

Sec. 53. **Repealer.** Minnesota Statutes 1957, Sections 260.01 to 260.04; 260.06 to 260.08, 260.10 to 260.26, 260.28 to 260.34, and 260.37 are hereby repealed.

Sec. 54. **Savings clause.** *All orders, decrees, and judgments made by a court under the provisions of any law repealed by section 53 are in effect until modified or revoked by a court of competent jurisdiction or by operation of law. Nothing in this act shall be construed to amend or modify any of the provisions of Laws 1955, Chapter 353, as amended by Laws 1957, Chapter 664. The provisions of this section are in addition to the provisions of Minnesota Statutes, Section 645.85.*

Sec. 55. **Effective date.** This act takes effect on July 1, 1959.

Approved April 24, 1959.

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CHAPTER 686—H. F. No. 1277

[Coded in Part]

*An act creating a municipal commission to hear petitions for the incorporation of villages, the annexation to municipalities of contiguous unincorporated and incorporated property, the detachment of property from a municipality, the appropriation of funds for the same, providing for the numbering thereof; amending Minnesota Statutes 1957, Sections 411.01, Subdivisions 1, 2, and 3; 412.013; 412.021, Subdivision 1; and repealing Minnesota Statutes 1957, Sections 340.11, Subdivision 15; 366.02 to 366.022; 368.01 to 368.12; 368.50 to 368.53; 368.61 to 368.84; 412.012; 412.041; 412.051; 412.071; 412.921; 413.03; 413.12; 413.13 to 413.137; 413.14 to 413.143; 413.15 to 413.26; 413.30 to 413.34.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. [414.01] Creation of commission.** *A commission is hereby created to hear petitions for the incorporation of property into villages; the detachment of property from municipalities; and the annexation of property to municipalities. The term "municipalities" as used herein includes villages and cities of all classes.*

*The commission shall be composed of a chairman, vice-chairman, and secretary appointed by the governor. The chairman shall be learned in the law and shall have the powers and*

*duties prescribed by the general law applicable to the heads of departments and agencies of the state. In proceedings for the incorporation of a village pursuant to petition and the annexation of a municipality or municipalities to a contiguous municipality, the chairman of the board of county commissioners and the county auditor of the county in which all or a majority of the property to be annexed or incorporated is located, shall serve as additional and ex officio members of the commission for the purpose of such proceedings.*

*All those appointed shall have been residents of the state for at least five years prior to the appointment. All appointments shall be made within thirty days after the effective date of this law. Each appointed member shall serve for four years and until his successor is appointed and has qualified, or until he is removed by the governor for cause after notice and hearing. In case any of the positions shall become vacant, the governor shall appoint a member for the unexpired term who shall thereupon immediately take office and carry on all the duties of the office.*

*The commission shall meet once each month at a regular time to be established by the chairman.*

*It is authorized to transact business and conduct hearings by a majority of its members. The chairman, in his discretion, may order the consolidation of separate hearings in the interest of economy and expedience. In those proceedings in which the commission is composed of five members, no order of the commission shall be final unless approved by three of the five members, and in all other proceedings unless approved by two of the three members.*

*Each member of the commission excluding ex officio members shall receive \$50 per day while in attendance at hearings, except the secretary who shall receive a salary of \$7,200 per year payable semimonthly and shall devote full time to the duties of his office. Each member of the commission shall be reimbursed for actual expenses incurred in accordance with regulations relative to travel of state officers and employees.*

*All correspondence and petitions shall be addressed to the secretary who shall be charged with conducting the administrative affairs of the commission, notifying the members of hearings, and making arrangements for the hearings as to time and place, giving proper notice in the areas affected as hereinafter provided, keeping records and minutes, and providing secretarial service.*

*The commission shall have authority to hire expert con-*

sultants to provide specialized information and assistance, and any member of the commission, except those who are *ex officio*, conducting or participating in the conduct of any hearings shall have the power to administer oaths and affirmations, to issue subpoenas, and to compel the attendance and testimony of witnesses, and the production of papers, books, and documents.

Subpoenas shall be issued to any of the parties upon request upon a showing of general relevance and reasonable scope of the evidence sought.

In order to carry out the duties and powers imposed upon the commission it shall have the power to make such rules and regulations, as are reasonably necessary, in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state.

