

Presented to the governor April 2, 1990

Signed by the governor April 3, 1990, 8:42 p.m.

CHAPTER 401—H.F.No. 2084

An act relating to statutes; revising the text of certain laws to remove redundant and obsolete language, to simplify grammar and syntax, and to improve the style of language without causing changes in the meaning of the laws; amending Minnesota Statutes 1988, chapters 367, as amended; and 368, as amended.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

REVISOR'S BILL

ARTICLE 1

Section 1. Minnesota Statutes 1988, chapter 367, as amended by Laws 1989, chapter 24, sections 1 to 6, is amended to read:

367.01 DELIVERY TO SUCCESSOR.

Every town officer shall, immediately after qualifying, demand ~~of from~~ the officer's predecessor; or other person having control or possession ~~thereof of~~ them, all books, records, and other property belonging to the office; ~~and~~. Every person having control or possession of any ~~such books, records, or property of~~ them shall, upon ~~such the~~ demand, deliver ~~the same them~~ to ~~such the~~ officer.

367.02 RESIGNATIONS.

The town board, for sufficient cause shown to it, shall accept the resignation of any town officer; ~~in which case~~. The board shall ~~forthwith~~ promptly give notice ~~thereof of the resignation~~ to the town clerk.

367.03 OFFICERS ELECTED AT ANNUAL ELECTION; VACANCIES.

Subdivision 1. **OFFICERS, TERMS.** Except in towns operating under option A, ~~there three supervisors~~ shall be elected in each town ~~three supervisors~~ as provided in this section. ~~Where~~ When a new town ~~has been or may be is~~ organized and supervisors ~~have been or may be are~~ elected for ~~such town~~ at a town meeting prior to the annual town election, ~~such supervisors they~~ shall serve only until the next annual town election. ~~At which that~~ election three supervisors shall be elected, one for three years, one for two years, and one for one year, so that the term of one shall expire each year. The number of years for which

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each is elected shall be indicated on the ballot. At ~~all other~~ following annual town elections one supervisor shall be elected for three years to fill the place of succeed the one whose term expires at that time. Except in towns operating under either option B or option D, or both, ~~there shall be elected~~ at the annual town election ~~held~~ in even-numbered years one town clerk; and at the annual town election ~~held~~ in odd-numbered years one town treasurer shall be elected. The clerk and treasurer each shall serve for a ~~term~~ of two years and until their successors are elected and qualified.

Subd. 2. **VACANCIES.** When a vacancy occurs in a town office, the town board shall fill the vacancy by appointment. The person appointed shall hold office until the next annual town election, when a successor shall be elected ~~to hold office~~ for the unexpired term. A vacancy in the office of supervisor shall be filled by the remaining supervisors and the town clerk until the next annual town election, when a successor shall be elected ~~to hold~~ for the unexpired term. When, because of a vacancy, more than one supervisor is to be chosen at the same election, candidates for the offices of supervisor shall file for one of the specific terms being filled. Law enforcement vacancies shall be filled by appointment by the town board.

367.033 SERVICE ON SCHOOL BOARDS; INCOMPATIBILITY OF OFFICES.

Notwithstanding any ~~statute or~~ other law to the contrary, ~~any a~~ person may serve on both ~~the a~~ school board, however organized, and ~~the a~~ town board of supervisors concurrently. This section does not apply to members of the town board of ~~any a~~ town exercising the powers of a statutory city under section 368.01, or ~~any a~~ special law.

367.05 COMPENSATION; TOWN OFFICERS AND EMPLOYEES.

Subdivision 1. The town board shall set the compensation of supervisors, town assessors, the treasurer, clerk, deputy clerk, if one is employed, the road overseer, and other employees of the town ~~in an amount to be determined by the town board~~. In addition ~~to the compensation provided pursuant to this section~~, supervisors, assessors, treasurers, clerks, deputy clerks, road overseers, and other employees of the town shall be entitled to mileage for the use of ~~the person's~~ their own automobile at a rate to be determined by the town board for ~~each mile necessarily traveled~~ necessary travel on official town business. The town board may fix the hours of employment for town employees, and reimburse a town assessor for expenses.

367.10 TOWN CLERK; BOND; OATH.

Every town clerk, before beginning the duties of the office, shall give bond to the town in an amount to be determined by the town board, conditioned for the faithful discharge of the duties of clerk. The bond shall be filed with the county auditor.

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367.11 DUTIES.

It shall be the duty of the town clerk:

(1) to act as clerk of the town board; and ~~to~~ keep in the clerk's office a true record of all of its proceedings;

(2) unless otherwise provided by law, to have ~~the~~ custody of the records, books, and papers of the town; and ~~to~~ file and safely keep all papers required by law to be filed in the clerk's office;

(3) to record minutes of the proceedings of every town meeting in the book of town records; and ~~to~~ enter in them at length every order or direction and all rules and regulations made by the town meeting;

(4) to file and preserve all accounts audited by the town board or allowed at a town meeting; and ~~to~~ enter a statement of them in the book of records;

(5) ~~to transmit to the court administrator of the district court, immediately after the election of any town constable, a written notice stating the name of the person elected; the term for which the person was elected; if elected to fill a vacancy, the name of the last incumbent of the office; and after a constable is qualified; and, upon the resignation of a constable, to immediately notify the clerk;~~

(6) to record every request for ~~any~~ a special vote or special town meeting; and properly post the requisite notices of them;

(7) ~~(6)~~ to post, as required by law, fair copies of all bylaws made by the town, and make a signed entry in the town records, of the time when and the places where they were posted and ~~keep an ordinance book in which shall be recorded~~ record in full all ordinances passed by the town board in an ordinance book;

(8) ~~(7)~~ to furnish to the annual meeting of the town board of audit every statement from the county treasurer of money paid to the town treasurer, and all other information about fiscal affairs of the town in the clerk's possession, and all accounts, claims, and demands against the town filed with the clerk; and

(9) ~~(8)~~ to perform any other duties required by law.

367.12 DEPUTY.

Each town clerk may appoint a deputy, for whose acts the clerk shall be responsible, and who, in ~~ease~~ of the clerk's absence or disability, shall perform the clerk's duties.

367.13 LOCATION OF OFFICE.

The clerk of ~~any~~ a town in ~~this state~~ may hold office in ~~any~~ a statutory city the territory of which ~~shall have been was, prior to the before~~ incorporation thereof, a part of ~~and included within the~~ boundaries of the town.

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367.14 NEW TOWN.

When a new town is organized, embracing ~~any~~ part of an existing town, the clerk of the existing town shall deliver to the clerk of the new town all papers and files ~~removable~~ pertaining to the new town that can be moved, and certified copies of all records, papers, and files ~~not removable, pertaining to such new town; and the same, being that cannot be moved.~~ When deposited in the office of the clerk of the new town, the certified copies shall have the same effect as if originals ~~and that were~~ originally filed ~~therein there~~.

367.15 TOWN TREASURER; BOND.

Every town treasurer, before beginning the duties of the office, shall give bond to the town in an amount to be determined by the board, conditioned for the faithful discharge of the duties of treasurer. The bond shall be filed for record with the county auditor.

