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Monday, February 27, 2006

State Auditor Patricia Anderson
525 Park Street
Suite 500
St. Paul, MN 55103

RE: State Mandate Reform

Dear State Auditor Anderson:

We are writing today on behalf of the Municipal Legislative Commission (MLC) which is an association comprised of thirteen suburban cities including: Apple Valley, Bloomington, Burnsville, Eagan, Eden Prairie, Edina, Lakeville, Maple Grove, Maplewood, Minnetonka, Plymouth, Shoreview and Woodbury.

In response to a provision of the State Government Finance Bill (H.F. 1481) passed during the 2005 Legislative Session (providing local governments the opportunity to propose reforms of state mandates), the cities of the MLC would like to collectively provide you a compilation of some of the state laws that directly impact city government operations. We have enclosed a document drafted by the League of Minnesota Cities (LMC) referencing these laws in case you have not received this information.

A few of the MLC cities are also planning to submit formal resolutions to your office on an individual basis. We appreciate your consideration and acknowledgement of the mandates for which we would like reform. Please do not hesitate to contact us if you have any questions or feedback.

Sincerely,

A handwritten signature in black ink that reads 'Bill Hargis'.

Mayor Bill Hargis
City of Woodbury
Chairman of the MLC

Enclosure

CC: MLC Operating Committee

Member Cities: Apple Valley, Bloomington, Burnsville, Eagan, Eden Prairie, Edina,
Lakeville, Maplewood, Minnetonka, Plymouth, Roseville, Shoreview, Woodbury



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STATE MANDATES AFFECTING MINNESOTA CITIES

The following list represents a compilation of some of the state laws that directly impact city government operations in Minnesota. The list does not represent every law that impacts city operations nor does the list necessarily reflect the annual legislative agenda of the League of Minnesota Cities. For additions to this list, contact Jennifer O'Rourke at 651.281.1261, or jorourke@lmnc.org.

PERSONNEL/EMPLOYEE RELATIONS

Pay equity, implementation and reporting (M.S. 471.991-99) - Personnel costs have been increased by the state requirement that cities and other local governments conduct job evaluation studies, report on implementation, and meet equitable compensation standards as defined in state rules

Workers' compensation (M.S.176) - Cities are responsible for enforcing state requirements for workers' compensation for local contractors and licensees.

Public pensions - basic and coordinated plans (M.S. 353.27) - Cities are required to participate in the state Public Employee Retirement Association (PERA), that requires city employer contribution rates of 11.78 percent for Basic plan members and 5.53 percent for Coordinated plan members.

Public pensions - police and fire plan (M.S. 353.65) - Cities are required to participate in the state PERA Police and Fire Plan that requires a city employer contribution rate of 9.3 percent.

Continuation of health and life insurance coverage (M.S. 62A.17 and M.S. 61A.092) - Cities must comply with a state requirement to offer continued health and life insurance coverage to former employees following voluntary or involuntary termination.

Prevailing wages paid on public contracts (M.S. 177.41 and A.G. Op.415cl) - The state's Davis-Bacon requirements (prevailing wage requirements), as interpreted by the Attorney General, can increase the costs of city contracts.

Veterans preference (M.S. 197.447, 455, 46, 48, 481 and 192.26) - Cities are required to give preferential treatment to veterans for hiring, protection from discharge, fully paid leave

while challenging any discharge or disciplinary action, and full salary for up to three weeks for all city employees serving in the military reserves or on active duty.

Mandatory binding arbitration (M.S. 179A.16, .18) - Employee classes such as peace officers and firefighters are not allowed to strike. Rather, cities are mandated to comply with the compensation and benefit determinations of an appointed arbitrator, even if the elected representatives of the city's residents determine that a strike would be preferable. In 1999 the law was changed to require final-offer-total-package arbitration for firefighters.

PUBLIC SAFETY

Peace officer standards and training (POST) (M.S. 626.84-863) - Cities are required to assure that their public safety personnel complete mandated pre-service and continuing in-service training to maintain licensed law enforcement officer status.

Temporary detention facilities/detoxification centers - City facilities for temporary holding of persons who have been arrested must meet state standards for the building and its maintenance.

Confined space entry - State and federal standards are imposed for situations where a confined space (such as a manhole) is entered. For example, there is a requirement that a minimum of two employees are present whenever a confined space is entered (OSHA).

Animal control (M.S. 346, 347) - State regulations set standards for facilities used for animal control, procedures for apprehending animals and minimum holding periods.