**Sec. 2.** → [414.02] **Incorporation of a village.** *Subdivision 1. Initiating petition.* This section provides the exclusive method of incorporating a village in any county containing a city of the first or second class and in any county within any metropolitan area as defined in Minnesota Statutes 1957, Section 473.02, Subdivision 5. It shall not apply to incorporations in any other area in Minnesota. In any other area of Minnesota if a petition is filed to incorporate a new municipality within one mile of the boundary of an existing municipality, such existing municipality may petition the district court to refer the petition to the commission to determine whether or not the existing municipality has such a substantial interest in the proposed incorporation that the petition should be referred to the commission. If the petition is referred to the commission by the district court, the commission shall proceed in accordance with the provisions of this section. Three or more freeholders residing within an area containing a resident population of not less than 500 persons, and which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law, may initiate proceedings for incorporation as a village. They shall take a census of the resident population in the area and make a census list showing the buildings in the area used for residence and the people living in each. If the population of the proposed area is found to be 500 or more a petition may be prepared and submitted to the secretary of the commission requesting the commission to hold a hearing on the proposed incorporation. The petition shall be attached to the census list and shall state the quantity of land embraced in it, platted and

*unplatted land, the assessed valuation of the property, both platted and unplatted, the number of actual residents, the proposed name of the village, a brief description of the existing facilities as to water, sewage disposal, and fire and police protection, and shall include a map setting forth the boundaries of the territory. It shall be signed by at least 100 freeholders who are residents of the area to be incorporated, and it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.*

*Subd. 2. Commission's hearing and notice. Upon receipt of a petition, made pursuant to subdivision 1 of this section, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, to the chairman of the county board and the town board in which all or a part of the property to be incorporated is located, and any duly constituted municipal or regional planning commission exercising authority over all or part of the area. They may submit briefs, prior to the hearing, for or against the proposed incorporation, stating clearly and succinctly the reasons therefor. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the secretary shall cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be incorporated.*

*Subd. 3. Commission's order. Pursuant to a hearing on a petition for the incorporation of a village under subdivision 1, the commission shall approve the petition for incorporation if it finds that the property to be incorporated is so conditioned as to be properly subjected to municipal government. As a guide in arriving at a determination, the commission shall make findings as to the following factors: (1) The population of the area within the boundaries of the proposed incorporation. (2) The area of the proposed incorporation. (3) The area of platted land relative to unplatted land. (4) The character of the buildings on the platted and unplatted lands. (5) Past expansion in terms of population and construction.*

(6) *Prospective future expansion.* (7) *The assessed value of the unplatted land relative to the assessed value of the unplatted areas.* (8) *The present and expected necessity and feasibility of providing governmental services such as sewage disposal, water system, zoning, street planning, police, and fire protection. The commission shall have authority to alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is so conditioned as to be properly subjected to municipal government. In the event the boundaries are to be increased, notice shall be given to the property owners encompassed within the area to be added, by mail within five days, and the hearing shall reconvene within 30 days after the transmittal of such notice, unless within the 30 days those entitled to notice give their written consent to such action. The petition shall be denied if it appears that annexation to an adjoining municipality would better serve the interests of the area. If the proposed incorporation includes a part of an organized township, the commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of all the taxable property in the township, both within and without the area to be incorporated, the indebtedness, the taxes due and delinquent and other revenue accrued but not paid to the township. The order of the commission shall be final. It shall be issued by the commission within a reasonable time after the termination of the hearing.*

*An order approving a petition made pursuant to subdivision 1 shall fix a day not less than 20 days nor more than 30 days after the entry of such order when an election shall be held at a place designated by the commission within the area to be incorporated. The secretary shall cause a copy of the order affirming the petition, as submitted or as amended by the commission, including notice of the election, to be posted not less than 20 days before the election in three public places in the area described in the petition, and shall cause two weeks notice of the election to be published in a newspaper qualified as a medium of official and legal publication, of general circulation in the area to be incorporated. The commission shall also appoint three electors resident in the area to act as judges of election and shall fix a time, not less than six hours and until at least 7 o'clock p.m., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory de-*

scribed in the commission's order shall be entitled to vote. The ballot shall bear the words "For Incorporation" and "Against Incorporation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided by the petitioners.

**Subd. 4. Filing of incorporation document.** Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the secretary of the commission. The secretary shall attach the certificate to the original petition, the original order affirming the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice. If the certificate shows that a majority of the votes cast were "For Incorporation" the secretary shall forthwith make and transmit to the secretary of state and to the county auditor or auditors of the county or counties in which the property is located, a certified copy of the documents to be then filed as a public record, at which time the incorporation shall be deemed complete. If the vote is adverse, no subsequent petition to incorporate the same territory shall be entertained by the commission within two years after the election and the expense of the attempted incorporation shall be borne by the petitioners. If the vote is favorable, all proper expenses incurred in the incorporation shall be a charge upon the village.

