

# ELECTION LAWS OF IOWA

OCTOBER 2006 SUPPLEMENT



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# INSTRUCTIONS

## FOR

### Updating Election Laws of Iowa

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of the

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<b>Section Affected</b>	<b>Action in Election Laws</b>	<b>Source</b> [Chapter and Section(s) of 2006 Acts except where noted]
Constitution, Art. II §1 .....	Footnote revised	
Constitution, Art. III §3 .....	Footnote revised	
Constitution, Art. III §6 .....	Footnote revised	
Constitution, Art. III §34 ...	Footnote revised	
15E.208.....	Section history revised	
39.1 .....	Footnote revised	
39.4 .....	Editorially corrected and footnote revised	
39.8 .....	Footnotes revised	
39.10 .....	Footnotes revised	
Ch 39A.....	Footnote added under chapter heading	
39A.4.....	Footnote stricken	
40.1 .....	Footnote revised	
42.2 .....	AMENDED .....	1010, §33
42.3 .....	AMENDED .....	1010, §34
42.4 .....	AMENDED .....	1010, §35, 36
43.101 .....	Editorially corrected	
46.12 .....	AMENDED, footnote stricken, and footnote added.....	2003 Acts, ch 151, §64
46.21 .....	Footnote stricken	
47.1 .....	Footnote stricken	
47.7 .....	AMENDED .....	1003, §1, 2
47.8 .....	Footnote stricken	
48A.5.....	Footnote added	
48A.5A.....	Footnote added	
48A.6.....	Footnotes added	
48A.8.....	Footnote stricken	
48A.21.....	Editorially corrected	
48A.28.....	Footnote stricken	

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48A.30.....	Editorially corrected	
48A.36.....	Footnote stricken	
48A.37.....	Footnote stricken	
49.3 .....	AMENDED .....	1010, §37
49.10 .....	AMENDED and footnote added.....	1002, §1, 4
49.31 .....	AMENDED and footnote added.....	1002, §2, 4
49.43 .....	Footnote revised	
49.44 .....	Footnote revised	
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49.46 .....	AMENDED and footnote revised.....	1010, §38
49.47 .....	Footnote revised	
49.48 .....	Footnote revised	
49.50 .....	Footnote revised	
49.77 .....	AMENDED and footnote added.....	1002, §3, 4
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49.98 .....	Footnote stricken	
49A.1.....	Footnote revised	
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49A.10.....	Editorially corrected	
50.35 .....	Footnote revised	
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52.41 .....	Footnote stricken	
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53.3 .....	Footnote stricken	
53.37A.....	Footnote stricken	
53.40 .....	Footnote stricken	
53.53 .....	Footnote stricken	
Ch 55.....	Chapter number and analysis stricken	
55.2 .....	STRICKEN	
55.3 .....	STRICKEN	
55.4 .....	Typographical error corrected	
57.1 .....	Editorially corrected	
Ch 58.....	Footnote under chapter heading revised	
62.5 .....	Footnote stricken	
63.1 .....	Footnote revised	
63.5 .....	Editorially corrected	
63.6 .....	AMENDED .....	1030, §11
63.12 .....	Editorially corrected	
63.13 .....	Editorially corrected	
68A.102.....	AMENDED .....	1158, §2
68A.404.....	AMENDED .....	1010, §41
68A.406.....	AMENDED .....	1097, §13
68B.21.....	STRICKEN	
68B.26.....	STRICKEN	
68B.32.....	AMENDED .....	1035, §1
68B.32A .....	AMENDED and footnote added.....	1035, §2-4, 9; 1185, §69
68B.32B .....	AMENDED .....	1035, §5
68B.32C .....	AMENDED .....	1035, §6
68B.32D .....	AMENDED .....	1035, §7, 8
68B.37.....	ADDED .....	Code 2005 as amended by 1149, §4-6

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69.8 .....	Footnote revised	
69.14A.....	AMENDED .....	1065, §1, 2
69.20 .....	AMENDED .....	1010, §42
97B.4.....	Section history revised	
256.11 .....	Section history revised	
260C.28.....	AMENDED .....	1152, §31
277.28 .....	Editorially corrected	
301.24 .....	AMENDED .....	1044, §1
303.34 .....	ADDED .....	Code 2005
331.101 .....	Editorially corrected	
331.214 .....	AMENDED .....	1065, §3
331.301 .....	Section history revised	
331.471 .....	Section history revised	
331.552 .....	Section history revised	
331.602 .....	AMENDED .....	1031, §1
331.653 .....	Section history revised	
331.756 .....	Section history revised	
346.27 .....	Section history revised	
349.16 .....	Section history revised	
364.2 .....	AMENDED .....	1010, §96
364.4 .....	AMENDED and section history revised.....	1017, §35
368.11 .....	AMENDED .....	1158, §5
372.6 .....	AMENDED .....	1138, §1
372.13 .....	AMENDED .....	1018, §5; 1138, §2
372.13A.....	ADDED .....	1138, §3
421.1 .....	ADDED (subsection 1, unnumbered paragraph 1 only).....	Code 2005 as amended by 1010, §99
421.17 .....	Section history revised	
422.12J .....	ADDED .....	1158, §27
422D.3.....	ADDED .....	Code 2005



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423B.1.....	AMENDED and footnote stricken .....	1158, §52–54
423B.2.....	ADDED .....	Code 2005 with corrected section history
423B.3.....	ADDED .....	Code 2005
423B.5.....	ADDED .....	Code Supplement 2005 as amended by 1158, §55
423B.6.....	Footnote stricken	
423B.9.....	Footnote stricken	
423E.1.....	AMENDED and footnote stricken .....	1152, §52
423E.3.....	AMENDED .....	1010, §105; 1152, §53
455A.4.....	Section history revised	
602.6304 .....	AMENDED and footnote stricken .....	2003 Acts, ch 151, §64
602.6305 .....	ADDED .....	Code 2005
602.6403 .....	ADDED .....	Code 2005 as amended by 2003 Acts, ch 151, §64
602.7103B.....	ADDED .....	Code 2005 as amended by 2003 Acts, ch 151, §64
602.8102 .....	Section history revised	
633.20B.....	ADDED .....	Code 2005 as amended by 2003 Acts, ch 151, §64
725.15 .....	ADDED .....	Code 2005
Ch 914.....	ADDED chapter number and analysis .....	Code 2005
914.1 .....	ADDED .....	Code 2005 as amended by 1010, §168
914.2 .....	ADDED .....	Code 2005
914.3 .....	ADDED .....	Code 2005
914.4 .....	ADDED .....	Code 2005
914.5 .....	ADDED .....	Code 2005
914.6 .....	ADDED subsections 1, 2, and 4 .....	Code 2005
914.7 .....	ADDED .....	Code 2005



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### **EDITOR'S NOTE**

This publication contains election laws as they appear in the Iowa Code 2007 that are effective on or before July 1, 2006.

The Election Laws compilation is updated annually by the issuance of replacement pages containing amendments and new enactments.

### **PREFATORY STATEMENT**

“The official printed versions of the Iowa Code, Iowa Code Supplement, and Iowa Acts published under authority of the state are the only authoritative publications of the statutes of this state. Other publications of the statutes of the state shall not be cited in the courts or in the reports or rules of the courts...” [Iowa Code §2B.17(3)]



## 1857 CONSTITUTION OF THE STATE OF IOWA — CODIFIED

## ARTICLE II.

## RIGHT OF SUFFRAGE.

**Electors.** Sec. 1. Every citizen of the United States of the age of twenty-one years, who shall have been a resident of this state for such period of time as shall be provided by law and of the county in which he claims his vote for such period of time as shall be provided by law, shall be entitled to vote at all elections which are now or hereafter may be authorized by law. The general assembly may provide by law for different periods of residence in order to vote for various officers or in order to vote in various elections. The required periods of residence shall not exceed six months in this state and sixty days in the county.

Repealed and rewritten 1970, Amendment [30]  
See United States Constitution, Amendments 19 and 26

**Privileged from arrest.** Sec. 2. Electors shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest on the days of election, during their attendance at such election, going to and returning therefrom.

**From military duty.** Sec. 3. No elector shall be obliged to perform military duty on the day of election, except in time of war, or public danger.

**Persons in military service.** Sec. 4. No person in the military, naval, or marine service of the United States shall be considered a resident of this state by being stationed in any garrison, barrack, or military or naval place, or station within this state.

**Disqualified persons.** Sec. 5. No idiot, or insane person, or person convicted of any infamous crime, shall be entitled to the privilege of an elector.

**Ballot.** Sec. 6. All elections by the people shall be by ballot.

**General election.** Sec. 7. The general election for state, district, county and township officers in the year 1916 shall be held in the same month and on the same day as that fixed by the laws of the United States for the election of presidential electors, or of president and vice-president of the United States; and thereafter such election shall be held at such time as the general assembly may by law provide.

Repealed and rewritten 1916, Amendment [14]  
For statutory provisions, see §39.1 of the Code

## ARTICLE III.

## LEGISLATIVE DEPARTMENT.

**Representatives.** Sec. 3. The members of the house of representatives shall be chosen every second year, by the qualified electors of their respective districts, and their term of office shall commence on the first day of January next after their election, and continue two years, and until their successors are elected and qualified.

For provisions relative to the time of holding the general election, see codified Iowa Constitution, Art. II, §7; see also §39.1 of the Code

**Qualifications.** Sec. 4. No person shall be a member of the house of representatives who shall not have attained the age of twenty-one years, be a citizen of the United States, and shall have been an inhabitant of this state one year next preceding his election, and at the time of his election shall have had an actual residence of sixty days in the county, or district he may have been chosen to represent.

Amended 1880, Amendment [6] and 1926, Amendment [15]

**Senators — qualifications.** Sec. 5. Senators shall be chosen for the term of four years, at the same time and place as representatives; they shall be twenty-five years of age, and possess the qualifications of representatives as to residence and citizenship.

**Senators — number and classification.** Sec. 6. The number of senators shall total not more than one-half the membership of the house of representatives. Senators shall be classified so that as nearly as possible one-half of the members of the senate shall be elected every two years.

Repealed and rewritten 1968, Amendment [26]  
See also codified Iowa Constitution, Art. III, §34  
Referred to in §42.4 of the Code

**Officers — elections determined.** Sec. 7. Each house shall choose its own officers, and judge of the qualification, election, and return of its own members. A contested election shall be determined in such manner as shall be directed by law.

**Vacancies.** Sec. 12. When vacancies occur in either house, the governor or the person exercising the functions of governor, shall issue writs of election to fill such vacancies.

**Local or special laws — general and uniform — boundaries of counties.** Sec. 30. The general assembly shall not pass local or special laws in the following cases:

- For the assessment and collection of taxes for state, county, or road purposes;
- For laying out, opening, and working roads or highways;
- For changing the names of persons;
- For the incorporation of cities and towns;
- For vacating roads, town plats, streets, alleys, or public squares;
- For locating or changing county seats.

In all the cases above enumerated, and in all other cases where a general law can be made applicable, all laws shall be general, and of uniform operation throughout the state; and no law changing the boundary lines of any county shall have effect until upon being submitted to the people of the counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county, cast for and against it.

**Senate and house of representatives — limitation.** Sec. 34. The senate shall be composed of not more than fifty and the house of representatives of not more than one hundred members. Senators and representatives shall be elected from districts established by law. Each district so established shall be of compact and contiguous territory. The state shall be apportioned into senatorial and representative districts on the basis of population. The general assembly may provide by law for factors in addition to population, not in conflict with the Constitution of the United States, which may be considered in the apportioning of senatorial districts. No law so adopted shall permit the establishment of senatorial districts whereby a majority of the members of the senate shall represent less than forty percent of the population of the state as shown by the most recent United States decennial census.

Repealed and rewritten 1968, Amendment [26]  
See also codified Iowa Constitution, Art. III, §6, 39

**Senators and representatives — number and districts.** Sec. 35. The general assembly shall in 1971 and in each year immediately following the United States decennial census determine the number of senators and representatives to be elected to the general assembly and establish senatorial and representative districts. The general assembly shall complete the apportionment prior to September 1 of the year so required. If the apportionment fails to become law prior to September 15 of such year, the supreme court shall cause the state to be apportioned into senatorial and representative districts to comply with the requirements of the constitution prior to December 31 of such year. The reapportioning authority shall, where necessary in establishing senatorial districts, shorten the term of any senator prior to completion of the term. Any senator whose term is so terminated shall not be compensated for the uncompleted part of the term.

Repealed and rewritten 1968, Amendment [26]  
Referred to in §49.3 of the Code

**Review by supreme court.** Sec. 36. Upon verified application by any qualified elector, the supreme court shall review an apportionment plan adopted by the general assembly which has been enacted into law. Should the supreme court determine such plan does not comply with the requirements of the constitution, the court shall within ninety days adopt or cause to be adopted an apportionment plan which shall so comply. The supreme court shall have original jurisdiction of all litigation questioning the apportionment of the general assembly or any apportionment plan adopted by the general assembly.

Repealed and rewritten 1968, Amendment [26]

**Congressional districts.** Sec. 37. When a congressional district is composed of two or more counties it shall not be entirely separated by a county belonging to another district and no county shall be divided in forming a congressional district.

Repealed and rewritten 1968, Amendment [26]  
Referred to in §42.3, 42.4 of the Code

**Elections by general assembly.** Sec. 38. In all elections by the general assembly, the members thereof shall vote viva voce and the votes shall be entered on the journal.

**Legislative districts.** Sec. 39. In establishing senatorial and representative districts, the state shall be divided into as many senatorial districts as there are members of the senate and into as many representative districts as there are members of the house of representatives. One senator shall be elected from each senatorial district and one representative shall be elected from each representative district.

Added 1970, Amendment [29]

#### ARTICLE IV.

##### EXECUTIVE DEPARTMENT.

**Election and term.** Sec. 2. The governor and the lieutenant governor shall be elected by the qualified electors at the time and place of voting for members of the general assembly. Each of them shall hold office for four years from the time of installation in office and until a successor is elected and qualifies.

Repealed and rewritten 1988, Amendment [41]

**Governor and lieutenant governor elected jointly — returns of elections.** Sec. 3. The electors shall designate their selections for governor and lieutenant governor as if these two offices were one and the same. The names of nominees for the governor and the lieutenant governor shall be grouped together in a set on the ballot according to which nominee for governor is seeking office with which nominee for lieutenant governor, as prescribed by law. An elector shall cast only one vote for both a nominee for governor and a nominee for lieutenant governor. The returns of every election for governor and lieutenant governor shall be sealed and transmitted to the seat of government of the state, and directed to the speaker of the house of representatives who shall open and publish them in the presence of both houses of the general assembly.

Repealed and rewritten 1988, Amendment [41]  
For statutory provisions, see §50.35 of the Code



**Election by general assembly in case of tie — succession by lieutenant governor.** Sec. 4. The nominees for governor and lieutenant governor jointly having the highest number of votes cast for them shall be declared duly elected. If two or more sets of nominees for governor and lieutenant governor have an equal and the highest number of votes for the offices jointly, the general assembly shall by joint vote proceed, as soon as is possible, to elect one set of nominees for governor and lieutenant governor. If, upon the completion by the general assembly of the canvass of votes for governor and lieutenant governor, it appears that the nominee for governor in the set of nominees for governor and lieutenant governor receiving the highest number of votes has since died or resigned, is unable to qualify, fails to qualify, or is for any other reason unable to assume the duties of the office of governor for the ensuing term, the powers and duties shall devolve to the nominee for lieutenant governor of the same set of nominees for governor and lieutenant governor, who shall assume the powers and duties of governor upon inauguration and until the disability is removed. If both nominees for governor and lieutenant governor are unable to assume the duties of the office of governor, the person next in succession shall act as governor.

Repealed and rewritten 1988, Amendment [41]

**Contested elections.** Sec. 5. Contested elections for the offices of governor and lieutenant governor shall be determined by the general assembly as prescribed by law.

Repealed and rewritten 1988, Amendment [41]

For statutory provisions, see chapter 58 of the Code

**Eligibility.** Sec. 6. No person shall be eligible to the office of governor, or lieutenant governor, who shall not have been a citizen of the United States, and a resident of the state, two years next preceding the election, and attained the age of thirty years at the time of said election.

**Vacancies.** Sec. 10. When any office shall, from any cause, become vacant, and no mode is provided by the constitution and laws for filling such vacancy, the governor shall have power to fill such vacancy, by granting a commission, which shall expire at the end of the next session of the general assembly, or at the next election by the people.

**Terms — compensation.** Sec. 15. The official terms of the governor and lieutenant governor shall commence on the Tuesday after the second Monday of January next after their election and shall continue until their successors are elected and qualify. The governor and lieutenant governor shall be paid compensation and expenses as provided by law. The lieutenant governor, while acting as governor, shall be paid the compensation and expenses prescribed for the governor.

Repealed and rewritten 1988, Amendment [42]

**Succession to office of governor and lieutenant governor.** Sec. 19. If there be a vacancy in the office of the governor and the lieutenant governor shall by reason of death, impeachment, resignation, removal from office, or other disability become incapable of performing the duties pertaining to the office of governor, the president of the senate shall act as governor until the vacancy is filled or the disability removed; and if the president of the senate, for any of the above causes, shall be incapable of performing the duties pertaining to the office of governor the same shall devolve upon the speaker of the house of representatives; and if the speaker of the house of representatives, for any of the above causes, shall be incapable of performing the duties of the office of governor, the justices of the supreme court shall convene the general assembly by proclamation and the general assembly shall organize by the election of a president by the senate and a speaker by the house of representatives. The general assembly shall thereupon immediately proceed to the election of a governor and lieutenant governor in joint convention.

Repealed and rewritten 1988, Amendment [42]

**Secretary — auditor — treasurer.** Sec. 22. A secretary of state, an auditor of state and a treasurer of state shall be elected by the qualified electors at the same time that the governor is elected and for a four-year term commencing on the first day of January next after their election, and they shall perform such duties as may be provided by law.

Repealed and rewritten 1972, Amendment [32]

#### ARTICLE V.

#### JUDICIAL DEPARTMENT.

**Attorney general.** Sec. 12. The general assembly shall provide, by law, for the election of an attorney general by the people, whose term of office shall be four years, and until his successor is elected and qualifies.

Repealed and rewritten 1972, Amendment [32]

**Terms — judicial elections.** Sec. 17. Members of all courts shall have such tenure in office as may be fixed by law, but terms of supreme court judges shall be not less than eight years and terms of district court judges shall be not less than six years. Judges shall serve for one year after appointment and until the first day of January following the next judicial election after the expiration of such year. They shall at such judicial election stand for retention in office on a separate ballot which shall submit the question of whether such judge shall be retained in office for the tenure prescribed for such office and when such tenure is a term of years, on their request, they shall, at the judicial election next before the end of each term, stand again for retention on such ballot. Present supreme court and district court judges, at the expiration of their respective terms, may be retained in office in like manner for the tenure prescribed for such office. The general assembly shall prescribe the time for holding judicial elections.

Added 1962, Amendment [21]

ARTICLE VII.

STATE DEBTS.

**Contracting debt — submission to the people.** Sec. 5. Except the debts herein before specified in this article, no debt shall be hereafter contracted by, or on behalf of this state, unless such debt shall be authorized by some law for some single work or object, to be distinctly specified therein; and such law shall impose and provide for the collection of a direct annual tax, sufficient to pay the interest on such debt, as it falls due, and also to pay and discharge the principal of such debt, within twenty years from the time of the contracting thereof; but no such law shall take effect until at a general election it shall have been submitted to the people, and have received a majority of all the votes cast for and against it at such election; and all money raised by authority of such law, shall be applied only to the specific object therein stated, or to the payment of the debt created thereby; and such law shall be published in at least one newspaper in each county, if one is published therein, throughout the state, for three months preceding the election at which it is submitted to the people.

For statutory provisions, see §49A.1 to 49A.9 of the Code

ARTICLE VIII.

CORPORATIONS.

**Banking associations.** Sec. 5. No act of the general assembly, authorizing or creating corporations or associations with banking powers, nor amendments thereto shall take effect, or in any manner be in force, until the same shall have been submitted, separately, to the people, at a general or special election, as provided by law, to be held not less than three months after the passage of the act, and shall have been approved by a majority of all the electors voting for and against it at such election.

**State bank.** Sec. 6. Subject to the provisions of the foregoing section, the general assembly may also provide for the establishment of a state bank with branches.

## ARTICLE X.

## AMENDMENTS TO THE CONSTITUTION.

**How proposed — submission.** Section 1. Any amendment or amendments to this constitution may be proposed in either house of the general assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the legislature to be chosen at the next general election, and shall be published, as provided by law, for three months previous to the time of making such choice; and if, in the general assembly so next chosen as aforesaid, such proposed amendment or amendments shall be agreed to, by a majority of all the members elected to each house, then it shall be the duty of the general assembly to submit such proposed amendment or amendments to the people, in such manner, and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this state.

For statutory provisions, see §49.43 through 49.50 and 49A.1 through 49A.11 of the Code

**More than one amendment.** Sec. 2. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately.

**Constitutional convention.** Sec. 3. At the general election to be held in the year one thousand nine hundred and seventy, and in each tenth year thereafter, and also at such times as the general assembly may, by law, provide, the question, “Shall there be a convention to revise the constitution, and propose amendment or amendments to same?” shall be decided by the electors qualified to vote for members of the general assembly; and in case a majority of the electors so qualified, voting at such election, for and against such proposition, shall decide in favor of a convention for such purpose, the general assembly, at its next session, shall provide by law for the election of delegates to such convention, and for submitting the results of said convention to the people, in such manner and at such time as the general assembly shall provide; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the general assembly, voting thereon, such amendment or amendments shall become a part of the constitution of this state. If two or more amendments shall be submitted at the same time, they shall be submitted in such a manner that electors may vote for or against each such amendment separately.

Repealed and rewritten 1964, Amendment [22]

ARTICLE XI.

MISCELLANEOUS.

**Oath of office.** Sec. 5. Every person elected or appointed to any office, shall, before entering upon the duties thereof, take an oath or affirmation to support the constitution of the United States, and of this state, and also an oath of office.

See §63.10 of the Code

**How vacancies filled.** Sec. 6. In all cases of elections to fill vacancies in office occurring before the expiration of a full term, the person so elected shall hold for the residue of the unexpired term; and all persons appointed to fill vacancies in office, shall hold until the next general election, and until their successors are elected and qualified.



IOWA AGRICULTURAL INDUSTRY FINANCE ACT

**15E.208 Qualified corporations — Iowa agricultural industry finance loans.**

1. The department\* may award an Iowa agricultural industry finance loan to an Iowa agricultural industry finance corporation if the department in its discretion determines that the corporation is qualified under this section.

2. Not reprinted.

3. The department shall loan all of the amounts available to the department pursuant to this division to a qualified corporation with provisions and restrictions as determined by the department and contained in a loan agreement executed between the department and the qualified corporation.

a. and b. Not reprinted.

c. The corporation shall not expend moneys originating from the state, including moneys loaned under this section, on political activity or on any attempt to influence legislation.

4. to 8. Not reprinted.

98 Acts, ch 1207, §9; 99 Acts, ch 66, §2; 2000 Acts, ch 1058, §6; 2001 Acts, ch 55, §20, 38; 2002 Acts, ch 1162, §29; 2003 Acts, ch 122, §1, 2; 2004 Acts, ch 1175, §324; 2006 Acts, ch 1185, §55

\*Department of economic development

IOWA FINANCE AUTHORITY

**16.6 Executive director — responsibilities.**

1. The governor, subject to confirmation by the senate, shall appoint an executive director of the authority, who shall serve at the pleasure of the governor. The executive director shall be selected primarily for administrative ability and knowledge in the field, without regard to political affiliation. The executive director shall not, directly or indirectly, exert influence to induce any other officers or employees of the state to adopt a political view, or to favor a political candidate for office.

2. and 3. Not reprinted.

[C77, 79, 81, §220.6]

86 Acts, ch 1237, §10; 88 Acts, ch 1158, §50; 89 Acts, ch 302, §11  
C93, §16.6

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## CHAPTER 39

## ELECTIONS, ELECTORS, APPOINTMENTS, TERMS AND OFFICERS

Chapter applicable to primary elections, §43.5

39.1	General election.	39.14	Repealed by 61 Acts, ch 296, §2.
39.2	Special elections.	39.15	State senators.
39.3	Definitions.	39.16	Representatives.
39.4	Proclamation concerning revision of Constitution.	39.17	County officers.
39.5	Elections authorized. Repealed by 98 Acts, ch 1123, §17, 18.	39.18	Board of supervisors.
39.6	Notice of special election.	39.19	Repealed by 69 Acts, ch 218, §11.
39.7	Time of choosing officer.	39.20	City officers.
39.8	Term of office.	39.21	Nonpartisan offices.
39.9	State officers — term.	39.22	Township officers.
39.10	United States senators.	39.23	Township clerk. Repealed by 87 Acts, ch 68, §3.
39.11	More than one office prohibited.	39.24	School officers.
39.12	Failure to vacate.	39.25	Sex no disqualification.
39.13	Repealed by 59 Acts, ch 319, §1.	39.26	Candidate qualifications.
		39.27	Qualifications for public office.

**39.1 General election.**

The general election shall be held throughout the state on the first Tuesday after the first Monday in November of each even-numbered year.

[C51, §239; R60, §459; C73, §573; C97, §1057; S13, §1057-a; C24, 27, 31, 35, 39, §504; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.1]

Iowa Constitution, Art. II, §7

**39.2 Special elections.**

1. All special elections which are authorized or required by law, unless the applicable law otherwise requires, shall be held on Tuesday. A special election shall not be held on the first, second, and third Tuesdays preceding and following the primary and the general elections.

A special election shall not be held in conjunction with the primary election. A special election shall not be held in conjunction with a school election unless the special election is for a school district or community college. A special election shall not be held in conjunction with a regularly scheduled or special city primary or city runoff election.

2. Except as otherwise provided in subsection 1, a special election may be held on the same day as a regularly scheduled election if the two elections are not in conflict within the meaning of section 47.6, subsection 2. A special election may be held on the same day as a regularly scheduled election with which it does so conflict if the commissioner who is responsible for conducting the elections concludes that to do so will cause no undue difficulties.

3. When voting is to occur on the same day in any one precinct for two or more elections, they shall be considered one election for purposes of administration including but not limited to publishing notice of the election, preparation of the precinct election register and completion of tally sheets after the polling place has closed.

If a special election to fill a vacancy is held in conjunction with a regularly scheduled election, the filing deadlines for the special election shall coincide with the filing deadline for the regularly scheduled election. An election to fill a vacancy in a city office cannot be held in conjunction with a general election if the city election procedures provide for a primary election.

[C51, §237; R60, §460; C73, §574; C97, §1058; C24, 27, 31, 35, 39, §505; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.2]  
 90 Acts, ch 1238, §1; 93 Acts, ch 143, §2; 98 Acts, ch 1123, §1; 2002 Acts, ch 1134, §1, 115

### 39.3 Definitions.

The definitions established by this section shall apply wherever the terms so defined appear in this chapter and in chapters 39A, 43, 44, 45, 47, 48A through 53, and 68A unless the context in which any such term is used clearly requires otherwise.

1. “*Absentee ballot*” means any ballot authorized by chapter 53.
2. “*City*” means a municipal corporation not including a county, township, school district, or any special purpose district or authority. When used in relation to land area, “*city*” includes only the land area within the city limits.
3. “*City election*” means any election held in a city for nomination or election of the officers thereof including a city primary or runoff election.
4. “*Commissioner*” means the county commissioner of elections as defined in section 47.2.
5. “*Election*” means a general election, primary election, city election, school election or special election.
6. “*Eligible elector*” means a person who possesses all of the qualifications necessary to entitle the person to be registered to vote, whether or not the person is in fact so registered.
7. “*General election*” means the biennial election for national or state officers, members of Congress and of the general assembly, county and township officers, and for the choice of other officers or the decision of questions as provided by law.
8. “*Infamous crime*” means a felony as defined in section 701.7, or an offense classified as a felony under federal law.
9. “*Primary election*” means that election by the members of various political parties for the purpose of placing in nomination candidates for public office held as required by chapter 43.
10. “*Public measure*” means any question authorized or required by law to be submitted to the voters at an election.
11. “*Registered voter*” means a person who is registered to vote pursuant to chapter 48A.
12. “*Registrar*” means the state registrar of voters designated by section 47.7.
13. “*Registration commission*” means the state voter registration commission established by section 47.8.
14. “*School election*” means that election held pursuant to section 277.1.
15. “*Special election*” means any other election held for any purpose authorized or required by law.
16. “*State commissioner*” means the state commissioner of elections as defined in section 47.1.
17. “*Written*” and “*in writing*” may include any mode of representing words or letters in general use. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:
  - a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.

b. A rubber stamp reproduction of the name or facsimile of the actual signature of the person with a disability when adopted by that person for all purposes requiring a signature and then only when affixed by that person or another upon the request and in the presence of the person with a disability.

[C97, §1089; C24, 27, 31, 35, 39, §720; C46, 50, 54, 58, 62, 66, 71, 73, §49.2; C75, 77, 79, 81, §39.3]

93 Acts, ch 143, §3; 94 Acts, ch 1169, §43, 65; 94 Acts, ch 1180, §1; 2002 Acts, ch 1071, §7; 2002 Acts, ch 1134, §2, 115

#### **39.4 Proclamation concerning revision of Constitution.**

In the years in which the Constitution requires, or at other times when the general assembly by law provides for, a vote on the question of calling a convention and revising the Constitution, the governor shall at least sixty days before the general election issue a proclamation directing that at the general election there be proposed to the people the following question:

Shall there be a convention to revise the Constitution, and propose amendment or amendments to same?

[C97, §1061; SS15, §1061; C24, 27, 31, 35, 39, §507; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.4]

Constitutional requirement, Iowa Constitution, Art. X, §3

#### **39.5 Elections authorized.** Repealed by 98 Acts, ch 1123, §17, 18.

#### **39.6 Notice of special election.**

A proclamation shall be issued before any election ordered by the governor, designating the office to be filled or the public question to be submitted at the election and designating the time at which such election shall be held; and the commissioner of each county in which such election is to be held shall give notice thereof, as provided in section 49.53.

[R60, §462, 464; C73, §577, 579; C97, §1061, 1063; SS15, §1061; C24, 27, 31, 35, 39, §506, 509; C46, 50, 54, 58, 62, 66, 71, 73, §39.3, 39.6; C75, 77, 79, 81, §39.6]

Additional provision, §49A.7

#### **39.7 Time of choosing officer.**

At the general election next preceding the expiration of the term of any officer, a successor shall be elected.

[R60, §461; C73, §575; C97, §1059; C24, 27, 31, 35, 39, §510; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.7]

#### **39.8 Term of office.**

The term of office of all officers chosen at a general election for a full term shall commence on the first day of January following the election which is not a Sunday or legal holiday, except when otherwise provided by the Constitution or by statute; that of an officer chosen to fill a vacancy shall commence as soon as the officer has qualified therefor.

[R60, §462; C73, §576; C97, §1060; S13, §1060; C24, 27, 31, 35, 39, §511; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.8]

Governor and lieutenant governor, Iowa Constitution, Art. IV, §15  
Judges of supreme and district courts, Iowa Constitution, Art. V, §17

**39.9 State officers — term.**

The governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, and attorney general shall be elected for a term of four years at the general election held in the year 1974 and every four years thereafter.

[C51, §239; R60, §465, 466; C73, §580, 581; C97, §1064, 1065; S13, §1065; C24, 27, 31, 35, 39, §512; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.9]

**39.10 United States senators.**

Senators in the Congress of the United States shall be elected in the same manner in which state officers are elected.

[R60, §674; C73, §26; C97, §30; S13, §1087-c; C24, 27, 31, 35, 39, §513; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.10]

Term of office, United States Constitution, Amendment 17  
Vacancy in United States senate, see §69.13

**39.11 More than one office prohibited.**

Statewide elected officials and members of the general assembly shall not hold more than one elective office at a time. All other elected officials shall not hold more than one elective office at the same level of government at a time. This section does not apply to the following offices: county agricultural extension council or soil and water conservation district commission.

93 Acts, ch 143, §4; 2001 Acts, ch 158, §5

See also §441.17(1)

**39.12 Failure to vacate.**

An elected official who has been elected to another elective office to which section 39.11 applies shall choose only one office in which to serve. The official shall resign from all but one of the offices to which section 39.11 applies before the beginning of the term of the office to which the person was most recently elected. Failure to submit the required resignation will result in a vacancy in all elective offices to which the person was elected.

93 Acts, ch 143, §5

**39.13** Repealed by 59 Acts, ch 319, §1.

**39.14** Repealed by 61 Acts, ch 296, §2.

**39.15 State senators.**

Senators in the general assembly shall be elected at the general election in the respective senatorial districts and shall hold office for the term of four years.

[C51, §239; R60, §471; C73, §588; C97, §1071; S13, §1071; C24, 27, 31, 35, 39, §518; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.15]

**39.16 Representatives.**

Members of the house of representatives shall be elected at the general election in the respective representative districts and hold office for the term of two years.

[C51, §239; R60, §470; C73, §587; C97, §1070; S13, §1070; C24, 27, 31, 35, 39, §519; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.16]

**39.17 County officers.**

There shall be elected in each county at the general election to be held in the year 1976 and every four years thereafter, an auditor and a sheriff, each to hold office for a term of four years.

There shall be elected in each county at the general election to be held in 1974 and each four years thereafter, a treasurer, a recorder and a county attorney who shall hold office for a term of four years.

[C51, §96, 239; R60, §224, 472, 473; C73, §589; C97, §1072; S13, §1072; C24, 27, 31, 35, 39, §520; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17]

83 Acts, ch 186, §10015, 10201

Combining duties of county officers; §331.323

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## CHAPTER 39A

## ELECTION MISCONDUCT

See also definitions in §39.3

39A.1 Title and purpose — election officials defined.	39A.4 Election misconduct in the third degree.
39A.2 Election misconduct in the first degree.	39A.5 Election misconduct in the fourth degree.
39A.3 Election misconduct in the second degree.	39A.6 Technical infractions — notice.

**39A.1 Title and purpose — election officials defined.**

1. This chapter may be cited and referred to as the “*Election Misconduct and Penalties Act*”.

2. The purpose of this chapter is to identify actions which threaten the integrity of the election process and to impose significant sanctions upon persons who intentionally commit those acts. It is the intent of the general assembly that offenses with the greatest potential to affect the election process be vigorously prosecuted and strong punishment meted out through the imposition of felony sanctions which, as a consequence, remove the voting rights of the offenders. Other offenses are still considered serious, but based on the factual context in which they arise, they may not rise to the level of offenses to which felony penalties attach. The general assembly also recognizes that instances may arise in which technical infractions of chapters 39 through 53 may occur which do not merit any level of criminal sanction. In such instances, administrative notice from the state or county commissioner of elections is sufficient. Mandates or proscriptions in chapters 39 through 53 which are not specifically included in this chapter shall be considered to be directive only, without criminal sanction.

3. For the purposes of this chapter, “*election officials*” include the state commissioner, the county commissioner, employees of the state commissioner and county commissioner who are responsible for carrying out functions or duties under chapters 39 through 53, and precinct election officials appointed pursuant to sections 49.12, 49.14, 49.18, and 53.23.

2002 Acts, ch 1071, §1

**39A.2 Election misconduct in the first degree.**

1. A person commits the crime of election misconduct in the first degree if the person willfully commits any of the following acts:

*a. Registration fraud.* Produces, procures, submits, or accepts a voter registration application that is known by the person to be materially false, fictitious, forged, or fraudulent.

*b. Vote fraud.*

(1) Destroys, delivers, or handles an application for a ballot or an absentee ballot with the intent of interfering with the voter’s right to vote.

(2) Produces, procures, submits, or accepts a ballot or an absentee ballot, or produces, procures, casts, accepts, or tabulates a ballot that is known by the person to be materially false, fictitious, forged, or fraudulent.

(3) Votes or attempts to vote more than once at the same election, or votes or attempts to vote at an election knowing oneself not to be qualified.

(4) Makes a false or untrue statement in an application for an absentee ballot or makes or signs a false certification or affidavit in connection with an absentee ballot.

(5) Otherwise deprives, defrauds, or attempts to deprive or defraud the citizens of this state of a fair and impartially conducted election process.

*c. Duress.* Intimidates, threatens, or coerces, or attempts to intimidate, threaten, or coerce, a person to do any of the following:

(1) To register to vote, to vote, or to attempt to register to vote.

(2) To urge or aid a person to register to vote, to vote, or to attempt to register to vote.

(3) To exercise a right under chapters 39 through 53.

*d. Bribery.*

(1) Pays, offers to pay, or causes to be paid money or any other thing of value to a person to influence the person's vote.

(2) Pays, offers to pay, or causes to be paid money or any other thing of value to an election official conditioned on some act done or omitted to be done contrary to the person's official duty in relation to an election.

(3) Receives money or any other thing of value knowing that it was given in violation of subparagraph (1) or (2).

*e. Conspiracy.* Conspires with or acts as an accessory with another to commit an act in violation of paragraphs "a" through "d".

2. Election misconduct in the first degree is a class "D" felony.

2002 Acts, ch 1071, §2

### **39A.3 Election misconduct in the second degree.**

1. A person commits the crime of election misconduct in the second degree if the person willfully commits any of the following acts:

*a. Interference with validity of election.*

(1) Possesses an official ballot outside of the voting room unless the person is an election official or other person authorized by law to possess such a ballot.

(2) Makes or possesses a counterfeit of an official election ballot.

(3) Solicits or encourages a person to vote in an election knowing that person is not qualified to vote in the election.

*b. Actions by election official.* As an election official:

(1) Refuses to register a person who is entitled to register to vote under chapter 48A.

(2) Accepts a fee from an applicant applying for registration.

(3) While the polls are open, opens a ballot received from a voter, except as permitted by law.

(4) Marks a ballot by folding or otherwise so as to be able to recognize it.

(5) Attempts to learn how a voter marked a ballot.

(6) Causes a voter to cast a vote contrary to the voter's intention.

(7) Changes a ballot, or in any way causes a vote to be recorded contrary to the intention of the person casting that vote.

(8) Allows a person to do any of the acts proscribed by subparagraphs (1) through (7).

2. Election misconduct in the second degree is an aggravated misdemeanor.

2002 Acts, ch 1071, §3



**39A.4 Election misconduct in the third degree.**

1. A person commits the crime of election misconduct in the third degree if the person willfully commits any of the following acts:

*a. Election day acts.* Any of the following on election day:

(1) Loitering, congregating, electioneering, posting signs, treating voters, or soliciting votes, during the receiving of the ballots, either on the premises of a polling place or within three hundred feet of an outside door of a building affording access to a room where the polls are held, or of an outside door of a building affording access to a hallway, corridor, stairway, or other means of reaching the room where the polls are held. This subparagraph does not apply to the posting of a sign that is more than ninety square inches in size on a motor vehicle, trailer, or semitrailer, or its attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place is prohibited.

(2) Interrupting, hindering, or opposing a voter while in or approaching the polling place for the purpose of voting.

(3) As a voter, submitting a false statement as to the voter's ability to mark a ballot.

(4) Interfering or attempting to interfere with a voter when the voter is inside the enclosed voting space, or when the voter is marking a ballot.

(5) Endeavoring to induce a voter to show how the voter marks or has marked a ballot.

(6) Marking, or causing in any manner to be marked, on a ballot, any character for the purpose of identifying such ballot.

*b. Actions by election official.* As an election official:

(1) Serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6, while serving as a precinct election official at the polls.

(2) Failing to perform duties prescribed by chapters 39 through 53, or performing those duties in such a way as to hinder the object of the law.

(3) Disclosing the manner in which a person's ballot has been voted to anyone except as ordered by a court.

(4) Failing to carry out a duty with regard to access under chapter 22 to a public record that relates to an election or voter registration.

(5) Furnishing a voter with a ballot other than the proper ballot to be used at an election.

(6) Making or consenting to a false entry on the list of voters or poll books.

(7) Placing or permitting another election official to place anything other than a ballot into a ballot box as provided in section 49.85, or permitting a person other than an election official to place anything into a ballot box.

(8) Taking or permitting to be taken out of a ballot box a ballot deposited in the ballot box, except in the manner prescribed by law.

(9) Destroying or altering a ballot that has been given to a voter.

(10) Permitting a person to vote in a manner prohibited by law.

(11) Refusing or rejecting the vote of a voter qualified to vote.

(12) Wrongfully acting or refusing to act for the purpose of avoiding an election, or of rendering invalid a ballot cast from a precinct or other voting district.

(13) Having been deputized to carry the poll books of an election to the place where they are to be canvassed, failing to deliver them to such place, safe, with seals unbroken, and within the time specified by law.

*c. Miscellaneous offenses.*

(1) As a party committee member or a primary election officer or public officer upon whom a duty is imposed by chapter 43 or by a statute applicable to chapter 43, neglecting to perform any such duty, or performing any such duty in such a way as to hinder the object of the statute, or by disclosing to anyone, except as may be ordered by a court, the manner in which a ballot may have been voted.

(2) As a person who is designated pursuant to section 43.4 to report the results of a precinct caucus as it relates to the selection and reporting of delegates selected as part of the presidential nominating process or who is designated pursuant to section 43.4 to tabulate and report the number of persons attending the caucus favoring each presidential candidate, failing to perform those duties, falsifying the information, or omitting information required to be reported under section 43.4.

(3) Making a false answer under chapter 43 relative to a person's qualifications and party affiliations.

(4) Paying, offering to pay, or receiving compensation for voter registration assistance in violation of section 48A.25.

(5) Using voter registration information in violation of section 48A.39.

(6) As a candidate, making a promise to name or appoint another person to a position or to secure a position for another person in violation of section 49.120.

(7) Soliciting the use of influence from a candidate in violation of section 49.121.

(8) As a public official or employee, or a person acting under color of a public official or employee, knowingly requiring a public employee to act in connection with an absentee ballot in violation of section 53.7.

(9) As a person designated by the county commissioner of elections or by the voter casting an absentee ballot, failing to return an absentee ballot in violation of section 53.35A.

(10) As an incumbent officeholder of, or a candidate for, an office being voted for at the election in progress, serving as a member of a challenging committee or observer under section 49.104, subsection 2, 5, or 6.

(11) Returning a voted absentee ballot, by mail or in person, to the commissioner's office and the person returning the ballot is not the voter, an absentee ballot courier, a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.

(12) Making a false or untrue statement reporting that a voted absentee ballot was returned to the commissioner's office, by mail or in person, by a person other than the voter, an absentee ballot courier, a special precinct election official designated pursuant to section 53.22, subsection 1, or the designee of a voter described in section 53.22, subsection 5.

2. Election misconduct in the third degree is a serious misdemeanor.

2002 Acts, ch 1071, §4; 2004 Acts, ch 1083, §1, 37

### **39A.5 Election misconduct in the fourth degree.**

1. A person commits the crime of election misconduct in the fourth degree if the person willfully commits any of the following acts:

*a. Election day acts.*

(1) As an employer, denying an employee the privilege conferred by section 49.109, or subjecting an employee to a penalty or reduction of wages because of the exercise of that privilege.

(2) Failing or refusing to comply with an order or command of an election official made pursuant to chapter 49 for which another penalty is not provided.

CHAPTER 40  
CONGRESSIONAL DISTRICTS

See map on page M-2

40.1 Congressional districts.

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**40.1 Congressional districts.**

The state of Iowa is hereby organized and divided into five congressional districts, which shall be composed, respectively, of the following counties:

1. The first district shall consist of the counties of Butler, Bremer, Fayette, Clayton, Black Hawk, Buchanan, Delaware, Dubuque, Jones, Jackson, Clinton, and Scott.

2. The second district shall consist of the counties of Linn, Johnson, Cedar, Washington, Louisa, Muscatine, Wapello, Jefferson, Henry, Des Moines, Wayne, Appanoose, Davis, Van Buren, and Lee.

3. The third district shall consist of the counties of Grundy, Tama, Benton, Polk, Jasper, Poweshiek, Iowa, Marion, Mahaska, Keokuk, Lucas, and Monroe.

4. The fourth district shall consist of the counties of Emmet, Kossuth, Winnebago, Worth, Mitchell, Howard, Winneshiek, Allamakee, Palo Alto, Hancock, Cerro Gordo, Floyd, Chickasaw, Pocahontas, Humboldt, Wright, Franklin, Calhoun, Webster, Hamilton, Hardin, Greene, Boone, Story, Marshall, Dallas, Madison, and Warren.

5. The fifth district shall consist of the counties of Lyon, Osceola, Dickinson, Sioux, O'Brien, Clay, Plymouth, Cherokee, Buena Vista, Woodbury, Ida, Sac, Monona, Crawford, Carroll, Harrison, Shelby, Audubon, Guthrie, Pottawattamie, Cass, Adair, Mills, Montgomery, Adams, Union, Clarke, Fremont, Page, Taylor, Ringgold, and Decatur.

[C27, 31, 35, §526-a1; C39, §526.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §40.1; 81 Acts 2d Ex, ch 1, §1]

91 Acts, ch 223, §1; 2001 Acts, 1st Ex, ch 1, §1, 6

Constitutional provision, Iowa Constitution, Art. III, §37

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## CHAPTER 42

REDISTRICTING GENERAL ASSEMBLY AND  
CONGRESSIONAL DISTRICTS

42.1	Definitions.	42.6	Duties of commission.
42.2	Preparations for redistricting.	42.7	Special arrangements for
42.3	Timetable for preparation of plan.		1980–1981. Repealed by 80
42.4	Redistricting standards.		Acts, ch 1021, §7.
42.5	Temporary redistricting advisory commission.		

**42.1 Definitions.**

As used in this chapter, unless the context requires otherwise:

1. “*Chief election officer*” means the state commissioner of elections as defined by section 47.1.
2. “*Commission*” means the temporary redistricting advisory commission established pursuant to this chapter.
3. “*Federal census*” means the decennial census required by federal law to be conducted by the United States bureau of the census in every year ending in zero.
4. “*Four selecting authorities*” means:
  - a. The majority floor leader of the state senate.
  - b. The minority floor leader of the state senate.
  - c. The majority floor leader of the state house of representatives.
  - d. The minority floor leader of the state house of representatives.
5. “*Partisan public office*” means:
  - a. An elective or appointive office in the executive or legislative branch or in an independent establishment of the federal government.
  - b. An elective office in the executive or legislative branch of the government of this state, or an office which is filled by appointment and is exempt from the merit system under section 8A.412.
  - c. An office of a county, city or other political subdivision of this state which is filled by an election process involving nomination and election of candidates on a partisan basis.
6. “*Plan*” means a plan for legislative and congressional reapportionment drawn up pursuant to the requirements of this chapter.
7. “*Political party office*” means an elective office in the national or state organization of a political party, as defined by section 43.2.
8. “*Relative*” means an individual who is related to the person in question as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister.

[C81, §42.1]

2003 Acts, ch 145, §151

**42.2 Preparations for redistricting.**

1. The legislative services agency shall acquire appropriate information, review and evaluate available facilities, and develop programs and procedures in preparation for drawing congressional and legislative redistricting plans on

the basis of each federal census. Funds shall be expended for the purchase or lease of equipment and materials only with prior approval of the legislative council.

2. By December 31 of each year ending in zero, the legislative services agency shall obtain from the United States bureau of the census information regarding geographic and political units in this state for which federal census population data has been gathered and will be tabulated. The legislative services agency shall use the data so obtained to:

*a.* Prepare necessary descriptions of geographic and political units for which census data will be reported, and which are suitable for use as components of legislative districts.

*b.* Prepare maps of counties, cities and other geographic units within the state, which may be used to illustrate the locations of legislative district boundaries proposed in plans drawn in accordance with section 42.4.

3. As soon as possible after January 1 of each year ending in one, the legislative services agency shall obtain from the United States bureau of the census the population data needed for legislative districting which the census bureau is required to provide this state under United States Pub. L. No. 94-171, and shall use that data to assign a population figure based upon certified federal census data to each geographic or political unit described pursuant to subsection 2, paragraph “a”. Upon completing that task, the legislative services agency shall begin the preparation of congressional and legislative districting plans as required by section 42.3.

[C81, §42.2]

2003 Acts, ch 35, §44, 49; 2006 Acts, ch 1010, §33

### **42.3 Timetable for preparation of plan.**

1. Not later than April 1 of each year ending in one, the legislative services agency shall deliver to the secretary of the senate and the chief clerk of the house of representatives identical bills embodying a plan of legislative and congressional districting prepared in accordance with section 42.4. It is the intent of this chapter that the general assembly shall bring the bill to a vote in either the senate or the house of representatives expeditiously, but not less than seven days after the report of the commission required by section 42.6 is received and made available to the members of the general assembly, under a procedure or rule permitting no amendments except those of a purely corrective nature. It is further the intent of this chapter that if the bill is approved by the first house in which it is considered, it shall expeditiously be brought to a vote in the second house under a similar procedure or rule.

2. If the bill embodying the plan submitted by the legislative services agency under subsection 1 fails to be approved by a constitutional majority in either the senate or the house of representatives, the secretary of the senate or the chief clerk of the house, as the case may be, shall at once transmit to the legislative services agency information which the senate or house may direct regarding reasons why the plan was not approved. The legislative services agency shall prepare a bill embodying a second plan of legislative and congressional districting prepared in accordance with section 42.4, and taking into account the reasons cited by the senate or house of representatives for its failure to approve the plan insofar as it is possible to do so within the requirements of section 42.4. If a second plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than May 1 of the year ending in one, or twenty-one days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 1, whichever date is later. It is the intent of this chapter that, if it is necessary to submit a bill under this subsection, the bill be brought to a vote not less than seven days after the bill is printed and made available to the members of the general assembly, in the same manner as prescribed for the bill required under subsection 1.

3. If the bill embodying the plan submitted by the legislative services agency under subsection 2 fails to be approved by a constitutional majority in either the senate or the house of representatives, the same procedure as prescribed by subsection 2 shall be followed. If a third plan is required under this subsection, the bill embodying it shall be delivered to the secretary of the senate and the chief clerk of the house of representatives not later than June 1 of the year ending in one, or twenty-one days after the date of the vote by which the senate or the house of representatives fails to approve the bill submitted under subsection 2, whichever date is later. It is the intent of this chapter that, if it is necessary to submit a bill under this subsection, the bill be brought to a vote within the same time period after its delivery to the secretary of the senate and the chief clerk of the house of representatives as is prescribed for the bill submitted under subsection 2, but shall be subject to amendment in the same manner as other bills.

4. Notwithstanding subsections 1, 2, and 3 of this section:

*a.* If population data from the federal census which is sufficient to permit preparation of a congressional districting plan complying with Article III, section 37 of the Constitution of the State of Iowa becomes available at an earlier time than the population data needed to permit preparation of a legislative districting plan in accordance with section 42.4, the legislative services agency shall so inform the presiding officers of the senate and house of representatives. If the presiding officers so direct, the legislative services agency shall prepare a separate bill establishing congressional districts and submit it separately from the bill establishing legislative districts. It is the intent of this chapter that the general assembly shall proceed to consider the congressional districting bill in substantially the manner prescribed by subsections 1, 2, and 3 of this section.

*b.* If the population data for legislative districting which the United States census bureau is required to provide this state under United States Pub. L. No. 94-171 and, if used by the legislative services agency, the corresponding topologically integrated geographic encoding and referencing data file for that population data, is not available to the legislative services agency on or before February 1 of the year ending in one, the dates set forth in this section shall be extended by a number of days equal to the number of days after February 1 of

the year ending in one that the federal census population data and the topologically integrated geographic encoding and referencing data file for legislative districting becomes available.

[C81, §42.3]

94 Acts, ch 1179, §1, 2; 2003 Acts, ch 35, §44, 49; 2006 Acts, ch 1010, §34

#### **42.4 Redistricting standards.**

1. Legislative and congressional districts shall be established on the basis of population.

*a.* Senatorial and representative districts, respectively, shall each have a population as nearly equal as practicable to the ideal population for such districts, determined by dividing the number of districts to be established into the population of the state reported in the federal decennial census. Senatorial districts and representative districts shall not vary in population from the respective ideal district populations except as necessary to comply with one of the other standards enumerated in this section. In no case shall the quotient, obtained by dividing the total of the absolute values of the deviations of all district populations from the applicable ideal district population by the number of districts established, exceed one percent of the applicable ideal district population. No senatorial district shall have a population which exceeds that of any other senatorial district by more than five percent, and no representative district shall have a population which exceeds that of any other representative district by more than five percent.

*b.* Congressional districts shall each have a population as nearly equal as practicable to the ideal district population, derived as prescribed in paragraph “*a*” of this subsection. No congressional district shall have a population which varies by more than one percent from the applicable ideal district population, except as necessary to comply with Article III, section 37 of the Constitution of the State of Iowa.

*c.* If a challenge is filed with the supreme court alleging excessive population variance among districts established in a plan adopted by the general assembly, the general assembly has the burden of justifying any variance in excess of one percent between the population of a district and the applicable ideal district population.

2. To the extent consistent with subsection 1, district boundaries shall coincide with the boundaries of political subdivisions of the state. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous, but this statement does not apply to a legislative district boundary drawn along a county line which passes through a city that lies in more than one county.

3. Districts shall be composed of convenient contiguous territory. Areas which meet only at the points of adjoining corners are not contiguous.



6. In order to minimize electoral confusion and to facilitate communication within state legislative districts, each plan drawn under this section shall provide that each representative district is wholly included within a single senatorial district and that, so far as possible, each representative and each senatorial district shall be included within a single congressional district. However, the standards established by subsections 1 through 5 shall take precedence where a conflict arises between these standards and the requirement, so far as possible, of including a senatorial or representative district within a single congressional district.

7. Each bill embodying a plan drawn under this section shall provide that any vacancy in the general assembly which takes office in the year ending in one, occurring at a time which makes it necessary to fill the vacancy at a special election held pursuant to section 69.14, shall be filled from the same district which elected the senator or representative whose seat is vacant.

8. Each bill embodying a plan drawn under this section shall include provisions for election of senators to the general assemblies which take office in the years ending in three and five, which shall be in conformity with Article III, section 6 of the Constitution of the State of Iowa. With respect to any plan drawn for consideration in the year 2001, those provisions shall be substantially as follows:

*a.* Each odd-numbered senatorial district shall elect a senator in 2002 for a four-year term commencing in January 2003. If an incumbent senator who was elected to a four-year term which commenced in January 2001, or was subsequently elected to fill a vacancy in such a term, is residing in an odd-numbered senatorial district on February 1, 2002, that senator's term of office shall be terminated on January 1, 2003.

*b.* Each even-numbered senatorial district shall elect a senator in 2004 for a four-year term commencing in January 2005.

(1) If one and only one incumbent state senator is residing in an even-numbered senatorial district on February 1, 2002, and that senator meets all of the following requirements, the senator shall represent the district in the senate for the Eightieth General Assembly:

(a) The senator was elected to a four-year term which commenced in January 2001 or was subsequently elected to fill a vacancy in such a term.

(b) The senatorial district in the plan which includes the place of residence of the state senator on the date of the senator's last election to the senate is the same as the even-numbered senatorial district in which the senator resides on February 1, 2002, or is contiguous to such even-numbered senatorial district and the senator's declared residence as of February 1, 2002, was within the district from which the senator was last elected. Areas which meet only at the points of adjoining corners are not contiguous.

The secretary of state shall prescribe a form to be completed by all senators to declare their residences as of February 1, 2002. The form shall be filed with the secretary of state no later than five p.m. on February 1, 2002.

(2) Each even-numbered senatorial district to which subparagraph (1) of this paragraph is not applicable shall elect a senator in 2002 for a two-year term commencing in January 2003. However, if more than one incumbent state senator is residing in an even-numbered senatorial district on February 1, 2002, and, on or before February 15, 2002, all but one of the incumbent senators resigns from office effective no later than January 1, 2003, the remaining incumbent senator shall represent the district in the senate for the Eightieth General Assembly. A copy of the resignation must be filed in the office of the secretary of state no later than five p.m. on February 15, 2002.

[C81, §42.4]

90 Acts, ch 1244, §1; 94 Acts, ch 1042, §1; 94 Acts, ch 1179, §3; 2006 Acts, ch 1010, §35, 36

#### **42.5 Temporary redistricting advisory commission.**

1. Not later than February 15 of each year ending in one, a five member temporary redistricting advisory commission shall be established as provided by this section. The commission's only functions shall be those prescribed by section 42.6.

*a.* Each of the four selecting authorities shall certify to the chief election officer the authority's appointment of a person to serve on the commission. The certifications may be made at any time after the majority and minority floor leaders have been selected for the general assembly which takes office in the year ending in one, even though that general assembly's term of office has not actually begun.

*b.* Within thirty days after the four selecting authorities have certified their respective appointments to the commission, but in no event later than February 15 of the year ending in one, the four commission members so appointed shall select, by a vote of at least three members, and certify to the chief election officer the fifth commission member, who shall serve as chairperson.

*c.* A vacancy on the commission shall be filled by the initial selecting authority within fifteen days after the vacancy occurs.

*d.* Members of the commission shall receive a per diem as specified in section 7E.6, travel expenses at the rate provided by section 70A.9, and reimbursement for other necessary expenses incurred in performing their duties under this section and section 42.6. The per diem and expenses shall be paid from funds appropriated by section 2.12.

2. No person shall be appointed to the commission who:

*a.* Is not an eligible elector of the state at the time of selection.

*b.* Holds partisan public office or political party office.

*c.* Is a relative of or is employed by a member of the general assembly or of the United States Congress, or is employed directly by the general assembly or by the United States Congress.

[C81, §42.5]

90 Acts, ch 1256, §23

#### **42.6 Duties of commission.**

The functions of the commission shall be as follows:

1. If, in preparation of plans as required by this chapter, the legislative services agency is confronted with the necessity to make any decision for which no clearly applicable guideline is provided by section 42.4, the legislative services agency may submit a written request for direction to the commission.

**43.95 Calling convention to order.**

When the delegates, or a majority thereof, or when delegates representing a majority of the precincts, thus elected, shall have assembled in the county convention, the convention shall be called to order by the chairperson of the county central committee, who shall present the certified list of delegates and members of the county central committee. If the convention is being held after the primary election, the chairperson shall also present a list of the offices for which no nomination was made at the primary election by reason of the failure of any candidate for any such office to receive the legally required number of votes cast by such party therefor.

[S13, §1087-a25; C24, 27, 31, 35, 39, §622; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.95]

**43.96 Proxies prohibited.**

If any precinct shall not be fully represented the delegates present from such precinct shall cast the full vote thereof, if the rules of the convention, party bylaws or constitution so permit, and there shall be no proxies.

[S13, §1087-a25; C24, 27, 31, 35, 39, §623; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.96]

**43.97 Duties performable by county convention.**

The said county convention shall:

1. Make nominations to fill vacancies on the general election ballot as provided by law.
2. Transact such other business as required or permitted by the political party's state constitution or bylaws, or the rules of the convention.
3. Elect delegates to the next ensuing regular state convention and to all district conventions of that year upon such ratio of representation as may be determined by the party organization for the state, district or districts of the state, as the case may be. Delegates to district conventions need not be selected in the absence of any apparent reason therefor. Delegates shall be persons who are or will by the date of the next general election become eligible electors and who are residents of the county.

[S13, §1087-a25; C24, 27, 31, 35, 39, §624; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.97]

Legally required vote, §43.52, 43.53

**43.98 Repealed by 73 Acts, ch 136, §401.****43.99 Party committee persons.**

Two members of the county central committee for each political party shall, at the precinct caucuses, be elected from each precinct. The term of office of a member shall begin at the time specified by the party's state constitution or bylaws and shall continue for two years and until a successor is elected and qualified, unless sooner removed by the county central committee for inattention to duty or incompetency. The party's state constitution or bylaws may permit the election of additional central committee members from each precinct in a number proportionate to the vote cast for the party's candidates for office in the respective precincts at preceding general elections.

[S13, §1087-a25; C24, 27, 31, 35, 39, §626; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.99]

**43.100 Central committee — duties.**

The county central committee shall elect the officers of the committee. Each member shall be given written notice at least five days in advance of the time and place of any meeting scheduled for the election of officers.

Every county central committee shall adopt a constitution and bylaws which shall govern the committee's operation. A copy of the constitution and bylaws so adopted shall be kept on file at the office of the commissioner for the county in which the central committee exists and at the office of the state commissioner. Amendments to a county central committee's constitution or bylaws shall upon adoption be filed in the same manner as the original documents.

Vacancies in such committee may be filled by majority vote of the committee, or at a precinct caucus called pursuant to the party's state constitution or bylaws.

[S13, §1087-a25; C24, 27, 31, 35, 39, §627; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.100]

86 Acts, ch 1224, §5

**43.101 County central committee officers.**

The county central committee shall elect a chair, co-chair, secretary, treasurer, and other officers as it may determine. The term of office of an officer begins at the time specified by the party's state constitution or bylaws and continues for two years and until the officer's successor is elected and qualified, unless the officer dies, resigns or is sooner removed by the county central committee for inattention to duty or incompetency.

86 Acts, ch 1224, §6

**43.102 District conventions.**

Each political party may hold a congressional district convention upon the call of the state party chairperson to:

1. Elect or nominate members of the party's state central committee.
2. Make nominations to fill vacancies on the general election ballot as provided by law.
3. Transact such other business as required or permitted by the party's state constitution or bylaws, or the rules of the convention.

[S13, §1087-a26; C24, 27, 31, 35, 39, §628, 633; C46, 50, 54, 58, 62, 66, 71, 73, §43.101, 43.106; C75, 77, 79, 81, §43.101]

C87, §43.102

Legally required vote, §43.65

**43.103 Duty of county commissioner.**

The commissioner, in case the district delegates for the commissioner's county have not been selected, shall deliver a copy of said call to the chairperson of the convention which selects said delegates.

[S13, §1087-a26; C24, 27, 31, 35, 39, §630; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.103]

**46.9A Notice preceding nomination of elective nominating commissioners.**

At least sixty days prior to the expiration of the term of an elective state or district judicial nominating commissioner, the clerk of the supreme court shall cause to be mailed to each member of the bar whose name appears on the certified list prepared pursuant to section 46.8 for the district or districts affected, a notice stating the date the term of office will expire, the requirements for eligibility to the office for the succeeding term, and the procedure for filing nominating petitions, including the last date for filing. Other items may be included in the same mailing if they are on sheets separate from the notice.

