

MINNESOTA STATUTES 1953 ANNOTATIONS

211.33 CORRUPT PRACTICES

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post may not contribute funds for the promotion of the passage of a state bonus bill. OAG Oct. 15, 1948 (627-E).

211.33 COUNTY ATTORNEY TO INQUIRE INTO VIOLATIONS

An attorney hired by a citizen to assist the county attorney may carry on a private, independent investigation of his own in order to present to the county attorney relevant facts and names of witnesses capable of giving competent testimony. OAG Sept. 26, 1952 (121-A-1).

The fact that the ballots were thrown into the ballot boxes in a loose condition and thereafter the town clerk unlocked the ballot box and rearranged the ballots is not necessarily a violation of law, and until and unless reasonable evidence is presented to the county attorney which indicates a law violation, it is not the duty of the county attorney to proceed merely because a claim is made without evidence to support it that the law has been violated. OAG April 10, 1951 (627-M).

211.34 VIOLATIONS BY UNAUTHORIZED PERSON NOT TO FORFEIT NOMINATION

Where it is evident that statements made, or reasonable inferences which can be drawn from cartoons or pictures, are true in material matters, slight deviations or the fact that a few might draw unwarranted inferences from the pictures is not enough to avoid an election. *Bank v Egan*, M, 60 NW(2d) 257.

211.35 CONTEST; WHEN COMMENCED

Section 208.01 does not authorize an election contest for mere errors in counting the ballots. Section 208.07 requires that notice of contest be filed in the county of the contestant's residence. State courts have jurisdiction over the nomination of candidates for representative to congress; but no jurisdiction over the election of representatives to congress, the congress being the judge of its own elections, returns, and qualifications of its members. *Youngdale v Eastvold*, 232 M 134, 44 NW(2d) 459.

The county auditor does not have authority to omit the name of a nominee from general election ballot because the affidavit of disbursements discloses disbursements in excess of the amount allowed by law. Proceedings to annul a nomination for violation of Corrupt Practices Act must be instituted under section 211.35 and under section 205.78. OAG Sept. 29, 1948 (28-B-2).

CHAPTER 212

ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES

212.01 FIRST TOWN MEETING

The town meeting is the governing body of the town, not the town board. OAG April 10, 1951 (43-B-4).

212.02 ANNUAL TOWN MEETING; DATE OF

A special town meeting may be called for the purpose of authorizing the purchase or construction of a building and voting money therefor. OAG March 21, 1950 (434-A-6).

Where a town is separated from a city for election and assessment purposes the town board may meet and have their office in the city until other arrangements can be made, but a special election must be called to fix the place of the next annual town meeting. OAG Sept. 22, 1947 (440).

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ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES 212.03

Town meetings shall be held at the place designated by the voters as provided in section 212.02. The expression of the will of the people at their town meeting should prevail over a resolution of the town board acting under section 205.27. OAG March 19, 1951 (434-B-13-C).

An annual town meeting may immediately be organized, then adjourn to a later hour of the day or evening. OAG Jan. 26, 1953 (434-B-13-E).

When the place where the last town meeting was held is destroyed or is otherwise unavailable, the place of holding the next annual town meeting may be determined under sections 205.27 through 205.30. OAG Feb. 9, 1948 (434-B-17).

Town boards may meet in executive session when they so provide by proper motion or resolution. OAG April 15, 1952 (437-A-11).

212.03 SPECIAL TOWN MEETINGS TO FILL VACANCIES

Where a vacancy occurs in the office of town assessor the town board should fill the vacancy by the appointment of a town inhabitant. Where a vacancy occurs in the office of the town treasurer the board may fill the office by appointment or a special town meeting may be held. OAG March 24, 1952 (440-F) (12-C-2).

The supervisors have charge of all town affairs not committed to other officers. They do not have power to appeal on behalf of the town from awards in a ditch proceeding and employ counsel to perfect the appeal. This must be done at the annual town meeting or by calling a special town meeting under section 212.03. OAG Dec. 4, 1947 (434-A-1).

