

Provided, That this act shall not be made to apply to counties governed by special laws.

When act to
take effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved April 24, 1889.

CHAPTER 173.

[H. F. No. 159.]

AN ACT TO AMEND SECTION ONE HUNDRED AND TWO (102) OF CHAPTER EIGHT (8) OF THE GENERAL STATUTES OF ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878), RELATING TO THE MEETING OF THE BOARDS OF COUNTY COMMISSIONERS.

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

Meetings of
county com-
missioners in
Otter Tail
county.

SECTION 1. That section one hundred and two (102) of chapter eight (8) of the general statutes of one thousand eight hundred and seventy-eight (1878) be amended by striking out the word "fourth" where it occurs in the fourth (4th) line of said section, and inserting in lieu thereof the word "second."

SEC. 2. This act shall apply to Otter Tail county only.

When act to
take effect.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved February 1, 1889.

CHAPTER 174.

[H. F. No. 55.]

AN ACT FOR CHANGING COUNTY SEATS.

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

Changing
county seats.

SECTION 1. That whenever there shall be presented to to the county auditor of any county in this state a petition, substantially in the following form, to-wit: "To the board of county commissioners of the county of (here insert the name of the county), Minnesota: The undersigned legal voters of said county pray that the county seat thereof be

changed to (here designate the place)", and signed by legal voters of such county to a number equal to not less than sixty (60) per cent of the whole number voting in such county at the last general election preceding the presentation of such petition to said county auditor, as shown by the returns of such election, accompanied by the affidavit or affidavits of not less than two (2) of the signers thereof, stating that within their knowledge, the signatures to such petition are genuine, and that their names were signed thereto within sixty (60) days preceding the date of such affidavits, and that as they are informed and believe such signers were at the time of signing of such petition legal voters of said county.

And if the number of legal voters of such county whose genuine signatures are attached to said petition, as disclosed by said affidavits, equals or exceeds a majority of the whole number of votes cast in such county at the last general election preceding the presentation of such petition, as shown by the returns of such election, it shall be the duty of the county auditor, subject to the provisions of this act, immediately to file such petition and affidavits in his office, and, subject to the provisions of this act, immediately to make, subscribe, affix his official seal to and file in his office an order for a special meeting of the board of county commissioners of such county, specifying therein the time for such meeting, which shall be between the hours of nine (9) o'clock in the forenoon and five (5) o'clock in the afternoon, on a week day, and not less than fifteen (15) nor more than twenty (20) days after the time of the presentation of said petition and affidavits.

Duty of county auditor on presentation of petition.

And the said county auditor shall mail or procure to be mailed to each member of said board, addressed to him at his last known postoffice address, postage prepaid, or otherwise served upon him, a duplicate original of such order, not less than five (5) days before the time specified therein for such meeting.

It shall also be the duty of said county auditor, immediately upon making and filing such order, to make, subscribe, affix his official seal to and file in his office a notice substantially in the following form, to-wit:

"To the legal voters of the county of (here name county as in the petition) Minnesota:

"Notice is hereby given, that a petition is now on file in my office, signed by the legal voters of said county to the number of (here state the number as shown by the said petition and affidavits) praying that the county seat of said county be changed to (here designate the place as in said petition), and that a special meeting of the board of county commissioners of said county will be held at (here name the place provided for the meeting of the board) on the (here state the time of the meeting as in said order) to consider and determine as to the genuineness of the signa-

Form of notice to voters.

tures to said petition, and as to the number of legal voters of said county whose genuine signatures were attached thereto within sixty (60) days preceding the filing of such petition and affidavits in the office of the said county auditor, at which time and place any legal voter in said county may appear, in person or by counsel, and be heard respecting the matters so committed to the determination of the said board."

Notice to be published.

It shall also be the duty of the said county auditor to cause the said notice to be published once each week for two (2) consecutive weeks immediately preceding the time fixed therein for the said special meeting of said board in all the newspapers printed and published in such county during such period, and also to post a duplicate of said notice in a public place in each organized town in said county not less than ten (10) days prior to the time fixed in said notice for the meeting of said board.

Affidavits stating facts showing compliance with the foregoing provisions for the publication and posting of said notices may be made by any person having personal knowledge thereof, and upon being tendered to said county auditor for filing in his office shall be filed therein, and shall thereafter constitute and be prima facie evidence of the truth of the facts therein set forth in all actions, suits and proceedings.

Provided, further, that public notice of the intention to circulate such petition shall be given by the publication thereof in one (1) or more newspapers of such county, if there be such newspapers, and by posting the same in three (3) of the most public places at the county seat in such county for two (2) weeks next preceding the circulation of such petition. Proof of the publication and posting of such notice shall be made in like manner as herein provided for in the notice of the special meeting of said board.

