

THE ILLINOIS GOVERNMENT FINANCE

Leader

THE NEWSLETTER OF THE ILLINOIS GOVERNMENT FINANCE OFFICERS ASSOCIATION

Highlights of IGFOA's 2002 priorities

Board outlines work for year ahead

The IGFOA Board (see insert for a listing of Board members) outlined a list of priorities for the year ahead. Each IGFOA committee has a list of specific tasks to be tackled.

Following is an abbreviated listing of the goals for the year. For a complete list, please visit www.igfoa.org.

Financial Review Committee

- ☛ Review, at least annually, the financial statements of the Association to deter-

mine the completeness and fairness of the account balances and financial statement assertions.

Career Development Committee

- ☛ Advise chapters and Conference Program Committee of hot topics and support those training efforts;
- ☛ Foster Career Development "partnerships" (such as WGFOA, IMTA, IAMMA, COGs, IRMA, etc.); and

- ☛ Host hot topic sessions on economic driven issues.

Conference Committee

- ☛ Plan, organize, and host conference.

Legislative Committee

- ☛ Prepare background and draft language on technical and administrative matters for legislative consultant

continued on page 2

Also in this issue:

- 2 Letter from the President
- 3 The IRS & your municipality
- 4 Worker's comp firing
- 5 Capital Asset accounting requirements of GASB 34
- 6 Home Rule assessment
- 7 Software & GASB 34
- 8 New members

Insert:
Board & committees,
Chicago Metro
scholarships,
IGFOA events

Member news

Congratulations...

Kathleen A. Thomas is campaigning for Cook County Clerk in the March primaries.

Mark Pries is new Finance Director for City of Oswego, having served as Assistant Finance Director for the Village of Park Forest.

Barbara Norris has been promoted to Assistant Finance Director for the Village of Park Forest.

Stan Helgerson, Finance Director for the Village of Carol Stream, is the new chair of the national GFOA Cash Management Committee.

Len Flood, Director of Finance for the Village of Lombard, was appointed GFOA State Representative for Illinois GFOA. He follows in the footsteps of **Ron Hill**, Finance Director for the Town of Normal. Many thanks to Ron, who served as GFOA State Rep for six years!

Priorities

continued from front

to work with appropriate state agency/legislative staff to craft proposed legislation;

- ☛ Prepare legislative alerts for IGFOA membership and affiliated organizations regarding legislative proposals and actions, addressing the potential impacts of the legislation (positive and/or negative);
- ☛ Take an active stance on pension issues and internet sales taxation; and
- ☛ Cooperate with the IMTA to support passage of legislative initiatives.

Membership Committee

- ☛ Develop members in transition policies;
- ☛ Develop recommended Honorary/Life Member category;
- ☛ Coordinate Mentoring program.

TARC

- ☛ Review accounting, auditing, and financial reporting requirements as they affect the membership; and
- ☛ Prepare and submit response to GASB proposals as they affect the membership.

Technology and Communications Committee

- ☛ Implement ongoing archiving of the newsletter;

Letter from the President

I am proud and honored to be your president for this year. I am especially happy to be working with such a great Board, outstanding Committees, Committee leaders, energized Chapters and Chapter leaders and wonderful staff. The Committee Chairs and Chapter leaders are listed in this *Leader*. These dedicated volunteers are anxious to hear from members who have not yet gotten involved with the Association. If you would like to join a committee or become more involved with a chapter, give them a call.

Being involved with the IGFOA guarantees the greatest benefit from your membership. The networking opportunities and the wealth of knowledge that members are able to tap into, through involvement, outweigh the small time commitment of participating on committees. Involvement also guarantees the continuation of the fine programs, conferences and information dissemination that the IGFOA provides.

One of my goals this year is to continue to focus on membership outreach. There are municipalities and other taxing bodies who could benefit by multiple memberships within their organization. There are also Finance Directors in small organizations that don't realize the wealth of information available through membership in the IGFOA. If you have a neighboring municipality, park district, library district, etc., whose Finance Director is not a member, bring him/her to a Chapter meeting. You will be doing that Finance Director a big favor.

