

Counties and County Officers

CHAPTER 370

NEW COUNTIES AND CHANGE OF BOUNDARIES

370.01 CHANGE OF BOUNDARIES; CREATION OF NEW COUNTIES

HISTORY. 1893 c. 143 s. 1; G.S. 1894 s. 621; R.L. 1905 s. 380; 1913 c. 337 s. 1; G.S. 1913 s. 632; 1917 c. 359; 1919 c. 458; G.S. 1923 s. 602; M.S. 1927 s. 602.

The authority conferred by the amendment to the constitution requiring that the legislature shall make provision for changing county-seats gave the legislature full control over the subject and abrogated the previously existing provision requiring the question to be submitted at a general election. *Todd v Rustad*, 43 M 500, 46 NW 73; *State ex rel v Pioneer Press*, 66 M 536, 68 NW 769.

Where several distinct propositions to create new counties are submitted at the same election to the electors of the same county under this section, no elector can vote for or against more than one of the propositions; and if he does his ballot cannot be counted. *State ex rel v Pioneer Press*, 66 M 536, 68 NW 769.

Laws 1893, Chapter 143, entitled "An act to provide for the creation and organization of new counties and government of same", is constitutional and the subject of the act is properly expressed in its title. *State ex rel v Board*, 67 M 352, 69 NW 1083; *State ex rel v Falk*, 89 M 269, 94 NW 879.

New counties to be created out of territory to be detached from a county already organized must be composed of contiguous territory, and leave the remaining part of the original county one contiguous portion of territory. *Duckstad v Board*, 69 M 202, 71 NW 933.

Upon the issuance by the governor of a proclamation declaring that a proposition to create a new county has been adopted, the new county becomes and is one of the duly organized counties of the state. The territory of the new county for judicial purposes and for enforcement of criminal laws belongs to and is a part of the territory of the old county until the officers for the new county have duly qualified; but the new county is not a part of the old, nor is any portion attached to the parent county for any other purposes than such as are expressly specified; and consequently the filing of the statement in Polk County has no validity. *Meehan v Zeh*, 77 M 63, 79 NW 655.

The liability for the county buildings is exclusively assumed by the parent county; and upon division of the county the bonded and floating indebtedness of the old county, excluding the value of the county buildings, is to be apportioned upon assessment valuation of property in the two municipalities. *State ex rel v Demmon*, 83 M 331, 86 NW 352.

Muskaeg Bay is a part of Lake of the Woods county. OAG March 31, 1936 (106b).

Revised Laws 1905, Section 380, and sections following, relating to creation and organization of new counties, is a continuance of existing statutes on subject, and not new independent enactments. *State ex rel v MacDonald*, 101 M 349, 112 NW 278.

370.02 PETITION.

HISTORY. 1893 c. 143 ss. 2, 3; G.S. 1894 ss. 622, 623; 1895 c. 124 s. 1; 1895 c. 298; R.L. 1905 s. 381; G.S. 1913 s. 633; G.S. 1923 s. 603; M.S. 1927 s. 603.

The petition provided for in Laws 1895, Chapter 298, need not state the number of votes cast at the last preceding general election, and it is not necessary to show same by affidavits attached to petition. *State ex rel v Board*, 66 M 519, 68 NW 767.

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An elector may legally file two or more non-competing petitions for the creation and organization of new counties under the provisions of this statute. State ex rel v Board, 67 M 352, 69 NW 1083.

The first petition presented to the secretary of state must be given priority by state officials. State ex rel v Larson, 89 M 123, 94 NW 226.

370.03 PROCLAMATION; ONLY ONE PROPOSITION.

HISTORY. 1893 c. 143 s. 2; G.S. 1894 s. 622; 1895 c. 124; R.L. 1905 s. 382; G.S. 1913 s. 634; G.S. 1923 s. 604; M.S. 1927 s. 604.

Prior to the amendment, Laws 1895, Chapter 124, more than one petition might be submitted. State ex rel v Pioneer Press, 66 M 536, 68 NW 769; State ex rel v Board, 67 M 352, 69 NW 1083; Duckstad v Board, 69 M 202, 71 NW 933; State ex rel v Larson, 89 M 123, 94 NW 226, State ex rel v Falk, 89 M 269, 94 NW 879.

Proceedings before the governor resulting in a proclamation submitting a proposition for the division of a county to the voters, are not judicial in character and the act of the governor in issuing the proclamation is not reviewable in certiorari. State ex rel v Burnquist, 146 M 460, 179 NW 371.

