of the documents or rules at the hearing or in written comments received thereafter. The only comments or testimony received regarding the proposed rules was from Gene Green, President of the Minnesota Society of Architects, who indicated that the Society's Board of Directors, on behalf of its membership, generally supports the rules. No comments were made about any of the specific proposed rules unless so indicated in subsequent paragraphs of these Findings.

VI

That Design 1 is reasonable and necessary to establish the

offices, terms and time of election of the officers of the Board.

VII

That Design 2 is necessary to establish that three of the five voting members of the Board be present at a meeting in order to transact business. This rule is reasonable to assure representation of the Board's membership in any official decision.

VIII

That Design 3 establishes a method for calling meetings, notifying interested and affected parties of such meetings and the orderly conduct of such meetings, including participation by non-members of the Board.

The Board's Chairman indicated that Design 3(c) reflects that the Board does not desire "to be a free for all in which anybody can participate...[but] is simply a concern for order and decent process" (T.11). Although the language of that section does not prohibit participation by the public, it appears to be preferable to rephrase the rule in the positive to indicate that orderly participation will be allowed with the permission of and recognition by the Board. rephrased P.1

Insofar as the rule does not transgress on the public meeting law and constitutional provisions for free speech, it is reasonable and necessary.

IX

That Design 4 is reasonable and necessary to assure fair and impartial consideration of all candidates for State Designer by prohibiting unofficial discussions regarding candidates and/or projects between Board members and candidates except during official interviews.

X

That Design 11 is reasonable and necessary to establish and advise the public of the criteria used by the Board in selecting a designer for a state project. Questions raised regarding this rule addressed 1) the weight assigned to the various criteria and, 2) the effect of a candidate having received prior contractual

awards on his being considered for a subsequent award. (T.23)

The Board indicated that in many instances both fairness to the candidates and submission to the Board of more complete information regarding a particular criterion would be served by the Board's designation of the weight of particularly important criteria being considered in a specific project. The Minnesota Society of Architects agreed that such information would be helpful to candidates and/or potential candidates.

The Society expressed concern, however, that the criterion of "awards previously made to a designer by the State" (Design 11-(f)) might eliminate from the Board's consideration certain designers who have done work for the State. (T.23) Mr. Sovik indicated that such criterion was intended as "an effort to be fair". (T.26) The criterion was in fact, amended by the Board to read:

> "(f) Awards previously made to a designer by the State. (This is in the interest of equitable distribution of commissions.)" (Exhibit 9)

So amended p.2

The addition of the parenthetical sentence, in the Examiner's opinion, does not appear to fully satisfy the Society's concern as to how such criterion would be applied, i.e., as a positive or negative consideration. No question was raised, however, whether such criterion was reasonable or unreasonable in terms of the Board's general authority and mandate to promulgate rules.

It is the opinion of the Hearing Examiner that the Board's justification of Design 11, in general, and Design 11 (f) as amended, in particular, show the reasonableness and necessity for its promulgation.

XI

That certain editorial changes were suggested and accepted by the Board which do not constitute substantial changes (T.22).

Based on the foregoing Findings of Fact, the Hearing Examiner makes the following as his:

CONCLUSIONS

I

That relevant legal and procedural requirements of statute and rule have been properly complied with.

II

That the Board documented its statutory authority to promulgate the proposed rules in its Statement of Need.

III

That a clear and compelling need has been demonstrated for the adoption of the proposed rules, as modified for editorial or clarifying purposes where appropriate.

Based on the foregoing Conclusions, the Hearing Examiner makes the following as his:

RECOMMENDATION

I

That the proposed rules be adopted as modified where appropriate.

Dated this 26 day of May, 1976.

Myron Greenberg
Hearing Examiner

SDSB-76-001-MG

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE STATE DESIGNER SELECTION BOARD

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES OF THE STATE)
DESIGNER SELECTION BOARD)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on April 23, 1976, before Myron S. Greenberg, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Findings of Fact, Conclusions and Recommendations of the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the State Designer Selection Board on May 26, 1976; and

WHEREAS, the State Designer Selection Board has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the State Designer Selection Board has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and Rule 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the State Designer Selection Board has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Order, the State Designer Selection Board has the responsibility of submitting the complete hearing record and the rules as adopted by the Board to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4e.

Dated this 16th day
of April, 1980.

