CHAPTER 375A

OPTIONAL FORMS OF COUNTY GOVERNMENT

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375A.001 CHAPTER DOES NOT APPLY TO HENNEPIN COUNTY.

This chapter does not apply to Hennepin County.

History: *1979 c 198 art 4 s 13*

375A.01 AUTHORIZATION AND ENUMERATION.

Subdivision 1. **General.** Any county may adopt one or more of the optional forms of government provided for in sections 375A.01 to 375A.13. Until the adoption of one or more of the options, each county shall operate under the plan of county government in effect for that county on July 1, 1973. Any of the options may be adopted or abandoned by a county by following the procedures set forth in sections 375A.01 to 375A.13.

Subd. 2. **Options; conditions.** (a) An optional form of county government may include any of the following:

(1) an elected county executive to be known as the elected executive plan;

(2) a county manager, to be known as the county manager plan;

(3) the chair of the county board elected at large by all the voters of the county, to be known as the at-large chair plan;

(4) a county administrator, to be known as the county administrator plan;

(5) a county auditor to have the additional powers and duties of county administrator, to be known as the county auditor-administrator plan.

(b) The elected executive, county manager, and at-large chair plans are mutually exclusive, and a county may adopt only one of these plans.

(c) A county may not adopt the county administrator or the auditor-administrator plan while it is operating under either the elected executive or the county manager plan; and a county may not adopt the auditor-administrator plan while it is operating under the at-large chair plan.

(d) A county may adopt the at-large chair plan and the county administrator plan either concurrently or while the other is in force.

History: *1973 c 542 s 1; 1986 c 444*

375A.02 ELECTED EXECUTIVE PLAN.

Subdivision 1. **County executive.** In a county adopting the elected executive plan, the chief executive officer shall be known as county executive. The first county executive shall be elected at the county general election following the adoption of the elected executive plan and every four years thereafter. The county executive shall hold office for a term of four years commencing on the first Monday of January following election. Only a voter of a county shall be eligible for election as county executive. The county executive shall be nominated and elected by all the voters of the county in the manner provided by law for the election of county officers. In case the office of county executive is or becomes vacant by reason of death, resignation or removal, it shall be filled by the board of county commissioners for the unexpired term.

Subd. 2. **Salary.** The salary of the county executive for the first year of the term shall be set by the county board not less than 30 days before the first day candidates may file for the office; thereafter, the salary of the county executive shall be set annually by the county board at the January meeting of the board; provided that the salary of the county executive shall not be less than 150 percent of the salary of the highest paid member of the board of county commissioners. A minimum salary for such subsequent term of the county executive shall be fixed by the county board not less than 30 days before the first day candidates may file for the office in an amount not less than the minimum provided in this section.

Subd. 3. **Numbered duties; may be department head.** (a) The county executive shall be the administrative head of the county and shall have all the powers and shall perform all the duties of an administrative or executive nature vested in or imposed upon the board of county commissioners by law or by agreement with any municipality or other subdivision of government and such additional powers as are granted or imposed by the board.

(b) The county executive shall be responsible for the proper administration of the affairs of the county placed in the county executive's charge.

(c) By resolution of the county board the county executive may serve as the head of any county department created by law or established by the board provided the county executive has the qualifications required by law.

(d) Responsibilities of the county executive shall include, but are not limited to, the following duties:

(1) appoint an administrative assistant who shall be qualified by education and training in governmental or business administration and who will be responsible to the executive for the orderly and efficient operation and coordination of the various departments of county government;

(2) appoint and hire qualified staff to assist the executive;

(3) provide for the execution of all ordinances and resolutions of the board and all laws of the state subject to enforcement by the county executive or by officers who are under the county executive's direction and supervision;

(4) exercise all authority of the board of county commissioners to appoint, suspend, and remove all county personnel whose appointment, suspension, or removal was a function of the county board under

general law, make such nominations and appointments to additional offices as the county board may determine and make appointments to such advisory boards and committees as the executive may create;

(5) provide for all county purchases including purchases of services pursuant to purchasing regulations established by the county board, but county purchasing services may be made available for use by other counties and governmental subdivisions;

(6) prepare and submit, if directed by the board to do so, an administrative code incorporating the details of administrative procedure for the operation of the county and from time to time suggest amendments to such code;

(7) attend any meetings of the board of county commissioners with the right to take part in any discussion, but not to vote; and may recommend to the board such action as the county executive deems advisable; and

(8) prepare and submit to the county board an annual budget and a long-range capital expenditure program covering a period not less than the five ensuing years each of which shall include detailed estimates of revenue and expenditures and enforce the provisions of the budget when adopted by the county board.

Subd. 4. **Veto power.** The county executive shall have the power to veto any ordinance or resolution adopted by the board of county commissioners. A veto by the county executive may apply to all or any items of an ordinance or resolution appropriating money. Certification of a veto must be made by the executive within ten days of the adoption of the ordinance or resolution by the county board and the county board may override the veto by a two-thirds vote of all its members. An ordinance or resolution shall become effective upon approval by the county executive, the expiration of ten days after the adoption of the ordinance or resolution without approval or veto, or the overriding of a veto.