367.16 DUTIES.

It ~~shall be~~ is the duty of the town treasurer:

(1) To receive and take charge of all ~~the moneys~~ money belonging to the town, or which ~~are~~ is required to be paid into its treasury, and to pay it out ~~the same~~ only upon the lawful order of ~~such the~~ town or its officers; ~~made pursuant to law;~~

(2) To preserve all books, papers, and property pertaining to or filed in the treasurer's office;

(3) To keep a true account of all ~~moneys~~ money received as treasurer; and the manner in which ~~they are~~ it is disbursed, in a book provided for that purpose, and ~~exhibit such~~ provide the account, ~~together~~ with the treasurer's vouchers, to the town board of audit, at its annual meeting, for adjustment;

(4) To deliver, on demand, all books and property belonging to the treasurer's office, and all ~~moneys~~ money in the treasurer's hands as ~~such~~ treasurer, to a qualified successor ~~in office, when qualified;~~

(5) To keep in a suitable book a register of all town orders presented for payment that cannot be paid for want of funds, with the date ~~when so~~ presented, and to endorse upon the back of ~~all such orders~~ each the words "not paid for want of funds," with the date of the endorsement, signed by the ~~town~~ treasurer;

(6) To draw from the county treasurer, from time to time, ~~such moneys as have been~~ money received by ~~such the~~ county treasurer for the town, and receipt ~~therefor~~ for it;

(7) To make and file with the town clerk, within five days preceding the annual town meeting, a statement, in writing, of the ~~moneys~~ money received

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from the county treasurer and ~~from~~ all other sources, and all ~~moneys~~ money paid out as ~~such~~ town treasurer; ~~setting forth.~~ The statement shall show the items thereof, of money received and from whom and, on what account and when each was received, and the date of receiving the same; also. The statement shall also show the items of payment and to whom and, for what purpose any moneys have been paid out, with the amount and date of, when and the amount of each payment that was made, and the unexpended balance on hand; and

(8) To perform ~~such~~ other duties ~~as are~~ required by law.

367.17 NEGLECT OF DUTY.

Every A town treasurer who refuses or neglects to comply with the ~~provisions~~ of section 367.16 ~~shall be~~ is guilty of a gross misdemeanor and; ~~in addition to the punishment prescribed therefor,~~ shall also forfeit office as ~~such~~ treasurer.

367.18 AUDITED ACCOUNTS; PAYMENT, FORM.

Accounts audited and allowed, and the amount of any account voted to be allowed, at any town meeting, shall be paid by the town treasurer, on the order of the town board, signed by the chair and countersigned by the clerk. Each order shall be ~~so~~ drawn so that when signed by the treasurer in an appropriate place, it becomes a check on the town depository. The order shall be received in payment of town taxes of the town.

367.19 ORDER OF PAYMENT; INTEREST.

Town orders shall bear interest at the rate provided in section 475.55 from the date ~~when~~ presented to the treasurer for payment; ~~and.~~ They shall be paid in the order in which they are registered, out of the first money that comes into the treasurer's hands for that purpose.

367.22 LAW ENFORCEMENT OFFICIAL'S BOND.

Before ~~entering upon~~ beginning duties, and within ten days after being notified of appointment, every law enforcement official shall give bond to the town, in a sum directed and with sureties approved by the chair of the town board, conditioned for the faithful discharge of official duties. The chair shall endorse ~~such~~ approval on the bond, and ~~cause have it to be~~ have it ~~to be~~ filed with the town clerk, for the benefit of any person aggrieved by the acts or omissions of the law enforcement official; ~~and.~~ Any person ~~so~~ aggrieved by the acts or omissions may maintain an action ~~thereon~~ on the bond, in the person's own name, against the law enforcement official and the sureties. The town may also maintain an action.

367.23 BONDS, HOW EXECUTED.

Every bond required of a town officer shall be executed to the town by its name ~~and.~~ When no other provision is made, it shall be in a sum fixed by the

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town board; ~~and or~~, if none is fixed, ~~then~~ in the sum of the bond of the last incumbent of the office. Every bond shall be filed with the town clerk within the time prescribed for filing the oath of office, except the bonds of the clerk and the treasurer, which shall be filed with the county auditor. ~~Whenever~~ When the town board deems ~~any a~~ bond insufficient, it may require an additional bond to be made and filed; in a sum; and within a time not less than ten days; to be fixed by it.

367.24 FEES AND DUTIES OF POUNDMASTERS.

Poundmasters shall be allowed fees in amounts ~~as~~ determined by the town board for ~~the following~~:

- (1) Taking animals into the pound and discharging them;
- (2) Keeping animals in pound; and
- (3) Selling impounded animals.

The poundmaster shall have a lien on impounded animals for fees, which shall be paid before ~~such the~~ animals are discharged. If not discharged within four days, they shall be advertised by the poundmaster for sale at public auction to the highest bidder, at the place where impounded, upon 15 days' posted notice. At the time and place fixed by the notice the poundmaster shall sell the ~~same animals~~ pursuant ~~thereto to the notice~~. Out of the ~~moneys money~~ received from ~~such the~~ sale the poundmaster shall deduct fees and charges; ~~and~~. The poundmaster shall pay the balance to the chair of the town board and, at the same time, deliver to the chair a correct written description of each animal sold and a statement of the amount received for ~~the same it~~. The poundmaster shall take duplicate receipts ~~therefor for the animals~~, one of which shall be filed with the clerk. If the owner of ~~any an~~ animal ~~so~~ sold appears within 30 days, the money received by the chair shall be paid to the owner. If not claimed within that time, it shall be paid into the town treasury.

367.25 OATH OF OFFICE; BOND; FILING; PENALTIES.

Subdivision 1. **REQUIREMENT, FEE.** Every person elected or appointed to a town office, within ten days after receiving a certificate or notice of election or appointment, shall take and subscribe the oath required by law. If taken before the town clerk, the oath shall be administered and certified without fee.

Subd. 2. **BOND AND OATH, VIOLATIONS.** Before entering upon duties, the person taking the oath shall file ~~the same it~~ with the town clerk. Failure to file the oath and bond within the time required shall be deemed a refusal to serve.

Subd. 3. **OATH, VIOLATIONS.** ~~Any A~~ town officer who enters upon the duties of office before taking the oath required shall forfeit to the town the sum of \$50.

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367.30 OPTIONAL PLANS.

Subdivision 1. **OPTION A; FIVE MEMBER TOWN BOARD.** Any A town may provide for a five member board of supervisors as ~~hereinafter~~ provided in sections 367.30 to 367.36. This ~~option shall be referred to as is~~ option A.

Subd. 2. **OPTION B; APPOINTMENT OF CLERK AND TREASURER.** Any A town may provide for the appointment by the town board of its clerk or treasurer, or both, as ~~hereinafter~~ provided for in sections 367.30 to 367.36. This ~~option shall be referred to as is~~ option B.

