

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

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RULE REVIEW CHECKLIST

File No. 1594 Docket No. 05.0009.0603

DATE RECEIVED 4-25-89 ADOPTED W/O HEARING X

REVIEW DATE 5-4-89 EMERGENCY RULE _____

DUE DATE 5-9-89 RMD

REVISOR APPROVED _____

APPROVED X 5/4 gal REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

✓ Notice to Solicit Outside Information/Opinion (if applicable)
- 7/25/88 Date published in State Register
- none Comments

_____ ~~Petition for Adoption of a Rule (if applicable)~~

_____ ~~Board's Authorizing Resolution~~
- _____ ~~Date adopted~~

✓ Proposed Rule
- yes Revisor's Certificate - no comments

✓ Notice of Intent to Adopt Rule
- 184.24 sub 1 Statutory Authority OK
- yes Small Business Statement
- yes Expenditure of public money statement
- yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- yes Small Business Statement
- n/a Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 12/27/88 Date 30/25 days before adoption
- OK Notice attached
- _____ ~~Copy of rule or summary attached~~

✓ Publication in State Register
- 12/26/88 Date 30/25 days before adoption

_____ 180-day deadline from:
- n/a Effective date of law requiring rule (14.12) (both rules)
- 1/26/88 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

_____ ~~Resolution Adopting~~
- ~~4/10/89~~ ~~Date adopted~~

✓ Findings of Fact, Conclusions & Order Adopting
- 4/10/89 Date

✓ Written requests, submissions or comments (1)

✓ Declaration of attorney
- R. Hamblin Name of SAAG representing agency

✓ Order for Publication ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

SF-00006-05 (4/86)

DEPARTMENT : ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

DATE : May 5, 1989

TO : STEVEN M. GUNN
Special Assistant Attorney General

FROM : JULIE A. LEPPINK
Special Assistant Attorney General

PHONE : 6-9422

SUBJECT : In the Matter of the Adopted Permanent Rules Relating to Employment Agencies; Fees

The above-referenced rule has been approved as to its legality by the Attorney General on May 4, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

JAL:klk
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

Department of Labor and Industry

Adopted Permanent Rules Relating to Employment Agencies; Fees

RECEIVED
APR 3 _ 1989
DIVISION OF
LABOR STDS

Rules as Adopted

5200.0500 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Accept.** "Accept" means that the applicant has agreed with the employer on a specific position, wages, hours, working conditions, and a specific starting date, and has signed an acceptance form in which the agency has designated the terms of the acceptance. The applicant may withdraw the acceptance provided that the applicant did not actually start the job.

Subp. 3. **Fee status.** "Fee status" is the designation on the job order which describes the fee liability. The designated fee status for job listing services shall be limited to concurrent fee arrangement. The designated fee status for liability for placement shall be limited to one of the following terms:

A. to F. [Unchanged.]

Subp. 4. and 5. [Unchanged.]

5200.0600 FEE INFORMATION ON CONTRACTS.

Subpart 1. **Job placement.** Applicant contracts with employment agencies engaged in the placement of applicants shall contain all of the following statements unless language less restrictive to the applicant is approved by the department:

A. to D. [Unchanged.]

Where the applicant undertakes no fee liability of any nature, the contract, as an alternative to items A to D, may read: "I understand that I am not liable for any fee and that compensation to the agency is to be settled between the employer and the agency."

Subp. 2. **Job listing.** Applicant contracts with job listing services shall contain the following statement: "I understand that a fee shall be due the job listing service at

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by Revisor JCF

the time of contractual arrangements ~~are-entered-into-and.~~ No other fee ~~or-portion-of-fee~~ shall be collected ~~by-the-job listing-service~~ for services rendered, provided that fees for job placement may be charged and the fee arrangement for placement shall be contained in a separate contract."

5200.0610 ACCEPTANCE FORM STANDARDS.

The acceptance form, with employment agencies engaged in placement activities, to be signed by the applicant shall contain the following information:

A. to K. [Unchanged.]

5200.0620 FEE DETERMINATION.

The following terms and methods shall be used in determining amount of fee due:

A. to D. [Unchanged.]

E. A fee based on a concurrent fee arrangement shall be uniform for all applicants serviced.

5200.0680 COLLECTION OF FEE FROM APPLICANT.

No fee or portion of a fee except a concurrent fee arrangement shall be collected from an applicant before the actual start date.

5200.0700 JOB ORDER FORM.

The following information must be contained on the job order form for each bona fide job order:

A. to S. [Unchanged.]

T. Fee status. One of the following terms shall be used to indicate the fee status for placement:

(1) to (6) [Unchanged.]

