

THE MINNESOTA BOARD OF
GOVERNMENT INNOVATION AND COOPERATION
A STATE-LOCAL PARTNERSHIP TO IMPROVE PUBLIC SERVICE OUTCOMES

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INTRODUCTION

Education, police protection, care for the sick and the elderly, road and highway maintenance, public health services, parks and recreational opportunities—few people question the need for our governments to provide these and other public services for the benefit of society. At the same time, few people would dispute that there are opportunities for improving the efficiency and effectiveness of these services. Even local officials responsible for delivering services can cite examples of the need for improvement. At a public forum in Mankato, Minnesota, elected and appointed public officials cited numerous examples of how “petty turf wars,” and arcane rules and laws often frustrate their efforts to correct even the most obvious inefficiencies in the delivery of public services. These officials noted several examples:

- One township has to drive on a second township’s road for three-quarters of a mile to get to one of its roads for snow plowing. The first township’s officials offered to plow the second township’s stretch of road in return for an equal amount of plowing on one of their roads. The second township refused, so now the first township’s snow plow must lift its blade during its drive on the second township’s road after every winter storm.
- A Mankato teacher saw a student molesting another student but was afraid to violate Minnesota privacy laws when city police asked for the name of the molester. A school district attorney suggested that Mankato police be forced to get a search warrant from a district court judge so the teacher and the school district wouldn’t be liable for releasing the name.
- Minnesota state law says that counties can never reduce their contributions to libraries. The result is that few counties ever *increase* contributions to libraries because they know they are

locked into that increase forever, no matter how tight a future budget might be.¹

While such government inefficiencies may be tolerated during periods of rapid economic growth, state and local officials will be under intense economic and political pressure to correct these inefficiencies when the currently robust economy begins to subside.

FISCAL CHALLENGES FOR MASSACHUSETTS

The need to improve the effectiveness and efficiency of public service delivery may be even greater in Massachusetts than in most states. Investments made to update Massachusetts’s public infrastructure have left the state and local governments with the fifth highest public debt per capita among the 50 states—51 percent higher than the United States average.² Despite this high debt load, Massachusetts is in the midst of the largest public works project in the history of the United States.³ The “Big Dig,” as it is commonly called, will provide numerous benefits for Boston’s transportation, commercial, housing, and open space infrastructure. Although the federal government will pay much of the cost, the Big Dig will add to Massachusetts’s large public debt.⁴ In addition, Massachusetts anticipates it will need more public investments for a major clean-up of Boston Harbor and an expansion of Logan Airport. Municipalities are also confronted with the need to decontaminate

¹ Mark Fischenich, “Officials have heart-to-heart on why they work apart,” *Mankato Free Press*, Mankato, Minnesota, January 9, 1996, p. 15.

² State and Local Government Finance Estimates, by State 1995-1996; United States Census Bureau.

³ “Big Dig, Big Results,” *Planning – A Publication of the American Planning Association*, March 1998, p. 15.

⁴ *Ibid.*

polluted “brownfields” to make way for new commercial and industrial development.⁵

Massachusetts state and local governments also maintain the 9th highest per capita annual operating expenditures among the 50 states—12 percent above the United States average.⁶ These expenditures provide the high level of quality public services that Massachusetts citizens expect from their governments.

Over the past year, the state legislature has struggled to find additional funds to address emerging public service needs. There exists strong public support for initiatives to reduce K-12 class sizes, provide affordable housing and health care, including prescription coverage for seniors living on a fixed income, make neighborhoods safer, and to help people escape from a life dependent on public assistance.⁷ Providing Massachusetts citizens with significant tax relief is also high on everyone’s agenda. Over the past 12 months, the question before the governor and the legislature has shifted from “Is there going to be a reduction in taxes?” to “How much of a reduction in taxes is the Commonwealth going to provide?” to “How much additional tax relief will be forthcoming in future years?”⁸

Strong economic growth has made it possible for the Commonwealth to meet the dual demands of improved public services and significant tax relief. An extended period of slower growth will make meeting these demands more challenging. To meet the challenge, state and local officials must scrutinize all public budgets and eliminate programs and services that are no longer needed. However, it is unlikely such efforts alone will yield the savings necessary. More emphasis must be placed on developing and implementing more efficient and effective service delivery systems. The Commonwealth must be open to eliminating or modifying arcane rules and laws that prevent local

officials from developing creative means for providing the same or better services with fewer public dollars. State and local officials must work in partnership to eliminate needless duplication of services. Furthermore, innovative, cost-effective solutions must be developed to address emerging public service needs.

Two significant opportunities exist for reducing local service expenditures and improving public service outcomes:

- 1) County, city, town, and school officials should develop and implement more shared service agreements, reducing unnecessary duplication of services and capitalizing on economies of scale in the delivery of specific services.
- 2) The Commonwealth should eliminate overly prescriptive rules and laws that dictate how a program or service is to be delivered. Instead, state officials should establish desirable public service outcomes and allow local officials the flexibility to determine how best to achieve those outcomes.

OBSTACLES TO IMPROVING PUBLIC SERVICE DELIVERY

Figure 1 lists the individuals with whom I spoke in the process of conducting research for this paper. All of these individuals are knowledgeable about local government operations in Massachusetts. Without exception, they shared the belief that Massachusetts local governments, in general, do not take advantage of intergovernmental service delivery opportunities. When asked if a program to promote intergovernmental cooperation would be well received by Massachusetts municipalities, David Baier, Director of the Legislative Division of the Massachusetts Municipal Association, offered the following candid response:

“In Massachusetts, you’d be looking at a revolution. Massachusetts is essentially comprised of 351 independent nation states. There is very little intergovernmental cooperation in the delivery of services by these municipalities. Our state’s history on regionalism is somewhat thin.”⁹

Many officials expressed concern that the Commonwealth should not always assume that

⁵ Telephone conversation with Jay DiPucchio, Franklin Council of Governments, July 29, 1999.

⁶ State and Local Government Finance Estimates, by State 1995-1996; United States Census Bureau.

⁷ Excerpts from the Inaugural Address of Governor Paul Cellucci, January 7, 1999; statements made by Debbie Rock, Executive Assistant to Senator Mark Montigny, Chair of the Senate Ways and Means Committee, during a telephone interview on August 2, 1999.

⁸ Excerpts from the Inaugural Address of Governor Paul Cellucci, January 7, 1999.

⁹ Telephone conversation with David Baier, Massachusetts Municipal Association, August 3, 1999.

Figure 1. Individuals interviewed for this paper who are knowledgeable about the current operations of local governments in Massachusetts.

