

PART III PERSONNEL MANAGEMENT

CHAPTER 8: COUNTY ADMINISTRATIVE STAFF

I.	Appointed officials and employees	1:2
	A. Emergency management.....	1:3
	B. Data-practices positions.....	1:3
	C. Assessor.....	1:3
	D. Highway engineer	1:4
	E. Human Services Director	1:5
	F. Social Services Director	1:5
	G. Manager/Administrator/Coordinator	1:5
	1. County Manager.....	1:5
	2. County Administrator	1:6
	3. County Coordinator.....	1:6
	H. Appointed officers.....	1:6
	I. Boards and commissions	1:6
II.	Qualifying for office	1:7
	A. Official bonds.....	1:7
	1. Amount of bond	1:7
	2. Kind of bond.....	1:8
	3. Blanket bonds.....	1:8
	4. Approval and filing.....	1:8
	5. Form of surety bonds	1:8
	6. Terms of bonds	1:9
	B. Examination of accounts	1:9
III.	Incompatible offices	1:9

1. County administrative staff

This chapter explores the duties of various county officials, the requirements for qualifying for office, and the problem of incompatible offices for elected and appointed officials. Topics include:

I. Appointed officials and employees

II. Qualifying for office

III. Incompatible offices

I. Appointed officials and employees

County boards have freedom to create positions they find necessary in addition to those required by the statutes. They may assign duties to these officials and employees as long as such actions promote the public welfare and are consistent with state law.

A.G. Op. 624a-3 (Nov. 2, 1998).
Muehring v. Sch. Dist. No. 31,
 224 Minn. 432, 28 N.W.2d 655
 (Minn. 1947); *Jewell Belting Co.*
v. Village of Bertha, 91 Minn. 9
 (Minn. 1903); *Minneapolis Gas-*
Light Co. v. City of Minneapolis,
 36 Minn. 159, 30 N.W. 450
 (Minn. 1886).

Absent specific statutory authority, a local governing body may not delegate legislative or quasi-judicial power. In addition, a board may not delegate any administrative power of a discretionary nature unless authorized to do so by state law. Boards may delegate merely ministerial functions.

Non-elective officers and employees in counties fall into two groups. The county often retains or contracts with independent contractors, such as hiring a firm to act as a planning department. Their compensation is frequently on a retainer, a contract or some other fee basis. The county also hires full-time and part-time employees to whom the county pays either a salary or a wage. Some counties employ these individuals on the basis of a merit system or under a civil-service system.

Minnesota statutes require that counties fill several positions. These include the following:

Minn. Stat. § 12.25, subd. 2

Minn. Stat. §13.05, subd. 13.

Minn. Stat. § 273.061

- Emergency-management positions
- Data-practices-compliance positions
- Assessor

Minn. Stat. § 163.07.

- Highway Engineer

Minn. Stat. § 145A.04, subd. 2.

- Public Health Director

Minn. Stat. § 393.04; Minn. Stat. § 402.05.

- Social Services Director

A. Emergency management

[Minn. Stat. § 12.25, subd. 1.](#)

See Handbook, ch. 13 for more detail on emergency management.

Every county must establish a local organization for emergency management. Each local organization must have a director and one or more deputy directors, who are appointed by the board.

B. Data-practices positions

[Minn. R. 1205.1000.](#)

[Minn. Stat. § 13.02, subd. 16.](#)

[Minn. R. 1205.2000, subp. 1..](#)

A state rule requires the governing body of each political subdivision to appoint a responsible authority. A “responsible authority” is the individual designated to be responsible for the collection, use, and dissemination of the county’s data. A sample resolution to appoint a responsible authority is found in the state rules.

[Minn. R. 1205.0200, subp. 14\(A\)](#)

For counties, each elected official of the county shall be the responsible authority for the official’s office. An individual who is an employee of the county shall be appointed by the county board to be the responsible authority for any data administered outside the offices of elected officials.

[Minn. Stat. § 13.05, subd. 13.](#)

In addition to appointing a responsible authority, the board must appoint or designate a data-practices-compliance official. This is the person to whom people may direct questions or concerns regarding problems in obtaining access to data or other data-practices problems, and may be the same as one of the responsible authorities.

C. Assessor

[Minn. Stat. § 273.061 subd. 1](#)

Every county in this state shall have a county assessor. The county assessor shall be appointed by the board of county commissioners, and must be approved by the commissioner of revenue.

