

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS**

In the Matter of the Petition for
The Incorporation of Baldwin Township
(MBAU Docket I-75)

**CITY OF PRINCETON
LEGAL BRIEF
REGARDING LEGAL AUTHORITY TO ORDER PRINCETON BOUNDARY
ADJUSTMENT**

ISSUE

- I. Does Administrative Law Judge Palmer Dennig have the legal authority to order a boundary adjustment (annexation) of properties currently located in Baldwin Township, to the City of Princeton, concurrent with an order granting incorporation of Baldwin?

FACTS

On December 7, 2023 the City of Princeton received, via postal mail, notice of Baldwin Township's intention to petition for incorporation.

On January 29, 2024 the City of Princeton provided Baldwin Township through their legal representatives a map showing Princeton's sanitary sewer service and growth area with a request that the properties identified be annexed to the City of Princeton as an orderly annexation as part of the incorporation process. Baldwin Township denied this request with no alternative annexation scenario offered.

On February 29, 2024 the City of Princeton submitted Evidentiary Testimony to Judge Palmer Dennig outlining the reasons Baldwin Township does not meet the Statutory standards for incorporation and therefore requesting the incorporation petition be denied.

As an alternative, the City of Princeton requested Judge Palmer Dennig to alter the boundary of the area to be incorporated to allow the property abutting the City that is readily able

to be served with sanitary sewer, water and all other city services, be annexed into the city of Princeton.

On March 7 and 8, 2024 Administrative Law Judge Palmer Dennig held a public hearing at which time Baldwin Township, as party to the case, and the City of Princeton, as a non-party participant, presented facts and witnesses supporting their respective cases.

The Baldwin Township position being that they should be allowed to incorporate, and the City of Princeton position being that Baldwin Township has not met the standards to incorporate and therefore the request should be denied; or if incorporation were to be approved, that the area identified in Princeton’s comprehensive plan as future sanitary sewer service area, be excluded from Baldwin’s incorporation and the city of Princeton’s boundary be adjusted to include the serviceable area in the city.

TABLE OF STATUTORY AUTHORITY

Minnesota Statute §414.01Appendix A

Minnesota Statute §414.02Appendix B

Minnesota Statute §414.031Appendix C

Minnesota Statute §414.067Appendix D

Minnesota Statute §414.09Appendix E

ANALYSIS

- I. Administrative Law Judge Palmer Dennig clearly has the legal authority to order the inclusion of properties currently located in Baldwin Township, to the city of Princeton, concurrent with an order granting incorporation of Baldwin.

The legal question is not whether or not the Chief Administrative Law Judge has the authority to adjust the incorporation boundary and Princeton’s city boundary. Statute clearly authorizes, and in fact directs, alteration to those boundaries if the Administrative Law Judge deems it appropriate. The only legal question at issue is the process to be used to accomplish such boundary alteration.

Authority to adjust the incorporation boundary and subsequently the abutting municipality boundary is expressly granted to the Chief Administrative Law Judge throughout numerous sections of Minnesota Statute 414. In fact, Statute 414.02 Subd. 3(d) specifically

establishes “The chief administrative law judge *may alter the boundaries of the proposed incorporation . . . or may exclude property that may be better served by another unit of government.* The chief administrative law judge may also alter the boundaries of the proposed incorporation so as to follow visible, clearly recognizable physical features for municipal boundaries.” (emphasis added).

However, the Administrative Law Judge must first determine whether or not the Township has met the factors set out in Statute to incorporate. The city of Princeton has provided, via its Evidentiary Testimony Opposing Baldwin Township Incorporation, Exhibit B, its reasoning as to why it believes Baldwin Township has not met the factors necessary to incorporate. This is of relevance in determining the administrative law judge’s authority to adjust the boundaries as requested by Princeton. Minnesota Statute 414.02, Exclusive Method of Municipal Incorporation, Subd. 3 (a) states “in arriving at a decision, the chief administrative law judge shall consider the following factors: . . . (11) analysis of whether necessary governmental services can best be provided through the proposed action *or another type of boundary adjustment;*” Subd. 3 (c) goes on to state “[t]he chief administrative law judge *may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality*” (emphasis added).

