

**Final Report and Recommendations
of the
GENERAL GOVERNMENT MANDATES WORKING COMMITTEE
presented to the
GOVERNOR'S TASK FORCE TO REDUCE STATE
MANDATES ON LOCAL GOVERNMENTS**

October 29, 1982

CONTENTS:

I. Members of the Committee

II. Introduction

III. Committee Recommendations on Specific Mandates

IV. Committee Recommendations on a Mandate Review Process

I. MEMBERS OF THE GENERAL GOVERNMENT WORKING COMMITTEE

Joseph Sizer, Chairman
Deputy Commissioner
Department of Energy, Planning and Development
550 Cedar Street
St. Paul, Minnesota 55101
(612) 297-2997

Richard P. Cox
Metropolitan Inter-County Association
2305 Ford Parkway, Suite 103
St. Paul, Minnesota 55116
(612) 690-2282

Carolyn Drude, Executive Secretary
Isanti Courthouse
237 S.W. Second Avenue
Cambridge, Minnesota 55008
(612) 689-3859

Gordon Folkman
Department of Energy, Planning and Development
480 Cedar Street
St. Paul, Minnesota 55101
(612) 296-0387

Vern Hoppe
Hennepin County Government Center
300 South 6th Street
Minneapolis, Minnesota 55487
(612) 348-3000

Stan Peskar
League of Minnesota Cities
183 University Avenue East
St. Paul, Minnesota 55101
(612) 227-5600

Douglas Reeder
Maple Grove City Hall
9401 Fernbrooke Lane
Maple Grove, Minnesota 55369
(612) 425-4521

Lothar Wolter, Jr.
Norwood, Minnesota 55368
(612) 467-3834

Wayne Anthofer, Staff Assistant
Department of Energy, Planning and Development
550 Cedar Street
St. Paul, Minnesota 55101
(612) 297-4021

II. INTRODUCTION

This report by the General Government Mandates Working Committee fulfills the charge given to it by the Governor's Task Force to Reduce State Mandates on Local Governments. The Committee has reviewed the list of mandates provided by the Department of Administration, and has held detailed discussions on an appropriate review process for mandates.

The Committee solicited comments from local government officials on which general government mandates they find particularly onerous and troublesome. In addition, this survey sought comments from these officials concerning mandates not listed which should be reviewed by the Committee, and suggestions on the establishment of a mandate review process. The Committee used the responses from this survey to focus on a list of mandates to review and draft recommendations.

The recommendations in this report are the consensus agreement of Committee members. The recommendations on specific mandates include mandates that should be eliminated and mandates which should be amended; the rationales for such actions are also included. Recommendations on specific mandates are followed by Committee conclusions concerning an appropriate mandate review process. This issue is separated into recommendations on a review process for existing mandates, and impact analysis for proposed mandates.

III. COMMITTEE RECOMMENDATIONS ON SPECIFIC MANDATES

MANDATES:

M.S. 275.50- Local Levy Limits. Limits the extent to which cities
M.S. 275.56 and counties can increase their property tax levies.

This very complex and sensitive mandate was reviewed in depth by the Committee. The Committee reached the conclusions that the best course of action is the total elimination of this mandate.

The Committee finds no consistent philosophy guiding local levy limits. One intent seems to be the promotion of fiscal restraint and responsibility on the part of local governments. But, as several Committee members pointed out, the limits actually appear to result in less fiscal responsibility. Many local governments levy the maximum because it is difficult to anticipate legislative actions concerning state aids from session to session. Additionally, the priority decision process of local government officials has become distorted. Where levy limits are unduly restrictive, decisions which should be based only on the need for the service may often hinge instead on whether or not funds can be provided within the levy limits. The Committee explored several ways in which the levy limits could be amended to make them more responsive to local government concerns, but all proposals were deemed less satisfactory than total elimination of local levy limits.

MANDATE:

Chapter 273 Statutes on the property tax system.

The property tax system should be greatly simplified; current law requires approximately 50 different combinations of classifications, credit calculations, and mill rate differentials. The Committee recommends a thorough evaluation of the system, resulting in amendments which will enable local governments to fully utilize computer and manual processing. This will reduce the high costs of administering and implementing the present, very complicated system.

MANDATE:

M.S. 279.37 The county auditor shall distribute delinquent property taxes on the basis of mill rates in effect for the respective years.

The Committee recommends allowing county governments greater discretion in distributing delinquent property taxes. Significant costs can be saved in data processing, material, and personnel if all delinquent taxes were distributed using the mill rates in effect for the current tax year. The difference in distribution methods is not significant.

