

CHAPTER 414

MINNESOTA MUNICIPAL BOARD

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414.01 CREATION; ENABLING PROVISIONS.

Subdivision 1. **Purpose.** The Minnesota municipal board is hereby created to conduct proceedings, make determinations and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

The legislature finds that: (1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state; (2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes; (3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation; (4) annexation to existing municipalities of unincorporated areas unable to supply municipal services should be facilitated; and, (5) the consolidation of municipalities should be encouraged. The Minnesota municipal board is empowered to promote and regulate development of municipalities to provide for the extension of municipal government to areas which are developed or are in the process of being developed for intensive use for residential, commercial, industrial, institutional, and governmental purposes or are needed for such purposes; and to protect the stability of unincorporated areas which are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and to protect the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.

Subd. 2. **Members, qualifications, meetings.** The board shall be composed of three members appointed by the governor, at least one of whom shall be learned in the law, and at least one of whom shall be a resident from outside of the metropolitan area as defined in section 473.121, subdivision 2. The board shall select from its members a chair who shall have the powers and duties prescribed by the general law applicable to the heads of departments and agencies of the state. All those appointed must be residents of the state for at least five years before the appointment. Each appointed member shall serve for six years. The board shall meet once each month at a regular time to be established by the chair. The removal of members and filling of vacancies for members other than county commissioner members on the board are as provided in section 15.0575.

In proceedings before the board for the incorporation of a statutory city, consolidation of two or more municipalities, or annexation of unincorporated land to a municipality, two county commissioners of the board of the county in which all or a majority of the affected land is located shall serve on the board during such time as the

board shall have under consideration said matter. The executive director of the board shall upon initiation of a proceeding for such incorporation, consolidation, or annexation notify the county auditor of the county in which the majority of the affected property is situated of the need for the appointment of the two county commissioners to the board. At the next succeeding meeting of the county board the commissioners shall designate the two appointed and shall thereupon immediately notify the Minnesota municipal board executive director of their action. The county commissioners shall represent districts which do not contain any of the affected territory. If commissioners from the unaffected districts are unavailable, commissioners from the affected district may serve.

Subd. 3. [Repealed, 1996 c 303 s 19]

Subd. 3a. [Repealed, 1996 c 303 s 19]

Subd. 4. [Repealed, 1996 c 303 s 19]

Subd. 5. **Majority acts, chair's authority.** The board shall transact business and conduct hearings by a majority of its members except as otherwise provided for by subdivision 12 but a smaller number may adjourn from time to time. The chair may order the consolidation of separate proceedings in the interest of economy and expedience. In those proceedings in which the board is composed of five members, no order of the board shall be final unless approved by three of the five members, and in all other proceedings unless approved by two of the three members.

Subd. 6. [Repealed, 1969 c 1139 s 87 subd 2]

Subd. 6a. **Per diem; expenses.** Each member of the municipal board shall receive \$50 per day when in attendance at board meetings or hearings, or when otherwise engaged in the performance of duties. The county commissioners shall be paid \$25 per day for each hearing or meeting attended. The county auditors and commissioners shall be deemed to be performing duties for the county without additional compensation when serving as ex officio members of the board. Each member of the board and the county commission members of the board shall be reimbursed for actual expenses incurred in accordance with state travel regulations.

Subd. 7. [Repealed, 1969 c 1139 s 88 subd 2]

Subd. 7a. **Executive director.** The Minnesota municipal board shall appoint an executive director, not a member of the board, who shall be qualified as a result of practical, professional, or educational experience and receive a salary fixed by law. The director shall devote full time to the duties of office. All correspondence and petitions shall be addressed to the executive director who is charged with conducting the administrative affairs of the board.

Subd. 8. **Planning, consultants, hearing formalities.** The board shall have authority to contract with regional, state, county, or local planning commissions or to hire expert consultants to provide specialized information and assistance. Any member of the board conducting or participating in any hearing, or its executive director, shall have the power to administer oaths and affirmations, to issue subpoenas, to compel the attendance and testimony of witnesses, and the production of papers, books, and documents.

Subd. 9. [Repealed, 1969 c 1146 s 20]

Subd. 10. **Rules.** In order to carry out the duties and powers imposed upon the board, it shall have the power to make such rules, as are reasonably necessary, in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state.

Subd. 11. **Fees.** The board may prescribe a schedule of filing fees for any petitions, resolutions or ordinances filed pursuant to this chapter by an appropriate rule promulgated in accordance with the procedure prescribed in the general laws relating to departments and agencies of the state for the issuance of administrative rules.

Subd. 12. **Transcripts, evidence reports.** In proceedings pursuant to this chapter, the executive director or any board member may administer oaths and affirmations to

witnesses, examine witnesses, and receive and report evidence. In any proceeding in which the evidence is received by one board member or by the executive director, the board member or executive director shall make a report of the evidence to the board. When all members of the board do not attend a hearing in a proceeding, any party may request the executive director to cause a transcript of the hearing to be made and distributed to all board members. Any party requesting a copy of the transcript for board members is responsible for its costs.

Subd. 13. [Repealed, 1969 c 1146 s 20]

Subd. 14. **Population of changed territory.** When a board order or approval letter enlarges or diminishes the area of an existing municipality or town, the board shall communicate its order or approval letter to the municipality and the state demographer. The municipality shall prepare an estimate of population and of the number of households for the annexed or detached area of the municipality or town. The estimate shall be certified by the state demographer. The estimate must estimate the population as of the effective date of the board order or approval letter and must be so dated. When a new municipality is created by an order of the board, the municipality shall request a separation census from the United States bureau of the census and bear any costs incurred.

Subd. 15. **Increased costs, levy period.** When a board order enlarges an existing municipality or creates a new municipality, the board may indicate in its order the estimated increased costs to the municipality as the result of the boundary adjustment, and the time period that the municipality would be allowed a levy for these increased costs.

Subd. 16. **Compelled meetings; report.** In any proceeding before the board, the board may at any time in the process require representatives from the involved city, town, county, political subdivision, or other governmental entity to meet together to discuss resolution of issues raised by said petition or order which confers jurisdiction on the board and other issues of mutual concern. The board may require that the parties meet at least three times during a 60-day period. The parties shall designate a person to report to the board on the results of the meetings immediately after the last meeting.

Subd. 17. **Data from state agencies.** The board may request information from any state department or agency in order to assist it to carry out its duties. The department or agency shall promptly furnish the requested information to the board.