**Sec. 3. [414.03] Annexation of unincorporated property to a municipality. Subdivision 1. Initiating petition.** A petition for the annexation of adjoining unincorporated property may be initiated by resolution of the annexing village or city or by twenty percent of the freeholders or 100 freeholders, whichever is less residing in the area to be annexed. If initiated by resolution, the village or city council shall cause a census to be taken of the area showing the buildings in the area used for residences and the number of people living in each, or, if initiated by twenty percent of the freeholders or 100 freeholders, whichever is less, residing in the area, they shall take a census containing the same information. The census list shall be attached to the petition which requests the commission to hold a hearing on the proposed annexation. The petition shall set forth the boundaries of the territory, the quantity of land embraced in it, the number of actual residents, the number and character of the existing buildings in

*the area and the existing facilities such as water system, zoning, street planning, sewage disposal, fire and police protection. Under both methods of initiating the petition it shall be verified by the oaths of the census takers declaring that the census was accurately taken, specifying the dates when it was begun and completed, and that the statements in the petition are true.*

**Subd. 2. Hearing and notice.** *Where the property to be annexed is owned by or completely within the boundaries of the annexing municipality no hearing is necessary and the annexation shall be deemed complete upon issuance of an order approving the petition and resolution by the annexing municipality approving the annexation.*

*If the petition has been initiated by all or a majority of the land owners, in area and number, no hearing is necessary and the commission may proceed to a decision, unless the commission exercises its authority pursuant to this section by increasing the area to be annexed by including additional owners which inclusion eliminates the required majority, the newly included owners shall be notified within five days and a hearing shall be conducted as hereinafter provided unless within 10 days after transmittal of such notice written assent is received from the new owners in sufficient number to provide the required majority.*

*In all other proceedings, upon receipt of a petition for annexation, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the annexing village or city, or the area to be annexed, depending on which best serves the interest of the parties. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, and to the chairman of the county board and the town board in which all or a part of the property to be annexed is located, and any duly constituted municipal or regional planning commission exercising authority over all or a part of the area. They may submit briefs prior to the hearing, for or against the proposed annexation stating clearly and succinctly the reasons therefor. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition and in three public places in the annexing village or city, and the commission secretary shall also cause two weeks notice of the hearing to be published in a newspaper,*

qualified as a medium of official and legal publication of general circulation in the area to be annexed.

*Subd. 3. Commission's order.* Pursuant to a hearing on a petition for the annexation of unincorporated property to a village or city, or if no hearing was required under the foregoing provisions, the commission shall approve if it finds that the property to be annexed is so conditioned as to be properly subjected to municipal government and if it finds that the annexation would be to the best interest of the village or city and of the territory affected. As a guide in arriving at a determination, the commission shall make findings as to the following factors: (1) The relative population of the annexing area to the annexed territory. (2) The relative area of the two territories. (3) The relative assessed valuation. (4) The past and future probable expansion of the annexing area with respect to population increase and construction. (5) The availability of space to accommodate that expansion. (6) Whether the taxes can be reasonably expected to increase in the annexed territory, and whether the expected increase will be proportional to the expected benefit inuring to the annexed territory as a result of the annexation. (7) The presence of an existing or reasonably anticipated need for governmental services in the annexed territory such as water system, sewage disposal, zoning, street planning, police and fire protection. (8) The feasibility and practicability of the annexing territory to provide these governmental services presently or when they become necessary. (9) The existence of all or a part of an organized township within the area to be annexed and its ability and necessity of continuing after the annexation. If a complete organized township is included within the area to be annexed, its residents shall remain liable for any existing indebtedness of the township existing prior to the annexation. In the event only a portion of an organized township is ultimately included in the area to be annexed, the commission shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be annexed, the assessed value of all the taxable property in the township, both within and without the area to be annexed, the indebtedness, and the taxes due and delinquent. The commission shall have authority to alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is so conditioned as to be properly subjected to municipal government and to preserve the symmetry of the area. The petition shall be denied if it appears that the primary motive for the annexation is to increase

revenues for the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed area. The order of the commission shall be final and it shall be issued by the commission within a reasonable time after the termination of the hearing.

**Subd. 4. Election.** Where the petition for annexation has not been initiated by a majority of the landowners in number within the area to be annexed, the order of the commission affirming the petition for annexation shall fix a day, not less than twenty days nor more than thirty days, after the entry of such order, when an election shall be held at a place designated by the commission within the area to be annexed. The secretary shall cause a copy of the order approving the petition, including the notice of the election, to be posted not less than 20 days before the election in three public places in the area to be annexed, and shall cause two weeks notice of the election to be published in a newspaper qualified as a medium of official and legal publication, of general circulation, in the area to be annexed. The commission shall also appoint three electors resident in the area to act as judges of election and shall fix the time, not less than six hours and until at least 7 o'clock p.m., when the polls shall be open at the election. The judges shall conduct the election so far as practicable in accordance with the laws regulating the election of town officers. Only voters residing within the territory described in the commission's order shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided by the petitioners. Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast both for and against the proposition, and they shall then file the certificate with the secretary of the commission. The secretary shall attach the certificate to the original petition, the original order affirming the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice. If the certificate shows the majority of the votes cast were "For Annexation" the annexation shall be deemed complete and the commission shall proceed in accordance with subdivision 5 of this section.