This is going to be groundbreaking year for the IGFOA. After a solid year of planning, the Technology Committee has presented and received approval to implement a technology improvement plan. There will be hardware and software upgrades for the Association. These upgrades will allow enhanced e-mail notification of members, downloading capabilities for resource files, improved membership databases, and linkage to Associate web sites. I encourage all members to visit the IGFOA web site at www.igfoa.org to stay abreast of these changes.

I look forward to carrying on the tradition of member services which Gary Szott, my predecessor, and all the past presidents of the association have helped to establish.

Mary Dankowski
IGFOA President

- ☛ Advise and assist staff to implement Information Management Plan; and
- ☛ Encourage member usage of the IGFOA web site.

Chapters

- ☛ Plan, organize, and host at three to five training and networking sessions annually; and
- ☛ Coordinate with statewide association through committee and executive board representatives.

Associates

- ☛ Help plan and coordinate campus outreach; and
- ☛ Establish & update speakers' bureau in conjunction with Career Development Committee.

Executive Board

- ☛ Prepare "due process" procedures for disciplinary action; and
- ☛ Establish Chapter historian/Association historian through Past Presidents' Circle.

Executive Director

- ☛ Liaison/coordinate with other local government organizations;
- ☛ Respond to members' requests for information;
- ☛ Coordinate member and volunteer recognition;
- ☛ Maintain Resource files;
- ☛ Coordinate future Conference site selection; and
- ☛ Prepare Membership Directory.

The IRS and your municipality







By Beth Ruyle, Financial Advisor and Steve Apfelbacher, Financial Advisor,
President, Ehlers & Associates, Inc.

Local governments in the United States through its Federalist system have always been able to issue tax-exempt bonds. Tax-exempt bonds lower issuer interest costs by two percent. Issuers, however, must have state law authority to issue tax-exempt bonds and follow specific steps determined by the IRS. The primary IRS concern for tax-exempt bonds is that there is a real project being financed and that the project is for a public purpose. Local governments may not always have been perfect in meeting these demands.

It is always good to remind local governments of these federal demands. The Internal Revenue Service has found that some local governments or financing pool sponsors would issue tax-exempt debt and then simply allow the funds to sit in the bank and earn interest at a higher rate than the interest paid on the tax-exempt debt. Rather than using the borrowed funds in a timely fashion for the intended projects the funds were not spent. This practice is known as arbitrage.

In the rewrite of the tax statute in 1986, Congress moved to stop this practice. Originally, they had hoped to arbitrage restrict all issues. In the final legislation, only those issues in excess of \$5 million for municipalities and \$10 million for schools were required to restrict their earnings and report their arbitrage earnings provided that reasonable efforts were made to complete the project within three years.

In 1993 the IRS had never yet completed an audit of a local government bond issue. Just as you must worry about the IRS in your personal finances and their reporting, so must you worry in the area of tax-exempt debt. Today 45 agents have commenced audits on over 750 bond issues. The Internal Revenue Service is now moving to ensure that municipalities are complying with arbitrage, yield burning, and escrow investments that were to include yield restricted investments. In addition they are examining financings in the areas of:

-  Financing pools for short term cash flow needs
-  Short term School District balloon financing
-  Loan pools for project financing
-  Hospital acquisitions
-  Solid waste
-  Conduit financing as Industrial Revenue Bonds.

If you receive a letter from the IRS first call your financial advisor to see if they can assist you in this process. It is very important that you do not ignore it. Form 8821

would need to be executed for your financial advisor to work with the IRS on your behalf. It will also be very important that you make sure that your records for the issue are in order. If possible, find the focus of the IRS audit, then do your best to document that your actions were appropriate. You will need to document both use of the funds and investment of the funds.

If you get a letter from the IRS it does not mean you automatically have a problem. The IRS is sending out three types of letters:

- **The Green letter:** We are doing an examination of an area. We have no reason to suspect a problem but are interested in learning more about this area.
- **The Yellow letter:** We concerned about a certain type or area of financing. You did this type of financing. Tell us about your financing.
- **The Red letter:** We think you have a specific problem with your financing.

If you receive a red letter most often there has been a problem found. Currently, there are about 50 red letters that need to be resolved.

