

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

DEPARTMENT: Office of the Attorney General **STATE OF MINNESOTA**

OFFICE MEMORANDUM

DATE: April 4, 1991

TO: ROBERT BOOKER
Minnesota State Arts Board

FROM: CHARLENE HATCHER CH/mjc
Special Assistant Attorney General
525 Park Street, Suite 500 (55103)

PHONE: 296-9422

SUBJECT: In the Matter of the Adopted Rule Relating to Deadlines

The above-referenced rule has been approved as to its legality by the Attorney General on April 3, 1991.

Enclosed is your 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, submissions or comments along with any extra copies of documents which you submitted to the Attorney General.

Your next step is to arrange for publication of the Notice of Adoption in the State Register. In a day or two, you should receive from the Revisor's Office three copies of the notice of adoption of your rule. You should submit two copies of the Notice of Adoption to the State Register for publication. A permanent rule without a hearing does not become effective until five days after a notice of adoption is published in the State Register in accordance 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.

CH:sc
Enclosures
cc: Andy Tourville
William Brown, Chief Judge
MaryAnn Hruby

CH
3/27

Note Error

RULE REVIEW CHECKLIST

File No. 1814
DATE RECEIVED 3-25-91
REVIEW DATE 4-3-91
DUE DATE 4-8-91
~~(DIS)~~APPROVED 4-3-91
WITHDRAWN _____

Docket No. 05 0009 0751
ADOPTED W/O HEARING _____
EMERGENCY RULE _____
TO REVISOR ON 3-28-91
REVISOR (DIS)APPROVED _____
FILED W/SEC. OF STATE 4-3-91
RETURNED TO AGENCY 4-4-91

✓ Rule as adopted (4 copies)

_____ Notice to Solicit Outside Information/Opinion (if applicable)
_____ Date published in State Register
_____ Comments

_____ Petition for Adoption of a Rule

✓ Board's Authorizing Resolution
October 13, 1990 Date adopted

✓ Proposed Rule
✓ Revisor's Certificate

✓ Notice of Intent to Adopt Rule
139.10 subd 1(c) Statutory Authority wrong cite correct cite 129D.04
_____ Small Business Statement
_____ Expenditure of public money statement
11-8-90 Signature

✓ Statement of Need and Reasonableness (if applicable)
✓ Small Business Statement
NA Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
March 13, 1991 Dated 30/25 days before adoption affidavit of
_____ Notice attached indicates it is non-mailing attached
_____ Copy of rule or summary attached

✓ Publication in State Register
November 26, 1990 Date 30/25 days before adoption

✓ 180-day deadline from:
✓ Effective date of law requiring rule (14.12) (both rules) amendments don't apply
_____ end of comment period (§ 14.26) (rules without hearing)
_____ effective date of statutory authority (§ 14.29) (emergency rules)

✓ Resolution Adopting
February 21, 1991 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
March 13, 1991 Date

~~Written Requests, Submissions or Comments~~

✓ Declaration of Attorney
Andrew Carroll Name of SAAG representing agency

Minnesota State Arts Board

Adopted Permanent Rules Relating to Deadlines

Rules as Adopted

1900.1400 APPLICATION FORMS AND DEADLINE.

All applications for grants must be made on official application forms for the appropriate program available at the offices of the board. Applicants must use grant application forms for the appropriate fiscal year. Requests for other forms of assistance may be made directly to the board at its offices.

The application form will request the specific data needed to determine the eligibility of the individual or organization and to review the application according to the review standards.

All applications must be received by the deadlines set forth by the board in the current program information.

1900.1700 COMPLETED APPLICATIONS.

The applicant is responsible for the quality and the nature of the responses in the application form and the supporting materials.

A complete application includes the following:

A. the appropriate application form with all spaces completed;

B. authorizing signature(s) on the application form;

C. a complete data summary form;

D. all required resumes attached;

E. applications from organizations have named a project director;

F. applications from individual artists must have included required supporting materials;

G. where applicable, a copy of the contract with the fiscal agent; and

H. receipt by the stated deadline(s) in program information.

APPROVED AS TO FORM AND LEGALITY

April 3, 19 91

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY Charlene Hutcher
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
APR 03 1991
Joan Anderson Growe
Secretary of State
3:55 P.M.
M

