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Committee spent 3,500 hours on new trust code

By Christopher J. Burns



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Chris Hunt

The Minnesota Legislature recently enacted a new Minnesota Trust Code, with the assistance of a committee chaired by Chris Hunt of Fredrikson & Byron. The committee spent about 3,500 hours—yes, you read that right—over 4 and ½ years preparing the bill. The following article has been slightly edited from its original version.

Burns: Tell me about the past 4 ½ years and the process behind this statute. First, did you anticipate it would take this long?

Hunt: No. I thought it would take several years, but I went in to this knowing that it could take longer. For instance, I knew that Pennsylvania took about five years to update their law and New York

has been working on theirs much longer than that and New York, at least, still is not done.

Burns: Let's start with the formation of the committee. How did you go about this endeavor?

Hunt: It began with forming the right committee and trying to get the right people to take on the right responsibilities on the committee. Minnesota has a wealth of good probate, trust, and estate planning attorneys as well as excellent trust officers and litigators who practice in this area. I reached out to a number of them. A few declined the opportunity to help, but, most said yes and I ended up with a committee of 18 really good people. In doing so, each committee member agreed to make himself or herself available for frequent committee / subcommittee meetings. The committee itself met a total of 51 times (which averages a little less than once every three weeks).

Burns: How many people were on the committee and who were they?

Hunt: There were 18 people on the full committee. The committee

members were (in alphabetical order): Bill Berens, Anrea Breckner, Jolene Cutshall, Larry Henneman, Chris Huny, Bruce Kruger, Sonny Miller, Sally Mullen, Thomas Rauenhorst, Michael Sampson, Sale Schoonover, Jason Schuller, David Shannon, Mary Shearen, Alan Silver, Kip Steinscross, Mavis Van Sambeek, and Alan Yanowitz. We also had a very dedicated paralegal who acted as the secretary for the committee in Lynn Brunner.

In addition to the committee members, we decided to have a litigator assigned to each of our subcommittees. Accordingly, we had the following additional subcommittee members: Pat Williams, Norman Abramson, Rod Mason, and John Gordon.

Burns: The work to create what became the proposed Minnesota Trust Code was not all done by the committee as a whole, was it?

Hunt: No. We divided the members of the committee into various subcommittees. We had a total of 5 subcommittees. Each subcommittee was chaired by a committee member

and each of those subcommittees had 8 meetings, some had 12 meetings, and a few had many more than that.

Burns: If you had to estimate, about how many hours did the committee members spend on developing this legislation?

Hunt: It is really hard to say. I think it was easily in excess of 3,500 hours.

Burns: Over 3,500 hours, that is astonishing. If we assume that the average billable hourly rate for attorney in the Minneapolis / St. Paul area is \$400 an hour, that totals \$1,400,000 of time spent on this legislation, just by your committee. You and the committee must have a lot of blood, sweat, and tears into this and you should all be very satisfied that the legislation has now been passed into law. How do you feel now that all the hard work and dedication has come to fruition?

Hunt: It was a lot of hard work and I am really pleased with the work product of the committee.

Burns: Did the committee consult with other professionals while working on the legislation?

Hunt: The committee worked a great deal with some of the Uniform Law Commissioners and a good deal with the Real Property Section, Non-Profit Committee of the Business Law Section, and the Minnesota Attorney

General's Office. While most of the work was done by our committee, it could not have been done without a great deal of teamwork and cooperation.

Burns: Did the thoughts of your committee ever disagree with the thoughts of other committees?

Hunt: Yes. Some of those differences we were able to resolve. Others were incapable of resolution and so while the trust law is new we chose not to change some of the charitable supervisions of trust provisions and this is something that the Non-Profit committee will likely continue to work on in the future. We also noted changes needed to the Uniform Probate Code and another committee has been formed to lead that effort.

Burns: Did you or others have to testify at the Capitol? What was that like? Was there any opposition to the legislation?

Hunt: Yes. I enjoyed it. There were very few questions and our final bill passed unanimously in both chambers and was signed by the Governor.

Burns: The bill that was presented to the Legislature was different than the Uniform Trust Code, which has been passed by about 27 states. Before getting into some of the finer points, what were some of the "big picture" reasons behind revisiting Minnesota's trust statutes at this time?

Hunt: Minnesota has a well-established trust law. Most of that law was not codified, but was contained in cases and it made sense to have those principals codified. So a big part of the law was to make Minnesota's trust law more user-friendly for clients, trustees, beneficiaries, lawyers, and courts. Also chapter 501B left many questions unanswered. The new trust law brings Minnesota in line with national trends that have developed over the 25 years since Minnesota trust law, enacted as Chapter 501B, was last overhauled.

Burns: In my next article, I will be reviewing some of the specific changes. For now, what do you think are some of the changes that might be of the greatest interest to fellow practitioners?

Hunt: The law allows greater flexibility than its predecessor statutes. Those changes include trust modifications and terminations in non-judicial settlement agreements to name a few. The new law also clarifies the mental capacity necessary to make a trust, changes to the time to contest a trust, and it creates a new unique dual track system for Court jurisdiction.

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