[Minn. Stat. § 273.061 subd. 1a](#)

A county assessor also may serve as the county auditor, county treasurer, or county auditor-treasurer if those offices are appointive, provided that the person in the combined appointed office must not serve on the county board of appeal and equalization under [Minn. Stat. § 274.13](#)

- [Minn. Stat. § 273.061 subd. 2](#) The terms of county assessors appointed under this section shall be four years, except that the term of the assessor may be terminated by the board at any time, on charges of malfeasance, misfeasance, or nonfeasance by the commissioner of revenue. When any vacancy in the office occurs, the board of county commissioners, within 90 days thereafter, shall fill the same by appointment for the remainder of the term. During such a vacancy, the deputy shall perform the functions of the office. If the board of county commissioners does not intend to reappoint a county assessor who has been certified by the state Board of Assessors, the board shall present written notice to the county assessor not later than 90 days prior to the termination of the assessor's term.
- [Minn. Stat. § 273.061 subd. 7](#) The duty of a duly appointed *local* assessor shall be to view and appraise the value of all property as provided by law, but all the book work shall be done by the *county* assessor, and the value of all property subject to assessment and taxation shall be determined by the county assessor.
- [Minn. Stat. § 273.063](#) However, in counties having a city of the first class (except Ramsey County), the powers and duties of the county assessor within such city shall be performed by the city assessor. In all other cities of 30,000 persons or more, the powers and duties of the county assessor within such cities shall be performed by the duly appointed city assessor, provided that the county assessor shall retain the supervisory duties contained in [Minn. Stat. § 273.061 subd. 8](#).
- [Minn. Stat. § 273.061 subs. 8, 9](#) The county assessor is responsible for assessing properties outside cities of 30,000 person or more; providing information and advice to elected and appointed officials; and advising, assisting, examining, and coordinating the activities of local assessors.
- [Minn. Stat. § 273.064](#)
- [Minn. Stat. § 273.061 subd. 10](#) In counties having unorganized territory divided into one or more assessment districts, the board of county commissioners may appoint the county assessor for all such districts. In such case the assessor shall receive no compensation for performing the duties of assessor.

D. Highway engineer

- [Minn. Stat. § 163.07](#) Each county must employ a highway engineer, who may only be removed from office due to incompetency or misconduct. A new highway engineer may be appointed for a term of only one year, but all reappointments must be for terms of four years.
- The engineer is in charge of all highway work of the county and is responsible for preparing all necessary surveys, estimates, plans, and specifications.

The engineer shall prepare a full and complete report covering all county highway work, and shall prepare such other reports relating to the county highway system as the county board directs.

Minn. Stat. § 163.07, subd. 9.

In lieu of appointing a county highway engineer, a county may contract for the services of another county's engineer if there is a mutual agreement upon the terms of the contract.

E. Human Services Director

Minn. Stat. § 402.05

Minn. Stat. § 402.02 subd. 2

The human services board of the county must appoint a director, who serves at the will of the board. The director is responsible for administration of funds allocated to the human services board for corrections services, public health services, public assistance, developmental disability services, social services, mental health services, and any other purpose.

F. Social Services Director

Minn. Stat. § 393.01 subd. 2

Minn. Stat. § 393.04

Minn. Stat. § 393.09

See Handbook, ch. 12 for more detail on social services.

The local social services agency, which must typically include all or most of the members of the county board, must appoint a director and such assistants and clerical help as it may deem necessary.

The director shall be charged with the administration of the duties of the local social services agency and shall perform such additional duties as the local social services agency may designate.

The director shall report and be responsible to the local social services agency and shall be directed by the agency. The agency shall meet with and advise the director at least once each month.

G. Manager/Administrator/Coordinator

Minn. Stat. ch. 375A

See Handbook, ch. 3 for more detail.

Depending on the form of organization chosen, most county boards have the authority to appoint an administrative officer, known as the County Manager, County Administrator, or County Coordinator depending on the county's form of organization. All of these administrative officers are appointed by the board and may be removed by the board at any time. Once the board has appointed an administrative officer, it may relinquish some degree of control over other appointments, depending on the form of government.

1. County Manager

Minn. Stat. § 375A.03

Under the County Manager plan, the board exercises the legislative power of the county and determines all matters of policy. The county manager exercises the administrative power of the county, and is responsible to the board for the proper administration of all county affairs. Once the manager has been appointed, s/he exercises the authority of the board to appoint, suspend, and remove all county personnel whose appointment, suspension, or removal was a function of the board under general law. The board may control the administration of the county only by dealing with the county manager; the manager is responsible for all of his or her subordinates.

2. County Administrator

Minn. Stat. § 375A.06 subd. 4(c)

The administrator may appoint, suspend, and remove *with the approval of the county board* all county personnel whose appointment, suspension or removal is a function of the county board under general law.

