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ATTORNEY GENERAL OPINION NO. 81-231

James R. Cobler
Director of Accounts and Reports
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Re: State Departments; Public Officers, Employees --
Municipal Accounting Board -- Use of Generally
Accepted Accounting Principles

Synopsis: Community colleges are required to use the generally accepted accounting principles embodied in the chart of accounts specifically prescribed for community colleges under authority of K.S.A. 71-211, and may not exercise the authority granted by subsection (d) of K.S.A. 1980 Supp. 75-1120a (as amended by L. 1981, ch. 327, §1) to obtain a waiver of the use of such principles required by subsection (a) thereof.

A municipality may request and obtain a waiver of such requirements as they pertain to the preparation of financial statements and reports resulting from any audit of such municipality which is or will be conducted after July 1, 1981, the effective date of the 1981 amendment to K.S.A. 1980 Supp. 75-1120a.

Although the 1981 amendment to K.S.A. 1980 Supp. 75-1120a authorized a municipality to obtain a waiver of the requirements of subsection (a) thereof as to the use of generally accepted accounting principles, subsection (c) of that statute, regarding fixed asset records, operates as a limitation on such waiver authority. Accordingly, a municipality may not obtain a waiver of the use of generally accepted accounting principles, as they pertain to the preparation and maintenance of fixed asset records, after or so as to extend beyond January 1, 1982. Cited herein: K.S.A. 71-211, K.S.A. 1980

Supp. 75-1117, 75-1120, 75-1120a (as amended by
L. 1981, ch. 327, §1) 75-1121, 75-1122, 75-1124.

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Dear Mr. Cobler:

You have posed several questions regarding the proper interpretation of amendments made by the 1981 Legislature to K.S.A. 1980 Supp. 75-1120a. (See L. 1981, ch. 327, §1.) As amended, this statute reads as follows:

"(a) Except as otherwise provided in this section, the governing body of each municipality, as defined in K.S.A. 1980 Supp. 75-1117, shall utilize accounting procedures and fiscal procedures in the preparation of financial statements and financial reports that conform to generally accepted accounting principles as promulgated by the national committee on governmental accounting and the American institute of certified public accountants and adopted by rules and regulations of the municipal accounting board.

"(b) While still conforming with all other generally accepted accounting principles, the governing body of any municipality whose aggregate annual gross receipts are less than \$275,000 and who does not operate a utility shall not be required to maintain fixed asset records for buildings and land.

"(c) The director of accounts and reports shall waive the requirements of law relating to the preparation and maintenance of fixed asset records upon request for such waiver by the governing body of any municipality. The waiver shall be granted to the extent and for the period of time requested by the governing body, except that the waiver shall not extend beyond January 1, 1982.

"(d) The director of accounts and reports shall waive the requirements of subsection (a) upon request therefor by the governing body of any municipality. The waiver shall be granted to the extent requested by the governing body. Prior to requesting the waiver provided for in this subsection, the governing body, by resolution, annually shall make a finding that

financial statements and financial reports prepared in conformity with the requirements of subsection (a) are not relevant to the requirements of the cash basis and budget laws of this state and are of no significant value to the governing body or members of the general public of the municipality. No governing body of a municipality shall request the waiver or adopt the resolution authorized under this subsection if the provisions of revenue bond ordinances or resolutions or other ordinances or resolutions of the municipality require financial statements and financial reports to be prepared in conformity with the requirements of subsection (a). The governing body of any municipality which is granted a waiver under this subsection shall cause financial statements and financial reports of the municipality to be prepared on the basis of cash receipts and disbursements as adjusted to show compliance with the cash basis and budget laws of this state."

Before addressing your specific questions, we believe it appropriate to make several observations regarding this and other related statutes. First, we note that the provisions of 75-1120a are applicable to those local units of government specified by K.S.A. 1980 Supp. 75-1117 as being included within the definition of "municipality." Rather than set forth this statutory definition, suffice it to state that "municipality" includes substantially all municipal and quasi-municipal corporations, political subdivisions and taxing districts within the state.

