

# SESSION 2013:

## REPRESENTING MINNESOTA CITIES AT THE CAPITOL

On Jan. 8, the Minnesota Legislature convened to begin its 88th biennial session. Gov. Dayton began the second half of his four-year term, and all 201 legislators were sworn in. Early indications are that, once again, producing a balanced budget is the biggest challenge before state leaders.

### AS THE PENDULUM SWINGS

The Nov. 6 election ushered in yet another swing of Minnesota's political pendulum as the Democratic Farmer Labor (DFL) party won majorities in the House and Senate, politically aligning both legislative bodies with the DFL governor for the first time in a generation. Just two years ago, the Republicans wrested control of the Legislature when they won majorities in both the House and Senate. The House of Representatives now includes 73 DFL members and 61 Republican members. During the 2012 session, the Republicans held a 72 to 61 majority, with one vacant seat. That vacancy was due to the election of former representative Lyle Koenen to the Minnesota Senate.

In the House, the two parties each saw 46 incumbent members re-elected for the 2013 session. There were 15 new Republicans and 27 new DFLers seated in January. Of the 27 new DFL members, 11 served in the Minnesota Legislature prior to the 2011-2012 biennium. In total, 31.1 percent of the House members did not serve in the 2012 session.

In the Senate, the DFL now holds a 39- to 28-seat majority. In 2012, the Republicans held a 37- to 30-seat majority. The Senate Republicans will return 19 members from the 2012 session while the DFL will return 25 members. There are nine new Senate Republican members and 14 new DFL members. Of those 23 new members, seven were House members in 2012 while four had held legislative seats in the House or Senate prior to the 2011-2012 biennium. There will be 12 members of the Senate in 2013 that have not previously served in the Minnesota Legislature, which is roughly 18 percent of the Senate.

### LEADERSHIP ELECTED

Days after the election results were announced, the House and Senate DFL members voted on their leadership teams. Sen. Tom Bakk (DFL-Cook) is now the Senate majority leader while Sen. Katie Sieben (DFL-Newport) is the deputy majority leader. Sen. Sandra Pappas (DFL-St. Paul) is the Senate president. Sen. Rod Skoe (DFL-Clearbrook) is the Senate Taxes Committee chair, and Sen. Richard Cohen (DFL-St. Paul) is the Senate Finance Committee chair. The Senate Republicans elected Sen. David Hann (R-Eden Prairie) to be the minority leader.

The new speaker of the House is Rep. Paul Thissen (DFL-Minneapolis). Rep. Erin Murphy (DFL-St. Paul) is the majority leader. The House Republicans elected Rep. Kurt Daudt (R-Crown) to be the minority leader.

### COMMITTEE CHANGES

The DFL majorities in the House and Senate have the obligation to appoint committee chairs and oversee the administrative operations of the Legislature. By early December, all the committee chairs had been named and the committee meeting schedules set. The House now has 30 committees, up from 26 in the previous session. Some committees were eliminated while some new ones were created.

The Senate has 11 committees, one subcommittee, six finance divisions, and one tax division, for a total of 19. All spending legislation will be referred to the Finance Committee, which will refer bills to the respective divisions. All legislation that is passed by a division must also be heard by the Finance Committee before being passed to the full Senate for consideration. The Taxes Committee and Tax Reform Division operate in the same manner. The Senate has three more

### *Get involved*

The League of Minnesota Cities (LMC) encourages member cities to watch for opportunities for involvement in LMC advocacy efforts. For the most up-to-date legislative information, read the new legislative newsfeed, *Third Reading*, at [www.lmc.org/3R](http://www.lmc.org/3R), subscribe to the *Cities Bulletin* newsletter (available in free electronic format), sign up to participate in a legislative listserv, and read the bimonthly *Minnesota Cities* magazine.

committees in the 2013 session than it had in the 2012 session. The Legislature has added an E-12 Education Finance Division, an Election Subcommittee, and a Tax Reform Division to the committee structure.

Also in recent weeks, the Capitol and the State Office Building underwent a major transformation with DFL senators moving to the Capitol Building and the DFL House members moving to the upper floors of the State Office Building. Now in the minority, all Republicans are housed in the lower floors of the State Office Building. As things have settled in the wake of all the office moves, members have hired new legislative staff.

## SAME OLD PROBLEMS

Despite all the changes, many of the challenges faced by the state in recent years remain the same, and some have become more pronounced. Balancing the state's ailing budget will be the most important and difficult order of business before the Legislature and governor.

Each odd-numbered year the governor proposes and the Legislature ratifies the operating budget, often called the biennial budget, for the state of Minnesota. This budget is for a two-year period. This budget includes expenditures for education, roads and bridges, technology, health care, public safety, housing, natural resources, agriculture, economic development, higher education, as well as dollars to state agencies and local units of government.

