

# Options in County Government Structure

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## Overview

State law governs the structure for county governments, and counties have several options for how they set up their governments. [Minnesota Statutes, chapters 370](#) to 403 (and any special laws enacted for individual counties), provide for county governance and powers. Chapter [375](#) provides the law governing the basic structure, and chapter [375A](#), enacted in 1973, provides optional forms of governance, including county administrator, elected executive, county manager, at-large chair, and county auditor-administrator.

Many counties have implemented the county administrator option, which does not require a referendum. However only one county has expanded its board following the optional process, and no county has implemented an optional plan that requires a referendum (i.e., county executive, at-large chairperson, county manager, and auditor-administrator).

This publication describes those optional county government structures, as provided for in [Minnesota Statutes, chapter 375A](#).<sup>1</sup> It also discusses how different counties have structured their governments.

## The County Board

Each county is governed by a board of commissioners elected by district. County commissioners serve four-year terms. [Minn. Stat. § 375.01](#). Under this statute, each county must have a five-member board of commissioners, except Anoka, Hennepin, Ramsey, and St. Louis counties, which must have seven-member boards.<sup>2</sup>

There are two statutes that a county can use to change the size of its board. First, under [Minnesota Statutes, section 375.056](#), any county with a population of 100,000 or more, according to the last federal decennial census, may by resolution of its county board provide for a seven-member board of county commissioners.<sup>3</sup> Any county choosing to exercise this option must send a certified copy of the board resolution to the secretary of state. If the number is

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<sup>1</sup> [Minnesota Statutes, chapter 375A](#), does not apply to Hennepin County. [Minn. Stat. § 375A.001](#). This publication does not cover options for changing elected offices for auditor, treasurer, recorder, or sheriff to appointed positions. For information on making elected offices appointed positions, see the House Research publication [County Offices: Combining or Making Appointed](#).

<sup>2</sup> Originally, this statute only applied to St. Louis County. In 1974, the legislature amended it to include Hennepin and Ramsey. [Laws 1974, ch. 576](#). Anoka was added in 1981. [Laws 1981, ch. 241](#).

<sup>3</sup> Added by [Laws 1981, ch. 231](#).

increased, the county board must redistrict the county commissioner districts under section [375.025](#).

After first becoming eligible after the 1980 census, Dakota County adopted a resolution to increase its board to seven members in March 1992, and the seven-member board began serving in 1993. Washington and Stearns Counties, both eligible since the 1990 census, have not increased their boards' membership. As of the 2010 federal decennial census, Wright and Scott Counties also were eligible to increase their board size, but have not. Based on 2018 population estimates, Carver, Stearns, and Washington Counties will be eligible to increase their county boards to seven members after the 2020 census.

A second statute, [Minnesota Statutes, section 375A.09](#), also allows a county to change the size of its board but only after it receives voter approval. A county board may change its size to three, five, seven, or nine members. This change can only occur after voters approve it in a referendum. The referendum may be initiated by:

- a resolution by the county board;
- a petition signed by voters equal in number to at least 5 percent of the electors voting at the last previous election for the office of governor; or
- a recommendation of a county government study commission.<sup>4</sup> If a study commission has been established, a referendum on an option may not be initiated by a resolution of the county board or a petition of voters until after the study commission has completed its study.

The county auditor conducts the referendum following the procedures provided in section [375.20](#), as far as practicable. The county may hold the referendum at any primary, general, or special election held not less than 30 days before the first day on which candidates may file for county office. When the number of commissioners has been changed, the county board must redistrict the county accordingly. The county board must adopt the resolution redistricting the county not less than 30 days before the first day candidates may file for the office of county commissioner. Voters elect commissioners to the redistricted county board at the general election following adoption of the redistricting resolution.

Olmsted County held a referendum on increasing its board to seven members in November 1984, redistricted, and then elected a seven-member board for the first time in 1986, for the board taking office in January 1987.

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<sup>4</sup> See below for information on county government study commissions.