Stat Authority 139.10 subd 1(c)
Chapter 139.10 was renumbered as 129D.04
Andy Tourville's Declaration of Counsel
indicates the correct cite as 129D.04 subd 1c

129D.04 subd 1(c)
The board shall through the following
activities stimulate and encourage the creation,
performance and appreciation of the arts
in the state.
(c) ~~from~~ promulgate by rules procedures
to be followed by the board in
receiving and reviewing requests for
grants, loans, and other forms of assistance

Notice of Intent was signed by the
Assistant Executive Director of Arts Grabarski
rather than Executive Director who
was Authorized in the resolution
Grabarski did sign the Findings of Fact

see Attorney affidavit for errors
the repealed cite of 139.10 subd 1(c)
refers to 129D.04, ~~@~~ subd 1 contains
2 pursuans for rule making. ~~Chapter~~
Minn Stat 129D.04 is just one page
so it would not be to difficult to
find the cite. Due to the fact that
this rule change is so minor I
don't think they should be upheld.

STATE OF MINNESOTA

OFFICE MEMORANDUM

Rec. 3-25-91

DEPARTMENT: ATTORNEY GENERAL
NATURAL RESOURCES

DATE: March 22, 1991

TO: MARTHA J. CASSERLY
Special Assistant Attorney General
Public Finance Division

RECEIVED
MAR 25 1991
Office of the Attorney General
Government Services Section
Capitol Office Bldg., Suite 500
525 Park Street
St. Paul, MN 55103

FROM: ANDREW J. TOURVILLE, JR.
Special Assistant
Attorney General

AJT

PHONE: 296-0685

SUBJECT: In the Matter of Proposed Adoption of Rule of State Arts Board Governing Deadlines

Enclosed for review are the documents relating to this rule.

AJT:dag.BB5
Enclosures
cc: Bob Booker

CERTIFICATE OF THE
BOARD OF THE ARTS
RESOLUTION ADOPTING THE RULE

I, Jim Nardone do hereby certify that I am a member and the Chairman (office) of the BOARD OF THE ARTS, 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 BOARD, duly and properly called and held on the 21st day of FEBRUARY, 1991, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

"RESOLVED, that the rule relating to DEADLINES (amending Minn. rules parts 1900.1400 and 1900.1700) is approved and adopted, pursuant to authority vested in the BOARD by Minnesota Statutes Sec. 129D.04, subd. 1, the [executive director] of the BOARD, is authorized to sign the findings of fact, conclusions, and order adopting the rule and to perform the necessary acts to provide that the rule shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 21st day of February, 1991.

Jim Nardone
Officer of the Board

Leonard J. Nadasdy
Attest by one other Board member

STATE OF MINNESOTA

BOARD OF THE ARTS

In the Matter of the Proposed Adoption of the Rule of the State Arts Board Governing Deadlines

FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING RULE WITHOUT PUBLIC HEARING

(1) Notice of the Board's intent to adopt the above-entitled rule was published in the State Register on November 26, 1990. Since there are no persons, associations, or other entities on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22, no mailing of the Notice was attempted. (2) 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.

(4) All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. (5) No requests for a public hearing on the rule were received by the agency.

(7) No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.

(8) The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as the Rule of the State Arts Board Governing Deadlines (amending Minnesota Rules Parts 1900.1400, and 1900.1700) is adopted this 13th day of March, 1991, pursuant to authority vested in the Board by Minnesota Statutes, section 129D.04, subd. 1(e) 1990, (formerly Minnesota Statues section 139.10, subd. 1(e) [1988]) which authority has been delegated to me. (9)

Sam W. Grabarski
Executive Director

In the Matter of the Proposed Adoption of the Rule of the State Arts Board Governing Deadlines

AFFIDAVIT OF ROBERT C. BOOKER

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Robert C. Booker, being sworn says:

1. I am the Assistant Executive Director of the Minnesota State Arts Board. I have been in this position since January 2, 1990. Prior to my present appointment, I was employed by the Arts Board as its Operating Support Program Associate. I have been assigned the task of overseeing the present rule amendments.

2. The Arts Board satisfied the requirements of Minn. Stat. section 14.115, subd. 4, by giving notice of the proposed change to Arts Board rules in the Arts Board's Quarterly Newsletter, the Arts Board News. Two notices were given. One was contained in the Spring 1988 issue. A copy is attached as Exhibit A. A second notice was contained in the Winter 1989 issue. A copy is attached as Exhibit B. No responses were received to either notice.