87 Acts, ch 218, §6

**46.10 Nomination of elective nominating commissioners.**

In order to have an eligible elector's name printed on the ballot for state or district judicial nominating commissioner, the eligible elector must file in the office of the clerk of the supreme court at least thirty days prior to expiration of the period within which the election must be held a nominating petition signed by at least fifty resident members of the bar of the congressional district in case of a candidate for state judicial nominating commissioner, or at least ten resident members of the bar of the judicial district in case of a candidate for district judicial nominating commissioner. No member of the bar may sign more nominating petitions for state or district judicial nominating commissioner than there are such commissioners to be elected.

Ballots for state and district judicial nominating commissioners shall contain blank lines equal to the number of such commissioners to be elected, where names may be written in.

[C66, 71, 73, 75, 77, 79, 81, §46.10]

**46.11 Certification of commissioners.**

The governor and the clerk of the supreme court respectively shall promptly certify the names and addresses of appointive and elective judicial nominating commissioners to the state commissioner of elections and the chairperson of the respective nominating commissions.

[C66, 71, 73, 75, 77, 79, 81, §46.11]

**46.12 Notification of vacancy and resignation.**

When a vacancy occurs or will occur within one hundred twenty days in the supreme court, the court of appeals, or district court, the state commissioner of elections shall forthwith so notify the chairperson of the proper judicial nominating commission. The chairperson shall call a meeting of the commission within ten days after such notice; if the chairperson fails to do so, the chief justice shall call such meeting.

When a judge of the supreme court, court of appeals, or district court resigns, the judge shall submit a copy of the resignation to the state commissioner of elections at the time the judge submits the resignation to the governor; and when a judge of the supreme court, court of appeals, or district court dies, the clerk of district court of the county of the judge's residence shall in writing forthwith notify the state commissioner of elections of such fact.

[C66, 71, 73, 75, 77, 79, 81, §46.12]

89 Acts, ch 18, §1; 2003 Acts, ch 151, §1, 64

Repeal of 2003 amendment to unnumbered paragraph 1 is effective July 1, 2006; 2003 Acts, ch 151, §64

**46.13 Notice of meetings.**

The chairperson of each judicial nominating commission shall give the members of the commission at least five days' written notice by mail of the time and place of every meeting, except as to members who execute written waivers of notice at or before the meeting or unless the commission at its next previous meeting designated the time and place of the meeting.

[C66, 71, 73, 75, 77, 79, 81, §46.13]

**46.14 Nomination.**

1. Each judicial nominating commission shall carefully consider the individuals available for judge, and within sixty days after receiving notice of a vacancy shall certify to the governor and the chief justice the proper number of nominees, in alphabetical order. Such nominees shall be chosen by the affirmative vote of a majority of the full statutory number of commissioners upon the basis of their qualifications and without regard to political affiliation. Nominees shall be members of the bar of Iowa, shall be residents of the state or district of the court to which they are nominated, and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years. Nominees for district judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the district judicial nominating commission. Absence of a commissioner or vacancy upon the commission shall not invalidate a nomination. The chairperson of the commission shall promptly certify the names of the nominees, in alphabetical order, to the governor and the chief justice.

2. A commissioner shall not be eligible for nomination by the commission during the term for which the commissioner was elected or appointed to that commission. A commissioner shall not be eligible to vote for the nomination of a family member, current law partner, or current business partner. For purposes of this subsection, "*family member*" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

[C66, 71, 73, 75, 77, 79, 81, §46.14]

89 Acts, ch 212, §1; 2003 Acts, ch 151, §2

STATE OF IOWA  
JUDICIAL BALLOT  
(Date)

VOTE ON ALL NAMES BY PLACING AN X IN THE APPROPRIATE BOX AFTER EACH NAME.

SUPREME COURT

Shall the following judges of the Supreme Court be retained in office?

CANDIDATE'S NAME            YES     NO   
CANDIDATE'S NAME            YES     NO

COURT OF APPEALS

Shall the following judges of the Court of Appeals be retained in office?

CANDIDATE'S NAME            YES     NO   
CANDIDATE'S NAME            YES     NO

DISTRICT COURT

Shall the following judge, associate judge, associate juvenile judge, or associate probate judge of the District Court be retained in office?

CANDIDATE'S NAME            YES     NO

Shall the following clerk of the District Court be retained in office?

CANDIDATE'S NAME            YES     NO

[C66, 71, 73, 75, 77, 79, 81, §46.21]  
83 Acts, ch 186, §10024, 10201; 89 Acts, ch 136, §30; 99 Acts, ch 93, §3; 2004 Acts, ch 1083, §2, 37  
Voting mark generally, see §49.92

**46.22 Voting.**

Voting at judicial elections shall be by separate paper ballot, special paper ballot, ballot cards, or by voting machine in the space provided for public measures. If paper ballots are used the election judges shall offer a ballot to each voter. If special paper ballots or ballot cards are used, either a separate ballot or a distinct heading may be used to distinguish the judicial ballot. Separate ballot boxes for the general election ballots and the judicial election ballots are not required. The general election ballot and the judicial election ballot may be voted in the same voting booth.

[C66, 71, 73, 75, 77, 79, 81, §46.22]  
90 Acts, ch 1238, §10

**46.23 General election and absent voter laws.**

So far as applicable, general election and absent voter laws shall apply to judicial elections. An application for an absent voter ballot for a general election shall also constitute an application for an absent voter ballot for a judicial election to be held at the same time, and the ballots shall be mailed or delivered to the voter together. The sealed envelope transmitted by the absent voter to the county commissioner of elections containing the absent voter general election ballot may also contain the judicial election ballot.

[C66, 71, 73, 75, 77, 79, 81, §46.23]

**46.24 Results of election.**

A judge of the supreme court, court of appeals, or district court including a district associate judge, full-time associate juvenile judge, or full-time associate probate judge, or a clerk of the district court must receive more affirmative than negative votes to be retained in office. When the poll is closed, the election judges shall publicly canvass the vote forthwith. The board of supervisors shall canvass the returns on the Monday or Tuesday after the election, and shall promptly certify the number of affirmative and negative votes on each judge or clerk to the state commissioner of elections.

The state board of canvassers shall, at the time of canvassing the vote cast at a general election, open and canvass all of the returns for the judicial election. Each judge of the supreme court, court of appeals, or district court including a district associate judge, full-time associate juvenile judge, or full-time associate probate judge, or a clerk of the district court who has received more affirmative than negative votes shall receive from the state board of canvassers an appropriate certificate so stating.

[C66, 71, 73, 75, 77, 79, 81, §46.24]

83 Acts, ch 186, §10025, 10201; 90 Acts, ch 1238, §11; 99 Acts, ch 93, §4; 2000 Acts, ch 1154, §8

**46.25 Eligible elector defined.**

As used in this chapter, the term "*eligible elector*" has the meaning assigned that term by section 39.3.

[C75, 77, 79, 81, §46.25]



CHAPTER 47

ELECTION COMMISSIONERS

Chapter applicable to primary elections, §43.5  
See also definitions in §39.3

47.1	State commissioner of elections.	47.6	Election dates — conflicts — public measures.
47.2	County commissioner of elections.	47.7	State registrar of voters.
47.3	Election expenses.	47.8	Voter registration commission — composition — duties.
47.4	Election filing deadlines.		
47.5	Purchasing by competitive bidding.		

**47.1 State commissioner of elections.**

1. The secretary of state is designated as the state commissioner of elections and shall supervise the activities of the county commissioners of elections. There is established within the office of the secretary of state a division of elections which shall be under the direction of the state commissioner of elections. The state commissioner of elections may appoint a person to be in charge of the division of elections who shall perform the duties assigned by the state commissioner of elections. The state commissioner of elections shall prescribe uniform election practices and procedures, shall prescribe the necessary forms required for the conduct of elections, shall assign a number to each proposed constitutional amendment and statewide public measure for identification purposes, and shall adopt rules, pursuant to chapter 17A, to carry out this section.

2. The state commissioner of elections may exercise emergency powers over any election being held in a district in which either a natural or other disaster or extremely inclement weather has occurred. The state commissioner of elections may also exercise emergency powers during an armed conflict involving United States armed forces, or mobilization of those forces, or if an election contest court finds that there were errors in the conduct of an election making it impossible to determine the result.

3. The secretary of state is designated the chief state election official and is responsible for coordination of state responsibilities under the federal National Voter Registration Act of 1993.

4. The state commissioner shall adopt rules describing the emergency powers and the situations in which the powers will be exercised.

5. The state commissioner shall adopt rules pursuant to chapter 17A, for the implementation of uniform and nondiscriminatory administrative complaint procedures for resolution of grievances relating to violations of Title III of Pub. L. No. 107-252. In complaint proceedings in which all of the respondents are local election officials, the presiding officer shall be the state commissioner of elections. In complaint proceedings in which one of the respondents is the state commissioner of elections, the presiding officer shall be a panel consisting of all members of the state voter registration commission appointed pursuant to section 47.8, except the state commissioner of elections or the state commissioner's designee.

[C71, §49A.6; C73, 75, 77, 79, 81, §47.1; 81 Acts, ch 34, §8]

91 Acts, ch 129, §10; 93 Acts, ch 143, §9; 94 Acts, ch 1169, §45; 2004 Acts, ch 1083, §3,

37

See also §68A.201, subsection 4

#### **47.2 County commissioner of elections.**

1. The county auditor of each county is designated as the county commissioner of elections in each county. The county commissioner of elections shall conduct voter registration pursuant to chapter 48A and conduct all elections within the county.

2. When an election is to be held as required by law or is called by a political subdivision of the state and the political subdivision is located in more than one county, the county commissioner of elections of the county having the greatest taxable base within the political subdivision shall conduct that election. The county commissioners of elections of the other counties in which the political subdivision is located shall cooperate with the county commissioner of elections who is conducting the election.

3. The commissioner may designate as a deputy county commissioner of elections any officer of a political subdivision who is required by law to accept nomination papers filed by candidates for office in that political subdivision, and when so designated that person shall assist the commissioner in administering elections conducted by the commissioner for that subdivision. The designation of a person as a deputy commissioner of elections pursuant to this section, once made, shall continue in effect until the designation is withdrawn by the commissioner.

4. The commissioner shall assign each local public measure a letter for identification purposes. The public measure on the ballot shall be identified by the letter.

The county commissioner who is responsible under subsection 2 for conducting the elections held for a political subdivision which lies in more than one county shall assign the letter to the public measure. The county commissioners of elections of the other counties in which the political subdivision is located shall not assign the same letter to a local public measure on the ballot in their counties during the same election.

5. The office of county auditor or county commissioner of elections in each county shall be open for at least eight hours on the Saturday preceding a general election, primary election, or special election called by the governor for the purpose of receiving absentee ballots and conducting other official business relating to the election.

6. On the final date for filing nomination papers in the commissioner's office the office shall be open until the time for receiving nomination papers has passed.

[C73, 75, 77, 79, 81, §47.2; 81 Acts, ch 34, §9]

84 Acts, ch 1291, §3; 89 Acts, ch 136, §31; 94 Acts, ch 1169, §46

#### **47.3 Election expenses.**

The costs of conducting a special election called by the governor, general election, and the primary election held prior to the general election shall be paid by the county.

The cost of conducting other elections shall be paid by the political subdivision for which the election is held. The costs shall include, but not be limited to, the printing of the ballots and the election register, publication of notices, printing of declaration of eligibility affidavits, compensation for precinct election boards, canvass materials, and the preparation and installation of voting machines. The county commissioner of elections shall certify to the county board of supervisors a statement of cost for an election. The cost shall be assessed by the county board of supervisors against the political subdivision for which the election was held.

If the proposed date of the special election coincides with the date of a regularly scheduled election or previously scheduled special election, the notice shall be given no later than five p.m. on the last day on which nomination papers may be filed with the commissioner for the regularly scheduled election or previously scheduled special election, but in no case shall notice be less than thirty-two days before the election. Otherwise, the notice shall be given at least thirty-two days in advance of the date of the proposed special election. Upon receiving the notice, the commissioner shall promptly give written approval of the proposed date unless it appears that the special election, if held on that date, would conflict with a regular election or with another special election previously scheduled for that date.

A public measure shall not be withdrawn from the ballot at any election if the public measure was placed on the ballot by a petition, or if the election is a special election called specifically for the purpose of deciding one or more public measures for a single political subdivision. However, a public measure which was submitted to the county commissioner of elections by the governing body of a political subdivision may be withdrawn by the governing body which submitted the public measure if the public measure was to be placed on the ballot of a regularly scheduled election. The notice of withdrawal must be made by resolution of the governing body and must be filed with the commissioner no later than the last day upon which a candidate may withdraw from the ballot.

2. For the purpose of this section, a conflict between two elections exists only when one of the elections would require use of precinct boundaries which differ from those to be used for the other election, or when some but not all of the registered voters of any precinct would be entitled to vote in one of the elections and all of the registered voters of the same precinct would be entitled to vote in the other election. Nothing in this subsection shall deny a commissioner discretionary authority to approve holding a special election on the same date as another election, even though the two elections may be defined as being in conflict, if the commissioner concludes that to do so will cause no undue difficulties.

[C77, 79, 81, §47.6]

89 Acts, ch 136, §32; 90 Acts, ch 1238, §12; 93 Acts, ch 143, §10; 95 Acts, ch 67, §53; 97 Acts, ch 170, §13

#### **47.7 State registrar of voters.**

1. The state commissioner of elections is designated the state registrar of voters, and shall regulate the preparation, preservation, and maintenance of voter registration records, the preparation of precinct election registers for all elections administered by the commissioner of any county, and the preparation of other data on voter registration and participation in elections which is requested and purchased at actual cost of preparation and production by a political party or any resident of this state. The registrar shall maintain a log, which is a public record, showing all lists and reports which have been requested or generated or which are capable of being generated by existing programs of the data processing services of the registrar. In the execution of the duties provided by this chapter, the state registrar of voters shall provide the maximum public access to the electoral process permitted by law.

2. *a.* On or before January 1, 2006, the state registrar of voters shall implement in a uniform and nondiscriminatory manner, a single, uniform, official, centralized, interactive computerized statewide voter registration file defined, maintained, and administered at the state level that contains the name and registration information of every legally registered voter in the state and

assigns a unique identifier to each legally registered voter in the state. The state voter registration system shall be coordinated with other agency databases within the state, including, but not limited to, state department of transportation driver's license records, judicial records of convicted felons and persons declared incompetent to vote, and Iowa department of public health records of deceased persons.

*b.* On or after January 1, 2007, a county shall not establish or maintain a voter registration system separate from the state voter registration system. Each county shall provide to the state registrar the names, voter registration information, and voting history of each registered voter in the county in the form required by the state registrar.

*c.* A state or local election official may obtain immediate electronic access to the information contained in the computerized voter registration file. All voter registration information obtained by a local election official shall be electronically entered into the computerized voter registration file on an expedited basis at the time the information is provided to the local election official. The state registrar shall provide such support as may be required to enable local election officials to electronically enter the information into the computerized voter registration file on an expedited basis. The list generated from the computerized file shall serve as the official voter registration list for the conduct of all elections for federal office in the state.

*d.* The state registrar shall prescribe by rule the procedures for access to the state voter registration file, security requirements, and access protocols for adding, changing, or deleting information from the state voter registration file.

[C77, 79, 81, §47.7; 81 Acts, ch 34, §10]

83 Acts, ch 176, §1, 10; 86 Acts, ch 1245, §313; 94 Acts, ch 1169, §47; 98 Acts, ch 1217, §34; 2004 Acts, ch 1083, §4, 37; 2006 Acts, ch 1003, §1, 2

#### **47.8 Voter registration commission — composition — duties.**

1. A state voter registration commission is established which shall meet at least quarterly to make and review policy, adopt rules, and establish procedures to be followed by the registrar in discharging the duties of that office, and to promote interagency cooperation and planning. The commission shall consist of the state commissioner of elections or the state commissioner's designee, the state chairpersons of the two political parties whose candidates for president of the United States or governor, as the case may be, received the greatest and next greatest number of votes in the most recent general election, or their respective designees, and a county commissioner of registration appointed by the president of the Iowa state association of county auditors, or an employee of the commissioner. The commission membership shall be balanced by political party affiliation pursuant to section 69.16. Members shall serve without additional salary or reimbursement.

The state commissioner of elections, or the state commissioner's designee, shall serve as chairperson of the state voter registration commission.

2. The registration commission shall prescribe the forms required for voter registration by rules promulgated pursuant to chapter 17A.

3. The registrar shall provide staff services to the commission and shall make available to it all information relative to the activities of the registrar's office in connection with voter registration policy which may be requested by any commission member. The registrar shall also provide to the commission at no charge statistical reports for planning and analyzing voter registration services in the state.

The commission may authorize the registrar to employ such additional staff personnel as it deems necessary to permit the duties of the registrar's office to be adequately and promptly discharged. Such personnel shall be employed pursuant to chapter 8A, subchapter IV.

4. The registration commission shall annually adopt a set of standard charges to be made for the services the registrar is required to offer to the several commissioners, and for furnishing of voter registration records which are requested by persons other than the registrar, the state commissioner or any commissioner pursuant to section 48A.38. These charges shall be sufficient to reimburse the state for the actual cost of furnishing such services or information, and shall be specified by unit wherever possible. The standard charges shall be adopted by the commission by January 15 of each calendar year.

5. In complaint proceedings held pursuant to section 47.1 in which one of the respondents is the state commissioner of elections, the presiding officer shall be a panel consisting of all members of the state voter registration commission, except the state commissioner of elections or the state commissioner's designee.

[C77, 79, 81, §47.8]

93 Acts, ch 143, §11; 94 Acts, ch 1169, §48; 95 Acts, ch 189, §6, 7; 2003 Acts, ch 145, §152; 2004 Acts, ch 1083, §5, 37

## CHAPTER 48

### PERMANENT REGISTRATION

Repealed effective January 1, 1995, by 94 Acts, ch 1169, §66-68;  
see chapter 48A

CHAPTER 48A

VOTER REGISTRATION

Chapter applicable to primary elections, §43.5  
See also definitions in §39.3

<p style="text-align: center;">SUBCHAPTER I</p> <p style="text-align: center;">GENERAL PROVISIONS</p> <p>48A.1 Statement of intent.</p> <p>48A.2 Definitions.</p> <p>48A.3 Commissioner of registration.</p> <p>48A.4 Qualification of officers.</p> <p style="text-align: center;">SUBCHAPTER II</p> <p style="text-align: center;">QUALIFICATIONS TO REGISTER TO VOTE</p> <p>48A.5 Voter qualifications.</p> <p>48A.5A Determination of residence.</p> <p>48A.6 Disqualified electors.</p> <p>48A.7 Registration in person.</p> <p>48A.8 Registration by mail.</p> <p>48A.9 Voter registration deadlines.</p> <p>48A.10 Registration required.</p> <p style="text-align: center;">SUBCHAPTER III</p> <p style="text-align: center;">FORMS AND PROCEDURES FOR VOTER REGISTRATION</p> <p>48A.11 Voter registration form.</p> <p>48A.12 Federal mail voter registration form.</p> <p>48A.13 Electronic signatures on voter registration records.</p> <p>48A.14 Challenges of voter registrations.</p> <p>48A.15 Commissioner's action upon receipt of challenge or withdrawal.</p> <p>48A.16 Hearing on challenge — appeal.</p> <p style="text-align: center;">SUBCHAPTER IV</p> <p style="text-align: center;">PLACES TO REGISTER</p> <p>48A.17 Registration at commissioner's office.</p> <p>48A.18 Voter registration at motor vehicle driver's license stations.</p> <p>48A.19 Voter registration agencies.</p> <p>48A.20 Prohibited acts by voter registration agency employees.</p> <p>48A.21 Transmission of forms from agencies and driver's license stations.</p> <p>48A.22 Voter registration by volunteer organizations.</p>	<p>48A.23 Registration at educational institutions.</p> <p>48A.24 Voter registration forms in income tax returns and booklets. Repealed by 2004 Acts, ch 1073, §51.</p> <p>48A.25 Compensation for assistance in completing registration forms.</p> <p>48A.25A Verification of voter registration information.</p> <p style="text-align: center;">SUBCHAPTER V</p> <p style="text-align: center;">PROCESSING VOTER REGISTRATION RECORDS</p> <p>48A.26 Acknowledgment of registration form.</p> <p>48A.27 Changes to voter registration records.</p> <p>48A.28 Systematic confirmation program.</p> <p>48A.29 Procedure upon return of confirmation card.</p> <p>48A.30 Cancellation of voter registration.</p> <p>48A.31 Deceased persons record.</p> <p>48A.32 Destruction or removal of canceled voter registration records.</p> <p>48A.33 Declination of registration opportunity.</p> <p style="text-align: center;">SUBCHAPTER VI</p> <p style="text-align: center;">RETENTION AND STORAGE OF VOTER REGISTRATION RECORDS</p> <p>48A.34 Confidentiality of certain records.</p> <p>48A.35 Voter registration records under control of the commissioner.</p> <p>48A.36 Electronic registration record retention in voter registration agencies.</p> <p>48A.37 Electronic registration records.</p> <p>48A.38 Lists of voters.</p> <p>48A.39 Use of registration information.</p> <p>48A.40 Reports.</p> <p style="text-align: center;">SUBCHAPTER VII</p> <p style="text-align: center;">CRIMINAL PENALTIES</p> <p>48A.41 Criminal penalties. Repealed by 2002 Acts, ch 1071, §15.</p>
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## SUBCHAPTER I

## GENERAL PROVISIONS

**48A.1 Statement of intent.**

It is the intent of the general assembly to facilitate the registration of eligible residents of this state through the widespread availability of voter registration services. This chapter and other statutes relating to voter registration are to be liberally construed toward this end.

94 Acts, ch 1169, §1

**48A.2 Definitions.**

The definitions established by this section and section 39.3 shall apply wherever the terms so defined appear in this chapter, unless the context in which any such term is used clearly requires otherwise.

1. “*Commissioner of registration*” means the county commissioner of elections as defined in section 47.2.

2. “*Homeless person*” means a person who lacks a fixed, regular, and adequate nighttime residence and who has a primary nighttime residence that is one of the following:

a. A supervised publicly or privately operated shelter designed to provide temporary living accommodations.

b. An institution that provides a temporary residence for persons intended to be institutionalized.

c. A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

3. “*Person who is incompetent to vote*” means a person described in section 222.2, subsection 5, who has been found to lack the mental capacity to vote in a proceeding held pursuant to section 222.31 or 633.556.

4. “*Voter registration agency*” means an agency designated to conduct voter registration under section 48A.19. Offices of the office of driver services of the state department of transportation are not voter registration agencies.

5. “*Voter registration form*” means an application to register to vote which must be completed by any person registering to vote.

94 Acts, ch 1169, §2; 96 Acts, ch 1129, §14; 98 Acts, ch 1185, §1; 2002 Acts, ch 1134, §17, 115

**48A.3 Commissioner of registration.**

The county commissioner of elections is designated the commissioner of registration for the county, and may appoint deputies and assistants, subject to the approval of the county board of supervisors, necessary to carry out the commissioner’s responsibilities under this chapter and under rules of the state voter registration commission and the state registrar of voters.

94 Acts, ch 1169, §3

**48A.4 Qualification of officers.**

Before undertaking any voter registration duties, each voter registration officer, deputy, or assistant in whatever capacity, or clerk in the office of commissioner shall take an oath in the form prescribed by the state commissioner of elections.

94 Acts, ch 1169, §4



## SUBCHAPTER II

## QUALIFICATIONS TO REGISTER TO VOTE

**48A.5 Voter qualifications.**

1. An eligible elector wishing to vote in elections in Iowa shall register to vote as required by this chapter.

2. To be qualified to register to vote an eligible elector shall:

*a.* Be a citizen of the United States.

*b.* Be an Iowa resident. A person's residence, for voting purposes only, is the place which the person declares is the person's home with the intent to remain there permanently or for a definite, or indefinite or indeterminable length of time. A person who is homeless or has no established residence may declare residence in a precinct by describing on the voter registration form a place to which the person often returns.

*c.* Be at least eighteen years of age. Completed registration forms shall be accepted from registrants who are at least seventeen and a half years of age; however, the registration shall not be effective until the registrant reaches the age of eighteen.

*d.* Not claim the right to vote in more than one place. A registrant shall be presumed to revoke any earlier claim of residence for voter registration purposes.

3. If a person who meets the requirements set forth in subsection 2 moves to a new residence, either in Iowa or outside Iowa, and does not meet the voter requirements at the person's new residence, the person may vote at the person's former precinct in Iowa until the person meets the voter requirements of the person's new residence. However, a person who has moved to a new residence and fails to register to vote at the person's new residence after becoming eligible to do so shall not be entitled to vote at the person's former precinct in Iowa.

4. A citizen of the United States who lives outside of the United States has the right to register and vote as if the person were a resident of a precinct in Iowa if the citizen was an eligible elector of Iowa immediately before leaving the United States. A citizen who was not old enough to register to vote before leaving the United States but who met all of the other requirements for voter registration at that time also has the right to register and vote as if the person were a resident of a precinct in Iowa. This right applies even though while living outside the United States the citizen does not have a residence or other address in the precinct, and the citizen has not determined whether to return to Iowa. To qualify to vote in Iowa a United States citizen living outside the United States shall:

*a.* Comply with all applicable requirements of sections 53.37 to 53.53 relating to absentee ballots for members of the armed forces and other citizens living outside the United States.

*b.* Not maintain a residence, shall not be registered to vote, and shall not vote in any other state, territory, or possession of the United States.

*c.* Possess a valid passport or identity card and registration issued under authority of the United States secretary of state, or, if the citizen does not possess a valid passport or card of identity or registration, an alternative form of identification consistent with the provisions of applicable federal and state requirements.

5. If a United States citizen living outside the United States meets the requirements for voting, except for residence, has never lived in the United States, and has a parent who meets the definition of a member of the armed

forces of the United States under section 53.37, the citizen is eligible to register to vote and vote at the same voting residence claimed by the citizen's parent.

6. The deadlines for voter registration shall not apply to a person who has been discharged from military service within thirty days preceding the date of an election. The person shall present to the precinct election official a copy of the person's discharge papers. The person shall complete a voter registration form and give it to the official before being permitted to vote.

94 Acts, ch 1169, §5

Iowa Constitution, Art. II, §1

#### **48A.5A Determination of residence.**

Residence shall be determined in accordance with the following principles:

1. The residence of a person is in the precinct where the person's home or dwelling is located.

2. A residence for purposes of this chapter cannot be established in a commercial or industrial building that is not normally used for residential purposes unless the building is used as a primary nighttime residence.

3. A person does not lose residence if the person leaves the person's home to reside temporarily in another state or precinct.

4. If a person goes to another state or precinct and files an affidavit of residence in that state or precinct for election purposes, the person loses residence in the former state or precinct, unless the person moved to the other state after that state's deadline for registering to vote in a particular election.

5. A student who resides at or near the school the student attends, but who is also able to claim a residence at another location under the provisions of this section, may choose either location as the student's residence for voter registration and voting purposes.

6. If an active member of the United States armed forces, as defined by section 53.37, has previously resided at a location that meets the requirements of this section, that person may claim either that previous residence or the person's current residence as the person's residence for voter registration and voting purposes.

7. Notwithstanding subsections 1 through 6, the residence of a homeless person is in the precinct where the homeless person usually sleeps. Residence requirements shall be construed liberally to provide homeless persons with the opportunity to register to vote and to vote.

8. A person's declaration of residency for voter registration and voting purposes is presumed to be valid unless a preponderance of evidence indicates that another location should be considered the person's voting residence under the provisions of this chapter.

94 Acts, ch 1169, §6

Iowa Constitution, Art. II, §1

**48A.6 Disqualified electors.**

The following persons are disqualified from registering to vote and from voting:

1. A person who has been convicted of a felony as defined in section 701.7, or convicted of an offense classified as a felony under federal law. If the person's rights are later restored by the governor, or by the president of the United States, the person may register to vote.

2. A person who is incompetent to vote. Certification by the clerk of the district court that any such person has been found no longer incompetent by a court shall qualify such person to again be an elector, subject to the other provisions of this chapter.

94 Acts, ch 1169, §7; 98 Acts, ch 1185, §2; 2002 Acts, ch 1134, §18, 115

Proceedings regarding competency to vote, see §222.16, 229.27, 633.551

Restoration of rights by governor, see chapter 914

**48A.7 Registration in person.**

An eligible elector may register to vote by appearing personally and completing a voter registration form at the office of the commissioner in the county in which the person resides, at a motor vehicle driver's license station, including any county treasurer's office that is participating in county issuance of driver's licenses under chapter 321M, or at any voter registration agency. A separate registration form shall be signed by each individual registrant.

94 Acts, ch 1169, §8; 98 Acts, ch 1073, §12; 98 Acts, ch 1143, §12, 26

**48A.8 Registration by mail.**

1. An eligible elector may register to vote by completing a mail registration form. The form may be mailed or delivered by the registrant or the registrant's designee to the commissioner in the county where the person resides. A separate registration form shall be signed by each individual registrant.

2. An eligible elector who registers by mail and who has not previously voted in an election for federal office in the county of registration shall be required to provide identification documents when voting for the first time in the county, unless the registrant provided on the registration form the registrant's Iowa driver's license number, or the registrant's Iowa nonoperator's identification card number, or the last four numerals of the registrant's social security number and the driver's license, nonoperator's identification, or partial social security number matches an existing state or federal identification record with the same number, name, and date of birth. If the registrant under this subsection votes in person at the polls, or by absentee ballot at the commissioner's office or at a satellite voting station, the registrant shall provide a current and valid photo identification card, or shall present to the appropriate election official one of the following current documents that shows the name and address of the registrant:

- a. Utility bill.
- b. Bank statement.
- c. Paycheck.
- d. Government check.
- e. Other government document.

3. If the registrant under subsection 2 votes an absentee ballot by mail, the registrant shall provide a photocopy of one of the documents listed in subsection 2 when returning the absentee ballot.

4. A registrant under subsection 2 who is required to present identification when casting a ballot in person shall be permitted to vote a provisional ballot if

the voter does not provide the required identification documents. If a voter who is required to present identification when casting a ballot votes an absentee ballot by mail, the ballot returned by the voter shall be considered a provisional ballot pursuant to sections 49.81 and 53.31.

94 Acts, ch 1169, §9; 2004 Acts, ch 1083, §6, 37

#### **48A.9 Voter registration deadlines.**

1. Registration closes at five p.m. eleven days before each election except primary and general elections. For primary and general elections, registration closes at five p.m. ten days before the election. An eligible elector may register during the time registration is closed in the elector's precinct but the registration shall not become effective until registration opens again in the elector's precinct.

2. The commissioner's office shall be open from eight a.m. until at least five p.m. on the day registration closes before each regularly scheduled election. However, if the last day to register to vote for a regularly scheduled election falls on the day after Thanksgiving, the deadline shall be the following Monday.

3. A registration form submitted by mail shall be considered on time if it is postmarked no later than the fifteenth day before the election, even if it is received by the commissioner after the deadline, or if the registration form is received by the commissioner no later than five p.m. on the last day to register to vote for an election, even if it is postmarked after the fifteenth day before the election.

4. Registration forms submitted to voter registration agencies, to motor vehicle driver's license stations, and to county treasurer's offices participating in county issuance of driver's licenses under chapter 321M shall be considered on time if they are received no later than five p.m. on the day registration closes for that election. Offices or agencies other than the county commissioner's office are not required to be open for voter registration purposes at times other than their usual office hours.

94 Acts, ch 1169, §10; 98 Acts, ch 1073, §12; 98 Acts, ch 1143, §13, 26; 2002 Acts, ch 1134, §19, 115

#### **48A.10 Registration required.**

If a registered voter moves to a different county, the person shall submit a completed voter registration form to the commissioner in order to be qualified to vote in that county. An otherwise eligible elector whose right to vote has been restored pursuant to chapter 914 or who has been found not to be a person who is incompetent to vote may register to vote.

94 Acts, ch 1169, §11; 98 Acts, ch 1185, §3; 2002 Acts, ch 1134, §20, 115

c. Boxes for the applicant to check and choices in substantially the following form:

- I want to register to vote.
- I do not want to register to vote.

The following statement shall be printed near the choices and shall be printed in large, readable type:

“If you do not check either box, you will be considered to have decided not to register to vote at this time.”

d. The statement, “If you would like help in filling out the voter registration form, we will help you. The decision whether to seek or accept help is yours. You may fill out the application form in private.”

However, in those voter registration agencies where electronic forms are used, the following statement shall be used: “If you want to fill out the form in private, a separate paper form for voter registration will be provided.”

e. The statement, “If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, or your right to choose your own political party or other political preference, you may file a complaint with the state voter registration commission.” The name, address, and telephone number of the voter registration commission shall complete the statement.

The voter registration agency may distribute the voter registration form either on paper or by electronic medium.

5. The voter registration agency shall provide each applicant who chooses to register to vote the same degree of assistance in completing the registration form as is provided by the office for the completion of its own forms unless the applicant refuses such assistance.

6. Completed voter registration forms shall be transmitted as provided in section 48A.21.

94 Acts, ch 1169, §20

#### **48A.20 Prohibited acts by voter registration agency employees.**

A person who provides voter registration services as required by this subchapter shall not:

1. Seek to influence an applicant’s political preference or party registration.
2. Display a political preference or party affiliation.
3. Make any statement to an applicant or take any action which has the purpose or effect of discouraging the applicant from registering to vote.
4. Make any statement to an applicant or take any action which has the purpose or effect of leading the applicant to believe that a decision to register or not to register to vote has any bearing on the availability of services or benefits.

94 Acts, ch 1169, §21

#### **48A.21 Transmission of forms from agencies and driver’s license stations.**

The state registrar of voters shall adopt administrative rules regulating the transmission of completed voter registration forms from voter registration agencies and from driver’s license stations, including county treasurer’s offices participating in county issuance of driver’s licenses under chapter 321M. All

completed voter registration applications in the possession of a voter registration agency, a driver's license station, or a county treasurer's office that is participating in county issuance of driver's licenses at five p.m. on the last workday of each week shall be transmitted to the location designated by the state registrar of voters by rule. Procedures or requirements for more frequent transmissions may be specified by rule.

94 Acts, ch 1169, §22; 98 Acts, ch 1073, §12; 98 Acts, ch 1143, §15, 26

**48A.22 Voter registration by volunteer organizations.**

The secretary of state shall encourage volunteer organizations to undertake voter registration drives by providing registration forms.

94 Acts, ch 1169, §23; 97 Acts, ch 170, §14

**48A.23 Registration at educational institutions.**

1. At least twice during each school year, the board of directors of each school district operating a high school and the authorities in charge of each accredited nonpublic school shall offer the opportunity to register to vote to each student who is at least seventeen and one-half years of age.

2. All postsecondary schools, including but not limited to colleges, universities, and trade and technical schools which receive state funding, shall offer the opportunity to register to vote to each student at least once each year. Students shall be provided with the federal voter registration form or the Iowa voter registration form, as applicable.

94 Acts, ch 1169, §24

**48A.24 Voter registration forms in income tax returns and booklets.**

Repealed by 2004 Acts, ch 1073, §51. See §421.17(28).

**48A.25 Compensation for assistance in completing registration forms.**

A person may pay, offer to pay, or accept compensation for assisting others in completing voter registration forms only if the compensation is based solely on the time spent providing the assistance.

Paying, offering to pay, or receiving compensation based on the number of registration forms completed, or the party affiliations shown on completed registration forms, or on any other performance criteria, is unlawful.

This section shall not apply to state statutory political committees, as defined in section 43.111.

*b.* If the information provided by the vendor indicates that a registered voter has moved to another address within the county, the commissioner shall change the registration records to show the new residence address, and shall also mail a notice of that action to both the former and new addresses. The notice shall be sent by forwardable mail, and shall include a postage prepaid preaddressed return form by which the registered voter may verify or correct the address information.

*c.* If the information provided by the vendor indicates that a registered voter has moved to an address outside the county, the commissioner shall make the registration record inactive, and shall mail a notice to the registered voter at both the former and new addresses.

The notice shall be sent by forwardable mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of, and therefore not eligible to vote in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in an election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county. To ensure you receive this notice, it is being sent to both your most recent registration address and to your new address as reported by the postal service."

*d.* If the information provided by the vendor indicates the registered voter has moved to another county within the state, the notice required by paragraph "c" shall include a statement that registration in the county of the person's current residence is required.

*e.* If a registered voter returns a card sent pursuant to this subsection and confirms that the registered voter has moved to a new residence outside the county, the commissioner shall cancel the registration of the voter.

*f.* If a registered voter returns a card sent pursuant to this subsection and states that the registered voter's residence address has not changed for the purpose of voter registration, the commissioner shall reinstate the record to active status, making any other changes directed by the registrant in the notice.

5. The commissioner shall keep a record of the names and addresses of the registered voters to whom notices under this section are sent and the date of the notice. When the return card from a notice is received by the commissioner, the commissioner shall record the date it was received and whether the registrant had moved within the county, moved to an address outside the county, or had not changed residence.

94 Acts, ch 1169, §28; 97 Acts, ch 170, §16–18; 98 Acts, ch 1073, §12; 98 Acts, ch 1143, §16, 17, 26; 2002 Acts, ch 1134, §23, 24, 115

#### **48A.28 Systematic confirmation program.**

1. Each commissioner shall conduct a systematic program that makes a reasonable effort to remove from the official list of registered voters the names

of registered voters who have changed residence from their registration addresses. Either or both of the methods described in this section may be used.

2. A commissioner may participate in the United States postal service national change of address program, as provided in section 48A.27. The state voter registration commission shall adopt rules establishing specific requirements for participation and use of the national change of address program.

A commissioner participating in the national change of address program, in the first quarter of each calendar year, shall send a notice and preaddressed, postage paid return card by forwardable mail to each registered voter whose name was not reported by the national change of address program and who has not voted in two or more consecutive general elections and has not registered again, or who has not reported a change to an existing registration, or who has not responded to a notice from the commissioner or registrar during the period between and following the previous two general elections. The form and language of the notice and return card shall be specified by the state voter registration commission by rule. A registered voter shall not be sent a notice and return card under this subsection more frequently than once in a four-year period.

3. For a commissioner who is not participating in the national change of address program, in February of each year the commissioner shall mail a confirmation notice to each registered voter in the county. The notice shall be sent by forwardable mail. The notice shall include a preaddressed, postage paid return card for the use of the registered voter or the recipient of the notice. The card shall contain boxes for the recipient to check to indicate one of the following:

*a.* That the recipient is the registered voter named on the card, and is still a resident at the address listed.

*b.* That the recipient is the registered voter named on the card, but is no longer a resident of the address listed.

*c.* That the recipient is not the registered voter named on the card, and the registered voter named on the card is not a resident of the address listed.

The form and language of the confirmation notice and return card shall be specified by the state voter registration commission by rule.

94 Acts, ch 1169, §29; 97 Acts, ch 170, §19, 20; 2002 Acts, ch 1134, §25, 115; 2004 Acts, ch 1083, §16, 37

#### **48A.29 Procedure upon return of confirmation card.**

1. If a confirmation notice and return card sent pursuant to section 48A.28 is returned as undeliverable by the United States postal service, the commissioner shall make the registration record inactive and shall mail a notice to the registered voter at the registered voter's most recent mailing address, as shown by the registration records.



The notice shall be sent by forwardable mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received from the United States postal service indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If this information is not correct, and you still live in (name of county) County, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of voters in that county."

2. When a detachable return card originally attached to a confirmation notice is returned indicating that the registered voter is still a resident of the address shown on the registration records, the commissioner shall make a record of the date the card was received.

3. When a detachable return card originally attached to a confirmation notice is returned by anyone other than the registered voter indicating that the registered voter is no longer a resident of the registration address, the commissioner shall make the registration record inactive, and shall mail a notice to the registered voter at the registered voter's most recent mailing address, as shown by the registration records.

The notice shall be sent by forwardable mail, and shall include a postage paid preaddressed return card on which the registered voter may state the registered voter's current address. The notice shall contain a statement in substantially the following form: "Information received by this office indicates that you are no longer a resident of (residence address) in (name of county) County, Iowa. If the information is not correct, and you still live at that address, please complete and mail the attached postage paid card at least ten days before the primary or general election and at least eleven days before any other election at which you wish to vote. If the information is correct, and you have moved within the county, you may update your registration by listing your new address on the card and mailing it back. If you have moved outside the county, please contact a local official in your new area for assistance in registering there. If you do not mail in the card, you may be required to show identification before being allowed to vote in (name of county) County. If you do not return the card, and you do not vote in some election in (name of county) County, Iowa, on or before (date of second general election following the date of the notice) your name will be removed from the list of registered voters in that county."

94 Acts, ch 1169, §30; 97 Acts, ch 170, §21, 22; 2002 Acts, ch 1134, §26, 115; 2003 Acts, ch 44, §25

#### **48A.30 Cancellation of voter registration.**

1. The voter registration of a registered voter shall be canceled if any of the following occurs:

*a.* The registered voter dies. For the purposes of this subsection, the commissioner may accept as evidence of death a notice from the state registrar of vital statistics forwarded by the state registrar of voters, a written statement from a member of the registered voter's household, an obituary in a newspaper,

a written statement from an election official, or a notice from the county recorder of the county where the registered voter died.

*b.* The registered voter registers to vote in another jurisdiction, and the commissioner receives notice of the registration from the registration official in the other jurisdiction.

*c.* The registered voter requests the cancellation in writing. For the purposes of this subsection, a confirmation by the registered voter that the registered voter is no longer a resident of the county constitutes a request for cancellation.

*d.* The clerk of the district court, or the United States attorney, or the state registrar sends notice of the registered voter's conviction of a felony as defined in section 701.7, or conviction of an offense classified as a felony under federal law. The clerk of the district court shall send notice of a felony conviction to the state registrar of voters. The registrar shall determine in which county the felon is registered to vote, if any, and shall notify the county commissioner of registration for that county of the felony conviction.

*e.* The clerk of the district court or the state registrar sends notice that the registered voter has been declared a person who is incompetent to vote under state law.

*f.* The registered voter's registration record has been inactive pursuant to section 48A.29 for two successive general elections.

2. When a registration is canceled pursuant to subsection 1, paragraph "d", "e", or "f", the commissioner shall send a notice of the cancellation to the registered voter.

94 Acts, ch 1169, §31; 98 Acts, ch 1185, §5; 2002 Acts, ch 1134, §27, 28, 115

#### **48A.31 Deceased persons record.**

The state registrar of vital statistics shall transmit or cause to be transmitted to the state registrar of voters, once each calendar quarter, a certified list of all persons seventeen and one-half years of age and older in the state whose deaths have been reported to the bureau of vital records of the Iowa department of public health since the previous list of decedents was certified to the state registrar of voters. The list shall be submitted according to the specifications of the state registrar of voters, who shall determine whether each listed decedent was registered to vote in this state. If the decedent was registered in a county which uses its own data processing facilities for voter registration recordkeeping, the registrar shall notify the commissioner in that county who shall cancel the decedent's registration. If the decedent was registered in a county for which voter registration recordkeeping is performed under contract by the registrar, the registrar shall immediately cancel the registration and notify the commissioner of the county in which the decedent was registered to vote of the cancellation.

94 Acts, ch 1169, §32; 2002 Acts, ch 1119, §123

**48A.32 Destruction or removal of canceled voter registration records.**

Twenty-two months after the next general election following the cancellation of a person's voter registration, the commissioner may destroy all records of that person's registration. At the discretion of the commissioner, canceled records may be donated to a historical society if all confidential information has been removed from the records.

94 Acts, ch 1169, §33

**48A.33 Declination of registration opportunity.**

When a client or applicant of a voter registration agency declines to register to vote, the record of the declination shall be kept by the voter registration agency for twenty-two months after the next general election after which time the agency may destroy the records.

94 Acts, ch 1169, §34

SUBCHAPTER VI

RETENTION AND STORAGE OF VOTER REGISTRATION RECORDS

**48A.34 Confidentiality of certain records.**

Voter registration records are available for public inspection at reasonable times at the office of the county commissioner. The commissioner and any voter registration agency which has custody of voter registration records shall take the necessary steps to ensure that the name of the agency at which the voter registration form was submitted remains confidential.

94 Acts, ch 1169, §35

**48A.35 Voter registration records under control of the commissioner.**

The county commissioner of elections shall be responsible for the maintenance and storage of all paper and electronic voter registration records in the commissioner's custody. Original registration records shall not be removed from the commissioner's office or from any other designated permanent storage location except upon request of a county commissioner or a court order, or as provided by section 48A.32. The state registrar of voters and the state voter registration commission shall adopt administrative rules to implement this section.

94 Acts, ch 1169, §36

**48A.36 Electronic registration record retention in voter registration agencies.**

1. Voter registration agencies and the office of driver services of the state department of transportation may electronically transmit registration data to the state registrar of voters, who shall distribute the information, electronically or otherwise, to the appropriate commissioner in accordance with rules of the state voter registration commission and the state registrar of voters. The state agency originating the registration data shall permanently retain an electronic copy of the form completed by the registrant, including the registrant's signature, and shall develop procedures for the retrieval and printing of that electronic document. A printed copy of an electronic registration document shall be made only upon the agency's receipt of a court order.

2. Upon receipt of electronic registration data under subsection 1, the state registrar of voters shall cause the updating of registration records. The registrar shall notify the appropriate commissioner of the actions taken.

94 Acts, ch 1169, §37; 2004 Acts, ch 1083, §17, 37

**48A.37 Electronic registration records.**

1. Voter registration records shall be maintained in an electronic medium. A history of local election participation shall be maintained as part of the electronic record for at least two general, primary, school, and city elections. Absentee voting shall be recorded for the previous two general and primary elections. After each election, the county commissioner shall update telephone numbers provided by registered voters pursuant to section 49.77.

2. Electronic records shall include a status code designating whether the records are active, inactive, local, or pending. Inactive records are records of registered voters to whom notices have been sent pursuant to section 48A.28, subsection 3, and who have not returned the card or otherwise responded to the notice, and those records have been designated inactive pursuant to section 48A.29. Local records are records of applicants who did not answer either “yes” or “no” to the question in section 48A.11, subsection 3, paragraph “a”. Pending records are records of applicants whose applications have not been verified pursuant to section 48A.25A. All other records are active records. An inactive record shall be made active when the registered voter votes at an election, registers again, or reports a change of name, address, telephone number, or political party affiliation. A pending record shall be made active upon verification. A local record shall be valid for any election for which no candidates for federal office appear on the ballot. A registrant with only a local record shall not vote in a federal election unless the registrant submits a new voter registration application before election day indicating that the applicant is a citizen of the United States.

94 Acts, ch 1169, §38; 2004 Acts, ch 1083, §18, 37; 2004 Acts, ch 1175, §357

**48A.38 Lists of voters.**

1. Any person may request of the registrar and shall receive, upon payment of the cost of preparation, a list of registered voters and other data on registration and participation in elections, in accordance with the following requirements and limitations:

*a.* The registrar shall prepare each list requested within fourteen days of receipt of the request, except that the registrar shall not be required to prepare any list within seven days of the close of registration for any regularly scheduled election if the preparation of the list would impede the preparation of election registers for that election.

*b.* Each list shall be as current as possible, but shall in all cases reflect voter activity reported to any commissioner twenty-eight or more days before preparation of the list.

### 49.3 Election precincts.

Election precincts shall be drawn by the county board of supervisors or the temporary county redistricting commission in all unincorporated portions of each county, and by the city council of each city in which it is necessary or deemed advisable to establish more than one precinct. Precincts established as provided by this chapter shall be used for all elections, except where temporary merger of established precincts is specifically permitted by law for certain elections, and no political subdivision shall concurrently maintain different sets of precincts for use in different types of elections. Election precincts shall be drawn so that:

1. No precinct shall have a total population in excess of three thousand five hundred, as shown by the most recent federal decennial census.

2. Each precinct is contained wholly within an existing legislative district, except:

*a.* When adherence to this requirement would force creation of a precinct which includes the places of residence of fewer than fifty registered voters.

*b.* When the general assembly by resolution designates a period after the federal decennial census is taken and before the next succeeding reapportionment of legislative districts required by Article III, section 35 of the Constitution of the State of Iowa as amended in 1968, during which precincts may be drawn without regard to the boundaries of existing legislative districts.

3. Except as provided in section 49.4, subsection 3, precincts established after July 1, 1994, shall be composed of contiguous territory within a single county. The boundaries of all precincts shall follow the boundaries of areas for which official population figures are available from the most recent federal decennial census.

4. All election districts, including city wards and county supervisor districts, shall be drawn according to the following standards:

*a.* All boundaries, except for supervisor districts for counties using supervisor representation plan “two” pursuant to section 331.209, shall follow precinct boundaries.

*b.* All districts shall be as nearly equal as practicable to the ideal population for the districts as determined by dividing the number of districts to be established into the population of the city or county.

*c.* All districts shall be composed of contiguous territory as compact as practicable.

*d.* Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

*e.* Cities shall not be divided into two or more county supervisor districts unless the population of the city is greater than the ideal size of a district. Cities shall be divided into the smallest number of county supervisor districts possible.

[C51, §245; R60, §480; C73, §501, 605; C97, §1090; S13, §1090; C24, 27, 31, 35, 39, §721, 722, 723; C46, 50, 54, 58, 62, 66, 71, 73, §49.3, 49.4, 49.5; C75, 77, 79, 81, §49.3]

94 Acts, ch 1179, §4, 5; 95 Acts, ch 67, §53; 99 Acts, ch 17, §1; 2006 Acts, ch 1010, §37

### 49.4 Precincts drawn by county board.

Where action by the board of supervisors is necessary or deemed advisable by the board of supervisors or the temporary county redistricting commission, the boundaries of precincts shall be definitely fixed by ordinance. A public hearing shall be held before final action is taken to adopt changes in the precinct

boundaries. Notice of the date, time, and place of the hearing shall be given as provided in chapter 21. In the absence of contrary action by the board of supervisors or the temporary county redistricting commission, each civil township which does not include any part of a city of over two thousand population, and the portion of each civil township containing any such city which lies outside the corporate limits of that city or those cities, shall constitute an election precinct. If no action is necessary to change the county election precincts, the board of supervisors shall certify the retained boundaries to the state commissioner, as required by section 49.7.

1. Where a civil township, or the portion of a civil township outside the corporate limits of any city of over two thousand population contained therein, is divided into two or more election precincts, the precincts shall be so drawn that their total populations shall be reasonably equal on the basis of data available from the most recent federal decennial census.

2. Counties using alternative supervisor representation plans “two” or “three”, as described in section 331.206, shall be apportioned into single-member supervisor districts on the basis of population. In counties using representation plan “three”, the boundaries of supervisor districts shall follow the boundaries of election precincts.

3. Notwithstanding any other provision of this chapter, Indian settlement land held in trust by the secretary of the interior of the United States for the Sac and Fox tribe of the Mississippi in Iowa and its trust land contiguous to the Indian settlement lying in Tama, Toledo and Indian Village townships of Tama county shall be an election precinct. The polling place of that precinct shall be located on the Indian settlement in a structure designated by the election commissioner of Tama county.

The Indian settlement precinct shall be redrawn to include land contiguous to the Indian settlement when such land is purchased by the settlement and added to the Indian settlement land held in trust by the secretary of the interior of the United States. Upon recording of the deed transferring the land to the United States in trust, the county recorder shall notify the county commissioner of that fact. If the commissioner is notified more than seventy days before the next scheduled election, the commissioner shall redraw the precinct for that election. The commissioner shall notify the board of supervisors of the redrawn precinct boundaries and shall certify the redrawn boundaries to the state commissioner. Land completely surrounded by the boundaries of the Indian settlement precinct, but not included in the settlement precinct, shall be included in the precinct in which such land was located prior to redrawing of the Indian settlement precinct. The commissioner shall notify registered voters in each of the redrawn precincts of the change in the precincts and the proper polling place for those affected voters.

[C73, §603; C97, §1090; S13, §1090; C24, 27, 31, 35, 39, §722, 725; C46, 50, 54, 58, 62, 66, 71, 73, §49.4, 49.7; C75, 77, 79, 81, S81, §49.4; 81 Acts, ch 117, §1203]

94 Acts, ch 1179, §6; 99 Acts, ch 17, §2

1. When deemed necessary by the board of supervisors of any county because of a change in the location of the boundaries, dissolution or establishment of any civil township, the boundaries of precincts actually affected may be changed as necessary to conform to the new township boundaries.

2. When territory is annexed to a city the city council may attach all or any part of the annexed territory to any established precinct or precincts which are contiguous to the annexed territory, however this subsection shall not prohibit establishment of one or more new precincts in the annexed territory.

3. A city may have one special federal census taken each decade and the population figures obtained may be used to revise precinct boundaries in accordance with the requirements of sections 49.3 and 49.5.

4. When the boundaries of a county supervisor, city council, or school director district, or any other district from which one or more members of any public representative body other than the general assembly are elected by the voters thereof, are changed by annexation or other means other than reprecincting, the change shall not result in the term of any officer elected from the former district being terminated before or extended beyond the expiration of the term to which the officer was last elected, except as provided under section 275.23A and section 331.209, subsection 1. If more than one incumbent officeholder resides in a district redrawn during reprecincting, their terms of office shall expire after the next election in the political subdivision.

When a vacancy occurs in the office of county supervisor, city council, or school director following the effective date of new district boundaries, the vacancy shall be filled using the new boundaries.

5. When a city is changing its form of government from one which has council members elected at large to one which has council members elected from wards, or is changing its number of council members elected from wards, the city council may redraw the precinct boundaries in accordance with sections 49.3 and 49.5 to coincide with the new ward boundaries.

6. Precinct boundaries established by or pursuant to section 49.4, and not changed under subsection 1 since the most recent federal decennial census, may be changed once during the period beginning January 1 of the second year following a year in which a federal decennial census is taken and ending June 30 of the year immediately following the year in which the next succeeding federal decennial census is taken, if the commissioner recommends and the board of supervisors finds that the change will effect a substantial savings in election costs. Changes made under this subsection shall be made not later than ninety-nine days before a primary election, unless the changes will not take effect until January 1 of the next even-numbered year.

7. When territory contiguous to the Indian settlement is added to the Indian settlement land held in trust by the secretary of the interior of the United States.

[C73, §603; C97, §1090; S13, §1090; C24, 27, 31, 35, 39, §722, 723; C46, 50, 54, 58, 62, 66, 71, 73, §49.4, 49.5; C75, 77, 79, 81, §49.8]

83 Acts, ch 77, §2; 84 Acts, ch 1052, §1; 89 Acts, ch 136, §34; 94 Acts, ch 1179, §11, 12; 99 Acts, ch 17, §3

#### **49.9 Proper place of voting.**

No person shall vote in any precinct but that of the person's residence.

[C73, §605; C97, §1090; S13, §1090; C24, 27, 31, 35, 39, §727; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.9]

#### **49.10 Polling places for certain precincts.**

1. Polling places for precincts outside the limits of a city, but within the township, or originally within and set off as a separate township from the township in which the city is in whole or in part situated, and a polling place for a township which entirely surrounds another township containing a city, may be fixed at some room or rooms in the courthouse or in some other building within the limits of the city as the commissioner may provide.

2. If the commissioner determines, or if a petition be filed with the commissioner ninety days before any primary, general or special election stating that there is no suitable or adequate polling place within a township constituting a voting precinct and that it is desirable and to the interest of the voters of that township voting precinct that a voting place be designated for it outside its territorial limits, the commissioner shall fix a polling place for that precinct, outside its territorial limits, which the commissioner deems convenient to the electors of the township precinct. A petition submitted under this subsection must be signed by eligible electors of the precinct exceeding in number one-half the total number of votes cast in the township precinct for the office of president of the United States or governor, as the case may be, at the last preceding general election. When the commissioner has fixed such a polling place it shall remain the polling place at all subsequent primary, general and special elections, until such time as the commissioner shall fix a different polling place for the precinct.

3. In any city in which precinct lines have been changed to comply with section 49.5, the commissioner may fix the polling place for any precinct outside the boundaries of the precinct if there is no building or facility within the precinct suitable and available for use as a polling place. In so doing, the commissioner shall fix the polling place at the point nearest the precinct which is suitable and available for use as a polling place and is reasonably accessible to voters of the precinct.

4. A single room or area of any building or facility may be fixed as the polling place for more than one precinct. The location of each polling place shall be clearly marked within the room or area on the days on which elections are held as the location of the polling place of a particular precinct, and suitable arrangements shall be made within the room or area to prevent direct access from the polling place of any precinct to the polling place of any other precinct. When the commissioner has fixed such a polling place for any precinct it shall remain the polling place at all subsequent elections, except elections for which the precinct is merged with another precinct as permitted by section 49.11, until the boundaries of the precinct are changed or the commissioner fixes a new polling place, except that the polling place shall be changed to a point within the boundaries of the precinct at any time not less than sixty days before the next succeeding election that a building or facility suitable for such use becomes available within the precinct.

5. If two or more contiguous townships have been combined into one election precinct by the board of supervisors, the commissioner shall provide a polling place which is convenient to all of the electors in the precinct.

[C97, §1091; S13, §1091; C24, 27, 31, 35, 39, §728; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.10]

93 Acts, ch 143, §15; 2006 Acts, ch 1002, §1, 4

2006 amendment to subsection 4 takes effect March 1, 2006, and applies to elections held after that date; 2006 Acts, ch 1002, §4



**49.29 Voting by ballot or machine.** Repealed by 97 Acts, ch 170, §93. See §49.26.

**49.30 All candidates and issues on one ballot — exceptions.**

All constitutional amendments, all public measures, and the names of all candidates, other than presidential electors, to be voted for in each election precinct, shall be printed on one ballot, except that separate ballots are authorized under the following circumstances:

1. Where special paper ballots are used, if it is not possible to include all offices and public measures on a single ballot, separate ballots may be provided for nonpartisan offices, judges, or public measures.

2. At an election where voting machines are used, the following exceptions apply:

*a.* If it is impossible to place the names of all candidates on the machine ballot, the commissioner may provide a separate paper ballot for the candidates for judge of the district court and the nonpartisan offices listed in section 39.21. One of the paper ballots shall be furnished to each registered voter.

*b.* When a precinct has one or more offices or questions on the ballot in any election that may not be legally voted upon by all registered voters of the precinct, the commissioner shall use lockout devices operated by the precinct election officials to restrict each voter to the appropriate parts of the ballot. However, if the voting machine does not have a lockout device, the commissioner may use one or more separate voting machines for each group of voters in the precinct. If neither of the foregoing procedures is feasible, the commissioner shall prepare separate ballots for the candidates or questions which may not be legally voted upon by all registered voters of the precinct, and shall furnish a separate ballot box into which only those ballots shall be deposited.

3. Where paper ballots are used, separate paper ballots shall be used:

*a.* For the election of township officers in precincts including both incorporated and unincorporated areas or more than one township.

*b.* For public measures.

*c.* For judges.

[C51, §256; R60, §491; C73, §616; C97, §1106; S13, §1106; C24, 27, 31, 35, 39, §748; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.30]

90 Acts, ch 1238, §17; 94 Acts, ch 1169, §64; 97 Acts, ch 170, §29; 98 Acts, ch 1100, §6; 2002 Acts, ch 1134, §31, 115; 2005 Acts, ch 152, §7, 8

**49.31 Arrangement of names on ballot — restrictions.**

1. All ballots shall be arranged with the names of candidates for each office listed below the office title. For partisan elections the name of the political party or organization which nominated each candidate shall be listed after or below each candidate's name.

The commissioner shall determine the order of political parties and nonparty political organizations on the ballot. The sequence shall be the same for each office on the ballot and for each precinct in the county voting in the election.

2. The commissioner shall prepare a list of the election precincts of the county, by arranging the various townships and cities in the county in alphabetical order, and the wards or precincts in each city or township in numerical order under the name of such city or township. The commissioner shall then arrange the surnames of each political party's candidates for each office to which two or more persons are to be elected at large alphabetically for the respective offices for the first precinct on the list; thereafter, for each

political party and for each succeeding precinct, the names appearing first for the respective offices in the last preceding precinct shall be placed last, so that the names that were second before the change shall be first after the change. The commissioner may also rotate the names of candidates of a political party in the reverse order of that provided in this subsection or alternate the rotation so that the candidates of different parties shall not be paired as they proceed through the rotation. The procedure for arrangement of names on ballots provided in this section shall likewise be substantially followed in elections in political subdivisions of less than a county.

On the general election ballot the names of candidates for the nonpartisan offices listed in section 39.21 shall be arranged by drawing lots for position. The commissioner shall hold the drawing on the first business day following the deadline for filing of nomination certificates or petitions with the commissioner for the general election pursuant to section 44.4. If a candidate withdraws, dies, or is removed from the ballot after the ballot position of names has been determined, such candidate's name shall be removed from the ballot, and the order of the remaining names shall not be changed.

3. The ballots for any city elections, school elections, special election, or any other election at which any office is to be filled on a nonpartisan basis and the statutes governing the office to be filled are silent as to the arrangement of names on the ballot, shall contain the names of all nominees or candidates arranged in alphabetical order by surname under the heading of the office to be filled. When a city election, school election, special election, or any other election at which an office is to be filled on a nonpartisan basis, is held in more than one precinct, the candidates' names shall be rotated on the ballot from precinct to precinct in the manner prescribed by subsection 2 unless there are no more candidates for an office than the number of persons to be elected to that office.

4. The heading for each office on the ballot shall be immediately followed by a notation stating, "Vote for no more than .....", and indicating the maximum number of nominees or candidates for that office for whom each elector may vote.

5. At the end of the list of candidates for each office listed on the ballot one or more blank lines and voting positions shall be printed to allow the elector to write in the name of any person for whom the elector desires to vote for any office or nomination on the ballot. The number of write-in lines shall equal the number of votes that can be cast for that office.

6. The name of a candidate printed on the ballot shall not include parentheses, quotation marks, or any personal or professional title.

7. For the purpose of ballot rotation the absentee ballot and special voters precinct may be considered a separate precinct.

[C97, §1106; S13, §1106, 2754; C24, 27, §749, 4203; C31, 35, §749, 4216-c8; C39, §749, 4216.08; C46, 50, 54, 58, 62, 66, 71, 73, §49.31, 277.8; C75, 77, 79, 81, §49.31]

86 Acts, ch 1224, §11, 12; 87 Acts, ch 221, §13, 14; 89 Acts, ch 136, §36; 90 Acts, ch 1238, §18; 91 Acts, ch 129, §12; 97 Acts, ch 170, §30-32; 2002 Acts, ch 1134, §32, 115; 2006 Acts, ch 1002, §2, 4

2006 amendment to subsection 2 unnumbered paragraph 2, takes effect March 1, 2006, and applies to elections held after that date; 2006 Acts, ch 1002, §4

For U.S. Senator  
Vote for no more than one.

