

## CHAPTER 24

### LOCAL BUDGETS

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#### 24.1 Short title.

[This chapter](#) shall be known as the “*Local Budget Law*”.

[C24, 27, 31, 35, 39, §368; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.1]  
 Referred to in [§24.20](#)

#### 24.2 Definition of terms.

As used in [this chapter](#) and unless otherwise required by the context:

1. “*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](#).
2. The words “*certifying board*” shall mean any public body which has the power or duty to certify any tax to be levied or sum of money to be collected by taxation.
3. The words “*fiscal year*” shall mean the period of twelve months beginning on July 1 and ending on the thirtieth day of June. The fiscal year of cities, counties, and other political subdivisions of the state shall begin July 1 and end the following June 30.
4. The words “*levying board*” shall mean board of supervisors of the county and any other public body or corporation that has the power to levy a tax.
5. “*Municipality*” means a public body or corporation that has power to levy or certify a tax or sum of money to be collected by taxation, except a county, city, drainage district, township, or road district.
6. The words “*state board*” shall mean the state appeal board as created by [section 24.26](#).
7. The word “*tax*” shall mean any general or special tax levied against persons, property, or business, for public purposes as provided by law, but shall not include any special assessment nor any tax certified or levied by township trustees.

[C24, 27, 31, 35, 39, §369; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.2]

[83 Acts, ch 123, §30, 209; 2000 Acts, ch 1148, §1; 2002 Acts, ch 1119, §200, 201; 2013 Acts, ch 30, §7](#)

Referred to in [§24.20](#), [§74.1](#), [§331.433](#), [§384.2](#)

#### 24.3 Requirements of local budget.

No municipality shall certify or levy in any fiscal year any tax on property subject to taxation unless and until the following estimates have been made, filed, and considered, as hereinafter provided:

1. The amount of income thereof for the several funds from sources other than taxation.

2. The amount proposed to be raised by taxation.

3. The amount proposed to be expended in each and every fund and for each and every general purpose during the fiscal year next ensuing, which in the case of municipalities shall be the period of twelve months beginning on the first day of July of the current calendar year.

4. A comparison of such amounts so proposed to be expended with the amounts expended for like purposes for the two preceding years.

[C24, 27, 31, 35, 39, §370; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.3]

Referred to in §8.6, §24.9, §24.20, §37.9

#### 24.4 Time of filing estimates.

All such estimates and any other estimates required by law shall be made and filed a sufficient length of time in advance of any regular or special meeting of the certifying board or levying board, as the case may be, at which tax levies are authorized to be made to permit publication, discussion, and consideration thereof and action thereon as hereinafter provided.

[C24, 27, 31, 35, 39, §371; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.4]

Referred to in §24.9, §24.20, §37.9

#### 24.5 Estimates itemized.

The estimates herein required shall be fully itemized and classified so as to show each particular class of proposed expenditure, showing under separate heads the amount required in such manner and form as shall be prescribed by the state board.

[C24, 27, 31, 35, 39, §372; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.5]

Referred to in §24.9, §24.20, §37.9

#### 24.6 Emergency fund — levy.

1. A municipality may include in the estimate required, an estimate for an emergency fund. A municipality may assess and levy a tax for the emergency fund at a rate not to exceed twenty-seven cents per thousand dollars of assessed value of taxable property of the municipality. However, an emergency tax levy shall not be made until the municipality has first petitioned the state board and received its approval.

2. a. Transfers of moneys may be made from the emergency fund to any other fund of the municipality for the purpose of meeting deficiencies in a fund arising from any cause. However, a transfer shall not be made except upon the written approval of the state board, and then only when that approval is requested by a two-thirds vote of the governing body of the municipality.

b. Notwithstanding the requirements of paragraph “a”, if the municipality is a school corporation, the school corporation may transfer money from the emergency fund to any other fund of the school corporation for the purpose of meeting deficiencies in a fund arising within two years of a disaster as defined in [section 29C.2, subsection 4](#). However, a transfer under this paragraph “b” shall not be made without the written approval of the school budget review committee.

[C24, 27, 31, 35, 39, §373; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.6]

[83 Acts, ch 123, §31, 209; 2009 Acts, ch 65, §1](#)

Referred to in §24.9, §24.14, §24.20, §29C.20

#### 24.7 Supplemental estimates.

Supplemental estimates for particular funds may be made for levies of taxes for future years when the same are authorized by law. Such estimates may be considered, and levies made therefor at any time by filing the same, and upon giving notice in the manner required in [section 24.9](#). Such estimates and levies shall not be considered as within the provisions of [section 24.8](#).

