

CHAPTER 367

TOWN OFFICERS

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367.03 ANNUAL ELECTION OF OFFICERS; VACANCIES; SPECIAL ELECTIONS.

[For text of subs 1 to 5, see M.S.2002]

Subd. 6. **Vacancies.** (a) When a vacancy occurs in a town office, the town board shall fill the vacancy by appointment. Except as provided in paragraph (b), the person appointed shall hold office until the next annual town election, when a successor shall be elected for the unexpired term.

(b) When a vacancy occurs in a town office:

(1) with more than one year remaining in the term; and

(2) on or after the 14th day before the first day to file an affidavit of candidacy for the town election;

the vacancy must be filled by appointment. The person appointed serves until the next annual town election following the election for which affidavits of candidacy are to be filed, when a successor shall be elected for the unexpired term.

(c) A vacancy in the office of supervisor must be filled by an appointment committee comprised of the remaining supervisors and the town clerk.

(d) Any person appointed to fill the vacancy in the office of supervisor must, upon assuming the office, be an eligible voter, be 21 years of age, and have resided in the town for at least 30 days.

(e) 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.

(f) When, for any reason, the town board or the appointment committee fails to fill a vacancy in the position of an elected town officer by appointment, a special election may be called. To call a special election, the supervisors and town clerk, or any two of them together with at least 12 other town freeholders, must file a statement in the town clerk's office. The statement must tell why the election is called and that the interests of the town require the election. When the town board or the appointment committee fails to fill a vacancy by appointment, a special town election may also be called on petition of 20 percent of the electors of the town. The percentage is of the number of voters at the last general election. A special town election must be conducted in the manner required for the annual town election.

(g) Law enforcement vacancies must be filled by appointment by the town board.

[For text of subd 7, see M.S.2002]

History: 2003 c 56 s 2

367.30 OPTIONAL PLANS.

[For text of subd 1, see M.S.2002]

Subd. 2. **Option B; appointment of clerk and treasurer.** A town may provide for the appointment by the town board of its clerk or treasurer, or both, or if combined pursuant to the adoption of option D as defined in subdivision 4, its clerk-treasurer, as provided in sections 367.30 to 367.36. This is option B.

[For text of subd 3, see M.S.2002]

Subd. 4. **Option D; combining clerk and treasurer.** A town may combine the offices of clerk and treasurer. This is option D. The combined office may be made elective or appointive pursuant to option B as provided in subdivision 2. Unless the board action or petition seeking the adoption of option D specifies that the appropriate ballot question for option B is also to be submitted to the voters at the same time as the ballot question on option D, the combined position shall be filled in the manner currently being used for the town clerk position.

History: 2003 c 60 s 1,2

367.31 ADOPTION OF SPECIFIC OPTION.

[For text of subds 1 to 3, see M.S.2002]

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?”

“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 combining 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, or if it is to appoint the combined clerk-treasurer following the adoption of option D or when submitted simultaneously with the ballot question for option D, the ballot question shall be varied to read appropriately. If an option B ballot question is submitted for the combined clerk-treasurer office at the same election in which option D is also on the ballot, the ballot must note that the approval of option B is contingent on the simultaneous approval of option D. 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.

[For text of subds 5 to 7, see M.S.2002]

History: 2003 c 60 s 3

367.34 CONTINUANCE IN OFFICE; ELECTIONS.

Subdivision 1. **Option B; incumbent clerk and treasurer.** If option B is adopted at an election at which a clerk or treasurer, or a clerk-treasurer under option D, is elected, the candidate elected to that office shall not take office and that candidate's election shall be null. Otherwise, when option B is adopted in a town, the incumbent clerk or treasurer, or clerk-treasurer, shall continue to serve until the expiration of their terms or until an earlier vacancy.

Subd. 2. **Abandonment of option B.** When option B is abandoned, the offices of clerk or treasurer, or the office of clerk-treasurer under option D, shall be filled conditionally at that election. The ballot shall indicate that the successful candidate shall take office only if the option is abandoned at the election.

History: 2003 c 60 s 4

367.36 COMBINING THE OFFICES OF CLERK AND TREASURER.

Subdivision 1. **Transition; audit.** In a town in which option D is adopted, the incumbent treasurer shall continue in office until the expiration of the term. Thereafter, or at any time a vacancy other than a temporary vacancy under section 367.03 occurs in the position, the duties of the treasurer prescribed by law shall be performed by the clerk who shall be referred to as the clerk-treasurer. If option D is adopted at an

election in which the treasurer is also elected, the election of the treasurer's position is void. If the offices of clerk and treasurer are combined and the town's annual revenue is more than \$100,000, 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. If the offices of clerk and treasurer are combined and the town's annual revenue is \$100,000 or less, the town board shall provide for an 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 at least once every five years, which audit shall be for a one-year period to be determined at random by the person conducting the audit. Upon completion of an audit by a public accountant, the public accountant shall forward a copy of the audit to the state auditor. For purposes of this subdivision, "public accountant" means a certified public accountant or a certified public accounting firm licensed by the Board of Accountancy under chapter 326A.

[For text of subd 2, see M.S.2002]

History: 2003 c 60 s 5