

# REVISED LAWS

# MINNESOTA

## 1905

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EDITED AND ANNOTATED BY  
MARK B. DUNNELL

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ST. PAUL  
PUBLISHED BY THE STATE  
1906

of any statement relating to the result of any election, who shall wilfully mutilate, tear, deface, obliterate, or destroy the same, or do any other act which shall prevent the delivery of it as required by law, and every person who shall take away from such messenger any such report, certificate, or copy, with intent to prevent its delivery, or who shall wilfully do any injury or act herein specified, shall be guilty of a felony. (6788)

**376. Unlawful expenditures before nomination or election**—Every candidate for nomination or election to a public office, who within ten days before any primary held to nominate, or to elect delegates to a convention called to nominate, a candidate for such office, or who within sixty days before the election at which an incumbent is to be chosen for such office, directly or indirectly, gives or provides, or pays, wholly or partly, or promises to pay, wholly or partly, the expense of giving or providing any food, drink, or entertainment to or for any person with intent to corruptly influence such person, or any other person, to give or refrain from giving his vote at such election, or to vote or refrain from voting in a particular way, shall be guilty of a misdemeanor. ('95 c. 277 s. 3)

**377. Failure to file statement**—Every treasurer or other person who receives any money to be applied to any of the election purposes for which expenditures are permitted by law, who fails to file the statement and account respecting the same required by this chapter within the time prescribed, shall be guilty of a misdemeanor. ('95 c. 277 s. 21)

**378. Failure of treasurer to keep correct accounts**—Every such treasurer or other person who receives any money to be applied to the purposes aforesaid, who fails to keep a correct book of account containing all the statements and details required by law, with intent to conceal the receipt or disbursement of any sum of money received or disbursed by him or by any other person, or the purpose for which the same was received or disbursed, or to conceal the existence of any unpaid debt or obligation, or the amount thereof, or to whom the same is due, in detail, or who shall mutilate, deface, or destroy such book with like intent, shall be guilty of a misdemeanor. ('95 c. 277 s. 22)

**379. Failure of candidate to file—No commission, etc., to issue**—Every candidate for nomination or election to any elective office, or to the office of United States senator, who fails to make and file the verified statement of moneys contributed, disbursed, expended, or promised by him, or by any other person, committee, or organization for him, so far as he can learn, in the manner, within the time, and with the details required by law, or who enters upon the duties of any such office, or receives any salary or emolument therefrom, before he has so filed such statement, and every officer who issues a commission or certificate of election to any person before such statement shall have been so filed, shall be guilty of a gross misdemeanor. ('95 c. 277 s. 8)

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## CHAPTER 7

### COUNTIES AND COUNTY OFFICERS

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#### CHANGE OF BOUNDARIES

**380. Change—New counties**—The boundaries of counties may be changed by taking territory from a county and attaching the same to an adjoining county, and new counties may be established out of territory of one or more existing counties, as hereinafter provided; but no such new county shall contain less than four hundred square miles, nor less than two thousand inhabitants, and no existing county shall be reduced in area below four hundred square miles, nor so as to contain less than two thousand inhabitants. (621)

Control of legislature over subject absolute (43-500, 46+73; 66-536, 68+769). Title of 1893 c. 143 sufficient (67-352, 69+1083). Territory taken and left must be contiguous (69-202, 71+933). Cited (77-63, 79+655; 83-331, 86+352; 89-123, 94+226; 89-269, 94+879).

**381. Petition**—A separate petition for each county to be affected thereby, signed by voters therein equal in number to at least one-fourth of those voting in such county at the last preceding election, giving the residence of each signer, may be filed with the secretary of state, and a copy thereof with the auditor of each such county, not less than ninety days before any general election, praying for a change of county boundaries, or that a new county be established out of territory to be taken from one or more existing counties. If the petition is for a change of boundaries, it shall contain a description of the territory to be taken, the name of the county from which the same is to be detached, and the county to which such territory is to be attached. If for the establishment of a new county, the petition shall state the name of the proposed new county, a description of the territory to be included therein, giving boundaries, the name and location of the proposed county seat, and the names and places of residence of the persons who shall constitute the first county board. (622, 623; '95 c. 124)

66-519, 68+767, 69+925, 73+631; 67-352, 69+1083; 89-123, 94+226.

**382. Proclamation by governor**—But one proposition submitted—If it appears that each petition is signed by the requisite number of persons who are voters in each of the counties affected, of which latter fact the affidavits of the persons procuring the signatures thereto shall be prima facie evidence, the secretary of state shall notify the governor of the filing thereof, who, not less than sixty days before such election, shall issue his proclamation, reciting that such petitions have been so filed, the substance thereof, and directing that the question of such change of boundaries, or the establishment of such new county, as the case may be, be submitted to the voters of the counties to be affected thereby at such election; but in no case shall more than one proposition be submitted at the same election, except for mutual exchange of territory between counties. (622)

Prior to revision more than one proposition might be submitted (66-536, 68+769; 67-352, 69+1083; 69-202, 71+933; 89-123, 94+226; 89-269, 94+879).

**383. Recording petition, etc.**—Published notice—Upon issuance of such proclamation, the secretary of state shall record the petitions, affidavits, and proclamation, and shall cause three weeks' published notice of such proclamation to be given at the county seat of each county whose territory will be affected by the proposed change, and shall also transmit a certified copy of such proclamation, by mail, to the auditor of each such county. (622; '95 c. 124)

**384. Notice of election**—Ballots—The notice of the next general election of county officers shall specify that the question of forming such new county, or changing the boundaries of such existing counties, as the case may be, will be voted upon at such election, and shall state substantially the facts set forth in said petition. If the proposition be for a change of boundaries, the ballots shall have printed thereon the words: "For changing county boundaries. Yes." If for the establishment of a new county, the words: "For a new county. Yes." Each of said last two words, "Yes" and "No," shall be followed by a square in which the voter may make a cross to indicate his choice. (624; '95 c. 124 s. 2)

66-536, 68+769.

**385. Duty of judges**—The judges of election, in addition to the returns required in other cases, shall, within twenty-four hours after the canvass is completed, transmit to the secretary of state, by registered mail, their certificate of the number of votes cast for and against any proposition submitted; and the county canvassing board shall make return of such vote, as in the case of votes for state officers. (626)

**386. Canvass by state canvassing board**—The state canvassing board shall canvass such returns at the time of canvassing the votes cast for state officers, and in the same manner; and they may resort to the returns received from the election judges for the correction of errors in the returns of the county canvassing boards, and for supplying omissions therein. When the canvass is

completed, such board shall make and file with the secretary of state its certificate, declaring the result of the vote; and, if such certificate shows that such proposition has received a majority of the votes cast thereon in each county to be affected thereby, the governor, within ten days thereafter, shall issue his proclamation declaring the same adopted. The secretary of state shall record such certificate and proclamation in his office, and transmit a certified copy of the proclamation to the auditor of each county whose territory is affected thereby. Such auditor shall cause three weeks' published notice thereof to be given, and, if the proposition was for the establishment of a new county, shall serve a certified copy thereof on each of the persons elected as county commissioners of such new county. Such proclamation shall also be published with the general laws enacted at the next session of the legislature thereafter. (628; '03 c. 144)

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**387. Effect of proclamation**—Upon the issuance of such proclamation, the proposed change of boundaries shall become effective, and, if the proposition was for the establishment of a new county, the same shall thereupon become duly organized; but the territory included therein shall remain attached for judicial purposes to the county from which it was taken, until the officers of such new county have been appointed and qualified as hereinafter provided. (629)

77-63, 79+655; 90-118, 95+591.

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**388. County commissioners**—Immediately after the service upon them of such copies, the persons chosen as commissioners shall meet at the place named as the county seat and qualify. Said board shall elect one of its members to act as clerk until the auditor shall have qualified. They shall then appoint the county officers, beginning with the auditor, and the persons so appointed shall qualify as required by law. (630)

89-269, 274, 94+879.

**389. Towns—School and road districts**—The several towns, school districts, and road districts whose boundaries are unaffected by the change of county lines shall continue to be such in the new county, or county to which transferred, under the same officers as before. Fractions of such towns or districts as are divided by the changed county lines shall be reorganized by the county board of the county in which they are placed, or be attached to adjoining towns or districts, as the board shall deem best. (631)

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**390. Records transcribed**—All records in the office of the register of deeds affecting real estate transferred under this chapter from one county to another shall be transcribed by the register of deeds of the county to which such transfer is made, for which, including indexing, he shall receive three cents per folio; and such transcribed records shall have the same effect, for all purposes, as the originals. In like manner, and with like effect, the county auditor shall transcribe from the auditor's office such records and documents as the county board shall direct, for which he shall receive six cents per folio. (632, 4189; '97 c. 236)

40-132, 41+156.

**391. Levy and collection of taxes**—No transfer of territory under the provisions of this act shall affect the collection of taxes levied at the date of the filing of the petition therefor, but all such taxes shall be collected by the officers of the original county, and all moneys then remaining in or afterwards coming into the treasury of such original county, or into the possession of any officer of such county, and belonging to any town, school, or road district in the territory transferred, shall be apportioned and paid over to such town or district in the same manner as if such town or district had remained a part of such original county. After the filing of the petition no county tax shall be extended, by or on behalf of the original county, upon any property within the territory proposed to be transferred, unless and until the proposed change shall have been rejected. (633)

**392. Transfer of plats**—Original plats of lands embraced in territory transferred to another county under the provisions of this chapter, on file or

of record in the office of the register of deeds of the county from which such transfer is made, or certified copies thereof, shall be delivered by such register to the register of the county to which such territory is transferred, and by him filed and recorded. ('03 c. 84)

**393. County indebtedness—County buildings—**All territory so transferred shall continue liable for its proportion of the excess, if any, of the indebtedness of the original county above the value of its county buildings and of the balance of funds in its treasury. Such share shall be based upon the last assessment, and the value of the buildings, unless agreed upon by the respective county boards, shall be fixed by the sworn appraisal of three disinterested citizens, none of whom shall be a resident or taxpayer in either county, and who shall be appointed by the governor, upon the written application of the board of either county. The appraisal shall be in writing, subscribed and verified by at least two of such appraisers, and filed in the office of the secretary of state, and shall be final and conclusive. Within five days after the filing of such appraisal, the secretary of state shall transmit to the auditor of each of such counties a certified copy of such appraisal, application, appointment, and oath. (634)

83-331, 86+352.

**394. County bonds—Payment and issue—**The county board of the county to which such territory is transferred shall make provision for payment of such indebtedness by levying a tax therefor at the time fixed by law for so doing; and, for the purpose of meeting any portion of such indebtedness which may become due before the same can be raised by taxation, and providing for the necessary county expenses, such board in any such new county may issue bonds of its county, with coupons attached, not exceeding in amount the sum of ten thousand dollars, to run for a period of not more than ten years, bearing interest at a rate not exceeding six per cent. per annum. (635)

83-331, 86+352.

**395. Penalty if officer refuses to act—**The validity of the establishment of any such new county shall not be affected by the failure or refusal of any county officer to do any of the acts or things required by this act, but any officer who shall refuse or wilfully neglect to perform any duty herein required shall be guilty of malfeasance in office. (637)

89-269, 276, 94+879.

**CHANGING COUNTY SEATS**

**396. Petition for change—Procedure—**Whenever there shall be presented to the auditor of any county a petition substantially in the following form, to wit: "To the county board of the county of . . . . ., Minnesota: The undersigned legal voters of said county pray that the county seat thereof be changed to (here designate the place)"—signed by legal voters of said county to a number equal to not less than sixty per cent. of the whole number voting therein at the last preceding general election, accompanied by affidavits of not less than two of the signers thereof stating that, to the knowledge of affiants, the signatures to such petition are genuine, were subscribed thereto within sixty days preceding the date of such affidavits, and that affiants are informed and believe that at the time of signing such petition the petitioners were legal voters of said county, and it appearing that the notice of intention to circulate the petition provided for in § 397 has been given, the auditor shall forthwith file such petition and affidavits, and make, seal, and file in his office an order for a special meeting of the county board to consider such petition, specifying therein the time of such meeting, which shall be between 9 o'clock a. m. and 5 o'clock p. m., and not less than fifteen nor more than twenty days after such filing. The auditor shall also cause a duplicate of such order to be served upon each member of said board, personally or by mail, not less than five days before the time specified therein for such meeting. (647)

1889 c. 174 constitutional (43-500, 46+73). Petitioner may withdraw his name. Effect of withdrawal on duty of auditor (59-351, 61+322; 66-266, 68+1081). Number voting

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at last election to be ascertained from poll lists (59-351, 61+322; 64-16, 65+956). Women electors to be excluded in computation (59-351, 61+322). But one petition allowable (67-360, 69+1097). Affidavit need not state that affiants are signers of petition (93-238, 101+71). Duty of auditor (59-351, 61+322; 92-429, 100+101).

**397. Form of notice**—When such order is filed, the auditor shall forthwith make, seal, subscribe, and file in his office a notice substantially in the following form, to wit: "To the legal voters of the county of (here name the county), Minnesota: Notice is hereby given that a petition is on file in my office, signed by legal voters of said county to the number of (here state number as shown by the said petition and affidavits), praying that the county seat of said county be changed to (here designate the place), and that a special meeting of the county board will be held at (name the place of meeting), on the (state time), to consider said petition, at which time and place any legal voter of said county may appear, in person or by counsel, and be heard." The auditor shall cause two weeks' published notice of such meeting to be given in all the newspapers of the county, and also ten days' posted notice thereof in each organized town therein. Proof of publication and posting may be by the affidavit of any person having personal knowledge thereof, which affidavit shall be filed in the office of the auditor, and thereafter be prima facie evidence of the truth of the facts therein set forth. Two weeks' published notice of the intention to circulate such petition shall be given in one or more newspapers of such county, and two weeks' posted notice of such intention shall be given at the county seat. Proof of such publication and posting shall be made in like manner as in the case of notice of the special meeting of said board. (647)

Publication and posting jurisdictional (42-284, 44+64; 43-322, 45+614; 81-103, 83+483). Filing of affidavit of posting jurisdictional. Posting in village held necessary (90-406, 97+103). Publication in one newspaper of notice of intention to circulate petition sufficient (93-238, 101+71).

**398. Duties of county board**—At the time and place specified in the notice, proof of its service having been filed, the board shall meet to act on said petition, and shall inquire and determine which, if any, of the signatures to said petition are not genuine; and which, if any, of the signers thereof were not, at the time of signing the same, legal voters of said county; and which, if any, of the signatures thereto were not attached within sixty days preceding the filing thereof; and which, if any, of such signatures have been withdrawn. All such signatures shall be stricken from the petition and deducted from the count, and a list thereof certified by the board shall be filed forthwith with the auditor. Any competent evidence offered, bearing upon the matters committed to the determination of the board, shall be received; and, to that end, any voter of said county may appear in person or by counsel and be heard in respect to said matters, under such reasonable rules and regulations as the board may prescribe. (648)

43-322, 45+614; 64-16, 19, 65+956; 66-266, 269, 68+1081; 67-360, 69+1097; 90-406, 411 97+103; 92-429, 100+101; 93-238, 101+71.

**399. Order fixing time of election**—If the names of the legal voters of said county remaining affixed to the petition shall equal or exceed sixty per cent. of those voting therein at the last preceding general election, the auditor, upon the filing of such certificate, shall make, under his official seal, and file in his office, an order fixing the time of holding a special election upon the question of changing the county seat to the place designated in said petition, which shall not be less than twenty nor more than thirty days after filing said certificate. (649)

90-406, 412, 97+103; 92-429, 433, 100+101.

