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Board on Judicial Standards

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<http://www.bjs.state.mn.us/>

AT A GLANCE

The Board on Judicial Standards:

- Investigates complaints of judicial misconduct or disability
- Seeks or imposes discipline on judges when appropriate
- Advises and educates judges on proper conduct
- Has jurisdiction over all Minnesota trial and appellate judges (322 positions), retired judges in active service (106), judges of the Minnesota Tax Court (3), and the Workers' Compensation Court of Appeals (5), the Chief Judge of the Office of Administrative Hearings (1), referees, and other judicial officers

PURPOSE

The mission of the Board on Judicial Standards is to maintain public confidence in the integrity and impartiality of the Minnesota judiciary by enforcing the Minnesota Code of Judicial Conduct and by educating and advising judges on how to comply with the code.

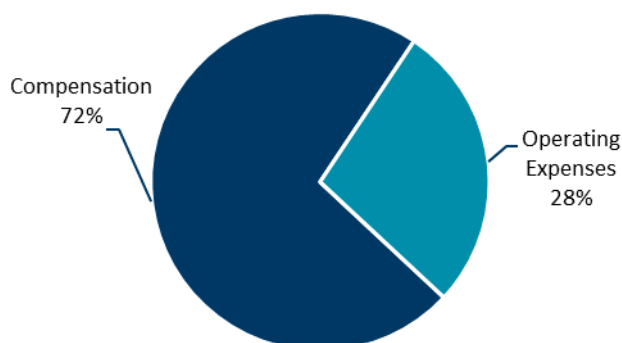
A society cannot function without a fair and effective way to resolve disputes. Acceptance of judicial rulings is based on public recognition that the judiciary and the court system are worthy of respect and trust. Public confidence in Minnesota's judicial system directly depends on the proper conduct of Minnesota's judges.

The Minnesota Constitution authorizes the Minnesota State Legislature to provide for the retirement or discipline of any judge who is disabled or guilty of conduct prejudicial to the administration of justice. The legislature created the Board on Judicial Standards to carry out this task. The Minnesota Supreme Court adopted the Code of Judicial Conduct which sets forth the standards for judges to follow.

The Board has ten members: one judge from the Court of Appeals, three district court judges, two lawyers, and four citizens who are not judges or lawyers. All members are appointed by the Governor and, except for the judges, require confirmation by the Senate. The Board is supported by an Executive Secretary, a Staff Attorney, and an Executive Assistant.

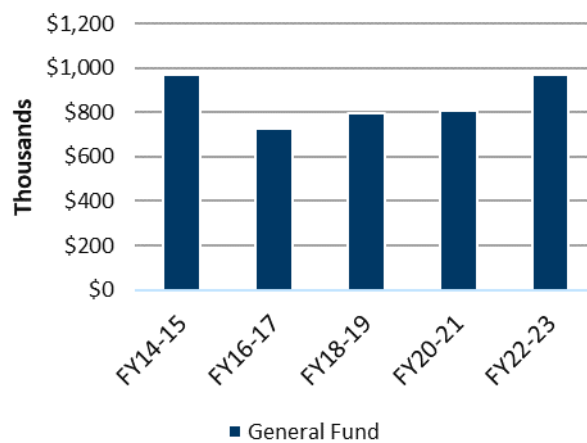
BUDGET

**Spending by Category
FY 2023 Actual**



Source: Budget Planning & Analysis System (BPAS)

Historical Spending



Source: Consolidated Fund Statement

The Board is funded through an appropriation from the general fund. In fiscal year (FY) 2023, the Board received \$461,000 for its operating budget. In addition, a separate general fund appropriation, funded at \$125,000 per year, is available to pay the expenses of major cases, which often require the Board to retain private counsel, resulting in significant attorney fees.

STRATEGIES

To accomplish its mission, the Board uses the following strategies:

- The Board promptly reviews complaints alleging judicial misconduct or disability, conducting investigations when necessary.
- The Board uses fair and open procedures that respect the judge's right to due process.
- If the Board finds serious misconduct, the Board may issue a public reprimand; or, if the misconduct is isolated and non-serious, the Board may issue a private admonition.
- If the Board issues a private admonition or public reprimand, the judge may request a panel to consider the Board's decision.
- In serious cases, the Board files a formal complaint against the judge, which can result in a public hearing by a panel and a recommendation to the Minnesota Supreme Court for discipline such as censure, suspension, or removal from office.
- The Board and its Executive Secretary advise and educate judges on applications of the Code of Judicial Conduct.
- The Board is not a substitute for the Court of Appeals. The Board does not review judicial decisions for legal error unless the judge acts in bad faith, or otherwise violates a provision of the code.

