

# **ELECTION LAWS OF IOWA**

**OCTOBER 2000 SUPPLEMENT**



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# INSTRUCTIONS

## FOR

### Updating Election Laws of Iowa

Obsolete pages of *Election Laws of Iowa* are listed in the column headed “**Remove Old Pages.**” New and replacement pages in this Supplement are listed in the column headed “**Insert New Pages.**” It is important to follow instructions in both columns.

<b>Remove Old Pages</b>	<b>Insert New Pages</b>
iii.....	iii
3-8 .....	3-8
81-86 .....	81-86b
93,94 .....	93,94
131,132 .....	131,132
135,136 .....	135,136
141,142 .....	141,142
157,158 .....	157,158
170a,170b .....	170a,170b
205-208 .....	205-208
210a,210b .....	210a,210b
210e,210f .....	210e,210f
211,212 .....	211,212
225,226 .....	225,226
229-232 .....	229-232b
237,238 .....	237,238
241,242 .....	241,242
262a-264 .....	262a-264
295-298 .....	295-298
303-306 .....	303-306b
311,312 .....	311,312
317,318 .....	317,318

**October 2000 Supplement**

**INSTRUCTIONS — Continued**

**Remove Old Pages**

**Insert New Pages**

318g-318l.....	318g-318l-2
318s,318t.....	318s,318t
320a-322.....	320a-322b
328a-328d.....	328a-328d
339,340.....	339,340
342a,342b.....	342a,342b
349,350.....	349,350
361-374.....	361-374
382a-384.....	382a-384
415-418.....	414a-418
421-422b.....	421-422b
425-428.....	425-428
431,432.....	431,432
436a-442.....	436a-442
444a,444b.....	444a,444b
450a,450b.....	450a,450b
452a,452b.....	452a,452b
455,456.....	455-456b
492c-494.....	492c-494
503,504.....	503,504
507-510f.....	507-510f
510i,510j.....	510i,510j
517,518.....	517,518
526a-526d.....	526a-526d
533-536.....	533-536
I-1 to I-36.....	I-1 to I-38

**Page Checklist**

Page 1 to Page 10.....	Page 1 to Page 11
------------------------	-------------------

# Sections Affected by 2000 Supplement

## in

# ELECTION LAWS OF IOWA

Code Section Affected	Action in Election Laws	Source [Chapter and Section(s) of 2000 Acts except where noted]
19A.1A.....	AMENDED.....	1171,§3,4
24.2.....	AMENDED.....	1148,§1
28A.6.....	AMENDED.....	1058,§56
43.2.....	AMENDED.....	1148,§1
43.26.....	AMENDED.....	1058,§57
46.9.....	AMENDED.....	1058,§58
46.24.....	AMENDED.....	1154,§8
47.7.....	Footnote amended	
49.21.....	AMENDED.....	1039,§1
49A.10.....	Footnote stricken	
50.1.....	ADDED.....	1148,§1
50.1A.....	Transferred from former §50.1	
50.2.....	Internal reference change applied	
50.16.....	AMENDED.....	1058,§8
50.29.....	AMENDED.....	1058,§9
50.41.....	AMENDED.....	1058,§10
52.9.....	AMENDED.....	1058,§59,60
52.21.....	AMENDED.....	1058,§56,61
52.32.....	Internal reference change applied	
52.38.....	AMENDED.....	1058,§59,60
55.2.....	ADDED.....	1117,§3
62.1.....	ADDED.....	1148,§1
62.1A.....	Transferred from former §62.1	
62.11.....	AMENDED.....	1058,§11

**October 2000 Supplement**

**Sections Affected by 2000 Supplement — Continued**

<b>Code Section Affected</b>	<b>Action in Election Laws</b>	<b>Source [Chapter and Section(s) of 2000 Acts except where noted]</b>
66.1.....	ADDED.....	1148,§1
66.1A.....	Transferred from former §66.1	
66.29.....	Footnote amended	
68B.26.....	AMENDED.....	1042,§1
68B.32D.....	AMENDED.....	1042,§2
69.1.....	ADDED.....	1148,§1
69.1A.....	Transferred from former §69.1	
69.14A.....	Footnote added	
80E.1.....	ADDED.....	Code 1999;1126,§1
97B.5.....	ADDED.....	Code 1999;1077,§21
123.10.....	ADDED.....	Code 1999
123.17.....	ADDED.....	Code 1999
222.31.....	AMENDED.....	1112,§51
222.45.....	AMENDED.....	1112,§51
275.18.....	Editorial correction	
275.25.....	Editorial correction	
275.55.....	Editorial correction	
279.52.....	AMENDED.....	1072,§1;1232,§64
279.53.....	STRICKEN.....	1072,§3
279.54.....	STRICKEN.....	1072,§3
300.1.....	ADDED.....	Code 1999
331.381.....	ADDED.....	Code 1999
331.382.....	ADDED.....	Code 1999
331.383.....	Editorial correction	
331.427.....	Section history amended	
331.441.....	AMENDED.....	1188,§1
331.502.....	Section history amended	
331.552.....	Section history amended	

## October 2000 Supplement

### Sections Affected by 2000 Supplement — Continued

Code Section Affected	Action in Election Laws	Source [Chapter and Section(s) of 2000 Acts except where noted]
331.602.....	Section history amended	
341A.18 .....	AMENDED .....	1033,§1,2
347B.2 .....	Transferred from former §347B.1	
357.1B .....	Transferred from former §357.1A	
357E.8 .....	AMENDED .....	1181,§5
358.1A .....	Transferred from former §358.1	
358.1B .....	Transferred from former §358.1A	
358C.1 .....	AMENDED .....	1087,§1;1148,§1
364.2.....	Footnote stricken	
368.3.....	ADDED .....	Code 1999;1006,§1
392.6.....	AMENDED .....	1015,§1
422A.1 .....	Editorial correction	
422B.1 .....	AMENDED .....	99 Acts, ch 156, §8,9,11;1058,§36
422B.12 .....	Footnote stricken	
422E.2 .....	AMENDED .....	99 Acts, ch 156, §15;1058,§37
445.1.....	ADDED .....	Code 1999
468.511.....	AMENDED .....	1058,§63
602.6504.....	AMENDED .....	1058,§64
602.8102.....	Section history amended	
722.4.....	AMENDED .....	1201,§12
722.6.....	STRICKEN .....	1201,§18
722.8.....	AMENDED .....	1201,§13
722.9.....	STRICKEN .....	1201,§18



## **EDITOR'S NOTE**

This publication contains election laws as they appear in the Iowa Code 2001.

The Election Law 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, Code Supplement, and session laws published under authority of the state are the only authoritative publications of the statutes of this state. No other publications of the statutes of the state shall be cited in the courts or in the reports or rules of the courts." [Iowa Code §2B.17(3)]



EXECUTIVE COUNCIL

**7D.6 Report for official register.**

The secretary shall, as soon as practicable after January 1 of each odd-numbered year, prepare a report of the proceedings of the executive council for the two preceding calendar years. Said report shall include a statement of:

1. The official canvass of the votes cast at the last general election.
2. Not reprinted.

Said report shall be published in the Iowa official register.

[C73, §120; C97, §157; S13, §157; C24, 27, 31, 35, 39, §284; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §19.6]

C93, §7D.6

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

## DEPARTMENT OF GENERAL SERVICES

**18.2 Department established.**

There is created a department of general services which is attached to the office of the governor and is under the governor's general direction, supervision, and control. The governor shall appoint the director, subject to confirmation by the senate. The director shall not hold any other office, engage in political activity, accept or solicit, directly or indirectly, political contributions, and shall not use the office to support the candidacy of anyone for elective or appointive office. The director shall hold office at the governor's pleasure and shall receive a salary as fixed by the general assembly. Before entering upon the discharge of the director's duties, the director may be required to give a surety bond in an amount fixed by the governor. The premium on the bond shall be paid out of funds appropriated to the department.

Unnumbered paragraph 2 not reprinted.

[C73, §19B.2; C75, 77, 79, 81, §18.2]

83 Acts, ch 101, §2

## DEPARTMENT OF PERSONNEL

**19A.1A Director of department.**

1. The chief administrative officer of the department is the director. The director shall be appointed by the governor, subject to confirmation by the senate. The director serves at the pleasure of the governor and is subject to reconfirmation after four years in office. The person appointed shall be professionally qualified by education and experience in the field of public personnel administration, including the application of merit principles in public employment, and the appointment shall be made without regard for political affiliation. The director shall not be a member of any local, state, or national committee of a political party, an officer or member of a committee in any partisan political club or organization, or hold or be a candidate for a paid elective public office. The director is subject to the restrictions on political activity provided in section 19A.18. The governor shall set the salary of the director within a range established by the general assembly.

2. to 4. Not reprinted.

86 Acts, ch 1245, §202; 98 Acts, ch 1202, §27, 46; 2000 Acts, ch 1171, §3, 4

**19A.18 Discrimination, political activity, use of official influence prohibited.**

No person shall be appointed or promoted to, or demoted or discharged from, any position in the merit system, or in any way favored or discriminated against with respect to employment in the merit system because of the person's political or religious opinions or affiliations or race or national origin or sex, or age.

No person holding a position in the classified service shall, during the person's working hours or when performing the person's duties or when using state equipment or at any time on state property, take part in any way in soliciting any contribution for any political party or any person seeking political office, nor shall such employee engage in any political activity that will impair the employee's efficiency during working hours or cause the employee to be tardy or absent from work. The provisions of this section do not preclude any employee from holding any office for which no pay is received or any office for which only token pay is received.

No person shall seek or attempt to use any political endorsement in connection with any appointment to a position in the merit system.

No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the merit system, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person or for any consideration.

No employee shall use the employee's official authority or influence for the purpose of interfering with an election or affecting the results thereof.

Any officer or employee who violates any of the provisions of this section shall be subject to suspension, dismissal, or demotion subject to the right of appeal herein.

The director shall adopt any rules necessary for further restricting political activities of employees in the executive branch, but only to the extent necessary to comply with federal standards. Employees retain the right to vote as they please and to express their opinions on all subjects.

[C71, 73, 75, 77, 79, 81, §19A.18]

86 Acts, ch 1021, §1; 86 Acts, ch 1245, §217; 97 Acts, ch 28, §6

Leave of absence for candidacy and public service; see chapter 55

## PUBLIC EMPLOYMENT RELATIONS (COLLECTIVE BARGAINING)

### **20.26 Employee organizations — political contributions.**

An employee organization shall not make any direct or indirect contribution out of the funds of the employee organization to any political party or organization or in support of any candidate for elective public office.

Any employee organization which violates the provisions of this section or fails to file any required report or affidavit or files a false report or affidavit shall, upon conviction, be subject to a fine of not more than two thousand dollars.

Any person who willfully violates this section, or who makes a false statement knowing it to be false, or who knowingly fails to disclose a material fact shall, upon conviction, be subject to a fine of not more than one thousand dollars or imprisoned for not more than thirty days or shall be subject to both such fine and imprisonment. Each individual required to sign affidavits or reports under this section shall be personally responsible for filing such report or affidavit and for any statement contained therein the individual knows to be false.

Nothing in this section shall be construed to prohibit voluntary contributions by individuals to political parties or candidates.

Nothing in this section shall be construed to limit or deny any civil remedy which may exist as a result of action which may violate this section. [C75, 77, 79, 81, §20.26]

LOCAL BUDGETS

**24.2 Definition of terms.**

As used in this chapter and unless otherwise required by the context:

1. to 4. Not reprinted.

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. Not reprinted.

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

**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]

QUAD CITIES INTERSTATE  
METROPOLITAN AUTHORITY COMPACT

**28A.1 Quad cities interstate metropolitan authority compact.**

The quad cities interstate metropolitan authority compact is entered into and enacted into law with the state of Illinois if the state of Illinois joins the compact, in the form substantially as follows:

ARTICLE 1 — SHORT TITLE

This compact may be cited as the “Quad Cities Interstate Metropolitan Authority Compact”.

ARTICLE 2 — AUTHORIZATION

The states of Illinois and Iowa authorize the creation of the quad cities interstate authority to include the territories of Scott county in the state of Iowa and Rock Island county in the state of Illinois.

ARTICLE 3 — PURPOSES

The purposes of the authority are to provide facilities and to foster cooperative efforts, all for the development and public benefit of its territory. This compact shall be liberally interpreted to carry out these purposes.

ARTICLE 4 — CREATION

The authority is created when the secretary of state of Iowa certifies to the secretary of state of Illinois that a majority of the electors of Scott county voting on the proposition voted to approve creation of the authority and the secretary of state of Illinois certifies to the secretary of state of Iowa that a majority of the electors of Rock Island county voting on the proposition voted to approve creation of the authority. A referendum approving creation of the authority must be held before January 1, 1993.

ARTICLE 5 TO ARTICLE 21

NOT REPRINTED.

89 Acts, ch 213, §1  
CS89, §330B.1  
C93, §28A.1

**28A.5 Petition and public hearing.**

1. Upon petition of eligible electors of a metropolitan area equal in number to at least ten percent of the persons who voted in the last general election held in the metropolitan area for the office of president of the United States or governor, the governing body of the county shall adopt a resolution signifying its intention to initiate the question of participating in the creation of an authority and shall publish the resolution at least once in a newspaper of general circulation in the metropolitan area giving notice of a hearing to be held on the question of the metropolitan area’s entry into the authority. The resolution shall be published at least fourteen days prior to the date of hearing, and shall contain all of the following information:

a. Intention to join in the creation of the authority pursuant to this division.

b. That the greater metropolitan area will include Rock Island county, Illinois, and Scott county, Iowa, which have expressed their interest in the creation of the authority.

c. Name of the authority.

d. Place, date, and time of hearing.

2. After the hearing, if the governing body of a metropolitan area wishes to proceed in the creation of or to join the authority, the governing body shall direct the proper election authority to submit the proposition to the electorate of the metropolitan area as provided in section 28A.6.

91 Acts, ch 198, §4

CS91, §330B.5

C93, §28A.5

**28A.6 Election.**

1. Upon receipt of the resolution, the county commissioner of elections shall place the proposition on the ballot of a special election but not at a general election, called by the governing body of the metropolitan area. At the election, the proposition shall be submitted in substantially the following form:

Shall the Quad Cities Interstate Metropolitan Authority be established effective on the ..... day of ..... (month), ..... (year)?

YES..... NO.....

2. Notice of the election shall be given by publication as required in section 49.53 in a newspaper of general circulation in the metropolitan area. At the election, the ballot used for submission of the proposition shall be substantially the form for submitting special questions at general elections.

3. The proposition is approved if the vote in favor of the proposition is a simple majority of the total votes cast on the proposition in the metropolitan area.

4. If the proposition is approved, the governing body of the county shall enact an ordinance authorizing the joining of the authority.

91 Acts, ch 198, §5

CS91, §330B.6

C93, §28A.6

2000 Acts, ch 1058, §56

CHAPTER 43

PARTISAN NOMINATIONS — PRIMARY ELECTION

See also definitions in §39.3

- 43.1 Primary election construed.
- 43.2 Definitions.
- 43.3 Offices affected by primary.
- 43.4 Political party precinct caucuses.
- 43.5 Applicable statutes.
- 43.6 Nomination of U. S. senators, state and county officers.
- 43.7 Time of holding.
- 43.8 State commissioner to furnish blanks.
- 43.9 Commissioner to furnish blanks.
- 43.10 Blanks furnished by others.
- 43.11 Filing of nomination papers.
- 43.12 Noting time of filing.
- 43.13 Failure to file nomination papers.
- 43.14 Form of nomination papers.
- 43.15 Requirements in signing.
- 43.16 Return of papers, additions not allowed.
- 43.17 Affidavit to nomination papers. Repealed by 86 Acts, ch 1224, §39.
- 43.18 Affidavit of candidacy.
- 43.19 Manner of filing affidavit.
- 43.20 Signatures required — more than one office prohibited.
- 43.21 Township office.
- 43.22 Nominations certified.
- 43.23 Death or withdrawal of primary candidate.
- 43.24 Objections to nomination petitions or certificates of nomination.
- 43.25 Correction of errors.
- 43.26 Ballot — form.
- 43.27 Printing of ballots.
- 43.28 Names of candidates — arrangement.
- 43.29 Form of name on ballot.
- 43.30 Sample ballots.
- 43.31 to 43.35 Repealed by 73 Acts, ch 136, §401.
- 43.36 Australian ballot.
- 43.37 Number of votes permitted per office.
- 43.38 Voter confined to party ticket.
- 43.39 Ballot for another party's candidate.
- 43.40 Repealed by 73 Acts, ch 136, §401.
- 43.41 Change or declaration of party affiliation before primary.
- 43.42 Change or declaration of party affiliation at polls.
- 43.43 Voter's declaration of eligibility.
- 43.44 Repealed by 75 Acts, ch 81, §154.
- 43.45 Canvass of votes.

- 43.46 Delivering returns.
- 43.47 Messenger sent for returns.
- 43.48 Elector may ascertain vote cast.
- 43.49 Canvass by county board.
- 43.50 Signing and filing of abstract.
- 43.51 Finality of canvass.
- 43.52 Nominees for county office.
- 43.53 Nominees for subdivision office — write-in candidates.
- 43.54 Right to place on ballot.
- 43.55 Nominee certified.
- 43.56 Primary election recount provisions.
- 43.57 and 43.58 Repealed by 81 Acts, ch 34, §48.
- 43.59 Number of voters certified.
- 43.60 Abstracts to state commissioner.
- 43.61 Returns filed and abstracts recorded.
- 43.62 Publication of proceedings.
- 43.63 Canvass by state board.
- 43.64 State canvass conclusive.
- 43.65 Who nominated.
- 43.66 Write-in candidates.
- 43.67 Nominee's right to place on ballot.
- 43.68 Certified list of nominees.
- 43.69 Certificates in case of failure to nominate.
- 43.70 Repealed by 75 Acts, ch 81, §154.
- 43.71 Messenger sent for abstracts.
- 43.72 State returns filed and recorded.
- 43.73 State commissioner to certify nominees.
- 43.74 Repealed by 75 Acts, ch 81, §154.
- 43.75 Tie vote.
- 43.76 Withdrawal of nominated candidates.
- 43.77 What constitutes a ballot vacancy.
- 43.78 Filling ballot vacancies.
- 43.79 Death of candidate after time for withdrawal.
- 43.80 Vacancies in nominations of presidential electors.
- 43.81 and 43.82 Repealed by 75 Acts, ch 81, §154.
- 43.83 Vacancies in office of U. S. representative.
- 43.84 Repealed by 75 Acts, ch 81, §154.
- 43.85 County convention reconvened.
- 43.86 and 43.87 Repealed by 75 Acts, ch 81, §154.
- 43.88 Certification of nominations.
- 43.89 Repealed by 65 Acts, ch 89, §15.
- 43.90 Delegates.
- 43.91 Voter at caucus must be precinct resident.
- 43.92 Date of caucus published.
- 43.93 Place of holding caucus.
- 43.94 Term of office of delegates.

- 43.95 Calling convention to order.
- 43.96 Proxies prohibited.
- 43.97 Duties performable by county convention.
- 43.98 Repealed by 73 Acts, ch 136, §401.
- 43.99 Party committee persons.
- 43.100 Central committee — duties.
- 43.101 County central committee officers.
- 43.102 District conventions.
- 43.103 Duty of county commissioner.
- 43.104 Organization.
- 43.105 Repealed by 75 Acts, ch 81, §154.
- 43.106 Repealed by 74 Acts, ch 1101, §105.
- 43.107 State convention.
- 43.108 Organization — proxies prohibited.
- 43.109 Nominations authorized.
- 43.110 Repealed by 75 Acts, ch 81, §154.
- 43.111 State party platform, constitution, bylaws and central committee.
- 43.112 Nominations in certain cities.
- 43.113 Repealed by 75 Acts, ch 81, §154.
- 43.114 Time of holding special charter city primary.
- 43.115 Nomination papers — number of signers.
- 43.116 Ballot vacancies in special charter city elections.
- 43.117 Plurality vote nominates and elects.
- 43.118 Expense.
- 43.119 Criminal misconduct.
- 43.120 Bribery — illegal voting.
- 43.121 Nominations by petition or nonparty organizations.
- 43.122 Repealed by 73 Acts, ch 136, §401.
- 43.123 Nomination of lieutenant governor.

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**43.1 Primary election construed.**

The primary election required by this chapter shall be construed to be an election by the members of various political parties for the purpose of placing in nomination candidates for public office.

[S13, §1087-a2; C24, 27, 31, 35, 39, §527; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.1]

**43.2 Definitions.**

The term “*political party*” shall mean a 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. It shall be the responsibility of the state commissioner to determine whether any organization claiming to be a political party qualifies as such under the foregoing definition.

A political organization which is not a “political party” within the meaning of this section may nominate candidates and have the names of such candidates placed upon the official ballot by proceeding under chapters 44 and 45.

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.

[S13, §1087-a3; C24, 27, 31, 35, 39, §528; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.2]

2000 Acts, ch 1148, §1

Nominations by petition or nonparty organizations, §43.121

### **43.3 Offices affected by primary.**

Candidates of all political parties for all offices which are filled at a regular biennial election by direct vote of the people shall be nominated at a primary election at the time and in the manner hereinafter directed.

[S13, §1087-a1; C24, 27, 31, 35, 39, §529; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.3]

Nomination and election of judges, chapter 46

### **43.4 Political party precinct caucuses.**

Delegates to county conventions of political parties and party committee members shall be elected at precinct caucuses held not later than the fourth Monday in February of each even-numbered year. The date shall be at least eight days earlier than the scheduled date for any meeting, caucus or primary which constitutes the first determining stage of the presidential nominating process in any other state, territory or any other group which has the authority to select delegates in the presidential nomination. The state central committees of the political parties shall set the date for their caucuses. The county chairperson of each political party shall issue the call for the caucuses. The county chairperson shall file with the commissioner the meeting place of each precinct caucus at least seven days prior to the date of holding the caucus.

There shall be selected among those present at a precinct caucus a chairperson and a secretary who shall within seven days certify to the county central committee the names of those elected as party committee members and delegates to the county convention.

When the rules of a political party require the selection and reporting of delegates selected as part of the presidential nominating process, or the rules of a political party require the tabulation and reporting of the number of persons attending the caucus favoring each presidential candidate, it is the duty of a person designated as provided by the rules of that political party to report the results of the precinct caucus as directed by the state central committee of that political party. When the person designated to report the results of the precinct caucus reports the results, representatives of each candidate, if they so choose, may accompany the person as the results are being reported to assure that an accurate report of the proceedings is reported. If ballots are used at the precinct caucus, representatives of each candidate or other persons attending the precinct caucus may observe the tabulation of the results of the balloting.

Within fourteen days after the date of the caucus the county central committee shall certify to the county commissioner the names of those elected as party committee members and delegates to the county convention.

The central committee of each political party shall notify the delegates and committee members so elected and certified of their election and of the time and place of holding the county convention. Such conventions shall be held either preceding or following the primary election but no later than ten days following the primary election and shall be held on the same day throughout the state.

[S13, §1087-a1; C24, 27, 31, 35, 39, §530; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.4]

83 Acts, ch 138, §1; 88 Acts, ch 1001, §1; 89 Acts, ch 136, §2

Failure to report, criminal penalty, §43.119

#### **43.5 Applicable statutes.**

The provisions of chapters 39, 47, 48A, 49, 50, 51, 52, 53, 56, 57, 58, 59, 61, 62 and 722 shall apply, so far as applicable, to all primary elections, except as hereinafter provided.

[S13, §1087-a1; C24, 27, 31, 35, 39, §531; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.5]

94 Acts, ch 1169, §44

Criminal offenses, §43.119, 43.120

#### **43.6 Nomination of U. S. senators, state and county officers.**

Candidates for the office of senator in the Congress of the United States, the offices listed in section 39.9, county supervisor, and the offices listed in section 39.17 shall be nominated in the year preceding the expiration of the term of office of the incumbent.

1. When 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 and section 69.13 requires that the vacancy be filled for the balance of the unexpired term at a general election, candidates for the office shall be nominated in the preceding primary election if the vacancy occurs eighty-nine or more days before the date of that primary election. If the vacancy occurs less than one hundred four days before the date of that primary election, the state commissioner shall accept nomination papers for that office only until five o'clock p.m. on the seventy-fourth day before the primary election, the provisions of section 43.11 notwithstanding. If the vacancy occurs later than eighty-nine days before the date of that primary election, but not less than eighty-nine days before the date of the general election, the nominations shall be made in the manner prescribed by this chapter for filling vacancies in nominations for offices to be voted for at the general election.

2. When a vacancy occurs in the office of county supervisor or any of the offices listed in section 39.17 and more than seventy days remain in the term of office following the next general election, the office shall be filled for the balance of the unexpired term at that general election unless the vacancy has been filled by a special election called more than seventy-three days before the primary election. If an appointment to fill the vacancy in office is made eighty-eight or more days before the primary election and a petition requesting a special election has not been received within fourteen days after the appointment is made, candidates for the office shall be nominated at the primary election.

[R60, §674; C73, §26; C97, §30; S13, §1087-c; C24, 27, 31, 35, 39, §532; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.6]

89 Acts, ch 136, §3; 94 Acts, ch 1180, §2; 97 Acts, ch 170, §2

Vacancies filled by governor, §69.8(1, 2)

#### **43.7 Time of holding.**

The primary election by all political parties shall be held at the usual voting places of the several precincts on the first Tuesday after the first Monday in June in each even-numbered year.

[S13, §1087-a4; C24, 27, 31, 35, 39, §533; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.7]

#### **43.8 State commissioner to furnish blanks.**

The state commissioner shall, at state expense, furnish blank nomination papers, in the form provided in this chapter, to any eligible elector who desires to petition for the nomination of any candidate, or to any person who intends to be a candidate, for any office for which nomination papers are required to be filed in the state commissioner's office.

[S13, §1087-a11; C24, 27, 31, 35, 39, §534; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.8; 81 Acts, ch 34, §1]

**43.9 Commissioner to furnish blanks.**

The commissioner shall, at county expense, perform the duty specified in section 43.8, as to all offices for which nomination papers are required to be filed in the commissioner's office.

[S13, §1087-a11; C24, 27, 31, 35, 39, §535; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.9]

**43.10 Blanks furnished by others.**

Blank nomination papers which are in form substantially as provided by this chapter may be used even though not furnished by the state commissioner or commissioner.

[C24, 27, 31, 35, 39, §536; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.10]

**BLANK**

Objections filed with the city clerk shall be considered by the mayor and clerk and one member of the council chosen by the council by ballot, and a majority decision shall be final; but if the objection is to the certificate of nomination of either of those city officials, that official shall not pass upon said objection, but that official's place shall be filled by a member of the council against whom no objection exists, chosen as above.

84 Acts, ch 1291, §1; 86 Acts, ch 1155, §1; 89 Acts, ch 136, §11

**43.25 Correction of errors.**

The commissioner shall correct any errors or omissions in the names of candidates and any other errors brought to the commissioner's knowledge before the printing of the ballots.

[S13, §1087-a12; C24, 27, 31, 35, 39, §552; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.25]

**43.26 Ballot — form.**

The official primary election ballot shall be prepared, arranged, and printed substantially in the following form:

PRIMARY ELECTION BALLOT  
(Name of Party) of  
County of ....., State of Iowa,  
..... Rotation (if any).  
Primary election held on  
the ..... day of June, ..... (year)

FOR UNITED STATES SENATOR  
(Vote for no more than one.)  
 CANDIDATE'S NAME  
 CANDIDATE'S NAME  
 .....

FOR UNITED STATES  
REPRESENTATIVE  
(Vote for no more than one.)  
 CANDIDATE'S NAME  
 CANDIDATE'S NAME  
 .....

FOR GOVERNOR  
(Vote for no more than one.)  
 CANDIDATE'S NAME  
 CANDIDATE'S NAME  
 .....

(Followed by other elective state officers in the order in which they appear in section 39.9 and district officers in the order in which they appear in sections 39.15 and 39.16.)

**FOR BOARD OF SUPERVISORS**

(Vote for no more than two.)

- CANDIDATE'S NAME
- CANDIDATE'S NAME
- .....
- .....

**FOR COUNTY AUDITOR**

(Vote for no more than one.)

- CANDIDATE'S NAME
- CANDIDATE'S NAME
- .....

(Followed by other elective county officers in the order in which they appear in section 39.17.)

**FOR TOWNSHIP CLERK**

(Vote for no more than one.)

- CANDIDATE'S NAME
- CANDIDATE'S NAME
- .....

**FOR TOWNSHIP TRUSTEES**

(Vote for no more than two.)

- CANDIDATE'S NAME
- CANDIDATE'S NAME
- CANDIDATE'S NAME
- .....
- .....

[S13, §1087-a14; C24, 27, 31, 35, 39, §553; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §43.26]

87 Acts, ch 221, §1; 88 Acts, ch 1119, §5; 94 Acts, ch 1180, §5; 2000 Acts, ch 1058, §57

To be counted, this ballot must be completed and mailed or delivered to Clerk of the Supreme Court of Iowa, Des Moines, Iowa, not later than January 31, ..... (year) (or the appropriate date under section 46.5 in case of an election to fill a vacancy).

#### DESTROY BALLOT IF NOT USED

The elector receiving the most votes shall be elected. When more than one commissioner is to be elected, the electors receiving the most votes shall be elected, in the same number as the offices to be filled.

The ballot must be completed and mailed or delivered to the clerk of the supreme court prior to expiration of the period within which the election must be held.

The ballots shall be counted under the direction of the clerk of the supreme court.

[C66, 71, 73, 75, 77, 79, 81, §46.9]

83 Acts, ch 186, §10020, 10201; 2000 Acts, ch 1058, §58

#### **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

**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]

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

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

**47.6 Election dates — conflicts — public measures.**

1. The governing body of any political subdivision which has authorized a special election to which section 39.2 is applicable shall by written notice inform the commissioner who will be responsible for conducting the election of the proposed date of the special election. If a public measure will appear on the ballot at the special election the governing body shall submit the complete text of the public measure to the commissioner with the notice of the proposed date of the special election.

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. The registrar shall offer to each county in the state the opportunity to arrange for performance of all functions referred to in subsection 1 by the data processing facilities of the registrar, commencing at the earliest practicable time, at a cost to the county determined in accordance with the standard charges for those services adopted annually by the registration commission. A county may accept this offer without taking bids under section 47.5.

3. Any county may use its own data processing facilities for voter registration record keeping and utilization functions, if the system design and the form in which the registration records are kept conform to specifications established by rules promulgated by the registration commission. Each county exercising the option to maintain its own voter registration records under this subsection shall provide the registrar, at the county's expense, original and updated voter registration lists in a form and at times prescribed by the registrar.

4. Not later than July 1, 1984, information listed in section 48A.11 contained in a county's manual records but not on the county's computer readable records shall be provided to the registrar in a form specified by the registrar. The registrar shall require that any information supplied under section 48A.11, except the signature and attestation of the registrant, be provided to the registrar in a form specified by the registrar.

[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

Legislative intent that state data processing services to support voter registration file maintenance and storage be provided without charge; 98 Acts, ch 1217, §26; 99 Acts, ch 199, §27; 2000 Acts, ch 1231, §31

## CHAPTER 49

## METHOD OF CONDUCTING ELECTIONS

See also definitions in §39.3

Chapter applicable to primary elections, §43.5

Criminal offenses, §722.4–722.9; also §43.119, 43.120

- 49.1 Elections included.
- 49.2 Repealed by 73 Acts, ch 136, §401.
- 49.3 Election precincts.
- 49.4 Precincts drawn by county board.
- 49.5 City precincts.
- 49.6 Power to combine township and city precincts.
- 49.7 Reprecincting schedule and filing requirements.
- 49.8 Changes in precincts.
- 49.9 Proper place of voting.
- 49.10 Polling places for certain precincts.
- 49.11 Notice of boundaries of precincts — merger or division.
- 49.12 Election boards.
- 49.13 Commissioner to appoint members, chairperson.
- 49.14 Substitute precinct election officials.
- 49.15 Commissioner to draw up election board panel.
- 49.16 Tenure of election board panel.
- 49.17 Repealed by 73 Acts, ch 136, §401.
- 49.18 Vacancies occurring on election day.
- 49.19 Unpaid officials, paper ballots optional for certain city elections.
- 49.20 Compensation of members.
- 49.21 Polling places — accessibility — directional signs.
- 49.22 Repealed by 73 Acts, ch 136, §401.
- 49.23 Notice of change.
- 49.24 Schoolhouses as polling places.
- 49.25 Equipment required at polling places.
- 49.26 Commissioner to decide method of voting — counting of ballots.
- 49.27 Precincts where some voters may not vote for all candidates or questions.  
Repealed by 97 Acts, ch 170, §93.
- 49.28 Commissioner to furnish registers and supplies.
- 49.29 Voting by ballot or machine. Repealed by 97 Acts, ch 170, §93.
- 49.30 All candidates and issues on one ballot — exceptions.
- 49.31 Arrangement of names on ballot — restrictions.
- 49.32 Candidates for president in place of electors.
- 49.33 Single voting target for certain paired offices.
- 49.34 Repealed by 75 Acts, ch 81, §154.
- 49.35 Order of arranging tickets on lever voting machine ballot.
- 49.36 Candidates of nonparty organization.
- 49.37 Arrangement of ballot.