**400. Notice—How served**—Upon the filing of such order, the auditor shall cause two weeks' published notice of said election to be given in all the newspapers in said county, and ten days' posted notice in each town therein. Such notice shall be substantially in the following form: "To the legal voters of the county of (here name the county), 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), for the purpose of voting upon the question of changing the county seat of said county to (here designate the place)." The auditor shall also serve upon the clerk of each town, village, and city in such county, personally or by mail, a duplicate of such notice, not less than fifteen days previous to the time so fixed for holding such election. (649)

**401. Place of election—Notice—**Upon receipt of such notice, every such clerk shall cause ten days' posted notice of such election to be given in each election district in his town, substantially in the following form: "To the legal voters of the (here insert specifically 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), in said election district, on the (here insert the time), for the purpose of voting upon the question of changing the county seat of said county to (here designate the place)." One copy of such notice, with proof of the posting, shall be filed by said clerk in his office. (649)

**402. Conduct of election—**As far as practicable, such election shall be conducted, and the votes cast, counted, returned, and canvassed, by the same officials and under the same provisions of law as in the case of general elections. The polls shall be opened at 8 o'clock a. m., and closed at 5 o'clock p. m. The ballots shall have printed thereon the words: "For changing the county seat to (here name the place). <sup>Yes.</sup><sub>No.</sub>"—with a square opposite each of the words "Yes" and "No," in one of which each voter shall make a cross to express his choice. (649)

**403. Canvass—Certificate—**When the canvass is completed, the canvassing board shall forthwith make, subscribe, and file with the auditor a certificate setting forth the total number of votes cast at such election, the number cast in each election district in favor of and against such change, and the majority in each for or against the same, the number cast in favor of and against such change in the county, and the majority therein for or against the same. If fifty-five per cent. of all the votes cast at such election shall be in favor of such change, such board shall give two weeks' published notice of the result in all the newspapers of the county. Such notice shall state that from and after a date specified therein, which shall be not less than sixty nor more than ninety days after the election, the place so chosen shall be the county seat. (650)

64-16, 65+956.

**404. Elections only once in five years—**Whenever an election for a change of county seat shall have been held in any county, no subsequent election for the removal of the county seat shall be held therein, nor shall any notice of intention to circulate a petition for such change be published or posted, nor any such petition circulated, until after the expiration of five years; and no such subsequent election shall be ordered unless the petition for such change is signed by legal voters to the number of sixty per cent. of those voting in said county at the last preceding general election. (651; '99 c. 111)

64-16, 19, 65+956; 67-360, 69+1097; 92-429, 100+101.

**405. Duplicate petitions consolidated—**Whenever two or more such petitions shall be presented to the county auditor substantially at the same time, they shall be attached together, and thereafter constitute one petition. (653)

67-360, 69+1097.

**406. One place only voted for—**No election shall be called or held under the provisions of this chapter for voting upon the question of changing any county seat to more than one place at the same time, and all such elections shall be held, as far as practicable, at the place of holding the last preceding general election. (652, 654)

**407. Failure to give notice—**Wilful failure or refusal by any owner or manager of any newspaper to publish any notice required by this chapter shall not affect the sufficiency of such notice, nor invalidate any of the proceedings thereunder. And failure to post any notice shall be disregarded unless it

affirmatively appears that a sufficient number of voters were thereby prevented from voting to change the result. (655)

42-284, 44+64; 81-103, 83+483.

408. Neglect of duty a misdemeanor—Any county auditor or other official who shall wilfully neglect or refuse to perform the duties required of him by this chapter shall be guilty of a misdemeanor. (656)

POWERS AND DUTIES

409. Powers—Each organized county is a body politic and corporate, and, as such, empowered to act for the following purposes:

- 1. To sue and be sued.
- 2. To acquire and hold real and personal property for the use of the county, and lands sold for taxes, as provided by law, and to purchase and hold, for the benefit of the county, real estate sold by virtue of judicial proceedings to which the county is a party.
- 3. To sell, lease, and convey any real or personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of its inhabitants.
- 4. To make all contracts and do all other acts in relation to the property and concerns of the county necessary to the exercise of its corporate powers. (638; '03 c. 148)

Nature of county defined (22-366; 23-40; 25-215; 30-96, 14+458; 90-530, 97+422). Described as political corporation (36-430, 31+517); as public corporation (4-184, 130); as quasi municipal corporation (11-31, 12; 36-430, 31+517; 81-55, 83+495; 84-295, 87+775). Corporate powers limited to those expressly granted and such as are fairly implied as necessary to the exercise of those expressly granted (28-515, 11+91; 81-55, 83+495; 84-295, 87+775). Ultra vires contracts (37-141, 33+333; 81-55, 83+495; 28-515, 11+91; 45-352, 47+1067; 84-295, 87+775). Cannot appropriate its property to private purposes (28-503, 11+73; 30-350, 15+375). Not liable for torts (30-96, 14+458; 90-530, 97+422). May acquire and hold realty in satisfaction of claim (33-519, 24+291). Power to sell its realty unrestricted (16-151, 135; 28-503, 508, 11+73). May sue and be sued (14-67, 51; 22-97, 108).

410. Conveyances to county—Effect—All real and personal estate conveyed by any form of conveyance to any county or the inhabitants thereof, or to any person for the use and benefit of such county or its inhabitants, shall be deemed to be the property thereof; and all such conveyances shall have the same force and effect as if made to such county by its corporate name. (639)

411. Powers, how exercised—The powers of the county as a body politic and corporate shall only be exercised by the county board, or in pursuance of a resolution by it adopted; and deeds and other written instruments made by the county shall be executed in its name by the chairman of such board and by the auditor as clerk thereof. (640; '03 c. 148)

57-434, 438, 59+488; 89-68, 93+1056.

412. County buildings—Each county shall provide at the county seat, and keep in good repair, a suitable courthouse, supplied with fireproof vaults, a suitable and sufficient jail, and other necessary buildings. (641)

28-515, 11+91; 56-540, 547, 58+150; 57-434, 438, 59+488.

413. Suits against counties—Service—Jurors—Service of summons or other original process in actions against a county shall be made upon the chairman or clerk of the board, either during a session of the board, or within ten days before the day appointed for one. The person served shall forthwith notify the county attorney of such service, and shall lay before the board at its next regular meeting all the information he may have regarding such action. In actions where the county is a party, its inhabitants, if otherwise qualified, may be jurors. (642)

14-67, 51.

414. County, how named in suits—In all actions and proceedings by or against a county, the name in which it shall sue or be sued shall be, "The county of . . . ." (insert name of the county); but this provision shall

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not prevent county officers, when authorized by law, from suing in their official names for the benefit of the county. (643)

New as to title of action. See 22-61; 22-97, 108; 89-68, 93+1056.

**415. Claims against county—Appeal—**When any claim against a county is disallowed by the board in whole or in part, a claimant may appeal from its decision to the district court by causing a written notice of such appeal to be filed in the office of the auditor within fifteen days after the decision appealed from was made, and giving security for costs, to be approved by the auditor, who shall forthwith notify the county attorney thereof. When any claim against a county shall be allowed in whole or in part by such board, no order shall be issued in payment of the same or any part thereof until after fifteen days from the date of the decision; and the county attorney may in any case, and if the amount allowed exceeds twenty-five dollars, upon request of seven taxpayers of the county, he shall, on behalf and in the name of such county, appeal from such decision to the district court, by causing a written notice of such appeal to be filed in the office of the auditor within fifteen days after the date of the decision appealed from; and thereafter no order shall be issued in payment of any part of such claim until a certified copy of the judgment of the court shall be filed in the office of the auditor. Upon the filing of such notice of appeal, the court shall acquire jurisdiction of the parties and of the subject matter, and may compel a return to be made as in the case of an appeal from a judgment of a justice of the peace. (644; '03 c. 337)

Right to appeal unaffected by character of claim (32-138, 19+653). Claimant may waive appeal and sue (14-67, 51; 44-383, 46+678; 90-457, 463, 97+132). Practice on appeal by county attorney (15-324, 254). Constitutional (90-457, 97+132).

**416. Proceedings on appeal—**Within ten days after an appeal has been taken, the auditor shall, without charge, file in the office of the clerk of such court a certified copy of the claim, and a transcript of the record of the action of the board thereon, together with a copy of the notice of appeal, and the date of the filing thereof in his office. The proceeding shall be put upon the calendar for trial as an issue of fact at the next general term of the district court, beginning not less than ten days after the date of the appeal; and on or before the second day of such term the court shall direct pleadings to be made up as in civil actions, upon which the proceeding shall be tried, and all questions of law summarily heard and determined. Issues of fact shall be tried and judgment rendered and perfected as in civil actions, but no execution shall issue thereon, except for the collection of a counterclaim or costs and disbursements in case of a judgment therefor against a claimant. (645)

15-324, 254; 46-162, 48+770.

**417. Appeal to supreme court—Counterclaim—**An appeal from the judgment of the district court may be taken to the supreme court, as in civil actions, within thirty days after the actual entry of the judgment. If no appeal is taken, a certified copy of the judgment shall be filed in the office of the auditor; and, if an appeal is taken, the determination of the supreme court shall be certified to the district court, and judgment entered in accordance therewith, and that judgment certified to and filed in the office of the county auditor. In either case, after such certified copy is filed, orders shall be drawn on the county treasury in payment of any judgment in favor of a claimant; and execution may issue out of the district court for the collection of any costs against a claimant: Provided, that in any case where costs are awarded against a claimant, and there is any allowance on the claim in his favor, the amount of such costs shall be deducted from such allowance, and in any case of an appeal the county may, in the district court, interpose, as a counterclaim, any demand which it has against such claimant, and have execution for the collection of any judgment in its favor. (645)

Limitation of time to appeal absolute (82-542, 85+550). Cited (12-388, 269).

**418. Enforcement of judgments—**When any judgment is recovered against a county, or against any county officer, in an action prosecuted by or against him officially, where the same is to be paid by the county, no execution shall issue except as herein provided; but, unless reversed, the same shall be paid

from funds in the treasury, if there be any available; if not, the amount thereof shall be levied and collected as other county charges, and, when so collected, shall be paid to the person in whose favor the judgment was rendered, upon the delivery of a proper voucher therefor. If payment is not made within thirty days after the time the treasurer is required by law to make settlement with the auditor next after the rendition of such judgment, execution may issue, but the property of the county only shall be liable thereon. (646)

14-67, 51.

**COUNTY BOARD**

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**419. Composition**—Every county shall have a board of five commissioners who shall be known as the county board and whose terms of office shall be four years and until their successors qualify; but in counties having an area of over five thousand square miles and a population exceeding seventy-five thousand, the board shall consist of seven members. (657; '01 c. 17)

25-215, 220; 33-25, 27, 21+841; 65-243, 68+8; 75-547, 78+83; 77-43, 79+591.

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**420. Commissioner districts—Redistricting**—Each county shall be divided into as many districts, numbered consecutively, as it has members of the board. In counties divided into towns, such districts shall be bounded by town or ward lines, be composed of contiguous territory, and contain, as nearly as practicable, an equal population. Counties may be redistricted by the county boards after each state or United States census. One commissioner shall be elected in each such district, who at the time of his election shall be a resident thereof, and shall continue to reside therein while in office. (658, 659)

45-313, 47+971; 65-243, 68+8.

07 421 38

**421. Term of office—Bond in certain counties**—In each new county, and in each county which shall be entitled to an increase of the number of commissioners, there shall be elected at the next general election a commissioner from each odd-numbered district for the term of two years, and one from each even-numbered district for the term of four years; and thereafter all commissioners shall be elected for the term of four years, except that elections or appointments to fill vacancies shall be for the unexpired term only. And, in counties having a population of more than one hundred and fifty thousand, every such commissioner, before he enters upon his duties, shall give bond to the state in the sum of ten thousand dollars, with a legally authorized surety company as surety, conditioned for the faithful performance of his official duties. Such bond shall be approved by a judge of the district court, and, together with his oath of office and certificate of election, be filed with the state examiner. The premium on such bond shall not exceed that prescribed by law for county treasurers, and shall be paid by the county. (661; '03 c. 313)

65-243, 68+8; 75-547, 78+83.

**422. Tie determined by lot**—If two or more persons have an equal and the highest number of votes for the office of county commissioner in any district, the auditor shall give notice, in writing, to such persons to attend at his office at a time specified, and he shall then and there, in their presence, publicly decide by lot which of them shall be declared elected. The person so selected shall be the commissioner from such district. (663)

07 423 195  
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**423. Salaries**—Each commissioner shall receive from the county in full payment for all his services an annual salary as follows:

In counties whose assessed valuation does not exceed six million dollars, the sum of one hundred dollars.

In counties whose assessed valuation is more than six million dollars, and does not exceed twelve million dollars, one hundred and fifty dollars.

In counties whose assessed valuation is more than twelve million dollars, and does not exceed twenty million dollars, two hundred dollars.

In counties whose assessed valuation is more than twenty million dollars, and does not exceed fifty million dollars, three hundred dollars.

In counties whose assessed valuation is more than fifty million dollars, and does not exceed one hundred million dollars, six hundred dollars.

09 423 46  
09 - 388

In counties whose assessed valuation is more than one hundred million dollars, twelve hundred dollars. And said twelve hundred dollars shall be in full for all services upon the county and other boards and committees and all traveling and other expenses within the county.

Except as otherwise provided, commissioners shall also receive ten cents per mile travel each way for every mile necessarily traveled in attending the meetings of the board, or in the discharge of official duty under the direction of the board; but no commissioner shall receive mileage for attending more than six sessions of the board in any official year: Provided, that where any district includes a city of the third class having more than five thousand inhabitants, the salary of the commissioner therein shall be fixed by the county board at its first meeting in each year, but shall not exceed two hundred and fifty dollars; and in any county of seventy-five thousand and less than one hundred and fifty thousand inhabitants, each commissioner shall, in addition to the salary and mileage stated, be reimbursed for expenses necessarily incurred, not exceeding two hundred dollars per year, upon a sworn statement thereof in detail, showing place, date, amount and to whom paid. (665)

See 1905 cc. 146, 318

**424. Meetings—Quorum**—The board shall meet at the county seat for the transaction of business on the first Tuesday after the first Monday in January, and on the second Monday in July in each year, and shall hold such extra sessions as it deems necessary for the interests of the county. A majority shall constitute a quorum, and no business shall be done unless voted for by a majority of the whole board, but less than a majority may adjourn. Extra sessions shall be called by a majority of the board, and the clerk shall give at least ten days' notice thereof to each of the commissioners. No session shall continue longer than six days. (666, 667)

Session need not be continuous from day to day. Board may adjourn session to a date more than six days from its commencement (51-289, 53+635; 93-16, 21, 100+384, 1125). Majority vote essential (21-33, 38). Cited (63-53, 58, 65+128, 348; 47-237, 240, 49+865).

**425. Vacancies filled by board**—Whenever a vacancy occurs in the office of county auditor, county treasurer, register of deeds, sheriff, county attorney, county surveyor, coroner, or county superintendent, the county board shall fill the same by appointment. For that purpose it shall meet at the usual place of meeting, upon one day's notice from the chairman or clerk, which shall be served personally upon each member in the same manner as a district court summons is authorized to be served. The person so appointed shall give the bond and take the oath required by law, and shall hold for the remainder of the unexpired term, and until his successor qualifies. (669, 679, 712, 725, 786, 816, 837, 855, 3740)

15-198, 153; 29-398, 402, 13+181; 57-261, 59+190.

**426. Vacancy in board**—Any vacancy in the office of county commissioner occurring more than thirty days before election shall be filled by a board of appointment, consisting of the chairman of the town board of each town, and the mayor or president of each city and village, in the commissioner district in which such vacancy occurs, which shall meet at the auditor's office for that purpose, upon three days' written notice given by such auditor and served personally: Provided that, if such commissioner district is wholly within the limits of an incorporated city or village, such vacancy shall be filled by the council of such municipality. Absence from the county for six successive months shall be deemed to create a vacancy. (670)

65-243, 68+8.

**427. Seal—Evidence of proceedings**—The seal of the auditor shall be the seal of the board, and copies of its proceedings, authenticated as required by law, shall be prima facie evidence thereof in all cases. (671)

87-298, 92+3.

**428. Publication**—The board shall cause the official proceedings of each session to be published in some newspaper printed and published in its county, which publication shall be let by contract to the lowest bidder: Provided, that

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07 428  
- 447

in counties whose population exceeds fifty thousand the proceedings may be published in one daily and in one weekly newspaper at their respective county seats. (671)

87-298, 92+3.

07 429 - 76

**429. Chairman—Vice-chairman—Signatures—**Such board, at its first session in each year, shall elect from its members a chairman and a vice-chairman. The chairman shall preside at its meetings and sign all documents requiring signature on its behalf, and his signature as chairman, attested by the auditor, shall be binding as the signature of such board. In case of the absence or incapacity of the chairman, the vice-chairman shall perform his duties. If both are absent from any meeting, all documents requiring the signature of the board shall be signed by a majority thereof and likewise attested. (672; '03 c. 37)

Chairman cannot contract independently of board (21-33, 38).