U. The term "concurrent fee" shall be used to indicate the fee status for job listing services only.

5200.0800 ANNUAL RECORD OF SERVICE REPORT.

Subpart 1. **Job placement.** A record of service shall be maintained in a separate ledger in the office of each employment agency for a period of three years and shall contain the

Approved by Revisor _____

information required by Minnesota Statutes, section 184.38, subdivision 5. Each agency shall submit annually to the department with its agency license renewal application, a summary of the above record which contains the following information for the preceding year:

A. total applicants placed;

B. total annual salaries of placements; and

C. total amount of fees collected.

The individual summary shall be used solely for compilation of statistical data for the employment industry as a whole.

The summary shall be submitted on a form provided by the department which shall make provision for its protection from usage inconsistent with its purpose.

Subp. 2. **Job listing.** Job listing service record of service report shall include:

A. total applicants serviced; and

B. total amount of fees collected.

Approved
by Revisor _____

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

MAY 5 1989

Joan Anderson Growe

Secretary of State

JH

9:52 AM

APPROVED AS TO FORM AND LEGALITY

May 4, 1989

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Julie A. Seppenk
SPECIAL ASSISTANT ATTORNEY GENERAL

Subp. 4. **Pipelines.** These container labeling requirements do not apply to pipes, piping systems, or pipelines in refineries or other workplaces nor to interstate or intrastate pipelines ~~whose employees have been trained in accordance with the Employee Right-to-Know Act of 1983~~. Employees must be trained in the hazards associated with substances in the unlabeled pipes in their work areas in accordance with the requirements of this chapter.

Subp. 5. [Unchanged.]

Subp. 6. ~~**Process**~~ **Containers.** ~~Process containers shall be either labeled or coded with the names of the hazardous substances they contain. Immediate-use containers need not be labeled~~ The employer may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the alternative method identifies the containers to which it is applicable and, at a minimum, includes the identity of the hazard and the appropriate hazard warning. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

Subp. 7. **Other containers.** The employer shall ensure that each container of hazardous substances in the workplace that is not labeled in accordance with the requirements of this part, is labeled, tagged, or marked with at least the following information:

A. identity of the hazardous substance; and

B. appropriate hazard warning.

Subp. 8. **Immediate-use containers.** Immediate-use containers need not be labeled.

5206.1100 LABELING HARMFUL PHYSICAL AGENTS; LABEL CONTENT.

Equipment or a work area that specifically generates harmful physical agents at a level which may be expected to approximate or exceed the permissible exposure limit or applicable action level shall be labeled. The label shall include:

A. the name ~~or names~~ of the physical agent ~~including any commonly used synonym~~; and

B. the ~~level, if any and if known, at which exposure to the physical agent has been restricted according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups which have conducted research to determine the hazardous properties of potentially harmful physical agents;~~

~~C. the known acute and chronic effects of exposure at hazardous levels;~~

~~D. the known symptoms of the effects;~~

~~E. appropriate emergency treatment;~~

~~F. the known proper conditions for use of and/or exposure to the physical agent; and~~

~~G. the name, phone number, and address, if appropriate, of a manufacturer of the harmful physical agent~~ appropriate hazard warning.

REPEALER. Minnesota Rules, parts 5206.0100, subparts 15 and 18; 5206.0300, subpart 4; and 5206.1000, subpart 3, are repealed.

Department of Labor and Industry

Proposed Permanent Rules Relating to Employment Agencies; Fees

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Labor Standards Division, proposes to adopt the above-captioned amendments to *Minnesota Rules,* parts 5200.0500-5200.0850 without a public hearing. The Department has determined that the proposed adoption of these amendments will be non-controversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes,* section 14.22-14.28 (1986).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of

Minnesota Statutes section 14.131-14.20 (1986). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Donald Jackman, Director
Division of Labor Standards
Department of Labor and Industry
433 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2282

Authority for the adoption of these amendments is contained in *Minnesota Statutes* Section 184.24 subd. 1(1986). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments, and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Department of Labor and Industry upon request at the above address.

The Department has determined that these rules will have no greater effect on small business than already placed on the fee employment industry by the Legislature and that the rules will not have a significant fiscal impact on local public bodies.

Upon the adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written amendments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material to the Attorney General, including modifications to the amendments as originally proposed, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Department at the above address.

The text of the proposed amendments follows this notice in the *State Register.* The amendments relate to fee employment agencies operating as job listing services.

One free copy of the proposed amendments may be obtained by contacting Darlene Hueser at the above address or by calling (612) 297-2225.