## Five Optional Organization Plans

Under [Minnesota Statutes, chapter 375A](#), counties may choose from the following five plans of organization:

- county administrator
- elected executive
- county manager
- at-large chair
- county auditor-administrator

Except for the county administrator plan, all optional plans require voter approval before being adopted. [Minn. Stat. § 375A.12](#). A county administrator may be appointed by the county board without a referendum. [Minn. Stat. § 375A.06](#), subd. 5.

A referendum required to be held as a condition of adoption of a plan may be initiated by:

- a resolution of the county board;
- a petition signed by voters equal in number to at least 5 percent of the voters voting at the last previous election for the office of governor, requesting that a referendum be held on the adoption of one or more of the plans; or
- a recommendation of a county government study commission. If a study commission is established under [Minnesota Statutes, section 375A.13](#), a referendum on a plan may not be initiated by resolution of the county board or a petition of the voters until after the study commission completes its work.

In 1982, the attorney general issued an opinion in response to a question from Olmsted County on whether a study commission must be established before a county board resolution or voter petition can initiate a referendum. The attorney general wrote that the statute is not clear but concluded that a study commission is required before a referendum can be held.

“We think the reason the establishment of a commission was not mandated by the statute, except where requested by the county board or the voters, was to avoid unnecessary effort and expense where no local interest in county government restructuring has been indicated in any formal way. It was not, in our view, the intention of the statute to permit initiation of a referendum without the establishment of such body. Accordingly, it is our conclusion that [the statute] should be construed to require that a commission be established and complete the required study before a referendum may be initiated solely on the basis of a county board resolution or voter petition. The study may, or may not, recommend the referendum...but, in any case, no such recommendation is necessary in order for the referendum to be so initiated.”

Because the attorney general felt the statute was not clear, and “the expressed reluctance of courts to invalidate the results of a bona fide election which has actually been held, ... it is not our intention to suggest that referenda previously held without the establishment of a

commission are to be considered invalid.” Minn. Op. Atty. Gen. 125A-69, 1982 WL 188394 (citations omitted).

## County Administrator Plan

The county administrator plan provides for an administrator who is appointed by the county board and serves at its pleasure. This plan is not available to counties operating under the elected executive plan, the county manager plan, or the auditor-administrator plan. [Minn. Stat. § 375A.06](#).

- The county board may appoint any qualified county official or employee as administrator, but if appointed, the person must resign the county position held before appointment as administrator.
- The salary of the administrator is set by the county board.
- The county administrator is the head of the county for the management of county affairs placed under the administrator’s charge.
- The county board may make the administrator head of any department over which the board has the power of appointment.
- Specific powers and duties of the administrator are described in section [375A.06](#), subdivision 4.
- The county board may appoint an administrator without going to a countywide referendum on the question.

A county board may appoint a county coordinator, using any title for the position, including county administrator. [Minn. Stat. §§ 375.48](#) to 375.50. The duties are similar to those of a county administrator under chapter 375A. Over half of the counties have a county administrator or coordinator.

## Elected Executive Plan

The elected executive plan provides for a county executive elected by the voters of the county to a four-year term of office. [Minn. Stat. § 375A.02](#).

- The county executive is the administrative head of the county with all the powers and duties of an administrative or executive nature vested in or imposed upon the county board.
- The salary of the county executive is set by the county board at a figure not less than 150 percent of the highest paid member of the county board.
- The county executive is responsible for the administration of the affairs of the county and, by resolution of the county board, may serve as head of a county department.
- Specific powers and duties, including veto power over ordinances or resolutions of the county board that make appropriations, are described in section [375A.02](#), subdivisions 3 and 4.

In a county that has adopted the elected executive plan, various boards and commissions of the county are abolished and placed under the county board, and the offices of county auditor, treasurer, and recorder are abolished. [Minn. Stat. § 375A.04](#).<sup>5</sup>

St. Louis County proposed establishing the elected executive plan in 1974, but the referendum failed.

## County Manager Plan

The county manager plan provides for an appointed chief executive officer who is designated as county manager. [Minn. Stat. § 375A.03](#).