**430. Offices and supplies for county officials—**The board shall provide offices at the county seat for the auditor, treasurer, register of deeds, sheriff, judge of probate, clerk of the district court, and superintendent of schools, with suitable furniture therefor, and fuel for heating the same, also safes and vaults for the security and preservation of the books and papers belonging thereto, and shall provide necessary books and stationery for the use of such officers and the county surveyor, in counties having less than one hundred and fifty thousand inhabitants, not exceeding one hundred dollars in any one year, and in counties having a population of more than one hundred and fifty thousand shall furnish stationery and postage and all necessary office supplies, including letter-heads and envelopes for all county officers, and for the judges of the district court: Provided, that not more than one hundred dollars shall be appropriated for books, stationery, and furniture for any one office for any one year. (677; '03 c. 151)

57-434, 438, 59+488.

07 431 - 390

**431. Appropriation for expenses—**At its regular meetings in January and July the board may appropriate from the county revenue fund a sum not exceeding two hundred and fifty dollars for postage and necessary express charges of the county officers entitled thereto, the mileage of town officers in making election returns, and such other purposes as it may lawfully direct, to be paid on the warrant of the county auditor, upon the presentation of a properly itemized and verified bill, except in cases where the auditor considers the sum charged to be excessive, in which cases he shall file the bill, if requested by the person presenting the same, for action of the board at its next meeting: Provided, that no officer shall receive from such appropriation more than fifteen dollars at any one time. (644; '03 c. 337)

05 432 - 295  
05 - 329

**432. Damaged records transcribed—**In case the records of any such offices shall be damaged so as to render any portion of them liable to become illegible, destroyed, or lost, such board shall provide suitable books, and cause such records to be transcribed, so that the new volumes will correspond, in designation, letter or number, and page, to the original records. The fees for such work shall be fixed by such board, and shall not exceed seven cents per folio for the whole work done. Printed record books shall be used whenever practicable for both original and transcribed records. (677)

07 433 - 205

**433. Annual statement—**Annually on the first Tuesday in January such board shall make a full and accurate statement of the receipts and expenditures of the preceding year, which shall contain a full and correct description of each item, from whom and on what account received, to whom paid, and on what account expended, together with an accurate statement of the finances of the county at the end of the fiscal year, including all debts and liabilities, and the assets to discharge the same, and within thirty days thereafter shall cause the same to be posted at the courthouse door, and at two other public places in the county, and published for three successive weeks in some newspaper therein, which in counties having over seventy-five thousand population shall be a daily. At its meetings in July and January of each year it shall examine

and count all the funds in the treasury, examine the accounts and vouchers of the auditor and treasurer, and make a written certificate of the condition of the treasury, showing the amount, kind, and character of the funds therein, and all other matters in connection therewith, and file the same with the auditor. ('03 c. 390)

22-97, 112; 24-459.

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105-M	- 404

**434. General powers of board**—The county board of each county shall have power:

1. To examine and settle all accounts of the receipts and expenses of the county, and to examine, settle, and allow all accounts, demands, and causes of action against the same, and, when so settled, to issue county orders therefor, as provided by law.

2. To have the care of the county property, and management of the county funds and business, except in cases otherwise provided for, and to make such orders concerning the same as they deem expedient.

3. To erect, furnish, and maintain a suitable courthouse and jail, but no indebtedness shall be created for such purpose in excess of five mills on each dollar of assessed valuation.

4. To set off, organize, vacate, and change the boundaries of towns subject to the limitations hereinafter prescribed, designate the time and place of holding the first town meeting therein, and make all necessary orders for the disposition and preservation of the records of any town vacated.

5. To apportion, pro rata, according to the assessed valuation, among the several parts of a town divided by them, any funds of such town not raised or theretofore appropriated for a purpose inconsistent with such apportionment.

6. To apportion all uncollected taxes then levied or assessed for the benefit of any town divided by said board, and provide for the payment thereof when collected, pursuant to said apportionment, having due regard to the purpose for which such taxes were levied.

7. To transfer by unanimous vote any surplus beyond the needs of the current year in any county fund to any other such fund to supply a deficiency therein, except in counties having over seventy-five thousand inhabitants.

8. To appropriate to any county agricultural society of its county, which is a member of the state agricultural society, a sum of money not exceeding five hundred dollars annually.

9. When authorized by a vote of the people, to purchase land, not exceeding in value ten thousand dollars, for the purpose of holding thereon agricultural fairs and exhibitions; to improve the same and erect structures thereon, for which purpose they may receive donations of money, materials, or labor; and to lease such land from time to time to agricultural and other societies of similar nature: Provided, that all structures and improvements made on such land by societies using the same shall belong to the county.

10. When authorized by a vote of the people, to appropriate a sum not exceeding twenty-five hundred dollars to erect or aid in erecting on the courthouse grounds a monument or memorial hall to the Union soldiers of the Civil War: Provided that, where any post of the Grand Army of the Republic or any organized soldiers' memorial or monument association in any county shall have undertaken the erection of any such monument or hall therein, said board may appropriate to aid in paying the cost thereof a sum not exceeding one-half of such cost without a vote of the people; but in no case shall the sum so appropriated exceed fifteen hundred dollars, and no part of any such appropriation shall be paid until such monument or hall is completed, and until proof thereof is presented to such board.

11. To authorize by resolution any person, company, or corporation to construct and maintain railway lines to be operated by other than steam power upon any public road outside of cities and villages not boulevarded or parked, for a period not exceeding twenty-five years, upon the terms as to use and occupation prescribed in such resolution; the use so granted not to interfere with the reasonable use of such road as a highway, and to cease in case of the

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07	-	88
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07	-	361
07	-	461

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07 - 223

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vacation thereof, unless proceedings to condemn are taken within six months thereafter and diligently prosecuted: Provided, that such railway and its property shall be subject to taxation by such methods and at such rate as the proper authorities may from time to time prescribe in accordance with law.

12. To acquire by gift or purchase and improve not exceeding one acre of land within the county, for use as a park, site for a building, or other public purpose, and, when required by the public interest, to sell and convey the same. Such land may be paid for out of moneys in the county treasury not otherwise appropriated, or by issuing bonds of the county.

13. In counties having more than two hundred thousand population, to appropriate not to exceed five thousand dollars in each year for the improvement of navigable lakes lying wholly or partly within such county.

14. To exercise such other powers as are or may be conferred upon them by law. (681; '99 cc. 56, 75, 305; '01 cc. 29, 71; '02 c. 44; '03 c. 355)

See 1905 c. 232

Powers of board purely statutory. It has the powers expressly granted and such as are fairly implied as necessary to the exercise of those expressly granted. Acts in excess of authority void (24-459; 28-515, 11+91; 71-198, 73+845; 81-55, 83+495; 84-295, 87+775). No implied authority to issue bonds (57-434, 59+488). May act through agents (19-295, 252). County not liable for neglect of duty by (90-530, 97+422). County may ratify unauthorized acts of (67-412, 70+6). Presumption as to validity of acts (56-432, 57+1070; 69-297, 72+123).

**435. Public morgue**—In every county having a population of one hundred thousand or over, not provided therewith, the board shall provide and equip a public morgue at the county seat, for the receipt and proper disposition, without charge to any one, of all dead bodies which are by law subject to a post mortem or coroner's inquest: Provided, that the cost of building and equipping such morgue shall not exceed the sum of twenty-five hundred dollars, nor its maintenance the sum of three thousand dollars in any year. (684)

**436. Same**—Such morgue shall be under the control of the board, be maintained in a suitable building separate from any other business, and equipped with the best modern approved appliances for the handling and disposition of dead bodies. It shall not be connected in any manner with any undertaking establishment, and no person shall be employed in or about the same who is in any manner connected with or interested in the undertaking business. (685)

**437. Same**—Every inquest, post mortem examination, or autopsy held by the coroner upon any corpse subject thereto within the county shall be held at such morgue; and every coroner and deputy coroner of any county having such a morgue is prohibited from holding any such inquest, examination, or autopsy at any other place within such county, except the residence of the deceased person, when the death occurred thereat, or from influencing, interfering with, or in any manner attempting to direct or designate the undertaker who shall take charge of or inter any corpse from such morgue. (686)

**438. Claims to be itemized and verified**—No account, claim, or demand against any municipality for any property or services shall be audited or allowed by the board or officer authorized by law to audit and allow the same until it is reduced to writing, in items, and verified by the person claiming the same, or his agent, to the effect that such account, claim, or demand is just and true; that the money therein charged was actually paid for the purposes therein stated; that the property therein charged was actually delivered or used for the purposes therein stated, and was of the value therein charged, and that the services therein charged were actually rendered, and either that the same were of the value therein charged, or, if official, for which fees are prescribed by law, then that the fees charged therefor are such as are allowed by law; and in all cases that no part of such account, claim, or demand has been paid. But the provisions of this section shall not apply to any claim or demand for an annual salary or fees of jurors or witnesses, fixed by law. (687)

Not applicable when liability and amount due are fixed by law (88-346, 93+126). Compliance with this section condition precedent to action (67-1, 69+471; 83-512, 86+775; 90-457, 97+132). Statement held sufficient (90-1, 95+456). Verification by agent held sufficient (69-297, 72+123). Held not to prevent application of funds to satisfy attorney's lien (83-512, 86+775).

**439. Verification**—The verification required by § 438 may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim, or demand shall be presented for audit, who may administer the proper oath in such cases. In case any such account, claim, or demand shall be made or presented by an administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove it otherwise to the satisfaction of the board. (688)

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**440. Auditing of claims**—Whenever any account, claim, or demand against any municipality shall have been verified in the manner prescribed in this subdivision, the board or officer to whom it shall be presented may receive and consider it, and allow or disallow the same, in whole or in part, as shall appear just or lawful, saving to the claimant the right of appeal. (689)

**441. Accounts not itemized—Penalty**—Every member of such board who shall audit and allow any claim required to be itemized, without the same having been first duly itemized and verified, shall be guilty of a gross misdemeanor. (690)

67-1, 4, 69+471.

**442. Assessors and overseers of roads**—The board of each county, any part of which is not organized into towns, shall at its meeting in January in each year divide such unorganized territory into one or more assessment and road districts, and appoint a qualified person residing therein as assessor for each district, and another as overseer of roads therein, each of whom shall possess the powers and perform the duties of a town assessor and a town overseer of roads, respectively. Each shall hold his office for the term of one year. (691)

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**443. Election districts**—Whenever any part of a county is not organized into towns, the county board, at their meetings in either January or July, upon the petition of not less than ten legal voters residing more than ten miles from the polling place in any established election district, shall create and establish out of such unorganized territory an election district, and designate a polling place therein at such point as will be most convenient for the persons so petitioning; but no such polling place shall be located within ten miles of any other existing polling place. (692)

67-119, 125, 69+699; 82-328, 333, 84+1002.

**444. Judges of election**—Such board, at its last session before an election, shall appoint judges of election for each district so established, and thereupon cause notice to be posted in at least three of the most public places in such county, containing a complete list of all such districts, with the names of the several judges of election therein. (693)

82-328, 333, 84+1002.

**445. Justices and constables**—In each election district so established there shall be elected at the general election two justices of the peace and two constables, whose term of office shall be two years. Any vacancy that may occur in either of such offices shall be filled by appointment by such board. (694)

**446. Oaths and papers, where filed**—In counties not divided into towns, the official oaths and other papers required by law to be filed in the office of the town clerk shall be filed with the register of deeds. (695)

**447. Members of board—Offices—Contracts**—No commissioner shall be appointed or elected by the board of which he is a member to any office or position of trust or emolument, and no commissioner shall receive any money or other valuable thing as a condition of voting or inducement to vote for any contract or other thing under consideration by the board, or become a party to, or directly or indirectly interested in, any contract made by the board; and every appointment or election made and every contract or payment voted for or made contrary to the provisions of this section shall be void. Any violation of the provisions of this section shall be a malfeasance in office. (696)

**448. Section corners**—Whenever it shall be made to appear to the satisfaction of the board that the monuments established by the United States in its

surveys of the public lands to mark section, quarter section, and meander corners have been destroyed or are becoming obscure, it may employ a competent surveyor to relocate and re-establish the same. Such surveyor shall mark each corner re-established by a sufficient iron or stone landmark, and make full and accurate notes and data from which his entire survey can be relocated, and shall file a certified copy of the same, and a map of the survey, in the office of the register of deeds. Such landmarks shall be prima facie evidence that the points where they are located are the section, quarter section, or meander corners, as the case may be, established by the original United States survey. (697; '99 c. 126)

**449. Township landmarks**—In every county containing a population exceeding five thousand, the board shall cause to be placed by a competent surveyor at the northeast corner of each congressional township a permanent landmark, which shall be either a stone not less than eight inches square and two feet long, or an iron post not less than two inches square and thirty inches long, having a head six inches square. Such landmark shall be embedded its full length in the ground, and have plainly cut or engraved on the top thereof letters and figures indicating the number of the section, township, and range. The expense of preparing and placing such landmarks shall be paid out of the county treasury, and the place where the same is located shall be prima facie the northeast corner of such township. Any person who shall remove, destroy, or deface any such landmark shall be guilty of a misdemeanor. (698-700)

**450. Questions submitted to vote—Ballot**—Whenever the county board is authorized to do any act, incur any debt, appropriate money for any purpose, or exercise any other power or authority, only when authorized to do so by a vote of the people, the question to be voted upon may be submitted at a special or any general election, by a resolution specifying the matter or question to be voted upon, and, if it is to authorize the appropriation of money, creation of a debt, or levy of a tax, shall state the amount thereof. Notice of such election shall be given as in the case of special elections, and, if the question submitted be adopted, the board shall pass an appropriate resolution to carry the same into effect. In all such elections the form of the ballot shall be: "In favor of (here state the substance of the resolution to be submitted), <sup>Yes.</sup>  
<sub>No.</sub>" —with a square opposite each of the words "Yes" and "No," in one of which the voter shall make a cross to indicate his choice.

#### ORGANIZATION OF TOWNS

**451. Towns, how organized**—Whenever a majority of the legal voters of any congressional township containing not less than twenty-five legal voters petition the county board to be organized as a town, such board shall forthwith proceed to fix and determine the boundaries of such new town and name the same, and shall make and file with the auditor a full report of its proceedings in relation to the establishment thereof. Towns thus formed shall be named in accordance with the expressed wish of a majority of its voters. If they fail to request a name, the board shall select one. (914, 916)

See 1905 c. 143

**452. Formation and alteration of towns**—The county board may alter the boundaries of towns, or partition any town among other towns within their respective counties, by attaching a part of one town to another, or by dividing one town and attaching the parts to other towns, or by forming a new town from the territory of one or more towns, or from territory not before included in a town, whenever it is made to appear necessary or expedient, by a petition for that purpose signed by not less than twenty legal voters residing within the territory to be affected. But no town shall be so formed, having less than thirty-six square miles, nor have its boundaries so changed as to reduce its territory below that area, unless after such division it shall have at least twenty-five qualified voters therein, and real estate valued at the last preceding assessment at thirty thousand dollars or more; and no town shall be divided or have any part detached therefrom so as to make its area less than thirty-six

square miles, except upon the petition of at least two-thirds of the legal voters residing in one or both subdivisions or parts. (915; '95 c. 227; '97 c. 121; '99 cc. 46, 197; '01 c. 152)

Apportionment of indebtedness on division (80-357, 83+346; 87-347, 92+215). Apportionment of taxes (56-269, 57+659).

