

CHAPTER 381

SECTION LINES

381.01 PETITION

HISTORY. 1889 c 175 s 1, 2; GS 1894 s 1812-13; 1895 c 250 s 1, 2; RL 1905 s 458; MS 1927 s 797.

The operation of a program of public recreation is an activity authorized by law. If the county board desires to operate such program it must specify it in its budget as required by law. The levy for county purposes would include the levy for the operation of the program of public recreation and in Hennepin county would be subject to the action of the board of tax levy. OAG July 16, 1948 (519-D).

381.02 MEETING; NOTICE

HISTORY. 1889 c 175 s 3; 1893 c 171 s 1; GS 1894 s 1814; 1895 c 250 s 2; RL 1905 s 459; MS 1927 s 798.

381.05 PLAT AS EVIDENCE

HISTORY. 1889 c 175 s 4, 5; GS 1894 s 1815, 1816; 1895 c 250 s 6, 7; RL 1905 s 462; MS 1927 s 801.

381.10 APPEALS

HISTORY. 1889 c 175 s 6, 7; 1894 s 1817-18; 1895 c 250; RL 1905 s 467; MS 1927 s 806.

381.12 SECTION CORNERS RELOCATED

HISTORY. 1871 c 27 s 1; 1875 c 33 s 1; GS 1878 c 88 s 125; 1885 c 47 s 1; 1889 c 102 s 1; 1893 c 168 s 1; GS 1894 s 697; 1899 c 126 s 1; RL 1905 s 448; MS 1927 s 784; 1951 c 288 s 1.

The rule that a resurvey which changes the lines and distances and purports to correct inaccuracies or mistakes is not competent evidence of the true line as fixed by the original plat, not applicable to boundary-line dispute between the owner of the land included within the plat and the owner of land executed therefrom. Minneapolis & St. Louis Ry. Co. v Ellsworth, 237 M 439, 54 NW(2d) 800.

CHAPTER 382

COUNTY OFFICERS

382.01 OFFICERS ELECTED; TERMS

HISTORY. RL 1851 c 8 art 2 s 1; RS 1851 c 8 art 4 s 1; 1851 c 8 art 8 s 1; PS 1858 c 7 s 19, 47, 95; GS 1866 c 8 s 152, 164, 207; 1868 c 38 s 1; 1877 c 74 sc 4 s 1, 2; GS 1878 c 8 s 174, 192, 239; GS 1878 c 36 s 58, 59; GS 1894 s 760, 782, 838, 3739, 3740; RL 1905 s 530, 546, 582, 599; 1913 c 458 s 1, 2; 1915 c 168 s 1, 2; MS 1927 s 820, 821.

By the constitution, the office of clerk of the district court is elective, the term is for four years. It commences and terminates on the first Monday in January, and

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upon its termination there is a vacancy, and no right in the incumbent to hold over. This term cannot be extended by the legislature. *State ex rel v Berg*, 132 M 428, 157 NW 653.

A revision of an existing statute is presumed not to change its meaning, even if there be alterations in the phraseology, unless such intention to change the law clearly appears from the language of the revised statute. In re-enacting a statute, however, intention to change the meaning may as clearly appear from the omission of old as by adding new language. Enactment of statutes lies wholly within the legislative field, and what the legislature has authority to enact it has like authority to amend or even repeal. When in 1945 the legislature adopted and enacted the compilation and revision of the general statutes of this state as the "Minnesota Revised Statutes," it thereby recognized and declared the same to be an official compilation, revision, and code. As such, the language chosen and used in the revised statutes must be given effect as the latest expression of the legislative will. Where the statutory language is clear and unambiguous, there is no room for construction or interpretation. *Bergin v Washburn*, 224 M 269, 28 NW(2d) 652.

The office of coroner is statutory and is not directly referred to or established by the state constitution. OAG March 24, 1953 (103).