History: 1959 c 686 s 1; 1961 c 645 s 1; 1963 c 807 s 1-5; 1965 c 45 s 58; 1965 c 899 s 1-5; 1965 c 901 s 22; 1969 c 1139 s 87 subd 1, 88 subd 1; 1969 c 1146 s 1-6; 1973 c 123 art 5 s 7; 1973 c 621 s 1; 1973 c 650 art 4 s 18; 1975 c 271 s 6; 1976 c 134 s 70-72; 1977 c 57 s 1; 1978 c 705 s 1-8; 1980 c 487 s 22; 1981 c 268 s 1; 1983 c 305 s 24; 1985 c 79 s 1; 1985 c 248 s 70; 1986 c 444; 1987 c 384 art 2 s 1; 1Sp1989 c 1 art 5 s 29; 1994 c 511 s 1,2; 1996 c 303 s 1-7; 1997 c 87 s 3

414.011 DEFINITIONS.

Subdivision 1. **Application.** For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. **Municipality.** "Municipality" means any city, however organized.

Subd. 3. **Incorporated land.** "Incorporated land" means land within a municipality; "unincorporated land" means land outside a municipality.

Subd. 4. **Property, area, land.** The terms "property," "area," and "land" mean geographical units of land within or outside a municipality, depending upon the context in which the term is used.

Subd. 5. **Property owner.** "Property owner" means the fee owner of land, or the beneficial owner of land whose interest is primarily one of possession and enjoyment. The term includes, but is not limited to, vendees under a contract for deed, and mortgagors. Any reference to a percentage of property owners shall mean in number.

Subd. 6. **Abut, abuts, abutting.** The terms “abut,” “abuts,” and “abutting” refer to areas whose boundaries at least touch one another at a single point, including areas whose boundaries would touch but for an intervening roadway, railroad, waterway or parcel of publicly owned land.

Subd. 7. **Boundary adjustment.** “Boundary adjustment” means any proceeding by the municipal board authorized by this chapter.

Subd. 8. **Meetings, hearings.** “Meetings” and “hearings” includes, but is not limited to, board deliberations by electronic media.

Subd. 9. **Corporate boundary map.** “Corporate boundary map” means a map which accurately describes the boundaries of a municipality.

Subd. 10. **Plat map.** “Plat map” means that document recorded in the office of the county recorder in the county where the area is located.

History: 1969 c 1146 s 7; 1973 c 123 art 5 s 7; 1978 c 705 s 9,10

414.012 MAPS.

Subdivision 1. **Corporate boundary map.** A municipality initiating any boundary adjustment authorized by this chapter shall file with the municipal board a corporate boundary map. Any proposed boundary adjustment shall be delineated on a copy of the corporate boundary map.

Subd. 2. **Plat maps.** Any party initiating a boundary adjustment, which includes platted land, shall file with the municipal board maps which are necessary to support and identify the land description. The maps shall include copies of plats.

History: 1978 c 705 s 11

414.02 MUNICIPAL INCORPORATION.

Subdivision 1. **Initiating the proceedings.** This section provides the exclusive method of incorporating a municipality in Minnesota. Proceedings for incorporation of a municipality may be initiated by petition of 100 or more property owners or by resolution of the town board within an area which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law. The petition or resolution shall be submitted to the executive director and shall state the proposed name of the municipality, the names of all parties entitled to mailed notice under section 414.09, the reason for requesting incorporation, and shall include a proposed corporate boundary map.

Subd. 2. **Hearing time, place.** Upon receipt of a petition or resolution made pursuant to subdivision 1, the executive director of the board shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Board factors, order.** In arriving at its decision, the board shall consider the following factors:

(a) Present population and number of households, past population and projected population growth for the subject area;

(b) Quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses;

(d) The present transportation network and potential transportation issues, including proposed highway development;

(e) Land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the metropolitan council; and whether there are inconsistencies between proposed development and existing land use controls;

(f) Existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services;

(g) Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(h) Fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues;

(i) Relationship and effect of the proposed action on affected and adjacent school districts and communities;

(j) Whether delivery of services to the subject area can be adequately and economically delivered by the existing government;

(k) Analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;

(l) Degree of contiguity of the boundaries of the subject area and adjacent units of local government; and

(m) Analysis of the applicability of the state building code.

Based upon these factors, the board may order the incorporation if it finds that (a) the property to be incorporated is now, or is about to become, urban or suburban in character, or (b) that the existing township form of government is not adequate to protect the public health, safety, and welfare, or (c) the proposed incorporation would be in the best interests of the area under consideration. The board may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality.

The board may alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character, or may exclude property that may be better served by another unit of government. The board may also alter the boundaries of the proposed incorporation so as to follow visible, clearly recognizable physical features for municipal boundaries. In all cases, the board shall set forth the factors which are the basis for the decision.

Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the board may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the board order upon a finding that area representation is required to accord proper representation in the proposed incorporated area because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development, but after four years from the effective date of an incorporation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all council members at large as in other municipalities.

The board's order for incorporation shall provide for the election of municipal officers in accordance with section 414.09. The plan of government shall be "Optional Plan A", provided that an alternate plan may be adopted pursuant to section 412.551, at any time. The ordinances of the township in which the new municipality is located shall continue in effect until repealed by the governing body of the new municipality.

Subd. 4. Effective date. The incorporation shall be effective upon the election and qualification of new municipal officers or on such later date as is fixed by the board in its order.

History: 1959 c 686 s 2; 1961 c 645 s 2; 1963 c 807 s 6,7; 1965 c 899 s 6-11; 1969 c 1146 s 8; 1973 c 123 art 4 s 5; 1975 c 271 s 6; 1978 c 705 s 12; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1996 c 303 s 8

414.021 [Repealed, 1978 c 705 s 33]

414.03 [Repealed, 1969 c 1146 s 20]

414.031 ANNEXATION OF UNINCORPORATED PROPERTY BY BOARD ORDER.

Subdivision 1. **Initiating the proceeding.** A proceeding for the annexation of unincorporated property abutting a municipality may be initiated by submitting to the executive director and the affected township one of the following:

- (a) A resolution of the annexing municipality;
- (b) A resolution of the township containing the area proposed for annexation;
- (c) A petition of 20 percent of the property owners or 100 property owners, whichever is less, in the area to be annexed;
- (d) A resolution of the municipal council together with a resolution of the township board stating their desire to have the entire township annexed to the municipality.

The petition, or resolution shall set forth the boundaries of the territory proposed for annexation, the names of all parties entitled to notice under section 414.09, and the reasons for requesting annexation. If the proceeding is initiated by a petition of property owners, the petition shall be accompanied by a resolution of the annexing municipality supporting the petition.