By the provisions of K.S.A. 1980 Supp. 75-1120 and 75-1121, and the rules and regulations adopted by the director of accounts and reports pursuant to the latter, there is established a system of fiscal procedure, auditing, accounting and reporting for those municipalities required to have their accounts examined and audited at least once each year. Such municipalities are specified in K.S.A. 1980 Supp. 75-1122 as being every unified school district and "all other municipalities either having aggregate annual gross receipts in excess of two hundred seventy-five thousand dollars (\$275,000) or which has general obligation or revenue bonds outstanding in excess of two hundred seventy-five thousand dollars (\$275,000)." Under K.S.A. 1980 Supp. 75-1124, a copy of each audit report for any such municipality shall be filed with the director of accounts and reports within one year after the end of the audit period.

With this statutory scheme in mind, we also note that your inquiry is prompted by the provisions of subsection (d) of 75-1120a. The addition of this subsection was the only substantive amendment made to this statute during the preceding legislative session. The essence of these new provisions is set forth in the first sentence of this subsection, requiring the director of accounts and reports to waive the requirements of subsection (a) when so requested by the governing body of any municipality. Subsection (a) requires each municipality to "utilize accounting procedures and fiscal procedures in the preparation of financial statements and financial reports that conform to generally accepted accounting principles."

One of your concerns regarding the addition of subsection (d) to 75-1120a relates to community colleges, which are included in the definition of "municipality" in K.S.A. 1980 Supp. 75-1117. You state your concern as follows:

"Under K.S.A. 71-211 community colleges' revenue and expenditure classifications have been prescribed which are in accordance with generally accepted accounting principles. Is a community college that has elected the waiver permitted by the new subsection (d) . . . no longer required to follow the classification system prescribed by K.S.A. 71-211?"

K.S.A. 71-211 provides in pertinent part:

"(a) The director of accounts and reports, with the advice of the state board of education and the legislative educational planning committee, shall formulate, devise and prescribe a standardized and uniform chart of accounts for use by all community colleges. Such chart of accounts shall be compatible with the revenues and expenditures classification system developed by the national association of college and university business officers. The chart of accounts shall be adaptable to manual or automated systems, and use of such chart of accounts is hereby required for all community colleges."

As you have indicated, the revenues and expenditures classification system prescribed for community colleges under 71-211 is in accordance with generally accepted accounting principles, and the use thereof is required by this statute for all community colleges. However, by virtue of 75-1120a(d), a

community college apparently is authorized to obtain a waiver of the required use of generally accepted accounting principles in the preparation of financial statements and reports. Thus, the question arises as to which provisions should prevail, and determination thereof requires application of established rules of statutory construction, the cardinal canon of which is that the purpose and intent of the legislature shall govern when such can be ascertained from the statutes. Southeast Kansas Landowners Ass'n v. Kansas Turnpike Auth., 224 Kan. 357, 367 (1978). Furthermore, it is well established that statutes in pari materia should be construed together so as to harmonize their respective provisions, if reasonably possible to do so [Callaway v. City of Overland Park, 211 Kan. 646, 650 (1973)], and statutes need not be enacted at the same time in order to be regarded as being in pari materia. Clafin v. Walsh, 212 Kan. 1, 8 (1973). As noted in Marshall v. Marshall, 159 Kan. 602, 606 (1945):

"It is the function and duty of courts to reconcile apparent inconsistencies in laws to the end that all may be given full force and effect in their intended field and scope of operation. Whenever that reasonably can be done it never should be held that one law overturns or destroys another." (Citations omitted.)

Initially, it is to be observed that 75-1120a and 71-211 are to be regarded as statutes in pari materia. Both are concerned with the accounting principles to be utilized by the governmental entities subject to their respective provisions. On the one hand, 75-1120a imposes requirements on "municipalities," including community colleges, while 71-211 has application only to community colleges.

We also note that the authority granted to all "municipalities" by subsection (d) of 75-1120a does not by its express terms permit waiver of the required use of generally accepted accounting principles; it permits only the waiver of the requirements of subsection (a) of 75-1120a. While this latter subsection requires all "municipalities" to use generally accepted accounting principles, with such requirement having apparent application to community colleges, 71-211 requires the use of a chart of accounts that does not necessarily, by the terms of the statute, have to utilize generally accepted accounting principles. Rather, 71-211 requires community colleges to use the chart of accounts which the director of accounts and reports "shall formulate, devise and prescribe" so as to be "compatible with the revenues and expenditures classification system developed by the national association of college and university business officers."

Thus, there is a disparity between the requirements of these statutory provisions, and such disparity existed prior to the addition of subsection (d) to 75-1120a in 1981. Of course, as a practical matter, no conflict in fact exists, because the chart of accounts formulated for community colleges under 71-211 utilizes generally accepted accounting principles.