"First responder" and firefighting by city employees on state highways - State reimbursement for these public safety services does not adequately cover the costs of performing these services.

800 megahertz radio system (M.S. 473.891-905) - Regional public safety radio communications system for which metro-area cities must implement plans for.

Ambulance staffing and equipment requirements - Governed by the Emergency Medical Services Board - most recently changed in 1999.

Suspense file reduction (M.S. 299C.10-11) - Requires peace officers and community corrections agencies to immediately collect identifying information relating to persons arrested or appearing in court on certain charges. Information includes fingerprints and known aliases. Identification data must be furnished to the Bureau of Criminal Apprehension.

Continued health insurance for injured public safety officers (M.S. 299A.465) - Cities are required to continue health benefits to police officers and firefighters injured in the line of duty. Initially, the state reimbursed cities for the full costs of complying with this requirement. Since 2003, the state has pro-rated reimbursements to affected cities based

on the amount available and the number of eligible applicants. The 2003 law change resulted in significant and unanticipated costs to cities.

Peace officers post traumatic stress syndrome benefit (M.S. 299A.411) - Cities are required to provide benefits to police officers and firefighters disabled by a psychological reaction to a traumatic event that occurred in the line of duty. The law requires the employer to provide payment of lost wages and medical treatment for up to one year.

Fine distribution (M.S. 357.021) - State law defines the distribution of fine revenues collected from violators of state laws. Although local law enforcement costs have risen in recent years, the portion of fine revenues distributed to cities has not been adjusted. In addition, steep increases in state-imposed traffic citation surcharges have resulted in more court challenges to citations and thus, increased local prosecution costs.

Notification of liquor licensees (M.S. 340A.) - Cities are required to notify the Commissioner of Public Safety when issuing the various liquor licenses and either have to certify to the state or wait for approval.

Detention of DWI suspects (M.S. 169A.40, subd. 3) - A peace officer acting without a warrant who has decided to proceed with the prosecution of a person for a driving while impaired (DWI) offense shall arrest and take the person into custody, and the person must be detained until the person's first court appearance.

Sex offender notification (M.S. 244.052, Subd. 4) - The law requires local law enforcement agencies to disclose information regarding sex offenders to the public.

Sex offender registration (M.S. 243.166) - The law requires sex offenders to register their residences with local law enforcement agencies.

9-1-1 requirements - Cities that operate PSAPs face the potential loss of guaranteed and stable state revenues due to the actions of the 2005 state Legislature that discontinue assurance that the dedication of the existing surcharge on monthly phone bills will be available after 2007 to cover local costs of providing for 911 service. Current surcharge revenues of 20 cents/month paid to city-operated PSAPs cover only a small share of local 911 costs. As a result, cities must increasingly rely on local property tax revenues to cover a large share of the cost of maintenance as well as the technical and operational improvements and system upgrades required to receive and identify the call-back number and location of persons calling for help.

800 mhz requirements - Despite increased reliance on 911 surcharge revenues to finance the cost of state bonds to be sold to continue the build-out of ARMER, the statewide public safety radio communications backbone, only a small portion of that financing is available to aid cities to build subsystems for local public safety communications that will provide interoperable communications with other jurisdictions. To date, the Legislature has not addressed how cities and counties will be able to afford to obtain the means necessary (communications infrastructure improvements and portable and mobile radio equipment) to obtain such coverage.

BUILDING CODES

Minor residential improvements (M.S.16B.63) - Limits permit fees to \$15 or five percent, whichever is greater, for improvement, installation or replacement of a residential fixture or appliance that does not modify electric or gas service, has a labor cost of \$500 or less, and is done by the homeowner or a licensed contractor.

Building code administration (M.S.16B.65) - Municipalities are given specific direction on how to designate a certified building official who is responsible for code administration in the city.

DATA PRACTICES

Job reference liability – Regulates city disclosure of employment information regarding current and former employees, requiring that disclosure procedures and policies be implemented to assure that information provided is complete and accurate; that disclosure of information regarding acts of violence, etc. are to be provided only in writing; that the city obtain authorization from current or former employees to the release of such information prior to disclosing public personnel data, evaluations conducted prior to separation and employee responses, employee's personnel record and reasons (in writing) for employment separation; and provide current and former employees by mail a copy of employment information disclosed and to whom it was disclosed. (Chapter 137, 2004 Session Laws)