- 49.38 Candidate's name to appear but once.
- 49.39 Dual nomination.
- 49.40 Failure to designate.
- 49.41 More than one office prohibited.
- 49.42 Form of official ballot. Repealed by 97 Acts, ch 170, §93.
- 49.42A Form of official ballot.
- 49.43 Constitutional amendment or other public measure.
- 49.44 Summary.
- 49.45 General form of ballot.
- 49.46 Marking ballots on public measures.
- 49.47 Notice on ballots.
- 49.48 Notice for judicial officers and constitutional amendments.
- 49.49 Repealed by 75 Acts, ch 81, §154.
- 49.50 Endorsement and delivery of ballots.
- 49.51 Commissioner to control printing.
- 49.52 Repealed by 73 Acts, ch 136, §401.
- 49.53 Publication of ballot and notice.
- 49.54 Cost of publication.
- 49.55 Delivery of supplies to officials.
- 49.56 Maximum cost of printing.
- 49.57 Method and style of printing ballots.
- 49.58 Effect of death of certain candidates.
- 49.59 to 49.62 Repealed by 75 Acts, ch 81, §154.
- 49.63 Time of printing — inspection and correction.
- 49.64 Number of ballots delivered.
- 49.65 Packing ballots — delivery — receipts — records.
- 49.66 Reserve supply of ballots.
- 49.67 Form of reserve supply.
- 49.68 State commissioner to furnish instructions.
- 49.69 Repealed by 73 Acts, ch 136, §401.
- 49.70 Precinct election officials furnished instructions.
- 49.71 Posting instruction cards and sample ballots.
- 49.72 Absentee voters designated before polling place opened.
- 49.73 Time of opening and closing polls.
- 49.74 Registered voters entitled to vote after closing time.
- 49.75 Oath.
- 49.76 How administered.
- 49.77 Ballot furnished to voter.
- 49.78 Repealed by 72 Acts, ch 1025, §35.
- 49.79 Challenges.
- 49.80 Examination on challenge.
- 49.81 Procedure for challenged voter to cast ballot.
- 49.82 Voter to receive one ballot — endorsement.
- 49.83 Names to be marked on election register.
- 49.84 Marking and return of ballot.
- 49.85 Depositing ballots.

736, 737, 4195, 4209, 4211; C27, §559, 736, 737, 4195, 4209, 4211-b2; C31, 35, §559, 736, 737, 4216-c10; C39, §559, 736, 737, 4216.10; C46, 50, 54, 58, 62, 66, 71, 73, §43.31, 49.18, 49.19, 277.10; C75, 77, 79, 81, §49.18]

#### **49.19 Unpaid officials, paper ballots optional for certain city elections.**

The commissioner may appoint unpaid election precinct officials to election boards, as provided by sections 49.15, 49.16 and 49.20, or elect not to use voting machines even though they are available, as permitted by section 49.26, or both, for any election held for a city, even if the city has a population of more than three thousand five hundred, if there is no contest for any office on the ballot and no public question is being submitted to the voters at that election.

[C75, 77, 79, 81, §49.19]

#### **49.20 Compensation of members.**

The members of election boards shall be deemed temporary state employees who are compensated by the county in which they serve, and shall receive compensation at a rate established by the board of supervisors, which shall be not less than three dollars and fifty cents per hour, while engaged in the discharge of their duties and shall be reimbursed for actual and necessary travel expense at a rate determined by the board of supervisors, except that persons who have advised the commissioner prior to their appointment to the election board that they are willing to serve without pay at elections conducted for any school district or a city of three thousand five hundred or less population, shall receive no compensation for service at those elections. Compensation shall be paid to members of election boards only after the vote has been canvassed and it has been determined in the course of the canvass that the election record certificate has been properly executed by the election board.

[SS15, §1087-a5, 1093; C24, 27, 31, 35, 39, §560, 738; C46, 50, 54, 58, 62, 66, 71, 73, §43.32, 49.20; C75, 77, 79, 81, §49.20]

89 Acts, ch 121, §1; 97 Acts, ch 170, §25

#### **49.21 Polling places — accessibility — directional signs.**

It is the responsibility of the commissioner to designate a polling place for each precinct in the county.

Upon the application of the commissioner, the authority which has control of any buildings or grounds supported by taxation under the laws of this state shall make available the necessary space therein for the purpose of holding elections, without charge for the use thereof.

Except as otherwise provided by law, the polling place in each precinct in the state shall be located in a central location if a building is available. However, first consideration shall be given to the use of public buildings supported by taxation.

In the selection of polling places, preference shall also be given to the use of buildings accessible to persons who are elderly and persons with disabilities.

On the day of an election, the commissioner shall post a sign stating "vote here" at the entrance to each driveway leading to the building where a polling place is located. The sign must be visible from the street or highway fronting the driveway, but shall not encroach upon the right-of-way of such street or highway.

[C51, §222, 245; R60, §444, 480; C73, §391, 603; C97, §566, 1113, 2755; S13, §2755; C24, 27, §739, 4205; C31, 35, §739, 4216-c7; C39, §739, 4216.07; C46, 50, 54, 58, 62, 66, 71, 73, §49.21, 277.7; C75, 77, 79, 81, S81, §49.21; 81 Acts, ch 34, §26]

96 Acts, ch 1129, §15; 2000 Acts, ch 1039, §1

**49A.9 Expenses.**

Expenses incurred under the provisions of this chapter shall be audited and allowed by the director of revenue and finance 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

**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

## CHAPTER 50

### CANVASS OF VOTES

Chapter applicable to primary elections, §43.5  
Criminal offenses, §722.4-722.9, also §43.119, 43.120  
Definitions in §39.3 applicable to this chapter

- 50.1 Definitions.
- 50.1A Canvass by officials.
- 50.2 One tally list in certain machine precincts.
- 50.3 Double or defective ballots.
- 50.4 Ballots objected to.
- 50.5 Disputed ballots returned separately.
- 50.6 Votes in excess of voter declarations.
- 50.7 Error on county office — township office.
- 50.8 Error on state or district office — tie vote.
- 50.9 Return of ballots not voted.
- 50.10 Record of ballots returned.
- 50.11 Proclamation of result.
- 50.12 Return and preservation of ballots.
- 50.13 Destruction of ballots.
- 50.14 Destruction of primary election ballots. Repealed by 89 Acts, ch 136, §75.
- 50.15 Destruction in abeyance pending contest.
- 50.16 Tally list of board.
- 50.17 Return of election register.
- 50.18 Repealed by 73 Acts, ch 136, §401.
- 50.19 Preservation and destruction of books.
- 50.20 Notice of number of special ballots.
- 50.21 Special precinct board reconvened.
- 50.22 Special precinct board to determine challenges and canvass absentee ballots.
- 50.23 Messengers for missing tally lists.
- 50.24 Canvass by board of supervisors.
- 50.25 Abstract of votes in the general election.
- 50.26 Duplicate abstracts.
- 50.27 Declaration of election.
- 50.28 Tally lists filed.
- 50.29 Certificate of election.

- 50.30 Abstracts forwarded to state commissioner.
- 50.31 Abstracts for governor and lieutenant governor.
- 50.32 Endorsement on other envelope.
- 50.33 Forwarding of envelopes.
- 50.34 Missing abstracts.
- 50.35 Delivery of abstracts.
- 50.36 Envelopes containing other abstracts — canvass.
- 50.37 State canvassing board.
- 50.38 Time of state canvass.
- 50.39 Abstract.
- 50.40 Record of canvass.
- 50.41 Certificate of election.
- 50.42 Certificates mailed.
- 50.43 Senator or representative.
- 50.44 Tie vote.
- 50.45 Canvass public — result determined.
- 50.46 Special elections — canvass and certificate.
- 50.47 Messengers for election tally lists.
- 50.48 General recount provisions.
- 50.49 Recounts for public measures.
- 50.50 Administrative recounts.

### 50.1 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 §50.1 transferred to §50.1A

### 50.1A Canvass by officials.

At every election conducted under chapter 49, except the primary election provided for by chapter 43, and at every other election unless the law authorizing the election otherwise requires, the vote shall be canvassed at each polling place by the election board in the manner prescribed by this chapter. When the poll is closed, the precinct election officials shall forthwith, and without adjournment:

1. Publicly canvass the vote, and credit each candidate with the number of votes counted for the candidate.
2. Ascertain the result of the vote.
3. Prepare in writing a list of any apparently or possibly erroneous information appearing in the precinct election register.
4. Designate two election board members, not members of the same political party, who shall each separately keep a tally list of the count. [C51, §261, 266; R60, §496, 501; C73, §622, 626; C97, §1138; C24, 27, 31, 35, 39, §840; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.1] C2001, §50.1A

Section transferred from §50.1 in Code 2001 pursuant to 2000 Acts, ch 1148, §1

**50.2 One tally list in certain machine precincts.**

In any precinct where an election is held by means of voting machines which deliver, immediately upon conclusion of the voting, multiple copies of a printed record of the votes cast and the totals for each candidate or question appearing on the face of the machine, the requirement of section 50.1A, subsection 4, that two election board members keep separate tally lists of the vote count shall not apply.

[C77, 79, 81, §50.2]

**50.3 Double or defective ballots.**

If two or more marked ballots are so folded together as to appear to be cast as one, the precinct election officials shall endorse thereon "*Rejected as double*". Such ballots shall not be counted, but shall be folded together and kept as hereinafter directed. Every ballot not counted shall be endorsed "*Defective*" on the back thereof.

[C51, §262; R60, §497; C73, §623; C97, §1139; C24, 27, 31, 35, 39, §842; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.3]

**50.4 Ballots objected to.**

Every ballot objected to by a precinct election official or challenger, but counted, shall be endorsed on the back thereof, "*Objected to*", and there shall also be endorsed thereon, and signed by the officials, a statement as to how it was counted.

[C97, §1139; C24, 27, 31, 35, 39, §843; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.4]

**50.5 Disputed ballots returned separately.**

All ballots endorsed as required by sections 50.3 and 50.4 shall be enclosed and securely sealed in an envelope, on which the precinct election officials shall endorse "*Disputed ballots*", with a signed statement of the precinct in which, and date of the election at which, they were cast.

[C97, §1139; C24, 27, 31, 35, 39, §844; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.5]

**50.6 Votes in excess of voter declarations.**

If the number of votes cast for any office or on any question exceeds the number of voters' declarations of eligibility signed as required by section 49.77, such fact shall be certified, with the number of the excess, in the return.

[C51, §263; R60, §498; C73, §627; C97, §1140; C24, 27, 31, 35, 39, §845; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.6]

**50.15 Destruction in abeyance pending contest.**

If a contest is pending, the ballots shall be kept until the contest is finally determined, and then so destroyed.

[C97, §1143; S13, §1143; C24, 27, 31, 35, 39, §854; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.15]

**50.16 Tally list of board.**

The tally list shall be prepared in writing by the election board giving, in legibly printed numerals, the total number of people who cast ballots in the precinct, the total number of ballots cast for each officer, except those rejected, the name of each person voted for, and the number of votes given to each person for each different office. The tally list shall be signed by the precinct election officials, and be substantially as follows:

At an election at ..... in ..... township, or in ..... precinct of ..... city or township, in ..... county, state of Iowa, on the ..... day of ..... A.D. ...., there were ..... ballots cast for the office of ..... of which (Candidate's name) ..... had ..... votes. (Candidate's name) ..... had ..... votes. (and in the same manner for any other officer).

A true tally list:

(Election board member's name).....  
(Election board member's name).....  
(Election board member's name).....

Election Board Members.

Attest:

(Tally keeper's name).....  
(Tally keeper's name).....

Designated Tally Keepers.

[C51, §267, 303; R60, §502, 537; C73, §628, 661; C97, §1144; C24, 27, 31, 35, 39, §855; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.16]  
93 Acts, ch 143, §21; 2000 Acts, ch 1058, §8

**50.17 Return of election register.**

The precinct election register prepared for each election, together with the ballots to be returned pursuant to section 50.12, if any, and the signed and attested tally list, shall be delivered to the commissioner by one of the precinct election officials by noon of the day following the election.

[C51, §268; R60, §333, 503, 1131; C73, §503, 629; C97, §1145; C24, 27, 31, 35, 39, §856; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.17]

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

**50.19 Preservation and destruction of books.**

The commissioner may destroy precinct election registers, the declarations of eligibility signed by voters, and other material pertaining to any election in which federal offices are not on the ballot, except the tally lists which have not been electronically recorded, six months after the election if a contest is not pending. If a contest is pending all election materials shall be preserved until final determination of the contest. Before destroying the election registers and declarations of eligibility, the commissioner shall prepare records as necessary to permit compliance with chapter 48A, subchapter V. Nomination papers for primary election candidates for state and county offices shall be destroyed ten days before the general election, if a contest is not pending.

Material pertaining to elections for federal offices, including ballots, precinct election registers, declarations of eligibility signed by voters, documents relating to absentee ballots, and challenges of voters, shall be preserved for twenty-two months after the election. If a contest is not pending the materials may be destroyed at the end of the retention period.

[C51, §268; R60, §333, 503, 1131; C73, §503, 629; C97, §1145; C24, 27, 31, 35, 39, §858; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.19]

89 Acts, ch 136, §46; 94 Acts, ch 1169, §52; 98 Acts, ch 1119, §29

**50.20 Notice of number of special ballots.**

The commissioner shall compile a list of the number of special ballots cast under section 49.81 in each precinct. The list shall be made available to the public as soon as possible, but in no case later than nine o'clock a.m. on the second day following the election. Any elector may examine the list during normal office hours, and may also examine the affidavit envelopes bearing the ballots of challenged electors until the reconvening of the special precinct board as required by this chapter. Only those persons so permitted by section 53.23, subsection 4, shall have access to the affidavits while that board is in session. Any elector may present written statements or documents, supporting or opposing the counting of any special ballot, at the commissioner's office until the reconvening of the special precinct board.

[C77, 79, 81, §50.20]

87 Acts, ch 221, §22

**50.21 Special precinct board reconvened.**

The commissioner shall reconvene the election board of the special precinct established by section 53.20 not earlier than noon on the second day following each election which is required by law to be canvassed on the Monday or Tuesday following the election. If the second day following such an election is a legal holiday the special precinct election board may be convened at noon on the day following the election, and if the canvass of the election is scheduled at any time earlier than the Monday following the election, the special precinct election board shall be reconvened at noon on the day following the election.

5. A state officer not otherwise provided for.
6. Senator or representative in the general assembly by districts.
7. A county officer.

[C51, §272, 304, 305; R60, §507, 538, 539; C73, §636, 662; C97, §1150; S13, §1150; C24, 27, 31, 35, 39, §864; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.25]

#### **50.26 Duplicate abstracts.**

All abstracts of votes cast in the general election, except the abstracts of votes for county officers, shall be made in duplicate, and signed by the board of county canvassers. One of said abstracts shall be forwarded to the state commissioner, and the other filed by the commissioner.

[C51, §272, 304, 305; R60, §507, 538, 539; C73, §637, 662; C97, §1151; S13, §1151; C24, 27, 31, 35, 39, §865; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.26]

#### **50.27 Declaration of election.**

Each abstract of the votes for such officers as the county alone elects at the general election, except district judges and senators and representatives in the general assembly, or of the votes for officers of political subdivisions whose elections are conducted by the commissioner, shall contain a declaration of whom the canvassers determine to be elected. Each abstract of votes for and against each public question submitted to and decided by the voters of the county alone, or of a single political subdivision whose elections the county board canvasses, shall contain a declaration of the result as determined by the canvassers. When a public question has been submitted to the voters of a political subdivision whose elections the county board canvasses, the commissioner shall certify a duplicate of the abstract and declaration to the governing body of the political subdivision.

[C51, §275; R60, §509; C73, §639; C97, §1152; C24, 27, 31, 35, 39, §866; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.27]

#### **50.28 Tally lists filed.**

When the canvass is concluded, the board shall deliver the original tally lists to the commissioner, who shall file the same, and record each of the abstracts above mentioned in the election book.

[C51, §276; R60, §335, 510; C73, §640; C97, §1154; C24, 27, 31, 35, 39, §867; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.28]

#### **50.29 Certificate of election.**

When any person is thus declared elected, there shall be delivered to that person a certificate of election, under the official seal of the county, in substance as follows:

STATE OF IOWA )  
..... County. )

At an election held in said county on the ..... day of .....,  
A.D. ...., ..... (candidate's name) was elected to the office of  
..... for the term of ..... years from the ..... day of .....,  
A.D. .... (or if elected to fill a vacancy, for the residue of the term ending on  
the ..... day of ....., A.D. ....), and until a successor is elected  
and qualified.

Witness, .....  
President of Board of Canvassers.  
.....  
County Commissioner of Elections  
(clerk).

Such certificate is presumptive evidence of the person's election and  
qualification.  
[C51, §277; R60, §511, 514; C73, §641; C97, §1155; C24, 27, 31, 35, 39,  
§868; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.29]  
87 Acts, ch 115, §9; 2000 Acts, ch 1058, §9

**50.30 Abstracts forwarded to state commissioner.**

The commissioner shall, within ten days after the election, forward to the  
state commissioner one of the duplicate abstracts of votes for each of the  
following offices:

- 1. President and vice president of the United States.
- 2. Senator in Congress.
- 3. Representative in Congress.
- 4. Governor and lieutenant governor.
- 5. Senator or representative in the general assembly by districts.
- 6. A state officer not otherwise specified above.

The abstracts for all offices except governor and lieutenant governor shall  
be enclosed in a securely sealed envelope.  
[C51, §283, 284, 305; R60, §517, 518, 539; C73, §645, 662; C97, §1157;  
S13, §1157; C24, 27, 31, 35, 39, §869; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77,  
79, 81, §50.30]  
91 Acts, ch 129, §15

**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]

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]

**50.40 Record of canvass.**

The state commissioner shall file the abstracts when received and shall have the same bound in book form to be kept by the state commissioner as a record of the result of said state election, to be known as the state election book.

[C51, §290; R60, §524; C73, §654; C97, §1164; S13, §1164; C24, 27, 31, 35, 39, §879; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.40]

**50.41 Certificate of election.**

Each person declared elected by the state board of canvassers shall receive a certificate, signed by the governor or, in the governor's absence, by the secretary of state, with the seal of state affixed, attested by the other canvassers, to be in substance as follows:

**STATE OF IOWA:**

To ..... (candidate's name): It is hereby certified that, at an election held on the ..... day of ..... you were elected to the office of ..... of Iowa, for the term of ..... years, from the ..... day of ..... (or if to fill a vacancy, for the residue of the term, ending on the ..... day of .....).

Given at the seat of government this ..... day of .....

If the governor is absent, the certificate of the election of the secretary of state shall be signed by the auditor. The certificate to members of the legislature shall describe, by the number, the district from which the member is elected.

[C51, §288, 306; R60, §522, 540; C73, §652, 657, 663; C97, §1165; C24, 27, 31, 35, 39, §880; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.41]

87 Acts, ch 115, §10; 2000 Acts, ch 1058, §10

**50.42 Certificates mailed.**

The state commissioner shall prepare and deliver or mail certificates of election to the persons declared elected.

[C51, §292, 294; R60, §526, 528; C73, §648, 656, 658; C97, §1167; C24, 27, 31, 35, 39, §881; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §50.42]

**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.

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.

[S13, §1137-a11; C24, 27, 31, 35, 39, §910; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.7]

**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

**52.19 Instructions.**

In case any elector after entering the voting machine booth shall ask for further instructions concerning the manner of voting, two precinct election officials of opposite political parties shall give such instructions to the elector; but no precinct election official or other election officer or person assisting an elector shall in any manner request, suggest, or seek to persuade or induce any such elector to vote any particular ticket, or for any particular candidate, or for or against any particular amendment, question, or proposition. After receiving such instructions, such elector shall vote as in the case of an unassisted voter.

[S13, §1137-a22; C24, 27, 31, 35, 39, §921; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.19]

**52.20 Injury to machine.**

No voter, or other person, shall deface or injure the voting machine or the ballot thereon. It shall be the duty of the precinct election officials to enforce the provisions of this section. During the entire period of an election, at least one of their number, designated by them from time to time, shall be stationed beside the entrance to the booth and shall see that it is properly closed after a voter has entered it to vote. The official shall also, at such intervals as the official may deem proper or necessary, examine the face of the machine to ascertain whether it has been defaced or injured, to detect the wrongdoer, and to repair any injury.

[S13, §1137-a23; C24, 27, 31, 35, 39, §922; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.20]

**52.21 Canvass of vote — tally sheet.**

As soon as the polls of the election are closed, the precinct election officials thereat shall immediately lock the voting machine against voting and open the counting compartments in the presence of all persons who may be lawfully within the polling place, and proceed to canvass the vote. Said officials shall use a voting machine return and tally sheet in substantially the following form:

VOTING MACHINE RETURN AND TALLY SHEET

..... ELECTION ..... (DATE), COUNTY OF .....

	President and Vice President	United States Senator	United States Representative	Governor and Lt. Governor	Etc.
<b>Republican Party</b>	<b>1A (name of candidate)</b>	<b>2A</b>	<b>3A</b>	<b>4A</b>	<b>5A</b>
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Return Sheet Total					
<b>Democratic Party</b>	<b>1B (name of candidate)</b>	<b>2B</b>	<b>3B</b>	<b>4B</b>	<b>5B</b>
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Return Sheet Total					
<b>Independents</b>	<b>1C (name of candidate)</b>	<b>2C</b>	<b>3C</b>	<b>4C</b>	<b>5C</b>
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Machine No.					
ETC.					
<b>Public Measures</b>	<b>1F For</b>	<b>2F Against</b>	<b>3F</b>	<b>4F</b>	<b>5F</b>
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Machine No.					
Return Sheet Total					

The reverse side of said return shall carry a certificate in substantially the following form:

CERTIFICATE OF ELECTION OFFICIALS AND CANVASS

STATE OF IOWA )
COUNTY OF ..... ) ss.

We, the undersigned Precinct Election Officials for ....., Precinct No. .... of the county of ..... and state of Iowa, do hereby certify that ..... voting machine ..... (was or were) used in the above-mentioned precinct at the ..... election held on the ..... day of ..... (month), ..... (year).

1. That before opening of the polls we compared the ballot labels on ..... (the or each) machine with the sample ballots furnished, and found the names, numbers and letters thereon agreed.

2. That we compared the number on the seal which sealed the curtain lever and the number on the protective counter and we found the same as follows:

Table with 3 columns: Machine No., Curtain Lever Seal No., Protective Counter No. with four rows of dotted lines for entries.

3. That the public counter was set at 000 and that we opened the rear of ..... (the or each) machine and examined every registering counter and that each registered 000, or, if the machines used have a capability to produce a printed record, that an inspection sheet from each machine used at this election was produced immediately prior to any vote being cast upon it showing that all counters were set at 000.

4. That the following statement shows the number of the seal with which the curtain lever was sealed, the number on the public counter and the number on the protective counter after the poll was closed and the vote thereon canvassed and the machine locked:

Table with 4 columns: Machine No., Curtain Lever Seal No., Protective Counter No., Public Counter No. with four rows of dotted lines for entries.

5. That we are Precinct Election Officials of the ..... Election in and for ....., Precinct No. .... in the county of ..... and state of Iowa, on the ..... day of ..... (month), ..... (year), and that we have canvassed all the votes registered on the voting machines for each candidate, and all irregular ballots written on the paper roll of each machine used in said precinct, and do hereby severally certify that the canvass thereof was duly and legally made, and the result of said canvass is correctly set forth in the within return-sheet statement, and that the said statement is true in all respects.

Dated this ..... day of ..... (month), ..... (year),  
 .....  
 .....  
 .....  
 .....  
 .....

Precinct Election Officials

After the canvass has been completed the officials shall immediately report the result of the canvass in the manner provided by section 50.11.

In a precinct in which only one voting machine is used and that machine can deliver, immediately upon the conclusion of voting, multiple copies of a printed record of the votes cast and the totals for each candidate or question appearing on the face of the machine, one of the copies may be used in lieu of the tally sheet specified in this section for the canvasses provided under sections 50.1A and 50.24. The state commissioner of elections may adopt rules regarding the certification of the printed record to allow its use in lieu of the tally sheet.

[S13, §1137-a24; C24, 27, 31, 35, 39, §923; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.21]  
 86 Acts, ch 1224, §21, 22; 91 Acts, ch 97, §63; 2000 Acts, ch 1058, §56, 61

**52.22 Locking machine.**

The precinct election officials shall, as soon as the count is completed and fully ascertained as in this chapter required, lock the machine against voting, and it shall so remain until thirty days after the proclamation of the results of the election, except that it shall remain locked only ten days after a primary or school election, and only two days after a city primary election, if such election is not contested.

In cities in which the council has chosen a runoff election in lieu of a primary pursuant to section 376.9, the machine shall remain locked only two days after the regular city election if the canvass shows that a runoff election is required, and the election is not contested. However, if the machines in any precinct are so constructed as to deliver, immediately upon conclusion of the voting at any election, multiple copies of a printed record of the votes cast and the totals for each candidate or question appearing on the face of the machine, the machines may be unlocked immediately following the canvass of votes by the county board of supervisors unless the precinct election board informs the commissioner that the printed record produced by the machine is smeared, torn or otherwise unreadable. In the latter case, the machines shall be kept locked for the period of time prescribed

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2. Each voter shall be instructed how to use the voting punch device before entering the voting booth. In addition to the instructions printed on the ballot cards or ballot labels, instructions to voters shall be posted in each voting booth or place on the voting punch device. Any voter who requests further instructions as to the manner of voting, after entering the voting booth, shall receive the instructions from two precinct election officials, who shall not be members of the same political party if the election is one in which candidates are to be nominated or elected upon a partisan ballot. The precinct election officials shall give the necessary instruction without attempting in any manner to influence the voter to vote for any particular candidate or ticket, or for or against any public question. After receiving such instructions, the voter shall vote without further assistance, except as otherwise provided by sections 49.89, 49.90 and 49.91.

3. A separate write-in ballot, which may be in the form of a paper ballot or ballot card, or may be printed on the envelope in which the voter places the ballot card after voting, shall be provided where necessary to permit voters to write in the names of persons whose names are not printed on the ballot. If a separate write-in ballot is used, it must be placed by the voter in the same envelope with the regular ballot card.

4. A voter who spoils or defaces a ballot card or marks it erroneously shall return the card to the precinct election officials with stub folded so as not to disclose any choices made. The precinct election officials shall deliver to the voter another ballot card, but no voter may receive more than three ballot cards including the one originally delivered to the voter. Upon return of a defective ballot card, a precinct election official shall cancel it by writing in ink on the back the word "*spoiled*". The canceled ballot card shall be placed, without detaching the ballot stub, with spoiled ballots to be returned to the commissioner.

5. After marking the ballot card, the voter shall place it inside the ballot envelope and return it to the election official, who shall remove the stub and deposit the envelope with the ballot inside it in the ballot box. Ballot cards from which the stub has been removed by anyone except a precinct election official shall not be deposited in the ballot box, but shall be marked "*spoiled*" and returned to the commissioner.

[C77, 79, 81, §52.30]

### **52.31 Procedure where votes cast on special paper ballots.**

Preparations for voting and voting at any election in a precinct where votes are to be received on special paper ballots shall be in accordance with the provisions of chapter 49 governing voting upon conventional paper ballots with the following exceptions:

1. Before entering the voting booth each voter shall be cautioned to mark the ballot only with a vote marking device provided in the booth or by the precinct election officials.

2. In each precinct where a portable vote tallying system is used and the ballots are tabulated by a device located in the precinct which is equipped with a mechanism which will not permit more than one ballot to be inserted at a time, the voter may personally insert the ballot into the tabulating device.

[C77, 79, 81, §52.31]

86 Acts, ch 1224, §24

### **52.32 Procedure upon closing polls.**

The provisions of this section apply, in lieu of sections 50.1A to 50.12, to any precinct for those elections at which voting is conducted by means of an electronic voting system and the ballots are to be counted at a counting center.

1. At the time for closing the polls, or as soon thereafter as all persons entitled under section 49.74 to do so have cast their votes, the precinct election officials in each precinct where an electronic voting system or an electronic tabulating system is in use shall secure the system against further voting. The precinct election officials shall certify the number of declarations of eligibility signed as required by section 49.77, and record that number on the tally sheet with the number of special, unused, spoiled, and unvoted ballots cast, with each number recorded separately. The numbers shall be used to determine whether the number of ballots cast as recorded in the electronic precinct reports varies from the number of declarations of eligibility. If so, that fact shall be reported in writing to the commissioner by the counting center officials, together with the number of ballots varying from the number of declarations of eligibility and the reason for the variance, if known.

2. The precinct election officials shall affix a seal upon the ballot container. The precinct election officials shall then each affix their signatures to a statement attesting that the requirements of this section have been met and the time the ballot container is removed from the precinct polling location for delivery to the counting center pursuant to section 52.37. The statement shall be returned to the commissioner at the counting center with the ballot container and shall accompany the ballots through the counting process.

[C77, 79, 81, §52.32]

88 Acts, ch 1119, §26, 27; 89 Acts, ch 136, §51; 92 Acts, ch 1034, §1; 93 Acts, ch 143, §27

The resolution board shall be divided into two-person teams. Each team shall consist of people who are not members of the same political party. If a team is unable to decide how to count one or more ballots, a third person shall be available to consult with the team and to resolve disputes. Ballots which were objected to shall be endorsed and separated as required by section 50.4.

[C77, 79, 81, §52.36]

93 Acts, ch 143, §28; 97 Acts, ch 170, §64

### **52.37 Counting center tabulation procedure.**

The tabulation of ballots cast by means of an electronic voting system, at a counting center established pursuant to this chapter, shall be conducted as follows:

1. The sealed ballot container from each precinct shall be delivered to the counting center by two of the election officials of that precinct, not members of the same political party, who 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 in charge of the counting center. The commissioner or designee shall, in the presence of the two precinct election officials who delivered the container, enter on a record kept for the purpose that the container was received, the time the container was received, and the condition of the seal upon receipt.

2. After the record required by subsection 1 has been made, the ballot container shall be opened. If any ballot is found damaged or defective, so that it cannot be counted properly by the automatic tabulating equipment, a true duplicate shall be made by the resolution board team and substituted for the damaged or defective ballot, or, as an alternative, the valid votes on a defective ballot may be manually counted at the counting center by the resolution board, whichever method is best suited to the system being used. All duplicate ballots shall be clearly labeled as such, and shall bear a serial number which shall also be recorded on the damaged or defective ballot.

The resolution board shall also tabulate any write-in votes which were cast. Write-in votes cast for a candidate whose name appears on the ballot for the same office shall be counted as a vote for the candidate indicated, if the vote is otherwise properly cast.

Ballots which are rejected by the tabulating equipment as blank because they have been marked with an unreadable marker shall be duplicated or tabulated as required by this subsection for damaged or defective ballots. The commissioner may instruct the resolution board to mark over voters' unreadable marks using a marker compatible with the tabulating equipment. The resolution board shall take care to leave part of the original mark made by the voter. If it is impossible to mark over the original marks made by the voter without completely obliterating them, the ballot shall be duplicated.

