CHAPTER 370

COUNTIES; CHANGE OF BOUNDARIES

370.01 CHANGE OF BOUNDARIES; CREATION OF NEW COUNTIES.
370.02 PETITION.
370.03 PROCLAMATION TO HAVE ELECTION; ONLY ONE PROPOSITION.
370.04 RECORD PETITION; PUBLISH NOTICE.
370.05 NOTICE OF ELECTION; FORM OF BALLOT.
370.06 CANVASS; JUDGES OF ELECTION; COUNTY CANVASSING BOARD.
370.07 DUTIES AFTER ELECTION.
370.08 EFFECT OF PROCLAMATION.
370.09 QUALIFY COMMISSIONERS; ELECT CLERK; APPOINT OFFICERS.
370.10 COMMISSIONER VACANCIES DUE TO BOUNDARY CHANGES.
370.12 DUTIES OF AUDITOR; MEETING OF BOARD.
370.13 REDISTRICTING OF COUNTY; SUBSEQUENT ELECTION.
370.14 BOUNDARIES RESTORED AFTER DETERMINATION.
370.15 WHEN HIGHWAY CENTERLINE TO BE CITY AND COUNTY BOUNDARY.
370.17 TOWNS, SCHOOL, AND ROAD DISTRICTS.
370.18 RECORDS TRANSCRIBED.
370.19 TAXES; LEVY; COLLECTION.
370.20 NEW COUNTIES; TAX LEVY.
370.21 TRANSFER OF PLATS.
370.22 COUNTY INDEBTEDNESS; COUNTY BUILDINGS.
370.23 COUNTY BONDS; PAYMENT AND ISSUE.
370.24 PENALTY FOR REFUSAL TO ACT.

370.01 CHANGE OF BOUNDARIES; CREATION OF NEW COUNTIES.

The boundaries of counties may be changed by taking territory from a county and attaching it to an adjoining county, and new counties may be established out of territory of one or more existing counties. A new county shall contain at least 400 square miles and have at least 4,000 inhabitants. A proposed new county must have a total estimated market value of at least 35 percent of (i) the total estimated market value of the existing county, or (ii) the average total estimated market value of the existing counties, included in the proposition. The determination of the estimated market value of a county must be made by the commissioner of revenue. An existing county shall not be reduced in area below 400 square miles, have less than 4,000 inhabitants, or have a total estimated market value of less than that required of a new county.

No change in the boundaries of any county having an area of more than 2,500 square miles, whether by the creation of a new county, or otherwise, shall detach from the existing county any territory within 12 miles of the county seat.

History: *(602) RL s 380; 1913 c 337 s 1; 1917 c 359; 1919 c 458; 1985 c 109 s 1; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1990 c 480 art 9 s 12; 2001 c 198 s 1; 2013 c 143 art 14 s 49*

370.02 PETITION.

A separate petition for each affected county signed by at least one-fourth of those voting in the county at the last preceding election, giving the residence of each signer, may be filed with the secretary of state, and a copy with the auditor of each county, at least 90 days before any general election, requesting a change of county boundaries, or that a new county is established out of territory taken from one or more existing counties. If the petition is for a change of boundaries, it must contain a description of the territory to be taken, the name of the county from which the territory is to be detached, and the county to which the territory is to be attached. If the petition is for the establishment of a new county, it must be signed by at least a number of registered voters equal to one-fourth of those voting in each portion of both the proposed new county and the remaining portion of the existing county in the last general election, state the name of the proposed new county, a description of the territory to be included, giving boundaries, the name and location

of the proposed county seat for the new county and for the remainder of the existing county if not the current county seat, and the names and places of residence of the persons who shall constitute the first county board.

History: *(603) RL s 381; 1985 c 109 s 1; 2001 c 198 s 2*

370.03 PROCLAMATION TO HAVE ELECTION; ONLY ONE PROPOSITION.

The secretary of state must certify, on the basis of information supplied by the county auditor, that the signatures on the petition are registered voters of the affected county and that there is the requisite number of them. Once this determination has been made, the secretary of state shall notify the governor of the filing. The governor shall issue a proclamation, at least 60 days before the election, stating that the petitions have been filed, and the substance of the petitions, and directing that the question of change of boundaries, or the establishment of a new county and county seat as stated in the petition, as the case may be, be submitted to the voters of the affected counties at the election. No more than one proposition may be submitted at the same election, except for mutual exchange of territory between counties.