Subd. 3. **OPTION C; TOWN ADMINISTRATOR.** Any A town may provide for the appointment of an administrator as ~~hereinafter~~ provided for in sections 367.30 to 367.36. This ~~option shall be referred to as is~~ option C.

Subd. 4. **OPTION D; COMBINATION OF THE OFFICES OF CLERK AND TREASURER.** Any A town may ~~provide for combining~~ combine the offices of clerk and treasurer. A town may provide that the combined office be ~~made~~ elective or appointive. This ~~option shall be referred to as is~~ option D.

367.31 ADOPTION OF SPECIFIC OPTION.

Subdivision 1. **SUBMISSION TO ELECTORS.** Except as provided ~~other-~~ wise in subdivision 2, the town board may, and upon a petition signed by electors equal in number to at least 15 percent of the electors voting at the last previous town election shall, submit to the electors at an annual town election the question of adopting option A, B, C, or D.

Subd. 2. **MANDATORY SUBMISSION OF OPTION A IN URBAN TOWNS.** The town board of a town exercising the powers of a statutory city pursuant to section 368.01 or ~~pursuant to~~ a special law granting substantially similar powers shall submit the adoption of option A to the electors at the annual town meeting next following June 3, 1975. The town board of any town ~~hereafter~~ qualifying that subsequently qualifies under section 368.01 or receiving receives substantially similar powers pursuant to a special law adopted after June 3, 1975, shall submit the adoption of option A to the electors at the annual town election next following the grant of powers ~~pursuant to section 368.01 or special act.~~

Subd. 3. **NOTICE OF QUESTION.** When the adoption of a specific option is to be voted on at the annual election, the town clerk shall include notice of the question in the notice of the annual election.

Subd. 4. **ELECTION; FORM OF BALLOT.** The proposals for adoption of the options shall be stated on the ballot substantially as follows:

"Shall option A, providing for a five member town board of supervisors, be adopted for the government of the town?"

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"Shall option B, providing for the appointment of the clerk and treasurer by the town board, be adopted for the government of the town?"

"Shall option C, providing for the appointment of a town administrator by the town board, be adopted for the government of the town?"

"Shall option D, providing for ~~the~~ combining ~~of~~ the offices of clerk and treasurer, be adopted for the government of the town?"

If a proposal under option B is to appoint only the clerk or only the treasurer, the ballot question shall be varied to read appropriately. The ballot question for a proposal under option D must be varied to show whether the combined office is to be appointive or elective. In any of these cases, the question shall be followed by the words "Yes" and "No" with an appropriate square before each in which an elector may record a choice.

Subd. 5. ADOPTION BY AFFIRMATIVE VOTE. If a majority of the votes cast on the question of adoption of option A, B, C, or D is in the affirmative, the option ~~so~~ voted upon shall be adopted in the town; ~~and once placed in effect.~~ It shall remain in effect until abandoned by a similar majority at a subsequent annual town election at which the question of abandonment is submitted.

Subd. 6. ABANDONMENT OF OPTIONS; THREE-YEAR LIMITATION. At any time more than three years after the adoption of an option, the question of its abandonment ~~of the option~~ may be submitted to the electors, in the same manner ~~as~~ provided for the submission of the question of adoption, except that in the statement of the question on the ballot, the word "abandoned" shall be substituted for the word "adopted." If a majority of the votes cast on the question is in favor of abandonment, the plan shall be abandoned. Subject to the provisions for transition back to the regular form of town government, the form of town government existing prior to adoption of the abandoned option shall be resumed in the town.

Subd. 7. REPORT BY TOWN CLERK. When the question of adoption or abandonment of an option is submitted, the town clerk shall promptly file with the county auditor and ~~with~~ the secretary of state a certificate stating the date of the election, the question submitted, and the vote on the question.

367.32 APPLICABLE LAWS AND ORDINANCES; RIGHTS PRESERVED.

Subdivision 1. All laws ~~of the state~~ applicable to a town before adoption of an option and ~~not inconsistent~~ consistent with the ~~provisions relating to the~~ option shall ~~apply to and~~ govern the town after adoption of an option.

Subd. 2. Any ordinance or resolution in effect at the time of adoption of an option shall continue in effect until amended or repealed, notwithstanding the adoption of the option.

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Subd. 3. No valid and legally subsisting right or liability and no judicial proceeding shall be affected by a change in the form of town government unless otherwise provided.

367.33 OPTION A; ELECTION OF ADDITIONAL SUPERVISORS.

Subdivision 1. **ELECTION AT ANNUAL ELECTION OR SPECIAL ELECTION.** Following the adoption of option A in a town, except a town exercising the powers of a statutory city, the town board may call a special town election to be held not less than 30 days nor more than 60 days after the annual town election at which the option is adopted, ~~for the purpose of electing to~~ elect two additional members to the board of supervisors. In lieu of ~~calling~~ a special election, the town board may determine to elect the additional ~~two~~ members of ~~the town board~~ at the next annual town election.

If the town is exercising the powers of a statutory city ~~pursuant to~~ under section 368.01 or ~~pursuant to~~ a special law granting substantially similar powers, the town board shall call a special election to be held not less than 30 days nor more than 60 days after the annual election at which option A is adopted ~~for the purpose of electing to~~ elect the two additional supervisors.

Subd. 2. **NOTICE OF SPECIAL ELECTION.** If a special election is called ~~pursuant to~~ under subdivision 1, the clerk shall ~~cause~~ give ten days posted notice thereof ~~to be given of it~~, specifying ~~the its~~ purpose ~~for which it is to be held~~. If a newspaper is published in the town, the clerk shall ~~cause~~ give one week's published notice of the election ~~to be given~~.

Subd. 3. **AFFIDAVITS OF CANDIDACY.** ~~The provisions~~ of Section 205.13 shall apply to the filing of affidavits of candidacy, except that if the additional supervisors are to be elected at a special election, the affidavits shall be filed not more than three weeks nor less than ten days before the election, and notice of the first and last dates for filing affidavits of candidacy shall be published at least two weeks before the first day for filing. ~~Where~~ If publication schedules do not allow sufficient time to give two weeks notice, at least one weeks notice shall be given.

Subd. 4. **TERMS.** If the additional supervisors are elected at a special election, they shall serve ~~only~~ until the next annual town election, ~~at which the~~. Additional members shall ~~stand for election~~ then be elected, one for a term of two years and one for a term of three years. The candidate receiving the highest number of votes shall be elected for the longer term. If the additional supervisors are elected at an annual election, one shall serve for a term of two years and the other for a term of three years with the candidate receiving the highest number of votes being elected for the longer term.

Subd. 5. **ABANDONMENT OF OPTION A.** In a town ~~in which~~ where option A is abandoned, the terms of incumbent supervisors shall not be affected, but if one or more supervisors are ~~to be~~ elected at the annual town election ~~held~~

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on the same day as the annual town election at which the option is abandoned, the election of one supervisor, or two if ~~there be~~ more than one is elected, shall be ~~considered~~ null. Otherwise the offices of the two incumbent supervisors expiring at the annual town election or elections next following the annual election at which the option is abandoned shall not be filled. Thereafter the town board shall be composed of three supervisors unless option A is again adopted ~~in that town~~.