3. The Arts Board News is the best way to reach the small business artist in the State of Minnesota. The Arts Board News is mailed to over 5,631 addresses each quarter. It reaches every county in the state. It has become a recognized clearinghouse for arts important news.

4. Furthermore, it will be noted form Exhibit B that the Arts Board has had a policy in effect since October 5, 1989 of not accepting applications if they do not arrive by 4:30 p.m. on the deadline date contained in the program information. While we realize this policy change was somewhat inconsistent of the current rules and possibly unenforceable, we have received no complaints about it. Therefore, the purpose of the rule amendment is to bring the rules into consistency with the Arts Board's practices. Every program information brochure since November 6, 1989 has clearly contained a statement informing applicants when their application must be received. Therefore, there has been ample notice to those directly affected by this policy change.

5. I have nothing further to state except to say that I give this affidavit in support of the Arts Board's belief that because of the minor nature of the proposed rule amendment, its exceedingly minimal impact upon small business arts, and the lack of any response to any notices that were given including the Notice of Intent to adopt a rule without a public hearing, it has substantially complied with the small business requirements of Minn. Stat. section 14.115, subd. 4.

DATED: 3-13-91

Robert C. Booker

Subscribed and sworn to before me this 13th day of March, 1991.

Notary Public

GAIL SWAIM
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES MARCH 22, 1994

02/27/91 15:43 ☎ 612 297 4304 MN STATE ARTS BD P.02

followed by a traditional [illegible] feast, folkdancing around a Midsummer maypole, internationally-inspired arts and crafts, and a lakeside dance floor for post-concert revelry.

Performances will be held in a new "free-span" tent, the largest of its kind to be erected in North America. The tent will make its debut at the Olympics in Calgary before traveling to Minnesota. It is able to accommodate an audience of 10,000; total attendance at the festival is expected to be about 100,000, Mrs. Nelson said.

The music festival is being underwritten in part by grants from the Minnesota Office of Tourism and the Volvo Corporation in Sweden. Trammell Crow Company, a Bloomington development firm, has also made a generous $10,000 contribution to the premiere event.

For more information about Midsummer, contact: New Sweden-Minnesota Midsummer, 8400 Normandale Lake Boulevard, Suite 180, Bloomington, MN 55437, (612) 897-1670.

Amy Lamphere is a free-lance writer and program coordinator for New Sweden-Minnesota Midsummer.

Schools should begin planning immediately for application to the Minnesota State Arts Board for artist residency funding during the 1987-88 school year. Application forms are available now for the April 18 deadline.

The Artists in Education School Support program provides funds for artist residencies in Minnesota public and private elementary and secondary schools and educational organizations. Grant awards pay for up to one half of residency costs. Schools are free to design residencies which fit the needs of their students and communities. Residencies must be at least five days in length and may use an artist from the Arts Board Roster or any other independent, professional Minnesota artist.

Artists Wanted

The Arts Board's Artists in Education (AIE) Program is now accepting applications for the *Roster of Artists*. The roster is a juried list of individual artists who are experienced and qualified to conduct school residencies of one week or longer. The roster will be distributed across the state in the fall of 1988.

Applicants from all disciplines may apply; minority artists, and those from beyond the Twin Cities area are particularly encouraged to apply. Artists are selected for artistic quality and ability to carry out a residency. A professional work sample, personal interview, and written narrative are part of the selection process. The application deadline is April 22, 1988.

April 26-30
Minneapolis Institute of Arts
An annual spring benefit, featuring art and flowers, sponsored by the Friends of the Institute. Includes tours, lectures, fashion shows, luncheons, and a gala preview party. Call (612) 870-3045 for more information.

Summer Crafts Festival
June 25-26, 1988
College of Saint Catherine
The 16th annual Minnesota Crafts Festival sponsored by the Minnesota Crafts Council. For more information contact the Minnesota Crafts Council, 528 Hennepin Avenue, Suite 308, Minneapolis, MN 55403, (612) 333-7789.

Editor's Note

The second part of the article on Minnesota Citizen's for the Arts will appear in the summer issue of *Arts Board News*.

The Arts Board is currently in the process of adopting new Administrative Rules. If you have any comments, please call the Public Information Office at 297-4211.