Subd. 5. **Chair elected by board.** The county board shall elect from its numbers a chair of the board who shall preside at all meetings of the board.

History: *1973 c 542 s 2; 1986 c 444*

375A.03 COUNTY MANAGER PLAN.

Subdivision 1. **County manager.** In a county adopting the county manager plan, the chief executive officer shall be known as the county manager. The manager shall be chosen by the county board solely on the basis of training, experience and administrative qualifications and need not be a resident of the county at the time of appointment. The manager shall be appointed for an indefinite period and may be removed by the county board at any time, but after the manager has served as manager for one year the manager may demand written charges and a public hearing on the charges before the county board prior to the date when the final removal takes effect. Pending such hearing and removal, the county board may suspend the manager from office. The county board may designate some properly qualified person to perform the duties of the manager during absence or disability. The county board shall set the salary of the manager and may provide for a termination allowance.

The county manager shall be appointed by the county board as soon as practicable after the adoption of the county manager plan.

Subd. 2. **Manager as chief administrator.** The county manager shall be the administrative head of the county and shall have all the powers and shall perform all the duties of an administrative or executive nature vested in or imposed upon the board of county commissioners by law or by agreement with any municipality or other subdivision of government and such additional powers as are granted or imposed by the board.

Subd. 3. **Numbered duties; may be department head.** (a) The county manager shall be responsible for the proper administration of the affairs of the county placed in the manager's charge.

(b) By resolution of the county board the manager may serve as the head of any county department created by law or established by the board provided the manager has the qualifications required by law.

(c) The manager's responsibilities shall include, but are not limited to, the following duties:

(1) appoint and hire qualified staff to assist in the performance of duties;

(2) provide for the execution of all ordinances and resolutions of the board and all laws of the state subject to enforcement by the manager or by officers who are under the manager's direction and supervision;

(3) exercise all authority of the board of county commissioners to appoint, suspend, and remove all county personnel whose appointment, suspension, or removal was a function of the county board under general law, make such nominations and appointments to additional offices as the county board may determine and make appointments to such advisory boards and committees as the manager may create;

(4) provide for all county purchases including purchases of services pursuant to purchasing regulations established by the county board, but county purchasing services may be made available for use by other counties and governmental subdivisions;

(5) prepare and submit, if directed by the board to do so, an administrative code incorporating the details of administrative procedure for the operation of the county and from time to time suggest amendments to such code;

(6) prepare and submit to the county board an annual budget and a long-range capital expenditure program covering a period not less than the five ensuing years, each of which shall include detailed estimates of revenue and expenditures and enforce the provisions of the budget when adopted by the county board;

(7) attend all meetings of the county board with the right to take part in the discussions but not to vote and recommend measures for adoption as the manager deems advisable or expedient; and

(8) keep the county board fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the board or the manager deems advisable.

Subd. 4. **Board to manage manager, not subordinates.** (a) Neither the county board nor any of its members shall dictate the appointment of any person to office or employment by the county manager, interfere in any manner with the county manager or prevent the county manager from exercising personal judgment in the appointment of officers and employees in the administrative service; but this shall not be construed to prohibit the county board from establishing a personnel administration system governing county employment.

(b) Except for the purpose of inquiry, the county board and its members shall deal with and control the administrative service of the county solely through the county manager and neither the county board nor any of its members shall give orders to any subordinate of the county manager, either publicly or privately.

History: *1973 c 542 s 3; 1986 c 444*

375A.04 EFFECT OF COUNTY MANAGER AND ELECTED EXECUTIVE PLANS.

Subdivision 1. **County board supplants listed boards.** In any county which has adopted either the elected executive or county manager plan there shall be no community health board as defined in section

145A.02, subdivision 5, library board, park board, hospital board, nursing committee, extension committee, welfare board, community mental health board, day care center board, sheltered workshop board or nursing home board if there be any in the county, or any other administrative board, committee or commission, except for the administration of a function jointly with another political subdivision. The county board shall itself be and perform the duties and exercise the powers of each board, committee or commission enumerated in this subdivision and shall govern and administer the functions of such boards, committees and commissions as fully as other county functions for the administration of which no independent boards, committees or commissions are authorized by statute for counties generally. The county board at its discretion may create boards or commissions to advise the county board with respect to any county function or activity or to investigate any subject of interest to the county. Any such boards, committees or commissions in existence in any county when either the elected executive or county manager plan is adopted shall continue to operate in all respects as formerly until the election and qualification of the first elected county executive or the qualification of the first county manager, at which time they shall cease to exist and their powers shall be vested in the county board. Any existing civil service commission shall not be affected by the change. After abandonment of either the elected executive or county manager plans any board, committee or commission authorized by statute in counties generally may be established as provided by law.