Dated: 12 December 1988

Ken Peterson, Commissioner
Department of Labor and Industry

Rules as Proposed

5200.0500 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Accept.** "Accept" means that the applicant has agreed with the employer on a specific position, wages, hours, working conditions, and a specific starting date, and has signed an acceptance form in which the agency has designated the terms of the acceptance. ~~Within three weekdays of signing the acceptance form, excluding Saturday, Sunday, and legal holidays.~~ The applicant may withdraw the acceptance ~~by notifying the agency in writing,~~ provided that the applicant did not actually start the job.

Subp. 3. **Fee status.** "Fee status" is the designation on the job order which describes the fee liability ~~for placement~~. The designated fee status for job listing services shall be limited to concurrent fee arrangement. The ~~designation~~ designated fee status for liability for placement shall be limited to one of the following terms:

A. to F. [Unchanged.]

Subp. 4. and 5. [Unchanged.]

5200.0600 FEE INFORMATION ON CONTRACTS.

Subpart 1. **Job placement.** Applicant contracts with employment agencies engaged in the placement of applicants shall contain all of the following statements unless language less restrictive to the applicant is approved by the department:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

A. to D. [Unchanged.]

Where the applicant undertakes no fee liability of any nature, the contract, as an alternative to items A to D, may read: "I understand that I am not liable for any fee and that compensation to the agency is to be settled between the employer and the agency."

Subp. 2. Job listing. Applicant contracts with job listing services shall contain the following statement: "I understand that a fee shall be due the job listing service at the time contractual arrangements are entered into and no other fee or portion of fee shall be collected by the job listing service for services rendered."

5200.0610 ACCEPTANCE FORM STANDARDS.

The acceptance form, with employment agencies engaged in placement activities, to be signed by the applicant shall contain the following information:

A. to K. [Unchanged.]

5200.0620 FEE DETERMINATION.

The following terms and methods shall be used in determining amount of fee due:

A. to D. [Unchanged.]

E. A fee based on a concurrent fee arrangement shall be uniform for all applicants serviced.

5200.0680 COLLECTION OF FEE FROM APPLICANT.

No fee or portion of a fee except a concurrent fee arrangement shall be collected from an applicant before the ~~agreed upon~~ starting actual start date.

5200.0700 JOB ORDER FORM.

The following information must be contained on the job order form for each bona fide job order:

A. to S. [Unchanged.]

T. Fee status. One of the following terms shall be used to indicate the fee status for placement:

(1) to (6) [Unchanged.]

U. The term "concurrent fee" shall be used to indicate the fee status for job listing services only.

5200.0800 ANNUAL RECORD OF SERVICE REPORT.

Subpart 1. Job placement. A record of service shall be maintained in a separate ledger in the office of each employment agency for a period of three years and shall contain the information required by *Minnesota Statutes*, section 184.38, subdivision 5. Each agency shall submit annually to the department with its agency license renewal application, a summary of the above record which contains the following information for the preceding year:

A. total applicants placed;

B. total annual salaries of placements; and

C. total amount of fees collected.

The individual summary shall be used solely for compilation of statistical data for the employment industry as a whole.

The summary shall be submitted on a form provided by the department which shall make provision for its protection from usage inconsistent with its purpose.

Subp. 2. Job listing. Job listing service record of service report shall include:

A. total applicants serviced; and

B. total amount of fees collected.

Department of Labor and Industry

Proposed Rules Governing Workers' Compensation Medical Fees

Notice of Intent to Amend a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Department of Labor and Industry, Workers' Compensation Division intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for

Department of Labor and Industry

Proposed Permanent Rules Relating to Employment Agencies; Fees

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NOV 18 1988
DIVISION OF
LABOR STDS

Rules as Proposed

5200.0500 DEFINITIONS.

Subpart 1. [Unchanged.]

Subp. 2. **Accept.** "Accept" means that the applicant has agreed with the employer on a specific position, wages, hours, working conditions, and a specific starting date, and has signed an acceptance form in which the agency has designated the terms of the acceptance. ~~Within three weekdays of signing the acceptance form, excluding Saturday, Sunday, and legal holidays,~~ The applicant may withdraw the acceptance ~~by notifying the agency in writing,~~ provided that the applicant did not actually start the job.

Subp. 3. **Fee status.** "Fee status" is the designation on the job order which describes the fee liability ~~for placement~~. The designated fee status for job listing services shall be limited to concurrent fee arrangement. The ~~designation~~ designated fee status for liability for placement shall be limited to one of the following terms:

A. to F. [Unchanged.]

Subp. 4. and 5. [Unchanged.]