- CANDIDATE NAME  
Political Party
- CANDIDATE NAME  
Political Party
- CANDIDATE NAME  
Political Organization
- CANDIDATE NAME  
Political Organization
- CANDIDATE NAME  
Nominated by Petition
- .....  
Write-in vote, if any.

For U.S. Representative  
First District  
Vote for no more than one.

- CANDIDATE NAME  
Political Party
- CANDIDATE NAME  
Political Party
- CANDIDATE NAME  
Political Organization
- CANDIDATE NAME  
Political Organization
- CANDIDATE NAME  
Nominated by Petition
- .....  
Write-in vote, if any.

STATE OFFICES  
For State Senator, District 2  
Vote for no more than one.

- CANDIDATE NAME  
Political Party
- CANDIDATE NAME  
Political Party
- CANDIDATE NAME  
Political Organization
- CANDIDATE NAME  
Political Organization
- CANDIDATE NAME  
Nominated by Petition
- .....  
Write-in vote, if any.

**49.43 Constitutional amendment or other public measure.**

If possible, all public measures and constitutional amendments to be voted upon by an elector shall be included on a single special paper ballot which shall also include all offices to be voted upon. However, if it is necessary, a separate ballot may be used as provided in section 49.30, subsection 1.

In precincts using paper ballots all public measures to be voted upon by a voter at a given election shall be printed upon one ballot of some color other than white. In precincts using voting machines all public measures shall be placed in the question row on the machine; however, if it is impossible to place all the public measures on the machine ballot, or if only a portion of the registered voters of the precinct are entitled to vote upon any measure presented, the commissioner may provide a separate paper ballot for the public measure or measures.

Constitutional amendments and other public measures may be summarized by the commissioner as provided in sections 49.44 and 52.25.

[C97, §1106; S13, §1106; C24, 27, 31, 35, 39, §761, 762, 767; C46, 50, 54, 58, 62, 66, 71, 73, §49.43, 49.44; C75, §49.43, 49.49; C77, 79, 81, §49.43]

88 Acts, ch 1119, §17; 94 Acts, ch 1169, §64; 97 Acts, ch 170, §38, 39

Iowa Constitution, Art. X, §1

See also §52.24

**49.44 Summary.**

When a proposed constitutional amendment or other public measure to be decided by the voters of the entire state is to be voted upon, the state commissioner shall prepare a written summary of the amendment or measure including the number of the amendment or statewide public measure assigned by the state commissioner. The summary shall be printed immediately preceding the text of the proposed amendment or measure on the paper ballot or special paper ballot referred to in section 49.43. If the complete text of the public measure will not fit on the special paper ballot it shall be posted inside the voting booth. A copy of the full text shall be included with any absentee ballots.

In precincts where the amendment or measure will be voted on by machine, the summary shall be placed in the voting machine inserts as required by section 52.25.

The commissioner may prepare a summary for public measures if the commissioner finds that a summary is needed to clarify the question to the voters.

[C73, §49.43; C75, 77, 79, 81, §49.44; 81 Acts, ch 34, §27]

89 Acts, ch 136, §38; 97 Acts, ch 170, §40

Iowa Constitution, Art. X, §1

**49.45 General form of ballot.**

Ballots referred to in section 49.43 shall be substantially in the following form:

Shall the following amendment to the Constitution (or public measure) be adopted?

- Yes  
 No

(Here insert the summary, if it is for a constitutional amendment or statewide public measure, and in full the proposed constitutional amendment or public measure. The number assigned by the state commissioner or the letter assigned by the county commissioner shall be included on the ballot centered above the question, "Shall the following amendment to the Constitution [or public measure] be adopted?")

[C97, §1106; S13, §1106; C24, 27, 31, 35, 39, §763; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §49.45; 81 Acts, ch 34, §28]

97 Acts, ch 170, §41

Iowa Constitution, Art. X, §1

**49.46 Marking ballots on public measures.**

The elector shall designate a vote by making the appropriate mark in the voting target. On paper ballots an "X" or a check mark may be placed in the proper target.

[C97, §1106; S13, §1106; C24, 27, 31, 35, 39, §764; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.46]

97 Acts, ch 170, §42; 2006 Acts, ch 1010, §38

Iowa Constitution, Art. X, §1

**49.47 Notice on ballots.**

At the top of paper ballots for public measures shall be printed the following:

[Notice to voters. To vote to approve any question on this ballot, make a cross mark or check in the target before the word "Yes". To vote against a question make a similar mark in the target preceding the word "No".]

This notice shall be adapted to describe the proper mark where it is appropriate.

[S13, §1106; C24, 27, 31, 35, 39, §765; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.47]

97 Acts, ch 170, §43; 98 Acts, ch 1100, §7

Iowa Constitution, Art. X, §1

**49.48 Notice for judicial officers and constitutional amendments.**

The state commissioner of elections shall prescribe a notice to inform voters of the location on the ballot of the form for retaining or removing judicial officers and for ratifying or defeating proposed constitutional amendments. The notice shall be conspicuously attached to the voting machine or to the ballot.

83 Acts, ch 186, §10026, 10201; 89 Acts, ch 136, §39

Iowa Constitution, Art. X, §1

**49.49 Repealed by 75 Acts, ch 81, §154.**

**49.50 Endorsement and delivery of ballots.**

Ballots on such public measures shall be endorsed and given to each voter by the precinct election officials, as in case of ballots generally, and shall be subject to all other laws governing ballots for candidates, so far as the same shall be applicable.

[S13, §1106; C24, 27, 31, 35, 39, §768; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.50]

Iowa Constitution, Art. X, §1

**49.51 Commissioner to control printing.**

The commissioner shall have charge of the printing of the ballots to be used for any election held in the county, unless the commissioner delegates that authority as permitted by this section. The commissioner may delegate this authority only to another commissioner who is responsible under section 47.2 for conducting the elections held for a political subdivision which lies in more than one county, and only with respect to printing of ballots containing only public questions or the names of candidates to be voted upon by the registered voters of that political subdivision. Only one facsimile signature, that of the commissioner under whose direction the ballot is printed, shall appear on the ballot. It is the duty of the commissioner to insure that the arrangement of any ballots printed under the commissioner's direction conforms to all applicable requirements of this chapter.

[C97, §1107; S13, §1106, 2754; SS15, §1107; C24, 27, §767, 769, 771, 4203; C31, 35, §767, 769, 771, 4216-c8; C39, §767, 769, 771, 4216.08; C46, 50, 54, 58, 62, 66, 71, 73, §49.51, 49.53, 277.8; C75, §49.49, 49.51; C77, 79, 81, §49.51]

83 Acts, ch 139, §1, 14; 93 Acts, ch 163, §38; 95 Acts, ch 67, §53; 98 Acts, ch 1119, §1

**49.52** Repealed by 73 Acts, ch 136, §401.

**49.53 Publication of ballot and notice.**

The commissioner shall not less than four nor more than twenty days before the day of each election, except those for which different publication requirements are prescribed by law, publish notice of the election. The notice shall contain a facsimile of the portion of the ballot containing the first rotation as prescribed by section 49.31, subsection 2, and shall show the names of all candidates or nominees and the office each seeks, and all public questions, to be voted upon at the election. The sample ballot published as a part of the notice may at the discretion of the commissioner be reduced in size relative to the actual ballot but such reduction shall not cause upper case letters appearing in candidates' names or in summaries of public measures on the published sample ballot to be less than ninety percent of the size of such upper case letters appearing on the actual ballot. The notice shall also state the date of the election, the hours the polls will be open, the location of each polling place at which voting is to occur in the election, the location of the polling places designated as early ballot pick-up sites, and the names of the precincts voting at each polling place, but the statement need not set forth any fact which is apparent from the portion of the ballot appearing as a part of the same notice. The notice shall include the full text of all public measures to be voted upon at the election. The notice shall also include notice of testing required pursuant to sections 52.9, 52.35, and 52.38.

**49.76 How administered.**

Any one of the precinct election officials present may administer the oath to the others, and it shall be entered in the election records, subscribed by the person taking it, and certified by the officer administering it.

[C51, §250; R60, §485; C73, §610; C97, §1095; SS15, §1087-a5; C24, 27, 31, 35, 39, §559, 793; C46, 50, 54, 58, 62, 66, 71, 73, §43.31, 49.76; C75, 77, 79, 81, §49.76]

**49.77 Ballot furnished to voter.**

1. The board members of their respective precincts shall have charge of the ballots and furnish them to the voters. Any person desiring to vote shall sign a voter's declaration provided by the officials, in substantially the following form:

**VOTER'S DECLARATION  
OF ELIGIBILITY**

I do solemnly swear or affirm that I am a resident of the ..... precinct, ..... ward or township, city of ....., county of ....., Iowa.

I am a registered voter. I have not voted and will not vote in any other precinct in said election.

I understand that any false statement in this declaration is a criminal offense punishable as provided by law.

.....  
Signature of Voter

.....  
Address

.....  
Telephone

Approved:

.....  
Board Member

At the discretion of the commissioner, this declaration may be printed on each page of the election register and the voter shall sign the election register next to the voter's printed name. The voter's signature in the election register shall be considered the voter's signed declaration of eligibility affidavit. The state commissioner of elections shall prescribe by rule an alternate method for providing the information in subsection 2 for those counties where the declaration of eligibility is printed in the election register. The state voter registration system shall be designed to allow for the affidavit to be printed on each page of the election register and to allow sufficient space for the voter's signature.

2. One of the precinct election officials shall announce the voter's name aloud for the benefit of any persons present pursuant to section 49.104, subsection 2, 3, or 5. If the declaration of eligibility is not printed on each page of the election register, any of those persons may upon request view the signed declarations of eligibility and may review the signed declarations on file so long as the person does not interfere with the functions of the precinct election officials. If the declaration of eligibility is printed on the election register, the precinct election official shall make available for viewing a listing of those voters who have signed declarations of eligibility. Any of those persons present pursuant to section 49.104, subsection 2, 3, or 5, may upon request view the listing of those

voters who have signed declarations of eligibility, so long as the person does not interfere with the functions of the precinct election officials.

3. A precinct election official shall require any person whose name does not appear on the election register as an active voter to show identification. Specific documents which are acceptable forms of identification shall be prescribed by the state commissioner.

A precinct election official may require of the voter unknown to the official, identification upon which the voter's signature or mark appears. If identification is established to the satisfaction of the precinct election officials, the person may then be allowed to vote.

4. A person whose name does not appear on the election register of the precinct in which that person claims the right to vote shall not be permitted to vote, unless the person affirms that the person is currently registered in the county and presents proof of identity, or the commissioner informs the precinct election officials that an error has occurred and that the person is a registered voter of that precinct. If the commissioner finds no record of the person's registration but the person insists that the person is a registered voter of that precinct, the precinct election officials shall allow the person to cast a ballot in the manner prescribed by section 49.81.

A person who has been sent an absentee ballot by mail but for any reason has not received it shall be permitted to cast a ballot in person pursuant to section 53.19 and in the manner prescribed by section 49.81.

5. The request for the telephone number in the declaration of eligibility in subsection 1 is not mandatory and the failure by the voter to provide the telephone number does not affect the declaration's validity.

[C97, §1114; C24, §794, 795; C27, 31, 35, §718-b20, 794, 795; C39, §718.21, 794, 795; C46, 50, 54, 58, 62, 66, 71, §48.21, 49.77, 49.78; C73, 75, 77, 79, 81, §49.77]

83 Acts, ch 176, §5; 87 Acts, ch 221, §16, 17; 88 Acts, ch 1119, §19; 94 Acts, ch 1169, §50; 94 Acts, ch 1180, §14; 98 Acts, ch 1123, §6; 2006 Acts, ch 1002, §3, 4

<sup>2006 amendments to subsections 1 and 2 take effect March 1, 2006, and apply to elections held after that date; 2006 Acts, ch 1002, §4</sup>

**49.78** Repealed by 72 Acts, ch 1025, §35.

#### **49.79 Challenges.**

Any person offering to vote may be challenged as unqualified by any precinct election official or registered voter. It is the duty of each official to challenge any person offering to vote whom the official knows or suspects is not duly qualified. A ballot shall be received from a voter who is challenged, but only in accordance with section 49.81.

[C51, §258; R60, §493; C73, §619; C97, §1115; S13, §1087-a9; C24, 27, 31, 35, 39, §571, 796; C46, 50, 54, 58, 62, 66, 71, 73, §43.43, 49.79; C75, 77, 79, 81, §49.79]

2002 Acts, ch 1134, §39, 115

#### **49.80 Examination on challenge.**

1. When the status of any person as a registered voter is so challenged, the precinct election officials shall explain to the person the qualifications of an elector, and may examine the person under oath touching the person's qualifications as a voter.



2. In case of any challenges of an elector at the time the person is offering to vote in a precinct, a precinct election official may place such person under oath and question the person as, (a) where the person maintains the person’s home; (b) how long the person has maintained the person’s home at such place; (c) if the person maintains a home at any other location; (d) the person’s age. The precinct election official may permit the challenger to participate in such questions. The challenged elector shall be allowed to present to the official such evidence and facts as the elector feels sustains the fact that the person is qualified to vote. Upon completion thereof, if the challenge is withdrawn, the elector may cast the vote in the usual manner. If the challenge is not withdrawn, section 49.81 shall apply.

[C51, §259; R60, §494; C73, §620; C97, §1115; C24, 27, 31, 35, 39, §797; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.80]

90 Acts, ch 1238, §21; 94 Acts, ch 1169, §64

**49.81 Procedure for challenged voter to cast provisional ballot.**

1. A prospective voter who is prohibited under section 48A.8, subsection 4, section 49.77, subsection 4, or section 49.80 from voting except under this section shall be notified by the appropriate precinct election official that the voter may cast a provisional ballot. If a booth meeting the requirement of section 49.25 is not available at that polling place, the precinct election officials shall make alternative arrangements to insure the challenged voter the opportunity to vote in secret. The marked ballot, folded as required by section 49.84, shall be delivered to a precinct election official who shall immediately seal it in an envelope of the type prescribed by subsection 4. The sealed envelope shall be deposited in an envelope marked “provisional ballots” and shall be considered as having been cast in the special precinct established by section 53.20 for purposes of the postelection canvass.

2. Each person who casts a provisional ballot under this section shall receive a printed statement in substantially the following form:

Your qualifications as a registered voter have been challenged for the following reasons:

- I. ....
- II. ....
- III. ....

You must show identification before your ballot can be counted. Please bring or mail a copy of a current and valid photo identification card to the county commissioner’s office or bring or mail a copy of one of the following current documents that show your name and address:

- a. Utility bill.
- b. Bank statement.
- c. Paycheck.
- d. Government check.
- e. Other government document.

Your right to vote will be reviewed by the special precinct counting board on ..... You have the right and are encouraged to make a written statement and submit additional written evidence to this board supporting your qualifications as a registered voter. This written statement and evidence may be given to an election official of this precinct on election day or mailed or delivered to the county commissioner of elections, but must be received before ..... a.m./p.m. on ..... at ..... If your ballot is

not counted you will receive, by mail, notification of this fact and the reason that the ballot was not counted.

3. Any elector may present written statements or documents, supporting or opposing the counting of any provisional ballot, to the precinct election officials on election day, until the hour for closing the polls. Any statements or documents so presented shall be delivered to the commissioner when the election supplies are returned.

4. The individual envelopes used for each provisional ballot cast pursuant to subsection 1 shall have printed on them the following:

I believe I am a registered voter of this county and I am eligible to vote in this election. I registered to vote in ..... county on or about ..... at ..... My name at that time was ..... I have not moved to a different county since that time. I am a United States citizen, at least eighteen years of age.

.....  
(signature of voter) (date)

The following information is to be provided by the precinct election official:

Reason for challenge:

.....  
.....

Did not present required identification form.

.....  
(signature of precinct election official)

The precinct election official shall attach a completed voter registration form from each provisional voter unless the person's registration status is listed in the election register as pending.

[C77, 79, 81, §49.81]

87 Acts, ch 221, §19, 20; 94 Acts, ch 1169, §51, 64; 2002 Acts, ch 1134, §40, 115; 2004 Acts, ch 1083, §20, 37; 2004 Acts, ch 1175, §358

**49.82 Voter to receive one ballot — endorsement.**

When an empty voting booth is available, one of the precinct election officials shall endorse the official's initials on each ballot the voter will receive. The initials shall be placed so that they may be seen when the ballot is properly folded or enclosed in a secrecy folder. The official shall give the voter one and only one of each of the ballots to be voted at that election in that precinct, except as provided by section 49.100. No ballot without the required official endorsement shall be placed in the ballot box.

[C97, §1116, 1117; C24, 27, 31, 35, 39, §799; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.82]

94 Acts, ch 1180, §15

Endorsement in primary elections, §43.36

**49.83 Names to be marked on election register.**

The name of each voter shall be marked on the election register by a precinct election official when the voter's declaration of eligibility has been approved by the officials.

[C51, §260; R60, §495; C73, §621; C97, §1116; C24, 27, 31, 35, 39, §800; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.83]

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**49.98 Counting ballots.**

The ballots shall be counted according to the voters' marks on them as provided in sections 49.92 to 49.97, and not otherwise. If, for any reason, it is impossible to determine from a ballot, as marked, the choice of the voter for any office, the vote for that office shall not be counted. When there is a conflict between a straight party or organization vote for one political party or nonparty political organization and the vote cast by marking the voting target next to the name of a candidate for another political party or nonparty political organization on the ballot, the mark next to the name of the candidate shall be held to control, and the straight party or organization vote in that case shall not apply as to that office. A ballot shall be rejected if the voter used a mark to identify the voter's ballot. For each voting system, the state commissioner shall, by rule adopted pursuant to chapter 17A, develop uniform definitions of what constitutes a vote.

[C97, §1120; S13, §1120; C24, 27, 31, 35, 39, §815; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.98]

97 Acts, ch 170, §52; 2004 Acts, ch 1083, §21, 37

**49.99 Writing name on ballot.**

The voter may also write on the line provided for write-in votes the name of any person for whom the voter desires to vote and mark the voting target opposite the name. If the voter is using a voting system other than an electronic voting system, as defined in section 52.1, the writing of the name shall constitute a valid vote for the person whose name has been written on the ballot without regard to whether the voter has made a mark opposite the name. However, when a write-in vote is cast using an electronic voting system, the ballot must also be marked in the corresponding space in order to be counted. Marking the voting target opposite a write-in line without writing a name on the line shall not affect the validity of the remainder of the ballot.

If a voter writes the name of a person more than once in the proper places on a ballot or on a voting machine for an office to which more than one person is to be elected, all but one of those votes for that person for that office are void and shall not be counted.

[C97, §1119; S13, §1119; C24, 27, 31, 35, 39, §816; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.99]

86 Acts, ch 1224, §13; 90 Acts, ch 1238, §22; 97 Acts, ch 170, §53

**49.100 Spoiled ballots.**

A voter who spoils a ballot may return the spoiled ballot to the precinct election officials and receive another ballot. However, a voter shall not receive more than three ballots, including the one first delivered. Only ballots provided in accordance with the provisions of this chapter shall be counted.

[C97, §1121; S13, §1121; C24, 27, 31, 35, 39, §817; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.100]

97 Acts, ch 170, §54

**49.101 Defective ballot does not nullify vote.**

No ballot properly marked by the voter shall be rejected:

1. Because of any discrepancy between the printed ballot and the nomination paper, or certificate of nomination, or certified abstract of the canvassing board.
2. Because of any error in stamping or writing the endorsement thereon by the officials charged with such duties.

3. Because of any error on the part of the officer charged with such duty in delivering the wrong ballots at any polling place.

[C97, §1122; C24, 27, 31, 35, 39, §818; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.101]

**49.102 Defective ballots.**

Said defective ballots shall be counted for the candidate or candidates for such offices named in the nomination papers, certificate of nomination, or certified abstract.

[C97, §1122; C24, 27, 31, 35, 39, §819; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.102]

**49.103 Wrong ballots.**

Said wrong ballots shall be counted as cast for all candidates for whom the voter had the right to vote, and for whom the voter did vote.

[C97, §1122; C24, 27, 31, 35, 39, §820; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.103]

**49.104 Persons permitted at polling places.**

The following persons shall be permitted to be present at and in the immediate vicinity of the polling places, provided they do not solicit votes:

1. Any person who is by law authorized to perform or is charged with the performance of official duties at the election.

2. Any number of persons, not exceeding three at a time from each political party having candidates to be voted for at such election, to act as challenging committees, who are appointed and accredited by the executive or central committee of such political party or organization.

3. Any number of persons not exceeding three at a time from each of such political parties, appointed and accredited in the same manner as above prescribed for challenging committees, to witness the counting of ballots. Subject to the restrictions of section 51.11, the witnesses may observe the counting of ballots by a counting board during the hours the polls are open in any precinct for which double election boards have been appointed.

4. Any peace officer assigned or called upon to keep order or maintain compliance with the provisions of this chapter, upon request of the commissioner or of the chairperson of the precinct election board.

5. One observer at a time representing any nonparty political organization, any candidate nominated by petition pursuant to chapter 45, or any other nonpartisan candidate in a city or school election, appearing on the ballot of the election in progress. Candidates who send observers to the polls shall provide each observer with a letter of appointment in the form prescribed by the state commissioner.

6. Any persons expressing an interest in a ballot issue to be voted upon at an election except a general or primary election. Any such person shall file a notice of intent to serve as an observer with the commissioner before election day. If more than three persons file a notice of intent to serve at the same time with respect to ballot issues at an election, the commissioner shall appoint from those submitting a notice of intent the three persons who may serve at that time as observers, and shall provide a schedule to all persons who filed notices of intent. The appointees, whenever possible, shall include both opponents and proponents of the ballot issues.

7. Any person authorized by the commissioner, in consultation with the secretary of state, for the purposes of conducting and attending educational voting programs for youth.

[C97, §1124; S13, §1087-a9; C24, 27, 31, 35, 39, §571, 821; C46, 50, 54, 58, 62, 66, 71, 73, §43.43, 49.104; C75, 77, 79, 81, S81, §49.104; 81 Acts, ch 34, §32]  
90 Acts, ch 1238, §23; 94 Acts, ch 1180, §17; 97 Acts, ch 170, §55

#### **49.105 Ordering arrest.**

Any precinct election official shall order the arrest of any person who behaves in a noisy, riotous, tumultuous or disorderly manner at or about the polls, so as to disturb the election, or insults or abuses the officials, or commits a breach of the peace, or violates any of the provisions of this chapter. If the person so arrested is a registered voter of the precinct which that polling place serves, and has not yet voted, the person shall be permitted to do so before being removed from the polling place.

[C51, §253; R60, §488; C73, §613; C97, §1128; C24, 27, 31, 35, 39, §822, 823; C46, 50, 54, 58, 62, 66, 71, 73, §49.105, 49.106; C75, 77, 79, 81, §49.105]  
94 Acts, ch 1169, §64

**49.106** Repealed by 73 Acts, ch 136, §401.

**49.107 Prohibited acts on election day.** Repealed by 2002 Acts, ch 1071, §15. See §39A.4.

**49.108 Penalty.** Repealed by 84 Acts, ch 1067, §51.

#### **49.109 Employees entitled to time to vote.**

Any person entitled to vote at an election in this state who does not have three consecutive hours in the period between the time of the opening and the time of the closing of the polls during which the person is not required to be present at work for an employer, is entitled to such time off from work time to vote as will in addition to the person's nonworking time total three consecutive hours during the time the polls are open. Application by any employee for such absence shall be made individually and in writing prior to the date of the election, and the employer shall designate the period of time to be taken. The employee is not liable to any penalty nor shall any deduction be made from the person's regular salary or wages on account of such absence.

[C97, §1123; C24, 27, 31, 35, 39, §826; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §49.109; 81 Acts, ch 34, §33]

**49.110 Intimidation of employees by employer.** Repealed by 2002 Acts, ch 1071, §15. See §39A.2 and 39A.5.

**49.111 Unlawful acts.** Repealed by 2002 Acts, ch 1071, §15. See §39A.5.

**49.112 Penalty.** Repealed by 84 Acts, ch 1067, §51.

**49.113 Official neglect or misconduct.** Repealed by 2002 Acts, ch 1071, §15. See §39A.4.

**49.114** Repealed by 73 Acts, ch 136, §401.

**49.115** Repealed by 72 Acts, ch 1124, §282.

**49.116 and 49.117** Repealed by 73 Acts, ch 136, §401.

**49.118** Repealed by 72 Acts, ch 1025, §35.

**49.119 Penalty.** Repealed by 2002 Acts, ch 1071, §15. See §39A.2 through 39A.5.

**49.120 Promise of position.**

It shall be unlawful for any candidate for any office to be voted for at any election, prior to nomination or election, to promise, either directly or indirectly, to support or use the candidate's influence in behalf of any person or persons for any position, place, or office, or to promise directly or indirectly to name or appoint any person or persons to any place, position, or office in consideration of any person or persons supporting the candidate or using the person's influence in securing the candidate's nomination, election, or appointment.

[S13, §1134-a; C24, 27, 31, 35, 39, §837; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.120]

**49.121 Promise of influence.**

It shall be unlawful for any person to solicit from any candidate for any office to be voted for at any election, or any candidate for appointment to any public office, prior to nomination, election, or appointment, a promise, directly or indirectly, to support or use the candidate's influence in behalf of any person or persons for any position, place, or office, or a promise either directly or indirectly to name or appoint any person or persons to any place, position, or office in consideration of any person or persons supporting the candidate, or using the person's influence in securing the candidate's nomination, election or appointment.

[S13, §1134-b; C24, 27, 31, 35, 39, §838; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §49.121]

**49.122 Penalty.** Repealed by 84 Acts, ch 1067, §51.

**49.123 Courthouse open on election day.**

The courthouse of each county shall remain open on election day.

[C71, 73, 75, 77, 79, 81, §49.123]



**49.124 Training course by commissioner.**

The commissioner shall conduct, not later than the day before each primary and general election, a training course for all election personnel, and the commissioner may do so before any other election the commissioner administers. The personnel shall include all precinct election officials and any other persons who will be employed in or around the polling places on election day. At least two precinct election officials who will serve on each precinct election board at the forthcoming election shall attend the training course. If the entire board does not attend, those members who do attend shall so far as possible be persons who have not previously attended a similar training course.

[C71, 73, 75, 77, 79, 81, §49.124]

94 Acts, ch 1180, §18; 2002 Acts, ch 1134, §44, 115

**49.125 Compensation of trainees.**

All election personnel attending such training course shall be paid for attending such course and shall be reimbursed for travel to and from the place where the training is given at the rate determined by the board of supervisors if the distance involved is more than five miles. The wages shall be computed at the hourly rate established pursuant to section 49.20 and payment of wages and mileage for attendance shall be made at the time that payment is made for duties performed on election day.

[C71, 73, 75, 77, 79, 81, §49.125]

97 Acts, ch 170, §56; 2003 Acts, ch 44, §27

**49.126 Manual by state commissioner.**

It shall be the duty of the state commissioner to provide a training manual and such additional materials as may be necessary to all commissioners for conducting the required training course and to revise the manual from time to time as may be necessary.

[C71, 73, 75, 77, 79, 81, §49.126]

**49.127 Commissioner to examine machines.**

It shall be the duty of each commissioner to determine that all voting machines are operational and functioning properly and that all materials necessary for the conduct of the election are in the commissioner's possession and are correct.

[C71, 73, 75, 77, 79, 81, §49.127]

**49.128 to 49.130 Reserved.**

**49.131 Political advertisements.** Repealed by 86 Acts, ch 1023, §12. See §68A.405.

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## CHAPTER 49A

## CONSTITUTIONAL AMENDMENTS AND PUBLIC MEASURES

See also definitions in §39.3

49A.1	Publication of proposed amendment.	49A.6	Certification — sample ballot.
49A.2	Publication of proposed public measure.	49A.7	Proclamation.
49A.3	Proof of publication — record — report to legislature.	49A.8	Canvass — declaration of result — record.
49A.4	Submission at general election.	49A.9	Expenses.
49A.5	Submission at special election.	49A.10	Action to test legality.
		49A.11	Parties.

**49A.1 Publication of proposed amendment.**

Whenever any proposition to amend the Constitution has passed the general assembly and been referred to the next succeeding legislature, the state commissioner of elections shall cause the same to be published, once each month, in two newspapers of general circulation in each congressional district in the state, for the time required by the Constitution.

[C97, §55; S13, §55; C24, 27, 31, 35, 39, §69; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.1]

C93, §49A.1

Time of publication, Iowa Constitution, Art. X, §1  
Voting on public measures, see §49.43–49.50

**49A.2 Publication of proposed public measure.**

Whenever any public measure has passed the general assembly which under the Constitution must be published and submitted to a vote of the entire people of the state, the state commissioner of elections shall cause the same to be published, once each month, in at least one newspaper of general circulation in each county in the state, for the time required by the Constitution.

[C24, 27, 31, 35, 39, §70; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.2]

C93, §49A.2

Time of publication, Iowa Constitution, Art. VII, §5  
Voting on public measures, see §49.43–49.50

**49A.3 Proof of publication — record — report to legislature.**

Proof of the publication specified in sections 49A.1 and 49A.2 shall be made by the affidavits of the publishers of the newspapers designated by the state commissioner of elections and such affidavits, with the certificate of the state commissioner of the selection of such newspapers, shall be filed in the commissioner's office, recorded in a book kept for that purpose, and preserved by the commissioner, and in the case of constitutional amendments the commissioner shall report to the following legislature the action in the premises.

[C97, §55; S13, §55; C24, 27, 31, 35, 39, §71; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.3]

C93, §49A.3

Iowa Constitution, Art. X, §1

**49A.4 Submission at general election.**

Whenever a public measure has passed the general assembly which under the Constitution must be submitted to a vote of the entire people of the state and no time is fixed by the Constitution or legislature for such submission, or whenever a proposition to amend the Constitution has been adopted by two succeeding general assemblies and no time is fixed by the last general assembly adopting the same for its submission to the people, said measure or amendment shall be submitted to the people at the ensuing general election, in the manner required by law.

[C97, §56; C24, 27, 31, 35, 39, §72; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.4]  
C93, §49A.4

Submission, §49.43–49.50, 49A.1, 49A.2, 49A.5; Iowa Constitution, Art. VII, §5 and Art. X

**49A.5 Submission at special election.**

The general assembly may provide for the submission of a constitutional amendment to the people at a special election for that purpose, at such time as it may prescribe, proclamation for which election shall be made by the governor, and the same shall in all respects be governed and conducted as prescribed by law for the submission of a constitutional amendment at a general election.

[C97, §58; C24, 27, 31, 35, 39, §73; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.5]  
C93, §49A.5

Iowa Constitution, Art. X

Submission, §49.43–49.50, 49A.1, 49A.2, 49A.4

**49A.6 Certification — sample ballot.**

The state commissioner of elections shall, not less than sixty-nine days preceding any election at which a constitutional amendment or public measure is to be submitted to a vote of the entire people of the state, transmit to the county commissioner of elections of each county a certified copy of the amendment or measure and a sample of the ballot to be used in such cases, prepared in accordance with law.

[C24, 27, 31, 35, 39, §74; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.6]  
89 Acts, ch 136, §1

C93, §49A.6

Iowa Constitution, Art. VII, §5 and Art. X

**49A.7 Proclamation.**

Whenever a proposition to amend the Constitution is to be submitted to a vote of the electors, the governor shall issue a proclamation of that fact, and of the date when the proposition is to be voted on, at least sixty days before that date.

[C97, §57; C24, 27, 31, 35, 39, §75; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.7]  
C93, §49A.7

Additional provisions, §39.4 et seq.

Iowa Constitution, Art. X

**49A.8 Canvass — declaration of result — record.**

The judges of election, county boards of canvassers, and other election officials shall canvass the vote on any constitutional amendment or public measure, and make return thereof, in the same manner as required by law for the canvass and return of the vote for public officers. The board of state canvassers shall canvass such returns, declare the result, and enter the same of record, immediately following and in connection with the proofs of publication of such amendment or measure, in the book kept for that purpose by the secretary of state.

Upon completion of the canvass, the secretary of state shall certify to the Iowa Code editor the results of the election.

[C97, §56; C24, 27, 31, 35, 39, §76; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.8]

C93, §49A.8

93 Acts, ch 143, §19

Canvass of votes, chapter 50

**49A.9 Expenses.**

Expenses incurred under the provisions of this chapter shall be audited and allowed by the director of the department of administrative services and paid out of any money in the state treasury not otherwise appropriated.

[C97, §59; C24, 27, 31, 35, 39, §77; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.9]

C93, §49A.9

2003 Acts, ch 145, §286

**49A.10 Action to test legality.**

Whenever an amendment to the Constitution of the State of Iowa shall have been proposed and agreed to by the general assembly and shall have been agreed to by the succeeding general assembly, any taxpayer may file suit in equity in the district court at the seat of government of the state, challenging the validity, legality or constitutionality of such amendment, or the procedure connected therewith, and in such suit the district court shall have jurisdiction to determine the validity, legality or constitutionality of said amendment or the procedure connected therewith, and enter its decree accordingly, and may grant a writ of injunction enjoining the governor and state commissioner of elections from submitting such constitutional amendment, if it, or the procedure connected therewith, shall have been found to be invalid, illegal or unconstitutional.

[C31, 35, §77-d1; C39, §77.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.10]

C93, §49A.10

**49A.11 Parties.**

In such suit the taxpayer shall be plaintiff and the governor and state commissioner of elections shall be defendants. Any taxpayer may intervene, either as party plaintiff or defendant.

[C31, 35, §77-d2; C39, §77.2; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §6.11]

C93, §49A.11

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**50.31 Abstracts for governor and lieutenant governor.**

The envelope containing the abstracts of votes for governor and lieutenant governor shall be endorsed substantially as follows: “Abstract of votes for governor and lieutenant governor from ..... county”. After being so endorsed said envelope shall be addressed, “To the Speaker of the House of Representatives”.

[C51, §283; R60, §517; C73, §645; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §870; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.31]

**50.32 Endorsement on other envelope.**

The envelope for offices other than governor and lieutenant governor shall be endorsed substantially in the manner provided in section 50.31, with changes necessary to indicate the particular offices, and shall be addressed, “To the State Commissioner of Elections”.

[C51, §283, 305; R60, §517, 539; C73, §645, 662; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §871; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.32]  
91 Acts, ch 129, §16

**50.33 Forwarding of envelopes.**

The envelopes, including the one addressed to the speaker, after being prepared, sealed, and endorsed as required by this chapter, shall be placed in one package and forwarded to the state commissioner.

[C51, §284, 305; R60, §518, 539; C73, §645, 662; C97, §1157; S13, §1157; C24, 27, 31, 35, 39, §872; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.33]  
93 Acts, ch 143, §23

**50.34 Missing abstracts.**

If the abstracts from any county are not received at the office of the state commissioner within fifteen days after the day of election, the state commissioner shall send a messenger to the commissioner of such county, who shall furnish the messenger with them, or, if they have been sent, with a copy thereof, and the messenger shall return them to the state commissioner without delay.

[C51, §285; R60, §519; C73, §649; C97, §1158; C24, 27, 31, 35, 39, §873; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.34]

**50.35 Delivery of abstracts.**

The envelopes containing the abstracts of votes for governor and lieutenant governor shall not be opened by the state commissioner, but the state commissioner shall securely preserve the same and deliver them to the speaker of the house of representatives at the time said abstracts are canvassed as provided by law.

[C24, 27, 31, 35, 39, §874; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.35]  
Canvass for governor, §2.27 et seq.; also Iowa Constitution, Art. IV, §3

**50.36 Envelopes containing other abstracts — canvass.**

The secretary of state, upon receipt of the envelopes containing the abstracts of votes, shall open and canvass the abstracts for all offices except governor and lieutenant governor.

The secretary of state shall invite to attend the canvass one representative from each political party which, at the last preceding general election, cast for its candidate for president of the United States or for governor, as the case may

be, at least two percent of the total vote cast for all candidates for that office at that election, as determined by the secretary of state. The secretary of state shall notify the chairperson of each political party of the time of the canvass. However, the presence of a representative from a political party is not necessary for the canvass to proceed.

[C51, §286; R60, §520; C73, §650; C97, §1159; C24, 27, 31, 35, 39, §875; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.36]  
95 Acts, ch 189, §11

#### **50.37 State canvassing board.**

The executive council shall constitute a board of canvassers of all abstracts of votes required to be filed with the state commissioner, except for the offices of governor and lieutenant governor. Any clerical error found by the secretary of state or state board of canvassers shall be corrected by the county commissioner in a letter addressed to the state board of canvassers.

[C51, §287; R60, §521; C73, §647, 651; C97, §1160, 1162; S13, §1162; C24, 27, 31, 35, 39, §876; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.37]  
95 Acts, ch 189, §12  
Additional provisions, §49A.8

#### **50.38 Time of state canvass.**

Not later than twenty-seven days after the day of the election, the secretary of state shall present to the board of state canvassers abstracts of votes cast at the election showing the number of ballots cast for each office and a summary of the results for each office, showing the votes cast in each county. The state board of canvassers shall review the results compiled by the secretary of state and, if the results are accurately tabulated, the state board shall approve the canvass.

[C51, §288, 306; R60, §522, 540; C73, §647, 652, 663; C97, §1161, 1162; S13, §1162; C24, 27, 31, 35, 39, §877; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.38]  
95 Acts, ch 189, §13  
Canvass under special election, §50.46

#### **50.39 Abstract.**

It shall make an abstract stating, in words written at length, the number of ballots cast for each office, the names of all the persons voted for, for what office, the number of votes each received, and whom it declares to be elected, and if a public question has been submitted to the voters of the state, the number of ballots cast for and against the question and a declaration of the result as determined by the canvassers; which abstract shall be signed by the canvassers in their official capacity and as state canvassers, and have the seal of the state affixed.

[C51, §289, 306; R60, §523, 540; C73, §653, 663; C97, §1163; C24, 27, 31, 35, 39, §878; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.39]



CHAPTER 52

ALTERNATIVE VOTING SYSTEMS

Chapter applicable to primary elections, §43.5  
 Definitions in §39.3 applicable to this chapter

<p>52.1 Alternative voting systems — definitions.</p> <p>52.2 Purchase.</p> <p>52.3 Terms of purchase — tax levy.</p> <p>52.4 Examiners — term — removal.</p> <p>52.5 Testing and examination of voting equipment.</p> <p>52.6 Compensation.</p> <p>52.7 Construction of machine approved.</p> <p>52.8 Experimental use.</p> <p>52.9 Duties of local authorities — certificate of test.</p> <p>52.10 Ballots — form.</p> <p>52.11 Locking of unused party row.</p> <p>52.12 Exception — straight party voting.</p> <p>52.13 Sample ballots.</p> <p>52.14 Two sets of ballots.</p> <p>52.15 Delivery of ballots and supplies.</p> <p>52.16 Duties of election officers — independent ballots.</p> <p>52.17 Voting machine in plain view.</p> <p>52.18 Method of voting.</p> <p>52.19 Instructions.</p> <p>52.20 Injury to machine.</p> <p>52.21 Canvass of vote — tally sheet.</p> <p>52.22 Locking machine.</p> <p>52.23 Written statements of election — other papers.</p> <p>52.24 What statutes apply — separate ballots.</p> <p>52.25 Summary of amendment or public measure.</p>	<p>ELECTRONIC VOTING SYSTEMS</p> <p>52.26 Authorized electronic voting system.</p> <p>52.27 Commissioner to provide electronic voting equipment.</p> <p>52.28 Electronic voting system ballot forms.</p> <p>52.29 Electronic voting system sample ballots.</p> <p>52.30 Procedure where votes cast on ballot cards. Repealed by 2002 Acts, ch 1134, §114, 115.</p> <p>52.31 Procedure where votes cast on special paper ballots.</p> <p>52.32 Procedure upon closing polls.</p> <p>52.33 Absentee voting by electronic voting system.</p> <p>52.34 Counting center established.</p> <p>52.35 Equipment tested.</p> <p>52.36 Commissioner in charge of counting center — appointment of resolution board.</p> <p>52.37 Counting center tabulation procedure.</p> <p>52.38 Testing portable tabulating devices.</p> <p>52.39 Reserved.</p> <p>52.40 Early pick-up sites established — procedure.</p> <p>52.41 Electronic transmission of election results.</p>
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**52.1 Alternative voting systems — definitions.**

1. At all elections conducted under chapter 49, and at any other election unless specifically prohibited by the statute authorizing the election, votes may be cast, registered, recorded and counted by means of either voting machines or electronic voting systems, in accordance with this chapter.

2. As used in this chapter, unless the context otherwise requires:

a. *“Automatic tabulating equipment”* means apparatus, including but not limited to electronic data processing machines, which may be utilized to ascertain the manner in which special paper ballots have been marked by voters, and count the votes marked thereon.

b. *“Ballot”* includes a special paper ballot. In appropriate contexts, *“ballot”* also includes conventional paper ballots.

c. *“Counting center”* means any place selected by the commissioner where automatic tabulating equipment is available, or is placed, for the purpose of counting votes marked on ballots cast in two or more precincts.

*d. "Electronic voting system"* means a system employing special paper ballots under which votes are:

(1) Cast by voters by marking special paper ballots with a vote marking device; and

(2) Thereafter counted by use of automatic tabulating equipment.

*e. "Program"* means the written record of the set of instructions defining the operations to be performed by a computer in examining, counting, tabulating, and printing votes.

*f. "Special paper ballot"* means a printed ballot designed to be marked by a voter with a vote marking device.

*g. "Vote marking device"* means a pen, pencil or similar writing tool for use in marking a special paper ballot, so designed or fabricated that the mark it leaves may be detected and the vote so cast counted by automatic tabulating equipment.

*h. "Voting machine"* means a mechanical or electronic device, meeting the requirements of section 52.7, designated for use in casting, registering, recording, and counting votes at an election. "Voting machine" includes, but is not limited to, direct recording electronic devices.

[S13, §1137-a7; C24, 27, 31, 35, 39, §904; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.1]

86 Acts, ch 1224, §17, 18; 2002 Acts, ch 1134, §50, 51, 115; 2004 Acts, ch 1083, §24, 37

## **52.2 Purchase.**

The board of supervisors of a county may, by a majority vote, authorize, purchase, and order the use of voting machines or an electronic voting system in any one or more voting precincts within the county until otherwise ordered by the board of supervisors. Voting machines and an electronic voting system may be used concurrently at the same precinct.

[S13, §1137-a8; C24, 27, 31, 35, 39, §905; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.2]

2004 Acts, ch 1083, §25, 37

**52.3 Terms of purchase — tax levy.**

The county board of supervisors, on the adoption and purchase of a voting machine or an electronic voting system, may issue bonds under section 331.441, subsection 2, paragraph “b”, subparagraph (1).

[S13, §1137-a14; C24, 27, 31, 35, 39, §906; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §52.3; 81 Acts, ch 117, §1009]

83 Acts, ch 123, §46, 209

**52.4 Examiners — term — removal.**

The state commissioner of elections shall appoint three members to a board of examiners for voting machines and electronic voting systems, not more than two of whom shall be from the same political party. The examiners shall hold office for staggered terms of six years, subject to removal at the pleasure of the state commissioner of elections.

At least one of the examiners shall have been trained in computer programming and operations. The other two members shall be directly involved in the administration of elections and shall have experience in the use of electronic voting systems.

[S13, §1137-a9; C24, 27, 31, 35, 39, §907; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.4]

94 Acts, ch 1180, §20

**52.5 Testing and examination of voting equipment.**

A person or corporation owning or being interested in a voting machine or electronic voting system may request that the state commissioner call upon the board of examiners to examine and test the machine or system. Within seven days of receiving a request for examination and test, the state commissioner shall notify the board of examiners of the request in writing and set a time and place for the examination and test.

The state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the testing and examination of any voting machine or electronic voting system by the board of examiners. The rules shall prescribe the method to be used in determining whether the machine or system is suitable for use within the state and performance standards for voting equipment in use within the state. The rules shall provide that all electronic voting systems and voting machines approved for use by the examiners after April 9, 2003, shall meet voting systems performance and test standards, as adopted by the federal election commission on April 30, 2002, and as deemed adopted by Pub. L. No. 107-252, section 222. The rules shall include standards for determining when recertification is necessary following modifications to the equipment or to the programs used in tabulating votes, and a procedure for rescinding certification if a system or machine is found not to comply with performance standards adopted by the state commissioner.

The state commissioner may employ a competent person or persons to assist the examiners in their evaluation of the equipment and to advise the examiners as to the sufficiency of the equipment. Consultant fees shall be paid by the person who requested the certification. Following the examination and testing of the voting machine or system the examiners shall report to the state commissioner describing the testing and examination of the machine or system and upon the capacity of the machine or system to register the will of voters, its accuracy and efficiency, and with respect to its mechanical perfections and imperfections. Their report shall be filed in the office of the state commissioner and shall state whether in their opinion the kind of machine or system so

examined can be safely used by voters at elections under the conditions prescribed in this chapter. If the report states that the machine or system can be so used, it shall be deemed approved by the examiners, and machines or systems of its kind may be adopted for use at elections as provided in this section. Any form of voting machine or system not so approved cannot be used at any election. Before actual use by a county of a particular electronic voting system which has been approved for use in this state, the state commissioner shall formulate, with the advice and assistance of the examiners, and adopt rules governing the development of vote counting programs and all procedures used in actual counting of votes by means of that system.

[S13, §1137-a10; C24, 27, 31, 35, 39, §908; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.5]

86 Acts, ch 1224, §19; 89 Acts, ch 136, §50; 2004 Acts, ch 1083, §26, 37

### **52.6 Compensation.**

Each examiner is entitled to one hundred fifty dollars for compensation and expenses in making such examination and report, to be paid by the person or corporation applying for such examination. No examiner shall have any interest whatever in any machine or system reported upon. Provided that each examiner shall receive not to exceed fifteen hundred dollars and reasonable expenses in any one year; and all sums collected for such examinations over and above said maximum salaries and expenses shall be turned in to the state treasury.

[S13, §1137-a10; C24, 27, 31, 35, 39, §909; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.6]

### **52.7 Construction of machine approved.**

A voting machine approved by the state board of examiners for voting machines and electronic voting systems must be so constructed as to provide facilities for voting for the candidates of at least seven different parties or organizations, must permit a voter to vote for any person for any office although not nominated as a candidate by any party or organization, and must permit voting in absolute secrecy.

It must also be so constructed as to prevent voting for more than one person for the same office, except where the voter is lawfully entitled to vote for more than one person for that office; and it must afford the voter an opportunity to vote for any or all persons for that office as the voter is by law entitled to vote for and no more, at the same time preventing the voter from voting for the same person twice. The voting machine must be so constructed as to provide the voter with an opportunity to change a vote before the ballot is recorded and counted.

It may also be provided with one ballot in each party column or row containing only the words “presidential electors”, preceded by the party name, and a vote for such ballot shall operate as a vote for all the candidates of such party for presidential electors.

Such machine shall be so constructed as to accurately account for every vote cast upon it. The machine shall be so constructed as to remove information from the ballot identifying the voter before the ballot is recorded and counted. If the machine is a direct recording electronic device, the machine shall be so constructed as to store each ballot cast separate from the ballot tabulation function, which ballot may be reproduced on paper in the case of a recount, manual audit, or machine malfunction.

[S13, §1137-a11; C24, 27, 31, 35, 39, §910; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.7]

2004 Acts, ch 1083, §27, 37; 2004 Acts, ch 1175, §359

### **52.8 Experimental use.**

The board of supervisors of any county may provide for the experimental use at an election in one or more districts, of a voting machine or electronic voting system which it might lawfully adopt, without a formal adoption thereof; and its use at such election shall be as valid for all purposes as if it had been lawfully adopted.

[S13, §1137-a12; C24, 27, 31, 35, 39, §911; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.8]

### **52.9 Duties of local authorities — certificate of test.**

The commissioner having jurisdiction of any precinct for which the board of supervisors has adopted voting by machine shall, as soon as practicable thereafter, provide for the precinct polling place one or more voting machines in complete working order, and shall thereafter keep them in repair, and shall have the custody thereof and of the furniture and equipment of the polling place when not in use at an election. The machines shall be used for voting at all elections unless the commissioner directs otherwise pursuant to section 49.26. If it shall be impracticable to supply each and every election precinct for which machine voting has been adopted with a voting machine or voting machines at any election following such adoption, as many may be supplied as it is practicable to procure, and the same may be used in such election precincts as the commissioner may direct.

It shall be the duty of the commissioner or the commissioner’s duly authorized agents to examine and test the voting machines to be used at any election, after the machines have been prepared for the election and not less than twelve hours before the opening of the polls on the morning of the election. For any election to fill a partisan office, the county chairperson of each political party referred to in section 49.13 shall be notified in writing of the time said machines shall be examined and tested so that they may be present, or have a representative present. For every election, the commissioner shall include the notice in the notice of the election published as required by section 49.53. Those present for the examination and testing shall sign a certificate which shall read substantially as follows:

The Undersigned Hereby Certify that, having duly qualified, we were present and witnessed the testing and preparation of the following voting machines; that we believe the same to be in proper condition for use in the election of ..... (date); that each registering counter of the machine is set at 000; that the public counter is set at 000; that the seal numbers and the protective counter numbers are as indicated below.

Signed:

.....  
Republican (if applicable)

.....  
Democrat (if applicable)

.....  
Voting machine custodian

Dated.....

Machine Number	Protective Counter Number	Seal Number
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

On those voting machines presently equipped with an after-election latch and on all machines placed in use after January 1, 1961, in this state, the after-election latch shall be fully used by the election officials.

[S13, §1137-a13; C24, 27, 31, 35, 39, §912; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.9]

98 Acts, ch 1123, §7, 8; 2000 Acts, ch 1058, §59, 60

**52.10 Ballots — form.**

All ballots shall be printed in black ink on clear, white material, of such size as will fit the ballot frame, and in as plain, clear type as the space will reasonably permit. The party name for each political party represented on the machine shall be prefixed to the list of candidates of such party. The order of the list of candidates of the several parties or organizations shall be arranged as provided in sections 49.30 to 49.42A, except that the lists may be arranged in horizontal rows or vertical columns to meet the physical requirements of the voting machine used.

[S13, §1137-a15; C24, 27, 31, 35, 39, §913; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.10]

97 Acts, ch 170, §60; 98 Acts, ch 1100, §11

**52.38 Testing portable tabulating devices.**

All portable tabulating devices shall be tested before any election in which they are to be used following the procedure in section 52.35, subsection 2. Testing shall be completed not later than twelve hours before the opening of the polls on the morning of the election. For any election to fill a partisan office, the chairperson of each political party shall be notified in writing of the time the devices will be tested so that the chairperson or a representative may be present. For every election, the commissioner shall include the notice in the notice of the election published as required by section 49.53. Those present for the test shall sign a certificate which shall read substantially as follows:

The undersigned certify that we were present and witnessed the testing of the portable tabulating devices in the following precincts, that we believe the devices are in proper condition for use in the election of ..... (date); that following the test the vote totals were erased from the memory of each portable tabulating device and a report was produced showing that all vote totals in the memory were set at 0000; that the devices were securely locked or sealed; and that the serial numbers and locations of the devices which were tested are listed below.

Signed .....  
(name and political party affiliation, if applicable)  
.....  
(name and political party affiliation, if applicable)  
.....  
Voting equipment custodian  
Dated .....

Precinct	Location	Serial Number
.....	.....	.....
.....	.....	.....
.....	.....	.....

86 Acts, ch 1224, §27; 97 Acts, ch 170, §66; 98 Acts, ch 1123, §10; 2000 Acts, ch 1058, §59, 60

**52.39 Reserved.**

**52.40 Early pick-up sites established — procedure.**

1. In counties where counting centers have been established under section 52.34, the commissioner may designate certain polling places as early ballot pick-up sites. At these sites, between the hours of one p.m. and four p.m. on the day of the election, two precinct election officials of different political parties shall seal the ballot container to prevent the addition or removal of ballots and replace it with an empty, locked ballot container. The sealed ballot container shall be kept in a safe place in view of the precinct election officials. The early pick-up officers shall receive the sealed ballot container containing the ballots which have been voted along with a signed statement of the precinct officials attesting to the number of declarations of eligibility signed up to that time, excluding those declarations signed by voters who had not yet placed their ballots in the ballot container when it was sealed.

2. Early pick-up officers shall be appointed in two-person teams, one from each of the political parties referred to in section 49.13, who shall be appointed by the commissioner from the election board panel drawn up as provided by section 49.15. The early pick-up officers shall be sworn in the manner provided by section 49.75 for election board members, and shall receive compensation as provided in section 49.20.

3. Each two-person team of early pick-up officers shall travel together in the same vehicle and shall have the container under their immediate joint control until they surrender it to the commissioner or the commissioner's designee. If persons designated as early pick-up officers fail to appear at the time the duties set forth in this section are to be performed, the commissioner shall at once appoint some other person or persons, giving preference to persons designated by the respective county chairpersons of the political parties described in section 49.13, to carry out the requirements of this section.

4. The tabulation of ballots received from early pick-up sites shall be conducted at the counting center during the hours the polls are open, in the manner provided in sections 52.36 and 52.37, except that the room in which the ballots are being counted shall not be open to the public during the hours in which the polls are open and the room shall be policed so as to prevent any person other than those whose presence is authorized by this section and sections 52.36 and 52.37 from obtaining information about the progress of the count. The only persons who may be admitted to that room, as long as admission does not impede the progress of the count, are the members of the board, one challenger representing each political party, one observer representing any nonparty political organization or any candidate nominated by petition pursuant to chapter 45, and the commissioner or the commissioner's designee. No compilation of vote subtotals shall be made while the polls are open. It shall be unlawful for any person to communicate or attempt to communicate, directly or indirectly, information regarding the progress of the count at any time before the polls are closed.

93 Acts, ch 143, §30; 94 Acts, ch 1180, §21; 97 Acts, ch 170, §67; 2002 Acts, ch 1071, §10

#### **52.41 Electronic transmission of election results.**

With the advice of the board of examiners for voting machines and electronic voting systems, the state commissioner shall adopt by rule standards for the examination and testing of devices for the electronic transmission of election results. All voting systems which contain devices for the electronic transmission of election results submitted to the examiners for examination and testing after July 1, 2003, shall comply with these standards.

2002 Acts, ch 1134, §61, 115



6. If an application for an absentee ballot is received from an eligible elector who is not a registered voter the commissioner shall send a registration form under section 48A.8 and an absentee ballot to the eligible elector. If the application is received so late that it is unlikely that the registration form can be returned in time to be effective on election day, the commissioner shall enclose with the absentee ballot a notice to that effect, informing the voter of the registration time limits in section 48A.9. The commissioner shall record on the elector's application that the elector is not currently registered to vote. If the registration form is properly returned by the time provided by section 48A.9, the commissioner shall record on the elector's application the date of receipt of the registration form and enter a notation of the registration on the registration records.

7. A registered voter who has not moved from the county in which the elector is registered to vote may submit a change of name, telephone number, or address on the form prescribed in section 48A.8 when casting an absentee ballot. Upon receipt of a properly completed form, the commissioner shall enter a notation of the change on the registration records.

8. An application for an absentee ballot that is returned to the commissioner by a person acting as an actual or implied agent for a political party, candidate, or committee, all as defined by chapter 68A, shall be returned to the commissioner within seventy-two hours of the time the completed application was received from the applicant or no later than five p.m. on the Friday before the election, whichever is earlier.

[SS15, §1137-c, -d; C24, 27, 31, 35, 39, §928, 930; C46, 50, 54, 58, 62, 66, 71, §53.2, 53.4; C73, 75, 77, 79, 81, §53.2]

83 Acts, ch 176, §6; 84 Acts, ch 1291, §11; 86 Acts, ch 1224, §28; 87 Acts, ch 221, §25; 91 Acts, ch 129, §17; 94 Acts, ch 1169, §54; 95 Acts, ch 189, §15; 97 Acts, ch 170, §68; 2004 Acts, ch 1083, §28, 29, 37

### **53.3 Receipt required for certain absentee ballot applications.**

When an application for an absentee ballot is solicited by, and returned to the commissioner by, a person acting as an actual or implied agent for a political party, candidate, or committee, as defined by chapter 68A, the person shall issue to the applicant a receipt for the completed application.

The receipt shall contain the following information:

1. The name of the applicant.
2. The date and time the completed application was received from the applicant.
3. The name and date of the election for which the application is being completed.
4. The name of the political party, candidate, or committee for whom the person is soliciting and returning the application for the absentee ballot.
5. The name of the person acting as an actual or implied agent for the political party, candidate, or committee.
6. A statement that the application will be delivered to the appropriate commissioner within seventy-two hours of the date and time the completed application was received from the applicant or no later than five p.m. on the Friday before the election, whichever is earlier.
7. A statement that an absentee ballot will be mailed to the applicant within twenty-four hours after the ballot for the election is available.

The commissioner shall make receipt forms required by this section available for photocopying at the expense of the political party, candidate, or committee.  
2004 Acts, ch 1083, §30, 37; 2004 Acts, ch 1175, §360

**53.4 through 53.6** Reserved.

**53.7 Solicitation by public employees.**

1. It shall be unlawful for any employee of the state or any employee of a political subdivision to solicit any application or request for application for an absentee ballot, or to take an affidavit in connection with any absentee ballot while the employee is on the employer's premises or otherwise in the course of employment. However, any such employee may take such affidavit in connection with an absentee ballot which is cast by the registered voter in person in the office where such employee is employed in accordance with section 53.11. This subsection shall not apply to any elected official.

2. It is unlawful for any public officer or employee, or any person acting under color of a public officer or employee, to knowingly require a public employee to solicit an application or request an application for an absentee ballot, or to knowingly require an employee to take an affidavit or request for an affidavit in connection with an absentee ballot application.

[SS15, §1137-d; C24, 27, 31, 35, 39, §933; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.7]

91 Acts, ch 129, §18; 94 Acts, ch 1169, §64; 2002 Acts, ch 1071, §11; 2002 Acts, ch 1175, §80

**53.8 Ballot mailed.**

1. Upon receipt of an application for an absentee ballot and immediately after the absentee ballots are printed, the commissioner shall mail an absentee ballot to the applicant within twenty-four hours, except as otherwise provided in subsection 3. The absentee ballot shall be enclosed in an unsealed envelope bearing a serial number and affidavit. The absentee ballot and unsealed envelope shall be enclosed in or with a carrier envelope marked postage paid which bears the same serial number as the unsealed envelope. The absentee ballot, unsealed envelope, and carrier envelope shall be enclosed in a third envelope to be sent to the registered voter. If the ballot cannot be folded so that all of the votes cast on the ballot will be hidden, the commissioner shall also enclose a secrecy envelope with the absentee ballot.

2. If an application is received so late that it is unlikely that the absentee ballot can be returned in time to be counted on election day, the commissioner shall enclose with the absentee ballot a statement to that effect. The statement shall also point out that it is possible for the applicant, or the applicant's designee if the absentee ballot is voted by a voter described in section 53.22, subsection 5, to personally deliver the completed absentee ballot to the office of the commissioner at any time before the closing of the polls on election day. The statement shall also point out that it is possible for an absentee ballot courier to personally deliver the completed absentee ballot to the office of the commissioner within seventy-two hours of retrieving the completed ballot or before the closing of the polls on election day, whichever is earlier.

5. Citizens of the United States who do not fall under any of the categories described in subsections 1 to 4, but who are entitled to register and vote pursuant to section 48A.5, subsection 4.

For the purposes of this division, “*qualified voter*” means a person who is included within the term “*armed forces of the United States*” as described in this section, who would be qualified to register to vote under section 48A.5, subsection 2, except for residency, and who is not disqualified from registering to vote and voting under section 48A.6.

[C54, 58, 62, 66, §53.37; C71, 73, 75, 77, 79, §53.37, 53.49; C81, §53.37]  
94 Acts, ch 1180, §25; 95 Acts, ch 67, §8; 2001 Acts, ch 56, §4

#### **53.37A State commissioner duties.**

The state commissioner of elections shall provide information regarding voter registration procedures and absentee ballot procedures to be used by members of the armed forces of the United States. The state commissioner shall accept valid voter registration applications and absentee ballot applications and shall forward the applications to the appropriate county commissioner of elections in a timely manner.

2004 Acts, ch 1083, §34, 37

#### **53.38 What constitutes registration.**

Whenever a ballot is requested pursuant to section 53.39 or 53.45 on behalf of a voter in the armed forces of the United States, the affidavit upon the ballot envelope of such voter, if the voter is found to be an eligible elector of the county to which the ballot is submitted, shall constitute a sufficient registration under chapter 48A. A completed federal postcard registration and federal absentee ballot request form submitted by such eligible elector shall also constitute a sufficient registration under chapter 48A. The commissioner shall place the voter’s name on the registration record as a registered voter if it does not already appear there.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.38]  
88 Acts, ch 1119, §29; 94 Acts, ch 1169, §55; 2002 Acts, ch 1134, §70, 115

#### **53.39 Request for ballot — when available.**

Section 53.2 does not apply in the case of a qualified voter of the state of Iowa serving in the armed forces of the United States. In any such case an application for ballot as provided for in that section is not required and an absent voter’s ballot shall be sent or made available to any such qualified voter upon a request as provided in this division.

All official ballots to be voted by qualified absent voters in the armed forces of the United States at the primary election and the general election shall be printed prior to forty days before the respective elections and shall be available for transmittal to such qualified voters in the armed forces of the United States at least forty days before the respective elections. The provisions of this chapter apply to absent voting by qualified voters in the armed forces of the United States except as modified by the provisions of this division.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.39]  
89 Acts, ch 136, §54; 94 Acts, ch 1169, §64; 94 Acts, ch 1180, §26; 95 Acts, ch 67, §9

#### **53.40 Request requirements — transmission of ballot.**

A request in writing for a ballot may be made by any member of the armed forces of the United States who is or will be a qualified voter on the day of the election at which the ballot is to be cast, at any time before the election. Any member of the armed forces of the United States may request ballots for all elections to be held through the next two general elections. The request may be made by using the federal postcard application form and indicating that the applicant wishes to receive ballots for all elections as permitted by state law. The county commissioner shall send the applicant a ballot for each election held after the application is received and through the next two general elections. The commissioner shall forward a copy of the absentee ballot request to other commissioners who are responsible under section 47.2, subsection 2, for conducting elections in which the applicant is eligible to vote.

