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To Government Operations Committee

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Subject Jurisdiction of the Government Operations Committee

This memo explains the mandatory jurisdiction of the Government Operations Committee and gives a brief overview of some topics that often have come within the committee's jurisdiction.

Mandatory Jurisdiction under House Rules

House Rule 4.13 gives the Government Operations Committee jurisdiction over a bill that:

- “(a) establishes or reestablishes a department, agency, commission, board, task force, advisory committee or council, or bureau, or other like entity;
- (b) delegates rulemaking authority to, or exempts from rulemaking, a department or agency of state government; or
- (c) substantially changes the organization of a department or agency of state government or substantially changes, vests, or divests the official rights, powers, or duties of an official, department or agency of state government or an institution under its control.”

A bill within the jurisdiction of the committee must be re-referred to the Government Operations Committee, and this occurs frequently, often as committee deadlines approach. The re-referral requirement does not apply to omnibus finance bills if the content of the bill was heard by the Government Operations committee in another form.

Rulemaking

The committee hears a number of bills each year that delegate rulemaking authority to state agencies or that exempt agencies from the usual rulemaking process.

State agencies must follow certain procedures when they adopt administrative rules. These procedures are contained in the Administrative Procedure Act (often known as the APA) in Minnesota Statutes, chapter 14. Some requirements of the APA rulemaking process are:

- An agency must maintain a rulemaking docket containing information on rules that the agency is thinking about proposing and on rules that are in the middle of the rulemaking process.
- An agency must prepare a statement of the need for and reasonableness of the proposed rules, summarizing evidence and arguments that the agency intends to use to support the proposed rules.

- An agency must publish notice of proposed rules and must conduct a public hearing on the proposed rules if 25 or more people submit a written request for a hearing.
- Proposed rules must be reviewed by an administrative law judge from the Office of Administrative Hearings.
- The governor may veto all or a severable portion of a proposed administrative rule at the end of the rulemaking process, before the rule takes effect.

The legislature sometimes authorizes state agencies to adopt administrative rules without following the usual rulemaking procedures. This is done by allowing agencies to use an expedited process or by exempting certain rules from rulemaking.

For more information on state agency rulemaking, see:

<http://www.house.leg.state.mn.us/hrd/pubs/ss/ssadprule.pdf>

<http://www.house.leg.state.mn.us/hrd/pubs/ss/ssrulervw.pdf>

<http://www.house.leg.state.mn.us/hrd/pubs/ss/ssruleexp.pdf>

State Agencies

The committee hears bills that change the duties of state agencies or that create new groups. Apart from constitutional offices, executive branch agencies exist and can act only according to authority granted by the legislature. The legislature assigns the powers and duties of agencies and can determine their internal structure. Agencies do not have inherent powers. The legislature can abolish agencies or change their powers or duties.

- Seventeen major state agencies are designated in law as the “departments” of state government.
- Other major executive branch entities are called “agencies” and “offices.” Examples include the Pollution Control Agency and the Housing Finance Agency.
- Some executive branch agencies are headed by multi-member boards. Approximately two dozen boards carry out occupational licensing functions. Other boards carry out state programs: e.g., the Zoo Board, the Environmental Quality Board, and the Amateur Sports Commission.
- Dozens of groups exist to advise executive branch agencies. Unlike boards, advisory groups do not have authority to perform official functions. Advisory groups typically are known as “council,” “committee,” or “task force.”

For more information on advisory groups, see:

<http://www.house.leg.state.mn.us/hrd/pubs/advsggrp.pdf>

Contracts for Goods and Services

The legislature has enacted laws that state agencies must follow when purchasing goods and services, and has assigned the Department of Administration overall responsibility for state contracts for purchases of goods and services.

- Most agency purchases are based on “best value.”

- State law provides certain bid preferences that can modify the determination of who is the lowest bidder on a contract.
- Different laws apply to state agency contracts for professional or consultant services.

State Employee Compensation

Compensation and terms and conditions of employment are determined by collective bargaining for most state employees, and by a special compensation plan for employees who are not covered by a collective bargaining agreement.

- About 90 percent of executive branch employees are covered by collective bargaining agreements negotiated between their union and the state.
- The commissioner of Management and Budget proposes compensation plans for employees who are not unionized. One plan covers only state agency managers, and another covers most other non-unionized executive branch employees. These plans are similar in coverage to collective bargaining agreements. Like collective bargaining agreements, the plans are subject to legislative approval.
- Statute provides for special compensation plans to cover certain groups of employees, such as employees of constitutional officers, administrative law judges, and certain administrative personnel in the higher education systems.

