

PART I
FORM AND STRUCTURE OF THE MINNESOTA COUNTY

CHAPTER 3: POWERS AND ORGANIZATION

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1. Powers and Organization

All Minnesota counties operate according to the statutory county code. This chapter will examine the organization and general powers of counties, under the following topics:

I. The

II. Optional forms of county government

III. General powers of a county

I. The County Statutes

[Minn. Stat. ch. 370 et. seq.](#)

Counties all operate under the statutory code found in Chapters 370 to 403 of the Minnesota Statutes. All counties have the same basic powers (see sec. III). The Minnesota Legislature may, at its discretion, change any part of the county statutes.

[Minn. Stat. ch. 383A.](#)

[Minn. Stat. ch. 383B.](#)

[Minn. Stat. ch. 383C](#)

[Minn. Stat. ch. 383D.](#)

[Minn. Stat. ch. 383E](#)

The laws regarding county government apply equally to all counties in the state. Therefore, the county statute is the primary source of authority for the actions taken by counties through their boards. However, additional powers and responsibilities are given to the largest counties in the state, including Anoka, Dakota, Hennepin, Ramsey, and St. Louis counties.

Counties lack the power to change the county statute. They are dependent upon the Legislature for all changes.

A. Basic form of organization

[Minn. Stat. § 375.01](#)

Counties are governed by a board of commissioners. Commissioners are elected by district, and serve a term of four years. By default, each county has a board of five commissioners, except for Anoka, Hennepin, Ramsey, and St. Louis Counties, in which the board has seven members by default. However, the size of the board may be changed to 3, 5, 7, or 9 members (see sec. II).

[Minn. Stat. § 375.07](#)

The county board must legally meet at least once per year, on the first Tuesday after the first Monday in January.

In addition to the board, the basic county structure includes a number of elected officers, including an auditor, treasurer, sheriff, recorder, attorney, and coroner. These offices may also be made appointive, rather than elective (see sec. II.F.1).

[Minn. Stat. ch. 384 - 391](#)

The responsibilities of the officers are laid out in Chapters 384 to 391 of the Statutes.

[Minn. Stat. §§ 375.48 - 49](#)

The board has the authority to appoint a county coordinator. The board may choose the duties of the coordinator, from among the following:

1. Manage any affairs of the county which the board has the authority to control;
2. Examine the books and papers of each department;
3. Submit recommendations to the board concerning the affairs of the county;
4. See that all orders, resolutions and regulations of the county board are faithfully executed;
5. Propose and annual budget; and/or
6. Serve as the clerk of the board.

The coordinator serves at the pleasure of the board.

II. Optional forms of county government

In addition to the basic, default structure above, the Legislature has provided five forms of organization for counties:

- the Elected Executive plan;
- the County Manager plan;
- the At-Large Chair plan;
- the County Administrator plan; and
- the County Auditor-Administrator plan.

Counties may also adopt several “options,” including:

- changing elective offices to appointive ones;
- creating a new office; and
- consolidating county offices.

These plans and options provide voters with a wide range of choices in determining the structure of their county.

[Minn. Stat. ch. 375A](#)

The elected executive plan places administrative power in a chief executive elected by citizens of the county. The County Manager plan places administrative power in an appointed executive who serves at the will of the board. The chief executive in the at-large chair plan is a member of the county board, but is elected county-wide rather than representing a single district. The County Administrator plan also uses an appointed executive, but with fewer powers; many powers are retained for independent boards and commissions. In counties where the offices of Auditor and Treasurer have not been combined (see sec. II.F.3), and where Auditor is an elected office, the Auditor may serve as an elected administrator.

[Minn. Stat. § 375A.001](#)
[Minn. Stat. § 383B.101 et. seq.](#)

In general, all of the plans above are available to all counties but Hennepin County. Hennepin County must be administered by a County Administrator, who is appointed by the Board. In addition, there are certain exceptions for the Auditor-Administrator plan, as explained above.

[Minn. Stat. § 375A.12](#)

The form of organization is chosen by an affirmative vote of county residents—only one form may be put before voters in any election, and they may vote for or against the proposal. This same procedure applies for any of the organizational plans provided in ch. 375A (see sec. II.G). In practice, however, less than half of the options that have been exercised were done so under the general law authority of [Minn. Stat. ch. 375A](#); more often, the changes are authorized by a special law.

[Minn. Stat. § 375A.09](#)

The board of any county may propose to change the size of the board to 3, 5, 7, or 9 members. This vote also follows the procedures explained in sec. II.G.