The Board continues in its efforts to reduce its expenditures for litigation by increasing its educational activities and through the thorough investigation and preparation of cases before seeking public discipline.

The Board continually strives to become more transparent to the judges, the public, and the legislature. The board regularly updates its website with greatly revised and supplemented content to display more information about the Board's activities and to provide better guidance on ethics issues faced by judges.

RESULTS

Measure name	Measure type	Measure data source	Historical trend	Most recent data
Complaints received and reviewed by Board	Quantity	Complaints are in paper form and are counted.	The number of complaints received is increasing. There was a 276 percent increase from 2021 to 2023.	890
Complaint files opened	Quantity	Each complaint file that is opened is entered into a database and a report is run.	The number of complaint files opened is increasing. There was a 37 percent increase from 2020 to 2023.	45
Informal written advisory opinions	Quantity	Informal advisory opinions are usually issued via email, and emails are counted.	The number of advisory opinions has remained consistent over the past two years.	100
Private discipline	Quantity	Private discipline is entered into a database and a report is run.	Private discipline has remained consistent over the past five years.	10

Performance Measures Notes:

The data shown is for calendar year 2023. The Board's activities in previous years are described in the Board's Annual Reports, available at the Board's website.

The Minnesota Constitution authorizes the Legislature to "provide for the retirement, removal, or other discipline of any judge who is disabled, incompetent, or guilty of conduct prejudicial to the administration of justice." Minn. Const. Art. 6, Sec. 9 (https://www.revisor.mn.gov/constitution/#article_6).

The 1971 legislature created the Board on Judicial Standards to carry out this task. M.S. 490A.01-.03. (<https://www.revisor.mn.gov/statutes/cite/490A/pdf>). The Board operates under the Rules of Board on Judicial Standards adopted by the Minnesota Supreme Court.

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base	
					FY26	FY27

Expenditures by Fund

1000 - General	445	523	566	984	645	645
Total	445	523	566	984	645	645
Biennial Change				582		(260)
Biennial % Change				60		(17)

Expenditures by Program

Judicial Standards Board	445	523	566	984	645	645
Total	445	523	566	984	645	645

Expenditures by Category

Compensation	374	379	401	383	424	439
Operating Expenses	71	144	165	601	221	206
Total	445	523	566	984	645	645

Full-Time Equivalents

2.74	2.91	2.60	2.60	2.40	2.20
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(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base FY26 FY27	
1000 - General						
Balance Forward In	249	384	250	339		
Direct Appropriation	580	586	655	645	645	645
Cancellations		197				
Balance Forward Out	384	250	339			
Expenditures	445	523	566	984	645	645
Biennial Change in Expenditures				582		(260)
Biennial % Change in Expenditures				60		(17)
Full-Time Equivalents	2.74	2.91	2.60	2.60	2.40	2.20

(Dollars in Thousands)

	FY25	FY26	FY27	Biennium 2026-27
Direct				
Fund: 1000 - General				
FY2025 Appropriations	645	645	645	1,290
Forecast Base	645	645	645	1,290

Minnesota Board on Judicial Standards

FY 2026-27 Biennial Budget Change Item

Change Item Title: Maintain Current Staffing and Service Levels

Fiscal Impact (\$000s)	FY 2026	FY 2027	FY 2028	FY 2029
General Fund				
Expenditures	31	61	61	61
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	31	61	61	61
FTEs	2.6	2.6	2.6	2.6

Request:

The Board is requesting an additional \$31,000 from the General Fund in FY 2026 and an additional \$61,000 in FY 2027 and each subsequent year to maintain current staffing and service levels. The request represents a 6% increase in the Board's biennial base budget for FY 2026 and a 12% increase for FY 2027. The request maintains the current complement of employees.

