

CHAPTER 375

COUNTY BOARDS

375.01 MEMBERS, NUMBER OF.

HISTORY. G.S. 1866 c. 8 s. 84; G.S. 1878 c. 8 s. 92; 1885 c. 6 s. 1; G.S. 1894 s. 657; 1901 c. 17; R.L. 1905 s. 419; G.S. 1913 s. 678; G.S. 1923 s. 650; M.S. 1927 s. 650.

NOTE: It should be kept in mind that many counties are governed by special laws or by general laws with special application.

Where a man assumes to hold and exercise the duties of a public office, an action in the nature of quo warranto will lie against him to test the question whether the office is authorized where he assumes to hold and exercise it. The county of Big Stone, not being an organized county, is not entitled to have the office of county auditor or clerk of the district court. *State ex rel v Parker*, 25 M 215 (220).

Special Laws 1869, Chapter 75, did not organize Kandiyohi county. The recording, in 1869, of a deed in Meeker county of lands in Kandiyohi county is good. *Smith v Anderson*, 33 M 25, 21 NW 841.

The repeal of Special Laws 1889, Chapter 412, by Laws 1895, Chapter 382, did not create a vacancy in the office of county commissioner of Aitkin county; and the commissioners elected under Chapter 412 hold over until their successors are elected and qualified. *State ex rel v Marr*, 65 M 243, 68 NW 8.

Under the provisions of General Statutes 1894, Section 661 (375.03), an entirely new board of county commissioners must be elected at the first election held after the county is redistricted, and the number of its commissioner districts increased from three to five. *State ex rel v Wilder*, 75 M 547, 78 NW 83.

An organized county has no power to create an indebtedness against an unorganized county, attached to it for judicial and other purposes, which will be a valid obligation or indebtedness against it when organized. *First National v Board*, 77 M 43, 79 NW 591.

A special statute is not repealed by a statute general in its terms unless the intention of the legislature to repeal the special law is clear. Special Laws 1871, Chapter 75, and other special acts in reference to the board of county commissioners of Ramsey county, were not repealed by Revised Laws 1905. *State ex rel v Peter*, 101 M 462, 112 NW 866.

The offices of treasurer of a school board and county commissioner are incompatible. *State ex rel v Sword*, 157 M 263, 196 NW 467.

One appointed to a vacancy caused by the death of county commissioner whose term expires on January 1, 1933, holds office only until January 1, 1933. OAG March 30, 1932.

The office of president of village council or mayor of a municipality is incompatible with that of county commissioner. OAG Jan. 22, 1934.

In counties operating under the general law, the county board consists of five commissioners, the chairman being selected by the members. The chairman is entitled to vote on all questions and has the right to have his vote published in the proceedings of the board. 1936 OAG 110, Feb. 21, 1936 (126b).

375.02 COMMISSIONER DISTRICTS.

HISTORY. G.S. 1866 c. 8 ss. 85, 86; G.S. 1878 c. 8 ss. 93, 94; G.S. 1894 ss. 658, 659; R.L. 1905 s. 420; 1913 c. 537 s. 1; G.S. 1913 s. 679; 1917 c. 370; 1923 c. 366 s. 1; G.S. 1923 s. 651; M.S. 1927 s. 651; 1931 c. 105; 1933 c. 77; 1933 c. 363; 1935 c. 279; Ex. 1936 c. 76; 1941 c. 268; 1943 c. 300 s. 1.

After a United States census has been taken the county board may redistrict the county without any formal or official announcement or certification by the

MINNESOTA STATUTES 1945 ANNOTATIONS

375.03 COUNTY BOARDS

2320

census bureau. Such redistricting is prospective as to duly elected members. *Norwood v Holden*, 45 M 313, 47 NW 971.

A repeal of Special Laws 1889, Chapter 412, by Laws 1895, Chapter 382, did not create any vacancy in the office of county commissioner of Aitkin county, but a full board of five commissioners should be elected at the next general election, those for odd-numbered districts for two years and even-numbered districts for four years, as provided in section 375.03. *State ex rel v Marr*, 65 M 243, 68 NW 8.

The provision that no city of the second class shall be in more than two commissioner districts is not unconstitutional, as against the objection that it is arbitrary, capricious, and discriminatory. *State ex rel v Cooke*, 195 M 101, 262 NW 163.

There is no universal rule by which the directory provisions in a statute may be distinguished from the mandatory. This section, which provides that when 30 per cent or more of the population of any county is in one commissioner district such county shall be redistricted by the county board, is mandatory. *State ex rel v Pohl*, 214 M 221, 8 NW(2d) 227.

An action was brought to enjoin the county commissioners from redistricting the county until the question was submitted to the voters as provided in Laws 1943, Chapter 300. This present action is an application for a writ of prohibition directed to certain district judges prohibiting them from further progress in the proceedings against the board. The remedy is denied. *State ex rel v Johnson*, 216 M 219, 12 NW(2d) 343.

Districting of county commissioner districts in a county is purely a legislative function. Under Laws 1943, Chapter 300, the county board properly submitted the question of redistricting to the voters. *Gerlich v Sanger*, 217 M 510, 15 NW(2d) 12.

Where a county was redistricted and two of the new commissioners were placed outside the districts from which they were elected, such commissioners will be entitled to hold office for two years or until their successors are elected at the next general election; and should the new commissioners move into and reside in the new district, they would not be entitled to hold office for four years. 1934 OAG 241, Dec. 3, 1934 (798f).

When a county has once been redistricted after a federal or state census, there may not be another redistricting until after another census. OAG April 8, 1936 (798d).

Changes cannot be made in the boundaries of districts by the commissioner except upon due notice of the meeting. 1942 OAG 104, Nov. 12, 1942 (798B).

375.03 TERM OF COMMISSIONERS.

HISTORY. G.S. 1866 c. 8 s. 88; G.S. 1878 c. 8 s. 96; 1885 c. 6 s. 3; G.S. 1894 s. 661; 1903 c. 313; R.L. 1905 s. 421; G.S. 1913 s. 680; G.S. 1923 s. 652; M.S. 1927 s. 652.

Commissioners in office elected under Special Laws 1889, Chapter 412, will continue to hold office until their successors are elected and qualified, notwithstanding the repeal accomplished by Laws 1895, Chapter 382; and a full board of five commissioners should be elected at the next general election. *State ex rel v Marr*, 65 M 243, 68 NW 8.

An entirely new board of county commissioners must be elected at the first election after a county is redistricted and the number of its commissioner districts increased from three to five. *State ex rel v Wilder*, 75 M 547, 78 NW 83.

An appointee to fill a vacancy in the county board in a county not newly organized or in which the number of commissioners is not increased, holds only **until the next election occurring after there is sufficient time to give the notice prescribed by law and until a successor is elected and qualified.** *Prenevost v Delorme*, 129 M 359, 152 NW 758.

The office of county commissioner and that of sergeant-at-arms of the state legislature are not incompatible. OAG March 3, 1933.

375.04 TIE DETERMINED BY LOT.

HISTORY. G.S. 1866 c. 8 s. 90; G.S. 1878 c. 8 s. 98; G.S. 1894 s. 663; R.L. 1905 s. 422; G.S. 1913 s. 681; G.S. 1923 s. 653; M.S. 1927 s. 653.