The fact that Baldwin has not met the factors necessary to incorporate, and that the City of Princeton is capable of serving approximately one-third of the Township with the full host of municipal services, under Statute 414.02 Subd. 3 (a) (11) and Subd. 3 (c) the incorporation requests should 1) be denied in its entirety because a portion of the Township would be better served by adjusting the boundary to include said lands in the City of Princeton. Alternatively, the incorporation should be denied for the portion of the area that would be better served by a boundary adjustment to the City of Princeton.

With regards to the administrative law judge’s authority to order the annexation of the property excluded from an incorporation of Baldwin Township, the first Subdivision of the Enabling Provisions for Municipal Boundary Adjustments establishes not just the legal authority, but the *duty* of the chief administrative law judge to “conduct proceedings, *make determinations, and issue orders for . . . the alteration of a municipal boundary.*” (emphasis added). Further, Subd. 1a. (4) states “annexation to existing municipalities of unincorporated areas unable to supply municipal services *should be facilitated;* and finally, Subd. 1b. states “[t]he chief administrative law judge may promote and *regulate development* of municipalities: (1) *To provide for the extension of municipal government* to areas which are developed or are in the process of being developed . . . *or are needed for such purposes.* (emphasis added).

In drafting the Statutory provisions outlining implementation requirements, the legislators demonstrate the intent of granting the chief administrative law judge, and their assigns, authority to direct boundary adjustments as illustrated in Statute 414.01, the Enabling Provisions ,Subd. 14 (a) in which they state “[w]hen an order or approval letter under this chapter enlarges or

diminishes the area of an existing municipality or town, the chief administrative law judge shall communicate the order or approval letter to the municipality and the state demographer . . .”

They further demonstrate this intent by making the annexation provision passive, not exclusive, as differentiated in the incorporation statute. See 414.031 Subd. 1 (a) stating “[a] proceeding for the annexation of unincorporated property abutting a municipality *may be* initiated by submitting to the chief administrative law judge and the affected township one of the following . . .” (emphasis added) whereas the incorporation statute 414.02 says “[t]his section provides *the exclusive method* of incorporating a municipality in Minnesota.” (emphasis added).

The legislators have also acknowledged the chief administrative law judge’s duty to divide governmental units in Statute 414.067 in which in Subd. 1 they state “[w]henver the *chief administrative law judge divides an existing governmental unit*, the chief administrative law judge, or other qualified person designated by the chief administrative law judge with the concurrence of the parties, *may apportion the property and obligations between the governmental unit adding territory and the governmental unit from which the territory was obtained.*” (emphasis added).

To ensure adequate public process, the legislators established hearing provisions for actions, such as the incorporation boundary adjustment and concurrent annexation requested herein, taken by the chief administrative law judge. Statute 414.09, Uniform Procedures, Subd. 1 (a) establishes that “Proceedings initiated by the submission of an initiating document *or by the chief administrative law judge* shall come on for hearing within 30 to 60 days from receipt of the document by the chief administrative law judge *or from the date of the chief administrative law judge’s action . . .*”. And Subd. 1 (e) *When the chief administrative law judge exercises authority to change the boundaries of the affected area* so as to increase the quantity of land, the hearing shall be recessed and reconvened upon two weeks’ published notice in a legal newspaper of general circulation in the affected area.” (emphasis added).

CONCLUSION

Given the above Statutory references and provisions cited herein, the City of Princeton has proven that the administrative law judge has clear authority to adjust the incorporation boundary of Baldwin Township to exclude the northern approximately 9,740 acres of land and concurrently order that boundary of the City of Princeton adjusted to include said acreage.

Statute 414.02 specifically grants the administrative law judge the authority to alter the boundaries of the proposed incorporation, and exclude property that may be better served by another unit of government.

The final question, is whether or not there should be another formal action taken by the “other” unit of government that the property could be better served by. The City of Princeton believes the Statute provisions above clearly grant the administrative law judge the authority to

order the boundary adjustment, or annexation, to the “other” unit of government, i.e. the City of Princeton.

However, if the administrative law judge does not agree with this interpretation of their Statutory authority, the City of Princeton believes the Hearings provision of Statute 414.09, Uniform Procedures could be applied and the boundary adjustment to expand the City’s boundary to include the serviceable acreage could be considered and ordered following those provisions.