History: *(604) RL s 382; 1985 c 109 s 1; 2001 c 198 s 3*

370.04 RECORD PETITION; PUBLISH NOTICE.

Upon issuance of the proclamation, the secretary of state shall record the petitions, affidavits, and proclamation, and transmit a certified copy of the proclamation, by mail, to the auditor of each county.

History: *(605) RL s 383; 1984 c 543 s 32; 1985 c 109 s 1*

370.05 NOTICE OF ELECTION; FORM OF BALLOT.

The notice of the next general election of county officers must specify that the question of forming the new county, or changing the boundaries of existing counties, as the case may be, will be voted upon at the election, and must state substantially the facts in the petition. If the proposition is for a change of boundaries, the form of the question shall be substantially in the following form: "Shall the county boundaries be changed as described in the proclamation issued on (date)?" If the proposition is for the establishment of a new county, the form of the question shall be substantially in the following form: "Shall a new county be established as described in the proclamation issued on (date)?"

History: *(606) RL s 384; 1985 c 109 s 1; 1986 c 444; 2014 c 264 s 27*

370.06 CANVASS; JUDGES OF ELECTION; COUNTY CANVASSING BOARD.

The election judges, in addition to the returns required in other cases, shall transmit to the secretary of state, by certified mail, their certificate of the number of votes cast for and against any proposition submitted within 24 hours after the canvass is completed. The county canvassing board shall make return of the vote as in the case of votes for state officers. The return must show the result of the vote for and against any proposition submitted, in the proposed new county, as well as in the entire county affected by the election.

History: *(607) RL s 385; 1913 c 422 s 1; 1978 c 674 s 60; 1985 c 109 s 1*

370.07 DUTIES AFTER ELECTION.

Subdivision 1. **State Canvassing Board.** The State Canvassing Board shall canvass the returns at the time of canvassing the votes cast for state officers, and in the same manner. The board may use the returns received from the election judges to correct errors and supply omissions in the returns of the county canvassing

board. When the canvass is completed, the board shall file a certificate declaring the result of the vote with the secretary of state.

Subd. 2. **Governor.** If the certificate shows that the proposition has received a majority of the votes cast in each affected county if changing county boundaries, or has received a majority of the votes cast in the territory forming the proposed new county and a majority of the votes cast in the remaining portion of the existing county if the proposition was for the establishment of a new county, the governor shall issue a proclamation declaring that the proposition has been adopted within ten days after completion of the canvass.

Subd. 3. **Secretary of state.** The secretary of state shall record the certificate and proclamation, and transmit a certified copy of the proclamation to the auditor of each county whose territory is affected.

Subd. 4. **County auditors.** The auditor shall, if the proposition was for the establishment of a new county, serve a certified copy on each of the persons elected as county commissioners of the new county.

Subd. 5. **Publish proclamation with laws.** The proclamation shall also be published with the general laws enacted at the next session of the legislature.

History: *(608) RL s 386; 1913 c 422 s 2; 1984 c 543 s 33; 1985 c 109 s 1; 2001 c 198 s 4*

370.08 EFFECT OF PROCLAMATION.

Upon the issuance of the proclamation, the proposed change of boundaries becomes effective. If the proposition was for the establishment of a new county, it becomes duly organized. The territory of the new county shall remain attached, for judicial purposes, to the county from which it was taken, until the officers of the new county have been appointed and have qualified, as provided in section 370.09.

History: *(609) RL s 387; 1985 c 109 s 1*

370.09 QUALIFY COMMISSIONERS; ELECT CLERK; APPOINT OFFICERS.

Immediately after the service upon them of copies of the governor's proclamation, the persons chosen as commissioners shall meet at the place named as the county seat and qualify. The county board shall elect one of its members to act as clerk until the auditor is qualified; and shall then appoint the county officers, beginning with the auditor, and the appointed persons shall qualify as required by law.