Unless the request specifies otherwise, a request for the primary election shall also be considered a request for the general election. In the case of the general election, request may be made not more than seventy days before the election, for and on behalf of a voter in the armed forces of the United States by a spouse, parent, parent-in-law, adult brother, adult sister, or adult child of the voter, residing in the county of the voter's residence. However, a request made by other than the voter may be required to be made on forms prescribed by the state commissioner.

A request shall show the residence (including street address, if any) of the voter, the age of the voter, and length of residence in the city or township, county and state, and shall designate the address to which the ballot is to be sent, and in the case of the primary election, the party affiliation of such voter. Such request shall be made to the commissioner of the county of the voter's residence, provided that if the request is made by the voter to any elective state, city or county official, the said official shall forward it to the commissioner of the county of the voter's residence, and such request so forwarded shall have the same force and effect as if made direct to the commissioner by the voter.

The commissioner shall immediately on the fortieth day prior to the particular election transmit ballots to the voter by mail or otherwise, postage prepaid, as directed by the state commissioner, requests for which are in the commissioner's hands at that time, and thereafter so transmit ballots immediately upon receipt of requests. A request for ballot for the primary election which does not state the party affiliation of the voter making the request is void and of no effect. A request which does not show that the person for whom a ballot is requested will be a qualified voter in the precinct in which the ballot is to be cast on the day of the election for which the ballot is requested, shall not be honored. However, a request which states the age and the city, including street address, if any, or township, and county where the voter resides, and which shows a sufficient period of residence, is sufficient to show that the person is a qualified voter. A request by the voter containing substantially the information required is sufficient.

If the affidavit on the ballot envelope shows that the affiant is not a qualified voter on the day of the election at which the ballot is offered for voting, the envelope shall not be opened, but the envelope and ballot contained in the envelope shall be preserved and returned by the precinct election officials to the commissioner, who shall preserve them for the period of time and under the conditions provided for in sections 50.12 through 50.15 and section 50.19.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §53.40]

84 Acts, ch 1219, §3; 87 Acts, ch 221, §18; 89 Acts, ch 136, §55; 94 Acts, ch 1180, §27; 2002 Acts, ch 1134, §71, 115; 2004 Acts, ch 1083, §35, 37

4. The federal write-in ballot shall not be counted if any of the following apply:

- a. The ballot was submitted from within the United States.
- b. The voter's application for a regular absentee ballot was received by the commissioner less than thirty days prior to the election.
- c. The voter's completed regular or special Iowa absentee ballot was received by the deadline for return of absentee ballots established in section 53.17.
- d. The voter's federal write-in ballot was received after the deadline for return of absentee ballots established in section 53.17.

5. A federal write-in ballot received by the state commissioner of elections shall be forwarded immediately to the appropriate county commissioner. However, if the state commissioner receives a federal write-in ballot after election day and before noon on the Monday following an election, the state commissioner shall at once verify that the voter has complied with the requirements of this section and that the voter's federal write-in ballot is eligible to be counted. If the ballot is eligible to be counted, the state commissioner shall notify the appropriate county commissioner and make arrangements for the ballot to be transmitted to the county for counting. If the ballot is not eligible to be counted, the state commissioner shall mail the ballot to the appropriate commissioner along with notification that the ballot is ineligible to be counted. The county commissioner shall keep the ballot with the other records of the election.

6. The county commissioner shall notify a voter when the voter's federal write-in ballot was not counted and shall give the voter the reason the ballot was not counted.

88 Acts, ch 1119, §31; 94 Acts, ch 1169, §56; 94 Acts, ch 1180, §30; 2004 Acts, ch 1083, §36, 37

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## MISCELLANEOUS SECTIONS

### LEAVE OF ABSENCE FOR CANDIDACY AND PUBLIC SERVICE

#### **55.1 Leave of absence for service in elective office.**

A person who is elected to a municipal, county, state, or federal office shall, upon written application to the employer of that person, be granted a leave of absence from regular employment to serve in that office except where prohibited by the federal law. The leave of absence may be granted without pay and shall be granted without loss of net credited service and benefits earned. This section shall not be construed to require an employer to pay pension, health or other benefits during the leave of absence to an employee taking a leave of absence under this section.

A leave of absence for a person regularly employed pursuant to chapter 8A, subchapter IV, is subject to section 8A.416.

An employee shall not be prohibited from returning to regular employment before the period expires for which the leave of absence was granted. This section applies only to employers which employ twenty or more full-time persons. The leave of absence granted by this section need not exceed six years. The leave of absence granted by this section does not apply to an elective office held by the employee prior to the election.

Temporary substitute teachers and teachers hired on a temporary basis to replace teachers who have been granted leaves of absence pursuant to this section are not subject to the provisions of chapter 279 relating to the termination of continuing contracts.

84 Acts, ch 1233, §1; 2003 Acts, ch 145, §153

#### **55.4 Leave of absence for public employee candidacy.**

Any public employee who becomes a candidate for any elective public office shall, upon request of the employee and commencing anytime within thirty days prior to a contested primary, special, or general election and continuing until after the day following that election, automatically be given a period of leave. If the employee is under chapter 8A, subchapter IV, the employee may choose to use accrued vacation leave, accrued compensatory leave, or leave without pay to cover these periods. The appointing authority may authorize other employees to use accrued vacation leave or accrued compensatory leave instead of leave without pay to cover these periods. An employee who is a candidate for any elective public office shall not campaign while on duty as an employee.

This section does not apply to employees of the federal government or to a public employee whose position is financed by federal funds if the application of this section would be contrary to federal law or result in the loss of federal funds.

86 Acts, ch 1021, §2; 2003 Acts, ch 145, §154

#### **55.5 Penalties.**

A person violating this chapter is guilty of a simple misdemeanor. Each day in which the violation continues is a separate offense.

84 Acts, ch 1233, §2

C85, §55.2

C87, §55.5

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## CHAPTER 57

## CONTESTING ELECTIONS — GENERAL PROVISIONS

Chapter applicable to primary elections, §43.5

57.1	Standing to bring contest — grounds for contest.	57.5	Recanvass in case of contest.
57.2	Certificate withheld.	57.6	Other contests.
57.3	Terms defined.	57.7	Contest court for contest of public measure.
57.4	Change of result.		

**57.1 Standing to bring contest — grounds for contest.**

1. Elections may be contested under this chapter as follows:

*a.* The election of any person to any county office, to a seat in either branch of the general assembly, to a state office, to the office of senator or representative in Congress, or to the office of presidential elector may be contested by any eligible person who received votes for the office in question.

*b.* The outcome of the election on a public measure may be contested by petition of the greater of ten eligible electors or a number of eligible electors equaling one percent of the total number of votes cast upon the public measure; each petitioner must be a person who was entitled to vote on the public measure in question or would have been so entitled if registered to vote.

2. Grounds for contesting an election under this chapter are:

*a.* Misconduct, fraud or corruption on the part of any election official or of any board of canvassers of sufficient magnitude to change the result of the election.

*b.* That the incumbent was not eligible to the office in question at the time of election.

*c.* That prior to the election the incumbent had been duly convicted of a felony, as defined in section 701.7, and that the judgment had not been reversed, annulled, or set aside, nor the incumbent pardoned or restored to the rights of citizenship by the governor under chapter 914, at the time of the election.

*d.* That the incumbent has given or offered to any elector, or any precinct election official or canvasser of the election, any bribe or reward in money, property, or thing of value, for the purpose of procuring the incumbent's election.

*e.* That illegal votes have been received or legal votes rejected at the polls, sufficient to change the result of the election.

*f.* Any error in any board of canvassers in counting the votes, or in declaring the result of the election, if the error would affect the result.

*g.* That the public measure or office was not authorized or required by state law to appear on the ballot at the election being contested.

*h.* Any other cause or allegation which, if sustained, would show that a person other than the incumbent was the person duly elected to the office in question, or would show the outcome of the election on the public measure in question was contrary to the result declared by the board of canvassers.

[C51, §339, 341, 368, 380, 387; R60, §569, 571, 598, 610, 617; C73, §692, 718, 730, 737; C97, §1198; C24, 27, 31, 35, 39, §981; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §57.1; 81 Acts, ch 34, §39]

86 Acts, ch 1112, §3; 2002 Acts, ch 1134, §72, 115

**57.2 Certificate withheld.**

If notice of a contest of the election of an officer is filed before the certificate of election is delivered to the incumbent, or notice of a contest of the declared result of an election on a public measure is filed before a duplicate of the abstract of votes upon the measure and of the county board's declaration is certified pursuant to section 50.27, the certificate or duplicate abstract and declaration shall be withheld until the determination of the contest. If the certificate of election or duplicate abstract and declaration have been issued, the commissioner shall send the persons or political subdivisions affected by the notice of contest a statement advising them that the election is being contested and that the certificate or duplicate abstract and declaration are not valid until the election contest is resolved.

[C51, §367; R60, §597; C73, §713; C97, §1219; C24, 27, 31, 35, 39, §982; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §57.2]

**57.3 Terms defined.**

The term "*incumbent*" in this chapter means the person whom the canvassers declare elected. The term "*election*" in this chapter means the voting for a particular office, or the voting for or against a particular public measure, including the notice and other preparations for voting required by law and the tallying and canvass of the votes cast, section 39.2 notwithstanding.

[C51, §340; R60, §570; C73, §693; C97, §1199; C24, 27, 31, 35, 39, §983; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §57.3]

**57.4 Change of result.**

When the misconduct, fraud, or corruption complained of is on the part of the precinct election officials in a precinct, it shall not be held sufficient to set aside the election, unless the rejection of the vote of that precinct would change the result as to that office.

[C51, §342; R60, §572; C73, §694; C97, §1200; C24, 27, 31, 35, 39, §984; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §57.4]

**57.5 Recanvass in case of contest.**

The parties to any contested election shall have the right, in open session of the court or tribunal trying the contest, and in the presence of the officer having them in custody, to have the ballots opened, and all errors of the precinct election officials in counting or refusing to count ballots corrected by such court or tribunal.

[C97, §1143; S13, §1143; C24, 27, 31, 35, 39, §985; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §57.5]

CHAPTER 58

CONTESTING ELECTIONS OF GOVERNOR  
AND LIEUTENANT GOVERNOR

Chapter applicable to primary elections, §43.5  
Iowa Constitution, Art. IV, §5

58.1	Notice — grounds.	58.5	Powers and proceedings.
58.2	Notice to incumbent.	58.6	Testimony.
58.3	Houses notified.	58.7	Judgment.
58.4	Contest court.		

**58.1 Notice — grounds.**

The contestant for the office of governor or lieutenant governor shall, within thirty days after the proclamation of the result of the election, deliver to the presiding officer of each house of the general assembly a notice of intent to contest, and a specification of the grounds of such contest, as provided in chapter 62.

[C51, §388; R60, §618; C73, §738; C97, §1239; C24, 27, 31, 35, 39, §987; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.1]

**58.2 Notice to incumbent.**

As soon as the presiding officers have received the notice and specifications, they shall make out a notice, directed to the incumbent, including a copy of the specifications, which shall be served in the manner provided by the rules of civil procedure for service of an original notice by the sergeant at arms.

[C51, §389; R60, §619; C73, §739; C97, §1240; C24, 27, 31, 35, 39, §988; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.2; 81 Acts, ch 34, §41]

**58.3 Houses notified.**

The presiding officers shall also immediately make known to their respective houses that such notice and specifications have been received.

[C51, §390; R60, §620; C73, §740; C97, §1241; C24, 27, 31, 35, 39, §989; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.3]

**58.4 Contest court.**

Each house shall forthwith proceed, separately, to choose seven members of its own body in the following manner:

1. The names of members of each house, except the presiding officer, written on similar paper tickets, shall be placed in a box, the names of the senators in their presence by their secretary, and the names of the representatives in their presence by their clerk.

2. The secretary of the senate in the presence of the senate, and the clerk of the house of representatives in the presence of the house, shall draw from their respective boxes the names of seven members each.

3. As soon as the names are thus drawn, the names of the members drawn by each house shall be communicated to the other, and entered on the journal of each house.

[C51, §391; R60, §621; C73, §741; C97, §1242; C24, 27, 31, 35, 39, §990; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.4]

**58.5 Powers and proceedings.**

The members thus drawn shall constitute a committee to try and determine the contested election, and for that purpose shall hold their meetings publicly at the place where the general assembly is sitting, at such times as they may designate; and may adjourn from day to day or to a day certain, not more than four days distant, until such trial is determined; shall have power to send for persons and papers, and to take all necessary means to procure testimony, extending like privileges to the contestant and the incumbent; and shall report their judgment to both branches of the general assembly, which report shall be entered on the journals of both houses.

[C51, §392; R60, §622; C73, §742; C97, §1243; C24, 27, 31, 35, 39, §991; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.5]

**58.6 Testimony.**

The testimony shall be confined to the matters contained in the specifications.

[C51, §393; R60, §623; C73, §743; C97, §1244; C24, 27, 31, 35, 39, §992; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.6]

**58.7 Judgment.**

The judgment of the committee pronounced in the final decision on the election shall be conclusive.

[C51, §394; R60, §624; C73, §744; C97, §1245; C24, 27, 31, 35, 39, §993; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §58.7]

CHAPTER 62

CONTESTING ELECTIONS OF COUNTY OFFICERS

Chapter applicable to primary elections, §43.5

62.1	Definitions.	62.12	Postponement.
62.1A	Contest court.	62.13	Procedure — powers of court.
62.2	Judges.	62.14	Sufficiency of statement.
62.3	Clerk.	62.15	Amendment — continuance.
62.4	Sheriff to attend.	62.16	Testimony.
62.5	Statement of intent to contest.	62.17	Voters required to testify.
62.6	Bond.	62.18	Judgment.
62.7	When auditor is party.	62.19	How enforced.
62.8	Names of voters specified.	62.20	Appeal.
	Repealed by 2002 Acts, ch 1134,	62.21	Judgment.
	§114, 115.	62.22	Process — fees.
62.9	Trial — notice.	62.23	Compensation.
62.10	Place of trial.	62.24	Costs.
62.11	Subpoenas.	62.25	How collected.

**62.1 Definitions.**

As used in this chapter, unless the context otherwise requires, “book”, “list”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2000 Acts, ch 1148, §1  
Former §62.1 transferred to §62.1A

**62.1A Contest court.**

The court for the trial of contested county elections shall consist of one person named by the contestant and one person named by the incumbent. If the incumbent fails to name a judge, the chief judge of the judicial district shall be notified of the failure to appoint. The chief judge shall designate the second judge within one week after the chief judge is notified. These two judges shall meet within three days and select a third person to serve as the presiding officer of the court. If they cannot agree on the third member of the court within three days after their initial meeting, the chief judge of the judicial district shall be notified of the failure to agree. The chief judge shall designate the presiding judge within one week after the chief judge is notified.

[C51, §343; R60, §573; C73, §695; C97, §1201; C24, 27, 31, 35, 39, §1020; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.1]  
97 Acts, ch 170, §76  
C2001, §62.1A

**62.2 Judges.**

Judges shall be sworn in the same manner and form as trial jurors are sworn in trials of civil actions. When a judge fails to appear on the day of trial, that judge’s place may be filled by another appointment under the same rule.

[C51, §347, 348; R60, §577, 578; C73, §700; C97, §1206; C24, 27, 31, 35, 39, §1021; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.2]  
97 Acts, ch 170, §77

**62.3 Clerk.**

The county auditor shall be clerk of this court, and keep all papers, and record the proceedings in the election book, in manner similar to the record of the proceedings of the district court, but when the county auditor is a party, the court shall appoint a suitable person as clerk, whose appointment shall be recorded.

[C51, §344; R60, §574; C73, §696; C97, §1202; C24, 27, 31, 35, 39, §1022; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.3]

**62.4 Sheriff to attend.**

The court or presiding judge may direct the attendance of the sheriff or a deputy when necessary.

[C51, §359; R60, §589; C73, §708; C97, §1214; C24, 27, 31, 35, 39, §1023; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.4]

**62.5 Statement of intent to contest.**

1. Within twenty days after the board of supervisors declares a winner from the canvass of an election, the contestant shall file with the commissioner a written statement of intention to contest the election. If a recount is held for the office in question, and the recount board finds that the winner was someone other than the person declared at the original canvass of votes, a contest may be filed within twenty days after the board of supervisors declares a winner from the recount of votes.

2. The contestant's statement shall include the following:

*a.* The name of the contestant and that the contestant is qualified to hold such office.

*b.* The name of the incumbent.

*c.* The office contested.

*d.* The date of the election.

*e.* The particular causes of the contest pursuant to section 57.1, subsection 2. If a cause of the contest is an allegation that illegal votes were received or that legal votes were rejected, a statement shall be included setting forth the names of the persons who are alleged to have voted illegally or whose votes were rejected and the precinct where they voted or offered to vote.

*f.* The affidavit of the contestant, or some elector of the county, affirming the causes set forth are true.

[C51, §345; R60, §575; C73, §697; C97, §1203; C24, 27, 31, 35, 39, §1024; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.5]

2002 Acts, ch 1134, §75, 114, 115

**62.6 Bond.**

The contestant must also file with the county auditor a bond, with security to be approved by said auditor, conditioned to pay all costs in case the election be confirmed, or the statement be dismissed, or the prosecution fail.

[C51, §345; R60, §575; C73, §697; C97, §1203; C24, 27, 31, 35, 39, §1025; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.6]

## CHAPTER 63

## TIME AND MANNER OF QUALIFYING

63.1	Time.	63.8	Vacancies — time to qualify.
63.2	Repealed by 55 Acts, ch 71, §1.	63.9	Temporary officer.
63.3	Unavoidable casualty.	63.10	Other officers.
63.4	Contest.	63.11	Oath on bond.
63.5	Governor and lieutenant governor.	63.12	Reelected incumbent.
63.6	Judges.	63.13	Approval conditioned.
63.7	Officer holding over.		

**63.1 Time.**

Each officer, elective or appointive, before entering upon the officer's duties, shall qualify by taking the prescribed oath and by giving, when required, a bond, which qualification shall be perfected, unless otherwise specified, after being certified as elected but not later than noon of the first day which is not a Sunday or a legal holiday in January of the first year of the term for which the officer was elected. "*Legal holiday*" means those days provided in section 1C.1.

[C51, §319, 334, 335; R60, §549, 564, 565; C73, §670, 685–687; C97, §1177; S13, §1177; C24, 27, 31, 35, 39, §1045; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.1]

85 Acts, ch 81, §1

Prescribed oath, §63.5, 63.6, 63.10

Unavoidable casualty, §63.3

**63.2** Repealed by 55 Acts, ch 71, §1.

**63.3 Unavoidable casualty.**

When on account of sickness, the inclement state of the weather, unavoidable absence, or casualty, an officer has been prevented from qualifying within the prescribed time, the officer may do so within ten days after the time herein fixed.

[C97, §1177; S13, §1177; C24, 27, 31, 35, 39, §1047; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.3]

General time to qualify, §63.1, 63.4–63.8

**63.4 Contest.**

In case the election of an officer is contested, the successful party shall qualify within ten days after the decision is rendered.

[C51, §335; R60, §565; C73, §687; C97, §1177; S13, §1177; C24, 27, 31, 35, 39, §1048; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.4]

**63.5 Governor and lieutenant governor.**

The governor and lieutenant governor shall each qualify within ten days after the result of the election shall be declared by the general assembly, by taking an oath in its presence, in joint convention assembled, administered by a judge of the supreme court, to the effect that each will support the Constitution of the United States and the Constitution of the State of Iowa, and will faithfully and impartially, and to the best of the officer's knowledge and ability, discharge the duties incumbent upon the officer as governor, or lieutenant governor, of this state.

[C51, §320, 334; R60, §550, 564; C73, §671, 685; C97, §1178; C24, 27, 31, 35, 39, §1049; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.5]

### **63.6 Judges.**

All judges of courts of record shall qualify before taking office following appointment by taking and subscribing an oath to the effect that they will support the Constitution of the United States and the Constitution of the State of Iowa, and that, without fear, favor, affection, or hope of reward, they will, to the best of their knowledge and ability, administer justice according to the law, equally to the rich and the poor.

[C51, §322, 334; R60, §552, 564; C73, §673, 685; C97, §1179; C24, 27, 31, 35, 39, §1050; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.6]

2006 Acts, ch 1030, §11

### **63.7 Officer holding over.**

When it is ascertained that the incumbent is entitled to hold over by reason of the nonelection of a successor, or for the neglect or refusal of the successor to qualify, the incumbent shall qualify anew, within the time provided by section 63.8.

[C51, §338; R60, §568; C73, §690; C97, §1195; S13, §1195; C24, 27, 31, 35, 39, §1051; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.7]

### **63.8 Vacancies — time to qualify.**

Persons elected or appointed to fill vacancies, and officers entitled to hold over to fill vacancies occurring through a failure to elect, appoint, or qualify, as provided in chapter 69, shall qualify within ten days from the county board's canvass of such election, or within ten days from such appointment or failure to elect, appoint, or qualify, in the same manner as those originally elected or appointed to such offices.

[C51, §440; R60, §668; C73, §786; C97, §1275; C24, 27, 31, 35, 39, §1052; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.8]

2002 Acts, ch 1134, §76, 115

### **63.9 Temporary officer.**

Any person temporarily appointed to fill an office during the incapacity or suspension of the regular incumbent shall qualify, in the manner required by this chapter, for the office so to be filled.

[C73, §691; C97, §1194; C24, 27, 31, 35, 39, §1053; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.9]



**63.10 Other officers.**

All other civil officers, elected by the people or appointed to any civil office, unless otherwise provided, shall take and subscribe an oath substantially as follows:

I, ....., do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa, and that I will faithfully and impartially, to the best of my ability, discharge all the duties of the office of ..... (naming it) in (naming the township, city, county, district, or state, as the case may be), as now or hereafter required by law.

[C51, §331, 332; R60, §561, 562, 1084, 1132; C73, §504, 514, 675, 676; C97, §1180; C24, 27, 31, 35, 39, §1054; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.10]

Exceptions as to oath, §63.5, 63.6

**63.11 Oath on bond.**

Every civil officer who is required to give bond shall take and subscribe the oath provided for in section 63.10, on the back of the bond, or on a paper attached thereto, to be certified by the officer administering it.

[C51, §331; R60, §561; C73, §675; C97, §1181; C24, 27, 31, 35, 39, §1055; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.11]

**63.12 Reelected incumbent.**

When the incumbent of an office is reelected, the incumbent shall qualify as above directed, but a judge retained at a judicial election need not requalify.

[C51, §338; R60, §568; C73, §690; C97, §1193; C24, 27, 31, 35, 39, §1056; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.12]

**63.13 Approval conditioned.**

When the reelected officer has had public funds or property in the officer's control, under color of the officer's office, the officer's bond shall not be approved until the officer has produced and fully accounted for such funds and property to the proper person to whom the officer should account therefor; and the officer or board approving the bond shall endorse upon the bond, before its approval, the fact that the said officer has fully accounted for and produced all funds and property before that time under the officer's control as such officer.

[C73, §690; C97, §1193; C24, 27, 31, 35, 39, §1057; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §63.13]

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“*Contribution*” shall not include services provided without compensation by individuals volunteering their time on behalf of a candidate’s committee or political committee or a state or county statutory political committee except when organized or provided on a collective basis by a business, trade association, labor union, or any other organized group or association. “*Contribution*” shall not include refreshments served at a campaign function so long as such refreshments do not exceed fifty dollars in value or transportation provided to a candidate so long as its value computed at a rate of twenty cents per mile does not exceed one hundred dollars in value in any one reporting period. “*Contribution*” shall not include something provided to a candidate for the candidate’s personal consumption or use and not intended for or on behalf of the candidate’s committee.

11. “*County office*” includes the office of drainage district trustee.

12. “*County statutory political committee*” means a committee as described in section 43.100 that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office.

13. “*Disclosure report*” means a statement of contributions received, expenditures made, and indebtedness incurred on forms prescribed by rules adopted by the board in accordance with chapter 17A.

14. “*Express advocacy*” or to “*expressly advocate*” means communication that can be characterized according to at least one of the following descriptions:

a. The communication is political speech made in the form of a contribution.

b. In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.

15. “*Fundraising event*” means any campaign function to which admission is charged or at which goods or services are sold.

16. “*National political party*” means a party which meets the definition of a political party established for this state by section 43.2, and which also meets the statutory definition of the term “political party” or a term of like import in at least twenty-five other states of the United States.

17. “*Person*” means, without limitation, any individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

18. “*Political committee*” means either of the following:

a. A committee, but not a candidate’s committee, that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

b. An association, lodge, society, cooperative, union, fraternity, sorority, educational institution, civic organization, labor organization, religious organization, or professional organization that accepts contributions in excess of seven hundred fifty dollars in the aggregate, makes expenditures in excess of seven hundred fifty dollars in the aggregate, or incurs indebtedness in excess of seven hundred fifty dollars in the aggregate in any one calendar year to expressly advocate the nomination, election, or defeat of a candidate for public office, or to expressly advocate the passage or defeat of a ballot issue.

19. “*Political purpose*” or “*political purposes*” means the express advocacy of a candidate or ballot issue.

20. “*Public office*” means any state, county, city, or school office filled by election.

21. “*State income tax liability*” means the state individual income tax imposed under section 422.5, less the amounts of nonrefundable credits allowed under chapter 422, division II.

22. “*State statutory political committee*” means a committee as defined in section 43.111.

[C75, 77, 79, 81, §56.2; 81 Acts, ch 35, §1, 2]

83 Acts, ch 139, §2, 14; 86 Acts, ch 1023, §1; 87 Acts, ch 112, §1, 2; 91 Acts, ch 226, §1; 92 Acts, ch 1228, §22–24; 93 Acts, ch 142, §1–3; 93 Acts, ch 163, §28–30, 38; 94 Acts, ch 1023, §80; 94 Acts, ch 1180, §31, 32; 95 Acts, ch 198, §1, 2; 99 Acts, ch 136, §1, 2, 17; 2002 Acts, ch 1073, §1, 2, 11; 2002 Acts, ch 1119, §124; 2003 Acts, ch 40, §9

CS2003, §68A.102

2005 Acts, ch 72, §3, 4; 2006 Acts, ch 1158, §2

“State commissioner” defined, §39.3

### **68A.103 Applicability to federal candidates.**

1. The requirements of this chapter relative to disclosure of contributions shall apply to candidates and political committees for federal office only in the event such candidates are not subject to a federal law requiring the disclosure of campaign financing. Any such federal law shall supersede the provisions of this chapter.

2. The provisions of this chapter under which money from the Iowa election campaign fund may be made available to or used for the benefit of candidates and candidates’ committees shall apply to candidates for federal office and their candidates’ committees only if matching funds to pay a portion of their campaign expenses are not available to such candidates or their committees from the federal government.

[C75, 77, 79, 81, §56.17]

2003 Acts, ch 40, §9

CS2003, §68A.103

### **68A.104 Certain accounts by officeholders prohibited.**

A holder of public office shall not maintain an account, other than a campaign account, to receive contributions for the purpose of publishing and distributing newsletters or performing other constituent services related to the official duties of public office. This section applies whether or not the officeholder is a candidate.

91 Acts, ch 226, §14

CS91, §56.46

2003 Acts, ch 40, §9

CS2003, §68A.104

2. A committee shall not dissolve until all loans, debts, and obligations are paid, forgiven, or transferred and the remaining moneys in the committee's account are distributed according to sections 68A.302 and 68A.303. If a loan is transferred or forgiven, the amount of the transferred or forgiven loan must be reported as an in-kind contribution and deducted from the loans payable balance on the disclosure form. If, upon review of a committee's statement of dissolution and final report, the board determines that the requirements for dissolution have been satisfied, the dissolution shall be certified and the committee relieved of further filing requirements.

2004 Acts, ch 1114, §3; 2005 Acts, ch 72, §12

#### **68A.403 Reports signed.**

1. A report or statement required to be filed under this chapter shall be signed by the person filing the report.

2. A copy of every report or statement shall be preserved by the person filing it or the person's successor for at least three years following the filing of the report or statement.

[C75, 77, 79, 81, §56.7]

94 Acts, ch 1180, §35; 2003 Acts, ch 40, §9

CS2003, §68A.403

2004 Acts, ch 1042, §6

#### **68A.404 Independent expenditures.**

1. As used in this section, "*independent expenditure*" means one or more expenditures in excess of seven hundred fifty dollars in the aggregate for a communication that expressly advocates the nomination, election, or defeat of a clearly identified candidate or the passage or defeat of a ballot issue that is made without the prior approval or coordination with a candidate, candidate's committee, or a ballot issue committee.

2. A person, other than a committee registered under this chapter, that makes one or more independent expenditures shall file an independent expenditure statement.

*a.* The requirement to file an independent expenditure statement under this section does not by itself mean that the person filing the independent expenditure statement is required to register and file reports under sections 68A.201 and 68A.402.

*b.* This section does not apply to a candidate, candidate's committee, state statutory political committee, county statutory political committee, or a political committee.

3. *a.* An independent expenditure statement shall be filed within forty-eight hours of the making of an independent expenditure in excess of seven hundred fifty dollars in the aggregate.

*b.* An independent expenditure statement shall be filed with the board and the board shall immediately make the independent expenditure statement available for public viewing.

*c.* For purposes of this section, an independent expenditure is made at the time that the cost is incurred.

4. The independent expenditure statement shall contain all of the following information:

*a.* Identification of the individuals or persons filing the statement.

*b.* Description of the position advocated by the individuals or persons with regard to the clearly identified candidate or ballot issue.

c. Identification of the candidate or ballot issue benefited by the independent expenditure.

d. The dates on which the expenditure or expenditures took place or will take place.

e. Description of the nature of the action taken that resulted in the expenditure or expenditures.

f. The fair market value of the expenditure or expenditures.

5. Any person making an independent expenditure shall comply with the attribution requirements of section 68A.405.

6. a. The board shall develop, prescribe, furnish, and distribute forms for the independent expenditure statements required by this section.

b. The board shall adopt rules pursuant to chapter 17A for the implementation of this section.

[C75, 77, 79, 81, §56.13; 81 Acts, ch 35, §11]

86 Acts, ch 1023, §10; 93 Acts, ch 163, §33; 94 Acts, ch 1180, §36; 95 Acts, ch 198, §12; 99 Acts, ch 136, §8, 17; 2002 Acts, ch 1073, §9, 11; 2003 Acts, ch 40, §4, 9

CS2003, §68A.404

2005 Acts, ch 72, §13–15; 2006 Acts, ch 1010, §41

#### **68A.405 Attribution statement on published material.**

1. a. For purposes of this subsection:

(1) “*Individual*” includes a candidate for public office who has not filed a statement of organization under section 68A.201.

(2) “*Organization*” includes an organization established to advocate the passage or defeat of a ballot issue but that has not filed a statement of organization under section 68A.201.

(3) “*Published material*” means any newspaper, magazine, shopper, outdoor advertising facility, poster, direct mailing, brochure, internet web site, campaign sign, or any other form of printed general public political advertising.

b. Except as set out in section 2, published material designed to expressly advocate the nomination, election, or defeat of a candidate for public office or the passage or defeat of a ballot issue shall include on the published material an attribution statement disclosing who is responsible for the published material.

c. If the person paying for the published material is an individual, the words “paid for by” and the name and address of the person shall appear on the material.

d. If more than one individual is responsible, the words “paid for by”, the names of the individuals, and either the addresses of the individuals or a statement that the addresses of the individuals are on file with the Iowa ethics and campaign disclosure board shall appear on the material.

e. If the person responsible is an organization, the words “paid for by”, the name and address of the organization, and the name of one officer of the organization shall appear on the material.

f. If the person responsible is a committee that has filed a statement of organization pursuant to section 68A.201, the words “paid for by” and the name of the committee shall appear on the material.

2. The requirement to include an attribution statement does not apply to any of the following:

- a. The editorials or news articles of a newspaper or magazine that are not paid political advertisements.
- b. Small items upon which the inclusion of the statement is impracticable including, but not limited to, campaign signs, bumper stickers, pins, buttons, pens, political business cards, and matchbooks.
- c. T-shirts, caps, and other articles of clothing.
- d. Any published material that is subject to federal regulations regarding an attribution requirement.
- e. Any material published by an individual, acting independently, who spends one hundred dollars or less of the individual's own money to advocate the passage or defeat of a ballot issue.

3. The board shall adopt rules relating to the placing of an attribution statement on published materials.

86 Acts, ch 1023, §11; 86 Acts, ch 1246, §620

C87, §56.14

87 Acts, ch 112, §8; 94 Acts, ch 1178, §1; 95 Acts, ch 198, §13; 96 Acts, ch 1079, §2; 99 Acts, ch 136, §9, 17; 2002 Acts, ch 1119, §125; 2003 Acts, ch 40, §9

CS2003, §68A.405

2004 Acts, ch 1114, §4; 2005 Acts, ch 72, §16

#### **68A.406 Campaign signs — yard signs.**

1. Campaign signs may be placed with the permission of the property owner on any of the following:

- a. Residential property.
- b. Agricultural land owned by individuals or by a family farm operation as defined in section 9H.1, subsections 8, 9, and 10.
- c. Property leased for residential purposes including, but not limited to, apartments, condominiums, and houses.
- d. Vacant lots owned by a private individual.
- e. Property owned by an organization that is not a prohibited contributor under section 68A.503.
- f. Property leased by a candidate, committee, or an organization established to advocate the nomination, election, or defeat of a candidate or the passage or defeat of a ballot issue that has not yet registered pursuant to section 68A.201, when the property is used as campaign headquarters or a campaign office and the placement of the sign is limited to the space that is actually leased.

2. Campaign signs shall not be placed on any of the following:

- a. Any property owned by the state or the governing body of a county, city, or other political subdivision of the state, including all property considered the public right-of-way. Upon a determination by the board that a sign has been improperly placed, the sign shall be removed by highway authorities as provided in section 318.5, or by county or city law enforcement authorities in a manner consistent with section 318.5.

b. Property owned by a prohibited contributor under section 68A.503 unless the sign advocates the passage or defeat of a ballot issue or is exempted under subsection 1.

c. On any property without the permission of the property owner.

d. On election day either on the premises of any polling place or within three hundred feet of any outside door of any building affording access to any room where the polls are held, or of any outside door of any building affording access

to any hallway, corridor, stairway, or other means of reaching the room where the polls are held.

*e.* Within three hundred feet of an absentee voting site during the hours when absentee ballots are available in the office of the county commissioner of elections as provided in section 53.10.

*f.* Within three hundred feet of a satellite absentee voting station during the hours when absentee ballots are available at the satellite absentee voting station as provided in section 53.11.

This subsection shall not apply to the posting of signs on private property not a polling place, except that the placement of a sign on a motor vehicle, trailer, or semitrailer, or any attachment to a motor vehicle, trailer, or semitrailer parked on public property within three hundred feet of a polling place, which sign is more than ninety square inches in size, is prohibited.

3. Campaign signs with dimensions of thirty-two square feet or less are exempt from the attribution statement requirement in section 68A.405. Campaign signs in excess of thirty-two square feet, or signs that are affixed to buildings or vehicles regardless of size except for bumper stickers, are required to include the attribution statement required by section 68A.405. The placement or erection of campaign signs shall be exempt from the requirements of chapter 480 relating to underground facilities information.

2004 Acts, ch 1114, §5; 2005 Acts, ch 3, §18; 2005 Acts, ch 72, §17–19; 2006 Acts, ch 1097, §13

#### SUBCHAPTER V

#### PROHIBITED CONTRIBUTIONS — PUBLIC MONEYS

##### **68A.501 Funds from unknown source — escheat.**

The expenditure of funds from an unknown or unidentifiable source received by a candidate or committee is prohibited. Such funds received by a candidate or committee shall escheat to the state. Any candidate or committee receiving such contributions shall remit such contributions to the director of the department of administrative services for deposit in the general fund of the state. Persons requested to make a contribution at a fundraising event shall be advised that it is illegal to make a contribution in excess of ten dollars unless the person making the contribution also provides the person's name and address.

[C77, 79, 81, §56.27]

C91, §56.3A

2003 Acts, ch 40, §9; 2003 Acts, ch 145, §286

CS2003, §68A.501

##### **68A.502 Contribution in name of another — prohibited.**

A person shall not make a contribution or expenditure in the name of another person, and a person shall not knowingly accept a contribution or expenditure made by one person in the name of another. For the purpose of this section, a contribution or expenditure made by one person which is ultimately reimbursed by another person who has not been identified as the ultimate source or recipient of the funds is considered to be an illegal contribution or expenditure in the name of another.



16. “*Member of the general assembly*” means an individual duly elected to the senate or the house of representatives of the state of Iowa.

17. “*Official*” means all statewide elected officials, the executive or administrative head or heads of an agency of state government, the deputy executive or administrative head or heads of an agency of state government, members of boards or commissions as defined under section 7E.4, and heads of the major subunits of departments or independent state agencies whose positions involve a substantial exercise of administrative discretion or the expenditure of public funds as defined under rules of the board adopted in consultation with the department or agency and pursuant to chapter 17A. “*Official*” does not include officers or employees of political subdivisions of the state, members of the general assembly, legislative employees, officers or employees of the judicial branch of government who are not members or employees of the office of attorney general, members of state government entities which are or exercise the same type of authority that is exercised by councils or committees as defined under section 7E.4, or members of any agricultural commodity promotional board, if the board is subject to a producer referendum.

18. “*Person*” means, without limitation, any individual, corporation, business trust, estate, trust, partnership or association, labor union, or any other legal entity.

19. “*Public disclosure*” means a written report filed by a person as required by this chapter or required by rules adopted and issued pursuant to this chapter.

20. “*Public employee*” means state employees, legislative employees, and local employees.

21. “*Public office*” means any state, county, city, or school office or any other office of a political subdivision of the state that is filled by election.

22. “*Public official*” means officials, local officials, and members of the general assembly.

23. “*Regulatory agency*” means the department of agriculture and land stewardship, department of workforce development, department of commerce, Iowa department of public health, department of public safety, department of education, state board of regents, department of human services, department of revenue, department of inspections and appeals, department of administrative services, public employment relations board, state department of transportation, civil rights commission, department of public defense, Iowa ethics and campaign disclosure board, and department of natural resources.

24. “*Restricted donor*” means a person who is in any of the following categories:

a. Is or is seeking to be a party to any one or any combination of sales, purchases, leases, or contracts to, from, or with the agency in which the donee holds office or is employed.

b. Will personally be, or is the agent of a person who will be, directly and substantially affected financially by the performance or nonperformance of the donee’s official duty in a way that is greater than the effect on the public generally or on a substantial class of persons to which the person belongs as a member of a profession, occupation, industry, or region.

c. Is personally, or is the agent of a person who is, the subject of or party to a matter which is pending before a subunit of a regulatory agency and over which the donee has discretionary authority as part of the donee’s official duties or employment within the regulatory agency subunit.

*d.* Is a lobbyist or a client of a lobbyist with respect to matters within the donee's jurisdiction.

25. "*State employee*" means a person who is not an official and is a paid employee of the state of Iowa and does not include an independent contractor, an employee of the judicial branch who is not an employee of the office of attorney general, an employee of the general assembly, an employee of a political subdivision of the state, or an employee of any agricultural commodity promotional board, if the board is subject to a producer referendum.

26. "*Statewide elected official*" means the governor, lieutenant governor, secretary of state, auditor of state, treasurer of state, secretary of agriculture, and attorney general of the state of Iowa.

[C71, 73, 75, 77, 79, 81, §68B.2; 82 Acts, ch 1199, §35, 96]

83 Acts, ch 96, §157, 159; 84 Acts, ch 1067, §13; 87 Acts, ch 213, §1; 92 Acts, ch 1228, §1; 93 Acts, ch 163, §1; 94 Acts, ch 1092, §2–4; 96 Acts, ch 1186, §23; 98 Acts, ch 1047, §14; 2002 Acts, ch 1073, §10, 11; 2003 Acts, ch 145, §286; 2004 Acts, ch 1091, §4; 2005 Acts, ch 76, §2

### **68B.22 Gifts accepted or received.**

1. Except as otherwise provided in this section, a public official, public employee, or candidate, or that person's immediate family member shall not, directly or indirectly, accept or receive any gift or series of gifts from a restricted donor. A public official, public employee, candidate, or the person's immediate family member shall not solicit any gift or series of gifts from a restricted donor at any time.

2. Except as otherwise provided in this section, a restricted donor shall not, directly or indirectly, offer or make a gift or a series of gifts to a public official, public employee, or candidate. Except as otherwise provided in this section, a restricted donor shall not, directly or indirectly, join with one or more other restricted donors to offer or make a gift or a series of gifts to a public official, public employee, or candidate.

6. A gift shall not be considered to be received by a public official or public employee if the state is the donee of the gift and the public official or public employee is required to receive the gift on behalf of the state as part of the performance of the person's duties of office or employment.

7. A person shall not request, and a member of the general assembly shall not agree, that a member of the general assembly sell tickets for a community-related social event that is to be held for members of the general assembly in Polk county during the legislative session. This section shall not apply to Polk county or city of Des Moines events that are open to the public generally or are held only for Polk county or city of Des Moines legislators.

8. Except as otherwise provided in subsection 4, an organization or association which has as one of its purposes the encouragement of the passage, defeat, introduction, or modification of legislation shall not give and a member of the general assembly shall not receive food, beverages, registration, or scheduled entertainment with a per person value in excess of three dollars.

92 Acts, ch 1228, §9; 93 Acts, ch 163, §6; 94 Acts, ch 1092, §5-7; 2001 Acts, ch 24, §19; 2003 Acts, ch 145, §286; 2003 Acts, ch 161, §1, 2; 2005 Acts, ch 76, §5

#### **68B.24 Loans — receipt from lobbyists prohibited.**

1. An official, member of the general assembly, state employee, legislative employee, or candidate for state office shall not, directly or indirectly, seek or accept a loan or series of loans from a person who is a lobbyist.

2. A lobbyist shall not, directly or indirectly, offer or make a loan or series of loans to an official, member of the general assembly, state employee, legislative employee, or candidate for state office. A lobbyist shall also not, directly or indirectly, join with one or more persons to offer or make a loan or series of loans to an official, member of the general assembly, state employee, legislative employee, or candidate for state office.

3. This section shall not apply to loans made in the ordinary course of business. For purposes of this section, a loan is "*made in the ordinary course of business*" when it is made by a person who is regularly engaged in a business that makes loans to members of the general public and the finance charges and other terms of the loan are the same or substantially similar to the finance charges and loan terms that are available to members of the general public.

92 Acts, ch 1228, §11; 93 Acts, ch 163, §8

#### **68B.25 Additional penalty.**

In addition to any penalty contained in any other provision of law, a person who knowingly and intentionally violates a provision of sections 68B.2A through 68B.7, sections 68B.22 through 68B.24, or sections 68B.35 through 68B.38 is guilty of a serious misdemeanor and may be reprimanded, suspended, or dismissed from the person's position or otherwise sanctioned.

[C71, 73, 75, 77, 79, 81, §68B.8]

87 Acts, ch 213, §3; 92 Acts, ch 1228, §12

C93, §68B.25

93 Acts, ch 163, §9

#### **68B.32 Independent ethics and campaign disclosure board — established.**

1. An Iowa ethics and campaign disclosure board is established as an independent agency. The board shall administer this chapter and set standards for, investigate complaints relating to, and monitor the ethics of officials,

employees, lobbyists, and candidates for office in the executive branch of state government. The board shall administer and set standards for, investigate complaints relating to, and monitor the campaign finance practices of candidates for public office. The board shall administer and establish standards for, investigate complaints relating to, and monitor the reporting of gifts, bequests, and grants under section 8.7. The board shall consist of six members and shall be balanced as to political affiliation as provided in section 69.16. The members shall be appointed by the governor, subject to confirmation by the senate.

2. Members shall serve staggered six-year terms beginning and ending as provided in section 69.19. Any vacancy on the board shall be filled by appointment for the unexpired portion of the term, within ninety days of the vacancy and in accordance with the procedures for regular appointments. A member of the board may be reappointed to serve additional terms on the board. Members may be removed in the manner provided in chapter 69.

3. The board shall annually elect one member to serve as the chairperson of the board and one member to serve as vice chairperson. The vice chairperson shall act as the chairperson in the absence or disability of the chairperson or in the event of a vacancy in that office.

4. Members of the board shall receive a per diem as specified in section 7E.6 while conducting business of the board, and payment of actual and necessary expenses incurred in the performance of their duties. Members of the board shall file statements of financial interest under section 68B.35.

5. The board shall employ a full-time executive director who shall be the board's chief administrative officer. The board shall employ or contract for the employment of legal counsel notwithstanding section 13.7, and any other personnel as may be necessary to carry out the duties of the board. The board's legal counsel shall be the chief legal officer of the board and shall advise the board on all legal matters relating to the administration of this chapter and chapter 68A. The state may be represented by the board's legal counsel in any civil action regarding the enforcement of this chapter or chapter 68A, or at the board's request, the state may be represented by the office of the attorney general. Notwithstanding section 8A.412, all of the board's employees, except for the executive director and legal counsel, shall be employed subject to the merit system provisions of chapter 8A, subchapter IV. The salary of the executive director shall be fixed by the board, within the range established by the general assembly. The salary of the legal counsel shall be fixed by the board, within a salary range established by the department of administrative services for a position requiring similar qualifications and experience.

92 Acts, ch 1228, §14; 93 Acts, ch 163, §14; 95 Acts, ch 198, §18; 2003 Acts, ch 145, §155, 286; 2006 Acts, ch 1035, §1

**68B.32A Duties of the board.**

The duties of the board shall include, but are not limited to, all of the following:

1. Adopt rules pursuant to chapter 17A and conduct hearings under sections 68B.32B and 68B.32C and chapter 17A, as necessary to carry out the purposes of this chapter, chapter 68A, and section 8.7.

2. Develop, prescribe, furnish, and distribute any forms necessary for the implementation of the procedures contained in this chapter, chapter 68A, and section 8.7 for the filing of reports and statements by persons required to file the reports and statements under this chapter and chapter 68A.

The board may establish a process to assign signature codes to a person or committee for purposes of facilitating an electronic filing procedure. The assignment of signature codes shall be kept confidential, notwithstanding section 22.2. The board and persons electronically filing reports and statements shall keep assigned signature codes or subsequently selected signature codes confidential. Signature codes shall not be subject to state security policies regarding frequency of change.

3. Review the contents of all campaign finance disclosure reports and statements filed with the board and promptly advise each person or committee of errors found. The board may verify information contained in the reports with other parties to assure accurate disclosure. The board may also verify information by requesting that a candidate or committee produce copies of receipts, bills, logbooks, or other memoranda of reimbursements of expenses to a candidate for expenses incurred during a campaign. The board, upon its own motion, may initiate action and conduct a hearing relating to requirements under chapter 68A.

4. Receive and file registration and reporting from lobbyists of the executive branch of state government, client disclosure from clients of lobbyists of the executive branch of state government, personal financial disclosure information from officials and employees in the executive branch of state government who are required to file personal financial disclosure information under this chapter, and gift, bequest, and grant disclosure information from an agency pursuant to section 8.7. The board, upon its own motion, may initiate action and conduct a hearing relating to reporting requirements under this chapter or section 8.7.

5. Prepare and publish a manual setting forth examples of approved uniform systems of accounts and approved methods of disclosure for use by persons required to file statements and reports under this chapter, chapter 68A, and section 8.7. The board shall also prepare and publish other educational materials, and any other reports or materials deemed appropriate by the board. The board shall annually provide all officials and state employees with notification of the contents of this chapter, chapter 68A, and section 8.7 by distributing copies of educational materials to each agency of state government under the board's jurisdiction.

6. Assure that the statements and reports which have been filed in accordance with this chapter, chapter 68A, and section 8.7 are available for public inspection and copying during the regular office hours of the office in which they are filed and not later than by the end of the day during which a report or statement was received. Rules adopted relating to public inspection and copying of statements and reports may include a charge for any copying and mailing of the reports and statements, shall provide for the mailing of copies upon the request of any person and upon prior receipt of payment of the costs by the board, and shall prohibit the use of the information copied from reports and statements for soliciting contributions or for any commercial purpose by any person other than statutory political committees.

7. Require that the candidate of a candidate's committee, or the chairperson of a political committee, is responsible for filing disclosure reports under chapter 68A, and shall receive notice from the board if the committee has failed to file a disclosure report at the time required under chapter 68A. A candidate of a candidate's committee, or the chairperson of a political committee, may be subject to a civil penalty for failure to file a disclosure report required under section 68A.402, subsection 1.

8. Establish and impose penalties, and recommendations for punishment of persons who are subject to penalties of or punishment by the board or by other bodies, for the failure to comply with the requirements of this chapter, chapter 68A, or section 8.7.

9. Determine, in case of dispute, at what time a person has become a candidate.

10. Preserve copies of reports and statements filed with the board for a period of five years from the date of receipt.

11. Establish a procedure for requesting and issuing board advisory opinions to persons subject to the authority of the board under this chapter, chapter 68A, or section 8.7. Local officials and local employees may also seek an advisory opinion concerning the application of the applicable provisions of this chapter. Advice contained in board advisory opinions shall, if followed, constitute a defense to a complaint alleging a violation of this chapter, chapter 68A, section 8.7, or rules of the board that is based on the same facts and circumstances.

12. Establish rules relating to ethical conduct for officials and state employees, including candidates for statewide office, and regulations governing the conduct of lobbyists of the executive branch of state government, including but not limited to conflicts of interest, abuse of office, misuse of public property, use of confidential information, participation in matters in which an official or state employee has a financial interest, and rejection of improper offers.

13. Impose penalties upon, or refer matters relating to, persons who discharge any employee, or who otherwise discriminate in employment against any employee, for the filing of a complaint with, or the disclosure of information to, the board if the employee has filed the complaint or made the disclosure in good faith.

14. Establish fees, where necessary, to cover the costs associated with preparing, printing, and distributing materials to persons subject to the authority of the board.

93 Acts, ch 163, §15; 95 Acts, ch 198, §19; 2004 Acts, ch 1091, §10; 2005 Acts, ch 76, §6; 2006 Acts, ch 1035, §2-4, 9; 2006 Acts, ch 1185, §69

2006 amendments to subsections 1, 2, 4-6, and 11 take effect April 7, 2006, and apply retroactively to July 1, 2005; 2006 Acts, ch 1035, §9

**68B.32B Complaint procedures.**

1. Any person may file a complaint alleging that a candidate, committee, person holding a state office in the executive branch of state government, employee of the executive branch of state government, or other person has committed a violation of chapter 68A or rules adopted by the board. Any person may file a complaint alleging that a person holding a state office in the executive branch of state government, an employee of the executive branch of state government, or a lobbyist or a client of a lobbyist of the executive branch of state government has committed a violation of this chapter or rules adopted by the board. Any person may file a complaint alleging that an agency has committed a violation of section 8.7 or rules adopted by the board. The board shall prescribe and provide forms for purposes of this subsection. A complaint must include the name and address of the complainant, a statement of the facts believed to be true that form the basis of the complaint, including the sources of information and approximate dates of the acts alleged, and a certification by the complainant under penalty of perjury that the facts stated to be true are true to the best of the complainant's knowledge.

2. The board staff shall review the complaint to determine if the complaint is sufficient as to form. If the complaint is deficient as to form, the complaint shall be returned to the complainant with a statement of the deficiency and an explanation describing how the deficiency may be cured. If the complaint is sufficient as to form, the complaint shall be referred for legal review.

3. Unless the chairperson of the board concludes that immediate notification would prejudice a preliminary investigation or subject the complainant to an unreasonable risk, the board shall mail a copy of the complaint to the subject of the complaint within three working days of the acceptance of the complaint. If a determination is made by the chairperson not to mail a copy of the complaint to the subject of the complaint within the three working days time period, the board shall approve and establish the time and conditions under which the subject will be informed of the filing and contents of the complaint.

4. Upon completion of legal review, the chairperson of the board shall be advised whether, in the opinion of the legal advisor, the complaint states an allegation which is legally sufficient. A legally sufficient allegation must allege all of the following:

*a.* Facts that would establish a violation of a provision of this chapter, chapter 68A, section 8.7, or rules adopted by the board.

*b.* Facts that would establish that the conduct providing the basis for the complaint occurred within three years of the complaint.

*c.* Facts that would establish that the subject of the complaint is a party subject to the jurisdiction of the board.

5. After receiving an evaluation of the legal sufficiency of the complaint, the chairperson shall refer the complaint to the board for a formal determination by the board of the legal sufficiency of the allegations contained in the complaint.

6. If the board determines that none of the allegations contained in the complaint are legally sufficient, the complaint shall be dismissed. The complainant shall be sent a notice of dismissal stating the reason or reasons for the dismissal. If a copy of the complaint was sent to the subject of the complaint, a copy of the notice shall be sent to the subject of the complaint. If the board determines that any allegation contained in the complaint is legally sufficient, the complaint shall be referred to the board staff for investigation of any legally sufficient allegations.

7. Notwithstanding subsections 1 through 6, the board may, on its own motion and without the filing of a complaint by another person, initiate investigations into matters that the board believes may be subject to the board's

jurisdiction. This section does not preclude persons from providing information to the board for possible board-initiated investigation instead of filing a complaint.

8. The purpose of an investigation by the board's staff is to determine whether there is probable cause to believe that there has been a violation of this chapter, chapter 68A, section 8.7, or of rules adopted by the board. To facilitate the conduct of investigations, the board may issue and seek enforcement of subpoenas requiring the attendance and testimony of witnesses and subpoenas requiring the production of books, papers, records, and other real evidence relating to the matter under investigation. Upon the request of the board, an appropriate county attorney or the attorney general shall assist the staff of the board in its investigation.

9. If the board determines on the basis of an investigation by board staff that there is probable cause to believe the existence of facts that would establish a violation of this chapter, chapter 68A, section 8.7, or of rules adopted by the board, the board may issue a statement of charges and notice of a contested case proceeding to the complainant and to the person who is the subject of the complaint, in the manner provided for the issuance of statements of charges under chapter 17A. If the board determines on the basis of an investigation by staff that there is no probable cause to believe that a violation has occurred, the board shall close the investigation, dismiss any related complaint, and the subject of the complaint shall be notified of the dismissal. If the investigation originated from a complaint filed by a person other than the board, the person making the complaint shall also be notified of the dismissal.

10. At any stage during the investigation or after the initiation of a contested case proceeding, the board may approve a settlement regarding an alleged violation. Terms of a settlement shall be reduced to writing and be available for public inspection. An informal settlement may provide for any remedy specified in section 68B.32D. However, the board shall not approve a settlement unless the board determines that the terms of the settlement are in the public interest and are consistent with the purposes of this chapter and rules of the board. In addition, the board may authorize board staff to seek informal voluntary compliance in routine matters brought to the attention of the board or its staff.

11. A complaint shall be a public record, but some or all of the contents may be treated as confidential under section 22.7, subsection 18, to the extent necessary under subsection 3 of this section. Information informally reported to the board and board staff which results in a board-initiated investigation shall be a public record but may be treated as confidential information consistent with the provisions of section 22.7, subsection 18. If the complainant, the person who provides information to the board, or the person who is the subject of an investigation publicly discloses the existence of an investigation, the board may publicly confirm the existence of the disclosed formal complaint or investigation and, in the board's discretion, make the complaint or the informal referral public, as well as any other documents that were issued by the board to any party to the investigation. However, investigative materials may be furnished to the appropriate law enforcement authorities by the board at any time. Upon the commencement of a contested case proceeding by the board, all investigative material relating to that proceeding shall be made available to the subject of the proceeding. The entire record of any contested case proceeding initiated under this section shall be a public record.

12. Board records used to achieve voluntary compliance to resolve discrepancies and deficiencies shall not be confidential unless otherwise required by law.

93 Acts, ch 163, §16; 94 Acts, ch 1092, §8; 2006 Acts, ch 1035, §5



**68B.32C Contested case proceedings.**

1. Contested case proceedings initiated as a result of the issuance of a statement of charges pursuant to section 68B.32B, subsection 9, shall be conducted in accordance with the requirements of chapter 17A. Clear and convincing evidence shall be required to support a finding that a person has violated this chapter, section 8.7, or any rules adopted by the board pursuant to this chapter. A preponderance of the evidence shall be required to support a finding that a person has violated chapter 68A or any rules adopted by the board pursuant to chapter 68A. The case in support of the statement of charges shall be presented at the hearing by one of the board's attorneys or staff unless, upon the request of the board, the charges are prosecuted by another legal counsel designated by the attorney general. A person making a complaint under section 68B.32B, subsection 1, is not a party to contested case proceedings conducted relating to allegations contained in the complaint.

2. Hearings held pursuant to this chapter shall be heard by a quorum of the board, unless the board designates a board member or an administrative law judge to preside at the hearing. If a quorum of the board does not preside at the hearing, the board member or administrative law judge shall make a proposed decision. The board or presiding board member may be assisted by an administrative law judge in the conduct of the hearing and the preparation of a decision.

3. Upon a finding by the board that the party charged has violated this chapter, chapter 68A, section 8.7, or rules adopted by the board, the board may impose any penalty provided for by section 68B.32D. Upon a final decision of the board finding that the party charged has not violated this chapter or the rules of the board, the complaint shall be dismissed and the party charged and the original complainant, if any, shall be notified.

4. The right of an appropriate county attorney or the attorney general to commence and maintain a district court prosecution for criminal violations of the law is unaffected by any proceedings under this section.

5. The board shall adopt rules, pursuant to chapter 17A, establishing procedures to implement this section.

93 Acts, ch 163, §17; 2006 Acts, ch 1035, §6

**68B.32D Penalties — recommended actions.**

1. The board, after a hearing and upon a finding that a violation of this chapter, chapter 68A, section 8.7, or rules adopted by the board has occurred, may do one or more of the following:

*a.* Issue an order requiring the violator to cease and desist from the violation found.

*b.* Issue an order requiring the violator to take any remedial action deemed appropriate by the board.

*c.* Issue an order requiring the violator to file any report, statement, or other information as required by this chapter, chapter 68A, section 8.7, or rules adopted by the board.

*d.* Publicly reprimand the violator for violations of this chapter, chapter 68A, section 8.7, or rules adopted by the board in writing and provide a copy of the reprimand to the violator's appointing authority.

*e.* Make a written recommendation to the violator's appointing authority that the violator be removed or suspended from office, and include in the recommendation the length of the suspension.

*f.* If the violation is a violation of this chapter or rules adopted by the board pursuant to this chapter and the violator is an elected official of the executive

branch of state government, other than an official who can only be removed by impeachment, make a written recommendation to the attorney general or the appropriate county attorney that an action for removal from office be initiated pursuant to chapter 66.

*g.* If the violation is a violation of this chapter or rules adopted by the board pursuant to this chapter and the violator is a lobbyist of the executive branch of state government, censure, reprimand, or impose other sanctions deemed appropriate by the board. A lobbyist may also be suspended from lobbying activities if the board finds that suspension is an appropriate sanction for the violation committed.

*h.* Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars for each violation of this chapter, chapter 68A, section 8.7, or rules adopted by the board.

*i.* Refer the complaint and supporting information to the attorney general or appropriate county attorney with a recommendation for prosecution or enforcement of criminal penalties.

2. At any stage during an investigation or during the board's review of routine compliance matters, the board may resolve the matter by admonishment to the alleged violator or by any other means not specified in subsection 1 as a posthearing remedy.

3. If a person fails to comply with an action of the board under subsection 1, the board may petition the Polk county district court for an order for enforcement of the action of the board. The enforcement proceeding shall be conducted as provided in section 68B.33.

93 Acts, ch 163, §18; 2000 Acts, ch 1042, §2; 2006 Acts, ch 1035, §7, 8

#### **68B.33 Judicial review — enforcement.**

Judicial review of the actions of the board may be sought in accordance with chapter 17A. Judicial enforcement of orders of the board may be sought in accordance with chapter 17A.

92 Acts, ch 1228, §15; 93 Acts, ch 163, §19

#### **68B.35 Personal financial disclosure — certain officials, members of the general assembly, and candidates.**

1. The persons specified in subsection 2 shall file a financial statement at times and in the manner provided in this section that contains all of the following:

*a.* A list of each business, occupation, or profession in which the person is engaged and the nature of that business, occupation, or profession, unless already apparent.

*b.* A list of any other sources of income if the source produces more than one thousand dollars annually in gross income. Such sources of income listed pursuant to this paragraph may be listed under any of the following categories, or under any other categories as may be established by rule:

- (1) Securities.
- (2) Instruments of financial institutions.
- (3) Trusts.

- (4) Real estate.
- (5) Retirement systems.
- (6) Other income categories specified in state and federal income tax regulations.

2. The financial statement required by this section shall be filed by the following persons:

- a. Any statewide elected official.
- b. The executive or administrative head or heads of any agency of state government.
- c. The deputy executive or administrative head or heads of an agency of state government.
- d. The head of a major subunit of a department or independent state agency whose position involves a substantial exercise of administrative discretion or the expenditure of public funds as defined under rules adopted by the board, pursuant to chapter 17A, in consultation with the department or agency.
- e. Members of the state banking council, the ethics and campaign disclosure board, the credit union review board, the economic development board, the employment appeal board, the environmental protection commission, the health facilities council, the Iowa finance authority, the Iowa public employees' retirement system investment board, the board of the Iowa lottery authority, the natural resource commission, the board of parole, the petroleum underground storage tank fund board, the public employment relations board, the state racing and gaming commission, the state board of regents, the tax review board, the transportation commission, the office of consumer advocate, the utilities board, the Iowa telecommunications and technology commission, and any full-time members of other boards and commissions as defined under section 7E.4 who receive an annual salary for their service on the board or commission. The Iowa ethics and campaign disclosure board shall conduct an annual review to determine if members of any other board, commission, or authority should file a statement and shall require the filing of a statement pursuant to rules adopted pursuant to chapter 17A.
- f. Members of the general assembly.
- g. Candidates for state office.
- h. Legislative employees who are the head or deputy head of a legislative agency or whose position involves a substantial exercise of administrative discretion or the expenditure of public funds.

3. The board, in consultation with each executive department or independent agency, shall adopt rules pursuant to chapter 17A to implement the requirements of this section that provide for the time and manner for the filing of financial statements by persons in the department or independent agency.

4. The ethics committee of each house of the general assembly shall recommend rules for adoption by each house for the time and manner for the filing of financial statements by members or employees of the particular house. The legislative council shall adopt rules for the time and manner for the filing of financial statements by legislative employees of the central legislative staff agencies. The rules shall provide for the filing of the financial statements with either the chief clerk of the house, the secretary of the senate, or other appropriate person or body.