Compliance with new data practice government data classifications - Compliance with new data practice government data classifications such as payroll time sheets or other data that would reveal city of residence of current and former employees, volunteers and independent contractors; data regarding employees of secure treatment facilities and their immediate family members that would reveal where they have received training or attended educational courses if such data would reveal work assignments, home address or phone number, location during non-work hours, or location of immediate family members; nonpublic classification status for preliminary and final market value appraisals of property owned by the city until a purchase agreement has been finalized or appraisals are exchanged; release to domestic abuse victim and victim's attorney of written police report and arrest data related to domestic abuse prosecution; implementation of procedures for closing, tape recording and maintaining recordings of meetings to receive security briefings. (Chapter 290, 2004 Session Laws)

ELECTIONS

Compliance with federal Help America Vote Act (HAVA) - Cities are required to comply with HAVA voter registration absentee voting, military and overseas voter record reporting procedures as well as with assisted voting equipment requirements. Cities that administer absentee voting are to be open extended hours the day before election. (Chapter 293, 2004 Session Laws)

Conducting elections (M.S.205) - State requirements determine when and how cities conduct elections. These laws apply to: regular and special elections; elections for county, state, federal, city and some school races; the timing of the election; publication and posting of

the election; the hours that polls must remain open; the number and salaries of election judges; state-certified voting equipment; time lines for testing of voting equipment; preparation of ballots; absentee ballot procedures; and same-day voter registration.

Election judges (M.S. 204B.22) - Head election judge must be present in the polling place all day. Other judges may serve shifts. Head election judges must also obtain additional training (extra 2 hours--for which the head judge must be paid, plus any additional transportation costs for attending the training).

Absentee ballots for overseas voters (M.S. 203B.16-17) - Overseas voters (military or civilian) may submit absentee ballot applications by fax or email (if Secretary of State determines that security concerns have been adequately addressed) as well as in writing - meaning the local election administrator must set up a process for receiving and processing fax and email absentee applications and mailing out ballots, return envelopes, etc. to additional voters living outside the U.S.

Absentee ballots for subsequent elections (M.S. 203B.16-17) - Since 2001, local election administrators must automatically arrange to mail out absentee ballots for any general or special election for the remainder of the calendar year to overseas voters who previously in 2001 applied for an absentee ballot for the primary that year.

Recounts (M.S. 204C.35) - Changes to when automatic recounts must be recounted for federal, state and judicial elections means that beginning in 2001, if, in a primary, the difference in votes cast is less than one-half of one percent of the total number of votes counted for that nomination - or if the difference is 10 votes or less and the total of votes cast is 400 or less, the canvassing board (city council in most cases) must conduct a recount if the difference would determine the outcome. In a general election, if the difference is less than one-half of one percent or ten votes or less and the total number of votes cast is 400 or less, the canvassing board must also conduct a recount.

ENVIRONMENT

Wastewater treatment standards - State requirements exceed those set by the federal government for many standards affecting wastewater treatment. Extensive and complicated reporting requirements are mandated by the pollution control agency (PCA).

Wetlands - The Wetland Conservation Act must be administered by a city, county, or other local government unit.

Solid waste management - State law specifies the existence and parameters of local recycling programs, waste collection practices, etc.

Drinking water standards - State and federal regulation of drinking water requires frequent testing and reporting to assure adherence to standards.

Surface water management organizations or plan (M.S.103) - Cities are required to participate in the development and costs of a comprehensive water management plan.

Waste disposal facilities (PCA Rules) - State and federal regulation mandates most aspects of waste to energy facilities and sanitary landfills.

Hazardous substance transportation (M.S.221 and federal SARA) - State and federal regulations govern the transportation of hazardous substances. Cities are required to select routes for transport, and police those routes, even though they are frequently not city streets.

Minnesota Clean Indoor Air Act (M.S.144.411-17) - Cities are required to comply with and enforce the act within their public buildings.

NPDES Phase II permitting - (Federal Clean Water Act -- MN Rules 7050)

Surface waters – (M.S.103D) - Watershed districts have been authorized by the state to draft and make rules regulating surface waters. This puts an unfunded mandate on cities with no legislative review or oversight.

PLANNING

Land use planning (M.S.473H) - Cities in the seven-county metro area are required by the state and the Met Council to have a comprehensive land use plan.

State zoning standards (M.S. 463.365) - Local zoning decisions for manufactured homes, group homes, earth-sheltered homes, etc., are limited by the state.

Uniform building code (UBC) (M.S.13) - Cities are required to adopt and enforce a state uniform building code which regulates heating, ventilation, energy conservation, electric, fire standards, and plumbing. Handicap accessibility is one of the requirements which must be assured for public buildings. Cities no longer receive excess building code fees to help train local officials.