Rationale/Background:

The Board is requesting this increase to fund retirement and resignation costs and support increasing costs. The costs drivers for this request include increases in compensation and insurance costs, the need to establish a retirement and resignation payout fund, and a rent increase in FY 2027. Merit salary increases will be awarded in FY 2026 and FY 2027. Retirement contributions will increase as a result of the salary increases. Employer paid insurance premiums are projected to increase by 7.26% in FY 2026 and 7.27% in FY 2027. The Board will incur new premium costs for the new Minnesota Paid Leave Program. No money exists in the Board's budget to pay vacation time and/or sick time balances in the event of a retirement or resignation. Additionally, the Board's rent will increase in FY 2027. The Board was able to reallocate some funds in FY 2025 due to savings in payroll costs resulting when the hours per week for the staff attorney position were reduced from 32 to 24. As a result, the Board's budget is able to absorb some of the cost increases in FY 2026 and FY 2027 but not all of them.

Compensation costs comprise 72% of the Board's budget. Consequently, increased salary and insurance costs coupled with the need for a retirement and resignation fund present challenges to managing these costs within the existing budget. The Board has found ways to be more efficient with existing resources. In 2022, the Board implemented a new online complaint system which was intended to increase accessibility to the public and streamline the complaint process. As a result, the number of complaints received by the Board increased from 237 in 2021 to 890 in 2023. The Board maintained its high service level with its current complement of staff despite the astronomical increase in complaints. However, continued cost growth means that Board staff are currently operating at a maximum capacity.

Funding this request will ensure the Board maintains its current staff of 2.6 FTE and current levels of service and education to judges and the public.

Proposal:

This request is for additional funds to maintain the Board's current staff and service levels amid rising costs and the need for a resignation and retirement payout fund. Here is a breakdown of the request and each cost driver.

\$31,000 is requested from the General Fund for FY2026 and \$41,000 for FY2027 and all subsequent years to establish a staff retirement and resignation payout fund. The Board has adopted the Minnesota Judicial Branch (MJB) personnel policies and human resources rules for its staff. Per Human Resources Rule 4.16, staff are entitled to severance pay when they retire from state service. Severance pay is a sum equal to the employee's regular rate of pay at the time of separation multiplied by 40 percent of the employee's accumulated but unused sick leave balance not to exceed 900 hours, plus 12.5 percent of the employee's accumulated but unused sick leave balance in excess of 900 hours. In addition, per Human Resources Rule 14.6, staff are compensated for all vacation leave accrued and unused, up to a maximum of 275 hours, at the time of retirement or resignation. The Board currently does not have any money in its budget for retirement or resignation payouts, so it needs to establish a fund for this purpose. The amount requested assumes.

- * Staff receive 6% merit salary increases effective July 1, 2025 and July 1, 2026.
- * The resignation or retirement occurs at the end of FY 2026 or FY2027.
- * Staff's use of vacation and sick leave between now and the time of retirement or resignation is minimal.
- * Both the staff attorney and executive assistant retire in FY2026 or FY2027.

A spreadsheet outlining the projected vacation and sick leave balances, and payout amounts is attached to this proposal.

\$12,000 is requested from the General Fund for FY2027 and all subsequent years to fund employer-paid insurance cost increases and premiums for the new Minnesota Paid Leave Program. The amount requested assumes:

- * A 7.5% increase in medical insurance premiums effective January 1, 2027.
- * A 2% increase in dental insurance premiums effective January 1, 2027.
- * A 10% increase in the administration fee effective January 1, 2027.
- * A 0.44% employer premium for the Minnesota Paid Leave Program effective January 1, 2027.

\$1,000 is requested from the General Fund for FY 2027 and all subsequent years to fund rent increases. The Board's lease period is May 1st to April 30th. The Board's current lease expires on April 30, 2025 and will be renewed for an additional five years. The new lease stipulates no increase for the first year and 3% increases for every subsequent year after April 30, 2026.

