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Hot Topic: Local Government Electronic Technology Act of 2009

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June 1, 2009

LOCAL GOVERNMENT ELECTRONIC TECHNOLOGY ACT OF 2009

Josh Jones, Legal Consultant

Public Chapter No. 96 enacts the Local Government Electronic Technology Act of 2009. This act requires local governments to file a plan with the office of the Comptroller of the Treasury before implementing any new electronic technology with a financial component. The stated intent is to encourage local governments to use their existing technological resources before purchasing new and likely costly systems. The burden of justifying new expenses to the comptroller presumably will discourage new purchases unless absolutely necessary.

Specifically, the bill requires a plan to be filed if the new technology is “associated with the disbursement of public funds; purchasing; or the sale of local government assets; or the collection of various taxes, fines, fees or payments.” This rather broad definition covers a myriad of new technologies, including credit card processing systems, computerized billing systems, and accounting systems with check processing capability, and it likely encompasses all financial functions of a municipality.

Upon determining that the new technology meets the definition, the municipality must then file a plan with the comptroller at least

30 days prior to implementation. There is no requirement that the comptroller’s office approve the plan. The plan must include the following information:

1. A description of the business process and the technology to be used;
2. A description of the policies and procedures related to implementing the technology;
3. Documentation of internal controls; and
4. An estimation of the implementation costs and a statement as to whether the plan can be implemented with existing resources of the office or if additional resources are needed and prior approval has been given by the local governing body.

These requirements should pose little difficulty as each should be given full consideration before implementing a new technology, regardless of this legislative directive.

Oddly, the public chapter does not explicitly add to or amend language in any particular section of the Tennessee Code Annotated. Hence, it is unsure where these new provisions will be codified.

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Also notable in the bill is the lack of an enforcement mechanism or penalty for failure to comply. Seemingly, as the program is administered through the comptroller's office, that office will take some measure to ensure compliance. Whether this is done through the audit or another avenue remains to be seen.

This new requirement went into effect immediately upon the governor's signature on April 27, 2009. Hence, any new technology covered by this bill that your city purchases from that date forward must be preceded by a plan filed with the comptroller. If you have any questions, contact your MTAS municipal management consultant.

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