[C27, 31, 35, §373-a1; C39, §373.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.7]

Referred to in §24.9, §24.20

#### 24.8 Estimated tax collections.

The amount of the difference between the receipts estimated from all sources other than taxation and the estimated expenditures for all purposes, including the estimates for

emergency expenditures, shall be the estimated amount to be raised by taxation upon the assessable property within the municipality for the next ensuing fiscal year. The estimate shall show the number of dollars of taxation for each thousand dollars of the assessed value of all property that is assessed.

[C24, 27, 31, 35, 39, §374; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.8]  
 Referred to in §24.7, §24.9, §24.20

#### **24.9 Filing estimates — notice of hearing — amendments.**

1. *a.* Each municipality shall file with the secretary or clerk thereof the estimates required to be made in sections 24.3 to 24.8, at least twenty days before the date fixed by law for certifying the same to the levying board and shall forthwith fix a date for a hearing thereon, and shall publish such estimates and any annual levies previously authorized as provided in section 76.2, with a notice of the time when and the place where such hearing shall be held not less than ten nor more than twenty days before the hearing. Provided that in municipalities of less than two hundred population such estimates and the notice of hearing thereon shall be posted in three public places in the district in lieu of publication. For any other municipality such publication shall be in a newspaper published therein, if any, if not, then in a newspaper of general circulation therein.

*b.* The department of management shall prescribe the form for public hearing notices for use by municipalities.

2. Budget estimates adopted and certified in accordance with this chapter may be amended and increased as the need arises to permit appropriation and expenditure during the fiscal year covered by the budget of unexpended cash balances on hand at the close of the preceding fiscal year and which cash balances had not been estimated and appropriated for expenditure during the fiscal year of the budget sought to be amended, and also to permit appropriation and expenditure during the fiscal year covered by the budget of amounts of cash anticipated to be available during the year from sources other than taxation and which had not been estimated and appropriated for expenditure during the fiscal year of the budget sought to be amended. Such amendments to budget estimates may be considered and adopted at any time during the fiscal year covered by the budget sought to be amended, by filing the amendments and upon publishing them and giving notice of the public hearing in the manner required in this section. Within ten days of the decision or order of the certifying or levying board, the proposed amendment of the budget is subject to protest, hearing on the protest, appeal to the state appeal board and review by that body, all in accordance with sections 24.27 to 24.32, so far as applicable. A local budget shall be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and a decision rendered before June 30. An amendment of a budget after May 31 which is properly appealed but without adequate time for hearing and decision before June 30 is void. Amendments to budget estimates accepted or issued under this section are not within section 24.14.

[C24, 27, 31, 35, 39, §375; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.9; 82 Acts, ch 1079, §1]

83 Acts, ch 123, §32, 209; 97 Acts, ch 206, §11, 12, 24; 2014 Acts, ch 1026, §10

Section amended

#### **24.10 Levies void.**

The verified proof of the publication of such notice shall be filed in the office of the county auditor and preserved by the auditor. No levy shall be valid unless and until such notice is published and filed.

[C24, 27, 31, 35, 39, §376; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.10]  
 Referred to in §24.20, §37.9

#### **24.11 Meeting for review.**

The certifying board or the levying board, as the case may be, shall meet at the time and place designated in said notice, at which meeting any person who would be subject to such tax levy, shall be heard in favor of or against the same or any part thereof.

[C24, 27, 31, 35, 39, §377; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.11]  
 Referred to in §24.20, §37.9

**24.12 Record by certifying board.**

After the hearing has been concluded, the certifying board shall enter of record its decision in the manner and form prescribed by the state board and shall certify the same to the levying board, which board shall enter upon the current assessment and tax roll the amount of taxes which it finds shall be levied for the ensuing fiscal year in each municipality for which it makes the tax levy.

[C24, 27, 31, 35, 39, §378; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.12]  
 Referred to in [§24.20](#), [§37.9](#)

**24.13 Procedure by levying board.**

Any board which has the power to levy a tax without the same first being certified to it, shall follow the same procedure for hearings as is required of certifying boards under [this chapter](#).

[C24, 27, 31, 35, 39, §379; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.13]  
[2014 Acts, ch 1092, §18](#)  
 Section amended

**24.14 Tax limited.**

A greater tax than that so entered upon the record shall not be levied or collected for the municipality proposing the tax for the purposes indicated and a greater expenditure of public money shall not be made for any specific purpose than the amount estimated and appropriated for that purpose, except as provided in [sections 24.6](#) and [24.15](#). All budgets set up in accordance with the statutes shall take such funds, and allocations made by [sections 123.53](#) and [452A.79](#), into account, and all such funds, regardless of their source, shall be considered in preparing the budget.