Name	Affiliation
David Baier	Massachusetts Municipal Association
Jack Dacy	Norfolk County
Jay DiPucchio	Franklin Council of Governments
Janet Fishstein	City of Boston, Department of Neighborhood Development
Mary Ford	Mayor, City of Northampton
Richard Howard	Mayor, City of Malden
Penny Geis	Hampshire Council of Governments
Libby Gibson	Nantucket County
Bryan Glascock	Boston Environmental Protection Agency
Robert Lawton	Yarmouth Township
Howard Leibowitz	Boston Mayor's Office
Leonard Kopelman	Kopelman and Paige Law Firm
Steve McGoldrick	Metropolitan Area Planning Council
Carol Meehan	Hampden County
Jeff Nutting	Stoneham Town Manager
Mark O'Connell	Massachusetts Association of School Committees

“one size fits all” when it comes to prescribing the best way for local officials to conduct their affairs. Jay DiPucchio, former executive director of the Franklin Council of Governments, echoed the opinions of many rural local officials when he remarked, “Beacon Hill just doesn’t quite get it when it comes to delivering services in a rural area. The state needs to let municipalities do their own business. It needs to get out of the way.”¹⁰

When asked for a specific example of state rules and laws that are overly prescriptive and may result in excess expenditures, nearly all local officials contacted for this study mentioned laws governing local procurement and construction.

Libby Gibson, Nantucket County Administrator, explained how the state’s “one-size-fits-all” mentality results in excessive public works expenditures for Nantucket County. Gibson noted that the county must use a state certified contractor for any public works project costing more than \$25,000. Unfortunately, none of the contractors based on Nantucket Island are on the state’s list of certified contractors. The island contractors have told Gibson that the state’s certification process is too cumbersome given the limited opportunities they would have to bid on public works projects. Therefore, for any public

works projects in excess of \$25,000, Gibson must seek services from a contractor off the island. Using non-island contractors often increases the prices she must pay, given the contractor’s need to transport heavy equipment to the island. In many cases, Gibson claimed, she is unable to find a state-certified contractor willing to complete the job in a timely manner.¹¹

David Baier of the Massachusetts Municipal Association explained the origin of the Commonwealth’s overly burdensome public construction laws. As is often the case with state rules and laws that limit local flexibility, those governing public construction were prompted by a scandal involving abuse of public construction funds and shoddy construction of buildings. In response to these abuses, the Commonwealth established the Ward Commission to recommend appropriate reforms; many of the restrictive laws and rules governing public construction projects reflect the Commission’s recommendations.

More specifically, Baier cited laws that require public entities to adhere to the Design-Bid-Build method of construction procurement. Design-Bid-Build prohibits the contractor that initially designs a project from serving as the contractor that builds the project—the public entity must re-bid project construction after the

¹⁰ Telephone conversation with Jay DiPucchio, Franklin Council of Governments, July 29, 1999.

¹¹ Telephone conversation with Libby Gibson, Nantucket County, July 29, 1999.

initial design work is completed. Related laws require the solicitation of bids for all major sub-contractors on a public construction project, which adds cost and can create both conflict on the job and significant delays.¹²

A recently released study by Douglas D. Gransberg, Associate Professor of Construction Science at the University of Oklahoma, corroborates Baier's assertion. The study compared projects in Massachusetts to those in three other states with fewer restrictions and concludes, in pertinent part, "The data support the assertion that the net effect of restrictive procurement legislation is to increase both the cost and the time it takes to deliver a public facility."¹³

A major public construction project underway in Massachusetts illustrates the possible benefits of waiving overly prescriptive rules. The City of Malden initiated a project to replace nine school buildings with five new, modern school buildings. The city sought and received special legislation that exempted it from the filed sub-bid law and several other regulatory provisions. In return, the city agreed to require all contractors and sub-contractors to use union labor. The labor unions in turn agreed to specific no-strike provisions and wage rates.¹⁴

Three of the five schools opened in September 1999. The contingency expenditures for those three buildings have amounted to less than 2 percent of anticipated total construction costs. The city had budgeted 4 percent of anticipated construction costs for contingency expenditures. Mayor Richard Howard noted, "In Massachusetts, it is extremely rare for contingency expenditures to be held to 2 percent of the total budget. You budget for 4 percent contingency expenditures with the clear expectation you'll spend it all; you hope those expenditures won't exceed 4 percent." Mayor Howard went on to claim, "If our current experience holds true for all five buildings, the entire project will come in well under budget and on time." Mayor Howard

¹² Telephone conversation with David Baier, Massachusetts Municipal Association, August 3, 1999.

¹³ Douglas D. Gransberg, "The Cost of Inaction, Does Massachusetts Need Public Construction Reform?" White Paper, Pioneer Institute for Public Policy Research, September 1999, p. 18.

¹⁴ Telephone conversation with Mayor Richard Howard, City of Malden, August 16, 1999.

attributes much of the project's success to the waiver the city received.¹⁵

State laws and rules governing public construction contracting procedures are but one example of state laws that inhibit local flexibility. Robert Lawton, Town Manager for Yarmouth, Massachusetts, noted that his town has spent more than a year trying to secure the necessary state permits to use treated wastewater as fertilizer for a public golf course. Lawton expressed his frustration, "This is not a new idea. Hundreds of municipalities across the nation are currently employing this practice on a regular basis. I can't understand why it is taking so long for the state to review our request and act on it."¹⁶

Lawton also explained that the state requires towns to obtain approval from a town meeting and the state before expending unanticipated grant funds or other revenue received for a specific purpose. For example, Yarmouth recently re-negotiated its contract with the local cable operator. As part of the new agreement, the cable company agreed to pay the town an additional \$50,000 to enable it to hire an employee to maintain the town's electronic networks. Lawton had to obtain approval from a town meeting and the state before he could hire the network person.¹⁷

Risk

Significant risks exist whenever established systems are changed. In the private sector, there is the potential for significant economic reward for individuals and businesses that take risks. If an attempt to improve *public* service delivery succeeds, the most the officials responsible can hope to gain is the appreciation of the citizens and some personal satisfaction. If the effort fails to yield the intended results, citizens will hold the officials accountable for the unnecessary expenditure of tax dollars.

Local officials who invest tax dollars to develop and implement a new, untested service delivery system risk losing the public investment. Public officials who experiment with new ideas for improving the effectiveness or efficiency of a public service risk the political support of key stakeholders of the public service—

¹⁵ *Ibid.*

¹⁶ Telephone conversation with Robert Lawton, Yarmouth, Massachusetts, August 13, 1999.

¹⁷ *Ibid.*

the public employees who deliver the service, the recipients of the service, and the taxpayers. These stakeholders often feel threatened by any attempt to change the status quo. Elected public officials who take risks that do not achieve their intended results may face an electorate that is unwilling to allow them to continue in office; appointed public officials may find themselves looking for new employment.

There are unanswered questions associated with the development of untested solutions to emerging public service needs. Will the public recognize and accept the need for the new service? Will the new service adequately address the need? Do the benefits of the new service outweigh the costs of implementing it? If the answer to any of these questions is no, the local officials responsible for the initiative may be held accountable for a perceived unnecessary expenditure of public funds.

Promoting cooperative public service delivery systems may eliminate needless duplication of services, but it too involves risk. Local officials who enter into cooperative service delivery arrangements must recognize and accept the fact that they will no longer have complete control over the service delivery system. The *safe* course of action in administering public services is to avoid trying anything new or innovative.