3. The record printed by the automatic tabulating equipment, with the addition of a record of any write-in or other votes manually counted pursuant to this chapter, shall constitute the official return of the precinct. Upon completion of the tabulation of the votes from each individual precinct, the

result shall be announced and reported in substantially the manner required by section 50.11.

4. If for any reason it becomes impracticable to count all or any part of the ballots with the automatic tabulation equipment, the commissioner may direct that they be counted manually, in accordance with chapter 50 so far as applicable.

[C77, 79, 81, §52.37]

92 Acts, ch 1034, §2; 93 Acts, ch 143, §29; 97 Acts, ch 170, §65

**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.**

**54.6 Certificate.**

At the expiration of ten days from the completed canvass, the governor, under the governor's hand and the seal of state, shall issue to each presidential elector declared elected a certificate of election, the same in substance as required in other cases, and shall notify the elector to attend at the seat of government on the first Monday after the second Wednesday in December next following election, reporting the elector's attendance to the governor. If there be a contest of the election, no certificate shall issue until it is determined.

[C51, §308; R60, §542; C73, §665; C97, §1168; C24, 27, 31, 35, 39, §968; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §54.6]

Certificate of election, §50.41

**54.7 Meeting — certificate.**

The presidential electors shall meet in the capitol, at the seat of government, on the first Monday after the second Wednesday in December next following their election. If, at the time of such meeting, any elector for any cause is absent, those present shall at once proceed to elect, from the citizens of the state, a substitute elector or electors, and certify the choice so made to the governor, and the governor shall immediately cause the person or persons so selected to be notified thereof.

[C51, §308–310; R60, §542–544; C73, §665–667; C97, §1174; C24, 27, 31, 35, 39, §969; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §54.7]

**54.8 Certificate of governor.**

When so met, the said electors shall proceed, in the manner pointed out by law, with the election, and the governor shall duly certify the result thereof, under the seal of the state, to the United States secretary of state, and as required by Act of Congress relating to such elections.

[C51, §311; R60, §545; C73, §668; C97, §1175; C24, 27, 31, 35, 39, §970; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §54.8]

**54.9 Compensation.**

The electors shall each receive a compensation of five dollars for every day's attendance, and the same mileage as members of the general assembly which shall be paid from funds not otherwise appropriated from the general fund of the state.

[C51, §312; R60, §546; C73, §669; C97, §1176; C24, 27, 31, 35, 39, §971; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §54.9]

## CHAPTER 55

## LEAVE OF ABSENCE FOR CANDIDACY AND PUBLIC SERVICE

- 55.1 Leave of absence for service in elective office.
- 55.2 Leave of absence for volunteer emergency service.
- 55.3 Service on boards, commissions, task forces, and committees.
- 55.4 Leave of absence for public employee candidacy.
- 55.5 Penalties.

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**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 19A is subject to section 19A.18.

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

**55.2 Leave of absence for volunteer emergency service.**

All officers and employees of the state, other than employees employed temporarily for six months or less or those employees considered essential personnel, who are volunteer fire fighters or emergency medical service personnel shall be entitled to a leave of absence from such civil employment for the period of an emergency response without loss of status or efficiency rating, and without loss of pay during such leave of absence. Such leave of absence shall in no way affect the employee's rights to action, sick leave, bonus, or other employment benefits relating to the employee's particular employment.

2000 Acts, ch 1117, §3

**55.3 Service on boards, commissions, task forces, and committees.**

For the purpose of this section, "state board" includes any board, commission, committee, council, or task force of the state government created by the constitution, or by statute, resolution of the general assembly, motion of the legislative council, executive order of the governor, or supreme court order, but does not include any such state board, commission, committee, council, or task force for which an annual salary is provided for its members. A person who is appointed to serve on a state board, upon written application to the person's employer, shall be granted leaves of absence from regular employment to attend the meetings of the state board, except if leaves of absence are prohibited by federal law. The leaves of absence may be granted without pay and shall be granted without loss of net credited service and benefits earned. This section does not apply if the employer employs less than twenty full-time employees.

86 Acts, ch 1245, §2061

**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 any time 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 19A, 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

**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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**61.11 Subpoenas — depositions.**

The secretary of state, the several clerks of the supreme and district courts, under their respective seals of office, and either of the judges of the supreme or district courts, under their hands, may issue subpoenas for witnesses to attend this court; and disobedience to such process may be treated as a contempt. Depositions may also be taken as in the case of contested county elections.

[C51, §373; R60, §603; C73, §723; C97, §1228; C24, 27, 31, 35, 39, §1016; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §61.11]

Depositions in county contest, §62.16

**61.12 Judgment filed — execution.**

A transcript of the judgment rendered by such court, filed in the office of the clerk of the supreme court, shall have the force and effect of a judgment of the supreme court, and execution may issue therefrom in the first instance against the party's property generally.

[C51, §377; R60, §607; C73, §727; C97, §1231; C24, 27, 31, 35, 39, §1017; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §61.12]

**61.13 Power of judge.**

The presiding judge of this court shall have authority to carry into effect any order of the court, after the adjournment thereof, by attachment or otherwise.

[C51, §378; R60, §608; C73, §728; C97, §1232; C24, 27, 31, 35, 39, §1018; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §61.13]

**61.14 Compensation of judges.**

The judges shall be entitled to receive for their travel and attendance the sum of twelve dollars each per day, with such mileage as is allowed to members of the general assembly, to be paid from the state treasury.

[C51, §376; R60, §606; C73, §726; C97, §1230; C24, 27, 31, 35, 39, §1019; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §61.14]

**CHAPTER 62**

**CONTESTING ELECTIONS OF COUNTY OFFICERS**

Chapter applicable to primary elections, §43.5

- 62.1 Definitions.
- 62.1A Contest court.
- 62.2 Judges.
- 62.3 Clerk.
- 62.4 Sheriff to attend.
- 62.5 Statement.
- 62.6 Bond.

- 62.7 When auditor is party.
- 62.8 Names of voters specified.
- 62.9 Trial — notice.
- 62.10 Place of trial.
- 62.11 Subpoenas.
- 62.12 Postponement.
- 62.13 Procedure — powers of court.
- 62.14 Sufficiency of statement.
- 62.15 Amendment — continuance.
- 62.16 Testimony.
- 62.17 Voters required to testify.
- 62.18 Judgment.
- 62.19 How enforced.
- 62.20 Appeal.
- 62.21 Judgment.
- 62.22 Process — fees.
- 62.23 Compensation.
- 62.24 Costs.
- 62.25 How collected.

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### 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

Section transferred from §62.1 in Code 2001 pursuant to 2000 Acts, ch 1148, §1

**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

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**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.**

The contestant shall file in the office of the county auditor, within twenty days after the day when the incumbent was declared elected, a written statement of intention to contest the election, setting forth the name of the contestant, and that the contestant is qualified to hold such office, the name of the incumbent, the office contested, the time of the election, and the particular causes of contest, which statement shall be verified by the affidavit of the contestant, or some elector of the county, that the causes set forth are true as that person verily believes.

[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]

**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]

**62.7 When auditor is party.**

When the auditor is a party, the county treasurer shall receive such statement and approve such bond.

[C73, §697; C97, §1203; C24, 27, 31, 35, 39, §1026; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.7]

93 Acts, ch 70, §1

**62.8 Names of voters specified.**

When the reception of illegal or the rejection of legal votes is alleged as a cause of contest, the names of the persons who so voted, or whose votes were rejected, with the precinct where they voted or offered to vote, shall be set forth in the statement.

[C51, §346; R60, §576; C73, §698; C97, §1204; C24, 27, 31, 35, 39, §1027; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.8]

**62.9 Trial — notice.**

The presiding judge shall fix a day for the trial, not more than thirty days thereafter, and shall cause a notice of such trial to be served on the incumbent, with a copy of the contestant's statement, at least ten days before the day set for trial. If the trial date is set for less than twenty days from the day notice is given and either party is not ready, the presiding judge shall delay the trial.

[C51, §347, 349, 350; R60, §577, 579, 580; C73, §699; C97, §1205; C24, 27, 31, 35, 39, §1028; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.9]  
97 Acts, ch 170, §78

**62.10 Place of trial.**

The trial of contested county elections shall take place at the county seat, unless some other place within the county is substituted by the consent of the court and parties.

[C51, §357; R60, §587; C73, §707; C97, §1213; C24, 27, 31, 35, 39, §1029; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.10]

**62.11 Subpoenas.**

Subpoenas for witnesses may be issued at any time after the notice of trial is served, either by the county treasurer or by the county auditor, and shall command the witnesses to appear at ....., on ....., to testify in relation to a contested election, wherein ..... (Insert contestant's name) is contestant and ..... (Insert incumbent's name) is incumbent.

[C51, §352, 356; R60, §582, 586; C73, §704, 706; C97, §1210; C24, 27, 31, 35, 39, §1030; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.11]  
93 Acts, ch 70, §2; 2000 Acts, ch 1058, §11

**62.12 Postponement.**

The trial shall proceed at the time appointed, unless postponed for good cause shown by affidavit, the terms of which postponement shall be in the discretion of the court.

[C51, §353; R60, §583; C73, §701; C97, §1207; C24, 27, 31, 35, 39, §1031; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.12]

**62.13 Procedure — powers of court.**

The proceedings shall be assimilated to those in an action, so far as practicable, but shall be under the control and direction of the court, which shall have all the powers of the district court necessary to the right hearing and determination of the matter, to compel the attendance of witnesses, swear them and direct their examination, to punish for contempt in its presence or by disobedience to its lawful mandate, to adjourn from day to day, to make any order concerning intermediate costs, and to enforce its orders by attachment. It shall be governed by the rules of law and evidence applicable to the case.

[C51, §354, 358, 361; R60, §584, 588, 591; C73, §702; C97, §1208; C24, 27, 31, 35, 39, §1032; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §62.13]

**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 such election, 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]

**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 Re-elected incumbent.**

When the incumbent of an office is re-elected, 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 re-elected 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]

**CHAPTER 66****REMOVAL FROM OFFICE**

See also chapter 69

- 66.1 Definitions.
- 66.1A Removal by court.
- 66.2 Jurisdiction.
- 66.3 Who may file petition.
- 66.4 Bond for costs.
- 66.5 Petition — other pleading.
- 66.6 Notice.
- 66.7 Suspension from office.
- 66.8 Effect of suspension.
- 66.9 Salary pending charge.
- 66.10 Governor to direct filing.
- 66.11 Duty of county attorney.
- 66.12 Special prosecutor.
- 66.13 Application for outside judge.
- 66.14 Appointment of judge.
- 66.15 Order by appointed judge.
- 66.16 Filing order — effect.
- 66.17 Notice to accused.
- 66.18 Nature of action — when triable.
- 66.19 Temporary officer.
- 66.20 Judgment of removal.
- 66.21 Hearing on appeal.
- 66.22 Effect of appeal.
- 66.23 Effect of dismissal.
- 66.24 Want of probable cause.
- 66.25 Expense of judge and reporter. Repealed by 83 Acts, ch 186, §10201, 10203.
- 66.26 Appointive state officers.
- 66.27 Subpoenas — contempt.

- 66.28 Witness fees.
- 66.29 City elective officers.
- 66.30 Ordinance.

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### 66.1 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 §66.1 transferred to §66.1A

### 66.1A Removal by court.

Any appointive or elective officer, except such as may be removed only by impeachment, holding any public office in the state or in any division or municipality thereof, may be removed from office by the district court for any of the following reasons:

1. For willful or habitual neglect or refusal to perform the duties of the office.

2. For willful misconduct or maladministration in office.

3. For corruption.

4. For extortion.

5. Upon conviction of a felony.

6. For intoxication, or upon conviction of being intoxicated.

7. Upon conviction of violating the provisions of chapter 56.

[S13, §1258-c; C24, 27, 31, 35, 39, §1091; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.1]

C2001, §66.1A

Section transferred from §66.1 in Code 2001 pursuant to 2000 Acts, ch 1148, §1

### 66.2 Jurisdiction.

The jurisdiction of the proceeding provided for in this chapter shall be as follows:

1. As to state officers whose offices are located at the seat of government, the district court of Polk county.

2. As to state officers whose duties are confined to a district within the state, the district court of any county within such district.

3. As to county, municipal, or other officers, the district court of the county in which such officers' duties are to be performed.

[C24, 27, 31, 35, 39, §1092; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.2]

**66.3 Who may file petition.**

The petition for removal may be filed:

1. By the attorney general in all cases.
2. As to state officers, by not fewer than twenty-five electors of the state.
3. As to any other officer, by five qualified electors of the district, county, or municipality where the duties of the office are to be performed.
4. As to district officers, by the county attorney of any county in the district.
5. As to all county and municipal officers, by the county attorney of the county where the duties of the office are to be performed.

[S13, §1258-d; C24, 27, 31, 35, 39, §1093; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.3]

**66.4 Bond for costs.**

If the petition for removal is filed by anyone other than the attorney general or the county attorney, the court shall require the petitioners to file a bond in such amount and with such surety or sureties as the court may require, said bond to be approved by the clerk, to cover the costs of such removal suit, including attorney fees, if final judgment is not entered removing the officer charged.

[C35, §1093-e1; C39, §1093.1; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.4]

**66.5 Petition — other pleading.**

The petition shall be filed in the name of the state of Iowa. The accused shall be named as defendant, and the petition, unless filed by the attorney general, shall be verified. The petition shall state the charges against the accused and may be amended as in ordinary actions, and shall be filed in the office of the clerk of the district court of the county having jurisdiction. The petition shall be deemed denied but the accused may plead thereto.

[S13, §1258-d, -e; C24, 27, 31, 35, 39, §1094; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.5]

**66.6 Notice.**

Upon the filing of a petition, notice of such filing and of the time and place of hearing shall be served upon the accused in the manner required for the service of notice of the commencement of an ordinary action. Said time shall not be less than ten days nor more than twenty days after completed service of said notice.

[S13, §1258-f; C24, 27, 31, 35, 39, §1095; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.6]

**66.7 Suspension from office.**

Upon presentation of the petition to the court, the court may suspend the accused from office, if in its judgment sufficient cause appear from the petition and affidavits which may be presented in support of the charges contained therein.

[S13, §1258-g; C24, 27, 31, 35, 39, §1096; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.7]

**66.8 Effect of suspension.**

In case of suspension, the order shall be served upon the officer in question and it shall be unlawful for the officer to exercise or attempt to exercise any of the functions of that office until such suspension is revoked.

[C24, 27, 31, 35, 39, §1097; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.8]

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court, but such removal can only be made by a two-thirds vote of the entire council.

[R60, §1087; C73, §516; C97, §1258; SS15, §1258; C24, 27, 31, 35, 39, §1117; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.29]

Removal of municipal officers, §66.1A, 372.15

**66.30 Ordinance.**

The council may, by ordinance, provide as to the manner of preferring and hearing such charges. No person shall be twice removed by the council from the same office for the same offense. Proceedings before the council shall not be a bar to proceedings in the district court as in this chapter provided.

[R60, §1087; C73, §516; C97, §1258; S13, §1258-a; SS15, §1258; C24, 27, 31, 35, 39, §1118; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §66.30]

MISCELLANEOUS SECTIONS

CONFLICTS OF INTEREST OF  
PUBLIC OFFICERS AND EMPLOYEES

**68B.2 Definitions.**

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

1. "Agency" means a department, division, board, commission, bureau, or office of the executive or legislative branch of state government, the office of attorney general, the state board of regents, community colleges, and the office of the governor, including a regulatory agency, or any department, division, board, commission, bureau, or office of a political subdivision of the state, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

2. "Agency of state government" or "state agency" means a department, division, board, commission, bureau, or office of the executive or legislative branch of state government, the office of attorney general, the state board of regents, community colleges, and the office of the governor, including a regulatory agency, but does not include any agricultural commodity promotional board, which is subject to a producer referendum.

3. "Board" means the Iowa ethics and campaign disclosure board.

4. "Candidate" means a candidate under chapter 56 but does not include any judge standing for retention in a judicial election.

5. "Candidate's committee" means the committee designated by a candidate for a state, county, city, or school office, as provided under chapter 56, to receive contributions in excess of five hundred dollars in the aggregate, expend funds in excess of five hundred dollars in the aggregate, or incur indebtedness on behalf of the candidate in excess of five hundred dollars in the aggregate in any calendar year.

6. "Client" means a private person or a state, federal, or local government entity that pays compensation to or designates an individual to be a lobbyist.

7. "Compensation" means any money, thing of value, or financial benefit conferred in return for services rendered or to be rendered.

8. *"Contribution"* means a loan, advance, deposit, rebate, refund, transfer of money, an in-kind transfer, or the payment of compensation for the personal services of another person.

9. *"Gift"* means a rendering of anything of value in return for which legal consideration of equal or greater value is not given and received.

10. *"Honorarium"* means anything of value that is accepted or given as consideration for an appearance, speech, or article.

11. *"Immediate family members"* means the spouse and dependent children of a public official or public employee.

12. *"Legislative employee"* means a permanent full-time employee of the general assembly but does not include members of the general assembly.

13. a. *"Lobbyist"* means an individual who, by acting directly, does any of the following:

(1) Receives compensation to encourage the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by the members of the general assembly, a state agency, or any statewide elected official.

(2) Is a designated representative of an organization which has as one of its purposes the encouragement of the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order before the general assembly, a state agency, or any statewide elected official.

(3) Represents the position of a federal, state, or local government agency, in which the person serves or is employed as the designated representative, for purposes of encouraging the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order by members of the general assembly, a state agency, or any statewide elected official.

(4) Makes expenditures of more than one thousand dollars in a calendar year, other than to pay compensation to an individual who provides the services specified under subparagraph (1) or to communicate with only the members of the general assembly who represent the district in which the individual resides, to communicate in person with members of the general assembly, a state agency, or any statewide elected official for purposes of encouraging the passage, defeat, approval, veto, or modification of legislation, a rule, or an executive order.

b. *"Lobbyist"* does not mean:

(1) Officials and employees of a political party organized in the state of Iowa representing more than two percent of the total votes cast for governor in the last preceding general election, but only when representing the political party in an official capacity.

(2) Representatives of the news media only when engaged in the reporting and dissemination of news and editorials.

(3) All federal, state, and local elected officials, while performing the duties and responsibilities of office.

(4) Persons whose activities are limited to appearances to give testimony or provide information or assistance at sessions of committees of the general assembly or at public hearings of state agencies or who are giving testimony or providing information or assistance at the request of public officials or employees.

n. Payment of salary or expenses by a person's employer or the firm in which the person is a member for the cost of attending a meeting of a subunit of an agency when the person whose expenses are being paid serves on a board, commission, committee, council, or other subunit of the agency and the person is not entitled to receive compensation or reimbursement of expenses from the state or a political subdivision of the state for attending the meeting.

o. Gifts of food, beverages, travel, or lodging received by a public official or public employee if all of the following apply:

(1) The public official or public employee is officially representing an agency in a delegation whose sole purpose is to attract a specific new business to locate in the state, encourage expansion or retention of an existing business already established in the state, or to develop markets for Iowa businesses or products.

(2) The donor of the gift is not the business or businesses being contacted. However, food or beverages provided by the business or businesses being contacted which are consumed during the meeting are not a gift under section 68B.2, subsection 9, or this section.

(3) The public official or public employee plays a significant role in the presentation to the business or businesses on behalf of the public official's or public employee's agency.

p. Gifts other than food, beverages, travel, and lodging received by a public official or public employee which are received from a person who is a citizen of a country other than the United States and is given during a ceremonial presentation or as a result of a custom of the other country and is of personal value only to the donee.

q. Actual registration costs for informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions. The costs of food, drink, lodging and travel are not "registration costs" under this paragraph. Meetings or sessions which a public official or public employee attends for personal or professional licensing purposes are not "informational meetings or sessions which assist a public official or public employee in the performance of the person's official functions" under this paragraph.

5. For purposes of determining the value of an item given or received, an individual who gives an item on behalf of more than one person shall not divide the value of the item by the number of persons on whose behalf the item is given and the value of an item received shall be the value actually received by the donee.

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

**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.26 Actions commenced.**

Complaints regarding conduct of local officials or local employees which violates this chapter shall be filed with the county attorney in the county where the accused resides. However, if the county attorney is the person against whom the complaint is filed, or if the county attorney otherwise has a personal or legal conflict of interest, the complaint shall be referred to another county attorney.

[C71, 73, 75, 77, 79, 81, §68B.9]

C93, §68B.26

93 Acts, ch 163, §10; 2000 Acts, ch 1042, §1

3. Upon a finding by the board that the party charged has violated this chapter 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

### **68B.32D Penalties — recommended actions.**

1. The board, after a hearing and upon a finding that a violation of this chapter, chapter 56, 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 56, or rules adopted by the board.

d. Publicly reprimand the violator for violations of this chapter, chapter 56, 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 56, 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

**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 banking board, 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 business investment corporation board of directors, the Iowa finance authority, the Iowa seed capital corporation, the Iowa public employees' retirement system investment board, the lottery board, 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.

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

## CHAPTER 69

### VACANCIES — REMOVAL — TERMS

- 69.1 Definitions.
- 69.1A Holding over.
- 69.2 What constitutes vacancy.
- 69.3 Possession of office.
- 69.4 Resignations.
- 69.5 Vacancy in general assembly.
- 69.6 Vacancy in state boards.
- 69.7 Duty of officer receiving resignation.
- 69.8 Vacancies — how filled.
- 69.9 Person removed not eligible.
- 69.10 Appointments.
- 69.11 Tenure of vacancy appointee.
- 69.12 Officers elected to fill vacancies — tenure.
- 69.13 Vacancies — senator in Congress and elective state officers.
- 69.14 Special election to fill vacancies.
- 69.14A Filling vacancy of elected county officer.
- 69.15 Board members — nonattendance — vacancy.
- 69.16 Appointive boards — political affiliation.
- 69.16A Gender balance.
- 69.17 Employees as members — voting.
- 69.18 Salary of acting appointees.
- 69.19 Terms of appointments confirmed by the senate.

**69.1 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 §69.1 transferred to §69.1A

**69.1A Holding over.**

Except when otherwise provided, every officer elected or appointed for a fixed term shall hold office until a successor is elected and qualified, unless the officer resigns, or is removed or suspended, as provided by law.

[C51, §241; C73, §784; C97, §1265; C24, 27, 31, 35, 39, §1145; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.1]

C2001, §69.1A

Section transferred from §69.1 in Code 2001 pursuant to 2000 Acts, ch 1148, §1

**69.2 What constitutes vacancy.**

Every civil office shall be vacant if any of the following events occur:

1. A failure to elect at the proper election, or to appoint within the time fixed by law, unless the incumbent holds over.

2. A failure of the incumbent or holdover officer to qualify within the time prescribed by law.

3. The incumbent ceasing to be a resident of the state, district, county, township, city, or ward by or for which the incumbent was elected or appointed, or in which the duties of the office are to be exercised. This subsection shall not apply to appointed city officers.

4. The resignation or death of the incumbent, or of the officer-elect before qualifying.

5. The removal of the incumbent from, or forfeiture of, the office, or the decision of a competent tribunal declaring the office vacant.

6. The conviction of the incumbent of a felony, an aggravated misdemeanor, or of any public offense involving the violation of the incumbent's oath of office.

7. The board of supervisors declares a vacancy in an elected county office upon finding that the county officer has been physically absent from the county for sixty consecutive days except in the case of a medical emergency; temporary active military duty; or temporary service with another government service, agency, or department.

8. The incumbent simultaneously holding more than one elective office at the same level of government. This subsection does not apply to the following offices: county agricultural extension council, soil and water conservation district commission, or regional library board of trustees.

9. An incumbent statewide elected official or member of the general assembly simultaneously holding more than one elective office.

[C51, §334, 429; R60, §564, 662, 1132; C73, §504, 686, 781; C97, §1266; C24, 27, 31, 35, 39, §1146; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §69.2]

91 Acts, ch 12, §1-3; 93 Acts, ch 143, §41; 98 Acts, ch 1223, §18, 38

Duty of holdover officer to requalify, §63.7

Vacancy on board of supervisors, §331.214

Vacancy on school board, §277.29

Removal from office; see also chapter 66

Prohibitions concerning holding more than one office, §39.11 and 39.12

### 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 qualified 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]

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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.

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

See §43.78, subsection 4

### **69.15 Board members — nonattendance — vacancy.**

Any person who has been appointed by the governor to any board under the laws of this state shall be deemed to have submitted a resignation from such office if either of the following events occurs:

1. The person does not attend three or more consecutive regular meetings of such board. This paragraph does not apply unless the first and last of the consecutive meetings counted for this purpose are at least thirty days apart.

2. The person attends less than one-half of the regular meetings of such board within any period of twelve calendar months beginning on July 1 or January 1. This paragraph does not apply unless such board holds at least four regular meetings during such period. This paragraph applies only to such a period beginning on or after the date when the person takes office as a member of such board.

If such person received no notice and had no knowledge of a regular meeting and gives the governor a sworn statement to that effect within ten days after the person learns of the meeting, such meeting shall not be counted for the purposes of this section.

The governor in the governor's discretion may accept or reject such resignation. If the governor accepts it, the governor shall notify such person, in writing, that the resignation is accepted pursuant to this section. The governor shall then make another appointment to such office. Such appointment shall be made in the same manner and for the same term as in the case of other vacancies caused by resignation from such office.

As used in this section, "board" includes any commission, committee, agency, or governmental body which has three or more members.

[C71, 73, 75, 77, 79, 81, §69.15]

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## DEPARTMENT OF PUBLIC SAFETY

**80.2 Commissioner — appointment.**

The chief executive officer of the department of public safety is the commissioner of public safety. The governor shall appoint, subject to confirmation by the senate, a commissioner of public safety, who shall be a person of high moral character, of good standing in the community in which the commissioner lives, of recognized executive and administrative capacity, and who shall not be selected on the basis of political affiliation. The commissioner of public safety shall devote full time to the duties of this office; the commissioner shall not engage in any other trade, business, or profession, nor engage in any partisan or political activity. The commissioner shall serve at the pleasure of the governor, at an annual salary as fixed by the general assembly.

[C39, §1225.07; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §80.2]  
88 Acts, ch 1278, §22

## DRUG ENFORCEMENT AND ABUSE PREVENTION

**80E.1 Drug policy coordinator.**

1. A drug policy coordinator shall be appointed by the governor, subject to confirmation by the senate, and shall serve at the pleasure of the governor. The governor shall fill a vacancy in the office in the same manner as the original appointment was made. The coordinator shall be selected primarily for administrative ability. The coordinator shall not be selected on the basis of political affiliation and shall not engage in political activity while holding the office. The salary of the coordinator shall be fixed by the governor.

2. Not reprinted.

89 Acts, ch 225, §1; 2000 Acts, ch 1126, §1

## DIVISION OF WORKERS' COMPENSATION

**86.4 Political activity and contributions.**

It shall be unlawful for the commissioner\*, or a chief deputy workers' compensation commissioner while in office, to espouse the election or appointment of any candidate to any political office, and any person violating the provisions of this section shall be guilty of a simple misdemeanor.

[S13, §2477-m23, -m37; C24, 27, 31, 35, 39, §1427; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §86.4]

90 Acts, ch 1261, §27; 98 Acts, ch 1061, §11

\*Workers' compensation commissioner

## IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)

**97B.5 Staff.**

Subject to other provisions of this chapter, the department may employ personnel as necessary for the administration of the system, including but not limited to a chief investment officer and a chief benefits officer. The maximum number of full-time equivalent employees specified by the general assembly for the department for administration of the system for a fiscal year shall not be reduced by any authority other than the general assembly. The staff shall be appointed pursuant to chapter 19A. The department\* 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. The department may employ attorneys and contract with attorneys and legal firms for the provision of legal counsel and advice in the administration of this chapter and chapter 97C. The department may execute contracts with investment advisors, consultants, and managers outside state government in the administration of this chapter. The department may delegate to any person such authority as it deems reasonable and proper for the effective administration of this chapter, and may bond any person handling moneys or signing checks under this chapter.

[C46, 50, §97.38; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §97B.5]

86 Acts, ch 1245, §252; 92 Acts, ch 1201, §8; 94 Acts, ch 1001, §2; 2000 Acts, ch 1077, §21

\*Department of personnel

## GAMBLING — EXCURSION BOATS AND RACETRACKS

**99F.7 Licenses — terms and conditions — revocation.**

1. to 9. Not reprinted.

10. *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 two years.

11. to 16. 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

## 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

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PERSONS WITH MENTAL RETARDATION

**222.16 Petition for adjudication of mental retardation.**

A petition for the adjudication of the mental retardation of a person within the meaning of this chapter may, with the permission of the court, be filed without fee against a person with the clerk of the district court of the county or city in which the person who is alleged to have mental retardation resides or is found. The petition may be filed by any relative of the person, by a guardian, or by any reputable citizen of the county where the person who is alleged to have mental retardation resides or is found.

Commitment of a person pursuant to section 222.31 does not constitute a finding or raise a presumption that the person is incompetent to vote. The court shall make a separate determination as to the person's competency to vote. The court shall find a person incompetent to vote only upon determining that the person lacks sufficient mental capacity to comprehend and exercise the right to vote.

[C24, 27, 31, 35, 39, §3413; C46, 50, 54, 58, 62, §222.3; C66, 71, 73, 75, 77, 79, 81, §222.16]

96 Acts, ch 1129, §44; 98 Acts, ch 1185, §6

**222.31 Commitment — liability for charges.**

If in the opinion of the court, or of a commission as authorized in section 222.28, the person is mentally retarded within the meaning of this chapter and the court determines that it will be conducive to the welfare of that person and of the community to commit the person to a proper institution for treatment, training, instruction, care, habilitation, and support, and that services or support provided to the family of such a person who is a child will not enable the family to continue to care for the child in the child's home, the court shall by proper order:

1. Commit the person to any public or private facility within or without the state, approved by the director of the department of human services. If the person has not been examined by a commission as appointed in section 222.28, the court shall, prior to issuing an order of commitment, appoint such a commission to examine the person for the purpose of determining the mental condition of the person. No order of commitment shall be issued unless the commission shall recommend that such order be issued and the private institution to which the person is to be committed shall advise the court that it is willing to receive the person.

2. Commit the person to the state resource center designated by the administrator to serve the county in which the hearing is being held, or to a special unit. The court shall, prior to issuing an order of commitment, request that a diagnostic evaluation of the person be made by the superintendent of the resource center or the special unit, or the superintendent's qualified designee. The evaluation shall be conducted at a place as the superintendent may direct. The cost of the evaluation shall be defrayed by the county of legal settlement unless otherwise ordered by the court. The cost may be equal to but shall not exceed the actual cost of the evaluation. Persons referred by a court to a resource center or the special unit for diagnostic evaluation shall be considered as outpatients of the institution. No order of commitment shall be issued unless the superintendent of the institution recommends that the order be issued, and advises the court that adequate facilities for the care of the person are available.

The court shall examine the report of the county attorney filed pursuant to section 222.13, and if the report shows that neither the person nor those liable for the person's support under section 222.78 are presently able to pay the charges rising out of the person's care in the resource center, or special treatment unit, shall enter an order stating that finding and directing that the charges be paid by the person's county of residence. The court may, upon request of the board of supervisors, review its finding at any subsequent time while the person remains at the resource center, or is otherwise receiving care or treatment for which this chapter obligates the county to pay. If the court finds upon review that the person or those legally responsible for the person are presently able to pay the expenses, that finding shall apply only to the charges incurred during the period beginning on the date of the board's request for the review and continuing thereafter, unless and until the court again changes its finding. If the court finds that the person, or those liable for the person's support, are able to pay the charges, the court shall enter an order directing that the charges be so paid to the extent required by section 222.78.

3. In its order, the court shall include a finding as to whether the person has sufficient mental capacity to comprehend and exercise the right to vote.

[C24, 27, 31, 35, 39, §3428; C46, 50, 54, 58, 62, §222.18; C66, 71, 73, 75, 77, 79, 81, §222.31]

83 Acts, ch 96, §157, 159; 83 Acts, ch 123, §81, 209; 84 Acts, ch 1299, §2, 3; 85 Acts, ch 67, §23; 92 Acts, ch 1229, §2; 98 Acts, ch 1185, §7; 2000 Acts, ch 1112, §51

#### **222.45 Power of court.**

On the hearing, the court may discharge the person with mental retardation from all supervision, control, and care, or may transfer the person from a public institution to a private institution, or vice versa, or transfer the person from a special unit to a resource center, or vice versa, as the court deems appropriate under all the circumstances. If the person has been determined to lack the mental capacity to vote, the court shall include in its order a finding that this determination remains in force or is revoked.