367.34 CONTINUANCE IN OFFICE; ELECTIONS.

Subdivision 1. **OPTION B; INCUMBENT CLERK AND TREASURER.** If option B is adopted at ~~the an~~ election at which ~~the office of a~~ clerk or treasurer is ~~to be~~ elected, the candidate elected to that office shall not ~~assume~~ take office and that candidate's election shall be ~~considered~~ null. Otherwise when option B is adopted in a town, the incumbent clerk or treasurer shall continue to serve until the expiration of their terms or until an earlier vacancy ~~occurs~~.

Subd. 2. **ABANDONMENT OF OPTION B.** When option B is abandoned, the offices of clerk or treasurer ~~that would be filled at that election;~~ shall be filled conditionally at that election; ~~and~~. The ballot shall indicate that the successful candidate ~~or candidates~~ shall ~~assume~~ take office only if the option is abandoned ~~as a result of~~ at the election.

367.35 TOWN ADMINISTRATOR.

Subdivision 1. **APPOINTMENT; REMOVAL.** As soon as practicable after adoption of option C in a town, the town board shall appoint an administrator upon the terms and conditions it deems advisable. The administrator shall be chosen solely on the basis of training, experience, and administrative qualifications and need not be a resident of the town. The town clerk may be designated the administrator if the clerk meets these qualifications. The administrator shall be appointed for an indefinite period and may be removed by the board at any time, but after having served as administrator for one year the administrator may demand written charges and a public hearing on the charges before the board before final removal takes effect. Pending a hearing and removal, the board may suspend the administrator from office, with or without pay. The board may appoint a qualified person to perform the duties of the administrator during ~~the administrator's~~ absence or disability.

Subd. 2. **POWERS AND DUTIES.** The town administrator shall be the administrative head of the town and ~~shall~~ be responsible for the administration and supervision of the affairs of the town as assigned. The administrator shall, with the approval of the town board, coordinate the various activities of the town. The administrator shall exercise the authority and responsibilities assigned by the town board by ordinance or resolution which may include the following duties:

- (a) To provide for the execution of all ordinances, resolutions, and orders of

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the board and all laws of the state required to be enforced through the town board, by the administrator or by officers ~~who are~~ under the administrator's direction and supervision;

(b) To recommend to the town board the appointment, suspension, and removal of all town personnel whose appointment, suspension, or removal is a function of the town board by law;

(c) To provide for town purchases in accordance with statutory procedures;

(d) To prepare and submit to the town board a proposed annual budget, including detailed estimates of revenue and expenditures, and enforce ~~the provisions~~ of the budget as adopted by the board;

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

(f) To advise the board as to the financial condition and needs of the town;

(g) To perform other assigned ministerial, nondiscretionary duties.

Subd. 3. **ABOLISHING OFFICE OF ADMINISTRATOR.** If option C is abandoned, the town board shall, as soon as practicable ~~thereafter~~, abolish the office. Duties and responsibilities ~~previously~~ assigned to the administrator shall be assumed by the town board or by the officer having responsibility for the function prior to the appointment of the administrator.

367.36 COMBINING THE OFFICES OF CLERK AND TREASURER.

Subdivision 1. **INCUMBENT TREASURER; ANNUAL AUDIT.** In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter the duties of the treasurer ~~as~~ prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If the offices of clerk and treasurer are combined, the town board shall provide for an annual audit of the town's financial affairs by the state auditor or a public accountant in accordance with minimum audit procedures prescribed by the state auditor.

Subd. 2. **ABANDONMENT.** If option D is abandoned, the office of treasurer that would be filled at that election shall be filled conditionally at that election, and the ballot shall indicate that the candidate shall assume office only if the option is abandoned as a result of the election.

367.40 DEFINITIONS.

Subdivision 1. For purposes of this chapter, the following terms shall have the meanings given them.

Subd. 2. "Peace officer" ~~shall have~~ has the meaning assigned ~~to it~~ in section 626.84.

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Subd. 3. "Constable" means any individual employed or appointed by a political subdivision and licensed by the board of peace officer standards and training on or before April 21, 1988, who is charged with the prevention and detecting of crime, the enforcement of the ~~general~~ criminal laws of the state, and who has full powers of arrest. The term ~~shall apply~~ applies even though the individual exercises powers and duties on a part-time basis with or without receipt of compensation.

Subd. 4. "Deputy constable" means any individual employed or appointed by a political subdivision to fulfill law enforcement duties but who is prohibited from carrying a firearm while exercising powers and duties and who has powers of arrest no greater than those of ~~any~~ a citizen who is not a peace officer or constable. The term ~~shall also include~~ includes individuals voluntarily assisting local police or sheriff departments unless they qualify as constables or peace officers.

Subd. 5. **PART-TIME PEACE OFFICER.** "Part-time peace officer" has the meaning assigned to it in section 626.84.

367.401 LAW ENFORCEMENT OFFICERS; APPOINTMENT; CONSTABLES.

Subdivision 1. **APPOINTMENT.** The town, by majority vote at its annual meeting, may decide to authorize the town board to form a law enforcement agency and to appoint law enforcement officers. ~~These~~ The positions may be filled by a combination of peace officers or part-time peace officers. The number of part-time peace officers must not exceed three.

Subd. 2. **CHIEF LAW ENFORCEMENT OFFICER.** The board of supervisors shall designate one of its law enforcement officers as the chief law enforcement officer of the agency.

Subd. 3. **RESERVE OFFICERS.** A town may appoint reserve officers as defined by section 626.84.

Subd. 4. **REQUIREMENTS.** ~~These~~ Towns that have had either peace officers or constables, or both, on April 21, 1988, ~~are considered to~~ have met the requirements for forming a law enforcement agency.

367.411 PEACE OFFICER LICENSE ISSUED TO CONSTABLES.

Subdivision 1. **LICENSE ISSUANCE.** The board of peace officer standards and training shall issue a peace officer license to a person who possesses a constable license, who is employed as a constable on April 21, 1988, and who makes written application to the board.

Subd. 2. **ABOLITION OF CONSTABLE POSITION.** The position of constable is abolished and all constable licenses are canceled 30 days after April 21, 1988.

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367.42 DUTIES OF DEPUTY CONSTABLES.

Subdivision 1. Notwithstanding any general or local law or charter to the contrary, any deputy constable employed on or after March 23, 1982, by a town of the state of Minnesota has the following powers and duties:

- (a) to have the powers of arrest of a private person;
- (b) to perform the duties of a constable prescribed by law relative to election procedure;
- (c) to perform the following duties at the direction of the ~~county~~ sheriff or a peace officer:
 - (i) to inspect communication wire and cable or records of ~~such~~ the wire and cable pursuant to section 325E.21;
 - (ii) to conduct hotel lien sales pursuant to section 327.76; and
 - (iii) to conduct public auction sales of unclaimed property pursuant to sections 345.04 and 345.05;
- (d) to provide general administrative or clerical assistance to the town's law enforcement agency.