Flood plain management (M.S.104.04) - The commissioner of natural resources is authorized to require and approve local government reporting on flood plain management ordinances. Costs associated with imposing local ordinances are usually borne by the local government.

Flood insurance (M.S.104.08) - The state requires that all local governments subject to recurrent flooding participate in the national flood insurance program.

Shoreland regulations (M.S.105.485) - The commissioner of natural resources is authorized to require and approve local government reporting on shoreland management ordinances, and monitor ongoing land use in the vicinity of the shoreland.

TRANSPORTATION

Municipal state aid roads (M.S.162.09 and MnDOT rules) - Cities must comply with standards in order to receive reimbursement for funding for construction and maintenance of certain roads. These standards often result in "overbuilding" city streets. Many items, such as

full signals, landscaping, pre-engineering, and certain legal costs are not eligible for compensation.

Computer requirements (Department of Transportation) - The MnDOT Municipal State Aid for System (MSAS) Manual requires that cities receiving municipal state aid must use MnDOT specified network computer hardware and software (MnDOT Municipal State Aid Highway User Manual - City Level, p. 8).

Seasonal weight restrictions (M.S. 169) - State law provides exemptions to seasonal gross weight limits for specific vehicles, including vehicles transporting milk, recycling and garbage, forest products, certain agricultural products and utility vehicles. These exemptions sometimes result in wear and damage that shortens the life span of local roads and bridges.

Biodiesel fuel mandate (M.S. 239.77) - Requires that fuel sold in the state after June 30, 2005, for use in internal combustion engines, contain a minimum of two percent of biodiesel fuel by volume. This requirement could increase fuel costs and/or maintenance costs for affected vehicles.

GENERAL GOVERNMENT/RECORD KEEPING

Bleacher safety (M.S.16B.616) - Establishes safety requirements that apply to all bleachers over 30 inches above grade or the floor below. By January 1, 2001, municipalities will be required to provide the commissioner of administration with a signed certification of compliance prepared by a qualified and certified building official or state licensed design professional that certifies the bleachers have been inspected, are in compliance with the safety requirements, and are structurally sound.

Minncor (M.S.16B181) - A 1998 law change will require the state and all political subdivisions to purchase only from MINNCOR when purchasing the products MINNCOR produces. This requirement is effective the year 2000 if the state and political subdivisions fail to meet a purchasing quota - the quota has not yet been established.

Non-visual technology (M.S. 16C.145) - A 1998 law mandates the state and all political subdivisions to require all technology hardware and software purchases and upgrades to satisfy non-visual technology standards that exceed the America Disability Act (ADA) requirements. This mandate requires the purchase of technology that is either not yet available or is cost prohibitive.

Street lighting (M.S.216C.19) - State law requires all new and replacement lighting for street and parking lot lighting to meet energy efficiency standards adopted by the Department of Transportation. Lamps with initial efficiencies of at least 70 lumens per watts, such as high-pressure sodium or metal halide lamps, are required; mercury vapor lamps may not be used.

State record retention schedule Department of Administration (M.S. 13) - State regulations determine what records cities must keep and for what length of time. Requirements include storage time ranging from three years to infinity.

Minnesota Government Data Practices Act (M.S.13) - Nearly all government data is to be considered to be “public” under the Minnesota Government Data Practices statutes and public access to, and reproduction of this information is required. The costs and fees charged by local units of government for this data are minimal and limited.

Open meeting law (M.S.471.705) - Cities are generally required to open all of their meetings to the public. State law includes specific requirements for meeting notices, agendas, and minutes. Unlike violations of the law by the Legislature, city officials may be sued for alleged violations.

Competitive bidding (M.S.471.345 and M.S.429.041) - The uniform municipal contracting law contains extensive regulation of the requirements for the advertising of and bidding on municipal contracts.

Examination of bonded public employees (M.S.574.23) - An examination process is required whenever there is a change in the personnel for city clerks and treasurers.

Summary budget statement publication (M.S.471.6965) - Annual publication of the city’s summary budget must include information relating to anticipated revenues and expenditures in a design so that a comparison may be made between the current and budget years. This must be published in the official newspaper of the city.

Home rule city charters (M.S.410) - State regulations are provided for the framing, adoption, and amendments to the charter, and the operation of the charter commission.

Municipal liquor store reporting requirements (M.S.471.6985) - State reporting requirements for financial statements from municipal liquor stores, hearings mandated if store shows loss in any two of three consecutive years.