**Subd. 5. Filing of annexation order.** Immediately upon the execution of the annexation order, a certified copy shall be sent to the council of the annexing village or city and

to the individual petitioners if initiated in that manner. If the order approves the petition for annexation in whole or in part, a certified copy shall be sent to the secretary of state and the county auditor of the county or counties in which the property annexed is located. The annexation shall be deemed final as of the date of such filing, or on such later date as is fixed in the annexation order.

**Subd. 6. Approval of municipality.** *In the event the annexation hereunder is initiated by the freeholders, such annexation shall not be deemed final until approved by the majority of the governing body of the municipality. A certified copy of such approval shall be sent to the secretary of state and the county auditor of the county or counties in which the property annexed is located. In the event the governing body does not act hereunder within 3 months after the issuance of the order of the commission, such action shall be construed as a disapproval of the annexation.*

**Subd. 7. Annexations not requiring commission order.** *Territory abutting on any municipality and not included in any other municipality may be annexed to the municipality without an order of the commission in the manner prescribed in this subdivision if it is so conditioned as properly to be subjected to municipal government.*

*If the land is owned by the municipality, the governing body may by ordinance declare the land annexed to the municipality, and any such land is deemed to be suitably conditioned for municipal government.*

*If the land is completely surrounded by land within the municipal limits, the governing body may adopt a resolution stating its intention to annex the property and fixing a time and place for a hearing. A copy of the resolution shall be served in the manner provided for the service of a summons in a civil action upon all owners of the land to be annexed at least ten days before the date of the hearing. If after such hearing the council determines that the annexation will be to the best interests of the municipality and of the territory affected, it may by ordinance declare the land annexed to the municipality.*

*If the land is platted or, if unplatted, does not exceed 200 acres, the owner or a majority of the owners in number may petition the governing body of the municipality to have such land included within the municipality. If the governing body determines that the annexation will be to the best interests of the municipality and of the territory affected, it may by ordi-*

nance declare such land annexed to the municipality, but if the petition is not signed by all the owners in number of the land proposed to be annexed, the ordinance shall not be passed until the governing body has held a hearing on the proposed annexation after at least 30 days posted notice.

Any annexation provided for in this subdivision shall be deemed final upon filing a copy of the ordinance with the commission, the county auditor, and the secretary of state.

**Sec. 4. [414.04] Annexation of incorporated property to a municipality. Subdivision 1. Initiating the petition.** This section provides the exclusive method of annexing one municipality to another municipality in any county containing a city of the first or second class and in any county within any metropolitan area as defined in Minnesota Statutes 1957, Section 473.02, Subdivision 5. It shall not apply to such annexations in any other area in Minnesota. Incorporated municipalities may be annexed to contiguous municipalities which have a greater population in accordance with the following procedure: A petition for a hearing on the subject of annexation of a municipality to a contiguous municipality may be initiated by resolution, either by the proposed annexed or annexing municipality, or by resident legal voters of the proposed annexed municipality equivalent in number to 10 percent or more of the legal voters of the municipality, according to the number of votes cast for mayor at the last municipal election, or where no mayor is elected, five percent or more of the legal voters of the municipality who voted for governor at the last general election. The term "contiguous" for the purposes of this section shall include municipalities sharing a common boundary. The term shall also include a situation where three or more municipalities are the subject of a single petition and are all connected by common boundaries, so that each municipality shares a common boundary with at least one of the included municipalities and with the annexing municipality sharing a common boundary with at least one of the municipalities to be annexed, in which case the municipalities to be annexed shall be deemed contiguous to the annexing municipality. The petition shall include maps indicating the boundaries of the proposed annexed municipality and of the annexing municipality and shall set forth the quantity of land embraced in each municipality, the number of actual residents based on the last federal decennial census and the estimate of population based on the computations contained in the county auditor's office in the county wherein the municipalities are located, the existing governmental facilities such as water system, sewage disposal, zoning, street planning, fire and po-

lice protection, and the existing debts and assessed valuation of each municipality.

**Subd. 2. Hearing and notice.** Upon receipt of a petition for the annexation of an incorporated municipality made pursuant to subdivision 1 of this section, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the county in which the greater area of the property to be incorporated is located and is to be established for the convenience of the parties concerned. The secretary shall cause a copy of the petition together with a notice of the hearing to be sent to each member of the commission, and to the chairman of the county board in which all or a part of the municipality to be annexed is located, and any duly constituted municipal or regional planning commission exercising authority or advisory jurisdiction over all or a part of the area. Notice shall be posted not less than 20 days before the hearing in three public places in the area described in the petition, and the commission secretary shall also cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication of general circulation in the area to be annexed.