**453. Notice of hearing**—Before acting on any petition mentioned in § 452, the board shall cause thirty days' posted notice of the time of hearing the same to be given within the bounds of the territory proposed to be partitioned, altered, or formed into a new town. Such notice shall include a copy of the petition, and shall also be served on the clerk of each town whose territory may be affected. (915; '95 c. 227; '97 c. 121; '99 c. 197; '01 c. 152)

**454. Action of board**—If such application is granted, the board shall forthwith fix and determine the boundaries of such town or towns, and make and file with the auditor a full report of its proceedings in the matter. (915; '95 c. 227; '97 c. 121; '99 c. 197; '01 c. 152)

**455. Record and report to state auditor**—Each county auditor shall, within thirty days after any such town is organized, transmit by mail to the state auditor an abstract of such report, giving the name and boundaries of such town, and shall also record in a book kept for that purpose a full description of each such town. (918)

**456. Apportionment of funds**—In case of the division or partition of any town, the funds in its treasury shall be apportioned to the town or towns to which the portions thereof shall be attached, or to the new town or towns established, to the extent the same were collected from the territory so attached or established into a new town. (681, 915)

**457. Towns with same name**—If the state auditor, on comparing the abstracts of the reports from the several counties, finds that two or more towns have the same name, he shall transmit to the auditor of the proper county the name to be altered, and the county board shall at its next meeting thereafter adopt for such town a different name. When such name is adopted, the county auditor shall inform the state auditor, as before directed. (919)

#### ESTABLISHMENT OF SECTION LINES

**458. Petition**—Upon petition of any town board in the case of a township, or of at least two taxpayers in any section in the case of a section, filed with the county auditor, praying therefor, the county board may cause any such township or section to be surveyed or subdivided. ('95 c. 250 ss. 1, 2)

**459. Meeting—Notice**—At its next regular meeting after such petition is filed, the board shall fix a time and place of meeting to consider the same, of which three weeks' published notice, containing the substance of the petition, a description of the lands to be affected, and the names of the owners thereof as they appear in the last tax duplicate, shall be given. Such notice shall also be personally served on each occupant of land to be affected by the survey. ('95 c. 250 s. 2)

**460. Hearing—Contract with surveyor**—Upon the hearing of such petition, all parties interested may appear and be heard, and the board may grant or reject the application. If granted, it shall appoint a competent surveyor to make the survey, with whom a written contract for the performance of the work shall be made, secured by a sufficient bond executed by such surveyor and approved by such board. Two weeks' published notice of the appointment of such surveyor, specifying the date when the survey will be begun, shall be given. At the time so appointed, the work shall be begun, and shall continue without unnecessary delay until completed. ('95 c. 250 ss. 3, 4)

**461. Duties of surveyor—Evidence—Plat**—Such surveyor shall keep complete and accurate field notes of all the work, giving dates, names of assistants, lengths and relative directions of all lines, a full description of the evidence by which corners are located, and full data by which the entire survey can be relocated. Distances shall be given in feet and decimals thereof. Substantial iron or stone monuments shall be planted at or near all government corners

re-established, and the names of at least three resident witnesses must be given in such notes for each monument. He shall make a plat upon a strong linen paper, showing all the above-mentioned facts, so far as practicable, and also all tracts of land affected, with the name of the owner and acreage of each tract. Such plat shall have indorsed thereon the affidavit of the surveyor to the effect that such survey and plat are correct and accurate. ('95 c. 250 ss. 5, 6; '03 c. 51 s. 1)

**462. Plat as evidence**—If the board approve the plat, its certificate of approval, signed by the chairman, shall be indorsed thereon, and thereupon the plat and field notes shall be filed in the office of the register of deeds, and shall be prima facie evidence that the survey is correct. The surveyor shall pay to the register one dollar for filing and recording said plat and field notes. ('95 c. 250 ss. 6, 7)

**463. Report of expenses—Assessment**—The surveyor shall thereupon make a certified report to the board, showing in detail the entire expense of such survey, which shall be equitably apportioned and assessed by the board to the several tracts affected. ('95 c. 250 s. 8)

**464. Notice of assessment—Confirmation**—Upon making such assessment, the board shall forthwith cause one week's published notice thereof to be given. Such notice shall contain a description of each tract of land affected, and specify the amount assessed against the same, the name of the supposed owner, and the time and place of meeting of the board to correct and confirm such assessment. At the time and place so fixed, the board, after making all proper corrections and adjustments, shall make an order confirming such assessment. ('95 c. 250 ss. 8, 9)

**465. Assessment entered on tax duplicate**—Upon the filing of such order of confirmation, the county auditor shall enter upon the tax duplicate for the current year, against each such tract of land, the amount so assessed against the same, which shall be collected as other taxes, and go into the county revenue fund. ('95 c. 250 s. 10)

**466. Expenses, how paid**—After the filing of the order of confirmation, the expenses of such survey, not exceeding the amount of the assessment, shall be paid out of the general revenue fund of the county in the same manner as other claims. ('95 c. 250 s. 11)

**467. Appeals**—Appeals from the order of confirmation may be taken to the district court by any person aggrieved, in like manner as from the determination of the board in laying out roads. On such appeal the court may inquire into and review all matters relating to the survey or assessment or expenses affecting the party appealing, which are specified in the notice of appeal. ('95 c. 250)

**468. Not to affect lines fixed by agreement**—Nothing in §§ 458-467 shall be construed to authorize the change of any line fixed by agreement of landowners or of any traveled road. ('95 c. 250 s. 7)

#### COUNTIES EXCEEDING 150,000

**469. Estimates of expense and revenue**—In counties having a population of more than one hundred and fifty thousand, the county board, in determining the amount of the expenses of the county for the next ensuing year, shall make an itemized statement covering all county expenditures for such year, divided into not more than twenty-five specified funds, with a proper title for each. Such statement shall specify as nearly as possible the amount needed for each fund, the estimate for which shall be kept at the lowest practical limit, and the total amount shall not exceed the maximum limit prescribed by law. The board shall at the same time make an estimate of all revenues the county will receive for such year, exclusive of those derived from taxation, and shall also estimate the amount of money, if any, that will be credited to the "suspense fund" at the end of the current fiscal year. as hereafter in this chapter provided. Such statement and estimates shall form a part of the official proceedings of the board, and the amount of the tax lev-

ied, together with the amount of such estimates, shall, when they have not been apportioned by law, be apportioned by the auditor into the several funds in the proportions and for the specific purposes designated in such itemized statement as the basis for taxation for the ensuing year. For the items for sinking fund, bonds, interest on bonds, salaries, and all items where the charges are fixed by law, the full amount required to meet the same shall be apportioned. The money so raised by taxation, and the estimate of revenues to be received, and the estimated amount of the suspense fund, when so apportioned, shall be expended only for the purposes designated in said itemized statement, and to which it is apportioned, and for no purpose in excess of the amount apportioned thereto. ('03 c. 95 s. 1)

**470. Emergency fund—Expended only by unanimous vote—**One of the funds provided for in § 469 may be designated "emergency fund," from which no money shall be expended except in cases of actual emergency, arising from the exhaustion of some other designated fund by unforeseen demands thereon, and then only by the unanimous vote of the board authorizing such expenditure. ('03 c. 95 s. 2)

**471. Warrant to show purpose and fund—**In each warrant drawn by him on the county treasurer, the auditor shall state the purpose for which it was issued and the fund from which it is to be paid, which in all cases shall be the fund upon which such warrant may be legally drawn. Whenever a contract is awarded, the board shall by resolution make an appropriation for its payment out of the proper fund. The auditor shall thereupon draw a warrant on such fund, and charge the same thereto, and deliver it to the treasurer, who shall forthwith pay it by check, which shall be immediately indorsed by the auditor and returned to the treasurer. The treasurer shall receipt for such warrant, specifying the appropriation under a suitable name, and designating the purpose for which it has been made. The auditor shall open a special account with each appropriation by crediting the amount to such special account under the general head of "Appropriation." ('03 c. 95 s. 3)

**472. Balances, how disposed of—**When any part of the amount payable on a contract for which such appropriation was made becomes due, and is allowed by the board, a warrant shall issue therefor, and be charged by the auditor to its specific appropriation. Any balance in an appropriation account for work completed and paid for within the fiscal year shall be transferred by the auditor, by elimination, back to the fund from which it was appropriated. For any such balance left after the expiration of the fiscal year, the auditor shall draw his warrant on the treasurer, who shall receipt for the same, and credit the amount to the county revenue fund. ('03 c. 95 s. 3)

**473. Statements by auditor—**At each regular meeting of the board the auditor shall present a statement, which shall form a part of the minutes of the official proceedings, showing the apportionments made to each fund for the various county purposes for the current year, together with the actual balances remaining to the credit of each at the opening of business on the first day of such month, and the amount still unpaid on account of contracts or orders for supplies, materials, work, labor, or services already made or entered into by the board, so as to show the present balance, and also the balance when all appropriations for contracts made and orders given are deducted. ('03 c. 95 s. 3)

**474. Payment of warrants—Accounts, how kept—**The county treasurer shall pay warrants only from the fund from which they are legally payable. Payments under any special contract shall be kept separate under the name of such contract, and under the general title of the fund from which such payment may be legally made. The treasurer need not keep a specific appropriations account separately, but shall keep a general appropriations account. ('03 c. 95 ss. 3, 4)

**475. Transfer to suspense fund—**All moneys remaining unappropriated or unexpended at the end of the fiscal year shall be transferred to a special fund, designated the "suspense fund," the amount of which shall be apportioned on the first day of the succeeding fiscal year to the different funds in the same

manner as the other revenues of the county. The total amount so transferred, and the amount previously estimated to be in such suspense fund, shall be included in the official minutes of the next regular meeting of the board: Provided, that the amount that may be expended for any specific purpose during any one fiscal year shall not in any case exceed the amount apportioned for such purpose, and shall be paid only from its appropriate fund. ('03 c. 95 s. 5)

**476. Filing with board of tax levy**—The board shall prepare and file with the board of tax levy, or corresponding body, if any, at its annual meeting, the itemized statement and estimates hereinbefore required, and any amendment required by such board of tax levy or corresponding body. ('03 c. 95 s. 6)

**477. Maximum tax rate**—If the maximum rate of taxation for the various purposes for which the county board are authorized to levy taxes mentioned in said itemized statement, together with the estimated amount of all revenues of the county for the ensuing year, exclusive of those derived from taxation, and the amount estimated to the credit of the suspense fund at the end of the fiscal year, does not, when all has been properly apportioned, equal the total amount mentioned in said itemized statement, or amendment thereof, the county auditor shall reduce proportionately the several funds mentioned in said itemized statement, except that the items for sinking fund, bonds, interest on bonds, salaries, and other items, the charges for which are fixed by law, shall remain at the full amount required by law. ('03 c. 95 s. 7)

**478. Itemized statement—Expenditures, how limited**—At the first regular meeting of the board in November of each year, the county auditor shall present to it, to be embodied in its official proceedings, a statement showing the several amounts included in the said itemized statement or amendment thereof, if any, and in a parallel column the amounts of the several funds as they will be when the total tax levied for county purposes, as finally fixed and determined upon, the amount estimated to be in the suspense fund, and the estimated amount of all revenues of the county for the ensuing year, exclusive of those derived from taxation, have all been properly apportioned to said funds as in this subdivision provided. The amounts so apportioned will show the sum permitted to be expended for each of the purposes specified in said itemized statement during the next fiscal year, but the amount so permitted to be expended for each specified purpose shall in no case exceed the amount mentioned in said itemized statement or amendment thereof. ('03 c. 95 s. 8)

**479. Money expended only as specified**—Any contract entered into by the county board which provides for expenditures for a specific purpose during any fiscal year in excess of the amount apportioned therefor, and the voting of any money for any specific purpose in excess of the amount specified therefor for any fiscal year, shall be void. The board shall indicate upon the minutes of its proceedings, and in the official publication thereof, the fund from which the claim allowed by it is to be paid, its amount, to whom payable, and the purpose and account for which it was incurred, and no such claim shall be charged to or paid from any fund but that to which it legally belongs. ('03 c. 95 s. 9)

**480. Excessive expenditure—Penalty**—Any county commissioner who shall contract, vote, or bargain for the expenditure of money from a fund, the payment of which, including the amount already contracted, voted, or appropriated, shall exceed in any fiscal year the amount specifically apportioned to such fund at the beginning of such year, shall be guilty of a gross misdemeanor. ('03 c. 95 s. 10)

#### COUNTY AUDITOR

**481. Election—Term**—A county auditor shall be elected in each county, who shall hold his office for the term of two years from the first Monday of January next succeeding his election, and until his successor qualifies; but no county commissioner, county surveyor, or county treasurer shall be eligible to such office. (707, 714; '95 c. 11)

**482. Bond**—Each county auditor, before entering upon the duties of his office, shall give a bond to the state, to be approved by the county board, in such penal sum, not less than two thousand dollars, nor more than twenty thousand dollars, as such board requires, conditioned for the faithful discharge of the duties of his office, upon which shall be indorsed his oath of office. The bond so indorsed shall be filed and recorded in the office of the register of deeds. (708)

09 - - 482 107

89-68, 93+1056; 94-201, 102+723; 102+1133.

**483. Malfeasance—Suspension**—If any such auditor shall fail to make settlement or pay over all moneys with which he stands charged, at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the board shall commence an action against him and his sureties. The board shall cause a copy of the complaint in such action to be forthwith furnished to the governor, and, if it alleges any of the acts hereinbefore recited, he shall suspend such auditor temporarily, and cite him to appear and show cause why the suspension should not continue during the pendency of the action. At the hearing either party may produce competent evidence by affidavits or otherwise, and, if there appear to be reasonable grounds to support the complaint, the suspension shall be continued during the pendency of the action. Otherwise such auditor shall be restored to office. If restored, he shall not be deprived of his salary during the period of suspension, and his reasonable expenses in defending himself on the hearing before the governor shall be paid by the county. If, upon the trial of such action, the auditor is adjudged guilty of any neglect of duty or offence charged in the complaint, the office shall be deemed vacant. (709)

**484. Action on bond**—An action may be brought against such auditor and the sureties on his official bond in the name and for the use of the state, or for the use of any county or person injured by his official misconduct or omission. (710)

89-68, 93+1056.

**485. Failure to qualify**—If any person elected to the office of county auditor shall not give the bond and take the oath required by law on or before the first Monday in January next after his election, it shall be deemed a refusal to serve. (711)

**486. Disability—Temporary appointment**—When any county auditor having no deputy is, or when both auditor and deputy are, unable to perform the duties of such office within the time prescribed by law, the county board shall appoint some suitable person to perform such duties during such disability, and may require of such person sufficient security for the faithful discharge of the duties of the appointment. (713)

**487. Deputies**—County auditors may, by certificate in writing, appoint deputies, who, before entering upon their duties, shall file with the register of deeds such certificates, with their oaths of office indorsed thereon. Such deputies may sign all papers and do all other things which county auditors may themselves do. Auditors shall require bonds of their deputies in such amount and with such sureties as they deem proper, shall be responsible for their acts, and may revoke their appointment at pleasure. (715; '97 c. 44; '03 c. 67)

07 487 - 372  
09 487 - 108

10-369, 295; 94-201, 102+723; 102+1133.

**488. Clerk of county board**—The county auditor, by virtue of his office, shall be clerk of the county board, keep an accurate record of its official proceedings, carefully preserve all documents, books, records, maps, and other papers required to be deposited in his office, and annually prepare a financial statement of the county, unless otherwise ordered by the board. He shall present at each regular meeting of the board a statement, in writing, showing the amounts levied for the various county purposes for the current year, together with the actual cash balance, if any, remaining to the credit of each fund at the date of such meeting, and the amounts, if any, still unpaid on account of contracts already entered into by the board. Each statement shall be em-

07 488 - 87  
09 488 - 137

bodied in, and form a part of, the minutes of the official proceedings of the board. (716)

26-333, 3+984.

**489. Delivery to successor**—On going out of office, he shall deliver to his successor all moneys, books, records, maps, documents, papers, vouchers, and other property in his hands belonging to the county; and, in case of his death, his personal representatives shall in like manner deliver to his successor all such property. (717)

**490. Account with treasurer**—He shall keep an accurate account current with the treasurer of his county, and, when any person shall deposit with him any receipt given by the treasurer for money paid into the treasury, he shall file the same in his office, and charge the treasurer with the amount thereof. (718)

Treasurer a debtor, not a bailee (18-199, 182).