The state will end the current fiscal year in good shape—with revenues exceeding expenditures by \$1.3 billion. However, the outlook for the upcoming biennium has hardly changed since the end of the 2012 legislative session, with a projected biennial deficit of \$1.095 billion, according to the November 2012 Forecast released by Minnesota Management and Budget (MMB) on Dec. 5. The forecast provides revenue and expenditure projections for the state's general fund budget for the balance of the current fiscal year (FY) 2012-2013 biennium, which ends on June 30, 2013, as well as information on the upcoming FY 2014-2015 biennium. The 2013 Legislature will be crafting a budget for the FY 2014-2015 biennium, and this forecast is an early indication of the state's fiscal status.

The FY 2014-2015 state budget forecast does not include the impacts of sequestration cuts and expiring tax cuts at the federal level, commonly referred to as the "fiscal cliff." Instead, the forecast assumes that Congress and President Obama will reach an agreement on a package to reduce the federal deficit and that the policy changes related to revenues and expenditures will be phased in beginning in 2014. (Congress and President Obama did reach an agreement in early January that at least temporarily avoids the fiscal cliff.)

The governor's budget recommendations are released in January of odd-numbered years. About six weeks later, MMB will update the state budget outlook with the February forecast. The Legislature then adopts a final budget during the ensuing legislative session. Although House and Senate members may begin their budget discussions prior to those dates, those two events trigger significant legislative activity on the state budget.

## WHEN WILL IT END?

Constitutionally, the session must end by the first Monday after the third Saturday in May, which is May 20 in 2013. Whether legislators get to go home then depends on whether they have balanced

the biennial budget. In 2011, the Legislature and governor could not reach agreement on a budget, and the impasse led to the longest state government shutdown in Minnesota's history. Given that the legislative majorities and the governor have the same party affiliation, the likelihood of an impasse is diminished. That said, with most of the easy solutions already tapped to address recent biennial deficits, the options available to Gov. Dayton and the new House and Senate majorities will be limited and perhaps painful for a broad array of state programs.

During what is certain to be a challenging legislative session, the League of Minnesota Cities (LMC) will work to represent cities' interests in the legislative process, keep members informed of proposals being discussed at the Capitol, and help city officials understand the implications of decisions being made. Members are encouraged to use the League's many communication tools to stay informed and get involved. Most importantly, the League needs city officials to share information and concerns with state leaders so they can make informed decisions about Minnesota's future.

## WHAT'S ON THE AGENDA FOR CITIES?

The LMC Board of Directors adopted the 2013 City Policies on Nov. 8, 2012. The policies publication includes more than 100 legislative policies that impact cities. It serves as the foundation for the League's advocacy efforts and is available at [www.lmc.org/policies](http://www.lmc.org/policies).

The League expects to be actively involved in 2013 in the issues identified below. This is by no means a comprehensive list of issues that will impact cities in the year ahead.

## ALLIED RADIO MATRIX FOR EMERGENCY MANAGEMENT (ARMER) FUNDING

Much of the financial responsibility for public safety radio communications has fallen on local units of government. The League supports continued and increased state financing of local costs to participate in ARMER, including the acquisition and modernization of subscriber equipment such as portable and mobile radios required for ARMER users. The League opposes efforts to divert dedicated ARMER funds to the state's general fund. The Legislature should fund regional cooperation and partnerships for effective delivery of 911 service, as well as training and use of ARMER. The League also urges the Federal Communications Commission to continue to support availability of wireless spectrum necessary to expand channel capacity that allows local public safety agencies to meet future needs of cities and other local units of government.

## BROADBAND ISSUE PRIORITIES

The Minnesota Ultra High-Speed Broadband Task Force has unveiled recommendations urging state actions to spur border-to-border access to higher bandwidth and capacity for broadband connections to the Internet. That task force and one that followed that reported to the 2011 Legislature recommended that no later than 2015, broadband services at speeds of at least 10-20 Mbps download capacity and 5-10 Mbps for uploading video and data should be available to Minnesotans wherever they reside and work. The League supports these recommendations and urges the Legislature, the governor, and state agencies to work closely with the Governor's Broadband Task Force, created last year to develop policies and programs aimed at achieving these broadband goals.

## CITY REVENUE DIVERSIFICATION

Under current state law, the property tax is the only generally accessible form of local tax revenue for cities. Lack of adequate growth in state aid programs, and the deep cuts that have occurred over the past four years will almost certainly lead to a significant increase in city reliance

# CITIES TO WATCH IN 2013

on property taxes in the future. The League supports eliminating state approval for local sales taxes, and will work to secure authority for any city to impose other types of taxes such as a local payroll tax or an entertainment tax. Cities should also be able to modify the use of their local lodging tax revenues and have general authority to create utilities, similar to the storm sewer utility authority, in order to fund local services where benefit or usage of the service can be measured.

