**SCHOOL DISTRICT**

**PUBLIC INDEBTEDNESS**

**LEGAL COMPLIANCE AUDIT GUIDE**

**PUBLIC INDEBTEDNESS**

Introduction

The power of a government unit to incur indebtedness is governed by statutory and home rule charter provisions. Statutory provisions vary depending on the type of government unit involved.

Each type of borrowing instrument may also be governed by different statutes. Therefore, it is essential that the auditor examine the specific statutes or charter provisions that are applicable to the particular borrowing transaction.

This questionnaire is intended only to highlight certain general provisions of the Minnesota statutes relating to indebtedness and is not intended to cover all questions that may be pertinent.

Which of the following types of borrowing has the municipality been involved with during the past year? Please check all forms of borrowing that have either been issued or redeemed during the past year or which are currently outstanding at year‑end.

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|  | **During the Year** | |
| **LONG-TERM BORROWING:** | **Issued** | **Outstanding** |
| General Obligation Bonds (Minn. Stat. ch. 475) |  |  |
| Revenue Bonds (Minn. Stat. ch. 475) |  |  |
| General Obligation Revenue Bonds (Minn. Stat. ch. 475) |  |  |

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|  | **During the Year** | |
| **SHORT-TERM BORROWING:** | **Issued** | **Outstanding** |
| Aid Anticipation Certificates (Minn. Stat. §§ 126C.52, 126C.53) |  |  |
| Tax Anticipation Certificates (Minn. Stat. §§ 126C.52, 126C.53) |  |  |
| Orders Not Paid for Want of Funds (Minn. Stat. § 123B.12) |  |  |
| Emergency Certificates of Indebtedness (Minn. Stat. § 475.754) |  |  |
| Certificates of Indebtedness (Minn. Stat. § 123B.61) |  |  |
| Reverse Repurchase Agreements/Securities Lending Agreements (Minn.  Stat. § 118A.05) |  |  |
| Lease Purchase Agreements (Minn. Stat. § 465.71) |  |  |

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| Part I. Answer the following questions with respect to all types of **indebtedness that were issued during this fiscal year:** | | | | | | | | | |
| § 475.51, et. seq. | A. | Was school board approval obtained for new debt issued during this fiscal year? | | | | |  |  |  |
| § 475.58, subd. 2 | B. | For debt funding or refunding obligations issued under Minn. Stat. § 475.58, subd. 2: | | | | |  |  |  |
|  |  | 1. | | Did the entity’s outstanding gross debt exceed 1.62% of its estimated market value? | | |  |  |  |
|  |  | 2. | | Was a listing of the indebtedness to be funded or refunded prepared by the treasurer and recording officer and filed in the office of the recording officer? | | |  |  |  |
| § 475.58  subd. 2 |  | 3. | | Was the resolution, stating the amount of bonds to be issued and referring to the listing of indebtedness to be funded or refunded, published in the legal newspaper once each week for two successive weeks? | | |  |  |  |
|  |  | Note: Refunding obligations may be authorized by Minn. Stat. § 475.67 for which the notice required here is not applicable. | | | | |  |  |  |
|  | C. | Considering the issuance of the obligations, will the net debt (as defined in Minn. Stat. § 475.51, subd. 4) of the school district not exceed the net debt limit as is applicable below: | | | | |  |  |  |
| § 475.53,  subd. 4 |  |  | | For all school districts does the net debt not exceed 15 percent of the estimated market value of all taxable property within the district? (Market value is the total value of the district as certified by the county auditor or, where applicable, this value divided by a ratio certified by the Commissioner of Revenue.) | | |  |  |  |
| § 475.58,  subd. 1 | D. | Was the request to issue the obligations submitted for approval at an election? | | | | |  |  |  |
| § 475.58,  subd. 4 |  | 1. | | If so, were the proceeds only spent: | | |  |  |  |
|  |  |  | | a. | | (1) for the purposes stated in the ballot language; or (2) to pay, redeem, or defease obligations and interest, penalties, premiums, and costs of issuance of the obligations; and |  |  |  |
|  |  |  | | b. | | were none of the proceeds spent for a different purpose or for an expansion of the original purpose without approval by a majority of the electors voting on the question of changing or expanding the purpose of the obligations? |  |  |  |
| § 475.58,  subd. 1 |  | 2. | If not, was this issuance exempt from approval by the electors for one of the following reasons: | | | |  |  |  |
|  |  |  | It represented an obligation characterized as: | | | |  |  |  |
|  |  |  | a. | | any unpaid judgment against the school district; | |  |  |  |
|  |  |  | b. | | refunding obligations; | |  |  |  |