Subd. 2. **Listed elected officers abolished or appointive.** Notwithstanding other provisions of law to the contrary, when a county has adopted either the elected executive or county manager plan, the offices of county auditor, county treasurer, and county recorder are abolished and the offices of county coroner and county surveyor shall be made appointive, unless the changes here enumerated have previously been accomplished or the office in question has been abolished or terminated. Each of the officers whose office has been made appointive shall serve until the officer's term of office expires, or upon the expiration of the officer's present term until the successor is appointed and qualifies. Each of the officers whose office has been abolished shall serve as the head of any department created to perform the functions formerly performed by this office until the end of the officer's term or the first Monday in January following the next general election after the adoption of the elected executive or county manager plan, whichever occurs first.

History: *1973 c 542 s 4; 1976 c 181 s 2; 1986 c 444; 1987 c 309 s 24; 2014 c 291 art 7 s 28*

375A.05 AT-LARGE CHAIR PLAN.

Subdivision 1. **Elected countywide.** Subject to the exclusions cited in section 375A.01, subdivision 2, any county may provide for the office of chair of the board with candidates for the office nominated and elected by all the voters of the county separate and apart from other members of the board, except that the chair of the board selected by this method shall be a member of the county board in all other respects. This option shall be known as the at-large chair plan. Upon the adoption of the at-large chair plan, the county shall be redistricted to reflect the change in number of commissioners on the board. Unless a county had adopted either the at-large chair or the elected executive plan, each board shall elect a chair from among its membership pursuant to the provisions of section 375.13.

Subd. 2. **County board of five or seven required.** The at-large chair plan may be adopted only in those counties which have county boards of five or seven members. The change to a county board of five or seven members may be instituted concurrently with the change to the at-large chair plan in which case the county board resolution, the study commission recommendation or the petition by the voters initiating the plan shall indicate the number of members to be on the board including the at-large chair. If the resolution, the recommendation or the petition does not specify the number to be on the board, the board shall consist of the same number, including the at-large chair as before the adoption of an option, unless the number of the board is greater than seven. If the board is less than five, it shall be increased to five; and if greater than seven, it shall be reduced to seven.

Subd. 3. **Term, qualifications.** The first at-large chair shall be elected at the county general election following the adoption of the at-large chair plan and every four years thereafter. The chair shall hold office for a term of four years commencing on the first Monday of January following election. The chair shall be a resident of the county and shall be nominated and elected by all the voters of the county in the manner provided by law for the election of county officers.

Subd. 4. **Salary.** The salary of the at-large chair for the first year of the term shall be set by the county board not less than 30 days before the first day candidates may file for the office; thereafter, the salary of the at-large chair shall be set annually by the county board at the January meeting of the board; provided that the salary of the at-large chair shall not be less than 120 percent of the salary of the highest paid member of the board of county commissioners. A minimum salary for each subsequent term of the at-large chair shall be fixed by the county board not less than 30 days before the first day candidates may file for the office in an amount not less than the minimum provided in this section.

History: *1973 c 542 s 5; 1986 c 444*

375A.06 COUNTY ADMINISTRATOR.

Subdivision 1. **Appointment and qualification.** In any county which is not operating under either the elected county executive plan, the county manager plan, or the auditor-administrator plan, the office of county administrator may be established. The county board may appoint and employ the administrator upon such terms and conditions as it deems advisable and is authorized to appropriate funds and provide suitable office space for the office. The administrator shall be chosen solely on the basis of training, experience, and administrative qualifications and need not be a resident of the county at the time of appointment. The administrator shall be appointed for an indefinite period and may be removed by the county board at any time, but after the administrator has served as administrator for one year the administrator may demand written charges and a public hearing on the charges before the county board prior to the date when final removal takes effect. Pending such hearing and removal, the county board may suspend the administrator from office. The county board may designate some properly qualified person to perform the duties of the administrator during absence or disability. The county board shall set a salary and may provide for a termination allowance.

Subd. 2. **Other officers may be appointed.** The county board may appoint as county administrator any county officer or employee deemed to be qualified by reason of training, experience and administrative qualifications. If a county officer or employee is appointed county administrator, the officer or employee shall resign office and terminate its responsibilities before assuming the office of county administrator.

Subd. 3. **Abolishing office of administrator.** If the office of county administrator is abolished, any duties and responsibilities previously assigned to the county administrator shall be vested in the officer or department which had responsibility for the function previous to the transfer of the function to the county administrator.