Duties of county commissioners.

SEC. 2. It shall be the duty of said board of county commissioners to meet at the time and place specified in the notice mentioned in the preceding section, and proceed without unnecessary delay to comply with the provisions of this act, continuing in session from day to day (excluding Sundays and legal holidays) until such compliance shall be completed.

The said board shall inquire and determine, which, if any, of the signatures attached to the petition referred to in said notice are not genuine, and which, if any, of the signers of said petition were not, at the time of signing the same, legal voters in said county, and which, if any, of the signatures to said petition were not attached thereto within sixty (60) days preceding the filing of such petition in the office of the said county auditor; the affidavits accompanying said petition and filed in the office of the said county auditor, pursuant to the provisions of the preceding section, shall for the purposes of this act, be prima facie evidence of the truth of the matters stated therein.

The said board shall receive any competent evidence offered before them bearing upon the matters committed to their determination aforesaid; and, to that end any legal voter in said county may appear before said board at said meeting in person or by counsel, and be heard in respect to said matters under such reasonable rules and regulations as the board may prescribe; provided, however, no remonstrance against a county seat removal shall be presented to or be considered by said board unless notice of a desire to contest such county seat removal shall have been published at least three (3) full weeks in some newspaper of general circulation published in the county, and posted in three (3) public places in such county, before the circulation of such remonstrance. The fact that such notice was so printed and posted shall be established by the affidavits of all the parties who circulated such remonstrance, by those of the parties posting such notices, and by affidavits of the publishers of newspapers who may have published such notices.

It shall be the duty of the said board, within ten days after the day specified in said notice for their said meeting, to conclude their inquiries and determination respecting the matters committed to them, as aforesaid, and immediately thereupon to make, sign and file in the office of the said county auditor, a certificate setting forth the names of the persons, if any, whose signatures to such petition are not genuine, and the names of the persons, if any, signing such petition who were not at the time of signing the same legal voters in such county, and the names of the persons, if any, signing such petition whose signatures were not attached thereto within sixty (60) days preceding the filing of such petition in the office of the said county auditor. All of which names shall be stricken from the said petition originally filed in the office of said county auditor, and shall be deemed by the filing of said certificate, to be deducted therefrom.

SEC. 3. It shall be the duty of the said county auditor, subject to the provisions of this act, immediately upon the filing in his office of the certificate of the board required by the preceding section, to make, subscribe, affix his official seal to, and file in his office, an order fixing the time of holding a special election in such county upon the question of changing the county seat thereof to the place designated in said petition, provided the petition for such change shall have been signed by the number of legal voters of such county as required by section one (1) of this act, as shown by such petition, accompanying affidavits, the certificate required by the preceding section, and the returns of the last general election held preceding the presentation of said petition to said county auditor.

The time fixed in said order for said special election shall not be less than twenty (20) nor more than thirty (30) days

County auditor
shall file an
order fixing
time of holding
special
election.

after the filing in said auditor's office of the certificates required by the preceding section.

It shall be the duty of said county auditor immediately upon the making, subscribing and filing of such order to make, subscribe, affix his official seal to and file in his office a notice of said special election substantially in the following form, to-wit:

Form of election notice.

"To the legal voters of the county of (here name county as in the petition) Minnesota:

"Notice is hereby given that a special election will be held in the several election districts in said county on the (here insert the time fixed in said last mentioned order) for the purpose of voting upon the question of changing the county seat of said county to (here designate the place as in said petition.)"

Notice to be published.

It shall be the duty of the said county auditor to cause the notice in this section mentioned to be published once in each week for two (2) consecutive weeks immediately preceding the time specified therein for holding such election in all the newspapers printed and published in such county during such period, and also to post a duplicate of said notice in a public place in each organized town in said county not less than ten (10) days prior to the time fixed in such notice for such election.

Notice to be served upon clerks of each organized town, village or city.

It shall also be the duty of said county auditor to serve upon or mail to the clerk of each organized town, village or city, in such county, a duplicate of such notice addressed to him at his last known postoffice address, postage prepaid, not less than fifteen (15) days previous to the time fixed in such notice for holding such election.

Clerks to fix places of holding elections.