Subd. 3. **CRIMINAL RECORDS CHECK.** No person may be employed as a deputy constable unless the person submits proof from the sheriff ~~that shows~~ that the sheriff has checked the criminal records system and that the applicant has not been convicted of a felony within the past ten years.

367.43 CONTINUATION OF DUTIES AND POWERS.

All investigations, law enforcement matters, and other business involving a person holding the position of constable 30 days after April 21, 1988, may be conducted and completed by that person holding the successor position of peace officer in the same manner and under the same terms and conditions, and with the same effect, as though they involved a person holding the position of constable before April 21, 1988.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 2

Section 1. Minnesota Statutes 1988, chapter 368, as amended by Laws 1989, chapter 9, section 5, is amended to read:

368.01 POWERS OF CERTAIN METROPOLITAN AREA TOWNS.

Subdivision 1. **TOWNS DESCRIBED.** ~~Any A town having therein that has~~ Any A town having therein that has ~~platted portions in which there reside where~~ 1,200 or more people reside or any ~~towns having a town that has a~~ platted area within 20 miles of the city hall of a ~~city of the first class having over 200,000 population shall have and possess the~~ powers enumerated in this section. ~~The Its town board thereof may adopt,~~ amend, or repeal ordinances and rules for any the purposes enumerated as it ~~deems expedient.~~

Subd. 1a. **CERTAIN OTHER TOWNS.** ~~Any A town with a population of~~ 1,000 or more that does not otherwise qualify pursuant to under ~~subdivision 1~~ to exercise the powers enumerated in this section, shall have and possess the ~~enumerated powers upon an affirmative vote of the its electors of the town at the~~ annual town meeting. ~~The population must be established by the most recent~~ federal decennial census, special census as provided in section 368.015, or population ~~estimate by the state demographer made according to section 116K.04,~~ subdivision 4, whichever has the latest stated date of count or estimate.

Subd. 2. **BUILDINGS.** ~~The town board of supervisors shall have power to~~ may ~~construct or acquire structures needed for town purposes, to and~~ control, ~~protect, and insure the public buildings, property, and records.~~

Subd. 3. **STREETS; SEWERS; SIDEWALKS; PUBLIC GROUNDS.** ~~The town board of supervisors shall have power to~~ may:

(1) ~~lay out, open, change, widen or extend streets, alleys, parks, squares, and other public ways and grounds and to~~ grade, pave, repair, control, and maintain the same them; to

(2) ~~establish and maintain drains, canals, and sewers; to~~

(3) ~~alter, widen or straighten water courses; to and~~

(4) ~~lay, repair, or otherwise improve or discontinue sidewalks, paths and crosswalks.~~

~~It shall have power may~~ by ordinance to regulate the use of streets and other public grounds; to prevent encumbrances or obstructions, and to require the owners or occupants of buildings and the owners of vacant lots to remove any snow, ice, dirt, or rubbish from the adjacent sidewalks adjacent thereto and, in default thereof to cause such of compliance it may remove the encumbrances, obstructions, or substances to be removed and assess the cost to be assessed against the property as a special assessment.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 4. **PARKS; TREES.** The town board of ~~supervisors shall have power to~~ may provide for, and by ordinance regulate, the setting out and protection of trees, shrubs, and flowers in the town or upon its property.

Subd. 5. **CEMETERIES.** The town board of ~~supervisors shall have power to~~ may acquire by purchase, gift, devise, condemnation or otherwise, hold and manage cemetery grounds, ~~to enclose, lay out and ornament such grounds~~ them and sell and convey lots ~~therein~~ in them. It may by ordinance regulate cemeteries and the disposal of dead bodies.

Subd. 6. **WATERWORKS.** The town board of ~~supervisors shall have power to~~ may provide and by ordinance regulate the use of wells, cisterns, reservoirs, waterworks and other means of water supply.

Subd. 7. **TOURIST CAMPS; PARKING FACILITIES.** The town board of ~~supervisors shall have power to~~ may acquire, improve and operate, and by ordinance regulate tourist camps and automobile parking facilities.

Subd. 8. **HOSPITALS.** The town board of ~~supervisors shall have power to~~ may provide hospitals. The town board of ~~any a~~ any town operating a municipal hospital may by ordinance establish a hospital board with ~~such powers and duties of~~ to manage and operate the hospital ~~management and operation as that~~ the town board confers ~~upon on~~ on it; ~~and~~. The town board may, by vote of all its members, abolish ~~any the~~ hospital board ~~so established~~. The hospital board shall consist of five members, each appointed by the town board for a term of five years. Terms of the first members shall be ~~so~~ arranged so that the term of one member expires each year. ~~Any A~~ Any A vacancy shall be filled for the unexpired ~~portion of the term in which it occurs~~. ~~Any A~~ Any A member may be removed by the town board for cause after a hearing.

Subd. 9. **FIRE PREVENTION.** The town board of ~~supervisors shall have power to~~ may establish a fire department, appoint its officers and members and prescribe their duties, and provide fire apparatus. It ~~shall have power to~~ may adopt ~~such ordinances as are reasonable and expedient~~ to prevent, control or extinguish fires.

Subd. 10. **NAMING AND NUMBERING STREETS.** The town board of ~~supervisors shall have power~~ may by ordinance ~~to~~ name or rename ~~the town~~ streets and public places ~~of the town~~ and ~~to~~ number or renumber ~~the its~~ lots and blocks ~~of the town, or any part thereof~~ of them. It may make and record a consolidated plat of the town.

Subd. 11. **TRANSIENT DEALERS.** The town board of ~~supervisors shall have power~~ may by ordinance ~~to~~ restrain or license and regulate auctioneers, transient merchants and dealers, hawkers, peddlers, solicitors, and canvassers.

Subd. 12. **TAXICABS; BAGGAGE WAGONS.** The town board of ~~supervisors shall have power~~ may by ordinance ~~to~~ license and regulate baggage wagons, dray drivers, taxicabs, and automobile rental agencies and liveries.

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Subd. 13. **ANIMALS.** The town board ~~of supervisors shall have power~~ may by ordinance ~~to~~ regulate the keeping of animals, ~~to~~ restrain their running at large, ~~to~~ authorize their impounding and sale or summary destruction, ~~and to~~ establish pounds, and ~~to~~ license and regulate riding academies.

Subd. 14. **HEALTH.** (a) The town board ~~of supervisors shall have power~~ may by ordinance:

(1) ~~to~~ prohibit or regulate slaughterhouses;

(2) ~~to~~ prevent the bringing, depositing, or leaving within the town of any unwholesome substance or deposit of solid waste within the town not otherwise authorized by law; ~~to~~

(3) require the owners or occupants of lands to remove unwholesome substances or the unauthorized deposit of solid waste and, if it is not removed ~~to~~, provide for ~~its~~ their removal at the expense of the owner or occupant, which expense shall be a lien upon the property and may be collected as a special assessment;

(~~3~~) (4) provide for or regulate the disposal of sewage, garbage, and other refuse; and

(~~4~~) (5) provide for the cleaning of, and removal of obstructions from; ~~any~~ waters in the town and ~~to~~ prevent their obstruction or pollution.