SPring 88 ARTS BD News

02/27/91 15:44 612 297 4304 MN STATE ARTS BD P.03

those receiving final approval from the board will be listed in a Touring Arts Directory. The directory will be distributed to presenters across the state prior to the fall 1990 booking season.

The Minnesota Touring Arts Program was developed as a result of the success of the Twin Cities Performing Artists on Tour program, a previous partnership between the Northwest Area Foundation, the Arts Board, and Arts Midwest. The program, which ended in fiscal year 1988, was designed to support local, regional, and national touring for producing companies based in the Twin Cities.

Historically, touring has been one of the most inadequately funded activities in the arts. Currently, many Minnesota arts organizations are interesteed in touring, but lack the financial resources, and the technical and promotional abilities to launch a successful tour. MTAP will help Minnesota Arts organizations develop a sound touring foundation within the state from which regional, national, or international tours can evolve. Technical assistance will be MTAP's key component. For example, subsidies will be available for training in tour management, sales, marketing, travel, and promotion – for organizations who are first juried into the directory and have demonstrated a need for such assistance.

Application guidelines for the new program will be available in late January for a March 1990 deadline. The completed Touring Arts Directory will be available for distribution to presenters in August 1990.

available. The deadline is March 2, 1990.

New Frontiers Video — Rural Presenters and the Media Arts

The Minnesota State Arts Board recently received $4,000 from the National Alliance of Media Arts Centers to begin a project called New Frontiers Video. A cooperative project of the Arts Board and Intermedia Arts Minnesota, New Frontiers Video is designed to bring video exhibitions to rural audiences throughout the state.

New Frontiers Video will begin with a statewide survey of potential video presenters. The survey will help select up to ten rural arts organizations as participants in a seminar on presenting video art, offering information on technical requirements, funding, and audience development. New Frontiers Video will also organize a tour of works by Minnesota video artists Bruce Charlesworth, Helen DeMichiel, and Mary Easter that will travel to participating sponsors.

The New Frontiers Video survey is expected to be completed in January 1990; participating rural arts presenters will be selected in February 1990, and the seminar is scheduled for April 1990.

Building, 101 West Second Street, Suite 107, Duluth, MN 55802.

The Lake Region Arts Council, Fergus Falls, has a new telephone number: (218) 739-5780.

Application Deadline Policy Change

Due to advances in the technologies used for handling and cancelling mail, as well as inconsistencies in determining valid postmark, the Arts Board will no longer rely on postmark deadlines.

All grant applications and materials must now be RECEIVED (NOT POSTMARKED) at the Arts Board offices no later than 4:30 p.m. on the deadline date. Applications received after the deadline, regardless of postmark date, will not be reviewed.

The Arts Board claims no responsibility for the failure of other agencies or postal services to forward applications to us by the deadline. This new policy affects all future program application deadlines (except for Career Opportunity Grant deadlines in February and May 1990 – because the application guidelines were produced before the new policy went into effect).

Winter 89 Arts Bd News

In the Matter of Proposed Adoption
of Rule of State Arts Board
Governing Deadlines

DECLARATION OF COUNSEL

I, Andrew J. Tourville, Jr., 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 0751.

Dated: 3/22/91

Andrew J. Tourville Jr.
Andrew J. Tourville, Jr.
Special Assistant
Attorney General

EXCEPTIONS:

1. There appear to be several minor flaws in the Notice of Intent to Adopt a Rule Without a Public Hearing. However, I do not think they render the Notice defective. The Notice does not contain a caption such as found in the suggested form; it refers to Minn. Stat. § 139.10, subd. 1(e) as the authority for rulemaking when in fact this provision had been renumbered to § 129D.04, subd. 1(e); it was signed by Assistant Executive Director of the Arts Board, Robert C. Booker, rather than Executive Director Sam W. Grabarski who was the person who had been authorized by the Board of the Arts to sign the Notice; and it did not contain Booker's telephone number. I believe the only flaw which might raise a question is Grabarski's failure to sign the Notice. However, since Grabarski signed the Findings of Fact, Conclusions and Order Adopting Rule Without Public Hearing, Booker's signature was essentially ratified.

2. The Board of the Arts believes it has complied with Minn. Stat. § 14.115 by notifying potentially affected small businesses of the proposed rulemaking in a publication likely to reach them as stated in the Affidavit of Robert C. Booker. Based on the exceedingly minor impact of the rule amendments on applicants, the absence of any response to the Notice of Intent to Adopt a Rule Without a Public Hearing, and the fact that published program information has fully informed applicants of deadlines consistent with the present rule amendments since November 1989 (a policy which I have been informed has never been questioned by an applicant), I believe the Arts Board has substantially complied with Minn. Stat. § 14.115.