[C24, 27, 31, 35, 39, §380; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §24.14; [81 Acts, ch 117, §1200](#)]  
[83 Acts, ch 123, §33, 209](#); [89 Acts, ch 83, §12](#); [2003 Acts, ch 178, §1](#)

**24.15 Further tax limitation.**

No tax shall be levied by any municipality in excess of the estimates published, except such taxes as are approved by a vote of the people, but in no case shall any tax levy be in excess of any limitation imposed thereon now or hereafter by the Constitution and laws of the state.

[C24, 27, 31, 35, 39, §381; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.15]  
 Referred to in [§24.14](#), [§24.20](#)  
 Tax limit, Iowa Constitution, Art. XI, §3

**24.16 Expenses — how paid.**

The cost of publishing the notices and estimates required by [this chapter](#), and the actual and necessary expenses of preparing the budget shall be paid out of the general funds of each municipality respectively.

[C24, 27, 31, 35, 39, §382; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.16]  
 Referred to in [§24.20](#), [§37.9](#)

**24.17 Budgets certified.**

The local budgets of the various political subdivisions shall be certified by the chairperson of the certifying board or levying board, as the case may be, in duplicate to the county auditor not later than March 15 of each year on forms, and pursuant to instructions, prescribed by the department of management. However, if the political subdivision is a school district, as defined in [section 257.2](#), its budget shall be certified not later than April 15 of each year.

One copy of the budget shall be retained on file in the office by the county auditor and the other shall be certified by the county auditor to the state board. The department of management shall certify the taxes back to the county auditor by June 15.

[C24, 27, 31, 35, 39, §383; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.17]  
[92 Acts, ch 1227, §14](#); [97 Acts, ch 206, §13, 24](#)  
 Referred to in [§20.19](#), [§20.20](#), [§24.20](#), [§137.112](#), [§257.7](#), [§331.403](#), [§331.434](#), [§331.907](#), [§384.22](#)

#### **24.18 Summary of budget.**

Before forwarding copies of local budgets to the state board, the county auditor shall prepare a summary of each budget, showing the condition of the various funds for the fiscal year, including the budgets adopted as herein provided. Said summary shall be printed as a part of the annual financial report of the county auditor, and one copy shall be certified by the county auditor to the state board.

[C24, 27, 31, 35, 39, §384; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.18]  
Referred to in [§24.20](#)

#### **24.19 Levying board to spread tax.**

At the time required by law the levying board shall spread the tax rates necessary to produce the amount required for the various funds of the municipality as certified by the certifying board, for the next succeeding fiscal year, as shown in the approved budget in the manner provided by law. One copy of said rates shall be certified to the state board.

[C24, 27, 31, 35, 39, §385; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.19]  
Referred to in [§24.20](#)

#### **24.20 Tax rates final.**

The several tax rates and levies of a municipality that are determined and certified in the manner provided in [sections 24.1 through 24.19](#), except such tax rates and levies as are authorized by a vote of the people, shall stand as the tax rates and levies of said municipality for the ensuing fiscal year for the purposes set out in the budget.

[C24, 27, 31, 35, 39, §386; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.20]  
[2008 Acts, ch 1031, §18](#); [2009 Acts, ch 133, §9](#)

#### **24.21 Transfer of inactive funds.**

Subject to the provisions of any law relating to municipalities, when the necessity for maintaining any fund of the municipality has ceased to exist, and a balance remains in said fund, the certifying board or levying board, as the case may be, shall so declare by resolution, and upon such declaration, such balance shall forthwith be transferred to the fund or funds of the municipality designated by such board, unless other provisions have been made in creating such fund in which such balance remains. In the case of a special fund created by a city or a county under [section 403.19](#), such balance remaining in the fund shall be allocated to and paid into the funds for the respective taxing districts as taxes by or for the taxing district into which all other property taxes are paid.

[C24, 27, 31, 35, 39, §387; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.21]  
[2012 Acts, ch 1124, §4](#)  
Referred to in [§331.432](#)

#### **24.22 Transfer of funds.**

Upon the approval of the state board, it is lawful to make temporary or permanent transfers of money from one fund to another fund of the municipality. The certifying board or levying board shall provide that money temporarily transferred shall be returned to the fund from which it was transferred within the time and upon the conditions the state board determines. However, it is not necessary to return to the emergency fund, or to any other fund no longer required, any money transferred to any other fund.