07 491 - 24

**491. Disbursements—Warrant**—No claims against the county shall be paid otherwise than upon allowance of the county board, upon the warrant of the chairman thereof, attested by the auditor, except in those cases in which the precise amount is fixed by law, or is authorized to be fixed by some other person, officer, or tribunal, in which cases the same shall be paid upon the warrant of the auditor, upon the proper certificate of the person, officer, or tribunal allowing the same: Provided, that no money shall be disbursed by the county board, or any member thereof, but only by the county treasurer upon the warrant of the chairman of the county board, attested by the auditor, specifying the name of the party entitled to the same, on what account and for what purpose issued, upon whose allowance, if not fixed by law, and the fund from which it is payable. If in payment for services, the specific time for which the same were rendered shall be therein stated, and all orders and warrants shall be progressively numbered, and the number, date, and amount of each, the name of the person to whom payable, and the specific time for which any service was rendered, shall, at the time of issuing the same, be entered in a book to be kept by the auditor for that purpose. (719)

05 492 - 348  
 07 - 30  
 07 - 118  
 07 - 121  
 07 - 127  
 07 - 207  
 07 - 295  
 07 - 372  
 07 - 431

**492. Salary—Clerk hire**—County auditors shall receive in full compensation for all services rendered by them in their official capacity annual salaries, regulated by the assessed valuation of real and personal property for purposes of taxation in their respective counties as fixed by the state board of equalization for the preceding year as follows:

09 492 - 71  
 09 - 72  
 09 - 310  
 09 - 338  
 09 - 393

1. In counties where such valuation does not exceed four million dollars, twelve hundred dollars.
2. In counties where such valuation is more than four million dollars and does not exceed six million dollars, fifteen hundred dollars.
3. In counties where such valuation is more than six million dollars and does not exceed ten million dollars, two thousand dollars.
4. In counties where such valuation is more than ten million dollars, twenty-five hundred dollars.

The county auditor shall be allowed for clerk hire one-fifth of one mill on each dollar of assessed valuation, not exceeding five million dollars; and on all sums in excess of five million dollars, one-twentieth of one mill on each dollar; to be paid monthly out of the county treasury upon the order of the county auditor, accompanied by his certificate that the service has been rendered and no allowance for such clerk hire shall be made or received in any case except for services actually rendered: Provided, that this section shall not apply to counties having a population of more than forty thousand, nor to any county where such salary or clerk hire is now fixed by special law. (720, 721; '95 cc. 288, 291, 292; '97 cc. 8, 273; '01 cc. 142, 318, 376; '03 cc. 210, 229)

See 1905 cc. 206, 259

**493. Verified statement in certain counties**—In counties having a population of more than seventy-five thousand, the county auditor shall file in his office on the first Monday of each month a verified statement, giving the name of every employee in his office, the general nature of the service rendered by

him, and the amount paid therefor; also showing all business done in his office during the preceding month for which fees have been charged, the amount of fees received, and the amount of such fees remaining unpaid. All such fees shall, on the first Monday in each month, be turned into the county treasury. ('95 c. 291)

COUNTY TREASURER

494. Election—Term—A county treasurer shall be elected in each county, whose term of office shall commence on the first Monday of January next succeeding his election, and continue for two years, and until his successor qualifies. No person holding the office of county attorney, sheriff, register of deeds, county auditor, or county commissioner at the time of any election shall be eligible to the office of county treasurer at said election. (722, 725)

29-398, 13+181.

495. Bond—Before he enters upon the duties of his office, the county treasurer shall give bond, to be approved by the county board, and in such sum as said board directs: Provided, that in counties of over one hundred and fifty thousand inhabitants such bond shall not be less than five hundred thousand dollars, unless the surety is a corporation duly authorized by law to be surety, in which case it shall be two hundred and fifty thousand dollars. Such bond shall be payable to the state, conditioned that he shall faithfully execute the duties of his office, and for the safe-keeping and paying over according to law of all moneys which come into his hands for state, county, town, school, road, bridge, poor, and all other purposes. (723; '03 c. 330)

09 - - 495 107

18-199, 182; 22-97; 23-551; 28-45, 8+907; 29-398, 13+181; 71-461, 74+158; 42-57, 43+690; 82-151, 84+657; 82-431, 85+214; 86-188, 90+371; 89-56, 93+1054; 94-196, 102+719. See 19-214, 176; 51-79, 52+991; 44-427, 46+914.

496. Failure to qualify—If any person elected to the office of county treasurer shall not take the oath and give the bond required by law on or before the first Monday of January next succeeding his election, it shall be deemed a refusal to serve. (724)

29-398, 13+181.

497. Books, accounts, etc.—The county treasurer shall keep a full and accurate account of all moneys by him received, showing the amount thereof, the time when, by whom, and on what account paid. He shall keep his books so as to show the amount received and paid on account of separate and distinct funds or appropriations, which he shall exhibit in separate accounts, and every warrant shall be paid only from the cash on hand in the fund from which it may be properly payable. In case of payments of money under any special contract entered into by the county board, such payments shall be kept separate under the name of the particular contract on account of which it was made, and under the general title of the fund from which such warrant is payable: Provided, that no money received for taxes charged in the duplicate of the current year shall be entered by the treasurer on his account with the county until he makes his annual settlement with the county auditor and county board in each year. The treasurer's books shall be provided at the expense of the county. (726; '99 c. 31)

07 497 76  
07 - - 328

498. Receipt and payment of money—Duplicate receipts—The county treasurer shall receive all moneys directed by law to be paid to him as such treasurer, and pay them out only on the order of the proper authority. All moneys belonging to the county shall be paid out upon the order of the county board, signed by the chairman thereof, and attested by the county auditor, or upon the warrant of the county auditor upon the presentation to him of the proper certificate of the person or tribunal allowing the same, and not otherwise. All moneys due the state, arising from the collection of taxes or from other sources, shall be paid upon the draft of the state auditor, drawn in favor of the state treasurer: and a duplicate copy of the receipt for payment of such draft shall be forwarded by the state treasurer to the county auditor, who shall preserve the same, and credit the county treasurer with the amount thereof. When any money is paid to the county treasurer, excepting that paid

07 498 24  
07 - - 214  
07 - - 328  
09 - - 498 127

on account of taxes, the treasurer shall give to the person paying the same duplicate receipts therefor. (727)

26-183, 188, 2+494, 683.

09 499 - 22  
499-507  
101-M - 295

**499. Board of auditors**—The chairman of the county board, the county auditor, and clerk of the district court in each county shall constitute a board of auditors; and it shall be the duty of such board to carefully examine and audit the accounts, books, and vouchers of the county treasurer, and count and ascertain the kind, description, and amount of funds in the treasury of such county, or belonging thereto, at least three times in each year, without previous notice to the treasurer. They shall make report thereof, and of their acts and doings in the premises, to the county board, at its next meeting thereafter, and publish the result in at least one newspaper in the county. Such board of auditors shall also witness and attest the transfer and delivery of accounts, books, vouchers, and funds by each outgoing treasurer to his successor in office, and report the same to the county board at its next meeting thereafter. (728; '99 c. 31)

94-196, 102+719.

500  
05 - 226  
07 - 214  
07 - 352  
500-537  
112-NW 276

**500. Funds, where deposited**—All county funds, as soon as received, shall be deposited by the county treasurer, in the name of the county, in one or more banks designated by the board of auditors, who, before designating such depository, shall advertise in one or more newspapers published in its county, or, if in its opinion the public interests require, in other counties, for at least two weeks, for proposals. Such proposals shall state what security will be given to said county for the funds so deposited, and what interest allowed on monthly balances, on the condition that such funds, with accrued interest, shall be held subject to draft and payment at all times on demand. If, after making such designation, such board deems the surety given insufficient, it may require a new bond, or, if, in its opinion, the public interests require, may vacate, revoke, or modify any such designation, and again advertise and designate a depository. The amount deposited in any bank shall not exceed the assessed valuation of the capital stock thereof. (729; '97 c. 323)

22-196; 64-180, 66+143; 83-479, 484, 86+461; 94-196, 102+719.

**501. Capital stock defined**—Capital stock, for the purposes of § 500, shall include shares of capital stock of national or state banks, whether assessed in the name of the bank or of the stockholders thereof, and the personal and real property of private banks or bankers, or of the individual members of said banking firms liable for the debts of such banks or bankers, and assessed in any county in this state. In case such property is assessed in counties other than those in which the depository is situated, the assessment shall be certified by the auditor of the county in which the same is assessed, on application of the board of auditors of any county, and such application shall be renewed annually on January 1, and oftener if deemed necessary, and such certificate shall be attached to the bond of such depository. The treasurer is required from time to time to take notice of any changes in the assessment, and to limit the amount of the deposit accordingly: Provided, that when a bank has been organized after the annual assessment in any year, and before the assessment for the following year, its paid-up capital and assets, less its liabilities, as the same appear from the sworn statement of the president or cashier thereof, may be treated as assessed capital. (729; '97 c. 323)

09 502 - 124

**502. Bonds of depositaries**—Every bank or banker, before being designated as a depository, shall deposit with the county treasurer a bond, to be approved by the county board, in at least double the amount to be deposited, payable to such county, and signed by not less than five resident freeholders as sureties: Provided, that any county in which there is no such bank or banker may be exempt from the foregoing provisions which relate to depositing its funds, if, in the judgment of the board of auditors and the county board, such deposit would be detrimental to its interests. (730)

25-363; 54-555, 56+251; 61-242, 63+635; 64-180, 66+143; 65-426, 68+76; 67-112, 69+704; 67-236, 69+912; 69-421, 72+701; 75-174, 77+815; 75-489, 78+113; 80-242, 83+157; 83-479, 484, 86+461.

**503. Proposals by banks**—All bonds of depositaries shall be given for the term of two years from the date of their execution, and renewed every two years thereafter; but, in counties having no depositary, boards of auditors may advertise for proposals and designate depositaries at any time when required by the public interests. (731)

67-112, 69+704; 67-236, 69+912; 75-174, 77+815.

**504. Sureties**—The board of auditors shall not accept, and the county board shall not approve, as sureties upon the bonds of depositaries, stockholders or owners of such depositaries, unless they are satisfied upon full investigation that their responsibility would in no wise be affected by the failure of the bank or banker in behalf of which said stockholders or owners sign as sureties. (732)

**505. Deposit in official capacity only**—No county treasurer shall deposit any public funds in his individual name, or in any other capacity than as treasurer, under the penalty of five hundred dollars for each deposit so made. (733)

94-196, 102+719.

**506. Public funds kept separate**—The public funds shall at all times be kept separate from any private funds of the treasurer or any private person, and all amounts found at any time in any of the county treasuries of the state, or officially deposited by the county treasurers, shall be deemed public funds, and, if in excess of the amount properly called for by the auditor's and treasurer's books and accounts, shall be turned over by the board of auditors or by the public examiner to the county revenue fund. (734)

**507. Payment by check—Account by depositary—Interest**—All payments by treasurers of counties having designated depositaries at their county seat, and by all others as far as practicable, shall be made by checks upon the depositaries. Each depositary shall furnish the auditor of the county to which the funds belong a true and itemized statement of the treasurer's account on the first day of each month, which statement shall be filed and preserved in the auditor's office. All sums of interest accruing upon the funds deposited in any bank or with any banker under the provisions of this chapter shall be credited to such deposit account on the first day of each month, for the month preceding; and a monthly statement of such interest, as computed from the daily balances by the bank or banker, shall be rendered by such depositary to the county auditor on the first day of each month, and the auditor shall charge the county treasurer with the amount thereof, and credit the same to the revenue fund of the county. (735)

68-409, 71+621; 71-461, 466, 74+158; 80-242, 83+157.

**508. Compensation of board of auditors**—Each member of the board of auditors shall receive three dollars for every day actually employed in the discharge of his duties as such, to be paid upon allowance by the county board in the same manner as other claims are paid. (737)

**509. Neglect of duty**—Every member of the board of auditors or of the county board who shall neglect or omit to discharge any of the duties imposed by law shall be deemed guilty of a gross misdemeanor, and shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars. (738)

**510. Exemption from liability**—Whenever any portion of the funds of a county shall be deposited by any county treasurer hereunder, such treasurer and the sureties on his bond shall be exempt from liability for the loss of any such deposited funds from the failure, bankruptcy, or other acts of the depositary, to the extent and amount of such funds so lost then in the hands of such depositary. (739)

83-479, 488, 86+461; 94-196, 102+719.

**511. Treasurer to exhibit accounts**—On the last days of February and October in each year, the treasurer shall exhibit his accounts since the last settlement, balanced to said day, to the county board and county auditor, or, if the board is not in session, to the county auditor alone, showing all the moneys

received and disbursed by him since his last settlement, and the balance remaining in his hands. The books, accounts, and vouchers of the treasurer, and all moneys remaining in the treasury, shall at all times be subject to the inspection and examination of the county board, or any committee thereof. (740)

22-97, 111.

**512. Failure to settle**—If any county treasurer fails to make settlement with the state treasurer within fifteen days of the time prescribed by law, he shall forfeit and pay the sum of one hundred dollars, in addition to the penalties provided in § 513, to be recovered in a civil action, which forfeiture shall be paid into the state treasury to the credit of the common school fund: Provided, that the state auditor, for good cause shown, may remit said penalty at any time before an action is commenced. (743)

**513. Action against treasurer**—If any county treasurer fails to make return or settlement, or to pay over all money with which he stands charged, at the time and in the manner prescribed by law, the county auditor, on receiving instructions for that purpose from the state auditor or from the county board of his county, shall cause an action to be commenced against such treasurer and his sureties in the district court of his county; and judgment may be rendered therein against them for the amount due from such treasurer; with interest and a penalty of ten per cent. thereon. (744)

18-199, 182; 19-214, 176; 22-97; 42-57, 43+690; 51-79, 52+991; 82-151, 84+657; 82-431, 85+214; 89-56, 93+1054; 94-196, 102+719.

**514. Removal of treasurer**—Whenever an action is commenced against any delinquent county treasurer as aforesaid, the county board may remove such treasurer from office, and fill by appointment the vacancy thereby created. (745)

22-97, 112.

**515. Money collected**—The sheriff or other officer who collects any money from a delinquent county treasurer or his sureties shall within ten days thereafter pay the same into the treasury of the county to which it is due. (746)

**516. Refusal to execute process**—If any sheriff or other officer to whom an execution against a delinquent treasurer and his sureties is delivered neglects or refuses to execute the same, or neglects or refuses to pay over any money collected thereon, as required in § 515, he and his sureties shall be liable to the same penalties, and shall be proceeded against in the same manner, as provided by law in the case of delinquent treasurers. (747)

**517. Proceedings against deputy**—If the deputy treasurer fails to pay over to his principal, on demand, any taxes or other money by him collected as such deputy, the same proceedings may be had against him and his sureties, at the instance of the treasurer, as are authorized against treasurers for failing to make payment according to law. (748)

**518. New bond**—The county board may require the county treasurer to give a new bond, with sureties to be approved by them, whenever, in the opinion of a majority of said board, the sureties, or any of them, on the original bond, are insufficient, and may also require a new bond, with sureties to be approved by them, whenever the penalty of such original bond is deemed insufficient; but the taking of any new bond shall not affect or impair the original bond, or the rights and liabilities of the parties thereto, incurred or existing at or prior to the time of the approval and acceptance of such new bond. (749)

22-97, 112; 26-333, 3+984.

**519. Failure to give**—If any county treasurer fails or refuses to give such additional bond for ten days after the day on which the same is required by said board, his office shall become vacant, and be filled as provided by law. (750)

22-97, 112; 26-333, 3+984.

**520. Not to speculate in orders or warrants**—No county treasurer or deputy shall either directly or indirectly contract for or purchase any orders or warrants issued by the county of which he is treasurer, or any state warrants, or the orders or warrants of any city, town, or other body politic for which he is the collector of taxes, at any discount whatever; and if any treasurer or deputy shall directly or indirectly contract for, purchase, or procure any such orders or warrants at any discount whatever, he shall not be allowed, on settlement, the amount of said orders or warrants, or any part thereof, and shall forfeit the whole amount due thereon, and shall also forfeit one hundred dollars for every breach of the provisions of this section, to be recovered in a civil action at the suit of the state for the use of the county. And the person to whom the county treasurer is required to return the state, county, city, town, village, school, or road tax is prohibited from receiving from any county treasurer any orders, warrants, or bonds in payment of taxes collected by him or his deputies, unless, with said orders, warrants, or bonds, such treasurer shall file his affidavit with the person entitled to receive said tax, stating therein that all such orders, warrants, and bonds were received at their par value. (751)

18-199, 182.

**521. Not to lend funds**—If any county treasurer lends any money belonging to his county, with or without interest, or uses the same for his own individual purposes, he shall forfeit and pay for every such offence not more than one thousand dollars nor less than five hundred dollars, to be recovered in a civil action at the suit of the state for the use of the county, city, town, or body politic injured. (752)

18-199, 182.

