SESSIO 2018:
Representing Minnesota Cities at the Capitol

The Minnesota Legislature will reconvene on Feb. 20 to begin the second half of its 90th biennial session. The session is expected to be short and focused on making tweaks to the biennial budget. Many stakeholders are hoping for passage of an omnibus capital investment bill; however, that may be a long shot since the Legislature passed a robust bonding package at the end of the 2017 session.

Recap of 2017

The main task before legislators and Gov. Dayton in 2017 was to pass the fiscal year (FY) 2018-2019 biennial state budget. While a slight budget surplus staved off a need to make difficult cuts and one-time transfers to balance the state’s general fund, it did not temper disagreements between Republicans and Democrats about taxing and spending.

More than five months into the session, disagreements over a host of budget and tax issues had hampered progress. Despite frenzied actions in the waning hours, the regular session adjourned before work had been completed. Gov. Dayton called a special session to begin immediately following the adjournment of the regular session. At 12:01 a.m. on May 23, the special session was gavelled in.

In the end, legislative leaders delivered on their promise to send budget bills, a tax bill, and a bonding bill to the governor. The special session adjourned sine die in the wee hours of May 26. With the governor’s approval of four special session omnibus appropriations bills and his signature on another five regular session budget bills, the state budget for the biennium was set—for the most part.

The approved bills included many provisions that will impact city operations. Some of the positive outcomes included:
- Bonding resources for water infrastructure, transportation, and housing.
- Broadband funding.
- Workforce housing tools.
- Omnibus transportation funding, including an increase to the Municipal State Aid Streets Account and funding for the Small Cities Assistance Account.
- Funding for replacement of elections equipment.
- Several tax policy provisions and a $15 million permanent local government aid (LGA) increase.
- Wastewater infrastructure investment protection and stormwater reuse provisions.

Parting shots leave lasting sting

In a surprise maneuver during the special session, the Legislature passed a bill that bundled three previously independent measures: the omnibus pensions bill, ratification of state employee contracts, and a pre-emption on local employment regulations such as paid time off and local minimum wage requirements.
The governor stated his strong objection to the local employment measure and said he never agreed to the package that reached his desk. He promptly vetoed the entire measure. In what appeared to be a retaliatory move, he also exercised his line-item veto power to strike the entire $130 million House and Senate operating budget from the omnibus state government finance bill.

This veto of funding for the Legislature made for a testy interim. Both sides waged legal maneuvers and blamed the other for failed negotiations. Ultimately, the Minnesota Supreme Court upheld Gov. Dayton's line-item veto.

Uncertainty over their budgets meant legislative leaders suspended per diem and mileage reimbursement for members, and legislative staffers faced anxiety over whether they would have pay withheld if funds ran dry. Using a combination of cut-backs and reserves, the Legislature's budget is expected to hold until the beginning of the 2018 session.

Local decision-making authority under attack

In 2017, the League helped thwart a number of bills that would have restricted local decision-making authority. Nearly 30 bills, including reverse referendum requirements, prohibitions on certain local ordinances, and measures to punish local governments by withholding local government aid, were introduced. Ultimately, only two of the bills—one prohibiting ordinances regulating retailers’ use of plastic bags and containers, and another providing penalties for “unauthorized” diversion programs—were signed into law.

A provision that would allow small cell wireless equipment to be placed on city-owned infrastructure in the public right of way was enacted as part of the omnibus jobs bill. This came after months of negotiations. Almost all of the League's primary concerns with the legislation were addressed.

Although efforts to defend cities against unwanted state intervention were mostly successful in 2017, it's important to remember that most of the bills will remain viable in 2018. The League is encouraging city officials to remind legislators that local elected officials are not only authorized to make public policy decisions related to health, safety, and welfare within their communities, but they are in the best position to do so.

Unfinished business: pensions and bonding

Two items that will likely be considered for action in 2018 are pensions and bonding. The Legislature has not successfully passed an omnibus pension bill since 2015, and many stakeholders are anxious to advance provisions that have been discussed perennially in recent years.