Respectfully submitted,

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APPENDIX A

MINNESOTA STATUTES 2023 414.01

414.01 ENABLING PROVISIONS FOR MUNICIPAL BOUNDARY ADJUSTMENTS.

Subdivision 1. **A duty of chief administrative law judge.** The chief administrative law judge shall conduct proceedings, make determinations, and issue orders for the creation of a municipality, the combination of two or more governmental units, or the alteration of a municipal boundary.

Subd. 1a. **Legislative findings.** The legislature finds that:

(1) sound urban development and preservation of agricultural land and open spaces through land use planning is essential to the continued economic growth of this state;

(2) municipal government most efficiently provides governmental services in areas intensively developed for residential, commercial, industrial, and governmental purposes; and township government most efficiently provides governmental services in areas used or developed for agricultural, open space, and rural residential purposes;

(3) the public interest requires that municipalities be formed when there exists or will likely exist the necessary resources to provide for their economical and efficient operation;

(4) annexation to existing municipalities of unincorporated areas unable to supply municipal services should be facilitated; and

(5) joint resolutions for orderly annexation, consolidation of municipalities, mergers of towns and municipalities, long-range joint powers planning or other cooperative efforts among counties, cities, and towns should be encouraged.

Subd. 1b. **Goals in promoting, regulating municipal development.** The chief administrative law judge may promote and regulate development of municipalities:

(1) to provide for the extension of municipal government to areas which are developed or are in the process of being developed for intensive use for residential, commercial, industrial, institutional, and governmental purposes or are needed for such purposes; and

(2) to protect the stability of unincorporated areas which are used or developed for agricultural, open space, and rural residential purposes and are not presently needed for more intensive uses; and

(3) to protect the integrity of land use planning in municipalities and unincorporated areas so that the public interest in efficient local government will be properly recognized and served.

Subd. 2. [Repealed, 2002 c 223 s 29]

Subd. 3. [Repealed, 1996 c 303 s 19]

Subd. 3a. [Repealed, 1996 c 303 s 19]

Subd. 4. [Repealed, 1996 c 303 s 19]

Subd. 5. **Consolidation of proceedings.** The chief administrative law judge may order the consolidation of separate proceedings in the interest of economy and expedience.

Subd. 6. [Repealed, 1969 c 1139 s 87 subd 2] Subd. 6a. [Repealed, 2002 c 223 s 29]

Subd. 7. [Repealed, 1969 c 1139 s 88 subd 2]

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APPENDIX B

MINNESOTA STATUTES 2023 414.02

414.02 EXCLUSIVE METHOD OF MUNICIPAL INCORPORATION.

Subdivision 1. **Initiating the proceedings.** This section provides the exclusive method of incorporating a municipality in Minnesota. Proceedings for incorporation of a municipality may be initiated by petition of 100 or more property owners or by resolution of the town board within an area which is not included within the limits of any incorporated municipality and which area includes land that has been platted into lots and blocks in the manner provided by law. The petition or resolution shall be submitted to the chief administrative law judge and shall state the proposed name of the municipality, the names of all parties entitled to mailed notice under section 414.09, the reason for requesting incorporation, and shall include a proposed corporate boundary map.

Subd. 1a. **Notice of intent to incorporate.** (a) At least 30 days before submitting the petition or resolution to the chief administrative law judge under this section, the township must serve the clerk of each municipality and each township that is contiguous to the township by certified mail a notice of the township's intent to incorporate.

(b) If the proceedings for incorporation are initiated by the requisite number of property owners, the notice of intent to incorporate must be served by the property owner or owners or designee in the manner required under this paragraph. The property owner or owners or designee must serve a notice of intent to incorporate on the town board of the township containing the area proposed for incorporation. The property owner or owners or designee must also serve the clerk of each municipality and each township that is contiguous to the area proposed for incorporation by certified mail a notice of intent to incorporate.

Subd. 2. **Hearing time, place.** Upon receipt of a petition or resolution made pursuant to subdivision 1, the chief administrative law judge shall designate a time and place for a hearing in accordance with section 414.09.