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|  |  | |  | c. | an improvement or improvement program, the obligation for which is payable wholly or partly from the proceeds of special assessments levied upon property specially benefited by the improvement or by an improvement within the improvement program or from tax increments, including obligations which are the general obligations of the school district, if the school district is entitled to reimbursement in whole or in part from the proceeds of such special assessments or tax increments and not less than 20 percent of the cost of the improvement or the improvement program is to be assessed against benefited property or is to be paid from the proceeds of federal grant funds or a combination thereof, or is estimated to be received from tax increments. |  |  |  |
|  |  | |  | d. | an obligation which is payable wholly from the income of revenue producing conveniences; |  |  |  |
|  |  | |  | e. | an obligation exempt from electoral approval by the terms of the home rule charter; |  |  |  |
|  |  | |  | f. | exempt under the provisions of a law which permits the issuance of obligations of a school district without an election; |  |  |  |
|  |  | |  | g. | an obligation to fund pension or retirement fund liabilities of a school district pursuant to Minn. Stat. § 475.52, subd. 6; |  |  |  |
|  |  | |  | h. | issued under Minn. Stat. §§ 469.1813 to 469.1815 (property tax abatement authority bonds), if the bonds are not used for a purpose prohibited under § 469.176, subd. 4g, para. (b); |  |  |  |
| § 475.58,  subd. 3a |  | |  | i. | issued to refund existing debt of an indoor ice arena that is used predominantly for youth athletic activity as provided in Minn. Stat. § 475.58, subd. 3a; |  |  |  |
| § 475.58,  subd. 3b |  |  | | j. | issued for street reconstruction and bituminous overlays, and were the conditions of Minn. Stat. § 471.58, subd. 3b met? |  |  |  |
| § 475.58,  subd. 1a | E. | If the issuance of obligations for the same purpose and in the same amount has previously been proposed to the electors and voted down, did this election take place at least 180 days after the first election? | | | |  |  |  |
|  | F. | If this is the third request for the same purpose and in the same amount, did this election take place at least one year after the second election? | | | |  |  |  |
| § 475.60,  subds. 2 & 3 | G. | Was the sale of these obligations in accordance with the public notice and public sale requirements of Minnesota statutes? | | | |  |  |  |
| § 475.60,  subd. 2 |  | 1. | | If no, was the sale exempt from public sale due to any of the following reasons: | |  |  |  |
|  |  |  | | a. | obligations issued under the provisions of a home rule charter, or under a law specifically authorizing a different method of sale or authorizing them to be issued in such a manner as the school board may determine; |  |  |  |
|  |  |  | | b. | obligations sold by the school district in an amount not exceeding the total sum of $1,200,000 in any 12‑month period; |  |  |  |