5. A candidate for statewide office shall file a financial statement with the ethics and campaign disclosure board, a candidate for the office of state representative shall file a financial statement with the chief clerk of the house of representatives, and a candidate for the office of state senator shall file a financial statement with the secretary of the senate. Statements shall contain information concerning the year preceding the year in which the election is to

be held. The statement shall be filed no later than thirty days after the date on which a person is required to file nomination papers for state office under section 43.11, or, if the person is a candidate in a special election, as soon as practicable after the certification of the name of the nominee under section 43.88, but the statement shall be postmarked no later than seven days after certification. The ethics and campaign disclosure board shall adopt rules pursuant to chapter 17A providing for the filing of the financial statements with the board and for the deposit, retention, and availability of the financial statements. The ethics committees of the house of representatives and the senate shall recommend rules for adoption by the respective houses providing for the filing of the financial statements with the chief clerk of the house or the secretary of the senate and for the deposit, retention, and availability of the financial statements. Rules adopted shall also include a procedure for notification of candidates of the duty to file disclosure statements under this section.

92 Acts, ch 1228, §17; 93 Acts, ch 163, §21; 94 Acts, ch 1092, §9; 96 Acts, ch 1200, §2; 2001 Acts, ch 61, §12; 2003 Acts, ch 178, §100, 121; 2003 Acts, ch 179, §142; 2004 Acts, ch 1091, §11; 2004 Acts, ch 1141, §34

### **68B.37 Lobbyist reporting.**

1. A lobbyist before the general assembly shall file with the general assembly, on forms prescribed by each house of the general assembly, a report disclosing all of the following:

- a. The lobbyist's clients before the general assembly.
- b. Contributions made to candidates for state office by the lobbyist during calendar months during the reporting period when the general assembly is not in session.
- c. The recipient of the campaign contributions.
- d. Expenditures made by the lobbyist for the purposes of providing the services enumerated under section 68B.2, subsection 13, paragraph "a", before the general assembly.

For purposes of this subsection, "*expenditures*" does not include expenditures made by any organization for publishing a newsletter or other informational release for its members.

2. A lobbyist before a state agency or the office of the governor shall file with the board, on forms prescribed by the board, a report disclosing all of the following:

- a. The lobbyist's clients before the executive branch.
- b. Contributions made to candidates for state office by the lobbyist during calendar months during the reporting period when the general assembly is not in session.
- c. The recipient of the campaign contributions.
- d. Expenditures made by the lobbyist for the purposes of providing the services enumerated under section 68B.2, subsection 13, paragraph "a", before the executive branch.

For purposes of this subsection, "*expenditures*" does not include expenditures made by any organization for publishing a newsletter or other informational release for its members.

3. The reports by lobbyists before the general assembly shall be filed not later than twenty-five days following any month in which the general assembly is in session and thereafter on or before July 31, October 31, and January 31. The reports filed by a lobbyist before the general assembly shall contain information for the preceding calendar month or quarter or parts thereof during which the person was engaged in lobbying. Reports filed by lobbyists before a state agency shall be filed on or before April 30, July 31, October 31, and January 31, for the preceding calendar quarter or parts thereof during which the person was engaged in lobbying.

If a person cancels the person's lobbyist registration at any time during the calendar year, the reports required by this section are due on the dates required by this section or fifteen days after cancellation, whichever is earlier. The report due January 31 shall include all reportable items for the preceding calendar year in addition to containing the quarterly reportable items. A lobbyist who cancels the person's lobbyist registration before January 1 of a year shall file a report listing all reportable items for the year in which the cancellation was filed. A lobbyist who cancels the person's lobbyist registration between January 1 and January 15 of a year shall file a report listing all reportable items for the preceding year and so much of the month of January as has expired at the time of cancellation. However, if a lobbyist is a person who is designated to represent the interest of an organization as defined in section 68B.2, subsection 13, paragraph "a", subparagraph (2), but is not paid compensation for that representation and does not expend more than one thousand dollars as provided in section 68B.2, subsection 13, paragraph "a", subparagraph (4), the lobbyist shall only be required to file the report specified in this section once annually, which shall be performed at the time of filing the person's lobbyist registration form or forms.

92 Acts, ch 1228, §19; 93 Acts, ch 163, §24; 94 Acts, ch 1092, §11, 12; 2006 Acts, ch 1149, §4-6

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**69.3 Possession of office.**

When a vacancy occurs in a public office, possession shall be taken of the office room, books, papers, and all things pertaining to the office, to be held until the qualification of a successor, as follows:

1. Of the office of the county auditor, by the county treasurer.
2. Of the county treasurer, by the county auditor.
3. Of any of the state officers, by the governor, or, in the absence or inability of the governor at the time of the occurrence, as follows:
  - a. Of the secretary of state, by the treasurer of state.
  - b. Of the auditor of state, by the secretary of state.
  - c. Of the treasurer of state, by the secretary of state and auditor of state, who shall make an inventory of the money and warrants in the office, sign the inventory, and transmit it to the governor, and the secretary of state shall take the keys of the safe and desks, after depositing the books, papers, money and warrants in them, and the auditor of state shall take the key to the office room.

[C51, §444; R60, §671; C73, §788; C97, §1267; C24, 27, 31, 35, 39, §1147; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.3]

83 Acts, ch 186, §10034; 86 Acts, ch 1237, §3

**69.4 Resignations.**

Resignations in writing by civil officers may be made as follows, except as otherwise provided:

1. By the governor, to the general assembly, if in session, if not, to the secretary of state.
2. By state senators and representatives, and all officers appointed by the senate or house, or by the presiding officers thereof, to the respective presiding officers of the senate and house, when the general assembly is in session, and such presiding officers shall immediately transmit to the governor information of the resignation of any member thereof; when the general assembly is not in session, all such resignations shall be made to the governor.
3. By senators and representatives in Congress, all officers elected by the registered voters in the state or any district or division thereof larger than a county, or chosen by the general assembly, all judges of courts of record, all officers, trustees, inspectors, and members of all boards and commissions now or hereafter created under the laws of the state, and all persons filling any position of trust or profit in the state, for which no other provision is made, to the governor.

4. By all county and township officers, to the county auditor, except that of the auditor, which shall be to the board of supervisors.

5. By all council members and officers of cities, to the clerk or mayor.

[C51, §430; R60, §663; C73, §782; C97, §1268; C24, 27, 31, 35, 39, §1148; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.4]

2001 Acts, ch 56, §7

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**69.5 Vacancy in general assembly.**

When a vacancy shall occur in the office of senator or representative in the general assembly, except by resignation, the auditor of the county of the senator's or representative's residence shall notify the governor of such fact and the cause.

[C51, §443; R60, §672; C73, §789, 790; C97, §1269; C24, 27, 31, 35, 39, §1149; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.5]

**69.6 Vacancy in state boards.**

In case of a vacancy from any cause, other than resignation or expiration of term, occurring in any of the governing boards of the state institutions, the secretary thereof shall immediately notify the governor.

[C97, §1270; C24, 27, 31, 35, 39, §1150; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.6]

**69.7 Duty of officer receiving resignation.**

An officer receiving any resignation, or notice of any vacancy, shall forthwith notify the board, tribunal, or officer, if any, empowered to fill the same by appointment.

[C97, §1271; C24, 27, 31, 35, 39, §1151; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.7]

**69.8 Vacancies — how filled.**

Vacancies shall be filled by the officer or board named, and in the manner, and under the conditions, following:

1. *United States senator.* In the office of United States senator, when the vacancy occurs when the senate of the United States is in session, or when such senate will convene prior to the next general election, by the governor. An appointment made under this subsection shall be for the period until the vacancy is filled by election pursuant to law.

2. *State offices.* In all state offices, judges of courts of record, officers, trustees, inspectors, and members of all boards or commissions, and all persons filling any position of trust or profit in the state, by the governor, except when some other method is specially provided. An appointment made under this subsection to a state office subject to section 69.13 shall be for the period until the vacancy is filled by election pursuant to law.

3. *County offices.* In county offices, by the board of supervisors, unless an election is called as provided in section 69.14A.

4. *Board of supervisors.* In the membership of the board of supervisors, by the treasurer, auditor, and recorder, or as provided in section 69.14A. If any of these offices have been abolished through consolidation, the county attorney shall serve on this committee.

5. *Elected township offices.* When a vacancy occurs in the office of township clerk or township trustee, the vacancy shall be filled by appointment by the trustees. All appointments to fill vacancies in township offices shall be until a successor is elected at the next general election and qualifies by taking the oath of office. If the term of office in which the vacancy exists will expire within seventy days after the next general election, the person elected to the office for the succeeding term shall qualify by taking the oath of office within ten days after the election and shall serve for the remainder of the unexpired term, as well as for the next four-year term.

However, if the offices of two trustees are vacant the county board of supervisors shall fill the vacancies by appointment. If the offices of three trustees are vacant the board may fill the vacancies by appointment, or the board may adopt a resolution stating that the board will exercise all powers and duties assigned by law to the trustees of the township in which the vacancies exist until the vacancies are filled at the next general election. If a township office vacancy is not filled by the trustees within thirty days after the vacancy occurs, the board of supervisors may appoint a successor to fill the vacancy until the vacancy can be filled at the next general election.

[C51, §436; R60, §664; C73, §513, 783, 794; C97, §1272; S13, §1272; C24, 27, 31, 35, 39, §1152; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §69.8; 81 Acts, ch 117, §1204]

83 Acts, ch 186, §10035–10037; 86 Acts, ch 1155, §2; 87 Acts, ch 68, §4; 89 Acts, ch 215, §2, 3; 94 Acts, ch 1180, §37

General power of governor, Iowa Constitution, Art. IV, §10

Vacancies in municipal offices, see §372.13(2)

### **69.9 Person removed not eligible.**

No person can be appointed to fill a vacancy who has been removed from office within one year next preceding.

[C51, §441; R60, §669; C73, §787; C97, §1273; C24, 27, 31, 35, 39, §1153; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.9]

### **69.10 Appointments.**

Appointments under the provisions of this chapter shall be in writing, and filed in the office where the oath of office is required to be filed.

[C51, §439; R60, §667; C73, §785; C97, §1274; C24, 27, 31, 35, 39, §1154; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.10]

### **69.11 Tenure of vacancy appointee.**

An officer filling a vacancy in an office which is filled by election of the people shall continue to hold until the next election at which such vacancy can be filled, as provided in section 69.12, and until a successor is elected and qualified. Appointments to all other offices, made under this chapter, shall continue for the remainder of the term of each office, and until a successor is appointed and qualified.

[C51, §429, 439; R60, §662, 667, 1101; C73, §530, 781, 785; C97, §1276; C24, 27, 31, 35, 39, §1155; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.11]

**69.12 Officers elected to fill vacancies — tenure.**

When a vacancy occurs in any nonpartisan elective office of a political subdivision of this state, and the statutes governing the office in which the vacancy occurs require that it be filled by election or are silent as to the method of filling the vacancy, it shall be filled pursuant to this section. As used in this section, “*pending election*” means any election at which there will be on the ballot either the office in which the vacancy exists, or any other office to be filled or any public question to be decided by the voters of the same political subdivision in which the vacancy exists.

1. If the unexpired term in which the vacancy occurs has more than seventy days to run after the date of the next pending election, the vacancy shall be filled in accordance with this subsection. The fact that absentee ballots were distributed or voted before the vacancy occurred or was declared shall not invalidate the election.

*a.* A vacancy shall be filled at the next pending election if it occurs:

- (1) Seventy-four or more days before the election, if it is a general election.
- (2) Fifty-two or more days before the election, if it is a regularly scheduled or special city election. However, for those cities which may be required to hold a primary election, the vacancy shall be filled at the next pending election if it occurs seventy-three or more days before a regularly scheduled or special city election.
- (3) Forty-five or more days before the election, if it is a regularly scheduled school election.
- (4) Forty or more days before the election, if it is a special election.

*b.* Nomination papers on behalf of candidates for a vacant office to be filled pursuant to paragraph “*a*” of this subsection shall be filed, in the form and manner prescribed by applicable law, by five p.m. on:

- (1) The final filing date for candidates filing with the state commissioner or commissioner, as the case may be, for a general election.
- (2) The candidate filing deadline specified in section 376.4 for a regularly scheduled or special city election.
- (3) The fortieth day before a regularly scheduled school election.
- (4) The twenty-fifth day before a special election.

*c.* A vacancy which occurs at a time when paragraph “*a*” of this subsection does not permit it to be filled at the next pending election shall be filled by appointment as provided by law until the succeeding pending election.

2. When the unexpired term of office in which the vacancy occurs will expire within seventy days after the date of the next pending election, or after the date of a preceding election in which that office was on the ballot, the person elected to the office for the succeeding term shall also be deemed elected to fill the remainder of the unexpired term. If the vacancy is on a multimember body to which more than one nonincumbent is elected for the succeeding term, the nonincumbent who received the most votes shall be deemed elected to fill the remainder of the unexpired term. A person so elected to fill an unexpired term shall qualify within the time required by sections 63.3 and 63.8. Unless other requirements are imposed by law, qualification for the unexpired term shall also constitute qualification for the full term to which the person was elected.

[C51, §431–435; R60, §672, 1083, 1101; C73, §513, 530, 789, 794, 795; C97, §1277, 1278; C24, 27, 31, 35, 39, §1156, 1157; C46, 50, 54, 58, 62, 66, 71, §69.12, 69.13; C73, 75, 77, 79, 81, S81, §69.12; 81 Acts, ch 34, §45]

87 Acts, ch 221, §31; 89 Acts, ch 136, §59–61; 2002 Acts, ch 1134, §78, 79, 115

**69.13 Vacancies — senator in Congress and elective state officers.**

If a vacancy occurs in the office of senator in the Congress of the United States, secretary of state, auditor of state, treasurer of state, secretary of agriculture, or attorney general eighty-nine or more days before a general election, and the unexpired term in which the vacancy exists has more than seventy days to run after the date of that general election, the vacancy shall be filled for the balance of the unexpired term at that general election and the person elected to fill the vacancy shall assume office as soon as a certificate of election has been issued and the person has qualified.

If the unexpired term of office in which the vacancy occurs will expire within seventy days after the date of the next pending election, section 69.11 applies.

[C77, 79, 81, §69.13]

89 Acts, ch 136, §62; 91 Acts, ch 129, §21; 92 Acts, ch 1067, §1; 97 Acts, ch 170, §79

**69.14 Special election to fill vacancies.**

A special election to fill a vacancy shall be held for a representative in Congress, or senator or representative in the general assembly, when the body in which such vacancy exists is in session, or will convene prior to the next general election, and the governor shall order, not later than five days from the date the vacancy exists, a special election, giving not less than forty days' notice of such election. In the event the special election is to fill a vacancy in the general assembly while it is in session or within forty-five days of the convening of any session, the time limit provided in this section shall not apply and the governor shall order such special election at the earliest practical time, giving at least eighteen days' notice of the special election. Any special election called under this section must be held on a Tuesday and shall not be held on the same day as a school election within the district.

[C51, §443; R60, §672; C73, §789; C97, §1279; C24, 27, 31, 35, 39, §1158; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.14]

86 Acts, ch 1224, §33; 95 Acts, ch 189, §17

See §43.78, subsection 4

**69.14A Filling vacancy of elected county officer.**

1. A vacancy on the board of supervisors shall be filled by one of the following procedures:

*a.* By appointment by the committee of county officers designated to fill the vacancy in section 69.8. The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the committee of county officers designated to fill the vacancy chooses to proceed under this paragraph, the committee shall publish notice in the manner prescribed by section 331.305 stating that the committee intends to fill the vacancy by appointment but that the electors of the district or county, as the case may be, have the right to file a petition requiring that the vacancy be filled by special election. The committee may publish notice in advance if an elected official submits a resignation to take effect at a future date. The committee may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection shall have actually resided in the county which the appointee represents sixty days prior to appointment.

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph “b”. The petition shall meet the requirements of section 331.306, except that in counties where supervisors are elected under plan “three”, the number of signatures calculated according to the formula in section 331.306 shall be divided by the number of supervisor districts in the county.

*b.* By special election held to fill the office for the remaining balance of the unexpired term. The committee of county officers designated to fill the vacancy in section 69.8 may, on its own motion, or shall, upon receipt of a petition as provided in paragraph “a”, call for a special election to fill the vacancy in lieu of appointment. The committee shall order the special election at the earliest practicable date, but giving at least thirty-two days’ notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

However, if a vacancy on the board of supervisors occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the committee or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot, as “For Board of Supervisors, To Fill Vacancy”. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

*c.* For a vacancy declared by the board pursuant to section 331.214, subsection 2, by special election held to fill the office if the remaining balance of the unexpired term is two and one-half years or more. The committee of county officers designated to fill the vacancy in section 69.8 shall order the special election at the earliest practicable date, but giving at least thirty-two days’ notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county. The office shall be listed on the ballot, as “For Board of Supervisors, To Fill Vacancy”. The person elected at the special election shall serve the balance of the unexpired term.

2. A vacancy in any of the offices listed in section 39.17 shall be filled by one of the two following procedures:

*a.* By appointment by the board of supervisors. The appointment shall be for the period until the next pending election as defined in section 69.12, and shall be made within forty days after the vacancy occurs. If the board of supervisors chooses to proceed under this paragraph, the board shall publish notice in the manner prescribed by section 331.305 stating that the board intends to fill the vacancy by appointment but that the electors of the county have the right to file a petition requiring that the vacancy be filled by special election. The board may publish notice in advance if an elected official submits a resignation to take effect at a future date. The board may make an appointment to fill the vacancy after the notice is published or after the vacancy occurs, whichever is later. A person appointed to an office under this subsection, except for a county attorney, shall have actually resided in the county which the appointee

represents sixty days prior to appointment. A person appointed to the office of county attorney shall be a resident of the county at the time of appointment.

However, if within fourteen days after publication of the notice or within fourteen days after the appointment is made, a petition is filed with the county auditor requesting a special election to fill the vacancy, the appointment is temporary and a special election shall be called as provided in paragraph “b”. The petition shall meet the requirements of section 331.306.

b. By special election held to fill the office for the remaining balance of the unexpired term. The board of supervisors may, on its own motion, or shall, upon receipt of a petition as provided in paragraph “a”, call for a special election to fill the vacancy in lieu of appointment. The supervisors shall order the special election at the earliest practicable date, but giving at least thirty-two days’ notice of the election. A special election called under this section shall be held on a Tuesday and shall not be held on the same day as a school election within the county.

If a vacancy in an elective county office occurs after the date of the primary election and more than seventy-three days before the general election, a special election to fill the vacancy shall not be called by the board of supervisors or by petition. If the term of office in which the vacancy exists will expire more than seventy days after the general election, the office shall be listed on the ballot with the name of the office and the additional description, “To Fill Vacancy”. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office. The person shall serve the balance of the unexpired term.

If the term of office in which the vacancy exists will expire within seventy days after the general election, the person elected to the succeeding term shall also serve the balance of the unexpired term. The person elected at the general election shall assume office as soon as a certificate of election is issued and the person has qualified by taking the oath of office.

3. Notwithstanding subsection 2, in the event of a vacancy for which no eligible candidate residing in the county comes forward for appointment, a county board of supervisors may employ a person to perform the duties of the office for at least sixty days but no more than ninety days. After ninety days, the board shall proceed under subsection 2.

4. Notwithstanding subsections 1 and 2, if a nomination has been made at the primary election for an office in which a vacancy has been filled by appointment, the office shall be filled at the next general election, and not at any special election in the same political subdivision.

89 Acts, ch 215, §4; 90 Acts, ch 1238, §33; 92 Acts, ch 1067, §2; 94 Acts, ch 1180, §38–40; 97 Acts, ch 170, §80–83; 2002 Acts, ch 1134, §80, 115; 2004 Acts, ch 1002, §1; 2006 Acts, ch 1065, §1, 2

See §43.78, subsection 4

**69.20 Temporary vacancy due to military service.**

1. A temporary vacancy in an elective office of a political subdivision, community college, or hospital board of trustees of this state occurs on the date when the person filling that office is placed on state military service or federal service, as those terms are defined in section 29A.1, and when such a person will not be able to attend to the duties of that person's elective position for a period greater than sixty consecutive days. The temporary vacancy terminates on the date when such person is released from such service, or the term of office expires.

2. A temporary vacancy on an elective board, council, or other multimember body of a political subdivision may be filled by appointment by a majority of the remaining members of the body. A temporary vacancy in any other elective office in a political subdivision, community college, or hospital board of trustees may be filled by the governing body of that political subdivision, community college, or hospital board of trustees.

3. Upon the termination of a temporary vacancy due to a person's release from state military service or federal service, the person who held the elective office just prior to the temporary vacancy shall immediately be deemed to have been reinstated to that position and the person who filled the temporary vacancy shall immediately be deemed to have been removed from that office.

4. A person filling a temporary vacancy or a person reinstated to office as described in this section shall qualify for that office as provided in chapter 63.

5. Upon the resignation or death of the person replaced under this section, a permanent vacancy occurs and shall be filled as otherwise provided by law.

2004 Acts, ch 1076, §1, 2; 2006 Acts, ch 1010, §42, 169, 177

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## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

**97B.3 Chief executive officer — appointment and qualifications.**

1. Not reprinted.

2. The qualifications for appointment as the chief executive officer\* shall include management-level pension fund administration experience. The qualifications for appointment as the chief executive officer shall also include a demonstrated knowledge of all aspects of pension fund administration, including financial management, investment asset management, benefit design and delivery, legal administration, and operations administration. The chief executive officer shall not be selected on the basis of political affiliation, and while employed as the chief executive officer, shall not be a member of a political committee, participate in a political campaign, or be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the chief executive officer may designate on the checkoff portion of the state or federal income tax return, or both, a party or parties to which a contribution is made pursuant to the checkoff. The chief executive officer shall not hold any other office under the laws of the United States or of this or any state and shall devote full time to the duties of office.

3. Not reprinted.

2001 Acts, ch 68, §8, 24; 2003 Acts, ch 94, §1, 2, 4; 2003 Acts, ch 145, §286

\*Chief executive officer of the Iowa public employees' retirement system

**97B.4 Administration of chapter — powers and duties of system — immunity.**

1. and 2. Not reprinted.

3. *Personnel.*

a. to c. Not reprinted.

d. *System employees.* Subject to other provisions of this chapter, the system\* may employ all other personnel as necessary for the administration of the retirement system. The maximum number of full-time equivalent employees specified by the general assembly for the system for administration of the retirement system for a fiscal year shall not be reduced by any authority other than the general assembly. The personnel of the system shall be appointed pursuant to chapter 8A, subchapter IV. The system shall not appoint or employ a person who is an officer or committee member of a political party organization or who holds or is a candidate for a partisan elective public office.

e. and f. Not reprinted.

4. to 7. Not reprinted.

[C46, 50, §97.4, 97.23; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.4]

86 Acts, ch 1245, §251; 88 Acts, ch 1242, §9, 10; 92 Acts, ch 1201, §7; 96 Acts, ch 1187, §1; 2001 Acts, ch 68, §9, 24; 2003 Acts, ch 145, §172, 173, 286; 2006 Acts, ch 1092, §3

\*Iowa public employees' retirement system

## PARI-MUTUEL WAGERING

**99D.12 Breakage.**

A licensee shall deduct the breakage from the pari-mutuel pool which shall be distributed to the breeders of Iowa-foaled horses and Iowa-whelped dogs in the manner described in section 99D.22. The remainder of the breakage shall be distributed as follows:

1. In horse races the breakage shall be retained by the licensee to supplement purses for races restricted to Iowa-foaled horses or to supplement purses won by Iowa-foaled horses by finishing first, second, third, or fourth in any other race. The purse supplements will be paid in proportion to the purse structure of the race. Two percent shall be deposited by the commission into a special fund to be known as the horse racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of horse racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

2. In dog races the breakage shall be distributed as follows:

*a.* and *b.* Not reprinted.

*c.* Two percent shall be deposited by the commission into a special fund to be known as the dog racing promotion fund. The commission each year shall approve a nonprofit organization to use moneys in the fund for research, education, and marketing of dog racing in the state, including public relations, and other promotional techniques. The nonprofit organization shall not engage in political activity. It shall be a condition of the allocation of funds that any organization receiving funds shall not expend the funds on political activity or on any attempt to influence legislation.

83 Acts, ch 187, §12; 84 Acts, ch 1266, §14; 88 Acts, ch 1137, §2; 89 Acts, ch 216, §2, 3; 91 Acts, ch 166, §4; 92 Acts, ch 1203, §6

## GAMBLING — EXCURSION GAMBLING BOATS AND RACETRACKS

**99F.7 Licenses — terms and conditions — revocation.**

1. to 10. Not reprinted.

11. *a.* A license to conduct gambling games on an excursion gambling boat in a county shall be issued only if the county electorate approves the conduct of the gambling games as provided in this subsection. The board of supervisors, upon receipt of a valid petition meeting the requirements of section 331.306, shall direct the commissioner of elections to submit to the registered voters of the county a proposition to approve or disapprove the conduct of gambling games on an excursion gambling boat in the county. The proposition shall be submitted at a general election or at a special election called for that purpose. To be submitted at a general election, the petition must be received by the board of supervisors at least five working days before the last day for candidates for county offices to file nomination papers for the general election pursuant to section 44.4. If a majority of the county voters voting on the proposition favor the conduct of gambling games, the commission may issue one or more licenses as provided in this chapter. If a majority of the county voters voting on the proposition do not favor the conduct of gambling games, a license to conduct gambling games in the county shall not be issued.

*b.* If licenses to conduct gambling games and to operate an excursion gambling boat are in effect pursuant to a referendum as set forth in this section and are subsequently disapproved by a referendum of the county electorate, the licenses issued by the commission after a referendum approving gambling games on excursion gambling boats shall remain valid and are subject to renewal for a total of nine years from the date of original issue unless the commission revokes a license at an earlier date as provided in this chapter.

*c.* If a licensee of a pari-mutuel racetrack who held a valid license issued under chapter 99D as of January 1, 1994, requests a license to operate gambling games as provided in this chapter, the board of supervisors of a county in which the licensee of a pari-mutuel racetrack requests a license to operate gambling games shall submit to the county electorate a proposition to approve or disapprove the operation of gambling games at pari-mutuel racetracks at a special election at the earliest practicable time. If the operation of gambling games at the pari-mutuel racetrack is not approved by a majority of the county electorate voting on the proposition at the election, the commission shall not issue a license to operate gambling games at the racetrack.

*d.* If the proposition to operate gambling games on an excursion gambling boat or at a racetrack enclosure is approved by a majority of the county electorate voting on the proposition, the board of supervisors shall submit the same proposition to the county electorate at the general election held in 2002 and, unless the operation of gambling games is terminated earlier as provided in this chapter or chapter 99D, at the general election held at each subsequent eight-year interval.

*e.* After a referendum has been held which defeated a proposal to conduct gambling games on excursion gambling boats or which defeated a proposal to conduct gambling games at a licensed pari-mutuel racetrack enclosure as provided in this section, another referendum on a proposal to conduct gambling games on an excursion gambling boat or at a licensed pari-mutuel racetrack shall not be held for at least eight years.

12. to 17. Not reprinted.

89 Acts, ch 67, §7; 89 Acts, ch 139, §2–5; 92 Acts, ch 1203, §15, 16; 93 Acts, ch 143, §42; 94 Acts, ch 1021, §16–18; 95 Acts, ch 49, §2; 95 Acts, ch 176, §4, 5; 2004 Acts, ch 1136, §41–47, 65; 2004 Acts, ch 1175, §328

## ALCOHOLIC BEVERAGE CONTROL

**123.10 Administrator appointed — duties.**

Unnumbered paragraph 1 not reprinted.

The administrator\* shall devote full time to the discharge of the administrator's duties. The administrator shall not hold any other elective or appointive office under the laws of this state, the United States, or any other state or territory. The administrator shall not accept or solicit, directly or indirectly, contributions or anything of value in behalf of the administrator, any political party, or any person seeking an elective or appointive office nor use the administrator's official position to advance the candidacy of anyone seeking an elective or appointive office. The administrator, the administrator's spouse, and immediate family shall not have any interest in any distillery, winery, brewery, importer, permittee or licensee or any business which is subject to license or regulation pursuant to this chapter.

[C73, 75, 77, 79, 81, §123.10]

86 Acts, ch 1245, §735

\*Administrator of alcoholic beverages division

**123.17 Prohibition on commission members and employees.**

Commission\* members, officers, and employees of the division\*\* shall not, while holding such office or position, hold any other office or position under the laws of this state, or any other state or territory or of the United States; nor engage in any occupation, business, endeavor, or activity which would or does conflict with their duties under this chapter; nor, directly or indirectly, use their office or employment to influence, persuade, or induce any other officer, employee, or person to adopt their political views or to favor any particular candidate for an elective or appointive public office; nor, directly or indirectly, solicit or accept, in any manner or way, any money or other thing of value for any person seeking an elective or appointive public office, or to any political party or any group of persons seeking to become a political party. Any officer or employee violating this section or any other provisions of this chapter shall, in addition to any other penalties provided by law, be subject to suspension or discharge from employment. Any commission member shall, in addition to any other penalties provided by law, be subject to removal from office as provided by law.

[C35, §1921-f14; C39, §1921.014; C46, 50, 54, 58, 62, 66, 71, §123.14; C73, 75, 77, 79, 81, §123.17]

\*Alcoholic beverages commission

\*\*Alcoholic beverages division

## HEALTH CARE FACILITIES

**135C.29 License list to county commissioner of elections.**

To facilitate the implementation of section 53.8, subsection 3 and section 53.22, the director shall provide to each county commissioner of elections at least annually a list of each licensed health care facility in that county. The list shall include the street address or location, and the mailing address if it is other than the street address or location, of each facility.

[C77, 79, 81, §135C.29]

## AREA HOSPITALS

**145A.2 Definitions.**

As used in this chapter, unless the context indicates otherwise:

1. "*Area hospital*" means a hospital established and operated by a merged area.
2. "*Board*" means the board of trustees of an area hospital.
3. "*Merged area*" means a public corporation formed by the residents of two or more contiguous or noncontiguous political subdivisions which have merged resources to establish and operate an area hospital.
4. "*Officials*" means the respective governing bodies of political subdivisions.
5. "*Political subdivision*" means any county, township, school district or city.

[C71, 73, 75, 77, 79, 81, §145A.2]

85 Acts, ch 123, §1, 2

**145A.6 Petition of protest.**

The plans formulated for the area hospital shall be deemed approved unless, within sixty days after the third and final publication of the order, a petition protesting the proposed plan containing the signatures of at least five percent of the registered voters of any political subdivision within the proposed merged area is filed with the respective officials of the protesting petitioners.

[C71, 73, 75, 77, 79, 81, §145A.6]

2001 Acts, ch 56, §8

**145A.7 Special election.**

When a protesting petition is received, the officials receiving the petition shall call a special election of all registered voters of that political subdivision for the purpose of approving or rejecting the order setting out the proposed merger plan. The vote will be taken by ballot in the form provided by sections 49.43 to 49.47, and the election shall be initiated and held as provided in chapter 49. A majority vote of those registered voters voting at said special election shall be sufficient to approve the order and thus include the political subdivision within the merged area.

[C71, 73, 75, 77, 79, 81, §145A.7]

2001 Acts, ch 56, §9

**145A.8 Effect on other subdivisions.**

A protest petition filed in one political subdivision shall have no effect upon the other political subdivisions of the proposed merged area; and in the portion of the proposed area where no protest petition is filed within sixty days after the last published notice, the residents of that portion of the area shall be

deemed to have approved the proposed plan, and shall not take part in any special election.

[C71, 73, 75, 77, 79, 81, §145A.8]

**145A.9 Continuance or abandonment.**

If the voters at the special election approve by a majority vote the proposed plan, then the plan may be carried out as originally proposed. However, if the voters of any political subdivision within the proposed area reject the plan as set out in the original order, then said original order shall be wholly nullified.

[C71, 73, 75, 77, 79, 81, §145A.9]

**145A.10 Board of hospital trustees.**

Upon acceptance of a plan, the officials of the merged area acting as a committee of the whole shall appoint a board of hospital trustees. The board of trustees shall then meet, elect a chairperson and adopt such rules for the organization of the board as may be necessary. The number and composition of the board shall be determined by the committee appointing the board; but as a matter of public policy the committee is directed to apportion the board into area districts in such a way that the residents of all of the merged area will be represented as nearly equally as possible on the board.

[C71, 73, 75, 77, 79, 81, §145A.10]

**145A.11 Terms of members.**

The terms of members of the board shall be four years, except that members of the initial board shall determine their respective terms by lot so that the terms of one-half of the members, as nearly as may be, shall expire at the next general election. The remaining initial terms shall expire at the following general election. The successors of the initial board shall be chosen from area districts at regular elections, and shall be nominated and elected in the same manner as county hospital trustees as provided in section 347.25, except that nomination papers on behalf of a candidate shall be signed by not less than twenty-five eligible electors from the area district.

[C71, 73, 75, 77, 79, 81, §145A.11]

**145A.17 Indebtedness and bonds.**

Boards of hospital trustees may by resolution acquire sites and buildings by purchase, lease, construction, or otherwise, for use by area hospitals and may by resolution contract indebtedness on behalf of the merged area and issue bonds bearing interest at a rate not exceeding the rate of interest permitted by chapter 74A, to raise funds in accordance with chapter 75 for the purpose of acquiring the sites and buildings.

[C71, 73, 75, 77, 79, 81, §145A.17]

85 Acts, ch 123, §8

**145A.18 Taxes.**

Taxes for the payment of bonds issued under section 145A.17 shall be levied in accordance with chapter 76 and in the same proportion as provided in section 145A.14. Any indebtedness incurred shall not be considered an indebtedness incurred for general and ordinary purposes.

[C71, 73, 75, 77, 79, 81, §145A.18]

85 Acts, ch 123, §9

**145A.19 Special tax.**

In addition to the tax authorized in connection with the annual budget and with the issuance of bonds, the voters in any merged area may at any regular election vote a special tax for a period not to exceed five years for the purchase of grounds, purchase or construction of buildings, purchase of equipment, and for the purpose of maintaining, remodeling, improving, or expanding the hospital area. Such a tax shall not exceed one-fourth of the maximum levy of each political subdivision as set out in the published order of merger, but the total tax levy for annual budget, bonds, and special purposes shall not exceed the maximum levy as proposed in the published order of merger.

[C71, 73, 75, 77, 79, 81, §145A.19]

**145A.21 Amendment of plan of merger — procedures — qualifications.**

A plan of merger once approved may be amended. An amendment shall be formulated and approved in the same manner and subject to the same limitations as provided in sections 145A.3 through 145A.9 for the formulation and approval of an original plan of merger. However, an amendment to a plan of merger shall not in any way impair the obligation of or source of payment for bonds or other indebtedness duly contracted prior to the effective date of the amendment to the plan of merger.

85 Acts, ch 123, §11

**145A.22 Actions subject to contest of elections — filing actions — limitation.**

A special election called to approve or reject an original plan of merger or an amendment to an approved plan of merger is subject to the provisions for contest of elections for public measures set forth in chapter 57. Except as provided with respect to election contests, after one hundred twenty days following the third and final publication of the order of approval of the plan or amendment to the plan of merger, an action shall not be filed to contest the regularity of the proceedings with respect to a plan of merger or amendment to a plan of merger. After one hundred twenty days the organization of the merged area is conclusively presumed to have been lawful.

85 Acts, ch 123, §12

## SOIL AND WATER CONSERVATION

## SOIL AND WATER CONSERVATION DISTRICTS

**161A.5 Soil and water conservation districts.**

1. The one hundred soil and water conservation districts\* established in the manner which was prescribed by law prior to July 1, 1975 shall continue in existence with the boundaries and the names\* in effect on July 1, 1975. If the existence of a district so established is discontinued pursuant to section 161A.10, a petition for re-establishment of the district or for annexation of the former district's territory to any other abutting district may be submitted to, and shall be acted upon by, the state soil conservation committee in substantially the manner provided by section 467A.5, Code 1975.

2. The governing body of each district shall consist of five commissioners elected on a nonpartisan basis for staggered four-year terms commencing on the first day of January that is not a Sunday or holiday following their election. Any eligible elector residing in the district is eligible to the office of commissioner, except that no more than one commissioner shall at any one time be a resident of any one township. A vacancy is created in the office of any commissioner who changes residence into a township where another commissioner then resides. If a commissioner is absent for sixty or more percent of monthly meetings during any twelve-month period, the other commissioners by their unanimous vote may declare the member's office vacant. A vacancy in the office of commissioner shall be filled by appointment of the state soil conservation committee until the next succeeding general election, at which time the balance of the unexpired term shall be filled as provided by section 69.12.



## DEPARTMENT OF EDUCATION

**256.10 Employment of professional staff.**

1. Not reprinted.

2. Appointments to the professional staff of the department shall be without reference to political party affiliation, religious affiliation, sex, or marital status, but shall be based solely upon fitness, ability, and proper qualifications for the particular position. The professional staff shall serve at the discretion of the director. A member of the professional staff shall not be dismissed for cause without appropriate due process procedures including a hearing.

3. Not reprinted.

86 Acts, ch 1245, §1410; 97 Acts, ch 212, §21; 2002 Acts, ch 1140, §6

**256.11 Educational standards.**

The state board\* shall adopt rules under chapter 17A and a procedure for accrediting all public and nonpublic schools in Iowa offering instruction at any or all levels from the prekindergarten level through grade twelve. The rules of the state board shall require that a multicultural, gender fair approach is used by schools and school districts. The educational program shall be taught from a multicultural, gender fair approach. Global perspectives shall be incorporated into all levels of the educational program.

The rules adopted by the state board pursuant to section 256.17, Code Supplement 1987, to establish new standards shall satisfy the requirements of this section to adopt rules to implement the educational program contained in this section.

The educational program shall be as follows:

1. to 4. Not reprinted.

5. In grades nine through twelve, a unit of credit consists of a course or equivalent related components or partial units taught throughout the academic year. The minimum program to be offered and taught for grades nine through twelve is:

*a.* Not reprinted.

*b.* Five units of the social studies including instruction in voting statutes and procedures, voter registration requirements, the use of paper ballots and voting machines in the election process, and the method of acquiring and casting an absentee ballot. All students shall complete a minimum of one-half unit of United States government and one unit of United States history. The one-half unit of United States government shall include the voting procedure as described in this lettered paragraph and section 280.9A. The government instruction shall also include a study of the Constitution of the United States and the Bill of Rights contained in the Constitution and an assessment of a student's knowledge of the Constitution and the Bill of Rights.

The county auditor, upon request and at a site chosen by the county auditor, shall make available to schools within the county voting machines or sample ballots that are generally used within the county, at times when these machines or sample ballots are not in use for their recognized purpose.

*c.* to *j.* Not reprinted.

6. to 15. Not reprinted.

86 Acts, ch 1245, §1411; 87 Acts, ch 224, §26; 87 Acts, ch 233, §451; 88 Acts, ch 1018, §1, 2; 88 Acts, ch 1262, §1, 2; 89 Acts, ch 210, §4, 5; 89 Acts, ch 265, §23–26; 89 Acts, ch 278, §1, 2; 89 Acts, ch 319, §39, 40; 90 Acts, ch 1272, §32, 39, 40; 91 Acts, ch 104, §1; 91 Acts, ch 193, §1; 92 Acts, ch 1088, §1; 92 Acts, ch 1127, §1, 2; 92 Acts, ch 1159, §2; 92 Acts, ch 1163, §58; 93 Acts, ch 127, §1, 2; 94 Acts, ch 1091, §13; 94 Acts, ch 1152, §1; 2001

**§256.11**

**October 2006**

Acts, ch 56, §11; 2001 Acts, ch 159, §1-3; 2002 Acts, ch 1140, §7; 2004 Acts, ch 1027, §1; 2005 Acts, ch 3, §55; 2006 Acts, ch 1182, §2

\*State board of education

**260C.28 Tax for equipment replacement and program sharing.**

1. Annually, the board of directors may certify for levy a tax on taxable property in the merged area at a rate not exceeding three cents per thousand dollars of assessed valuation for equipment replacement for the community college.

2. However, the board of directors may annually certify for levy a tax on taxable property in the merged area at a rate in excess of the three cents per thousand dollars of assessed valuation specified under subsection 1 if the excess tax levied does not cause the total rate certified to exceed a rate of nine cents per thousand dollars of assessed valuation, and the excess revenue generated is used for purposes of program sharing between community colleges or for the purchase of instructional equipment. Programs that are shared shall be designed to increase student access to community college programs and to achieve efficiencies in program delivery at the community colleges, including, but not limited to, the programs described under section 260C.46. Prior to expenditure of the excess revenues generated under this subsection, the board of directors shall obtain the approval of the director of the department of education.

3. If the board of directors wishes to certify for a levy under subsection 2, the board shall direct the county commissioner of elections to call an election to submit the question of such authorization for the board at a regular or special election. If a majority of those voting on the question at the election favors authorization of the board to make such a levy, the board may certify for a levy as provided under subsection 2 during each of the ten years following the election. If a majority of those voting on the question at the election does not favor authorization of the board to make a levy under subsection 2, the board shall not submit the question to the voters again until three hundred fifty-five days have elapsed from the election.

83 Acts, ch 180, §1, 2

CS83, §280A.28

87 Acts, ch 187, §1; 90 Acts, ch 1253, §38; 92 Acts, ch 1246, §46

C93, §260C.28

94 Acts, ch 1175, §4; 98 Acts, ch 1215, §31; 2006 Acts, ch 1152, §31

**260C.39 Combining merged areas — election.**

Any merged area may combine with any adjacent merged area after a favorable vote by the electors of each of the areas involved. If the boards of directors of two or more merged areas agree to a combination, the question shall be submitted to the electors of each area at a special election to be held on the same day in each area. The special election shall not be held within thirty days of any general election. Prior to the special election, the board of each merged area shall notify the county commissioner of elections of the county in which the greatest proportion of the merged area's taxable base is located who shall publish notice of the election according to section 49.53. The two respective county commissioners of elections shall conduct the election pursuant to the provisions of chapters 39 to 53. The votes cast in the election shall be canvassed by the county board of supervisors and the county commissioners of elections who conducted the election shall certify the results to the board of directors of each merged area.

If the vote is favorable in each merged area, the boards of each area shall proceed to transfer the assets, liabilities, and facilities of the areas to the combined merged area, and shall serve as the acting board of the combined merged area until a new board of directors is elected. The acting board shall

submit to the director of the department of education a plan for redistricting the combined merged area, and upon receiving approval from the director, shall provide for the election of a director from each new district at the next regular school election. The directors elected from each new district shall determine their terms by lot so that the terms of one-third of the members, as nearly as may be, expire each year. Election of directors for the combined merged area shall follow the procedures established for election of directors of a merged area. A combined merged area is subject to all provisions of law and rules governing merged areas.

**277.24** Repealed by 70 Acts, ch 1025, §40.

**277.25 Directors in new districts.**

At the first election in newly organized districts the directors shall be elected as follows:

- 1. In districts having three directors, one director shall be elected for one year, one for two years, and one for three years.
- 2. In districts having five directors, two shall be elected for one year, two for two years, and one for three years.
- 3. In districts having seven directors, two shall be elected for one year, two for two years, and three for three years.

[C73, §1802; C97, §2754; S13, §2754; C24, 27, §4199; C31, 35, §4216-c25; C39, §4216.25; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.25]

**277.26** Repealed by 75 Acts, ch 81, §154.

**277.27 Qualification.**

A member of the board shall, at the time of election or appointment, be an eligible elector of the corporation or subdistrict. Notwithstanding any contrary provision of the Code, a member of the board of directors of a school district shall not receive compensation directly from the school board unless the compensation is for part-time or temporary employment and does not exceed the limitation set forth in section 279.7A.

[C97, §2748; C24, 27, §4213; C31, 35, §4216-c27; C39, §4216.27; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.27]

87 Acts, ch 224, §46; 88 Acts, ch 1038, §2; 2001 Acts, ch 53, §1

**277.28 Oath required.**

Each director elected at a regular district or director district election shall qualify by taking the oath of office on or before the time set for the organization meeting of the board and the election and qualification entered of record by the secretary. The oath may be administered by any qualified member of the board or the secretary of the board and may be taken in substantially the following form:

“Do you solemnly swear that you will support the Constitution of the United States and the Constitution of the State of Iowa and that you will faithfully and impartially to the best of your ability discharge the duties of the office of ..... (naming the office) in ..... (naming the district) as now or hereafter required by law?”

If the oath of office is taken elsewhere than in the presence of the board in session it may be administered by any officer listed in sections 63A.1 and 63A.2 and shall be subscribed to by the person taking it in substantially the following form:

“I, ....., do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of Iowa and that I will faithfully and impartially to the best of my ability discharge the duties of the office of ..... (naming the office) in ..... (naming the district) as now or hereafter required by law.”

Such oath shall be properly verified by the administering officer and filed with the secretary of the board.

[C51, §1113, 1120; R60, §2032, 2079; C73, §1752, 1790; C97, §2758; S13, §2758; C24, 27, §4214; C31, 35, §4216-c28; C39, §4216.28; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.28]

88 Acts, ch 1038, §3

#### **277.29 Vacancies.**

Failure to elect at the proper election or to appoint within the time fixed by law or the failure of the officer elected or appointed to qualify within the time prescribed by law; the incumbent ceasing for any reason to be a resident of the district or removing residence from the subdistrict; the resignation or death of incumbent or of the officer-elect; the removal of the incumbent from, or forfeiture of, the office, or the decision of a competent tribunal declaring the office vacant; the conviction of incumbent of a felony, as defined in section 701.7, or of any public offense involving the violation of the incumbent's oath of office, shall constitute a vacancy.

[C31, 35, §4216-c29; C39, §4216.29; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.29]

86 Acts, ch 1112, §10; 86 Acts, ch 1238, §12

#### **277.30 Vacancies filled by election.**

When vacancies are to be filled by election, the provisions of section 69.12 shall control.

[C73, §1802; C97, §2754; S13, §2754; C24, 27, §4199; C31, 35, §4216-c30; C39, §4216.30; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.30]

## MISCELLANEOUS SECTIONS

## TEXTBOOKS

**301.24 Petition — election.**

Whenever a petition signed by one hundred eligible electors residing in the school district or a number of eligible electors residing in the school district equal to at least ten percent of the number of voters in the last preceding regular school election, whichever is greater, is filed with the secretary thirty days or more before the regular election, asking that the question of providing free textbooks for the use of pupils in the school district's attendance centers be submitted to the voters at the next regular election, the secretary shall cause notice of such proposition to be given in the notice of such election.

[C97, §2836; C24, 27, 31, 35, 39, §4464; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.24]

2001 Acts, ch 56, §15; 2006 Acts, ch 1044, §1

**301.25 Loaning books.**

If, at such election, a majority of the legal voters present and voting by ballot thereon shall authorize the board of directors of said school district to loan textbooks to the pupils free of charge, then the board shall procure such books as shall be needed, in the manner provided by law for the purchase of textbooks, and loan them to the pupils.

[C97, §2837; C24, 27, 31, 35, 39, §4465; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.25]

**301.27 Discontinuance of loaning.**

The electors may, at any election called as provided in section 301.24, direct the board to discontinue the loaning of textbooks to pupils.

[C97, §2837; C24, 27, 31, 35, 39, §4467; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §301.27]

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DEPARTMENT OF CULTURAL AFFAIRS  
HISTORICAL PRESERVATION DISTRICTS

**303.20 Definitions.**

As used in this subchapter of this chapter,\* unless the context otherwise requires:

1. “*Area of historical significance*” means contiguous pieces of property of no greater area than one hundred sixty acres under diverse ownership which:
  - a. Are significant in American history, architecture, archaeology and culture, and
  - b. Possess integrity of location, design, setting, materials, skill, feeling and association, and
  - c. Are associated with events that have been a significant contribution to the broad patterns of our history, or
  - d. Are associated with the lives of persons significant in our past, or
  - e. Embody the distinctive characteristics of a type; period; method of construction; represent the work of a master; possess high artistic values; represent a significant and distinguishable entity whose components may lack individual distinction.
  - f. Have yielded, or may be likely to yield, information important in prehistory or history.
2. “*Commission*” is the five-person body, elected by the registered voters in the historical preservation district from persons living in the district for the purpose of administering this subchapter of this chapter.\*
3. “*District*” means a historical preservation district established under this subchapter of this chapter.\*
4. “*Department*” means the department of cultural affairs.
5. “*Exterior features*” means the architectural style, general design and general arrangement of the exterior of a building or other structure, including the kind and texture of the building material and the type and style of all windows, doors, light fixtures, signs and other appurtenant fixtures. In the case of an outdoor advertising sign, “*exterior features*” means the style, material, size and location of the sign.
6. “*Property owner*” means an individual or corporation who is the owner of real estate for taxation purposes.

[C77, 79, 81, §303.20; 82 Acts, ch 1238, §14]

86 Acts, ch 1245, §1315; 95 Acts, ch 67, §53

\*See §303.21–303.26, 303.33, and 303.34 below

**303.21 Petition.**

Not less than ten percent of the eligible voters in an area of asserted historical significance may petition the department for a referendum for the establishment of a district.

The petition shall contain a description of the property suggested for inclusion in the district and the reasons justifying the creation of the district.

[C77, 79, 81, §303.21; 82 Acts, ch 1238, §15]

2001 Acts, ch 24, §45

**303.22 Action by department.**

The department shall hold a hearing not less than thirty days or more than sixty days after the petition is received. The department shall publish notice of the hearing, at a reasonable time before the hearing is to take place, and shall

post notice of the hearing in a reasonable number of places within the suggested district. The cost of notification shall be paid by the persons who petition for the establishment of a district.

At the hearing the department shall hear interested persons, accept written presentations, and shall determine whether the suggested district is an area of historical significance which may properly be established as a historical preservation district pursuant to the provisions of this subchapter of this chapter. The department may determine the boundaries which shall be established for the district. The department shall not include property which is not included in the suggested district unless the owner of the property is given an opportunity to be heard.

The department, if it determines that the suggested district meets the criteria for establishment as a historical preservation district, shall indicate the owners of the property and residents included and shall forward a list of owners and residents to the county commissioner of elections.

If the department determines that the suggested district does not meet the criteria for establishment as a historical preservation district, it shall so notify the petitioners.

[C77, 79, 81, §303.22; 82 Acts, ch 1238, §16]

### **303.23 Referendum.**

Within thirty days after the receipt of the list of owners of property and residents within the suggested historical preservation district, the department shall fix a date not more than forty-five days from the receipt of the petition seeking a referendum on the question of establishment of a historical preservation district. The department, after consultation with the county commissioner of elections, shall specify the polling place within the suggested district that will best serve the convenience of the voters and shall appoint from residents of the proposed district three judges and two clerks of election.

[C77, 79, 81, §303.23; 82 Acts, ch 1238, §17]

### **303.24 Notice.**

The department, after consultation with the county commissioner of elections, shall post notice of the referendum in a reasonable number of places within the suggested district a reasonable time before it is to take place. The notice shall state the purpose of the referendum, a description of the district, the date of the referendum, the location of the polling place, and the hours when the polls will open and close.

[C77, 79, 81, §303.24; 82 Acts, ch 1238, §18]

### **303.25 Voting.**

A person shall be qualified to vote at the referendum if such person is a registered voter of the area embraced by the proposed historic district.

An historic preservation district is established if a majority of the persons voting at the referendum votes in favor of its establishment.

[C77, 79, 81, §303.25]

94 Acts, ch 1169, §64

**303.26 Commission.**

At the same time the referendum is held, an election shall be held for the commission. Each voter at the referendum may write upon the ballot the names of not more than five persons who are eligible voters within the district to be members of the commission.

The five persons receiving the highest number of votes shall constitute the commission. In the event one of the five receiving the highest number of votes elects not to serve on the commission, the person receiving the next highest number of votes shall serve.

Of the initial commission the person receiving the highest number of votes shall receive a five-year term of office, the next highest a four-year term, the next highest a three-year term, the next highest a two-year term, and the fifth highest a one-year term. Thereafter, an election shall be held annually in the district to elect a member to a five-year term as each term expires.

Vacancies in the commission occurring between elections shall be filled by the remaining members of the commission by majority vote. Should a majority of those voting vote not to establish the district, the election shall be void.

[C77, 79, 81, §303.26]

**303.33 Termination of district.**

Two years after the establishment of a district, a referendum for the termination of the district shall be held if ten percent of the eligible voters in the district so request. If the registered voters, by a majority of those voting, favor termination, sections 303.20 through 303.32 will no longer have any effect on the property formerly included in the district.

If an election is held to terminate a district under this section and such attempt fails, another referendum for termination of the district in question shall not take place for a period of two years.

[C77, 79, 81, §303.33]

95 Acts, ch 67, §53; 96 Acts, ch 1034, §18

**303.34 Areas of historical significance.**

The provisions of sections 303.20 to 303.33 do not apply within the limits of a city. However, in order for a city to designate an area which is deemed to merit preservation as an area of historical significance, the following shall apply:

1. An area of historical significance shall be proposed by the governing body of the city on its own motion or upon the receipt by the governing body of a petition signed by residents of the city. The city shall submit a description of the proposed area of historical significance or the petition describing the proposed area, if the proposed area is a result of the receipt of a petition, to the historical division which shall determine if the proposed area meets the criteria in subsection 2 and may make recommendations concerning the proposed area. Any recommendations made by the division shall be made available by the city to the public for viewing during normal working hours at a city government place of public access.

2. A city shall not designate an area as an area of historical significance unless it contains contiguous pieces of property under diverse ownership which meets the criteria specified in section 303.20, subsection 1, paragraphs "a" to "f".

3. A city may provide by ordinance for the establishment of a commission to deal with matters involving areas of historical significance but shall provide by ordinance for such commission upon the enactment of the ordinance designating an area as an area of historical significance as required in subsection 4. Upon the establishment of the commission the city shall provide by ordinance for the

method of appointment, the number, and terms, of members of the commission and for the duties and powers of the commission. The commission shall contain not less than three members. The members of the commission shall be appointed with due regard to proper representation of residents and property owners of the city and their relevant fields of knowledge including but not limited to history, urban planning, architecture, archaeology, law, and sociology. At least one resident of each designated area of historical significance shall be appointed to the commission. Cities with a population of more than fifty thousand shall not appoint more than one-third of the members to the commission of an area of historical significance that are members of a city zoning commission appointed pursuant to chapter 414. The commission shall have the power to approve or deny applications for proposed alterations to exterior features within an area designated as an area of historical significance. An aggrieved party may appeal the commission's action to the governing body of the city. If not satisfied by the decision of the governing body, the party may appeal within sixty days of the governing body's decision to the district court for the county in which the designated area is located. On appeal the governing body or the district court as the case may be shall consider whether the commission has exercised its powers and followed the guidelines established by the law and ordinance, and whether the commission's action was patently arbitrary or capricious.

4. An area shall be designated an area of historical significance upon enactment of an ordinance of the city. Before the ordinance or an amendment to it is enacted, the governing body of the city shall submit the ordinance or amendment to the historical division for its review and recommendations.

[C81, §303.34; 82 Acts, ch 1238, §19]

89 Acts, ch 145, §1; 92 Acts, ch 1204, §7

#### LAND USE DISTRICTS

##### **303.41 Eligibility and purpose.**

A land use district shall not be created under this subchapter unless it is an area of contiguous territory encompassing twenty thousand acres or more of predominately rural and agricultural land owned by a single entity which has within its general boundaries at least seven platted villages which are not incorporated as municipalities at the time the district is organized. The eligible electors may create a land use district to conserve the distinctive historical and cultural character and peculiar suitability of the area for particular uses with a view to conserving the value of all existing and proposed structures and land and to preserve the quality of life of those citizens residing within the boundaries of the contiguous area by preserving its historical and cultural quality.

83 Acts, ch 108, §1

##### **303.42 Petition.**

Eligible electors residing within the limits of a proposed land use district equal in number to at least ten percent or more of the registered voters residing within the limits of a proposed land use district may file a petition in the office of the county auditor of the county in which the proposed land use district, or its major portion, is located, requesting that there be submitted to the registered voters of the proposed district the question of whether the territory within the boundaries of the proposed district shall be organized as a land use district under this subchapter. The petition shall be addressed to the board of supervisors of the county where it is filed and shall set forth the following:

## COUNTY HOME RULE IMPLEMENTATION

## DEFINITIONS

**331.101 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "*Amendment*" means a revision or repeal of an existing ordinance or code of ordinances.
  2. "*Auditor*" means the county auditor or a deputy auditor or employee designated by the county auditor.
  3. "*Board*" means the board of supervisors of a county.
  4. "*Book*", "*record*", and "*register*" include any mode of permanent recording including but not limited to, card files, microfilm or microfiche, electronic records and the like.
  5. "*Charter*" means a formal document establishing the functions, powers, organization, structure, privileges, rights, and duties of county government not inconsistent with state law.
  6. "*Clerk*" means the clerk of the district court or the clerk's designee.
  7. "*Commission*" means a body of eligible electors authorized to study, review, analyze, and recommend an alternative form of county government.
  8. "*County attorney*" means the county attorney or a deputy county attorney or assistant county attorney designated by the county attorney.
  9. "*Measure*" means an ordinance, amendment, resolution, or motion.
  10. "*Ordinance*" means a county law of a general and permanent nature.
  11. "*Recorded vote*" means a record, roll call vote.
  12. "*Recorder*" means the county recorder or a deputy recorder or employee designated by the county recorder.
  13. "*Resolution*" or "*motion*" means a statement of policy or an order for action to be taken.
  14. "*Sheriff*" means the county sheriff or a deputy sheriff designated by the sheriff.
  15. "*State law*" includes the Constitution of the State of Iowa and state statutes.
  16. "*Supervisor*" means a member of the board of supervisors.
  17. "*Treasurer*" means the county treasurer or a deputy treasurer or employee designated by the county treasurer.
- [C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §343.13; S81, §331.101; 81 Acts, ch 117, §100]  
88 Acts, ch 1229, §2; 90 Acts, ch 1233, §23

ALTERNATIVE FORMS OF COUNTY GOVERNMENT

BOARD OF SUPERVISORS

**331.201 Board membership — qualifications — term.**

1. The board shall consist of three members unless the membership is increased to five as provided in section 331.203.

2. A supervisor must be a registered voter of the county or supervisor district of the county which the supervisor represents.

3. The office of supervisor is an elective office except that if a vacancy occurs on the board, a successor shall be appointed to the unexpired term as provided in chapter 69.

4. The term of office of a supervisor is four years unless a change in the supervisor district representation plan or in the number of supervisors on the board requires the election of one or two supervisors for an initial term of two years.

[R60, §303; C73, §294, 299; C97, §410; SS15, §410; C24, 27, 31, 35, 39, §5106; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §331.1; S81, §331.201; 81 Acts, ch 117, §200]  
94 Acts, ch 1169, §64

*e.* The plan approved by the board of supervisors shall be submitted to the state commissioner of elections for approval. If the plan does not meet the standards of section 42.4, the state commissioner shall reject the plan, and the board of supervisors shall direct the commission to prepare and adopt an acceptable plan.

If, after the initial proposed supervisor district plan or precinct plan has been submitted to the state commissioner for approval, it is necessary for the temporary county redistricting commission to make subsequent attempts at adopting an acceptable plan, the subsequent plans do not require public hearings.

*f.* (1) Notwithstanding the provisions of this section to the contrary, for a county with a population of one hundred eighty thousand or more that has adopted a charter for a city-county consolidated form of government or a community commonwealth form of government and which charter provides for representation by districts, the legislative services agency, and not the temporary county redistricting commission, shall draw a representation plan as provided by paragraph “*a*” pursuant to a contract executed with the county. The plan drawn by the legislative services agency shall be based upon the precinct plan adopted for use by the county and shall be drawn in accordance with section 42.4, to the extent applicable. After the legislative services agency has drawn the plan, the legislative services agency shall at the earliest feasible time make available to the public all of the information required to be made public by paragraph “*b*”.

(2) The legislative services agency shall submit the plan to the governing body, and the governing body shall comply with the duties required by paragraph “*c*”, to the extent applicable.

(3) After the requirements of paragraphs “*a*” through “*c*” have been met, the governing body shall review the plan submitted by the legislative services agency and shall approve or reject the plan. If the plan is rejected, the governing body shall give written reasons for the rejection and shall direct the legislative services agency to prepare a second plan, as provided in paragraph “*d*”. The second plan may be amended by the governing body in accordance with the provisions of paragraph “*d*”. After receiving the second plan, the governing body shall approve either the first plan or the second plan.

(4) The governing body, after approving a plan, shall comply with the requirements of paragraph “*e*”.

3. *Open meetings and public records.* Chapters 21 and 22 shall apply to the temporary county redistricting commission.

4. *Termination.* The terms of the members of the temporary county redistricting commission shall expire twenty days following the date the county’s supervisor district plan and corresponding precinct plan, if applicable, are approved or imposed by the state commissioner of elections under sections 49.7 and 331.209.

94 Acts, ch 1179, §23; 2004 Acts, ch 1066, §1, 31

### **331.214 Vacancy of supervisor’s office.**

1. The circumstances which constitute a vacancy in office under section 69.2 shall be treated as a resignation of the office. At its next meeting after the sixty-day absence, the board, by resolution adopted and included in its minutes, shall declare the absent supervisor’s seat vacant.

2. *a.* If the physical or mental status of a supervisor is in question, the board shall decide whether a vacancy exists. The board shall comply with the notice and hearing requirements of section 69.2, subsection 2. After a hearing, the

board, by resolution adopted and included in its minutes, may declare the supervisor's seat vacant if the board determines either of the following:

(1) That the supervisor is physically or mentally incapable of performing the duties of office and there is reasonable cause to believe that the supervisor will not be able to perform the duties of office for the remainder of the supervisor's term. To make this determination, the board shall appoint a physician and the family of the supervisor shall appoint a physician to examine the supervisor. For purposes of this subsection, "*family*" means the parent, spouse, or child of the supervisor. If the family does not appoint a physician, the board shall appoint two physicians to examine the supervisor. The board shall receive the report of the physicians as evidence at the hearing. The board may only declare the supervisor's seat vacant if both physicians concur that the supervisor is physically or mentally incapable of performing the duties of office and there is reasonable cause to believe that the supervisor will not be able to perform the duties of office for the remainder of the supervisor's term. However, if the physicians concur that the supervisor is mentally incapable of performing the duties of office, the board shall not declare the supervisor's seat vacant for one year from the date of the hearing if the supervisor is receiving treatment for the mental incapacity.