The official count disclosed a majority for the contestee, who was declared elected. A contest was instituted and the district court made findings that each candidate received an equal number of votes and the tie was determined by lot in favor of the contestant. The supreme court reversed the lower court because one ballot counted for respondent was not a legal ballot. *Lannon v Ring*, 107 M 453, 120 NW 1082.

375.05 SALARIES OF COUNTY COMMISSIONERS.

HISTORY. G.S. 1866 c. 8 s. 92; 1873 c. 44 s. 1; G.S. 1878 c. 8 s. 100; 1881 c. 37 s. 1; 1881 c. 52 s. 1; Ex. 1881 c. 28 s. 1; 1885 c. 88; 1891 c. 62; 1893 c. 154; G.S. 1894 s. 665; R.L. 1905 s. 423; 1907 c. 204; 1909 c. 388; 1911 c. 374; 1913 c. 308 s. 1; G.S. 1913 s. 684; 1919 cc. 242, 487; G.S. 1923 s. 656; M.S. 1927 s. 656.

Section 375.06 does not modify the express provisions of section 375.05 insofar as the latter section fixes the compensation of county commissioners in counties having a certain assessed valuation. *Nelson v County of Itasca*, 131 M 478, 155 NW 752.

The proviso in Laws 1919, Chapter 487, does not apply to the salary level in the specified counties as such, but only continues the old salaries for the commissioners then in office until the expiration of their terms. *State ex rel v Remmey*, 170 M 293, 212 NW 445.

The office of county commissioner is within the prohibition of Minnesota Constitution, Article 4, Section 9, that no senator or representative shall hold "an office under the state" which has been created, or the emoluments of which have been increased, during the session of the legislature of which he was a member, until one year after the expiration of his office. *State ex rel v Erickson*, 180 M 246, 230 NW 637.

Where the valuation in a county is reduced, salaries of county commissioners are also reduced, effective at the beginning of the new year. OAG Feb. 7, 1933.

The legislature has power to change salaries of county officers at any time. OAG Feb. 21, 1933.

County commissioners elected in 1929 are subject to reductions in salary, caused by reduction in assessed valuation before the expiration of their term. OAG April 27, 1933.

The county commissioners are not entitled to mileage while on welfare work. OAG May 11, 1933.

The county commissioner is not entitled to mileage for investigations with reference to mothers' pensions. OAG June 14, 1933.

Compensation, mileage, use of car, members of county welfare board as affected by Laws 1939, Chapter 99, Section 16. 1942 OAG 218, Sept. 29, 1941 (125a-64).

When attending the state association meeting of county commissioners, members are not reimbursed for their expenses. OAG Jan. 19, 1944 (124j); OAG Nov. 18, 1944 (124j).

375.055 SALARIES IN CERTAIN COUNTIES.

HISTORY. 1945 c. 526 ss. 1, 2, 4 to 6.

375.06 COMPENSATION AND MILEAGE IN COUNTIES HAVING LESS THAN 75,000 INHABITANTS.

HISTORY. 1907 c. 296; 1911 c. 283; 1913 c. 456 s. 1; G.S. 1913 s. 685; G.S. 1923 s. 657; M.S. 1927 s. 657.

Section 375.06 does not modify the expressed provisions of section 375.05 as to the limitations of compensation to an \$800.00 yearly salary, plus actual traveling expenses not to exceed during the year the sum of \$1,200 for all the members of the board. *Nelson v County of Itasca*, 131 M 478, 155 NW 752.

A county commissioner in attending board meetings is entitled to compute mileage for the distance "necessarily traveled" by the usual travel route from his residence to the county-seat. *County of Marshall v Rocky*, 134 M 346, 159 NW 791.

MINNESOTA STATUTES 1945 ANNOTATIONS

375.07 COUNTY BOARDS

2322

Laws 1933, Chapter 410, amending section 375.17, is constitutional. 1934 OAG 213, Jan. 12, 1934 (314b-4).

A public officer takes his office "cum onere" and there is no provision permitting the county board to receive a salary or per diem for special meetings; nor is compensation allowable where the entire board meets as a committee. Payment may be per diem to individual members when in the discharge of their duties while acting on committees working under direction of the board. 1936 OAG 111, Feb. 26, 1936 (124a).

The county board is without authority to appoint its entire membership as a "committee," but this section does not limit the number of committee meetings for which per diem and mileage may be paid, and per diem and mileage payable to individual members of the board acting as a committee under direction of the board is not limited to any particular number of meetings. 1938 OAG 117, April 20, 1938 (124a).

County commissioners cannot charge \$3.00 per day and mileage for investigating applications for tax reductions or abatements. A member appointed on a committee for such investigation may make a charge. 1940 OAG 205, Dec. 28, 1939 (124j).

The board is entitled to charge mileage for only 12 return trips, even though some of the monthly meetings last more than one day. OAG Feb. 25, 1933.

Commissioners may not charge for mileage expenses in making investigations under the poor relief act. OAG Feb. 25, 1933.

Administration of the seed loan act, while it increases the service of the members of the board, does not allow additional compensation of mileage. OAG April 19, 1937 (833k).

The expenses of county commissioners in attending a state convention is not a proper charge against the county. The statutory provisions relating to mileage and expenses differ as between the county board and the county welfare board. OAG Nov. 18, 1944 (124j).

375.07 MEETINGS; QUORUM.

HISTORY. G.S. 1866 c. 8 ss. 93, 94; 1874 c. 74 s. 1; G.S. 1878 c. 8 ss. 101, 102; 1885 cc. 87, 99; 1887 cc. 33, 96; 1889 cc. 172, 173, 180, 182; 1891 c. 125; G.S. 1894 ss. 666, 667; R.L. 1905 s. 424; G.S. 1913 s. 686; G.S. 1923 s. 658; M.S. 1927 s. 658.

A majority vote is essential for the making or modifying of a contract. The chairman has no authority, other than that conferred by the board, to lease premises for the county. *Gardner v Commissioners*, 21 M 33.

Where the county commissioners met in regular session on January 6 and continued in session until January 8, and adjourned until January 14, the meetings were legal, it not being required that they remain in continuous session nor is there any provision against an adjournment of six days or more. *Banning v McManus*, 51 M 289, 53 NW 635.

The fact that the board of county commissioners delayed the appointment of viewers a number of months after the report of the engineer was made does not invalidate the proceedings. *McMillan v Board*, 93 M 16, 100 NW 384.

The board adjourned its January meeting to March 18, then to March 19, then to June 19, and then to June 20, on which day it passed a resolution designating a newspaper for the publication of the delinquent tax list. As the time fixed and limited by law for that purpose had previously expired, the board did not have jurisdiction to pass such resolution. *Finnegan v Gronell*, 63 M 53, 65 NW 128, 348.

The meeting of the board of commissioners of Hennepin county held pursuant to Special Laws 1877, Chapter 205, on the first Monday of January is the "annual meeting in January" at which it was authorized to designate the newspaper in which the delinquent tax list should be published. *Reimer v Newel*, 47 M 237, 49 NW 865.

Four members may exercise the legislative powers of the board. *Swedback v Olson*, 107 M 420, 120 NW 753.

The chairman of the county board has a right to vote on all questions as a member thereof, and to have his vote published in the proceedings of meetings the same as other members. 1936 OAG 110, Feb. 21, 1936 (126b).