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|  |  | |  | | c. | obligations sold to any board, department, or agency of the United States of America or the State of Minnesota, in accordance with the rules of the board, department, or agency; | |  | |  |  |
|  |  | |  | | d. | obligations issued to fund pension and retirement fund liabilities under Minn. Stat. § 475.52, subd. 6; obligations issued with tender options under Minn. Stat. § 475.54, subd. 5a; crossover refunding referred to in Minn. Stat. § 475.67, subd. 13; and any issue of obligations comprised in whole or in part of obligations bearing interest at a rate or rates which vary periodically referred to in Minn. Stat. § 475.56; | |  | |  |  |
|  |  | |  | | e. | obligations to be issued for a purpose, in a manner, and upon terms and conditions authorized by law, if the school board, on the advice of bond counsel or special tax counsel, determines that interest on the obligations cannot be represented to be excluded from gross income for purposes of federal income taxation; | |  | |  |  |
|  |  | |  | | f. | obligations issued in the form of an installment purchase contract, lease purchase agreement, or other similar agreement; | |  | |  |  |
|  |  | |  | | g. | obligations sold under a bond reinvestment program; or | |  | |  |  |
|  |  | |  | | h. | obligations which the school board determines shall be sold by private negotiation if the school district has retained an independent municipal adviser? | |  | |  |  |
| § 475.55,  subd. 1 | H. | | Were all obligations signed manually by one officer of the school district or by a designated authenticating agent? | | | | |  | |  |  |
| § 475.65 | I. | | Did the treasurer account for the receipt and disbursement of the proceeds of the issue, for the use named in the resolution, in a separate fund or account in the official financial records of the school district? | | | | |  | |  |  |
| § 475.61,  subd. 2, &  § 475.62 | J. | | Was the appropriate information reported to the county auditor for all new issues of indebtedness so that the county register could be updated? (Information to include: the purpose and date of the issue; the number, denomination, interest rate, and maturity date of each bond; place and time of payment of principal and interest; and the amount of the tax levied for the payment thereof.) | | | | |  | |  |  |
| § 471.69 | K. | Limitation on Outstanding Warrants and Orders | | | | | |  |  | |  |
|  |  | 1. | | Did the school district, county, statutory city, or town not contract debt, or issue any warrant or order in anticipation of taxes levied or to be levied, in excess of: | | | |  |  | |  |
|  |  |  | | - | | | the average amount actually received from tax collections for the last three years, plus |  |  | |  |
|  |  |  | | - | | | ten percent? |  |  | |  |
|  | The Minn. Stat. § 471.69 limitations do not apply to government entities wherein the mineral net tax capacity exceeds 25 percent of its net tax capacity. Nor does it apply to a school district in a city of the first class, which constitutes a single school district. | | | | | | |  |  | |  |

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| **Part II. Answer only the questions below that relate to the specific types of**  **debt that were issued during the current fiscal year:** | | | | | | |
| § 475.61,  subd. 1 | A. | GENERAL OBLIGATION BONDS: | |  |  |  |
|  |  | 1. | Did the school district, prior to delivery of the obligations, levy by resolution a direct general ad valorem tax upon all taxable property to be spread each year of the obligations? |  |  |  |
|  |  | 2. | For all school districts, were the levies specified and such that if collected in full they, together with estimated collection of other revenues pledged for the payment of the obligations, will produce five percent in excess of the amount needed to meet the principal and interest payments on the obligations, rounded to the nearest dollar, when due? |  |  |  |
| § 126C.53 | B. | AID ANTICIPATION CERTIFICATES: (This form of borrowing is available only to school districts) | |  |  |  |
|  |  | 1. | Was the approving resolution passed by a two-thirds vote of the board membership? (Two-thirds of a quorum is not sufficient.) |  |  |  |
| § 126C.54 |  | 2. | Do the aid anticipation certificates mature no later than three months after the close of the school year in which the certificates were issued? |  |  |  |
|  |  | 3. | Do the aid anticipation certificates mature no later than the estimated date of receipt of the aids so anticipated? |  |  |  |
| § 126C.52,  subds. 2, 3 |  | 4. | Was the amount borrowed not in excess of 75 percent of the aids receivable by the school district in the fiscal year as estimated and certified by the Commissioner of Education?  **[Note: For intermediate school districts, this computation may include membership fees/tuition from member school districts.]** |  |  |  |
| §§ 126C.52,  126C.53, &  126C.54 | C. | TAX ANTICIPATION CERTIFICATES: (Statutes relating to school districts only) | |  |  |  |
|  |  | 1. | Was the approving resolution passed by a two-thirds vote of the board membership? (Two-thirds of a quorum is not sufficient.) |  |  |  |
|  |  | 2. | Do tax anticipation certificates mature no later than three months after the close of the calendar year in which the certificates were issued? |  |  |  |
|  |  | 3. | Do tax anticipation certificates mature no later than the estimated date of receipt in full of the taxes anticipated? |  |  |  |
|  |  | 4. | Is the aggregate amount borrowed not more than 75 percent of such taxes which are due and payable in the calendar year, and as to which taxes no penalty for nonpayment or delinquency has attached? |  |  |  |