Subd. 4. **Administrator, powers and duties.** The county administrator shall be the administrative head of the county and shall be responsible for the proper administration of the affairs of the county placed in the administrator's charge. The administrator shall exercise general supervision over all county institutions and agencies and, with the approval of the county board, coordinate the various activities of the county and unify the management of its affairs. If required by the county board, the administrator may act as the head of any department, the appointment of which is made by the county board, provided the administrator has the qualifications required by law. Responsibilities shall include, but are not limited to, the following duties:

(a) hire qualified staff to assist the administrator in the performance of duties as approved by the board;

(b) provide for the execution of all ordinances, resolutions and orders of the board and all laws of the state required to be enforced through the county board, by the administrator or by officers who are under the administrator's direction and supervision;

(c) appoint, suspend, and remove with the approval of the county board all county personnel whose appointment, suspension or removal is a function of the county board under general law and make such appointments with the approval of the county board to additional offices, boards, committees and commissions both advisory and otherwise as the county board may direct;

(d) provide for county purchases including purchases of service as directed by the county board and pursuant to purchasing regulations established by the board;

(e) prepare and submit to the county board a proposed annual budget and long-range capital expenditure program for such period as the county board may direct, each of which shall include detailed estimates of revenue and expenditures and enforce the provisions of the budget when adopted by the county board;

(f) attend all meetings of the county board and recommend measures for adoption as the administrator deems advisable or expedient;

(g) examine the books and papers of officers and departments of the county as directed by the county board and report the findings to the county board, keep the county board fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the board or the administrator deems advisable.

Subd. 5. **Appointment without referendum.** Notwithstanding section 375A.12, a county board meeting the requirements of subdivision 1 may without referendum appoint a county administrator as provided in this section.

History: *1973 c 542 s 6; 1978 c 462 s 1; 1986 c 366 s 1; 1986 c 444*

375A.07 MS 1986 [Repealed, 1987 c 164 s 4]

375A.08 COUNTY AUDITOR-ADMINISTRATOR PLAN.

Subdivision 1. **Authorization; duties.** Subject to the exclusions recited in section 375A.01, subdivision 2, any county which has not provided for the appointment of the county auditor and has not combined the offices of auditor and treasurer may adopt the auditor-administrator plan. In any county adopting the county auditor-administrator plan, the elected county auditor shall serve also as county administrator pursuant to section 375A.06 and shall continue to perform all the duties of a county auditor as provided by law, except that the duties of the office of county auditor established by law appertaining to computation of taxes, delinquent taxes and receipt and disbursement of moneys shall be transferred to and vested in the office of county treasurer.

Subd. 2. **Election.** In any county adopting the county auditor-administrator plan, the office of county auditor shall become the office of auditor-administrator and the auditor-administrator shall be nominated and elected by all voters of the county in the manner provided by law for the election of county offices.

History: *1973 c 542 s 8*

375A.09 HOW TO CHANGE THE NUMBER OF COUNTY BOARD MEMBERS.

Subdivision 1. **This chapter controls; benchmark; abandonment.** Notwithstanding any other provision of law specifying the number of members of the board of county commissioners and except as otherwise

provided in sections 375A.01 to 375A.13, any county may alter the number of members on the board of county commissioners in accordance with the provisions of this section. Until the adoption of a modification of the number of the members of the board of county commissioners, each county shall elect the number of county commissioners by the method in effect for that county on July 1, 1973. Any of the modifications may be adopted or abandoned by a county by following the procedures set forth in sections 375A.01 to 375A.13.

Subd. 2. **Three, five, seven, or nine members.** Any county may provide that the board of county commissioners shall consist of three, five, seven or nine members.

Subd. 3. **Must be district resident.** Every county commissioner shall be a resident of the county and shall be a resident of the district from which nominated and elected.

Subd. 4. **Apportionment, redistricting, staggering, timing.** The county shall be divided into the number of districts from which commissioners are nominated and elected and the population of the county shall be apportioned to the several districts so that each commissioner represents the same number of persons as nearly as may be possible. When the number of commissioners has been changed, the county board shall proceed to redistrict the county accordingly and it shall follow as nearly as possible the times and procedures specified in section 375.025, including determining the two-year and four-year terms first assigned to districts in order to provide as nearly as possible for an equal number of overlapping four-year terms in the future. The resolution redistricting the county shall be adopted not less than 30 days before the first day candidates may file for the office of county commissioner. Commissioners to be elected pursuant to the modification of the county board shall be elected at the general election following the adoption of the modification.

History: *1973 c 542 s 9; 1976 c 239 s 113; 1986 c 444*

375A.10 OPTIONS RELATING TO CERTAIN COUNTY OFFICES.

Subdivision 1. **General.** Notwithstanding the provisions of any other law to the contrary and in addition to the other options provided by sections 375A.01 to 375A.13, any county may adopt one or more of the options provided for in this section. Until the adoption of any one or more of the options herein enumerated, each county shall operate under the plan of county government relating to the county offices enumerated in this section which was in effect for that county on July 1, 1973.

Subd. 2. **Certain offices.** In addition to the other options provided by sections 375A.01 to 375A.13, any county may institute one or more of the following options; except that a county which has adopted the auditor-administrator plan may not provide for the appointment of the auditor or the consolidation of the offices of auditor and treasurer while the auditor-administrator plan is in force:

(a) provide for the appointment of one or more of the following offices if they have not been abolished by the adoption of other options: County auditor, county treasurer, sheriff, or county recorder;

(b) provide for the office of county civil counsel;

(c) consolidation of the offices of county auditor and treasurer.