From the foregoing observations, it is apparent that the legislature has chosen to treat specially the matter of the accounting system and procedures utilized by community colleges, whereas it has provided general treatment of this subject for other municipalities. Accordingly, we find pertinent here

"the general rule of statutory construction that when there exist two statutes, one of which has a general application and the other a specific application to a subject, the specific statute is controlling. The rule is stated in Board of Park Commissioners v. Board of County Commissioners, 206 Kan. 438, 480 P. 2d 81, as follows:

"'General and special statutes should be read together and harmonized where possible, but to the extent of repugnancy between them the special statute will prevail over the general unless it appears the legislature intended to make the general act controlling.' (Syl. ¶1.)

"Our cases are legion which support this general proposition.

"We should first consider what is meant by the terms general and special statutes or laws. 82 C.J.S. Statutes §163 distinguishes between a general and a special law as follows:

"'A statute which relates to persons or things as a class is a general law, while a statute which relates to particular persons or things of a class is special.' (p. 277.)

"This definition is supported in the note by case law from a number of jurisdictions. The definition is simple and clear and we are inclined to accept it." Seltmann v. Board of County Commissioners, 212 Kan. 805, 810, 811 (1973).

From the above, we think it abundantly clear that 75-1120a is a general law, while 71-211 is special. Thus, application of the principles enunciated in Seltmann regarding general and special laws would dictate that, in the event of an irreconcilable conflict between 75-1120a and 71-211, the latter, being a special law, should prevail to the extent of repugnancy between them. In our judgment such irreconcilable conflict does exist. Even though subsection (a) of 75-1120a, by its express terms, and 71-211, by its practical effect, both require community colleges to utilize generally accepted accounting principles, the latter special statute does not permit variance from its requirements, whereas subsection (d) of the general statute (75-1120a) permits a waiver of such requirements. Therefore, it is our opinion that the requirements of 71-211 should prevail and that community colleges are required, without exception, to utilize the chart of accounts prescribed thereunder.

In reaching this conclusion, we are not unmindful of the fact that 75-1120a(d) represents the latest expression of legislative will; and

"[i]t is the recognized rule that where successive acts of the legislature covering the same subject are in conflict with each other, the conflicts shall be resolved and both acts given effect, if possible, but if they are not reconcilable, the last expression of the legislature prevails" City of Council Grove v. Schmidt, 155 Kan. 515, 519 (1942).

"The legislature always has the power by the adoption of a later act to suspend the operation of an earlier one, and where two acts are in conflict the later expression of the legislative will controls. (Topeka v. McCabe, 79 Kan. 329, 99 Pac. 602; Hicks v. Davis, 97 Kan. 312, 318, 154 Pac. 1030; 26 A. & E. Encycl. of L. 761." The State, ex rel., v. City of Wichita, 100 Kan. 399, 406 (1917).

Application of these principles to the situation at hand would dictate that the provisions of subsection (d) of 75-1120a would prevail over the provisions of 71-211, since the 1981 amendment of 75-1120a which added subsection (d) is the latest expression of legislative will. However, the foregoing rules also recognize that courts are not readily disposed to find that one act of the legislature has been implicitly repealed by another, as further evidenced by the following:

"Repeals by implication are not favored in the law and a former act will not be held to have been repealed by implication unless a later enactment is so repugnant to the provisions of the first act that both cannot be given force and effect. (City of Overland Park v. Nikias, 209 Kan. 643, 646, 498 P.2d 56.)" Jenkins v. Newman Memorial Hospital, 212 Kan. 92, 96 (1973).

For this reason alone, we do not believe it appropriate to apply the rule of construction which gives effect to later enactments which are repugnant to earlier ones. As noted previously, there is an irreconcilable conflict between the express terms of 71-211 and subsections (a) and (d) of 75-1120a. If the latter are allowed to prevail because of the later enactment of 75-1120a(d), then 71-211 is meaningless and must be viewed as being repealed by implication in its entirety.

On the other hand, if 71-211 is viewed as prevailing over conflicting provisions of 75-1120a, then both statutes can be given force and effect to some extent, *i.e.*, 71-211 will govern community colleges and 75-1120a will remain operative as to all other municipalities. Such result is certainly more harmonious with the stated objective of all rules of construction, *i.e.*, to give force and effect to each of two conflicting statutes where it is reasonably possible to do so. See City of Council Grove v. Schmidt, *supra*.