One option for minimizing the risks of implementing new service delivery systems is to spread those risks among multiple levels of government. An option for minimizing the potential negative consequences of unsuccessful innovations is to limit implementation to a few municipalities.

THE MINNESOTA BOARD OF GOVERNMENT INNOVATION AND COOPERATION

During the past six years, a promising program has been in place in Minnesota that recognizes the need to minimize the risks associated with innovation in the public sector. The program, known as the Minnesota Board of Government Innovation and Cooperation, could serve as a model for Massachusetts as it looks for opportunities to promote more efficient and effective service delivery systems.

OVERVIEW

The Minnesota Board of Government Innovation and Cooperation (“the Board”), heralded as “among the nation’s best models for improving government efficiency and effectiveness,”¹⁸ was created by the 1993 Minnesota State Legislature. The mission of the Board is to work with local governments and school districts to improve the effectiveness and efficiency of locally delivered public services. The eleven-member Board includes the State Auditor, the Commissioners of Administration and Finance, two Administrative Law Judges, and six legislators. The Board has two professional staff members, who administer three separate program areas: 1) Competitive grants to fund innovative pilot projects designed to improve the effectiveness and efficiency of public services. 2) A process for waiving administrative rules and granting exemptions from enforcement of procedural laws. 3) Assistance to local governments seeking to merge operations to increase efficiency.

The Board has an annual budget of \$1,014,000, of which \$154,000 is reserved for administrative expenses. The remaining \$860,000 is used to fund the Board’s competitive grants and provide financial assistance for local governments that agree to merge operations.¹⁹

THE COMPETITIVE GRANT PROGRAMS

The Board is authorized to award state-funded grants to local units of government to promote innovation and intergovernmental cooperation in the delivery of local government services.²⁰ They require collaboration between multiple levels of government and/or non-profit service providers. The grants, which are awarded annually through a competitive process, fund pilot projects. Planning grants may not exceed \$50,000; grants to fund start-up costs of a shared service may not exceed \$100,000.²¹ The goal of the grant program is to encourage local officials to develop models for improving the effectiveness and efficiency of local services. Grant recipients document their processes and

¹⁸ *Star-Tribune* editorial, April 28, 1999.

¹⁹ *Laws of Minnesota, 1999*, Chapter 250, Article 1, Section 33.

²⁰ *Minnesota Statutes (1998)*, § 465.798 through § 465.801.

²¹ *Minnesota Statutes (1998)*, § 465.798 through § 465.801.

performance outcomes, including savings, thereby encouraging other local officials to replicate the successful models without state assistance.

Through the grants, the state shares the financial risks of innovation. Using state funds to pay a portion of the costs of the pilot projects reduces the fiscal risks for local officials who are otherwise willing to develop and implement the projects. As Jim Mulder, executive director of the Minnesota Association of Counties, commented, "You wouldn't believe it, but those small state grants really do make a difference. County Boards are much more willing to approve spending county funds on an untested pilot project if they are assured that the state is willing to kick in some funds as well."²² Jim Miller, executive director of the League of Minnesota Cities, echoed Mulder's comments, noting that the Board's "grant funds have served as that final 'nudge' to motivate cities and other local governments to partner and cooperate as they try new approaches to municipal service delivery."²³

Since its inception in 1993, the Board has received 510 applications for competitive grants and has awarded \$4,649,319 for 80 pilot projects. Forty-three pilot projects improved the efficiency of a service, 32 improved the effectiveness of a service, and, thus far, only five have been unable to achieve their anticipated objectives. The actual and projected savings achieved by the 43 projects that focused on improved efficiencies totaled \$14,886,993, including \$7,194,863 in recurring annual savings.²⁴

Grants awarded by the Board generally fall into one of three categories: 1) pilot projects developed and implemented by two or more local units of government that focus on improving the

efficiency of a public service; 2) pilot projects developed by one or more local units of government that focus on improving the effectiveness of a public service or addresses an emerging need for a new public service; and 3) projects initiated by two or more local units of government that will produce data for immediate use by multiple units of government.

The following projects focused on improving efficiency.

- Rock County, a predominantly rural county in the southwest corner of the state, and all cities within the county have merged their city and county law enforcement agencies into a unified, countywide law enforcement agency. County Sheriff Departments serve all Minnesota counties, city police departments serve larger cities, and 1 or 2 person police departments serve many small cities. Rock County is the first Minnesota County to merge these departments into a single agency. The estimated savings for the cities and the county are \$43,000 annually, made possible by the elimination of duplicative administrative costs.²⁵

- Thanks to seed money from the Board, McLeod County, the City of Hutchinson, and the Minnesota Department of Transportation collaborated on building and operating a single vehicle maintenance facility, instead of building three separate facilities. The project saved taxpayers \$500,000 in construction costs. The operational efficiencies will yield approximately \$127,000 in savings every year. Furthermore, Minnesota's environment will benefit from consolidation of the salt, sand, and fuel storage facilities. Providing adequate environmental safeguards at a single site is more cost effective, and involves less environmental risk than at several sites. The City of Hibbing, Saint Louis County, and the Minnesota Department of Transportation are replicating the Hutchinson facility. Other areas of the state are also expressing interest in the model.²⁶

- Every winter, Minnesota cities and counties spread millions of tons of sand and seal coat aggregate on city streets. Every spring, much of this sand and aggregate is swept up, requiring

²² Conversation with Jim Mulder, executive director, Minnesota Association of Counties, February 22, 1999.

²³ Letter from Jim Miller, executive director, League of Minnesota Cities, to Jim Gelbmann, executive director, Minnesota Board of Government Innovation and Cooperation, February 25, 1999.

²⁴ "Minnesota Board of Government Innovation and Cooperation: Pilot Projects Making Government More Efficient and Effective," a report to the State Government Finance Committee of the Minnesota State Senate, March 24, 1999. Local officials in their grant applications, quarterly progress reports and final project reports, have certified estimates of savings achieved or anticipated by individual pilot projects.

²⁵ Final Report to the Board from Kyle Oldre, Rock County Administrator, January 30, 1998.

²⁶ Final Report to the Board from John P. Rodeberg, P.E., Director of Engineering for the City of Hutchinson, January 13, 1997.

the cities to pay hefty fees to dispose of it in area landfills. With the assistance of the Board, Ramsey County and eleven municipalities within the county have cooperatively purchased state-of-the-art road sand and gravel recycling equipment. The county and cities estimate this initiative will produce net savings of over \$1 million annually in reduced sand and gravel purchases and landfill disposal fees.²⁷

Many projects involve intergovernmental collaborations to improve the effectiveness of an existing service or to develop and implement a new service in response to an emerging need.