Meetings of the board, other than the meetings held on the first Tuesday after the first Monday in January and the second Monday in July each year, are adjournments of these regular meetings; and the number of votes required to pass a resolution is not sufficient to pass an amended resolution, as an amendment may only be adopted by a majority of the whole board. 1936 OAG 113, Sept. 6, 1935 (125a-14).

Where on a matter before the board two voted yes on the proposition, one voted no, and the other one did nothing, it is held that the majority of the board did not vote and consequently the resolution was not adopted. 1938 OAG 118, July 29, 1937 (125a-14).

Where in passing upon bids submitted, the lowest bid received two votes, two other board members present did not vote, and the fifth member was absent, a majority of the board did not vote on this proposition and a motion to accept the bid did not carry. 1490 OAG 112, May 6, 1940 (707a-7).

Even though it be primary election day, the board must meet on the second Monday in July. OAG July 5, 1944 (450a-3).

375.08 BOARD TO FILL VACANCIES IN COUNTY OFFICES.

HISTORY. G.S. 1866 c. 8 ss. 102, 115, 128, 168, 187, 206, 224; 1871 c. 92 s. 1; 1877 c. 71 s. 2; G.S. 1878 c. 8 ss. 112, 134, 147, 196, 218, 238, 256; G.S. 1878 c. 36 s. 59; 1881 c. 6 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 8 s. 102a; G.S. 1894 ss. 669, 679, 712, 725, 786, 816, 837, 855, 3740; R.L. 1905 s. 425; G.S. 1913 s. 687; G.S. 1923 s. 659; M.S. 1927 s. 659; 1939 c. 153.

In November, 1866, Ellsburry was elected register of deeds for Winona county for regular term of two years commencing January 1, 1856, and held the office until March 11, 1869. At the November, 1868, election Goddard was elected register but died without qualifying. On March 11, 1869, Beeman was appointed register and continues in office. At the November, 1869, election Loring received a majority of the votes for register. Goddard's death did not create a vacancy. No appointment could be made to supersede Ellsburry, who was entitled to hold until his successor was elected and qualified, nor was there any provision for an election of register to succeed Ellsburry except at regular election in November, 1870. The election of Loring in 1869 was unauthorized and he had no right to the office. *State v Benedict*, 15 M 198 (153).

Ring was elected and qualified as county treasurer for a term commencing March 1, 1878, and in November, 1879, was reelected to the office for the term commencing March 1, 1880, but did not qualify for such second term as required by statute but continued to hold office until June 21, 1880. The office became vacant, in respect to such second term, when Ring did not qualify therefor by January 15, and it was the duty of the commissioners to appoint a person to the office for a period commencing March 1, 1880. The obligation of the sureties did not extend to a period subsequent to the end of the first term and does not cover the period from March 1, 1880, to June 21, 1880. *County v Ring*, 29 M 398, 13 NW 181.

During the pendency of proceedings for the removal of a county treasurer from office he may resign; but he is not eligible for appointment to the same office for remainder of the same term until acquitted or the proceedings dismissed. His eligibility for the office during the remainder of the term is involved in the removal proceedings, which may be prosecuted after he has resigned. *State ex rel v Dart*, 57 M 261, 59 NW 190.

County commissioners have no power to remove the county superintendent of schools. They can only fill the office after it has been vacated. *State ex rel v Hays*, 105 M 399, 117 NW 615.

The term of a county officer appointed upon the formation of a new county, continues until the first Monday in January following the next general election at which county officers are elected in all counties of the state. *Imsdahl v Weeks*, 158 M 512, 197 NW 973.

A person was duly elected to the office of county superintendent of schools. The opposing candidate, the incumbent of the office, instituted a contest, making no claim to the office. Judgment was for the contestee in the district court and the contestant surrendered the office and the contestee qualified. The supreme court

MINNESOTA STATUTES 1945 ANNOTATIONS

375.09 COUNTY BOARDS

2324

directed judgment of ouster to be entered against the contestee. He thereupon resigned and respondent was appointed to fill the vacancy. A vacancy existed and respondent could be appointed. *State ex rel v Billberg*, 131 M 1, 154 NW 442.

No lawful ballots can be cast for the office of sheriff at a general election unless the term of the incumbent expires on the first Monday in January following such election. *Evens v Borgen*, 189 M 216, 248 NW 744, 249 NW 183.

A deputy county auditor is not elected or appointed for a regular term so as to be denied the benefits of the workmens compensation law. *Whaling v County of Itasca*, 194 M 302, 260 NW 299.

The vacancy in the office of the register of deeds of Hennepin county ensuing upon the death of August W. Skog, who was reelected in 1938, was one to be filled by appointment, not by election, and relator is not entitled to file for that office in the 1940 primaries or election. *State ex rel v Erickson*, 208 M 402, 294 NW 373.

Court commissioners are elected at the same time as other county officers and for a similar period. OAG Dec. 18, 1934 (128e).

Ruth H. Peterson, the duly elected and qualified county treasurer, elected for a term ending December 31, 1937, was married on August 1, 1936, to a resident of North Dakota and ever since her marriage she and her husband have apparently maintained a home in North Dakota returning occasionally to Clearwater county, and the office is being handled entirely by a deputy. A vacancy exists by an operation of law since the incumbent changed her place of business. The county board can then proceed to fill the vacancy; but, if the incumbent could prove that she has not in fact changed her residence, the action of the board would be null. The question could be determined by quo warranto proceedings. 1938 OAG 151, Aug. 30, 1937 (450a-15).

A county officer, who was also the officer-elect, died between election and the end of the term. A vacancy in office existed at once to be filled by the commissioners; and on the first Monday in the succeeding January a vacancy again existed to be filled by the commissioners. 1940 OAG 209, Sept. 13, 1939 (59a-32).

On death of the register of deeds, his deputy may continue the office temporarily until a new register is selected, but the bond of the deceased register does not cover deputy. 1942 OAG 203, June 22, 1942 (373A-2).

A deputy temporarily filling the office after the death of the county treasurer receives his salary as deputy only. OAG Feb. 25, 1944 (450a-3).

Where a vacancy occurs in the office of county commissioner and the term has two years to run, the new appointee only holds office until the beginning of the official year following the next election, and this even if a candidate must file by petition. OAG June 17, 1944 (126g).

375.09 MAY NOT HOLD OTHER OFFICE; NO INTEREST IN CONTRACT; VIOLATION; MALFEASANCE.

HISTORY. G.S. 1866 c. 8 s. 110; 1876 c. 73 s. 1; G.S. 1878 c. 8 s. 124; G.S. 1894 s. 696; R.S. 1905 s. 447; G.S. 1913 s. 772; G.S. 1923 s. 778; M.S. 1927 s. 778.

Because of the duties of each, relative to schools, the offices of treasurer of a school district and county commissioner are incompatible. *State ex rel v Sword*, 157 M 263, 196 NW 467.

The county board cannot enter into a contract with an oil company in which one of the commissioners is a stockholder. OAG Jan. 11, 1935 (707b-6).

If the county treasurer has no voice in designating depositories, he may act as a director of the national bank in his county wherein the county deposits funds; but the county board of audit, consisting of the chairman of the board, clerk of court, and county auditor, may not qualify as directors or be interested in the depository bank. 1940 OAG 114, July 21, 1939 (90b-2).