**Subd. 3. Commission's order.** Pursuant to a hearing on a petition for the annexation of a municipality to an adjoining municipality, the commission shall approve the petition if it finds that the annexed municipality is so conditioned and so located as properly to be made a part of the annexing municipality, and if it finds that the annexation will be for the best interests of the municipalities. As a guide in arriving at a determination, the commission shall make findings on the factors as enumerated in subdivision 1 of this section and in addition thereto: (1) Whether the results of the annexation will be to provide more economical and efficient governmental services such as water system, sewage disposal, road maintenance, public recreation and planning, fire, and police protection. (2) The existing indebtedness of both municipalities.

The commission shall not have authority to alter the boundaries of the municipality or municipalities to be annexed. The petition shall be denied if it appears that the primary motive for the annexation is to increase the revenues of the annexing municipality and such increase bears no reasonable relation to the value of benefits conferred upon the annexed municipality. The order of the commission shall be final and if the petition is denied, no petition for the annexation of the same municipality or municipalities may be submitted within

two years after the date of the commission's order, which shall be issued by the commission within a reasonable time after the termination of the hearing.

Upon completion of the annexation proceeding, the newly formed municipality shall be liable as a whole for any indebtedness thereafter incurred. The order shall provide that each municipality shall remain separately liable for its debts existing and outstanding at the time of the annexation.

Where the ward system of electing councilmen exists in an annexing municipality, the commission shall establish wards in the annexed municipality consistent with the existing wards or the prescribed method of establishing wards of the annexing municipality.

Where the petition for annexation has not been initiated by the annexing municipality, an order affirming a petition for the annexation of a municipality to a contiguous municipality shall submit the order to the annexing municipality for approval or rejection by resolution within 30 days, and where the proceeding contemplates the annexation of more than one municipality the approval by resolution may be conditioned upon an election, as hereinafter provided, in favor of annexation in part or all of the municipalities to be annexed. Where the petition is initiated by the annexing municipality an order approving the petition shall submit the order to the governing body or bodies of the municipality or municipalities to be annexed for approval by resolution within 30 days. If rejected by such resolution or resolutions, the proceedings are then terminated as to the municipality or municipalities rejecting. If approved, and in all other cases, the order shall then fix a day not less than 20 days nor more than 30 days, after the entry of such order, when an election shall be held at a place designated by the commission within the municipality to be annexed. The secretary shall cause a copy of the order approving the petition, including the notice of the election, to be posted not less than 20 days before the election in three public places in the municipality to be annexed, and shall cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication, of general circulation, in the municipality to be annexed. The commission shall also appoint three electors resident in the area to act as judges of election and shall fix the time, not less than six hours and until at least 7 o'clock p.m., when the polls shall be open at the election. The judges from each municipality shall conduct the election in accordance with the laws or charter formerly regulating the election of municipal officers in the annexed municipality. Only voters residing within the mu-

unicipality or municipalities to be annexed shall be entitled to vote. The ballot shall bear the words "For Annexation" and "Against Annexation" with a square before each of the phrases in one of which the voter shall make a cross to express his choice. The ballots and election supplies shall be provided by the petitioners or the municipality in which the petitioners reside.

*Subd. 4. Filing of annexation order. Immediately upon the completion of the counting of the ballots, the judges of the election shall make a signed and verified certificate declaring the time and place of holding the election, that they have canvassed the ballots cast, and the number cast, both for and against the proposition and they shall then file the certificate with the secretary of the commission. The secretary shall attach the certificate to the original petition, the original order approving the petition as submitted or as amended in the order, and the original proofs of the posting of the election notice. If the certificate shows that a majority of the votes cast were "For Annexation" the secretary shall forthwith make and transmit to the secretary of state and to the county auditor or auditors of the county or counties in which both municipalities are located, a certified copy of the documents to be then filed as a public record, at which time the annexation shall be deemed complete and the annexing municipality shall assume and be charged with all the outstanding bonds and obligations of such annexed municipality unless the commission has provided otherwise and in either event all moneys, claims, and properties, including real estate, and the proceeds of all taxes levied and collected and to be collected belonging to, owned, held, or possessed by such annexed municipality shall become and be the properties of such annexing municipality with full power and authority to use and dispose of the same for public purposes as the council of such annexing municipality may deem best.*

*The new municipality shall assume the name of the annexing municipality unless previous to the election another name is chosen by joint resolution of a majority of the municipalities involved in the petition.*

*Subsequent to the election, a municipality which only shares a common boundary with a municipality which has voted against annexation, may not be annexed to the annexing municipality even though a majority of the votes were "For Annexation."*

*The number of license privileges existing in the municipalities prior to annexation and pursuant to state law shall*

*not be diminished as a result of the single municipality created by the annexation.*

*All proper expenses incurred in the annexation proceedings shall be a charge upon the municipality initiating the proceeding.*

*If the vote is adverse, no subsequent petition to annex the same municipality shall be entertained by the commission within two years after the election; and the expenses of the attempted annexation shall be borne by the petitioners, except where the petitioners are individuals, in which case the expense shall be borne by the municipality in which they reside.*

