

**LOCAL GOVERNMENT  
MISCELLANEOUS PROVISIONS**

# **LEGAL COMPLIANCE MANUAL**

## **LOCAL GOVERNMENT MISCELLANEOUS PROVISIONS**

### Introduction

This checklist, “Local Government Miscellaneous Provisions” must be completed by auditors in the course of each audit of a local government. It contains provisions that do not fit squarely into checklists 1 through 5.

Part I applies to counties only. Part II applies to local governments generally; the specific entities are indicated for each question. Part III applies to city subdivision regulations only.

| Minn. Stat.<br>Section | <b>MISCELLANEOUS PROVISIONS</b> | Yes | No | Workpaper<br>Reference |
|------------------------|---------------------------------|-----|----|------------------------|
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**Part I. Counties**

|  |   |  |  |  |
|--|---|--|--|--|
| § 375.055                                    | A. County Board Salary and Per Diem Resolution  |  |  |  |
|  | 1. Did the county board set the commissioners' annual salaries and per diem schedule in a resolution before January 1 of the year in which the salary becomes effective, and did the resolution contain a statement of the salary as an annual dollar amount? |  |  |  |
|  | 2. Did members of the county board <u>not</u> receive a per diem for service on the board of auditors, the board of equalization, or the canvassing board?  |  |  |  |
| Op. Atty.<br>Gen. 124a,<br>April 28,<br>1994 | 3. Did members of the county board <u>not</u> receive more than one per diem for any given day?   |  |  |  |
| § 375.45                                     | B. Change Funds   |  |  |  |
|  | Were all county change funds established by a county board appropriation from the proper fund and were the change funds used only for the purpose of making change?   |  |  |  |
| § 375.162                                    | C. Imprest Cash Funds   |  |  |  |
|  | 1. Imprest Funds for Payment of Claims  |  |  |  |
|  | a. Were imprest cash funds created by the county board and did the county board appoint a custodian of each imprest fund; and   |  |  |  |
|  | b. was a claim itemizing all demands for which disbursements have been made from the fund presented to the county board at the next county board meeting after the month in which disbursements were made; and  |  |  |  |
|  | c. did the county board act upon each claim as in the case of other claims and was a warrant issued to the custodian; and   |  |  |  |
|  | d. did the custodian use the proceeds of the warrant to replenish the fund, and if the county board failed to approve the claim in full for any sufficient reason, was the custodian held personally responsible for the difference?                          |  |  |  |
| § 375.162                                    | 2. Imprest Funds for Travel   |  |  |  |
|  | a. Were imprest cash funds authorized by the county board for the purpose of advancing money to officers or employees to pay their actual and necessary expenses in attending meetings outside the county or for other job-related travel; and                |  |  |  |
|  | b. did the county board appoint a custodian to be responsible for its safekeeping and disbursement according to the law; and  |  |  |  |
|  | c. was attendance at meetings and other travel outside the county authorized in advance by the county board; and  |  |  |  |

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|                     | d. did the officer submit an itemized claim for the actual and necessary expenses incurred and paid related to the approved travel at a meeting of the county board in the month after approved travel outside the county; and   |     |    |                     |
|                     | e. did the county board act upon it as in the case of other claims and was a warrant issued to the officer or employee for the amount allowed; and   |     |    |                     |
|                     | f. did the officer or employee use the proceeds of the warrant to repay the amount advanced from the fund and if the amount approved by the county board was insufficient to repay the advance, was the officer or employee held responsible for the difference?   |     |    |                     |
| § 375.12            | D. Publication of County Board Minutes   |     |    |                     |
|                     | Within 30 days of each meeting, did the county board have the official proceedings of its sessions or a summary published in a qualified newspaper of general circulation in the county?<br><br>Did the information published include all claims exceeding \$300 and a statement showing the total number of claims that did not exceed \$300 and their total dollar amount? |     |    |                     |
| § 375.169           | E. Publication of Summary Budget Statement   |     |    |                     |
|                     | Did the county annually, upon adoption of the county budget publish a summary budget statement in a form prescribed by the state auditor in the county's official newspaper or, if there is none, a qualified newspaper of general circulation in the county?  |     |    |                     |
| § 375.17            | F. Financial Statements  |     |    |                     |
|                     | 1. Did the county board annually, not later than the first Tuesday after the first Monday in March, make a full and accurate statement of the receipts and expenditures of the preceding year under the form and style prescribed by and on file with the State Auditor?   |     |    |                     |
|                     | 2. Did the county annually publish the statement or a summary of the statement in a form prescribed by the State Auditor, for one issue in a duly qualified legal newspaper in the county?   |     |    |                     |
|                     | 3. If the county board elected to publish the full statement, did it publish either:   |     |    |                     |
|                     | a. an itemized account of amounts paid out, to whom and for what purpose; <u>or</u>  |     |    |                     |
|                     | b. if the published proceedings of the county board contained an itemized account of amounts paid out, to whom, and for what purpose, a schedule of major disbursements containing all disbursements aggregating \$5,000 or more to any person, amounts paid out, to whom, and for what purpose?   |     |    |                     |