- The manager is appointed by the county board for an indefinite period of time and serves at the board's pleasure.
- The county board sets the manager's salary.
- The county manager is the administrative head of the county and has all the powers and duties of an administrative or executive nature vested in or imposed upon the county board.
- The official is responsible for the administration of the affairs of the county and may, by resolution of the county board, serve as head of any county department.
- Specific powers are described in section [375A.03](#), subdivision 3. (Unlike the elected executive, the county manager is not given any veto power over actions of the county board.)

Similar to the elected executive plan, in a county that has adopted the county manager plan, various boards and commissions of the county are abolished and placed under the county board, and the offices of county auditor, treasurer, and recorder are abolished. [Minn. Stat. § 375A.04](#).

In 2014, the legislature authorized the Dakota County Board to adopt the county manager plan for the county by resolution and without a referendum, as long as the county otherwise meets the conditions in general law for adoption of the county manager plan. The general law for the county manager plan applies except for the provision that prohibits the county board from dealing directly with subordinates. Otherwise, the 2014 law states what parts of Dakota County's special law, coded in [Minnesota Statutes, chapter 383D](#), are preempted, modified, or unchanged. [Minn. Stat. § 383D.76](#).

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<sup>5</sup> The statute also provides that under the elected executive and county manager plans, the offices of coroner and surveyor are made appointive unless previously abolished and terminated. At this time, very few, if any, coroners or surveyors are elected.

## At-Large Chair Plan

Under the at-large chair plan, a chair of the board of county commissioners is elected in a countywide election. [Minn. Stat. § 375A.05](#).

- The at-large chair is elected, but is otherwise a member of the county board and is its chairperson.
- The salary of the at-large chair is set by the county board, but cannot be less than 120 percent of the highest paid member of the board other than the chair.
- The at-large plan may be adopted only in counties that have a five- or seven-member county board.
- The term is four years, as is the case for other members of the board.

## County Auditor-Administrator Plan

The county auditor-administrator plan provides for the county auditor to assume the additional duties of county administrator. [Minn. Stat. § 375A.08](#).

- The auditor continues to perform the duties of county auditor except for the duties pertaining to computation of taxes, delinquent taxes, and receipt and disbursement of money. These functions are transferred to the county treasurer.
- The auditor-administrator plan is not available to counties that have provided for the appointment of the county auditor, or have combined the offices of auditor and treasurer.
- The plan is not available in counties operating under the elected executive or manager plan.
- The office of auditor-administrator is an elected position.

## Abandoning an Adopted Option or Plan

Any optional plan or the option to change the county board size provided for in sections [375A.01](#) to [375A.13](#) may be abandoned by the same procedures required for the adoption of the optional plan or the option. A plan or option remains in effect until abandoned or another plan or option is adopted, but a county must leave a plan or option in effect at least three years after its adoption before proceedings to abandon it may be started. Options that are consistent with the at-large chair plan and the administrator plan may be adopted at any time after either the at-large chair plan or the administrator plan has been adopted. [Minn. Stat. § 375A.12](#), subd. 6.

## County Home Rule Charter

While not an optional form of government under state statutes generally, the Minnesota Constitution allows the legislature to provide for home rule charters. [Minn. Const. art. XII, § 4](#). A home rule charter is essentially a local constitution and provides for that local government's organization. In addition, it provides for substantive authority to be exercised by the governing body for the community. A charter must be consistent with the state constitution, and state law can overrule a charter provision. A charter must be approved by the voters of the local government unit as prescribed by general law.

There is no general law authorizing counties to adopt home rule charters. A 1987 special law allowed Ramsey County to establish a commission to study the need for or desirability of a home rule charter for the county, and if necessary, to prepare and present a charter to the voters of the county. The voters approved a charter in 1990. No other county in Minnesota has a home rule charter or the authority to adopt one.

In 2010, the legislature enacted a provision authorizing Sherburne, Benton, and Stearns Counties to establish a charter commission to prepare a charter for consideration by the voters. The bill was introduced as [Senate File 3107](#) and was included in another bill enacted, but Governor Pawlenty vetoed the bill. Based on the veto message, it was vetoed for reasons unrelated to the home rule charter provision. See [Laws 2010, chapter 398](#), article 2 (H.F. 2227/S.F. 1880).



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