If IRS is not satisfied in this audit that the community has appropriately managed and restricted arbitrage the bond funds then they have the ability to determine that the bond issue is taxable. The bondholders would then be responsible for paying taxes on the earnings they have received from interest on the bonds. They will be severely unhappy and could take legal action.

A few bondholders have been taxed but generally those involved in issuing the debt have paid a penalty. The IRS assumes the penalty should be the amount the IRS lost in taxes. Since most cases to date have been very clear violations, the IRS has been sympathetic to issuers who usually have not done anything wrong. This will change over time as the IRS looks at more gray issues and must determine the intent of the issuer's actions. This will create much more concern by issuers about IRS audits.

Conclusion:

Issuers have a new reason to be concerned about their bond issues. This requires issuers to read Bond documents and correct untrue statements. Using a financial advisor who has an obligation to represent only your interests throughout the bond issue process better ensures accurate bond documents and a successful financing that can withstand the IRS review.

For more information, contact Beth Ruyle at 630/355-6100.

Illinois Home Rule: A 30 year assessment

Northern Illinois University Center for Government Studies

With Illinois now completing 30 years of home rule experience, the time is appropriate to undertake a comprehensive assessment of Illinois' experience with home rule. Such is the task of this article, continued from two previous issues.

What is legislative preemption and how has it worked?

Recognizing that there would be overlaps between state and local governments in the exercise of power, the Illinois constitution gave the Illinois General Assembly the authority to preempt or take away home rule powers by a 3/5ths vote of both houses or to provide for the exclusive state exercise of a power by a simple majority vote of both houses. These provisions give the legislature broad leeway to reduce home rule powers. But, while the Assembly has used its preemption powers to deal with specific issues, it has not seriously eroded the home rule authority set forth in the constitution.

In some respects, the legislature has been supportive of home rule power. It has, for example, stipulated by law that no legislative enactment shall be construed as restricting home rule power unless that enactment has "specific language limiting or denying" the home rule power.

Except for a series of bills restricting home rule authority to license or regulate specific occupations, the General Assembly did little in home rule's first 15 years to limit home rule powers, but such limitations have become more common in the last 15 years.

Legislative limitations can be grouped into several categories. In one category are laws like the Open Meetings Act and statutes containing state-wide rules governing public labor relations. These apply state-wide principles of good government to home rule units. A second category has clarified the state's exclusive role in regulating certain businesses and activities. For instance, to reduce drunk driving accidents, the legislature took away home rule powers to set minimum ages for the purchase of alcoholic beverages, but it also eliminated particular drinking age problems which had faced communities with college campuses.

Third, the legislature has established exclusive state authority over certain personnel policies in local government. Again, the legislature has protected the obvious benefits that stem from uniform state-wide practices, such as state-wide municipal employee retirement programs, in this field.

Has the legislature preempted any home rule tax powers?

The final category is legislative action taken to limit home rule tax powers. The legislature imposed a referendum requirement on the use of a real estate transfer tax, effectively limiting further use of the tax. It also eliminated home rule authority to impose local sales taxes. In the latter instance, however, it authorized home rule units to raise the rate of the local portion of the state sales tax levy. Thus, while limiting home rule power and flexibility, the legislature protected home rule access to additional revenues from the use of the sales tax (called the retail occupation tax in Illinois law).

Perhaps most important is what the legislature has not done. It has not authorized local use of an income tax; it has not imposed a limit on real estate taxes levied with home rule powers; and it has not imposed limits on borrowing and indebtedness by home rule units. Furthermore, the legislature has exempted home rule units from complying with tax caps recently imposed on the annual rate of increase in local property taxes.

In the last ten years, the legislature also initiated the practice of "partial exemptions"—imposing obligations or denying powers to some but not all

home rule units. To date, partial exemption laws have treated Chicago differently than other home rule units. This practice weakens home rule by splitting the block of legislators who represent the interests of home rule governments in the legislature. The result has been preemptions of home rule powers that local governments have been unable to prevent.

How has judicial review affected home rule powers?