[C24, 27, 31, 35, 39, §3442; C46, 50, 54, 58, 62, §222.32; C66, 71, 73, 75, 77, 79, 81, §222.45]

84 Acts, ch 1299, §5; 96 Acts, ch 1129, §113; 98 Acts, ch 1185, §8; 2000 Acts, ch 1112, §51

## COMMUNITY MENTAL HEALTH CENTERS

**230A.4 Trustees — qualifications — manner of selection.**

When the board or boards of supervisors of a county or affiliated counties decides to directly establish a community mental health center under this chapter, the supervisors, acting jointly in the case of affiliated counties, shall appoint a board of community mental health center trustees to serve until the next succeeding general election. The board of trustees shall consist of at least seven members each of whom shall be a resident of the county or one of the counties served by the center. An employee of the center is not eligible for the office of community mental health center trustee. At the first general election following establishment of the center, all members of the board of trustees shall be elected. They shall assume office on the second day of the following January which is not a Sunday or legal holiday, and shall at once divide themselves by lot into three classes of as nearly equal size as possible. The first class shall serve for terms of two years, the second class for terms of four years, and the third class for terms of six years. Thereafter, a member shall be elected to the board of trustees for a term of six years at each general election to succeed each member whose term will expire in the following year.

[C75, 77, 79, 81, S81, §230A.4; 81 Acts, ch 117, §1030]

**230A.5 Election of trustees.**

The election of community mental health center trustees 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 eligible electors of the county or affiliated counties equal in number to one percent of the vote cast therein for president of the United States or governor, as the case may be, in the last previous general election, and shall be filed with the county commissioner of elections. A plurality shall be sufficient to elect community mental health center trustees, and no primary election for that office shall be held.

[C75, 77, 79, 81, §230A.5]

91 Acts, ch 129, §23

**275.13 Affidavit — presumption.**

Such petition shall be accompanied by an affidavit showing the number of registered voters living in each affected district or portion thereof described in the petition and signed by a registered voter residing in the territory, and if parts of the territory described in the petition are situated in different area education agencies, the affidavit shall show separately as to each agency, the number of registered voters in the part of the agency included in the territory described. The affidavit shall be taken as true unless objections to it are filed on or before the time fixed for filing objections as provided in section 275.14 hereof.

[C24, 27, 31, 35, 39, §4156; C46, 50, §276.3; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.13]

94 Acts, ch 1169, §64

**275.18 Special election called — time.**

When the boundaries of the territory to be included in a proposed school corporation and the number and method of the election of the school directors of the proposed school corporation have been determined as provided in this chapter, the area education agency administrator with whom the petition is filed shall give written notice of the proposed date of the election to the county commissioner of elections of the county in the proposed school corporation which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to section 39.2, subsections 1 and 2, and section 47.6, subsections 1 and 2, but not later than November 30 of the calendar year prior to the calendar year in which the reorganization will take effect.

The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which previous notices have been published regarding the proposed school reorganization, and in addition, if more than one county is involved, by one publication in a legal newspaper in each county other than that of the first publication. The publication shall be not less than four nor more than twenty days prior to the election. If the decision published pursuant to section 275.15 or 275.16 includes a description of the proposed school corporation and a description of the director districts, if any, the notice for election and the ballot do not need to include these descriptions. Notice for an election shall not be published until the expiration of time for appeal, which shall be the same as that provided in section 275.15 or 275.16, whichever is applicable; and if there is an appeal, not until the appeal has been disposed of.

The area education agency administrator shall furnish to the commissioner a map of the proposed reorganized area which must be approved by the commissioner as suitable for posting. The map shall be displayed prominently in at least four places within the voting precinct, and inside each voting booth, or on the left-hand side inside the curtain of each voting machine.

[R60, §2097, 2105; C73, §1800, 1801; C97, §2794; SS15, §2794, 2794-a; C24, 27, 31, 35, 39, §4142, 4164; C46, 50, §274.24, 275.4, 276.11; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.18]

83 Acts, ch 53, §2; 85 Acts, ch 221, §4; 98 Acts, ch 1123, §12

### **275.20 Separate vote in existing districts.**

The voters shall vote separately in each existing school district affected and voters residing in the entire existing district are eligible to vote upon the proposition to create a new school corporation and the proposition to levy the voter-approved physical plant and equipment levy under section 298.2, if the petition included a provision for a vote to authorize the levy. If a proposition receives a majority of the votes cast in each of at least seventy-five percent of the districts, and also a majority of the total number of votes cast in all of the districts, the proposition is carried.

[R60, §2097, 2105; C73, §1800, 1801; C97, §2794; SS15, §2794, 2794-a; C24, 27, 31, 35, §4142, 4166, 4167, 4191; C39, §4142, 4144.1, 4166, 4167; C46, 50, §274.24, 274.27, 276.13; C54, §275.20, 275.21; C58, 62, 66, 71, 73, 75, 77, 79, 81, §275.20]

89 Acts, ch 135, §66

### **275.22 Canvass and return.**

The precinct election officials shall count the ballots, and make return to and deposit the ballots with the county commissioner of elections, who shall enter the return of record in the commissioner's office. The election tally lists, including absentee ballots, shall be listed by individual school district. The county commissioner of elections shall certify the results of the election to the area education agency administrator. If the majority of the votes cast by the registered voters is in favor of the proposition, as provided in section 275.20, a new school corporation shall be organized. If the majority of votes cast is opposed to the proposition, a new petition describing the identical or similar boundaries shall not be filed for at least six months from the date of the election. If territory is excluded from the reorganized district, action pursuant to section 274.37 shall be taken prior to the effective date of reorganization. The secretary of the new school corporation shall file a written description of the boundaries as provided in section 274.4.

[S13, §2820-f; SS15, §2794-a; C24, 27, 31, 35, 39, §4144, 4169; C46, 50, §274.26, 275.5, 275.7, 276.16; C54, 58, 62, 66, 71, 73, 75, §275.23; C77, 79, 81, §275.22]

83 Acts, ch 91, §3; 93 Acts, ch 160, §7; 95 Acts, ch 67, §53

**275.24 Effective date of change.**

When a school district is enlarged, reorganized, or changes its boundary pursuant to sections 275.12 to 275.22, the change shall take effect on July 1 following the date of the reorganization election held pursuant to section 275.18 if the election was held by the prior November 30. Otherwise the change shall take effect on July 1 one year later.

[C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §275.24]

83 Acts, ch 53, §3

**275.25 Election of directors.**

1. If the proposition to establish a new school district carries under the method provided in this chapter, the area education agency administrator with whom the petition was filed shall give written notice of a proposed date for a special election for directors of the newly formed school district to the commissioner of elections of the county in the district involved in the reorganization which has the greatest taxable base. The proposed date shall be as soon as possible pursuant to section 39.2, subsections 1 and 2, and section 47.6, subsections 1 and 2, but not later than the third Tuesday in January of the calendar year in which the reorganization takes effect. The election shall be conducted as provided in section 277.3, and nomination petitions shall be filed pursuant to section 277.4, except as otherwise provided in this subsection. Nomination petitions shall be filed with the secretary of the board of the existing school district in which the candidate resides, signed by not less than ten eligible electors of the newly formed district, and filed not less than twenty-eight days before the date set for the special school election. The school secretary, or the secretary's designee, shall be present in the secretary's office until five p.m. on the final day to file the nomination papers. The nomination papers shall be delivered to the commissioner no later than five p.m. on the twenty-seventh day before the election.

If the special election is held in conjunction with the regular school election, the filing deadlines for the regular school election apply.

2. The number of directors of a school district is either five or seven as provided in section 275.12. In school districts that include a city of fifteen thousand or more population as shown by the most recent decennial federal census, the board shall consist of seven members elected in the manner provided in subsection 3. If it becomes necessary to increase the membership of a board, two directors shall be added according to the procedure described in section 277.23.

The county board of supervisors shall canvass the votes and the county commissioner of elections shall report the results to the area education agency administrator who shall notify the persons who are elected directors.

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## DISSOLUTION OF DISTRICTS

**275.55 Election.**

The board of the school district shall call a special election to be held not later than forty days following the date of the final hearing on the dissolution proposal. The special election may be held at the same time as the regular school election. The proposition submitted to the voters residing in the school district at the special election shall describe each separate area to be attached to a contiguous school district and shall name the school district to which it will be attached.

The board shall give written notice of the proposed date of the election to the county commissioner of elections. The proposed date shall be pursuant to section 39.2, subsections 1 and 2 and section 47.6, subsections 1 and 2. The county commissioner of elections shall give notice of the election by one publication in the same newspaper in which the previous notice was published about the hearing, which publication shall not be less than four nor more than twenty days prior to the election.

The proposition shall be adopted if a majority of the electors voting on the proposition approve its adoption.

The attachment is effective July 1 following its approval. If the dissolution proposal is for the dissolution of a school district with a certified enrollment of fewer than six hundred, the territory located in the school district that dissolved is eligible, if approved by the director of the department of education, for a reduction in the foundation property tax levy under section 257.3, subsection 1. If the director approves a reduction in the foundation property tax levy as provided in this section, the director shall notify the director of the department of management of the reduction.

[C81, §275.55]

88 Acts, ch 1263, §4; 89 Acts, ch 135, §69

## CHAPTER 277

## SCHOOL ELECTIONS

- 277.1 Regular election.
- 277.2 Special election.
- 277.3 Election laws applicable.
- 277.4 Nominations required.
- 277.5 Objections to nominations.
- 277.6 Territory outside county.
- 277.7 Petitions for public measures.
- 277.8 through 277.19 Repealed by 73 Acts, ch 136, §401.
- 277.20 Canvassing returns.
- 277.21 Repealed by 73 Acts, ch 136, §401.
- 277.22 Contested elections.
- 277.23 Directors — number — change.
- 277.24 Repealed by 70 Acts, ch 1025, §40.
- 277.25 Directors in new districts.
- 277.26 Repealed by 75 Acts, ch 81, §154.
- 277.27 Qualification.
- 277.28 Oath required.
- 277.29 Vacancies.
- 277.30 Vacancies filled by election.
- 277.31 Surrendering office.
- 277.32 Penalties.
- 277.33 Transferred to §277.3.
- 277.34 Repealed by 73 Acts, ch 136, §401.

**277.1 Regular election.**

The regular election shall be held annually on the second Tuesday in September in each school district for the election of officers of the district and merged area and for the purpose of submitting to the voters any matter authorized by law.

[C51, §1111, 1114; R60, §2027, 2030, 2031; C73, §1717–1719; C97, §2746, 2751; C24, §4194, 4211; C27, §4194, 4211, 4216-b1; C31, 35, §4216-c1; C39, §4216.01; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §277.1]

83 Acts, ch 101, §63

**277.2 Special election.**

The board of directors in a school corporation may call a special election at which the voters shall have the powers exercised at the regular election with reference to the sale of school property and the application to be made of the proceeds, the authorization of seven members on the board of directors, the authorization to establish or change the boundaries of director districts, and the authorization of a voter-approved physical plant and equipment levy or indebtedness, as provided by law.

**279.7 Vacancies filled by special election — qualification — tenure.**

If a vacancy or vacancies occur among the elective officers or members of a school board and the remaining members of the board have not filled the vacancy within thirty days after the vacancy occurs, or when the board is reduced below a quorum, the secretary of the board, or if there is no secretary, the area education agency administrator, shall call a special election in the district, subdistrict, or subdistricts, as the case may be, to fill the vacancy or vacancies. The county commissioner of elections shall publish the notices required by law for special elections, and the election shall be held not sooner than thirty days nor later than forty days after the thirtieth day following the occurrence of the vacancy. If the secretary fails for more than three days to call an election, the administrator shall call it.

Any appointment by the board to fill any vacancy in an elective office on or after the day notice has been given for a special election to fill such vacancy as provided herein shall be null and void.

In any case of a special election as provided herein to fill a vacancy occurring among the elective officers or members of a school board before the expiration of a full term, the person so elected shall qualify within ten days thereafter in the manner required by section 277.28 and shall hold office for the residue of the unexpired term and until a successor is elected, or appointed, and qualified.

Nomination petitions shall be filed in the manner provided in section 277.4, except that the petitions shall be filed not less than twenty-five days before the date set for the election.

[C51, §1120; R60, §2037, 2038, 2079; C73, §1730, 1738; C97, §2758, 2771, 2772; S13, §2758, 2771, 2772; C24, §4223; C27, 31, 35, §4223-b1; C39, §4223.3; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §279.7]

87 Acts, ch 48, §1; 89 Acts, ch 136, §65; 93 Acts, ch 67, §1

**279.39 School buildings.**

The board of any school corporation shall establish attendance centers and provide suitable buildings for each school in the district and may at the regular or a special meeting call a special election to submit to the registered voters of the district the question of voting a tax or authorizing the board to issue bonds, or both.

93 Acts, ch 160, §15; 95 Acts, ch 67, §53

**279.52 Optional funding of asbestos projects.**

The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district, funds received from the physical plant and equipment levy or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this section over a three-year period.

For the purpose of this section, "*cost of an asbestos project*" includes the costs of inspection and reinspection, sampling, analysis, assessment, response actions, operations and maintenance, training, periodic surveillance, developing of management plans and recordkeeping requirements relating to the presence of asbestos in school buildings of the district and its removal or encapsulation.

89 Acts, ch 135, §77; 2000 Acts, ch 1072, §1; 2000 Acts, ch 1232, §64

UNIFORM SCHOOL REQUIREMENTS

**280.9A History and government required — voter registration.**

1. The board of directors of each local public school district and the authorities in charge of each nonpublic school shall require that all students in grades nine through twelve complete, as a condition of graduation, instruction in American history and the governments of Iowa and the United States, 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.

2. At least twice during each school year, the board of directors of each local public school district operating a high school and the authorities in charge of each accredited nonpublic school operating a high school shall offer the opportunity to register to vote to each student who is at least seventeen and one-half years of age, as required by section 48A.23

88 Acts, ch 1129, §1; 90 Acts, ch 1238, §38; 94 Acts, ch 1169, §57

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TEACHERS  
PENSION AND ANNUITY RETIREMENT SYSTEM

**294.8 Pension system.**

Any school district located in whole or in part within a city having a population of twenty-five thousand one hundred or more may establish a pension and annuity retirement system for the public school teachers of such district provided said system, in cities having a population less than seventy-five thousand, be ratified by a vote of the people at a general election.

[C24, 27, 31, 35, 39, §4345; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §294.8]

## CHAPTER 296

## INDEBTEDNESS OF SCHOOL CORPORATIONS

- 296.1 Indebtedness authorized.
  - 296.2 Petition for election.
  - 296.3 Election called.
  - 296.4 Notice — ballots.
  - 296.5 Repealed by 75 Acts, ch 81, §154.
  - 296.6 Bonds.
  - 296.7 Indebtedness for insurance authorized — tax levy.
- 

**296.1 Indebtedness authorized.**

Subject to the approval of the voters thereof, school districts are hereby authorized to contract indebtedness and to issue general obligation bonds to provide funds to defray the cost of purchasing, building, furnishing, reconstructing, repairing, improving or remodeling a schoolhouse or schoolhouses and additions thereto, gymnasium, stadium, field house, school bus garage, teachers' or superintendent's home or homes, and procuring a site or sites therefor, or purchasing land to add to a site already owned, or procuring and improving a site for an athletic field, or improving a site already owned for an athletic field, and for any one or more of such purposes. Taxes for the payment of said bonds shall be levied in accordance with chapter 76, and said bonds shall mature within a period not exceeding twenty years from date of issue, shall bear interest at a rate or rates not exceeding that permitted by chapter 74A and shall be of such form as the board of directors of such school district shall by resolution provide, but the aggregate indebtedness of any school district shall not exceed five percent of the actual value of the taxable property within said school district, as ascertained by the last preceding state and county tax lists.

[S13, §2820-d1; C24, 27, 31, 35, 39, §4353; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §296.1]

**298.18A Levy adjustment.**

If, in the opinion of the board of a school corporation, after having originally estimated and certified the amount required to pay interest and principal due upon bonded indebtedness incurred before July 1, 1995, an adjustment in the amount certified in excess of that previously levied by the resolution authorizing issuance of the bonds becomes necessary in anticipation of future projected revenue shortfalls resulting from a machinery and equipment-related taxable valuation decrease from the valuation as of January 1, 1994, an adjustment shall be permitted subject to the following limitations:

1. An adjustment shall be permitted only in a district in which machinery and equipment valuation exceeds twenty percent of total taxable valuation as of January 1, 1994.

2. The adjustment shall not result in a total amount levied in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit provided in section 298.18. An adjustment in excess of the two dollar and seventy cent per thousand dollars of assessed valuation limit shall be subject to the special election provisions for increases of up to four dollars and five cents per thousand dollars of assessed valuation provisions of section 298.18.

3. The amount of the adjustment, when added to the amount originally estimated and certified, for any one year, shall not exceed the least of:

a. The amount required to pay interest and principal due upon bonded indebtedness for the three-year period beginning on the date of the adjustment.

b. One hundred twenty-five percent of the amount originally estimated and certified.

c. One hundred ten percent of the total district levies for the fiscal year preceding the fiscal year in which the adjustment is to be added.

4. The amount of the adjustment plus the amount of state replacement moneys received under section 427B.19A which is attributable to the amount of the adjustment, when added to the amount originally estimated and certified, shall not result in the levying of an amount over the life of the issue in excess of the amount necessary for principal and interest repayment.

5. Amounts collected pursuant to this section shall be deposited in a separate debt service account distinct from the account established to hold principal and interest revenues resulting from the original levy.

6. An adjustment shall not be permitted which results in extending a levy beyond the earlier of the following:

a. Ten years from the original date of certification of the amount required to pay interest and principal.

b. June 30, 2007.

96 Acts, ch 1179, §1

**298.21 School bonds.**

The board of directors of any school corporation when authorized by the voters at the regular election or at a special election called for that purpose, may issue the negotiable, interest-bearing school bonds of said corporation for borrowing money for any or all of the following purposes:

1. To acquire sites for school purposes.
2. To erect, complete, or improve buildings authorized for school purposes.
3. To acquire equipment for schools, sites, and buildings.

[S13, §2812-d; C24, 27, 31, 35, 39, §4406; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §298.21]

Vote required to authorize bonds, §75.1

**CHAPTER 300**

**EDUCATIONAL AND RECREATIONAL TAX**

- 300.1 Public recreation.
- 300.2 Tax levy.
- 300.3 Discontinuance of levy.
- 300.4 Community education.

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**300.1 Public recreation.**

Boards of directors of school districts may establish and maintain for children and adults public recreation places and playgrounds, and necessary accommodations for the recreation places and playgrounds, in the public school buildings and grounds of the district. The board may co-operate under chapter 28E with a public agency having the custody and management of public parks or public buildings and grounds, and with a private agency having custody and management of buildings or grounds open to the public, located within the school district, and may provide for the supervision and instruction necessary to carry on public educational and recreational activities in the parks, buildings, and grounds located within the district.

[S13, §2823-u; C24, 27, 31, 35, 39, §4433; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §300.1; 81 Acts, ch 95, §2]

**300.2 Tax levy.**

The board of directors of a school district may, and upon receipt of a petition signed by eligible electors equal in number to at least twenty-five percent of the number of voters at the last preceding school election, shall, direct the county commissioner of elections to submit to the registered voters of the school district the question of whether to levy a tax of not to exceed thirteen and one-half cents per thousand dollars of assessed valuation for public educational and recreational activities authorized under this chapter. If at the time of filing the petition, it is more than three months until the next regular school election, the board of directors shall submit the question at a special election within sixty days. Otherwise, the question shall be submitted at the next regular school election.

If a majority of the votes cast upon the proposition is in favor of the proposition, the board shall certify the amount required for a fiscal year to the county board of supervisors by April 15 of the preceding fiscal year. The board of supervisors shall levy the amount certified. The amount shall be placed in the public education and recreation levy fund of the district and shall be used only for the purposes specified in this chapter.

The proposition to levy the public recreation and playground tax is not affected by a change in the boundaries of a school district, except as otherwise provided in this section. If each district involved in school reorganization under chapter 275 has adopted the public recreation and playground tax, and if the voters have not voted upon the proposition to levy the public recreation and playground tax in the reorganized district, the existing public recreation and playground tax shall be in effect for the reorganized district for the least amount that has been approved in any of the districts and until discontinued pursuant to section 300.3.

[S13, §2823-u1, -u2; C24, 27, 31, 35, 39, §4434, 4435; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §300.2, 300.3; 81 Acts, ch 95, §3]

93 Acts, ch 1, §13; 93 Acts, ch 160, §17; 94 Acts, ch 1029, §29; 95 Acts, ch 67, §53

**300.3 Discontinuance of levy.**

Once approved at an election, the authority of the board to levy and collect the tax under section 300.2 shall continue until the board votes to rescind the levy and collection of the tax or the voters of the school district by majority vote order the discontinuance of the levy and collection of the tax. The tax shall be discontinued in the manner provided in this section or in the manner provided for imposition of the tax in section 300.2.

[S13, §2823-u4, -u5; C24, 27, 31, 35, 39, §4437, 4438; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §300.5, 300.6; 81 Acts, ch 95, §4]

**300.4 Community education.**

The tax levied under sections 300.2 and 300.3 may also be used for community education purposes under chapter 276.

[81 Acts, ch 95, §5]

### TEXTBOOKS

**301.24 Petition — election.**

Whenever a petition signed by ten percent of the qualified voters, to be determined by the school board of any school district, shall be 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 public schools thereof 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]

**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]

**331.381 Duties relating to services.**

The board shall:

1. Proceed in response to a petition to establish a unified law enforcement district in accordance with sections 28E.21 to 28E.28A, or the board may proceed under those sections on its own motion.

2. Not reprinted.

3. Proceed in response to a petition to establish a county conservation board in accordance with section 350.2.

4. to 11. Not reprinted.

12. Proceed in response to a petition to establish or end an airport commission in accordance with sections 330.17 to 330.20.

13. Proceed in response to a petition for a city hospital to become a county hospital in accordance with section 347.23.

14. Not reprinted.

15. Proceed in response to a petition to establish a county library district in accordance with sections 336.2 to 336.5, or a petition to provide library service by contract or to terminate the service under section 336.18.

16. to 18. Not reprinted.

1-7. [S81, §331.381(1-7); 81 Acts, ch 117, §380]

10-13. [S81, §331.381(10-13); 81 Acts, ch 117, §380]

15. [S81, §331.381(15); 81 Acts, ch 117, §380]

83 Acts, ch 79, §3; 92 Acts, ch 1139, §25; 92 Acts, ch 1164, §1; 92 Acts, ch 1212, §32; 93 Acts, ch 48, §52; 94 Acts, ch 1173, §20; 96 Acts, ch 1129, §113

**331.382 Powers and limitations relating to services.**

1. The board may exercise the following powers in accordance with the sections designated, and may exercise these or similar powers under its home rule powers or other provisions of law:

a. Not reprinted.

b. Not reprinted.

c. Establishment of a merged area hospital as provided in chapter 145A.

d. to f. Not reprinted.

g. Establishment of a county care facility as provided in chapter 347B, and sections 135C.23 and 135C.24.

h. Not reprinted.

i. Establishment of an airport commission as provided in sections 330.17 to 330.20.

j. Not reprinted.

2. to 9. Not reprinted.

1. a-f. [S81, §331.382(1); 81 Acts, ch 117, §381]

g. [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, §253.1; S81, §331.382; 81 Acts, ch 117, §381]

h-j. [S81, §331.382(1); 81 Acts, ch 117, §381]

83 Acts, ch 96, §157, 159; 83 Acts, ch 101, §76; 89 Acts, ch 20, §17; 98 Acts, ch 1162, §27, 30

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**331.383 Duties and powers relating to elections.**

The board shall ensure that the county commissioner of elections conducts primary, general, city, school, and special elections in accordance with applicable state law. The board shall canvass elections in accordance with sections 43.49 to 43.51, 43.60 to 43.62, 46.24, 50.13, 50.24 to 50.29, 50.44 to 50.47, 260C.39, 275.25, 277.20, 376.1, 376.7, and 376.9. The board shall prepare and deliver a list of persons nominated in accordance with section 43.55, provide for a recount in accordance with section 50.48, provide for election precincts in accordance with sections 49.3, 49.4, 49.6 to 49.8 and 49.11, pay election costs as provided in section 47.3, participate in election contests as provided in sections 62.1A and 62.9, and perform other election duties required by state law. The board may authorize additional precinct election officials as provided in section 51.1, provide for the use of a voting machine or electronic voting system as provided in sections 52.2, 52.3, 52.8, and 52.34, and exercise other election powers as provided by state law.

[S81, §331.383; 81 Acts, ch 117, §382; 82 Acts, ch 1104, §36]

POWERS AND DUTIES OF THE  
BOARD RELATING TO  
COUNTY FINANCES

GENERAL FINANCIAL POWERS AND DUTIES

**331.402 Powers relating to finances — limitations.**

1. and 2. Not reprinted.

3. A county may enter into loan agreements to borrow money for any public purpose in accordance with the following terms and procedures:

*a.* A loan agreement entered into by a county may contain provisions similar to those sometimes found in loan agreements between private parties, including, but not limited to, the issuance of notes to evidence its obligations.

*b.* A provision of a loan agreement which stipulates that a portion of the 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 county enterprise is a separate entity under this subsection, whether it is governed by the board or another governing body.

*c.* The board shall follow substantially the same authorization procedure required for the issuance of general obligation bonds issued for the same purpose to authorize a loan agreement made payable from the debt service fund.

*d.* The board may authorize a loan agreement which is payable from the general fund and which would not cause the total of scheduled annual payments of principal or interest or both principal and interest of the county due from the general fund of the county in any future year with respect to all loan agreements in force on the date of the authorization to exceed ten percent of the last certified general fund budget amount in accordance with the following procedures:

(1) The board shall follow substantially the authorization procedures of section 331.443 to authorize a loan agreement for personal property which is payable from the general fund. The board must follow substantially the authorization procedures of section 331.443 to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement does not exceed the following limits:

(a) Four hundred thousand dollars in a county having a population of twenty-five thousand or less.

(b) Five hundred thousand dollars in a county having a population of more than twenty-five thousand but not more than fifty thousand.

(c) Six hundred thousand dollars in a county having a population of more than fifty thousand but not more than one hundred thousand.

(d) Eight hundred thousand dollars in a county having a population of more than one hundred thousand but not more than two hundred thousand.

(e) One million dollars in a county having a population of more than two hundred thousand.

(2) The board must follow the following procedures to authorize a loan agreement for real property which is payable from the general fund if the principal amount of the loan agreement exceeds the limits set forth in subparagraph (1):

(a) The board must institute proceedings for entering into a loan agreement payable from the general fund by causing a notice of the meeting to discuss entering into the loan agreement, including a statement of the principal amount and purpose of the loan agreement 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 loan agreement.

(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 loan agreement, a petition is filed with the auditor in the manner provided by section 331.306 asking that the question of entering into the loan agreement be submitted to the registered voters of the county, the board shall either by resolution declare the proposal to enter into the loan agreement to have been abandoned or shall direct the county commissioner of elections to call a special election upon the question of entering into the loan agreement. 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 loan agreement in 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 the loan agreement is approved at an election, the board may proceed and enter into the loan agreement.

e. The governing body may authorize a loan agreement payable from the net revenues of a county enterprise or combined county enterprise by following the authorization procedures of section 331.464.

f. A loan agreement 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 purpose 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.

83 Acts, ch 96, §157, 159; 84 Acts, ch 1123, §2; 87 Acts, ch 103, §1; 92 Acts, ch 1138, §2; 95 Acts, ch 67, §53

#### COUNTY LEVIES, FUNDS, BUDGETS, AND EXPENDITURES

##### **331.424 Supplemental levies.**

To the extent that the basic levies are insufficient to meet the county's needs for the following services, the board may certify supplemental levies as follows:

1. For general county services, an amount sufficient to pay the charges for the following:

a. and b. Not reprinted.

c. Elections, and voter registration pursuant to chapter 48A.

d. to j. Not reprinted.

2. Not reprinted.

83 Acts, ch 123, §8, 209; 84 Acts, ch 1178, §7; 84 Acts, ch 1312, §8; 86 Acts, ch 1211, §20; 90 Acts, ch 1233, §25; 92 Acts, ch 1139, §26; 94 Acts, ch 1169, §59; 94 Acts, ch 1170, §52; 95 Acts, ch 206, §9, 12; 96 Acts, ch 1129, §84; 96 Acts, ch 1219, §102; 97 Acts, ch 35, §22, 25

##### **331.425 Additions to levies — special levy election.**

The board may certify an addition to a levy in excess of the amounts otherwise permitted under sections 331.423, 331.424, and 331.426 if the proposition to certify an addition to a levy has been submitted at a special levy election and received a favorable majority of the votes cast on the proposition. A special levy election is subject to the following:

1. The election shall be held only if the board gives notice to the county commissioner of elections, not later than February 15, that the election is to be held.

2. The election shall be held on the second Tuesday in March and be conducted by the county commissioner of elections in accordance with the law.

3. The proposition to be submitted shall be substantially in the following form:

Vote for only one of the following:

Shall the county of ..... levy an additional tax at a rate of \$..... each year for ..... years beginning next July 1 in excess of the statutory limits otherwise applicable for the (general county services or rural county services) fund?

or

The county of ..... shall continue the (general county services or rural county services fund) under the maximum rate of \$ .....

4. The canvass shall be held beginning at one o'clock on the second day which is not a holiday following the special levy election.

5. Notice of the proposed special levy election shall be published at least twice in a newspaper as specified in section 331.305 prior to the date of the special levy election. The first notice shall appear as early as practicable after the board has decided to seek a special levy.

83 Acts, ch 123, §9, 209

**331.427 General fund.**

1. Not reprinted.

2. The board may make appropriations from the general fund for general county services, including but not limited to the following:

a. and b. Not reprinted.

c. Purchase of voting machines under chapter 52.

d. to n. Not reprinted.

3. Not reprinted.

83 Acts, ch 123, §11, 209; 84 Acts, ch 1107, §1; 84 Acts, ch 1206, §1; 85 Acts, ch 195, §40; 85 Acts, ch 201, §2; 89 Acts, ch 83, §48; 90 Acts, ch 1230, §90; 90 Acts, ch 1236, §47; 91 Acts, ch 191, §8; 92 Acts, ch 1139, §27; 94 Acts, ch 1074, §3; 95 Acts, ch 216, §37; 97 Acts, ch 158, §2; 2000 Acts, ch 1090, §2, 6

GENERAL OBLIGATION BONDS

**331.441 Definitions.**

1. As used in this part, the use of the conjunctive "and" includes the disjunctive "or" and the use of the disjunctive "or" includes the conjunctive "and," unless the context clearly indicates otherwise.

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

a. "General obligation bond" means a negotiable bond issued by a county and payable from the levy of ad valorem taxes on all taxable property within the county through its debt service fund which is required to be established by section 331.430.

b. "Essential county purpose" means any of the following:

(1) Voting machines or an electronic voting system.

(2) Bridges on highways or parts of highways which are located along the corporate limits of cities and are partly within and partly without the limits and are in whole or in part secondary roads.

(14) The aiding of the planning, undertaking, and carrying out of urban renewal projects under the authority of chapter 403 and for the purposes set out in section 403.12. However, bonds issued for this purpose are subject to the right of petition for an election as provided in section 331.442, subsection 5, without limitation on the amount of the bond issue or the population of the county, and the board shall include notice of the right of petition in the notice of proposed action required under section 331.443, subsection 2.

c. "General county purpose" means any of the following:

(1) A memorial building or monument to commemorate the service rendered by members of the armed services of the United States, including the acquisition of ground and the purchase, erection, construction, reconstruction, and equipment of the building or monument, to be managed by a commission as provided in chapter 37.

(2) Acquisition and development of land for a public museum, park, parkway, preserve, playground, or other recreation or conservation purpose to be managed by the county conservation board. The board may submit a proposition under this subparagraph only upon receipt of a petition from the county conservation board asking that bonds be issued for a specified amount.