Subd. 2. [Repealed, 1973 c 621 s 9]

Subd. 3. **Hearing time, place.** Upon receipt of a petition or resolution initiating an annexation the executive director shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 4. **Board factors, order.** In arriving at its decision, the board shall consider the following factors:

(a) Present population and number of households, past population and projected population growth of the subject area and adjacent units of local government;

(b) Quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

(c) Degree of contiguity of the boundaries between the annexing municipality and the subject area;

(d) Present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses;

(e) The present transportation network and potential transportation issues, including proposed highway development;

(f) Land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the metropolitan council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;

(g) Existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services;

(h) Existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;

(i) Plans and programs by the annexing municipality for providing needed governmental services to the subject area;

(j) An analysis of the fiscal impact on the annexing municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;

(k) Relationship and effect of the proposed action on affected and adjacent school districts and communities;

(l) Adequacy of town government to deliver services to the subject area;

(m) Analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment; and

(n) If only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality.

Based upon the factors, the board may order the annexation (a) if it finds that the subject area is now, or is about to become, urban or suburban in character, or (b) if it finds that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare, or (c) if it finds that the annexation would be in the best interest of the subject area. If only a part of a township is to be annexed, the board shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship. The board shall deny the annexation if it finds that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area. The board may deny the annexation (a) if it appears that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property or (b) if the remainder of the township would suffer undue hardship.

The board may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government. The board may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features. If the board determines that part of the area would be better served by another municipality or township, the board may initiate and approve annexation on its own motion by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4. In all cases, the board shall set forth the factors which are the basis for the decision.

Subd. 4a. Proceedings initiated by joint resolution. If the proceeding has been initiated under subdivision 1, clause (d), any annexation order shall include a provision for the election of new municipal officers in accordance with section 414.09. The expanded municipality shall be governed by the home rule charter or statutory form which governs the annexing municipality, except that any ward system for the election of council members shall be inoperable. The ordinances of both the annexing municipality and the township shall continue in effect within the former boundaries until repealed by the governing body of the new municipality.

Notwithstanding any other provision of law to the contrary the board may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the board order, upon a finding that area representation is required to accord proper representation in the municipality because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development; but after four years from the effective date of an annexation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all council members at large.

Until the effective date of the annexation order, the town board and other officers of the town shall continue to exercise their powers and duties under the town laws in that portion of the municipality that was formerly the town, and the council and other officers of the annexing municipality shall continue to exercise their powers and duties in that portion of the expanded municipality that was formerly the municipality. Thereafter the town board and the council of the annexing municipality shall have no jurisdiction within the municipality, and the new municipal council and other new officers shall act in respect to any matters previously undertaken by the town board of supervisors or municipal council within the limits of the expanded municipality, including the making of any improvement and the levying of any special assessments therefor in the same manner and to the same effect as if such improvement had been undertaken by the municipality.

The new municipal council may continue or discontinue any board that may have previously existed in the town or former municipality.

Subd. 5. [Repealed, 1992 c 556 s 12]

Subd. 6. **Effective date.** The annexation shall be effective as of the date fixed in the annexation order or on such later date as is fixed in the annexation order. A copy of the annexation order must be delivered immediately by the executive director of the Minnesota municipal board to the appropriate county auditor or auditors. For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

History: 1969 c 1146 s 10; 1973 c 123 art 5 s 7; 1973 c 621 s 11; 1975 c 271 s 6; 1978 c 705 s 13; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1991 c 291 art 12 s 22; 1996 c 303 s 9

414.032 [Repealed, 1978 c 705 s 33]

414.0325 ORDERLY ANNEXATIONS WITHIN A DESIGNATED AREA.

Subdivision 1. **Initiating the proceeding.** One or more townships and one or more municipalities, by joint resolution, may designate an unincorporated area as in need of orderly annexation. The joint resolution will confer jurisdiction on the board over annexations in the designated area and over the various provisions in said agreement by submission of said joint resolution to the executive director. The resolution shall include a description of the designated area and the reasons for designation. Thereafter, an annexation of any part of the designated area may be initiated by:

(1) submitting to the executive director a resolution of any signatory to the joint resolution; or

(2) the board of its own motion.

Whenever a state agency other than the pollution control agency, orders a municipality to extend a municipal service to an area, such an order will confer jurisdiction on the Minnesota municipal board to consider designation of the area for orderly annexation.

If a joint resolution designates an area as in need of orderly annexation and states that no alteration of its stated boundaries is appropriate, the board may review and comment, but may not alter the boundaries.

If a joint resolution designates an area as in need of orderly annexation, provides for the conditions for its annexation, and states that no consideration by the board is necessary, the board may review and comment, but shall, within 30 days, order the annexation in accordance with the terms of the resolution.

Subd. 1a. **Electric utility service notice.** At least 60 days before a petition is filed under this section or section 414.033, the petitioner must notify the municipality that the petitioner intends to file a petition for annexation. At least 30 days before a

petition is filed for annexation, the petitioner must be notified by the municipality that the cost of electric utility service to the petitioner may change if the land is annexed to the municipality. The notice must include an estimate of the cost impact of any change in electric utility services, including rate changes and assessments, resulting from the annexation.

Subd. 2. Hearing time, place. Upon receipt of a resolution for annexation of a part of the designated area, the executive director shall set a time and place for a hearing in accordance with section 414.09.

Subd. 3. Board factors, order. In arriving at its decision, the board shall consider the factors in section 414.031, subdivision 4.

Based upon factors in section 414.031, subdivision 4, the board may order the annexation:

(a) if it finds that the subject area is now or is about to become urban or suburban in character and that the annexing municipality is capable of providing the services required by the area within a reasonable time; or (b) if it finds that the existing township form of government is not adequate to protect the public health, safety, and welfare; or (c) if it finds that annexation would be in the best interests of the subject area. The board may deny the annexation if it conflicts with any provision of the joint agreement. The board may alter the boundaries of the proposed annexation by increasing or decreasing the area so as to include that property within the designated area which is in need of municipal services or will be in need of municipal services.

If the annexation is denied, no proceeding for the annexation of substantially the same area may be initiated within two years from the date of the board's order unless the new proceeding is initiated by a majority of the area's property owners and the petition is supported by affected parties to the resolution. In all cases, the board shall set forth the factors which are the basis for the decision.

Subd. 4. Effective date of annexation. The board's order shall be effective upon the issuance of the order or at such later time as is provided by the board in its order. A copy of the annexation order must be delivered immediately by the executive director of the Minnesota municipal board to the appropriate county auditor or auditors. For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

Subd. 5. Planning in the area designated for orderly annexation. A joint resolution may provide for the establishment of a board to exercise planning and land use control authority within any area designated as an orderly annexation area pursuant to this section, in the manner prescribed by Minnesota Statutes 1976, section 471.59, subdivisions 2 to 8, inclusive.