Specific uses of home rule powers have often been challenged in the courts which, in turn, have frequently but not always upheld a liberal interpretation of home rule powers. For example, besides the Morton Grove handgun ordinance, the courts have upheld: the sale of general obligation bonds without a referendum (*Kanellos v County of Cook*, 1972); a home rule ordinance that authorizes actions contrary to state statutes (*Rozner v Korshak*, 1973), and a home rule ordinance that legislates concurrently with the state on environmental matters (*Chicago v Pollution Control Board*, 1974).

But the courts have also been willing to constrain home rule uses it views as excessive. It refused, for example, to enforce a Des Plaines noise pollution ordinance against a railroad, holding that noise pollution was a matter requiring regional or state-wide

rather than local regulation (*Des Plaines v Chicago & Northwestern Ry.*, 1976). It struck down ordinances altering the statutory appointment powers of municipal officials, (*Pechous v Slawko*, 1976), and an ordinance imposing a local fee on filing cases in civil court (*Ampersand v Finley*, 1975).

The courts have treated the use of home rule taxing powers in a similar manner. They have: upheld home rule wheel taxes (*Gilligan v Korzen*, 1974), upheld Chicago's employers' expense tax (*Paper Supply v Chicago*, 1974), and approved a home rule admissions tax (*Cicero v Fox Valley Trotting Club*, 1976; *Kerasotes Rialto Theatre v Peoria*, 1979), but they struck down home rule utility tax levies which exceeded statutory rate limits (*Waukegan Community Unit School District v Waukegan*, 1983).

The courts thus have demonstrated that they will constrain home rule actions they deem to be beyond the scope of constitutional and statutory restrictions.

As the body of case law regarding home rule has grown, the courts have tended to reaffirm the

precedents set in the early years. For instance, the courts reaffirmed, in 1998, that, despite ordinances to the contrary, home rule municipalities have a duty to bargain collectively with employee unions (*Public Labor Council v Cicero*, 1998); and they reaffirmed the principle that implied preemption is not sufficient to deny home rule communities the power to regulate matters of local affairs (*Bolingbrook v Citizens Utility Co*, 1994; *Barrington Police Pension Fund v Barrington Ethics Board*, 1997). The Supreme Court has also upheld partial preemption (*Nevitt v Langfelder*, 1993).

So what does all of this mean for Illinois' home rule system?

All of this means that the home rule system adopted in Illinois as part of the state's 1970 constitution has demonstrated after 30 years, that it is a workable system for empowering local governments. Illinois home rule has served, and continues to serve over seven million people in 148 local governments. It gives residents in non-home rule counties, cities, and villages additional options when searching for new ways to solve community problems.

Illinois GFOA and Wisconsin GFOA team up to bring you Paul Glick in Budgeting and MD & A preparation...

Plan on being in Lake Geneva, Wisc. May 16 and 17, 2002

Accounting software & GASB 34

by Scott Walker, BKD Technologies

One key area to consider when implementing GASB 34 is its effect on specific accounting software functions. The new reporting model addresses significant issues that may not be included in standard governmental accounting software packages. Your accounting software should, at the least, be able to

- ✓ Produce financial reports using three basis of accounting: full accrual, modified accrual and cash basis;
- ✓ Record, value and depreciate fixed assets;
- ✓ Record, value and depreciate infrastructure assets;
- ✓ Allocate revenues across specific programs;
- ✓ Separate governmental fund financial statement reporting into segregated sections of significant funds and all other funds;
- ✓ Report original and final amended budgets separately;
- ✓ Produce compilation data that can be used in the management discussion and analysis section; and
- ✓ Segregate government activities from enterprise-related activities

Functionality alone will not guarantee a successful implementation of the new reporting model. Consider the aspects of people, processes and technology. BKD Technologies recommends a structured project methodology that incorporates those aspects and includes a three-phased approach.

Phase I includes analysis of the gap between people, processes and technology and the requirements to comply with GASB 34.

Phase II includes building a plan to implement necessary changes resulting from the gap analysis.

Phase III includes implementation of changes necessary to conform technology to the new financial model and the development of processes necessary to capture and report data within the new model format.

For information, contact Julie Zemaitis, BKD, in Decatur at 217/429-2411.

Thanks...

Thanks to Jon Batek of Glen Ellyn for lending his Banking Services RFP for the IGFOA resource files. Contact igfoa@compuserve.com to borrow this file!