**522. Statement of county affairs**—The treasurer and auditor of every county conjointly shall make out, sign, and cause to be published in at least one qualified newspaper of their county a statement of the exact amount of money remaining in the treasury on the last days of February and October in each year, and oftener if the county board directs, specifying therein the amount belonging to each fund, together with all other property, bonds, securities, claims, assets, and effects belonging to the county, in the custody or under the control of such treasurer. The expense of such publication shall be paid by the county, and if it shall thereafter be found that such statement was untrue, in regard to the amount of money or other property then on hand and in the treasury, the treasurer and auditor making the same shall, without regard to lapse of time, be deemed guilty of a gross misdemeanor, and be punished by a fine of not less than one hundred dollars nor more than five hundred dollars. (753)

36-309, 30+824.

**523. To prosecute bonds**—The treasurers of the several counties, in their official capacity, may prosecute to final judgment and execution all actions on bonds, notes, or other securities given to them or their predecessors in office, and all pending actions commenced by their predecessors in office. (754)

**524. To pay and cancel orders**—When any order or warrant drawn on him as treasurer is presented for payment, if there is money in the treasury for that purpose, the county treasurer shall redeem the same, and write across the entire face thereof the word "Redeemed," the date of the redemption, and his official signature. County orders shall be numbered and registered in their order of presentation, and shall be entitled to payment in like order. The treasurer, as soon as there is sufficient money in the treasury, shall appropriate and set apart a sum sufficient for the payment of the orders so presented and registered, and, if entitled to interest, he shall issue to the original holder a notice that interest will cease in thirty days from the date of such notice; and, if orders thus entitled to priority of payment are not then presented, the next in order of registry may be paid until such orders are presented. No interest shall be paid on any order, except upon a warrant drawn by the county auditor for that purpose, giving the number and date of the order on account of which the interest warrant is drawn. (755)

16-106, 96; 89-56, 93+1054; 94-196, 102+719.

**525. To deposit orders—Auditor's duty—**The treasurer shall deposit with the auditor on the day of redemption all orders and warrants by him redeemed, and take the auditor's receipt therefor. He shall enter the same, with date of payment, in his register of orders paid, and credit himself daily upon his journal and ledger with the amount thereof. The auditor shall cancel the same immediately upon his register of orders issued, and at the close of the day credit the treasurer with the same upon his journal and ledger. (756)

07 526 - 372

**526. Allowances—**Every county treasurer shall be allowed express charges for forwarding state moneys, and ten cents for each mile necessarily traveled in going to and returning from the nearest express office for that purpose; and also for all sums necessarily paid for blank books and stationery, and for printing such advertisements as he is required to make. (757, 758)

07 527 - 118  
07 - 121  
07 - 139  
07 - 372

**527. Salaries—Clerk hire—**County treasurers shall receive, in full compensation for all services rendered by them in their official capacity, annual salaries regulated by the assessed valuation of real and personal property for purposes of taxation in their respective counties as fixed by the state board of equalization for the preceding year as follows:

09 527 - 71  
09 - 72  
09 - 139

1. In counties where such valuation does not exceed four million dollars, twelve hundred dollars.

2. In counties where such valuation is more than four million dollars and does not exceed six million dollars, fifteen hundred dollars.

3. In counties where such valuation is more than six million dollars, but does not exceed ten million dollars, two thousand dollars.

4. In counties where such valuation is more than ten million dollars, twenty-five hundred dollars.

In addition to such salaries, the county board may, when they deem it necessary, allow county treasurers the following sums annually for clerk hire: In counties where the annual salary of the treasurer is twelve hundred dollars, two hundred dollars; where such salary is fifteen hundred dollars, three hundred dollars; where such salary is two thousand dollars, four hundred dollars; and where such salary is twenty-five hundred dollars, six hundred dollars: Provided, that this section shall not apply to counties having a population of more than forty thousand inhabitants, nor to any county where such salary or clerk hire is now fixed by special law: Provided, that in counties having a population of more than seventy-five thousand, where the salary of the treasurer is not fixed by special law, allowance for clerk hire shall be such sum as the county board deems necessary, not exceeding nine thousand dollars. (758; '95 c. 291; '97 c. 8; '03 c. 229)

**528. Statement in certain counties—**In counties having a population of more than seventy-five thousand, the county treasurer shall file with the county auditor on the first Monday of each month a verified statement giving the name of every employee in his office, the general nature of the service rendered by him, and the amount paid therefor; also showing all business done in his office during the preceding month for which fees have been charged, the amount of fees received, and the amount of such fees remaining unpaid. All such fees shall, on the first Monday in each month, be turned into the county treasury. ('95 c. 291)

**529. Delivery to successor—**Each county treasurer, on going out of office, shall deliver to his successor in office all the public money, books, accounts, papers, and documents in his possession; and in case of his death his legal representatives shall in like manner deliver up all such moneys, books, accounts, papers, and documents as come into their possession. (759)

28-45, 8+907; 29-78, 85, 11+233.

**REGISTER OF DEEDS**

**530. Election—Term—**There shall be elected in each county a register of deeds, whose term of office shall be two years from the first Monday in January next succeeding his election, and until his successor qualifies. (760)

2-345, 297.

09 - - 107

**531. Bond**—Every register of deeds, before he enters upon the duties of his office, shall give bond to the state in the penal sum of five thousand dollars, to be approved by the county board, conditioned that he will faithfully and impartially fulfil the duties of his office. Said bond and his oath of office shall be filed for record with the clerk of the district court, and forwarded by said clerk to the secretary of state. (761)

2-345, 297.

**532. Delivery to successor**—At the expiration of his term of office, every register shall deliver promptly to his successor all books, records, papers, and other property pertaining to his office, and if, on application of his successor, duly qualified, he refuses to do so, he shall forfeit and pay to the use of the proper county fifty dollars for each and every day he so refuses, which may be recovered in an action brought upon his official bond. (762)

**533. Reception books**—Every register of deeds shall keep two books, to be denominated, respectively, the grantor's and grantee's reception book, each page of which shall be divided into seven columns, in the following form:

07 - - 533 - 442

Date of Reception— Year, Day, Hour, and Minute	Grantor	Grantee	Where Situated	To Whom Deliv- ered after Record	Fees Received	Book and Page Where Recorded, and Kind of Instrument
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09 - - 533 - 226

Date of Reception— Year, Day, Hour, and Minute	Grantee	Grantor	Where Situated	To Whom Deliv- ered after Record	Fees Received	Book and Page Where Recorded, and Kind of Instrument
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The register shall enter in each of said books, in the order and manner afore-said, as soon as the same are received, all deeds and other instruments left for record, and all copies left as cautions or notices of liens, authorized by law to be recorded; and when mortgages are discharged in whole or in part, by an acknowledgment of satisfaction written on the margin of the page where the mortgage is recorded, the register shall note the fact by writing the word "Satisfied," or "Satisfied in part," as the case may be, across the entry in the reception books where the instrument satisfied is entered, and the other particulars in their appropriate columns. The pages of each of the said reception books shall be lettered in alphabetical order, a convenient number of consecutive pages being allotted to each letter of the alphabet, and every entry made in said books shall be made in the grantor's reception book under the initial letter of the grantor's surname, and in the grantee's reception book under the grantee's surname; and all such entries shall appear upon said books consecutively, and in the order as to time in which the instruments were received. He shall make an entry in the record, immediately after the copy of every instrument recorded, specifying the time of the day, month, and year when the same was recorded. (763)

Effect of entries as notice (46-156, 48+677). Form of entries and presumption as to time of recording (51-421, 53+806; 21-336; 40-441, 42+294). Entries as evidence. Parol evidence to show error in record (33-271, 22+614). Form of books (11-367, 264; 51-421, 53+806).

07 - - 534 - 442

**534. Tract index books**—Every county board may procure at the expense of its county, and keep in the office of the register of deeds, suitable books, substantially bound, arranged in numerical order, and so ruled that opposite to the description of each section of land or sectional lot, and town, city, or village lot and block, shall be a blank space, of a convenient size, in which shall be entered the letters or numerals indicating the volume of the records referred to, designating deeds by the letter "D," and mortgages by the letter "M," and other records by appropriate initials or abbreviations, together with the page of the volume upon which every record affecting the title to the whole or any part thereof may be found. For each necessary entry or description made in such books prior to the making of such tract index, the register shall receive from the county a fee of two cents. Such tract index shall be kept as one of the records in the office of the register of deeds, and such register shall note

therein a like minute, of every instrument affecting the title to any land which shall be filed for record, to be made opposite to each parcel of land the title to which may be affected by such instrument. Instead of causing a tract index to be made, the board may purchase any existing tract index or abstracts; and thereafter the register shall make the appropriate entries therein, and shall receive a fee of ten cents for indexing therein each transfer of deeds and mortgages, the same to be paid by the person presenting the same for filing, for recording, or discharging an instrument on the margins of record, and shall make abstracts for persons demanding the same at a fee of fifteen cents for each transfer. (764) See 1905 c. 51

**535. To exhibit records**—Said register shall exhibit free of charge, during the hours that his office is or is required by law to be open, any of the records or papers in his official custody to the inspection of any person demanding the same, either for examination, or for the purpose of making or completing an abstract or transcript therefrom; but no such person shall have the right to have or use such records for the purpose of making or completing abstracts or transcripts therefrom, so as to hinder or interfere with the register in the performance of his official duties. (765)

37-372, 35+7.

**536. Abstracter—Bond**—The county board may by resolution authorize any person to use a portion of the county building for the purpose of making abstracts of title, upon the execution by such person of a bond to the county in a sum not less than five hundred dollars, conditioned for the faithful performance of his duties as such abstracter and that he will handle all public records with care and charge no greater fee for abstracts of title than is or may be allowed by law to registers of deeds for like services. (765)

09 - 537  
09 - 127  
153

**537. Record books, indexes, etc.**—He shall keep suitable books, and record at large, word for word, all instruments left with him for record; keeping separate books of deeds, mortgages, and other instruments. He shall also keep in separate books an alphabetical index, where he shall record, under the proper letter of the alphabet, the name of each grantor and grantee in any instrument left for record, or of a discharge of any mortgage made by an entry in the margin of the record thereof, which entry shall show the book and page of the record where the mortgage so discharged is recorded. (766)

15-171, 131; 24-221, 228; 46-156, 159, 48+677.

538  
99-M - 241  
109-NW 233

**538. Consecutive numbering—Fees**—Every register shall indorse plainly upon the top of the back, when folded, of each instrument received by him for record or filing, as soon as received, a number consecutive to the number affixed to the instrument next previously received, and shall enter such number as a part of the entry relating to such instrument in all the indexes kept in his office, and on the margin of the record of the instrument, and such number shall be prima facie evidence of priority of registration. If more than one instrument shall be received at the same time, by mail or other like inclosure, the register shall affix such number in the order directed by the sender, and, if no direction be given, then in the order in which the instruments actually come to his hand in opening the inclosures. His fee for such numbering and entry shall be five cents. (767, 769)

72-287, 75+376.

538  
99-M - 243

539  
09 - 226

**539. Consecutive index**—Every register shall keep an index of all records or files kept in his office, showing the number of the instrument consecutively, the kind, the time of its reception, and where the same is recorded or filed, thus:

Number of Instrument	Kind of Instrument	Time of Reception	Where Recorded or Filed		
			Book	Page	File No.

Such entries shall be made as soon as the instrument is received by him, excepting only the place of record, which shall be filled in as soon as such instrument is recorded. (768)

**540. Deputies**—He may appoint one or more deputy registers in writing, whose oath of office shall be indorsed on the appointment, and recorded therewith in the office of the register. Registers shall be responsible for the acts of their deputies, and may revoke their appointment at pleasure. (771)

05 540  
07 - 154  
- 372

**541. Record of cattle brands**—On the application of any person residing in his county, the register shall record a description of the marks or brands, with which such person may be desirous of marking his horses, cattle, sheep, or hogs; but the same description shall not be recorded for more than one resident of the same county. (772)

**542. Abstracts of title**—The register shall make out, under his certificate and seal, and deliver to any person requesting the same, a full and perfect abstract of the title to any real estate, together with all incumbrances, liens, and instruments in any manner affecting such title, as the same appears of record or on file in his office, on being paid his lawful fees therefor. (773)

**543. Instruments not properly executed**—Except where otherwise expressly provided by law, no register shall record any conveyance, mortgage, or other instrument by which any interest in real estate may be in any way affected, unless the same is duly signed, executed, and acknowledged according to law; and any such officer offending herein shall be guilty of a misdemeanor, and shall also be liable in damages to the party injured, in a civil action. (774)

52-451, 55+46.

**544. Seal**—Every register of deeds shall have an official seal, and affix the same to all documents requiring his official signature, except the indorsement mentioned in § 545. (776, 778)

36-9, 29+388.

**545. Certificate of record**—Every register of deeds shall indorse upon each instrument recorded by him, over his official signature, the time when it was received, and the book and page in which it was recorded; and every instrument shall be considered as recorded at the time so noted. (777)

40-441, 42+294; 59-274, 61+135.

**SHERIFF**

**546. Election—Term**—There shall be elected in each county a sheriff, who shall hold his office for two years, and until his successor qualifies. (782)

16-518, 467.

**547. Bond and oath**—Every person elected or appointed to the office of sheriff, before entering upon his duties, shall give bond to the state in a sum not less than twenty-five thousand dollars in counties whose population exceeds one hundred and fifty thousand, and not less than five thousand dollars in all other counties, to be approved by the county board, conditioned that he will well and faithfully in all things perform and execute the duties of his office, without fraud, deceit, or oppression, which bond, with his oath of office, shall be filed for record with the register of deeds. (783; '95 c. 281; '02 c. 51 s. 17)

09 547  
- 107

17-451, 429; 55-318, 56+1065.

**548. Failure to qualify**—If any person elected to the office of sheriff fails to give the bond and take the oath prescribed by law on or before January 10 next succeeding his election, it shall be deemed a refusal to serve. (784)

**549. Powers and duties**—The sheriff shall keep and preserve the peace of his county, for which purpose he may call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, execute all processes, writs, precepts, and orders issued or made by lawful authority and to him delivered, attend upon the terms of the district court, and perform all of the duties pertaining to his office. (785)

07 549  
07 - 245  
- 372

14-487, 364; 16-490, 443; 25-432, 441; 35-365, 29+1.

**550. Shall give certificate, when**—Every sheriff, if required, shall give, without charge, to any person delivering process or papers to him for service or execution, a certificate, under his hand, specifying therein the names of the parties, the nature of the process or paper, and the day of such delivery. (787)

**551. Failure to pay over money**—If any sheriff or deputy shall fail to settle with and pay over to the county board, according to law, any money collected or received by him for the use of or belonging to the county, or shall fail to settle with and pay over to the person entitled thereto any money he may have collected or received by virtue of any execution, process, judgment, order, or decree, or in any other way, by virtue of his office, such board or person may proceed against such sheriff or deputy in a summary manner before the district court, by an order to show cause why he should not pay over such money, and upon the hearing thereof the court may order such sheriff or deputy to pay to such board or person the amount found due, with twenty per cent. thereon as damages for such failure, together with the costs of the proceedings; and, upon failure to comply with such order, such sheriff or deputy may be committed to jail as for a contempt. (788)

Applicable only where duty plain and neglect wilful (71-408, 74+156; 74-80, 76+1020). When money received "by virtue of his office" (53-346, 55+557). Applicable where sheriff delivers property to purchaser at execution sale without receiving purchase price (39-59, 38+704); where sheriff refuses to execute writ of execution (33-147, 22+622). Penalty of twenty per cent. discretionary with court. Order on hearing appealable (29-162, 12+452).

**552. Neglect of duty**—If any sheriff shall neglect to make due return of any writ or other process or paper delivered to him to be executed, or shall be guilty of any misconduct in relation to the execution thereof, he may be proceeded against by the party interested in the manner provided in § 551, and in addition to requiring the performance of the duty neglected, or the correction of the injury done, the court may impose upon such sheriff a fine, for the use of the county, not exceeding two hundred dollars; but nothing herein shall prevent the person injured from maintaining an action for damages against the sheriff, or upon his official bond. (789)

33-147, 22+622; 39-59, 38+704; 74-80, 76+1020.