(3) The building and maintenance of a bridge over state boundary line streams. The board shall submit a proposition under this subparagraph to an election upon receipt of a petition which is valid under section 331.306.

(4) Contributions of money to the state department of transportation to help finance the construction of toll bridges across navigable rivers constituting boundaries between the county and an adjoining state.

(5) An airport, including establishment, acquisition, equipment, improvement, or enlargement of the airport.

(6) A joint city-county building, established by contract between the county and its county seat city, including purchase, acquisition, ownership, and equipment of the county portion of the building.

(7) A county health center as defined in section 346A.1, including additions and facilities for the center and including the acquisition, reconstruction, completion, equipment, improvement, repair, and remodeling of the center, additions, or facilities. Bonds for the purpose specified in this subparagraph are exempt from taxation by the state and the interest on the bonds is exempt from state income taxes.

(8) A county public hospital, including procuring a site and the erection, equipment, and maintenance of the hospital, and additions to the hospital, subject to the levy limits in section 347.7.

(9) Public buildings, including the site or grounds of, the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, and including the provision and maintenance of juvenile detention or shelter care facilities, when the cost exceeds the limits stated in subsection 2, paragraph "b", subparagraph (5).

(10) The undertaking of any project jointly or in cooperation with any other governmental body which, if undertaken by the county alone, would be for a general county purpose, including the joint purchase, acquisition, construction, ownership, or control of any real or personal property.

(11) Any other purpose which is necessary for the operation of the county or the health and welfare of its citizens.

3. The "cost" of a project for an essential county purpose or general county purpose includes construction contracts and the cost of engineering, architectural, technical, and legal services, preliminary reports, property valuations, estimates, plans, specifications, notices, acquisition of real and personal property, consequential damages or costs, easements, rights-of-way, supervision, inspection, testing, publications, printing and sale of bonds, interest during the period or estimated period of construction and for twelve months thereafter or for twelve months after the acquisition date, and provisions for contingencies.

1, 2a. [S81, §331.441(1, 2a); 81 Acts, ch 117, §440]

2b(1). [S13, §1137-a14; C24, 27, 31, 35, 39, §906; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §52.3; S81, §331.441(2b); 81 Acts, ch 117, §440]

b(2). [SS15, §1527-s3; C24, 27, 31, 35, 39, §4666; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §309.73; S81, §331.441(2b); 81 Acts, ch 117, §440]

b(3). [C71, 73, 75, 77, 79, 81, §346.23; S81, §331.441(2b); 81 Acts, ch 117, §440]

b(4). [C79, 81, §332.52; S81, §331.441(2b); 81 Acts, ch 117, §440]

b(5). [C51, §114, 117; R60, §250, 253; C73, §309, 312; C97, §443, 448; SS15, §448; C24, 27, 31, 35, 39, §5263, 5268; C46, 50, 54, 58, 62, §345.4, 345.9; C66, 71, 73, 75, 77, §232.22, 345.4, 345.9; C79, 81, §232.142, 345.4, 345.9; S81, §331.441(2b); 81 Acts, ch 117, §440]

b(6). [C73, §289; C97, S13, §403; C24, 27, 31, 35, 39, §5275, 5276; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §346.1, 346.2; S81, §331.441(2b); 81 Acts, ch 117, §440]

b(7). [C62, 66, 71, 73, 75, 77, 79, 81, §347A.7; S81, §331.441(2b); 81 Acts, ch 117, §440]

2c(1). [C24, 27, 31, 35, 39, §488; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §37.6; S81, §331.441(2c); 81 Acts, ch 117, §440; 82 Acts, ch 1104, §45]

c(2). [C62, 66, 71, 73, 75, 77, 79, 81, §111A.6; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(3). [S13, §424-b; C24, 27, 31, 35, 39, §4682; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §309.89; S81, §331.441(2b); 81 Acts, ch 117, §440; 82 Acts, ch 1104, §44, 46]

c(4). [C71, 73, 75, 77, 79, 81, §313A.35; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(5). [C31, 35, §5903-c6, -c8; C39, §5903.06, 5903.08; C46, 50, §330.8, 330.10, 330.16; C54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §330.7, 330.10, 330.16; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(6). [C50, §368.58, 368.59; C54, 58, 62, 66, 71, 73, §368.20, 368.21; C75, 77, 79, 81, §346.26; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(7). [C71, 73, 75, 77, 79, 81, §346A.3–346A.5; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(8). [S13, §409-a, -b, -f; C24, 27, 31, 35, §5348–5351, 5354; C39, §5348, 5348.1, 5349–5351, 5354; C46, 50, 54, 58, §347.1–347.5, 347.8; C62, 66, 71, 73, 75, 77, 79, 81, §37.27, 347.1–347.5, 347.8; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(9). [C51, §114, 117; R60, §250, 253; C73, §309, 312; C97, §443, 448; SS15, §448; C24, 27, 31, 35, 39, §5263, 5268; C46, 50, 54, 58, 62, §345.4, 345.9; C66, 71, 73, 75, 77, §232.22, 345.4, 345.9; C79, 81, §232.142, 345.4, 345.9; S81, §331.441(2c); 81 Acts, ch 117, §440]

c(10, 11). [S81, §331.441(2c); 81 Acts, ch 117, §440]

3. [S81, §331.441(3); 81 Acts, ch 117, §440]

83 Acts, ch 123, §136–139, 209; 86 Acts, ch 1211, §21; 87 Acts, ch 103, §2–4; 89 Acts, ch 189, §2; 90 Acts, ch 1255, §18; 92 Acts, ch 1102, §1; 92 Acts, ch 1138, §3; 93 Acts, ch 180, §76; 94 Acts, ch 1014, §1; 94 Acts, ch 1182, §5; 95 Acts, ch 67, §53; 96 Acts, ch 1204, §35; 2000 Acts, ch 1188, §1

**331.442 General county purpose bonds.**

1. A county which proposes to carry out any general county purpose within or without its boundaries, and to contract indebtedness and issue general obligation bonds to provide funds to pay all or any part of the costs of a project, shall do so in accordance with this part.

2. Before the board may institute proceedings for the issuance of bonds for a general county purpose, it shall call a county special election to vote upon the question of issuing the bonds. At the election the proposition shall be submitted in the following form:

Shall the county of ....., state of Iowa, be authorized to ..... (state purpose of project) at a total cost not exceeding \$..... and issue its general obligation bonds in an amount not exceeding \$..... for that purpose?

3. Notice of the election shall be given by publication as specified in section 331.305. At the election the ballot used for the submission of the proposition shall be in substantially the form for submitting special questions at general elections.

4. The proposition of issuing bonds for a general county purpose is not carried or adopted unless the vote in favor of the proposition is equal to at least sixty percent of the total vote cast for and against the proposition at the election. If the proposition of issuing the general county purpose bonds is approved by the voters, the board may proceed with the issuance of the bonds.

5. *a.* Notwithstanding subsection 2, a board, in lieu of calling an election, may institute proceedings for the issuance of bonds for a general county purpose by causing a notice of the proposal to issue the bonds, including a statement of the amount and purpose of the bonds, and the right to petition for an election, to be published as provided in section 331.305 at least ten days prior to the meeting at which it is proposed to take action for the issuance of the bonds subject to the following limitations:

(1) In counties having a population of twenty thousand or less, in an amount of not more than fifty thousand dollars.

(2) In counties having a population of over twenty thousand and not over fifty thousand, in an amount of not more than one hundred thousand dollars.

(3) In counties having a population of over fifty thousand, in an amount of not more than one hundred fifty thousand dollars.

*b.* If at any time before the date fixed for taking action for the issuance of the bonds, a petition is filed with the auditor in the manner provided by section 331.306 asking that the question of issuing the bonds be submitted to the registered voters of the county, the board 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. Notice of the election and its conduct shall be in the manner provided in subsections 2, 3 and 4.

*c.* If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the board may proceed with the authorization and issuance of the bonds.

[C31, 35, §5903-c5; C39, §5903.05; C46, 50, §330.7; C54, 58, §330.7; C62, 66, §111A.6, 330.7; C71, 73, 75, 77, 79, 81, §111A.6, 313A.35, 330.7, 346A.3; S81, §331.442; 81 Acts, ch 117, §441; 82 Acts, ch 1104, §47]

95 Acts, ch 67, §53

### **331.445 Categories for general obligation bonds.**

The board may issue general obligation bonds pursuant to a resolution adopted at a regular or special meeting by a majority of the total number of supervisors. Each subparagraph of section 331.441, subsection 2, paragraphs "b" and "c", describes a separate category. Separate categories of essential county purposes and of general county purposes may be incorporated in a single notice of intention to institute proceedings for the issuance of bonds, or separate categories may be incorporated in separate notices, and after an opportunity has been provided for filing objections, or after a favorable election has been held, if required, the board may include in a single resolution and sell as a single issue of bonds, any number or combination of essential county purposes or general county purposes. If an essential county purpose is combined with a general county purpose in a single notice of intention to institute proceedings to issue bonds, then the entire issue is subject to the election requirement in section 331.442.

[S81, §331.445; 81 Acts, ch 117, §444]

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. 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

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 18. Not reprinted.

19. Make available to schools, voting machines or sample ballots for instructional purposes as provided in section 256.11, subsection 5.

20. to 45. 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

**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 33. 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

**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

A person shall not use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in the appointment to a position subject to civil service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person or for any consideration.

An employee shall not use the employee's official authority or influence for the purpose of interfering with an election or affecting the results thereof.

Any officer or employee subject to civil service who violates any of the provisions of this section shall be subject to suspension, dismissal, or demotion subject to the right of appeal herein.

All employees shall retain the right to vote as they please and to express their opinions on all subjects.

An officer or employee subject to civil service and a chief deputy sheriff or second deputy sheriff, who becomes a candidate for a partisan elective office for remuneration, upon request, shall automatically be given a leave of absence without pay, commencing thirty days before the date of the primary election and continuing until the person is eliminated as a candidate or wins the primary, and commencing thirty days before the date of the general election and continuing until the person is eliminated as a candidate or wins the general election, and during the leave period shall not perform any duties connected with the office or position so held. The officer or employee subject to civil service, or chief deputy sheriff or second deputy sheriff, may, however, use accumulated paid vacation time for part or all of any leave of absence under this section. The county shall continue to provide health benefit coverages, and may continue to provide other fringe benefits, to any officer or employee subject to civil service, or to any chief deputy sheriff or second deputy sheriff during any leave of absence under this section.

[C75, 77, 79, 81, §341A.18]

90 Acts, ch 1119, §2; 2000 Acts, ch 1033, §1, 2

## COUNTY BONDS

**346.27 “Authority” for control of joint property.**

1. to 9. Not reprinted.

10. After the incorporation of an authority, and before the sale of any issue of revenue bonds, except refunding bonds, the authority shall submit in a single countywide election to the registered voters of the city and county, at a general, primary, or special election called for that purpose, the question of whether an authority shall issue and sell revenue bonds, stating the amount, for any of the purposes for which it is incorporated. An affirmative vote of a majority of the votes cast on the proposition is required to authorize the issuance and sale of revenue bonds. A notice of the election shall be published once each week for at least two weeks in some newspaper published in the county. The notice shall name the time when the question shall be submitted, and a copy of the question to be submitted shall be posted at each polling place during the day of election. The authority shall call this election with the concurrence of both incorporating units, and it shall establish the voting precincts and polling places, and appoint the election judges, and in so doing such election procedures shall be in accordance with the provisions of chapters 49 and 50.

11. to 24. Not reprinted.

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 therefor contained in the articles of incorporation, or, if none, in accordance with any agreement adopted by the respective governing bodies of the incorporating units, and the authority. The proposition of whether a conveyance shall be made shall be submitted to the legal voters of the city and county, utilizing the election procedures provided for bond issues, and an affirmative vote equal to at least a majority of the total votes cast on the proposition shall be required to authorize the conveyance. If the proposition does not carry, the authority shall continue to operate, maintain, and manage the building under a lease arrangement with the incorporating units.

[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

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

Section transferred from §347B.1 in Code 2001 pursuant to 2000 Acts, ch 1148, §1

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]

## 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

Section transferred from §357.1A in Code 2001 pursuant to 2000 Acts, ch 1148, §1

### **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

### **357.13 Trustees — qualification and terms.**

1. At the initial election provided for in section 357.12, the names of the trustees shall be written by the voter on blank ballots without formal nomination and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district, one to serve for one year, one for two years, and one for three years. The trustees and their successors shall give bond in the amount the board of supervisors may require, the premium of which shall be paid by the district which the trustees represent. Vacancies during a term may be filled by election, or by appointment by the board of supervisors, at the option of the remaining trustees. The trustees must be residents of the district. The term of succeeding trustees shall be for three years.

2. After the initial board of trustees is selected, a candidate for trustee shall be nominated by a personal affidavit of the candidate or by petition of at least ten eligible electors of the district and the candidate's affidavit, which shall be filed with the county commissioner of elections at least twenty-five days before the date of the election. The form of the candidate's affidavit shall be substantially the same as provided in section 45.3.

[C24, 27, 31, 35, §5524; C39, §5526.13; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §357.13]  
91 Acts, ch 111, §1; 92 Acts, ch 1204, §14

### **357.15 Inadequate assessment.**

When bids have been received, if it is apparent that the final assessment will need to be increased more than ten percent over the preliminary assessment, the board of supervisors shall, at its option, reject bids and readvertise for bids as provided herein, or reject bids and revise the dummy assessment. If the dummy assessment is revised, another election shall be held within the district in the same manner and with the same notices as the first, except that the candidates for trustees shall not be voted for.

[C39, §5526.15; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §357.15]

### **357.16 Second election.**

If the majority of the votes cast at said second election be in favor of said improvement, the board of supervisors shall again advertise for bids in the same manner as before. If the bids at the second letting will not necessitate raising the second preliminary assessment more than ten percent, the board may let the contract to the lowest responsible bidder.

[C24, 27, 31, 35, §5524; C39, §5526.16; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §357.16]

**357.29 Subdistricts.**

If the cost of the desired extensions will be as much as five thousand dollars, the interested parties may petition the board of supervisors to organize a subdistrict, and in such case the board shall proceed in the same manner as for a new district, and may take in territory not originally assessed.

The board of supervisors shall have power at any time to alter the boundaries of any district prior to the time of posting or publishing notice of the election within the district.

[C24, 27, 31, 35, §5522; C39, §5526.29; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §357.29]

**RURAL WATER DISTRICTS**

**357A.23 City sewer and water franchise authorized.**

Notwithstanding section 364.2, subsection 4, paragraph "a", for the purposes of obtaining or qualifying for federal funding, a city may grant a franchise to a rural water district incorporated under this chapter or chapter 504A, for a term of not more than forty years. In addition to the franchises listed in section 364.2, subsection 4, paragraph "a", a city may grant a franchise to a rural water district incorporated under this chapter or chapter 504A, to erect, maintain, and operate plants and systems for sewer services. All provisions of section 364.2 shall otherwise apply to a franchise granted to a rural water district.

94 Acts, ch 1137, §1

## STREET LIGHTING DISTRICTS

**357C.7 Election on proposed levy and candidates for trustees.**

When a preliminary plat has been approved by the board of supervisors, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than fifty-four cents per thousand dollars of assessed value on all the taxable property within the district, and to choose candidates for the offices of trustees of the district. Notice of the election, including the time and place of holding the same, shall be given in the same manner as for the original public hearing as provided herein. 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 shall be entitled to vote. It shall not be mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but they shall be conducted in accordance with the provisions of chapter 49 where not in conflict with this chapter. Judges shall be appointed to serve without pay by the board of supervisors from among the registered voters of the district who will have charge of the election. The proposition shall be deemed to have carried if sixty percent of those voting thereon vote in favor of same.

[C71, 73, 75, 77, 79, 81, §357C.7]

94 Acts, ch 1169, §64

**357C.8 Trustees — term and qualification.**

At the election, the names of candidates for trustee shall be written in by the voters on blank ballots without formal nomination, and the board of supervisors shall appoint three from among the five receiving the highest number of votes as trustees for the district; one to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount which the board of supervisors may require, the premium of which shall be paid by the district the trustees represent. Vacancies may thereafter be filled by election, or by appointment by the board of supervisors. The term of succeeding trustees shall be for three years.

[C71, 73, 75, 77, 79, 81, §357C.8]

91 Acts, ch 111, §3

**357C.9 Trustees' powers.**

The trustees may purchase street lighting service and facilities and may levy an annual tax not to exceed fifty-four cents per thousand dollars of assessed value for the purpose of exercising the powers granted in this chapter. This levy shall be optional with the trustees, but no levy shall be made unless first approved by the voters as provided herein. The trustees may purchase material, employ labor, and may perform all other acts necessary to properly maintain and operate the benefited street lighting district. The trustees shall be allowed necessary expenses in the discharge of the duties, but shall not receive any salary.

[C71, 73, 75, 77, 79, 81, §357C.9]

**357C.10 Bonds in anticipation of revenue.**

Benefited street lighting districts may anticipate the collection of taxes by the levy herein provided, and to carry out the purposes of this chapter may issue bonds payable in not more than ten equal installments, with the rate of interest thereon not exceeding that permitted by chapter 74A. No indebtedness shall be incurred under this chapter until authorized by an election. Such election shall be held and notice given in the same manner as the election provided herein for the authorization of a tax levy, and the same sixty percent vote shall be necessary to authorize indebtedness. Both propositions may be submitted to the voters in the same election.

[C71, 73, 75, 77, 79, 81, §357C.10]

## LAW ENFORCEMENT DISTRICTS

**357D.8 Election on proposed levy and candidates for trustees.**

When a preliminary plat has been approved by the board, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than one dollar per thousand dollars of assessed value on all the taxable property within the district and to choose candidates for the offices of trustees of the district. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357D.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. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 where not in conflict with this chapter. Judges shall be appointed to serve without pay by the board from among the registered voters of the district to be in charge of the election. The proposition is approved if sixty percent of those voting on the proposition vote in favor of it.

[82 Acts, ch 1174, §8]

84 Acts, ch 1216, §1; 94 Acts, ch 1169, §64

**357D.9 Trustees — term and qualification.**

At the election, the names of up to three candidates for trustee shall be written in by the voters on blank ballots without formal nomination and the board shall appoint three from among the five receiving the highest number of votes as trustees for the district. One trustee shall be appointed to serve for one year, one for two years, and one for three years. The trustees and their successors must be residents of the district and shall give bond in the amount required by the board, the premium of which shall be paid by the district. Vacancies shall be filled by election, but if there are no candidates for a trustee office, the vacancy may be filled by appointment by the board. The term of succeeding trustees shall be three years.

[82 Acts, ch 1174, §9]

91 Acts, ch 111, §5

**357D.11 Bonds in anticipation of revenue.**

A district may anticipate the collection of taxes by the levy authorized in this chapter, and to carry out the purposes of this chapter may issue bonds payable in not more than ten equal installments with the rate of interest not exceeding that permitted by chapter 74A. An indebtedness shall not be incurred under this chapter until authorized by an election. The election shall be held and notice given in the same manner as provided in section 357D.8, and the same sixty percent vote shall be necessary to authorize indebtedness. Both propositions may be submitted to the voters at the same election.

[82 Acts, ch 1174, §11]

**RECREATIONAL LAKE AND WATER QUALITY DISTRICTS****357E.8 Election on proposed levy and candidates for trustees.**

When a preliminary plat has been approved by the board, an election shall be held within the district within sixty days to approve or disapprove the levy of a tax of not more than four dollars per thousand dollars of assessed value on all the taxable property within the benefited recreational lake district except property assessed as agricultural land, and to choose candidates for the offices of trustees of the district. However, for a water quality district, the tax levy shall not exceed twenty-five cents per thousand dollars of assessed value on all taxable property within the district and must be renewed by a similar election every eight years. The tax levy for a combined district shall not exceed four dollars per thousand dollars of assessed value on all of the taxable property within the district. A tax levy approved for the purposes of this chapter shall not be levied on property assessed as agricultural land. Notice of the election, including the time and place of holding the election, shall be given as provided in section 357E.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. It is not mandatory for the county commissioner of elections to conduct elections held pursuant to this chapter, but the elections shall be conducted in accordance with chapter 49 when not in conflict with this chapter. Judges shall be appointed by the board from among the registered voters of the district to be in charge of the election. The judges are not entitled to receive pay. The proposition is approved if a majority of those voting on the proposition vote in favor of it.

88 Acts, ch 1194, §8; 94 Acts, ch 1169, §64; 2000 Acts, ch 1181, §5

## SANITARY DISTRICTS

**358.1A Incorporation.**

If an area of territory is so situated that the construction, maintenance, and operation of a trunk sewer system and of a plant or plants for the treatment of sewage and the maintenance of one or more outlets for the drainage of it, after having been so treated, will be conducive to the public health, comfort, convenience, or welfare, the area may be incorporated as a sanitary district in the manner set forth in this chapter. Areas of contiguous or noncontiguous territory may be incorporated in a sanitary district.

[C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §358.1]

92 Acts, ch 1204, §15

C2001, §358.1A

Section transferred from §358.1 in Code 2001 pursuant to 2000 Acts, ch 1148, §1

**358.1B Combined water and sanitary district.**

1. The board of supervisors of a county or major part of a county in which a proposed combined water and sanitary district will be located may proceed with the establishment, operation, or dissolution of a combined water and sanitary district as provided in section 357.1B.

2. For the purpose of establishing, operating, or dissolving a combined water and sanitary district under chapter 357 and this chapter, the term “*sanitary district*” includes combined water and sanitary district where applicable.

92 Acts, ch 1204, §16

C99, §358.1A

C2001, §358.1B

Section transferred from §358.1A in Code 2001 pursuant to 2000 Acts, ch 1148, §1

**358.2 Petition — deposit.**

Any twenty-five or more eligible electors resident within the limits of any proposed sanitary district may file a petition in the office of the county auditor of the county in which the proposed sanitary district, or the major portion thereof, is located, requesting that there be submitted to the registered voters of such proposed district the question whether the territory within the boundaries of such proposed district shall be organized as a sanitary district under this chapter. Such petition shall be addressed to the board of supervisors of the county wherein it is filed and shall set forth:

1. An intelligible description of the boundaries of the territory to be embraced in such district.
2. The name of such proposed sanitary district.
3. That the public health, comfort, convenience or welfare will be promoted by the establishment of such sanitary district.
4. The signatures of the petitioners.

No territory shall be included within more than one sanitary district organized under this chapter, and if any proposed sanitary district shall fail to receive a majority of votes cast at any election thereon as hereinafter provided, no petition shall be filed for establishment of such a sanitary district within one year from the date of such previous election.

There shall be filed with the petition a bond with sureties approved by the auditor, or a certified check, credit union certified share draft or cash in an amount sufficient for the payment of all costs and expenses incurred in the proceedings if the district is not finally established.

REAL ESTATE IMPROVEMENT DISTRICTS

**358C.1 Legislative findings — purpose — definitions.**

1. The general assembly finds and declares as follows:

a. The economic health and development of Iowa communities is tied to opportunities for jobs in and near those communities and the availability of jobs is in part tied to the availability of affordable, decent housing in those communities.

b. A need exists for a program to assist developers and communities in increasing the availability of housing in Iowa communities.

c. A shortage of opportunities and means for developing local housing exists. It is in the best interest of the state and its citizens for infrastructure development which will lower the costs of developing housing.

d. The expansion of local housing is dependent upon the cost of providing the basic infrastructure necessary for a housing development. Providing this infrastructure is a public purpose for which the state may encourage the formation of real estate improvement districts for the purpose of providing water, sewer, roads, and other infrastructure.

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

a. *“Board”* means the board of trustees of a real estate improvement district.

b. *“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.

c. *“Construction”* includes materials, labor, acts, operations, and services necessary to complete a public improvement.

d. *“Cost”* of a public improvement includes the cost of engineering, preliminary reports, property valuations, estimates, plans, specifications, notices, legal services, acquisition of land, consequential damages, easements, rights-of-way, construction, repair, supervision, inspection, testing, notices and publication, interest during construction and for not more than twelve months thereafter, and printing and sale of bonds.

e. *“District”* means a real estate improvement district as created in this chapter.

f. *“Public improvement”* includes the principal structures, works, component parts, and accessories of the facilities or systems specified in section 358C.4.

g. *“Repair”* includes materials, labor, acts, operations, and services necessary for the reconstruction, reconstruction by widening, or resurfacing of a public improvement.

95 Acts, ch 200, §1; 96 Acts, ch 1204, §1; 2000 Acts, ch 1087, §1; 2000 Acts, ch 1148, §1

**358C.3 Real estate improvement district created.**

1. A majority of the owners having an interest in the real property within the limits of a proposed district may file a petition in the office of county auditor of the county in which the proposed district or major part of the proposed district is located, requesting that the question be submitted to the registered voters of the proposed district of whether the territory within the boundaries of the proposed district shall be organized as a real estate improvement district as provided in this chapter.

2. All of the owners having an interest in the real property within the limits of a proposed district may file a petition in the office of county auditor of the county in which the proposed district or a major part of the proposed district is located, requesting that the proposed district be organized as a real estate improvement district as provided in this chapter.

3. Only areas of contiguous territory may be incorporated within a district. The petition shall be addressed to the board of supervisors if all or part of the proposed district includes territory located outside the boundaries of a city, shall be submitted to the board of supervisors before it is filed with the county auditor, and shall set forth the following information:

- a. The name of the district.
  - b. The district shall have perpetual existence.
  - c. The boundaries of the district.
  - d. The names and addresses of the owners of land in the proposed district.
  - e. The description of the tracts of land situated in the proposed district owned by those persons who may organize the district.
  - f. The names and descriptions of the real estate owned by the persons who do not join in the organization of the district, but who will be benefited by the district.
  - g. A listing of one or more of the district improvements specified in section 358C.4 which will be carried out by the district.
  - h. The owners of real estate in the proposed district that are unknown may also be set out in the petition as being unknown.
  - i. That the establishment of the proposed district will be conducive to the public health, comfort, convenience, and welfare.
4. The petition shall also state that the owners of real estate who are forming the proposed district are willing to pay the taxes which may be levied against all of the property in the proposed district and special assessments against the real property benefited which may be assessed against them to pay the costs necessary to carry out the purposes of the district.
5. The petition shall also state that the owners of real estate who are forming the proposed district waive any objections to a subsequent annexation by a city.

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.

[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

### **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.

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 utility”* means a public utility subject to regulation pursuant to chapter 476.

12. *“Registered voter”* means a person who is registered to vote pursuant to chapter 48A.

13. *“Severance”* means the deletion of territory from a city.

14. *“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.

15. *“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

#### 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.**

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 qualified electors 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.

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.

The petition must include substantially the following information as applicable:

1. A general statement of the proposal.
2. A map of the territory, city or cities involved.
3. Assessed valuation of platted and unplatted land.
4. Names of property owners.
5. Population density.
6. Description of topography.
7. Plans for disposal of assets and assumption of liabilities.
8. Description of existing municipal services, including but not limited to water supply, sewage disposal, and fire and police protection.
9. Plans for agreements with any existing special service districts.
10. In a case of annexation or incorporation, the petition must state that none of the territory is within a city.
11. In a case of incorporation or consolidation, the petition must state the name of the proposed city.
12. 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.
13. 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 not allow a greater exemption from taxation than the tax exemption formula schedule provided under section 427B.3, subsections 1 through 5, and 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.

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## JOINT WATER UTILITIES

**389.2 Submission to voters.**

A joint water utility may be established by two or more cities. A proposal to establish a joint water utility or to join an existing joint water utility may be submitted to the voters of a city by the city council upon its own motion, or upon receipt of a valid petition pursuant to section 362.4. If the proposal is to establish a joint water utility, the proposal shall be submitted to the voters of each city proposing to establish the joint water utility. If a majority of the electorate in each of at least two cities approves the proposal, the cities approving the proposal may establish a joint water utility.

If the proposal is to join an existing joint water utility, the proposal must first be submitted to the joint water utility board for its approval. If the proposal is approved by the board, the proposal shall be submitted to the electorate of the city wishing to join. The proposal must receive a majority affirmative vote for passage.

91 Acts, ch 168, §3

## ADMINISTRATIVE AGENCIES

**392.1 Establishment by ordinance.**

If the council wishes to establish an administrative agency, it shall do so by an ordinance which indicates the title, powers, and duties of the agency, the method of appointment or election, qualifications, compensation, and term of members, and other appropriate matters relating to the agency. The title of an administrative agency must be appropriate to its function. The council may not delegate to an administrative agency any of the powers, authorities, and duties prescribed in division V of chapter 384 or in chapter 388, except that the council may delegate to an administrative agency established for the purpose of operating an airport any of its powers and duties prescribed in division V of chapter 384, and the council may delegate to an administrative agency power to establish and collect charges, and disburse the moneys received for the use of a city facility, including a city enterprise, as defined in section 384.24, if the delegation to an administrative agency is strictly subject to the limitations imposed by the revenue bonds or pledge orders outstanding which are payable from the revenues of the city enterprise. Except as otherwise provided in this chapter, the council may delegate rulemaking authority to the agency for matters within the scope of the agency's powers and duties, and may prescribe penalties for violation of agency rules which have been adopted by ordinance. Rules governing the use by the public of any city facility must be made readily available to the public.

[C75, 77, 79, 81, §392.1]

95 Acts, ch 21, §1

**392.5 Library board.**

A city library board of trustees functioning on the effective date of the city code shall continue to function in the same manner until altered or discontinued as provided in this section.

In order for the board to function in the same manner, the council shall retain all applicable ordinances, and shall adopt as ordinances all applicable state statutes repealed by 64GA, chapter 1088.

A library board may accept and control the expenditure of all gifts, devises, and bequests to the library.

A proposal to alter the composition, manner of selection, or charge of a library board, or to replace it with an alternate form of administrative agency, is subject to the approval of the voters of the city.

The proposal may be submitted to the voters at any city election by the council on its own motion. 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. A proposal submitted to the voters must describe with reasonable detail the action proposed.

If a majority of those voting approves the proposal, the city may proceed as proposed.

If a majority of those voting does not approve the proposal, the same or a similar proposal may not be submitted to the voters of the city for at least four years from the date of the election at which the proposal was defeated.

[C97, §728, 729; S13, §729; SS15, §728; C24, 27, 31, 35, 39, §5851, 5858; C46, 50, 54, 58, 62, 66, 71, 73, §378.3, 378.10; C75, 77, 79, 81, §392.5]

**392.6 Hospital trustees.**

If a hospital or health care facility is established by a city, the city shall by ordinance provide for the election, at a general, city, or special election, of three trustees, whose terms of office shall be four years. However, at the first election, three shall be elected and hold their office, one for four years and two for two years, and they shall by lot determine their respective terms. A board of trustees elected pursuant to this section shall serve as the sole and only board of trustees for any and all institutions established by a city as provided for in this section.

Cities maintaining an institution as provided for in this section which have a board of trustees consisting of three or five members may by ordinance increase the number of members to five or seven. The ordinance shall provide for the immediate appointment of the additional members necessary to establish a five-member or seven-member board and shall provide that, of the additional members added to the board by appointment, one-half of the additional members added shall serve until the next succeeding general or city election, and the remaining additional members shall serve until the second succeeding general or city election. The ordinance shall also provide that the determination of which election an appointed additional member shall be required to seek election be determined by lot. Thereafter, the terms of office of such additional members shall be four years. However, if a city has adopted an ordinance which increases the number of members of the board of trustees to five or seven members and the terms of office of four of the five members or six of the seven members end in the same year, the date of expiration of the term of one of the four members or two of the six members, to be determined by lot, shall be extended by an additional two years.

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Terms of office of trustees elected pursuant to general or city elections shall begin at noon on the first day in January which is not a Sunday or legal holiday. Terms of office of trustees elected pursuant to special elections shall begin at noon on the tenth day after the special election which is not a Sunday or legal holiday. The trustees shall begin their terms of office by taking the oath of office, and organize as a board by the election of one of their number as chairperson and one as secretary, but no bond shall be required of them. Terms of office of trustees shall extend to noon on the first day in January which is not a Sunday or legal holiday or until their successors are elected and qualified. Trustees who are elected at special elections shall serve the unexpired terms of office or until their successors are elected and qualified.

The treasurer of the board of trustees shall receive and disburse all funds under the control of the board as ordered by it. The treasurer shall give bond in a form and amount as determined by the board in its discretion.