History: *(610) RL s 388; 1985 c 109 s 1*

370.10 COMMISSIONER VACANCIES DUE TO BOUNDARY CHANGES.

If a change in the boundaries of a county abolishes a commissioner district or districts in the county, by the removal of all the territory of the district or districts from the original county, or otherwise, or creates a vacancy or vacancies in the board of county commissioners of the original county, and the board of county commissioners is left with less than five members, with an even number of members, or with more than five members, to complete a board consisting of an odd number of members, or at least five members, a special election shall be held as provided by section 375.101, except that the person shall be elected at large within the changed boundaries of the original county.

History: *(611) 1907 c 5 s 1; 1985 c 109 s 1; 2001 c 198 s 5*

370.11 MS 2000 [Repealed, 2001 c 198 s 8]

370.12 DUTIES OF AUDITOR; MEETING OF BOARD.

Immediately upon the election and qualification of the commissioner or commissioners at large the county auditor shall give written notice, delivered personally or by mail, to each commissioner in the county, of a meeting of the board. The meeting shall be held at least five, but not more than ten, days after notice is given. The meeting's business shall include any business which may have been required by law, or by previous proceedings, to be transacted by the county board at a meeting held after the change of boundaries became effective and before the vacancies created were filled, and which was not transacted, after the qualification of the commissioner or commissioners at large, and shall have the effect and validity as if accomplished at the prior meeting. Further proceedings required to follow the commissioners' action on these matters shall be taken within the times or on the dates provided by law, or within a reasonable time after giving notice as required by law.

History: *(613) 1907 c 5 s 3; 1985 c 109 s 1; 2001 c 198 s 6*

370.13 REDISTRICTING OF COUNTY; SUBSEQUENT ELECTION.

At least six months before the next general election in the county held after the election and qualification of the commissioner or commissioners at large, unless there is less time between the at-large election and qualification and the general election, in which event the action provided for shall be taken at the first meeting after the commissioners have qualified, the board shall proceed to redivide the county into five commissioner districts, numbered from 1 to 5, unless otherwise provided by law. At the next general election held in the county after the redistricting, a commissioner shall be elected from each district, the member from each odd-numbered district to hold a two-year term, and the member from each even-numbered district to hold a four-year term, and thereafter all commissioners, except those elected or appointed to fill vacancies for unexpired terms, shall be elected for four-year terms. If, the redistricting causes any new district to cover the same territory as any one of the old districts, the commissioner elected from the old district shall continue to act as commissioner from the new district for the remainder of the term for which elected. In case a contest, or other litigation, is pending involving the legality of the change of boundaries of the county, the redistricting shall not be made until after the contest, or other litigation, has been finally determined in favor of the change of boundaries. In this event, if the term of any commissioner at large expires before the county is redistricted, a successor shall be elected by the voters of the entire county for a term of four years, unless sooner ended, under this chapter, or otherwise.

History: *(614) 1907 c 5 s 4; 1985 c 109 s 1; 1986 c 444; 2001 c 198 s 7*

370.14 BOUNDARIES RESTORED AFTER DETERMINATION.

If the territory detached from the county by the change of boundaries is restored to it by the final determination of the courts as a result of a contest or other litigation concerning the change of boundaries of the county, after the appointment or election of the commissioner or commissioners at large, the term of office of each commissioner at large shall terminate immediately after the election or appointment and qualification of a commissioner for the district of the former commissioner whose place on the board is occupied by the commissioner at large. If the term for which the former commissioner was elected has not expired, the former commissioner shall, within 30 days after the final determination restoring the district to the county, qualify as required by law and hold office for the remainder of the term. Otherwise the vacancy shall be filled by appointment as in other cases.

History: *(615) 1907 c 5 s 5; 1985 c 109 s 1*

370.15 WHEN HIGHWAY CENTERLINE TO BE CITY AND COUNTY BOUNDARY.

Where a city of the fourth class in one county adjoins a city of the first class in another county, and the centerline of a highway running along the boundary line between these cities and counties deviates from the boundary line between these cities and counties, but the boundary line is within or on the lateral limits of the highway, then the centerline of the highway shall be established as the boundary line between the cities and the counties.

History: *(615-1) 1933 c 230; 1985 c 109 s 1*

370.16 [Local, Big Stone and Lac qui Parle Counties]

370.17 TOWNS, SCHOOL, AND ROAD DISTRICTS.

Subdivision 1. **If unaffected by new county lines.** The towns, school districts, and road districts whose boundaries are unaffected by the change of county lines shall continue to be the same in the new county, or county to which transferred, under the same officers as before.