375.10 FILLING VACANCY IN OFFICE OF COMMISSIONER.

HISTORY. G.S. 1866 c. 8 s. 95; 1887 c. 173 s. 1; G.S. 1878 Vol. 2 (1888 Supp.) c. 8 s. 104; G.S. 1894 s. 670; R.L. 1905 s. 426; G.S. 1913 s. 688; 1923 c. 315; G.S. 1923 s. 660; M.S. 1927 s. 660; 1935 c. 84 s. 1.

Laws 1895, Chapter 382, repealing Special Laws 1889, Chapter 414, did not create any vacancy in the office of county commissioner of Aitkin county and those previously elected under Chapter 414 continue to hold until their successors are elected and qualified. A full board of five commissioners should be elected at the next general election. State ex rel v Marr, 65 M 243, 68 NW 65.

A board of county commissioners was composed of five members, each representing a district, one of whom failed to qualify. No steps were taken to fill the vacancy. The four members may exercise the legislative powers of the board. Swedback v Olson, 107 M 420, 102 NW 753.

Where a member of the board of appointment purposely absents himself from the locality to avoid the personal service required by section 375.01, intending to frustrate action by the board, such personal service is excused and the board's action in filling such vacancy, in the absence of such member, is valid. State ex rel v Holmes, 195 M 423, 263 NW 293.

A person appointed to fill a vacancy in the office of county commissioner holds until the beginning of the official year next following the next general election. OAG May 2, 1934 (126h).

A vacancy to be filled at a general election is for the unexpired term and not for a full term of four years. OAG June 5, 1936 (126h).

375.11 SEAL; AUTHENTICATED COPIES OF BOARD PROCEEDINGS PRIMA FACIE EVIDENCE.

HISTORY. G.S. 1866 c. 8 s. 96; G.S. 1878 c. 8 s. 105; 1879 c. 29 s. 1; G.S. 1894 s. 671; R.L. 1905 s. 427; G.S. 1913 s. 689; G.S. 1923 s. 661; M.S. 1927 s. 661.

The resolution offering a reward, passed at an ordinary session of the board, signed by the county auditor, as clerk of the board, attested by its seal, and published, was an act, although unauthorized, and the individual members of the board cannot be held responsible. Schieber v Von Arx, 87 M 298, 92 NW 3.

List of officers who may take acknowledgments and administer oaths. 1934 OAG 646, March 23, 1933 (834a).

375.12 PUBLICATION OF PROCEEDINGS.

HISTORY. G.S. 1866 c. 8 s. 96; G.S. 1878 c. 8 s. 105; 1879 c. 29 s. 1; G.S. 1894 s. 671; R.L. 1905 s. 428; 1907 c. 447; G.S. 1913 s. 690; G.S. 1923 s. 662; M.S. 1927 s. 662; 1941 c. 507.

See annotations under 375.11.

The letting of a contract for the publication of the proceedings of the county board to the highest bidder, who agreed to have the publication made in seven other newspapers of the county, is not a violation of that portion of the statute authorizing rejection of any offer if, in the judgment of the county board, the interest of the county so requires. Cain v County of Wabasha, 164 M 142, 204 NW 916.

The duty of the county board to publish a financial statement of the county, as provided in 375.17, is mandatory; but if it appears that the county board, because of an unlawful combination of all the newspapers of the county to destroy competition in bidding, can make no lawful contract for the publication of the statement, a writ of mandamus will not be granted. State ex rel v Tauer, 178 M 484, 227 NW 499.

A written resolution and agreement duly adopted by the county board, not entered upon its minutes and not published, is not invalid. County v Klyver, 180 M 423, 230 NW 891.

The county commissioners may advertise for bids and award contracts to the lowest bidder notwithstanding the NRA code. 1934 OAG 189, Dec. 31, 1934 (707a-9).

County board proceedings can only be published in a legally qualified newspaper. 1934 OAG 632, Dec. 31, 1934 (314b).

Although the personnel of the county welfare board and of the board of county commissioners of Hennepin county are identical, the two boards are separate legal entities and the county welfare board is not required to publish minutes of their meeting, but their disbursements are to be listed and published in the county financial statement. 1938 OAG 158, May 22, 1934 (125a-64).

MINNESOTA STATUTES 1945 ANNOTATIONS

375.13 COUNTY BOARDS

2326

The notices required by Laws 1935, Chapter 386, Section 2, should be published in the newspaper designated by the county board pursuant to section 375.12, that being the official newspaper of the county. 1938 OAG 408, Jan. 5, 1938 (277a-10).

Where a certain named county official has the duty to publish a notice the county board would have no right to dictate to him in what paper the publication should be made. It is not required to advertise for bids for printing the primary election ballots and other election supplies, but the county auditor must require the printer to give the required bond. 1940 OAG 107, June 12, 1940 (707a-7).

Where two bids are for the same amount the board may use its discretion and choose one; and having made its choice, the board cannot rescind its action at any later meeting. OAG Jan. 26, 1945 (277c-1).

Validity of an appropriation of public funds for payment of a moral obligation arising through reliance on an unconstitutional statute. 20 MLR 550.

375.13 CHAIRMAN.

HISTORY. G.S. 1866 c. 8 s. 97; G.S. 1878 c. 8 s. 106; G.S. 1894 s. 672; 1903 c. 37; R.L. 1905 s. 429; G.S. 1913 s. 691; G.S. 1923 s. 663; M.S. 1927 s. 663; 1937 c. 135 s. 1.

The chairman of the board of county commissioners has no power, other than that conferred by the board, to lease premises for the county. *Gardner v Commissioners*, 21 M 33 (38).

The chairman of a board may vote on all matters and has a right to have his vote on all questions published. 1936 OAG 110, Feb. 21, 1936 (126b).

A board may adopt its own rules and regulations as to procedure and the chairman has the right to make or second a motion while occupying the chair. 1938 OAG 124, March 25, 1938.

When the county commissioners abolish the poor farm and decide to lease it pending sale, there must be a compliance with sections 373.01, 373.02, and 375.13. OAG Feb. 18, 1936 (126a-36).

375.14 OFFICES AND SUPPLIES FURNISHED FOR COUNTY OFFICERS.

HISTORY. G.S. 1866 c. 8 s. 101; 1870 c. 44 s. 2; 1873 c. 45 s. 1; G.S. 1878 c. 8 s. 110; 1891 c. 63 s. 1; G.S. 1894 s. 677; 1903 c. 151; R.L. 1905 s. 430; G.S. 1913 s. 692; G.S. 1923 s. 664; M.S. 1927 s. 664.

The county board has no power to incur liability for the county which, with the ordinary yearly expenses and other liabilities payable within the year, will exceed the amount of funds in the county treasury, and the maximum which can be assessed as one year's taxes for county purposes. *Rogers v Le Sueur County*, 57 M 434, 59 NW 488.

The financial condition of counties, as shown by the relation of bonded indebtedness and the assessed valuation of property, is a proper basis for classification for the purpose of legislation with reference to the increase of indebtedness by the issuing of bonds without a popular vote. *Wall v County*, 105 M 403, 117 NW 611.

Where the county constructed a building for a jail and sheriff's residence and fitted up and used one cell-room as a jail, but, having no other county building, appropriated the remainder of the building for use as county offices and installed several county officers therein, the sheriff cannot oust the other officers from the building. *Curtis v County of Lincoln*, 136 M 25, 161 NW 210.

The board has legal authority to furnish such books as may be required by the county attorney's office. 1934 OAG 235, Feb. 4, 1933 (107b).