MANDATE:

M.S. 192.26 Temporary Military Pay. When an employee is temporarily absent because of short term military duty, M.S. 192.26 requires the political subdivision to continue full pay even though the employee receives military pay for such activities.

Many respondents to the survey identified this mandate for modification. Although the Committee does not believe this mandate is invoked frequently, the Committee agrees that modifications are needed. The mandate should be amended so that local governments pay any sum additional to the military pay necessary to make total wages received equal the employee's regular pay. If this policy of supplemental pay for military service is continued, the law should be changed so that the burden does not fall on local governments.

MANDATE:

M.S. 471.616 Health Benefits Reductions. Political subdivisions are mandated to maintain the aggregate value of benefits of group health insurance for employees, unless the employees agree to the change.

The Committee recommends the elimination of this mandate. Several other factors constrain local governments from reducing the aggregate value of benefits of group health insurance unless the employees agree to the change, making this particular mandate unnecessary. This mandate can also prevent the adoption of new types of group health plans which can benefit all the concerned parties.

MANDATE:

M.S. 383.05 At each regular meeting of the county board, the county auditor shall present a statement, which shall form a part of the minutes of the official proceedings, showing the apportionments made to each fund and the balances remaining.

The Committee questions the need for this statute. Other statutes provide for bi-annual and annual reporting of this information, which is all that is necessary. In general, county boards now meet much more often than in the past, thus changing the meaning of "regular meeting." The Committee recommends amending this mandate to read "The county auditor shall present a statement bi-annually", or eliminating the statute altogether.

MANDATES:

M.S. 392.08 County board shall appoint a director of purchasing to direct and supervise the operations of the county purchasing department.

M.S. 392.09 The county board shall promulgate such rules and regulations as are necessary to carry out the creation of a county purchasing department.

The county officials surveyed responded strongly against these statutes, and the Committee concurs with these findings. These requirements should not be forced upon county governments--many are too small to appoint a full-time director of purchasing, and do not need a separate county purchasing department. The Committee recommends modifying these mandates; in both cases, the word "shall" should be changed to "may".

MANDATES:

- M.S. 15.169 Data Privacy Law. Regulation of information on individuals kept by state and local governments. All local officials shall make and keep data on individuals limited to that necessary to the administration of programs.
- M.S. 15.17 Retention of Public Records. All local governments shall make and keep all records necessary to a full accurate knowledge of their official activities and make such records easily accessible to the public.

In discussions on the above referenced statutes, it was recognized that both these mandates are necessary for public accountability. However, from committee members own experience, and as reflected in the survey responses, it is possible to carry out the intent of these mandates in a more effective and efficient manner. The Committee recommends a comprehensive review of both mandates, with the purpose of amending provisions which are difficult to implement, and to take into greater consideration the needs and capabilities of local communities and counties to administer and fulfill these mandates. The Committee recommends consideration of the Uniform Information Practices Code (S.F. 198, 1981 Session) as a means of resolving some of the problems in the implementation of the current act.

MANDATE:

M.S. 92.23 The county treasurer shall issue quadruplicate receipts upon receiving any amount due on a tax certificate.

The Committee questions the appropriateness and necessity of this mandate. Comments from the survey suggested that there is no need for quadruplicate receipts, that three copies are generally sufficient. The Committee recommends that the language of this statute be modified to read: "the county treasurer shall issue an appropriate number of receipts, congruent with the standard operating procedures of the county, upon receipt of any amount due on a tax certificate."

MANDATE:

M.S. 69.031 2% Police Aid. By means of extra employer contributions and payment of the state tax on automobile insurance premiums into the fund, the PERA Police and Fire Fund has been brought to a fully funded status. Most cities and all counties are mandated by M.S. 69.031 (b) to pay over to PERA the amount of the 2% police aid which represents the required contributions together with any excess police aid.

After a review of this mandate, the Committee found it to be unnecessary burden on many local governments. The Committee recommends dropping the 1977 amendments to this statute; local governments should be able to use the excess 2% police aid for law enforcement purposes if the PERA and Fire Fund are at a fully funded status.

MANDATE:

- M.S. 353.27 Employer Extra Contributions. Cities, counties, and towns are mandated to pay more than an amount sufficient to match the employee deductions for both the PERA coordinated fund and the PERA police and fire. Both are now fully funded. The employer's additional contribution is 1 1/2% for the coordinated plan, M.S. 353.27 and 4% for the police and fire fund, M.S. 353.65.