Proceedings for issuing bonds under section 475.51 to 475.75 are enacted by resolution of the governing body of the municipality for which the debt is to be incurred. Such resolution may provide for the submission of the question to a vote of the electors. A town board may adopt such resolution "without a statement" for a special town meeting being filed with the clerk. The provision of section 212.03 that a statement calling a special meeting must be signed by 12 freeholders is therefore excepted from the bond law. OAG April 24, 1951 (434-A-1).

A warehouse for the storage of telephone material, snow plows, and other equipment, may be acquired and owned by a town. Such a building must be authorized by a town meeting and the money voted by the town meeting. A tax levy may be laid by the town board to provide the money. A special town meeting may be called for the purpose. OAG Aug. 18, 1952 (434-A-6).

Failure to take the oath of office within the time prescribed by law does not ipso facto create a vacancy which will prevent an officer from qualifying thereafter if it is done before any steps are taken to declare a vacancy. OAG Apr. 3, 1951 (437-A-21).

If a town desires to issue bonds to purchase equipment for snow removal, the first step is to obtain from the town meeting a resolution authorized by section 475.59. A special town meeting may be called to take similar action. If the majority of votes cast at the election favor issuance of the bonds, the records of the bonds must show all proceedings taken. After the election the town board will meet and proceed to sell the bonds under the authority of section 475.60 and levy the taxes as provided in section 475.61. The town meeting is the governing body of the town and not the town board. OAG April 10, 1951 (434-B-4).

The offices of a member of a school board and town supervisor in a township, whose area includes all or part of the school district, are incompatible and may not be held by one person at the same time. If a person holds the two offices, the remaining supervisors and the town clerk of the township have a right to declare a vacancy and to fill same in accordance with the provisions of section 367.03. OAG July 16, 1951 (358-F) (437-A-21).

The error of the clerk in placing on the ballot at a town election the name of a candidate for whom an incomplete petition was filed does not vitiate the election. OAG March 24, 1950 (434-B-11).

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212.04 ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES

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A town hall may be purchased by the town board when authorized by the electors at a regular or special meeting called for that purpose. The proceeds from the sale of the town hall should be placed in the general revenue fund. Transfers of money from one town fund to another is authorized. OAG May 13, 1953 (434-C-6).

The power to authorize the sale of unneeded personal property belonging to a town rests in the electorate at a town meeting; or the authorizing may be conferred at a special town meeting called pursuant to sections 212.03 and 212.04. OAG Dec. 22, 1947 (437-B-8).

Where a town is separated from a city for election and assessment purposes, the town board may meet and have their office in the city until other arrangements can be made; but a special election must be called to fix a place of the next annual town meeting. OAG Sept. 22, 1947 (440).

Where at a town meeting a motion was made and seconded to levy a tax of \$7,000 for road and bridge purposes and on changing the motion there was no response either "yes" or "no," the chairman declared that the motion carried and no objection was made; the minutes of the meeting show that the motion was made and carried. If the clerk makes a report based on the minutes to the county auditor the only way in which anyone may attack the levy would be by direct proceedings or by a disapproval of the minutes of the meeting at a special meeting called for that purpose. OAG March 30, 1950 (519-K).

Where the record of the town meeting showed that the motion was carried, but in fact no one voted for or against the motion, after another town meeting was organized a motion could be made approving the minutes of the annual town meeting or disapproving those minutes even though the matter related to a levy of taxes for road and bridge purposes. OAG March 30, 1950 (519-K).

212.04 NOTICES; PUBLICATION

Under the law requiring published notices for bids the council should give such notice as will attract the most bidders. OAG July 21, 1949 (707-A-9).

212.05 ORGANIZATION OF MEETING; MODERATOR; TIME OF MEETING

HISTORY. 1860 c 14 art 4 s 1; GS 1866 c 10 s 19; GS 1878 c 10 s 20; GS 1894 s 934; RL 1905 s 636; Mason's 1927 c 1033; 1935 c 147 s 1; 1939 c 345 Pt 11 c 1 s 5; Mason's Supp s 601-11(1)d; 1953 c 339 s 1.