370.04 RECORD PETITION; PUBLISH NOTICE.

HISTORY. 1893 c. 143 s. 2; G.S. 1894 s. 622; 1895 c. 124 s. 1; R.L. 1905 s. 383; G.S. 1913 s. 635; G.S. 1923 s. 605; M.S. 1927 s. 605.

370.05 NOTICE OF ELECTION; FORM OF BALLOT.

HISTORY. 1893 c. 143 s. 4; G.S. 1894 s. 624; 1895 c. 124 s. 2; R.L. 1905 s. 384; G.S. 1913 s. 636; G.S. 1923 s. 606; M.S. 1927 s. 606.

Where several propositions are submitted, no elector can vote for or against more than one. State ex rel v Pioneer Press, 66 M 536, 68 NW 769.

370.06 CANVASS; JUDGES OF ELECTION; COUNTY CANVASSING BOARD.

HISTORY. 1893 c. 143 s. 6; G.S. 1894 s. 626; R.L. 1905 s. 385; 1913 c. 422 s. 1; G.S. 1913 s. 637; G.S. 1923 s. 607; M.S. 1927 s. 607.

370.07 CANVASS; PROCLAMATION; SECRETARY OF STATE; AUDITOR; NOTICE TO COUNTY COMMISSIONERS.

HISTORY. 1893 c. 143 s. 8; G.S. 1894 s. 628; 1903 c. 144; R.L. 1905 s. 386; 1913 c. 422 s. 2; G.S. 1913 s. 638; G.S. 1923 s. 608; M.S. 1927 s. 608.

A board of county commissioners was composed of five members each representing a district. A representative of one district failed to qualify. No steps had been taken to fill the vacancy. Four members may exercise the legislative powers of the board, and their action in issuing and delivering to the state board of investment, bonds for the purpose of building a court-house is sustained. Swedback v Olson, 107 M 420, 102 NW 752.

370.08 EFFECT OF PROCLAMATION.

HISTORY. 1893 c. 143 s. 9; G.S. 1894 s. 629; R.L. 1905 s. 387; G.S. 1913 s. 639; G.S. 1923 s. 609; M.S. 1927 s. 609.

Upon the issuance of a proclamation by the governor declaring that a proposition to create a new county has been adopted, the new county becomes and is one of the duly organized counties of the state. Meehan v Zeh, 77 M 63, 79 NW 655; Culligan v Cosmopolitan, 126 M 218, 148 NW 273.

After the proclamation of the governor to that effect, the county of Columbia was a de facto organized county, until its organization was declared illegal by the supreme court in State v Larson, 89 M 123, 94 NW 226. State ex rel v District Court, 90 M 118, 91 NW 591.

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The court may in its discretion permit private suit in the nature of quo warranto to determine the validity of proceedings for creation of a new county, without the consent of attorney general. State ex rel v McDonald, 101 M 349, 112 NW 278.

370.09 COMMISSIONERS TO QUALIFY, ELECT CLERK, APPOINT COUNTY OFFICERS.

HISTORY. 1893 c. 143 s. 10; G.S. 1894 s. 630; R.L. 1905 s. 388; G.S. 1913 s. 640; G.S. 1923 s. 610; M.S. 1927 s. 610.

The term of office of a county officer appointed when a new county is created, continues until the first Monday in January following the next general election at which county officers are elected in all the counties of the state. Imsdahl v Weaks, 158 M 512, 197 NW 973.

370.10 FILLING VACANCY IN COMMISSIONER DISTRICT CAUSED BY CHANGE OF BOUNDARIES.

HISTORY. 1907 c. 5 s. 1; G.S. 1913 s. 641; G.S. 1923 s. 611; M.S. 1927 s. 611.

370.11 COMMISSIONER AT LARGE; QUALIFICATION.

HISTORY. 1907 c. 5 s. 2; G.S. 1913 s. 642; G.S. 1923 s. 612; M.S. 1927 s. 612.

370.12 DUTIES OF AUDITOR; MEETING OF BOARD.

HISTORY. 1907 c. 5 s. 3; G.S. 1913 s. 643; G.S. 1923 s. 613; M.S. 1927 s. 613.

370.13 REDISTRIBUTION OF COUNTY; SUBSEQUENT ELECTION.

HISTORY. 1907 c. 5 s. 4; G.S. 1913 s. 644; G.S. 1923 s. 614; M.S. 1927 s. 614.

370.14 BOUNDARIES RESTORED AFTER CONTEST.

HISTORY. 1907 c. 5 s. 5; G.S. 1913 s. 645; G.S. 1923 s. 615; M.S. 1927 s. 615.