DUANE R. HARVES
Chief Hearing Examiner

STATE OF MINNESOTA

STATE DESIGNER SELECTION BOARD

In the Matter of the Proposed Adoption of Rules of the State Designer Selection Board Governing the Organization of the State Designer Selection Board and the Selection of Designers.

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner Myron Greenberg on the 23d day of April, 1976, at 9:00 A.M., in Room A, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota, after proper notice required by Minnesota Statutes § 15.0412 was served upon all persons, associations, and other interested groups registered with the State Designer Selection Board for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and arguments, hearing all of the testimony, and considering all of the evidence adduced upon the records, files, and proceedings herein, the Board finds the following:

FINDINGS OF FACT

The report of the Hearing Examiner, dated May 26, 1976, is adopted as the Findings of Fact of the State Designer Selection Board with the following additions:

1. In response to Hearing Examiner Finding of Fact VIII, the Board recognizes that by phrasing 2 MCAR § 4.003 C. (formerly Design 3) in the positive, that section will reflect more clearly the intent of the Board. Therefore, § 4.003 C. is amended to read: "Meetings of the Board shall be public; participation by persons other than members of the Board, its staff, and the candidates shall be by express request or permission of the Board."

2. In 2 MCAR § 4.010 B. (formerly Design 11(b)), the word "esthetic" is spelled more commonly "aesthetic" and thus is changed in the rules as proposed for adoption.

3. To comply with the system of numbering agency rules established in the Minnesota Code of Agency Rules, these rules identified as Design 1-20 are renumbered as 2 MCAR §§ 4.001-4.020.

CONCLUSIONS

1. The Board has complied with all relevant legal and procedural requirements in the promulgation of these rules.

2. The Board has statutory authority to promulgate the proposed rules.

3. The need for and reasonableness of the rules has been established.

4. The rules as proposed and amended may be adopted by the State Designer Selection Board.

Dated: April 8, 1981

STATE OF MINNESOTA

George Iwan

GEORGE IWAN
Executive Secretary

CERTIFICATE OF BOARD'S

RESOLUTION ADOPTING RULES

I, Mark Anderson, do hereby certify that I am a member and the Vice-Chairman of the State Designer Selection Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete and correct copy of a resolution adopted at a meeting of the State Designer Selection Board, duly and properly called and held on March 16, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

> "RESOLVED, that the rules relating to the Organization of the State Designer Selection Board and the Selection of Designers be and they hereby are approved and adopted, pursuant to authority vested in us by Minnesota Statutes §§ 16.824 and 16.826, subd. 2, and that George Iwan, the Executive Secretary of the State Designer Selection Board, be and hereby is authorized to sign an order adopting these rules and further is authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 6 day of April, 1981.

Mark Anderson
Vice-Chairman

Attested

STATE OF MINNESOTA

COUNTY OF RAMSEY

BEFORE THE OFFICE OF

HEARING EXAMINERS

In the matter of the Proposed
Adoption of Rules of the State
Designer Selection Board

STATEMENT OF NEED

The above captioned rules are not amendments to existing rules.

The need to adopt these rules arises because of 1) the statutory mandate of Minn. Stat. § 16.824 to adopt rules governing the operations of the Board and the conduct of its meetings; 2) the statutory mandate of Minn. Stat. § 16.826, subd. 2 to make public the criteria used by the Board for the selection process; 3) the need to formalize the procedures for selecting design professionals for the planning and construction projects undertaken by the State.

DESIGNER SELECTION BOARD

LARRY S. SEVERSON
EXECUTIVE SECRETARY

In the Matter of the Proposed Adoption of Rules of the State Designer Selection Board Governing the Organization of the State Designer Selection Board and the Selection of Designers

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Special Assistant Attorney General Jerry S. Anderson, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Jerry S. Anderson
Special Assistant Attorney General

Dated: 4-22-81, 1981

In the Matter of the Proposed Adoption of Rules of the State Designer Selection Board Governing the Organization of the State Designer Selection Board and the Selection of Designers.

AFFIDAVIT

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

GEORGE IWAN, being first duly sworn, deposes and says:

That no person or association requested notification of submission to the Attorney General of the rules in the above-entitled matter.

George Iwan
GEORGE IWAN

Subscribed and sworn to before me this 5th day of April, 1981.

Robert R. Nardi
Notary Public

ROBERT R. NARDI
Notary Public
Ramsey County, Minn.
My Commission Expires
May 25, 1983