3. County Coordinator

Minn. Stat. §§ 375.48 - 49

The board may choose the duties of the coordinator. As such, the coordinator may have the authority to appoint, suspend, and remove personnel if granted by the board. However, the board may also elect to retain its control over administrative affairs.

H. Appointed officers

Minn. Stat. § 375A.10 subd. 3

The offices of auditor, treasurer, sheriff, and/or recorder can be changed from elective office into appointive office upon approval by voters. 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

The coroner and surveyor may be made appointive positions by resolution, without requiring a referendum.

I. Boards and commissions

See Handbook, ch. 6 for further information on boards and commissions.

Many counties have various boards and commissions that advise the board in particular areas. These boards and commissions are generally established by ordinances or resolutions that specify the board's responsibilities and duties. Some boards and commissions may have specific powers given to them by state statute.

II. Qualifying for office

Minn. Stat. § 358.05; See discussion in Handbook, ch. 6

Qualifying for office means an elected or appointed official takes the official oath and files a bond, if necessary, for the position. This is not the same as qualifications for office that refer to an individual's abilities and characteristics.

Minn. Stat. § 351.02 (6).

The act of qualifying for office should take place within the statutorily prescribed time limit. Failure to do so creates, upon declaration of the board, a vacancy in the office.

J. Official bonds

Minn. Stat. §§ 384.02; 385.03; 386.01; 387.01; 389.011

Minn. Stat. § 385.02

Minn. Stat. § 382.13

Minn. Stat. §§ 382.153 subd. 1

State law requires all county officers to give bond. In addition, statutes require certain other employees, such as any employee in the office of the treasurer, to give bond. When the county board of any county shall deem the official bond of any county officer insufficient, the board may give the officer written notice to furnish a new official bond. The premium upon any bond required of any elected or appointed county officer or employee, together with the expense of recording or filing such bonds, shall be paid by the county.

The county should always require a bond for employees that handle substantial amounts of money or property that is readily convertible into money. In some cases, the county may find it desirable to bond major administrative officers as well, even though they do not directly handle money.

1. Amount of bond

Minn. Stat. § 384.02

Minn. Stat. § 385.03

Minn. Stat. § 386.01

Minn. Stat. § 387.01

Minn. Stat. § 389.011

The amount of bond coverage required varies depending on the office:

- Auditor: \$5,000 to \$20,000
- Treasurer (in counties over 150,000): \$500,000, or \$250,000 if authorized to be surety
- Recorder: \$5,000
- Sheriff:
 - In counties under 150,000: \$5,000
 - In counties over 150,000: \$25,000
- Surveyor: \$2,000

2. Kind of bond

The statutes requiring bonds for county officers and employees do not require one particular type of bond.

Corporate-surety bonds have the backing of an insurance company licensed to write the bonds. Personal-surety bonds have the backing of individuals signing as sureties. They agree to pay any amount up to the amount of the bond, if the county is entitled to that amount due to improper actions on the part of the bonded person. Corporate-surety bonds provide better protection because of the resources of the insurance company and the more rigid supervision they usually require over the handling of funds.

[Minn. Stat. § 574.01.](#)

[Minn. Stat. § 574.12.](#)

If the officer uses a personal-surety bond, two or more people or sureties who are residents of the state must, together with the officer, sign and acknowledge the bond. Personal sureties must also certify, by an affidavit attached to the bond, that each is worth at least twice the sum of the bond, over and above their debts and liabilities and exclusive of their exempt property.

3. Blanket bonds

[Minn. Stat. § 382.153 subd. 2](#)

In a county of 250,000 people or more, in lieu of individual bonds, a schedule or position bond or undertaking may be given by county officers or by the employees of each county office or department.

As another alternative, a single corporate surety fidelity, schedule or position bond or undertaking covering all the officers and employees of a county including officers and employees may be furnished by the board.

4. Approval and filing

[Minn. Stat. §§ 574.20-.21.](#)

The bonds of all county officers and employees must be approved by the board and filed by the county recorder.

5. Form of surety bonds

See [Minn. Stat. § 574.13.](#)

The insurance company that writes the bond usually provides corporate-surety-bond forms. The forms should comply with state requirements. Printed forms for personal-surety bonds are available from legal stationers.

6. Terms of bonds

Bonds may be for a specified period, such as for a year, or for an indefinite term, in which case they remain in effect as long as the person stays in office. It is recommended, however, that the board only accept bonds that are for a one-year period. Each bonded officer or employee would then obtain a new bond annually. This procedure protects the county against an accumulation of improper actions on the part of an individual.