## CLEAN WATER FUND DISTRIBUTION

Minnesota is required under federal law to assure that the lakes, rivers, and groundwater in the state meet water quality standards. These issues will appear at both the administrative and legislative level this year. Cities are regulated through numerous permits and statutes. The Municipal Separate Storm Sewer System (MS4) permit and many of the state's water quality standards are being revised this year. Additionally, a number of total maximum daily loads (TMDLs) are being completed that include substantial new requirements for any city with a discharge permit in the watershed affected. The League will work to make sure that if changes to water regulations for cities are proposed, they are supported by sound science, result in actual environmental benefits, and are economically and technically feasible.

## DATA PRACTICES

Cities continue to receive repetitive and far-reaching data requests that require significant staff time to locate records, redact private or unrelated data, and assemble documents responsive to these requests. The Legislature should allow cities to charge for all of the staff time that the city determines is necessary to comply with wide-ranging data requests regardless of whether hard copies of the data are requested. In addition, the Legislature should provide a mechanism that would permit cities to challenge whether a data request is reasonable and made in good faith. The League opposes further increases in damages that courts may impose against government entities for violation of the Minnesota Government Data Practices Act (MGDPA); further increases in the maximum civil penalty that may be imposed when a court compels a government entity to comply with the MGDPA; or any statutory change that creates a mandatory civil penalty to compel compliance under the MGDPA.

## DATA REQUESTS FOR CITIZEN CONTACT INFORMATION

Cities have seen an increase in data requests for the email addresses and phone numbers of any and all citizens who have contacted the city to conduct business, register a complaint, express an opinion about a city service, or simply to receive general information from the city via email. Once disclosed, the contact information can be used by third parties for marketing, soliciting, campaigning, or commercial purposes. The League maintains that citizens who submit their email addresses or phone numbers to local units of government should not have their contact information disclosed to third parties for marketing, soliciting, campaigning, or other purposes, as currently required by the MGDPA. The League supports amending state law to protect citizen contact information from disclosure under the MGDPA.

## ELECTION ISSUES

Election law and voter registration reform remains a priority for legislators and election officials. Some of the top issues are: early voting; electronic poll books; felon status for voter eligibility; and establishing an earlier deadline for ending in-person absentee voting. The League maintains that in order to strengthen the role and effectiveness of local election administration, the Legislature should seek the guidance of

cities, townships, counties, and school districts on any and all proposed changes to voter registration and election law. The League supports the adoption of legislation establishing an early voting process developed in cooperation with local election officials. The League also supports the position of the Governor's Task Force on Election Integrity and seeks action by the 2013 Legislature to require updates to state and county criminal justice system record-keeping and information technology to help eliminate confusion about when felon voting rights are restored.

## EXPANDING ECONOMIC DEVELOPMENT OPTIONS FOR CITIES

Job creation will be a focus for both the Legislature and governor in 2013. The League will advocate for term extensions for redevelopment tax increment financing (TIF) districts that are taking longer to develop as a result of the economic crisis, and support increased bonding appropriations for proven Department of Employment and Economic Development (DEED) programs such as the Redevelopment Fund and the Minnesota Investment Fund. Additionally, the League will work to fix the negative impacts on housing TIF districts, and economic development authority/housing and redevelopment authority levies that are a result of the switch from the market value homestead credit to the homestead market value exclusion.

## FORECLOSURE PREVENTION AND NEIGHBORHOOD RECOVERY

Cities have experienced increasing financial impacts of the foreclosure crisis. The League will work to secure state and federal resources and provide financing tools to help cover city costs associated with foreclosures and neighborhood recovery, including alternative revenue sources for programs that support foreclosure mitigation and homeownership counseling. The League supports Minnesota Housing's strategic priorities, which include making methods available to maintain and improve existing affordable housing and aging housing stock.

## FUNDING LOCAL GOVERNMENT AID (LGA)

Minnesota cities provide services through a combination of property taxes, state aids, and state property tax relief programs. This state-local finance structure was formed on the principle that adequate municipal services should be provided without imposing excessive property tax burdens. In recent years, the state-local fiscal relationship has eroded under the stress of state budget deficits. In order to reduce pressure on the property tax, and to equalize property tax bases, the League continues to support an increase in the LGA appropriation to at least the level that would have been provided prior to the 2003 cuts, including the restoration of the annual inflation adjustment.

## LGA REFORM

The League supports the ongoing efforts of the legislative study of the current LGA formula as well as the work of the Mayors Tax Reform Advisory Group on Local Government Aid. The League supports the goal of increasing the stability and predictability of the formula while identifying a new system or modifications to the existing system to address current formula deficiencies. A new LGA system should be a functioning formula that considers easily measurable need and capacity factors that are examined and updated regularly and should reduce tax burden disparities among cities and between cities and townships, and acknowledge the impact of tax exempt

properties on city services and funding. The League will evaluate the LGA reform recommendations of these two groups based on these objectives as well as the objectives of accountability, certainty, adequacy, flexibility, and equity.