5200.0600 FEE INFORMATION ON CONTRACTS.

Subpart 1. **Job placement.** Applicant contracts with employment agencies engaged in the placement of applicants shall contain all of the following statements unless language less restrictive to the applicant is approved by the department:

A. to D. [Unchanged.]

Where the applicant undertakes no fee liability of any nature, the contract, as an alternative to items A to D, may read: "I understand that I am not liable for any fee and that compensation to the agency is to be settled between the employer and the agency."

Approved by Revisor

Subp. 2. **Job listing.** Applicant contracts with job listing services shall contain the following statement: "I understand that a fee shall be due the job listing service at the time contractual arrangements are entered into and no other fee or portion of fee shall be collected by the job listing service for services rendered."

5200.0610 ACCEPTANCE FORM STANDARDS.

The acceptance form, with employment agencies engaged in placement activities, to be signed by the applicant shall contain the following information:

A. to K. [Unchanged.]

5200.0620 FEE DETERMINATION.

The following terms and methods shall be used in determining amount of fee due:

A. to D. [Unchanged.]

E. A fee based on a concurrent fee arrangement shall be uniform for all applicants serviced.

5200.0680 COLLECTION OF FEE FROM APPLICANT.

No fee or portion of a fee except a concurrent fee arrangement shall be collected from an applicant before the ~~agreed-upon-starting~~ actual start date.

5200.0700 JOB ORDER FORM.

The following information must be contained on the job order form for each bona fide job order:

A. to S. [Unchanged.]

T. Fee status. One of the following terms shall be used to indicate the fee status for placement:

(1) to (6) [Unchanged.]

U. The term "concurrent fee" shall be used to indicate the fee status for job listing services only.

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Subpart 1. **Job placement.** A record of service shall be maintained in a separate ledger in the office of each employment

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by Revisor _____

agency for a period of three years and shall contain the information required by Minnesota Statutes, section 184.38, subdivision 5. Each agency shall submit annually to the department with its agency license renewal application, a summary of the above record which contains the following information for the preceding year:

A. total applicants placed;

B. total annual salaries of placements; and

C. total amount of fees collected.

The individual summary shall be used solely for compilation of statistical data for the employment industry as a whole.

The summary shall be submitted on a form provided by the department which shall make provision for its protection from usage inconsistent with its purpose.

Subp. 2. **Job listing.** Job listing service record of service report shall include:

A. total applicants serviced; and

B. total amount of fees collected.

Approved
by Revisor _____

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Employment Agencies; Fees

AGENCY: Department of Labor and Industry

MINNESOTA RULES: Chapter 5200

The attached rules are approved for publication
in the State Register

John C. Fuller
Assistant Deputy Revisor

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
LABOR STANDARDS DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Labor Standards Division, of Amendments to Rules Governing Employment Agencies.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Labor and Industry, Labor Standards Division, proposes to adopt the above-captioned amendments to Minn. Rules, parts 5200.0500 - 5200.0850 without a public hearing. The Department has determined that the proposed adoption of these amendments will be non-controversial in nature and has elected to follow the procedures set forth in Minn. Stat., section 14.22 - 14.28 (1986).

Persons or groups interested in these amendments shall have 30 days to submit comments on the proposed amendments. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendments addressed, the reason for the comment, and any change proposed. The proposed amendments may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. section 14.131 - 14.20 (1986). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed amendments addressed, the reason for the request, and any change proposed.

Comments or written requests for a public hearing should be submitted to:

Donald Jackman, Director
Division of Labor Standards
Department of Labor and Industry
433 Lafayette Road
St. Paul, Minnesota 55101

(612)296-2282

Authority for the adoption of these amendments is contained in Minn. Stat. Section 184.24 subd. 1(1986). A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed amendments, identifies the data and information relied upon to support the proposed amendments, and assesses the impact of the proposed amendments on small business and on local public bodies has been prepared and is available from the Department of Labor and Industry upon request at the above address.

The Department has determined that these rules will have no greater effect on small business than already placed on the fee employment industry by the Legislature and that the rules will not have a significant fiscal impact on local public bodies.

Upon the adoption of the final amendments without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written amendments and requests for hearing received, and the final amendments as adopted, will be delivered to the Attorney General. The amendments will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to adopt the amendments and the existence of a rational basis for the need for and reasonableness of the proposed amendments. Persons who wish to be notified of the submission of this material to the Attorney General, including modifications to the amendments as originally proposed, or who wish to receive a free copy of the final amendments as adopted, should submit a written request to the Department at the above address.

The text of the proposed amendments follows this notice in the State Register. The amendments relate to fee employment agencies operating as job listing services.