No trustee shall receive any compensation for services performed, but a trustee may receive reimbursement for any cash expenses actually made for personal expenses incurred as trustee, but an itemized statement of all expenses and moneys paid out shall be made under oath by each of the trustees and filed with the secretary and allowed only by the affirmative vote of the full board.

The board of trustees shall be vested with authority to provide for the management, control, and government of the city hospital or health care facility established as permitted by this section, and shall provide all needed rules for the economic conduct thereof and shall annually prepare a condensed statement of the total receipts and expenditures for the hospital or health care facility and cause the same to be published in a newspaper of general circulation in the city in which the hospital or health care facility is located. In the management of the hospital or health care facility no discrimination shall be made against practitioners of any school of medicine recognized by the laws of the state.

As a part of the board's authority it may accept property by gift, devise, bequest or otherwise; and, if the board deems it advisable, may, at public sale, sell or exchange any property so accepted upon a concurring vote of a majority of all members of the board of trustees, and apply the proceeds thereof, or property received in exchange therefor, to any legitimate hospital or health care facility purpose.

The trustees may in their discretion establish a fund for depreciation as a separate fund. Said funds may be invested in United States government bonds and when so invested the accumulation of interest on the bonds so purchased shall be used for the purposes of the depreciation fund; an investment when so made shall remain in United States government bonds until such time as in the judgment of the board of trustees it is deemed advisable to use the funds for hospital or health care facility purposes.

Boards of trustees of institutions provided for in this section are granted all of the powers and duties necessary for the management, control and government of the institutions, specifically including but not limited to any applicable powers and duties granted boards of trustees under other provisions of the Code relating to hospitals, nursing homes, and custodial homes irrespective of the chapter of the Code under which such institutions are established, organized, operated or maintained.

[S13, §741-o, -p; C24, §5867-5871; C27, 31, 35, §5867, 5867-a1, 5868-5871; C39, §5867, 5867.1, 5868-5871; C46, 50, 54, 58, 62, 66, §380.1-380.6; C71, 73, §380.1-380.6, 380.16; C75, 77, 79, 81, §392.6]

94 Acts, ch 1034, §1; 96 Acts, ch 1080, §1, 2; 99 Acts, ch 36, §11; 2000 Acts, ch 1015, §1

## CHAPTER 394

### ZOOLOGICAL GARDENS

See also §384.24(2c)

- 394.1 Authority to issue bonds — taxes.
- 394.2 Question submitted to voters.
- 394.3 Tax for operating zoo.
- 394.4 Contracts with other cities — election.

#### **394.1 Authority to issue bonds — taxes.**

Cities are hereby authorized to contract indebtedness and to issue general obligation bonds to provide funds to pay the cost of opening, establishing, constructing, improving, extending or remodeling of a zoo or zoological garden and to construct, reconstruct or repair any such improvement and to pay the cost of land needed for any of said purposes.

Taxes for the payment of said bonds shall be levied in accordance with chapter 76, and said bonds shall be payable through the debt service fund in not more than twenty years, and bear interest at a rate not exceeding that permitted by chapter 74A, and shall be of such form as the city council shall by resolution provide, but no city shall become indebted in excess of five percent of the actual value of the taxable property within said city, as shown by the last preceding state and county tax lists. The indebtedness incurred for the purpose provided in this section shall not be considered an indebtedness incurred for general or ordinary purposes.

This section shall be construed as granting additional power without limiting the power already existing in cities.

The provisions of this section shall be applicable to all municipal corporations regardless of form of government or manner of incorporation.

[C75, 77, 79, 81, §394.1]

A local hotel and motel tax shall be imposed on January 1, April 1, July 1, or October 1, following the notification of the director of revenue and finance. Once imposed, the tax shall remain in effect at the rate imposed for a minimum of one year. A local hotel and motel tax shall terminate only on March 31, June 30, September 30, or December 31. At least forty-five days prior to the tax being effective or prior to a revision in the tax rate, or prior to the repeal of the tax, a city or county shall provide notice by mail of such action to the director of revenue and finance.

A city or county shall impose a hotel and motel tax or increase the tax rate, only after an election at which a majority of those voting on the question favors imposition or increase. However, a hotel and motel tax shall not be repealed or reduced in rate if obligations are outstanding which are payable as provided in section 422A.2, 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. The election shall be held at the time of that city's or county's general election or at the time of a special election.

The director of revenue and finance shall administer a local hotel and motel tax as nearly as possible in conjunction with the administration of the state sales tax law. The director shall provide appropriate forms, or provide on the regular state tax forms, for reporting local hotel and motel tax liability. All moneys received or refunded one hundred eighty days after the date on which a city or county terminates its local hotel and motel tax shall be deposited in or withdrawn from the state general fund.

The director, in consultation with local officials, shall collect and account for a local hotel and motel tax and shall credit all revenues to a "*local transient guest tax fund*" established by section 422A.2.

No tax permit other than the state tax permit required under section 422.53 may be required by local authorities.

The tax levied shall be in addition to any state sales tax imposed under section 422.43. Section 422.25, subsection 4, sections 422.30, 422.48 to 422.52, 422.54 to 422.58, 422.67, 422.68, 422.69, subsection 1, and sections 422.70 to 422.75, consistent with the provisions of this chapter, apply with respect to the taxes authorized under this chapter, in the same manner and with the same effect as if the hotel and motel taxes were retail sales taxes within the meaning of those statutes. Notwithstanding this paragraph, the director shall provide for quarterly filing of returns as prescribed in section 422.51 and for other than quarterly filing of returns as prescribed in section 422.51, subsection 2. The director may require all persons, as defined in section 422.42, who are engaged in the business of deriving gross receipts subject to tax under this chapter, to register with the department.

[C79, 81, §422A.1]

86 Acts, ch 1199, §1; 86 Acts, ch 1241, §30; 86 Acts, ch 1244, §49; 87 Acts, ch 136, §2; 88 Acts, ch 1153, §5; 89 Acts, ch 251, §30; 89 Acts, ch 294, §1

**422A.2 Local transient guest tax fund.**

1. to 3. Not reprinted.

4. The revenue derived from any hotel and motel tax authorized by this chapter shall be used as follows:

*a. to e.* Not reprinted.

*f.* A city or county acting on behalf of an unincorporated area may, in lieu of calling an election, institute proceedings for the issuance of bonds under this section 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 city 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 three percent of the registered voters of the city or unincorporated area, asking that the question of issuing the bonds be submitted to the registered voters of the city or unincorporated area, the council or board of supervisors acting on behalf of an unincorporated area 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 section is not approved unless the vote in favor of the proposition is equal to a majority of the vote cast.

If no petition is filed, or if a petition is filed and the proposition of issuing the bonds is approved at an election, the council or board of supervisors acting on behalf of an unincorporated area 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 this paragraph.

[C79, 81, §422A.2; 82 Acts, ch 1178, §1]

83 Acts, ch 123, §175, 209; 84 Acts, ch 1067, §38; 90 Acts, ch 1024, §1; 94 Acts, ch 1107, §12; 95 Acts, ch 67, §53

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".

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. 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 422B.9, 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 by sending a copy of the abstract of the votes from the favorable election to the director of revenue and finance or, in the case of a local vehicle tax, to the director of the department of transportation, of the result of the election.

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 422B.9, 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 422B.12, 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; 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, §5-9, 10, 11, 23; 2000 Acts, ch 1058, §36

#### **422B.12 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 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 and finance. 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; 96 Acts, ch 1079, §22, 23

#### 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.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

## SCHOOL INFRASTRUCTURE FUNDING

**422E.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 and not exempted from tax by any provision of chapter 423. 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 422B, and is repealed at the expiration of a period of ten years of imposition or a shorter period as provided in the ballot proposition.

3. Local sales and services tax moneys received by a county for school infrastructure purposes pursuant to this chapter shall be utilized solely for school infrastructure needs. 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, purchasing, or remodeling of schoolhouses, stadiums, fieldhouses, and bus garages and the procurement of schoolhouse construction sites and the making of site improvements. 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 422E.4.

98 Acts, ch 1130, §1, 6; 99 Acts, ch 151, §36, 89

**422E.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 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 as set by the county board of supervisors. 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.* The tax may be repealed or the rate increased, but not above one percent, or decreased after an election at which a majority of those voting on the question of repeal or rate change favored the repeal or rate change. The election at which the question of repeal or rate change 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. 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, or change in the rate of the tax, the county auditor shall give written notice by sending a copy of the abstract of the votes from the favorable election to the director of revenue and finance of the result of the election. 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 and the total number of registered voters in all of the school districts within the county.

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 422E.4, 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.

98 Acts, ch 1130, §2, 6; 99 Acts, ch 156, §15, 16, 23; 2000 Acts, ch 1058, §37

#### **422E.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 422E.2, at the rate specified for a ten-year duration on the gross receipts taxed by the state under chapter 422, division IV.

**422E.4 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 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 422E.1, subsection 3. Issuance of bonds pursuant to this section shall be permitted only in a district which has imposed a local sales and services tax for school infrastructure purposes pursuant to section 422E.2. The provisions of sections 298.22 through 298.24 shall apply regarding the form, rate of interest, registration, redemption, and recording of bond issues pursuant to this section, with the exception that the maximum period during which principal on the bonds is payable shall not exceed a ten-year period, or the date of repeal stated on the ballot proposition.

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 which is located partially or entirely in or is contiguous to the county where the tax is imposed. The school district shall only expend its designated portion of the local option sales and services tax for infrastructure 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; 99 Acts, ch 156, §20, 23

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

Application for ballot to be voted at the
(Name of District) District Election
on (Date)

State of )
County ) ss.

I, (Applicant), do solemnly swear that I am a landowner in the (Name of District) District and that I am a duly qualified voter entitled to vote in said election, and that on account of (business, illness, residence outside of the county, etc.) I cannot be at the polls on election day, and I hereby make application for an official ballot or ballots to be voted by me at such election, and that I will return said ballot or ballots to the officer issuing same before the day of said election.

Signed
Date
Residence (street number if any)
City State

Subscribed and sworn to before me this day of (month) (year)

3. For the purpose of this subchapter, the affidavit on the reverse side of the envelopes used for enclosing the marked ballots shall be substantially as follows:

State of )
County ) ss.

I, (Applicant), do solemnly swear that I am a landowner in the (Name of District) District and that I am a duly qualified voter to vote in the election of trustees of said district and that I shall be prevented from attending the polls on the day of election because of (business, illness, residence outside of the county, etc.) and that I have marked the enclosed ballot in secret.

Signed

Subscribed and sworn to before me this day of (month) (year), and that I hereby certify that the affiant exhibited the enclosed ballot to me unmarked; that the affiant then in my presence and in the presence of no other person and in such manner that I could not see the affiant's vote, marked such ballot, enclosed and sealed the same in this envelope; and that the affiant was not solicited or advertised by me for or against any candidate or measure.

(Official Title)

4. For the purposes of this subchapter, upon receipt of the ballot, the auditor shall at once enclose the same, unopened, together with the application made by the voter in a large carrier envelope, securely seal the same, and endorse thereon over the auditor's official signature, the following:

a. Name of the district in which the voter is a landowner.

b. Date of the election for which the ballot is cast.

c. Location of the polling place at which the ballot would be legally and properly cast if voted in person.

d. Names of the judges of the election of that polling place, and the statement that this envelope contains an absent voters ballot and must be opened only at the polls on election day while said polls are opened.

[SS15, §1989-a73; C24, 27, 31, 35, 39, §7685; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.12]

89 Acts, ch 126, §2

CS89, §468.511

2000 Acts, ch 1058, §63

**468.512 Vote by agent.**

Except where the provisions of section 468.511, providing for vote in proportion to assessment are invoked, any person or corporation owning land or right of way within the district and assessed for benefits may have the person's or the corporation's vote cast by the person's or the corporation's agent or proxy authorized to cast such vote by a power of attorney signed and acknowledged by such person or corporation, and filed before such vote is cast in the auditor's office of the county in which such election is held. Every such power of attorney shall specify the particular election for which it is to be used, indicating the day, month, and year of such election, and shall be void for all elections subsequently held. The vote of the owner of any land in a drainage or levee district in any election, where the vote is not determined by assessment, may be cast by absent voters ballot in the same manner and form and subject to the same rights and restrictions as is provided in section 468.511 relating to vote by absentee ballot when votes are determined by assessment.

[SS15, §1989-a73; C24, 27, 31, 35, 39, §7686; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §462.13]

89 Acts, ch 126, §2

CS89, §468.512

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

**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

**602.7103C 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

## 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 revenue and finance 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 12. Not reprinted.

13. Carry out duties as a member of a nominations appeal commission as provided in section 44.7.

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 mentally incompetent to vote.

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

#### 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

[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

### **722.4 Bribery of elector or election officials.**

1. A person who offers, promises, or gives anything of value or any benefit to any elector for the purpose of influencing the elector's vote, in any election authorized by law, or any elector who receives anything of value or any benefit knowing that it was given for such purpose, commits an aggravated misdemeanor.

2. A person who offers, promises, or gives anything of value or any benefit to any precinct election official authorized by law, or to any executive officer attending the same, conditioned on some act done or omitted to be done contrary to the person's official duty in relation to such election, commits an aggravated misdemeanor.

[C51, §2691; R60, §4333; C73, §3993; C97, §4914-4916; C24, 27, 31, 35, 39, §13263-13265; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.1-738.3; C79, 81, §722.4]

2000 Acts, ch 1201, §12

### **722.5 Improper voting.**

Any person who does any of the following commits a serious misdemeanor:

1. Votes more than once in any election which may be held by virtue of any law of this state.

2. Votes at any election authorized by law, knowing oneself not to be qualified.

[C51, §2692, 2693; R60, §4334, 4335; C73, §3994, 3995; C97, §4918, 4919; S13, §4919-a; C24, 27, 31, 35, 39, §13269, 13270, 13286, 13287; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.7, 738.8, 738.24, 738.25; C79, 81, §722.5]

### **722.7 Misconduct by election official.**

A precinct election official who knowingly does any of the following commits a serious misdemeanor:

1. Furnishes a voter with a ballot other than the proper ballot to be used at that election.

2. Causes a voter to cast a vote contrary to the voter's intention or wishes.

3. Changes any ballot, or in any way causes any vote to be recorded contrary to the intent of the person casting that vote.

4. Makes or consents to any false entry on the list of voters or poll books.

5. Places or permits another election official to place into a ballot box anything other than a ballot as provided in section 49.85, or who permits any person other than an election official to place anything into a ballot box.

6. Takes out of a ballot box, or permits to be so taken out, any ballot deposited therein, except in the manner prescribed by law.

7. Destroys or alters any ballot which has been given to an elector.

8. Permits any person to vote in a manner prohibited by law.

9. Refuses or rejects the vote of any qualified voter.

10. Wrongfully does any act or refuses to act for the purpose of avoiding an election, or of rendering invalid the ballots cast from any precinct or other district.

11. Having been deputized to carry the poll books of any election to the place where they are to be canvassed, willfully or negligently fails to deliver them to such place, safe, with seals unbroken, and within the time specified by law.

[C51, §2697, 2701–2704; R60, §4339, 4343–4346; C73, §3999, 4003–4006; C97, §4923, 4927–4930; C24, 27, 31, 35, 39, §13274, 13278–13281; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.12, 738.16–738.19; C79, 81, §722.7]

### **722.8 Duress to prevent or procure voting.**

1. A person who unlawfully and by force, or threats of force, prevents or endeavors to prevent an elector from giving the elector's vote at any public election commits an aggravated misdemeanor.

2. A person who procures, or endeavors to procure, the vote of an elector for or against any candidate or for or against any issue by means of violence, threats of violence, or by any means of duress commits an aggravated misdemeanor.

[C51, §2698; R60, §4340; C73, §4000; C97, §4924; C24, 27, 31, 35, 39, §13275; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, §738.13; C79, 81, §722.8]

2000 Acts, ch 1201, §13

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]

## 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

REPRIEVES, PARDONS, COMMUTATIONS, REMISSIONS,  
AND RESTORATIONS OF RIGHTS

**914.6 Procedures — filing.**

1. and 2. Not reprinted.

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. Not reprinted.

86 Acts, ch 1112, §9

C87, §248A.6

C93, §914.6

94 Acts, ch 1169, §63

# INDEX

## **ABSENTEE VOTING AND ABSENT VOTERS**

- General provisions, ch 53*
- Absentee ballot defined, 39.3(1)
- Armed forces members absentee voting, 46.18, 53.37–53.53
- Drainage and levee district trustee elections, 468.511, 468.512
- Electronic voting systems, 52.33
- Judicial elections, 46.18, 46.23

## **ADVERTISEMENTS**

- Political advertisements, 56.14
- Political sign definition and placement restrictions, 306C.10, 306C.22
- Yard sign placement restrictions, 56.14, 56.15

## **AGRICULTURAL EXTENSION DISTRICTS**

- Councils, election and term, 39.21, 176A.5–176A.8, 176A.16
- Establishment, 176A.4
- Levy and revenue limits, question to voters, 176A.10

## **AGRICULTURE, SECRETARY OF**

*See SECRETARY OF AGRICULTURE*

## **AIRPORT COMMISSIONS**

- Establishment and abolition, 330.17–330.19, 331.381(12), 331.382(1i)

## **ALCOHOLIC BEVERAGES DIVISION AND ALCOHOLIC BEVERAGES COMMISSION**

- Political activities restrictions, 123.10, 123.17

## **AREA EDUCATION AGENCIES**

- Director elections, 273.8

## **AREA SCHOOLS**

*See COMMUNITY COLLEGES*

## **ARMED FORCES**

- Absent voters, 46.18, 53.37–53.53

## **ATTORNEY GENERAL**

*See also STATE OFFICERS*  
Election and term, Const Iowa V §12; 39.8, 39.9

## **ATTORNEYS, COUNTY**

*See COUNTY ATTORNEYS*

**AUDITOR OF STATE***See also STATE OFFICERS*

Election and term, Const Iowa IV §22; 39.8, 39.9

**AUDITORS, COUNTY***See COUNTY AUDITORS***BALLOTS**

Absentee ballots, 39.3(1), 53.2

Australian ballot system use in primary election, 43.36

City elections, publication, 376.5

Defective, 49.101, 49.102

Destruction, 50.13, 50.15

Drainage and levee district trustee elections, 468.514

Electronic voting systems, 52.28

General elections, 49.30–49.48

Judicial elections, 46.21

Magistrate appointing commission member elections, 602.6504

Marking, 49.92–49.103

Names arrangement on ballot, 49.31

Preservation, 50.12

Primary elections

Form, 43.26–43.28, 43.30, 43.36

Vacancies, 43.77

Write-in candidates, 43.53, 43.54, 43.66

Printing

Cost, 49.56

Purchasing, 47.5

Style, 49.57

Publication, 49.53

Required use, Const Iowa II §6

Spoiled, 49.100

Voting machines, 52.10

Write-in votes, 49.99

**BANKING BUSINESSES**

Legislative Acts creating banking entities, submission to voters, Const Iowa VIII §5, 6

**BENEFITED DISTRICTS**Drainage districts, *see DRAINAGE AND LEVEE DISTRICTS*Emergency medical services districts, *see EMERGENCY MEDICAL SERVICES*

Fire districts, bond issues for joint buildings with cities, counties, fire districts, and school districts, 28E.41

Law enforcement districts, *see LAW ENFORCEMENT DISTRICTS*Levee districts, *see DRAINAGE AND LEVEE DISTRICTS*

**BENEFITED DISTRICTS** — Continued

Poll opening time for district elections, 49.73

Real estate improvement districts, *see REAL ESTATE IMPROVEMENT DISTRICTS*

Recreational lake districts, *see RECREATIONAL LAKE DISTRICTS*

Rural improvement zone trustees, 357H.5, 357H.6

Street lighting districts, *see STREET LIGHTING DISTRICTS*

Water districts, *see WATER DISTRICTS*

Water quality districts, *see WATER QUALITY DISTRICTS*

**BETTING**

*See GAMBLING*

**BLIND PERSONS**

Assistance in voting, 49.90

**BOARDS**

Counting boards, ch 51

Precinct boards, 49.12–49.20

**BONDS AND BOND ISSUES (DEBT OBLIGATIONS)**

*General provisions, 75.1*

**Cities**

*General provisions, 75.1*

General obligation bonds, 384.24, 384.26

Joint buildings with cities, counties, fire districts, and school districts, 28E.41

Joint city-county buildings, 346.27(10)

Joint facilities, financing, 28E.16

Memorial buildings and monuments, 37.6

Zoos and zoological gardens, 394.2

**Counties**

*General provisions, 75.1*

General obligation bonds, 331.441, 331.442, 331.445–331.447

Joint buildings with cities, counties, fire districts, and school districts, 28E.41

Joint city-county buildings, 346.27(10)

Joint facilities, financing, 28E.16

Memorial buildings and monuments, 37.6

Emergency medical services districts, 357F.11, 357G.11

Fire districts, joint buildings with cities, counties, fire districts, and school districts, 28E.41

Governmental facilities, joint financing, issuance, 28E.16

Hotel and motel taxes, bond issues, 422A.2

Joint facilities, financing, 28E.16

Local option sales and services tax revenue recipients, 422B.12

Memorial buildings and monuments, 37.6

**BONDS AND BOND ISSUES (DEBT OBLIGATIONS) — Continued**

School districts

*General provisions*, 75.1, 274.2, ch 296, 298.21

Buildings, 279.39, 298.21

Joint buildings with cities, counties, fire districts, and school districts, 28E.41

Principal and interest, tax levy to pay, 298.18, 298.18A

Special elections, 277.2

Townships, 75.1

Transit systems, cities, joint agencies, 28E.17

**CAMPAIGN FINANCE**

*General provisions*, ch 56

Contributions, reports, 56.6, 56.7

Election campaign fund, 56.18–56.26

Ethics and campaign disclosure board, 68B.32–68B.33

Reports, 56.6, 56.7

State funds, 56.18–56.26

**CANDIDATES**

Campaign finance, *see* **CAMPAIGN FINANCE**

City offices

Elected, 376.8

Nomination, 376.3, 376.4

Write-in nomination, 376.11

Committees, 56.5A

Ethics, ch 68B

Financial disclosure, 68B.35

Gifts, acceptance and receipt, 68B.22

Libel of candidates, retraction, 659.4

Loans from lobbyist, prohibited, 68B.24

Primary elections, *see* **PRIMARY ELECTIONS**

Public employees, leave of absence, 55.4

Sheriffs, deputy, leave of absence, 341A.18

Township offices, affidavit required, 43.21

**CANVASSES OF VOTES**

*General provisions*, ch 50

Abstracts, 50.25, 50.39

Constitutional amendments, 49A.8

County boards of supervisors, duties, 331.383

County canvasses, 50.24–50.28

Drainage and levee district trustee elections, 468.516, 468.517

Executive council, *see subhead State Canvasses below*

Governor and lieutenant governor, 2.27–2.30, 50.31

**CANVASSES OF VOTES** — Continued

Primary elections

County, 43.49

State, 43.63

Public measures, 49A.8

School elections, 277.20

Special elections, 50.46

State canvasses

Procedure, 50.37–50.40

Report, 7D.6

Supervisors, county, canvasses by, 50.24–50.28

**CAUCUSES**

See *PRECINCT CAUCUSES*

**CERTIFICATES OF ELECTION**

Delivery, 50.42

Form, 50.29, 50.41, 50.43

Special elections, 50.46

**CHARTERS**

Cities, see *CITIES*

Counties, see *COUNTIES*

**CITIES**

*General provisions*, 39.3(3), ch 376

Administrative agencies, election method, 392.1, 392.5, 392.6

Airport commissions, establishment and abolition, 330.17–330.19,  
331.381(12), 331.382(1i)

Annexation proposals to voters, 368.19

Ballots, publication, 376.5

Bond issues, see *BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Boundary adjustment proposals to voters, 368.19

Bridges, tax levy for construction and purchase, 384.12(5–7)

Buildings, joint city-county authority

Bond issues, 346.27(10)

Conveyance to incorporating units, 346.27(25)

Buildings, joint projects with cities, counties, fire districts, and school  
districts, bond issues, 28E.41

Candidates for offices, see *CANDIDATES*

Capital improvements funds establishment, question to voters, 384.7

Charters

Home rule charters, 372.3, 372.9–372.11

Special charters, 372.12, 420.286–420.288

Civil service commissions, abolition, 400.3

Commission form, 372.5

Community clusters, tax revenue sharing, referendums, 28E.39

**CITIES — Continued**

- Community commonwealths, 331.260–331.263
- Consolidated metropolitan corporation government, ch 373
- Consolidations of cities, 368.19
- Contesting elections, 376.10
- Council-manager-at-large form, 372.6, 372.8
- Council-manager-ward form, 372.7, 372.8
- Councils, *see CITY COUNCILS*
- County-city consolidations, 331.247–331.252
- County-city facilities, bond issues, 28E.16
- Cultural facilities operation, tax levies, 384.12(4)
- Debt, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*
- Devise of institutions to cities, maintenance of institutions, tax levy, 384.12(17)
- Discontinuances of cities, 368.3, 368.19
- Drainage districts including city, trustee elections, 468.327, 468.500–468.523
- Electric power facilities, joining, proposal to voters, 28F.1
- Emergency medical services districts, *see EMERGENCY MEDICAL SERVICES*
- Employees, *see PUBLIC EMPLOYEES*
- Franchise ordinances, proposal to voters, 357A.23, 364.2
- General fund, additional tax levies, question to voters, 384.12
- Gift of institutions to cities, maintenance of institution, tax levy, 384.12(17)
- Government, forms of organization
  - Changing form, 372.2, 372.9, 372.11
  - Commission, 372.5
  - Community commonwealths, 331.260–331.263
  - Consolidated metropolitan corporations, ch 373
  - Council-manager-at-large, 372.6, 372.8
  - Council-manager-ward, 372.7, 372.8
  - Home rule charter, 372.3, 372.9–372.11
  - Mayor-council, 372.4
  - Special charter, 372.12
- Health care facilities trustees election, 392.6
- Home rule charters, adopting and amending, 372.3, 372.9, 372.11
- Hospitals and hospital trustees, *see HOSPITALS*
- Hotel and motel taxes, *see TAXES*
- Incorporations, 368.19
- Indebtedness, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*
- Joint facility financing, bond issues, 28E.16
- Law enforcement districts, unified, tax levy, 28E.22, 28E.25, 28E.28A, 28E.28B
- League of cities, political activities prohibitions, 364.5
- Leases and lease-purchase contracts, entering into, 364.4
- Levies of taxes, *see TAXES*
- Libraries, *see LIBRARIES*
- Loan agreements, entering into, 384.24A

**CITIES — Continued**

Mayor-council form, 372.4

Mayors, *see CITY MAYORS*

Memorial buildings, *see MEMORIAL BUILDINGS AND MONUMENTS*

Metropolitan service areas, regional, establishment, 28E.40

Monuments, *see MEMORIAL BUILDINGS AND MONUMENTS*

Musical groups, tax levy to support, 384.12(1)

Name changes, question to voters, 368.2

Notices of elections, publication, 362.3

Officers, *see CITY OFFICERS*

Petitions from voters, validity, 362.4

Precincts, *see PRECINCTS*

Primary elections, 376.6, 376.7

Property taxes, *see TAXES*

Public facilities, jointly financed, proposal to voters, 28F.1

Regional metropolitan service areas, establishment, 28E.40

Runoff elections, 376.9

Scientific facilities operation, tax levy, 384.12(4)

Severances of territory, proposal to voters, 368.19

**Special charter cities**

Adopting form, limit, 372.12

Ballot vacancies filled, 43.116

Charters, amendments to, submitted to voters, 420.286–420.288

City central committees, election, 420.131

City convention delegates, election, 420.127

Nominations, 43.112

Nonpartisan elections, question to voters, 43.112

Storm water drainage system revenue bond issues, 384.84A

Symphony orchestras, tax levies to support, 384.12(3)

Taxes, *see TAXES*

Transit systems, joint agencies, bond issues, 28E.17

Transportation companies, public, tax levies for aid, 384.12(9)

Utilities, *see UTILITIES*

Wards, 49.3(4), 372.13(7)

Water utilities, joint, establishing, 389.2

Zoos and zoological gardens, bond issues and contracts for use, approval by voters, ch 394

**CITIZENS' AIDE**

Political activities prohibitions for citizens' aide and staff, 2C.7

**CITY COUNCILS**

*See also CITY OFFICERS*

General provisions, 372.13

**CITY EMPLOYEES**

*See PUBLIC EMPLOYEES*

**CITY HEALTH CARE FACILITIES**

Trustees election, 392.6

**CITY HOSPITALS**

See *HOSPITALS*

**CITY MAYORS**

See also *CITY OFFICERS*

General provisions, 372.14

**CITY OFFICERS**

See also index heading for specific city officer; *PUBLIC OFFICERS*

Candidates, see *CANDIDATES*

Removal, 66.29

Terms, 39.20, 376.2

Time of election, 39.20, 376.1

Vacancies, filling, 372.13(2)

**CLERKS OF DISTRICT COURT**

See *DISTRICT COURT CLERKS OF COURT*

**COMBINED RECREATIONAL FACILITY AND WATER QUALITY DISTRICTS**

Indebtedness, 357E.11

Tax levy, 357E.8

Trustees election, 357E.9

**COMBINED WATER AND SANITARY DISTRICTS**

Annexation of property by districts, 358.26–358.29

Incorporation, question to voters, 358.1B–358.8

Trustees election, 358.9

**COMMISSIONERS OF ELECTIONS**

General provisions, ch 47

County commissioners of elections

Definition, 39.3(4)

Duties, 47.2, 331.505

Training course, election personnel, 49.124–49.126

Voter registration, see *VOTER REGISTRATION*

Filing deadlines, extension, 47.4

State commissioner of elections

Definition, 39.3(16)

Duties, 47.1

Training manual for election officials, 49.126

Voter registration commissioners, county, see *VOTER REGISTRATION*

**COMMITTEES**

Political parties, *see* **POLITICAL PARTIES**

**COMMUNITY CLUSTERS**

Tax sharing, referendums, 28E.39

**COMMUNITY COLLEGES**

*(Map of merged areas is printed following 260C.39)*

Combining merged areas, question to voters, 260C.39

Debt, incurring, proposition to voters, 260C.21

Director elections

*General provisions*, 39.24, 260C.11–260C.13, 260C.15, 277.1

Districts, 260C.5(2), 260C.13

Facilities construction and improvement, tax levy for, 260C.22

Program sharing, property tax for, question to voters, 260C.28

**COMMUNITY COMMONWEALTHS**

*General provisions*, 331.260–331.263

**CONGRESSPERSONS AND CONGRESSIONAL DISTRICTS**

*(Map of congressional districts is printed following ch 40)*

Boundaries of districts, Const Iowa III §37; ch 40

Certificates of election, 50.43

Contesting elections, ch 60

Election of senators, 39.10

General election ballot vacancies, filling, 43.78

Nominations of senator candidates, 43.6

Redistricting, ch 42

Vacancies, filling, 43.83, 69.8(1), 69.13

**CONSERVATION BOARDS, COUNTY**

Creation, question to voters, 331.381(3), 350.2

**CONSOLIDATED METROPOLITAN CORPORATIONS**

Establishment and officers, ch 373

**CONSTITUTIONAL AMENDMENTS**

Submission to voters, Const Iowa X §1–3; ch 49A

**CONSTITUTIONAL CONVENTION**

Question submitted to voters, Const Iowa X §3; 39.4

**CONSUMER ADVOCATE**

Political activities prohibitions, 475A.1

**CONTESTED ELECTIONS**

*General provisions*, ch 57

City offices, 376.10

**CONTESTED ELECTIONS** — Continued

County offices, ch 62  
 General assembly, Const Iowa III §7; ch 59  
 Governor, Const Iowa IV §5; ch 58  
 Lieutenant governor, Const Iowa IV §5; ch 58  
 Presidential electors, ch 60  
 Public measures, 57.7  
 Qualification of officer, 63.4  
 Representatives, United States, ch 60  
 School elections, 277.22  
 Senators, United States, ch 60  
 State offices, ch 61

**CONVENTIONS**

Constitutional convention, question submitted to voters, Const Iowa X §3;  
 39.4  
 Political parties, *see* **POLITICAL PARTIES**  
 Special charter cities, political parties, 420.126–420.137