| Minn. Stat.<br>Section | <b>MISCELLANEOUS PROVISIONS</b>   | Yes | No | Workpaper<br>Reference |
|------------------------|---|-----|----|------------------------|
| § 385.29               | G. County Treasurer Not to Lend Funds   |     |    |                        |
|                        | Did the county treasurer <u>not</u> lend any money belonging to the county with or without interest and <u>not</u> use any county money for personal purposes?  |     |    |                        |
| § 386.78               | H. County Recorder Security Deposits  |     |    |                        |
|                        | 1. Does the county recorder accept security deposits to guarantee payment of charges, <u>and</u> did the county recorder deposit such funds in a security fund with the county treasurer?   |     |    |                        |
|                        | 2. Did the county recorder extend credit to persons who made a deposit only up to the amount of the deposit?  |     |    |                        |
| § 276.19               | I. Unclaimed Property Tax Overpayment   |     |    |                        |
|                        | 1. If an overpayment of property tax arose on a parcel due to receipt of a payment that exceeds the total amount of tax required to be paid on the property tax statement:  |     |    |                        |
|                        | a. did the county promptly notify the payer of the overpayment by regular mail; and   |     |    |                        |
|                        | b. did the notice identify the parcel, instruct the payer how to claim the overpayment, and advise that the overpayment is subject to forfeiture?   |     |    |                        |
|                        | 2. If a person entitled to a refund failed to claim the overpayment within three years after the date of the overpayment:   |     |    |                        |
|                        | a. did the county auditor cause a "Notice of unclaimed property tax refunds" to be published in an English language newspaper of general circulation in the county; <u>and</u>  |     |    |                        |
|                        | b. did the published notice include all items of \$25 or more overpaid on parcels; and  |     |    |                        |
|                        | c. the names and last known addresses of persons that may be entitled to an unclaimed property tax refund; and  |     |    |                        |
|                        | d. a statement that if proof of claims is not presented to the county auditor within 90 days, the overpayment will be considered abandoned and all claims to it will be forfeited; and  |     |    |                        |
|                        | e. a statement that information concerning the amount of overpayment and affected property may be obtained from the county auditor at the address given in the notice?  |     |    |                        |
|                        | 3. If the person entitled to the refund failed to claim the overpayment within 90 days from the date of publication, did the county auditor distribute the refund to the affected taxing district either in proportion to the amount of their respective taxes included in the levy for the tax year overpaid, or in proportion to the current tax year levy? |     |    |                        |