The county treasurer has no authority to pay bills for supplies except upon approval by the county board. 1934 OAG 236, Jan. 23, 1934 (104a-12).

A sub-committee of the board, called the purchasing committee, has power to order supplies and necessities, but all charges therefor must be presented to the board for allowance. The committee cannot be given power to allow claims for its purchases. 1934 OAG 238, Feb. 14, 1934 (125a-40).

If the abstracts are made by the register of deeds under the provisions of section 386.37, the county, under section 375.14, may pay for the stationery and

similar supplies used by the register of deeds in abstract business. 1938 OAG 144, July 15, 1938 (125a-52).

Forms and supplies for the coroner's office may be allowed as legal claims against the county. 1940 OAG 188, March 20, 1940 (103k).

Laws 1939, Chapter 319, applies only to those county attorneys who are now provided with clerk hire on monthly basis or by general or special act. If the county attorney has paid for necessary emergency items, he should file an itemized statement with the county for reimbursement. Expenses not provided for by law, including extra clerk hire, mileage, and expenses in connection with criminal investigations, may be filed as claims against county attorney contingent fund as allowed by the district court. 1940 OAG 190, July 28, 1939 (121a-4).

If there is not room in the court-house for the county attorney, the county board may not pay rent for his office elsewhere. OAG May 1, 1933.

The board may furnish the superintendent of schools with an office only at the county-seat. OAG April 29, 1935 (104b-11).

375.15 DAMAGED RECORDS TRANSCRIBED.

HISTORY. G.S. 1866 c. 8 s. 101; 1870 c. 44 s. 2; 1873 c. 45 s. 1; G.S. 1878 c. 8 s. 110; 1891 c. 63 s. 1; G.S. 1894 s. 677; R.L. 1905 s. 432; G.S. 1913 s. 694; G.S. 1923 s. 666; M.S. 1927 s. 666.

Under the provisions of this section the register of deeds may have certain record books transcribed, to take the place of those pages where the ink has faded. 1940 OAG 202, June 24, 1940 (851p).

375.16 APPROPRIATION FOR EXPENSES.

HISTORY. G.S. 1866 c. 8 s. 81; G.S. 1878 c. 8 s. 89; 1889 c. 171 s. 1; G.S. 1894 s. 644; 1903 c. 337; R.L. 1905 s. 431; 1907 c. 390 s. 1; G.S. 1913 s. 693; 1919 c. 305; G.S. 1923 s. 665; M.S. 1927 s. 665.

The county may furnish postage for those departments established locally by the federal government for the relief of distress resulting from the depression. OAG Aug. 23, 1934 (107b-1).

375.17 PUBLICATION OF FINANCIAL STATEMENTS.

HISTORY. G.S. 1866 c. 8 s. 103; 1872 c. 59 s. 1; G.S. 1878 c. 8 s. 113; 1885 c. 111; G.S. 1894 s. 680; 1903 c. 390; R.L. 1905 s. 433; 1907 c. 205 s. 1; G.S. 1913 s. 695; G.S. 1923 s. 667; M.S. 1927 s. 667; 1933 c. 410; 1941 c. 370 s. 1; 1945 c. 170 s. 1.

In an action by county board against the sheriff for conversion of funds, he is not entitled to a bill of particulars. If the allegations in the complaint are not sufficiently specific, his remedy is by a motion to have them made more definite and certain. *Board v Smith*, 22 M 97.

In procuring the publication of an annual statement the board of commissioners acts under limited statutory authority, and, in order to bind the county for any contract made for such publication, must keep within the limits of such authority. *Mitchell v County Commissioners*, 24 M 459.

The statute, providing that a contract for work and labor exceeding a stated amount shall not be let without first advertising for public bids, does not apply to the letting of the contracts for the publication of the proceedings of the county board of equalization and the annual statement. *Bloomquist v County*, 152 M 126, 188 NW 64.

The letting of the contract for the publication of the proceedings of the county board to the highest bidder who agrees to have the publication made in seven other newspapers in the county, is not a violation of that portion of the statute authorizing the rejection of any offer, if in the judgment of the county board the interests of the public so require. *Cain v County*, 164 M 142, 204 NW 916.

The requirement for the publication of the county financial statement is mandatory, but the period of 30 days mentioned therefor is directory only. *State ex rel v Neisen*, 173 M 350, 217 NW 371; *Heidrich v Heffelfinger*, 209 M 343, 296 NW 187.

The duty of the county board to publish the financial statement of the county for three successive weeks in a newspaper published in the county is mandatory. *State ex rel v Tauer*, 178 M 484, 227 NW 499.

This section requires publication of the names of all persons receiving old age assistance or other payments from the county welfare funds and the amounts paid to each. *Heidrich v Heffelfinger*, 209 M 343, 296 NW 181.

The calling for bids and the necessity for letting the publication and printing contracts to the lowest bidder, are not abrogated by the federal code. 1934 OAG 189, Dec. 31, 1934 (707a-9).

It is mandatory that the county board designate two papers for publication of the financial statement. A newspaper designated as the official paper for publication of the financial statement may be designated as the official paper for other official printing. 1934 OAG 212, Nov. 29, 1933 (125a-39).

The county board may reject any offer or bid for publication of the financial statement and thereupon designate a newspaper without regard to any rejected offer. 1934 OAG 213, Jan. 12, 1934 (314b-4).

Although the members of the welfare board are in fact the same persons who make up the board of county commissioners, the two boards are separate and distinct entities. The county welfare board is not required to publish minutes of its meetings but must list and publish its disbursements in the county financial statement. 1938 OAG 158, May 22, 1937 (125a-64).

The provision that the county board call for separate bids for each publication requires that more than one paper be given an opportunity to bid on each issue. OAG Jan. 18, 1939 (277e-1).

Statement of respective powers and duties of county board and county welfare board relating to county poor farm, selection of overseer, and similar. 1942 OAG 278, Jan. 22, 1942 (125-A-64).

375.18 GENERAL POWERS OF BOARD.

HISTORY. G.S. 1866 c. 8 s. 104; 1869 c. 32 s. 1; G.S. 1878 c. 8 s. 114; 1893 c. 180 s. 1; G.S. 1894 s. 681; 1899 cc. 56, 75, 305; 1901 cc. 29, 71; 1902 c. 44; 1903 c. 355; R.L. 1905 s. 434; 1911 c. 89; 1911 c. 255; 1913 cc. 94, 347, 478; G.S. 1913 s. 696; 1915 c. 219; 1917 c. 347; 1919 cc. 125, 139; 1921 c. 337; G.S. 1923 s. 668; M.S. 1927 s. 668; 1941 c. 130.

The board of county commissioners acts under a limited statutory authority. It has the powers expressly granted and such as are fairly implied as necessary to exercise the powers thus granted. Acts or contracts in excess of such authority are ultra vires and void. *Mitchell v Board*, 24 M 459; *Borough v County*, 28 M 515; *Bazille v Board*, 71 M 198, 73 NW 845; *Grannis v Board*, 81 M 55, 83 NW 495.

County surveyors whose compensation is fixed by statute are not entitled to receive pay for the use of horses used by them in their business while at work for their respective counties; and custom or usage on the part of the board to pay such claims does not convert them into legal demands against the county. *State ex rel v Smith*, 84 M 295, 87 NW 775.