Subd. 3. **Appointment.** In any county exercising the option provided in subdivision 2, clause (a), relating to the offices of county auditor, county treasurer, sheriff, or county recorder, the offices shall be filled by appointment by the board of county commissioners unless the office is hereafter abolished or terminated as provided by law or pursuant to a reorganization or consolidation. The duties, functions and responsibilities which have been heretofore and which shall be hereafter required by statute to be performed by the elected officials whose offices are to be made appointive shall be vested in and performed by the board of county

commissioners of that county through department heads appointed by the board for that purpose. In effecting this option, the board of county commissioners shall have the authority to initiate and direct any reorganization, consolidation, reallocation or delegation of such duties, functions or responsibilities for the purpose of promoting efficiency in county government and make such other administrative changes including abolishing or terminating the offices or the transfer of personnel, as are deemed necessary for this purpose without diminishing, prohibiting, or avoiding those specific duties required by statute to be performed by those officials. The officer elected to the respective office at the time of the adoption of this option shall serve as the head of any department created by the board of county commissioners to perform the functions formerly performed by the office and shall serve until the term of office expires.

Subd. 4. **County counsel; county prosecution.** In any county exercising the option provided in subdivision 2, clause (b), the county board is authorized to establish the office of county civil counsel and may by resolution appoint an attorney at law to the office; provided that if a county adopts either the elected executive or the county manager plan, the county civil counsel shall be appointed and removed by the elected executive or county manager, subject to the approval of the county board. The county board shall determine the compensation for the county counsel. If a county counsel is appointed, the county attorney shall continue to exercise all duties relating to the prosecution of crimes as provided by law. The county counsel shall be the legal advisor to the county board and county officials involving any official act of a civil nature. The county counsel shall prosecute and defend all civil actions and proceedings in which the county or any officer is concerned in official capacity or is a party. County counsel shall perform such additional and related duties as may be prescribed by law and directed by the county board. The county counsel and the county attorney may apply for and shall receive opinions from the attorney general on matters of public importance as provided in section 8.07.

Subd. 5. **Auditor-treasurer.** In any county exercising the option provided in subdivision 2, clause (c), the office shall be known thereafter as the office of auditor-treasurer, if the office is to remain elective. If the board chooses to make the office of auditor-treasurer elective, and not require a referendum, it must act with the concurrence of at least 80 percent of its members.

In the exercise of this option, the county board shall direct which of the offices of auditor or treasurer shall be terminated for the purpose of providing for the election to the single office of auditor-treasurer. The duties, functions and responsibilities which have been heretofore and which shall hereafter be required by statute to be performed by the county auditor and the county treasurer shall be vested in and performed by the auditor-treasurer without diminishing, prohibiting or avoiding those specific duties required by statute to be performed by the county auditor and the county treasurer.

Nothing in this subdivision shall preclude the county from exercising the option to make the combined office of auditor-treasurer appointive as if it had been specifically enumerated in subdivision 2. If the combined office is to be appointive, a referendum under section 375A.12 shall be necessary, except as provided by section 375A.1205.

If the combined office is to be elective, a referendum under section 375A.12 shall be necessary if:

(a) the county board requires a referendum; or

(b) a referendum is required by a petition of a number of voters equal to ten percent of those voting in the county at the last general election that is received by the county auditor within 30 days after the second publication of the board resolution that orders the combination.

The persons last elected to the positions of auditor and treasurer before adoption of the resolution shall serve in those offices and perform the duties of those offices until the completion of the terms to which they were elected.

Subd. 6. **Oaths, bonds.** When any of the offices referred to in this section are combined or consolidated, the person filling the combined office shall take the oath of each office and shall give the bond required by the county board provided that if one of the offices combined is the office of county treasurer, the bond shall be in an amount not less than that required of a county treasurer in that county.

History: *1973 c 542 s 10; 1976 c 181 s 2; 1986 c 444; 1993 c 75 s 1; 1Sp2019 c 10 art 2 s 18*

375A.11 CONSOLIDATION OF DUTIES OF COUNTY OFFICES.

Subdivision 1. **Procedure.** Without restriction of the authority of the county board to assign additional duties to the county auditor, county treasurer, court administrator of the district court and county recorder for which additional compensation may be paid, and provided that the office of county auditor, county treasurer, court administrator of district court, county attorney, sheriff or county recorder may not be consolidated with another elective office listed in this subdivision except pursuant to the provisions of section 375A.10, the county board may consolidate the duties of any two or more county offices and may provide additional compensation for the additional duties. The county board shall effect a consolidation by ordinance and may by this means consolidate any two or more county offices provided that the person holding the consolidated office possesses the qualifications required by law.