The Committee finds this mandate to be an unnecessary burden on local governments, and recommends that it be abolished. As many local governments are being forced to cut services, it is unreasonable for the state to require the employer extra contribution, when the funds are fully funded.

MANDATES:

- M.S. 344.19 County Commissioners as Fence Viewers. Designates county commissioners as fence viewers in parts of counties not organized into towns.
- M.S. 385.38 In counties having a population of more than 75,000, the county auditor shall file in his office, on the first Monday of each month, a verified statement giving the name of every employee in his office, the general nature of the services rendered by him, and the amount paid therefore; also showing all business done in his office during the preceding month for which fees have been charged, the amount of fees received, and amount of such fees remaining unpaid.

After review by the Committee, both these mandates were deemed as outdated, and it is recommended that both be eliminated. M.S. 344.19, county commissioners as fence viewers, should be eliminated or changed to enable county commissioners to delegate this authority. The Data Privacy Act provides public access to the information referred to in M.S. 385.38, and no useful purpose is served by requiring such a monthly statement. County decisions concerning the generation of such reports

are a better guide to the need for them than a blanket state mandate requiring them.

MANDATE:

M.S. 423A.10 Pay While on Relief Association Business. When a police or salaried fire relief association so authorizes, any member police officer or fire-fighter may undertake lobbying activities relating to benefits, without city approval but at city expense.

The Committee recommends amending this mandate. Lobbying activities for benefits should be allowed by police and fire relief association members, but not at city expense. Further, relief association assigned business should not be allowed to disrupt regular duty assignments made by the employing unit.

MANDATES:

- M.S. 176.182 Mandate to Enforce Insurance Requirements. M.S. 176.182 (Laws 1981, Chap. 346) requires cities to enforce the state workers compensation insurance requirement for persons licensed by or contracting with a city.
- M.S. 176.221 Lengthen Time Before Claims Must Be Paid. Under 1981 amendments to M.S. 221, employers and insurers must commence paying workers compensation claims within 14 days. (The previous law allowed 30 days.)
- M.S. 176.011 Presumption for Police and Fire Workers Compensation. M.S. 176.011 (15) creates a presumption that heart attacks and lung conditions, for police and fire personnel, are work-related. Thus public employers must provide compensation for those conditions unless they can prove no work connection.

Each of these mandates regarding worker compensation were identified as needing modification by local government officials. The Committee has reviewed these mandates and has agreed to these recommendations.

M.S. 176.182 is an ineffective method to assure provision of workers compensation coverage. Because city licensing and contracting procedures vary widely, this statute will only partially reach problem businesses. The Committee recommends changing this mandate so that it is clear which contracts and licenses fall under the requirement. In addition, the broader issue of whether this is an effective mechanism for enforcing workers compensation coverage should be examined further.

M.S. 176.221 now requires paying workers compensation claims within 14 days. The Committee recommends lengthening this time period, so that employers and insurers are allowed 30 days to commence paying claims. Fourteen days does not leave adequate time for investigation in some cases, resulting in some payments being made which are not justified.

The Committee recommends the elimination of M.S. 176.011 which creates a presumption that heart attacks and lung conditions for police and fire personnel are work related. Workers compensation coverage adequately protects these workers under its regular provisions, and these groups of workers should not be singled out for special treatment.

MANDATE:

M.S. 6.48 Cost of Financial Examinations of Counties by the State Auditor. The state auditor has the authority to make a thorough examination of all accounts and records relating to the receipt and disbursement of public funds.

The Committee recommends that the auditing requirement and cost assessment for county government should be examined and modified. The appropriate timing and performance of the audit should be established by the county and its auditor. Counties should be allowed to have their audit done by an approved public accountant or the State Auditor, subject to a bidding process. If the county is limited to the services of the State Auditor, the county should not be required to pay for the service.

MANDATES:

- M.S. 270.07 The Commissioner of Revenue shall approve all property tax abatement except court ordered abatements, and the Commissioner of Revenue shall approve abatements of property tax penalties.
- M.S. 279.01 The county board may delegate to the county treasurer the power to abate the penalty for late payment of homestead taxes delinquent for less than 30 days.