(a) A board established pursuant to a joint resolution shall have all of the powers contained in sections 462.351 to 462.364, and shall have the authority to adopt and enforce the Uniform Fire Code promulgated pursuant to section 299F.011.

(b) The joint resolution may provide that joint planning and land use controls shall apply to any or all parts of the area designated for orderly annexation as well as to any adjacent unincorporated or incorporated area, provided that the area to be included shall be described in the joint resolution.

(c) If the joint resolution does not provide for joint planning and land use control, the following procedures shall govern:

If the county and townships agree to exclude the area from their zoning and subdivision ordinances, the municipality may extend its zoning and subdivision regulations to include the entire orderly annexation area as provided in section 462.357, subdivision 1, and section 462.358, subdivision 1.

If the county and township do not agree to such extraterritorial zoning and subdivision regulation by the municipality, zoning and subdivision regulation within the orderly annexation area shall be controlled by a three-member committee with one member appointed from each of the municipal, town, and county governing bodies. This committee shall serve as the "governing body" and "board of appeals and adjustments", for purposes of sections 462.357 and 462.358, within the orderly annexation area. The committee shall have all of the powers contained in sections 462.351 to 462.364, and shall have the authority to adopt and enforce the Uniform Fire Code promulgated pursuant to section 299F.011.

History: 1978 c 705 s 14; 1Sp1981 c 4 art 1 s 171,172; 1982 c 424 s 116; 1983 c 18 s 1; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1991 c 291 art 12 s 23; 1992 c 556 s 4; 1994 c 511 s 3; 1996 c 303 s 10-12; 1997 c 202 art 5 s 2

414.033 ANNEXATION BY ORDINANCE.

Subdivision 1. **Unincorporated property.** Unincorporated property abutting a municipality may be annexed to the municipality by ordinance as provided for in this section.

Subd. 2. **Conditions.** A municipal council may by ordinance declare land annexed to the municipality and any such land is deemed to be urban or suburban in character or about to become so if:

- (1) the land is owned by the municipality;
- (2) the land is completely surrounded by land within the municipal limits;
- (3) the land abuts the municipality and the area to be annexed is 60 acres or less, and the area to be annexed is not presently served by public sewer facilities or public sewer facilities are not otherwise available, and the municipality receives a petition for annexation from all the property owners of the land; or
- (4) the land has been approved after August 1, 1995, by a preliminary plat or final plat for subdivision to provide residential lots that average 21,780 square feet or less in area and the land is located within two miles of the municipal limits.

Subd. 2a. [Repealed, 1997 c 202 art 5 s 9]

Subd. 2b. **Notice required.** Before a municipality may adopt an ordinance under subdivision 2, clause (2), (3), or (4), a municipality must hold a public hearing and give 30 days' written notice by certified mail to the town or towns affected by the proposed ordinance and to all landowners within and contiguous to the area to be annexed.

Subd. 3. **Perimeter, acreage requirements.** If the perimeter of the area to be annexed by a municipality is 60 percent or more bordered by the municipality and if the area to be annexed is 40 acres or less, the municipality shall serve notice of intent to annex upon the town board and the municipal board, unless the area is appropriate for annexation by ordinance under subdivision 2, clause (3). The town board shall have 90 days from the date of service to serve objections with the board. If no objections are forthcoming within the said 90 day period, such land may be annexed by ordinance. If objections are filed with the board, the board shall conduct hearings and issue its order as in the case of annexations under section 414.031, subdivisions 3 and 4.

Subd. 4. [Repealed, 1978 c 705 s 33]

Subd. 5. **Petition, objections.** If the land is platted, or, if unplatted, does not exceed 200 acres, a majority of the property owners in number may petition the municipal council to have such land included within the abutting municipality and, within ten days thereafter, shall file copies of the petition with the board, the town board, the county board and the municipal council of any other municipality which borders the land to be annexed. Within 90 days from the date of service, the town board or the municipal council of such abutting municipality may submit written objections to the annexation to the board and the annexing municipality. Upon receipt of such objections, the board shall proceed to hold a hearing and issue its order in accordance with section 414.031, subdivisions 3 and 4. If written objections are not submitted within the time specified in

this section and if the municipal council determines that property proposed for the annexation is now or is about to become urban or suburban in character, it may by ordinance declare such land annexed to the municipality. If the petition is not signed by all the property owners of the land proposed to be annexed, the ordinance shall not be enacted until the municipal council has held a hearing on the proposed annexation after at least 30 days' mailed notice to all property owners within the area to be annexed.

Subd. 6. If also in board proceeding. Whenever a proceeding for annexation is initiated under this section and all or any part of the land is included in another boundary adjustment proceeding pending before the board, no action thereon shall be taken by the municipality, unless otherwise provided by an order of the board, until final disposition has been made of the petition pending before the board. Under this section the board will accept a waiver from all parties having a right to object, stating they have no objections to the proposed annexation and waiving the 90 day period before an annexation ordinance may be adopted.

Subd. 7. Filing; effective date; copy, levies. Any annexation ordinance provided for in this section must be filed with the board, the township, the county auditor and the secretary of state and is final on the date the ordinance is approved by the board. A copy of the annexation ordinance must be delivered immediately by the governing body of the municipality to the appropriate county auditor or auditors.

Subd. 8. [Repealed, 1980 c 487 s 23]

Subd. 9. [Repealed, 1997 c 87 s 4]

Subd. 10. Information to board. The municipal board may, at its discretion, require the city or property owners to furnish additional information concerning an annexation by ordinance to inform the board about the extent to which the proposed annexation conforms to the statutory criteria set forth in sections 414.01, subdivision 1 and 414.031, subdivision 4.

Subd. 11. Floodplain; shoreland area. When a municipality declares land annexed to the municipality under subdivision 2, clause (3), and the land is within a designated floodplain, as provided by section 103F.111, subdivision 4, or a shoreland area, as provided by section 103F.205, subdivision 4, the municipality shall adopt or amend its land use controls to conform to chapter 103F, and any new development of the annexed land shall be subject to chapter 103F.

Subd. 12. Property taxes. When a municipality annexes land under subdivision 2, clause (2), (3), or (4), property taxes payable on the annexed land shall continue to be paid to the affected town or towns for the year in which the annexation becomes effective. If the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year. In the first year following the year when the municipality could first levy on the annexed area under this subdivision, and thereafter, property taxes on the annexed land shall be paid to the municipality. In the first year following the year the municipality could first levy on the annexed area, the municipality shall make a cash payment to the affected town or towns in an amount equal to 90 percent of the property taxes distributed to the town in regard to the annexed area in the last year the property taxes from the annexed area were payable to the town; in the second year, an amount equal to 70 percent; in the third year, an amount equal to 50 percent; in the fourth year, an amount equal to 30 percent; and in the fifth year, an amount equal to ten percent. The municipality and the affected township may agree to a different payment.