- Law enforcement and social service agencies in Northwestern Hennepin County (a suburban area of Minnesota's most populated county) became concerned about the unmet needs of teenage runaways and their families. Law enforcement officials readily acknowledged that teenage runaways were a low priority. Using a grant from the Board, six suburban police departments, Hennepin County Social Services, the Anoka-Hennepin School District and four area non-profit social service agencies have begun an initiative to do extensive follow-up on runaway youth incidents, with police officers assigned to a special taskforce. Cases are no longer closed when the youth is returned to the home; police and social workers try to address the issues that caused the youth to flee. The task force often uncovers serious issues, such as child abuse by a chemically dependent parent or a non-related adult male who lured a teenage girl into a life of prostitution and drug abuse, and also parents and children who could benefit from counseling to resolve numerous but relatively minor issues within the home. In the short term, this program will not save money—indeed it will increase local expenditures. But try telling the parents of these runaway children that the program is a waste of taxpayer dollars.²⁸

A third category of projects funded by the Board involve cooperative projects or studies designed to generate information that will be

immediately beneficial to local governments throughout the state.

- Four school districts designed and implemented a study to determine the amount of learning that is lost during the 12-week summer vacation. In late May of this year, 160 randomly selected fifth grade students were given a standardized test to establish baseline data. Subsets of these students received varying degrees of education during the summer months, ranging from full-time schooling to no formal schooling. Tests were administered throughout the summer. The data from this study will be useful to all Minnesota school districts.²⁹

- The Coalition of Greater Minnesota Cities used grant funding from the Board to establish a process for conducting scientifically sound evaluations of wastewater discharge standards imposed by the Minnesota Pollution Control Agency on municipal plants. The study focused on developing a defensible cost-benefit analysis of various wastewater discharge standards. The study noted that “cost considerations alone will probably not be sufficient to relax limits when the science behind them is correct. However, where large increases in cost lead to only minor improvements in water quality, cost should be weighed heavily in the setting of limits.” The study found that many of the existing effluent standards maintained by the Minnesota Pollution Control Agency are outdated and new scientific evidence exists to support less restrictive standards. The study found that the permit issued to the Rochester facility imposed an ammonia discharge limit “that was already outdated when the plant went into operation in 1984. Limits according to current standards are 1.8 to 4.6 times (greater) than the existing ones.” Yet, using the outdated standards, the City of Rochester was forced to spend over \$8 million on an ammonia reduction (nitrification) system.³⁰ The project will benefit every city as it evaluates existing and future effluent discharge permit specifica-

²⁷ Final Report to the Board from Daniel G. Schacht, Maintenance and Operations Engineer for Ramsey County, September 13, 1996; follow-up telephone discussion with Mr. Schacht on August 16, 1999.

²⁸ Information taken from the initial grant application (January 28, 1998) and quarterly progress reports filed by the Champlin Chief of Police (October 9, 1998 and March 29, 1999).

²⁹ Information taken from the initial grant application (January 30, 1998) and quarterly progress report filed by Dale Zellmer, Director of Supplemental Programs for the Anoka-Hennepin Public Schools (July 15, 1999).

³⁰ Information taken from the initial grant application (January 30, 1998) and quarterly progress report filed by Kathryn Ludwig, Project Manager for the Coalition of Greater Minnesota Cities (July 15, 1999).

tions issued by the Minnesota Pollution Control Agency.

WAIVERS AND EXEMPTIONS

The Board's most unique authority is its ability to waive administrative rules and grant limited exemptions from enforcement of procedural laws, if a local unit of government is able to suggest an alternative process that will yield the same or better result.³¹ While a few Minnesota state agencies are able to waive their own rules, the Board is able to waive rules promulgated by all agencies.³² The independence of the Board helps ensure a more objective review of waiver and exemption requests. By authorizing waivers and exemptions, the Board removes state-imposed barriers to improved public services and enables local officials to focus on service outcomes. By granting a waiver or exemption for a single unit of government, as opposed to waiving the rule for the entire state, the Board minimizes the risks associated with failure to achieve the desired outcome. It also limits any unintended consequences of the alternative process to a specific geographic area. If a waiver or exemption results in more efficient or effective services without any unintended consequences, the Board and the local government officials work together to advocate that the rule or law be changed, allowing all local governments to implement the improved process.

Chief author of the Board's authorizing legislation, State Senator and Assistant Majority Leader Ember Reichgott Junge, explains that the Board's waiver and exemption authority is based on the same concept as Minnesota's charter school legislation. Senator Junge noted that Minnesota's charter school legislation eliminates the need for charter schools to abide by most of the rules and laws to which all other public schools must adhere, while their overall ability to educate children is closely monitored by the Department of Children, Families, and Learning and the state legislature.³³ Both the charter

school legislation and the Board's ability to grant waivers and exemptions are based on the premise that state rules and laws should establish desirable public service outcomes and local officials should be given significant flexibility to determine how best to achieve them.

The composition of the Minnesota Board is based in large part on the Board's ability to grant waivers and exemptions. The legislative authors were careful to create a neutral Board that had no formal interest in administering or regulating programs and services delivered by local units of government. No representatives of local units of government were placed on the Board. Two administrative law judges were placed on the Board based on their knowledge and familiarity with the appropriate role of state administrative rules. The legislature intended to ensure that all requests for waivers and exemptions would be given a fair and impartial hearing. The Board's neutrality addressed concerns by local government advocates that all other avenues for seeking waivers from rules required local officials to appeal to the very agency that promulgated the rule. It is often difficult for agency staff that invested heavily in the writing of a rule to admit that there may be better ways to achieve a desired outcome or that there may be situations where the rule should not apply.

To obtain an exemption from the state's filed sub-bid law, Malden officials had to lobby the Massachusetts Legislature. In Minnesota, the same type of exemption could be obtained by submitting a brief application to the Board of Government Innovation and Cooperation.

Jay DiPucchio, former executive director of the Franklin Council of Governments, recognized the benefits of authorizing an administrative Board to grant waivers and exemptions. DiPucchio related the difficulty he had collecting a \$1 million grant from the United States Environmental Protection Agency (EPA). The grant was awarded to the Franklin Council of Government to capitalize a revolving loan fund to clean-up contaminated brownfields. Prior to dispersing the grant, the EPA wanted assurances that the Franklin Council of Governments had the authority from the Commonwealth to administer a revolving loan fund. DiPucchio complained that his efforts to obtain the specific statutory authority "got caught up in somebody's horse trading" within the Massachusetts Legis-

³¹ *Minnesota Statutes (1998)*, § 465.797.

³² Minnesota law pre-empts the Board from waiving rules governing the delivery of services by Minnesota School Districts if the State Board of Education also has the authority to grant the requested waiver.

³³ Comments made by Senator Ember Reichgott Junge during a meeting with Jim Gelbmann, executive director of the Board, and Tom Krueger, legislative assistant to Senator Junge, March 23, 1999.

lature. DiPucchio speculated that similar problems will occur if local governments must continue to rely on special legislation for waivers and exemptions from rules and laws.³⁴

The Board’s waiver and exemption authority has been found to be more useful than originally planned. Most waivers and exemptions have served the original purpose—authorizing alternative processes for achieving desired outcomes. Several waivers and exemptions have addressed problems brought on by the “one-size-fits-all” concept inherent in many administrative rules and procedural laws. Exemptions from procedural laws have been used by local governments and state agencies to address unintended consequences of specific laws when the legislature was in recess.