For more detailed information, on county government structures, see House Research Brief: [Options in County Government Structure](#)

A number of counties have exercised these options:

- 45 counties have a combined elected auditor/treasurer position.
- 7 counties have an combined appointed auditor-treasurer
- 6 counties appoint both the auditor and the treasurer (but they are separate positions).
- 17 counties appoint the county recorder.
- 32 counties have a county administrator.
- 26 counties have a county coordinator.
- 6 counties have seven members on the board.

A. Elected Executive Plan

[Minn. Stat. § 375A.02](#)

Under this plan, the chief executive officer of a county is elected by the voters of that county. The executive serves a term of four years. In the event that the position becomes vacant, the remainder of the term can be filled by the board of commissioners.

Minn. Stat. § 375A.02

The county executive serves as the administrative head of the county and performs all duties of an executive nature. Unlike a county coordinator (described above), the board does not have the power to assign the executive's duties. S/he may serve as the head of any department, if so resolved by the board. If directed by the board, the executive must develop an administrative code for the county. In addition, the county executive must prepare an annual budget and a long-range capital expenditure program.

Minn. Stat. § 375A.02, subd. 3(7)

The county executive has the right to participate in board discussions, but not to vote. However, s/he has the right to veto any ordinance or resolution adopted by the board. Vetos can be overturned by a two-thirds vote of the board.

Minn. Stat. § 375A.02, subd. 4

Minn. Stat. § 375A.02, subd. 5

Because the county executive does not lead the board, the board must select one of its members as chair.

1. Boards and Commissions

Minn. Stat. § 375A.04, subd. 1

Under this plan, administrative boards and commissions, such as the board of health, library board, park board, hospital board, nursing committee, extension committee, etc., are abolished. Only civil service commissions, and boards or commissions operated jointly with other units of government, are retained. All of the functions of these boards and commissions must be performed by the county board of commissioners. The board may, however, establish advisory committees.

2. Officers

Minn. Stat. § 375A.04, subd. 2

The offices of county auditor, county treasurer, and county recorder are abolished under this plan. These officers instead become the heads of the departments that perform the functions formerly performed by their office. After the terms of the elected officers expire, these department heads are subsequently appointed by the board.

The offices of county coroner and county surveyor become appointed, rather than elected, under this plan.

B. County Manager Plan

This plan is similar in most respects to the Elected Executive plan, except that the chief executive is appointed rather than elected. The largest differences are that, because the county manager is not elected, s/he does not receive veto power (see below), and does not have a set term of office.

Minn. Stat. § 375A.03, subd. 1 The county manager is appointed by the board of commissioners and serves for an indefinite amount of time, at the pleasure of the board. The manager does not have to be a member of the county, and should be appointed on the basis of “training, experience and administrative qualifications.”

Minn. Stat. § 375A.03, subd. 2-3 Much like a county executive, the county manager serves as the administrative head of the county and performs all duties of an executive nature. The manager may serve as the head of any department, if so resolved by the board. If directed by the board, the executive must develop an administrative code for the county. In addition, the county executive must prepare an annual budget and a long-range capital expenditure program.

Minn. Stat. § 375A.03, subd. 3 (7) The county manager has the right to participate in board discussions, but not to vote. Unlike a county executive, the manager has no veto power.

1. Boards and Commissions

Minn. Stat. § 375A.04 Under this plan, administrative boards and commissions, such as the board of health, library board, park board, hospital board, nursing committee, extension committee, etc., are abolished. Only civil service commissions, and boards or commissions operated jointly with other units of government, are retained. All of the functions of these boards and commissions must be performed by the county board of commissioners. The board may, however, establish advisory committees.

2. Officers

Minn. Stat. § 375A.04, subd. 2 The offices of county auditor, county treasurer, and county recorder are abolished under this plan. These officers instead become the heads of the departments that perform the functions formerly performed by their office. After the terms of the elected officers expire, these department heads are subsequently appointed by the board.

The offices of county coroner and county surveyor become appointed, rather than elected, under this plan.

3. Personnel Issues

Minn. Stat. § 375A.03, subd. 1 After one year in office, the county manager may demand written charges and a public hearing before being removed from office.

Minn. Stat. § 375A.03 The board of commissioners may only control the administration of county business through the county manager; all other administrative employees receive their direction from the manager, not the board.

C. At-Large Chair Plan

[Minn. Stat. § 375A.05, subd. 2](#) This plan may only be adopted by counties with five- or seven-member boards, although the change to an At-Large Chair plan may take place at the same time that the membership of the board is changed to five or seven members.

Under this plan, all but one member of the board is elected to represent a district of the county. The chair of the board is elected by all the voters in the county, separate from the rest of the members of the board. The chair has a term of four years.

D. County Administrator Plan

The County Administrator plan is similar in many ways to the County Manager plan, Unlike the County Manager plan, under this plan boards and commissions may remain, and county officers are still elected.