Subd. 13. Electric utility service notice. At least 60 days before a petition is filed under section 414.0325 or this section, the petitioner must notify the municipality that the petitioner intends to file a petition for annexation. At least 30 days before a petition is filed for annexation, the petitioner must be notified by the municipality that

the cost of electric utility service to the petitioner may change if the land is annexed to the municipality. The notice must include an estimate of the cost impact of any change in electric utility services, including rate changes and assessments, resulting from the annexation.

History: 1969 c 1146 s 12; 1975 c 271 s 6; 1978 c 705 s 15-21; 1979 c 50 s 52; 1985 c 30 s 2,3; 1991 c 291 art 12 s 24; 1992 c 556 s 5-8; 1994 c 511 s 4-8; 1996 c 303 s 13,14; 1997 c 31 art 3 s 14,15; 1997 c 202 art 5 s 3-5

414.0335 ORDERED GOVERNMENTAL SERVICE EXTENSION; ANNEXATION BY ORDINANCE.

If a determination or order by the pollution control agency, under section 115.49 or other similar statute is made, that cooperation by contract is necessary and feasible between a municipality and an unincorporated area located outside the existing corporate limits of a municipality, the municipality required to provide or extend through a contract a governmental service to an unincorporated area, during the statutory 90-day period provided in section 115.49 to formulate a contract, may in the alternative to formulating a service contract to provide or extend the service, declare the unincorporated area described in the pollution control agency's determination letter or order annexed to the municipality by adopting an ordinance and submitting it to the municipal board or its successor. The municipal board or its successor may review and comment on the ordinance but shall approve the ordinance within 30 days of receipt. The ordinance is final and the annexation is effective on the date the municipal board or its successor approves the ordinance. Thereafter, the city shall amend its comprehensive plan and official controls in accordance with chapter 462.

History: 1997 c 202 art 5 s 6

414.034 [Repealed, 1978 c 705 s 33]

414.035 DIFFERENTIAL TAXATION.

Whenever a board order, under section 414.031, 414.0325, or 414.033, annexes part or all of a township to a municipality, the board may provide that the tax rate of the annexing municipality on the area annexed shall be increased in substantially equal proportions over not more than six years to equality with the tax rate on the property already within the municipality. The appropriate period, if any, shall be based on the time reasonably required to effectively provide full municipal services to the annexed area.

History: 1978 c 705 s 22; 1979 c 50 s 53; 1987 c 50 s 1; 1989 c 277 art 4 s 46

414.036 MUNICIPAL REIMBURSEMENT.

When a board order under section 414.0325 annexes part of a town to a municipality, the orderly annexation agreement between the town and municipality may provide a reimbursement from the municipality to the town for all or part of the taxable property annexed as part of the board order. The reimbursement shall be completed in substantially equal payments over not less than two nor more than six years from the time of annexation.

History: 1981 c 189 s 1

414.04 [Repealed, 1969 c 1146 s 20]

414.041 CONSOLIDATION OF MUNICIPALITIES.

Subdivision 1. **Initiating the proceeding.** Two or more municipalities may be the subject of a single proceeding provided that each municipality abuts at least one of the included municipalities. The proceeding shall be initiated in one of the following ways:

(a) Submitting to the executive director a resolution of the city council of each affected municipality;

(b) Submitting to the executive director a petition signed by five percent or more of the resident voters of a municipality who voted for governor at the last general election; or

(c) By the board on its own motion.

The petition or resolution shall set forth the following information about each included municipality: name, description of boundaries, the reasons for requesting the consolidation and the names of all parties entitled to mailed notice under section 414.09. The party initiating the proceeding shall serve copies of the petition or resolution on all of the included municipalities.

Subd. 2. Consolidation commission. Upon receipt of a petition or a resolution requesting consolidation or upon the board's own motion, the board shall appoint a consolidation commission from a list of ten candidates submitted by each affected city council. The commission shall be composed of not fewer than five members from each affected municipality. From a separate list of three persons submitted by each affected city council, the board shall appoint a commission chair who is not a resident of an affected municipality but who resides in an affected county.

No person is disqualified from serving on a consolidation commission by reason of holding other elected or appointed office. Consolidation commission members shall hold office until a consolidation report has been issued by the commission. The board shall fill vacancies in the commission by appointment. The consolidation commission shall make rules with reference to its operation and procedures including quorum requirements with reference to its operations and procedures.

Subd. 3. Commission's hearing and report. The consolidation commission shall conduct hearings regarding the proposed consolidation. The hearings shall include, but are not limited to, the following subjects:

(a) The contents of any city charter for the proposed consolidated city or the form of government of the proposed consolidated city;

(b) Analysis of whether a ward system shall be included in the form of government of the proposed consolidated city; and

(c) Each factor considered by the board under section 414.02, subdivision 3.

Based on these factors and upon other matters which come before the consolidation commission, the commission shall issue a report to the municipal board with findings and recommendations within two years from the date of the board's initial appointment of the commission.

Subd. 4. Board's hearing and notice. Upon receipt of the commission's report, the executive director shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 5. Board's factors, order. In arriving at its decision, the board shall consider the factors in section 414.02, subdivision 3.

The board shall consider and may accept, amend, return to the commission for amendment or further study, or reject the commission's findings and recommendations based upon the board's written determination of what is in the best interests of the affected municipalities.

The board shall order the consolidation if it finds that consolidation will be for the best interests of the municipalities. In all cases, the board shall set forth the factors which are the basis for the decision.

If the board orders consolidation, it shall provide for election of new municipal officers in accordance with section 414.09. If the most populous of the included municipalities is a statutory city, the new municipality shall be a statutory city and the plan of government shall be Optional Plan A, provided that an alternate plan may be adopted pursuant to section 412.551, at any time. If the most populous of the included municipalities is a home rule charter city or organized under a statute other than chapter 412, the new municipality shall be governed by its home rule charter or the statutory form under which it is governed except that any ward system for the election

of council members shall be inoperable. If the commission's findings and recommendations include a proposed home rule charter for the new municipality, the board may in its order combine the issue of the adoption of the charter and the vote on approval of the order for consolidation into one question on the ballot, and shall submit it in a special or general election as provided in section 410.10. The ordinances of all of the included municipalities shall continue in effect within their former boundaries until repealed by the governing body of the new municipality.