Subd. 3. **Relevant factors, order.** (a) In arriving at a decision, the chief administrative law judge shall consider the following factors:

(1) present population and number of households, past population and projected population growth for the subject area;

(2) quantity of land within the subject area; the natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;

- (3) present pattern of physical development, planning, and intended land uses in the subject area including residential, industrial, commercial, agricultural, and institutional land uses and the impact of the proposed action on those uses;
- (4) the present transportation network and potential transportation issues, including proposed highway development;
- (5) land use controls and planning presently being utilized in the subject area, including comprehensive plans, policies of the Metropolitan Council; and whether there are inconsistencies between proposed development and existing land use controls;
- (6) existing levels of governmental services being provided to the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of the services;
- (7) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;
- (8) fiscal impact on the subject area and adjacent units of local government, including present bonded indebtedness; local tax rates of the county, school district, and other governmental units, including, where applicable, the net tax capacity of platted and unplatted lands and the division of homestead and nonhomestead property; and other tax and governmental aid issues;
- (9) relationship and effect of the proposed action on affected and adjacent school districts and communities;
- (10) whether delivery of services to the subject area can be adequately and economically delivered by the existing government;
- (11) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;
- (12) degree of contiguity of the boundaries of the subject area and adjacent units of local government; and
- (13) analysis of the applicability of the State Building Code.

(b) Based upon these factors, the chief administrative law judge may order the incorporation on finding that:

- (1) the property to be incorporated is now, or is about to become, urban or suburban in character; or
- (2) that the existing township form of government is not adequate to protect the public health, safety, and welfare; or

(3) the proposed incorporation would be in the best interests of the area under consideration.

(c) The chief administrative law judge may deny the incorporation if the area, or a part thereof, would be better served by annexation to an adjacent municipality.

(d) The chief administrative law judge may alter the boundaries of the proposed incorporation by increasing or decreasing the area to be incorporated so as to include only that property which is now, or is about to become, urban or suburban in character, or may exclude property that may be better served by another unit of government. The chief administrative law judge may also alter the boundaries of the proposed incorporation so as to follow visible, clearly recognizable physical features for municipal boundaries.

(e) In all cases, the chief administrative law judge shall set forth the factors which are the basis for the decision.

(f) Notwithstanding any other provision of law to the contrary relating to the number of wards which may be established, the chief administrative law judge may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the chief administrative law judge's order upon a finding that area representation is required to accord proper representation in the proposed incorporated area because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development, but after four years from the effective date of an incorporation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all council members at large as in other municipalities.

(g) The chief administrative law judge's order for incorporation shall provide for the election of municipal officers in accordance with section 414.09. The plan of government shall be "Optional Plan A", provided that an alternate plan may be adopted pursuant to section 412.551, at any time.

(h) The ordinances of the township in which the new municipality is located shall continue in effect until repealed by the governing body of the new municipality.

Subd. 4. Effective date of incorporation. The incorporation shall be effective upon the election and qualification of new municipal officers or on such later date as is fixed by the chief administrative law judge's order.

History: 1959 c 686 s 2; 1961 c 645 s 2; 1963 c 807 s 6,7; 1965 c 899 s 6-11; 1969 c 1146 s 8; 1973 c 123 art 4 s 5; 1975 c 271 s 6; 1978 c 705 s 12; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1996 c 303 s 8; 2002 c 223 s 5; 2006 c 270 art 2 s 3; 2008 c 196 art 1 s 6; art 2 s 15; 2009 c 86 art 1 s 69

APPENDIX C

MINNESOTA STATUTES 2023 414.031

414.031 ANNEXING UNINCORPORATED PROPERTY; CHIEF ADMINISTRATIVE LAW JUDGE'S ORDER.

Subdivision 1. **Initiating the proceeding.** (a) A proceeding for the annexation of unincorporated property abutting a municipality may be initiated by submitting to the chief administrative law judge and the affected township one of the following:

- (1) a resolution of the annexing municipality;
 - (2) a resolution of the township containing the area proposed for annexation;
 - (3) a petition of 20 percent of the property owners or 100 property owners, whichever is less, in the area to be annexed;
 - (4) a resolution of the municipal council together with a resolution of the township board stating their desire to have the entire township annexed to the municipality.
- (b) The petition, or resolution shall set forth the boundaries of the territory proposed for annexation, the names of all parties entitled to notice under section 414.09, and the reasons for requesting annexation.
- (c) If the proceeding is initiated by a petition of property owners, the petition shall be accompanied by a resolution of the annexing municipality supporting the petition.

Subd. 1a. **Notice of intent to annex.** At least 30 days before submitting a petition or resolution to the chief administrative law judge under this section, the petitioning municipality or petitioning property owner or supporting municipality must serve the township clerk of the affected township by certified mail a notice of the petitioning municipality's or the petitioning property owner's intent to annex property within the township. The notice must clearly identify the boundaries of the area proposed to be annexed.