The board has no power to issue bonds for the erection of a court-house. *Rogers v Le Sueur County*, 57 M 434, 59 NW 488.

The board may negotiate county bonds through an agent and compensate him. *Cushman v Board*, 19 M 295 (252).

The obligation of the board to repair a ditch does not subject the county, as a municipal corporation, to damages for such officers' neglect to perform their duties. *Gaare v Board*, 90 M 530, 97 M 422.

A municipal corporation is not responsible for the unauthorized acts of its officers though done colore officii; but when it expressly authorizes such act, or adopts and ratifies such act and retains its benefits, the county is liable. *Schussler v Board*, 67 M 412, 70 NW 6.

When the subject matter is within the jurisdiction of a public body or board, defects and irregularities will not be presumed in favor of a party attacking its proceedings, but must be alleged and proved. The presumption is in favor of the

MINNESOTA STATUTES 1945 ANNOTATIONS

2329

COUNTY BOARDS 375.18

validity of the act. *Curran v Board*, 56 M 432, 57 NW 1070; *Gillette v Board*, 69 M 297, 72 NW 123; *Curtis v County of Lincoln*, 136 M 25, 161 NW 210.

A treaty entered into by the United States in accordance with constitutional requirements which is operative by its own force, constitutes a municipal law, binding upon the federal and state courts as well as an international contract. *Minnesota Canal v Pratt*, 101 M 197, 112 NW 395.

When a board has once deliberately acted upon a claim and definitely allowed or disallowed it, and the time for appeal has run, it cannot thereafter set aside its decision. *State ex rel v Peter*, 107 M 460, 120 NW 896.

Corporations, whether public or private, are creatures of the state, deriving their power from statutes providing for their organization; and it is beyond the authority of a local municipal board or council to enlarge the same, or confer upon a corporation powers not possessed by its charter or articles. *International v American Suburbs*, 119 M 77, 137 NW 395.

It is for the board and not the court to determine whether the destroyed court-house should be restored, or the remains thereof razed and a new building erected. Funds being available, the action of the board was legal. *Linster v Luecke*, 186 M 386, 243 NW 395.

The board had authority to accept certificates of deposit for the amount of the county deposit to enable a closed bank to reopen and, as part of the same agreement, to assume payment of a mortgage to the bank in conveyance to the county of certain mortgaged land. *County v Klyver*, 180 M 423, 230 NW 891.

Laws 1929, Chapter 365, authorizes Hennepin county to expend its funds for the construction and improvement of roads within Columbia Heights, a city of the fourth class lying outside the county, where such roads connect with a street in Minneapolis, a city of the first class within Hennepin county. *Tousley v Heffelfinger*, 182 M 447, 234 NW 673.

Where the county has deposits in two banks, the consent by the county treasurer to a consolidation of the two banks does not, in the absence of the consent of the board, establish a novation as to the closed bank. *County of Lyon v First National*, 166 M 109, 207 NW 138.

Where an insurer issued a policy to Martin county, containing an omnibus clause by which the insurance covered an employee while driving the county's automobile with its consent, the insurer will not be heard to question the right of the county to permit its employee to use the automobile. *Schultz v Krosch*, 204 M 585, 284 NW 782.

Unless controlled by a civil service, veteran's preference, or other statute, an employee appointed by the board is subject to removal by the board. *State ex rel v County of St. Louis*, 216 M 140, 12 NW(2d) 193.

The county board may determine under what circumstances the court and jury rooms in the court-house may be used by private organizations. 1936 OAG 95, Jan. 6, 1936 (125a-20).

During the continuance of the county cooperative extension work, the control and management of its equipment is vested in the county cooperative extension committee; and, upon discontinuance of the county extension office, the county auditor should take charge of such equipment until such time as the county board assumes control under this section. 1936 OAG 99, June 1, 1936 (107h-1).

There being sufficient funds available, the board may plan to pay the county's part of a PWA project remodeling the court-house. 1938 OAG 125, Aug. 29, 1938 (125a-20).

The county board has no authority to license games of skill. 1938 OAG 188, March 3, 1937 (733j).

The board has no authority to appropriate money incident to searching for bodies of persons accidentally drowned. OAG Nov. 14, 1934 (107b-1).

The board cannot authorize the collection of delinquent personal property tax on a commission basis. OAG March 7, 1935 (421a-5).

If the board acts in good faith and it is for the best interest of the county, it may compromise and settle a mortgage for less than the full amount. OAG May 2, 1935 (107b-5):

MINNESOTA STATUTES 1945 ANNOTATIONS

375.18 COUNTY BOARDS

2330

The board has no authority to share the expense of establishing and maintaining a local gun range where law enforcement officers may practice marksmanship. OAG Nov. 19, 1935 (107b-1).

If there is no board of public welfare or of poor commissioners, the county commissioners constitute a "county agency" responsible for administration of old age assistance. OAG March 24, 1936 (521b-1).

The county board may appropriate funds to the county agricultural society. OAG March 10, 1937 (125b-1).

The board is without authority to purchase equipment for deputy sheriffs. OAG July 2, 1937 (125b).

Until fixed rights have been established, the board has power to rescind a resolution and pass a new one. OAG Sept. 13, 1937 (125a-14).

A county in need of a gravel pit may buy land forfeited to the state. OAG March 24, 1938 (425c-10).

County may not use funds to purchase a garage building in which to house highway trucks. OAG June 5, 1939 (125a-40).

A county may not appropriate money for the benefit of a city court commission. OAG Sept. 15, 1939 (273a-17).

Where a farmer met a loss by reason of his live stock eating poison grasshopper seed, the county board has no legal authority to reimburse him. OAG June 15, 1939 (125b-13).

The county board may pay clerk hire in carrying out the federal seed loan program. OAG June 13, 1934 (125a-13).

The board has no authority to appropriate funds to reimburse a town for moneys expended in extinguishing a fire. OAG Jan. 16, 1935 (107b-1).

The board may authorize payment of incidental expenses in cooperation with state and federal government in carrying on relief. OAG Jan. 24, 1935 (107b-1).

The county is not liable for the indebtedness incurred by county agricultural society in improving fair grounds. OAG Feb. 5, 1935 (772a-2).

A Minnesota tax commissioner has authority to accept a compromise settlement of delinquent real estate taxes upon the recommendation of county commissioners and county auditor, but the county board has no such power. OAG Feb. 16, 1935 (407o).

The board has power to compromise a judgment in its favor if there is grave doubt of the legality of the judgment or if the judgment debtors are of doubtful financial responsibility. OAG Dec. 26, 1933.

The board may designate the county engineer as its agent and authorize the expense of a trip outside of the county limits to cooperate with the state and federal governments in carrying out of relief program. OAG Jan. 14, 1935 (125a-31).

Where the county board determines there is a surplus in the road and bridge fund, moneys may be transferred or borrowed from such fund to pay for an addition to the court-house. OAG Sept. 29, 1934 (107b-16).

Except where there are restrictions on funds having a specific purpose, any fund may be transferred to the poor fund, the duty of the public to care for the poor being absolute. OAG July 3, 1935 (107a-12).

Moneys left for a sinking fund cannot, except for temporary loans, be diverted to other uses. OAG Nov. 30, 1938 (37a-12).

The board cannot appropriate money to a farmer holiday association to defray expenses in settlement of controversies or in the way of relief. OAG April 7, 1933.