And it shall be the duty of the clerk of each organized town, village or city, in such county, immediately upon the receipt of said notice by him, to make, subscribe and file in his office, an order fixing the place of holding such special election in each election district within his town, village or city, and immediately thereupon to make, subscribe and file in his office a notice for each election district in his town, village or city, substantially in the following form, to-wit:

Form of notice

"To the legal voters of the (here specify the election district), in the county of (here name county), Minnesota:

"Notice is hereby given that a special election will be held at (here specify the place as fixed in the order for that district), in said election district, on the (here insert the time fixed by the county auditor, as aforesaid), for the purpose of voting upon the question of changing the county seat of said county to (here designate the place as in the said notice of the county auditor)."

Duplicate notices to be posted.

And it shall be the duty of such clerk to post a duplicate of said notice for each election district in at least three (3) public places therein, not less than ten (10) days before the time fixed in the said notice of the county auditor for holding such election.

It shall be the duty of the judges of election in each election district to meet and organize on the day fixed therefor as aforesaid, and to conduct such election in the same manner, as far as practicable, as other elections are, or may be required to be conducted by law.

Duties of
judges of
election.

The polls for such election shall be opened at the hour of eight (8) o'clock in the forenoon and closed at the hour of five (5) o'clock in the afternoon. Those voting in favor of changing the county seat of such county to the place named in the notice of the county auditor of such election shall have printed or written, or partly printed and partly written, on their ballots, the words "for changing the county seat to (naming the place as in said petition) yes." And those voting against such changing shall have printed or written, or partly printed and partly written, on their ballots, the words "for changing the county seat to (here name the place as in said petition) No;" and the votes cast at such election, shall, subject to the provisions of this act, be canvassed, certified, returned and recorded in the same manner as votes cast at the general election are required to be canvassed, certified, returned and recorded.

Time of
opening and
closing polls.

Canvass and
returns.

SEC. 4. It shall be the duty of the board of county commissioners to meet at the county seat of such county on the third (3d) day next following the holding of such special election (including Sundays and legal holidays) and canvass the vote cast at such election and the returns thereof from the several election districts, continuing in session from day to day until they shall have completed such canvass, whereupon they shall immediately make, subscribe and file in the office of the county auditor of said county, a certificate setting forth the number of votes cast in each election district in such county in favor of changing the county seat to the place named in said petition, the number of votes cast against such change, and the majority in each election district for or against such change, the total number of votes cast in such county in favor of such change, the total number of votes cast in such county against such change, and the majority in such county for or against such change. And if fifty-five (55) per cent of the votes cast at such election shall be in favor of changing the county seat of such county to the place named in said petition, such county seat shall, subject to the provisions of this act, be deemed to be thereby changed to the place named in said petition.

Number of
votes required
to change
county seat.

SEC. 5. In any of the counties of this state where a special election has been held under this act for the change of the county seat, no petition described and provided for by this act shall be received by and filed with the county auditor of said county, praying for and providing for a change of the county seat, and no proceedings shall be had upon such petition under the provisions of this act until after the expiration of a term of five (5) years from the date of such special election.

Five years
shall elapse
before another
special
election.

Places for
holding
elections.

SEC. 6. The place for holding any special election under the provisions of this act, shall be, as far as practicable, at the place or places of the last general election held preceding such special election.

The signing and filing by a majority of said board of the certificates and statements required by the provisions of this act to be signed and by them filed in the office of the said county auditor, shall be deemed a sufficient compliance with the provisions of this act.

Two or more
petitions shall
be deemed as
one.

SEC. 7. Whenever two (2) or more petitions substantially in the form prescribed in section one (1) of this act, with accompanying affidavits as therein provided, shall be presented to the county auditor of any county substantially at the same time, praying that the county seat of such county be changed to the same place they shall be attached together, and shall henceforth be taken and deemed to be one petition for all the purposes of this act.

One place at a
time.

SEC. 8. No election shall be called or held under the provisions of this act for voting upon the question of changing any county seat to more than one place at the same time.

Election not
invalidated by
reason of fail-
ure to publish
or post notice.

SEC. 9. No failure or refusal of the owner, proprietor, manager, or publisher of any newspaper, his or their agents or employes, to publish any notice required to be published by the provisions of this act shall affect the sufficiency of such notice, or invalidate any of the proceedings therein, by the terms of this act. And no failure to post any notice of any special election under the provisions of this act shall affect the sufficiency of such notice, or invalidate such election, unless it should be made affirmatively and clearly to appear that a sufficient number of legal voters were thereby prevented from voting to change the result of such election as shown in the returns thereof.

Neglect a
misdemeanor.

SEC. 10. Any county auditor or county commissioner who shall wilfully neglect or refuse to perform the duties required of him by this act when a petition has been presented as herein provided, shall be guilty of a misdemeanor.

When act to
take effect.

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved March 21, 1889.