Subd. 2. [Repealed, 1973 c 621 s 9]

Subd. 3. **Hearing time, place.** Upon receipt of a petition or resolution initiating an annexation, the chief administrative law judge shall designate a time and a place for a hearing in accordance with section 414.09.

Subd. 3a. **Presiding administrative law judge; tour.** During the evidentiary hearing process, the presiding administrative law judge shall tour the proposed annexation area along with at least one representative of each of the affected towns and municipalities. Prior to the tour of the proposed annexation area, the affected towns and municipalities shall agree on the route or the

administrative law judge shall determine the route for the affected towns and municipalities and resolve all disputes regarding the tour.

Subd. 4. **Relevant factors, order.** (a) In arriving at a decision, the presiding administrative law judge shall consider the following sources and factors:

- (1) recordings and public documents from joint informational meetings under section 414.0333 relevant to other factors listed in this subdivision;
- (2) present population and number of households, past population and projected population growth of the annexing municipality and subject area and adjacent units of local government;
- (3) quantity of land within the subject area and adjacent units of local government; and natural terrain including recognizable physical features, general topography, major watersheds, soil conditions and such natural features as rivers, lakes and major bluffs;
- (4) degree of contiguity of the boundaries between the annexing municipality and the subject area;
- (5) present pattern of physical development, planning, and intended land uses in the subject area and the annexing municipality including residential, industrial, commercial, agricultural and institutional land uses and the impact of the proposed action on those land uses;
- (6) the present transportation network and potential transportation issues, including proposed highway development;
- (7) land use controls and planning presently being utilized in the annexing municipality and the subject area, including comprehensive plans for development in the area and plans and policies of the Metropolitan Council, and whether there are inconsistencies between proposed development and existing land use controls and the reasons therefore;
- (8) existing levels of governmental services being provided in the annexing municipality and the subject area, including water and sewer service, fire rating and protection, law enforcement, street improvements and maintenance, administrative services, and recreational facilities and the impact of the proposed action on the delivery of said services;
- (9) the implementation of previous annexation agreements and orders;
- (10) existing or potential environmental problems and whether the proposed action is likely to improve or resolve these problems;
- (11) plans and programs by the annexing municipality for providing needed and enhanced governmental services to the subject area in a cost-effective and feasible manner within a reasonable time from the date of the annexation;

(12) an analysis of the fiscal impact on the annexing municipality, the subject area, and adjacent units of local government, including net tax capacity and the present bonded indebtedness, and the local tax rates of the county, school district, and township;

(13) relationship and effect of the proposed action on affected and adjacent school districts and communities;

(14) adequacy of town government to deliver services to the subject area;

(15) analysis of whether necessary governmental services can best be provided through the proposed action or another type of boundary adjustment;

(16) if only a part of a township is annexed, the ability of the remainder of the township to continue or the feasibility of it being incorporated separately or being annexed to another municipality; and

(17) information received by the presiding administrative law judge from the tour required under subdivision 3a.

(b) Based upon the factors, the presiding administrative law judge may order the annexation on finding:

(1) that the subject area is now, or is about to become, urban or suburban in character;

(2) that municipal government in the area proposed for annexation is required to protect the public health, safety, and welfare; or

(3) that the annexation would be in the best interest of the subject area.

(c) If only a part of a township is to be annexed, the presiding administrative law judge shall consider whether the remainder of the township can continue to carry on the functions of government without undue hardship.

(d) The presiding administrative law judge shall deny the annexation on finding that the increase in revenues for the annexing municipality bears no reasonable relation to the monetary value of benefits conferred upon the annexed area.

(e) The presiding administrative law judge may deny the annexation on finding:

(1) that annexation of all or a part of the property to an adjacent municipality would better serve the interests of the residents of the property; or

(2) that the remainder of the township would suffer undue hardship.

(f) The presiding administrative law judge may alter the boundaries of the area to be annexed by increasing or decreasing the area so as to include only that property which is now or is about to

become urban or suburban in character or to add property of such character abutting the area proposed for annexation in order to preserve or improve the symmetry of the area, or to exclude property that may better be served by another unit of government.