We also have considered the judicial principles enunciated by the following excerpt from Howard v. Hulbert, 63 Kan. 793 (1901):

"The books unquestionably lay it down as a general rule that a general law does not by implication repeal a special act; and the argument in support of this rule is that, where the mind of the legislator has been turned toward the details of a subject and has acted upon it, any subsequent general legislation must be construed and applied with reference to, and in the light of, the special matters already provided for. . . . [B]ut, at best, the rule is only one of construction, and is not invariable or unchangeable; it must yield when there appear in the general act reasons sufficient to lead to the conclusion that the legislature intended the general act to be of universal application, notwithstanding the prior special one. It is stated in Endlich on the Interpretation of Statutes, section 230:

"If there be in the act, or in its history, something showing that the attention of the legislature had been turned to the earlier special act, and that it intended to embrace the special cases within the general act (and such an intent may be inferred from the fact that the provisions of the two acts are so glaringly repugnant to and radically irreconcilable with each other as to render it impossible for both to stand), something in the nature of either act to render it unlikely that any exception was intended in favor of the special act, the maxim under consideration ceases to be applicable.'

"In Sutherland on Statutory Construction, section 157, the rule is stated as follows:

"It is a principle that a general statute without negative words will not repeal by implication from their repugnancy the provisions of a former one which is special or local, unless there is something in the general law or in the course of legislation upon its subject-matter that makes it manifest that the legislature contemplated and intended a repeal.'" Id. at 795-797.

Although the above-quoted provisions recognize an exception to the general rule that the enactment of a later general act will not repeal by implication a former special act, we do not find that the reasons given for such exception have application here. For example, the general act (75-1120a) does not contain "negative words" insofar as it covers the same subject matter dealt with by the special act (71-211). To the contrary, subsection (d) of 75-1120a is but a permissive exception to the legislature's intent that generally accepted accounting principles be utilized by local units of government.

Further, the two statutes are not "so glaringly repugnant to and radically irreconcilable with each other as to render it impossible for both to stand." Again, to the contrary, we have previously determined that both statutes can be given force and effect, even though 71-211 must be regarded as an exception to 75-1120a. Moreover, there is nothing in subsection (d) of 75-1120a which "makes it manifest that the legislature contemplated and intended a repeal" of 71-211. Even though 75-1120a is a general law covering the same subject matter as 71-211, such fact in and of itself does not compel

a conclusion that the legislature intended a repeal of conflicting special provisions, particularly in light of the well-recognized judicial doctrine that repeals by implication are never favored. Jenkins v. Newman Memorial Hospital, supra. In sum, we find nothing in 75-1120a that would "render it unlikely that any exception was intended in favor of the special act" (71-211).

Therefore, for all of the foregoing reasons, it is our opinion that the addition of subsection (d) to K.S.A. 1980 Supp. 75-1120a in 1981 did not repeal by implication the provisions of K.S.A. 71-211, and it is possible to give force and effect to both statutes, by viewing K.S.A. 71-211 as an exception to the general authority granted by said subsection (d) of 75-1120a to municipalities, including community colleges, to waive the required use of generally accepted accounting principles in the preparation of financial reports and statements. Accordingly, in our opinion, community colleges are required to use the generally accepted accounting principles embodied in the chart of accounts specifically prescribed for community colleges under authority of K.S.A. 71-211, and may not exercise the authority granted by subsection (d) of K.S.A. 1980 Supp. 75-1120a (as amended) to obtain a waiver of the use of such principles required by subsection (a) thereof.

You also have inquired as to the time when a municipality may exercise its right to request a waiver under said subsection (d). Specifically, you ask:

"For a school district or community college that on or after July 1, 1981, elects to utilize the waiver provisions of subsection (d), must their financial statements and reports for the year ending June 30, 1981 be prepared in accordance with generally accepted accounting principles? The same question arises for other municipalities for the fiscal years ending December 31, 1980 and 1981."

Apparently your concern is that, since the amendment of 75-1120a did not take effect until July 1, 1981, there is uncertainty as to whether the governing body of a municipality may request a waiver of the required use of generally accepted accounting principles in the preparation of financial statements and reports for fiscal years which commenced or, in some cases, which ended prior to the effective date of this amendment. Initially, we should note that our prior conclusion as to the inapplicability of the waiver authority to community colleges renders it unnecessary to respond to your inquiry to the extent it concerns community colleges, and our response should be viewed accordingly.