[Minn. Stat. § 375A.06, subd. 1](#) The county administrator is appointed by the board of commissioners and serves for an indefinite amount of time, at the pleasure of the board. The administrator does not have to be a member of the county, and should be appointed on the basis of “training, experience and administrative qualifications.”

[Minn. Stat. § 375A.06, subd. 4](#) The administrator serves as the administrative head of the county and performs all duties of an executive nature and may serve as the head of any department, if so resolved by the board. The county administrator must also prepare an annual budget and a long-range capital expenditure program.

[Minn. Stat. § 375A.06, subd. 4\(f\)](#) The county administrator has the right to participate in board discussions, but not to vote. The administrator has no veto power.

1. Personnel Issues

[Minn. Stat. § 375A.06, subd. 1](#) After one year in office, the county administrator may demand written charges and a public hearing before being removed from office.

E. County Auditor-Administrator Plan

[Minn. Stat. § 375A.08](#) In counties where the offices of Auditor and Treasurer have not been combined (see sec. II.F.3), and where Auditor is an elected office, the office of Auditor may be changed to Auditor-Administrator. The Auditor-Administrator is elected county-wide, and has the powers of an administrator under Minn. Stat. § 375A.06

F. Options

Minn. Stat. § 375A.10

In addition to the five plans offered above, ch. 375A offers several options for county governments. “Options” include:

- changing elective offices to appointive ones;
- creating a new office; and
- consolidating county offices.

1. Change elective offices to appointive

Minn. Stat. § 375A.10, subd. 3

The offices of auditor, treasurer or recorder can be changed from elective office into appointive office. If this option is invoked, officers become the heads of the departments that perform the functions formerly performed by their office. After the terms of the elected officers expire, these department heads are subsequently appointed by the board. The board also obtains the power to reorganize the duties, functions, and responsibilities of the offices.

Minn. Stat. § 390.005, subd. 2; Minn. Stat. § 389.011, subd. 2

Though not specifically described in § 375A.10, the coroner and surveyor may also be made appointive positions. The board can choose to make these offices appointive by resolution, without requiring a referendum.

2. Create office of county civil counsel

Minn. Stat. § 375A.10, subd. 4

The county board may establish the office of county civil counsel and appoint an attorney to the position (under certain plans, the county executive or county manager has the right to appoint the attorney). The county counsel is a legal advisor to the county board and county officials involving any official act of a civil nature. The county counsel prosecutes and defends all civil actions and proceedings in which the county or any officer is concerned in official capacity or is a party. The county attorney retains the authority to prosecute crimes.

3. Consolidate offices

Minn. Stat. § 375A.10, subd. 5

The board may combine the offices of auditor and treasurer in the office of auditor-treasurer. The auditor-treasurer has all of the duties, functions, and responsibilities of both the auditor and the treasurer. This office may remain elective, or can be made appointive as described above (II.F.1).

Minn. Stat. § 375A.11

The duties of two or more county offices may be consolidated by ordinance (i.e. without a referendum) by the county board. However, the offices of county auditor, county treasurer, court administrator of district court, county attorney, sheriff and county recorder may not be consolidated with each other, except for the auditor and treasurer as explained above. The board may also separate duties which have been consolidated, and reconsolidate them in a different manner.

G. Changing the form of government

Changing the form of government in a county requires two procedures. The first procedure involves the necessary legal steps, which include the initiation of the proposal, its submission to the voters, and the certification of the results.

The second procedure is the gradual alteration of the government structure to conform to the requirements of the new plan. This step takes time because the change cannot cut short the term of office for an elected official or change the time of election for any elected person.

1. Adopting plans or options

Minn. Stat. § 375A.10

Counties must take several steps to adopt any of the plans or options described in Minn. Stat. ch. 375A.

a. Initiating the proposal

Minn. Stat. § 375A.12

A county may initiate the proposal in one of three ways. The board may, upon its own motion, submit a plan or option for voter consideration. Similarly, a county government study commission may recommend that a referendum be held to adopt a plan or options. Alternatively, the voters may require the board to submit the question at an election by presenting a written petition with signatures from a number of voters equal to at least 5 percent of the total number of people voting for governor in the county in the last election.

If a study commission has been established (see below), a referendum on a plan or option may not be initiated by a resolution of the county board or a petition of voters until after the study commission has completed its study.

Minn. Stat. § 375A.06, subd. 5

A county which is not operating under the elected county executive plan, the county manager plan, or the auditor-administrator plan may adopt the county administrator plan by appointing an administrator, without requiring a referendum.

i. County Government Study Commission

Minn. Stat. § 375A.13, subd. 1 A county government study commission may be established in any county to study the form and structure of county government. The commission may be established by a resolution of the board, or by the presentation of a petition with signatures from a number of voters equal to at least 5 percent of the total number of people voting for governor in the county in the last election.