*Subd. 5. Other areas. In any area not included in subdivision 1 of this section, whenever the boundary line of any municipality is coincident with the boundary line of any other municipality for any part of its length or where any two or more municipalities are separated in any part of their boundaries by any meandered body of water, such municipalities may be consolidated as one municipality under this subdivision. A resolution proposing consolidation shall be submitted to the councils of the two municipalities. If it is approved in identical form by the two councils, it shall be referred to the voters of each municipality at any general or special election for approval or rejection. If a majority of the voters in each municipality voting on the question vote in favor of the proposal, a certificate of the results of the election and a certified copy of the resolution shall be filed by the clerk of each municipality in the office of the county auditor of the county or counties in which the municipalities are located, and a similar certification shall be filed in the office of the secretary of state. The consolidation shall thereupon take effect in accordance with the terms of the resolution. Every resolution proposing consolidation shall contain: (1) the proposed name of the consolidated municipality; (2) the date when such consolidation shall be effective; (3) if the municipalities are villages, provisions for operation of the consolidated village under either the standard plan or any optional plan authorized by Minnesota Statutes 1957, Chapter 412 for a village of similar size; (4) provisions on what happens to incumbent officers; (5) such other provisions relating to consolidation, not inconsistent with this section, as the councils deem necessary to effect consolidation. Where two villages are consolidated the resolution may also constitute each constituent village as a separate ward and provide for the election of at least one trustee from each ward; but at any time after four years from the effective date of consolidation, the*

*council of the village may, by resolution adopted by a four-fifths vote and approved by a majority of the voters voting on the question of approval at a general or special election, abolish the ward system and provide for the election of all trustees at large as in other villages.*

**Sec. 5. [414:05] Incorporating or annexing townships according to population.** *Subdivision 1. Survey by commission. Within one month after the effective date of each federal or state census, the commission shall cause to be determined the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township.*

*Subd. 2. Determination by commission. Applying the standards fixed by law for the incorporation of municipalities and the annexation of land to municipalities pursuant to petition, the commission shall determine whether all or a part of the area will best be served by incorporation, annexation, or to remain as a township.*

*Subd. 3. Incorporation. If the commission determines that incorporation as a village will best serve the area, it shall issue its order incorporating the town or part thereof as described in the order, as a village, under the same name or in the event of duplication under a name selected by the commission, within 6 months after notice is given to the town board and county board in which the township is located, or only the county board if there is no organized town board. If only a part of the township is to be incorporated the order shall apportion such property and obligations in such manner as shall be just and equitable having in view the value of the township property, if any, located in the area to be incorporated, the assessed value of the taxable property in the township, both within and without the area to be incorporated, the indebtedness, the taxes due and delinquent, and other revenues accrued but not paid to the township. The municipal commission, at the termination of the six month period, shall provide an election to be governed by the terms of Section 2, Subd. 3 and 4 of this act, and, if the majority of votes cast are for incorporation, they shall appoint three electors resident in the area to act as judges of election and the first election of village officers shall be controlled by the law applicable to the first election of officers in villages newly incorporated pursuant to petition. No such election on incorporation shall be held if within the six month period a petition for incorporation is submitted which includes all or a part of the township affected by the order at which time the latter proceedings shall control.*

**Subd. 4. Annexation.** If it is determined that annexation to an adjoining municipality will best serve the interest of the area, it shall, upon the termination of the six month period and in the absence of a duly submitted petition for the annexation of unincorporated area, during that six month period, which includes all or a part of the township, initiate proceedings for annexation which shall be controlled as near as is practical by the law relative to the annexation of unincorporated areas.

**Sec. 6. [414.06] Detachment of property from a municipality. Subdivision 1. Petition for detachment.** Property which is situated within the corporate limits of and adjacent to the municipal boundary, unplatted, and occupied and used exclusively for agricultural purposes may be detached from the municipality according to the following procedure: The petition may be initiated by resolution of the municipality to which the land is attached or by all of the land owners of land to be detached if the area is less than 40 acres and by 75 percent of the owners if over 40 acres. The petition shall set forth the boundaries and the area of the land to be detached, the number and character of the buildings, the resident population, and the municipal improvements, if any, in the area.

**Subd. 2. Easements.** Property over which a municipality possesses an easement may be detached by resolution of its council and petition to the commission if it is to be concurrently annexed by an adjoining municipality and that intention is signified by resolution. All other property which is to be detached and annexed concurrently by an adjoining municipality and such intention is indicated by respective resolutions, may also be so detached and annexed by order of the commission if the owners of two-thirds of the area of the property affected give their consent in writing.