Subd. 2. **Performance of duties.** If the duties of officers are consolidated pursuant to this section, the county board by ordinance may elect to separate the duties so consolidated and reconsolidate them in any other manner permitted by law or separate the duties without reconsolidation and provide that the duties of each office shall be performed by a separate person, if it deems the change to be in the public interest. When the duties of offices are united and consolidated, the person filling the consolidated offices shall take the oath of each office and give the bond required by the county board for each office and shall discharge all the duties pertaining to each office.

Subd. 3. **Vacancies in certain elective offices.** (a) If any of the offices of county auditor, treasurer or county recorder shall become vacant before the expiration of the term for the office, a county board may appoint either of the holders of the other two offices to fill the vacancy for the unexpired term. The board may provide additional compensation for the added duties imposed on the appointee by virtue of holding two offices for that period. If the office of county auditor or treasurer becomes vacant, the county board may initiate a referendum by resolution to consolidate the two offices into one elected office. The referendum shall be conducted according to section 375A.12, subdivisions 4 and 5.

(b) The authority granted by paragraph (a) shall be in addition to the authorities granted by existing law or statute and by the provisions of sections 375A.01 to 375A.13 relating to consolidation and appointment of county offices; the authority granted by this subdivision may be exercised notwithstanding any prohibitions against the holding of two offices that may exist in the laws or statutes of this state.

History: *1973 c 542 s 11; 1976 c 181 s 2; 1986 c 399 art 1 s 24; 1986 c 416 s 6; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

375A.12 HOW, WHEN TO ADOPT, ABANDON OPTIONS.

Subdivision 1. **This section governs; exceptions.** Except as otherwise provided in sections 375A.01 to 375A.13 the options provided in sections 375A.01 to 375A.10 shall be adopted in the manner and at the times specified in this section.

Subd. 2. **Form of government options.** Except as provided in section 375A.1205 or by special law, the options provided in sections 375A.01 to 375A.10 shall be adopted in any county only after an affirmative vote of the voters in the county on the question of the adoption of the option. Except as provided in section 375A.01, only one such plan may be submitted at any one election.

Subd. 3. **Referenda; procedure.** Any referendum required to be held as a condition of the adoption of an option may be initiated by a resolution by the county board, a recommendation of a county government study commission or a petition signed by voters equal in number to five percent of the electors voting at the last previous election for the office of governor requesting that a referendum be held on the adoption of one or more of the options provided in sections 375A.01 to 375A.10. If a study commission has been established, a referendum on an option may not be initiated by a resolution of the county board or a petition of voters until after the study commission has completed its study provided for in section 375A.13, subdivision 3.

Subd. 4. **Conduct of election.** When a referendum is required to be held, the county auditor shall conduct the referendum following the procedures provided in section 375.20, as far as practicable, and not inconsistent with sections 375A.01 to 375A.10. The referendum may be held at any primary, general or special election held not less than 30 days before the first day on which candidates may file for county office.

Subd. 5. **Form of ballot.** In the submission of any proposal pursuant to subdivision 2 the ballot shall be substantially in the following form:

"Shall the office(s) of ..... be appointed rather than elected at the expiration of the(ir) current term(s)?"

Subd. 6. **Optional forms; abandonment.** Any optional plan or other option provided for in sections 375A.01 to 375A.13 may be abandoned by the same procedures required for the adoption of the optional plan or the option. Except as otherwise provided in sections 375A.01 to 375A.13 any plan or option shall remain in effect until abandoned or another plan or option is adopted, but a plan or option shall remain in effect not less than three years after its adoption before proceedings to abandon may be commenced, except that options consistent with the at-large chair plan and the administrator plan may be adopted at any time after either the at-large chair plan or the administrator plan has been adopted.

History: *1973 c 542 s 12; 1986 c 399 art 1 s 25,26; 1986 c 416 s 7,8; 1986 c 444; 1998 c 349 s 1; 2014 c 264 s 28; 1Sp2019 c 10 art 2 s 19*

375A.1205 APPOINTING COUNTY OFFICERS.

Subdivision 1. **Authority to appoint certain officers.** A county board may appoint the county auditor, county treasurer, or county recorder under section 375A.10, subdivision 2, or the auditor-treasurer under section 375A.10, subdivision 5, by following the process outlined in this section. Notwithstanding section 375A.12, a referendum is not required if the appointment is made pursuant to this section. A county board shall only use the authority to appoint under the following circumstances:

(1) there is a vacancy in the office as provided in section 351.02;

(2) the current office holder has notified the county board that the officer will not file for the office, as provided in subdivision 2; or

(3) there is a signed contract with the county board and the incumbent auditor, treasurer, auditor-treasurer, or recorder that provides that the incumbent officer will be appointed to the position and retain tenure, pay, and benefits equal to or greater than length of service.

