

CHAPTER 393**COUNTY WELFARE BOARD****393.01 ESTABLISHMENT**

HISTORY. Amended, 1949 c 63 s 1.

The cost of a tuberculosis X-ray survey in a county is not payable out of county welfare funds; but the county board is authorized to appropriate money out of the general revenue fund to pay such expenses. OAG Sept. 22, 1950 (125-A-15).

It is the exclusive function of the county board to determine the amount to be spent by the county welfare board. OAG Sept. 3, 1948 (125-A-36).

The welfare board submits to the county board an annual budget estimating its needs. The estimate is not binding on the county board. If the county board approves the estimate, a tax is levied accordingly. The county board, under the provisions of section 262.01, establishes a poorhouse and by direction of the county board the welfare board operates it. While the county board has power to repair, equip, and put a poorhouse in shape as requested by the county welfare board, it is limited in its expenditures. It may expend available money but cannot contract to spend money it does not have. OAG Sept. 3, 1948 (125-A-36).

As between the county of Ramsey and the city of St. Paul, the authority which fixed the lowest budget had a veto upon the power of the county board to adopt a higher budget. In the instant case the budget adopted by the city is the one which must be given effect. The city council has authority to increase the items of the welfare budget by ten percent provided that it does not increase the comptroller's estimate by more than three percent and the city council and the county board may adopt a new welfare budget which would increase the comptroller's budget for welfare purposes within the above stated limitation. The county welfare board of Ramsey county is not authorized to exceed the amounts so budgeted. OAG Sept. 19, 1949 (125-A-64).

The Hennepin County Welfare Board does not have authority to acquire by purchase or lease land for parking facilities for employees' automobiles; nor to reimburse the employees for parking fees. OAG Aug. 10, 1950 (125-A-64).

The county welfare board of Mahnomon county may not pay the county for utility services where it occupies space owned and furnished by the county. OAG Aug. 27, 1951 (125-A-64).

Ramsey county welfare board has no authority to contribute toward the payment of a judgment for malpractice against the resident doctor employed by it at Ancker Hospital. Laws 1945, Chapter 432, cannot be construed as a waiver of governmental immunity. Procurement of malpractice insurance for the hospital staff has no effect upon governmental immunity. OAG Nov. 17, 1952 (842-C-4).

393.03 PER DIEM

HISTORY. 1937 c 343 s 3; 1945 c 475 s 1; 1953 c 517 s 1.

393.04 ORGANIZATION

A continuing bond is valid, but the better practice is to require a new bond for each term of office. OAG Sept. 26, 1950 (104-A-2).

The executive secretary of the county welfare board is a county employee. OAG March 7, 1949 (125-A-64).

393.05 COUNTY TO PROVIDE OFFICES

The county board of Mahnomon county is without authority to charge the county welfare board for the cost of utility services furnished in the county owned and operated building. OAG Aug. 27, 1951 (125-A-64).

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393.07 POWERS, DUTIES

HISTORY. 1937 c 343 s 7; 1939 c 407 s 1; 1941 c 370 s 2; 1941 c 476 s 1; 1949 c 40 s 2; 1951 c 336 s 1; 1951 c 620 s 1.

Under the Social Security Act of the United States and the rules and regulations issued and promulgated to the several states, the social security administration and under the social and county welfare board laws of the state of Minnesota and the rules and regulations issued and promulgated pursuant to said laws, the revised basic compensation plan promulgated by the director of social welfare and approved by the federal security agency fixing the rates, is binding upon all the county welfare boards of the several counties and is required to fix the salary of its employees within the salary range set forth by the director of social welfare. The Hennepin county welfare board is without authority to pay its employees salaries exceeding the maximum rates of pay as promulgated by the director. The party is not entitled to a peremptory writ of mandamus if at the time of the trial he cannot show a clear, legal right to a writ. *State v Fitzsimons*, M, 58 NW(2d) 882.

The cost of a tuberculosis X-ray survey in a county is not payable out of county welfare funds; but the county board is authorized to appropriate money out of the general revenue fund to pay such expenses. OAG Sept. 22, 1950 (125-A-15).