\$7,000 is requested from the General Fund for FY 2027 and all subsequent years to partially fund staff merit salary increases. The Board is able to absorb all of the staff salary increases in FY 2026 and some of the staff salary increases in FY 2027. This is a result of savings due to reducing the staff attorney's hours from 32 to 24 hours per week. The following factors and assumptions apply to this request:

- The Board follows the Minnesota Judicial Branch (MJB) personnel policies for its staff.
- The MJAB Unrepresented Pay Plan is for employees of the Judicial Branch who are not covered by collective bargaining agreements and is applicable to the Board's Staff Attorney and Executive Assistant. The salary of the Executive Secretary is set by statute and increases automatically when the legislature increases the salary of a district court judge.
- This request assumes the Legislature will award 6% performance-based merit salary increases for Judicial Branch employees and 6% salary increases for district court judges in FY 2026 and FY 2027.
- The amount of the performance-based salary increase depends on the score received during the employee's last performance review. Employees who receive a performance evaluation score of 15 receive the maximum salary increase. This request assumes that Board staff will receive a score of 15 on their performance evaluations and thus, 6% salary increases in FY 2026 and FY 2027.

Note: The above fiscal details and assumptions for each cost driver are contained in a spreadsheet that is included with this change item.

If this request is not funded, the Board will need to take the following action:

- The Board will need to reduce its staffing level from 2.6 FTE to 2.4 FTE in FY 2026, and to 2.2 FTE in FY 2027 and all subsequent years. The Board will reduce the Executive Assistant's hours per week from 40 to 32 in FY 2026 and from 40 to 24 in FY 2027 and all subsequent years. The reduced staffing levels could result in longer response times to complaints, phone calls and requests for advisory opinions. The reductions could also result in longer investigation periods and delays in completing accounting and budgetary tasks.
- The Board will need to reduce its IT Support budget for FY 2026 and all subsequent years from \$7,000 to \$5,000 per year. This could result in work disruption due to technology failure, delayed response times to complaints and delayed response times to requests for advisory opinions.
- The Board will need to reduce its In-State Travel budget for FY 2026 and all subsequent years from \$7,000 to \$3,000. The reduction of in-state travel will translate into fewer educational sessions provided to judges at judicial conferences and district court bench meetings regarding how to comply with the MN Code of Judicial Conduct.
- The Board will need to reduce its Employee Development budget for FY 2026 from \$7,000 to \$3,000 per year and from \$7,000 to \$2,000 per year in FY 2027 and all subsequent years. As a result, employee development opportunities will be diminished.
- The Board will need to eliminate all out-of-state travel in FY 2027 and all subsequent years. As a result, the benefits board staff and board members receive from attending out-of-state professional training and networking events will be eliminated.

Funding this proposal will ensure the Board on Judicial Standards has the capacity to maintain its current staffing level of 2.6 FTE. This in turn will ensure the Board continues to provide a timely response to every complaint, and helpful education and advisory opinions to judges on how to comply with the Code of Conduct.

Impact on Children and Families:

This proposal does not directly impact children and families. There are no potential positive or negative impacts on children and families.

Equity and Inclusion:

This proposal does not directly impact any racial and ethnic groups. There are no potential positive or negative impacts on the identified groups.

Tribal Consultation:

This proposal does not have a substantial direct effect on one or more of the Minnesota Tribal governments.

IT Costs:

Not applicable.

Results:

The Board takes pride in its ability to respond to every complaint in a timely and thorough manner, and its ability to provide thoughtful advice and education to judges regarding the Code of Judicial Conduct. Funding this request will allow the Board to maintain its current complement of staff which will in turn ensure the Board continues to provide its current level of services. Two measures of success are the performance measures: "Average Case Disposition Time" and "Percentage of Cases Resolved Within 85 Days." If this proposal is funded, the Board will continue to resolve complaints within an average of 85 days and will continue to resolve 67% of the complaints within 85 days.

Measure	Measure type	Measure data source	Most recent data	Projected change
Number of FTEs	Quantity	SEMA4	2.6 FTE	No Change – Maintain 2.6 FTE
Average Complaint Disposition Time	Quality	Board Database	85 days	No Change – Maintain 85 days
% of Complaints Resolved Within 85 days	Results	Board Database	67%	No Change – Maintain 67%

The Board did not conduct a formal program evaluation that informed this proposal.

Are you planning to conduct a formal qualitative or quantitative program evaluation related to this proposal?

Indicate what kind(s) of evaluation you will be conducting. Select all that apply.