**553. Criminal process, when filed**—On or before the last day of the term for which the same was issued, every sheriff or other officer or person who serves a subpoena or other process issued by the court in a criminal action shall file the same, with a statement of his fees indorsed thereon, with the clerk of such court. (808)

**554. Not to buy at sheriff's sale**—No sheriff shall become the purchaser, either directly or indirectly, of any property, real or personal, by him exposed to sale by virtue of any mortgage, judgment, execution, or other process; and all such purchases made by any sheriff, or any other person for him, shall be void. (791)

**555. Powers after expiration of term**—Every sheriff going out of office by expiration of his term may execute and return all writs, processes, and orders which shall then be in his hands, and which he shall have begun to execute by service, levy, or collection of money thereon: Provided, that if such sheriff dies, or from any cause is unable to act, the sheriff in office, upon the delivery to him of any such writ, process, or order, together with the return or memorandum of the action, if any, of such late sheriff under the same, shall complete the execution thereof in the same manner and with like effect as if the same had been originally delivered to him, and the return of such succeeding sheriff upon any such process or order, or his deed given in pursuance of the execution thereof, shall be prima facie evidence of the disability of the late sheriff to complete the execution of such process or give such deed. (792)

25-432, 440.

**556. County jail**—The sheriff shall have the charge and custody of the county jail, and shall receive and safely keep therein all persons lawfully committed thereto, and shall not release any person therefrom unless discharged by due course of law. (793)

551  
97-M - 529  
106-NW 965

07 556  
07 - 245  
257

557. **May convey prisoners**—The sheriff or other officer who legally arrests a person in any county may pass through any other county by him deemed necessary to convey such person to the place commanded by the process under which the arrest was made. (794)

558. **Disabilities**—No sheriff, deputy sheriff, or coroner shall appear or practice as an attorney, solicitor, or counselor in any court, or draw or fill up any process, pleading, or paper for any party in any action or proceeding, nor, with intent to be employed in the collection of any demand or the service of any process, advise or counsel any person to commence an action or proceeding; nor shall any sheriff or deputy sheriff be eligible to any other lucrative civil office, except village or city marshal. Either of said officers, for a violation of any of the provisions of this section, shall forfeit not to exceed fifty dollars, to be recovered by the county in a civil action. (795; '97 c. 4)

559. **Deputies**—Every sheriff shall appoint, under his hand, a sufficient number of persons as deputy sheriffs, for whose acts he shall be responsible, and whom he may remove at pleasure. Before entering upon his official duties, the oath and appointment of each shall be filed with the register of deeds. (796)

	559	
05	-	17
05	-	165
05	-	194
07	-	257
07	-	372

14-537, 408; 25-383.

560. **Settlements with county board**—The sheriff shall settle with and pay over to the county board at its regular sessions, and as often as required, all money collected or received by him for the use of, or belonging to, the county. (797)

561. **Deputies attending court**—The judge of the district court in each county, before the commencement of any general term, shall, by order issued to the sheriff, fix the number of deputies required during such term, and direct the sheriff to furnish the same. The sheriff shall file said order with the clerk. Each such deputy shall receive as compensation three dollars per day while attending such term of court. (798, 799)

	561	
05	-	165
07	-	245
07	-	372

562. **Compensation of jailers**—The judge of the district court shall from time to time determine the compensation to be allowed for the services of a jailer in each county in his district, which compensation shall be paid monthly out of the county treasury upon the warrant of the auditor; such jailer to be appointed by the sheriff, subject to the approval of the judge. When prisoners are committed to the jail from a county other than that in which the jail is situated, such judge shall by order ratably apportion the amount to be paid by such county for jailer's fees. Upon the presentation of a certified copy of the order to the auditor of such county, he shall draw his warrant on the treasurer in favor of said jailer for the amount of such compensation. (800)

	562	
05	-	17
05	-	165
07	-	245
07	-	372

25-383, 386.

**COUNTY ATTORNEY**

563. **Term—Bond**—There shall be elected in each county a county attorney, whose term of office shall be two years and until his successor qualifies. Before entering upon his duties, he shall give bond to the county in the penal sum of one thousand dollars, to be approved by the county board, conditioned that he will faithfully and impartially discharge the duties of his office, and pay over without delay to the county treasurer all moneys which come into his hands by virtue thereof, which bond and his oath shall be filed for record with the register of deeds, and when so recorded shall be forwarded by the register to the secretary of state. (801)

05	-	322
	563	
09	-	107
	563-574	
09	-	322

45-309, 47+802.

564. **Justice ineligible**—No person who holds the office of justice of the peace shall be eligible to the office of county attorney, and no person shall hold both of said offices at the same time. (802)

565. **Duties**—The county attorney shall appear for the county in all cases in which it is a party, give opinions and advice upon request to the county board or any county officer upon all matters in which the county is or may be interested, or in relation to the official duties of such board or officer; attend

	565	
07	-	344
	565	
09	-	264

upon all terms of the district court for such county, and upon all other courts having criminal jurisdiction for the preliminary examination of persons charged with crime, when such court shall request his attendance and furnish him a copy of the complaint; attend before the grand jury upon their special request, give them legal advice, and examine witnesses in their presence, and issue subpoenas to bring witnesses before such jury or any magistrate before whom he is conducting an examination; and at the request of the coroner he shall attend any inquest. He shall draw all indictments and presentments found by the grand jury, and prosecute the same to a final determination in the district court, and, whenever requested by the attorney general, shall appear for the state in any case instituted by such attorney general in his county, or before the United States land office in case of application to pre-empt or locate any public lands claimed by the state, and assist in the preparation and trial. (803)

To appear in all cases where the county is a party (16-381, 340; 23-299). To attend at preliminary examination of offenders (16-408, 365). To advise county officers (24-150).

**566. Register of criminal actions**—Every county attorney shall keep a register, to be known as the "Register of Criminal Actions," in which he shall enter the title of all criminal actions prosecuted by him, or reported to him by any justice of the peace, including preliminary examinations, immediately upon the conclusion of such trial or examination, or receipt of such report if the action is in justice court, and within ten days after the adjournment of the term if in district court, giving the date when the prosecution was begun, the date of finding an indictment or of filing an appeal in the district court, the nature of the accusation, and result of such examination or prosecution; if convicted, the nature and extent of the punishment inflicted, and whether the defendant was under the influence of intoxicating liquor when the crime was committed. Also the amount of costs taxed and fines imposed and the amount paid in each case. (804, 805)

**567. Transcript to attorney general**—On or before January 10 in each year, the county attorney shall transmit to the attorney general a transcript of such register, certified by him for the preceding calendar year, which the attorney general shall file, and forthwith receipt for. Upon the delivery of such receipt to the county auditor, and not otherwise, he shall issue to such county attorney a warrant for his salary for the preceding month. (809)

**568. Not to receive fees—Prohibitions**—No county attorney or assistant county attorney shall receive or accept any fee or reward from, or which is paid or given on behalf of any one for services rendered or to be rendered in the prosecution or conduct of any official duty or business. And no person as an attorney, who directly or indirectly advises in relation to, or aids or promotes the defence of, any action or proceeding in any court or prosecution which is carried on by a person as county attorney, with whom such attorney is directly or indirectly connected, or who, having himself prosecuted any action or proceeding as county attorney, shall afterwards advise in relation to or take any part in the defence thereof; nor shall any attorney be allowed to prosecute or assist such county attorney or assistant in any criminal prosecution or other official action where such attorney is interested in any other action or matter pending or to be commenced in which a recovery depends upon the matter involved in such prosecution or other official action. Any person offending against any provision of this section shall be guilty of a misdemeanor. (810, 6810)

**569. Other attorney, when**—When there is no county attorney, the county board may employ any competent attorney to perform such legal services for the county as may be necessary. Such board may also employ an attorney other than the county attorney either to assist him, or to appear for the county or any officer thereof, in any action to which such county or officer in his official capacity is a party, or to advise the board or its members in relation thereto, or in relation to any other matter affecting the interests of the county, and may pay such attorney out of the funds of the county. (811; '95 c. 282)

83-293, 86+102; 83-512, 86+775.

**570. Law partner not to defend**—No law partner of the county attorney, or attorney having his office with him, shall appear for the defendant in any criminal action which it is the duty of the county attorney to prosecute. (812)

**571. Attorney to assist**—The judge of any district court may, by order entered in the minutes at any term of court, appoint an attorney of such court to act as, or in the place of, or to assist the county attorney at such term, either before the court or grand jury. The person so appointed shall take the oath required by law of county attorneys, and thereupon may perform all his duties at such term of court, but shall receive no compensation, where the county attorney is present at such term, except by his consent, and to be paid from his salary. (813)

	571	
05	-	140
05	-	322
07	-	114
07	-	192
07	-	372

47-219, 49+690; 69-508, 72+799, 975; 83-293, 86+102; 90-348, 97+101.

**572. Render account—Pay over moneys**—On or before January 1 in each year the county attorney shall file in the office of the county auditor a verified account of all moneys received by him during the preceding year by virtue of his office, specifying therein the name of the person from whom received, the amount paid by each and on what account, and, unless previously paid, shall at the same time pay over such moneys to the county treasurer, and take duplicate receipts therefor, one of which he shall file with the county auditor. If he shall refuse or neglect to account for and pay over any moneys so received, the auditor shall cause an action to be instituted upon his bond to recover the same, and damages for failure to account. (814, 815)

**573. Compensation**—Except as hereinafter otherwise provided, the salary of the county attorney shall be fixed by the county board, not exceeding two thousand dollars per year, which shall be paid monthly by the county. If dissatisfied with the amount so fixed, any county attorney may appeal to the district court within thirty days by filing with the auditor a notice thereof. The court, either in term or vacation, and upon eight days' notice to the chairman of the board, shall hear such appeal, and summarily determine the amount of such salary for the term of office by an order, a copy of which shall be filed with the auditor. The provisions of this section shall not apply to counties having more than seventy-five thousand inhabitants, nor to any county where such salary is fixed by special law. (532; '03 c. 224)

	573	
05	-	140
07	-	116
07	-	192
07	-	195
07	-	372
09	3/4	313

34-554, 27+65; 47-219, 49+690; 90-348, 351, 97+101.

**574. Contingent fund—Expenses**—In counties having less than seventy-five thousand inhabitants, the county board may set apart yearly a sum not exceeding one thousand dollars as a contingent fund for defraying necessary expenses not especially provided for by law in preparing and trying criminal cases, and in conducting investigations by the grand jury. All disbursements from such fund shall be made, upon written requests of the county attorney, by auditor's warrants, countersigned by a judge of the district court. Any balance remaining at the end of the year shall be transferred to the revenue fund. In all other counties the board may allow itemized and verified claims for the necessary expenses of the county attorney, incurred in the business of the county for stationery, telegraph, and telephone charges, and postage. ('03 cc. 204, 264)

	574	
05	-	140
07	-	192
07	-	339
09	3/4	233

**COUNTY SURVEYOR**

**575. Term—Bond**—There shall be elected in each county a surveyor, who shall hold his office for two years and until his successor qualifies. Before entering upon his duties, he shall give bond to the county, approved by the county board, in the sum of five hundred dollars, conditioned for the faithful discharge of his duties, which bond, with his oath, shall be filed for record with the register of deeds. (829, 837)

	575	
09	-	107

**576. Deputies—Surveys, records, etc.**—The county surveyor may appoint such deputies as he thinks proper, for the faithful and correct performance of whose duties he shall be responsible. He shall make all surveys within his county ordered by any court, public board, or officer, or required by any person. He shall keep a fair and correct record of each survey made by himself

	576	
07	-	372

or deputy, in a book to be provided by the county board, which he shall turn over to his successor in office. He shall number such surveys progressively, and preserve a copy of the field notes, which shall be complete and accurate, and calculations of each such survey, with the number thereof properly indorsed thereon, a copy of which, with a fair and accurate plat, together with a certificate of survey, shall be furnished by such surveyor to any person requesting the same. (831, 832)

62-388, 64+922; 65-384, 67+1005.

577  
07 - 372  
577  
09 - - 303

**577. Compensation**—Except as hereinafter provided, the compensation of county surveyors or deputies shall be four dollars per day while employed in the performance of their duties, including the time necessarily spent in traveling to and from the field of their labor. (830)

71-517, 74+280; 84-295, 87+775.

**578. Rules for surveys**—In all surveys the courses shall be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian shall be expressed on the plat, with the year, month, and day of the survey. In subdividing townships, sections, or parts of sections, as established by the United States survey thereof, and in re-establishing lost government corners, the county surveyor shall follow the rules established by or pursuant to acts of Congress, and all such surveys shall be made in strict conformity to the original survey made by the United States. (833-835; '03 c. 51)

45-93, 47+461; 52-537, 54+740; 65-384, 67+1005; 72-443, 75+699; 76-496, 500, 79+537, 602; 104+4, 6.

**579. Plats, etc.**—To enable surveyors to conform to the requirements of this chapter, county boards shall procure and file with the registers of deeds of their respective counties certified copies of the original plats and field notes of the United States surveys. (835)

**580. Lost posts**—When a section or quarter section post originally fixed by the United States survey is destroyed, the surveyor shall fix a new post in accordance with the field notes of the United States surveyor, with similar marks to those placed on like posts by such surveyor. (836)

72-443, 75+699; 78-515, 81+524.

581  
07 - 372

**581. Surveyors in certain counties—Salary—Duties—Assistants**—In all counties whose population exceeds one hundred and fifty thousand, the county surveyor shall receive from the county a salary of twenty-five hundred dollars per year in full payment for all services by him performed, and all traveling expenses incurred by him or his assistants for such county. When required by the county board, such surveyor shall survey, lay out, and superintend the construction of roads, bridges, and ditches, and make surveys and plats and descriptions and maps thereof, and all other charts and drawings, and, upon request of such board, shall attend its meetings. He may appoint a draftsman, a rodman, two chainmen, and such additional assistants as the county board deem necessary. The compensation of such assistants shall be fixed by the board, and shall not exceed three dollars per day for such draftsman, two dollars and fifty cents for the rodman, and two dollars for each such chainman. ('95 c. 280; '99 c. 29; '03 c. 53)

See 1905 c. 282

### CORONER

**582. Election—Term**—A coroner shall be elected in each county, who shall hold his office for the term of two years and until his successor qualifies. (838)

583  
09 - 107

**583. Bond**—Before entering upon the duties of his office, the coroner shall give bond to the county in such penal sum, not less than five hundred dollars nor more than ten thousand dollars, as the county board directs and approves, with the same conditions, in substance, as in the bond required by law to be given by the sheriff, except as to the description of the office, which bond, with his oath of office, shall be filed for record with the register of deeds. (838)

**584. Shall act as sheriff, when**—When there is a vacancy in the office of sheriff, the coroner shall exercise the powers and duties of said office until a sheriff is elected or appointed and qualifies; and, when the sheriff is for any cause committed to the jail of his county, the coroner shall be the keeper thereof while the sheriff remains imprisoned. (839)

**585. Subject to same liability**—Whenever the coroner administers the office of sheriff, he shall perform all the duties and be subject to all the liabilities and penalties imposed by law upon a sheriff duly qualified. (840)

**586. Sheriff a party—Coroner to act**—When the sheriff is a party to an action, or when any party, his agent or attorney, makes and files with the clerk of the district court an affidavit stating that he believes the sheriff, by reason either of partiality, prejudice, consanguinity, or interest, will not faithfully perform his duties in any action commenced or about to be commenced, the clerk shall direct all process in such action to the coroner, who shall thereafter perform all the duties of the sheriff relative to such action, and in the same manner as prescribed for a sheriff in the performance of similar duties. (841, 842)

**587. Inquest**—Coroners shall hold inquests upon the dead bodies of such persons only as are supposed to have come to their death by violence, and not when the death is believed to have been and was evidently occasioned by casualty. Before any inquest is held, the coroner shall notify the county attorney to appear and conduct the examination of witnesses at such inquest. (843; '01 c. 97)

**588. Jury—Warrant**—As soon as the coroner has notice of the finding within his county of the dead body of any person supposed to have come to his death by violence, he shall make his warrant to the constable of the election district where such body is, or the adjoining election district of the same county, requiring such constable forthwith to summon six good and lawful men of said county to appear before such coroner at the time and place specified in such warrant. The warrant may be, in substance, as follows:

State of Minnesota, }  
County of..... } ss.