370.15 CENTER LINE OF HIGHWAY TO BE BOUNDARY OF COUNTY IN CERTAIN CASES.

HISTORY. 1933 c. 230; M. Supp. s. 615-1.

370.16 CHANGE IN BOUNDARY LINE IN CERTAIN COUNTIES

HISTORY. 1937 c. 423 s. 1; M. Supp. s. 615-2.

370.17 TOWNS, SCHOOL, AND ROAD DISTRICTS.

HISTORY. 1893 c. 143 s. 11; G.S. 1894 s. 631; R.L. 1905 s. 389; G.S. 1913 s. 646; G.S. 1923 s. 616; M.S. 1927 s. 616.

370.18 RECORDS TRANSCRIBED.

HISTORY. R.S. 1851 c. 46 s. 33; P.S. 1858 c. 35 s. 33; G.S. 1866 c. 40 s. 30; G.S. 1878 c. 40 s. 30; 1893 c. 143 s. 12; G.S. 1894 ss. 632, 4189; 1897 c. 236; R.L. 1905 s. 390; 1907 c. 136 s. 1; G.S. 1913 s. 647; G.S. 1923 s. 617; M.S. 1927 s. 617.

Where a party has recorded a conveyance of real estate in the county where the land is then situated, a subsequent change of county boundaries does not of itself impose upon him the duty of again recording the conveyance in another county within which the premises have fallen by reason of such change. Koerper v St. P. & N. P. Ry. Co. 40 M 132, 41 NW 156.

370.19 TAXES; LEVY; COLLECTION.

HISTORY. 1893 c. 143 s. 13; G.S. 1894 s. 633; R.L. 1905 s. 391; G.S. 1913 s. 648; G.S. 1923 s. 618; M.S. 1927 s. 618.

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Where a new county is formed out of territory of an existing county, notice of expiration of redemption from a tax sale of land in such territory must be issued by the auditor of the original county, delivered for service to the sheriff of the new county, and posted therein if publication is necessary, provided the taxes for which the sale was had were levied before the petition for the formation of the new county was filed. *Culligan v Cosmopolitan*, 126 M 220, 148 NW 273.

370.20 NEW COUNTIES; TAX LEVY:

HISTORY. 1911 c. 11 s. 1; G.S. 1913 s. 649; G.S. 1923 s. 619; M.S. 1927 s. 619.

370.21 TRANSFER OF PLATS.

HISTORY. 1903 c. 84; R.L. 1905 s. 392; G.S. 1913 s. 650; G.S. 1923 s. 620; M.S. 1927 s. 620.

370.22 COUNTY INDEBTEDNESS; COUNTY BUILDINGS.

HISTORY. 1893 c. 143 s. 14; G.S. 1894 s. 634; R.L. 1905 s. 393; G.S. 1913 s. 651; G.S. 1923 s. 621; M.S. 1927 s. 621.

The liability for the county buildings is exclusively assumed by the parent county, and the bonded and floating indebtedness of the old county, excluding the value of the county buildings, is to be apportioned upon the assessed valuation of the property in the two municipalities. *State v Demmon*, 83 M 331, 86 NW 352.

When the county of Clearwater was created from a portion of Beltrami county, the new county's share of the indebtedness was \$23,958.58, not all of which was due. Beltrami county brought action for a judgment in the full sum together with interest. The defendant's demurrer was sustained. The action was prematurely brought. *County of Beltrami v County of Clearwater*, 109 M 479, 124 NW 372.

Where the attempt to create a new county out of a portion of the territory of an existing county results in the organization of a de facto corporation which is subsequently dissolved in proceedings brought for that purpose, the original county is not liable for debts contracted by the de facto corporation during its existence. *Barnard v County of Polk*, 98 M 289, 108 NW 294.

370.23 COUNTY BONDS; PAYMENT AND ISSUE.

HISTORY. 1893 c. 143 s. 15; G.S. 1894 s. 635; R.L. 1905 s. 394; G.S. 1913 s. 652; G.S. 1923 s. 622; M.S. 1927 s. 622.

See annotations under section 370.22.

370.24 PENALTY FOR REFUSAL TO ACT.

HISTORY. 1893 c. 143 s. 17; G.S. 1894 s. 637; 1901 c. 88 ss. 1, 2; R.L. 1905 s. 395; G.S. 1913 s. 653; G.S. 1923 s. 623; M.S. 1927 s. 623.

Ballots prepared by the distributing officer were improperly separated so that the question of county division and district and county officers were upon different slips instead of upon one. This was a mere irregularity and did not defeat the proposition by which Clearwater county was established at the last election. *State ex rel v Falk*, 89 M 269, 94 NW 879.