212.07 ORDER OF BUSINESS

Resolutions designating the place for holding town elections may be approved only by a majority of the electors at the town meeting and the question need not be submitted for vote during the polling hours. OAG April 6, 1951 (434-B-13-C).

212.10 POLLS, HOURS OPEN

HISTORY. Amended, 1953 c 151 s 1.

Polls at a town election cannot be closed earlier than 5:00 P.M. OAG March 7, 1953 (434-B-18).

Where a village has been established and its officers elected and it is planned to create the village a special election and assessment district, the ballot should state the question so that the voters may vote "yes" or "no." The council will determine the election date after having resolved to submit the question to the voters. There must be ten days notice. A clerk and two judges of election must be appointed as required by section 212.37. Under section 212.10 the polls may open any time between 9:00 A.M. and 1:00 P.M., and shall close at 5:00 P.M. These hours apply unless the council by previous resolution, at least 30 days before the election, fixes different hours. OAG Sept. 17, 1947 (472-I).

212.14 MANNER OF CANVASSING

When judges of election fail to determine a tie vote after the canvass has been completed, they cannot later reconvene for that purpose. OAG April 15, 1953 (434-B-23).

212.17 NOTICE TO SPECIFY EACH PROPOSITION TO BE VOTED ON

HISTORY. 1860 c 14 art 5 s 7; GS 1866 c 10 s 18; GS 1878 c 10 s 19; GS 1794 s 933; RL 1905 s 648; GS 1913 s 1139; GS 1923 s 1046; MS 1927 s 1046; 1939 c 345 Pt 11 c 1 s 17; M Supp s 601-11(1)p.

Other than election of officers, each proposition to be voted upon at the meeting must be specified in the notice. OAG Feb. 9, 1948 (396-F-2).

212.19 FAILURE TO ELECT OFFICERS

HISTORY. 1860 c 14 art 7 s 3; GS 1866 c 10 s 47; GS 1878 c 10 s 51; GS 1894 s 965; RL 1905 s 650; GS 1913 s 1141; GS 1923 s 1048; MS 1927 s 1048; 1939 c 345 Pt 11 c 1 s 19; M Supp s 601-11(1)r.

Where by judicial decision all officers of the town are disqualified by reason of residence, the officers so disqualified have sufficient de facto powers to call a special election, under section 212.03, to fill the said vacancy. OAG Aug. 21, 1947 (437-A-21).

212.20 OFFICERS ELECTED AT ANNUAL MEETING

HISTORY. 1860 c 14 art 5 s 2; 1861 c 7 s 2; GS 1866 c 10 s 13; GS 1878 c 10 s 14; GS 1894 s 928; 1903 c 64; 1905 c 243 s 1; RL 1905 c 668; 1907 c 103 s 1; 1909 c 316 s 1; GS 1913 s 1162, 1163; GS 1923 s 1074, 1075, 1081; 1927 c 251 s 1, 2; MS 1927 s 1074, 1074-4, 1074-5, 1075, 1081; 1939 c 345 Pt 11 c 1 s 20; M Supp s 601-11(1)rr.

Where one candidate files for justice of the peace and the vote is a tie with a write-in candidate, both are not elected even though the town is entitled to two justices. The judges should have determined the election by lot. OAG March 31, 1953 (266-A-5).

A vacancy of the office of justice of the peace filled by a town board runs only to the time of the next town meeting when a justice is then elected for a full two-year term. OAG April 15, 1952 (266-A-12).

The office of county supervisor of assessments and the office of town clerk are not incompatible. OAG Oct. 9, 1947 (358-E-6).

The office of village clerk and town supervisor of the town in which village is located are incompatible. OAG Feb. 19, 1947 (358-E-7).

The chairman of the town supervisors is entitled to vote and to make and second motions at meetings of the town board. OAG April 19, 1950 (437-A-1).

The term of office of a town supervisor commences on the first secular day in April following the election. OAG March 17, 1949 (437-A-20).