The official year for the State of Minnesota commences on the first Monday in January of each year and all terms of office terminate at that time. Section 375.07 provides that the county board shall meet at the county seat for the transaction of business on the first Tuesday after the first Monday in January and, since Jan. 1 is a holiday and the county offices are closed, the newly elected county officers should present their bond and oath to the county board at its first meeting on Jan. 2 and when the bonds are approved and filed, the new officers take office. OAG Dec. 11, 1950 (104-A-13).

382.02 VACANCIES, HOW FILLED

A county board must provide offices at the county seat for the auditor, treasurer, register of deeds, sheriff, judge of probate, clerk of district court, county superintendent of schools, and the county highway engineer. The court house must be kept open during reasonable hours on Saturday, as well as other week days excepting holidays. The county board has no control over the office hours of the various county offices. OAG June 22, 1948 (104-A-10).

The next general election at which a court commissioner may be elected is not in 1948 but in 1950; and the present holder of the office appointed by the court to hold said office until the first Monday in January, 1951. OAG June 4, 1948 (128-D).

382.03 TRANSPORTATION

HISTORY. 1919 c 158 s 1; 1927 c 220 s 1; MS 1927 s 822-3; 1939 c 361 s 2.

382.04 OFFICES AT THE COUNTY SEAT

HISTORY. RS 1851 c 8 art 2 s 1, art 3 s 4, art 4 s 1, art 6 s 1; 1858 c 48 s 1, 23; 1858 c 75 s 8-11; PS 1858 c 7 s 19, 39, 53, 77, 80; PS 1858 c 8 s 102-105; 1860 c 2 s 1; 1860 c 3 s 5; 1860 c 43 s 4; GS 1866 c 8 s 111, 129, 152, 167, 189, 196; 1868 c 38 s 1; GS 1878 c 8 s 129, 148, 174, 195, 220, 227; GS 1894 s 707, 726, 760, 785, 819, 826; RL 1905 s 602; 1909 c 447 s 1; MS 1927 s 975.

County offices are to be open to the public for the transaction of business during all reasonable hours on weekdays. This excepts Sundays and holidays only. OAG June 22, 1948 (104-A-10).

The law requires that county offices should be open at all reasonable times for the purpose of transacting public business. What are reasonable hours is a question of fact which in the first instance each county officer must decide for himself. There is no statute empowering the county board to fix the office hours of elected county officials. OAG June 29, 1951 (104-A-10).

382.05 TO REPORT FEES

The sheriff must report fees received by him for services within his county of summons and other papers in civil actions; but in serving a summons or other papers in a civil action in a county of which he is not an official, the sheriff acts as an individual and not in an official capacity. The service is proved by his affidavit and not by his certificate and the fees received by him for such services are not within the intendment of section 382.05. OAG March 23, 1949 (390-C-1).

382.153 PREMIUM ON SURETY BOND, PAID BY COUNTY

A county board may enter into an agreement with one bonding company to write all bonds for its officers and employees if such officers and employees (treasurer excepted) consent; and the county need not advertise for competitive bids on furnishing such bond. OAG Dec. 5, 1950 (45-D).

382.154 PREMIUM FOR BONDS, OFFICERS AND EMPLOYEES, PAYMENT

In counties other than Hennepin or Ramsey, a county officer furnishing a bond, may select the company in which the bond is written. OAG Oct. 30, 1950 (104-A-2).

The premium on the bond of a reporter of the district court cannot be paid by the county. OAG March 14, 1947 (129).

382.16 RECORDS ARE PUBLIC; COPIES

The statutory provision that public records be easily accessible for examination is not satisfied by requiring such inspection to be made either at a storage place separate from the official's office or by examination of projection of microfilm. OAG April 17, 1953 (851-I).

382.18 OFFICIALS NOT TO BE INTERESTED IN CONTRACTS

Under the provisions of Laws 1945, Chapter 440, amending section 357.11, a coroner who is funeral director, is not prohibited from contracting with the county in servicing the funeral of a decedent who was an old age recipient at the time of his death. OAG Jan. 9, 1948 (90-B).