A.J.T.

feast, folkdancing around a Midsummer maypole, internationally-inspired arts and crafts, and a lakeside dance floor for post-concert revelry.

Performances will be held in a new "free-span" tent, the largest of its kind to be erected in North America. The tent will make its debut at the Olympics in Calgary before traveling to Minnesota. It is able to accommodate an audience of 10,000; total attendance at the festival is expected to be about 100,000, Mrs. Nelson said.

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Spring 88 Arts Bd News

EXHIBIT "A"

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Winter 89 Arts Bd News

EXHIBIT "B"

In the Matter of the Proposed Adoption
of the Rule of the State Arts Board
Governing Deadlines

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Natalie B. Madgy, being sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minnesota Statutes, section 14.14, subdivision 1a and 14.22 or 14.30, that their names be placed on the state Board of the Arts rulemaking mailing list is accurate, complete, and current as of this 13th day of March, 1991.

That no persons, associations, or other entities have requested their names be placed on that list.

That no mailing of the attached Notice of Intent to Adopt a Rule Without a Public Hearing was attempted.

Natalie B. Madgy
Grants and Data Systems Officer

Subscribed and sworn to before me
this 13th day of March,
1991.

Notary Public

GAIL SWAIM
NOTARY PUBLIC-MINNESOTA
WASHINGTON COUNTY
MY COMMISSION EXPIRES MARCH 22, 1994

1512.1100 ENFORCEMENT.

An application for reimbursement or payment containing false statements or misrepresentations voids the application. Reimbursements or payments that are made that later are found to have been based upon false or misleading information result in forfeiture of any reimbursement or payment made, and are wholly recoverable through actions under general criminal or civil enforcement authorities by the Office of the Attorney General.

Minnesota State Arts Board

Proposed Permanent Rules Relating to Deadlines

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Board of the Arts intends to adopt amendments to the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is 139.10, subd. 1(e)(1988).

All persons have 30 days in which to submit comment in support or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the Board will proceed pursuant to *Minnesota Statutes* 14.131 to 14.20.

Comments or written requests for a public hearing must be submitted to: Robert Booker, Minnesota State Arts Board, 432 Summit Avenue, St. Paul, Minnesota 55102.

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Robert Booker upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Robert Booker, Minnesota State Arts Board, 432 Summit Avenue, St. Paul, Minnesota 55102.

Dated: 8 November 1990

Robert Booker
Assistant Director

Rules as Proposed

1900.1400 APPLICATION FORMS AND DEADLINE.

All applications for grants must be made on official application forms for the appropriate program available at the offices of the board. Applicants must use grant application forms for the appropriate fiscal year. Requests for other forms of assistance may be made directly to the board at its offices.

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.

The application form will request the specific data needed to determine the eligibility of the individual or organization and to review the application according to the review standards.

All applications must be ~~postmarked~~ received by the deadlines set forth by the board in the current program information.

1900.1700 COMPLETED APPLICATIONS.

The applicant is responsible for the quality and the nature of the responses in the application form and the supporting materials.

A complete application includes the following:

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B. authorizing signature(s) on the application form;

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D. all required resumes attached;

E. applications from organizations have named a project director;

F. applications from individual artists must have included required supporting materials;

G. where applicable, a copy of the contract with the fiscal agent; and

H. ~~postmark or delivery~~ receipt by the stated deadline(s) in program information.

Department of Labor and Industry

Proposed Permanent Rules Relating to Reimbursement of Supplementary Benefits

Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Department of Labor and Industry intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* Sections 175.17 (1988), 176.132 (1988), and 176.83 (1988).

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Public comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Gary Hall, Compensation Attorney
Department of Labor and Industry
Workers' Compensation Division
Third Floor, 443 Lafayette Road
St. Paul, Minnesota 55155-4301

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A free copy of the rule is available upon request from Gary Hall at the above address.

A STATEMENT OF NEED AND REASONABLENESS that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Gary Hall at the above address.

The option of the proposed rule has no impact on small business. The rules affect only insurers and self-insurers, none of which is a small business as defined by *Minnesota Statutes*, section 14.115, subd. 1 (1988).