One free copy of the proposed amendments may be obtained by contacting Darlene Hueser at the above address or by calling (612)297-2225.

STATE OF MINNESOTA

Ken Peterson, Commissioner
Department of Labor and Industry

Dated: _____, 1988.

DEPARTMENT OF LABOR AND INDUSTRY
LABOR STANDARDS DIVISION

In The Matter of the Proposed
Adoption by the Minnesota
Department of Labor and Industry,
Labor Standards Division, of
Amendments to Rules Governing
Employment Agency

STATEMENT OF NEED AND REASONABLENESS

The proposed rules are amendments to existing rules of the Department of Labor and Industry governing fee employment agencies. The authority to adopt rules for this industry arise under the statute governing the power and duties of the Department relating to employment agencies contained in Minnesota Statutes, section 184.24 (1986). Specifically, the Commission of Labor and Industry is responsible for promulgating rules needed to administer the provisions of Minnesota Statutes, sections 184.21 to 184.40.

The existing rules were originally adopted in 1974, amended in 1977 and again in April of 1985. Since the 1985 amendments were adopted, three job listing services have operated within the state while other job listing services have expressed interest in conducting business in Minnesota. The primary purpose of the proposed rule is to regulate the activities of fee employment agencies operating as job listing services under Chapter 184 as amended in 1988.

The 1988 statutory amendments identified a job listing service as a fee employment agency to be regulated in the same manner as a traditional fee agency with exceptions regarding placement activities and fee collection. Amendment to existing rules are needed in response to these 1988 statutory changes involving job listing services. Existing rules do not distinguish job listing services from actual placement services. Additionally, existing rules prohibit fee collection prior to actual job placement. The proposed amendments will allow job listing services to collect fees at the time the agency services are rendered. Amendments are also needed to make the rules consistent with the statute.

The rules proposed by the Department are reasonable because the rules are consistent with existing fee agency regulations with needed exceptions. The proposed rules are also reasonable because existing rules prohibit job listing services from operating in a prosperous manner in that fee collection is currently restricted until actual placement. Because job listing services do not make placements, they are currently unable to legally charge for their services.

IMPACT ON SMALL BUSINESS

All firms subject to the fee employment law are small businesses. Pursuant to Minnesota Statutes, section 14.115, subdivision 2, the Department has considered the impact of the proposed amendments to the rules on small business and concludes that the proposed rules have no greater effect on small business than that already placed on the fee employment industry by the legislature, specifically:

A) Establishing less stringent compliance or reporting requirements. The Department has considered Item A and determined that the proposed rules are less stringent for job listing services than for existing fee employment agencies because job listing services do not engage in placement activities. Most of the reporting requirements involve placement activities.

B. Less stringent schedule or deadlines for compliance or reporting requirements. The Department has determined that Item B is not applicable because there are no schedules or deadlines for compliance.

C. Consolidation or simplification of compliance or reporting requirements. The Department has considered Item C and determined the proposed rules are intended to simplify compliance and reporting requirements of job listing services.

D. Establishment of performance standards to replace design or operation standards. It is not the duty of the Department to measure performance within this industry. The proposed rule establishes minimal operation standards as required by law for job listing services.

E. The exemption of small business from any or all requirements. This consideration is clearly contrary to the statutory objectives that are the basis of the proposed amendment to the rules. The legislature has specifically authorized the Department to establish rules to regulate this industry.

FISCAL IMPACT

The proposed rule will not have a significant fiscal impact on the fee employment industry because currently there are no job listing services operating within the state; however, the proposed rules do not prevent existing fee agencies from adding job listing services to their current operation. For future operations the proposed rules will not have a significant fiscal impact on operations.

In summary, the amendments to existing rules for adoption are necessary to fulfill the Department's obligations and duties under the provisions of the fee employment law. The inclusion of job listing services in the fee employment regulations is intended to assure bonding of the service to protect the consumer who may be damaged by the job listing service not fulfilling the contract or going out of business prior to the expiration of the contract. The rules are also intended to verify the authenticity of the information supplied by the job listing service. The proposed amendments are consistent with existing fee employment regulations and also include needed exceptions for job listing services which will be effective in regulating the industry.

Minnesota Rule 5200.0500 subpart 2/Definitions

The proposed amendment clarifies when an applicant may withdraw an application after acceptance of a position. Minnesota Statutes, section 184.38, subd. 19 prohibits fee collection if an applicant withdraws acceptance, provided that the applicant did not start the job. The existing rule is inconsistent with statutory language in that the rule requires that the applicant may only withdraw the acceptance within three days after acceptance. Because the statute allows a withdrawal at any time before starting the job, the limiting language in the current rule is removed.