(2) That the supervisor refuses or is unavailable for the examination required in subparagraph (1).

*b.* A supervisor whose seat is declared vacant under this subsection may appeal the board's decision to the district court.

*c.* If the board declares a vacancy under this subsection and the remaining balance of the supervisor's unexpired term is two and one-half years or more, a special election shall be held to fill the office as provided in section 69.14A, subsection 1, paragraph "c".

[C73, §298; C97, §414; C24, 27, 31, 35, 39, §5115; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §331.12; S81, §331.214; 81 Acts, ch 117, §213]

2006 Acts, ch 1065, §3



## ALTERNATIVE FORMS

**331.231 Alternative forms of county government.**

The alternative forms of county government are as follows:

1. Board of supervisor form as provided in division II, part 1.\*
2. Board-elected executive form as provided in section 331.239.
3. Board-manager form as provided in section 331.241.
4. Charter government form as provided in section 331.246.
5. City-county consolidated form as provided in sections 331.247 through 331.252.
6. Multicounty consolidated form as provided in sections 331.253 through 331.257.
7. Community commonwealth form as provided in sections 331.260 through 331.263.

88 Acts, ch 1229, §3; 91 Acts, ch 256, §2, 3; 2004 Acts, ch 1066, §2, 31

\*See §331.201, 331.203–331.210A, 331.214 above

**331.232 Plan for an alternative form of government.**

1. A charter to change a form of county government may be submitted to the electors of a county only by a commission established by resolution of the board upon petition of the number of eligible electors of the county equal to at least twenty-five percent of the votes cast in the county for the office of president of the United States or governor at the preceding general election or the signatures of at least ten thousand eligible electors of the county, whichever number is fewer. The board shall within ten days of the filing of a valid petition adopt such a resolution.

2. The council of any city wishing to participate in a city-county consolidation charter commission must notify the board by resolution within thirty days of the creation of the commission pursuant to subsection 1. A city's participation in a city-county consolidation charter commission may be proposed by the city council adopting a resolution in favor of participation or by eligible electors of the city equal in number to at least twenty-five percent of the persons who voted at the last regular city election petitioning the council to adopt a resolution in favor of participation. The council shall within ten days of the filing of a valid petition adopt such a resolution.

3. An alternative form of county government shall be submitted to the electorate by the commission in the form of a charter.

88 Acts, ch 1229, §4; 91 Acts, ch 256, §4; 2004 Acts, ch 1066, §3, 4, 31

**331.233 Appointment of commission members.**

1. The members of a commission created to study the alternative forms of county government under division II, part 1, and sections 331.239, 331.241, 331.246, and 331.253, shall be appointed within forty-five days after the adoption of the resolution creating the commission as follows:

a. Two members shall be appointed by each of the following officers:

- (1) County auditor.
- (2) County recorder.
- (3) County treasurer.
- (4) County sheriff.
- (5) County attorney.

b. Two members shall be appointed by each member of the board.

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(2) The board must follow the following procedures to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease or lease-purchase contract exceeds the limits set forth in subparagraph (1):

(a) The board must institute proceedings for entering into a lease or lease-purchase contract payable from the general fund by causing a notice of the meeting to discuss entering into the lease or lease-purchase contract, including a statement of the principal amount and purpose of the lease or lease-purchase and the right to petition for an election, to be published as provided in section 331.305 at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the board hold a meeting at which it is proposed to take action to enter into the lease or lease-purchase contract.

(b) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the lease or lease-purchase contract, a petition is filed with the auditor in the manner provided by section 331.306, asking that the question of entering into the lease or lease-purchase contract be submitted to the registered voters of the county, the board shall either by resolution declare the proposal to enter into the lease or lease-purchase contract to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the lease or lease-purchase contract. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the county of ..... enter into a lease or lease-purchase contract in an amount of \$..... for the purpose of .....? Notice of the election and its conduct shall be in the manner provided in section 331.442, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into a lease or lease-purchase contract is approved at the election, the board may proceed and enter into the lease or lease-purchase contract.

f. The governing body may authorize a lease or lease-purchase contract payable from the net revenues of a county enterprise or combined county enterprise by following the authorization procedures of section 331.464.

g. A lease or lease-purchase contract to which a county is a party or in which a county has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

h. Property that is lease-purchased by a county is exempt under section 427.1, subsection 2.

i. A contract for construction by a private party of property to be leased or lease-purchased by a county is not a contract for a public improvement under section 331.341, subsection 1. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a county, with the county's obligation to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the county is a public improvement and is subject to section 331.341, subsection 1.

11. to 16. Not reprinted.

[C51, §93; R60, §221; C73, §279; C97, §394; C24, 27, 31, 35, 39, §5128; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §332.1; S81, §331.301; 81 Acts, ch 117, §300]

85 Acts, ch 156, §1; 86 Acts, ch 1211, §19; 87 Acts, ch 115, §51; 89 Acts, ch 101, §1; 92 Acts, ch 1138, §1; 92 Acts, ch 1204, §8; 95 Acts, ch 67, §53; 95 Acts, ch 206, §8, 12; 99 Acts, ch 186, §1; 2001 Acts, ch 143, §1; 2001 Acts, ch 153, §9, 16; 2004 Acts, ch 1119, §1; 2006 Acts, ch 1010, §93

### **331.305 Publication of notices.**

Unless otherwise provided by state law, if notice of an election, hearing, or other official action is required by this chapter, the board shall publish the notice at least once, not less than four nor more than twenty days before the date of the election, hearing, or other action, in one or more newspapers which meet the requirements of section 618.14. Notice of an election shall also comply with section 49.53.

[R60, §312(23); C73, §303(24); C97, §423; SS15, §423; C24, 27, 31, 35, 39, §5261; C46, 50, 54, 58, §330.18, 345.1; C62, 66, §111A.6, 330.18, 345.1; C71, §111A.6, 313A.35, 330.18, 345.1; C73, §111A.6, 313A.35, 330.18, 345.1, 361.5; C75, 77, 79, §111A.6, 313A.35, 330.18, 332.3(13), 345.1, 361.5; C81, §111A.6, 313A.35, 330.18, 332.3(13), 345.1, 361.5, 444.9(2); S81, §331.305; 81 Acts, ch 117, §304]

### **331.306 Petitions of eligible electors.**

If a petition of the voters is authorized by this chapter, the petition is valid if signed by eligible electors of the county equal in number to at least ten percent of the votes cast in the county for the office of president of the United States or governor at the preceding general election, unless otherwise provided by state law. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

Petitions authorized by this chapter shall be filed with the board of supervisors not later than eighty-two days before the date of the general election if the question is to be voted upon at the general election. If the petition is found to be valid, the board of supervisors shall, not later than sixty-nine days before the general election, notify the county commissioner of elections to submit the question to the registered voters at the general election.

A petition shall be examined before it is accepted for filing. If it appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioners.

## REVENUE BONDS

**331.461 Definitions.**

As used in this part, unless the context otherwise requires:

1. “*Combined county enterprise*” means two or more county enterprises combined and operated as a single enterprise.

2. “*County enterprise*” means any of the following:

a. Airports and airport systems.

b. Works and facilities useful and necessary for the collection, treatment, purification, and disposal in a sanitary manner of the liquid and solid waste, sewage, and industrial waste of the county, including sanitary disposal projects as defined in section 455B.301 and sanitary sewage systems, and including the acquisition, establishment, construction, purchase, equipment, improvement, extension, operation, maintenance, reconstruction, and repair of the works and facilities within or without the limits of the county, and including works and facilities to be jointly used by the county and other political subdivisions.

c. Swimming pools and golf courses, including their acquisition, establishment, construction, purchase, equipment, improvement, extension, operation, maintenance, reconstruction, and repair.

d. The equipment, enlargement, and improvement of a county public hospital previously established and operating under chapter 347, including acquisition of the necessary lands, rights-of-way, and other property, subject to approval by the board of hospital trustees. However, notice of the proposed bond issue shall be published at least once each week for two consecutive weeks and if, within thirty days following the date of the first publication, a petition requesting an election on the proposal and signed by eligible electors of the county equal to at least twenty percent of the votes cast at the preceding election for governor is filed with the county auditor, the proposal is subject to the election requirements in section 331.442, subsections 2, 3, and 4, for general county purpose bonds. Bonds issued under this paragraph shall mature in not more than thirty years from date of issuance.

e. In a county with a population of less than one hundred fifty thousand, a county hospital established under chapter 37 or 347A, including its acquisition, construction, equipment, enlargement, and improvement, and including necessary lands, rights-of-way, and other property. However, bonds issued under this paragraph shall mature in not more than thirty years from date of issuance, and are subject to the notice and election requirements of bonds issued under paragraph “d”.

f. A waterworks or single benefited water district under section 357.35, including land, easements, rights-of-way, fixtures, equipment, accessories, improvements, appurtenances, and other property necessary or useful for the operation of the waterworks or district.

g. Housing for persons who are elderly or persons with physical disabilities.

3. to 9. Not reprinted.

[S81, §331.461; 81 Acts, ch 117, §460; 82 Acts, ch 1104, §49]

2a. [C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §330.14; S81, §331.461(1); 81 Acts, ch 117, §460]

b. [C35, §6066-f1, -f5, -f8; C39, §6066.24–6066.32; C46, 50, 54, 58, §394.1, 394.5–394.9; C62, 66, 71, 73, §394.1, 394.5–394.9, 394.12; C75, 77, §332.44; C79, 81, §332.44, 332.52; S81, §331.461(1); 81 Acts, ch 117, §460]

c. [C35, §6066-f1, 6066-f3, 6066-f6–6066-f8; C39, §6066.24, 6066.26, 6066.29–6066.32; C46, 50, 54, 58, 62, 66, §394.1, 394.3, 394.6–394.9; C71, 73, §394.1, 394.3, 394.6–394.9, 394.13; C75, 77, 79, 81, §332.44; S81, §331.461(1); 81 Acts, ch 117, §460]

d. [C73, 75, 77, 79, 81, §347.27; S81, §331.461(1); 81 Acts, ch 117, §460]

e. [C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §347A.1–347A.4; S81, §331.461(1); 81 Acts, ch 117, §460]

f. [C79, 81, §332.52; S81, §331.461(1); 81 Acts, ch 117, §460; 82 Acts, ch 1219, §2]

**1, 3–9.** [S81, §331.461(2–9); 81 Acts, ch 117, §460]

99 Acts, ch 76, §1, 2; 2001 Acts, ch 56, §24; 2004 Acts, ch 1072, §7; 2005 Acts, ch 37, §5

**331.471 County enterprise commissions.**

1. As used in this section, “*commission*” means a commission established under this section to manage a county enterprise or combined county enterprise. Upon receipt of a valid petition as defined in section 331.306 requesting that a proposal for establishment or discontinuance of a commission be submitted to the voters, or upon its own motion, the board shall submit the proposal at the next general election or at an election which includes a proposal to establish, acquire, lease, or dispose of the county enterprise or combined county enterprise.

2. A proposal for the establishment of a county enterprise commission shall specify a commission of either three or five members. If a majority of those voting approves the proposal, the board shall proceed as proposed. If a majority of those voting does not approve the proposal, the same or a similar proposal shall not be submitted to the voters of the county and the board shall not establish a commission for the same purpose for at least four years from the date of the election at which the proposal was defeated.

3. If a proposal to discontinue a commission receives a favorable majority vote, the commission is dissolved at the time provided in the proposal and shall turn over to the board the management of the county enterprise or combined county enterprise and all property relating to it.

4. If a proposal to establish a commission receives a favorable majority vote, the commission is established at the time provided in the proposal. The board shall appoint the commission members, as provided in the proposal and this section. The board shall provide by resolution for staggered six-year terms for and shall set the compensation of commission members.

5. A commission member appointed to fill a vacancy occurring by reason other than the expiration of a term is appointed for the balance of the unexpired term.

6. The title of a commission shall be appropriate to the county enterprise or combined county enterprise administered by the commission. A commission may be a party to legal action. A commission may exercise all powers of the board in relation to the county enterprise or combined county enterprise it administers, with the following exceptions:

*a.* A commission shall not certify taxes to be levied, pass ordinances or amendments, or issue general obligation bonds.

b. The title to all property of a county enterprise or combined county enterprise shall be held in the name of the county, but the commission has all the powers and authorities of the board with respect to the acquisition by purchase, condemnation or otherwise, lease, sale or other disposition of the property, and the management, control and operation of the property, subject to the requirements, terms, covenants, conditions and provisions of any resolutions authorizing the issuance of revenue bonds, pledge orders, or other obligations which are payable from the revenues of the county enterprise or combined county enterprise, and which are then outstanding.

c. A commission shall make to the board a detailed annual report, including a complete financial statement.

d. Immediately following a regular or special meeting of a commission, the secretary of the commission shall prepare a condensed statement of the proceedings of the commission and cause the statement to be published as provided in section 331.305. The statement shall include a list of all claims allowed, showing the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the commission shall provide at its office upon request an unconsolidated list of all claims allowed. Salary claims must show the gross amount of the claim except that salaries paid to persons regularly employed by the commission, for services regularly performed by the persons shall be published once annually showing the gross amount of the salary. In counties having more than one hundred fifty thousand population the commission shall each month prepare in pamphlet form the statement required in this paragraph for the preceding month, and furnish copies to the public library, the daily and official newspapers of the county, the auditor, and to persons who apply at the office of the secretary, and the pamphlet shall constitute publication as required. Failure by the secretary to make publication is a simple misdemeanor.

7. A commission shall control tax revenues allocated to the county enterprise or combined county enterprise it administers and all moneys derived from the operation of the county enterprise or combined county enterprise, the sale of its property, interest on investments, or from any other source related to the county enterprise or combined county enterprise.

8. All moneys received by the commission shall be held by the county treasurer in a separate fund, with a separate account or accounts for each county enterprise or combined county enterprise. Moneys may be paid out of each account only at the direction of the appropriate commission.

9. A commission is subject to section 331.341, subsections 1, 2, 4 and 5, and section 331.342, in contracting for public improvements.

[S81, §331.471; 81 Acts, ch 117, §470]

83 Acts, ch 42, §1; 2006 Acts, ch 1018, §3

COUNTY OFFICERS

COUNTY AUDITOR

### **331.501 Office of county auditor.**

1. The office of auditor is an elective office except that if a vacancy occurs in the office, a successor shall be appointed to the unexpired term as provided in chapter 69.

2. A person elected or appointed to the office of auditor shall qualify by taking the oath of office as provided in section 63.10 and giving bond as provided in section 64.8.

3. The term of office of the auditor is four years.

[C73, §589; C97, S13, §1072; C24, 27, 31, 35, 39, §520; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17; S81, §331.501; 81 Acts, ch 117, §500]

### **331.502 General duties.**

The auditor shall:

1. to 16. Not reprinted.

17. Make available to schools, voting machines or sample ballots for instructional purposes as provided in section 256.11, subsection 5.

18. to 43. Not reprinted.

**9–49.** [S81, §331.502(9–52); 81 Acts, ch 117, §501; 82 Acts, ch 1104, §51, 52]

83 Acts, ch 101, §77; 83 Acts, ch 185, §29, 62; 83 Acts, ch 186, §10080–10083, 10201; 86 Acts, ch 1108, §2, 3; 86 Acts, ch 1155, §4; 87 Acts, ch 115, §53; 87 Acts, ch 227, §27; 88 Acts, ch 1158, §69; 88 Acts, ch 1262, §7; 93 Acts, ch 148, §1; 94 Acts, ch 1173, §21, 22; 96 Acts, ch 1129, §113; 98 Acts, ch 1107, §9; 2000 Acts, ch 1117, §21; 2003 Acts, ch 35, §42, 49; 2003 Acts, ch 145, §251; 2005 Acts, ch 128, §2; 2005 Acts, ch 167, §54, 66

### **331.505 Duties relating to elections.**

The auditor shall:

1. Serve as county commissioner of elections as provided in chapter 47.

2. Conduct all elections held within the county.

3. Serve as a member of a board to hear and decide objections made to a certification of nomination as provided in section 44.7.

4. Serve as county commissioner of registration as provided in chapter 48A.

5. Serve as clerk of the election contest court as provided in chapter 62.

6. Record the orders of suspension and temporary appointment of county and township officers as provided in section 66.19.

[S81, §331.505; 81 Acts, ch 117, §504]

94 Acts, ch 1169, §60

### **331.508 Books and records.**

The auditor shall keep the following books and records:

1. Election book for contested proceedings as provided in section 62.3.

2. to 10. Not reprinted.

[C97, §480; S13, §498; C24, 27, 31, 35, 39, §5246; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §342.2; S81, §331.508; 81 Acts, ch 117, §507]

86 Acts, ch 1001, §19; 94 Acts, ch 1173, §24; 95 Acts, ch 49, §8; 97 Acts, ch 121, §4

### **331.510 Reports by the auditor.**

The auditor shall make:

1. A report to the governor of a vacancy, except by resignation, in the office of state representative or senator as provided in section 69.5.

2. A report to the secretary of state of the name, office, and term of office of each appointed or elected county officer within ten days of the officer's election or appointment and qualification.



3. and 4. Not reprinted.

[R60, §291; C73, §324; C97, §474; C24, 27, 31, 35, 39, §5150; C46, 50, 54, 58, 62, 66, 71, §333.10; C73, 75, 77, §333.10, 442.2; C79, 81, §333.10, 333.16; S81, §331.510; 81 Acts, ch 117, §509]

83 Acts, ch 123, §141, 209; 85 Acts, ch 21, §42; 85 Acts, ch 197, §7; 88 Acts, ch 1134, §72

#### COUNTY TREASURER

##### **331.551 Office of county treasurer.**

1. The office of treasurer is an elective office except that if a vacancy occurs in the office, a successor shall be appointed to the unexpired term as provided in chapter 69.

2. A person elected or appointed to the office of treasurer shall qualify by taking the oath of office as provided in section 63.10 and give bond as provided in section 64.10.

3. The term of office of the treasurer is four years.

[C51, §96, 151, 239; R60, §224, 473; C73, §589; C97, S13, §1072; C24, 27, 31, 35, 39, §520; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17; S81, §331.551; 81 Acts, ch 117, §550]

##### **331.552 General duties.**

The treasurer shall:

1. to 7. Not reprinted.

8. Serve on a nomination appeals commission to hear nomination objections filed with the county commissioner of elections as provided in section 44.7.

9. to 36. Not reprinted.

**5–15.** [S81, §331.552(5–17); 81 Acts, ch 117, §551]

83 Acts, ch 123, §143–146, 209; 83 Acts, ch 185, §31, 32, 62; 83 Acts, ch 186, §10088, 10089, 10201, 10204; 84 Acts, ch 1003, §1; 86 Acts, ch 1001, §20; 86 Acts, ch 1155, §5; 91 Acts, ch 191, §10; 92 Acts, ch 1016, §5; 94 Acts, ch 1173, §26; 95 Acts, ch 57, §4; 96 Acts, ch 1129, §113; 2000 Acts, ch 1084, §2; 2001 Acts, ch 45, §3; 2003 Acts, ch 24, §4; 2003 Acts, ch 145, §252; 2004 Acts, ch 1092, §5; 2005 Acts, ch 167, §55, 66; 2006 Acts, ch 1070, §15, 16, 31

##### **331.557A Duties relating to issuance of driver's licenses.**

The treasurer of any county participating in county issuance of driver's licenses under chapter 321M shall:

1. to 3. Not reprinted.

4. Participate in voter registration according to the terms of chapter 48A, and submit completed voter registration forms to the state registrar of voters.

5. and 6. Not reprinted.

98 Acts, ch 1073, §12; 98 Acts, ch 1143, §21, 26

#### COUNTY RECORDER

##### **331.601 Office of county recorder.**

1. The office of recorder is an elective office except that if a vacancy occurs in the office, a successor shall be appointed to the unexpired term as provided in chapter 69.

2. A person elected or appointed to the office of recorder shall qualify by taking the oath of office as provided in section 63.10 and giving bond as provided in section 64.8.

3. The term of office of the recorder is four years.

4. Not reprinted.

[C51, §96, 239; R60, §224, 473; C73, §589; C97, §1072; S13, §1072; C24, 27, 31, 35, 39, §520; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17; S81, §331.601; 81 Acts, ch 117, §600]

95 Acts, ch 124, §9, 26

### **331.602 General duties.**

The recorder shall:

1. to 5. Not reprinted.

6. Carry out duties as a member of a nomination appeals commission as provided in section 44.7.

7. to 40. Not reprinted.

**6-44.** [S81, §331.602(6-44); 81 Acts, ch 117, §601; 82 Acts, ch 1104, §57]

83 Acts, ch 101, §78; 85 Acts, ch 195, §41; 86 Acts, ch 1091, §1-3; 86 Acts, ch 1108, §4; 86 Acts, ch 1155, §6; 87 Acts, ch 30, §17; 88 Acts, ch 1046, §1; 90 Acts, ch 1081, §1; 90 Acts, ch 1205, §11; 90 Acts, ch 1236, §49; 91 Acts, ch 183, §1; 91 Acts, ch 211, §2; 92 Acts, ch 1073, §6-8; 92 Acts, ch 1163, §83; 94 Acts, ch 1023, §105; 94 Acts, ch 1025, §4; 94 Acts, ch 1055, §1; 95 Acts, ch 124, §10, 26; 95 Acts, ch 160, §1; 96 Acts, ch 1034, §29; 96 Acts, ch 1186, §23; 97 Acts, ch 23, §37; 97 Acts, ch 116, §1; 98 Acts, ch 1199, §2, 27; 98 Acts, ch 1223, §30; 99 Acts, ch 83, §3, 4, 11; 99 Acts, ch 171, §34, 42; 2000 Acts, ch 1085, §2; 2000 Acts, ch 1149, §168, 187; 2001 Acts, ch 44, §4, 5; 2001 Acts, ch 45, §6; 2002 Acts, ch 1017, §4, 8; 2002 Acts, ch 1113, §5; 2003 Acts, ch 5, §1; 2003 Acts, ch 145, §286; 2004 Acts, ch 1069, §2, 4; 2004 Acts, ch 1101, §39; 2004 Acts, ch 1132, §86; 2005 Acts, ch 138, §10; 2006 Acts, ch 1031, §1

## COUNTY SHERIFF

### **331.651 Office of county sheriff.**

1. The office of sheriff is an elective office. However, if a vacancy occurs in the office, the first deputy shall assume the office after qualifying as provided in this section. The first deputy shall hold the office until a successor is appointed or elected to the unexpired term as provided in chapter 69. If a sheriff is suspended from office, the district court may appoint a sheriff until a temporary appointment is made by the board as provided in section 66.19.

A person elected or appointed sheriff shall meet all the following qualifications:

*a.* Have no felony convictions.

*b.* Be age twenty-one or over at the time of assuming the office of sheriff.

*c.* Be a certified peace officer recognized by the Iowa law enforcement academy council under chapter 80B or complete the basic training course provided at the Iowa law enforcement academy's central training facility or a location other than the central training facility within one year of taking office. A person shall be deemed to have completed the basic training course if the person meets all course requirements except the physical training requirements.

2. A person elected or appointed to the office of sheriff shall qualify by taking the oath of office as provided in section 63.10 and give bond as provided in section 64.8.

3. The term of office of the sheriff is four years.

[C51, §96, 239; R60, §224, 473; C73, §589; C97, S13, §1072; C24, 27, 31, 35, 39, §520; C46, §39.17; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17, 337.20; S81, §331.651; 81 Acts, ch 117, §650]

94 Acts, ch 1010, §1; 2002 Acts, ch 1134, §95, 115

### **331.653 General duties of the sheriff.**

The sheriff shall:

1. to 6. Not reprinted.

7. Carry out duties relating to election contests as provided in sections 57.6, 62.4, and 62.19.

8. to 71. Not reprinted.

**5-71.** [S81, §331.653(5-71); 81 Acts, ch 117, §652]

83 Acts, ch 101, §79; 83 Acts, ch 186, §10090, 10091, 10201; 85 Acts, ch 67, §41; 86 Acts, ch 1108, §5; 86 Acts, ch 1121, §2; 86 Acts, ch 1155, §7; 86 Acts, ch 1220, §39; 87 Acts, ch 115, §54; 90 Acts, ch 1230, §91; 91 Acts, ch 191, §14; 92 Acts, ch 1139, §28; 94 Acts, ch 1103, §3; 94 Acts, ch 1173, §27; 95 Acts, ch 67, §29; 95 Acts, ch 191, §24; 96 Acts, ch 1111, §1; 96 Acts, ch 1129, §113; 96 Acts, ch 1186, §23; 97 Acts, ch 35, §23, 25; 97 Acts, ch 126, §41, 42; 98 Acts, ch 1090, §68, 84; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80; 2003 Acts, ch 145, §286; 2003 Acts, ch 151, §27; 2004 Acts, ch 1084, §3; 2005 Acts, ch 167, §56, 66; 2006 Acts, ch 1034, §2

### **331.661 Multicounty office.**

1. Two or more county boards of supervisors may adopt resolutions proposing to share the services of a county sheriff. The resolutions shall also propose that the question of establishing the office of multicounty sheriff be submitted to the electorate of the counties proposing to share the services of a county sheriff. The proposal is adopted in those counties where a majority of the electors voting approves the proposal.

2. The county sheriff shall be elected by a majority of the votes cast for the office of county sheriff in all of the counties which the county sheriff will serve. The election shall be conducted in accordance with section 47.2, subsection 2.

3. The office of multicounty sheriff is created effective on January 1 of the year following the next general election at which the county sheriff is elected as provided by this section and section 39.17.

91 Acts, ch 189, §1

## COUNTY ATTORNEY

### **331.751 Office of county attorney.**

1. The office of county attorney is an elective office except that if a vacancy occurs in the office, a successor shall be appointed to the unexpired term as provided in chapter 69.

2. A person elected or appointed to the office of county attorney shall be a registered voter of the county, be admitted to the practice of law in the courts of this state as provided by law, qualify by taking the oath of office as provided in section 63.10, and give bond as provided in section 64.8. A person is not qualified for the office of county attorney while the person's license to practice law in this or any other state is suspended or revoked.

3. The term of office of the county attorney is four years.

[C51, §96, 239; R60, §224; C97, §1072; S13, §308-b, 1072; C24, 27, 31, 35, 39, §520, 5179; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §39.17, 336.1; S81, §331.751; 81 Acts, ch 117, §750]

94 Acts, ch 1169, §64

### **331.753 Multicounty office.**

1. If two or more counties agree, pursuant to chapter 28E, to share the services of a county attorney, the county attorney shall be elected by a majority of the votes cast for the office of county attorney in all of the counties which the county attorney will serve as provided in the agreement. The election shall be conducted in accordance with section 47.2, subsection 2.

2. The effective date of the agreement shall be January 1 of the year following the next general election at which the county attorney is elected as provided by this section and section 39.17.

[C79, 81, §336.6; S81, §331.753; 81 Acts, ch 117, §753]

### **331.756 Duties of the county attorney.**

The county attorney shall:

1. to 13. Not reprinted.

14. Hear and decide objections to a nomination filed with the county election commissioner as provided in section 44.7.

15. Review the report and recommendations of the ethics and campaign disclosure board and proceed to institute the recommended actions or advise the board that prosecution is not merited, as provided in sections 68B.32C and 68B.32D.

16. to 85. Not reprinted.

[C97, SS15, §301; C24, 27, 31, 35, 39, §5180; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §336.2; S81, §331.756; 81 Acts, ch 117, §756; 82 Acts, ch 1021, §10, 12(1), ch 1100, §28, ch 1104, §59]

83 Acts, ch 96, §111, 112, 157, 159; 84 Acts, ch 1163, §2; 84 Acts, ch 1299, §9; 85 Acts, ch 195, §42; 86 Acts, ch 1001, §21; 86 Acts, ch 1112, §11; 86 Acts, ch 1155, §8; 86 Acts, ch 1238, §17; 86 Acts, ch 1245, §1117; 87 Acts, ch 30, §18; 87 Acts, ch 98, §4; 88 Acts, ch 1134, §73; 89 Acts, ch 197, §30; 90 Acts, ch 1165, §17; 92 Acts, ch 1242, §30, 31; 93 Acts, ch 97, §39; 93 Acts, ch 110, §2-4; 93 Acts, ch 142, §12; 93 Acts, ch 163, §32; 94 Acts, ch 1023, §106; 94 Acts, ch 1170, §53; 94 Acts, ch 1173, §29, 30; 95 Acts, ch 49, §9; 95 Acts, ch 143, §9; 95 Acts, ch 169, §3; 96 Acts, ch 1034, §31; 96 Acts, ch 1111, §2; 96 Acts, ch 1129, §113; 96 Acts, ch 1131, §1; 96 Acts, ch 1186, §23; 97 Acts, ch 41, §32; 98 Acts, ch 1090, §69, 84; 98 Acts, ch 1162, §28, 30; 2002 Acts, ch 1119, §159; 2003 Acts, ch 107, §3; 2003 Acts, ch 115, §15, 19; 2003 Acts, ch 145, §286; 2004 Acts, ch 1101, §40; 2005 Acts, ch 167, §57, 66; 2006 Acts, ch 1010, §94; 2006 Acts, ch 1097, §18; 2006 Acts, ch 1115, §33; 2006 Acts, ch 1185, §121

## LIBRARY DISTRICTS

### **336.2 Library districts formed.**

A library district may be established composed of one or more counties, one or more cities, or any combination of cities and counties.

Eligible electors residing within the proposed district in a number not less than five percent of those voting for president of the United States or governor, as the case may be, within the district at the last general election may petition the board of supervisors of the county, or the city council, for the establishment of the library district. The petition shall clearly designate the area to be included in the district.

25. When all bonds issued by an authority have been retired, the authority may convey the title to the property owned by the authority to the incorporating units in accordance with the provisions contained in the articles of incorporation. If articles of incorporation do not exist, the conveyance may be made in accordance with any agreement adopted by the respective governing bodies of the incorporating units and the authority.

The question of whether a conveyance shall be made shall be submitted to the registered voters of the county. An affirmative vote equal to at least a majority of the total votes cast on the question shall be required to authorize the conveyance. If the question does not carry, the authority shall continue to operate, maintain, and manage the building under a lease arrangement with the incorporating units.

26. Not reprinted.

[C62, §368.50–368.53; C66, 71, 73, §368.54, 368.55, 368.57–368.71; C75, 77, 79, 81, §346.27]

95 Acts, ch 67, §53; 2002 Acts, ch 1134, §100, 101, 115; 2003 Acts, ch 178, §26; 2004 Acts, ch 1175, §247, 248, 287; 2006 Acts, 1st Ex, ch 1001, §31, 49

## COUNTY HOSPITALS

### **347.7 Tax levies.**

If a county hospital is established, the board of supervisors, at the time of levying ordinary taxes, shall levy a tax at the rate voted not to exceed fifty-four cents per thousand dollars of assessed value in any one year for the erection and equipment of the hospital, and also a tax not to exceed twenty-seven cents per thousand dollars of value for the improvement, maintenance, and replacements of the hospital, as certified by the board of hospital trustees. However, in counties having a population of two hundred twenty-five thousand or over, the levy for taxes payable in the fiscal year beginning July 1, 2001, and for subsequent fiscal years, for improvements and maintenance of the hospital shall not exceed two dollars and five cents per thousand dollars of assessed value in any one year. The proceeds of the taxes constitute the county public hospital fund and the fund is subject to review by the board of supervisors in counties having a population of two hundred twenty-five thousand or over. However, the board of trustees of a county hospital, where funds are available in the county public hospital fund of the county which are unappropriated, may use the unappropriated funds for erecting and equipping hospital buildings and additions to the hospital buildings without authority from the voters of the county.

No levy shall be made for the improvement, maintenance, or replacements of the hospital until the hospital has been constructed, staffed, and receiving patients. If revenue bonds are issued and outstanding under section 331.461, subsection 2, paragraph “d”, the board may levy a tax to pay operating and maintenance expenses in lieu of the authority otherwise contained in this section not to exceed twenty-seven cents per thousand dollars of assessed value or not to exceed one dollar and twenty-one and one-half cents per thousand dollars of assessed value for improvements and maintenance of the hospital in counties having a population of two hundred twenty-five thousand or over.

In addition to levies otherwise authorized by this section, the board of supervisors may levy a tax at the rate, not to exceed twenty-seven cents per thousand dollars of assessed value, necessary to raise the amount budgeted by

the board of hospital trustees for support of ambulance service as authorized in section 347.14, subsection 14.

The tax levy authorized by this section for operation and maintenance of the hospital may be available in whole or in part to any county with or without a county hospital organized under this chapter, to be used to enhance rural health services in the county. However, the tax levied may be expended for enhancement of rural health care services only following a local planning process. The Iowa department of public health shall establish guidelines to be followed by counties in implementing the local planning process which shall require legal notice, public hearings, and a referendum in accordance with this section and section 347.30 prior to the authorization of any new levy or a change in the use of a levy. Enhancement of rural health services for which the tax levy pursuant to this section may be used includes but is not limited to emergency medical services, health care services shared with other hospitals, rural health clinics, and support for rural health care practitioners and public health services. When alternative use of funds from the tax levy authorized by this section is proposed in a county with a county hospital organized under this chapter, use of the funds shall be agreed upon by the elected board of trustees of the county hospital. When alternative use of funds from the tax levy authorized by this section is proposed in a county without a county hospital organized under this chapter, use of the funds shall be agreed upon by the board of supervisors and any publicly elected hospital board of trustees within the county prior to submission of the question to the voters. Moneys raised from a tax levied in accordance with this paragraph shall be designated and administered by the board of supervisors in a manner consistent with the purposes of the levy.

[S13, §409-b, -j; C24, 27, 31, 35, 39, §5353; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §347.7; 81 Acts, ch 117, §1061]

85 Acts, ch 185, §2; 89 Acts, ch 304, §704; 95 Acts, ch 159, §1, 2; 2001 Acts, ch 75, §1, 2

### **347.9 Trustees — appointment — terms of office.**

When it has been determined by the voters of a county to establish a county public hospital, the board shall appoint seven trustees chosen from among the resident citizens of the county with reference to their fitness for office, and not more than four of the trustees shall be residents of the city at which the hospital is located. The trustees shall hold office until the following general election, at which time their successors shall be elected, two for a term of two years, two for four years, and three for six years, and they shall determine by lot their respective terms, and thereafter their successors shall be elected for regular terms of six years each. A person or spouse of a person with medical or special staff privileges in the county public hospital or who receives direct or indirect compensation in an amount greater than one thousand five hundred dollars in a calendar year from the county public hospital or direct or indirect compensation in an amount greater than one thousand five hundred dollars in a calendar year from a person contracting for services with the hospital shall not be eligible to serve as a trustee for that county public hospital. However, this section does not prohibit a licensed health care practitioner from serving as a hospital trustee if the practitioner's sole use of the county hospital is to provide health care service to an individual with mental retardation as defined in section 222.2.

[S13, §409-c; C24, 27, 31, 35, 39, §5355; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §347.9]

86 Acts, ch 1200, §3; 99 Acts, ch 36, §3; 2001 Acts, ch 65, §1

*a.* The question for a memorial hospital established by a city under chapter 37 shall be submitted in substantially the following form: “Shall the ..... hospital of ....., Iowa, be transferred to and become the property of, and be managed by the county of ....., Iowa, under provision of chapter 347 of the Code of Iowa?”

*b.* The question for a memorial hospital established by a county under chapter 37 or a county hospital supported by revenue bonds and organized under chapter 347A shall be submitted in substantially the following form: “Shall the ..... hospital of ....., Iowa, organized and governed under chapter ..... of the Code of Iowa be changed to be established and governed under chapter 347 of the Code of Iowa?”

3. For the purpose of computing whether or not the proposition is carried, if the hospital is a memorial hospital established by a city under the provisions of chapter 37, the votes of the residents of that city shall be counted both for the purpose of ascertaining whether or not the proposition is carried within the city and also for the purpose of ascertaining whether or not the proposition is carried within the county.

94 Acts, ch 1135, §2; 2001 Acts, ch 56, §28

### **347.25 Election of trustees.**

The election of hospital trustees whose offices are established by this chapter or chapter 145A or 347A shall take place at the general election on ballots which shall not reflect a nominee’s political affiliation. Nomination shall be made by petition in accordance with chapter 45. The petition form shall be furnished by the county commissioner of elections, signed by fifty eligible electors of the county, and shall be filed with the county commissioner of elections. A plurality is sufficient to elect hospital trustees.

If any of the provisions of this section shall be in conflict with any of the laws of this state, then the provisions of this section shall prevail.

[C62, 66, 71, 73, 75, 77, 79, 81, §347.25]

85 Acts, ch 135, §1; 91 Acts, ch 129, §26

## COUNTY HOSPITALS PAYABLE FROM REVENUE

### **347A.1 Revenue bonds — trustees — administration.**

A county having a population less than one hundred fifty thousand may issue revenue bonds for a county hospital as provided in section 331.461, subsection 2, paragraph “e”. The administration and management of the hospital shall be vested in a board of hospital trustees consisting of five or seven members. Appointments for a five-member board shall be made by the board of supervisors from among the resident citizens of the county with reference to their fitness for office, and not more than two of the trustees shall be residents of the same township. Expansion from a five-member to a seven-member board of trustees shall occur only on approval of a majority of the five-member board of trustees. The five-member board of trustees shall appoint members to the additional vacancies; one appointee shall serve until the succeeding general election and the other appointee shall serve until the second succeeding general election at which times successors shall be elected.

The trustees shall hold office until the next succeeding election, at which time their successors shall be elected, two for a term of two years, two for a term of four years and one for a term of six years, and thereafter their successors shall be elected for regular terms of six years each. Vacancies in the board of

trustees may be filled in the same manner as original appointments, to hold office until the vacancies are filled pursuant to section 69.12. The trustees shall qualify by taking the usual oath of office as provided in chapter 63, but no bond shall be required of them. The trustees shall receive no compensation but shall be reimbursed for all expenses incurred by them with the approval of the board of trustees in the performance of their duties. The board first appointed shall organize promptly following its appointment, and shall serve until successors are elected and qualified; thereafter no later than December 1 of each year the board shall reorganize by the appointment of a chairperson, secretary, and treasurer. The secretary and treasurer shall each file with the chairperson of the board a surety bond in the amount the board of trustees requires, with sureties to be approved by the board of trustees, for the use and benefit of the county hospital. The reasonable cost of the bonds shall be paid from the operating funds of the hospital. The secretary shall report to the county auditor and the county treasurer the names of the chairperson, secretary, and treasurer of the board as soon as practicable after the appointment of each.

Unnumbered paragraphs 3–5 not reprinted.

[C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §347A.1; 81 Acts, ch 117, §1063]

84 Acts, ch 1003, §7; 90 Acts, ch 1118, §1; 92 Acts, ch 1024, §3; 97 Acts, ch 170, §87; 99 Acts, ch 36, §10

#### COUNTY CARE FACILITIES

##### **347B.2 Establishment — submission to vote.**

If the board of supervisors proposes to establish a county care facility under this chapter at a cost in excess of fifteen thousand dollars, it shall first submit the proposition to a vote of the people.

[C51, §828; R60, §1396; C73, §1372; C97, §2241; SS15, §2241; C24, 27, 31, 35, §5338; C39, §3828.115; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §253.1; 81 Acts, ch 117, §1041]

C93, §347B.1

C2001, §347B.2

#### OFFICIAL NEWSPAPERS

##### **349.16 What published.**

There shall be published in each of said official newspapers at the expense of the county during the ensuing year:

1. The proceedings of the board of supervisors, excluding from the publication of said proceedings, its canvass of the various elections, as provided by law; witness fees of witnesses before the grand jury and in the district court in criminal cases.

2. to 4. Not reprinted.

[R60, §313; C73, §304; C97, §441; SS15, §441; C24, 27, 31, 35, 39, §5411; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §349.16]

2006 Acts, ch 1070, §19, 31



## COUNTY CONSERVATION BOARDS

**350.2 Petition — board membership.**

Upon a petition to the board of supervisors which meets the requirements of section 331.306, the board shall submit to the voters at the next general election the question of whether a county conservation board shall be created as provided for in this chapter. If at the election the majority of votes favors the creation of a county conservation board, the board of supervisors within sixty days after the election shall create a county conservation board to consist of five bona fide residents of the county. The members first appointed shall hold office for the term of one, two, three, four, and five years respectively, as indicated and fixed by the board of supervisors. Thereafter, succeeding members shall be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term shall be filled by appointment for the unexpired term. When a member of the board, during the term of office, ceases to be a bona fide resident of the county, the member is disqualified as a member and the office becomes vacant. Members of the board shall be selected and appointed on the basis of their demonstrated interest in conservation matters, and shall serve without compensation, but may be paid their actual and necessary expenses incurred in the performance of their official duties. Members of the county conservation board may be removed for cause by the board of supervisors as provided in section 331.321, subsection 3, if the cause is malfeasance, nonfeasance, disability, or failure to participate in board activities as set forth by the rules of the conservation board.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §111A.2; 81 Acts, ch 117, §1012]  
 90 Acts, ch 1238, §34  
 C93, §350.2

## WATER DISTRICTS

**357.1B Combined water and sanitary district.**

1. Upon receipt of a petition having the required signatories as provided in section 357.1A or 358.2, the board of supervisors shall grant a hearing relative to the establishment of a proposed combined water and sanitary district. The petition shall include the information required in sections 357.1A and 358.2 for proposed water districts and sanitary districts. The board of supervisors of the county in which the proposed combined district or largest part of the proposed combined district is located, shall have jurisdiction of the proceedings on the petition and the decision of a majority of the members of that board of supervisors is necessary for adoption. The orders of the board of supervisors made pursuant to this chapter and chapter 358 relating to the proposed combined district shall be kept as official records, but the records need not be published under section 349.16. An existing district may petition the board of supervisors to establish a combined water and sanitary district after the approval of a majority of the district electorate.

2. The board of supervisors having jurisdiction to establish the proposed combined water and sanitary district may proceed with its establishment under this chapter or chapter 358 in the same manner as a benefited water district or a sanitary district is separately established under those chapters. The differences between this chapter and chapter 358 including, but not limited to, the membership of the board of trustees, per diem, and maximum annual per diem, or a power or duty relating to rents, fees, taxation, or bonded

indebtedness shall be resolved as a part of the petition submitted to the board of supervisors. Before becoming effective, a change in the membership, per diem, maximum annual per diem, or a power or duty relating to rents, fees, the levy of a tax, or the issuance of bonds, or other differences specified on the petition shall be submitted for the approval of the district electorate. However, the number of members, per diem, maximum annual per diem, or differences in powers and duties included in a combined district shall not be inconsistent with this chapter or chapter 358.

3. For the purpose of establishing, operating, or dissolving a combined water and sanitary district under this chapter and chapter 358, the term “*benefited water district*” includes combined water and sanitary district where applicable.

4. Water services and a water service plan prepared by the combined district are subject to approval by an affected city as provided in section 357.1A.

92 Acts, ch 1204, §10

C93, §357.1A

C2001, §357.1B

### **357.12 Election.**

When the preliminary design and assessment have been approved by the board of supervisors, a date not more than thirty days after the approval shall be set for an election within the district to determine whether or not the proposed improvement shall be constructed and to choose candidates for the offices of trustee within the district. The proposal to approve or disapprove the improvement and the selection of candidates for trustees shall be presented at the same election. Notice of the election, including the time and place of holding the election, shall be given in the same manner as for the public hearing provided for in section 357.4. The vote shall be by ballot which shall state clearly the proposition to be voted upon, and any registered voter residing within the district at the time of the election may vote. The county commissioner of elections shall conduct elections held pursuant to this chapter, and the elections shall be conducted in accordance with chapter 49 where those procedures are not in conflict with this chapter. Precinct election officials shall be appointed to serve without pay, by the commissioner of elections, from among the registered voters of the district. The proposition shall be deemed to have carried if a majority of those voting on the proposition votes in favor of it.

[C24, 27, 31, 35, §5524; C39, §5526.12; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §357.12]

92 Acts, ch 1204, §13; 94 Acts, ch 1169, §64

## CITIES

DEFINITIONS AND  
MISCELLANEOUS PROVISIONS**362.3 Publication of notices.**

Unless otherwise provided by state law:

1. If notice of an election, hearing, or other official action is required by the city code, the notice must be published at least once, not less than four nor more than twenty days before the date of the election, hearing, or other action.

2. A publication required by the city code must be in a newspaper published at least once weekly and having general circulation in the city. However, if the city has a population of two hundred or less, or in the case of ordinances and amendments to be published in a city in which no newspaper is published, a publication may be made by posting in three public places in the city which have been permanently designated by ordinance.

In the case of notices of elections, a city with a population of two hundred or less meets the publication requirement of this section by posting notices of elections in three public places which have been designated by ordinance.

[R60, §1133; C73, §492; C97, §686, 687; C24, 27, 31, 35, §5720, 5721, 5721-a1; C39, §5720, 5721, 5721.1; C46, 50, §366.7–366.9; C54, 58, 62, 66, 71, 73, §366.7; C75, 77, 79, 81, §362.3]

93 Acts, ch 143, §48; 94 Acts, ch 1180, §50

**362.4 Petition of eligible electors.**

If a petition of the voters is authorized by the city code, the petition is valid if signed by eligible electors of the city equal in number to ten percent of the persons who voted at the last preceding regular city election, but not less than ten persons, unless otherwise provided by state law. The petition shall include the signatures of the petitioners, a statement of their place of residence, and the date on which they signed the petition.

The petition shall be examined before it is accepted for filing. If the petition appears valid on its face it shall be accepted for filing. If it lacks the required number of signatures it shall be returned to the petitioner.

Petitions which have been accepted for filing are valid unless written objections are filed with the city clerk within five working days after the petition is received. The objection process in section 44.8 shall be followed.

[C75, 77, 79, 81, §362.4]

89 Acts, ch 136, §70; 94 Acts, ch 1180, §51

**362.9 Application of city code.**

The provisions of this chapter and chapters 364, 368, 372, 376, 380, 384, 388 and 392 are applicable to all cities.

[C75, 77, 79, 81, §362.9]

## POWERS AND DUTIES OF CITIES

**364.2 Vesting of power — franchises.**

1. A power of a city is vested in the city council except as otherwise provided by a state law.

2. The enumeration of a specific power of a city does not limit or restrict the general grant of home rule power conferred by the Constitution of the State of Iowa. A city may exercise its general powers subject only to limitations expressly imposed by a state or city law.

3. An exercise of a city power is not inconsistent with a state law unless it is irreconcilable with the state law.

4. *a.* A city may grant to any person a franchise to erect, maintain, and operate plants and systems for electric light and power, heating, telegraph, cable television, district telegraph and alarm, motor bus, trolley bus, street railway or other public transit, waterworks, or gasworks, within the city for a term of not more than twenty-five years. When considering whether to grant, amend, extend, or renew a franchise, a city shall hold a public hearing on the question. Notice of the time and place of the hearing shall be published as provided in section 362.3. The franchise may be granted, amended, extended, or renewed only by an ordinance, but no exclusive franchise shall be granted, amended, extended, or renewed.

*b.* Such an ordinance shall not become effective unless approved at an election. The proposal may be submitted by the council on its own motion to the voters at any city election. Upon receipt of a valid petition as defined in section 362.4 requesting that a proposal be submitted to the voters, the council shall submit the proposal at the next regular city election or at a special election called for that purpose before the next regular city election. However, the city council may dispense with such election as to the grant, amendment, extension, or renewal of an electric light and power, heating, or gasworks franchise unless there is a valid petition requesting submission of the proposal to the voters, or the party seeking such franchise, grant, amendment, extension, or renewal requests an election. If a majority of those voting approves the proposal, the city may proceed as proposed. The complete text of the ordinance shall be included on the ballot if paper ballots are used. If an electronic voting system or voting machine is used, the proposal shall be stated on the ballot and the full text of the ordinance posted for the voters pursuant to section 52.25. All absentee voters shall receive the full text of the ordinance.

*c.* Notice of the election shall be given by publication as prescribed in section 49.53 in a newspaper of general circulation in the city.

*d.* The person asking for the granting, amending, extension, or renewal of a franchise shall pay the costs incurred in holding the election, including the costs of the notice. A franchise shall not be finally effective until an acceptance in writing has been filed with the council and payment of the costs has been made.

*e.* The franchise ordinance may regulate the conditions required and the manner of use of the streets and public grounds of the city, and it may, for the purpose of providing electrical, gas, heating, or water service, confer the power to appropriate and condemn private property upon the person franchised.

*f.* If a city franchise fee is assessed to customers of a franchise, the fee shall not be assessed to the city as a customer.

*g.* If a city grants more than one cable television franchise, the material terms and conditions of any additional franchise shall not give undue preference or advantage to the new franchisee. A city shall not grant a new franchise that does not include the same territory as that of the existing franchise. A new franchisee shall be given a reasonable period of time to build the new system throughout the territory.

[C51, §664; R60, §1047, 1056, 1057, 1090, 1094, 1095; C73, §454–456, 471, 473, 474, 517, 523, 524; C97, §695, 720–722, 775, 776; S13, §695, 720–722, 776; C24, 27, 31, 35, §5738, 5904, 5904-c1, 5905–5909, 6128, 6131–6134; C39, §5738, 5904, 5904.1, 5905–5909, 6128, 6131–6134; C46, 50, §368.1, 386.1–386.7, 397.2, 397.5–397.8; C54, 58, 62, 66, §368.2, 386.1–386.7, 388.5–388.9, 397.2, 397.5–397.8; C71, 73, §368.2, 386.1–386.7, 397.2, 397.5–397.8; C75, 77, 79, 81, §364.2]

83 Acts, ch 127, §5; 93 Acts, ch 143, §49; 98 Acts, ch 1123, §15; 98 Acts, ch 1148, §1, 9; 2001 Acts, ch 82, §1; 2001 Acts, ch 98, §1; 2006 Acts, ch 1010, §96

### **364.4 Property and services outside of city — lease-purchase — insurance.**

A city may:

1. to 3. Not reprinted.

4. Enter into leases or lease-purchase contracts for real or personal property in accordance with the following terms and procedures:

*a.* A city shall lease or lease-purchase property only for a term which does not exceed the economic life of the property, as determined by the governing body.

*b.* A lease or lease-purchase contract entered into by a city may contain provisions similar to those sometimes found in leases between private parties, including, but not limited to, the obligation of the lessee to pay any of the costs of operation or ownership of the leased property and the right to purchase the leased property.

*c.* A provision of a lease or lease-purchase contract which stipulates that a portion of the rent payments be applied as interest is subject to chapter 74A. Other laws relating to interest rates do not apply. Chapter 75 is not applicable. A city utility or city enterprise is a separate entity under this subsection whether it is governed by the governing body of the city or another governing body.

*d.* The governing body must follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a lease or a lease-purchase contract made payable from the debt service fund.

*e.* The governing body may authorize a lease or lease-purchase contract which is payable from the general fund and which would not cause the total of annual lease or lease-purchase payments of the city due from the general fund of the city in any future year for lease or lease-purchase contracts in force on the date of the authorization, excluding payments to exercise purchase options or to pay the expenses of operation or ownership of the property, to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The governing body must follow substantially the authorization procedures of section 384.25 to authorize a lease or lease-purchase contract for personal property which is payable from the general fund. The governing body must follow substantially the authorization procedures of section 384.25 to

authorize the lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease-purchase contract does not exceed the following limits:

(a) Four hundred thousand dollars in a city having a population of five thousand or less.

(b) Seven hundred thousand dollars in a city having a population of more than five thousand but not more than seventy-five thousand.

(c) One million dollars in a city having a population of more than seventy-five thousand.

(2) The governing body must follow the following procedures to authorize a lease or lease-purchase contract for real property which is payable from the general fund if the principal amount of the lease or lease-purchase contract exceeds the limits set forth in subparagraph (1):

(a) The governing body must institute proceedings to enter into a lease or lease-purchase contract payable from the general fund by causing a notice of the meeting to discuss entering into the lease or lease-purchase contract, including a statement of the principal amount and purpose of the lease or lease-purchase contract and the right to petition for an election, to be published at least once in a newspaper of general circulation within the city at least ten days prior to the discussion meeting. No sooner than thirty days following the discussion meeting shall the governing body hold a meeting at which it is proposed to take action to enter into the lease or lease-purchase contract.

(b) If at any time before the end of the thirty-day period after which a meeting may be held to take action to enter into the lease or lease-purchase contract, a petition is filed with the clerk of the city in the manner provided by section 362.4, asking that the question of entering into the lease or lease-purchase contract be submitted to the registered voters of the city, the governing body shall either by resolution declare the proposal to enter into the lease or lease-purchase contract to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the lease or lease-purchase contract. However, for purposes of this subparagraph, the petition shall not require signatures in excess of one thousand persons. The question to be placed on the ballot shall be stated affirmatively in substantially the following manner: Shall the city of ..... enter into a lease or lease-purchase contract in amount of \$..... for the purpose of .....? Notice of the election and its conduct shall be in the manner provided in section 384.26, subsections 2 through 4.

(c) If a petition is not filed or if a petition is filed and the proposition of entering into the lease or lease-purchase contract is approved at an election, the governing body may proceed and enter into the lease or lease-purchase contract.

*f.* The governing body may authorize a lease or lease-purchase contract payable from the net revenues of a city utility, combined utility system, city enterprise, or combined city enterprise by following the authorization procedures of section 384.83.

*g.* A lease or lease-purchase contract to which a city is a party or in which a city has a participatory interest is an obligation of a political subdivision of this state for the purposes of chapters 502 and 636, and is a lawful investment for banks, trust companies, building and loan associations, savings and loan associations, investment companies, insurance companies, insurance associations, executors, guardians, trustees, and any other fiduciaries responsible for the investment of funds.

*h.* Property that is lease-purchased by a city is exempt under section 427.1, subsection 2.

*i.* A contract for construction by a private party of property to be leased or lease-purchased by a city is not a contract for a public improvement under section 26.2, subsection 3, except for purposes of section 26.12. However, if a lease-purchase contract is funded in advance by means of the lessor depositing moneys to be administered by a city, with the city's obligations to make rent payments commencing with its receipt of moneys, a contract for construction of the property in question awarded by the city is subject to chapter 26.

5. Not reprinted.

[SS15, §741-d, 741-g; C24, 27, 31, 35, 39, §5773; C46, §368.41, 368.42; C50, §368.42, 368.56; C54, 58, 62, 66, 71, 73, §368.18; C75, 77, 79, 81, §364.4]

85 Acts, ch 156, §3; 86 Acts, ch 1211, §22; 92 Acts, ch 1138, §4; 95 Acts, ch 67, §53; 2006 Acts, ch 1017, §35, 42, 43; 2006 Acts, 1st Ex, ch 1001, §32, 49

### **364.5 Joint action — Iowa league of cities — penalty.**

Unnumbered paragraph 1 not reprinted.

Unnumbered paragraph 2 not reprinted.

It is unlawful for the Iowa league of cities to provide any form of aid to a political party or to the campaign of a candidate for political or public office. Any person violating or being an accessory to a violation of this section is guilty of a simple misdemeanor.

Unnumbered paragraph 4 not reprinted.

[S13, §694-c; C24, 27, 31, 35, 39, §5684; C46, 50, §363.62; C54, 58, 62, 66, 71, 73, §363.43; C75, 77, 79, 81, §364.5]

89 Acts, ch 264, §8; 95 Acts, ch 3, §4

## CITY DEVELOPMENT

### DEFINITIONS

#### **368.1 Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "*Adjoining*" means having a common boundary for not less than fifty feet. Land areas may be adjoining although separated by a roadway or waterway.

2. "*Annexation*" means the addition of territory to a city.

3. "*Board*" means the city development board established in section 368.9.

4. "*Boundary adjustment*" means annexation, severance or consolidation.

5. "*City development*" means an incorporation, discontinuance or boundary adjustment.

6. "*Committee*" means the board members, and the local representatives appointed as provided in sections 368.14 and 368.14A, to hear and make a decision on a petition or plan for city development.

7. "*Consolidation*" means the combining of two or more cities into one city.

8. "*Discontinuance*" means termination of a city.

9. "*Incorporation*" means establishment of a new city.

10. "*Island*" means land which is not part of a city and which is completely surrounded by the corporate boundaries of one or more cities. However, a part of the boundary of an "*island*" may be contiguous with a boundary of the state, a river, or similar natural barrier which prevents service access from an adjoining area of land outside the boundaries of a city.

11. “*Public land*” means land owned by the federal government, the state, or a political subdivision of the state.

12. “*Public utility*” means a public utility subject to regulation pursuant to chapter 476.

13. “*Registered voter*” means a person who is registered to vote pursuant to chapter 48A.

14. “*Severance*” means the deletion of territory from a city.

15. “*Territory*” means the land area or areas proposed to be incorporated, annexed, or severed, whether or not contiguous to all other areas proposed to be incorporated, annexed, or severed. Except as provided for by an agreement pursuant to chapter 28E, “*territory*” having a common boundary with the right-of-way of a secondary road extends to the center line of the road.

16. “*Urbanized area*” means any area of land within two miles of the boundaries of a city.

[C58, 62, 66, 71, 73, §362.1; C75, 77, 79, 81, §368.1]

89 Acts, ch 98, §1; 89 Acts, ch 299, §1; 91 Acts, ch 187, §1; 91 Acts, ch 250, §1; 92 Acts, ch 1174, §1; 93 Acts, ch 152, §1–3; 94 Acts, ch 1169, §61; 2003 Acts, ch 148, §1, 9

#### GENERAL PROVISIONS

##### **368.2 Name change.**

A city may change its name as follows:

1. The council shall propose the name change and shall notify the county commissioner of elections that the question shall be submitted at the next regular city election.

2. The county commissioner of elections shall publish notice, as provided in section 362.3, of the proposed new name, and of the fact that the question will be submitted at the next regular city election. The county commissioner of elections shall report the results of the balloting on the question to the mayor and the city council.

3. If a majority of those voting on the question approves the proposed new name, the city clerk shall enter the new name upon the city records and file certified copies of the proceedings, including the council’s proposal, proof of publication of notice, and certification of the election result, with the county recorder of each county which contains part of the city, and with the secretary of state. Upon proper filing the name change is complete and effective.

[C97, §628–630; C24, 27, 31, 35, 39, §5619–5622; C46, 50, 54, §362.34–362.37; C58, 62, 66, 71, 73, §362.38–362.41; C75, 77, 79, 81, §368.2]



**368.3 Discontinuance — cemetery fund transfer.**

Unnumbered paragraph 1 not reprinted.

A city may also be discontinued in accordance with the following procedures. The council shall adopt a resolution of intent to discontinue and shall call a public hearing on the proposal to discontinue. Notice of the time and place of the public hearing and the proposed action shall be published as provided in section 362.3, except that at least ten days' notice must be given. At the public hearing, the council shall receive oral and written comments regarding the proposal from any person. Thereafter, the council, at the same meeting or at a subsequent meeting, may pass a resolution of discontinuance or pass a resolution abandoning the proposal. If the council passes a resolution of discontinuance, a petition may be filed with the clerk in the manner provided in section 362.4, within thirty days following the effective date of the resolution, requesting that the question of discontinuance be submitted to the registered voters of the city. Upon receipt of a petition requesting an election, the council shall direct the county commissioner of elections to call a special election on the question of discontinuance or shall adopt a resolution abandoning the discontinuance. Notice of the election shall be given by publication as required in section 49.53. If a majority of those voting approve the discontinuance or if no petition for an election is filed, the clerk shall send a copy of the resolution of discontinuance and, if an election is held, the results of the election to the board. The board shall take control of the property of the discontinued city and shall supervise procedures necessary to carry out the discontinuance in accordance with section 368.21.

Unnumbered paragraph 3 not reprinted.

[C46, 50, 54, 58, 62, 66, 71, 73, §362.18; C75, 77, 79, 81, §368.3]  
91 Acts, ch 188, §2; 2000 Acts, ch 1006, §1

## CITY DEVELOPMENT BOARD

**368.11 Petition for involuntary city development action.**

1. A petition for incorporation, discontinuance, or boundary adjustment may be filed with the board by a city council, a county board of supervisors, a regional planning authority, or five percent of the registered voters of a city or territory involved in the proposal. Notice of the filing, including a copy of the petition, must be served upon the council of each city for which a discontinuance or boundary adjustment is proposed, the board of supervisors for each county which contains a portion of a city to be discontinued or territory to be incorporated, annexed or severed, the council of a city if an incorporation includes territory within the city's urbanized area, and any regional planning authority for the area involved.

2. Within ninety days of receipt of a petition, the board shall initiate appropriate proceedings or dismiss the petition. The board may combine for consideration petitions or plans which concern the same territory or city or which provide for a boundary adjustment or incorporation affecting common territory. The combined petitions may be submitted for consideration by a special local committee pursuant to section 368.14A.

3. The petition must include substantially the following information as applicable:

- a. A general statement of the proposal.
- b. A map of the territory, city or cities involved.
- c. Assessed valuation of platted and unplatted land.
- d. Names of property owners.
- e. Population density.

- f.* Description of topography.
- g.* Plans for disposal of assets and assumption of liabilities.
- h.* Description of existing municipal services, including but not limited to water supply, sewage disposal, and fire and police protection.
- i.* Plans for agreements with any existing special service districts.
- j.* In a case of annexation or incorporation, the petition must state that none of the territory is within a city.
- k.* In a case of incorporation or consolidation, the petition must state the name of the proposed city.
- l.* Plans shall include a formal agreement between affected municipal corporations and counties for the maintenance, improvement, and traffic control of any shared roads involved in an incorporation or boundary adjustment.
- m.* In the discretion of a city council, a provision for a transition for the imposition of city taxes against property within an annexation area. The provision shall allow for an exemption from taxation of the following percentages of assessed valuation according to the following schedule:
  - (1) For the first and second years, seventy-five percent.
  - (2) For the third and fourth years, sixty percent.
  - (3) For the fifth and sixth years, forty-five percent.
  - (4) For the seventh and eighth years, thirty percent.
  - (5) For the ninth and tenth years, fifteen percent.An alternative schedule may be adopted by the city council. However, an alternative schedule shall not allow a greater exemption than that provided in this paragraph. The exemption shall be applied in the levy and collection of taxes. The provision may also allow for the partial provision of city services during the time in which the exemption from taxation is in effect. If the city council provides for a transition for the imposition of city taxes against property in an annexation area, all property owners included in the annexation area must receive the transition upon completion of the annexation.
- n.* In the case of an annexation, a plan for extending municipal services to be provided by the annexing city to the annexed territory within three years of July 1 of the fiscal year in which city taxes are collected against property in the annexed territory.