As stated in State v. Hutchison, 228 Kan. 279 (1980), "the general rule of statutory construction is that a statute will operate prospectively unless its language clearly indicates that the legislature intended that it operate retrospectively." Id. at 287, citing Nitchalls v. Williams, 225 Kan. 285 (1979). Here, however, the statutory provisions are silent in this regard. There is no indication from the language used therein that the legislature intended them to operate retrospectively. Thus, it is our opinion that subsection (d) is to operate prospectively only.

However, in our judgment, such conclusion does not necessarily preclude a municipality from utilizing its waiver authority with respect to financial statements and reports resulting from the audit of such municipality for fiscal years either beginning or, in some instances, ending prior to July 1, 1981. Such utilization does not necessarily result in the retrospective application of 75-1120a. The following statements from In re Estate of McKay, 208 Kan. 282 (1971), are particularly relevant in this regard:

"We fully agree with the familiar rule cited by appellants that generally a statute will not be given retrosepctive operation unless the intention of the legislature that it shall so operate is unequivocally expressed. . . .

". . . A statute is not to be regarded as operating retrosepctively because of the mere fact that it relates to antecedent events or draws upon antecedent facts for its operation. (50 Am.Jur., Statutes, §477, p. 493; Benjamin v. Hunter [United States Court of Appeals, 10th Cir.] 176 F.2d 269.)" 208 Kan. at 285.

The foregoing statements were cited with approval in Holder v. Kansas Steel Built, Inc., 224 Kan. 406, 410 (1978), and we believe them to be pertinent here. In our judgment, such rule of construction makes it clear that the governing body of a municipality may request and obtain a waiver of the requirements of subsection (a) of 75-1120a to the extent that they relate to the preparation of financial statements and reports emanating from any audit of such municipality which is or will be conducted after July 1, 1981. The fact that such audit concerns financial operations of the municipality that occurred prior to that time does not effect a retroactive application of these statutory provisions. An audit of such municipality for a particular fiscal year cannot occur, of course, until the end of that fiscal year. Thus, where such audit is or will be conducted after July 1, 1981, even though it constitutes an examination of a municipality's financial

operations which occurred in whole or in part prior to that date, such financial operations must be viewed as merely antecedent facts or events which bear upon the prospective operation of the statute.

Specifically, then, in answer to your questions, it is our opinion that the governing body of a school district may request a waiver of the requirements of subsection (a) of 75-1120a as they pertain to the financial statements and reports resulting from an audit of such school district for the period ending June 30, 1981. Also, we believe that any other municipality may request a waiver of such requirements as they pertain to the audit of such municipality for the period ending December 31, 1980, although we would presume that most such audits have been or, in the near future, will be completed. And, it logically follows that, since subsection (d) of 75-1120a does not prescribe any limitation on the time when a request for waiver of these requirements may be made, any municipality (including school districts) may request a waiver of such requirements as they pertain to such municipality's current fiscal year.

Before addressing your final question, we would offer the caveat that, in our judgment, the new statutory provisions contemplate that each fiscal period for which a waiver is requested be treated separately. In this regard, we note the following language in subsection (d):

"Prior to requesting the waiver provided for in this subsection, the governing body, by resolution, annually shall make a finding that financial statements and financial reports prepared in conformity with the requirements of subsection (a) are not relevant to the requirements of the cash basis and budget laws of this state and are of no significant value to the governing body or members of the general public of the municipality."

From the above, we believe it apparent that the legislature intended that a separate and distinct resolution, supported by the requisite findings, be adopted for each fiscal period for which a waiver is requested. Accordingly, even though at this particular time a municipality may desire to request a waiver for a prior, as well as a current, fiscal period, such request must be supported by such resolution and findings for each such period.

Your final question is as follows:

"If a municipality elects to exercise the waiver permitted under subsection (d), must fixed asset records be maintained after the January 1, 1982 date provided for in subsection (c)? Fixed asset records are required by generally accepted accounting principles."

