

MINNESOTA STATUTES 1953 ANNOTATIONS

370.01 NEW COUNTIES; CHANGE OF BOUNDARIES

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Most of the states are divided into counties for administrative purposes, the exceptions being Louisiana and some of the New England states.

In Minnesota the legislature created nine counties in 1849. Of these, the counties of Washington, Ramsey, and Benton were organized and the other six were established for the purpose of appointing justices of the peace and constables. Each of the unorganized counties was attached to an organized county for judicial purposes. In 1866 the state was divided into 73 counties, but only about one half of these were organized counties. There are now 87 counties in the state.

Each of these counties is a political governmental subdivision of the state, and is subject to legislative control; it is created by law and has only such powers as are conferred upon it. It is not an independent entity, but is an arm of the state government, formed for administrative convenience. It is not strictly a municipal corporation, but the legislature may authorize a county to perform specified powers of a municipality.

370.01 CHANGE OF BOUNDARIES; CREATION OF NEW COUNTIES

Counties are involuntary political corporations organized as subdivisions of the state for governmental purposes. Within constitutional limitations, the control of the legislature over counties is absolute. The general powers of the county board are prescribed by statute, and are purely statutory. There is no authority granted by section 275.18 or elsewhere empowering the county to lease fairgrounds owned by the county to private person for private purposes. OAG Feb. 2, 1948 (772-C-5).

370.18 RECORDS TRANSCRIBED

The present register of deeds of a new county should transcribe into his records from the records of the register of deeds of the old county the records therein omitted or overlooked in transcriptions made by his predecessors in office. OAG Sept. 11, 1950 (106-F) (373-B-18-C).

CHAPTER 373

POWERS, DUTIES, PRIVILEGES

373.01 POWERS

Counties are involuntary corporations, organized as political subdivisions of the state for governmental purposes, and are not liable for neglect on the part of their officers or agents unless expressly made so by statute. *Hitchcock v Sherburne County*, 227 M 132, 34 NW(2d) 342.

Under section 465.035 a county may, for public use, convey real estate to a village pursuant to a resolution of the board of county commissioners without meeting the requirements of section 373.01. *County of Hennepin v City of Hopkins*, M, 58 NW(2d) 851.

Public funds may not be expended in lobbying for benefits to accrue to the county or to the people of the area. OAG April 17, 1947 (107-B).

A county is without authority to adopt a curfew ordinance. OAG July 14, 1948 (125-A-14).

The county board operates within authority conferred by the legislature beyond which it cannot go. It cannot agree to indemnify the United States against loss. OAG March 18, 1949 (125-A-16).

The only consideration for a sale of the former Ramsey county courthouse and St. Paul city hall site must be the highest price obtainable and the proceeds must

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POWERS, DUTIES, PRIVILEGES; COUNTIES 373.01

be used to pay outstanding bonds. The county must comply with section 373.01 and offer the tract for sale. Under the Minnesota Constitution, Article IX, Section 1, neither the city nor the county has power to agree to a deferment of taxes when selling the property. OAG Sept. 15, 1950 (125-A-20).

In the absence of tenure provisions relating to county employees the employing authority may grant a leave of absence but, if such leave is granted, there is no assurance that the employee will be returned to his position upon his return from leave. OAG Aug. 24, 1951 (125-A-33).

In the absence of statute a county may not purchase a motor patrol under a conditional sales contract. OAG July 28, 1952 (125-A-40); OAG Oct. 2, 1953 (125-A-42).

A county may sell and convey to an electric power corporation an easement over and across a county-owned poor farm upon compliance with section 373.01. OAG Oct. 2, 1953 (125-A-42).

The county board may not extend funds for grasshopper elimination on public roads. OAG Feb. 23, 1951 (125-B-14).

A county may not appropriate funds for publicity purposes favoring the adoption of a gas tax amendment proposed by Laws 1947, Chapter 639. OAG July 19, 1948 (125-B-21).

There is no statute authorizing a county to establish the office of county fire marshal. OAG May 5, 1949 (197).