**Subd. 3. Hearing and notice.** If identical petitions are submitted by the municipality and the owners of the land to be detached as provided in subdivision 1 of this section or in situations covered by subdivision 2 in this section, no hearing is necessary. In any other case, upon receipt of a petition, the secretary of the commission shall designate a time and place for a hearing on the petition, such time to be not less than 30 nor more than 40 days from the date the petition was received. The place of the hearing shall be within the municipality to which the land is attached as the secretary may direct. The secretary shall cause a copy of the petition and notice of hearing to be sent to each member of the commission and to be sent to the council of the municipality to which the

property is attached and to at least 75 percent of the owners of the property proposed for detachment, and shall cause two weeks notice of the hearing to be published in a newspaper qualified as a medium of official and legal publication, of general circulation, within the municipality.

*Subd. 4. Commission's order.* Pursuant to a hearing under this section or without hearing if none is required under this section, the commission shall grant the petition for detachment if it finds that the requisite number of property owners have signed the petition, if initiated by the property owners, that the property is unplatted and used and occupied exclusively for agricultural purposes, that the property is within the boundaries of the municipalities and is adjacent to a boundary, that the detachment would not unreasonably affect the symmetry of the settled municipality, and that the land is not needed for reasonably anticipated future development. The commission shall have authority to decrease the area of property to be detached and may include only a part of the proposed area in its order. If the tract adjoins more than one town, it shall become a part of each town, being divided by projecting through it the boundary line between the towns. The detached area may be relieved of the existing indebtedness of the municipality and be required to assume the indebtedness of the township of which it becomes a part, in such proportion as the commission shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each township, and the municipality affected, if any, and for what purpose the same was incurred, all in relation to the benefit inuring to the detached area as a result of the indebtedness and the last assessed value of the taxable property in each township, and the municipality.

The commission shall enter an order to effectuate those concurrent detachments and annexations as provided in subdivision 2. The order of the commission shall be final and shall be issued within a reasonable time after the termination of the hearings or the adoption of the resolution under subdivision 2.

*Subd. 5. Filing of detachment order.* Upon completion of the order, the secretary of the commission shall transmit a copy thereof to the secretary of state, the county auditor or auditors of the county or counties, town board, school district, and municipality in which the land is situated. Thereupon the order is to be deemed final.

**Sec. 7. [414.07] Appeals.** Any person aggrieved by any final order, rule, regulations, or final decision of the

*commission may appeal to the district court upon the following grounds:*

1. *That the commission had no jurisdiction to act;*
2. *That the commission exceeded its jurisdiction;*
3. *That the order, rule, regulations, or final decision of the commission is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interests of the territory affected.*
4. *That the order, rule, regulations, or decision is based upon an erroneous theory of law.*

*The appeal shall be taken in the district court in the county in which the majority of the area is located.*

*The court of its own motion, or on application of any party, may, in its discretion, take additional testimony on any issue of fact, or may try any or all of such issues de novo, but no jury trial shall be had. If the court shall determine that the action of the commission involved is lawful and reasonable and is warranted by the evidence in case an issue of fact is involved, the action of the commission shall be approved; otherwise the court may vacate or suspend the action of the commission involved, in whole or in part, as the case may require, and thereupon the matter shall be remanded to the commission for further action in conformity with the decision of the court.*

*To render a review effectual, the aggrieved person shall file with the clerk of the district court of the county wherein the majority of the area is located, within date of such final order, rule, regulation, or decision an application for review together with the grounds upon which the review is sought.*

*An appeal lies from the district court to the supreme court in accordance with the provisions of the Minnesota Statutes 1957, Chap. 605.*

Sec. 8. *There is hereby appropriated out of any funds in the state treasury not otherwise appropriated, the sum of \$35,000.*

Sec. 9. Minnesota Statutes 1957, Section 411.01, Subdivision 1, is amended to read:

**411.01 Incorporation; petition; first election.** Subdivision 1. **Population.** *Inhabitants of contiguous territory not organized as a city but organized as a village, and having not less than 1,000 nor more than 10,000 inhabitants, may be-*

come incorporated, as a city of the fourth class, as provided in subdivisions 2 to 6.

Sec. 10. Minnesota Statutes 1957, Section 411.01, Subdivision 2, is amended to read:

Subd. 2. **Petition.** A petition addressed to the county board of the county in which the whole or the larger part of the *village* is situated, which is signed by one-fourth of the number of legally qualified voters residing in the *village* proposed to be incorporated as a city that voted in the *village* at the last preceding general election for state officers, may be filed with the auditor of the county praying that *the existing village be incorporated as a city of the fourth class*, and that an election be called to determine whether or not such city shall be incorporated. Such petition shall set forth the metes and bounds of the *existing village*, and the population thereof, and the number of voters voting in the *village* at the last general election for *village* officers, and of the proposed wards thereof. The residence of each signer shall be stated opposite the signature, but the signatures to the petition need not be appended to one paper. The petition shall be verified by the oaths of at least three of the petitioners, declaring the statements made in the petition to be true. In addition thereto the petitioner procuring the signatures to each paper and petition shall make an oath before a person competent to administer oaths, that each signature is the genuine signature of the elector whose name purports to be thereto subscribed, and that each signer is an elector duly qualified to vote within the *village* designated in the petition as the *village* proposed to be incorporated as a city of the fourth class.