Subd. 2. **Responsibility of county officer.** At least 104 days before the filing date for office under section 204B.09, an elected county officer must notify the county board in writing whether the officer will be filing for another term. If the officer indicates in writing that the officer will not file for the office and the county board has passed a resolution under subdivision 6, affidavits of candidacy will not be accepted for that office, and the office will not be placed on the ballot.

Subd. 3. **Board controls; may change as long as duties done.** Upon adoption of a resolution by the county board of commissioners and subject to subdivisions 5 and 6, the duties of an elected official required by statute whose office is made appointive as authorized by this section must be discharged by the county board of commissioners acting through a department head appointed by the board for that purpose. Reorganization, reallocation, delegation, or other administrative change or transfer does not diminish, prohibit, or avoid the discharge of duties required by statute.

Subd. 4. **Discharge or demotion.** (a) A county auditor, county treasurer, county auditor-treasurer, or county recorder who was elected at the most recent election for that office prior to a county board resolution to make the office an appointed position, and the elected official is subsequently appointed by the county board to the office, may not be involuntarily demoted or discharged except for incompetency or misconduct.

(b) Prior to demoting or discharging an office holder under this subdivision, the board must notify the office holder in writing and state its grounds for the proposed demotion or discharge in reasonable detail. Within ten days after receipt of this notification, the office holder may make a written request for a hearing before an arbitrator and the request must be granted before final action is taken. Failure to request a hearing before an arbitrator during this period is considered acquiescence to the board's action. The board may suspend an office holder with pay pending the conclusion of the hearing and determination of the issues raised in the hearing after charges have been filed which constitute grounds for demotion or discharge. If an office holder has been charged with a felony and the underlying conduct that is the subject of the felony charge is grounds for a proposed discharge, the suspension pending the conclusion of the hearing and determination of the issues may be without pay. If a hearing under this subdivision is held, the board must reimburse the office holder for any salary or compensation withheld if the final decision of the arbitrator does not result in a penalty or discharge of the office holder.

(c) If the office holder and the board are unable to mutually agree on an arbitrator, the board must request from the Bureau of Mediation Services a list of seven persons qualified to serve as an arbitrator. If the office holder and the board are unable to mutually agree on an arbitrator from the list provided, the parties shall alternately strike names from the list until the name of one arbitrator remains. The person remaining after the striking procedure must be the arbitrator. If the parties are unable to agree on who shall strike the first name, the question must be decided by a flip of a coin. The office holder and the board must share equally the costs and fees of the arbitrator except as set forth in paragraph (g).

(d) The arbitrator shall determine, by a preponderance of the evidence, whether the grounds for discharge or demotion exist to support the proposed discharge or demotion. A lesser penalty than demotion or discharge may be imposed by the arbitrator only to the extent that either party proposes such lesser penalty in the proceeding. In making the determination, the arbitration proceeding is governed by sections 572B.15 to 572B.28.

(e) An arbitration hearing conducted under this subdivision is a meeting for preliminary consideration of allegations or charges within the meaning of section 13D.05, subdivision 3, paragraph (a), and must be closed, unless the office holder requests it to be open.

(f) The arbitrator's award is final and binding on the parties, subject to sections 572B.18 to 572B.28.

(g) In the event the arbitrator rules not to demote or discharge the office holder, the board shall pay all of the costs and fees of the arbitrator and the attorney fees of the office holder.

Subd. 5. **Incumbents to complete term.** The person elected at the last general election to an office made appointive under this section must serve in that capacity and perform the duties, functions, and responsibilities required by statute until the completion of the term of office to which the person was elected, or until a vacancy occurs in the office, whichever occurs earlier.

Subd. 6. **Publishing resolution; petition; referendum.** (a) Before the adoption of the resolution to provide for the appointment of an office as described in subdivision 1, the county board must publish a proposed resolution notifying the public of its intent to consider the issue once each week, for two consecutive weeks, in the official publication of the county. Following publication and prior to formally adopting the resolution, the county board shall provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment opportunity, at the same meeting or a subsequent meeting, the county board of commissioners may adopt a resolution that provides for the appointment of the office or offices as permitted in this section. The resolution must be approved by at least 80 percent of the members of the county board. The resolution may take effect 30 days after it is adopted, or at a later date stated in the resolution, unless a petition is filed as provided in paragraph (b).

(b) Except when an office is made appointive under subdivision 1, clause (3), within 30 days after the county board adopts the resolution, a petition requesting a referendum may be filed with the county auditor. The petition must be signed by at least ten percent of the registered voters of the county. The petition must meet the requirements of the secretary of state, as provided in section 204B.071, and any rules adopted to implement that section. If the petition is sufficient, the county board resolution is rescinded.