Both of these mandates should be modified to allow more efficient and effective service to local taxpayers. The Committee recommends the elimination of the sections in M.S. 270.07 that require Commissioner of Revenue approval of property tax abatement and property tax penalty abatement. The Commissioner of Revenue rarely disapproves either abatement; in practice, the Department of Revenue considers these abatements to be local issues, with local safeguards and controls. The review appears to be unnecessary, and for the abatement of property taxes, this review can add from four to six weeks of delay to the resolution of the abatement. Elimination of this mandate would reduce taxpayer complaints and accelerate cash flow to county and taxing districts. An alternative to total elimination which might ease the problem would require Commissioner of Revenue approval only on large abatements, or allowing counties to seek exemptions, from the Commissioner of Revenue, from state review if their abatement review process contains appropriate safeguards.

M.S. 279.01 limits the delegation of county government authority for tax abatement penalties to thirty days. The Committee recommends an extension of this discretionary authority to the county auditor or the county treasurer, for all delinquent property taxes.

MANDATE:

M.S. 291.20

Safety Deposit Companies Not to Transfer Funds.

Requires the county treasurer to examine and either authorize or defer, the release of securities, assets or funds on deposit in excess of \$1,000 belonging at the time of death, to a decedent or in joint tenancy. The county treasurer shall also send a written report of the property examined in the decedent's safety deposit box to probate court and the Commissioner of Revenue.

The Committee finds that the need for this mandate no longer appears to exist, and that it is no longer necessary for the county treasurer to perform these functions. Recognizing that some counties may still want these duties performed by the county treasurer, the Committee recommends that the statute be amended so that the county treasurer is no longer required to inventory safe deposit boxes and to authorize the release of bank account funds. Probate courts have the necessary legal authority to oversee the release of or transfer of bank accounts, and the opening, inventory, and release of the contents of safe deposit boxes. The inventory of safe deposit boxes, prepared by persons authorized by the probate court, could be submitted to the Commissioner of Revenue and the probate court.

III. COMMITTEE RECOMMENDATIONS ON A MANDATE REVIEW PROCESS

The Committee spent a considerable amount of time discussing ways to effectively review existing and proposed mandates. The recommendations of the Committee are separated into two parts: a proposed review process for new mandates, and a proposal to implement a formal review process for existing mandates.

The Committee recommends establishing a fiscal note process for statutes and regulations that would require an expenditure of public funds by a local government; the present fiscal note process in Minnesota (Minnesota Statutes, Section 3.98) can be easily modified to accommodate this additional requirement. An executive procedure requires implementing agencies to estimate the local costs associated with their programs. However, not all mandates are covered by these provisions. The Committee recommends that M.S. 3.98 be amended to encompass all legislation and any new agency rules.

In addition, the Committee believes a further refinement on the fiscal note process is warranted--this procedure should be expanded to include fiscal cost analysis from local government representatives. During each legislative session, official representatives (registered lobbyists) for local government interests, listed with the Department of Finance, would be given an opportunity to submit their estimates of the costs to local government associated with proposed legislation or rules. The purpose of these modifications to the fiscal note process is to help ensure that legislative and executive decision-makers are aware of the fiscal impact of their actions, and to give local government representatives a formal opportunity to comment on actions affecting local finances.

A mechanism is also needed to review existing mandates which may no longer fit into a consistent and equitable framework of relations between the state and local governments regarding mandated services, standards, and expenditures. The Committee recommends that a formal process similar to the review this working committee is presently part of be implemented. An appropriate state agency should coordinate a review of mandates every odd-numbered year. This review process should include the following steps:

- The first two months would include reports from state agencies which would identify statutes and rules which should be reviewed--these lists would be developed by the agencies;
- The next two months would be spent reviewing the list of mandates. This review would be undertaken by agency staff and local representatives (local government officials, service providers, and clients), and would include mandates previously identified and any others brought to the attention of the review committee;
- The review committee would then issue a report. This report would be sent to the appropriate legislative committee, and if the mandate in questions was an agency rule, it would be recommended that the agency revise or eliminate the rule.

The purpose of the general process outlined is to provide a periodic review of mandates for appropriateness and justification, to provide local representatives an opportunity to express their concerns about mandates, and to identify burdensome mandates.

The final recommendation of the Committee regarding mandate review concerns the inclusion of provisions in new rules and statutes that would require mandatory, periodic review. The Committee believes that the potential for this process should be carefully examined by the Governor's Task Force to Reduce State Mandates on Local Governments. In addition, the broader issue of policies, criteria, and procedures to govern any future state-initiated specification of local government services, standards, and employment conditions that result in increased local government expenditures, needs to be closely examined. This evaluation should also include the possibility of linking future state mandates with identifiable revenue sources.