| Minn. Stat. Section | MISCELLANEOUS PROVISIONS  |  |  | Yes | No | Workpaper Reference |
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| § 273.08 & 273.18   | J. Valuation of Property - Viewing Parcels  |  |  |     |    |                     |
|                     | 1. Did the assessor actually view and determine the market value of each tract or lot of real property listed for taxation at maximum intervals of four years [five years for assessments on or after 1/2/2004] and enter the value opposite each description; or |  |  |     |    |                     |
|                     | 2. In the case of property exempt by law from taxation, did the county assessor view, value, and assess the property in every sixth year and designate the purpose for which the property is used?  |  |  |     |    |                     |
| § 103E.651          | K. Drainage System Accounts   |  |  |     |    |                     |
|                     | 1. Did the Auditor keep a separate account for each drainage system; and  |  |  |     |    |                     |
|                     | 2. was the account credited with all money from the sale of bonds, and bond premiums and all money received from interest, liens, assessments, and other sources for the drainage system; and   |  |  |     |    |                     |
|                     | 3. was the account debited with every item of expense made for the drainage system?   |  |  |     |    |                     |
| § 103E.655          | L. Drainage System Costs  |  |  |     |    |                     |
|                     | 1. If money was not available in the drainage system account on which a warrant is drawn:   |  |  |     |    |                     |
|                     | a. did the county treasurer endorse the warrant “not paid for want of funds” and was interest at the rate of six percent per year paid; <u>or</u>   |  |  |     |    |                     |
|                     | b. did the board, by unanimous resolution, transfer funds from another drainage system account or from the county general revenue fund to the drainage system account; <u>and</u>   |  |  |     |    |                     |
|                     | c. was the money plus interest reimbursed from the proceeds of the drainage system that received the transfer, and was the interest computed for the time the money was actually needed at the same rate charged on drainage liens and assessments?               |  |  |     |    |                     |
| § 282.05, .08       | M. Apportionment of Proceeds from Forfeited Land  |  |  |     |    |                     |
|                     | Were the net proceeds from the sale or rental of forfeited land, or from the sale of products from the forfeited land apportioned by the county auditor to the taxing districts interested in the land in accordance with Minn. Stat. § 282.08?                   |  |  |     |    |                     |
| § 276.111           | N. Distributions and Final Year-End Settlement  |  |  |     |    |                     |
|                     | 1. On or before January 5, did the county treasurer make full settlement of all tax receipts collected to December 31 of the prior year?  |  |  |     |    |                     |
|                     | 2. On or before January 25, did the county treasurer pay to each of the taxing districts the balance of the tax amounts collected on behalf of each taxing district?  |  |  |     |    |                     |

| Minn. Stat. Section | MISCELLANEOUS PROVISIONS | Yes | No | Workpaper Reference |
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| Part II. Local Governments Generally |   |  |  |  |
|--------------------------------------|---|--|--|--|
| § 13D.01                             | A. Minnesota Open Meeting Law (Applies to governing body of a school district, unorganized territory, county, city, town, or other public body; and to any committee, subcommittee, board, department, or commission of the public body.)   |  |  |  |
|                                      | 1. Were all meetings of the governing board and of any committee, subcommittee, board, department, or commission of the governing board open to the public?   |  |  |  |
|                                      | 2. If a meeting was closed, did the governing board state on the record the specific grounds permitting the meeting to be closed and describe the subject to be discussed?  |  |  |  |
| §§ 13D.01, subd. 1d, 13D.03          | 3. Were all closed meetings, except those closed as permitted by the attorney-client privilege, electronically recorded at the expense of the public body?  |  |  |  |
| §§ 345.38-.43                        | B. Unclaimed Property (Applies to any court, public corporation, public authority or public officer of this state, or a political subdivision.)   |  |  |  |
|                                      | If the local government's records show unclaimed or uncashed checks or other intangible property held for more than three years, was the property reported and paid or delivered to the state Commissioner of Commerce pursuant to Minn. Stat. §§ 345.41, .43?                                    |  |  |  |
| § 465.03                             | C. Acceptance of Gifts (Applies to any city, county, school district or town.)  |  |  |  |
|                                      | 1. Was every acceptance of a grant or devise of real or personal property on terms prescribed by the donor made by resolution of the governing board adopted by a two-thirds majority of its members and expressing such terms in full?   |  |  |  |
| § 375.19                             | 2. If not in the case of a <u>county</u> only, did the county board accept real or personal property from a person whose care, support, treatment, or maintenance, in whole or part, is or may be chargeable to or furnished or provided by the county?   |  |  |  |
| § 169.022                            | D. Traffic Violation Administrative Penalties/Safety Classes (Applies to all local governments.)  |  |  |  |
|                                      | 1. If the local government has established administrative penalties, has the political subdivision refrained from establishing administrative penalties for traffic regulation, including speeding, DWI, missing plates or tabs, not wearing seatbelts, and other similar state traffic offences? |  |  |  |
| § 375.19                             | 2. Has the political subdivision <u>not</u> established a safety class option in lieu of issuance or court filing of a state uniform traffic ticket?  |  |  |  |
| § 471.665, subd. 3                   | E. Mileage Reimbursement/Automobile allowance (Applies to any county, home rule charter or statutory city, town, or school district.) [Note: The City of St. Paul and counties having more than 550,000 inhabitants have additional authority. <u>See</u> Minn. Stat. § 471.665, subd. 2.]        |  |  |  |
|                                      | If the entity has established an automobile allowance for any officer or employee, is the allowance <u>in lieu of</u> all other mileage reimbursement to that officer or employee?  |  |  |  |