[C24, 27, 31, 35, 39, §388; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, S81, §24.22; [81 Acts, ch 117, §1002](#)]  
[83 Acts, ch 123, §34, 209](#)

#### **24.23 Supervisory power of state board.**

The state board shall exercise general supervision over the certifying boards and levying boards of all municipalities with respect to budgets and shall prescribe for them all necessary rules, instructions, forms, and schedules. The best methods of accountancy and statistical statements shall be used in compiling and tabulating all data required by [this chapter](#).

[C24, 27, 31, 35, 39, §389; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.23]

**24.24 Violations.**

Failure on the part of a public official to perform any of the duties prescribed in [chapter 73A](#), and [this chapter](#), and [sections 8.39](#) and [11.1 to 11.5](#), constitutes a simple misdemeanor, and is sufficient ground for removal from office.

[C24, 27, 31, 35, 39, §390; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §24.24]

**24.25** Repealed by 83 Acts, ch 123, §206, 209.

**24.26 State appeal board.**

1. The state appeal board in the department of management consists of the following:

- a. The director of the department of management.
- b. The auditor of state.
- c. The treasurer of state.

2. The annual meeting of the state board shall be held on the second Tuesday of January in each year. At each annual meeting the state board shall organize by the election from its members of a chairperson and a vice chairperson; and by appointing a secretary. Two members of the state board constitute a quorum for the transaction of any business.

3. The state board may appoint one or more competent and specially qualified persons as deputies, to appear and act for it at initial hearings. Each deputy appointed by the state board is entitled to receive the amount of the deputy's necessary expenses actually incurred while engaged in the performance of the deputy's official duties. The expenses shall be audited and approved by the state board and proper receipts filed for them.

4. The expenses of the state board shall be paid from the funds appropriated to the department of management.

[C39, §390.1; C46, 50, 54, §24.25; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.26]

[86 Acts, ch 1245, §107](#); [2008 Acts, ch 1031, §83](#)

Referred to in [§24.2](#)

**24.27 Protest to budget.**

Not later than March 25 or April 25 if the municipality is a school district, a number of persons in any municipality equal to one-fourth of one percent of those voting for the office of governor, at the last general election in the municipality, but the number shall not be less than ten, and the number need not be more than one hundred persons, who are affected by any proposed budget, expenditure or tax levy, or by any item thereof, may appeal from any decision of the certifying board or the levying board by filing with the county auditor of the county in which the municipal corporation is located, a written protest setting forth their objections to the budget, expenditure or tax levy, or to one or more items thereof, and the grounds for their objections. If a budget is certified after March 15 or April 15 in the case of a school district, all appeal time limits shall be extended to correspond to allowances for a timely filing. Upon the filing of a protest, the county auditor shall immediately prepare a true and complete copy of the written protest, together with the budget, proposed tax levy or expenditure to which objections are made, and shall transmit them forthwith to the state board, and shall also send a copy of the protest to the certifying board or to the levying board, as the case may be.

[C39, §390.2; C46, 50, 54, §24.26; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.27; [82 Acts, ch 1079, §2](#)]

[93 Acts, ch 1, §1](#)

Referred to in [§24.9](#), [§137.112](#), [§331.436](#)

**24.28 Hearing on protest.**

The state board, within a reasonable time, shall fix a date for an initial hearing on the protest and may designate a deputy to hold the hearing, which shall be held in the county or in one of the counties in which the municipality is located. Notice of the time and place of the hearing shall be given by certified mail to the appropriate officials of the local government and to the first ten property owners whose names appear upon the protest, at least five days before the date fixed for the hearing. At all hearings, the burden shall be upon the objectors with reference to any proposed item in the budget which was included in the budget of the

previous year and which the objectors propose should be reduced or excluded; but the burden shall be upon the certifying board or the levying board, as the case may be, to show that any new item in the budget, or any increase in any item in the budget, is necessary, reasonable, and in the interest of the public welfare.

[C39, §390.3; C46, 50, 54, §24.27; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.28; 82 Acts, ch 1079, §3]

Referred to in §24.9, §24.29, §331.436

#### **24.29 Appeal.**

The state board may conduct the hearing or may appoint a deputy. A deputy designated to hear an appeal shall attend in person and conduct the hearing in accordance with section 24.28, and shall promptly report the proceedings at the hearing, which report shall become a part of the permanent record of the state board.