5200.0500 subpart 3/Fee Status

The proposed amendments identify and restrict the fee liability of job listing services to concurrent fee arrangements. Concurrent fee is defined as a fee charged to an applicant for providing a list of employers or list of job openings or like publications and the fee is not contingent upon actual hiring, but for the information provided. The amendments are unchanged for placement agencies.

5200.0600 subpart 1/Fee Information on Contracts

The proposed amendment distinguishes employment agencies engaged in the placement of applicants from those performing only job listing services. The reporting requirements for job listing services are less stringent than those of placement services.

5200.0600 subpart 2

The amendment also mandates that the job listing service contract contain the statement that the fee to the job listing service shall be due at the time contractual arrangements are entered into and that no other fee shall be collected for services rendered under that contract. This contract provision informs the applicant of the fee arrangement, thereby protecting the applicant from being charged more than once for the service provided.

5200.0610 Acceptance Form Standards

The amendment exempts job listing services from using acceptance forms. Acceptance forms are used to contract specific arrangements when an applicant accepts a position. Job listing services do not make placements; therefore, the use of acceptance forms is not needed.

5200.0620 Paragraph E Fee Determination

The addition mandates that the fee charged for the service be uniform for all applicants served in accordance with the contract. This protects vulnerable applicants from being unfairly charged a higher fee than other applicants.

5200.0680 Collection of Fee From Applicant

The proposed amendment restricts all fee collection prior to actual placement except for concurrent fee arrangements. This rule is consistent with Minnesota Statutes, section 184.38 subd. 3 and 19. Because the applicant may withdraw acceptance of the position before starting the job, the fee is not unquestionably due until the applicant commences employment.

5200.0700 Subpart U Job Order Form

The addition indicates that job listing services may only charge a fee at the time service is rendered. All other fee arrangements allowed by the rules relate to placement activities.

5200.0800 Subpart 2 Annual Record of Service Report

The proposed additions state specific items to be included in the annual record of service report to be submitted to the Department by job listing services. The information required by job listing services is minimal compared to placement agencies. The proposed rule eliminates reporting on data not available to job listing service such as number of placements. The service report is required by Minnesota Statutes, section 184.38, subd.5.

DEPARTMENT OF LABOR AND INDUSTRY
LABOR STANDARDS DIVISION

In the Matter of Proposed
Adoption by the Minnesota
Department of Labor and Industry,
Labor Standards Division,
Governing Fee Employment Agencies

AFFIDAVIT OF MAILING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss
COUNTY OF RAMSEY)

Roslyn Wade, being first duly sworn deposes and says:

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minnesota Statutes Section 14.14, Subd. 1, that their names be placed on file with and maintained by the Minnesota Department of Labor and Industry, Division of Labor Standards, for the purpose of receiving notice of the proposed adoption of rules by this Department is accurate and complete as of 9:00 a.m., this 27th day of December 1988.

That on the 27th day of December 1988, at the City of St. Paul County of Ramsey, State of Minnesota, she served the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed with the State Department of Labor and Industry for the purpose or receiving notice of the proposed adoption of rules by this Department.

GREGORY A. JOHNSON
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES OCTOBER 25, 1990

Roslyn C. Wade
Roslyn C. Wade

Subscribed and Sworn to before me this
18th Day of April 1989.

Gregory A. Johnson

1. Graduate degree in anthropology with a specialization in archaeology plus at least 5 years of experience in archaeological research, administration and cultural resource management

2. A specialization in prehistoric and historic archaeology of the upper midwest

3. Demonstrated ability to successfully manage complex research programs

4. Demonstrated ability in oral and written communications

5. Demonstrated ability to work with a diverse public and government agencies

6. Not an employee of the Minnesota Historical Society

Duties of the State Archaeologist are stipulated in *Minnesota Statutes* 138.31 to 138.42 and 307.08.

Nominations should be addressed to Selection Committee—State Archaeologist, c/o Robert Clouse, Head, Archaeology Department, Fort Snelling History Center, St. Paul, MN 55111. Application deadline is August 5, 1988.

Department of Labor and Industry

Workers' Compensation Division

Notice of Solicitation of Outside Information or Opinions in the Matter of the Proposed Amendment of Rules of the Minnesota Department of Labor and Industry Governing Fees for Medical Services, Charges for Medical Reports, and Charges for Copies of Medical Records.