(g) The presiding administrative law judge may also alter the boundaries of the proposed annexation so as to follow visible, clearly recognizable physical features.

(h) If the presiding administrative law judge determines that part of the area would be better served by another municipality or township, the presiding administrative law judge may initiate and approve annexation by conducting further hearings and issuing orders pursuant to subdivisions 3 and 4.

(i) In all cases, the presiding administrative law judge shall set forth the factors which are the basis for the decision.

Subd. 4a. Providing for election of new municipal officers. (a) Any annexation order under this section for annexation by a single municipality of an entire township shall include a provision for the election of new municipal officers in accordance with section 414.09. The chief administrative law judge, or the chief administrative law judge's designee, may also order an election of new municipal officers in accordance with section 414.09 as part of any other annexation order under this section if the chief administrative law judge or the chief administrative law judge's designee determines that such an election would be equitable.

(b) The expanded municipality shall be governed by the home rule charter or statutory form which governs the annexing municipality, except that any ward system for the election of council members shall be inoperable.

(c) The ordinances of both the annexing municipality and the township shall continue in effect within the former boundaries until repealed by the governing body of the new municipality.

(d) Notwithstanding any other provision of law to the contrary, the chief administrative law judge, or the chief administrative law judge's designee, may provide for election of council members by wards, not less than three nor more than seven in number, whose limits are prescribed in the chief administrative law judge's order, upon a finding that area representation is required to accord proper representation in the municipality because of uneven population density in different parts thereof or the existence of agricultural lands therein which are in the path of suburban development; but after four years from the effective date of an annexation the council of the municipality may by resolution adopted by a four-fifths vote abolish the ward system and provide for the election of all council members at large.

(e) Until the effective date of the annexation order, the town board and other officers of the town shall continue to exercise their powers and duties under the town laws in that portion of the municipality that was formerly the town, and the council and other officers of the annexing municipality shall continue to exercise their powers and duties in that portion of the expanded municipality that was formerly the municipality. Thereafter the town board and the council of the annexing municipality shall have no jurisdiction within the municipality, and the new municipal

council and other new officers shall act in respect to any matters previously undertaken by the town board of supervisors or municipal council within the limits of the expanded municipality, including the making of any improvement and the levying of any special assessments therefor in the same manner and to the same effect as if such improvement had been undertaken by the municipality.

(f) The new municipal council may continue or discontinue any board that may have previously existed in the town or former municipality.

Subd. 5. [Repealed, 1992 c 556 s 12]

Subd. 6. **Effective date of annexation.** The annexation shall be effective as of the date fixed in the annexation order or on a later date fixed in the annexation order.

Subd. 7. **Copy to county auditors.** A copy of the annexation order must be delivered immediately by the chief administrative law judge to the appropriate county auditors.

Subd. 8. **Timing for tax levy.** For the purposes of taxation, if the annexation becomes effective on or before August 1 of a levy year, the municipality may levy on the annexed area beginning with that same levy year. If the annexation becomes effective after August 1 of a levy year, the town may continue to levy on the annexed area for that levy year, and the municipality may not levy on the annexed area until the following levy year.

History: 1969 c 1146 s 10; 1973 c 123 art 5 s 7; 1973 c 621 s 11; 1975 c 271 s 6; 1978 c 705 s 13; 1986 c 444; 1988 c 719 art 5 s 84; 1989 c 329 art 13 s 20; 1Sp1989 c 1 art 2 s 11; 1991 c 291 art 12 s 22; 1996 c 303 s 9; 2002 c 223 s 6; 2002 c 235 s 1; 2006 c 270 art 2 s 4,5; 2008 c 196 art 1 s 7-9; art 2 s 15

APPENDIX D

MINNESOTA STATUTES 2023 414.067

414.067 APPORTIONED ASSETS AND OBLIGATIONS.

Subdivision 1. **Township or municipality divided.** Whenever the chief administrative law judge divides an existing governmental unit, the chief administrative law judge, or other qualified person designated by the chief administrative law judge with the concurrence of the parties, may apportion the property and obligations between the governmental unit adding territory and the governmental unit from which the territory was obtained. The apportionment shall be made in a just and equitable manner having in view the value of the existing township or municipal property located in the area to be added; the assets, value, and location of all the taxable property in the existing township or municipality; the indebtedness, the taxes due and delinquent, other revenue accrued but not paid to the existing township or municipality; and the ability of any remainder of the township or municipality to function as an effective governmental unit. The order shall not relieve any property from any tax liability for payment for any bonded obligation, but the taxable property in the new municipality may be made primarily liable thereon.