The most significant consequence of the Board’s waiver and exemption authority is the effect it has had on other state agencies. The authority of an *independent* state entity to waive administrative rules of other agencies has helped change the culture within state agencies that regulate local services. State agency officials are now more receptive to new ideas for achieving desired outcomes. If state agencies continue to rigidly enforce their rules and laws, local officials may now appeal to the Board for the flexibility necessary to try new ideas. Consider how this change in mindset helped one local school district.

- The district’s Teenage Parenting Program provided childcare services while the mothers

attended classes. When State Department of Human Service (DHS) staff learned of the program, they threatened to “shut the center down” because it was not licensed as a child care center. While the services were provided in district buildings and supervised by district staff, the center did not meet *all* of the prescriptive DHS requirements. Upon learning that the district had applied to the Board for a waiver, DHS inspectors quickly intervened, offering to grant variances from its own rules. A school district official wrote to the Board, “I have absolutely no doubt that your intervention resulted in this turnaround by DHS...thank you on behalf of those teenage mothers who will now be able to earn their high school diploma and have the dignity and success that goes along with that milestone.”³⁵

The following are a few examples of waivers and exemptions that have been granted by the Board.

- Itasca County sought Board approval to substitute a “managed care model” for the existing fee-for-service system used to fund chemical dependency treatment services. Under the fee-for-service system, the county sends eligible clients to licensed service providers and requests authorization for services from the State Department of Human Services (DHS). DHS authorizes services and forwards a blank invoice to the provider. The provider serves the client and returns the invoice to the county for payment. The county sends the invoice to DHS.

Table 1. Itasca County Chemical Dependency Treatment Program

Number of clients served, total expenditures, and total reimbursements received from the state of Minnesota, before and after waiver

Year	Number of Placements	Total Spent (\$)	Total Received from State (\$)
1992	217	560,000	380,000
1993	170	520,000	355,000
1994	163	495,000	425,000
1995	203	622,000	496,000
1996	238	708,000	552,000
WAIVER GRANTED			
1997	235	455,000	530,000
1998	215	497,000	475,000
1999	205	420,000	420,000

³⁴ Telephone conversation with Jay DiPucchio, Franklin Council of Governments, July 29, 1999.

DHS pays the vendor, bills the county for its share of the services, and collects any third or first party reimbursements. The system repeats itself for every client. Itasca County proposed a pilot project whereby the fee-for-service chemical dependency treatment system is replaced by a managed care system. The new system has saved the state and the county an average of \$225,000 annually (a 32 percent reduction), without impairing the level of service provided. The Board continues to monitor this project for possible statewide implementation.³⁶

- Lake of the Woods County on the Canadian border demonstrated that the Board's waivers and exemptions could be used to address situations where "one size" doesn't fit all. Minnesota state law requires counties to publish their financial statements in two newspapers of general circulation. The counties must select the second newspaper using a competitive bid process. (The county automatically publishes the notice in its official designated newspaper.) In Lake of the Woods County, there are only two newspapers of general circulation. Prior to requesting a waiver from the Board, Lake of the Woods County was spending \$3.45 per column inch to publish its financial statement in the second newspaper. The Board exempted the county from enforcement of the publication requirement, authorizing the use of a competitive bid to select one newspaper for publication of the full financial statement. In the second newspaper, the county agreed to publish a notice informing readers a copy of the financial statement is available upon request. Using the newly authorized process, the county obtained a low bid of \$0.97 for publication of the financial statement—an annual savings of \$1,257 for county taxpayers.³⁷

³⁵ Letter to the Board from Dr. John Regan, assistant superintendent for South Washington County Public Schools, dated August 28, 1996.

³⁶ The savings achieved by this waiver/exemption are summarized in the county's semiannual status report to the Board, dated July 29, 1999. The status report shows total annual referrals and expenditures for the Chemical Dependency Treatment Program. A comparison of pre- and post-waiver expenditures and caseloads shows an average reduction of \$225,000 in total annual expenditures after the waiver was granted.

³⁷ Savings data obtained from annual reports filed with the Board by Lake of the Woods County, dated May 17, 1995 and May 20, 1996.

The Board's exemptions have also played a role in addressing unintended consequences of certain laws.

- The 1995 state legislature enacted legislation requiring all appeals to state-ordered Cost of Living Adjustments (COLA) for child support payments to be discussed in a conference with county staff prior to being submitted to an Administrative Law Judge for adjudication.³⁸ The purpose of the conference was to attempt to resolve differences prior to submitting the case to an Administrative Law Judge. The law allowed no discretion for foregoing the conference, even if all affected parties were in agreement on an alternative COLA arrangement. In the largest Minnesota counties, this statute would require hundreds of apparently unneeded conferences. With the strong support of the Minnesota Department of Human Services, the Board exempted Hennepin, Washington, Anoka, Dakota, and Saint Louis Counties from enforcement of the 1995 law. The 1996 legislature corrected the statute.

ENCOURAGING VOLUNTARY MERGERS

With 3,501 units of government, Minnesota ranks seventh in the United States in the total number of local governments.³⁹ One city, Tenny, has a total population of four people; each serves as either the Mayor, the Clerk, the only Council member, or the Treasurer.⁴⁰ Although Minnesota's love affair with its local governments is the source of considerable civic pride, it is not the most efficient means of delivering public services. State officials have often tried, usually without success, to encourage local governments to consolidate to take advantage of certain economies of scale. During the 23 years preceding the creation of the Board, there were a total of five local government consolidations. The Board's locally driven, flexible consolidation process and the availability of funds to offset some of the short-term costs have stimulated renewed interest in consolidations. During the past five years, the Board has assisted six suc-

³⁸ *Laws of Minnesota, 1995*, Chapter 257, Article 5, Section 8.

³⁹ Statistical Abstract of the United States 1998, Table 497, p. 305.

⁴⁰ *1999 Directory of Minnesota City Officials*, published by the League of Minnesota Cities, p. 235.

successful consolidations and is actively working on 10 potential consolidations.

The Board's authority to approve mergers of local communities is statutorily referred to as the Cooperation and Combination Program.⁴¹ The program is based on the concept that local governments that intend to merge often require a period of courtship—cooperation—before the merger actually occurs. Board officials have often equated the process to the “engagement” period in which a couple prepares for an impending marriage.

Under the Board's Cooperation and Combination Program, the governing bodies of two or more local units of government develop a plan. The plan, which may be implemented over four years, must specify the steps that will be taken prior to and after a merger takes place. The plan must specify the future disposition of municipal facilities, employees, and bonded debt of the participating local governments. Recognizing that the potential loss of office for elected officials can be a major obstacle to mergers, the legislation authorizes all existing officeholders to retain their positions until their current terms expire. The Board does not concern itself with how these issues are to be addressed in the plan—it simply wants all arrangements to be in writing so that there are no surprises after the merger is implemented. After the participating governing bodies and the Board approve the plan, referendums are scheduled in each community to assure the public is supportive of the merger.

Two mergers offer insight into the Board's process for Cooperation and Combination.