- ☒ No formal evaluation planned at this time
- ☐ Not yet determined
- ☐ Needs Assessment
- ☐ Process or Implementation Evaluation
- ☐ Summative Impact Evaluation (Randomized Control Trial (RCT) or Quasi-Experimental Design)
- ☐ Summative Evaluation other than an Impact Evaluation
- ☐ Other (please describe or link):

Statutory Change(s):

None

Minnesota Board on Judicial Standard

FY 2026-27 Biennial Budget Change Item

Change Item Title: Additional Funding for Major Investigations and Hearings

Fiscal Impact (\$000s)	FY 2026	FY 2027	FY 2028	FY 2029
General Fund				
Expenditures	50	50	50	50
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	50	50	50	50
FTEs	0	0	0	0

Request:

The Board is requesting an additional \$50,000 from the General Fund in FY2026 and all subsequent years. This operating adjustment will ensure the Board has sufficient funds for its expenses associated with its major investigations and contested hearings and avoids deficit spending.

The requested increase is 40% of the Board's FY 2025 appropriation.

Rationale/Background:

Pursuant to statute, the Board on Judicial Standards has the duty to investigate complaints alleging that a judge has engaged in misconduct or has a disability as defined by the Minnesota Code of Judicial Conduct ("Code"). When the Board finds a reasonable belief that a judge may have engaged in misconduct, it conducts an investigation. After investigation, if the Board finds reasonable cause to believe the judge engaged in misconduct, it may settle the complaint with the judge through an agreement to issue discipline, or it may file a formal complaint with the Supreme Court. The Board may also file a formal statement of disability with the Supreme Court if the Board determines that there is reasonable cause to believe the judge has a disability. If the Board files a formal complaint, the Board must prove a violation of the Code by clear and convincing evidence before a three-person panel in a hearing. The hearing provides the Board and the judge the opportunity to present evidence and cross-examine witnesses. The Board is represented by outside counsel at the hearing. The hearing panel issues findings of fact and conclusions of law regarding whether there is clear and convincing evidence that the judge committed misconduct or has a disability, and a recommendation regarding the level of discipline to impose or action to take, which may be appealed to the Supreme Court. The Board incurs many costs related to disciplinary or disability proceedings, including court reporter fees, investigative costs, attorney fees, and fees for expert witnesses such as medical service providers. In addition, in disability cases, the Board's rules require it to retain and pay the lawyer representing the judicial officer.

In 2008, a separate revolving appropriation, in the amount of \$125,000 per fiscal year, was established to pay for expenses associated with contested disciplinary or disability actions. This appropriation is a Special Direct Appropriation which cancels after four years. The appropriation amount has not increased since the appropriation was established. Attorney fees, court reporter fees, investigative costs and expert witness fees have all risen since 2008. The rate of inflation has also risen. This cost growth puts pressure on the Board's budget which has remained flat from year to year.

Because the Board is not in control of when a judge will demand a public hearing or when it will need to file a formal complaint or formal statement of disability, predicting the number and costs for these investigations and

hearings is impossible. Because they cannot not be postponed and because the deficiencies do not always fit neatly into the legislative timetable, the agency runs the risk of incurring substantial deficit expenses. Between January, 2022 and September, 2024, the Board incurred \$206,366 in expenses related to its major investigations and hearings. The Board currently has one contested disciplinary matter and the potential for one contested disability matter. The Board anticipates that by the end of FY 2025 the Board will spend an additional \$180,000 for these two matters alone. This will leave \$175,000 remaining in the appropriation if there are no additional major investigations and hearings between now and the end of the fiscal year.

The increase will ensure the Board has sufficient funds for its expenses related to its major investigations and contested hearings. It will ensure the Board continues to process these complaints in a timely manner and in accordance with the Minnesota Rules of Board on Judicial Standards. It will also ensure that the Board continues to pay its bills on time.

Proposal:

This request is to increase the appropriation amount so that the Board can continue to provide its current level of service with respect to its major investigations and contested hearings. The Board is requesting an additional \$50,000 for FY 2026 and each subsequent year. Cost drivers for this request include increasing attorney wages, increasing expert witness fees, increasing court reporter salaries, and inflation. A report by the American Bar Association indicates that, from 2008 to 2022, the average attorney wage in the United States increased by 33% - from \$124,000 in 2008 to \$163,770 in 2022.¹ Data from the Minnesota Judicial Branch Human Resources Division indicates that, from 2008 to 2024, court reporter salaries increased from a maximum salary of \$30.28 per hour to a maximum salary of \$43.32 per hour. This represents a 43% increase. A survey conducted by SEAK, Inc. indicates that, from 2009 to 2024, expert witness fees for file review and preparation increased from \$296/hour to \$478/hour representing a 62% increase.² The survey also concludes that, from 2009 to 2024, expert witness fees for depositions increased by 34% - from \$400/hour in 2009 to \$534/hour in 2024. Third, the SEAK, Inc. survey illustrates that from 2009 to 20024, expert witness fees for testifying in court rose from \$438 to \$532, representing a 22% increase. Last, an inflation calculator indicates that the U.S. dollar had an average inflation rate of 2.40% per year between 2008 and today, producing a cumulative price increase of 46.21%.³ The additional funding will help cover the increasing costs of doing business and ensure the Board is able to meet its financial obligations with respect to attorney fees, court reporter fees, and expert witness fees. We are also requesting this increase because the number of complaints received by the Board has increased substantially in the last two years which makes it foreseeable that the number of major investigations and hearings during any given year is also likely to increase. If the request is not funded, there could be delays in future major investigations and hearings. These delays could reduce public confidence in the judicial system and interfere with the judge's due process. If the proposal is not funded, the Board also runs the risk of deficit spending and not being able to pay its bills on time, resulting in violations of Minnesota Statute 16A.124.

Impact on Children and Families:

This proposal does not directly impact children and families. There are no potential positive or negative impacts on children and families as a result of this change.

Equity and Inclusion:

This proposal does not directly impact any racial and ethnic groups. There are no potential positive or negative impacts on the identified groups as a result of this change.

¹ "Profile of the Legal Profession 2023." American Bar Association, November, 2023.

² "2024 Survey of Expert Witness Fees." James J. Mangraviti, Jr., Esq., Kelly J. Wilbur, Esq., and Nadine Nasser Donovan, Esq., SEAK's 2024 Expert Witness Fee Study, Cape Cod, Massachusetts.

³ "\$1 in 2008 - 2024|Inflation Calculator." Official Inflation Data, Alioth Finance, 12 Sep. 2024, <https://www.officialdata.org/us/inflation/2008?amount=1>.

Tribal Consultation:

This proposal does not have a substantial direct effect on one or more of the Minnesota Tribal governments.

IT Costs:

There are no IT costs anticipated or included in this funding request.

Results:

The legislature created the Board to ensure that the public maintains confidence and trust in the Minnesota judiciary. The Board's duty is to investigate complaints of alleged judicial misconduct or disability and to make recommendations to the Supreme Court as set out in the Board's rules. The Board strives to:

- Process and investigates complaints in a timely and thorough manner
- Provide due process to judges
- Adhere to the timetables set out in the MN Rules of Board on Judicial Standards.

In addition, the Board has a duty to comply with Minnesota Statute 16A.124 and pay its bill on time.

Measure	Measure type	Measure data source	Most recent data	Projected change
Number of hearings held	Quantity	File Review	N/A	N/A
Percentage of hearings held within 90 days after filing a formal complaint or statement of disability in accordance with Board Rule 8(c)(1)	Quality	File Review	100%	No change. 100% of the hearings will continue to be held within 90 days after filing of a formal complaint or statement of disability.
Compliance rate with Board Rule 8(c)(1)	Results	File Review	100%	No Change. The Board will continue to have a 100% compliance rate.
Number of bills for major investigations and hearings paid.	Quantity	File Review	N/A	N/A
Percentage of bills for major investigations and hearings paid on time (within 30 days).	Quality	State of Minnesota Prompt Payment Report	100%	No change. The Board will continue to pay 100% of its bills on time.
Compliance rate with Minnesota Statute 16A.124	Results	State of Minnesota Prompt Payment Report	100%	No change. The Board will continue to have a 100% compliance rate.

The Board did not conduct a formal program evaluation that informed this proposal.

Are you planning to conduct a formal qualitative or quantitative program evaluation related to this proposal?
Indicate what kind(s) of evaluation you will be conducting. Select all that apply.

- ☒ No formal evaluation planned at this time
- ☐ Not yet determined
- ☐ Needs Assessment
- ☐ Process or Implementation Evaluation
- ☐ Summative Impact Evaluation (Randomized Control Trial (RCT) or Quasi-Experimental Design)
- ☐ Summative Evaluation other than an Impact Evaluation
- ☐ Other (please describe or link):

Statutory Change(s):

This proposal does not require statutory changes.