On its own motion a county may establish a county library and it is required to do so following an affirmative vote of the electorate. The county board may levy up to two mills for library purposes. OAG July 15, 1948 (285-B) (519-D).

There is no statute authorizing a county to waive the penalty, interest, or both, on personal property taxes which are not paid when due to a man in military service. OAG April 27, 1951 (310).

A county may not expend funds to investigate or pass upon the validity of the incorporation of a village. OAG April 6, 1951 (484-E-1).

A county may not make an original survey and plat of a village unless property within the village can be surveyed and platted as an auditor's plat pursuant to section 272.19. OAG Nov. 13, 1950 (484-E-6).

County may go beyond its right-of-way limits where it has permission or easement to do so, for the purpose of back sloping where a utility has a pre-existing easement upon the lands where the back sloping will be made; a subsequent easement to the county for such back sloping is subject to the utility easement; county may pay a utility for the cost of moving its poles upon or from premises where a utility has an easement for its land. OAG March 25, 1948 (624-C-14).

After bids have been made on the basis of plans and specifications prepared by public authorities and given out to all interested bidders, no material or substantial change in any of the terms of such plans and specifications will be allowed without a new advertisement. Whether the change required by the unavailability of the stated amount of steel and copper where the United States Government has restricted the use of those materials is a "material or substantial" change within the meaning of the rule is, in the first instance, a question for the county board. OAG Aug. 31, 1951 (707-B-7).

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373.02 POWERS, DUTIES, PRIVILEGES; COUNTIES

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373.02 POWERS, HOW EXERCISED

HISTORY. RS 1851 c 7 s 2; PS 1858 c 1 s 252; 1860 c 15 art 1 s 4; GS 1866 c 8 s 77; GS 1878 c 8 s 85; GS 1894 s 640; 1903 c 148; RL 1905 s 411; MS 1927 s 641.

373.03 CONVEYANCES TO COUNTIES; EFFECT

HISTORY. RS 1851 c 7 s 3; PS 1858 c 1 s 253; 1860 c 15 art 1 s 3; GS 1866 c 8 s 76; GS 1878 c 8 s 84; GS 1894 s 639; 1903 c 148; RL 1905 s 410; MS 1927 s 640.

373.041 POLICE-OPERATED BROADCASTING STATIONS

HISTORY. 1949 c 387 s 1-4.

Winona, a city of the second class, acting by and through its board of fire and police commissioners, may with Winona county, exercising a power common to both, establish, equip, and maintain a joint radio broadcasting station for police purposes. OAG Feb. 17, 1950 (785).

373.05 COUNTY BUILDINGS

Proceeds from tax levy authorized by Laws 1947, Chapter 381, and credited to the building fund may be used to build a county highway garage. OAG July 8, 1947 (519-D).

373.06 ACTIONS AGAINST COUNTIES

The word "claim" as used in section 373.06, requiring presentation of such matters to county boards, refers to a charge based on statute or contract. *Johnson v Steele County*, M, 60 NW(2d) 32.

373.07 SUITS AGAINST COUNTIES; SERVICE; JURORS

Superseded by Rule 4.03(e) to extent inconsistent.

373.18 COUNTY BOARD TO DETERMINE REVENUES

When not otherwise forbidden by law section 385.31 authorizes the registration of warrants drawn on the county school tax fund or the county school transportation tax fund, when there are not sufficient funds to pay them and the warrants are endorsed as the law requires. OAG Sept. 29, 1947 (168-E).

373.25 TAX LEVY, COUNTY BUILDING FUND

HISTORY. 1949 c 693 s 1, 2.

Moneys in the county building fund cannot be used to acquire lands solely for the storage of county highway equipment. OAG April 13, 1950 (107-A).

A county building fund established under the provisions of section 373.25 may be used for the erection and maintenance of a building to be used in the administration of county affairs and upon land already owned by the county. OAG Dec. 12, 1951 (107-A).

An appropriation to construct and equip a county jail cannot be construed so as to include apartments for the personal use of the jailer or sheriff. OAG Aug. 22, 1951 (127-B).