The pension bill that was vetoed in 2017 contained financial sustainability measures for the Public Employees Retirement Association Police & Fire Plan. The increases in employer and employee contributions, as well as an annual state appropriation to the fund, would have started at $4.5 million per year and increased to $9 million per year in two years. The direct state aid would have reduced the need for higher employer and employee contribution increases.

The Legislature did pass a bonding bill in 2017; however, they did not approve one in 2016. The 2017 bill included a combination of general obligation bonds, transportation fund money, user-financed bonds, renewable development account funds, appropriation bonds, and general funds totaling $1.123 billion, with $989 million in general obligation impact and $851 million in general obligation bonds authorized.

Although this was considered a robust bill, there is a significant backlog of bonding requests due to the failure to pass a bill in 2016. Many stakeholders are hoping for a “catch-up” session that will include another $1 billion-plus bonding bill so that ready-to-go projects can get underway.

Budget forecast

After a four-year string of positive state general fund budget reports, Minnesota Management and Budget (MMB) announced on Dec. 5 that the state is facing budget deficits into the foreseeable future.

Projections for the remaining 20 months of the current biennium and for the next two-year budget period are down, according to the MMB’s November 2017 Budget and Economic Forecast. A deficit of $188 million is projected for the current biennium, which ends on June 30, 2019, and a larger deficit of $586 million is forecasted for the FY 2020-2021 biennium.

The budget forecast suggests that the Legislature and Gov. Dayton will have to adjust spending, increase revenues, or tap the state’s $1.6 billion rainy-day fund to address the projected $188 million deficit. Local government aid and the Small Cities Assistance Account funds that will be paid in calendar year 2018 are paid from the state's FY
2018-2019 biennium budget. The League will be working in the coming months to ensure that those city aid funds are paid in full.

**When will it end?**

Another factor that will influence the 2018 session is the fact that all 134 House seats and all constitutional offices, including the governor, will be on the ballot in November 2018. Candidates will be eager to return home to get campaigns underway and may prefer a short session that includes few controversial votes.

This desire to keep the session short will have to be balanced with a need to demonstrate legislative accomplishments on the campaign trail. Constitutionally, the session must end no later than the first Monday after the third Saturday in May of the even-numbered year. In 2018, that date is May 21.

**What’s on the agenda for cities?**

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.

The LMC Board of Directors adopted the 2018 City Policies and legislative priorities on Nov. 9, 2017. The 2018 City Policies document identifies more than 100 legislative policies that impact cities. It serves as the foundation for the League’s advocacy efforts and is available on the League’s website at www.lmc.org/citypolicies.

The Board determined the League’s legislative priorities through discussions that occurred during the League’s summer policy committee meetings and fall Regional Meetings, and through other member interactions and communications over the last several months. While the issues addressed in the priority list do not reflect the entire scope of anticipated League activities during the 2018 legislative session, it provides a starting point for important issues to watch as the session gets underway. Following are summaries of the Board’s 10 legislative priorities.

**Bonding**

The League will advocate for a substantial bonding bill that includes appropriations for municipal water and wastewater infrastructure, local roads and bridges, funding for the local road wetland replacement fund, flood hazard mitigation, and dam repair and removal projects.

**Broadband policy and funding**

State broadband goals established during the 2016 legislative session set minimum standards for statewide broadband deployment and speeds by 2020 and beyond. Previous state speed goals set in 2010 fell short of the 2015 deadline, which highlights the continued need for partnerships between the state, local units of government, and broadband providers. The League supports funding to operate the Office of Broadband Development in the Department of Employment and Economic Development. Additional investments should also be made to the Border-to-Border Broadband Grant Program to continue funding projects that will increase the speed and capacity of broadband services at the local level. The League supports public-private collaboration and incentives to private-sector service providers to respond to local or regional needs.