A county commissioner may not be appointed to scale timber for compensation under section 282.04. Such employment constitutes a contract prohibited by section 382.18. OAG Dec. 20, 1948 (90-B).

A member of the county welfare board may not be directly or indirectly interested in a contract with the county. OAG July 22, 1948 (90-B-3).

A county commissioner cannot participate as an agent entitled to a commission on a contractor's bond for county work. OAG Feb. 6, 1952 (90-B-4).

A member of an insurance firm doing business with the county does not violate this section although another member of the firm is a county officer. OAG Nov. 30, 1950 (90-B-4).

A highway engineer, is an employee of the county and as such is incapable of contracting with or being directly or indirectly interested in a county contract. OAG Dec. 20, 1952 (90-B-8).

A member of the city council is not disqualified because he is the agent of an oil company who sells products to contractors and others who had contracts with and do business with the city. OAG Jan. 30, 1948 (90-E-5).

The payment of rent to a member of the county welfare board by a recipient of county aid is not violative of the provisions of section 382.18. OAG March 31, 1952 (125-A-64).

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382.265 CLERK HIRE IN CERTAIN COUNTIES

HISTORY. 1939 c 319 s 1; 1945 c 338 s 1.

Statute authorizing county board to appropriate not to exceed \$720 per year to provide clerk hire for county attorney is permissive and not mandatory, and no appeal will lie from action of county board in allowing or refusing to allow clerk hire for county attorney's office. The right to appeal is statutory. *Wallace v County Board of Commissioners*, 227 M 212, 35 NW(2d) 343.

On an appeal from the county board to the district court, as provided in this section, the statute intends that the court determine whether the amount of money for clerk hire allowed by the board is sufficient. OAG Feb. 25, 1953 (104-A-3).

382.27 REIMBURSEMENT OF PEACE OFFICERS

The county is without authority to indemnify a deputy sheriff for a loss resulting from the accidental breaking of his eye glasses by a prisoner resisting an officer while being returned to a cell in the jail. OAG Sept. 26, 1951 (390-A-4).

382.28 JUSTICES AND CONSTABLES

HISTORY. RS 1851 c 7 s 11; PS 1858 c 1 s 261; 1860 c 15 s 30; GS 1866 c 8 s 108; GS 1878 c 8 s 122; GS 1894 s 694; RL 1905 s 445; MS 1927 s 776.

382.29 PAYMENT, CERTAIN EXPENSES

HISTORY. 1951 c 322 s 1, 2.

A county officer attending an annual convention may be reimbursed for his actual and necessary expenses in the amount of his traveling costs actually paid to a common carrier, plus other expenses not exceeding \$25. OAG May 17, 1951 (1210-A-8).

CHAPTER 383

COUNTIES OVER 150,000

383.01 ESTIMATES OF EXPENSE AND REVENUE

Laws 1947, Chapter 457, Section 2, permitted the county board of Ramsey county to appropriate not to exceed \$11,000 per annum for the expense of automobiles for the sheriff's office. The county board may not override the maximum limit of expenditure fixed by the legislature, and additional money may not be appropriated to the sheriff under section 383.02 in excess of this maximum. When an alternative arises between a county ceasing to perform its functions or levying a tax in excess of the statutory limit, the county must levy the tax necessary to enable it to perform its absolute duties. A county must carry out the functions imposed upon it by law notwithstanding the expense thereof may exceed the statutory limitations. The county board may appropriate money to the sheriff from any moneys subject to transfer by it, provided that it determines that there exist conditions prerequisite to the appropriation as above set forth. OAG Nov. 12, 1948 (390-A-7).

383.09 MAXIMUM TAX RATE

The maximum that Hennepin county may levy annually for road and bridge purposes is specified in Laws 1947, Chapter 434, which provides that such levy shall not exceed ten mills on the dollar of the taxable valuation of the county. OAG Sept. 23, 1948 (519-K).