(b) The town board may establish a board of health under section 145A.07, subdivision 2, with all the powers of ~~such boards~~ a board of health under the general laws.

Subd. 15. **NUISANCES.** The town board ~~of supervisors shall have power~~ may by ordinance ~~to~~ define nuisances and provide for their prevention or abatement.

Subd. 16. **AMUSEMENTS.** The town board ~~of supervisors shall have power~~ may by ordinance ~~to~~:

(1) prevent or license and regulate the exhibition of circuses, theatrical performances, amusements, or shows of any kind, and the keeping of billiard tables and bowling alleys; ~~to~~

(2) prohibit gambling and gambling devices; ~~and to~~

(3) license, regulate or prohibit devices commonly used for gambling purposes.

Subd. 18. **REGULATION OF BUILDINGS.** The town board ~~of supervisors shall have power~~ may by ordinance ~~to~~ regulate the construction of buildings.

Subd. 19. **GENERAL WELFARE.** The town board ~~of supervisors shall~~

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have power to ~~may~~ provide for the government and good order of the town, the suppression of vice and immorality, the prevention of crime, the protection of public and private property, the benefit of residence, trade, and commerce, and the promotion of health, safety, order, convenience, and the general welfare by ~~such~~ ordinances ~~not inconsistent~~ consistent with the constitution and laws of the United States ~~or of~~ and this state as it ~~shall deem~~ deems expedient.

Subd. 20. **DEPARTMENTS; BOARDS.** The town board ~~of supervisors~~ may create departments and advisory boards and appoint town officers, employees, and agents ~~for the town~~ as deemed necessary for the proper management and operation of town affairs. ~~The town board~~ It may prescribe the duties and ~~fix~~ the compensation of all officers, ~~both~~ appointive and elective, employees, and agents, ~~when~~ if not otherwise prescribed by law. ~~The town board~~ It may require any officer or employee to furnish a bond conditioned for the faithful exercise of duties and the proper application of, and payment upon demand of, all ~~moneys~~ money officially received by the officer or employee. Unless otherwise prescribed by law, it shall fix the amount of the bonds ~~shall be fixed by the town board~~. The bonds furnished by the clerk and treasurer shall be corporate surety bonds. ~~The town board~~ It may provide for the payment from town funds of the premium on the official bond of any town officer or employee ~~of the town~~. ~~The town board~~ It may, except as otherwise provided, remove any appointive officer or employee when in its judgment the public welfare will be promoted by the removal. This provision does not modify the laws relating to veterans preference or to members of a town police or fire civil service commission or public utilities commission.

Subd. 21. **ENACTMENT OF ORDINANCES.** Every ordinance shall be enacted by a majority vote of all the members of the town board ~~except where~~ unless a larger number is required by law. It shall be signed by the chair of the town board, attested by the clerk and published once in a qualified newspaper having general circulation within the town. If the town board determines that publication of the title and a summary of an ordinance would clearly inform the public of the intent and effect of the ordinance, the town board may by a two-thirds vote of its members, or a four-fifths vote in a town having a five-member board, direct that only the title of the ordinance and a summary be published with notice that a printed copy of the ordinance is available for inspection by any person during regular office hours of the town clerk and at any other location which the town board designates. A copy of the entire text of the ordinance shall be posted in the community library, if there is one, or if not, in any other public location which the town board designates. Before the publication of the title and summary the town board shall approve the text of the summary and determine that it clearly informs the public of the intent and effect of the ordinance. ~~The Publishing of the title and summary shall be deemed to fulfill all legal publication requirements as completely as if the entire ordinance had been~~ is published. The text of the summary shall be published in a body type no smaller than ~~brevier or~~ eight-point type, ~~as defined in section 331.07.~~ Proof of the publication shall be attached to and filed with the ordinance. Every

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ordinance shall be recorded in the ordinance book within 20 days after publication of the ordinance or its title and summary. All ordinances shall be suitably entitled and shall be substantially in the style: "The Town Board of Supervisors of ordains:".

Subd. 22. **PENALTIES.** The town board of ~~supervisors~~ shall have the power to may declare that the violation of any ordinance shall be is a penal offense and to prescribe penalties ~~therefor~~ for it. No penalty shall exceed that ~~which is~~ provided by law for a misdemeanor, but the costs of prosecution may be added.

Subd. 23. **FINANCING PURCHASE OF CERTAIN EQUIPMENT.** The town board of ~~supervisors~~ may issue certificates of indebtedness within existing debt limits ~~for the purpose of purchasing to purchase~~ fire or police equipment or ambulance equipment or street construction or maintenance equipment. ~~Such~~ The certificates shall be payable in not more than five years and shall be issued on ~~such~~ terms and in ~~such~~ the manner as the board may determine. If the amount of the certificates to be issued to finance ~~any such a~~ purchase exceeds one percent of the net tax capacity of the town, excluding money and credits, they shall not be issued for at least ten days after publication in the official newspaper of a town board resolution determining to issue them; ~~and~~. If before the end of that time, a petition asking for an election on the proposition signed by voters equal to ten percent of the number of voters at the last regular town election is filed with the clerk, ~~such~~ the certificates shall not be issued until the proposition of their issuance has been approved by a majority of the votes cast on the question at a regular or special election. A tax levy shall be made for the payment of the principal and interest on ~~such~~ the certificates as in the case of bonds.

Subd. 24. **PARKS; PARKWAYS; RECREATIONAL FACILITIES.** ~~Any A~~ town may establish, improve, ornament, maintain and manage parks, parkways, and recreational facilities and by ordinance protect and regulate their use.

Subd. 25. **VACATION OF STREETS.** The town board of ~~supervisors~~ may by resolution vacate all or part of any street, alley, public grounds, or public way, ~~or any part thereof~~; on its own motion or on petition of a majority of the owners of land abutting ~~on~~ the street, alley, public grounds, public way, or part ~~thereof~~ to be vacated. When there has been no petition, the resolution may be adopted only by a vote of four-fifths of all members of the board of supervisors. No such vacation shall be made unless it appears in the interest of the public to do so after a hearing preceded by two weeks' published and posted notice. After a resolution of vacation is adopted, the clerk shall prepare a notice of completion of the proceedings which shall contain the name of the town, an identification of the vacation, a statement of the time of completion thereof and a description of the real estate and lands affected ~~thereby~~. The notice shall be presented to the county auditor who shall enter ~~the same~~ it in the transfer records and note upon the instrument, over the auditor's official signature, the words "entered in the

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transfer record". The notice shall then be filed with the county recorder. ~~Any~~ Failure to file the notice shall not invalidate ~~any such~~ the vacation proceedings.

Subd. 26. **FINES AND PENALTIES.** All fines, forfeitures, and penalties recovered for the violation of ~~any a~~ a statute or ordinance to which the town is entitled by law shall be paid into the town treasury. Every court or officer receiving money for ~~the a~~ a violation, shall return it under oath in accordance with law, and be entitled to duplicate receipts for the amounts paid. One of the receipts shall be filed with the town clerk.