Notice is hereby given that the Minnesota Department of Labor and Industry, Workers' Compensation Division, is seeking information or opinions from sources outside the agency in preparing to propose the amendment of rules governing fees for medical services, charges for medical reports and charges for copies of medical records in workers' compensation cases. The adoption of the rules is authorized by *Minnesota Statutes* § 176.136 (Supp. 1987); section 176.135, subd. 7 (Supp. 1987) and section 176.83 (Supp. 1987).

The Minnesota Department of Labor and Industry, Workers' Compensation Division, requests information and opinions concerning the subject matter of the rules. Interested or affected persons or groups may submit data or views on the subject matter of concern in writing to:

Mary Jo O'Brien
Director of Rehabilitation and Medical Affairs
Department of Labor and Industry
Workers' Compensation Division
443 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the Minnesota Department of Labor and Industry, Workers' Compensation Division, shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

Information and opinions will be accepted until August 22, 1988.

Dated: 18 July 1988

Ray Bohn, Commissioner
of the Department of Labor and Industry

Department of Labor and Industry

Labor Standards Division

Notice of Intent to Solicit Outside Opinion in the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Labor Standards Division, of Amendments to Rules Governing Employment Agencies

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry, Labor Standards Division, is seeking information

or opinions from sources outside the agency in preparing to propose the amendment of the rules governing Fee Employment Agencies. The adoption of the rule is authorized by *Minnesota Statutes*, section 184.24 Subd. 1 (1986) which requires the agency to make all rules and regulations not inconsistent with law needed in performing its duties in connection with licensing and regulating employment agencies. The proposed rules amend existing fee employment agency rules, 5200.0500 through 5200.0850.

The State Department of Labor and Industry requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Donald Jackman
Department of Labor and Industry
443 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-2282 and in person at the above address. All statements of information and opinions shall be accepted until August 15, 1988. Any written material received by the State Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 14 July 1988

Commissioner Ray Bohn

Department of Labor and Industry

Workers' Compensation Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rule Governing Workers' Compensation Rehabilitation Services

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing Workers' Compensation Rehabilitation Services. The adoption of the rule is authorized by *Minnesota Statutes*, section 176.83, subds. 2 and 15 which permit the agency to promulgate rules necessary to implement and administer workers' compensation rehabilitation services including qualifications necessary to be a qualified rehabilitation consultant or registered vendor; penalties for those who fail to provide rehabilitation consultation; procedures for initial rehabilitation consultation and the prescription of forms and other reporting procedures.

The State Department of Labor and Industry requests information and opinions concerning the subject matter of the rule amendments. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Mary Jo O'Brien
Rehabilitation and Medical Affairs
Workers' Compensation Division
Department of Labor and Industry
443 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-8213

Any written material received by the State Department of Labor and Industry shall become part of the rulemaking record to be submitted to the Attorney General or Administrative Law Judge in the event that the rule is adopted.

All statements of information and opinions shall be accepted until August 24, 1988.

Dated: 14 July 1988

Ray Bohn, Commissioner
of the Department of Labor
and Industry

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

LABOR STANDARDS DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Labor Standards Division, of Amendments to Rules Governing Employment Agencies.

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION

Notice is hereby given that the State Department of Labor and Industry, Labor Standards Division, is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rules governing Fee Employment Agencies. The adoption of the rule is authorized by Minnesota Statutes, section 184.24 Subd. 1(1986) which requires the agency to make all rules and regulations not inconsistent with law needed in performing its duties in connection with licensing and regulating employment agencies. The proposed rules establish fee collection and reporting procedures for employment agencies which charge a fee for job listing services.

The State Department of Labor and Industry requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Donald Jackman
Department of Labor and Industry
443 Lafayette Road
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at 296-2282 and in person at the above address. All statements of information and opinions shall be accepted until August 8, 1988. Any written material received by the State Department of Labor and Industry shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 7/8/88

Commissioner Ray Bohn

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the matter of the Proposed Adoption of Amendments to Rules of the Minnesota Department of Labor and Industry, Labor Standards Division Governing Fee Employment Agencies	FINDING OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

Notice of the Commissioner's intent to adopt the above-entitled rule was published in the State Register on December 27, 1988 and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on December 27, 1988. The statement of Need and Reasonableness was prepared before the notice of intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public.

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. The agency received 1 request for a public hearing. Therefore, the agency did not receive requests for a public hearing from 25 or more persons which were not withdrawn.

No requests for notice of submission to the attorney general were received by the agency.