K. Examination of accounts

[Minn. Stat. § 574.23.](#)

The board must make, or arrange for another party to make, a thorough examination of an officer's financial accounts when: the official files a new official bond or other security; the officer's term expires; or a vacancy results from the death, resignation or removal of the official. If there is any discrepancy in the accounts, the board must immediately notify the official and the official's sureties of the irregularity. The statement must be in writing. The board should mail the statement to the officer and sureties at their residences, if known. Failure to make the examination or give such notice does not discharge the sureties.

Such an examination of accounts should occur at the end of an official's term of office whether or not that official has been re-elected to serve another term.

III. Incompatible offices

See 39 Durnell Minn. Digest *Public Officers and Employees* § 3.03 (4th ed. 1998); *Hilton v. Sword*, 157 Minn. 263, 196 N.W. 467 (Minn. 1923).

The statutes do not usually prevent a person from holding two or more governmental positions. However, elected officials and some employees cannot hold more than one position if one of the positions has responsibilities that are incompatible with the other. A public official may also be prohibited from holding more than one position if the different jobs give rise to conflicts between personal interests and official duties. It is important to realize that incompatible offices may occur with either elected or appointed offices. Thus, both elected and appointed officers may need to consider the nature of their offices if they will be serving the public in more than one role.

See Handbook, ch. 6
See also House Research Information Brief, [Compatibility of Offices](#) for more information.

Incompatible offices are discussed in more detail in chapter 6 of this *Handbook*.

CASES

<i>Jewell Belting Co. v. Village of Bertha</i> , 91 Minn. 9 (1903)	2
<i>Minneapolis Gas-Light Co. v. City of Minneapolis</i> , 36 Minn. 159, 30 N.W. 450 (1886).....	2
<i>Muhring v. Sch. District No. 31</i> , 224 Minn. 432, 28 N.W.2d 655 (1947).....	2
<i>State v. Sword</i> , 157 Minn. 263, 196 N.W. 497 (1923)	8

STATUTES

Minn. Stat. § 12.25, subd. 1	3
Minn. Stat. § 13.02, subd. 16	3
Minn. Stat. § 13.05, subd. 13	3
Minn. Stat. § 163.07	4
Minn. Stat. § 273.061 subd. 1.....	3
Minn. Stat. § 273.061 subd. 10.....	4
Minn. Stat. § 273.061 subd. 1a	3
Minn. Stat. § 273.061 subd. 2.....	4
Minn. Stat. § 273.061 subd. 7.....	4
Minn. Stat. § 273.061 subds. 8, 9.....	4
Minn. Stat. § 273.063.....	4
Minn. Stat. § 273.064.....	4
Minn. Stat. § 351.02 (6).....	6
Minn. Stat. § 358.05	6
Minn. Stat. § 375A.03	5
Minn. Stat. § 375A.06 subd. 4	6
Minn. Stat. § 375A.10 subd. 3	6
Minn. Stat. § 382.13	7
Minn. Stat. § 382.153 subd. 1.....	7
Minn. Stat. § 382.153 subd. 2.....	8
Minn. Stat. § 382.154.....	7
Minn. Stat. § 384.02	7
Minn. Stat. § 385.02	7
Minn. Stat. § 385.03	7
Minn. Stat. § 386.01	7
Minn. Stat. § 387.01	7
Minn. Stat. § 389.01	7
Minn. Stat. § 389.011.....	6, 7
Minn. Stat. § 389.011 subd. 2.....	6
Minn. Stat. § 390.005 subd. 2.....	6
Minn. Stat. § 393.01 subd. 2	5
Minn. Stat. § 393.04	5
Minn. Stat. § 393.09	5
Minn. Stat. § 402.02 subd. 2	5
Minn. Stat. § 402.05	5
Minn. Stat. § 574.01	8
Minn. Stat. § 574.12	8
Minn. Stat. § 574.13.....	8

CHAPTER 8

Minn. Stat. § 574.23 9
Minn. Stat. §§ 375.48 - 49 6
Minn. Stat. §§ 574.20-.21 8
Minn. Stat. ch. 375A 5

RULES

Minn. R. 1205.0200, subp. 14(A)..... 3
Minn. R. 1205.1000 3
Minn. R. 1205.2000, subp. 2 3

REFERENCES

39 Dunnell Minn. Digest *Public Officers and Employees* § 3.03 (4th ed. 1998) 8
Compatibility of Offices 8

ATTORNEY GENERAL OPINIONS

A.G. Op. 624a-3 (Nov. 2, 1998)..... 2