Subd. 27. **RIGHT OF EMINENT DOMAIN.** ~~All towns possessing A town that has~~ special powers under this section may ~~exercise the right of eminent domain for the purpose of acquiring~~ acquire private property within or without ~~the its limits thereof by eminent domain~~ for any purpose for which it is authorized by law to take or hold ~~the same property~~ by purchase or gift ~~and. It may exercise the right of eminent domain for the purpose of acquiring also~~ acquire by eminent domain a right of way for sewerage or drainage purposes and an outlet for sewerage or drainage within or without ~~the its limits thereof~~. The procedure ~~in the event of condemnation~~ shall be that prescribed by chapter 117.

Subd. 29. **SAVINGS CLAUSE.** This section shall not be construed to repeal or rescind the powers of any town provided ~~for~~ by other law.

Subd. 30. **NOTICE TO COUNTY AUDITOR AND SECRETARY OF STATE.** The town clerk of each town exercising special powers ~~pursuant to~~ under this section shall so notify in writing the county auditor of the county in which the town is located and the secretary of state. The written notice shall be filed by the county auditor and the secretary of state as a public record.

Subd. 31. **CONTINUING AUTHORITY TO EXERCISE POWERS.** If a town exercises a power ~~pursuant to~~ under this section it may continue to exercise the power notwithstanding any ~~subsequent~~ later change in population.

368.015 TOWNS; CENSUS.

A town board may by resolution, in any year, request the United States Bureau of the Census to take a special census of the town ~~for the purpose of being eligible to qualify~~ to exercise the powers contained in section 368.01 as provided ~~in~~ by section 368.01, subdivision 1a. ~~A~~ The town shall bear the cost ~~for of the special census shall be borne by the town.~~

368.44 DISSOLUTION OF CERTAIN TOWNS; GROUNDS.

When the voters residing within a duly organized town in any county in this state having more than 85 congressional townships of land and having a net tax capacity of not less than \$5,000,000 nor more than \$12,000,000 have failed to elect any town officials for more than three years continuously, or the town has failed and omitted to exercise any of the powers and functions of a town, as

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provided by law, which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the auditor of the county, the county board by resolution duly adopted may declare any such town, naming it, duly dissolved and no longer entitled to exercise any of the powers or functions of a town.

368.45 COPY OF DISSOLUTION RESOLUTION FOR SECRETARY OF STATE.

A certified copy of any such resolution shall forthwith, after the adoption of the same by the county board, be forwarded by the auditor of such county to the secretary of state, who shall, on receipt thereof, make an appropriate record of the dissolution of such town.

368.46 DISTRIBUTION OF FUNDS.

Any funds belonging to the town remaining in, or hereafter coming into, the treasury of the county in which such town shall be located, shall be disposed of in the following manner:

Any road or bridge funds shall be expended by the county board of any such county for road and bridge improvements wholly within the limits of such town; any other funds of such town shall, by the auditor of such county, be used to pay, and the auditor shall pay, all outstanding warrants or judgments against the town; and, if the funds so remaining are not enough to pay such outstanding warrants or judgments, upon petition of the holders thereof, the county auditor shall spread a levy against the taxable property of the town in an amount sufficient to pay the same; any other funds of such town shall, by the county auditor, be credited to the general fund of the county.

368.47 TOWNS MAY BE DISSOLVED.

(1) When the voters residing within a town ~~in this state~~ have failed to elect any town officials for more than ten years continuously; ~~or the;~~

(2) when a town has failed ~~and omitted~~ for a period of ten years to exercise any of the powers and functions of a town; ~~as provided by law; or;~~

(3) when the net tax capacity of ~~any a~~ town drops to less than \$40,000; ~~or;~~

(4) when the tax delinquency of ~~any such a~~ town, exclusive of taxes that are delinquent or unpaid ~~by reason of taxes being because~~ they are contested in proceedings for the enforcement of taxes, amounts to 50 percent of its net tax capacity; ~~or where~~

(5) when the state or federal government has acquired title to 50 percent of the real estate of ~~such a~~ town,

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which facts, or any of them, may be found and determined by the resolution of the county board of the county in which the town is located, according to the official records in the office of the county auditor, the county board by resolution may declare ~~any such~~ the town, naming it, ~~duly~~ dissolved and no longer entitled to exercise any of the powers or functions of a town.

In counties having a population according to the 1930 federal census of not more than 16,000 nor less than 15,000 and having not more than 77 nor less than 75 full or fractional congressional townships; and in counties having a population according to the 1930 federal census of not more than 28,000 nor less than 27,000 and having not more than 91 nor less than 90 full or fractional congressional townships; and in counties having a population according to the 1930 federal census of not more than 210,000 nor less than 200,000 and having not more than 202 nor less than 200 full or fractional congressional townships Cass, Itasca, and St. Louis counties, before ~~any such~~ the dissolution shall become is effective the voters of the town shall express their approval or disapproval of ~~such~~ dissolution. The ~~town~~ clerk of the town shall, upon a petition signed by a majority of the registered voters of the town, filed with the clerk at least 60 days before ~~any a~~ regular or special town election thereof, give notice at the same time and in the same manner of ~~such~~ the election that the question of dissolution of ~~such~~ the town will be submitted for determination at ~~such~~ the election. At ~~such~~ the election ~~when so petitioned for~~ the question shall be voted upon by a separate ballot, the terms of which shall be either "for dissolution" or "against dissolution;" ~~which~~ The ballot shall be deposited in a separate ballot box ~~to be provided~~ and the result of ~~such~~ the voting shall be ~~duly~~ canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the votes cast at the election ~~shall be~~ are for dissolution, ~~such~~ the town shall be dissolved; ~~and,~~ If a majority of the votes cast at the election ~~shall be~~ are against dissolution, the town shall not be dissolved.

When a town is dissolved under ~~the provisions of~~ sections 368.47 to 368.49 the county shall acquire title to any telephone company or ~~any~~ other business ~~being~~ conducted by ~~such~~ the town ~~and such~~. The business shall be operated by the board of county commissioners until ~~such time as a sale thereof it can be made; provided that~~ sold. The subscribers or patrons of ~~such businesses~~ the business shall have the first opportunity of purchase. If ~~such dissolved~~ the town has any outstanding indebtedness chargeable to ~~such~~ the business, the county auditor of the county wherein such dissolved town is located shall levy a tax against the property situated in the dissolved town for the purpose of paying to ~~pay~~ the indebtedness as it becomes due.

368.48 COPY OF RESOLUTION OF DISSOLUTION FOR SECRETARY OF STATE.

A certified copy of ~~any such~~ the resolution shall forthwith, after ~~the~~ its adoption of ~~the same~~ by the county board, be forwarded by the county auditor

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of the county to the secretary of state, who shall on receipt thereof make an appropriate record of the dissolution of ~~such~~ the town.