**CORN PROMOTION BOARD**

Political activities prohibitions, 185C.29

**CORRECTIONS DEPARTMENT**

Director, political activities prohibitions, 904.107

**COSTS**

*See* **EXPENSES**

**COUNCILS, CITY**

*See* **CITY COUNCILS**

**COUNTIES**

Agricultural extension districts and councils, *see* **AGRICULTURAL  
 EXTENSION DISTRICTS**  
 Airport commissions, establishment and abolition, 330.17–330.19,  
 331.381(12), 331.382(1i)  
 Attorneys, *see* **COUNTY ATTORNEYS**  
 Auditors, *see* **COUNTY AUDITORS**  
 Benefited districts, *see* **BENEFITED DISTRICTS**  
 Board-elected executive form, 331.239  
 Board-manager form, 331.241–331.243  
 Boards of supervisors, *see* **COUNTY BOARDS OF SUPERVISORS**  
 Bond issues, *see* **BONDS AND BOND ISSUES (DEBT OBLIGATIONS)**  
 Boundaries, changing, Const Iowa III §30  
 Bridges, construction aid by city, tax levy, 384.12(5)  
 Buildings  
     Bond issues for joint city-county buildings, 346.27(10)

**COUNTIES — Continued****Buildings — Continued**

Conveyance to incorporating units, 346.27(25)

Joint projects with cities, counties, fire districts, and school districts, bond issues, 28E.41

Candidates for offices, *see CANDIDATES*

Care facilities, establishment, 331.382(1g), 347B.1A

Charter form, 331.246

Charters, adoption, 331.232–331.238

City-county consolidations, 331.247–331.252

City-county facilities, bond issues, 28E.16

Commissioners of elections, *see COMMISSIONERS OF ELECTIONS*

Community clusters, tax revenue sharing, referendums, 28E.39

Community commonwealths, 331.260–331.263

Conservation board creation, question to voters, 331.381(3), 350.2

Consolidations of counties, 331.253–331.256

Courthouses, open on election day, 49.123

Debt, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Drainage and levee districts, *see DRAINAGE AND LEVEE DISTRICTS*

Emergency medical services, *see EMERGENCY MEDICAL SERVICES*

Employees, *see PUBLIC EMPLOYEES*

Enterprise commissions, establishing, proposal to voters, 331.461, 331.471

Executives, elected, 331.239

Fairs, *see FAIRS*

Gambling referendums, excursion boats and games at pari-mutuel racetracks, 99F.7

**Government, forms of organization**

Board-elected executive, 331.239

Board-manager, 331.241–331.243

Board of supervisors, 331.201–331.210

Changing and amending, 331.232–331.238, 331.244, 331.245

Charter government, 331.246

City-county consolidated, 331.247–331.252

Community commonwealths, 331.260–331.263

Multicounty consolidated, 331.253–331.256

Hospitals, *see HOSPITALS*

Hotel and motel taxes, *see TAXES*

Indebtedness, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Law enforcement districts, unified, tax levy, 28E.22, 28E.25, 28E.28A, 28E.28B

Leases and lease-purchase contracts, entering into, 331.301

Levies of taxes, *see TAXES*

Libraries, *see LIBRARIES*

Loan agreements, entering into, 331.402

Magistrate appointing commission members, 602.6504

Memorial buildings, *see MEMORIAL BUILDINGS AND MONUMENTS*

Mental health center trustees, election, 230A.4, 230A.5

**COUNTIES** — Continued

Metropolitan service areas, regional, establishment, 28E.40  
 Monuments, *see* **MEMORIAL BUILDINGS AND MONUMENTS**  
 Multicounty government consolidations, 331.253–331.256  
 Officers, *see* **COUNTY OFFICERS**  
 Precincts, *see* **PRECINCTS**  
 Property, *see* *subhead Buildings above*  
 Property taxes, *see* **TAXES**  
 Racetracks, gambling games operation, referendums, 99F.7  
 Recorders, *see* **COUNTY RECORDERS**  
 Regional metropolitan service areas, establishment, 28E.40  
 School infrastructure local option sales tax, 422E.1–422E.4  
 Sheriffs, *see* **COUNTY SHERIFFS**  
 Supervisors, *see* **COUNTY BOARDS OF SUPERVISORS**  
 Taxes, *see* **TAXES**  
 Townships, *see* **TOWNSHIPS**  
 Treasurers, *see* **COUNTY TREASURERS**  
 Voter registration, *see* **VOTER REGISTRATION**  
 Voting machines, *see* **VOTING MACHINES**

**COUNTING BOARDS**

*General provisions, ch 51*

**COUNTY ATTORNEYS**

*See also* **COUNTY OFFICERS**  
*General provisions, 39.17, 331.751, 331.753*  
 Duties, 331.756  
 Multicounty office, election, 331.753  
 Term, 39.17, 331.751

**COUNTY AUDITORS**

*See also* **COUNTY OFFICERS**  
*General provisions, 39.17, 331.501*  
 County officer election report, 331.510  
 Election commissioner designation and duties, *see* **COMMISSIONERS OF ELECTIONS, subhead County Commissioners of Elections**  
 Election contests, keeping of election book, 331.508  
 General assembly vacancies, report, 331.510  
 Term, 39.17, 331.501  
 Voter instruction in schools, ballots and machines provided, 331.502

**COUNTY BOARDS OF SUPERVISORS**

*See also* **COUNTY OFFICERS**  
*General provisions, 39.18, 331.201*  
 Canvasses of votes, *see* **CANVASSES OF VOTES**  
 Districts  
*General provisions, 331.206, 331.207, 331.209, 331.210*

**COUNTY BOARDS OF SUPERVISORS — Continued**

Districts — Continued

Redistricting and redistricting commission, 331.210A

Standards for drawing, 49.3(4)

Duties relating to elections, 331.383

Increase in membership, 331.203

Qualifications, 331.201

Reduction in membership, 331.204

Representation plans, special election, 331.207–331.210

Term, 39.18, 331.201

Vacancies, filling, 69.8(4), 331.214

**COUNTY CARE FACILITIES**

Establishment, 331.382(1g), 347B.1A

**COUNTY CONSERVATION BOARDS**

Creation, question to voters, 331.381(3), 350.2

**COUNTY EMPLOYEES**

See *PUBLIC EMPLOYEES*

**COUNTY ENTERPRISE COMMISSIONS**

Establishment, 331.471

**COUNTY FAIRS**

See *FAIRS*

**COUNTY HOSPITALS**

See *HOSPITALS*

**COUNTY OFFICERS**

See also index heading for specific county officer; *PUBLIC OFFICERS*

Candidates, see *CANDIDATES*

Combining offices, election, 331.323

Contested elections, ch 62

Nomination, 43.6

Political activities limitations, see *POLITICAL ACTIVITIES*

Report of officers elected, 331.510(2)

Terms, 39.17, 39.18

Vacancies, filling, 69.8(3), 69.14A, 331.322(3)

**COUNTY RECORDERS**

See also *COUNTY OFFICERS*

General provisions, 39.17, 331.601

Nominations by nonparty political organizations and by petition,  
consideration of objections, duties, 331.602

Term, 39.17, 331.601

**COUNTY SHERIFFS**

*See also COUNTY OFFICERS*

*General provisions*, 39.17, 331.651, 331.661

Deputy sheriffs, political activities prohibitions and leave of absence for candidates for elective office, 341A.7, 341A.18

Election contests, duties, 331.653

Multicounty office, election, 331.661

Term, 39.17, 331.651

**COUNTY SUPERVISORS**

*See COUNTY BOARDS OF SUPERVISORS*

**COUNTY TREASURERS**

*See also COUNTY OFFICERS*

*General provisions*, 39.17, 331.551

Nominations by nonparty political organizations and by petition, consideration of objections, duties, 331.552

Term, 39.17, 331.551

**COURTHOUSES**

Open on election day, 49.123

**COURT OF APPEALS JUDGES**

*See also JUDGES*

Retention elections, 602.5102

**COURTS**

Court of appeals judges, *see COURT OF APPEALS*

District court clerks, *see DISTRICT COURT CLERKS OF COURT*

District judges, *see DISTRICT JUDGES*

Judges and judicial elections, *see JUDGES*

Judicial nominating commissions, *see JUDICIAL NOMINATING COMMISSIONS*

Juvenile court judges, *see JUVENILE JUDGES*

Magistrate appointing commissions, election of members, 602.6504

Probate court judges, *see PROBATE JUDGES*

Supreme court justices, *see SUPREME COURT*

**CRIMINALS**

Voting disqualification, Const Iowa II §5; 48A.6

**DAIRY INDUSTRY COMMISSION**

Political activities prohibitions, 179.14

**DEBTS**

Bonds and bond issues, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

State debt, authorization by voters, Const Iowa VII §5

**DISABILITIES**

Voting by persons with physical disabilities, *see VOTERS AND VOTING*

**DISTRICT COURT CLERKS OF COURT**

Duties, 602.8102

Retention elections, 46.17–46.25, 602.1216

**DISTRICT JUDGES**

*(Map of judicial election districts is printed following 602.11111)*

*See also JUDGES*

Election districts, 602.6109

Retention elections and terms, Const Iowa V §17; 602.6201, 602.6305

**DISTRICTS**

Agricultural extension districts, *see AGRICULTURAL EXTENSION DISTRICTS*

Benefited districts, *see BENEFITED DISTRICTS*

Congressional districts, *see CONGRESSPERSONS AND CONGRESSIONAL DISTRICTS*

County supervisors' districts, *see COUNTY BOARDS OF SUPERVISORS*

Drainage districts, *see DRAINAGE AND LEVEE DISTRICTS*

Emergency medical services districts, *see EMERGENCY MEDICAL SERVICES*

Fire districts, bond issues for joint buildings with cities, counties, fire districts, and school districts, 28E.41

Historical preservation districts, *see HISTORICAL PRESERVATION DISTRICTS*

Judicial election districts, *see DISTRICT JUDGES*

Land use districts, *see LAND USE DISTRICTS*

Law enforcement districts, *see LAW ENFORCEMENT DISTRICTS*

Legislative districts, *see GENERAL ASSEMBLY*

Levee districts, *see DRAINAGE AND LEVEE DISTRICTS*

Library districts, county, *see LIBRARIES*

Library system, regional, *see LIBRARIES*

Real estate improvement districts, *see REAL ESTATE IMPROVEMENT DISTRICTS*

Recreational facility and water quality districts, *see COMBINED RECREATIONAL FACILITY AND WATER QUALITY DISTRICTS*

Recreational lake districts, *see RECREATIONAL LAKE DISTRICTS*

Sanitary districts, *see SANITARY DISTRICTS*

School districts, *see SCHOOL DISTRICTS*

**DISTRICTS — Continued**

Soil and water conservation districts, *see* **SOIL AND WATER CONSERVATION DISTRICTS**

Supervisors' districts, county, *see* **COUNTY BOARDS OF SUPERVISORS**  
Water and sanitary districts, *see* **COMBINED WATER AND SANITARY DISTRICTS**

Water districts, *see* **WATER DISTRICTS**

Water quality districts, *see* **WATER QUALITY DISTRICTS**

**DRAINAGE AND LEVEE DISTRICTS**

Dissolution of contained districts, 468.259, 468.261

Trustees election, 468.327, 468.500–468.523

**DRUG POLICY COORDINATOR**

Political affiliation and political activities restrictions, 80E.1

**EGG COUNCIL**

Political activities prohibitions, 184.11

**ELDERLY PERSONS**

Assistance in voting, 49.90

**ELECTORS**

*See* **VOTERS AND VOTING**

**ELECTRIC POWER FACILITIES**

Cities, joining, 28F.1

**ELECTRONIC VOTING SYSTEMS**

*General provisions*, 52.26–52.38

Absentee voting, 52.33

Ballots, 52.28–52.30

Counting center, 52.34–52.40

Examination, 52.5

Examiners board, 52.4

Purchase, 52.2, 52.3, 331.427, 331.441(2b)

**EMERGENCY MANAGEMENT**

Employee political activities, limitations, 29C.16

**EMERGENCY MEDICAL SERVICES**

City districts

Bond issues and indebtedness authorized, 357G.11

Tax levy, 357G.8, 384.12(19)

Trustees, 357G.9

County districts

Bond issues and indebtedness authorized, 357F.11

**EMERGENCY MEDICAL SERVICES — Continued**

County districts — Continued

Tax levy, 357F.8

Trustees, 357F.9

Local option tax for services, 422D.1, 422D.5

**EMERGENCY TELEPHONE SYSTEMS (E911 SERVICE)**

Surcharges for systems, referendums, 34A.6, 34A.6A, 34A.7(7)

**ENTERPRISES**

County enterprise commissions, establishment, 331.461, 331.471

**ETHICS**

Candidates, ch 68B

**EXCURSION BOAT GAMBLING**

Referendums, 99F.7

**EXECUTIVE COUNCIL**

Canvasses of votes, *see CANVASSES OF VOTES, subhead State Canvasses*

**EXPENSES**

Payment, 47.3, 331.424, 331.427

**FAIRS**

Bond issues by societies, 174.17

Official county fairs designated, 174.10, 331.303

**FINANCE AUTHORITY**

Executive director, political activities prohibitions, 16.6

**FIRE DISTRICTS**

Bond issues for joint buildings with cities, counties, fire districts, and school districts, 28E.41

**FRANCHISES**

City franchise ordinances, 357A.23, 364.2

**GAMBLING**

Excursion boats and pari-mutuel racetracks, gambling games operation, referendums, 99F.7

Wagering on results of election, criminal offense, 725.10

**GENERAL ASSEMBLY**

Banking entity creation, Const Iowa VIII §5, 6

Candidates for office, *see CANDIDATES*

Contested elections, Const Iowa III §7; ch 59

**GENERAL ASSEMBLY — Continued**

**Districts**

*(Maps of senatorial and representative districts are printed following 41.1)*

*General provisions, Const Iowa III §34, 35; ch 41*

*Reapportionment and redistricting, Const Iowa III §34–36, 39; ch 42*

**Elections by general assembly, Const Iowa III §38; 2.25–2.30**

**Reapportionment and redistricting, Const Iowa III §34–36, 39; ch 42**

**Representatives, state**

*General provisions, 39.16*

*Candidates, see CANDIDATES*

*Districts, see subhead Districts above*

*Number, Const Iowa III §34, 35*

*Qualifications, Const Iowa III §4*

*Term, Const Iowa III §3*

*Vacancies, see subhead Vacancies below*

**Resignations, 69.4(2)**

**Senators, state**

*General provisions, 39.15*

*Candidates, see CANDIDATES*

*Districts, see subhead Districts above*

*Number, Const Iowa III §6, 34, 35*

*Qualifications, Const Iowa III §5*

*Term, Const Iowa III §5*

*Vacancies, see subhead Vacancies below*

**Vacancies**

*Filling, Const Iowa III §12; 69.14*

*Notice, 69.5, 331.510(1)*

**GENERAL ELECTIONS**

*Definition, 39.3(7)*

*Time of holding, Const Iowa II §7; 39.1*

**GENERAL SERVICES DEPARTMENT**

**Director, political activities prohibitions, 18.2**

**GOVERNOR**

*General provisions, Const Iowa IV §2–5; 2.27–2.30*

*Candidates, see CANDIDATES*

*Canvasses of votes for governor, 2.25–2.30*

*Contested election, Const Iowa IV §5; ch 58*

*Declaration of election, Const Iowa IV §4*

*Eligibility, Const Iowa IV §6*

*Qualification, time and manner of, 63.5*

*Resignation, 69.4(1)*

*Returns, Const Iowa IV §3*

*Term, Const Iowa IV §2; 39.8, 39.9*

*Vacancy, succession, Const Iowa IV §19*

**GUARDIANSHIPS**

Ward's competency to vote, determinations, 633.556(1), 633.679

**HEALTH CARE FACILITIES**

City facility trustees election, 392.6

County care facilities, establishment, 331.382(1g), 347B.1A

Residents, absentee voting, 53.8, 53.22, 135C.29

**HISTORICAL PRESERVATION DISTRICTS**

Commissions, election of, 303.26

Establishment, referendums, 303.20–303.25

Termination, referendums, 303.33

**HOSPITALS**

Area hospitals and hospital trustees

Bonds, 145A.17, 145A.18

Election of trustees, 145A.10, 145A.11, 347.25

Establishment, county power, 331.382(1c)

Merger of political subdivisions to operate, order submitted to voters,  
145A.6–145A.9, 145A.21, 145A.22

Taxes, 145A.19

City hospitals and hospital trustees

Change of city hospitals to county hospitals, 331.381(13), 347.23

Election of trustees, 392.6

Memorial hospitals, change to county hospitals, 347.23A

County hospitals and hospital trustees

Bond issues for construction and improvement, 331.461(2)

Election and terms of trustees, 39.21, 347.9, 347.25, 347A.1

Memorial hospitals, change to county hospitals, 347.23A

Revenue bond-supported hospitals, *see subhead Revenue Bond-Supported  
County Hospitals and Hospital Trustees below*

Sale or lease of hospital, 347.14

Tax levy for hospital, alternative use, 347.7

Vacancies in trustees, 347.10, 347A.1

Memorial hospitals, change to county hospitals, 347.23A

Merged area hospitals, *see subhead Area Hospitals above*

Patients, absentee voting, 53.8, 53.22, 135C.29

Revenue bond-supported county hospitals and hospital trustees

Change to county hospital, 347.23A

Election and terms, 39.21, 347.25, 347A.1

Trustees

Area hospitals, 145A.10, 145A.11, 347.25

City hospitals, 392.6

County hospitals, 39.21, 347.9, 347.25, 347A.1

**HOTEL AND MOTEL TAXES**

*See TAXES*

**HUMAN SERVICES DEPARTMENT**

Director, political activities prohibitions, 217.5

**IDIOTS**

Voting disqualification, Const Iowa II §5

**INCOME TAXES**

See *TAXES*

**INSANE PERSONS**

Voting disqualification, Const Iowa II §5

**JUDGES**

See also *COURT OF APPEALS JUDGES; DISTRICT JUDGES; JUVENILE JUDGES; PROBATE JUDGES; SUPREME COURT JUSTICES*

*General provisions*, Const Iowa V §17; ch 46

Ballot form, 46.21

Canvasses of votes, 46.24

Conduct of elections, 46.21–46.25

Qualification, time and manner of, 63.6

Terms, 46.16

Time of election, 46.17

Voting procedure, 46.22

**JUDICIAL ELECTIONS AND ELECTION DISTRICTS**

See *DISTRICT COURT CLERKS OF COURT; JUDGES*

**JUDICIAL NOMINATING COMMISSIONS**

Ballot form, 46.9

District commissions, 46.4

Membership transition, 602.11111

Nominations, 46.9A, 46.10

State commission, 46.2

Vacancies, filling, 46.5

Voter eligibility, 46.7

**JUSTICES OF SUPREME COURT**

See *SUPREME COURT JUSTICES*

**JUVENILE JUDGES**

See also *JUDGES*

Retention elections and terms, 602.7103C

**LAKE DISTRICTS**

See *RECREATIONAL LAKE DISTRICTS*

**LAND USE DISTRICTS**

Creation, question to voters, 303.41–303.48  
Trustees election, 303.49

**LAW ENFORCEMENT DISTRICTS**

Indebtedness, authorized, 357D.11  
Tax levy, 357D.8  
Trustees election, 357D.9  
Unified districts, tax levy, 28E.22, 28E.25, 28E.28A, 28E.28B, 331.381(1)

**LEAGUE OF CITIES**

Political activities prohibitions, 364.5

**LEASE-PURCHASE CONTRACTS**

Cities entering into contracts, question to voters, 364.4  
Counties entering into contracts, question to voters, 331.301  
School districts, *see SCHOOL DISTRICTS*

**LEASES**

Cities entering into leases, question to voters, 364.4  
Counties entering into leases, question to voters, 331.301  
School districts, *see SCHOOL DISTRICTS*

**LEGISLATURE**

*See GENERAL ASSEMBLY*

**LEVEE DISTRICTS**

*See DRAINAGE AND LEVEE DISTRICTS*

**LEVIES OF TAXES**

*See TAXES*

**LIBEL**

Libel of candidate, retraction, 659.4

**LIBRARIES**

City libraries and library trustees  
Alteration of board of trustees, 392.5  
Support, tax levy, 384.12(21)  
Use, termination of contracts for, 331.381(15), 336.18  
County library districts  
Contracts for city library use, termination, 331.381(15), 336.18  
Establishment, 331.381(15), 336.2  
Termination, 336.16  
Withdrawal from districts, 336.16  
Library service for county residents outside of cities, 331.381(15), 336.18

**LIBRARIES** — Continued

Regional library system and library trustees

*(Map of library regions and districts is printed following 256.64)*

Districts within regions, 256.61

Election and terms of trustees, 39.21, 256.63, 256.64

School libraries, tax levy for, discontinuance in reorganized districts, 298.7

Trustees

City library trustees boards, alteration, 392.5

Regional library trustees, election and terms, 39.21, 256.63, 256.64

**LIEUTENANT GOVERNOR**

General provisions, Const Iowa IV §2–5; 2.27–2.30

Candidates, *see CANDIDATES*

Canvasses of votes for lieutenant governor, 2.25–2.30

Contested election, Const Iowa IV §5; ch 58

Declaration of election, Const Iowa IV §4

Eligibility, Const Iowa IV §6

Nomination, 43.123

Qualification, time and manner of, 63.5

Returns, Const Iowa IV §3

Term, Const Iowa IV §2, 15; 39.8, 39.9

Vacancy, succession to office, Const Iowa IV §19

**LOCAL OPTION TAXES***See TAXES***MAGISTRATE APPOINTING COMMISSIONS**

Election of members, 602.6504

**MAPS**Community college merged areas, *following* 260C.39Congressional districts, *following* ch 40General assembly districts, *following* 41.1Judicial election districts, *following* 602.11111Regional libraries, *following* 256.64**MAYORS***See CITY MAYORS***MEDICAL SERVICES***See EMERGENCY MEDICAL SERVICES***MEMORIAL BUILDINGS AND MONUMENTS**

Bond issues, 37.6

Erecting, proposition to voters, 37.1–37.4

Hospitals, change to county hospitals, 347.23A

Tax levy for buildings and monuments in cities, 384.12(2)

**MENTAL COMPETENCE**

Competency to vote determinations, 222.16, 222.31(3), 222.45, 633.556(1), 633.679

**MENTAL HEALTH CENTERS**

Election of trustees, 230A.4, 230A.5

**MENTAL RETARDATION**

Competency to vote determinations for persons with mental retardation, 222.16, 222.31(3), 222.45

**MERGED AREAS**

*See COMMUNITY COLLEGES*

**METROPOLITAN SERVICE AREAS, REGIONAL**

Establishment, 28E.40

**MILITARY FORCES**

Absent voters, 46.18, 53.37–53.53

Performance of duty on election days, Const Iowa II §3

Residency, Const Iowa II §4

**MONUMENTS**

*See MEMORIAL BUILDINGS AND MONUMENTS*

**MUNICIPAL CORPORATIONS**

*See CITIES*

**NOMINATIONS**

Papers, 43.8–43.24

Petition, ch 45

Political nonparty organizations, ch 44

Primary elections, ch 43

**NONPARTISAN ELECTIONS**

Agricultural extension council members, 39.21

City offices, ch 376

Hospital trustees, 39.21, 347.25

Library trustees of regional libraries, 39.21, 256.63

Mental health center trustees, 230A.4, 230A.5

Rural improvement zone trustees, 357H.6

Soil and water conservation district commissioners, 39.21, 161A.5

**NOTICES OF ELECTIONS**

*General provisions*, 49.53

Cities, 362.3

Counties, 331.305

**NURSING HOMES**

See *HEALTH CARE FACILITIES*

**PERSONNEL DEPARTMENT**

Director, political activities prohibitions, 19A.1A

**PETITIONS FOR ELECTIONS**

Cities, petitions to, validity, 362.4

Counties, petitions to, validity, 331.306

School districts, petitions to, validity, 277.7

**PETITIONS FOR NOMINATIONS**

*General provisions*, ch 45

Nonparty political organizations, nominations by petition, 44.17

**POLITICAL ACTIVITIES**

Alcoholic beverages division and commission, restrictions, 123.10, 123.17

Citizens' aide, prohibitions, 2C.7

City employees under civil service, limitations, 400.29

Consumer advocate, prohibitions, 475A.1

Corrections department director, prohibitions, 904.107

Corn promotion board, prohibitions, 185C.29

Criminal offenses, 721.1-721.7

Dairy industry commission, prohibitions, 179.14

Deputy sheriffs, 341A.7, 341A.18

Drug policy coordinator, restriction, 80E.2

Egg council, prohibitions, 184.11

Emergency management organization employees, limitations, 29C.16

Finance authority executive director, prohibitions, 16.6

General services department director, prohibitions, 18.2

Human services department director, prohibitions, 217.5

Iowa league of cities, prohibitions, 364.5

Personnel department director, prohibitions, 19A.1A

Pork producers council, prohibitions, 183A.14

Public employees

*See also subhead State Employees below*

Leaves of absence for candidates for office, 55.4

Political contributions by organizations of employees, prohibitions, 20.26

Public employees' retirement system employees, restrictions, 97B.5

Public safety commissioner, prohibitions, 80.2

Revenue and finance department director, prohibitions, 421.3

Sheep and wool promotion board, prohibitions, 182.18

Sheriffs' deputies, 341A.7, 341A.18

State employees

*See also subhead Public Employees above*

Leaves of absence for candidates for office, 55.4

Limitations, 19A.18, 721.5

**POLITICAL ACTIVITIES — Continued**

Transportation department director, prohibitions, 307.11  
Turkey marketing council, prohibitions, 184A.19  
Utilities board general counsel, prohibitions, 474.10  
Workers' compensation commissioner and deputy commissioners,  
prohibitions, 86.4

**POLITICAL ADVERTISEMENTS**

*See ADVERTISEMENTS*

**POLITICAL CONTRIBUTIONS**

*See CAMPAIGN FINANCE*

**POLITICAL PARTIES**

Bylaws, 43.111  
Campaign funds, *see CAMPAIGN FINANCE*  
Committees  
    County central committees, 43.99–43.101  
    State central committees, 43.111  
Constitutions, 43.111  
Conventions  
    County conventions, 43.90, 43.94–43.97  
    District conventions, 43.102–43.104  
    State conventions, 43.107–43.109  
Defined, 43.2  
Platforms, 43.111  
Precinct caucuses, *see PRECINCT CAUCUSES*  
Voter affiliation, change, 43.41, 43.42

**POLLING PLACES**

*See also VOTERS AND VOTING*

Accessibility, 49.21  
Change, notice, 49.23  
Closing polls, 49.73  
Equipment, 49.25  
Hours, 49.73  
Opening polls, 49.73  
Place of voting, 49.9  
School buildings, 49.24

**PORK PRODUCERS COUNCIL**

Political activities prohibitions, 183A.14

**PRECINCT CAUCUSES**

*General provisions*, 43.4  
Duties of designated persons, penalties for failure to perform, 43.119  
Notice of caucus date, time, and place, 43.92

**PRECINCT CAUCUSES — Continued**

Place, 43.93

Voters at caucuses, eligibility, 43.91

**PRECINCTS**

*General provisions*, 49.3

Caucuses, *see* **PRECINCT CAUCUSES**

Changes, 49.7, 49.8

City precincts, 49.5

Combining precincts, 49.6

County precincts, 49.4

Election boards, 49.12–49.20

**PRESIDENT OF THE UNITED STATES AND PRESIDENTIAL ELECTORS**

*General provisions*, ch 54

Candidates' names on ballot, 49.32

Contesting elections for presidential electors, ch 60

Precinct caucuses, *see* **PRECINCT CAUCUSES**

Vacancies in nominations of presidential electors, filling, 43.80

**PRIMARY ELECTIONS**

*General provisions*, ch 43

Ballots, *see* **BALLOTS**

Ballot vacancies, 43.77, 43.78

Candidates

Affidavit, 43.18, 43.19

Death, 43.23

Death of nominated candidates, 43.79

Nomination papers, 43.11–43.14, 43.20

Withdrawal, 43.23

Withdrawal of nominated candidates, 43.79

Canvasses of votes, *see* **CANVASSES OF VOTES**

Cities, ch 376

Counting votes, 43.45

Definition, 39.3(9)

Party affiliation, change, 43.41, 43.42

Precinct caucuses, *see* **PRECINCT CAUCUSES**

Recounts, 43.56

Time of holding, 43.7

Voters, *see* **VOTERS AND VOTING**

Write-in candidates, 43.66

**PROBATE JUDGES**

*See also* **JUDGES**

Retention elections and terms, 633.20C

**PROPERTY TAXES**

See *TAXES*

**PUBLIC EMPLOYEES**

Candidates for elective office, leave of absence, 55.4

Official misconduct, ch 721

Political activities limitations, see *POLITICAL ACTIVITIES*

**PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS)**

Employees, political activities restrictions, 97B.5

**PUBLIC MEASURES**

*General provisions*, ch 49A

Ballots, 49.43–49.48, 49.50

Banking entities, legislative Acts creating, submission to voters, Const Iowa VIII §5, 6

Bond issues, see *BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Canvasses of votes, 49A.8

Constitutional amendments, submission to voters, Const Iowa X §1–3; ch 49A

Contesting elections, ch 57

Defined, 39.3(10)

Local public measures, assignment of letter for identification, 47.2(4)

Publication, 49A.2

Recounts, 50.49

School districts, petitions to, validity, 277.7

State debt, authorized by voters, Const Iowa VII §5

**PUBLIC OFFICERS**

See also *CITY OFFICERS; COUNTY OFFICERS; STATE OFFICERS; and index heading for specific officer*

Bribery, ch 722

Candidates, see *CANDIDATES*

Employee's leave of absence to serve in office, ch 55

Misconduct, official, ch 721

Oath, Const Iowa XI §5

Political activities limitations, see *POLITICAL ACTIVITIES*

Qualification

Sex as disqualification, prohibited, 39.25

Time and manner, ch 63

Removal from office, ch 66

Resignation, 69.4

Terms, commencement, 39.8

Vacancies in office

Defined, 69.2

Filling, Const Iowa XI §6; 69.8

**QUAD CITIES INTERSTATE METROPOLITAN AUTHORITY**

Creation, referendum, 28A.1, 28A.5, 28A.6  
Dissolution, 28A.25  
Sales and services tax, 28A.17

**RACETRACKS**

Gambling games operation, referendums, 99F.7

**REAL ESTATE IMPROVEMENT DISTRICTS**

Organization, 358C.3, 358C.6–358C.9  
Trustees, 358C.10

**REAPPORTIONMENT**

General assembly and Congressional districts, Const Iowa III §34–37, 39;  
ch 42

**RECORDERS, COUNTY**

*See COUNTY RECORDERS*

**RECOUNTS**

*General provisions*, 50.48  
Administrative recounts, 50.50  
Primary elections, 43.56  
Public measures, 50.49

**RECREATIONAL LAKE DISTRICTS**

Combined recreational facility and water quality districts, *see COMBINED RECREATIONAL FACILITY AND WATER QUALITY DISTRICTS*  
Indebtedness, 357E.11  
Tax levy, 357E.8  
Trustees election, 357E.9

**REDISTRICTING**

County supervisor districts, *see COUNTY BOARDS OF SUPERVISORS*  
General assembly and Congressional districts, Const Iowa III §34–37, 39;  
ch 42

**REFERENDUMS**

Community clusters, tax revenue sharing, 28E.39  
Constitutional amendments, Const Iowa X §1–3; ch 49A  
Gambling, excursion boats and pari-mutuel racetracks, gambling games operation, 99F.7  
Historical preservation districts, establishment and termination, 303.20–303.25, 303.33  
Public measures, *see PUBLIC MEASURES*  
Quad cities interstate metropolitan authority, creation, 28A.1, 28A.5, 28A.6

**REFERENDUMS — Continued**

Soil and water conservation districts, discontinuance, 161A.10  
Telephone systems, emergency (E911), surcharges for, 34A.6, 34A.6A,  
34A.7(7)