Minn. Stat. § 375A.13, subd. 1 The commission shall be appointed by a judge of the district court—either by the senior judge with chambers in the county, or if there are no such judges, by the chief judge of the district. The commission shall consist of three county commissioners, two elected county officials, and one noncommissioner for each district in the county.

Minn. Stat. § 375A.13, subd. 3 The commission must complete its work within one year, but the appointing judge may grant an extension of up to one additional year.

Minn. Stat. § 375A.13 subd. 4 The commissions final report will include its recommendations that a change is not necessary or desirable or that one or more of the options provided in ch. 375A be implemented. The report may also include other conclusions or recommendations. If the report contains a recommendation that a referendum be held on an option, the referendum shall be held.

b. Submitting the proposal to the voters

Minn. Stat. § 375A.12, subd. 4 The referendum may be held at any primary, general or special election held at least 30 days before the first day on which candidates may file for county office.

Minn. Stat. § 375A.12, subd. 5 When submitting the question to the voters, the ballot must follow the following format:

(...) FOR the proposal (describe briefly the change proposed)
(...) AGAINST the proposal (describe briefly the change proposed)

Minn. Stat. § 375A.12 subd. 6 Passage requires a majority vote on the question. Once a plan or option goes into effect, it must remain in effect for at least three years before it can be abandoned. However, if the at-large chair plan or the county administrator plan is adopted, options consistent with the plan may be adopted at any time.

If a majority of the votes are negative, the proposal fails and the county continues to operate under its existing form of government.

2. Changing to the Elected Executive plan

Minn. Stat. § 375A.02 The first county executive shall be elected at the county general election following the adoption of the elected executive plan and every four years thereafter. The county executive shall hold office for a term of four years commencing on the first Monday of January following election.

Minn. Stat. § 375A.04

The offices of county auditor, county treasurer, and county recorder are abolished under this plan. The elected officers serve the remainder of their terms as the heads of the departments that perform the functions formerly performed by their office. After the terms of the elected officers expire, these department heads are subsequently appointed by the board.

3. Changing to the County Manager Plan

Minn. Stat. § 375A.03

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

Minn. Stat. § 375A.04

The offices of county auditor, county treasurer, and county recorder are abolished under this plan. The elected officers serve the remainder of their terms as the heads of the departments that perform the functions formerly performed by their office. After the terms of the elected officers expire, these department heads are subsequently appointed by the board.

4. Changing to the At-Large Chair plan

Minn. Stat. § 375A.05, subd. 2

If the county board does not currently have five or seven members, the change to a five- or seven-members board may take place at the same time as the change to an At-Large Chair plan.

Minn. Stat. § 375A.05, subd. 1

Once the At-Large Chair plan is adopted, the county must be redistricted to reflect the fact that one of the board members is adopted at-large.

5. Abandoning a plan or option

Minn. Stat. § 375A.12, subd. 6

The board may submit a question on the abandonment of a plan or option to the voters at any time after three years have elapsed since its adoption. Either the voters through petition, or the board through its own motion, may request an abandonment. The question goes to the voters in the same manner as the original adoption question did.

III. General powers of a county

Minn. Stat. ch. 370 et. seq.

The basic listing of powers of counties, regardless of the plan of organization they use, can be found in Chapters 370 to 403 of the Minnesota Statutes. That list contains most, but not all, of the powers county boards can exercise. For example, the code authorizes counties to do the following:

Minn. Stat. § 373.01

- Exercise the powers and duties of a body politic and public corporation

Minn. Stat. § 373.01

- Purchase and sell real estate

- Minn. Stat. § 373.01; Minn. Stat. § 373.25
 - Minn. Stat. § 373.01; Minn. Stat. § 373.40; Minn. Stat. § 373.47
 - Minn. Stat. ch. 376
 - Minn. Stat. § 379.02
 - Minn. Stat. § 387.03
 - Minn. Stat. § 388.051
 - Minn. Stat. § 393.07
 - Minn. Stat. § 394.21
 - Minn. Stat. § 395.14
 - Minn. Stat. § 398.32
 - Minn. Stat. § 398A.04
 - Minn. Stat. § 400.01
 - Minn. Stat. § 403.025
- Levy taxes
 - Borrow for capital spending
 - Operate a county hospital and/or nursing home
 - Alter the boundaries of towns
 - Preserve the peace and pursue criminals
 - Prosecute violations of ordinances
 - Administer social service and public welfare programs
 - Engage in planning and zoning
 - Provide agricultural assistance loans in certain circumstances
 - Acquire, develop, and maintain parkland
 - Develop, acquire, operate, maintain, etc., railroads.
 - Conduct solid waste management programs
 - Operate a 911 emergency telecommunications system

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