Annual tax increment district reporting requirements (M.S. 469.175) - Comprehensive and detailed annual reports of each TIF district are required and they must be provided by cities to County Board(s), County Auditor(s), School Board(s), and the State Auditor.

Business subsidy reporting (M.S. 116J.993-995) - Local governments providing business subsidies or financial assistance are required to submit information to the DEED for two years after the benefit date, or until the goals are met, whichever is later.

Securing vacant buildings (M.S. 463-251) - Notice must be sent to the owner or owner's agent, the property taxpayer of record, holders of mortgage or sheriffs' certificates, and the neighborhood association in the metro area.

Development fee report (M.S. 462.) - Requires fees imposed under M.S. 462 must be fair, reasonable and proportionate to the actual cost of the service for which the fee is imposed. This requirement has added a level of complexity to the calculation of local development fees. The law also requires cities to establish procedures to account for the use of the fee

TAXES

Property tax personnel training (M.S. 273.0755) - Requires that every person licensed by the state board of assessors at the Accredited MN Assessor level or higher shall successfully complete a week-long MN laws course sponsored by the Department of Revenue at least once every four years.

Training for local boards of review (M.S. 274.014) - Requires that at least one member of the local boards of review must attend an appeals and equalization course developed or approved by the commissioner of revenue starting January 1, 2006.

Valuation and classification notice (M.S. 273.062) - Requires notices for all properties on the tax rolls, not just for those that were reassessed or reclassified that year, requiring the notices to show the market value and classification of the property for both the current and previous year's assessment and authorizing the commissioner to specify the form of the notice for all counties.

Department's cost of collecting local sales taxes (M.S. 297A.99, subd.11) - Requires the Commissioner of Revenue deduct from the payments of local sales tax collections to local jurisdictions, the cost of constructing and maintaining a zip code or geo-code data base as required by the streamlined sales and use tax agreement for administration of local sales taxes. This requirement only impacts those cities that currently impose a local sales tax.

REVENUE CONSTRAINTS

Tax exempt property (M.S. 272.02) - Many properties in cities are defined by state statute as exempt from property taxes imposed by the city. The use and nature of these properties frequently increase city costs (police and fire protection, road maintenance, street lighting, etc.). Examples include: state institutions, such as universities, hospitals, corrections facilities, and other state-owned properties.

Limitations on local special assessments (M.S.429) - Statutory restrictions are imposed on the uses, notices, hearings, bidding, contracts, apportionment of cost, assessment procedures, and collection of special assessments.

Local improvement requirements (M.S. 429.031) - Feasibility reports must contain information showing the need and cost effectiveness of the project.

Limitations on maximum penalties and fine (M.S.609.033-0391) - Statutory restrictions are placed on allowable penalties and fines for ordinance violations, and petty and gross misdemeanors.

Truth-in-taxation (M.S.275.065) - State law requires cities to provide pre-notification of property tax changes, newspaper advertisements, multiple special hearings, and compliance with state rules. Cities must certify a proposed levy amount by September 15 and, with few exceptions, are not allowed to increase this amount. Cities must also pay a proportional share of the counties' costs of preparing and mailing parcel specific notices.

MISCELLANEOUS

State sales and MVET on city purchases (M.S. 297A and 297B) - Cities are required to raise, through property taxes or fees, adequate revenue to pay the 6.5 percent sales tax on most city purchases of goods and services. In addition, they must pay the motor vehicle excise tax (MVET) on vehicles such as road maintenance vehicles, plows, dump trucks, etc.

Grandfathered contributions to regional libraries (M.S.134.34) - The state requires that once a city participates in funding a regional library, the minimum contribution made may not be reduced. This is known as maintenance of effort funding.

Ordinance copies to law libraries (M.S. 415.021) - Cities are required to furnish copies of any ordinances they adopt to the local county law libraries and do not receive reimbursement for reasonable copying charges unless they make a request to the library.

Development and permit fees report (M.S. 16B.685) - Cities are required to report in detail all fees collected related to building and development in their communities. In addition, the report requires a comprehensive identification of all costs and expenses related to providing services related to those activities.

TIF grant fund cancellation - Cancels the appropriations to the TIF grant fund (\$91 million in FY 2002 and \$38 million in FY 2003 and thereafter) and repeals the entire grant program enacted in 2001 for grants payable in 2003 and thereafter. At least part of the rationale for the TIF grant fund was that the impacts on existing districts resulted from the state's changes to the property tax system. Where a city has outstanding bonds or other obligations, it will now have to look for internal solutions to address the impacts from prior state actions. (Laws 2002, chapter 220, article 13, section 8)