Prior to the amendment of 75-1120a in 1981, subsection (c) thereof provided for a waiver of statutory requirements "relating to the preparation and maintenance of fixed asset records," which, as you note, are required by generally accepted accounting principles. However, this subsection also provided that any such waiver shall not extend beyond January 1, 1982. Although cosmetic alterations were made in the phraseology of this subsection in the 1981 legislative session, no substantive change was effected in these provisions. Thus, the question arises whether the governing body of a municipality may request, pursuant to subsection (d), a waiver of the required use of generally accepted accounting principles, including a waiver of the requirement that fixed asset records be maintained, where the waiver is to extend beyond January 1, 1982. In our judgment, it cannot.

As in answering your other questions, we have been guided to our conclusion by the use of established principles of statutory interpretation. A statement of the rules pertinent here is found in Brown v. Keill, 224 Kan. 195 (1978), as follows:

"The fundamental rule of statutory construction, to which all others are subordinate, is that the purpose and intent of the legislature governs when that intent can be ascertained from the statute, even though words, phrases or clauses at some place in the statute must be omitted or inserted. (Farm & City Ins. Co. v. American Standard Ins. Co., 220 Kan. 325, Syl. ¶3, 552 P.2d 1363 [1976].) In determining legislative intent, courts are not limited to a mere consideration of the language used, but look to the historical background of the enactment, the circumstances attending its passage, the purpose to be accomplished and the effect the statute may have under the various constructions suggested. (State, ex rel., v. City of Overland Park, 215 Kan. 700, Syl. ¶10, 527 P.2d 1340 [1974].) In order to ascertain the legislative intent, courts are not permitted to consider only a certain isolated part or parts of an act but are required to consider and construe together all parts thereof in pari materia. When the interpretation of

some one section of an act according to the exact and literal import of its words would contravene the manifest purpose of the legislature, the entire act should be construed according to its spirit and reason, disregarding so far as may be necessary the literal import of words or phrases which conflict with the manifest purpose of the legislature.

Kansas Commission on Civil Rights v. Howard,
218 Kan. 248, Syl. ¶2, 544 P.2d 791 [1975]."
224 Kan. at 199, 200.

Of similar import is the maxim that effect must be given, if possible, to the entire statute and every part thereof. Harris v. Shanahan, 192 Kan. 629, 635 (1964). Also relevant is the rule that words expressive of a particular intent which are incompatible with those expressive of a general intent will be construed to make an exception by implication, so that all parts of the act may have effect. Id. at 636.

Clearly, if subsection (d) is considered in isolation from the remainder of the provisions of 75-1120a, it might be concluded that a municipality has been granted the power to avoid the use of any generally accepted accounting principles, including those governing the maintenance of fixed asset records. However, the rules of construction cited above render such interpretation inappropriate. Legislative intent must be derived from a consideration of the entire act. Harris v. Shanahan, supra. It is impermissible to consider only a certain isolated part of an act in ascertaining the intent and purpose of the legislature. Brown v. Keill, supra at 200. Thus, effect must be given to subsection (c) of 75-1120a, as well as subsection (d), and the provisions of these subsections, being in pari materia, must be construed together with a view toward reconciling and bringing them into workable harmony, if reasonably possible to do so. Callaway v. City of Overland Park, 211 Kan. 646, 650 (1973); Harris v. Shanahan, supra at 655.

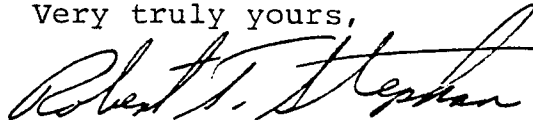
When these principles are applied to 75-1120a, we believe it is clear that the legislature intended subsection (c) to operate as an exception by implication to the provisions of subsection (d). See Harris v. Shanahan, supra at 636. Accordingly, we believe that, under the provisions of these subsections, the governing body of a municipality may obtain a waiver of the requirements of subsection (a) as to the use of generally accepted accounting principles, except that such requirements, as they pertain to the "preparation and maintenance of fixed asset records," shall not be waived after or so as to extend beyond January 1, 1982. In our judgment,

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such construction gives force and effect to the entire statute by construing together all parts thereof in pari materia.

It also should be noted that the authority granted by subsection (d) is not unrestricted by the terms of this subsection itself. Thus, finding that subsection (c) impliedly imposes an additional restriction on the scope of subsection (d) does not contravene any manifest legislative intent that the waiver authority is an unqualified right of a municipality.

Very truly yours,



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