Additionally, the rules do not require the expenditure of public monies by local public bodies and thus have no fiscal impact.

STATE OF MINNESOTA

BOARD OF THE ARTS

IN RE: AMENDMENTS TO
MINN. RULES PARTS 1900.1400
AND 1900.1700

STATEMENT OF NEED AND REASONABLENESS

The Minnesota Board of the Arts, also known as the Minnesota State Arts Board, proposes to amend its rules regarding the deadline by which applications for Arts Board grants must be received. Authority for the Board's rules is found in Minn. Stat. § 139.10, subd. 1(e)(1988), which states that:

> Subdivision 1. The board shall through the following activities stimulate and encourage the creation, performance and appreciation of the arts in the state:
>
> * * *
>
> (e) promulgate by rule procedures to be followed by the board in receiving and reviewing requests for grants, loans or other forms of assistance;

At the present time, the rules provide that in order to be timely and complete, applications must be postmarked (or delivered) by the given program's deadline, as stated in current program information. These requirements are expressed in the rules in two different provisions. Minn. Rules pt. 1900.1400 states (in part) that:

> All applications must be postmarked by the deadlines set forth by the board in the current program information.

(Emphasis added.)

The wording of this rule appears to contemplate that all applications will be delivered by U.S. Mail.

Minn. Rules pt. 1900.1700 states (in part):

> A complete application includes the following:
>
> ***
>
> H. postmark or delivery by the stated deadline(s) in program information.

(Emphasis added.) This rule appears to be broader in scope than part 1900.1400 for it contemplates delivery of an application in addition to use of the U.S. Mail. The Board's program information customarily provides that the deadline is 4:30 p.m. on the deadline date. Therefore, an application postmarked or delivered by 4:30 p.m. on the deadline date is considered to have met the deadline.

The use of a postmark to determine timeliness has proven to be a problem for several reasons. First, postmarks are not

always visible. Second, with the increasing use of courier or other types of delivery services and facsimile transmission, there may not be a postmark at all such that a system based on postmarks, as expressed in pt. 1900.1400, must fail. The result is that uncertainty is introduced into the application process because the Board may inadvertently exclude from consideration applications that may have been timely and consider applications that were not.

The Board believes that it would be preferable if the rules required that an application must be <u>received</u> by the deadline. This would enable Arts Board staff to clearly identify applications that meet the deadline requirements and those that do not. Applicants will still be free to use the U.S. mail to send their application as long as they allow sufficient advance time to guarantee receipt by the deadline.

The Board believes that amendments to parts 1900.1400 and 1900.1700 are needed in order to eliminate the uncertainty associated with the use of postmarks and other forms of non-posted delivery. It is reasonable because both the Board and applicants will know clearly whether or not a application is timely. The applicants will be able to judge for themselves which method of delivery for their application will be required

- U.S. mail, courier service, facsimile transmission, or some other method in order to insure that the application is timely received.

Impact on Agricultural Lands and Small Business

Agricultural Lands

There are no agricultural lands affected by these amendments.

Small Business

Many of the applicants for Arts Board grants would qualify as small businesses, as defined in Minn. Stat.§ 14.115, subd. 1 (Supp.1989). Given this fact, the Board must consider five methods for reducing the impact of these amendments on small businesses as outlined in Minn. Stat. §14.115, subd. 2 (1988). Each of the five methods are discussed below.

"(a) [T]he establishment of less stringent compliance or reporting requirements for smallbusiness;"

This method is not applicable to the amendments being proposed.

"(b) [T]he establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;"

Any rule regarding grant application deadlines must be capable of uniform and equitable application.

Requiring grant applications from small businesses to be received in the Arts Board's offices by the deadline date in order to be considered, should require little, if any, additional effort for small business. It may mean that an application would have to be deposited in the U.S. mail a day or two earlier but the effect on a small business would be no different than on any other applicant.

"(c)[T]he consideration or simplification of compliance or reporting requirements for small businesses."

Not applicable.

"(d) [T]he establishment of performance standards for small businesses to replace design or operational standards required in the rule;"

Not applicable.

"(e)[T]he exemption of small businesses from any or all requirements of the rule."

All grant applicants must be treated uniformly. An application deadline cannot be waived for small businesses without giving small businesses an unfair advantage over other applicants who must abide by the application deadlines.

