

Re: Minnesota Statute Chapter 410

Pursuant to the August 4, 2010 charter commission meeting, I was requested to send a memo to commission members as to my concern about the language in the above cited statute. I do so hereafter.

I set forth these concerns in the event the commission will ask the Minneapolis city attorney to seek revisions to Chapter 410 by requesting the League of Cities to sponsor amending legislation by the state legislature. I assume my concern as a member of the Minneapolis charter commission is not dissimilar to concerns of other charter commission members and charter commissions in other Minnesota cities or other city attorneys who advise such commissions.

My concern relates to the language "An appointee who neglects to file with the court administrator within 30 days a written acceptance and oath of office shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned". Former chair Bernstein was not reappointed. On June 17, 2010 the chief judge made an appointment. Apparently the letter of appointment was held until June 28 (although this was not known until after July 21). There was no acceptance and oath filed on or before July 21 (in Minnesota a three day time period is presumed for US mail to be received). Was chair Bernstein still a commission member and chair? Was the appointee deemed to have resigned? What is the date the 30 days to accept begins to run? The chief judge assumed the 30 days began to run from the date of mailing plus three days. Why is not the date of appointment the date from which the 30 days begins to run? What if future chief judges in Hennepin County or chief judges in other counties have a different opinion? What was the status of the appointee after July 21? There is no reason for this uncertainty.

I suspect there are other provisions within Chapter 410 which also need revisions for purposes of clarity. It may be helpful to all Minnesota charter commissions to remove the ambiguities in Chapter 410.

Barry Lazarus, vice chair