Where by a judicial decision all the officers of the town are disqualified by reason of residence the officers so disqualified have sufficient de facto powers to call a special election under section 212.03 to fill the vacancy. OAG Aug. 21, 1947 (437-A-21).

A town constable has no authority to appoint a deputy. OAG May 7, 1948 (847).

212.24 OATH OF OFFICE

Failure to take the oath of office within the time prescribed by law does not ipso facto create a vacancy which will prevent an officer from qualifying thereafter, if it is done before any steps are taken to declare a vacancy. OAG April 3, 1951 (437-A-21).

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212.25 ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES

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212.25 OATH AND BOND, FILED

HISTORY. 1860 c 14 art 6 s 3, 4; GS 1866 c 10 s 35, 36; GS 1878 c 10 s 37, 38; GS 1894 s 951, 952; RL 1905 s 671; GS 1913 s 1166; GS 1923 s 1078; MS 1927 s 1078; 1939 c 345 Pt 11 c 1 s 25; M Supp s 601-11(1)u.

212.26 CERTAIN OFFICERS TO FILE ACCEPTANCES WITH TOWN CLERK

A village when once organized has perpetual succession and even though there was no organized village government for 25 years or more, officers elected at a special election continue as such until their successors are installed. Another election should be held on Dec. 2, 1948. Failure to elect village officers does not deprive the village of its right to receive moneys from general taxes, liquor or cigarette taxes or from other sources which it is legally entitled to receive. OAG Oct. 11, 1948 (484-E-4).

212.27 PENALTY FOR ASSUMING OFFICE WITHOUT TAKING OATH

HISTORY. 1860 c 14 art 6 s 14; GS 1866 c 10 s 43; GS 1878 c 10 s 45; GS 1894 s 959; RL 1905 s 673; GS 1913 s 1168; GS 1923 s 1080; MS 1927 s 1080; 1939 c 345 Pt 11 c 1 s 27; M Supp s 601-11(1)w.

VILLAGE ELECTIONS

212.28, 212.285, 212.29. Repealed, 1949 c 119 s 10.

212.31 CANDIDATES SHALL FILE AFFIDAVITS OF CANDIDACY; FEES

The same person cannot file for two offices at the same village election. OAG Nov. 9, 1948 (184).

Where the error of the town clerk in placing the name of the candidate for whom an incomplete petition was filed on the ballot was not due to fraud and did not operate to prevent a pure and honest election, the election was not vitiated. OAG March 24, 1950 (434-B-11).

When a village election is to be held on Dec. 7, the last day for filing is Nov. 23. If a candidate is nominated by application of voters, the candidate's signature indicating his willingness to serve is sufficient to meet the requirement of service of copy of application on the candidate and his proof thereof. OAG Dec. 2, 1948 (472-C).

There need be no filing by affidavit of candidates for the various offices at the first municipal election for a newly incorporated village. OAG Aug. 21, 1947 (484-E-4).

212.32 PROVISIONS OF GENERAL ELECTION LAW TO APPLY

The law prohibiting solicitation of votes within 100 feet of the polls applies to town elections. OAG May 8, 1951 (627-B-8).

212.33 Repealed, 1949 c 119 s 110.

212.34 ELECTIVE OFFICERS AND TERMS

HISTORY. 1885 c 145 s 16, 19, 42; GS 1878 Vol 2 (1888 Supp) c 10 s 219, 222, 245; 1887 c 53 s 1; 1889 c 125; 1891 c 100 s 2; GS 1894 s 1216, 1219, 1260; RL 1905 s 711; GS 1913 s 1246; 1917 c 402; GS 1923 s 1134; MS 1927 s 1134; 1929 c 413 s 2; 1937 c 137 s 1; 1939 c 345 Pt 11 c 2 s 7; M Supp s 601-11(2)f, 1152-10; 1943 c 222 s 1; 1947 c 410 s 1; 1949 c 119 s 107.

Where a village assessor resigns after May 1 the vacancy is filled by the county auditor rather than by the village council. OAG July 22, 1947 (12-B-5).