#### MODERNIZING BID PUBLICATION REQUIREMENTS

Minnesota law mandates multiple publication requirements for cities when advertising for bids. The League supports changes to state statute to allow cities to use the most up-to-date and cost-effective means of advertising bids and to eliminate outdated publication requirements that do not further the goals of municipal contracting law or benefit the taxpayers.

#### ORGANIZED SOLID WASTE COLLECTION

“Organized collection” is the term used to refer to a situation where a local unit of government, for any of a variety of reasons, decides that there is a public interest served by limiting the number of solid waste and recycling collection services available in the area. The League opposes efforts to apply inverse condemnation claims to city solid waste contracting decisions or to allow automatic contractual damage claims for solid waste haulers that lose competitive bids in organized collection communities. Further, the League supports the current state policy that organized collection is a valuable tool as part of a comprehensive solid waste and recycling management program and recognizes the need to protect and preserve the authority of cities to adopt solid waste service contracts that protect public safety, the environment and public infrastructure. The process for establishing organized collection should be streamlined to allow cities to utilize this option more readily if it is determined to be the preferred solid waste collection option.

#### PROCUREMENT/CONTRACTING

State statutes stipulate contracting and purchasing requirements for Minnesota cities. Under current law, cities must use “competitive bidding” for contracts or purchases over \$100,000. Competitive bidding involves a lengthy competitive sealed bid procedure. Design-build contracts are single contracts between the owner and a design-build company or firm to furnish the architectural or engineering and related design services as well as the labor, material, supplies, equipment, and construction services for a building or transportation project. While a design-build contract does not exempt the contract from some competitive-bidding requirements, it differs in that the construction and design costs are established early and the responsibility for the entire project is with one firm. Design-build is typically faster than traditional contracting, and use of design-build by state agencies and private corporations has proven that the tool can yield superior projects at reduced costs. In 2013, the League will advocate to secure broad design-build authority for cities. The League will oppose legislation that explicitly removes local authority to use procurement methods other than competitive bidding.

#### RIGHT-OF-WAY MANAGEMENT

The Legislature and the Minnesota Public Utilities Commission (MPUC) recognize that cities have fundamental responsibility for

managing the safe and convenient use of public rights-of-way. Cities hold local rights-of-way in trust for the public as an increasingly scarce and valuable asset. The League’s position is that state and federal policymakers and regulators must uphold existing local authority to manage and protect public rights-of-way, including reasonable zoning and subdivision regulation and the exercise of local police powers.

#### STATE RESTRICTIONS ON LOCAL BUDGETS

Levy limits replace local accountability with a state judgment about the appropriate level of local taxation and local services. Additionally, state restrictions on local budgets can have a negative effect on a city’s bond rating due to the restriction on revenue flexibility. The League supports the principle of representative democracy that allows city councils to formulate local budgets without state restrictions. The League opposes imposition of levy limits, and proposals such as the “taxpayers’ bill of rights.”

#### STREET IMPROVEMENT DISTRICT AUTHORITY

Just as the state has fallen behind in making transportation investments, some cities faced with budget challenges have made the difficult decision in recent years to hold off on scheduled street maintenance projects such as seal coating and overlays. Without ongoing maintenance, the average life expectancy of local streets is approximately 25-30 years. With appropriate maintenance, this infrastructure can last 50-60 years. A street that is not maintained will cost taxpayers six times more than a street that is optimally maintained. But this maintenance requires a reliable dedicated funding source other than the current volatile property tax system. The League will advocate in 2012 that cities must have an additional funding tool for local street maintenance and reconstruction. The League supports legislation that would allow cities to establish street improvement districts to fund the cost of transportation projects within districts.

#### WATER PERMIT FEES AND AGENCY BUDGETS

Cities are regulated by the state in a number of environmental areas, including water appropriation, drinking water standards, stormwater management, and wastewater collection and treatment. In all of these areas, cities have permits from the state that include fees to cover program costs for the state agencies that run those programs. As the Legislature looks for ways to further save general fund dollars or to fund new programs when the budget has no new money available, increases to the permit fees for these programs paid by cities are often discussed. The League sees the state general fund as the appropriate source of funding for environmental programs that benefit the entire state. The League also supports state environmental agency budgets that provide adequate staffing levels to process city permits in a competent and timely manner. Permit fee increases should be used only to cover increased costs of processing city permits and to pay for additional service needed by city permittees from the state, and not as a means to generate new revenue to cover general fund budget shortfalls.



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