The State of Minnesota to any constable of the county of .....  
Greeting:

You are hereby commanded immediately to summon six good and lawful men of the county of ..... to appear before me, the coroner of said county, at (state place and time), then and there to inquire upon view of the body of ....., there lying dead, how and by what means he came to his death. Hereof fail not.

Given under my hand the ..... day of ....., 19....

.....  
Coroner.  
(844)

**589. Constable to execute**—Such constable shall forthwith repair to the place where the dead body is, and make return of the warrant and of his doings thereunder, under his hand, to the coroner. And any constable who unnecessarily neglects or fails to execute and return such warrant shall forfeit the sum of five dollars, and, if any person summoned as a juror fails to appear without a reasonable excuse therefor, he shall forfeit a like sum, each of which forfeitures may be recovered by civil action to be brought by the coroner before any justice of the peace of the county, and to its use. (845)

**590. Oath—Failure to appear**—When the jurors appear, the coroner shall call their names, and then, in view of the dead body, administer to them the following oath: "You do swear that you will diligently inquire, and due presentment make, on behalf of the state of Minnesota, when, how, and by what means the person whose body lies before you did come to his death, and return a true inquest thereof, according to your knowledge and such evidence as shall be laid before you: So help you God." If any of the jurors fail to appear, the coroner may require the constable or any other person whom he shall appoint to return other jurors, until a jury is obtained. (846)

**591. Witnesses—Fees**—The coroner may issue subpoenas for witnesses, returnable forthwith or at such time and place as he shall direct. The persons served with such subpoenas shall be allowed the same fees, their attendance be enforced in the same manner by the coroner, and they shall be subject to the same penalties as if they had been served with a subpoena in behalf of the state in a criminal case before a justice of the peace. (847)

**592. Oath of witnesses**—The following oath shall be administered to the witnesses by the coroner, viz.: "You do solemnly swear that the evidence you shall give to this inquest concerning the death of the person lying before you dead shall be the whole truth and nothing but the truth: So help you God." (848)

**593. Testimony filed—Certificate—Fees**—The testimony of all witnesses examined before the coroner's jury shall be reduced to writing by the coroner, or under his direction, and be subscribed by the witnesses respectively. And the coroner shall forthwith file such testimony, together with a record of all proceedings had before him, in the office of the clerk of the district court of the county. And in all cases brought to the attention of the coroner wherein he does not deem it necessary to hold an inquest, he shall file with such clerk a certificate setting forth the facts in relation thereto. For the taking of such testimony the coroner shall be allowed ten cents a folio, and twenty-five cents for such certificate. And the clerk of said court shall forthwith duly file, index, and enter such case or proceeding in a book to be kept for that purpose, in the same manner as civil actions are now entered, and shall receive from the treasury of his county the same fees as are allowed by law for like services in civil actions. (849)

**594. Inquisition—Form**—The jury, upon inspection of the dead body, and after hearing the testimony and making the needful inquiries, shall draw up and deliver to the coroner the inquisition, under their hands, in which they shall find and certify when, how, and by what means the deceased person came to his death, and his name, if it was known, together with all the material circumstances attending his death; and, if it appears that his death was caused by criminal violence, the jurors shall further state who were guilty, either as principals or accessories, if known, or were in any manner the cause of his death, which inquisition may be, in substance, as follows:

State of Minnesota, }  
County of ..... } ss.

An inquisition, taken at ....., in the county of ....., on the ..... day of ..... 19.., before ....., coroner of said county of ....., upon view of the body of ..... (or a person) lying there dead, by the oaths of the jurors whose names are hereunto subscribed, who, being sworn to inquire on behalf of the state of Minnesota, when, how, and by what means the said ..... (or person) came to his death, upon their oaths do say (insert when, how, and by what person, means, weapon, or instrument he was killed).

In testimony whereof, the said coroner and jurors of this inquest have hereunto set their hands the day and year aforesaid. (850)

**595. Witness bound over—Return**—If the jury find that any murder, manslaughter, or assault has been committed, the coroner shall bind over, by recognizance, such witnesses as he shall think proper, to appear and testify at the next term of the district court at which indictment for such offence can be found. He shall also return to the same court the inquisition, written evidence, and all recognizances and examinations by him taken, and may commit to the jail of the county any witnesses who refuse to recognize in such manner as he shall direct. (851)

**596. Person charged arrested**—If any person charged by the inquest with having committed such offence is not in custody, the coroner shall have the same power as a justice of the peace to issue process for his apprehension; and such warrant shall be made returnable before any justice of the peace or other magistrate or court having jurisdiction in the case, who shall proceed therein in the same manner as in other like cases. (852)

597. **Burial**—When any coroner holds an inquest upon view of the dead body of any person unknown, or, being called for that purpose, shall not think it necessary, on view of such body, that any inquest be held, he shall cause the body to be decently buried; and all expenses of the inquisition and burial shall be paid by the county in which such dead body is found. (853)

598. **Deputies**—Every coroner shall appoint one or more deputies, who, in the absence or inability of the coroner to act, shall have the same powers and be subject to the same liabilities as coroners. Each deputy shall be appointed in writing, and, before entering upon the duties of his office, shall give the bond required by law of the coroner, which bond, with his oath and appointment, shall be filed for record with the register of deeds. Each deputy shall act in his own name as deputy coroner, and hold his office during the pleasure of the coroner. (854, 855)

07 598 - 372  
600

**SUPERINTENDENT OF SCHOOLS**

599. **Election—Term**—A county superintendent of schools shall be elected in each county, who shall hold his office for two years and until his successor qualifies. (3739, 3740) See 1905 c. 190

Women eligible (33-345, 23+529).

600. **Compensation—Expenses**—Salaries of county superintendents, when not otherwise provided by special law, shall be fixed by the county board, and shall not be less than a sum equal to ten dollars for each organized district in the county, to be reckoned pro rata for the year from the time when the first school in the district begins, and may be a larger sum, not exceeding eighteen hundred dollars per year, and the county board may allow a superintendent not to exceed two hundred and fifty dollars per year for traveling expenses. The county shall pay the itemized and attested bills for postage used in official correspondence and in forwarding official documents to teachers and clerks, express charges on matter received from the state superintendent, and necessary bills for printing notices, circulars, lists of questions, and annual reports. The county shall also furnish, through the auditor, stationery needed by the county superintendent in the examination of teachers and for official correspondence. (3742; '95 c. 65)

05 - 326  
07 - 33  
07 - 121

See 1905 cc. 156, 182

601. **Delivery of records, etc.**—Every county superintendent on retiring from office shall deliver to the auditor of his county, for his successor, the records of his office, a list of the clerks of all school districts of the county, with their postoffice addresses, and of all persons under contract to teach in the common schools, together with all blanks, registers, copies of laws, and other state or county property in his possession; and no auditor shall make full payment of salary to any such county superintendent until he has complied with the requirements of this section. (3741)

32-476, 478, 21+554.

**MISCELLANEOUS PROVISIONS**

602. **Offices at county seat**—Every county auditor, treasurer, register of deeds, clerk of district court, sheriff, probate judge, and court commissioner shall keep his office at the county seat. (707, 726, 760, 785, 819, 826)

39-426, 40+561.

09 602 - 447

603. **To report fees**—Every county official shall make and file with the auditor of his county, on or before January 10 in each year, a written statement, verified by his oath, showing in detail the amount of all fees, gratuities, and emoluments, of whatever nature, received by him as such official, or in connection with his official work, during the preceding calendar year. (870)

See § 2721.

604. **Penalty for violation**—Every county official who shall refuse or neglect to comply with the provisions of § 603 shall be guilty of a gross misdemeanor, and shall be punished by a fine of not less than one hundred dollars

nor more than one thousand dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both. (872)

**605. Statements—Prosecution**—The auditor shall present all such statements to the county board at its first meeting held after January 15 thereafter, together with a list of the officials who have not filed such statements, and thereupon the said board shall direct the county attorney to prosecute such officials. (871)

**606. Recording fees paid by county**—The fees for filing and recording official bonds, oaths of office, certificates, or other evidences of election or qualification for office, required by law to be filed or recorded with the register of deeds or clerk of the district court, shall be paid by the county. (873)

**607. Blanks furnished**—The secretary of state, attorney general, and public examiner shall prepare and cause to be printed blank forms for official bonds for all county officers who are required by law to execute such bonds, and the secretary of state, as often as may be necessary, shall forward to the auditor of each county a sufficient supply of such forms for use in such county. (874, 875)

**608. Bonds forwarded to secretary of state**—Official bonds of county officers required by law to be filed and recorded in the office of the register of deeds shall be forwarded by such register to the secretary of state as soon as recorded. Such secretary shall submit all such bonds to the attorney general for approval as to form and execution, who, if he finds the same satisfactory, shall indorse his approval thereon, and thereupon the secretary of state shall file the same in his office for the use of all parties interested. (877, 878)

**609. Non-approval of bond**—In case the attorney general shall find any such bond defective in form or defectively executed, he shall indorse his non-approval thereon, stating his reasons therefor. The secretary of state shall thereupon advise the proper county board of such non-approval, and such board shall require the officer who executed such bond to forthwith execute a new bond in compliance with the statute, which shall be approved, recorded, and filed in like manner as other official bonds. The original bond executed by any such officer shall remain on file and be a valid obligation until such perfected bond is filed with the secretary of state: Provided, that nothing in this chapter contained shall be construed as interfering with the power of the county board in reference to the approval of bonds, or calling for new or additional bonds. (879)

**610. Bonds not withdrawn**—No bond so filed with the secretary of state shall be removed, except upon the written order of a judge of a court of record before whom an action is pending to enforce the conditions thereof. (880)

**611. New bond—Notice**—Whenever the county board of any county shall deem the official bond of any county officer insufficient, or whenever any surety upon any such bond shall file with said board a written request that such officer be required to give a new bond, stating therein his reasons, such board shall give such officer written notice to furnish a new official bond, to be approved by them, before the first day of their next regular, special, or adjourned meeting to be held more than twenty days from the date of such notice, under penalty of forfeiting his office. Such notice shall be personally served and returned in the same manner as a summons in a civil action. (882-884)

**612. Failure to give—Office vacant**—If any county officer served with notice to furnish a new bond as provided in § 611 fails or neglects to do so, his office shall be deemed vacant. But if it shall be made to appear to said board that such officer has been unable to furnish such bond by reason of physical disability, they may give him such further reasonable time to furnish the same as they deem proper, not later than the next meeting of said board. If such bond is not furnished within the further time so granted, such office shall be deemed vacant as before provided. (885)

**613. Original, how affected by new bond**—The rights and liabilities of the parties to the original bond of any such officer, existing or incurred at or prior to the time of the approval and filing of such new bond, shall not be in any

wise affected or impaired by the giving of such new bond; but such original bond and the sureties thereon shall not be liable for the acts of such officer done or performed after said new bond is approved, recorded, and filed as required by law. (886)

**614. Records to be public**—The several judges of probate, county auditors, registers of deeds, and clerks of the district court, during the hours when their respective offices are open, or are required by law to be kept open, shall exhibit any papers, files, or records of their office or in their official custody, for the inspection of any person demanding the same, free of charge, except in cases where fees are provided by law, and then upon tender of such fees. (887)

84-439, 87+1126.

**615. Certified copies**—The several county auditors, judges of probate, and clerks of the district court, during the hours when their respective offices are required by law to be open, shall furnish to any person demanding the same a certified copy of any record, file, or paper in their office, or in their official custody, upon tender of such fees therefor as are by law allowed to registers of deeds for like services. (888)

93-11, 100+382.

**616. Women deputies**—Any woman who is a citizen of this state is eligible to appointment as a deputy of any county official authorized by law to appoint deputies. (890)

**617. Officials not to be interested in contracts**—No county official, or deputy or clerk of such official, shall be directly or indirectly interested in any contract, work, labor, or business to which the county is a party, or in which it is or may be interested, or in the furnishing of any article to, or the purchase or sale of any property, real or personal, by, the county, or of which the consideration, price, or expense is payable from the county treasury. Any violation of the provisions of this section shall be a gross misdemeanor. ('01 c. 324)

**618. Contracts in counties of less than seventy-five thousand**—In counties having less than seventy-five thousand population, no contract for work or labor, or for the purchase of furniture, fixtures, or other property, or for the construction or repair of roads, bridges, or buildings, the estimated cost or value of which shall exceed five hundred dollars, shall be made by the county board without first advertising for bids or proposals in some newspaper of the county. If for the purchase of property, or for work and labor, two weeks' published notice that proposals will be received, stating the time and place, shall be given. If for the construction or repair of roads, bridges, or buildings, three weeks' published notice shall be given, and also fifteen days' posted notice in the town where the construction is to be done. Such notice shall state the time and place of awarding the contract, and contain a brief description of the work. Every such contract shall be awarded to the lowest responsible bidder, shall be duly executed in writing, and the person to whom the same is awarded shall give a sufficient bond to the board for its faithful performance. If no satisfactory bid is received, the board may readvertise. Every contract made without compliance with the provisions of this section shall be void: Provided, that in case of the destruction of roads or bridges by floods or other casualty, or of unforeseen injuries to machinery in or connected with public buildings, where the public interests would suffer by delay, contracts for repairs may be made without advertising for bids. ('03 c. 186)

**619. Same—Counties of more than two hundred thousand**—In counties having a population of more than two hundred thousand, no contract for the purchase of goods, materials, or supplies of any kind for the county, the estimated cost of which exceeds one hundred dollars, shall be made by the county board without first giving at least seven days' published notice that bids or proposals will be received therefor, stating the time and place. All such contracts shall be let to the lowest responsible bidder, shall be approved by resolution of the board, and signed by its chairman. In case no satisfactory bid is received, the board may readvertise: Provided, that in case of unforeseen

breakages or injuries in or connected with public buildings, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids, but in such case the action of the board shall be recorded in its official proceedings. (02 c. 50)

See 1905 c. 189

**620. Actions against counties**—No action shall be maintained against a county upon any claim except county orders, when the only relief demanded is a judgment for money, until such claim shall have been duly presented to the board, and it shall have failed to act upon the same within the time fixed by law, or unless such board shall consent to the institution of such action. No action shall be brought upon any county order until the expiration of thirty days after a demand for the payment thereof has been made, and any judgment against the county entered in an action brought on any such order without such demand shall be void.

## CHAPTER 8

### TOWNS AND TOWN OFFICERS

**621. Boundaries**—The boundaries of towns shall remain as now established until otherwise provided by the county board pursuant to law. (920)

#### POWERS—DUTIES—LIABILITIES

**622. Corporate powers**—Each town is and shall be a body corporate, and empowered:

1. To sue and be sued by its corporate name.
2. To purchase, take, and hold real and personal property for public uses, and convey and dispose of the same.
3. To make all contracts necessary for the exercise of its corporate powers.
4. To make such orders for the disposition, regulation, and use of its corporate property as the inhabitants thereof may deem expedient. (922)

Nature of towns defined. Not liable for negligence (30-186, 14+877; 65-5, 67+648). Not liable for unauthorized acts of officers (59-3, 60+675).

**623. Limitation of powers**—No town shall possess or exercise any corporate powers except such as are expressly given by law, or are necessary to the exercise of the powers so given. (924)

12-124, 71.

**624. Conveyances to towns**—All real and personal property conveyed to any town, or to the inhabitants thereof, or to any person for the use of the town or its inhabitants, shall be deemed the property of such town, and all such conveyances shall have the same force and effect as if made directly to the town by name. (925)

**625. Powers of town meetings**—The electors of each town have power at their annual town meeting:

1. To determine the locations of pounds, and number of poundmasters, and to discontinue any such pound.
2. To select such town officers as are to be chosen.
3. To direct the institution and defence of all actions in which the town is a party or interested, to employ necessary agents and attorneys for the prosecution or defence of the same, and to raise such sums of money for that purpose as they deem necessary.
4. To make such lawful orders and by-laws as they deem proper for restraining horses, cattle, sheep, swine, and other domestic animals from going at large on the highways, and provide for impounding such animals so going at large.
5. To fix penalties for violations of any order or by-law made by such town, except such as relate to the keeping and maintaining of fences.

07 622 - 399

09 622-697 - 279

09 625 - 321  
09 - 435

625(3)  
99-M - 286  
109-NW 248  
625(3)  
99-M - 287