4. At least fourteen business days before a petition for involuntary annexation is filed as provided in this section, the petitioner shall make its intention known by sending a letter of intent by certified mail to the council of each city whose urbanized area contains a portion of the territory, the board of supervisors of each county which contains a portion of the territory, the regional planning authority of the territory involved, each affected public utility, and to each property owner listed in the petition. The written notification shall include notice that the petitioners shall hold a public meeting on the petition for involuntary annexation prior to the filing of the petition.

5. Before a petition for involuntary annexation may be filed, the petitioner shall hold a public meeting on the petition. Notice of the meeting shall be published in an official county newspaper in each county which contains a part of the territory at least five days before the date of the public meeting. The mayor of the city proposing to annex the territory, or that person's designee, shall serve as chairperson of the public meeting. The city clerk of the same city or the city clerk's designee shall record the proceedings of the public meeting. Any person attending the meeting may submit written comments and may be heard on the petition. The minutes of the public meeting and all documents submitted at the public meeting shall be forwarded to the county board of supervisors of each county where the territory is located and to the board by the chairperson of the meeting.

6. Within thirty days after receiving notice that a petition for involuntary annexation has been filed with the board, the board of supervisors of each county that contains all or a portion of the territory to be annexed shall, by resolution, state whether or not it supports the petition or whether it takes no position in support of or against the petition. If there is a comprehensive plan for the county, the board shall take the plan into account when considering its resolution. A copy of the resolution shall be immediately filed with the annexing city and with the city development board. Failure of a board of supervisors to adopt a resolution shall not delay the proceedings on the petition nor shall such failure be considered a deficiency either in the petition or in the annexing city's proceedings.

[R60, §1031, 1038, 1043; C73, §421, 426, 430, 431, 447, 448; C97, §599, 604, 610, 611, 615, 617, 621; S13, §615; C24, 27, 31, 35, 39, §5588, 5598, 5612–5614, 5616; C46, 50, §362.1, 362.11, 362.26, 362.28, 362.29, 362.31; C54, 58, 62, 66, 71, 73, §362.1, 362.11, 362.26, 362.31; C75, 77, 79, 81, §368.11]

89 Acts, ch 299, §3; 91 Acts, ch 250, §6; 92 Acts, ch 1174, §4; 93 Acts, ch 152, §9; 2001 Acts, ch 56, §31; 2002 Acts, ch 1132, §9, 11; 2003 Acts, ch 108, §126, 132; 2003 Acts, ch 148, §4–6, 9; 2005 Acts, ch 111, §4, 5; 2006 Acts, ch 1158, §5

### **368.12 Dismissal.**

The board may dismiss a petition only if it finds that the petition does not meet the requirements of this chapter, or that substantially the same incorporation, discontinuance, or boundary adjustment has been disapproved by a committee formed to consider the proposal, or by the voters, within the two years prior to the date the petition is filed with the board, or that the territory to be annexed, or a portion of that territory, has been voluntarily annexed under section 368.7. The board shall file for record a statement of each dismissal and the reason for it, and shall promptly notify the parties to the proceeding of its decision.

[C75, 77, 79, 81, §368.12]

91 Acts, ch 250, §7

**368.13 Board may initiate proceedings.**

Based on the results of its studies, the board may initiate proceedings for the incorporation, discontinuance, or boundary adjustment of a city. The board may request a city to submit a plan for city development or may formulate its own plan for city development. A plan submitted at the board's initiation must include the same information as a petition and be filed and acted upon in the same manner as a petition. A petition or plan may include any information relevant to the proposal, including but not limited to results of studies and surveys, and arguments.

[C75, 77, 79, 81, §368.13]

93 Acts, ch 152, §10

**368.14 Local representatives.**

If an involuntary petition is not dismissed, the board shall direct the appointment of local representatives to serve with board members as a committee to consider the proposal. Each local representative is entitled to receive from the state the representative's actual and necessary expenses spent in performance of committee duties. Three board members and one local representative, or if the number of local representatives exceeds one, three board members and at least one-half of the appointed local representatives, are required for a quorum of the committee. A local representative must be a registered voter of the territory or city which the representative represents, and must be selected as follows:

1. From a territory to be incorporated, one representative appointed by the county board of supervisors. If the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved.

2. From a city to be discontinued, one representative appointed by the city council.

3. From a territory to be annexed to or severed from a city, one representative appointed by the county board of supervisors. If there are no registered voters residing in an area to be annexed to or severed from a city, the county board of supervisors shall appoint as local representative an individual owning property in the territory whether or not the individual is a registered voter or appoint a designee of such individual. If the territory is in more than one county, the board shall direct the appointment of a local representative from each county involved by its board of supervisors.

4. From a city to which territory is to be annexed or from which territory is to be severed, one representative appointed by the city council. If the territory is in more than one county, the board shall direct the appointment of an equal number of city and county local representatives.

5. From each city to be consolidated, one representative appointed by each city council.

[C75, 77, 79, 81, §368.14]

91 Acts, ch 250, §8; 94 Acts, ch 1169, §64

CHAPTER 372

ORGANIZATION OF CITY GOVERNMENT

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DIVISION I

FORMS OF GOVERNMENT

**372.1 Forms of cities.**

The forms of city government are:

1. Mayor-council, or mayor-council with appointed manager.
2. Commission.
3. Council-manager-at-large.
4. Council-manager-ward.
5. Home rule charter.
6. Special charter.
7. City-county consolidated form as provided in sections 331.247 through 331.252.
8. Community commonwealth as provided in sections 331.260 through 331.263.

A city when first incorporated has the mayor-council form. A city retains its form of government until it adopts a different form as provided in this division.

Within thirty days of the date that this section becomes effective, a city shall adopt by ordinance a charter embodying its existing form of government, which must be one of the forms provided in this division, and shall file a copy of its charter with the secretary of state, and maintain copies available for public inspection.

[C54, 58, 62, 66, 71, 73, §363.1, 363.30; C75, 77, 79, 81, §372.1]  
2004 Acts, ch 1066, §29, 31

**372.2 Six-year limitation.**

Unless otherwise provided by law, a city may adopt a different form of government not more often than once in a six-year period. A different form, other than a home rule charter, special charter, city-county consolidated government, or community commonwealth, must be adopted as follows:

1. Eligible electors of the city may petition the council to submit to the electors the question of adopting a different form of city government. The minimum number of signatures required on the petition shall be equal in number to twenty-five percent of those who voted in the last regular city election. The petition shall specify which form of city government in section 372.1 the petitioners propose for adoption.

2. Within fifteen days after receiving a valid petition, the council shall publish notice of the date that a special city election will be held to determine whether the city shall change to a different form of government. The election date shall be not more than sixty days after the publication. The notice shall include a statement that the filing of a petition for appointment of a home rule charter commission will delay the election until after the home rule charter commission has filed a proposed charter. Petition requirements and filing deadlines shall also be included in the notice.

The council shall notify the county commissioner of elections to publish notice of the election and conduct the election pursuant to chapters 39 to 53. The county commissioner of elections shall certify the results of the election to the council.

3. If a majority of the persons voting at the special election approves the proposed form, it is adopted.

4. If a majority of the persons voting at the special election does not approve the proposed form, that form may not be resubmitted to the voters within the next four years.

5. If the proposed form is adopted:

a. The elective officers provided for in the adopted form are to be elected at the next regular city election held more than eighty-four days after the special election at which the form was adopted. The adopted form becomes effective at the beginning of the new term following the regular city election.

b. The change of form does not alter any right or liability of the city in effect when the new form takes effect.

c. All departments and agencies shall continue to operate until replaced.

d. All measures in effect remain effective until amended or repealed, unless they are irreconcilable with the adopted form.

e. Upon the effective date of the adopted form, the city shall adopt by ordinance a new charter embodying the adopted form, and shall file a copy of its charter with the secretary of state, and maintain copies available for public inspection.

[C73, §434–439; C97, §631–635, 637; S13, §633, 1056-a17, -a18, -a19, -a20, -a39; SS15, §1056-b1, -b2, -b22, -b26; C24, 27, 31, 35, 39, §6478, 6482–6487, 6491, 6549, 6568, 6569, 6616, 6617, 6619, 6620, 6623, 6680–6682, 6687, 6689, 6690, 6936–6940, 6942; C46, 50, §416.3, 416.6, 416.7–416.11, 416.15, 416.73, 416.93, 416.94, 419.2, 419.3, 419.5, 419.6, 419.9, 419.67–419.69, 419.74, 419.76, 419.77, 420.289–420.293, 420.295; C54, 58, 62, 66, 71, 73, §363.31–363.38, 363B.6, 363C.12, 420.289–420.293, 420.295; C75, 77, 79, 81, §372.2]

89 Acts, ch 39, §6, 7; 94 Acts, ch 1180, §52, 53; 97 Acts, ch 170, §88; 2004 Acts, ch 1066, §30, 31

### **372.3 Home rule charter.**

If a petition for appointment of a home rule charter commission is filed with the city clerk not more than ten days after the council has published notice announcing the date of the special election on adoption of another form of government, the special election shall not be held until the charter proposed by the home rule charter commission is filed. Both forms must be published as provided in section 372.9 and submitted to the voters at the special election.

[C75, 77, 79, 81, §372.3]

97 Acts, ch 170, §89

**372.4 Mayor-council form.**

1. A city governed by the mayor-council form has a mayor and five council members elected at large, unless the council representation plan is changed pursuant to section 372.13, subsection 11. The council may, by ordinance, provide for a city manager and prescribe the manager's powers and duties, and as long as the council contains an odd number of council members, may change the number of wards, abolish wards, or increase the number of council members at large without changing the form.

However, a city governed, on July 1, 1975, by the mayor-council form composed of a mayor and a council consisting of two council members elected at large and one council member from each of four wards, or a special charter city governed, on July 1, 1975, by the mayor-council form composed of a mayor and a council consisting of two council members elected at large and one council member elected from each of eight wards, may continue until the form of government is changed as provided in section 372.2 or section 372.9. While a city is thus operating with an even number of council members, the mayor may vote to break a tie vote on motions not involving ordinances, resolutions or appointments made by the council alone, and in a special charter city operating with ten council members under this section, the mayor may vote to break a tie vote on all measures.

2. The mayor shall appoint a council member as mayor pro tem, and shall appoint and dismiss the marshal or chief of police except where an intergovernmental agreement makes other provisions for police protection or as otherwise provided in section 400.13. However, the appointment and dismissal of the marshal or chief of police are subject to the consent of a majority of the council. Other officers must be selected as directed by the council. The mayor is not a member of the council and shall not vote as a member of the council.

3. In a city having a population of five hundred or more, but not more than five thousand, the city council may, or shall upon petition of the electorate meeting the numerical requirements of section 372.2, subsection 1, submit a proposal at the next regular or special city election to reduce the number of council members to three. If a majority of the voters voting on the proposal approves it, the proposal is adopted. If the proposal is adopted, the new council shall be elected at the next regular or special city election. The council shall determine by ordinance whether the three council members are elected at large or by ward.

4. In a city having a population of less than five hundred, the city council may adopt a resolution of intent to reduce the number of council members from five to three and shall call a public hearing on the proposal. Notice of the time and place of the public hearing shall be published as provided in section 362.3, except that at least ten days' notice must be given. At the public hearing, the council shall receive oral and written comments regarding the proposal from any person. Thereafter, the council, at the same meeting as the public hearing or at a subsequent meeting, may adopt a final resolution to reduce the number of council members from five to three or may adopt a resolution abandoning the proposal. If the council adopts a final resolution to reduce the number of council members from five to three, a petition meeting the same requirements specified in section 362.4 for petitions authorized by city code may be filed with the clerk within thirty days following the effective date of the final resolution, requesting that the question of reducing the number of council members from five to three be submitted to the registered voters of the city. Upon receipt of a petition requesting an election, the council shall direct the county commissioner of elections to put the proposal on the ballot for the next regular city election. If the ballot proposal is adopted, the new council shall be elected at the next

following regular city election. If a petition is not filed, the council shall notify the county commissioner of elections by July 1 of the year of the regular city election and the new council shall be elected at that regular city election. If the council notifies the commissioner of elections after July 1 of the year of the regular city election, the change shall take effect at the next following regular city election. The council shall determine by ordinance whether the three council members are elected at large or by ward.

[R60, §1081, 1086, 1093, 1095, 1098, 1103, 1105, 1106; C73, §511, 515, 521, 524, 528, 532, 534, 535; C97, §645, 646, 652, 654, 655; S13, §645, 646, 652, 654, 655; SS15, §679-1a, 937; C24, 27, 31, 35, 39, §5631, 5634–5636, 6611, 6691; C46, 50, §363.9, 363.13–363.15, 418.1, 420.1; C54, 58, 62, §363A.2, 363A.3, 363D.1; C66, 71, 73, §363A.2, 363A.3, 363A.5, 363D.1; C75, 77, 79, 81, §372.4]

86 Acts, ch 1171, §2; 87 Acts, ch 97, §1; 91 Acts, ch 256, §36; 97 Acts, ch 23, §38; 2001 Acts, ch 35, §1; 2003 Acts, ch 80, §1, 2; 2004 Acts, ch 1101, §44

### **372.5 Commission form.**

A city governed by the commission form has five departments as follows:

1. Department of public affairs.
2. Department of accounts and finances.
3. Department of public safety.
4. Department of streets and public improvements.
5. Department of parks and public property.

A city governed by the commission form has a council composed of a mayor and four council members elected at large, unless the council representation plan is changed pursuant to section 372.13, subsection 11. The mayor administers the department of public affairs and each other council member is elected to administer one of the other four departments.

However, a city governed, on July 1, 1975, by the commission form and having a council composed of a mayor and two council members elected at large may continue with a council of three until the form of government is changed as provided in section 372.2 or section 372.9 or without changing the form, may submit to the voters the question of increasing the council to five members assigned to the five departments as set out in this section.

The mayor shall supervise the administration of all departments and report to the council all matters requiring its attention. The mayor is a member of the council and may vote on all matters before the council.

The council member elected to administer the department of accounts and finances is mayor pro tem.

The council may appoint a city treasurer or may, by ordinance, provide for election of that officer.

[S13, §1056-a18, -a20, -a24, -a25, -a26, -a29; C24, 27, 31, 35, 39, §6484, 6488, 6489, 6502, 6520, 6524, 6526, 6527, 6565, 6566; C46, 50, §416.8, 416.12–416.14, 416.26, 416.44, 416.48, 416.50, 416.51, 416.90, 416.91; C54, 58, 62, 66, 71, 73, §363B.1, 363B.2, 363B.4, 363B.5, 363B.7, 363B.8; C75, 77, 79, 81, §372.5]

91 Acts, ch 256, §37; 97 Acts, ch 23, §39

### **372.6 Council-manager-at-large form.**

1. A city governed by the council-manager-at-large form has five council members elected at large for staggered four-year terms. At the first meeting of the new term following each city election, the council shall elect one of the council members to serve as mayor, and one to serve as mayor pro tem. The mayor is a member of the council and may vote on all matters before the council. As soon as possible after the beginning of the new term following each city election, the council shall appoint a manager.



2. *a.* The city council of a city governed by the council-manager-at-large form may adopt a resolution on its own motion, or shall adopt a resolution if a petition valid under section 362.4 is filed with the city clerk, proposing that the city be governed by a mayor elected by the people for a four-year term and four council members elected at large. After adoption of the resolution, the council shall direct the county commissioner of elections to put the proposal on the ballot for the next general election or the next regular city election, whichever occurs first. If the ballot proposal is approved, the city council shall adopt an ordinance meeting the requirements of paragraph “*b*”, and the ordinance is effective beginning with the next following regular city election.

*b.* The ordinance shall provide that the mayor is a member of the council and may vote on all matters before the council. The ordinance shall provide that the term of office of the mayor is four years and, after each regular city election, the mayor shall appoint a council member as mayor pro tem. The ordinance shall provide that the mayor is a member of the council for purposes of maintaining staggered terms on the council. A council member's term shall not be shortened or lengthened as a means of initially implementing the ordinance.

*c.* An ordinance adopted and approved under this subsection is not subject to repeal until the ordinance has been in effect for at least six years. The question of repeal of the ordinance is subject to the requirements of paragraph “*a*”.

3. The council may by ordinance provide that the city will be governed by council-manager-ward form. The ordinance must provide for the election of the mayor and council members required under council-manager-ward form at the next regular city election.

[SS15, §1056-b1, -b7, -b12; C24, 27, 31, 35, 39, §6621, 6622, 6645, 6665; C46, 50, §419.7, 419.8, 419.31, 419.51; C54, 58, 62, 66, §363C.1, 363C.3; C71, 73, §363C.1, 363C.3, 363C.17; C75, 77, 79, 81, §372.6]

2006 Acts, ch 1138, §1

### **372.7 Council-manager-ward form.**

A city governed by council-manager-ward form has a council composed of a mayor and six council members. Of the six council members, two may be elected at large and one elected from each of four wards, or one may be elected from each of six wards. The mayor and other council members serve four-year staggered terms. The mayor is a member of the council and may vote on all matters before the council.

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(1) For a city with a population of ten thousand or less, at least two hundred signatures or at least the number of signatures equal to fifteen percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.

(2) For a city with a population of more than ten thousand but not more than fifty thousand, at least one thousand signatures or at least the number of signatures equal to fifteen percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.

(3) For a city with a population of more than fifty thousand, at least two thousand signatures or at least the number of signatures equal to ten percent of the voters who voted for candidates for the office at the preceding regular election at which the office was on the ballot, whichever number is fewer.

(4) The minimum number of signatures for a valid petition pursuant to subparagraphs (1) through (3) shall not be fewer than ten. In determining the minimum number of signatures required, if at the last preceding election more than one position was to be filled for the office in which the vacancy exists, the number of voters who voted for candidates for the office shall be determined by dividing the total number of votes cast for the office by the number of seats to be filled.

*b.* By a special election held to fill the office for the remaining balance of the unexpired term. If the council opts for a special election or a valid petition is filed under paragraph “*a*”, the special election may be held concurrently with any pending election as provided by section 69.12 if by so doing the vacancy will be filled not more than ninety days after it occurs. Otherwise, a special election to fill the office shall be called by the council at the earliest practicable date. The council shall give the county commissioner at least thirty-two days’ written notice of the date chosen for the special election. The council of a city where a primary election may be required shall give the county commissioner at least sixty days’ written notice of the date chosen for the special election. A special election held under this subsection is subject to sections 376.4 through 376.11, but the dates for actions in relation to the special election, including dates for filing of nomination petitions, shall be calculated with regard to the date for which the special election is called.

If there are concurrent vacancies on the council and the remaining council members do not constitute a quorum of the full membership, a special election shall be called by the county commissioner at the earliest practicable date. The remaining council members shall give notice to the county commissioner of the absence of a quorum. If there are no remaining council members, the city clerk shall give notice to the county commissioner of the absence of a council. If the office of city clerk is vacant, the city attorney shall give notice to the county commissioner of the absence of a clerk and a council. Notice of the need for a special election shall be given under this paragraph by the end of the following business day.

3. The council shall appoint a city clerk to maintain city records and perform other duties prescribed by state or city law.

4. Except as otherwise provided by state or city law, the council may appoint city officers and employees, and prescribe their powers, duties, compensation, and terms. The appointment of a city manager must be made on the basis of that individual’s qualifications and not on the basis of political affiliation.

5. The council shall determine its own rules and maintain records of its proceedings. City records and documents, or accurate reproductions, shall be kept for at least five years except that:

*a.* Ordinances, resolutions, council proceedings, records and documents, or accurate reproductions, relating to the issuance of public bonds or obligations shall be kept for at least eleven years following the final maturity of the bonds or obligations. Thereafter, such records, documents, and reproductions may be destroyed, preserving confidentiality as necessary. Records and documents pertaining to the transfer of ownership of bonds shall be kept as provided in section 76.10.

*b.* Ordinances, resolutions, council proceedings, records and documents, or accurate reproductions, relating to real property transactions shall be maintained permanently.

6. Within fifteen days following a regular or special meeting of the council, the clerk shall cause the minutes of the proceedings of the council, including the total expenditure from each city fund, to be published in a newspaper of general circulation in the city. The publication shall include a list of all claims allowed and a summary of all receipts and shall show the gross amount of the claims. The list of claims allowed shall show the name of the person or firm making the claim, the reason for the claim, and the amount of the claim. If the reason for the claims is the same, two or more claims made by the same vendor, supplier, or claimant may be consolidated if the number of claims consolidated and the total consolidated claim amount are listed in the statement. However, the city shall provide at its office upon request an unconsolidated list of all claims allowed. Matters discussed in closed session pursuant to section 21.3 shall not be published until entered on the public minutes. However, in cities having more than one hundred fifty thousand population, the council shall each month print in pamphlet form a detailed itemized statement of all receipts and disbursements of the city, and a summary of its proceedings during the preceding month, and furnish copies to the city library, the daily newspapers of the city, and to persons who apply at the office of the city clerk, and the pamphlet shall constitute publication as required. Failure by the clerk to make publication is a simple misdemeanor. The provisions of this subsection are applicable in cities in which a newspaper is published, or in cities of two hundred population or over, but in all other cities, posting the statement in three public places in the city which have been permanently designated by ordinance is sufficient compliance with this subsection.

7. By ordinance, the council may divide the city into wards which shall be drawn according to the following standards:

*a.* All ward boundaries shall follow precinct boundaries.

*b.* Wards shall be as nearly equal as practicable to the ideal population determined by dividing the number of wards to be established into the population of the city.

*c.* Wards shall be composed of contiguous territory as compact as practicable.

*d.* Consideration shall not be given to the addresses of incumbent officeholders, political affiliations of registered voters, previous election results, or demographic information other than population head counts, except as required by the Constitution and the laws of the United States.

8. By ordinance, the council shall prescribe the compensation of the mayor, council members, and other elected city officers, but a change in the compensation of the mayor does not become effective during the term in which the change is adopted, and the council shall not adopt an ordinance changing the compensation of the mayor, council members, or other elected officers during the months of November and December in the year of a regular city election. A change in the compensation of council members becomes effective for all council members at the beginning of the term of the council members elected at the election next following the change in compensation. Except as provided in section 362.5, an elected city officer is not entitled to receive any other compensation for any other city office or city employment during that officer's tenure in office, but may be reimbursed for actual expenses incurred. However, if the mayor pro tem performs the duties of the mayor during the mayor's absence or disability for a continuous period of fifteen days or more, the mayor pro tem may be paid for that period the compensation determined by the council, based upon the mayor pro tem's performance of the mayor's duties and upon the compensation of the mayor.

9. A council member, during the term for which that member is elected, is not eligible for appointment to any city office if the office has been created or the compensation of the office has been increased during the term for which that member is elected. A person who resigns from an elective office is not eligible for appointment to the same office during the time for which that person was elected if during that time, the compensation of the office has been increased.

10. A council member, during the term for which that member is elected, is not precluded from holding the office of chief of the volunteer fire department if the fire department serves an area with a population of not more than two thousand. A person holding the office of chief of such a volunteer fire department at the time of the person's election to the city council may continue to hold the office of chief of the fire department during the city council term for which that person was elected.

11. Council members shall be elected according to the council representation plans under sections 372.4 and 372.5. However, the council representation plan may be changed, by petition and election, to one of those described in this subsection. Upon receipt of a valid petition, as defined in section 362.4, requesting a change to a council representation plan, the council shall submit the question at a special city election to be held within sixty days. If a majority of the persons voting at the special election approves the changed plan, it becomes effective at the beginning of the term following the next regular city election. If a majority does not approve the changed plan, the council shall not submit another proposal to change a plan to the voters within the next two years.

Eligible electors of a city may petition for one of the following council representation plans:

- a. Election at large without ward residence requirements for the members.
- b. Election at large but with equal-population ward residence requirements for the members.
- c. Election from single-member, equal-population wards, in which the electors of each ward shall elect one member who must reside in that ward.
- d. Election of a specified number of members at large and a specified number of members from single-member, equal-population wards.

1. [R60, §1081, 1093; C73, §511, 522; C97, §668; S13, §668; C24, 27, 31, 35, 39, §5663; C46, 50, §363.36; C54, 58, 62, 66, 71, 73, §368A.1(2); C75, 77, 79, 81, §372.13(1)]

2. [R60, §1101; C73, §514, 524; C97, §668; S13, §668; C24, 27, 31, 35, 39, §5663; C46, 50, §363.36; C54, 58, 62, 66, 71, 73, §368A.1(8); C75, 77, 79, 81, §372.13(2); 81 Acts, ch 34, §46]

3. [R60, §1082, 1093; C73, §512, 522; C97, §651, 659, 940; S13, §651; SS15, §1056-a26, 1056-b18; C24, 27, 31, 35, 39, §5633, 5640, 5663, 6528, 6651, 6703; C46, 50, §363.11, 363.19, 363.36, 416.52, 419.37, 420.13; C54, 58, 62, 66, 71, 73, §368A.1(1), 368A.3; C75, 77, 79, 81, §372.13(3)]

4. [R60, §1086, 1093, 1095, 1098, 1103, 1105, 1134; C73, §493, 515, 522, 524, 528, 532, 534; C97, §651, 657, 668, 676; S13, §651, 657, 668, 1056-a27, 1056-a28; SS15, §1056-a26, 1056-b14, 1056-b17, 1056-b18; C24, 27, 31, 35, 39, §5638, 5663, 5671, 6519, 6528, 6529, 6533, 6651, 6666, 6674; C46, 50, §363.11, 363.17, 363.36, 363.45, 416.43, 416.52, 416.53, 416.57, 419.37, 419.52, 419.60; C54, 58, 62, 66, 71, 73, §363.40, 363A.4, 363B.11, 363C.4, 363C.9, 368A.1(7, 9, 10); C75, 77, 79, 81, §372.13(4)]

5, 6. [R60, §1082, 1093; C73, §512, 522; C97, §659, 668; S13, §668, 687-a; C24, 27, 31, 35, 39, §5640, 5663, 5722; C46, 50, §363.19, 363.33, 366.10; C54, 58, 62, 66, 71, 73, §368A.1(4), 368A.3; C75, 77, 79, 81, §372.13(5, 6); 82 Acts, ch 1047, §1]

7. [R60, §1092; C73, §520; C97, §641; S13, §641; C24, 27, 31, 35, 39, §5626; C46, 50, §363.4; C54, 58, 62, 66, 71, 73, §363.7; C75, 77, 79, 81, §372.13(7)]

8. [R60, §1091, 1095, 1098; C73, §505, 519, 524, 528; C97, §669, 676, 943, 945; S13, §669, 1056-a28; SS15, §1056-b9; C24, 27, 31, 35, 39, §5664, 5671, 6517, 6633, 6704, 6705; C46, 50, §363.38, 363.45, 416.41, 419.19, 420.14, 420.15; C54, 58, 62, 66, §363.39, 363A.4, 363B.9, 363C.2, 420.14, 420.15; C71, 73, §363.39, 363A.4, 363B.9, 363C.2, 363E.1, 420.14, 420.15; C75, 77, 79, 81, §372.13(8)]

9. [R60, §1091, 1122; C73, §490, 491, 519; C97, §668, 677; S13, §668; C24, 27, 31, 35, 39, §5672; C46, 50, §363.46, 420.17–420.19; C54, 58, 62, 66, 71, 73, §368A.21; C75, 77, 79, 81, §372.13(9)]

85 Acts, ch 107, §1; 87 Acts, ch 203, §3; 88 Acts, ch 1052, §1; 88 Acts, ch 1246, §4; 89 Acts, ch 39, §9; 89 Acts, ch 136, §71; 90 Acts, ch 1106, §1; 91 Acts, ch 256, §39; 93 Acts, ch 89, §2; 94 Acts, ch 1179, §24; 94 Acts, ch 1180, §54; 97 Acts, ch 170, §90; 2002 Acts, ch 1134, §104, 115; 2004 Acts, ch 1175, §249; 2006 Acts, ch 1018, §5; 2006 Acts, ch 1138, §2

Removal of appointees, see §372.15  
Removal of officers, chapter 66

### **372.13A Payments without prior authorization of council.**

1. If concurrent vacancies exist on the council and the remaining council members do not constitute a quorum of the full membership, the city clerk is authorized to make the following payments without prior approval of the council:

*a.* For fixed charges including but not limited to freight, express, postage, water, light, telephone service, or contractual services, after a bill is filed with the clerk.

*b.* For salaries and payrolls if the compensation has been fixed or approved by the council. The salary or payroll shall be certified by the officer or supervisor under whose direction or supervision the compensation is earned.

2. If concurrent vacancies exist on the council and the remaining council members do not constitute a quorum of the full membership and the office of city clerk is vacant, the county auditor of the county where the city is located shall make the payments described in subsection 1 without prior approval of the council.

3. The bills paid under this section shall be submitted to the city council for review and approval at the next regular meeting following payment in which a quorum of the council is present.

2006 Acts, ch 1138, §3

**372.14 The mayor.**

1. The mayor is the chief executive officer of the city and presiding officer of the council. Except for the supervisory duties which have been delegated by law to a city manager, the mayor shall supervise all city officers and departments.

2. The mayor may take command of the police and govern the city by proclamation, upon making a determination that a time of emergency or public danger exists. Within the city limits, the mayor has all the powers conferred upon the sheriff to suppress disorders.

3. The mayor pro tem is vice president of the council. When the mayor is absent or unable to act, the mayor pro tem shall perform the mayor's duties, except that the mayor pro tem may not appoint, employ, or discharge officers or employees without the approval of the council. Official actions of the mayor pro tem when the mayor is absent or unable to act are legal and binding to the same extent as if done by the mayor. The mayor pro tem retains all of the powers of a council member.

[R60, §1082, 1085, 1091, 1102, 1105, 1121; C73, §506, 512, 518, 519, 531, 534, 537, 547; C97, §658; S13, §658; SS15, §1056-b7; C24, 27, 31, 35, 39, §5639, 6619, 6647; C46, 50, §363.18, 419.33, 420.9–420.11; C54, 58, 62, 66, 71, 73, §363C.13, 368A.2; C75, 77, 79, 81, §372.14]

**372.15 Removal of appointees.**

Except as otherwise provided by state or city law, all persons appointed to city office may be removed by the officer or body making the appointment, but every such removal shall be by written order. The order shall give the reasons, be filed in the office of the city clerk, and a copy shall be sent by certified mail to the person removed who, upon request filed with the clerk within thirty days of the date of mailing the copy, shall be granted a public hearing before the council on all issues connected with the removal. The hearing shall be held within thirty days of the date the request is filed, unless the person removed requests a later date.

[C77, 79, 81, §372.15]

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## DEPARTMENT OF REVENUE

**421.1 State board of tax review.**

1. There is hereby established within the department of revenue for administrative and budgetary purposes a state board of tax review for the state of Iowa. The state board of tax review, hereinafter called the state board, shall consist of three members who shall be registered voters of the state and shall hold no other elective or appointive public office.

Unnumbered paragraphs 2 to 5 not reprinted.

2. to 5. Not reprinted.

[C51, §481, 482; R60, §742; C73, §834; C97, §1378; S13, §1378; C24, 27, 31, 35, 39, §7140; C46, 50, 54, 58, §422.15; C62, 66, §441.46; C71, 73, 75, 77, 79, 81, §421.1]

86 Acts, ch 1245, §418; 87 Acts, ch 82, §1; 88 Acts, ch 1251, §1; 95 Acts, ch 49, §12; 99 Acts, ch 151, §1, 89; 2003 Acts, ch 145, §286; 2004 Acts, ch 1073, §3; 2006 Acts, ch 1010, §99

**421.3 Director to have no conflicting interests.**

The director of revenue shall not hold any other office under the laws of the United States or of this or any other state or hold any other position of profit. The director shall not engage in any occupation, business, or profession interfering with or inconsistent with the director's duties, serve on or under any committee of any political party, or contribute to the campaign fund of any person or political party. The director shall be of high moral character, shall be recognized for executive and administrative capacity, and shall possess expert knowledge and skills in the fields of taxation and property tax assessment. The director shall devote full time to the duties of the office.

[C31, 35, §6943-c14; C39, §6943.013; C46, 50, 54, 58, 62, 66, §421.4; C71, 73, 75, 77, 79, 81, §421.3]

2003 Acts, ch 145, §286

**421.17 Powers and duties of director.**

In addition to the powers and duties transferred to the director of revenue, the director shall have and assume the following powers and duties:

1. to 27. Not reprinted.

28. To place on the department's official website the official electronic state of Iowa voter registration form and a link to the Iowa secretary of state's official website.

29. Not reprinted.

[C97, §1010, 1011; C24, 27, §6868, 6869; C31, 35, §6868, 6869, 6943-c27; C39, §6868, 6869, 6943.026; C46, §420.209, 420.210, 421.17; C50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §421.17; 82 Acts, ch 1057, §2-4, ch 1216, §1]

83 Acts, ch 96, §157, 159, 160; 83 Acts, ch 153, §20, 21; 85 Acts, ch 197, §8, 9; 86 Acts, ch 1091, §4; 86 Acts, ch 1237, §24; 86 Acts, ch 1245, §422; 87 Acts, ch 199, §4, 5; 88 Acts, ch 1109, §25, 26; 89 Acts, ch 250, §2, 3; 90 Acts, ch 1232, §4; 90 Acts, ch 1253, §122; 91 Acts, ch 159, §3; 91 Acts, ch 268, §127; 92 Acts, ch 1195, §208, 507; 92 Acts, ch 1242, §32, 33; 92 Acts, ch 1243, §31; 93 Acts, ch 79, §34; 93 Acts, ch 97, §40; 93 Acts, ch 110, §5, 6; 94 Acts, ch 1107, §22-24; 94 Acts, ch 1142, §1; 94 Acts, ch 1165, §4-6; 94 Acts, ch 1171, §39; 95 Acts, ch 169, §4, 5; 95 Acts, ch 194, §7-9; 96 Acts, ch 1167, §1; 97 Acts, ch 153, §3; 97 Acts, ch 158, §5-9; 97 Acts, ch 175, §231; 98 Acts, ch 1047, §30, 68; 98 Acts, ch 1115, §4-6; 98 Acts, ch 1202, §41, 46; 99 Acts, ch 152, §1, 40; 2000 Acts, ch 1195, §1, 7; 2001 Acts, ch 116, §3, 4; 2003 Acts, ch 35, §45, 49; 2003 Acts, ch 44, §114; 2003 Acts, ch 145, §254, 286; 2003 Acts, ch 178, §110, 121; 2003 Acts, ch 179, §142; 2003 Acts, 1st Ex, ch 2, §178, 180, 205; 2004 Acts, ch 1073, §4; 2004 Acts, ch 1136, §56; 2005 Acts, ch 19, §52; 2006 Acts, ch 1158, §7; 2006 Acts, ch 1177, §28, 29; 2006 Acts, ch 1185, §82

INDIVIDUAL INCOME, CORPORATE, AND  
FRANCHISE TAXES

**422.12J Income tax checkoff for Iowa election campaign fund.**

A person who files an individual or a joint income tax return with the department of revenue under section 422.13 may designate a contribution to the Iowa election campaign fund authorized pursuant to section 68A.601.

2006 Acts, ch 1158, §27

## OPTIONAL TAXES FOR EMERGENCY MEDICAL SERVICES

**422D.1 Authorization — election — imposition and repeal — use of revenues.**

1. A county board of supervisors may offer for voter approval any of the following taxes or a combination of the following taxes:

- a.* Local option income surtax.
- b.* An ad valorem property tax.

Revenues generated from these taxes shall be used for emergency medical services as provided in section 422D.6.

2. The taxes for emergency medical services shall only be imposed after an election at which a majority of those voting on the question of imposing the tax or combination of taxes specified in subsection 1, paragraph “*a*” or “*b*”, vote in favor of the question. However, the tax or combination of taxes specified in subsection 1 shall not be imposed on property within or on residents of a benefited emergency medical services district under chapter 357F. The question of imposing the tax or combination of the taxes may be submitted at the regular city election, a special election, or state general election. Notice of the question shall be provided by publication at least sixty days before the time of the election and shall identify the tax or combination of taxes and the rate or rates, as applicable. If a majority of those voting on the question approve the imposition of the tax or combination of taxes, the tax or combination of taxes shall be imposed as follows:

*a.* A local option income surtax shall be imposed for tax years beginning on or after January 1 of the fiscal year in which the favorable election was held.

*b.* An ad valorem property tax shall be imposed for the fiscal year in which the election was held.

Before a county imposes an income surtax as specified in subsection 1, paragraph “*a*”, a benefited emergency medical services district in the county shall be dissolved, and the county shall be liable for the outstanding obligations of the benefited district. If the benefited district extends into more than one county, the county imposing the income surtax shall be liable for only that portion of the obligations relating to the portion of the benefited district in the county.

3. Revenues received by the county from the taxes imposed under this chapter shall be deposited into the emergency medical services trust fund created pursuant to section 422D.6 and shall be used as provided in that section.

4. Any tax or combination of taxes imposed shall be for a maximum period of five years.

92 Acts, ch 1226, §17

**422D.3 Administration.**

A local income surtax shall be imposed January 1 of the fiscal year in which the favorable election was held for tax years beginning on or after January 1, and is repealed as provided in section 422D.1, subsection 4, as of December 31 for tax years beginning after December 31.

The director of revenue shall administer the local income surtax as nearly as possible in conjunction with the administration of state income tax laws. The director shall provide on the regular state tax forms for reporting local income surtax.

An ordinance imposing a local income surtax shall adopt by reference the applicable provisions of the appropriate sections of chapter 422, division II. All

powers and requirements of the director in administering the state income tax law apply to the administration of a local income surtax, including but not limited to, the provisions of sections 422.4, 422.20 to 422.31, 422.68, 422.70, and 422.72 to 422.75. Local officials shall confer with the director of revenue for assistance in drafting the ordinance imposing a local income surtax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

The director, in consultation with local officials, shall collect and account for a local income surtax and any interest and penalties. The director shall credit local income surtax receipts and any interest and penalties collected from returns filed on or before November 1 of the calendar year following the tax year for which the local income surtax is imposed to a “local income surtax fund” established in the department of revenue. All local income surtax receipts and any interest and penalties received or refunded from returns filed after November 1 of the calendar year following the tax year for which the local income surtax is imposed shall be deposited in or withdrawn from the state general fund and shall be considered part of the cost of administering the local income surtax.

92 Acts, ch 1226, §19; 99 Acts, ch 151, §35, 89; 2003 Acts, ch 145, §286

#### **422D.5 Property tax levy.**

A county may levy an emergency medical services tax at the rate set by the board of supervisors and approved at the election as provided in section 422D.1, on all taxable property in the county for fiscal years beginning with the fiscal year in which the favorable election was held. The reason for imposing the tax and the amount needed shall be set out on the ballot. The rate shall be set so as to raise only the amount needed. The levy is repealed for subsequent fiscal years as provided in section 422D.1, subsection 4.

92 Acts, ch 1226, §21

## LOCAL OPTION TAXES

**423B.1 Authorization — election — imposition and repeal.**

1. A county may impose by ordinance of the board of supervisors local option taxes authorized by this chapter, subject to this section and subject to the exception provided in subsection 2.

2. *a.* A city whose corporate boundaries include areas of two counties may impose by ordinance of its city council a local sales and services tax if all of the following apply:

(1) At least eighty-five percent of the residents of the city live in one county.

(2) The county in which at least eighty-five percent of the city residents reside has held an election on the question of the imposition of a local sales and services tax and a majority of those voting on the question in the city favored its imposition.

(3) The city has entered into an agreement on the distribution of the sales and services tax revenues collected from the area where the city tax is imposed with the county where such area is located.

*b.* The city council of a city authorized to impose a local sales and services tax pursuant to paragraph “*a*” shall only do so subject to all of the following restrictions:

(1) The tax shall only be imposed in the area of the city located in the county where not more than fifteen percent of the city’s residents reside.

(2) The tax shall be at the same rate and become effective at the same time as the county tax imposed in the other area of the city.

(3) The tax once imposed shall continue to be imposed until the county-imposed tax is reduced or increased in rate or repealed, and then the city-imposed tax shall also be reduced or increased in rate or repealed in the same amount and be effective on the same date.

(4) The tax shall be imposed on the same basis as provided in section 423B.5 and notification requirements in section 423B.6 apply.

(5) The city shall assist the department of revenue to identify the businesses in the area which are to collect the city-imposed tax. The process shall be ongoing as long as the city tax is imposed.

*c.* The agreement on the distribution of the revenues collected from the city-imposed tax shall provide that fifty percent of such revenues shall be remitted to the county in which the part of the city where the city tax is imposed is located.

*d.* The latest certified federal census preceding the election held by the county on the question of imposition of the local sales and services tax shall be used in determining if the city qualifies under paragraph “*a*”, subparagraph (1), to impose its own tax and in determining the area where the city tax may be imposed under paragraph “*b*”, subparagraph (1).

*e.* A city is not authorized to impose a local sales and services tax under this subsection after July 1, 2000. A city that has imposed a local sales and services tax under this subsection on or before July 1, 2000, may continue to collect the tax until such time as the tax is repealed by the city and the fact that the area acquires more than fifteen percent of the city’s residents after the tax is imposed shall not affect the imposition or collection of the tax.

3. A local option tax shall be imposed only after an election at which a majority of those voting on the question favors imposition and shall then be imposed until repealed as provided in subsection 6, paragraph “*a*”. If the tax is a local vehicle tax imposed by a county, it shall apply to all incorporated and unincorporated areas of the county. If the tax is a local sales and services tax imposed by a county, it shall only apply to those incorporated areas and the

unincorporated area of that county in which a majority of those voting in the area on the tax favors its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. For purposes of the local sales and services tax, a city is not contiguous to another city if the only road access between the two cities is through another state.

4. *a.* A county board of supervisors shall direct within thirty days the county commissioner of elections to submit the question of imposition of a local vehicle tax or a local sales and services tax to the registered voters of the incorporated and unincorporated areas of the county upon receipt of a petition, requesting imposition of a local vehicle tax or a local sales and services tax, signed by eligible electors of the whole county equal in number to five percent of the persons in the whole county who voted at the last preceding state general election. In the case of a local vehicle tax, the petition requesting imposition shall specify the rate of tax and the classes, if any, that are to be exempt. If more than one valid petition is received, the earliest received petition shall be used.

*b.* The question of the imposition of a local sales and services tax shall be submitted to the registered voters of the incorporated and unincorporated areas of the county upon receipt by the county commissioner of elections of the motion or motions, requesting such submission, adopted by the governing body or bodies of the city or cities located within the county or of the county, for the unincorporated areas of the county, representing at least one half of the population of the county. Upon adoption of such motion, the governing body of the city or county, for the unincorporated areas, shall submit the motion to the county commissioner of elections and in the case of the governing body of the city shall notify the board of supervisors of the adoption of the motion. The county commissioner of elections shall keep a file on all the motions received and, upon reaching the population requirements, shall publish notice of the ballot proposition concerning the imposition of the local sales and services tax. A motion ceases to be valid at the time of the holding of the regular election for the election of members of the governing body which adopted the motion. The county commissioner of elections shall eliminate from the file any motion that ceases to be valid. The manner provided under this paragraph for the submission of the question of imposition of a local sales and services tax is an alternative to the manner provided in paragraph "a".

c. Upon receipt of petitions or motions calling for the submission of the question of the imposition of a local sales and services tax as described in paragraph "a" or "b", the boards of supervisors of two or more contiguous counties in which the question is to be submitted may enter into a joint agreement providing that for purposes of this chapter, a city whose corporate boundaries include areas of more than one county shall be treated as part of the county in which a majority of the residents of the city reside. In such event, the county commissioners of elections from each such county shall cooperate in the selection of a single date upon which the election shall be held, and for all purposes of this chapter relating to the imposition, repeal, change of use, or collection of the tax, such a city shall be deemed to be part of the county in which a majority of the residents of the city reside. A copy of the joint agreement shall be provided promptly to the director of revenue.

5. The county commissioner of elections shall submit the question of imposition of a local option tax at a state general election or at a special election held at any time other than the time of a city regular election. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the type and rate of tax and in the case of a vehicle tax the classes that will be exempt and in the case of a local sales and services tax the date it will be imposed which date shall not be earlier than ninety days following the election. The ballot proposition shall also specify the approximate amount of local option tax revenues that will be used for property tax relief and shall contain a statement as to the specific purpose or purposes for which the revenues shall otherwise be expended. If the county board of supervisors decides under subsection 6 to specify a date on which the local option sales and services tax shall automatically be repealed, the date of the repeal shall also be specified on the ballot. The rate of the vehicle tax shall be in increments of one dollar per vehicle as set by the petition seeking to impose the tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

6. a. If a majority of those voting on the question of imposition of a local option tax favors imposition of a local option tax, the governing body of that county shall impose the tax at the rate specified for an unlimited period. However, in the case of a local sales and services tax, the county shall not impose the tax in any incorporated area or the unincorporated area if the majority of those voting on the tax in that area did not favor its imposition. For purposes of the local sales and services tax, all cities contiguous to each other shall be treated as part of one incorporated area and the tax shall be imposed in each of those contiguous cities only if the majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition.

The local option tax may be repealed or the rate increased or decreased or the use thereof changed after an election at which a majority of those voting on the question of repeal or rate or use change favored the repeal or rate or use change. The date on which the repeal, rate, or use change is to take effect shall not be earlier than ninety days following the election. The election at which the

question of repeal or rate or use change is offered shall be called and held in the same manner and under the same conditions as provided in subsections 4 and 5 for the election on the imposition of the local option tax. However, in the case of a local sales and services tax where the tax has not been imposed countywide, the question of repeal or imposition or rate or use change shall be voted on only by the registered voters of the areas of the county where the tax has been imposed or has not been imposed, as appropriate. However, the governing body of the incorporated area or unincorporated area where the local sales and services tax is imposed may, upon its own motion, request the county commissioner of elections to hold an election in the incorporated or unincorporated area, as appropriate, on the question of the change in use of local sales and services tax revenues. The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. If a majority of those voting in the incorporated or unincorporated area on the change in use favors the change, the governing body of that area shall change the use to which the revenues shall be used. The ballot proposition shall list the present use of the revenues, the proposed use, and the date after which revenues received will be used for the new use.

When submitting the question of the imposition of a local sales and services tax, the county board of supervisors may direct that the question contain a provision for the repeal, without election, of the local sales and services tax on a specific date, which date shall be as provided in section 423B.6, subsection 1.

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, or change in the rate of a local option tax, the county auditor shall give written notice of the result of the election by sending a copy of the abstract of the votes from the favorable election to the director of revenue or, in the case of a local vehicle tax, to the director of the department of transportation.

7. More than one of the authorized local option taxes may be submitted at a single election and the different taxes shall be separately implemented as provided in this section.

Costs of local option tax elections shall be apportioned among jurisdictions within the county voting on the question at the same election on a pro rata basis in proportion to the number of registered voters in each taxing jurisdiction and the total number of registered voters in all of the taxing jurisdictions.

8. Local option taxes authorized to be imposed as provided in this chapter are a local sales and services tax and a local vehicle tax. The rate of the tax shall be in increments of one dollar per vehicle for a vehicle tax as set on the petition seeking to impose the vehicle tax. The rate of a local sales and services tax shall not be more than one percent as set by the governing body.

9. In a county that has imposed a local option sales and services tax, the board of supervisors shall, notwithstanding any contrary provision of this chapter, repeal the local option sales and services tax in the unincorporated areas or in an incorporated city area in which the tax has been imposed upon adoption of its own motion for repeal in the unincorporated areas or upon receipt of a motion adopted by the governing body of that incorporated city area requesting repeal. The board of supervisors shall repeal the local option sales and services tax effective on the later of the date of the adoption of the repeal motion or the earliest date specified in section 423B.6, subsection 1. For purposes of this subsection, incorporated city area includes an incorporated city which is contiguous to another incorporated city.



10. Notwithstanding subsection 9 or any other contrary provision of this chapter, a local option sales and services tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 423B.9, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose.

85 Acts, ch 32, §89; 85 Acts, ch 198, §6

CS85, §422B.1

86 Acts, ch 1199, §2–6; 89 Acts, ch 146, §1; 89 Acts, ch 276, §1; 90 Acts, ch 1256, §21; 92 Acts, ch 1063, §1; 93 Acts, ch 143, §50; 95 Acts, ch 67, §53; 95 Acts, ch 186, §1–4, 9; 96 Acts, ch 1079, §22, 23; 99 Acts, ch 156, §5–11, 23; 2000 Acts, ch 1058, §36; 2002 Acts, ch 1119, §166; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 2, §203, 205

C2005, §423B.1

2006 Acts, ch 1158, §52–54

#### **423B.2 Local vehicle tax.**

An annual local vehicle tax at the rate per vehicle specified on the ballot proposition may be imposed by a county on every vehicle which is required to be registered by the state and is registered with the county treasurer to a person residing within the county where the tax is imposed at the time of the renewal of the registration of the vehicle. The local vehicle tax shall be imposed only on the renewals of registrations and shall be payable during the registration renewal periods provided under section 321.40.

The county imposing the tax shall provide for the exemption of each class, if any, of vehicles for which an exemption was listed on the ballot proposition.

For the purpose of the tax authorized by this section, “*person*” and “*registration year*” mean the same as defined in section 321.1, and “*vehicle*” means motor vehicle as defined in section 321.1 which is subject to registration under section 321.18, and which is registered with the county treasurer.

85 Acts, ch 32, §90

CS85, §422B.2

2003 Acts, 1st Ex, ch 2, §203, 205

C2005, §423B.2

#### **423B.3 Administration of local vehicle tax.**

A local vehicle tax or change in the rate shall be imposed January 1 immediately following a favorable election for registration years beginning on or after that date and the repeal of the tax shall be as of December 31 following a favorable election for registration years beginning after that date.

Local officials shall confer with the director of the department of transportation for assistance in drafting the ordinance imposing a local vehicle tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage. The director shall inform the appropriate county treasurers and provide assistance to them for the collection of all local vehicle taxes and any penalties, crediting local vehicle tax receipts excluding penalties to a “*local vehicle tax fund*” established in the office of the county treasurer. From the local vehicle tax fund, the treasurer shall remit monthly, by direct deposit in the same manner as provided in section 384.11, to each city in the county the amount collected from residents of the city during the preceding calendar month and to the county the amount collected from the residents of the unincorporated area during the preceding calendar month. Moneys received by a city or county from this fund shall be credited to the general fund of the city or county to be used solely for public transit or shall be credited to the street

construction fund of that city or the secondary road fund of that county to be used for the purposes specified in section 312.6. Any penalties collected shall be credited to the county general fund to be used to defray the cost to the county of administering the local vehicle tax.

85 Acts, ch 32, §91

CS85, §422B.3

2003 Acts, 1st Ex, ch 2, §203, 205

C2005, §423B.3

#### **423B.5 Local sales and services tax.**

A local sales and services tax at the rate of not more than one percent may be imposed by a county on the sales price taxed by the state under chapter 423, subchapter II. A local sales and services tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed. A local sales and services tax is applicable to transactions within those incorporated and unincorporated areas of the county where it is imposed and shall be collected by all persons required to collect state sales taxes. All cities contiguous to each other shall be treated as part of one incorporated area and the tax would be imposed in each of those contiguous cities only if the majority of those voting in the total area covered by the contiguous cities favors its imposition. In the case of a local sales and services tax submitted to the registered voters of two or more contiguous counties as provided in section 423B.1, subsection 4, paragraph "c", all cities contiguous to each other shall be treated as part of one incorporated area, even if the corporate boundaries of one or more of the cities include areas of more than one county, and the tax shall be imposed in each of those contiguous cities only if a majority of those voting on the tax in the total area covered by the contiguous cities favored its imposition.

The amount of the sale, for purposes of determining the amount of the local sales and services tax, does not include the amount of any state sales tax.

A tax permit other than the state sales tax permit required under section 423.36 shall not be required by local authorities.

If a local sales and services tax is imposed by a county pursuant to this chapter, a local excise tax at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423, subchapter III, and not exempted from tax by any provision of chapter 423, subchapter III. The local excise tax is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax. For purposes of this chapter, "*local sales and services tax*" shall also include the local excise tax.

85 Acts, ch 32, §96

CS85, §422B.8

86 Acts, ch 1042, §11; 86 Acts, ch 1199, §7; 88 Acts, ch 1154, §3; 89 Acts, ch 276, §2; 95 Acts, ch 83, §13; 99 Acts, ch 151, §30–32; 99 Acts, ch 156, §12; 2001 Acts, ch 116, §13; 2003 Acts, ch 178, §113, 121; 2003 Acts, ch 179, §142; 2003 Acts, 1st Ex, ch 2, §187, 203, 205

C2005, §423B.5

2005 Acts, ch 3, §70; 2005 Acts, ch 140, §14, 16, 26, 31; 2006 Acts, ch 1010, §104; 2006 Acts, ch 1158, §55

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**423B.6 Administration.**

1. *a.* A local sales and services tax shall be imposed either January 1 or July 1 following the notification of the director of revenue but not sooner than ninety days following the favorable election and not sooner than sixty days following notice to sellers, as defined in section 423.1. However, a jurisdiction which has voted to continue imposition of the tax may impose that tax without repeal of the prior tax.

*b.* A local sales and services tax shall be repealed only on June 30 or December 31 but not sooner than ninety days following the favorable election if one is held. However, a local sales and services tax shall not be repealed before the tax has been in effect for one year. At least forty days before the imposition or repeal of the tax, a county shall provide notice of the action by certified mail to the director of revenue.

*c.* The imposition of or a rate change for a local sales and services tax shall not be applied to purchases from a printed catalog wherein a purchaser computes the local tax based on rates published in the catalog unless a minimum of one hundred twenty days' notice of the imposition or rate change has been given to the seller from the catalog and the first day of a calendar quarter has occurred on or after the one hundred twentieth day.

*d.* If a local sales and services tax has been imposed prior to April 1, 2000, and at the time of the election a date for repeal was specified on the ballot, the local sales and services tax may be repealed on that date, notwithstanding paragraph "b".

2. *a.* The director of revenue shall administer a local sales and services tax as nearly as possible in conjunction with the administration of state sales tax laws. The director shall provide appropriate forms or provide on the regular state tax forms for reporting local sales and services tax liability.

*b.* The ordinance of a county board of supervisors imposing a local sales and services tax shall adopt by reference the applicable provisions of the appropriate sections of chapter 423. All powers and requirements of the director to administer the state sales tax law and use tax law are applicable to the administration of a local sales and services tax law and the local excise tax, including but not limited to the provisions of section 422.25, subsection 4, sections 422.30, 422.67, and 422.68, section 422.69, subsection 1, sections 422.70 to 422.75, section 423.14, subsection 1 and subsection 2, paragraphs "b" through "e", and sections 423.15, 423.23, 423.24, 423.25, 423.31 to 423.35, 423.37 to 423.42, 423.46, and 423.47. Local officials shall confer with the director of revenue for assistance in drafting the ordinance imposing a local sales and services tax. A certified copy of the ordinance shall be filed with the director as soon as possible after passage.

*c.* Frequency of deposits and quarterly reports of a local sales and services tax with the department of revenue are governed by the tax provisions in section 423.31. Local tax collections shall not be included in computation of the total tax to determine frequency of filing under section 423.31.

*d.* The director shall apply a boundary change of a county or city imposing or collecting the local sales and services tax to the imposition or collection of that tax only on the first day of a calendar quarter which occurs sixty days or more after the director has given notice of the boundary change to sellers.

3. *a.* The director, in consultation with local officials, shall collect and account for a local sales and services tax. The director shall certify each quarter the amount of local sales and services tax receipts and any interest and penalties to be credited to the "local sales and services tax fund" established in the office of the treasurer of state. All taxes collected under this chapter by a retailer or any individual are deemed to be held in trust for the state of Iowa

and the local jurisdictions imposing the taxes.

*b.* All local tax moneys and interest and penalties received or refunded one hundred eighty days or more after the date on which the county repeals its local sales and services tax shall be deposited in or withdrawn from the state general fund.

85 Acts, ch 32, §97

CS85, §422B.9

86 Acts, ch 1245, §441; 89 Acts, ch 276, §3; 97 Acts, ch 145, §1; 99 Acts, ch 151, §33, 89; 99 Acts, ch 156, §13, 23; 2001 Acts, ch 116, §14; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 2, §188, 203, 205; 2004 Acts, ch 1073, §21

C2005, §423B.6

#### **423B.9 Issuance of bonds.**

1. For purposes of this section unless the context otherwise requires:

*a.* “*Bond issuer*” or “*issuer*” means a city, a county, or a secondary recipient.

*b.* “*Designated portion*” means the portion of the local option sales and services tax revenues which is authorized to be expended for one or a combination of purposes under an adopted public measure.

*c.* “*Secondary recipient*” means a political subdivision of the state which is to receive revenues from a local option sales and services tax over a period of years pursuant to the terms of a chapter 28E agreement with one or more cities or counties.

2. An issuer of public bonds which is a recipient of revenues from a local option sales and services tax imposed pursuant to this chapter may issue bonds in anticipation of the collection of one or more designated portions of the local option sales and services tax and may pledge irrevocably an amount of the revenue derived from the designated portions for each of the years the bonds remain outstanding to the payment of the bonds. Bonds may be issued only for one or more of the purposes set forth on the ballot proposition concerning the imposition of the local option sales and services tax, except bonds shall not be issued which are payable from that portion of tax revenues designated for property tax relief. The bonds may be issued in accordance with the procedures set forth in either subsection 3 or 4.

3. The governing body of an issuer may authorize the issuance of bonds which are payable from the designated portion of the revenues of the local option sales and services tax, and not from property tax, by following the authorization procedures set forth for cities in section 384.83. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

4. To authorize the issuance of bonds payable as provided in this subsection, the governing body of an issuer shall comply with all of the procedures as follows:

*a.* A bond issuer may institute proceedings for the issuance of bonds by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, together with the maximum rate of interest which the bonds are to bear, and the right to petition for an election, to be published at least once in a newspaper of general circulation within the political subdivision or unincorporated area at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds.

If at any time before the date fixed for taking action for the issuance of the bonds, a petition signed by eligible electors residing within the jurisdiction seeking to issue the bonds in a number equal to at least three percent of the registered voters of the bond issuer is filed, asking that the question of issuing the bonds be submitted to the registered voters, the governing body shall either by resolution declare the proposal to issue the bonds to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of issuing the bonds. The proposition of issuing bonds under this subsection is not approved unless the vote in favor of the proposition is equal to at least sixty percent of the vote cast. If a petition is not filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the governing body acting on behalf of the issuer may proceed with the authorization and issuance of the bonds. Bonds may be issued for the purpose of refunding outstanding and previously issued bonds under this subsection without otherwise complying with the provisions of this subsection.

*b.* The provisions of chapter 76 apply to the bonds payable as provided in this subsection, except that the mandatory levy to be assessed pursuant to section 76.2 shall be at a rate to generate an amount which together with the receipts from the pledged designated portion of the local option sales and services tax is sufficient to pay the interest and principal on the bonds. All amounts collected as a result of the levy assessed pursuant to section 76.2 and paid out in the first instance for bond principal and interest shall be repaid to the bond issuer which levied the tax from the first available designated portion of local option sales and services tax collections received in excess of the requirement for the payment of the principal and interest of the bonds and when repaid shall be applied in reduction of property taxes. The amount of bonds which may be issued under section 76.3 shall be the amount which could be retired from the actual collections of the designated portions of the local option sales and services tax for the last four calendar quarters, as certified by the director of revenue. The amount of tax revenues pledged jointly by other cities or counties may be considered for the purpose of determining the amount of bonds which may be issued. If the local option sales and services tax has been in effect for less than four calendar quarters, the tax collected within the shorter period may be adjusted to project the collections of the designated portion for the full year for the purpose of determining the amount of the bonds which may be issued. The provisions of this section constitute separate authorization for the issuance of bonds and shall prevail in the event of conflict with any other provision of the Code limiting the amount of bonds which may be issued or the source of payment of the bonds. Bonds issued under this section shall not limit or restrict the authority of the bond issuer to issue bonds under other provisions of the Code.

5. A city or county, jointly with one or more other political subdivisions as provided in chapter 28E, may pledge irrevocably any amount derived from the designated portions of the revenues of the local option sales and services tax to the support or payment of bonds of an issuer, issued for one or more purposes set forth on the ballot proposition concerning the imposition of the local option

sales and services tax or a political subdivision may apply the proceeds of its bonds to the support of any such purpose.

6. Bonds issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance, or sale of bonds. Bonds issued pursuant to this section are declared to be issued for an essential public and governmental purpose. Bonds issued pursuant to this section shall be authorized by resolution of the governing body and may be issued in one or more series and shall bear the date or dates, be payable on demand or mature at the time or times, bear interest at the rate or rates not exceeding that permitted by chapter 74A, be in the denomination or denominations, be in the form, have the rank or priority, be executed in the manner, be payable in the medium of payment, at the place or places, be subject to the terms of redemption, with or without premium, be secured in the manner, and have the other characteristics, as may be provided by the resolution authorizing their issuance. The bonds may be sold at public or private sale at a price as may be determined by the governing body.

95 Acts, ch 186, §7, 9

CS95, §422B.12

96 Acts, ch 1079, §22, 23; 2001 Acts, ch 56, §35; 2003 Acts, ch 145, §286; 2003 Acts, 1st Ex, ch 2, §203, 205

C2005, §423B.9

#### SCHOOL INFRASTRUCTURE FUNDING

##### **423E.1 Authorization — rate of tax — use of revenues.**

1. A local sales and services tax for school infrastructure purposes may be imposed by a county on behalf of school districts as provided in this chapter.

If a local sales and services tax for school infrastructure is imposed by a county pursuant to this chapter, a local excise tax for school infrastructure at the same rate shall be imposed by the county on the purchase price of natural gas, natural gas service, electricity, or electric service subject to tax under chapter 423, subchapter III, and not exempted from tax by any provision of chapter 423, subchapter III. The local excise tax for school infrastructure is applicable only to the use of natural gas, natural gas service, electricity, or electric service within those incorporated and unincorporated areas of the county where it is imposed and, except as otherwise provided in this chapter, shall be collected and administered in the same manner as the local sales and services tax for school infrastructure. For purposes of this chapter, “*local sales and services tax for school infrastructure*” shall also include the local excise tax for school infrastructure.

2. The maximum rate of tax shall be one percent. The tax shall be imposed without regard to any other local sales and services tax authorized in chapter 423B, and is repealed at the expiration of a period of ten years of imposition or a shorter period as provided in the ballot proposition unless the period is extended as provided in section 423E.2, subsection 5. However, all local option sales and services taxes for school infrastructure purposes are repealed December 31, 2022.