Based on the comments and evidence in the record before the agency, I find that the following nonsubstantial changes are appropriate:

FINDING OF FACT

5200.0600 Fee Information on Contracts.

Subpart 2 - **Job listing.** Applicant contracts with job listing services shall contain the following statement: "I understand that a fee shall be due the job listing service at the time of contractual arrangements. ~~are entered into and no~~ No other fee ~~or portion of fee~~ shall be collected ~~by the job listing service~~ for services rendered~~.~~, provided that fees for job placement may be charged and the fee arrangement for placement shall be contained in a separate contract."

This subpart further clarifies that the fee paid for job listing service is the only fee that may be collected prior to actual placement. That is, if a job listing service also performs placement services, that agency may charge a fee for placement services after placement of an applicant in an available position. The former language was vague in this regard. The change is not substantial, but for clarity only.

Based upon the Finding of Fact, I make the following:

CONCLUSIONS

1. That the Department gave proper notice of the proposed amendments to all interested persons and groups.

2. That the Department has fully complied with all procedural requirements of law or rule in adopting the proposed amendments.

3. That the Department has acted within its statutory authority in adopting these proposed amendments.

4. That the proposed amendments as modified are needed and reasonable and fully comply with substantive requirements imposed by law or rule.

NOW, THEREFORE, IT IS ORDERED that the rule identified as part 5200.0500 - 5200.0850 as modified is adopted this 10th day of April, 1989, pursuant to authority vested in me by Minnesota Statutes, section 184.24, subd. 1 (1988).

Ken Peterson
Commissioner

STATE OF MINNESOTA

DEPARTMENT OF LABOR AND INDUSTRY

In the matter of the Proposed Adoption of Amendments to Rules of the Minnesota Department of Labor and Industry, Labor Standards Division Governing Fee Employment Agencies

DECLARATION OF COUNSEL

I, Rebecca H. Hamblin, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is 0603.

Rebecca H Hamblin

Special Assistant Attorney General

Dated: 04-21-89

PJ/jv

STATE OF MINNESOTA
DEPARTMENT OF LABOR AND INDUSTRY
LABOR STANDARDS DIVISION

In the Matter of the Proposed Adoption by the Minnesota Department of Labor and Industry, Labor Standards Division, of Amendments to Rules Governing Employment Agencies

ORDER FOR PUBLICATION AND FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

IT IS ORDERED this 12th day of December, 1988, that a Notice of Intent to Adopt Rules Without a Public Hearing in the above-captioned matter be given to all persons and groups who have requested that their names be placed on the list maintained by the Minnesota Department of Labor and Industry for that purpose pursuant to Minn. Stat. Section 14.22 (1986) and be published in the State Register.

STATE OF MINNESOTA

Ken Peterson
Commissioner
Department of Labor and Industry

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL

ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

April 24, 1989

Rec'd 4/25/89 dRMD

Rita Desmond
Minnesota Attorney General's Office
Public Finance Division
515 Transportation Bldg.
St. Paul, MN 55155

RE: In the Matter of the Proposed Adoption of Amendments to Rules of the Minnesota Department of Labor and Industry, Labor Standards Division, Governing Fee Employment Agencies

Dear Ms. Desmond:

Enclosed for your review, pursuant to Minn. Stat. § 14.26, please find the following rulemaking documents:

A. A Notice of Intent to Solicit Outside Opinion, as published in the State Register on July 15, 1988 and a copy of the original Notice of Intent to Solicit Outside Opinion.

B. A copy of the proposed rule with a certificate of approval as to form by the Revisor of Statutes, dated November 10, 1988.

C. The Notice of Intent to Adopt a Rule Without a Public Hearing as mailed.

D. The Order for Publication of Notice of Intent to Adopt Rules Without a Public Hearing.

E. The Statement of Need and Reasonableness in support of the proposed rule.

F. The Affidavit of Mailing the Notice of Intent to Adopt a Rule Without a Public Hearing, which includes certification that the mailing list maintained by the agency is accurate, complete and current.

G. A copy of the Notice of Intent to Adopt Rules Without a Public Hearing as published in the State Register on December 26, 1988.

H. Four copies of the rule as adopted, dated March 30, 1989.

I. The Findings of Fact, Conclusions, and Order Adopting Rule Without a Public Hearing.

J. The written request for hearing and public comment that was received, along with a retraction of that party's request.

K. The Declaration of Counsel that I have completed after reviewing the above documents.

Thank you for your attention to this matter.

Sincerely,

Rebecca H. Hamblin

REBECCA H. HAMBLIN
Special Assistant
Attorney General

Telephone: (612) 297-2972

COUNSEL FOR MINNESOTA DEPARTMENT OF LABOR AND INDUSTRY/LABOR STANDARDS DIVISION

RHH:gs

Enclosure
cc: Penny Johnson
Minnesota Department of Labor & Industry