Fiscal Note

The majority of local public bodies, as defined by Minn. Stat.§14.11, subd. 1, affected by this amendment are school districts which apply for grants to support artistic endeavors in their schools. However, the estimated additional cost to these and other local public bodies is expected to be virtually nothing and certainly less than the $100,000 threshold stated in Minn. Stat. § 14.11.

It is anticipated that the Arts Board's Assistant Director Robert C. Booker and Sam Grabarski, Exec. Dir. shall testify in support of the Amendments on behalf of the agency. This Statement of Need and Reasonableness constitutes the verbatim affirmative presentation by the agency.

BOARD OF THE ARTS

Proposed permanent rules relating to deadlines

Notice of intent to adopt a rule without a public hearing

(1) **NOTICE IS HEREBY GIVEN** that the State Board of the Arts intends to adopt amendments to the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, section 14.22 to 14.28. The statutory authority to adopt the rule is 139.10, subd. 1(e)(1988).

(2) All persons have 30 days in which to submit comment in support or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. (3) Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. (4) If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. (6) Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the of the proposed rule addressed, the reason for the request, and any change proposed. (7) If a public hearing is required, the Board will proceed pursuant to Minnesota Statutes 14.131 to 14.20.

(5) Comments or written requests for a public hearing must be submitted to: Robert Booker, Minnesota State Arts Board, 432 Summit Avenue, St. Paul, Minnesota 55102.

(8) The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(11) A copy of the proposed rule is attached to this notice.

(12) **A STATEMENT OF NEED AND REASONABLENESS** that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Robert Booker upon request.

(9) If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Robert Booker, Minnesota State Arts Board, 432 Summit Avenue, St. Paul, Minnesota 55102.

Date 11/8/90

Name [signature]

Title Assistant Director

Minnesota State Arts Board

Proposed Permanent Rules Relating to Deadlines

Rules as Proposed

1900.1400 APPLICATION FORMS AND DEADLINE.

All applications for grants must be made on official application forms for the appropriate program available at the offices of the board. Applicants must use grant application forms for the appropriate fiscal year. Requests for other forms of assistance may be made directly to the board at its offices.

The application form will request the specific data needed to determine the eligibility of the individual or organization and to review the application according to the review standards.

All applications must be ~~postmarked~~ received by the deadlines set forth by the board in the current program information.

1900.1700 COMPLETED APPLICATIONS.

The applicant is responsible for the quality and the nature of the responses in the application form and the supporting materials.

A complete application includes the following:

A. the appropriate application form with all spaces completed;

B. authorizing signature(s) on the application form;

C. a complete data summary form;

D. all required resumes attached;

E. applications from organizations have named a project director;

F. applications from individual artists must have included required supporting materials;

G. where applicable, a copy of the contract with the fiscal agent; and

H. ~~postmark-or-delivery~~ receipt by the stated deadline(s) in program information.

Approved by Revisor

2010.9910 RECOMMENDED CERTIFICATE OF AUTHORIZING RESOLUTION FOR RULE WITHOUT A PUBLIC HEARING OR EMERGENCY RULE.

CERTIFICATE OF THE
BOARD OF THE ARTS
AUTHORIZING RESOLUTION

I, James Nardone, do hereby certify that I am a member and the Chair of the Board of the Arts, 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 Board duly and properly called and held on the thirteenth day of October, 1990, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

> "**RESOLVED**, that Sam W. Grabarski, the executive director of the Board of the Arts, is hereby granted the authority and directed to sign and to give the Notice of the Board's Intent to Adopt a rule without a public hearing governing deadlines to all persons who have registered their names with the Board for that purpose and publish the Notice and rule in the State Register, and to perform any and all acts incidental thereto."

IN WITNESS WHEREOF, I have hereunto subscribed my name this thirteenth day of October, 1990.

James Nardone
Board Chair

Richard T. Faricy
Attest by one other Board member

Statutory Authority: MS s 14.06; 14.09
History: 11 SR 618

Minnesota State Arts Board

Proposed Permanent Rules Relating to Deadlines

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H. ~~postmark-or-delivery~~ receipt by the stated deadline(s) in program information.

Approved by Revisor

Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Deadlines

AGENCY: Minnesota State Arts Board

MINNESOTA RULES: Chapter 1900

The attached rules are approved for publication
in the State Register

Harry M. Walsh
Deputy Revisor