Workers Comp firing

Should you fire an employee who is off on Workers Comp if your doctor says the employee can return to work? Maybe not!

Reprinted from Ancel, Glink, Diamond, DiCianni & Rolek, PC

When an employee is off work due to a work-related injury, a dispute may arise over whether the employee can return to work. Usually, in such situations, medical professionals selected by the employee and the employer disagree over the employee's condition and prognosis.

The employee's treating physician, who usually has an ongoing relationship with the employee and direct knowledge of the employee's health history, is more likely to determine that an employee needs additional time to recover before returning to work. Under the Illinois Worker's Compensation Act, an employer cannot select the employee's treating physician, but the Act does permit employers to have the injured employee examined by a physician of the employer's choice, known as an independent medical examiner (an "IME").

Employers will generally select a physician who specializes in treating the employee's type of injury and who understands the employer's priority to get the employee back to work. These doctors often provide assessments of the employee's condition which conflict with the treating physician's opinion.

When an employer receives an IME report that

indicates the employee is capable of doing the job, the employer usually will require the employee to return to work on a certain date or face termination of temporary total disability benefits and possible termination of employment.

In the past, when disputes of this nature have arisen, employers believed that the IME's opinion protected them from liability for damages or penalties. However, a recent appellate court case, *Hollowell v. Wilder Corporation of Delaware*, 318 Ill.App.3d 984 (5th Dist. 2001), shatters that belief.

In *Hollowell*, the employee sustained a back injury so severe that he had to go to the emergency room. He subsequently remained in the hospital for several days. He did not return to work for three weeks and then only returned under physical-ordered restrictions. Eventually, the employee's condition worsened and he started missing time under his treating doctor's orders. At the employer's request, an independent medical examination was conducted. The examining doctor found the employee could return to work immediately. Armed with this opinion, the employee's boss went to the employee's home and ordered him to return to work the next day.

The employee did not return to work based upon his treating doctor's orders and was terminated. The employee alleged he was fired in retaliation for his exercising his rights under the Illinois Worker's Compensation Act. At trial, the employee was awarded both compensatory and punitive damages. The employer appealed the case arguing that punitive damages were unwarranted because of the IME. The appellate court disagreed, finding that an employer "could not rely on one physician's favorable diagnosis while at the same time dismissing another physician's unfavorable diagnosis."

Based upon this case, any employer who discharges an employee with a disputed medical condition does so at the employer's own peril and may face additional compensation liability and possible penalties under the Act. In addition, the employer may have to defend a retaliatory discharge action

with its potential for both compensatory and punitive damages. In order for an employer to discharge an employee when there is a dispute between an independent medical examiner and an employee's treating physician, there must be some evidence of fraud on the employee's part, or some evidence the employee is lazy or malingering.

Obviously, an employer can continue to rely on IME reports to determine whether to continue temporary total disability compensation. However, any employer who wants to fire an employee who refuses to return to work after having suffered a worker's compensation injury better have more evidence to support that decision beyond an IME predicated upon an assessment by a doctor who only met with the employee for a short period of time.

For more information on this topic, contact Rob Bush at 312-782-7606.

Fall 2001 Mentor Program matches

Mentor

Fran Thomas
Richard Schnuer
Kim Schiller
Brian Barnes
Sue Stanish
Kathy Booth
Julie O'Brien
Greg Peters

Protege

Donald Webb
Sharon Weilmuenster
Debra Wilburn
Steve Drazner
Kevin Wachtel
Pamela Riley
Karen Feeney
Sue Scarpiniti

GASB 34: Capital Asset Accounting requirements

By Vicki Hellenbrand, CPA, Senior Manager, Virchow, Krause & Company, LLP

One in a continuing series discussing GASB 34, this article focuses on implementation planning.