- On January 1, 1997, the cities of Norwood and Young America implemented a locally developed plan approved by the Board to become the City of Norwood Young America. (Agreeing on a name is often the most difficult obstacle to consolidation.) The merger of the two communities was projected to save nearly \$55,000 annually.⁴²
- Also on January 1, 1997, the cities of Redwood Falls and North Redwood merged using the statutory authority of the Board to approve

⁴¹ *Minnesota Statutes* (1998), § 465.81.

⁴² Plan for Merger and Implementation: City of Norwood City of Young America, Adopted by the City Councils September 11, 1995 and September 12, 1995.

the merger. Prior attempts to merge the two cities were unsuccessful, due in large part to a need to replace North Redwood's entire municipal water system. Redwood Falls officials were understandably reluctant to assume liability for the deficient system. With financial assistance from the Board, North Redwood's water system was replaced, thus paving the way for a successful consolidation.⁴³

The editors of the Minneapolis-based *Star Tribune* have praised the Board's merger process:

Voters this month approved two municipal mergers in Minnesota, the first such pairings sanctioned by Minnesota's Board of Government Innovation and Cooperation. Slightly over two years old, the board has already proved itself a valuable stimulator of local interagency collaboration and a useful tool to help local governments secure needed waivers from state mandates. Municipal mergers thus become the board's third successful means of improving services and operations of local government....For numerous small communities, and some not so small, municipal mergers can help make government simultaneously more efficient and less expensive—both valuable outcomes in this era of scarce government resources.⁴⁴

FACILITATING DIALOGUE

Although it is not specified in the Board's authorizing legislation, the Board has also begun facilitating discussions between state, county, city, township, and school district officials focused on opportunities to work together toward common goals. Every two years, the Board staff work with state legislators to host regional forums to bring all elected and senior appointed officials together for a Saturday morning or an evening to discuss the mutual challenges facing all levels of government. The forums provide local officials with an opportunity to share their concerns and their ideas for working together to

⁴³ Cooperation and Combination Plan submitted to the Board by the Cities of Redwood Falls and North Redwood, March 16, 1995.

⁴⁴ *Star-Tribune* editorial, November 20, 1995.

address them. These forums often result in cooperative initiatives. Individual local government associations, such as the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Association of Townships, and the Minnesota School Boards Association, often host conferences for their members—but there are few opportunities for officials from all levels of government to gather to discuss how to improve the delivery of public services. It was at one of these regional forums in Champlin, Minnesota, that city law enforcement officials, school officials, and county social service advocates came together to address the growing problem of teenage runaways.

A *Mankato Free Press* article reporting on one of these forums included the following observation by one citizen who was in attendance.

“This is the most positive thing I’ve seen happen in this area in my lifetime,” said Ken Bunde, who probably attends more local government meetings than some elected officials. “You’re doing a wonderful job. Thank you.”⁴⁵

Earlier this year, the Board co-sponsored a statewide conference focused on innovations in the delivery of public services. For the conference, the Board produced a publication entitled, *Innovations: Bright Ideas in Local Government—A Resource Listing of Minnesota Innovations*. The conference and the publication helped inform local officials from around the state about the efforts of other communities to improve the effectiveness and efficiency of public services.

THE CHALLENGES FACING THE BOARD

The Board is not without controversy, nor is it a panacea for solving all problems facing state and local governments at the turn of the millennium. The following is a brief discussion of some of the challenges the Board continues to face and its responses to those challenges.

Initial Skepticism of Local Officials

When Assistant Senate Majority Leader Junge first proposed legislation creating the Board, not all local officials enthusiastically embraced the idea. Tim Flaherty, a lobbyist repre-

senting many local governments in Greater Minnesota,⁴⁶ recalls a meeting between local government lobbyists and Senator Junge that occurred during the 1993 legislative session. After describing her proposal to the lobbyists, Senator Junge asked for their input. Not wanting to offend the Assistant Majority Leader, most lobbyists were diplomatically complimentary of the idea. When Senator Junge left the room, Flaherty exploded. “Are you guys crazy? This is the worst piece of legislation I’ve seen in a long time. It will never work. It will simply be a way to give state grants to key legislative districts.” Four years later, when introducing the Executive Director of the Board to a statewide conference of city officials, Flaherty recounted the meeting, stating, “I’m up here today eating crow. The Board has been successful. The waivers have proven very beneficial and the grant process is as objective as they come. I encourage you to look at the many opportunities the Board has for your cities.”⁴⁷

Flaherty’s evolving appreciation of the Board is typical of the gradual increase in support the Board has gained among local officials throughout the state. The Board’s ability to win the support of local government advocates has helped it overcome attempts by several state officials to eliminate the Board.

Some State Officials Continue to Question Competitive Grants

In the governor’s budget recommendations to the 1999 Minnesota Legislature, the following notation appeared after the Board’s budget request:

“The Governor recommends eliminating the Government Innovation and Cooperation Board. The Governor believes that local governments benefit from innovative and cooperative efforts and that these types of activities will continue to

⁴⁵ Mark Fischenich, “Officials have heart-to-heart on why they work apart,” *Mankato Free Press*, Mankato, Minnesota, January 9, 1996, p. 15.

⁴⁶ The term “Greater Minnesota” is a Minnesota colloquialism viewed as a more politically correct way of referring to areas of Minnesota outside the Twin Cities metropolitan area—often used in place of the term “rural Minnesota.”

⁴⁷ Comments made by Tim Flaherty, Executive Director of the Coalition of Greater Minnesota Cities, upon introducing Jim Gelbmann as speaker at a conference of city officials, September 11, 1997.

take place without the state's financial support."⁴⁸

State Representative Phil Krinkie, Chair of the House State Government Finance Committee, was less diplomatic. During markup of the House bill, Representative Krinkie exclaimed, "I don't understand why we have to bribe local governments to do what they should be doing on their own accord."⁴⁹

The comments of Governor Ventura and Representative Krinkie underscore the most significant challenge facing the Board. Although the Board's full budget request was eventually approved by the 1999 legislature, and the Governor agreed not to use his line item veto authority to eliminate the Board's funding,⁵⁰ the Board continues to struggle with a perception held by key state officials that state dollars should not be used to fund these local projects. Proponents of the Board's budget requests have countered that the state sends over \$1 billion of discretionary aid per year to local governments to help hold local tax levies in check. Isn't it appropriate to spend \$1 million per year to help local governments develop more efficient means of providing essential public services?

The Constitutionality of Exemptions from Enforcement of Procedural Laws

Legal experts familiar with the Board's authority to grant temporary, limited exemptions from enforcement of procedural laws have often questioned its constitutionality. They have suggested that the ability of an administrative body to effectively void state statute may violate the Separation of Powers doctrine of the Minnesota Constitution. While none of the Board's exemptions have ever been challenged in Court, the Minnesota Attorney General's Office and other legal scholars believe the authority would withstand a court challenge. In the broadest sense, the Board's ability to exempt a local government from any enforcement action for violating a procedural law is analogous to the discretion law

enforcement personnel administer on a daily basis when they observe a clear violation of a law. A police officer, a person who is charged with administering laws passed by a legislative body, who observes an individual making an illegal left hand turn may exercise discretion as to whether to enforce the law prohibiting that turn.