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ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES 212.34

When a vacancy occurs in the office of village assessor the council is authorized to fill the vacancy for the remainder of the unexpired term. OAG Nov. 23, 1949 (12-B-5).

When through inadvertence the notice of election failed to state that an assessor was to be elected, and as a result no assessor was elected, it becomes the duty of the village council to fill the vacancy by appointment. OAG March 16, 1951 (12-B-5).

A village treasurer is eligible for the office of village president. OAG Nov. 20, 1947 (184-L).

Where a person elected justice of the peace refuses to qualify the office must be filled by appointment. Where the election of a justice of the peace creates a vacancy in the office of a second justice of the peace that vacancy must be filled by appointment. OAG Jan. 27, 1948 (266-A-12).

A vacancy in the office of justice of the peace must be filled by the village council for the unexpired term and not by an election. OAG Feb. 1, 1952 (266-A-12). OAG April 4, 1952 (266-A-12).

A vacancy filled by the town board in the office of justice of the peace runs only to the time of the next annual town meeting when a justice is then elected for the full two-year term. OAG April 15, 1952 (266-A-12).

A village organized in 1948 must hold an election for the election of officers on the first secular day in January, 1949, and elect a treasurer, one councilman, a president, a clerk, one trustee, an assessor, and a justice of the peace. OAG Oct. 13, 1948 (440-B).

A vacancy in the office of village treasurer where a nonresident candidate received the highest number of votes and could not serve, should be filled by the village council by appointment. OAG Dec. 8, 1947 (456-G).

It is mandatory upon the village council to fill, for the unexpired term, the vacancy created by the resignation of the president of the council. OAG July 26, 1947 (471-H).

Husband and wife may hold, respectively, the offices of mayor and village clerk, at one and the same time. OAG Dec. 13, 1951 (471-I).

An appointment under the statute is for the balance remaining in the term. OAG Nov. 12, 1946 (471-M).

In filling a vacancy in the village council the president of the council is entitled to vote and if there is an equal division of the vote he may fill the vacancy by appointment for the unexpired term. OAG April 6, 1948 (471-M).

A village election held on Dec. 9, which should by law have been held on Dec. 2, is void and a trustee elected at an election held on a wrong date cannot take office; the office becomes vacant on the first secular date in January following and should be filled by appointment. OAG Feb. 24, 1949 (471-M).

When a vacancy occurs in the office of village trustee the vacancy is filled by the appointment of the council. OAG Oct. 18, 1951 (471-M).

Where the council fills a vacancy in a municipal office the appointee holds office for the remainder of the term of the office to which appointed. OAG Oct. 23, 1951 (471-M).

A person elected to office of mayor before restoration of his civil rights after having, prior to such election, been convicted under Minnesota law of grand larceny in the second degree, is ineligible to hold such office but is a de facto officer until he has been removed from such office by quo warranto proceeding. If removed after assuming the duties of the office, the office becomes vacant and may be filled as provided by law. If he has not assumed the office, the prior mayor has a right to continue until his successor qualifies. OAG Jan. 31, 1952 (478-A).

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212.35 ELECTION DATE AND WHERE ELECTED

HISTORY. 1929 c 413 s 4; 1939 c 185; 1939 c 345 Pt 11 c 2 s 8; M Supp s 601-11 (2)g, 1152-12; 1941 c 13; 1949 c 119 s 108; 1949 c 621 s 1.

Where the village failed to elect and the village council failed to appoint an assessor, the assessor appointed by the county auditor holds office for the entire term or until the village election in the next even-numbered year. OAG Nov. 13, 1953 (12-B-5).

A village organized in 1948 must hold an election for the election of officers on the first secular day in January, 1949, and elect a treasurer, one councilman, a president, a clerk, one trustee, an assessor, and a justice of the peace. OAG Oct. 13, 1948 (440-B).

Under the provisions of Laws 1949, Chapter 119, Section 108, the mayor and one councilman of village are elected in the odd-numbered years, and the clerk is elected in the even-numbered years. OAG July 20, 1949 (471-E).