[C39, §390.4; C46, 50, 54, §24.28; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.29; 82 Acts, ch 1079, §4]

Referred to in §24.9, §331.436

#### **24.30 Review by and powers of board.**

It shall be the duty of the state board to review and finally pass upon all proposed budget expenditures, tax levies and tax assessments from which appeal is taken and it shall have power and authority to approve, disapprove, or reduce all such proposed budgets, expenditures, and tax levies so submitted to it upon appeal, as herein provided; but in no event may it increase such budget, expenditure, tax levies or assessments or any item contained therein. Said state board shall have authority to adopt rules not inconsistent with the provisions of this chapter, to employ necessary assistants, authorize such expenditures, require such reports, make such investigations, and take such other action as it deems necessary to promptly hear and determine all such appeals; provided, however, that all persons so employed shall be selected from persons then regularly employed in some one of the offices of the members of said state board.

[C39, §390.5; C46, 50, 54, §24.29; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.30]

Referred to in §24.9, §331.436

#### **24.31 Rules of procedure — record.**

The manner in which objections shall be presented, and the conduct of hearings and appeals, shall be simple and informal and in accordance with the rules prescribed by the state board for promptly determining the merits of all objections so filed, whether or not such rules conform to technical rules of procedure. Such record shall be kept of all proceedings, as the rules of the state board shall require.

[C39, §390.6; C46, 50, 54, §24.30; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.31]

Referred to in §24.9, §331.436

#### **24.32 Decision certified.**

After a hearing upon the appeal, the state board shall certify its decision to the county auditor and to the parties to the appeal as provided by rule, and the decision shall be final. The county auditor shall make up the records in accordance with the decision and the levying board shall make its levy in accordance with the decision. Upon receipt of the decision, the certifying board shall correct its records accordingly, if necessary. Final disposition of all appeals shall be made by the state board on or before April 30 of each year.

[C39, §390.7; C46, 50, 54, §24.31; C58, 62, 66, 71, 73, 75, 77, 79, 81, §24.32; 82 Acts, ch 1079, §5]

Referred to in §24.9, §331.436

**24.33** Repealed by 77 Acts, ch 44, §1.

#### **24.34 Unliquidated obligations.**

A city, county, or other political subdivision may establish an encumbrance system for any obligation not liquidated at the close of the fiscal year in which the obligation has been encumbered. The encumbered obligations may be retained upon the books of the

city, county, or other political subdivision until liquidated, all in accordance with generally accepted governmental accounting practices.

[C75, 77, 79, 81, §24.34]

**24.35 and 24.36** Repealed by 85 Acts, ch 67, §63.

**24.37 and 24.38** Repealed by 81 Acts, ch 117, §1097.

**24.39 through 24.47** Repealed by 84 Acts, ch 1067, §51.

**24.48 Appeal to state board for suspension of limitations.**

1. If the property tax valuations effective January 1, 1979, and January 1 of any subsequent year, are reduced or there is an unusually low growth rate in the property tax base of a political subdivision, the political subdivision may appeal to the state appeal board to request suspension of the statutory property tax levy limitations to continue to fund the present services provided. A political subdivision may also appeal to the state appeal board where the property tax base of the political subdivision has been reduced or there is an unusually low growth rate for any of the following reasons:

a. Any unusual increase in population as determined by the preceding certified federal census.

b. Natural disasters or other emergencies.

c. Unusual problems relating to major new functions required by state law.

d. Unusual staffing problems.

e. Unusual need for additional funds to permit continuance of a program which provides substantial benefit to its residents.

f. Unusual need for a new program which will provide substantial benefit to residents, if the political subdivision establishes the need and the amount of the necessary increased cost.

2. The state appeal board may approve or modify the request of the political subdivision for suspension of the statutory property tax levy limitations.

3. Upon decision of the state appeal board, the department of management shall make the necessary changes in the total budget of the political subdivision and certify the total budget to the governing body of the political subdivision and the appropriate county auditors.

4. a. The city finance committee shall have officially notified any city of its approval, modification or rejection of the city's appeal of the decision of the director of the department of management regarding a city's request for a suspension of the statutory property tax levy limitation prior to thirty-five days before March 15.

b. The state appeals board shall have officially notified any county of its approval, modification or rejection of the county's request for a suspension of the statutory property tax levy limitation prior to thirty-five days before March 15.

5. a. For purposes of [this section](#) only, "political subdivision" means a city, school district, or any other special purpose district which certifies its budget to the county auditor and derives funds from a property tax levied against taxable property situated within the political subdivision.

b. For the purpose of [this section](#), when the political subdivision is a city, the director of the department of management, and the city finance committee on appeal of the director's decision, shall be the state appeal board.

[C79, 81, §24.48]

[83 Acts, ch 123, §35, 209; 86 Acts, ch 1245, §108; 94 Acts, ch 1023, §5; 2008 Acts, ch 1032, §138](#)