**City street funding**

In the area of city street funding, the League calls for: (1) a dedicated and sustainable state funding source for non-Municipal State Aid (MSA) city streets in large and small cities statewide; (2) enabling legislation that would allow cities to create street improvement districts (similar to sidewalk improvement districts already allowed under Minnesota Statutes, section 435.44); and (3) the creation of a new fund within the Local Road Improvement Program that would provide grants to cities burdened by cost participation requirements related to trunk highway and county state-aid projects. Specifically, the League will seek ongoing and increased funding for the Small Cities Assistance Account that was created in 2015, as well as creation of a similar account to assist cities over 5,000 in population with maintenance of non-MSA city streets.

**Email retention**

Current records management laws and the city general record retention schedule adequately balance the public’s right to access government data and records with the city’s administrative duty to maintain city records. Some cities have adopted email retention policies, which has prompted concern that these cities are deleting all emails after a designated time period. Even with adoption of these policies, all cities are required to comply with records management laws, and cities must retain emails that fall within one of the 700 specific types of records identified in the general records retention schedule. Given the current safeguards in law, the League opposes changes to the records management statutes.

**Funding local government aid**

In recent years, the Legislature has restored roughly $107 million in funding for LGA. Even with those increases, the LGA system remains roughly $53 million below the certified 2003 funding level. Under current law, the LGA...
appropriation will increase by $15 million for the 2018 distribution. League policy calls for a restoration to at least the 2003 certified level of $586.8 million.

**Housing**

Cities statewide support the idea of providing state resources to aid cities in meeting demand for affordable housing that is sensitive to local conditions, emerging trends, and changing demographics. Employers in many Minnesota cities want to expand; however, available housing does not always accommodate workforce growth. A lack of rental and single-family housing for new and current residents can hinder economic development and job growth. The League will continue to advocate for programs that support workforce housing and affordable housing, including resources in a bonding bill.

**Pension sustainability**

Recent market conditions and changes in pension factors, including longer pensioner life expectancy, are negatively impacting the funding of Public Employees Retirement Association pension plans. In addition, the State Board of Investment has indicated that the annual investment return assumption of 8 percent cannot be supported, which could lead to legislative action to reduce the investment return assumption. As a result, the Legislature may be seeking changes to the pension system that will reduce long-term costs or increase employer and employee contributions. The League’s policies oppose any pension benefit improvements until the financial health of the plans is restored and also support a balance between employee and employer responsibility to fund employee pensions. In addition, the League supports an adjustment to the benefits for active members and retirees to reduce the cost of the pension system before any employer contribution increase is implemented.

**Pre-emption/local control**

Nearly 30 bills, including reverse referendum requirements, prohibitions on certain local ordinances, and measures to punish local governments by withholding local government aid, were introduced in 2017. Many of these bills remain viable in 2018. The League will continue to actively oppose legislation that erodes the fundamental principle of local control in cities across Minnesota. The League will also work to reinforce our core value that local elected officials are not only authorized to make public policy decisions related to health, safety, and welfare within their communities, but they are in the best position to do so.

**Sales tax exemption on construction materials**

Although construction materials purchased by cities for public projects are technically exempt from the general sales tax, the Minnesota Department of Revenue requires cities to comply with complicated and costly procedures to obtain the exemption. As a result, most cities do not claim the sales tax exemption on many construction projects, unnecessarily increasing the cost of the project. The League will continue to pursue legislation to streamline the process to allow cities to realize the sales tax exemption on these materials.

**Urban forest management**

Urban forests are an essential part of city infrastructure. Dutch elm disease, oak wilt disease, drought, storms, and emerald ash borer (EAB) are among the risks that threaten our investment in trees. The costs for control and removal can put immense pressure on city budgets. The League supports at least $5 million per year of funding from the general fund or other appropriate state funds for a state matching grant program specifically to assist cities with the identification, removal, replacement, and treatment of EAB, as well as for building capacity for urban forest management and meeting the costs of preparing for, and responding to, other catastrophic urban forest problems.

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If you have questions about the session or League priorities, contact a member of the LMC intergovernmental relations team. Find staff names and contact information at [www.lmc.org/igr-staff](http://www.lmc.org/igr-staff).