Capital asset accounting under Governmental Accounting Standards Board Statement No. 34 is causing concern for many local governments. GASB 34 requires that all capital assets be reported in the government-wide financial statements. Capital assets include tangible or intangible assets used in operations with an initial useful life exceeding one year, such as fixed assets currently recorded and infrastructure assets. The requirements for capital asset accounting include:

- General capital assets, including accumulated depreciation, must be reported at the GASB 34 effective date. Examples of general capital assets include land, buildings, building improvements, furniture, equipment, vehicles and machinery.
- Infrastructure assets must be reported on a prospective basis at the GASB 34 effective date. Infrastructure assets include long-lived capital assets that are normally stationary, such as roads, curbs and gutters, bridges and dams, land right of ways, and stormwater

systems. Infrastructure assets must either be depreciated similar to general capital assets or reported using the modified approach.

- Retroactive reporting of infrastructure assets is encouraged at the GASB 34 effective date, but this reporting can be delayed up to four years for Phase 1 and 2 governments. It is recommended, but not required, for Phase 3 governments. Governments required to report retroactively must report assets to at least 1980.

In this article, our focus is on the steps needed to establish an accounting requirements implementation plan. This strategic planning process is necessary if governments are to make educated decisions related to the new accounting options and obtain the necessary data to comply. We recommend the following steps be completed before any major efforts related to data collection begin:

1. Select a GASB 34 champion and capital asset team leader to be the point person for your government.
2. Research capital asset accounting options available to your government.
3. Determine your capital asset accounting

goals. These may range from creating a management tool to simply meeting the minimum reporting requirements.

4. Determine the status of your current capital asset records and other necessary records.
5. Determine the effect on your government-wide financial statements if retroactive reporting is omitted or delayed, and whether this makes it worthwhile to consider optional or early implementation of the retroactive infrastructure reporting guidelines.
6. Study the modified approach for infrastructure asset requirements and determine if your government would benefit from that accounting option.

Assign a team leader to begin the process of developing your government's modified approach plan.

7. Determine depreciation methods, asset classifications and asset lives for all depreciable accounts.

Each governmental unit is unique—the capital asset plan you create should be tailored to your specific needs. Because the capital asset accounting requirements have a direct and substantial impact on your financial statements, your auditor should be involved in the process of determining your plan.

Virchow, Krause & Co. LLP is currently assisting several communities with the planning process as well as early implementation of this standard. Vicki Hellenbrand can be reached at vhellenbrand@virchowkrause.com or at 800/362-7301.

Capital Markets 2002 **a look forward at Capital Markets 2002**

a one-day seminar designed for municipal and capital market representatives

Friday, March 1, 2002 • 8 am to 4 pm

University Club of Chicago
76 E. Monroe Street, Chicago

Co-sponsored by the Illinois Development Finance Authority and College of Business, U of I-Chicago

Complete conference information and registration at www.idfa.com or phone Diane Zaubi at 312/496-1135



Illinois
Government
Finance Officers
Association

**P.O. Box 1088
Lombard, IL 60148**

**ADDRESS SERVICE
REQUESTED**

*Priorities for 2002...
Events list for 2002...
GASB-related opinions...
Should you fire workers' comp recipients...
and more!*

The Illinois Government Finance Officers Association Leader is published by IGFOA, P.O. Box 1088, Lombard, IL 60148; phone 630-629-1460, Marianne Shank, editor.

The information and opinions herein are obtained from sources believed to be reliable, but IGFOA makes no guarantee of accuracy and completeness.

Opinions, forecasts and recommendations are offered by individuals and do not represent official IGFOA policy positions.

The publisher and author specifically disclaim any liability for loss or risk incurred as a consequence of the use and application, either directly or indirectly, of any advice or information presented herein.

Welcome, new members

Thomas L. Chapman, Legg Mason Wood Walker, Inc.

Rich Frampton, Illinois Development Finance Authority

Jerry N. Iwachiw, Information Development Consultants, Inc.

Eleanor Lipinski, Legg Mason Wood Walker, Inc.

Diana Abouchar McCluskey, Village of Palatine

John E. Morris, City of Naperville

Maureen Nugent, Plainfield Township Park District

Mario Poretto, First Nonprofit Companies

James Taylor, Carpentier, Mitchell, Goddard & Co.

Linda P. Thompson, TCF Bank

David J. Veurink, TCF Bank

Steven F. Warnecke, Waukegan Park District

***Save
this Date!***

September 21-24

***IGFOA Annual
Conference
Collinsville***