The board has no authority to purchase and distribute seed grain to farmers even though there has been a crop failure. OAG Aug. 6, 1934 (107b-1).

Where a fire has destroyed the grandstand on fair grounds the county may use the insurance proceeds to improve the grounds. OAG May 10, 1933.

The board has authority to pay for service and supplies for relief agencies housed in the court-house. OAG March 16, 1934.

The board is empowered to erect and furnish a jail. Whether an electric refrigerator is proper and needed equipment is for the board to decide. 1942 OAG 150, Sept. 28, 1942 (390A-17.)

MINNESOTA STATUTES 1945 ANNOTATIONS

2331

COUNTY BOARDS 375.21

The statute does not provide for a temporary transfer of funds. A transfer may be made only when there is a surplus. OAG July 26, 1944 (125b).

When an appropriation is made to the county agricultural society, any designation as to which exhibit, or use is to receive the benefit of the grant is of no effect. OAG Aug. 3, 1944 (125b-5).

Counties may appropriate money for memorials for veterans. OAG Nov. 9, 1944 (125b-20).

Cost of cooperation in joint tuberculosis hospital may be paid out of available general funds. OAG Dec. 28, 1944 (556a-10).

Men permanently employed by the day in county highway department may be allowed the statutory one day a month sick leave, providing the same rule applies to all county employees. Such rule may be cumulative, but not retroactive. OAG March 17, 1945 (104a-9).

The county treasurer may purchase U. S. government bonds with county funds if directed to do so by the county board. OAG March 20, 1945 (107a-6).

Control of public utilities in Minnesota; utility legislation by the 1892 amendment and Revised Laws 1905. 16 MLR 492.

Business visitors and invitees; premises open to the public. 26 MLR 588.

375.19 ADDITIONAL POWERS.

HISTORY. 1923 c. 241; G.S. 1923 s. 669; M.S. 1927 s. 669.

A county may accept conveyances by way of mortgage on real estate from indigent persons to indemnify or secure the county for support to be rendered. OAG July 25, 1933.

A county board may send a poor tuberculosis patient to any private or public sanatorium within or without the state, and take an assignment of his interest in an estate to indemnify it for expenses which might be incurred under laws relating to poor relief. OAG June 2, 1936.

If a county board determines that it is for the financial advantage of a county, it would appear that this section is broad enough to authorize the payment of the premium on an insurance policy held by a pauper for some time which has no substantial surrender value. 1926 OAG 77, May 23, 1926.

A board of county commissioners, on behalf of the county, may take an assignment of an insurance policy from an indigent person to indemnify the county for his support and maintenance. OAG Aug. 18, 1938.

A county may accept a conveyance from a pauper and sell the equity in the land, but may not assume any existing encumbrances. OAG July 6, 1932.

375.195 SALE OF PUBLIC PROPERTY IN CERTAIN COUNTIES.

HISTORY. 1945 c. 465 ss. 1 to 5.

375.20 QUESTIONS SUBMITTED TO VOTE; BALLOT.

HISTORY. R.L. 1905 s. 450; G.S. 1913 s. 775; G.S. 1923 s. 786; M.S. 1927 s. 786; 1931 c. 384.

Outline of municipal bond procedure in Minnesota. 20 MLR 583.

375.21 CONTRACTS OF COUNTY BOARDS IN CERTAIN COUNTIES.

HISTORY. 1902 c. 50; 1903 c. 186; R.L. 1905 ss. 618, 619; G.S. 1913 ss. 1091, 1092; 1919 c. 355; 1921 c. 376; 1923 c. 80; G.S. 1923 ss. 991, 992; M.S. 1927 ss. 991, 992; Ex. 1934 c. 69; 1935 c. 17; 1939 c. 5; 1939 c. 246; M. Supp. s. 993-1.

A county may agree to pay a reasonable sum for necessary and proper assistance in disposing of its bonds. *First National v County of Cook*, 146 M 103, 177 NW 1013.

The provision that a contract for work and labor exceeding a stated amount cannot be let without first advertising for public bids, does not apply to the letting of the contract for the publication of proceedings of the county board, county board of equalization, and annual statement. *Bloomquist v County of Isanti*, 152 M 126, 188 NW 64.

MINNESOTA STATUTES 1945 ANNOTATIONS

375.22 COUNTY BOARDS

2332

In an action by taxpayers to enjoin the auditor and treasurer from paying the unpaid purchase price of an electric addressograph machine, findings were for the plaintiff. *Barnard v County of Kandiyohi*, 213 M 100, 5 NW(2d) 317.

The requirement that a bid must be accompanied by a contract bond and check cannot be waived. OAG May 25, 1933.

In constructing an addition to a court-house, the county must advertise for bids for material, but labor may be obtained through ERA or relief labor may be used. OAG Sept. 29, 1934 (107b-16).

Bids are not required for insurance premiums. OAG Jan. 8, 1935 (125a-28).

Counties may purchase wood lots to furnish fuel and employment to needy persons without advertising for bids. OAG Feb. 5, 1935 (107b-15).

There being sufficient money on hand and insufficient room in the court-house, the board may buy land and a building next door without a vote of the electorate or a call for bids. OAG May 9, 1935 (125a-41).

County board cannot employ a physician for a definite term or at a definite salary, but the physician attending the poor may be employed without bids, and compensation may change from time to time. OAG Nov. 29, 1935 (104b-7).

Where the statute requires three weeks' published notice of bids, the time set for opening of bids should be more than one week from date of last publication. OAG May 7, 1937 (135a-17).

Where gravel is necessary for county work a gravel pit may be purchased by the board without advertising for bids. OAG July 30, 1937 (125a-41).

Failure to comply with the provisions of the statute relating to bids renders a contract void, but those doing the work and furnishing the material may recover the reasonable value thereof. OAG Aug. 17, 1937 (707a-7).

In order to give employment the county may make independent and special contracts with persons to haul gravel without calling for bids. OAG Jan. 26, 1938 (412a-23).

The county board, pursuant to PWA contract, may employ day labor in remodeling its court-house and need not advertise for bids. OAG Feb. 8, 1938.

A county need not advertise for bids upon the sale of its used road machinery, but where it turns in the used machinery to apply on the purchase price of new machinery in an amount greater than \$500.00 there should be open and competitive bidding. March 11, 1939 (707a-7).

County deciding to purchase an automobile must advertise for bids, it being improper to decide on a particular make of car before bids are submitted. OAG March 8, 1930.

A county having less than 75,000 inhabitants is not required to advertise for bids for printing the primary election ballots and other election supplies, but the county auditor must require the printer to whom the contract is awarded to give the bond required by statute. 1940 OAG 107, June 12, 1940 (707a-7).

Specifications requiring the contractor to pay a certain price to haulers, and that only residents of the county be employed, would be improper. 1942 OAG 100, Oct. 29, 1941 (707B-7).

Where storehouse burns, an emergency may be declared and a new tool house built or acquired without advertising. OAG July 13, 1944 (707a-8).

Assignments of error; requirements of specification. 27 MLR 89.

375.22 EMERGENCY.

HISTORY. 1902 c. 50 s. 4; 1905 c. 189 s. 1; G.S. 1913 s. 1093; G.S. 1923 s. 993; M.S. 1927 s. 993.

