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STATE OF NEBRASKA
OFFICIAL
APR 3 1992
DEPT. OF JUSTICE

DATE: April 1, 1992

SUBJECT: Accounting Year End for Annual Audit of Municipalities and Municipal Utilities

REQUESTED BY: John Breslow
Auditor of Public Accounts

WRITTEN BY: Don Stenberg, Attorney General
Fredrick F. Neid, Assistant Attorney General

You have asked our opinion concerning the appropriate accounting year end for an audit report of a municipal utility required to be filed with the Auditor of Public Accounts. At the outset, we point out that relevant statutes do not address the precise question and we find no case authority relating to the specific issue of fiscal year end requirements for purposes of audit reporting for municipal utilities.

The brief facts that have been presented reflect that the City of Hastings, Nebraska, provides certain utility services to the residents of the city through the Board of Public Works. For purposes of this opinion it is presumed that the utility services are owned and operated by the City; and, that the utility services constitute subsidiary operations of the City. The City Utilities Department uses a calendar year end and the City of Hastings utilizes a fiscal year end of July 31 for accounting purposes. Historically, the Utilities Department and the City submit separate audit reports with the different year end periods for filing with the Auditor of Public Accounts.

In light of these facts you inquire whether the Utilities Department is required to file an audit for the fiscal period ending July 31 of each year.

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Neb.Rev.Stat. § 16-701 (Reissue 1987) states that "[t]he fiscal year of each city shall commence on the first day of August." The issue presented is whether a subsidiary operation of a city (municipal utility) also is required to utilize a fiscal year of July 31 based on this statutory provision. You have stated that it is the position of the Auditor of Public Accounts that "all municipal activities must submit an audit for the fiscal period ending July 31." We generally concur with this position since it is the duty of the Auditor of Public Accounts to devise standards and requirements for audit and other reports of political subdivisions required to be filed with that office.

Neb.Rev.Stat. § 84-304.01 (Reissue 1987) in part states:

> It shall be the duty of the Auditor of Public Accounts to establish, by rule and regulation, minimum standards applicable to all audit, financial, or accounting reports or copies of such reports required to be filed with the Auditor of Public Accounts by any political subdivision of the State of Nebraska. Such minimum standards shall be in accordance with sound accounting principles and designed to bring about uniformity in the content and form of such reports within the same type of political subdivision. . . .

(Emphasis added).

It is clearly the responsibility of the Auditor of Public Accounts to devise standards and the purpose of this requirement is expressed in the statute. That is, to achieve uniformity in reports filed with the Office of the Auditor of Public Accounts. From the information provided, it appears that the Utilities Department of the City is the only City of the First Class reporting to the Auditor of Public Accounts on a year end other than July 31. Accordingly, the position of the Auditor of Public Accounts is consistent with statutory purposes and the audit of the municipal utility is appropriately required to have a fiscal year end of July 31.

Further, significant consideration by the courts is given to administrative interpretation by the agency or officer charged with implementation of the statute. The practical construction of a statute by officers or administrative bodies charged by law with its enforcement is entitled to weight in interpreting that law. Belitz v. City of Omaha, 172 Neb. 36, 108 N.W.2d 421 (1961); Vulcraft v. Karnes, 229 Neb. 676, 428 N.W.2d 505 (1988).

In summary, we conclude that it is the statutory responsibility of the Auditor of Public Accounts to establish minimum standards for audit reports required to be filed by political subdivisions. Further, we believe that the application of section 16-701 by the Auditor in requiring a fiscal year end of July 31 for audit reports of municipal utilities is consistent with legislatively expressed purposes.

Sincerely yours,

DON STENBERG
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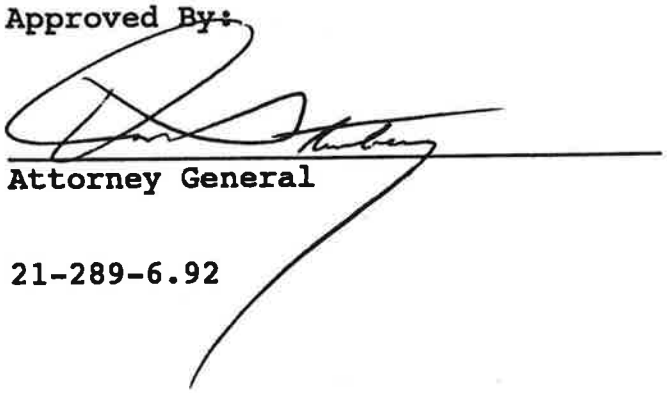
Approved By:



Attorney General

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