Notwithstanding any other provision of law to the contrary, the board may in its order establish a ward system in the new municipality, in which event it shall establish not less than three nor more than seven wards, each of which shall elect one council member. When more than two years have elapsed after consolidation, the governing body may, by a four-fifths vote, abolish the ward system.

The new municipality shall assume the name of the most populous municipality unless previous to the election another name is chosen by joint resolution of a majority of the included municipalities or by the consolidation commission.

The number of license privileges existing in the included municipalities prior to consolidation and pursuant to state law shall not be diminished as a result of the consolidation.

If the consolidation is denied or defeated in a referendum, no proceeding for the consolidation of the same municipalities may be initiated within two years from the date of the board's order unless authorized by the board.

Subd. 6. Final approval. (a) If the consolidation was initiated by a petition of the resident voters of a municipality, the board's order for consolidation shall be final upon approval by resolution of the city councils in each of the affected municipalities unless ten percent or more of the resident voters of an affected municipality who voted for governor at the last general election petition the city council for a referendum on the consolidation. The petition must be submitted within 90 days of the final date of the board's order or the date of final approval of the board's order by the city councils, whichever is later. Upon receipt and verification of the petition, the board shall order the municipalities to conduct separate referenda at a general or special election in each municipality on the same day, and the referenda shall be held within six months of the receipt of the petition. Costs of the respective referenda shall be borne by the respective municipality. A majority of those voting in each city must approve the proposed consolidation. The results of the referenda shall be certified to the executive director of the municipal board by the chief election judge within ten days after the referenda. The executive director shall upon receipt of the certificate notify all parties of the election results.

(b) If the consolidation was initiated by a city council resolution of each affected municipality, the board's order for consolidation shall be final unless ten percent or more of the resident voters of an affected municipality petition for a referendum as provided in clause (a).

(c) If the consolidation was initiated by the board's own motion, no consolidation order of the board involving existing municipalities shall become effective unless adopted by the council of each affected municipality by a majority vote and unless the consolidation order of the board is approved by the qualified voters of the affected municipalities at a general or special election set according to law. The form of the ballot shall be fixed by the board; and, if a majority of the votes cast on the question in each municipality are in favor of its adoption, the order of the board shall become effective as provided herein.

(d) Notwithstanding a disapproval of the board's order for consolidation by a city council of an affected municipality required to approve the board's order in clause (a) or (c), the board's order for consolidation shall nevertheless be deemed approved by that city council if ten percent or more of the resident voters of that municipality who voted for governor at the last general election petition the city council for a referendum

on the consolidation as provided in clause (a), and a majority of those voting in that municipality approve the board's order for consolidation.

Subd. 7. Differential taxation. Where one municipality is receiving substantially fewer municipal services, the board may provide that the tax rate of the municipality shall be increased in substantially equal proportions over a period of not more than five years to equality with the tax rate in the remainder of the new municipality. The period shall be determined by the board on the basis of the period reasonably required to provide substantially equal municipal services.

Subd. 8. Effective date. The consolidation shall be effective upon the election and qualification of new municipal officers, or at such later date as set by the board in its order.

History: 1969 c 1146 s 13; 1973 c 123 art 5 s 7; 1973 c 621 s 5; 1975 c 271 s 6; 1978 c 705 s 23; 1979 c 287 s 1; 1986 c 444; 1989 c 277 art 4 s 47; 1996 c 303 s 15,16

414.05 [Repealed, 1969 c 1146 s 20]

414.051 BOARD'S REVIEW OF TOWNSHIPS ACCORDING TO POPULATION.

After each federal census the board may determine the townships which have a population in excess of 2,000 exclusive of any municipality or part of a municipality within the township and make recommendations which it deems necessary and reasonable to the board of any such township.

History: 1969 c 1146 s 14; 1975 c 271 s 6; 1981 c 357 s 106

414.06 DETACHMENT OF PROPERTY FROM A MUNICIPALITY.

Subdivision 1. Initiating the proceeding. Property which is situated within a municipality and abutting the municipal boundary, rural in character and not developed for urban residential, commercial, or industrial purposes may be detached from the municipality according to the following procedure. The proceeding may be initiated by submitting to the board a resolution of the municipality to which the land is attached or by submitting to the board a petition of all of the property owners of the land to be detached if the area is less than 40 acres or of 75 percent of the property owners if over 40 acres. The petition or resolution shall set forth the boundaries and the area of the land to be detached, the number and character of the buildings, the resident population, and the municipal improvements, if any, in the area.

Subd. 2. Hearing, if needed. If both a resolution of the municipality and a petition by all the property owners are submitted, no hearing is necessary. In any other case, upon receipt of a petition or resolution, the executive director of the board shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. Board's order. Upon completion of the hearing, the board may order the detachment if it finds that the requisite number of property owners have signed the petition if initiated by the property owners, that the property is rural in character and not developed for urban residential, commercial or industrial purposes, that the property is within the boundaries of the municipality and abuts a boundary, that the detachment would not unreasonably affect the symmetry of the detaching municipality, and that the land is not needed for reasonably anticipated future development. The board may deny the detachment if it finds that the remainder of the municipality cannot continue to carry on the functions of government without undue hardship. The board shall have authority to decrease the area of property to be detached and may include only a part of the proposed area to be detached. If the tract abuts more than one township, it shall become a part of each township, being divided by projecting through it the boundary line between the townships. The detached area may be relieved of the primary responsibility for existing indebtedness of the municipality and be required to assume the indebtedness of the township of which it becomes a part, in such proportion as the board shall deem just and equitable having in view the amount of taxes due and delinquent and the indebtedness of each township and the municipality affected, if any, and for what purpose the same was incurred, all in relation to the

benefit inuring to the detached area as a result of the indebtedness and the last net tax capacity of the taxable property in each township and municipality.

Subd. 4. **Effective date.** The detachment shall be effective upon the issuance of the board's order, or at such later date, as provided by the board in its order. A copy of the detachment order must be delivered immediately by the executive director of the Minnesota municipal board to the appropriate county auditor or auditors. For the purposes of taxation, if the detachment becomes effective on or before August 1 of a levy year, the town or towns acquiring the detached area may levy on it beginning with that same levy year. If the detachment becomes effective after August 1 of a levy year, the municipality may continue to levy on the detached area for that levy year, and the town or towns acquiring the detached area may not levy on it until the following levy year.