368.49 DISTRIBUTION OF FUNDS.

Subdivision 1. Any town funds ~~remaining~~ in, or hereafter coming into, the treasury of the county ~~in which such town shall be located~~, shall be disposed of ~~in the following manner as follows~~:

Any Road or bridge funds shall be expended by the county ~~board of any such county~~ for road and bridge improvements wholly within the limits of ~~such the town; and any other funds of such town shall; by the auditor of such county;~~ be credited to the county general fund of the county.

Subd. 2. ~~Where any such~~ If a dissolved township town has any unexpended money in its bond and interest funds and there are no bonds or indebtedness outstanding, ~~any such unexpended the~~ money shall be spent for road and bridge improvements or other legal expenditures within the ~~said township~~ town.

368.85 FIRE PROTECTION.

Subdivision 1. **SPECIAL FIRE PROTECTION DISTRICT ~~ESTABLISHED~~**. Any ~~organized~~ A town may, by resolution adopted by the town board and approved by a majority of the electors residing within the territory affected, ~~in the manner hereinafter provided~~, establish a special fire protection district within ~~such the town~~ in the following manner. The town board shall adopt a resolution particularly describing the territory, district or area ~~within such town~~ which shall constitute a special fire protection district and ~~which shall~~ be entitled to receive fire protection to be paid for from the taxation of the property within ~~such special fire protection the~~ district. Each ~~special fire protection~~ district shall consist of contiguous and compact territory and ~~shall be so~~ constituted so that at least 25 percent of the total net tax capacity of taxable real property ~~therein in it~~ consists of property classified as homestead property and buildings or other structures.

Subd. 2. **SUBMISSION AT ANNUAL MEETING; NOTICE**. ~~Such~~ The resolution shall provide for the submission of the question whether ~~such the~~ special fire protection district shall be established to the voters residing within the ~~limits of the special fire protection proposed~~ district ~~so proposed to be established at the next ensuing annual town meeting or at any a special town meeting which the town board is hereby authorized to may call for that purpose.~~ The notice of ~~such the~~ annual meeting or of ~~such~~ special ~~town~~ meeting shall contain a notice that ~~such the~~ question will be submitted to the electors residing in ~~such the~~ proposed special fire protection district ~~at such meeting~~ and a statement that all cost of fire protection for the ~~special~~ district will be borne by a tax on the property ~~therein in it~~. ~~Such~~ The meeting shall be held at the usual place of holding town meetings ~~within the town~~.

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **MANNER OF VOTING.** For ~~such~~ the election the town board shall provide a separate ballot box where the electors residing within ~~such~~ the proposed special fire protection district shall deposit their ballots. Only electors residing within in the proposed special fire protection district will be entitled to may vote at ~~such~~ meeting upon such on the question.

Subd. 4. **BALLOT.** The town board shall provide ballots ~~to be used at such~~ town meeting, which ballots shall bear the words read "Shall the territory described in the resolution adopted by the town board on the day of, 19....., constitute a special fire protection district?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "No" and a square after it. The voters shall indicate their choice by placing a cross mark in one of ~~said~~ the squares, and a direction to so indicate their choice shall be printed on the ballot.

Subd. 5. **COUNTING AND CANVASSING OF VOTES.** The votes cast at ~~such~~ the special election in ~~said~~ the special ballot box shall be counted and canvassed by the town board or by the judges presiding at ~~such~~ the election; ~~and,~~ If ~~such~~ the proposition shall ~~receive~~ receives a majority of the votes cast by the electors residing within ~~such~~ the proposed special fire protection district, that result will ~~shall~~ be recorded in the minutes of ~~such~~ town the meeting, and the territory described in ~~said~~ the town board's resolution shall thereafter constitute ~~and then~~ be a special fire protection district in ~~said~~ town.

Subd. 6. **TAX LEVY.** The town board shall annually ~~thereafter~~ levy a tax in an amount ~~as~~ necessary on the net tax capacity of all property located within the special fire protection district to provide fire protection for the district it. The tax, with a certified copy of the resolution establishing the district, shall be certified by the town board to the county auditor who shall spread the tax against the property located within the district. The tax shall be collected as other taxes.

Subd. 7. **DISBURSEMENT OF FUNDS.** When ~~such~~ taxes are the tax is collected, ~~the same~~ it shall be paid to the town and disbursed upon the order of the town board ~~for the purpose of providing to provide~~ fire protection in ~~such~~ special fire protection the district. The town board may order ~~such~~ moneys the money, or any part thereof of it, to be paid to ~~any~~ a municipality or volunteer fire department which agrees to furnish and has its fire department headquarters ~~so~~ located so as to be able to conveniently furnish ~~and which shall agree to~~ furnish fire protection to the property within ~~such~~ the district.

Subd. 8. **PLURAL DISTRICTS.** More than one special fire protection district may be established in ~~any~~ a town. ~~Such~~ special fire protection district Districts shall be designated by consecutive numbers in the order of their establishment.

Subd. 9. **DISSOLUTION.** A special fire protection district may be dissolved in the following manner ~~following~~. The town board may submit the question of dissolution of ~~any~~ such special a district at any annual town meet-

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ing ~~and~~. It shall must submit that question at the next annual town meeting on the signed petition of electors residing in ~~such the~~ district equal in number to at least one-half of the number of freeholders in ~~such the~~ district according to the tax record in the county auditor's office filed with the town clerk not less than 45 days before ~~such the~~ annual meeting. Notice that the question will be submitted shall be posted by the town clerk in three public places within the special district not less than two weeks before the annual meeting at which it will be submitted. Only voters residing in the ~~special~~ district shall vote on the question of dissolution ~~and~~. A separate ballot box shall be provided for votes on the question. The town board shall provide ballots for the question of dissolution which shall be in the same form as provided in subdivision ~~2 4~~ except that the question ~~therein stated~~ shall be "Shall Special Fire Protection District No. be dissolved?"; ~~and~~. If a majority vote of those voting on the question vote in the affirmative, the district shall be dissolved; In ~~which that~~ event the results of the election shall be certified by the chair of the town board to the county auditor; ~~and thereafter~~. There shall be no further special levy for fire protection in ~~such the~~ district, but ~~such~~ dissolution shall not relieve the property in ~~such the~~ special district ~~so dissolved~~ from any taxes ~~theretofore~~ levied for ~~special fire protection~~ under the ~~provisions of~~ this section before dissolution.

ARTICLE 3

Section 1. EFFECT OF CHANGES.

The legislature intends the changes in the language of the laws amended by this act to be exclusively changes in style. No change is intended to alter or shall be construed by a court or other authority to alter the meaning of a law.

If a section is amended by this act and also by another act adopted in 1990 and the amendments cannot be edited together in the next publication of Minnesota Statutes, the amendment by this act shall be without effect.

Presented to the governor April 2, 1990

Signed by the governor April 4, 1990, 9:56 p.m.

CHAPTER 402—S.F.No. 2432

An act relating to crimes; requiring cemetery owners to report unlawful removal of bodies to law enforcement authorities and next of kin of the deceased person; prescribing penalties; amending Minnesota Statutes 1988, section 609.502; Minnesota Statutes 1989 Supplement, section 13.82, subdivision 10.

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