375.23 ASSESSMENT AND ROAD DISTRICTS IN UNORGANIZED TERRITORY; ASSESSORS; OVERSEERS OF ROADS.

HISTORY. G.S. 1866 c. 8 s. 105; G.S. 1878 c. 8 s. 119; 1883 c. 50 s. 1; G.S. 1894 s. 691; R.L. 1905 s. 442; 1909 c. 250 s 1; G.S. 1913 s. 764; G.S. 1923 s. 770; M.S. 1927 s. 770; 1945 c. 528 c. 1.

MINNESOTA STATUTES 1945 ANNOTATIONS

2333

COUNTY BOARDS 375.31

A road overseer is not liable to one injured on a public highway because of his failure to keep it in repair and safe for travel. *Stevens v North States Motor*, 161 M 345, 201 NW 435.

A veteran employed as road overseer in April, 1932, may not be discharged without a hearing when the new town board meets in April, 1933. OAG March 31, 1933.

Where a veteran served as road overseer during 1936, 1937 and 1938 the town board, at the expiration of his term, could not employ a discharged soldier for the ensuing year without preferring charges against the veteran. OAG May 11, 1939 (85h).

375.24 APPOINTMENT OF JUSTICES OF THE PEACE AND CONSTABLES IN CERTAIN UNORGANIZED TERRITORY.

HISTORY. 1935 c. 85 ss. 1, 2; M. Supp. ss. 1081-1, 1081-2; 1941 c. 234.

375.25 COUNTY BONDS MAY BE BOUGHT BY FUNDS IN TREASURY; RE-SALE.

HISTORY. 1907 c. 214 ss. 1, 2; M.S. 1927 s. 669-1, 669-2.

375.26 MAY ACCEPT GIFTS OF REALTY.

HISTORY. 1925 c. 13 s. 1; M.S. 1927 s. 669-12; 1933 c. 59; 1939 c. 30.

County may not in conjunction with a city purchase land or contribute to the construction of a war memorial. OAG Oct. 16, 1944 (125b-20).

375.27 LIABILITIES, LIMITATIONS, AND CONDITIONS OF GIFTS OF REALTY.

HISTORY. 1925 c. 13 s. 2; M.S. 1927 s. 669-13.

375.273 ACCEPTANCE OF DONATIONS FOR CARE OF CEMETERIES.

HISTORY. 1945 c. 364 ss. 1 to 3.

375.28 REWARDS FOR CAPTURE OF PERSONS ACCUSED OF CRIME OR ESCAPING FROM JAIL.

HISTORY. 1925 c. 23; M.S. 1927 s. 669-15.

The deputy sheriff picked up three police officers of the city of Austin together with certain police equipment, on his way to a village where there was a bank robbery, engaged in a gun fight, and captured the robbers. No reward having been offered, the county is not obligated to pay, except the limited amount of \$3.00 per day and mileage as provided by statute. 1940 OAG 203, Dec. 11, 1939 (390a-1).

375.29 AWARD FOR MURDERER.

HISTORY. 1935 c. 234; M. Supp. s. 669-15½.

375.30 COUNTY BOARD MAY APPROPRIATE MONEY TO FIGHT RUST.

HISTORY. 1921 c. 142; G.S. 1923 s. 671; M.S. 1927 s. 671.

375.31 COUNTIES MAY INDEMNIFY OFFICERS AND EMPLOYEES.

HISTORY. 1931 c. 330 s. 1; M. Supp. s. 672-1.

The county may pay premiums on an indemnity insurance policy for the protection of its driver on county highway equipment; but is not liable for negligence of its agent in operating the equipment. OAG March 17, 1937 (125a-61).

Contracts for casualty insurance based upon statutory authority. 1942 OAG 281, Jan. 26, 1942 (618A-9).

MINNESOTA STATUTES 1945 ANNOTATIONS

375.32 COUNTY BOARDS

2334

County welfare board employees may be covered by public liability insurance. OAG July 20, 1944 (125a-64).

Governmental responsibility for torts; statutes providing for the indirect assumption of liability. 26 MLR 856.

375.32 COUNTY BOARD MAY PAY PREMIUMS.

HISTORY. 1931 c. 330 s. 2; M. Supp. s. 672-2.

The county may carry liability insurance on its truck drivers. OAG Dec. 9, 1935 (107a-7).

Governmental responsibility for torts; statutes providing for indirect assumption of liability. 26 MLR 856.

375.33 FREE COUNTY LIBRARIES.

HISTORY. 1919 c. 445; G.S. 1923 s. 673; M.S. 1927 s. 673; 1943 c. 94 s. 1.

The county may levy a special tax for library purposes, but the county board has no right to appropriate money therefor from the general revenue fund. 1940 OAG 143, Aug. 21, 1939 (125b-18).

The commissioners of Waseca county may not contract for library services with cities in a neighboring county, but must contract within their own county. 1940 OAG 144, Nov. 10, 1939 (285b).

The county may levy a tax for the purpose of assisting in the maintenance of a public library of a city. OAG March 25, 1939 (285b).

375.34 OBSERVANCE OF MEMORIAL DAY.

HISTORY. 1911 c. 109 s. 1; G.S. 1913 s. 759; G.S. 1923 s. 762; M.S. 1927 s. 762.

375.35 APPROPRIATIONS TO MILITARY SERVICE MEN'S ORGANIZATIONS FOR MEMORIAL DAY EXERCISES.

HISTORY. 1921 c. 233 s. 1; 1927 c. 407; M.S. 1927 s. 762-1.

County may not appropriate money for a G.A.R. auxiliary. OAG March 31, 1944 (125b).

375.36 COUNTY BOARD TO ESTABLISH A SOLDIERS' REST.

HISTORY. 1917 c. 60 s. 1; 1923 c. 335 s. 1; G.S. 1923 s. 763; M.S. 1927 s. 763; 1937 c. 178 s. 1; 1945 c. 257 s. 1.

375.37 "SOLDIERS' REST" USED EXCLUSIVELY FOR SOLDIERS, SAILORS, AND MARINES.

HISTORY. 1917 c. 60 s. 2; G.S. 1923 s. 764; M.S. 1927 s. 764; 1933 c. 336; 1937 c. 178 s. 2; 1945 c. 145 s. 1.

375.38 VIOLATION A MISDEMEANOR.

HISTORY. 1917 c. 60 s. 3; G.S. 1923 s. 765; M.S. 1927 s. 765; 1937 c. 178 s. 3.

375.383 PUBLICATION OF WAR RECORDS.

HISTORY. 1945 c. 571.

375.39 CHANGE OF NAME OF COUNTY; ORDER OF COUNTY BOARD.

HISTORY. 1905 c. 23 ss. 1, 2; G.S. 1913 ss. 697, 698; G.S. 1923 ss. 674, 675; M.S. 1927 ss. 674, 675.

MINNESOTA STATUTES 1945 ANNOTATIONS

2335

COUNTY BOARDS 375.42

375.40 COUNTY BOARD MAY LICENSE EXHIBITIONS AND SHOWS.

HISTORY. 1937 c. 331 ss. 1 to 4; M. Supp. ss. 10536-11 to 10536-14.

375.41 TAKING PART IN UNLICENSED EXHIBITION OR SHOW A MIS- DEMEANOR.

HISTORY. 1937 c. 331 s. 5; M. Supp. s. 10536-15.

375.42 EXCEPTIONS.

HISTORY. 1937 c. 331 s. 6; M. Supp. s. 10536-16.