History: 1959 c 686 s 6; 1961 c 645 s 6; 1963 c 807 s 11; 1965 c 899 s 15; 1969 c 1146 s 15; 1975 c 271 s 6; 1978 c 705 s 24; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1991 c 291 art 12 s 25

414.061 CONCURRENT DETACHMENT AND ANNEXATION OF INCORPORATED LAND.

Subdivision 1. **Initiating the proceeding.** Property of one municipality which abuts another may be concurrently detached and annexed by the procedure set forth in this section. The proceeding shall be initiated by submitting to the executive director resolutions of both municipalities describing the land and stating their desire to detach and annex the land.

Subd. 2. **Board's order.** If the resolutions are in order, the board may order the detachment and annexation.

Subd. 3. **Effective date.** The concurrent detachment and annexation shall be effective upon the issuance of the board's order, or at such later date as provided by the board in its order. A copy of the annexation order must be delivered immediately by the executive director of the Minnesota municipal board to the appropriate county auditor or auditors. For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality acquiring the detached area of another municipality may levy on it beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the municipality losing the detached area may continue to levy on it for that levy year, and the municipality acquiring the detached area may not levy on it until the following levy year.

Subd. 4. **Board initiation.** The board may initiate proceedings for the concurrent detachment and annexation of portions of one municipality completely surrounded by another municipality, on its own motion or upon the petition of all of the owners of property in the completely surrounded area. In such cases the board shall conduct hearings and issue its order pursuant to section 414.09. In arriving at its decision, the board shall consider the factors in section 414.02, subdivision 3. The board shall order the proposed action if it finds that it will be for the best interests of the municipalities and the property owners. In all cases, the board shall set forth the factors which are the basis for the decision.

Subd. 4a. [Repealed, 1996 c 303 s 19]

Subd. 5. **Property owner initiation.** Property owners may initiate proceedings for the concurrent detachment of their property from one municipality and its annexation to an adjacent municipality by a petition signed by all of them that they submit to the board accompanied by a resolution of the city council of at least one of the affected municipalities. The board shall conduct hearings and issue its order pursuant to section 414.09. In arriving at its decision, the board shall consider the factors in section 414.02, subdivision 3. The board shall order the proposed action if it finds that it will be for the

best interests of the municipalities and the property owner. In all cases, the board shall set forth the factors which are the basis for the decision.

History: 1969 c 1146 s 16; 1973 c 621 s 6; 1975 c 271 s 6; 1978 c 705 s 25-27; 1985 c 30 s 4; 1Sp1986 c 3 art 1 s 53-55; 1991 c 291 art 12 s 26; 1994 c 511 s 9; 1996 c 303 s 17,18

414.063 JOINT AGREEMENTS.

After notice and hearing as provided in section 414.09, the board may include provisions of joint agreements between political subdivisions in its orders.

History: 1978 c 705 s 28

414.065 STATE LANDS, PROCEEDINGS.

In any case in which the state is the fee owner of land partly or wholly within any area proposed to be part of a boundary adjustment, the executive council of the state of Minnesota may petition for, or consent to, any action proceeding under this chapter, if the council deems such action to be in the best interests of the state.

History: 1965 c 899 s 16; 1978 c 705 s 29

414.067 APPORTIONMENT OF ASSETS AND OBLIGATIONS.

Subdivision 1. **Township or municipality divided.** Whenever the board divides an existing governmental unit, the board may apportion the property and obligations between the governmental unit adding territory and the governmental unit from which the territory was obtained. The apportionment shall be made in a just and equitable manner having in view the value of the existing township or municipal property located in the area to be added, the assets, value, and location of all the taxable property in the existing township or municipality, the indebtedness, the taxes due and delinquent, other revenue accrued but not paid to the existing township or municipality and the ability of any remainder of the township or municipality to function as an effective governmental unit. The order shall not relieve any property from any tax liability for payment for any bonded obligation, but the taxable property in the new municipality may be made primarily liable thereon.

Subd. 2. **Entire township or municipality.** When an entire township is annexed by an existing municipality, or an entire township is incorporated into a new municipality, or a municipality is consolidated into a new municipality, all money, claims, or properties, including real estate owned, held, or possessed by the annexed, incorporated township or municipality, and any proceeds or taxes levied by such town or municipality, collected or uncollected, shall become and be the property of the new or annexing municipality with full power and authority to use and dispose of the same for public purposes as the council or new annexing municipality may deem best, subject to the rights of creditors. Any taxes levied to pay bonded indebtedness of a town or former municipality annexed to an existing municipality or incorporated or consolidated into a new municipality shall be borne only by that taxable property within the boundaries of the former town or municipality, provided, however, the units of government concerned may by resolution of their governing bodies agree that taxes levied to pay the indebtedness must be levied upon all taxable property within the boundaries of the new municipality. Notwithstanding that the bonded indebtedness may be payable from taxes levied on only a portion of the taxable property in the new or surviving municipality, the full faith and credit of the new or surviving municipality must secure any outstanding bonded indebtedness to which the full faith and credit of the annexed or consolidated township or municipality was pledged. If any general funds of the new or surviving municipality are used to pay debt service on the bonded indebtedness, the general funds must be reimbursed, with or without interest, from taxes levied on taxable property in the former township or municipality.

Subd. 3. **Revision of tax records; redistribution of levies.** In an apportionment made under this section the board may order the county auditor to revise tax records

and respread levies at any time prior to December 15 or order the county treasurer to redistribute taxes levied and receivable.

History: 1969 c 1146 s 17; 1971 c 62 s 1; 1973 c 621 s 7; 1975 c 271 s 6; 1978 c 705 s 30; 1997 c 219 s 4

414.068 [Repealed, 1978 c 705 s 33]

414.07 APPEALS.

Subdivision 1. **Orders of board, time limitation.** All orders of the board shall be issued within one year from the date of the day of the first hearing thereon provided that the time may be extended for a fixed additional period upon consent of all parties of record. Failure to so order shall be deemed to be an order denying the matter before the board. An appeal may be taken from such failure to so order in the same manner as an appeal from an order as provided in subdivision 2.

Subd. 2. **Grounds for appeal.** Any person aggrieved by any order of the board may appeal to the district court upon the following grounds:

- (a) that the board had no jurisdiction to act;
- (b) that the board exceeded its jurisdiction;
- (c) that the order of the board is arbitrary, fraudulent, capricious or oppressive or in unreasonable disregard of the best interests of the territory affected; or
- (d) that the order is based upon an erroneous theory of law.

The appeal shall be taken in the district court in the county in which the majority of the area affected is located. The appeal shall not stay the effect of the order. All notices and other documents shall be served on both the executive director and the attorney general's assistant assigned to the board.

If the court determines that the action of the board involved is unlawful or unreasonable or is not warranted by the evidence in case an issue of fact is involved, the court may vacate or suspend the action of the board involved, in whole or in part, as the case requires. The matter shall then be remanded to the board for further action in conformity with the decision of the court.