Subd. 2. **If divided by new county lines.** Fractions of towns or districts divided by the changed county lines shall be reorganized by the county board of the county in which they are placed, or be attached to adjoining towns or districts, as the board considers best.

History: *(616) RL s 389; 1985 c 109 s 1*

370.18 RECORDS TRANSCRIBED.

All records in the office of the county recorder affecting real estate transferred under this chapter from one county to another shall be transcribed by the county recorder of the county to which the transfer is made. In the same manner, the county auditor shall transcribe from the auditor's office the records and documents that the county board directs. The board of commissioners of the county to which the records are transmitted shall pay the county recorder and the county auditor for transcribing the records. These transcribed records shall have the same effect, for all purposes, as the originals.

History: *(617) RL s 390; 1907 c 136 s 1; 1976 c 181 s 2; 1985 c 109 s 1*

370.19 TAXES; LEVY; COLLECTION.

No transfer of territory under this chapter shall affect the collection of taxes levied at the date of the filing of the petition. The taxes shall be collected by the officers of the original county, and all money remaining in or coming into the treasury of the original county, or into the possession of any county officer, and belonging to any town, school, or road district in the territory transferred, shall be apportioned and paid to the town or district in the same manner as if the town or district had remained a part of the original county. After the filing of the petition no county tax shall be extended, by or on behalf of the original county, upon any property within the territory proposed to be transferred, unless and until the proposed change has been rejected.

History: *(618) RL s 391; 1985 c 109 s 1*

370.20 NEW COUNTIES; TAX LEVY.

When a new county has been, or may be, created and organized out of territory within the boundaries of one or more organized counties in the state, the county board of the new county may, immediately or within 90 days after its organization, levy a tax for county purposes for the current year, subject to the

limitations now provided by law, and the county auditor shall extend the tax upon the auditor's tax books. The tax is due 30 days from the date of the levy and shall be paid and collected as other taxes for county purposes are now paid and collected. All tax levies made for county purposes by the county board of the county or counties out of which the new county is created and organized, during the year immediately preceding the organization of the new county, which affect the territory within the boundary of the new county, are vacated and any extension is void.

History: *(619) 1911 c 11 s 1; 1985 c 109 s 1*

370.21 TRANSFER OF PLATS.

The county recorder of the county from which a land transfer is made under this chapter shall deliver the records, or certified copies, of the original plats of land in the territory transferred, to the county recorder of the county to which the territory is transferred. The county recorder of the county to which a land transfer is made shall then record and file the records.

History: *(620) RL s 392; 1976 c 181 s 2; 1985 c 109 s 1*

370.22 COUNTY INDEBTEDNESS; COUNTY BUILDINGS.

All transferred territory is liable for its proportion of the excess indebtedness of the original county above the value of its county buildings and of the balance of funds in its treasury. The share shall be based upon the last assessment, and the value of the buildings, unless agreed upon by the respective county boards, shall be fixed by the sworn appraisal of three disinterested citizens, none of whom shall be a resident or taxpayer in either county, and who shall be appointed by the governor, upon the written application of the board of either county. The appraisal shall be in writing, subscribed and verified by at least two appraisers, and filed in the office of the secretary of state, and shall be final and conclusive. Within five days after the filing of the appraisal, the secretary of state shall transmit to the auditor of each of the counties a certified copy of the appraisal, application, appointment and oath.

History: *(621) RL s 393; 1985 c 109 s 1*

370.23 COUNTY BONDS; PAYMENT AND ISSUE.

The county board of the county to which territory is transferred shall pay for indebtedness by levying a tax at the time fixed by law for so doing; and, for the purpose of meeting any portion of the indebtedness which may become due before it can be raised by taxation, and providing for the necessary county expenses, the board in any new county may issue bonds of its county, with coupons attached, for not more than $10,000, to run for a period of not more than ten years, at a rate of interest as authorized under section 475.55.

History: *(622) RL s 394; 1985 c 109 s 1*

370.24 PENALTY FOR REFUSAL TO ACT.

The validity of the establishment of any new county shall not be affected by the failure or refusal of any county officer to do any of the acts or things required by this chapter, but any officer who refuses or willfully neglects to perform any required duty is guilty of malfeasance in office.

History: *(623) RL s 395; 1985 c 109 s 1*