Direct aid funds, such as old age assistance, aid to dependent children, and general relief, cannot be used for the purchase of furniture or equipment for use by the welfare board, but such direct aid funds must be used only for the relief of the recipients of public assistance. The director of social welfare is granted authority to require such methods of administration as are necessary for compliance with the requirements of the Federal Social Security Act and among the items of administrative expense for which federal funds are available is that of "purchase of equipment" as there are no funds available in the administrative funds of the welfare board. If there are no funds available in the administrative fund of the welfare board, such furniture and equipment purchased by the county board for use of the county welfare board may be paid by the county from the county revenue fund. OAG April 27, 1949 (125-A-64).

County welfare boards in dealing with food standards applying to old age assistance, aid to dependent children and aid to the blind, must adopt standards in conformity with the rules and regulations of the director of social welfare. Food allowances cannot be determined on the basis of local costs unless such rules and regulations so provide. OAG July 30, 1951 (125-A-64).

Members of the county welfare board of Hennepin county cannot grant leave of absence with pay to employees who are delegates to and desire to attend a labor union convention at Duluth. OAG Sept. 29, 1951 (125-A-64).

Any employee subject to the state welfare merit system may not actively participate in party politics. OAG May 9, 1952 (125-A-64).

Names of persons receiving old age assistance or aid to dependent children may not be published. There is no prohibition against publication of the names of persons receiving direct relief. OAG Dec. 20, 1951 (277-C-1).

While the operation of a program of public recreation is not a moral or regular function of the county welfare board, the county welfare board of Hennepin county has authority to operate a program of public recreation, funds being available for that purpose. The funds for the operation of the program of public recreation must be appropriated from general funds. Money appropriated for the use of the county welfare board under section 393.08 cannot be used to finance a recreation program. OAG July 16, 1948 (519-D).

393.08 ESTIMATES FURNISHED TO COUNTY BOARD

HISTORY. 1937 c 343 s 8; 1945 c 301 s 1; 1949 c 510 s 1, 2.

As between the county of Ramsey and the city of St. Paul, the authority which fixed the lowest budget had a veto upon the power of the county board to adopt a higher budget. In the instant case the budget adopted by the city is the one which

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must be given effect. The city council has authority to increase the items of the welfare budget by ten percent provided that it does not increase the comptroller's estimate by more than three percent; and the city council and the county board may adopt a new welfare budget which would increase the comptroller's budget for welfare purposes within the above stated limitation. The county welfare board of Ramsey county is not authorized to exceed the amounts so budgeted. OAG Sept. 19, 1949 (125-A-64).

The cost of immunization of the staff of the welfare board against diphtheria may not be paid out of administration fund of the welfare board. OAG March 8, 1951 (125-A-64).

The statutory time for tax levying is directory not mandatory; but a tax levy may be made after the July meeting but not after the tax has been spread on the rolls. OAG Nov. 1, 1951 (519-D).

393.09 MONTHLY MEETINGS

The welfare board submits to the county board an annual budget estimating its needs. The estimate is not binding on the county board. If the county board approves the estimate, a tax is levied accordingly. The county board, under the provisions of section 262.01, establishes a poorhouse and by direction of the county board the welfare board operates it. While the county board has power to repair, equip, and put a poorhouse in shape as requested by the county welfare board, it is limited in its expenditures. It may expend available money but cannot contract to spend money it does not have. OAG Sept. 3, 1948 (125-A-36).

CHAPTER 394

BUILDING COMMISSION; PLANNING BOARDS

PLANNING BOARD

394.06 PLANNING BOARD AUTHORIZED

A county is not authorized to zone unless it falls within the class specified in MSA, Chapter 396. No authority exists for a city or village to enforce its zoning ordinance outside of the corporation limits. Town boards in Lyon county have no authority to zone. OAG Sept. 21, 1949 (59-A-32).

Upon recommendation of the planning commission the town board, after a public hearing thereon, may grant an application for reclassification modifying the zoning system. OAG April 11, 1947 (110).

Where a town was zoned under the County Zoning Act, a village organized out of a part of the town is under the Original Zoning Act until superseded by a new village zoning ordinance. OAG May 16, 1950 (441-H).

A member of a village park commission may also serve as a member of the county planning board. OAG June 15, 1948 (948).

394.10 PLANS PREPARED UPON REQUEST OF TOWN BOARD

A zoning plan under section 394.10 must have at least one public hearing before accepted, and must be acted upon within 90 days of its submission. OAG July 7, 1950 (441-H).

After the adoption of a county zoning plan in a village the town may adopt a zoning plan even though it has previously approved a county zoning plan. OAG July 10, 1950 (441-H).