Where an optional plan under the village code is adopted prior to the holding of regular election the term of the village clerk is not extended under the provisions of Laws 1949, Chapter 621. OAG Nov. 16, 1949 (484-E-4).

212.36 CANVASSING OF VOTES

The canvassing board is not authorized to recount the primary ballots. OAG Dec. 12, 1950 (28-A-3).

The making of a canvass of votes by a canvassing board or by officers in the first instance is a ministerial act which may be compelled by mandamus. OAG Dec. 10, 1952 (183-C).

The person receiving the second largest number of votes in an election is not elected to the office when the person receiving the largest number of votes refuses to qualify. OAG Dec. 15, 1948 (184-M).

Where there were two candidates for a village treasurer and the one receiving the highest number of votes proved ineligible, there was no election. The second candidate did not receive the majority of the votes cast, the vacancy must be filled by appointment. OAG Dec. 8, 1947 (472-C) (456-G).

Where there is a tie vote in the election of officers the election is decided by lot. OAG Dec. 9, 1947 (472-R).

212.37 SPECIAL ELECTIONS

HISTORY. Amended, 1953 c 207 s 1.

Where a village has been established and its officers elected and it is planned to create the village a special election and assessment district, the ballot should state the questions that the voters may vote "yes" or "no." The council will determine the election date after having resolved to submit the question to the voters. There must be ten days notice. A clerk and two judges of election must be appointed as required by section 212.37. Under section 212.10 the polls may open any time between 9:00 A.M. and 1:00 P.M., and shall close at 5:00 P.M. These hours apply unless the council by previous resolution, at least 30 days before the election, fixes different hours. OAG Sept. 17, 1947 (472-I).

A village council may not modify, change, or waive the provisions of the law requiring appointment of judges of election at least 25 days prior to the date of the election. OAG July 11, 1951 (472-K).

The authority conferred by the electors to issue bonds at a rate of interest not to exceed two percent is not authority to issue the bonds at a rate of interest in excess of two percent. OAG July 11, 1951 (44-A-2).

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ELECTIONS; TOWNS, VILLAGES, CERTAIN CITIES 212.65

212.38 TOWN MEETING LAWS APPLY

Where a village has been established and its officers elected and it is planned to create the village a special election and assessment district, the ballot should state the question so that the voters may vote "yes" or "no." The council will determine the election date after having resolved to submit the question to the voters. There must be ten days notice. A clerk and two judges of election must be appointed as required by section 212.37. Under section 212.10 the polls may open any time between 9:00 A.M. and 1:00 P.M., and shall close at 5:00 P.M. These hours apply unless the council by previous resolution, at least 30 days before the election, fixes different hours. OAG Sept. 17, 1947 (472-I).

212.381 PRIMARY ELECTIONS, CERTAIN VILLAGES

HISTORY. 1945 c 179 s 1-5; 1951 c 191 s 1; 1953 c 273 s 1.

Section 212.381 applies to the nomination of judges of the municipal court in a village of not less than 400 population. OAG Oct. 23, 1947 (307-D).

Where only two names are filed for an office in a village primary, the names are not placed on the primary ballot. A blank for writing in votes need not be placed in the primary ballot. OAG Aug. 30, 1951 (472-K).

SPECIAL ELECTIONS, CITIES OF THIRD CLASS

212.46 ELECTIONS; PRIMARY SYSTEM

HISTORY. 1939 c 345 part 11 c 3 s 8; 1953 c 114 s 1.

212.47 DATE OF PRIMARY

Where a city had no charter provision regulating and relating to primary elections, and the city by resolution elected to come under the provisions of sections 212.46 to 212.50, the city became bound by this action which requires that a primary election shall be held on a day two weeks preceding the municipal charter election. OAG Feb. 14, 1952 (64-M).

In cities of the second or third class primary elections must be held two weeks prior to the regular charter election and the specifications of time establish a mandatory date on which such election must be held. OAG Aug. 15, 1951 (186-E).

Where legislation dealing with a particular subject such as elections, consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and to be carried into effect conformably to it, unless a different purpose is plainly shown. OAG Sept. 19, 1953 (437-A-21).