Subd. 7. **Reverting to elected offices.** (a) The county board may adopt a resolution to provide for the election of an office that was made an appointed position under this section, but not until at least three years after the office was made an appointed position. The county board must publish a proposed resolution notifying the public of its intent to consider the issue once each week, for two consecutive weeks, in the official publication of the county. Following publication and before formally adopting the resolution, the county board must provide an opportunity at its next regular meeting for public comment relating to the issue. After the public comment opportunity, at the same meeting or a subsequent meeting, the county board of commissioners may adopt the resolution. The resolution must be approved by at least 60 percent of the members of the county board and is effective August 1 following adoption of the resolution.

(b) The question of whether an office that was made an appointed position under this section must be made an elected office must be placed on the ballot at the next general election if: (1) the position has been an appointed position for at least three years; (2) a petition signed by at least ten percent of the registered voters of the county is filed with the office of the county auditor by August 1 of the year in which the general election is held; and (3) the petition meets the requirements of the secretary of state, as provided in section 204B.071, and any rules adopted to implement that section. If a majority of the voters of the county voting on the question vote in favor of making the office an elected position, the election for that office must be held at the next regular or special election.

History: *1Sp2019 c 10 art 2 s 20*

375A.121 MODIFYING DUTIES OF COUNTY AUDITOR AND TREASURER.

A county board, with the concurrence of the county auditor and treasurer, may by resolution assign to the county treasurer all or some of the duties of the county auditor in sections 272.115, 272.12, 272.121, 279.02, 279.025, and 279.03. A county board, with the concurrence of the county auditor and treasurer, may

assign to the county auditor all or some of the duties of the county treasurer in sections 272.115, 272.12, 272.121, 279.02, 279.025, and 279.03. If any duties of the county auditor or the county treasurer are assigned under this section, the county board shall notify the commissioner of revenue of the assignment of duties. A county board may not rescind its assignment of duties under this section for at least two years after the initial resolution of assignment of duties. Upon the election of a county auditor or treasurer, the elected official may require that the duties of the county auditor and treasurer be reestablished as provided by sections 272.115, 272.12, 272.121, 279.02, 279.025, and 279.03.

History: *1997 c 89 s 1*

375A.13 COUNTY GOVERNMENT STUDY COMMISSION.

Subdivision 1. **Appointment by district judge.** A county government study commission hereinafter called "the commission" may be established in any county as provided in this section to study the form and structure of county government in the county and other counties both within and outside this state and, if deemed advisable by the commission, recommend to the voters of the county the adoption of any of the optional forms of county government contained in sections 375A.01 to 375A.13. The commission shall be established upon presentation of a petition requesting such action signed by voters equal in number to five percent of the electors voting at the last previous election for the office of governor or a resolution of the board of county commissioners of the county requesting such action. Appointments to the commission shall be made by order filed with the court administrator of the district court of the county and shall be made by the senior judge having chambers in the county. If there be no judge having chambers in the county, appointments shall be made by the chief judge of the judicial district. The number on the study commission shall be set by the appointing judge but not to exceed 15. A noncommissioner from each commissioner district shall be appointed to a study commission. In addition three members shall be county commissioners and two shall be elected county officials. An appointee who neglects to file with the court administrator within 15 days a written acceptance shall be deemed to have declined the appointment and the place shall be filled as though the appointee had resigned. Vacancies in the commission shall be filled as in the case of original appointments. The county board, the commission, or the petitioners requesting the appointment of the commission may submit to the appointing judge the names of eligible nominees which the appointing judge may consider in making appointments to the commission.

Subd. 2. **Compensation; expenses.** The members of the commission shall serve without compensation but may be reimbursed their necessary expenses in carrying out the business of the commission. The commission may employ and determine the compensation of such staff as it deems necessary. The necessary expenses of the commission and the cost of printing the commission's report and recommendations shall be paid by the county if so ordered by the commission. The amount of reasonable and necessary commission expenses that shall be so paid by the county shall not exceed in any one year the sum of $5,000 but the county board may authorize additional commission expenses as it deems necessary. The county board may levy a tax annually on the taxable property in the county to pay such expenses.

Subd. 3. **Duration.** The commission's activity shall be limited to one year from the date of the order of the appointing judge but the appointing judge may extend the duration of the committee's activities for such period as the judge shall determine but not to exceed one year.

Subd. 4. **Commission reports.** The commission shall file its final report not later than one year after the commission is established unless its activity is extended by the appointing judge, in which case the final report shall be filed on or before the last day of the extension. The commission may file a partial report at any time. Commission reports shall be signed by not less than a majority of the members of the commission and shall state the scope of its study and its recommendations that a change is not necessary or desirable or

that one or more of the options provided in sections 375A.01 to 375A.13 be implemented but may include such other conclusions or recommendations as the commission determines. If the report contains a recommendation that a referendum be held on an option, the referendum shall be held as provided in section 375A.12.

Subd. 5. **Successive commissions authorized.** After a study commission has filed its final report a new study commission may be established but not before three years shall have expired after the filing of the commission report unless the appointing judge concurs in the request for the appointment of a new study commission.

History: *1973 c 542 s 13; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1994 c 505 art 2 s 5; 2006 c 260 art 5 s 9*