While there are no known court cases from which to draw clear parallels to determine the constitutionality of the Board's exemption authority, the Wisconsin Supreme Court did address a similar separation of powers issue when ruling on the case of *Martinez v. Department of Industry* (1992).⁵¹ In that case, the Court upheld the constitutionality of a legislative entity's ability to overturn the administrative rulemaking actions of a state executive branch agency. The *Martinez* case cites from a prior ruling in the 1978 case of *State v. Washington*⁵² to conclude that "the separation of powers doctrine allows the sharing of powers and is not inherently violated in instances when one branch exercises powers normally associated with another branch."⁵³ The *Martinez* decision goes on to state that "legislative power may be delegated to an administrative agency as long as adequate standards for conducting the allocated power are in place."⁵⁴

The constitutionality of the Board's authority to grant exemptions from enforcement of procedural laws was further strengthened in 1995 when the state legislature amended the Board's authorizing legislation, specifying that "an exemption from enforcement of a law terminates ten days after adjournment of the regular legislative session held during the calendar year following the year when the exemption is granted, unless the legislature has acted to extend or make permanent the exemption."⁵⁵ In practice, the Minnesota Legislature has enacted a single Board housekeeping bill each year extending all exemptions granted the previous year for a specified period of time.

⁴⁸ Minnesota's Biennial Budget Recommendations-State Government 2000-01, p. F-47.

⁴⁹ Comments by Representative Phil Krinkie during a meeting of the House State Government Finance Committee, April 14, 1999.

⁵⁰ Governor Ventura did use the line item veto to eliminate over \$160 million in funding for other projects that were not in his budget request.

⁵¹ 478 North Western Reporter, 2d Series, p. 583.

⁵² 266 North Western Reporter, 2d Series, p. 597.

⁵³ 478 North Western Reporter, 2d Series, p. 585.

⁵⁴ 478 North Western Reporter, 2d Series, p. 583.

⁵⁵ *Minnesota Statutes* 1998, § 465.797, Subd. 5.

The Counter-Cyclical Nature of the Board's Programs

During the past two years, as both the national and Minnesota economies have flourished, the number of applications the Board has received for its competitive grants and waivers has declined markedly. During the mid-1990s, when local governments were struggling to balance budgets, local officials sought opportunities to reduce expenditures without impairing the level of service they provided. Now that the economy has strengthened considerably, there is less pressure on local officials. Successful businessmen know that they need to take advantage of a healthy economy to prepare their businesses for less prosperous times. Local officials need to learn the same lesson.

A MASSACHUSETTS INITIATIVE TO PROMOTE MORE EFFECTIVE GOVERNMENT

Minnesota and Massachusetts share a number of relevant characteristics: State and local governments in both states have a long history of high taxes and high spending.⁵⁶ Property taxes paid by residents are among the highest in the nation.⁵⁷ There is a strong perception by local officials that state rules and laws are overly prescriptive. Local officials agree that local governments should be afforded greater levels of flexibility for determining how best to achieve outcomes established by the state. Minnesota and Massachusetts continually rank very high on various surveys rating the quality of life in each of the 50 states. These rankings are influenced by the high quality of public services available to their citizens.⁵⁸ Efforts to reduce substantially the level of public services provided as a means of reducing state and local tax rates would likely meet with resistance. Despite strong public support for existing levels of public services, there

⁵⁶ *Statistical Abstract of the United States 1998*, Table 597, p. 322; relative to all taxes levied per capita in 1997, Minnesota ranks 4th highest, and Massachusetts ranks 6th among the 50 states.

⁵⁷ *State Fact Finder 1999*, published by Congressional Quarterly, Washington, D.C., Table F-7, p. 142, relative to property taxes paid per capita in 1995, Minnesota ranks 13th highest among the 50 states, Massachusetts ranks 8th highest among the 50 states.

⁵⁸ *State Fact Finder 1999*, published by Congressional Quarterly, Washington, D.C.

is also strong public support for significant tax relief. A relatively large percentage of employees in both states belong to labor unions.⁵⁹

Massachusetts Governor Paul Cellucci and the leadership of the Massachusetts Legislature should look to the Minnesota Board of Government Innovation and Cooperation as a model for promoting more efficient and effective government. What has served as an effective tool for Minnesota's local governments could also work in Massachusetts.

When discussing the prospects of replicating the Board in Massachusetts, several individuals knowledgeable about Massachusetts's government questioned whether public employee unions would perceive the initiative to be against their self-interests. Similar concerns were heard in Minnesota when the Board's authorizing legislation was debated by the 1993 state legislature. To address those concerns, the Minnesota legislation specifically requires local governments that apply for a waiver or grant to notify any exclusive representative of the local government's employees, if those employees may be affected.⁶⁰ Throughout the history of the Board, only one employee representative has ever raised concerns about an application for a waiver, exemption, or grant.⁶¹

GUIDELINES FOR A MASSACHUSETTS INITIATIVE

The following are guidelines for Governor Paul Cellucci and the Massachusetts Legislature to consider in the development of an initiative

⁵⁹ *Statistical Abstract of the United States 1998*, table 714, p. 445; relative to the percent of workers who are union members, Minnesota ranks 7th highest, and Massachusetts ranks 17th among the 50 states.

⁶⁰ *Minnesota Statutes (1998)*, § 465.797 through § 465.801. The pertinent statute reads, "A copy of the application (for a waiver, exemption or grant) must be provided by the applicants to the exclusive representatives certified under section 179A.12 to represent employees who provide the service or program affected by the application."

⁶¹ The representatives of the school social service workers organization initially opposed a grant application from seven school districts and three counties to merge the positions of county and school social service workers into a single position. The organization feared that its members might be forced to work 12 months per year, instead of the 9-month schedule currently used. The objection was withdrawn when the school districts and the counties agreed to allow them to participate in the planning activities.

modeled after the Minnesota Board of Government Innovation and Cooperation.

1) The new state entity should be governed by a Board comprised of an equal number of representatives from the executive and legislative branches of government. Unlike the Minnesota Board, Massachusetts should consider including one or more citizen representatives, appointed by the governor. The citizen representative is less likely to be constrained by “traditional” thinking as to how public services are delivered. Citizens will make decisions based on what makes the most sense—not by considering “how things have always been done.”

2) Local government officials and representatives of state agencies that regulate local government programs or services should not be members of the Board. The Board should be an independent state entity, although to minimize administrative costs, the legislation should consider housing the Board within an existing state agency. The Board should be given an annual appropriation for its grant programs and administrative costs. The statute should limit the Board’s administrative costs as a means of assuring stakeholders that the Board will not grow into a large state bureaucracy.⁶²

3) The Board should be given the authority to award grants to local governments to promote the development and implementation of intergovernmental service delivery systems. The new intergovernmental service delivery systems may be used to replace service delivery systems for an existing service or to provide a new or enhanced service to respond to an emerging need. Grant awards should be made annually, using a competitive grant application process to be developed by the Board’s governing body. Criteria should be included in statute to assist the Board in its review and rating of grant applications. Planning grants should be limited to \$50,000 per initiative; implementation grants should be limited to \$100,000 per initiative. Any exclusive representative of local government employees affected by the proposed grant must be given a copy of the application and allowed an opportunity to make an official comment on its merits.