Tentative collective bargaining agreements between the state and state employee unions must be approved by the legislature before becoming final. During legislative interims, contracts can be put into effect on a temporary basis after being approved by the legislative Subcommittee on Employee Relations. This subcommittee forwards approved agreements to the next session of the legislature for final ratification.

Public Pensions

The Government Operations Committee hears bills relating to public pensions, usually based on one or more omnibus bills recommended by the Legislative Commission on Pensions and Retirement (LCPR). For more information on public pensions, see the LCPR website:

<http://www.lcpr.leg.mn/>

Local and Regional Government

The committee hears bills relating to the governance, powers, and duties of local and regional government.

“Local government” is a general term for the governmental entities or political subdivisions of the state that provide functions and services at the local level. In Minnesota, the term usually refers to counties, towns (townships), and cities. Single or multipurpose (special) districts are frequently included in the term “political subdivision,” but are less often defined as local governments.

Under the Minnesota Constitution. “The legislature may provide by law for the creation, organization, administration, consolidation, division and dissolution of local government units and their functions, for the change of boundaries thereof, for their elective and appointive officers including qualifications for office and for the transfer of county seats. A county boundary may not be changed or county seat

transferred until approved in each county affected by a majority of the voters voting on the question.” Minn. Const. art. XII, § 3. Several chapters of Minnesota Statutes are devoted to just these purposes.

Dillon’s Rule. Local governments “possess only those powers that are conferred by statute or implied as necessary to carry out legislatively conferred powers.” This basic principle of what powers a local government has is known as Dillon’s Rule. The two major modifications the legislature has made to the rule are the authority for cities to adopt home rule charters and the broad grant of authority to legislate for the general welfare.

Home rule charters. The legislature has granted cities the authority to adopt home rule charters. A home rule charter, a local constitution, not only provides for the particular governmental organization of a municipality, but also provides for substantive authority to be exercised by the governing body for the community. A charter must be consistent with the state constitution, and state law can overrule a charter provision.

General welfare. The statutory authority to legislate for the general welfare also mitigates the severity of Dillon’s Rule. It is a broad grant of authority for a local government to exercise any power not enumerated specifically that contributes to the protection of the health, morals, peace, and good order of the community; promotes its welfare in trade, commerce, and manufacturing; or aids in carrying out all appropriate objects contemplated in the creation of a city.

All statutory cities in Minnesota have authority to legislate for the general welfare. Minn. Stat. § 412.221, subd. 32. Home rule charter cities simply include a general welfare clause or “all powers clause” within the provisions of their charters. Towns have the same authority in statute. Minn. Stat. §§ 365.10, subd. 17; 368.01, subd. 19. Counties do not have “general welfare” authority, although Minnesota Statutes, § 145A.05, is sometimes viewed as providing a relatively broad grant of authority by authorizing ordinances protecting the public health. Last biennium, the counties pushed for legislation granting them general welfare authority.

Special Legislation

Special legislation relating to local government may come up in any subject area, but most often seems to be a question of structure, powers, and duties of a local government, which means this committee would be the primary committee to consider such a bill. A common example, is a bill to allow an individual county to change certain county offices from elected to appointed positions. For information on this see:

<http://www.house.leg.state.mn.us/hrd/pubs/cntyoff.pdf>

Special legislation is authorized by the state constitution and there are some limitations on what the state may require an individual local government to do. For more detailed information on local laws and constitutional issues, see:

<http://www.house.leg.state.mn.us/hrd/pubs/specleg.pdf>

General Local Government Issues

Bills that could come before the committee may include purchasing and contracting, exercise of joint powers and other forms of cooperation between governmental entities, boundary adjustments (annexation, detachment, consolidation), mandate relief, land use, planning and zoning, eminent

domain, creation of new special purpose districts or abolition of existing ones, and open meeting law.
For more information:

House Research publications relating to local and metropolitan government:

<http://www.house.leg.state.mn.us/hrd/topics.aspx?topic=13#State/Lo116>

Legislative Reference Library's "Links to the World" page for local government:

<http://www.leg.state.mn.us/lrl/links/links.aspx?links=localgov>

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