Sec. 11. Minnesota Statutes 1957, Section 411.01, Subdivision 3, is amended to read:

Subd. 3. **Resolution of county board.** If it shall appear that such petition is in due form, complies with the provisions hereof, and is signed by the proper number of electors residing in the *village* sought to be incorporated as a *fourth class* city, of which latter fact the affidavit of the petitioners procuring signatures on such paper and petition shall be prima facie evidence, the county board shall adopt a resolution approving the petition and in the resolution shall designate the time and place of holding a special election upon the proposition, which election shall take place not less than 30, nor more than 40, days from the time of presenting and filing the petition with the county auditor; and the county board, in the resolution, shall specify the location of the polling place in each ward, and that the polls will be open from 8 a.m. to 8

p.m., and shall prescribe a form of notice of such special election, a copy of which shall be attached to the resolution, in which notice shall be stated the time of such special election, the location of the polling place in each ward, the hours during which the polls shall be open, together with a statement of the question to be voted upon. Thereupon the county auditor shall cause a copy of the petition, resolution, and notice to be posted in at least five conspicuous places in the proposed city, at least 20 days prior to the date of such election, and shall cause the notice to be published in some legal newspaper published in the proposed city at least once each week for two consecutive weeks prior thereto, and if there be no newspaper published therein, then in a newspaper published in the same county.

Sec. 12. Minnesota Statutes 1957, Section 412.013, is amended to read:

**412.013 Additional powers.** Any village containing within its limits a plant for the concentration of taconite, either under construction or in operation, by resolution of its village council may lease or purchase from the owners thereof sewer or water facilities or both and operate the same. Any such lease made by such village prior hereto, by action of the village council, is hereby validated and such village may continue to provide sewer and water services to its inhabitants thereunder.

Sec. 13. Minnesota Statutes 1957, Section 412.021, Subdivision 1, is amended to read:

**412.021 Subdivision 1. Election.** Upon the filing of the certificate with the secretary of state, if the vote is in favor of incorporation, the judges of election appointed by the *municipal commission* shall fix a day at least 15 and not more than 30 days thereafter and a place for the holding of an election for village officers. The judges shall also fix the time, not less than three hours, during which the polls shall remain open at the election and shall post a notice setting forth the time and place of such election in three public places in the village for at least ten days preceding the election.

**Sec. 14. Repealer.** *Minnesota Statutes 1957, Sections 340.11, Subdivision 15, 366.02 to 366.022, 412.012, 412.041, 412.051, 412.071, 412.921, 413.03, 413.12, 413.13 to 413.137, 413.14 to 413.143, 413.15 to 413.26, 413.30 to 413.34 are hereby repealed. Minnesota Statutes 1957, Sections 368.01 to 368.12, 368.50 to 368.53, 368.61 to 368.84, are hereby repealed but such repeals shall not be effective until six months sub-*

sequent to the effective date of the 1960 Federal decennial census.

*Sec. 15. Effective date. This act shall become effective upon final enactment.*

Approved April 24, 1959.

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CHAPTER 687—H. F. No. 1702

[Coded]

*An act providing state financial aid through loans to certain school districts in which necessary local debt service tax levies exceed reasonable maximums; appropriating moneys therefor; authorizing certificates of indebtedness and the levy of taxes for the payment thereof; authorizing debt service loans and capital loans therefrom; creating a special state fund and a state committee for administration thereof; amending Minnesota Statutes, 1957, Section 475.54, relating to serial payments of bond issues; and repealing Minnesota Statutes, 1957, Sections 120.51 to 120.57.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. [120.59] Maximum Effort School Aid Law.** *This act may be cited as the "Maximum Effort School Aid Law".*

**Section 2. [120.60] Policy and purpose.** *The rates of increase in school population in Minnesota and population shifts and economic changes in recent years, and anticipated in future years, have required and will require large expenditures for performing the duty of the state and its subdivisions to provide a general and uniform system of public schools. The state policy has been to require these school costs to be borne primarily by the local subdivisions. In most instances the local subdivisions have been, and will be, able to provide the required funds by local taxation as supplemented by the aids usually given to all school districts from state income tax and other state aids. There are, however, exceptional cases due to local conditions not found in most other districts, where, either temporarily or over a considerable period of years, the costs will exceed the maximum which the local taxpayers can be reasonably expected to bear. In some districts having bonds of several issues outstanding, debt service tax levy requirements are excessive for some years because of heavy bond principal payments accumulating in some of the years due to*