| Minn. Stat. Section   | MISCELLANEOUS PROVISIONS  | Yes | No | Workpaper Reference |
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| § 43A.17, subd. 9   | F. Compensation Limit (Applies political subdivisions; including cities, counties, towns, metropolitan or regional agencies, or other political subdivisions, but does not include a hospital, clinic, or health maintenance organization owned by such a governmental unit. It also does <u>not</u> apply to school districts.)  |     |    |                     |
|   | 1. Did the salary and the value of all other forms of compensation of each county or city employee not exceed 110 percent of the salary of the governor increased by the increase, if any, in the Consumer Price Index as described in Minn. Stat. § 43A.17, subd. 9b? [This amount is \$139,817 for 2007; \$144,711 for 2008; and \$150,065 for 2009.]; <u>or</u>  |     |    |                     |
|   | 2. Has the entity obtained an increase in the limit from the Commissioner of Employee Relations?  |     |    |                     |
| § 270C.66   | G. Withholding Affidavit/Certificate (Applies to all local governments.)  |     |    |                     |
|   | Before making final settlement with any contractor under a contract requiring the employment of employees for wages by said contractor and by subcontractors, did the entity obtain a certificate by the Commissioner of Revenue that the contractor or subcontractor has complied with the withholding requirements of Minn. Stat. § 290.92 (either Form IC-134 or a Contractor's Withholding Affidavit Confirmation)? |     |    |                     |
| §§ 15.17 & 138.17   | H. Destruction of Records (Applies to all local governments.)   |     |    |                     |
|   | If the entity disposed of government records, did it do so in compliance with a validly adopted records retention schedule or "Application for Authority to Dispose of Records?"  |     |    |                     |
|   | I. Public Purpose (Applies to all local governments.)   |     |    |                     |
| Ops. Atty. Gen. 442a-17, Jan. 17, 1938; 59a-22, Nov. 23, 1966; 270-D, Aug. 12, 1977; 174E, March 24, 1970 | 1. Did the entity refrain from donating money to people, nonprofit organizations, and charities unless allowed by specific authority?   |     |    |                     |
|   | 2. Did the entity refrain from paying for Christmas parties and other employee social events?   |     |    |                     |
|   | 3. Did the entity refrain from paying retroactive bonuses or pay increases unless the bonus or pay increase was paid under a pre-existing agreement or pursuant to collective bargaining?   |     |    |                     |
| § 471.661   | J. Out-of-State Travel Policy (Applies to each city, county, school district, regional agency, or other political subdivision, <u>except</u> a town.)   |     |    |                     |
|   | 1. Has the unit of government developed a policy that controls travel outside the state of Minnesota for the applicable elected officials of the relevant unit of government?   |     |    |                     |
|   | 2. Was the policy initially approved and were subsequent changes, if any, approved by a recorded vote?  |     |    |                     |
|   | 3. Does the policy specify:   |     |    |                     |
|   | a. when travel outside the state is appropriate;  |     |    |                     |