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| § 123B.61 | D. | | CERTIFICATES OF INDEBTEDNESS OR CAPITAL NOTES: (School district - purchase of certain equipment) | | | | |  | |  | |  |
|  |  | | 1. | | Were the notes or certificates issued to: | | |  | |  | |  |
|  |  | |  | | a. | purchase vehicles, computers, telephone systems, cable equipment, photocopy and office equipment, technological equipment for instruction, or other capital equipment having an expected useful life at least as long as the terms of the certificates or notes; or | |  | |  | |  |
|  |  | |  | | b. | purchase computer hardware and software, without regard to its expected useful life, together with application development services and training related to the use of the computer; or | |  | |  | |  |
|  |  | |  | | c. | prepay special assessments? | |  | |  | |  |
|  |  | | 2. | | Were the notes or certificates payable in ten years or less or, if issued to prepay special assessments, were they payable in 20 years or less? | | |  | |  | |  |
|  |  | | 3. | | Did the sum of the tax levies under Minn. Stat. § 123B.61 and § 123B.62 for each year not exceed the lesser of (1) the district’s total operating capital revenue, or (2) the sum of the district’s levy in the general and community service funds, excluding the adjustments under Minn. Stat. § 123B.61 for the year preceding the year in which the initial debt service levies are certified? | | |  | |  | |  |
|  |  | | Was the district’s general fund levy for each year reduced by the sum of (1) the amount of the tax levies for debt service certified for each year for payment of the principal and interest on the certificates or notes issued under Minn. Stat. § 123B.61 as required by Minn. Stat. § 475.61, and (2) the amount of the tax levies for debt service certified for each year for payment of the principal and interest on bonds issued under § 123B.62, and (3) any excess amount in the debt redemption fund used to retire bonds, certificates, or notes issued under Minn. Stat. §§ 123B.61, .62 after April 1, 1997, other than amounts used to pay capitalized interest? | | | | |  | |  | |  |
|  |  | | 4. | | If the district’s general fund levy is less than the reduction, was the balance deducted first from the district’s community service fund levy, and next from the district’s general fund or community service fund levies for the following year? | | |  | |  | |  |
|  |  | | 5. | | If the district used an excess amount in the debt redemption fund to retire the certificates or notes, did the district report this amount to the Commissioner of Education by July 15 of the following year? | | |  | |  | |  |
|  |  | | 6. | | If the district used an excess amount in the debt redemption fund to retire the certificates or notes, did the district not have an outstanding capital loan under Minn. Stat. § 126C.69? | | |  | |  | |  |
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| **Part III. Answer the following questions for each type of issue that was**  **outstanding at some point during the fiscal year:** | | | | | | | | | | | | |
| § 475.61,  subd. 1 | | A. | | For all school districts, was the certified levy specified and such that it, together with estimated collections of other revenues pledged for the payment of the obligations, will produce five percent in excess of the amount needed to meet the principal and interest payments when due? | | |  | |  | |  | |

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|  |  | | 1. | | If not, did the board adopt a resolution levying another amount of such taxes? | | |  | |  | |  |
| § 475.61,  subd. 3 | B. | | For school districts, did the district report to the Commissioner of Education, the district’s debt redemption fund balance as of June 30 of the prior year attributable to refunding of existing bonds; and | | | | |  | |  | |  |
|  |  | | 1. | | Did the commissioner reduce the levies; or | | |  | |  | |  |
|  |  | | 2. | | Did the school board, with the commissioner’s approval, retain all or part of the excess balance? | | |  | |  | |  |
| § 475.61,  subd. 4 | C. | | 1. | | For obligations authorized before July 1, 2005, was the amount of any surplus remaining in the debt redemption fund of a school district when the obligations and interest thereon are paid used to reduce the general fund levies or state aids? | | |  | |  | |  |
|  |  | | 2. | | For obligations authorized on July 1, 2005 or thereafter, was the amount of any surplus remaining in the debt service fund of a school district when the obligations and interest thereon are paid in full (a) appropriated to any other general purpose without any reductions in state aid or levies or (b) used to reduce the general fund levies or state aid? | | |  | |  | |  |
| § 471.70 | D. | | Has the principal accounting officer of the school district reported, on or before February 1st of each year, to the auditor of each county in which the municipality is situated, the total amount of outstanding obligations and the purpose for which issued, as of December 31st of the preceding year? | | | | |  | |  | |  |
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| **Part IV. Audit Conclusion** | | | | | | | | | | | | |
| The auditor must state a conclusion--based on this questionnaire and any other audit procedures performed--whether the client has complied with the legal provisions reviewed relating to public indebtedness. | | | | | | | | | | | | |
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| Conclusion: | |  | |  | |  |  | |  | |  | |
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