3. Local sales and services tax moneys received by a county for school infrastructure purposes pursuant to this chapter shall be utilized for school infrastructure needs or property tax relief. For purposes of this chapter, “*school infrastructure*” means those activities for which a school district is authorized to contract indebtedness and issue general obligation bonds under section 296.1, except those activities related to a teacher’s or superintendent’s home or homes. These activities include the construction, reconstruction, repair, demolition work, purchasing, or remodeling of schoolhouses, stadiums, gyms, fieldhouses, and bus garages and the procurement of schoolhouse construction sites and the making of site improvements and those activities for which revenues under section 298.3 or 300.2 may be spent. A school district that uses local sales and services tax moneys for school infrastructure shall comply with the state building code in the absence of a local building code. Additionally, “*school infrastructure*” includes the payment or retirement of outstanding bonds previously issued for school infrastructure purposes as defined in this subsection, and the payment or retirement of bonds issued under section 423E.5.

98 Acts, ch 1130, §1, 6

C99, §422E.1

99 Acts, ch 151, §36, 89; 2003 Acts, ch 157, §1, 11; 2003 Acts, 1st Ex, ch 2, §192, 203, 205; 2004 Acts, ch 1175, §251

C2005, §423E.1

2006 Acts, ch 1152, §52

#### **423E.2 Imposition by county.**

1. *a.* A local sales and services tax shall be imposed by a county only after an election at which a majority of those voting on the question favors imposition. The effective date shall be either January 1 or July 1 but not sooner than ninety days following the favorable election. A local sales and services tax approved by a majority vote shall apply to all incorporated and unincorporated areas of that county.

*b.* A local sales and services tax shall be repealed on either June 30 or December 31 but not sooner than ninety days following the favorable election, if one is held.

*c.* If a local sales and services tax has been imposed prior to April 1, 2000, and at the time of the election a date for repeal was specified on the ballot, the local sales and services tax may be repealed on that date, notwithstanding paragraph “*b*”.

2. *a.* Upon receipt by a county board of supervisors of a petition requesting imposition of a local sales and services tax for infrastructure purposes, signed by eligible electors of the whole county equal in number to five percent of the persons in the whole county who voted at the last preceding state general election, the board shall within thirty days direct the county commissioner of elections to submit the question of imposition of the tax to the registered voters of the whole county.

*b.* Alternatively, the question of imposition of a local sales and services tax for school infrastructure purposes may be proposed by motion or motions, requesting such submission, adopted by the governing body of a school district or school districts located within the county containing a total, or a combined total in the case of more than one school district, of at least one-half of the population of the county, or by the county board of supervisors. Upon adoption of such motion, the governing body of a school district shall notify the board of supervisors of the adoption of the motion. The county board of supervisors shall submit the motion to the county commissioner of elections, who shall publish

notice of the ballot proposition concerning the imposition of the local sales and services tax. A motion ceases to be valid at the time of the holding of the regular election for the election of members of the governing body which adopted the motion.

3. The county commissioner of elections shall submit the question of imposition of a local sales and services tax for school infrastructure purposes at a state general election or at a special election held at any time other than the time of a city regular election. The election shall not be held sooner than sixty days after publication of notice of the ballot proposition. The ballot proposition shall specify the rate of tax, the date the tax will be imposed and repealed, and shall contain a statement as to the specific purpose or purposes for which the revenues shall be expended. The content of the ballot proposition shall be substantially similar to the petition of the board of supervisors or motions of a school district or school districts requesting the election as provided in subsection 2, as applicable, including the rate of tax, imposition and repeal date, and the specific purpose or purposes for which the revenues will be expended. The dates for the imposition and repeal of the tax shall be as provided in subsection 1. The rate of tax shall not be more than one percent. The state commissioner of elections shall establish by rule the form for the ballot proposition which form shall be uniform throughout the state.

4. *a.* Each school district located within the county may submit a revenue purpose statement to the county commissioner of elections no later than sixty days prior to the election indicating the specific purpose or purposes for which the local sales and services tax for school infrastructure revenue and supplemental school infrastructure amount revenue will be expended. The revenues received pursuant to this chapter shall be expended for the purposes indicated in the revenue purpose statement. The revenue purpose statement may include information regarding the school district's use of the revenues to provide for property tax relief or debt reduction. A copy of the revenue purpose statement shall be made available for public inspection in accordance with chapter 22, shall be posted at the appropriate polling places of each school district during the hours that the polls are open, and be published in a newspaper of general circulation in the school district no sooner than twenty days and no later than ten days prior to the election. Notwithstanding the requirements for a revenue purpose statement in this paragraph, for elections occurring after April 1, 2003, but before August 1, 2003, a revenue purpose statement submitted not later than April 1, 2004, shall be considered to have met the requirements of this paragraph.

*b.* If a revenue purpose statement is not submitted sixty days prior to the election or revenues remain after fulfilling the purpose specified in the revenue purpose statement, the revenues shall be used to reduce the following levies in the following order:

(1) Bond levies under sections 298.18 and 298.18A and all other debt levies, until the moneys received or the levies are reduced to zero.

(2) The regular physical plant and equipment levy under section 298.2, until the moneys received or the levy is reduced to zero.

(3) The voter-approved physical plant and equipment levy and income surtax, if any, under section 298.2, until the moneys received or the levy and income surtax, if any, are reduced to zero.

(4) The public educational and recreational levy under section 300.2, until the moneys received or the levy is reduced to zero.

(5) The schoolhouse tax levy under section 278.1, subsection 7, Code 1989, until the moneys received or the levy is reduced to zero.

Any money remaining after the reduction of the levies specified in this paragraph “b” may be used for any authorized infrastructure purpose of the school district.

c. Counties holding an election on the local sales and services tax for school infrastructure purposes on or after April 1, 2003, but before July 1, 2003, which approve the imposition of the tax at the election shall expend the revenues for any authorized infrastructure purpose of the school district.

5. a. The tax may be repealed, the period of imposition of the tax may be extended for additional periods up to ten years each, or the rate increased, but not above one percent, or decreased, or the use of the revenues changed after an election at which a majority of those voting on the question of repeal, extension, rate change, or change in use favored the repeal, extension, rate change, or change in use. The election at which the question of repeal, extension, rate change, or change in use is offered shall be called and held in the same manner and under the same conditions as provided in this section for the election on the imposition of the tax. However, an election on the change in use shall only be held in the school district where the change in use is proposed to occur. The election may be held at any time but not sooner than sixty days following publication of the ballot proposition. However, the tax shall not be repealed before it has been in effect for one year.

b. Within ten days of the election at which a majority of those voting on the question favors the imposition, repeal, extension, or change in the rate of the tax, the county auditor shall give written notice of the result of the election by sending a copy of the abstract of the votes from the favorable election to the director of revenue. Election costs shall be apportioned among school districts within the county on a pro rata basis in proportion to the number of registered voters in each school district who reside within the county and the total number of registered voters within the county.

c. A local option sales and services tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 423E.5, unless funds sufficient to pay the principal, interest, and premium, if any, on the outstanding obligations at and prior to maturity have been properly set aside and pledged for that purpose. However, this paragraph does not apply to the repeal of the tax on December 31, 2022, as specified in section 423E.1, subsection 2.

98 Acts, ch 1130, §2, 6

C99, §422E.2

99 Acts, ch 156, §15, 16, 23; 2000 Acts, ch 1058, §37; 2001 Acts, ch 24, §50; 2002 Acts, ch 1134, §111, 115; 2003 Acts, ch 145, §286; 2003 Acts, ch 157, §2–4, 11; 2003 Acts, 1st Ex, ch 2, §203, 205; 2004 Acts, ch 1175, §252, 253, 287

C2005, §423E.2

### **423E.3 Collection of tax.**

1. If a majority of those voting on the question of imposition of a local sales and services tax for school infrastructure purposes favors imposition of the tax, the tax shall be imposed by the county board of supervisors within the county pursuant to section 423E.2, at the rate specified for the period provided in section 423E.1, subsection 2, on the sales price taxed by the state under chapter 423, subchapter II.

2. The tax shall be imposed on the same basis as the state sales and services tax or in the case of the use of natural gas, natural gas service, electricity, or electric service on the same basis as the state use tax and shall not be imposed on the sale of any property or on any service not taxed by the state, except the

tax shall not be imposed on the sales price from the sale of motor fuel or special fuel as defined in chapter 452A which is consumed for highway use or in watercraft or aircraft if the fuel tax is paid on the transaction and a refund has not or will not be allowed, on the sales price from the sale of equipment by the state department of transportation, or on the sales price from the sale or use of natural gas, natural gas service, electricity, or electric service in a city or county where the sales price from the sale of natural gas or electric energy is subject to a franchise fee or user fee during the period the franchise or user fee is imposed.

3. The tax is applicable to transactions within the county where it is imposed and shall be collected by all persons required to collect state sales or local excise taxes. The amount of the sale, for purposes of determining the amount of the tax, does not include the amount of any state sales taxes or excise taxes or other local option sales or excise taxes. A tax permit other than the state tax permit required under section 423.36 shall not be required by local authorities.

4. The director of revenue shall credit tax receipts and interest and penalties from the local sales and services tax for school infrastructure purposes to an account within the secure an advanced vision for education fund, as provided in section 423E.4, maintained in the name of the school district or school districts located within the county. If the director is unable to determine from which county any of the receipts were collected, those receipts shall be allocated among the possible counties based on allocation rules adopted by the director.

5. *a.* The director of revenue by August 15 of each fiscal year shall send to each school district where the tax is imposed an estimate of the amount of tax moneys each school district will receive for the year and for each month of the year. At the end of each month, the director may revise the estimates for the year and remaining months.

*b.* The director shall remit ninety-five percent of the estimated tax receipts for the school district to the school district on or before August 31 of the fiscal year and on or before the last day of each following month.

*c.* The director shall remit a final payment of the remainder of tax moneys due for the fiscal year before November 10 of the next fiscal year. If an overpayment has resulted during the previous fiscal year, the November payment shall be adjusted to reflect any overpayment.

*d.* (1) If more than one school district, or a portion of a school district, is located within the county, tax receipts shall be remitted to each school district or portion of a school district in which the county tax is imposed in a pro rata share based upon the ratio which the actual enrollment for the school district that attends school in the county bears to the total combined actual enrollments for all school districts that attend school in the county.

(2) The combined actual enrollment for a county, for purposes of this section, shall be determined for each county by the department of management based on the actual enrollment figures reported by October 15 to the department of management by the department of education pursuant to section 257.6, subsection 1. The combined actual enrollment count shall be forwarded to the director of revenue by March 1, annually, for purposes of supplying estimated tax payment figures and making estimated tax payments pursuant to this section for the following fiscal year.

*e.* Notwithstanding the amount of tax receipts credited to the account within the secure an advanced vision for education fund maintained in the name of a school district, the amount of tax receipts the school district shall receive from the tax imposed in the county shall be determined as provided in section 423E.4, subsection 2.

6. The local sales and services tax for school infrastructure purposes shall be administered as provided in section 423B.6.

7. Construction contractors may make application to the department for a refund of the additional local sales and services tax paid under this chapter by reason of taxes paid on goods, wares, or merchandise under the conditions specified in section 423B.8. The refund shall be paid by the department from the appropriate school district's account in the secure an advanced vision for education fund. The penalty provisions contained in section 423B.8, subsection 3, shall apply regarding an erroneous application for refund of local sales and services tax paid under this chapter.

98 Acts, ch 1130, §3, 6

C99, §422E.3

99 Acts, ch 151, §37-39, 89; 99 Acts, ch 156, §17-19, 23; 2001 Acts, ch 116, §16; 2002 Acts, ch 1151, §13; 2003 Acts, ch 145, §286; 2003 Acts, ch 157, §5-7, 11; 2003 Acts, ch 178, §114, 121; 2003 Acts, ch 179, §142; 2003 Acts, 1st Ex, ch 2, §193, 203, 205; 2004 Acts, ch 1175, §254

C2005, §423E.3

2005 Acts, ch 3, §71; 2005 Acts, ch 140, §15, 16, 27, 32; 2006 Acts, ch 1010, §105; 2006 Acts, ch 1152, §53

#### **423E.5 Bonding.**

The board of directors of a school district shall be authorized to issue negotiable, interest-bearing school bonds, without election, and utilize tax receipts derived from the sales and services tax for school infrastructure purposes and the supplemental school infrastructure amount distributed pursuant to section 423E.4, subsection 2, paragraph "b", for principal and interest repayment. Proceeds of the bonds issued pursuant to this section shall be utilized solely for school infrastructure needs as school infrastructure is defined in section 423E.1, subsection 3. Bonds issued under this section may be sold at public sale as provided in chapter 75, or at private sale, without notice and hearing as provided in section 73A.12. Bonds may bear dates, bear interest at rates not exceeding that permitted by chapter 74A, mature in one or more installments, be in registered form, carry registration and conversion privileges, be payable as to principal and interest at times and places, be subject to terms of redemption prior to maturity with or without premium, and be in one or more denominations, all as provided by the resolution of the board of directors authorizing their issuance. The resolution may also prescribe additional provisions, terms, conditions, and covenants which the board of directors deems advisable, including provisions for creating and maintaining reserve funds, the issuance of additional bonds ranking on a parity with such bonds and additional bonds junior and subordinate to such bonds, and that such bonds shall rank on a parity with or be junior and subordinate to any bonds which may be then outstanding. Bonds may be issued to refund outstanding and previously issued bonds under this section. Local option sales and services tax revenue bonds are a contract between the school district and holders, and the resolution issuing the bonds and pledging local option sales and services tax revenues to the payment of principal and interest on the bonds is a part of the contract. Bonds issued pursuant to this section shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to any other law relating to the authorization, issuance, or sale of bonds.

A school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to enter into a chapter 28E

agreement with one or more cities or a county whose boundaries encompass all or a part of the area of the school district. A city or cities entering into a chapter 28E agreement shall be authorized to expend its designated portion of the local option sales and services tax revenues for any valid purpose permitted in this chapter or authorized by the governing body of the city. A county entering into a chapter 28E agreement with a school district in which a local option sales tax for school infrastructure purposes has been imposed shall be authorized to expend its designated portion of the local option sales and services tax revenues to provide property tax relief within the boundaries of the school district located in the county. A school district where a local option sales and services tax is imposed is also authorized to enter into a chapter 28E agreement with another school district, a community college, or an area education agency which is located partially or entirely in or is contiguous to the county where the tax is imposed. The school district or community college shall only expend its designated portion of the local option sales and services tax for infrastructure purposes. The area education agency shall only expend its designated portion of the local option school infrastructure sales tax for infrastructure and maintenance purposes.

The governing body of a city may authorize the issuance of bonds which are payable from its designated portion of the revenues of the local option sales and services tax, and not from property tax, by following the authorization procedures set forth for cities in section 384.83. A city may pledge irrevocably any amount derived from its designated portions of the revenues of the local option sales and services tax to the support or payment of such bonds.

98 Acts, ch 1130, §4, 6

C99, §422E.4

99 Acts, ch 156, §20, 23; 2003 Acts, ch 157, §9, 11; 2003 Acts, 1st Ex, ch 2, §203, 205; 2004 Acts, ch 1175, §258

C2005, §423E.5

2005 Acts, ch 179, §66, 85

#### **423E.7 Repeal.**

This chapter is repealed June 30, 2023, for fiscal years beginning after that date.

2003 Acts, ch 157, §10, 11

CS2003, §422E.6

2003 Acts, 1st Ex, ch 2, §203, 205

C2005, §423E.7

## ASSESSMENT AND VALUATION OF PROPERTY

**441.17 Duties of assessor.**

The assessor shall:

1. Devote full time to the duties of the assessor's office and shall not engage in any occupation or business interfering or inconsistent with such duties. This subsection does not preclude an assessor from being a candidate for elective office during the term of appointment as assessor. If an assessor is elected to a city or county office, to a statewide elective office, or to the general assembly, the assessor shall resign as assessor before the beginning of the term of the office to which the assessor was elected.

2. to 11. Not reprinted.

[C51, §474, 475; R60, §735, 736; C73, §824, 825; C97, §1355, 1359, 1366; S13, §1355, 1366; C24, 27, 31, 35, 39, §7108, 7114, 7122, 7123; C46, §441.3, 441.9, 441.17, 441.18; C50, 54, 58, §405A.8, 441.4, 441.9, 441.12; C62, 66, 71, 73, 75, 77, 79, 81, §441.17]

83 Acts, ch 64, §2; 87 Acts, ch 84, §1; 89 Acts, ch 296, §61; 94 Acts, ch 1110, §20, 24; 2001 Acts, ch 153, §15, 16; 2001 Acts, ch 176, §80; 2002 Acts, ch 1088, §1, 2; 2003 Acts, ch 145, §286

## TAX COLLECTION

**445.1 Definition of terms.**

Unnumbered paragraph 1 not reprinted.

1. and 2. Not reprinted.

3. "*County system*" means a method of data storage and retrieval as approved by the auditor of state including, but not limited to, tax lists, books, records, indexes, registers, or schedules.

4. to 7. Not reprinted.

[R60, §751; C73, §846; C97, §1390; C24, 27, 31, 35, 39, §7184; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §445.1]

86 Acts, ch 1139, §2; 91 Acts, ch 191, §26; 92 Acts, ch 1163, §85; 93 Acts, ch 73, §5; 95 Acts, ch 57, §11; 2001 Acts, ch 153, §15; 2001 Acts, ch 176, §80

DEPARTMENT OF NATURAL RESOURCES

**455A.4 General powers and duties of the director.**

1. Except as otherwise provided by law and subject to rules adopted by the natural resource commission and the environmental protection commission, the director shall:

*a.* to *f.* Not reprinted.

*g.* Not be a candidate for nor hold any other public office or trust, nor be a member of a political committee.

*h.* and *i.* Not reprinted.

2. to 5. Not reprinted.

86 Acts, ch 1245, §1804; 90 Acts, ch 1105, §1; 90 Acts, ch 1108, §2; 91 Acts, ch 154, §1; 92 Acts, ch 1160, §22; 2003 Acts, ch 145, §262; 2004 Acts, ch 1132, §89; 2005 Acts, ch 137, §1; 2006 Acts, ch 1010, §117



## JUDICIAL BRANCH

**602.1216 Retention of clerks of the district court.**

A clerk of the district court shall stand for retention in office, in the county of the clerk's office, upon the petition signed by eligible electors residing in the county equal in number to at least ten percent of all registered voters in the county to the state commissioner of elections, at the judicial election in 1988 and every four years thereafter, under sections 46.17 through 46.24. The petition shall be filed in the office of the state commissioner not later than one hundred twenty days before the general election. A clerk who is not retained in office is ineligible to serve as clerk, in the county in which the clerk was not retained, for the four years following the retention vote.

83 Acts, ch 186, §1215, 10201; 89 Acts, ch 136, §74; 2001 Acts, ch 56, §37

## SUPREME COURT

**602.4101 Justices — quorum.**

1. Not reprinted.
2. Justices of the supreme court shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Justices of the supreme court shall qualify for office as provided in chapter 63.

83 Acts, ch 186, §5101, 10201; 98 Acts, ch 1184, §1, 4

## COURT OF APPEALS

**602.5102 Judges — quorum.**

1. Not reprinted.
2. Judges of the court of appeals shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. Judges of the court of appeals shall qualify for office as provided in chapter 63.
3. and 4. Not reprinted.

83 Acts, ch 186, §6102, 10201; 83 Acts, ch 204, §11, 12; 98 Acts, ch 1184, §2, 4

## DISTRICT COURT

Map of judicial election districts as established by §602.6109, Code 2003, is printed on page M-26

**602.6107 Reorganization of judicial districts and judicial election districts.**

1. The supreme court shall, beginning January 1, 2012, and at least every ten years thereafter, review the division of the state into judicial districts and judicial election districts in order to determine whether the composition or the total number of the judicial districts and judicial election districts is the most efficient and effective administration of the district court and the judicial branch.

2. If the supreme court determines that the administration of the district court and the judicial branch would be made more efficient and effective by reorganizing the judicial districts and judicial election districts, which may include expanding or contracting the total number of judicial districts and judicial election districts, the supreme court shall develop and submit to the general assembly by November 15 a plan that reorganizes the judicial districts and judicial election districts. The legislative services agency shall draft a bill embodying the plan for submission by the supreme court to the general

assembly. The general assembly shall bring the bill to a vote in either the senate or the house of representatives within thirty days of the bill's submission by the supreme court to the general assembly, under a procedure or rule permitting no amendments by either house except those of a purely corrective nature. If both houses pass the bill, the bill shall be presented as any other bill to the governor for approval. The bill shall take effect upon the general assembly passing legislation, which is approved by the governor including an effective date for the reorganization of the judicial districts and judicial election districts.

3. The composition of the judicial districts in section 602.6107, Code 2003, and judicial election districts in section 602.6109, Code 2003, shall remain in effect until a new division of the state into judicial districts and judicial election districts is enacted.

4. It is the intent of the general assembly that the supreme court prior to developing a plan pursuant to this section consult with and receive input from members of the general public, court employees, judges, members of the general assembly, the judicial departments of correctional services, county officers, officials from other interested political subdivisions, and attorneys. In submitting a plan pursuant to this section, the supreme court shall also submit to the general assembly a report stating the reasons for developing the plan and describing in detail the process used in developing the plan.

5. Nothing in this section or other provision of the Code shall be construed to preclude the general assembly or the judicial branch from proposing or considering a plan reorganizing the judicial districts and judicial election districts at any time.

83 Acts, ch 186, § 7107, 10201; 2003 Acts, ch 35, §46, 49; 2003 Acts, ch 151, §34

#### **602.6109 Judicial election districts and judgeships.**

1. The reorganized judicial election districts established pursuant to section 602.6107 shall be used solely for purposes of nomination, appointment, and retention of judges of the district court.

2. If the judicial election districts are reorganized under section 602.6107, the state court administrator shall reapportion the number of judgeships to which each judicial election district is entitled. The reapportionment shall be determined according to section 602.6201, subsection 3.

83 Acts, ch 186, §7109, 10201; 2003 Acts, ch 151, §35

#### **602.6201 Office of district judge — apportionment.**

1. District judges shall be nominated and appointed and shall stand for retention in office as provided in chapter 46. District judges shall qualify for office as provided in chapter 63.

2. A district judge must be a resident of the judicial election district in which appointed and retained. Subject to the provision for reassignment of judges under section 602.6108, a district judge shall serve in the district of the judge's residence while in office, regardless of the number of judgeships to which the district is entitled under subsection 3.

3. *a.* A judicial election district containing a city of fifty thousand or more population is entitled to the number of judgeships equal to the average, rounded to the nearest whole number, of the following two quotients, each rounded to the nearest hundredth:

(1) The combined civil and criminal filings in the election district divided by five hundred fifty.

(2) The election district's population divided by forty thousand.

However, the seat of government is entitled to one additional judgeship.

b. All other judicial election districts are entitled to the number of judgeships equal to the average, rounded to the nearest whole number, of the following two quotients, each rounded to the nearest hundredth:

(1) The combined civil and criminal filings in the election district divided by four hundred fifty.

(2) The election district's population divided by forty thousand.

However, the judicial election district in which the Iowa state penitentiary at Fort Madison is located is entitled to one additional judgeship.

c. The filings included in the determinations to be made under this subsection shall not include small claims or nonindictable misdemeanors, and shall not include either civil actions for money judgment where the amount in controversy does not exceed five thousand dollars or indictable misdemeanors or felony violations of section 321J.2, which were assigned to district associate judges and magistrates as shown on their administrative reports, but shall include appeals from decisions of magistrates, district associate judges, and district judges sitting as magistrates. The figures on filings shall be the average for the latest available previous three-year period and when current census figures on population are not available, figures shall be taken from the Iowa department of public health computations.

4. For purposes of this section, a vacancy means the death, resignation, retirement, or removal of a district judge, or the failure of a district judge to be retained in office at the judicial election, or an increase in judgeships under this section.

5. In those judicial election districts having more district judges than the number of judgeships specified by the formula in subsection 3, vacancies shall not be filled.

6. In those judicial election districts having fewer or the same number of district judges as the number of judgeships specified by the formula in subsection 3, vacancies in the number of district judges shall be filled as they occur.

7. In those judicial districts that contain more than one judicial election district, a vacancy in a judicial election district shall not be filled if the total number of district judges in all judicial election districts within the judicial district equals or exceeds the aggregate number of judgeships to which all of the judicial election districts of the judicial district are authorized.

8. An incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships.

9. During February of each year, and at other times as appropriate, the state court administrator shall make the determinations required under this section, and shall notify the appropriate nominating commissions and the governor of appointments that are required.

10. Notwithstanding the formula for determining the number of judgeships in this section, the number of district judges shall not exceed one hundred sixteen during the period commencing July 1, 1999.

11. Notwithstanding any other provision of the Code to the contrary, if a vacancy in a judgeship occurs, and the chief justice of the supreme court makes a finding that a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts, the chief justice may apportion the judgeship from the judicial election district where the vacancy occurs to another judicial election district based upon the substantial disparity finding. However, a judgeship shall not be apportioned pursuant to this section unless a majority of the judicial council approves the apportionment.

12. Notwithstanding any other provision of the Code to the contrary, if the chief justice of the supreme court determines a substantial disparity exists in

the allocation of judgeships and judicial workload between judicial election districts, the chief justice may authorize a voluntary permanent transfer of a district judge from one judicial election district to another upon approval by a majority of the judicial council. After approval by the judicial council, the chief justice shall notify all eligible district judges of the intent to seek applicants for a voluntary permanent transfer and the terms of such a transfer. A district judge is not eligible for a voluntary transfer unless the judge has served a regular term of office as specified in section 46.16. Upon approval of the judge's application, the chief justice may transfer a district judge who consents to the transfer within six months of the notification. The transfer of a district judge shall take effect within sixty days of the official announcement of the transfer by the chief justice. A district judge transferred pursuant to this subsection shall have six months from the date of the announcement of the transfer to establish residency in the judicial election district where the district judge is transferred. A district judge who has been transferred shall stand for retention in the judicial election district to which the district judge has been transferred as provided in chapter 46. For purposes of subsection 3, the judgeship shall be apportioned to the judicial election district where the judge is transferred. A voluntary transfer pursuant to this subsection shall not cause a vacancy of a judgeship in the judicial election district from which the district judge was transferred.

83 Acts, ch 186, §7201, 10201; 86 Acts, ch 1012, §1; 86 Acts, ch 1148, §1, 2; 90 Acts, ch 1055, §1, 2; 95 Acts, ch 207, §25; 96 Acts, ch 1216, §30; 97 Acts, ch 130, §1; 97 Acts, ch 205, §24; 99 Acts, ch 202, §22; 2003 Acts, ch 151, §38, 39

For future repeal of subsection 12 effective July 1, 2008, see 2003 Acts, ch 151, §63

#### **602.6304 Appointment and resignation of district associate judges.**

1. The district associate judges authorized by sections 602.6301 and 602.6302 shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a district associate judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a district associate judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a district associate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of district associate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a district associate judge, or by an increase in the number of positions authorized.

4. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of district associate judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

5. A district associate judge who seeks to resign from the office of district associate judge shall notify in writing the chief judge of the judicial district as to the district associate judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of district associate judge due to resignation.

6. The supreme court may prescribe rules of procedure to be used by county magistrate appointing commissions when exercising the duties specified in this section.

83 Acts, ch 186, §7304, 10201; 86 Acts, ch 1015, §4; 98 Acts, ch 1115, §13; 2003 Acts, ch 151, §41, 64

**602.6305 Term, retention, qualifications.**

1. District associate judges shall serve initial terms and shall stand for retention in office within the judicial election districts of their residences at the judicial election under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of district associate judge unless the person is at the time of appointment a resident of the county in which the vacancy exists, licensed to practice law in Iowa, and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. An applicant for district associate judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

3. A district associate judge must be a resident of a county in which the office is held during the entire term of office. A district associate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. District associate judges shall qualify for office as provided in chapter 63 for district judges.

83 Acts, ch 186, §7305, 10201; 86 Acts, ch 1015, §5; 89 Acts, ch 114, §2; 89 Acts, ch 212, §2; 89 Acts, ch 296, §83; 2003 Acts, ch 151, §42; 2004 Acts, ch 1101, §83, 99, 102

**602.6403 Appointment, qualification, and resignation of magistrates.**

1. By June 1 of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, the number of magistrates required pursuant to substitution orders in effect under section 602.6303, and may appoint an additional magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

2. The magistrate appointing commission for each county shall prescribe the contents of an application, in addition to any application form provided by the supreme court, for an appointment pursuant to this section. The commission shall publicize notice of any vacancy to be filled in at least two publications in all official county newspapers in the county. The commission shall accept applications for a minimum of fifteen days prior to making an appointment, and shall make available during that period of time any printed application forms the commission prescribes.

3. Within thirty days following receipt of notification of a vacancy in the office of magistrate, the commission shall appoint a person to the office to serve the remainder of the unexpired term. For purposes of this section, vacancy means a death, resignation, retirement, or removal of a magistrate, or an increase in the number of positions authorized.

4. The term of office of a magistrate is four years, commencing August 1, 1989. However, the terms of all magistrates in a county are deemed to expire if a substitution under section 602.6302 or the allocation under section 602.6401 results in a reduction in the number of magistrates in a county where the magistrates hold office.

5. The commission shall promptly certify the names and addresses of appointees to the clerk of the district court and to the chief judge of the judicial district. The clerk of the district court shall certify to the state court administrator the names and addresses of these appointees.

6. Before assuming office, a magistrate shall subscribe and file in the office of the state court administrator the oath of office specified in section 63.6.

7. Before the commencement of the term of a magistrate, the members of the magistrate appointing commission may reconsider the appointment. Written notification of the reasons for reconsideration and time and place for the meeting must be sent to the magistrate appointee and the clerk of the district court. The commission may reconvene and decertify the magistrate appointee for good cause. Notice of the decertification and a statement of the reasons justifying the decertification shall be promptly sent to the clerk of the district court, the chief judge of the judicial district, and the state court administrator.

8. Annually, the state court administrator shall cause a school of instruction to be conducted for magistrates, and each magistrate shall attend prior to the time of taking office unless excused by the chief justice for good cause. A magistrate appointed to fill a vacancy shall attend the first school of instruction that is held following the appointment, unless excused by the chief justice for good cause.

9. A magistrate who seeks to resign from the office of magistrate shall notify in writing the chief judge of the judicial district as to the magistrate's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the vacancy in the office of magistrate due to resignation.

83 Acts, ch 186, §7403, 10201; 89 Acts, ch 114, §3, 4; 89 Acts, ch 212, §3, 4; 90 Acts, ch 1168, §59; 98 Acts, ch 1115, §14, 15; 2003 Acts, ch 151, §43, 64; 2006 Acts, ch 1060, §5

**602.6504 Commissioners elected by attorneys.**

1. The resident attorneys of each county shall elect two resident attorneys of the county to the magistrate appointing commission for six-year terms beginning on January 1, 1979, and each sixth year thereafter. An election shall be held in December preceding the commencement of new terms. The attorneys in a county may elect only one commissioner if there is only one who is qualified and willing to serve and if there are no resident attorneys in a county or none is willing to serve as a commissioner, none shall be elected.

2. A county attorney shall not be elected to the commission.

3. An attorney is eligible to vote in elections of magistrate appointing commissioners within a county if eligible to vote under sections 46.7 and 46.8, and if a resident of the county.

4. In order to be placed on the ballot for county magistrate appointing commission, an eligible attorney elector shall file a nomination petition in the office of the clerk of court on or before November 30 of the year in which the election for attorney positions is to occur. This subsection does not preclude write-in votes at the time of the election.

5. When an election of magistrate appointing commissioners is to be held, the clerk of the district court for each county shall cause to be mailed to each eligible attorney a ballot that is in substantially the following form:

**BALLOT**

**County Magistrate Appointing Commission**

To be cast by the resident members of the bar of ..... county.

Vote for (state number) for ..... county judicial magistrate appointing commissioner(s) for term commencing .....

.....  
.....

To be counted, this ballot must be completed and mailed or delivered to clerk of the district court, ....., no later than December 31, ..... (year) (or the appropriate date in case of an election to fill a vacancy).

83 Acts, ch 186, §7504, 10201; 86 Acts, ch 1119, §3; 2000 Acts, ch 1058, §64

## JUVENILE COURT

**602.7103B Appointment and resignation of full-time associate juvenile judges.**

1. Full-time associate juvenile judges shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a full-time associate juvenile judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a full-time associate juvenile judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a full-time associate juvenile judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate juvenile judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate juvenile judge, or by an increase in the number of positions authorized.

4. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of full-time associate juvenile judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.



5. A full-time associate juvenile judge who seeks to resign from the office of full-time associate juvenile judge shall notify in writing the chief judge of the judicial district as to the full-time associate juvenile judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of full-time associate juvenile judge due to resignation.

6. The supreme court may prescribe rules of procedure to be used by county magistrate appointing commissions when exercising the duties specified in this section.

99 Acts, ch 93, §9, 15; 99 Acts, ch 208, §61; 2003 Acts, ch 151, §44, 64

**602.7103C Full-time associate juvenile judges — term, retention, qualifications.**

1. Full-time associate juvenile judges shall serve terms and shall stand for retention in office within the judicial election districts of their residences as provided under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of full-time associate juvenile judge unless the person is at the time of appointment a resident of the county in which the vacancy exists, licensed to practice law in Iowa, and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. An applicant for full-time associate juvenile judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

3. A full-time associate juvenile judge must be a resident of a county in which the office is held during the entire term of office. A full-time associate juvenile judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. Full-time associate juvenile judges shall qualify for office as provided in chapter 63 for district judges.

99 Acts, ch 93, §10, 15

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## CLERK OF DISTRICT COURT

**602.8102 General duties.**

The clerk shall:

1. to 3. Not reprinted.

4. Upon the death of a judge or magistrate of the district court, give written notice to the department of management and the department of administrative services of the date of death. The clerk shall also give written notice of the death of a justice of the supreme court, a judge of the court of appeals, or a judge or magistrate of the district court who resides in the clerk's county to the state commissioner of elections, as provided in section 46.12.

5. to 13. Not reprinted.

14. Maintain a bar admission list as provided in section 46.8.

15. Monthly, notify the county commissioner of registration and the state registrar of voters of persons seventeen and one-half years of age and older who have been convicted of a felony during the preceding calendar month or persons who at any time during the preceding calendar month have been legally declared to be a person who is incompetent to vote as that term is defined in section 48A.2.

16. to 164. Not reprinted.

83 Acts, ch 96, §159, 160; 83 Acts, ch 186, §9102, 10201; 85 Acts, ch 21, §45, 46; 85 Acts, ch 82, §2; 85 Acts, ch 178, §10, 11; 85 Acts, ch 195, §53; 85 Acts, ch 197, §17–19; 85 Acts, ch 201, §3; 86 Acts, ch 1108, §7; 86 Acts, ch 1112, §12; 86 Acts, ch 1140, §2; 86 Acts, ch 1220, §40; 87 Acts, ch 41, §1; 87 Acts, ch 115, §77, 78; 87 Acts, ch 157, §3; 88 Acts, ch 1134, §102–104; 88 Acts, ch 1158, §97; 89 Acts, ch 50, §13; 89 Acts, ch 83, §80; 89 Acts, ch 178, §6; 90 Acts, ch 1035, §2; 90 Acts, ch 1081, §3; 90 Acts, ch 1205, §61; 90 Acts, ch 1236, §52; 91 Acts, ch 86, §2; 91 Acts, ch 116, §8; 91 Acts, ch 267, §415; 92 Acts, ch 1163, §111–114; 93 Acts, ch 70, §8, 9; 93 Acts, ch 79, §52; 93 Acts, ch 110, §7; 93 Acts, ch 180, §51; 94 Acts, ch 1046, §25; 94 Acts, ch 1124, §1; 94 Acts, ch 1169, §62; 94 Acts, ch 1173, §39; 95 Acts, ch 67, §46; 95 Acts, ch 91, §3; 95 Acts, ch 124, §22, 26; 95 Acts, ch 143, §10; 95 Acts, ch 191, §26; 96 Acts, ch 1129, §103, 113; 97 Acts, ch 23, §75; 97 Acts, ch 126, §45; 97 Acts, ch 173, §16; 98 Acts, ch 1071, §1; 98 Acts, ch 1073, §10; 98 Acts, ch 1115, §16; 98 Acts, ch 1170, §14, 18; 98 Acts, ch 1185, §9; 99 Acts, ch 96, §49; 99 Acts, ch 103, §46; 99 Acts, ch 151, §84, 89; 2000 Acts, ch 1145, §23; 2001 Acts, ch 168, §1; 2002 Acts, ch 1119, §107; 2002 Acts, ch 1134, §112, 115; 2003 Acts, ch 44, §114; 2003 Acts, ch 82, §20; 2003 Acts, ch 145, §272, 286; 2003 Acts, ch 151, §45, 46; 2004 Acts, ch 1049, §189, 191, 192; 2004 Acts, ch 1052, §4; 2004 Acts, ch 1107, §28, 30; 2004 Acts, ch 1119, §2, 3; 2004 Acts, ch 1120, §4; 2005 Acts, ch 3, §102, 115, 118; 2005 Acts, ch 19, §117; 2005 Acts, ch 107, §7, 14; 2005 Acts, ch 128, §70; 2005 Acts, ch 167, §58, 66; 2006 Acts, ch 1129, §8, 9; 2006 Acts, ch 1132, §1, 16; 2006 Acts, ch 1185, §124

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## TRANSITION PROVISIONS

**602.11110 Judgeships for election districts 5A and 5C.**

As soon as practicable after January 1, 1985, the supreme court administrator shall recompute the number of judgeships to which judicial election districts 5A and 5C are entitled. Notwithstanding section 602.6201, subsection 2, the seventeen incumbent district judges in judicial election district 5A on December 31, 1984 may reside in either judicial election district 5A or 5C beginning January 1, 1985. The supreme court administrator shall apportion to judicial election district 5C those incumbent district judges who were appointed to replace district judges residing in Polk county or who were appointed to fill newly created judgeships while residing in Polk county. The incumbent district judges residing in Polk county on January 1, 1985 who are not so apportioned to judicial election district 5C shall be apportioned to judicial election district 5A but shall be reapportioned to judicial election district 5C, in the order of their seniority as district judges, as soon as the first vacancies occur in judicial election district 5C due to death, resignation, retirement, removal, or failure of retention. Such a reapportionment constitutes a vacancy in judicial election district 5A for purposes of section 602.6201. Notwithstanding section 602.6201, subsection 2, the seventeen incumbent district judges in judicial election district 5A on December 31, 1984 shall stand for retention in the judicial election district to which the district judges are apportioned or reapportioned under this section. Commencing on January 1, 1985, vacancies within judicial election districts 5A and 5C shall be determined and filled under section 602.6201, subsections 4 through 8. For purposes of the recomputations, the supreme court administrator shall determine the average case filings for the latest available three-year period by reallocating the actual case filings during the three-year period to judicial election districts 5A and 5C as if they existed throughout the three-year period.

83 Acts, ch 186, §10201, 10310; 85 Acts, ch 197, §35

**602.11111 Judicial nominating commissions for election districts 5A and 5C.**

The membership of district judicial nominating commissions for judicial election districts 5A and 5C shall be as provided in chapter 46, subject to the following transition provisions:

1. Those judicial nominating commissioners of judicial election district 5A who are residents of Polk county shall be disqualified from serving in election district 5A on January 1, 1985, and their offices shall be deemed vacant. The vacancies thus created shall be filled as provided in section 46.5 for the remainder of the unexpired terms.

2. After January 1, 1985 the governor shall appoint five eligible electors of judicial election district 5C to the district judicial nominating commission for terms commencing immediately upon appointment. Two of the appointees shall serve terms ending January 31, 1988, two of the appointees shall serve terms ending January 31, 1990, and the remaining appointee shall serve a term ending January 31, 1992, as determined by the governor. At the end of these terms and each six years thereafter the governor shall appoint commissioners pursuant to section 46.3.

3. After January 1, 1985 elective judicial nominating commissioners for judicial election district 5C shall be elected as provided in chapter 46 to terms of office commencing immediately upon election. One of those elected shall serve a term ending January 31, 1988, two shall serve terms ending January 31, 1990, and two shall serve terms ending January 31, 1992, as determined by the

drawing of lots by the persons elected. At the end of these terms and every six years thereafter elective commissioners shall be elected pursuant to chapter 46.  
83 Acts, ch 186, §10201, 10311

## PROBATE CODE

## PROBATE COURT

**633.20B Appointment and resignation of full-time associate probate judges.**

1. Full-time associate probate judges shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a full-time associate probate judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a full-time associate probate judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a full-time associate probate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate probate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate probate judge, or by an increase in the number of positions authorized.

4. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of full-time associate probate judge, the district judges in the judicial election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

5. A full-time associate probate judge who seeks to resign from the office of full-time associate probate judge shall notify in writing the chief judge of the judicial district as to the full-time associate probate judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district,

upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of full-time associate probate judge due to resignation.

6. The supreme court may prescribe rules of procedure to be used by county magistrate appointing commissions when exercising the duties specified in this section.

99 Acts, ch 93, §13, 15; 99 Acts, ch 208, §62; 2003 Acts, ch 151, §51, 64

**633.20C Full-time associate probate judges — term, retention, qualifications.**

1. Full-time associate probate judges shall serve terms and shall stand for retention in office within the judicial election districts of their residences as provided under sections 46.16 through 46.24.

2. A person does not qualify for appointment to the office of full-time associate probate judge unless the person is at the time of appointment a resident of the county in which the vacancy exists, licensed to practice law in Iowa, and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. An applicant for full-time associate probate judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

3. A full-time associate probate judge must be a resident of a county in which the office is held during the entire term of office. A full-time associate probate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

4. Full-time associate probate judges shall qualify for office as provided in chapter 63 for district judges.

99 Acts, ch 93, §14, 15



## OPENING GUARDIANSHIPS

**633.556 Appointment of guardian.**

1. If the allegations of the petition as to the status of the proposed ward and the necessity for the appointment of a guardian are proved by clear and convincing evidence, the court may appoint a guardian. If the court appoints a guardian based upon mental incapacity of the proposed ward because the proposed ward is a person described in section 222.2, subsection 5, the court shall make a separate determination as to the ward's competency to vote. The court shall find a ward incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

2. In all proceedings to appoint a guardian, the court shall consider the functional limitations of the proposed ward and whether a limited guardianship, as authorized in section 633.635, is appropriate.

3. Section 633.551 applies to the appointment of a guardian.

[R60, §1449; C73, §2272; C97, §3219; C24, 27, 31, 35, 39, §12614; C46, 50, 54, 58, 62, §670.2; C66, 71, 73, 75, 77, 79, 81, §633.556]

97 Acts, ch 178, §6; 98 Acts, ch 1100, §79; 98 Acts, ch 1185, §10; 2002 Acts, ch 1134, §113, 115

## TERMINATION OF GUARDIANSHIPS AND CONSERVATORSHIPS

**633.679 Petition to terminate — request for voting rights reinstatement.**

At any time after the appointment of a guardian or conservator, the person under guardianship or conservatorship may apply to the court by petition, alleging that the person is no longer a proper subject thereof, and asking that the guardianship or conservatorship be terminated. A person under an order appointing a guardian which order found the person incompetent to vote may include a request for reinstatement of the person's voting rights in a petition to terminate the guardianship or by filing a separate petition for modification of this determination.

[C97, §3222; C24, 27, 31, 35, 39, §12623; C46, 50, 54, 58, 62, §670.11; C66, 71, 73, 75, 77, 79, 81, §633.679]

89 Acts, ch 178, §20; 98 Acts, ch 1185, §11

## LIBEL AND SLANDER

**659.4 Candidate — retraction — time — imputing sexual misconduct.**

If the plaintiff was a candidate for office at the time of the libelous publication, no retraction shall be available unless published in a conspicuous place on the editorial page, nor if the libel was published within two weeks next before the election. This section and sections 659.2 and 659.3 do not apply to libel imputing sexual misconduct to any persons.

[SS15, §3592-a; C24, 27, 31, 35, 39, §12415; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §659.4]

85 Acts, ch 99, §11

## OFFICIAL MISCONDUCT

**721.1 Felonious misconduct in office.**

Any public officer or employee, who knowingly does any of the following, commits a class “D” felony:

1. Makes or gives any false entry, false return, false certificate, or false receipt, where such entries, returns, certificates, or receipts are authorized by law.
2. Falsifies any public record, or issues any document falsely purporting to be a public document.
3. Falsifies a writing, or knowingly delivers a falsified writing, with the knowledge that the writing is falsified and that the writing will become a public record of a government body.

4. For purposes of this section, “*government body*” and “*public record*” mean the same as defined in section 22.1.

[C51, §2677; R60, §4304, 4309; C73, §3968, 3971; C97, §1136, 4907, 4910; C24, 27, 31, 35, 39, §13283, 13311, 13314; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.21, 740.9, 740.12; C79, 81, §721.1]

2001 Acts, ch 31, §1

**721.2 Nonfelonious misconduct in office.**

Any public officer or employee, or any person acting under color of such office or employment, who knowingly does any of the following, commits a serious misdemeanor:

1. Makes any contract which contemplates an expenditure known by the person to be in excess of that authorized by law.
2. Fails to report to the proper officer the receipt or expenditure of public moneys, together with the proper vouchers therefor, when such is required of the person by law.
3. Requests, demands, or receives from another for performing any service or duty which is required of the person by law, or which is performed as an incident of the person’s office or employment, any compensation other than the fee, if any, which the person is authorized by law to receive for such performance.
4. By color of the person’s office and in excess of the authority conferred on the person by that office, requires any person to do anything or to refrain from doing any lawful thing.
5. Uses or permits any other person to use the property owned by the state or any subdivision or agency of the state for any private purpose and for personal gain, to the detriment of the state or any subdivision thereof.
6. Fails to perform any duty required of the person by law.
7. Demands that any public employee contribute or pay anything of value, either directly or indirectly, to any person, organization or fund, or in any way coerces or attempts to coerce any public employee to make any such contributions or payments, except where such contributions or payments are expressly required by law.
8. Permits persons to use the property owned by the state or a subdivision or agency of the state to operate a political phone bank for any of the following purposes:
  - a. To poll voters on their preferences for candidates or ballot measures at an election; however, this paragraph does not apply to authorized research at an educational institution.
  - b. To solicit funds for a political candidate or organization.

c. To urge support for a candidate or ballot measure to voters.

1. [R60, §216, 2184; C73, §3976; C97, §4913; C24, 27, 31, 35, 39, §13313; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.11; C79, 81, §721.2]

2. [R60, §216, 2184, 4308–4310; C73, §3970–3972, 3976; C97, §4909–4911, 4913; C24, 27, 31, 35, 39, §13309–13311, 13313; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.7–740.9, 740.11; C79, 81, §721.2]

3. [C51, §2560, 2658; R60, §4167, 4285; C73, §3840, 3950; C97, §1297, 4888; S13, §5028-n; C24, 27, 31, 35, 39, §13304, 13312, 13317, 13318; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.1, 740.10, 741.1, 741.2; C79, 81, §721.2]

4. [C51, §2672; R60, §4299, 4305, 4306; C73, §3963, 3969; C97, §4902, 4908; C24, 27, 31, 35, 39, §13305, 13306; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.3, 740.4; C79, 81, §721.2]

5. [C35, §13316-e1; C39, §13316.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.20; C79, 81, §721.2]

6. [C51, §2657, 2674, 2703, 2800; R60, §4284, 4301, 4345, 4496; C73, §3949, 3965, 4005, 4152; C97, §4887, 4904, 4929, 5150; C24, 27, 31, 35, 39, §13280, 13316, 13338, 13345; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.18, 740.19, 742.8, 743.7; C79, 81, §721.2]

7. [C79, 81, §721.2]

87 Acts, ch 221, §35

### **721.3 Solicitation for political purposes.**

It shall be unlawful for any person or political organization either directly or indirectly to solicit or demand from any employee of any commission, board or agency created under the statutes of Iowa, any contribution of money or any other thing of value for election purposes or for the purpose of paying expenses of any political organization or any person seeking election to public office.

[S13, §2727-a36; C24, 27, 31, 35, §13315; C39, §13315.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.13; C79, 81, §721.3]

### **721.4 Using public motor vehicles for political purposes.**

It shall be unlawful for any person to use or permit to be used any motor vehicle owned by the state of Iowa or any political subdivision thereof for the purpose of transporting any political literature or any person or persons engaging in a political campaign for any political party or any person seeking an elective office.

[C39, §13315.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.15; C79, 81, §721.4]

### **721.5 State employees not to participate.**

It shall be unlawful for any state officer, any state appointive officer, or state employee to leave the place of employment or the duties of office for the purpose of soliciting votes or engaging in campaign work during the hours of employment of any such officer or employee.

[C39, §13315.4; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.16; C79, 81, §721.5]

### **721.6 Exception to sections 721.3 to 721.5.**

The provisions of sections 721.3 to 721.5 shall not be construed as prohibiting any such officer or employee who is a candidate for political office to engage in campaigning at any time or at any place for the officer's or employee's self.

[C39, §13315.5; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.17; C79, 81, §721.6]

**721.7 Penalty for violating sections 721.3 to 721.6.**

Any person who violates any provision of sections 721.3 to 721.6 shall be guilty of a serious misdemeanor.

[S13, §2727-a36; C24, 27, 31, 35, §13315; C39, §13315.6; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §740.18; C79, 81, §721.7]

## BRIBERY AND CORRUPTION

**722.1 Bribery.**

A person who offers, promises, or gives anything of value or any benefit to a person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration, pursuant to an agreement or arrangement or with the understanding that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "D" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

[C51, §2647, 2649, 2650, 2652; R60, §4274, 4276, 4277, 4279; C73, §3939, 3941, 3942, 3944; C97, §4875, 4877, 4878, 4880, 4886; C24, 27, 31, 35, 39, §13292, 13294, 13295, 13297, 13302; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §739.1, 739.3, 739.4, 739.6, 739.11; C79, 81, §722.1]

87 Acts, ch 213, §9

**722.2 Accepting bribe.**

A person who is serving or has been elected, selected, appointed, employed, or otherwise engaged to serve in a public capacity, including a public officer or employee, a referee, juror, or jury panel member, or a witness in a judicial or arbitration hearing or any official inquiry, or a member of a board of arbitration who solicits or knowingly accepts or receives a promise or anything of value or a benefit given pursuant to an understanding or arrangement that the promise or thing of value or benefit will influence the act, vote, opinion, judgment, decision, or exercise of discretion of the person with respect to the person's services in that capacity commits a class "C" felony. In addition, a person convicted under this section is disqualified from holding public office under the laws of this state.

[C51, §2648, 2649, 2651, 2653, 2655, 2656; R60, §4275, 4276, 4278, 4280, 4282, 4283; C73, §3940, 3941, 3943, 3945, 3947, 3948; C97, §4876, 4877, 4879, 4881, 4883-4885; C24, 27, 31, 35, 39, §13293, 13294, 13296, 13298-13301; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §739.2, 739.3, 739.5, 739.7-739.10; C79, 81, §722.2]

87 Acts, ch 213, §10

## VICE

**725.10 Pool selling — places used.**

Any person who records or registers bets or wagers or sells pools upon the result of any trial or contest of skill, speed, or power of endurance of human or beast, or upon the result of any political nomination or election, and any person who keeps a place for the purpose of doing any such thing, and any owner, lessee, or occupant of any premises, who knowingly permits the same, or any

part thereof, to be used for any such purpose, and anyone who, as custodian or depositary thereof, for hire or reward, receives any money, property, or thing of value staked, wagered, or bet upon any such result, shall be guilty of a serious misdemeanor.

[C97, §4966; C24, 27, 31, 35, 39, §13216; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §726.6; C79, 81, §725.10]

**725.15 Exceptions for legal gambling.**

Sections 725.5 to 725.10 and 725.12 do not apply to a game, activity, ticket, or device when lawfully possessed, used, conducted, or participated in pursuant to chapter 99B, 99F, or 99G.

[C75, 77, §726.11; C79, 81, §725.15]

85 Acts, ch 33, §126; 86 Acts, ch 1125, §5; 88 Acts, ch 1136, §2; 89 Acts, ch 67, §28; 2003 Acts, ch 178, §118, 121; 2003 Acts, ch 179, §142

## DEPARTMENT OF CORRECTIONS

**904.107 Director — appointment and qualifications.**

The chief administrative officer for the department is the director. The director shall be appointed by the governor subject to confirmation by the senate and shall serve at the pleasure of the governor. The director shall be qualified in reformatory and prison management, knowledgeable in community-based corrections, and shall possess administrative ability. The director shall also have experience in the field of criminology and discipline and in the supervision of inmates in corrective penal institutions. The director shall not be selected on the basis of political affiliation, and while employed as the director, shall not be a member of a political committee, participate in a political campaign, be a candidate for a partisan elective office, and shall not contribute to a political campaign fund, except that the director may designate on the checkoff portion of the state or federal income tax return, or both, a party or parties to which a contribution is made pursuant to the checkoff. The director shall not hold any other office under the laws of the United States or of this or any state or hold any position for profit and shall devote full time to the duties of office.

83 Acts, ch 96, §8, 159

CS83, §217A.7

85 Acts, ch 21, §54

CS85, §246.107

C93, §904.107

## CHAPTER 914

REPRIEVES, PARDONS, COMMUTATIONS, REMISSIONS,  
AND RESTORATIONS OF RIGHTS

914.1	Power of governor.	914.5	Evidence — testimony — recommendation.
914.2	Right of application.	914.6	Procedures — filing.
914.3	Recommendations by board of parole.	914.7	Rights not restorable.
914.4	Response to recommendation.		

**914.1 Power of governor.**

The power of the governor under the Constitution of the State of Iowa to grant a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, or restoration of the rights of citizenship shall not be impaired.

86 Acts, ch 1112, §4  
C87, §248A.1  
C93, §914.1  
2006 Acts, ch 1010, §168

**914.2 Right of application.**

Except as otherwise provided in section 902.2, a person convicted of a criminal offense has the right to make application to the board of parole for recommendation or to the governor for a reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of rights of citizenship at any time following the conviction.

86 Acts, ch 1112, §5  
C87, §248A.2  
C93, §914.2  
95 Acts, ch 128, §2

**914.3 Recommendations by board of parole.**

1. Except as otherwise provided in section 902.2, the board of parole shall periodically review all applications by persons convicted of criminal offenses and shall recommend to the governor the reprieve, pardon, commutation of sentence, remission of fines or forfeitures, or restoration of the rights of citizenship for persons who have by their conduct given satisfactory evidence that they will become or continue to be law-abiding citizens.

2. The board of parole shall, upon request of the governor, take charge of all correspondence in reference to an application filed with the governor and shall, after careful investigation, provide the governor with the board's advice and recommendation concerning any person for whom the board has not previously issued a recommendation.

3. All recommendations and advice of the board of parole shall be entered in the proper records of the board.

86 Acts, ch 1112, §6  
C87, §248A.3  
87 Acts, ch 115, §35  
C93, §914.3  
95 Acts, ch 128, §3



**914.4 Response to recommendation.**

The governor shall respond to all recommendations made by the board of parole within ninety days of the receipt of the recommendation. The response shall state whether or not the recommendation will be granted and shall specifically set out the reasons for such action. If the governor does not grant the recommendation, the recommendation shall be returned to the board of parole and may be refiled with the governor at any time. Any recommendation may be withdrawn by the board of parole at any time prior to its being granted. However, if the board withdraws a recommendation, a statement of the withdrawal, and the reasons upon which it was based, shall be entered in the proper records of the board.

86 Acts, ch 1112, §7

C87, §248A.4

C93, §914.4

**914.5 Evidence — testimony — recommendation.**

1. When an application or recommendation is made to the governor for a reprieve, pardon, commutation of sentence, remission of fines and forfeitures, or restoration of rights of citizenship, the governor may require the judge or clerk of the appropriate court, or the county attorney or attorney general by whom the action was prosecuted, to furnish the governor without delay a copy of the minutes of evidence taken on the trial, and any other facts having reference to the propriety of the governor's exercise of the governor's powers in the premises.

2. The governor may take testimony as the governor deems advisable relating to any application or recommendation. A person who provides written or oral testimony pursuant to this subsection is subject to chapter 720.

3. With regard to an application for the restoration of the rights of citizenship, the warden or superintendent, upon request of the governor, shall furnish the governor with a statement of the person's deportment during the period of imprisonment and a recommendation as to the propriety of restoration.

86 Acts, ch 1112, §8

C87, §248A.5

C93, §914.5

**914.6 Procedures — filing.**

1. Pardons, commutations of sentences, and remissions of fines and forfeitures shall be issued in duplicate. Restorations of rights of citizenship and reprieves shall be issued in triplicate.

2. In the case of a pardon, commutation of sentence, or reprieve, if the person is in custody, the executive instruments shall be forwarded to the officer having custody of the person. The officer, upon receipt of the instruments, shall do the following:

*a.* Retain one copy of the instrument.

*b.* Enter the appropriate notations on the records of the office.

*c.* Carry out the orders of the instrument.

*d.* On one copy, make a written return as required by the order and forward the copy to the clerk of court where the judgment is of record.

*e.* In the case of reprieves, deliver the third copy to the person whose sentence is reprieved.

3. In the case of a remission of fines and forfeitures, restoration of rights of citizenship, or a pardon, commutation of sentence, or reprieve, if the person is not in custody, one copy of the executive instrument shall be delivered to the

person and one copy to the clerk of court where the judgment is of record. A list of the restorations of rights of citizenship issued by the governor shall be delivered to the state registrar of voters at least once each month.

4. The clerk of court shall, upon receipt of the copy of the executive instrument, immediately file and preserve the copy in the clerk's office and note the filing on the judgment docket of the case, except that remissions of fines and forfeitures shall be spread at length on the record books of the court, and indexed in the same manner as the original case.

86 Acts, ch 1112, §9

C87, §248A.6

C93, §914.6

94 Acts, ch 1169, §63

#### **914.7 Rights not restorable.**

Notwithstanding any other provision of this chapter, a person who has been convicted of a forcible felony, a felony violation of chapter 124 involving a firearm, or a felony violation of chapter 724 shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

Notwithstanding any provision of this chapter, a person seventeen years of age or younger who commits a public offense involving a firearm which is an aggravated misdemeanor against a person or a felony shall not have the person's rights of citizenship restored to the extent of allowing the person to receive, transport, or possess firearms.

89 Acts, ch 316, §21

CS89, §248A.7

C93, §914.7

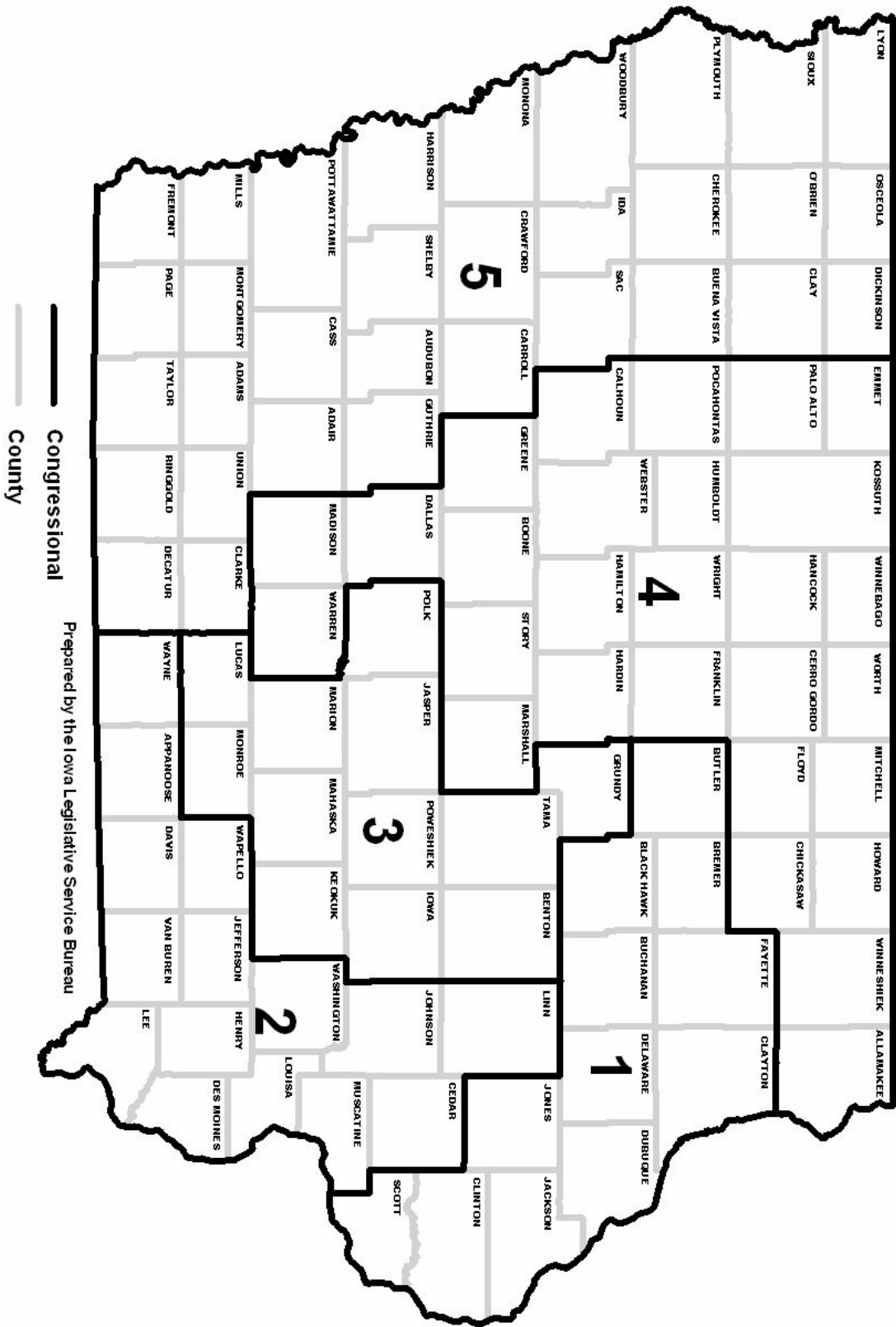
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Effective Beginning with the Elections in 2002 for the 108th U.S. Congress



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