To render a review of a board order effectual, the aggrieved person shall file with the court administrator of the district court of the county in which the majority of the area is located, within 30 days of the order, an application for review together with the grounds upon which the review is sought.

An appeal lies from the district court as in other civil cases.

History: 1959 c 686 s 7; 1961 c 645 s 7; 1969 c 1146 s 18; 1975 c 271 s 6; 1976 c 239 s 42; 1978 c 705 s 31; 1983 c 247 s 150; 1Sp1986 c 3 art 1 s 82; 1994 c 511 s 10

414.08 APPEALS FROM DISTRICT COURT.

An appeal may be taken under the rules of civil appellate procedure by the Minnesota municipal board from a final order or judgment made or rendered by the district court when the board determines that the final order or judgment adversely affects the public interest.

History: 1965 c 834 s 1; 1975 c 271 s 6; 1976 c 239 s 43; 1983 c 247 s 151

414.09 UNIFORM PROCEDURES OF BOARD.

Subdivision 1. **Hearings.** Proceedings initiated by the submission of an initiating document or by the board of its own motion shall come on for hearing within 30 to 60 days from receipt of the document by the board or from the date of board action and the board must submit its order no later than one year from the date of the day of the first hearing. In any proceeding before the board and upon the request of any party, the board shall meet physically rather than by means of electronic media. The place of the hearing shall be in the county where a majority of the affected territory is situated, and shall be established for the convenience of the parties. The executive director shall

mail notice of the hearing to the following parties: the township or municipality presently governing the affected territory; any township or municipality abutting the affected territory; the county where the affected territory is situated; and each planning agency which has jurisdiction over the affected area. The executive director shall cause notice of the hearing to be published for two successive weeks in a legal newspaper of general circulation in the affected area. When the board exercises its authority to change the boundaries of the affected area so as to increase the quantity of the land, the hearing shall be recessed and reconvened upon two weeks' published notice in a legal newspaper of general circulation in the affected area.

Subd. 2. Transmittal of board's order. The executive director shall cause copies of the board's order to be mailed to all parties entitled to mailed notice of hearing under subdivision 1, the secretary of state, the department of revenue, the state demographer, individual property owners if initiated in that manner, affected county auditor, and any other party of record. The affected county auditor shall record the order against the affected property.

Subd. 3. Elections of municipal officers. An order approving an incorporation or consolidation pursuant to this chapter shall set a date for this election of new municipal officers not less than 45 days nor more than 60 days after the issuance of such order. The board shall appoint an acting clerk for election purposes, at least three election judges who shall be residents of the new municipality, and shall designate polling places within the new municipality.

The acting clerk shall prepare the official election ballot. Affidavits of candidacy may be filed by any person eligible to hold municipal office not more than four weeks nor less than two weeks before the date designated by the board for the election.

The election shall be conducted in conformity with the charter and the laws for conducting municipal elections insofar as applicable. Any person eligible to vote at a township or municipal election within the area of the new municipality, is eligible to vote at such election.

Any excess in the expense of conducting the election over receipts from filing fees shall be a charge against the new municipality; any excess of receipts shall be deposited in the treasury of the new municipality.

History: 1969 c 1146 s 19; 1973 c 123 art 5 s 7; 1975 c 271 s 6; 1976 c 44 s 31; 1978 c 705 s 32; 1984 c 543 s 48; 1994 c 511 s 11,12

414.10 [Repealed, 2000 c 446 s 4]

414.11 MUNICIPAL BOARD SUNSET.

The municipal board shall terminate on June 1, 1999, and all of its authority and duties under this chapter shall be transferred to the office of strategic and long-range planning according to section 15.039, and any money remaining available on that date of the amount appropriated to the municipal board for fiscal year 2000 is transferred and appropriated to the director of the office of strategic and long-range planning to be used for the purposes of this chapter.

History: 1997 c 202 art 5 s 8; 1999 c 243 art 16 s 24

414.12 DIRECTOR'S POWERS.

Subdivision 1. Alternative dispute resolution. Notwithstanding anything to the contrary in sections 414.01 to 414.11, the director of the office of strategic and long-range planning, upon consultation with affected parties and considering the procedures and principles established in sections 414.01 to 414.11, and Laws 1997, chapter 202, article 4, sections 1 to 13, may require that disputes over proposed boundary adjustments be resolved by means of alternative dispute resolution processes in place of hearings that would otherwise be required pursuant to sections 414.01 to 414.09, including those provided in chapter 14, in the execution of the office's duties under this chapter. Alternative dispute resolution processes that may be required include:

- (1) the contested case procedures provided by sections 14.57 to 14.62;
- (2) the mediation and arbitration process provided by sections 572A.015 to 572A.03; or
- (3) another mediation and arbitration process ordered by the director.

Subd. 2. **Delegation of authority.** The director may, with the agreement of the chief administrative law judge, delegate to the office of administrative hearings, in any individual case or group of cases, the director's authority and responsibility to conduct hearings and issue final orders under sections 414.01 to 414.09. In the case of detachment of lands from a municipality, if the parties do not agree to resolve a boundary adjustment matter by mediation or arbitration, then the case shall be referred to an administrative law judge to conduct hearings and issue final orders under sections 414.01 to 414.09.

Subd. 3. **Cost of proceedings.** The parties to any matter directed to alternative dispute resolution under subdivision 1 or delegated to the office of administrative hearings under subdivision 2 must pay the costs of the alternative dispute resolution process or hearing in the proportions that they agree to. Notwithstanding section 14.53 or other law, the office of strategic and long-range planning is not liable for the costs. If the parties do not agree to a division of the costs before the commencement of mediation, arbitration, or hearing, the costs must be allocated on an equitable basis by the mediator, arbitrator, or chief administrative law judge. The chief administrative law judge may contract with the parties to a matter directed or delegated to the office of administrative hearings under subdivisions 1 and 2 for the purpose of providing administrative law judges and reporters for an administrative proceeding or alternative dispute resolution. The chief administrative law judge shall assess the cost of services rendered as provided by section 14.53.

Subd. 4. **Parties.** In this section, "party" means:

- (1) a property owner, group of property owners, municipality, or township that files an initiating document or timely objection under this chapter;
- (2) the municipality or township within which the subject area is located;
- (3) a municipality abutting the subject area; and
- (4) any other person, group of persons, or governmental agency residing in, owning property in, or exercising jurisdiction over the subject area that files with the director a notice of appearance within 14 days of publication of the notice required by section 414.09.

History: 1999 c 243 art 16 s 25; 2000 c 446 s 1