**REGIONAL METROPOLITAN SERVICE AREAS**

Establishment, 28E.40

**REPRESENTATIVES, STATE**

See *GENERAL ASSEMBLY*

**REPRESENTATIVES, UNITED STATES**

See *CONGRESSPERSONS AND CONGRESSIONAL DISTRICTS*

**REVENUE AND FINANCE DEPARTMENT**

Director, political activities prohibitions, 421.3

**RURAL IMPROVEMENT ZONES**

Trustees election, 357H.5, 357H.6

**RUNOFF ELECTIONS**

Cities, 376.9

**SALES, SERVICES, AND USE TAXES**

See *TAXES*

**SANITARY DISTRICTS**

Annexation of property by districts, 358.26–358.29

Combined water and sanitary districts, see *COMBINED WATER AND  
SANITARY DISTRICTS*

Incorporation, question to voters, 358.1A–358.8

Trustees election, 358.9

**SCHOOL DISTRICTS**

*General provisions*, 39.3(14), ch 277, ch 278

Area schools, see *COMMUNITY COLLEGES*

Asbestos removal or encapsulation, funding, 279.52

Boards of directors, see *subhead Directors below*

Bond issues, see *BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Bond tax levies, 298.18, 298.18A

Books, see *subhead Textbooks below*

Boundary changes

    Description, filed, 274.4

    Directors, election, 275.25

    Proposition to voters, 275.11–275.13, 275.18, 275.20, 275.22–275.24

Branches taught, determination, 278.1(3)

**SCHOOL DISTRICTS** — Continued**Buildings***See also subhead Property below*Bond issues, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Joint projects with cities, counties, fire districts, and school districts, bond issues, 28E.41

Leases and lease-purchases of supplemental facilities, approval by voters, 278.1

Polling places, use for, 49.24, 297.9

Roads, obtaining for access to schoolhouses, 278.1(6)

Taxes for buildings and infrastructure, 279.39, 422E.1–422E.4

Uses, determination by voters, 278.1(4), 297.11

Canvasses of votes, 277.20

Capital projects funds, transfer, 278.1(5)

Community colleges, *see COMMUNITY COLLEGES*

Contested elections, 277.22

Debt, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Debt service fund, transfer, 278.1(5)

**Directors***General provisions, 275.12, 275.25, 275.35–275.38, 275.41, 278.1(7, 8)*Candidates, *see CANDIDATES*

Contesting elections, 277.22

Districts, redistricting, 275.23A

Nominations, 277.4, 277.5

Oaths, 277.28

Qualifications, 277.27

Terms, 39.24, 274.7

Vacancies, filling, 277.29, 277.30, 279.6, 279.7

Dissolutions of districts, proposition submitted to voters, 275.55

Districts for election of directors, *see subhead Directors above*

Educational improvement program, 257.29

Hospitals, merged area, *see HOSPITALS*Indebtedness, *see BONDS AND BOND ISSUES (DEBT OBLIGATIONS)*

Infrastructure funding, local option sales and services taxes, 422E.1–422E.4

Instructional support program, participation, 257.18, 257.27

Leases and lease-purchases

Buildings for supplemental facilities, approval by voters, 278.1

Disposition of school property, approval by voters, 278.1(2)

Levies of taxes, *see TAXES*

Libraries of cities, termination of contracts to use, proposition to voters, 336.18

Libraries, tax levies for, discontinuance in reorganized districts, 298.7

Merged areas, *see COMMUNITY COLLEGES*

Name changes, 278.1(9)

Officers, *see subhead Directors above*

Physical plant and equipment levy funds, transfer, 278.1(5)

**SCHOOL DISTRICTS — Continued**

Physical plant and equipment tax levies, 275.12(5), 275.20, 277.2, 298.2, 298.9

Property

*See also subhead Buildings above*

Disposition, 278.1(2)

Property taxes, *see TAXES*

Public educational and recreational activities, tax levies for, ch 300

Public education and recreation levy fund, transfer, 278.1(5)

Public measures, petitions to school districts for, validity, 277.7

Reorganizations, 275.11–275.13, 275.18, 275.20, 275.22–275.27

Retirement systems for teachers, establishment, 294.8

Roads, obtaining for access to schoolhouses, 278.1(6)

Schoolhouses, *see subhead Buildings above*

Special elections, 277.2

Supplemental facilities, *see subhead Buildings above*

Tax levies, *see TAXES*

Teachers' pension and annuity retirement systems, establishment, 294.8

Textbooks

Change of textbooks, 278.1(1)

Provision of free textbooks, 301.24, 301.25, 301.27

Vacancies in school offices, 277.29, 277.30, 279.6, 279.7

Voter instruction by schools, requirements, 256.11, 280.9A, 331.502

**SECRETARY OF AGRICULTURE**

*See also STATE OFFICERS*

Election and term, 39.8, 39.9

**SECRETARY OF STATE**

*See also STATE OFFICERS*

Election and term, Const Iowa IV §22; 39.8, 39.9

Election commissioner designation and duties, *see COMMISSIONERS OF ELECTIONS, subhead State Commissioner of Elections*

**SENATORS, STATE**

*See GENERAL ASSEMBLY*

**SENATORS, UNITED STATES**

*See CONGRESSPERSONS AND CONGRESSIONAL DISTRICTS*

**SHEEP AND WOOL PROMOTION BOARD**

Political activities prohibitions, 182.18

**SHERIFFS, COUNTY**

*See COUNTY SHERIFFS*

**SIGNS**

See *ADVERTISEMENTS*

**SOIL AND WATER CONSERVATION DISTRICTS**

Commissioners election, 39.21, 161A.5, 161A.6  
Discontinuance, referendums, 161A.10

**SPECIAL ELECTIONS**

Date, 39.2  
Definition, 39.3(15)  
Notice, 39.6  
Political subdivisions, 47.6  
School districts, 277.2  
Vacancies to be filled, 69.12, 69.14

**STATE EMPLOYEES**

See *PUBLIC EMPLOYEES*

**STATE OFFICERS**

See also main heading for specific state officer; *PUBLIC OFFICERS*  
Candidates for office, see *CANDIDATES*  
Contested election, ch 61  
Nomination, 43.6  
Political activities limitations, see *POLITICAL ACTIVITIES*  
Removal from office, ch 66  
Terms, 39.9  
Vacancies, filling, 69.8(2), 69.13

**STREET LIGHTING DISTRICTS**

Bond issues, 357C.10  
Indebtedness authorized, 357C.10  
Tax levy, proposal to voters, 357C.7, 357C.9  
Trustees election, 357C.8

**SUPERVISORS, COUNTY BOARDS OF**

See *COUNTY BOARDS OF SUPERVISORS*

**SUPREME COURT JUSTICES**

See also *JUDGES*  
Retention elections and terms, Const Iowa V §17; 602.4101

**TAXES**

Cities  
    *General provisions*, 384.12  
    Capital improvements funds, 384.7  
    Emergency medical services districts, 357G.11, 384.12(19)  
    Hotel and motel taxes, see *subhead Hotel and Motel Taxes below*

**TAXES — Continued**

**Cities — Continued**

Law enforcement, unified districts, 28E.22, 28E.25, 28E.28A, 28E.28B

Local option taxes, 422B.1

Community clusters, tax sharing, referendums, 28E.39

Community colleges, 260C.22, 260C.28

**Counties**

Emergency medical services, 422D.1, 422D.5

Hospitals, erecting, levies for, 347.7

Hotel and motel taxes, *see subhead Hotel and Motel Taxes below*

Indebtedness, bonded, principal and interest payment, 331.447

Law enforcement, unified districts, 28E.22, 28E.25, 28E.28A, 28E.28B

Local option taxes, 422B.1

Special levy elections, 331.425

Telephone systems, emergency (E911), surcharges for, referendums, 34A.6, 34A.6A, 34A.7

**Emergency medical services**

City districts, tax levy, 357G.8

County districts, tax levy, 357F.8

Local option taxes, 422D.1, 422D.5

**Hospitals**

County hospitals, tax levy for hospital, alternative use, 347.7

Merged area hospitals, special tax, 145A.19

**Hotel and motel taxes**

Bond issues, 422A.2

Election, 422A.1

Income tax election campaign fund checkoff, 56.18–56.26

**Income tax surtaxes for school districts**

Asbestos removal or encapsulation, 279.52

Physical plant and equipment levy, 298.2

Lake districts, benefited recreational, tax levies, 357E.8

Law enforcement districts, 28E.22, 28E.25, 28E.28A, 28E.28B, 357D.8

**Libraries**

City libraries support, tax levies, 384.12(21)

School libraries, tax levies for, discontinuance in reorganized districts, 298.7

**Local option taxes**

Elections, 422B.1

Emergency medical services, 422D.1, 422D.5

Hotel and motel taxes, *see subhead Hotel and Motel Taxes above*

Sales and services tax revenue recipients, bond issues, 422B.12

School infrastructure funding, 422E.1–422E.4

Municipality levies, limitation, 24.15

**Sales, services, and use taxes**

Local option taxes, *see subhead Local Option Taxes above*

Quad cities interstate metropolitan authority, 28A.17

**TAXES — Continued**

**School districts**

- Asbestos removal or encapsulation, 279.52
- Buildings, 279.39
- Indebtedness, bonded, principal and interest payment, 298.18, 298.18A
- Infrastructure funding, local option sales and services tax, 422E.1–422E.4
- Insurance, indebtedness, 296.7
- Libraries, tax levies for, discontinuance in reorganized districts, 298.7
- Physical plant and equipment levies, 275.12(5), 275.20, 277.2, 298.2, 298.9
- Public educational and recreational activities, ch 300
- Surtaxes, *see subhead Income Tax Surtaxes for School Districts above*
- Street lighting districts, tax levy, 357C.7, 357C.9
- Township halls, levies for, 360.1
- Vehicle taxes, local, 422B.1

**TELEPHONES**

- Emergency systems (E911), surcharges for, referendums, 34A.6, 34A.6A, 34A.7

**TOWNSHIP CLERKS**

- General provisions*, 39.22
- Candidates, affidavit required, 43.21
- Election, 39.22
- Vacancies, filling, 69.8(5)

**TOWNSHIP OFFICERS**

*See TOWNSHIP CLERKS; TOWNSHIP TRUSTEES*

**TOWNSHIPS**

- Ballots, separate, 49.30
- Bond issues, 75.1
- Clerks, *see TOWNSHIP CLERKS*
- Community commonwealths, 331.260–331.263
- Halls, erection of, proposition to voters, 360.1
- Hospitals, merged area, *see HOSPITALS*
- Libraries of cities, termination of contract to use, proposition to voters, 336.18
- New townships, first election, 359.10–359.13
- Trustees, *see TOWNSHIP TRUSTEES*

**TOWNSHIP TRUSTEES**

- General provisions*, 39.22
- Ballots, 49.30
- Candidates, affidavit required, 43.21
- Vacancies, filling, 69.8(5)

**TRANSPORTATION DEPARTMENT**

Director, political activities prohibitions, 307.11

**TREASURER OF STATE**

*See also STATE OFFICERS*

Election and term, Const Iowa IV §22; 39.8, 39.9

**TREASURERS, COUNTY**

*See COUNTY TREASURERS*

**TRUSTEES (GOVERNMENTAL BODIES)**

Drainage and levee districts, 468.327, 468.500–468.523

Emergency medical services districts in cities, 357G.9

Emergency medical services districts in counties, 357F.9

Health care facilities of cities, 392.6

Hospitals, *see HOSPITALS*

Lake districts, 357E.9

Land use districts, 303.49

Law enforcement districts, 357D.9

Libraries, *see LIBRARIES*

Mental health centers, 230A.4, 230A.5

Real estate improvement districts, 358C.10

Rural improvement zones, 357H.5, 357H.6

Sanitary districts, 358.9

Street lighting districts, 357C.8

Townships, *see TOWNSHIP TRUSTEES*

Water districts, 357.13

**TURKEY MARKETING COUNCIL**

Political activities prohibitions, 184A.19

**UTILITIES**

City franchise ordinances, proposal to voters, 357A.23, 364.2

City utilities

Electric power facilities, joining, 28F.1

Operation, proposal to voters, 388.2

Water utilities, joint, establishing, 389.2

**UTILITIES BOARD**

General counsel, political activities prohibitions, 474.10

**VACANCIES**

Elections to fill, Const Iowa XI §6; ch 69

**VEHICLE TAXES**

Local option taxes, 422B.1

**VOCATIONAL SCHOOLS**

*See COMMUNITY COLLEGES*

**VOTER REGISTRATION**

*General provisions, ch 48A*

Agencies, 48A.19–48A.21

Cancellation, 48A.30

Challenges, 48A.14–48A.16

Changes, 48A.27

Charges, payment, 331.424

Citizenship rights restorations list, delivery to voter registrar, 914.6

Commissioners, county, 48A.3, 48A.35

Commission, state, 39.3(13), 47.8

Confirmation program, 48A.28, 48A.29

County treasurer's offices, participation, 48A.18, 48A.21, 331.557A(4)

Deadlines, 48A.9

Driver's license stations, 48A.18, 48A.21

Expenses, payment, 331.424

Form, 48A.11, 48A.12

Income tax returns and booklets, voter registration forms with, 48A.24

Mail, registration by, 48A.8

Registered voter, 39.3(11)

State registrar, 39.3(12), 47.7

Time limits, 48A.9

**VOTERS AND VOTING**

*See also POLLING PLACES*

*General provisions, Const Iowa II §1–7*

Absent voters, *see ABSENTEE VOTING AND ABSENT VOTERS*

Age limit, Const Iowa II §1; 48A.5

Assistance, 49.89–49.91

Blind persons, assistance in voting, 49.90

Bribery of electors, 722.4

Challenges, 49.79–49.81

Competency to vote, determinations, 222.16, 222.31(3), 222.45, 633.556(1), 633.679

Criminals, voting disqualification, Const Iowa II §5; 48A.6

Disabilities, persons with

Assistance in voting, 49.90

Polling place accessibility, 49.21

Disqualified persons, Const Iowa II §5; 48A.6

Drainage and levee district trustee elections, 468.509–468.513

Elderly persons, assistance in voting, 49.90

Electronic voting systems, *see ELECTRONIC VOTING SYSTEMS*

Eligibility, declaration of, 49.77

Eligible electors, 39.3(6)

**VOTERS AND VOTING — Continued**

**Employees**

Intimidation by employer, 49.110

Leave time to vote, 49.109

Idiots, voting disqualification, Const Iowa II §5

Improper voting, 722.5

Incompetency to vote, determinations, 222.16, 222.31(3), 222.45, 633.556(1), 633.679

Insane persons, voting disqualification, Const Iowa II §5

Instruction, schools required to give, 256.11, 280.9A

Marking ballot, 49.92–49.103

Mental retardation, persons with, determination of competency to vote, 222.16, 222.31(3), 222.45

Method of voting determined, 49.26

Preventing voting by force, 722.8

**Primary elections**

Party affiliation change, 43.41, 43.42

Party ticket, vote restricted, 43.38

Procuring vote by violence or duress, 722.8

Qualifications, Const Iowa II §1; 48A.5, 48A.5A

Registration, *see VOTER REGISTRATION*

Residency requirements, Const Iowa II §1; 48A.5, 48A.5A

Right to vote, Const Iowa II §1

Straight ticket, 49.94

Systems, alternatives, ch 52

Time limit, in voting booth, 49.88

Voting machines, *see VOTING MACHINES*

Wards' competency to vote, determination, 633.556(1), 633.679

Write-in votes, *see WRITE-IN VOTES*

**VOTING MACHINES**

*General provisions*, ch 52

Ballots, form, 52.10

Electronic systems, *see ELECTRONIC VOTING SYSTEMS*

Examination, 49.127, 52.5

Examiners board, state, 52.4

Purchase, 52.2, 52.3, 331.427, 331.441(2b)

Use, 49.26

**WAGERING**

*See GAMBLING*

**WARDS**

Competency to vote, determination, 633.556(1), 633.679

**WARDS IN CITIES**

*General provisions*, 49.3(4), 372.13(7)

**WATER DISTRICTS**

Combined water and sanitary districts, *see* **COMBINED WATER AND SANITARY DISTRICTS**

- Establishing, proposition to voters, 357.12–357.16
- Rural water districts, franchises granted by city, 357A.23
- Subdistricts, establishing, 357.29
- Trustees election, 357.13

**WATER QUALITY DISTRICTS**

- Indebtedness, 357E.11
- Tax levy, 357E.8
- Trustees election, 357E.9

**WHEEL TAXES**

- Local option taxes, 422B.1

**WORKERS' COMPENSATION DIVISION**

- Commissioner and deputy commissioners, political activities prohibitions, 86.4

**WRITE-IN VOTES**

- General provisions*, 49.99
- City elections, 376.11
- Political subdivision offices, primary elections, 43.53
- Primary elections, 43.66

**ZOOS AND ZOOLOGICAL GARDENS**

- Bond issues and contracts for use, approval by voters, ch 394

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
Title page	No date	17	October 1998
(blank page)		18	October 1998
iii	October 2000	18a	October 1992
(blank page)		18b	October 1992
v	October 1990	19	October 1991
vi	October 1990	20	October 1991
vii	October 1990	21	October 1991
viii	October 1990	22	October 1991
ix	October 1990	23	October 1992
x	October 1990	24	October 1992
xi	October 1992	25	October 1991
xii	October 1992	26	October 1991
xiii	October 1994	27	October 1991
(blank page)		28	October 1991
1	October 1999	29	October 1991
2	October 1999	30	October 1991
3	October 2000	31	October 1991
4	October 2000	32	October 1991
5	October 2000	33	October 1991
6	October 2000	34	October 1991
7	October 2000	35	October 1991
8	October 2000	36	October 1991
9	October 1995	37	October 1991
10	October 1995	38	October 1991
11	October 1997	39	October 1991
12	October 1997	40	October 1991
12a	October 1999	41	October 1992
12b	October 1999	42	October 1992
12c	October 1999	43	October 1991
12d	October 1999	44	October 1991
12e	October 1999	45	October 1991
12f	October 1999	46	October 1991
12g	October 1999	47	October 1991
12h	October 1999	48	October 1991
12i	October 1999	49	October 1991
12j (BLANK)		50	October 1991
13	October 1998	51	October 1996
14	October 1998	52	October 1996
15	October 1998	52a	October 1991
16	October 1998	52b	October 1991
16a	October 1993	52c	October 1991
16b (BLANK)		52d	October 1991

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
53	October 1992	89	October 1998
54 (BLANK)		90	October 1998
54a	October 1991	90a	October 1994
54b	October 1991	90b (BLANK)	
55	October 1991	91	October 1994
56	October 1991	92	October 1994
57	October 1991	93	October 2000
58	October 1991	94	October 2000
59	October 1991	95	January 1995
60	October 1991	96	January 1995
61	October 1991	97	January 1995
62	October 1991	98	January 1995
63	October 1991	98a	October 1995
64	October 1991	98b	October 1995
65	October 1991	99	October 1995
66	October 1991	100	October 1995
67	October 1991	101	October 1995
68	October 1991	102	October 1995
69	October 1991	103	October 1998
70	July 1989	104	October 1998
71	July 1989	105	October 1997
72	October 1991	106	October 1997
73	October 1994	107	October 1996
74	October 1994	108	October 1996
75	October 1994	108a	October 1997
76	October 1994	108b	October 1997
77	October 1994	109	October 1997
78	October 1994	110	October 1997
79	October 1996	111	July 1989
80	October 1996	112	July 1989
80a	October 1994	113	July 1989
80b	October 1994	114	October 1990
81	October 2000	115	October 1997
82	October 2000	116	October 1997
83	October 2000	116a	October 1997
84	October 2000	116b (BLANK)	
85	October 2000	117	October 1998
86	October 2000	118	October 1998
86a	October 2000	119	October 1998
86b (BLANK)		120	October 1998
87	October 1994	121	October 1998
88	October 1994	122	October 1998

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
122a	October 1998	156c	October 1998
122b (BLANK)		156d	October 1998
123	October 1997	156e	October 1998
124	October 1997	156f	October 1998
125	October 1997	156g	October 1998
126	October 1997	156h	October 1998
126a	October 1998	156i	October 1998
126b	October 1998	156j	October 1998
127	October 1998	156k	October 1998
128	October 1998	156l	October 1998
129	October 1998	157	October 2000
130	October 1998	158	October 2000
131	October 2000	159	October 1999
132	October 2000	160	October 1999
133	October 1999	161	October 1999
134	October 1999	162	October 1999
134a	October 1999	163	October 1998
134b (BLANK)		164	October 1998
135	October 2000	165	October 1999
136	October 2000	166	October 1999
137	January 1995	166a	October 1999
138	January 1995	166b	October 1999
139	October 1997	167	October 1998
140	October 1997	168	October 1998
141	October 2000	169	October 1997
142	October 2000	170	October 1997
143	October 1995	170a	October 2000
144	October 1995	170b	October 2000
145	October 1998	171	October 1997
146	October 1998	172	October 1997
147	January 1995	173	October 1998
148	January 1995	174	October 1998
149	October 1998	175	October 1998
150	October 1998	176	October 1998
151	October 1999	177	October 1997
152	October 1999	178	October 1997
153	October 1998	178a	October 1997
154	October 1998	178b	October 1997
155	October 1998	178c	October 1997
156	October 1998	178d	October 1997
156a	October 1998	179	October 1998
156b	October 1998	180	October 1998

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
181	October 1998	210g	October 1995
182	October 1998	210h (BLANK)	
182a	October 1997	211	October 2000
182b (BLANK)		212	October 2000
183	October 1995	213	October 1993
184	October 1995	214	October 1993
184a	October 1995	215	October 1997
184b (BLANK)		216	October 1997
185	October 1995	216a	October 1997
186	October 1995	216b	October 1997
187	October 1998	217	October 1998
188	October 1998	218	October 1998
189	October 1996	219	October 1998
190	October 1996	220	October 1998
191	October 1998	221	October 1997
192	October 1998	222	October 1997
193	October 1998	223	October 1994
194	October 1998	224	October 1994
195	October 1997	225	October 2000
196	October 1997	226	October 2000
196a	October 1997	227	October 1998
196b (BLANK)		228	October 1998
197	January 1995	228a	October 1997
198	January 1995	228b (BLANK)	
199	October 1996	229	October 2000
200	October 1996	230	October 2000
201	October 1998	231	October 2000
202	October 1998	232	October 2000
203	October 1993	232a	October 2000
204	October 1993	232b (BLANK)	
205	October 2000	233	October 1993
206	October 2000	234	October 1993
207	October 2000	235	October 1994
208	October 2000	236	October 1994
209	October 1997	237	October 2000
210	October 1997	238	October 2000
210a	October 2000	239	October 1998
210b	October 2000	240	October 1998
210c	October 1995	241	October 2000
210d	October 1995	242	October 2000
210e	October 2000	243	October 1997
210f	October 2000	244	October 1997

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
245	October 1997	275	October 1998
246	October 1997	276	October 1998
247	October 1997	277	October 1999
248	October 1997	278	October 1999
248a	October 1997	279	October 1999
248b (BLANK)		280	October 1999
249	January 1995	281	October 1999
250	January 1995	282	October 1999
251	October 1998	282a	October 1999
252	October 1998	282b	October 1999
253	October 1997	283	October 1999
254	October 1997	284	October 1999
255	October 1997	284a	October 1998
256	October 1997	284b	October 1998
257	October 1995	284c	October 1995
258	October 1995	284d	October 1995
259	October 1995	284e	October 1995
260	October 1995	284f (BLANK)	
260a	October 1994	285	October 1993
260b	October 1994	286	October 1993
260c	October 1994	287	October 1993
260d	October 1994	288	October 1993
260e	January 1995	289	October 1997
260f (BLANK)		290	October 1997
261	October 1998	290a	October 1997
262	October 1998	290b (BLANK)	
262a	October 2000	291	October 1998
262b	October 2000	292	October 1998
263	October 2000	293	October 1998
264 (BLANK)		294	October 1998
265	October 1999	295	October 2000
266	October 1999	296	October 2000
267	October 1999	296a	October 2000
268	October 1999	296b (BLANK)	
269	October 1999	297	October 2000
270	October 1999	298	October 2000
271	October 1999	299	October 1998
272	October 1999	300	October 1998
273	October 1999	300a	October 1998
274	October 1999	300b (BLANK)	
274a	October 1999	301	October 1998
274b	October 1999	302	October 1998

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
303	October 2000	320a	October 2000
304	October 2000	320b	October 2000
305	October 2000	321	October 2000
306	October 2000	322	October 2000
306a	October 2000	322a	October 2000
306b (BLANK)		322b (BLANK)	
307	July 1989	323	October 1992
308	July 1989	324	October 1992
309	July 1989	325	October 1998
310	July 1989	326	October 1998
311	October 2000	326a	October 1996
312	October 2000	326b	October 1996
313	October 1998	326c	October 1999
314	October 1998	326d	October 1999
315	October 1998	326e	October 1999
316	October 1998	326f	October 1999
317	October 2000	326g	October 1999
318	October 2000	326h	October 1999
318a	October 1995	326i	October 1999
318b	October 1995	326j	October 1999
318c	October 1995	327	October 1999
318d	October 1995	328	October 1999
318e	October 1994	328a	October 2000
318f	October 1994	328b	October 2000
318g	October 2000	328c	October 2000
318h	October 2000	328d	October 2000
318i	October 2000	328e	October 1999
318j	October 2000	328f	October 1999
318k	October 2000	328g	October 1999
318l	October 2000	328h (BLANK)	
318l-1	October 2000	328i	October 1999
318l-2 (BLANK)		328j (BLANK)	
318m	October 1998	329	October 1996
318n	October 1998	330	October 1996
318o	October 1997	331	October 1996
318p	October 1997	332	October 1996
318q	October 1997	332a	October 1994
318r	October 1997	332b	October 1994
318s	October 2000	332c	October 1994
318t (BLANK)		332d	October 1994
319	October 1997	332e	October 1992
320	October 1997	332f	October 1992

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
332g	October 1998	373	October 2000
332h	October 1998	374	October 2000
332i	October 1997	375	October 1995
332j	October 1997	376	October 1995
332k	October 1992	376a	October 1995
332l	October 1992	376b (BLANK)	
333	October 1993	377	October 1997
334	October 1993	378	October 1997
335	October 1992	379	October 1997
336 (BLANK)		380	October 1997
337	October 1995	381	October 1998
338	October 1995	382	October 1998
339	October 2000	382a	October 2000
340	October 2000	382b	October 2000
341	October 1998	383	October 2000
342	October 1998	384	October 2000
342a	October 2000	384a	October 1995
342b (BLANK)		384b (BLANK)	
343	October 1995	385	October 1996
344	October 1995	386	October 1996
345	October 1993	387	October 1996
346	October 1993	388	October 1996
347	October 1993	389	October 1997
348	October 1993	390	October 1997
349	October 2000	391	October 1999
350	October 2000	392 (BLANK)	
351	October 1998	393	October 1999
352	October 1998	394 (BLANK)	
352a	October 1994	395	October 1993
352b (BLANK)		396	October 1993
353	October 1992	397	October 1995
354	October 1992	398	October 1995
355	October 1998	399	October 1995
356	October 1998	400	October 1995
357	October 1997	400a	October 1995
358	October 1997	400b (BLANK)	
359	October 1993	401	October 1994
360	October 1993	402	October 1994
361	October 2000	402a	October 1994
362	October 2000	402b	October 1994
363	October 2000	402c	October 1994
364-372 (BLANK)		402d	October 1994

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
403	October 1994	425	October 2000
404	October 1994	426	October 2000
404a	October 1994	427	October 2000
404b	October 1994	428	October 2000
405	October 1995	428a	October 1998
406	October 1995	428b	October 1998
406a	October 1994	429	October 1998
406b (BLANK)		430	October 1998
407	July 1989	430a	October 1995
408	July 1989	430b	October 1995
409	October 1991	430c	October 1992
410	October 1991	430d (BLANK)	
411	October 1991	431	October 2000
412 (BLANK)		432	October 2000
412a	October 1994	432a	October 1999
412b	October 1994	432b	October 1999
412c	October 1994	433	October 1999
412d	October 1994	434	October 1999
412e	October 1992	435	October 1999
412f	October 1992	436	October 1999
412g	October 1999	436a	October 2000
412h	October 1999	436b	October 2000
412i	October 1999	436c	October 2000
412j (BLANK)		436d	October 2000
413	October 1995	437	October 2000
414	October 1995	438	October 2000
414a	October 2000	439	October 2000
414b (BLANK)		440	October 2000
415	October 2000	441	October 2000
416	October 2000	442	October 2000
417	October 2000	442a	October 1996
418	October 2000	442b	October 1996
419	October 1996	443	October 1998
420	October 1996	444	October 1998
421	October 2000	444a	October 2000
422	October 2000	444b	October 2000
422a	October 2000	445	October 1995
422b	October 2000	446	October 1995
422c	October 1995	447	October 1998
422d	October 1995	448	October 1998
423	October 1999	448a	October 1998
424	October 1999	448b	October 1998

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
448c	October 1998	472c	October 1991
448d	October 1998	472d	October 1991
449	October 1998	472e	October 1995
450 (BLANK)		472f	October 1995
450a	October 2000	472g	October 1995
450b	October 2000	472h	October 1995
450c	October 1996	473	October 1995
450d	October 1996	474	October 1995
450e	October 1996	475	October 1998
450f	October 1996	476	October 1998
450g	October 1995	477	October 1997
450h	October 1995	478	October 1997
451	October 1998	479	July 1989
452	October 1998	480	July 1989
452a	October 2000	481	July 1989
452b	October 2000	482	July 1989
453	October 1999	483	October 1995
454	October 1999	484	October 1995
455	October 2000	485	October 1995
456	October 2000	486	October 1995
456a	October 2000	487	October 1996
456b (BLANK)		488	October 1996
457	January 1995	489	October 1996
458	January 1995	490	October 1996
459	October 1998	490a	October 1996
460	October 1998	490b	October 1996
460a	October 1999	491	October 1995
460b	October 1999	492	October 1995
461	October 1997	492a	October 1995
462	October 1997	492b	October 1995
463	October 1997	492c	October 2000
464	October 1997	492d	October 2000
465	October 1997	492e	October 2000
466	October 1997	492f (BLANK)	
467	July 1989	493	October 2000
468	October 1991	494	October 2000
469	October 1997	495	October 1998
470	October 1997	496	October 1998
471	October 1994	497	October 1998
472	October 1994	498	October 1998
472a	October 1997	499	October 1998
472b	October 1997	500	October 1998

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
501	October 1999	527	October 1998
502	October 1999	528 (BLANK)	
503	October 2000	529	October 1999
504	October 2000	530	October 1999
505	October 1999	530a	October 1999
506	October 1999	530b (BLANK)	
507	October 2000	531	October 1998
508	October 2000	532	October 1998
509	October 2000	533	October 2000
510	October 2000	534	October 2000
510a	October 2000	535	October 2000
510b	October 2000	536	October 2000
510c	October 2000	I-1	October 2000
510d	October 2000	I-2	October 2000
510e	October 2000	I-3	October 2000
510f	October 2000	I-4	October 2000
510g	October 1999	I-5	October 2000
510h	October 1999	I-6	October 2000
510i	October 2000	I-7	October 2000
510j	October 2000	I-8	October 2000
511	October 1995	I-9	October 2000
512	October 1995	I-10	October 2000
513	October 1993	I-11	October 2000
514	October 1993	I-12	October 2000
515	October 1993	I-13	October 2000
516	October 1993	I-14	October 2000
517	October 2000	I-15	October 2000
518	October 2000	I-16	October 2000
519	October 1998	I-17	October 2000
520	October 1998	I-18	October 2000
521	October 1999	I-19	October 2000
522	October 1999	I-20	October 2000
522a	October 1999	I-21	October 2000
522b	October 1999	I-22	October 2000
523	October 1999	I-23	October 2000
524	October 1999	I-24	October 2000
525	October 1999	I-25	October 2000
526	October 1999	I-26	October 2000
526a	October 2000	I-27	October 2000
526b	October 2000	I-28	October 2000
526c	October 2000	I-29	October 2000
526d	October 2000	I-30	October 2000

# ELECTION LAWS PAGE CHECKLIST

(through October 2000)

Page	Date	Page	Date
I-31	October 2000	I-35	October 2000
I-32	October 2000	I-36	October 2000
I-33	October 2000	I-37	October 2000
I-34	October 2000	I-38	October 2000