

June 30, 2009

The Honorable Eric J. Magnuson  
Chief Justice  
Minnesota Supreme Court  
305 Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King, Jr., Blvd.  
St. Paul, MN 55155-6102

RE: Comments on the Petitions for an increase of \$75.00 to the attorney registration fee to pay for public defense

Dear Chief Justice Magnuson:

This letter is submitted as the comments of the Minnesota Bar Association (MSBA) in response to the petition of the Minnesota State Board of Public Defense for increase of \$75.00 to the attorney registration fee to pay for public defense.

During the legislative discussions that led to the bill that recommended this charge, the MSBA did not support, but did acquiesce, in the legislative determination that the Minnesota Supreme Court should impose a \$75.00 charge on the attorney registration fee to help fund public defense.

The MSBA did so for a number of reasons.

First, the \$75.00 charge was seen as a necessary component of a varied set of fund raising measures that the legislature felt forced to turn to because of the Governor's resistance to a general across the board tax hike. The legislature shied away from trying to overturn a promised veto from the Governor because it lacked the votes to assure success for a veto override. Those concerns have since proven to be amply justified as no general across the board tax hike has survived the legislative process.

Second, the \$75.00 charge was seen as an alternative to a sales tax on legal services that was advanced as a more comprehensive means to raise funds not only for public defense but also for the courts and for legal services.

Third, the \$75.00 charge represented real "skin in the game" for attorneys in Minnesota thereby giving the lie to the argument advanced by some that the MSBA oppose a sales tax on legal services for the selfish personal benefit of attorneys not because we sought as an access to justice issue for our clients.

It is a position of this Association that this \$75.00 charge is bad public policy because it imposes the burden of a constitutionally imposed societal obligation on one segment of that society, attorneys.

This charge can be justified, if it can be justified at all, as only a temporary stopgap measure to account for the current economic conditions in this state, and in the nation.

It is therefore the position of the MSBA that the \$75.00 charge being added to the attorney registration fee should have an internal sunset provision of not more than two years.

Very truly yours,

Michael J. Ford  
President  
Minnesota State Bar Association

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