212.51-212.64 Repealed, 1951 c 162 s 1.

CITIES; THIRD CLASS, FOURTH CLASS

212.65 HOLDING AND CONDUCTING ELECTIONS

HISTORY. 1923 c 317 s 1; GS 1923 s 1805; MS 1927 s 1805; 1939 c 345 Pt 11 c 4 s 15; M Supp s 601-11(4)n; 1943 c 59 s 1.

Where the city charter provides for the election of a municipal judge and there are no nominations by petition or otherwise, a blank space should be left upon the ballot where a voter may express his choice for municipal judge either by writing in the name of the candidate preferred by him, or by attaching a sticker. OAG Oct. 17, 1950 (28-B-3).

Where there is a conflict between the requirements of a city charter of a city of the fourth class as to giving notices of elections and the requirement contained in MS 1949, Section 212.68, charter provision controls in view of provision contained in section 212.65 where a city has permanent registration in accordance with MS 1949, Chapter 201. There is no requirement that in fixing the date for election, council must so set the date that an opportunity be given for registration prior to the 20th day before the election. OAG May 27, 1950 (64-T).

212.68 POLLS; NOTICES OF ELECTION

Where there is a conflict between the requirements of a city charter of a city of the fourth class as to giving notices of elections and the requirement contained in MS 1949, Section 212.68, charter provision controls in view of provision contained in section 212.65 where a city has permanent registration in accordance with MS 1949, Chapter 201. There is no requirement that in fixing the date for election, council must so set the date that an opportunity be given for registration prior to the 20th day before the election. OAG May 27, 1950 (64-T).

212.70 GENERAL ELECTION LAWS TO APPLY

When a city desires to amend its charter the constitution requires a publication of the proposed amendment once each week for four successive weeks. Section 410.12 requires publication of a notice of election containing the complete amendment. Sections 205.63, 212.68, and 212.70 define the requirements for the election procedure. OAG Sept. 7, 1950 (58-M).

CHAPTER 215

PUBLIC EXAMINER

215.01 DEPARTMENT ESTABLISHED

HISTORY. 1878 c 83 s 2; GS 1878 c 6 s 90-92; GS 1894 s 411-414; 1905 c 223; RL 1905 s 1581; 1909 c 449 s 1; 1909 c 264; 1913 c 154; 1913 c 555 s 1; GS 1913 s 3227; GS 1923 s 3274; MS 1927 s 3274.

Where, in an investigation by the public examiner in connection with attempted bribery of the county attorney to permit defendant to conduct illegal gambling operations without interference, the person charged with attempted bribery was not exempt from prosecution because the public examiner secured a waiver of immunity from him and took his statement, since such investigation was not within the power or authority of the public examiner. *State v Lowrie*, 235 M 82, 49 NW(2d) 631.

215.02 PUBLIC EXAMINER; APPOINTMENT; SALARY, BOND

HISTORY. 1878 c 83 s 1; GS 1878 c 6 s 89; GS 1894 s 410; RL 1905 s 1580; 1907 c 409 s 1; 1909 c 449 s 1; 1913 c 400 s 4; GS 1913 s 3228; 1919 c 425 s 1; GS 1923 s 252, 3275; MS 1927 s 252, 3275; 1939 c 431 art 4 s 1; M Supp s 3286-8; 1949 c 739 s 15; 1951 c 713 s 20.

215.03 AUDIT

HISTORY. 1858 c 59 s 10; 1858 c 5 s 57; GS 1866 c 6 s 28; 1874 c 11 s 1; 1878 c 83 s 3; GS 1878 c 6 s 37, 91; 1883 c 155 s 1; 1885 c 41 s 1, 2; GS 1894 s 344, 412; 1901 c 140; RL 1905 s 50, 1582; 1909 c 449 s 1; GS 1913 s 92; GS 1923 s 96; 1925 c 150; Mason's 1927 s 96; 1953 c 14 s 1.

215.04 POWERS AND DUTIES OF PUBLIC EXAMINER

HISTORY. Amended, 1949 c 33 s 1.