⁶² There is no such stipulation in Minnesota statute. The recommendation is based on the strong support among Minnesota Board members, legislators, and local officials for making certain that the Board’s administrative expenditures are held to a minimum.

4) The Board should have the discretion to require repayment of grants made to local governments *if the project funded by the Board successfully reduces the cost of delivering an existing public service*. The repayment, if required by the Board, should be based on the amount of savings achieved, should be proportional to the percentage of funding contributed by the state, and should not exceed the amount of the grant. All funds repaid should be used by the Board to assist new pilot projects. A similar repayment option was added to the Minnesota Board’s authorizing legislation in 1997, when legislators began seeing the significant savings that were achieved through the implementation of these pilot projects.

5) The Board should be given the authority to grant waivers from administrative rules for any local unit of government, including school committees, that are able to suggest and willing to implement an alternative means of achieving the same or better outcome, without adhering to the rule.⁶³ The Board should also be given the authority to grant temporary, limited exemptions from enforcement of a procedural law for any local government, school committee, or state agency that is able to suggest and willing to implement an alternative means of achieving the same or better outcome without adhering to the law. State agencies seeking an exemption must agree to limit the implementation of the exemption to an area of the state defined by specific political boundaries that are no larger than a single county. Exemptions granted by the Board must expire after the adjournment of the next regular session of the legislature in the calendar year following the year in which the exemption was granted, unless the exemption is extended by passage of legislation. The Board shall deny a requested waiver or exemption if it determines the waiver or exemption would result in due process violations, violations of federal law or the state or federal constitution, or the loss of services to people who are entitled to them. Any exclusive representative of local government employees affected by the proposed waiver or exemption must be given a copy of the applica-

⁶³ The Minnesota Board may not currently waive rules governing services delivered by local school districts if the state board of education has the authority to grant a similar waiver. The Minnesota stipulation was placed in law under pressure from strong education lobbies.

tion and allowed an opportunity to officially comment on its merits.

6) The Board should also be given the authority to grant temporary, limited exemptions from non-procedural laws if a local government or state agency can demonstrate to the satisfaction of the Board that the cost of complying with the non-procedural law greatly exceeds the benefits that the law is intended to provide. State agencies seeking an exemption must agree to limit the implementation of the exemption to an area of the state defined by specific political boundaries that are no larger than an entire county. Exemptions granted by the Board must expire after the adjournment of the next regular session of the legislature in the calendar year following the year in which the exemption was granted, unless the exemption is extended by passage of legislation. The Board shall deny a requested waiver or exemption if it determines the waiver or exemption would result in due process violations, violations of federal law or the state or federal constitution, or the loss of services to people who are entitled to them.⁶⁴ Any exclusive representative of local government employees affected by the proposed exemption must be given a copy of the application and allowed an opportunity to officially comment on its merits.

7) The Board should be given the authority to approve plans developed and approved by the governing bodies of two or more local governments to consolidate into a single unit of government. The plan shall provide details as to the steps that will be taken to implement the consolidation and the disposition of all employees, major assets, and bonded indebtedness of the individual local governments after the effective date of consolidation. The plan shall specify whether the bonded indebtedness of the individual units of government shall be merged, or whether the property owners of the area of each existing local unit of government shall continue to be held responsible for retiring the debts of the individual units of government. A plan for a merger, once approved by the Board, shall be presented to the citizens for approval through a referendum at a regular or special election. The

⁶⁴ The Minnesota Board currently lacks this authority. Its exemptions are limited to enforcement of procedural laws. Local government advocates in Minnesota believe it is time to extend the authority of the Board to non-procedural laws as is proposed here.

Board should also be authorized to award state aid to consolidating local units of government to help overcome any financial barriers to a successful merger. The statute should specify criteria the Board shall use in making aid award determinations. The criteria shall require that expenditures for which the aid is to be used be directly related to the consolidation, that the expenditures would not be necessary if the consolidation were not to occur, and that the savings that will result from the consolidation are insufficient to cover the anticipated expenditures. The maximum amount of aid the Board may award to a single consolidation per year over a two-year period shall be the lesser of 1) \$20 per capita based on the combined population of the participating units of government and 2) \$100,000. The Board should also be given the authority to give grants of not more than \$10,000 each to local governments to develop a consolidation plan.⁶⁵

8) The Board should be statutorily required to hold regional forums for local officials. These forums should focus on opportunities for greater levels of intergovernmental cooperation in addressing issues of mutual concern.

9) The Board should be given an annual appropriation sufficient to fund 15 to 20 pilot projects per year, meet the potential demand for financial aid to overcome financial barriers to consolidation, and cover the Board's limited administrative expenses. Limiting the Board to funding 15 to 20 pilot projects per year will assure that only the best ideas are funded. Funding more projects would also place an added strain on the Board's small administrative staff who must monitor the implementation of all pilot projects.

10) To underscore the partnership between state and local governments that the Board represents, the Board's initial appropriation should be partially offset by a corresponding reduction in the base appropriation of discretionary aid to local units of government. The reduction should be equivalent to half the Board's initial appropriation. This partial offset of local aid may help

⁶⁵ Financial limits on the Board's ability to assist local governments that are considering a consolidation are based on the experience of Minnesota's Board and are similar to the limits specified in Minnesota law. It is important that the financial aid be viewed as a means of addressing legitimate financial barriers and not as an incentive to consolidate.

address concerns by state officials that state dollars not be used to fund local projects.

CONCLUSION

The current economy offers the Commonwealth of Massachusetts an excellent opportunity to begin planning for the future. Failure to improve the effectiveness and efficiency of public services will force state and local officials to increase taxes and/or cut services if—or when—the economy begins to falter. One proposal for Massachusetts to consider is to replicate the authority and programs of the Minnesota Board of Government Innovation and Cooperation. The Board is not a panacea for all government inefficiencies, but it does provide an effective process to begin moving the state in the right direction. The Board has helped to improve the effectiveness and efficiency of local government services in Minnesota. It has helped forge a more dynamic partnership between Minnesota's state and local officials. The Board is working in Minnesota. A similar Board could also work in Massachusetts.

ABOUT THE AUTHOR

Jim Gelbmann has served as the Board's executive director since January 1995. Prior to that, he was Minnesota's Deputy State Auditor for Research and Information and played an instrumental role in implementing the 1993 legislation that created the Board of Government Innovation and Cooperation. Mr. Gelbmann has served as executive director of the Governor's Advisory Council on State-Local Relations and as assistant commissioner in the Community Development Division of the Department of Energy and Economic Development, the predecessor to the Department of Trade and Economic Development.