Subd. 2. **Entire town or consolidated cities.** When an entire township is annexed by an existing municipality, or an entire township is incorporated into a new municipality, or a municipality is consolidated into a new municipality, all money, claims, or properties, including real estate owned, held, or possessed by the annexed, incorporated township or municipality, and any proceeds or taxes levied by such town or municipality, collected or uncollected, shall become and be the property of the new or annexing municipality with full power and authority to use and dispose of the same for public purposes as the council or new annexing municipality may deem best, subject to the rights of creditors. Any taxes levied to pay bonded indebtedness of a town or former municipality annexed to an existing municipality or incorporated or consolidated into a new municipality shall be borne only by that taxable property within the boundaries of the former town or municipality, provided, however, the units of government concerned may by resolution of their governing bodies agree that taxes levied to pay the indebtedness must be levied upon all taxable property within the boundaries of the new municipality. Notwithstanding that the bonded indebtedness may be payable from taxes levied on only a portion of the taxable property in the new or surviving municipality, the full faith and credit of the new or surviving municipality must secure any outstanding bonded indebtedness to which the full faith and credit of the annexed or consolidated township or municipality was pledged. If any general funds of the new or surviving municipality are used to pay debt service on the bonded indebtedness, the general funds must be reimbursed, with or without interest, from taxes levied on taxable property in the former township or municipality.

Subd. 3. **Revision of tax records; redistribution of levies.** In an apportionment made under this section, the chief administrative law judge may order the county auditor to revise tax records and respread levies at any time prior to December 15 or order the county treasurer to redistribute taxes levied and receivable.

History: *1969 c 1146 s 17; 1971 c 62 s 1; 1973 c 621 s 7; 1975 c 271 s 6; 1978 c 705 s 30; 1997 c 219 s 4; 2002 c 223 s 21,22; 2008 c 196 art 1 s 15; art 2 s 15*

APPENDIX E

MINNESOTA STATUTES 2023 414.09

414.09 UNIFORM PROCEDURES.

Subdivision 1. **Hearings.** (a) Proceedings initiated by the submission of an initiating document or by the chief administrative law judge shall come on for hearing within 30 to 60 days from receipt of the document by the chief administrative law judge or from the date of the chief administrative law judge's action and the person conducting the hearing must submit an order no later than one year from the date of the day of the first hearing.

(b) The place of the hearing shall be in the county where a majority of the affected territory is situated, and shall be established for the convenience of the parties.

(c) The chief administrative law judge shall mail notice of the hearing to the following parties: the township or municipality presently governing the affected territory; any township or municipality abutting the affected territory; the county where the affected territory is situated; and each planning agency which has jurisdiction over the affected area.

(d) The chief administrative law judge shall see that notice of the hearing is published for two successive weeks in a legal newspaper of general circulation in the affected area.

(e) When the chief administrative law judge exercises authority to change the boundaries of the affected area so as to increase the quantity of the land, the hearing shall be recessed and reconvened upon two weeks' published notice in a legal newspaper of general circulation in the affected area.

Subd. 2. **Transmittal of order.** The chief administrative law judge shall see that copies of the order are mailed to all parties entitled to mailed notice of hearing under subdivision 1, the secretary of state, the state demographer, individual property owners if initiated in that manner, affected county auditor, and any other party of record. The affected county auditor shall record the order against the affected property.

Subd. 3. **Elections of municipal officers.** (a) An order approving an incorporation or consolidation pursuant to this chapter, or an order requiring an election under section 414.031, subdivision 4a, shall set a date for an election of new municipal officers not less than 45 days nor more than 60 days after the issuance of such order.

(b) The chief administrative law judge shall appoint an acting clerk for election purposes, at least three election judges who shall be residents of the new municipality, and shall designate polling places within the new municipality.

(c) The acting clerk shall prepare the official election ballot.

(d) Any person eligible to hold municipal office may file an affidavit of candidacy not more than four weeks nor less than two weeks before the date designated in the order for the election.

(e) The election shall be conducted in conformity with the charter and the laws for conducting municipal elections insofar as applicable.

(f) Any person eligible to vote at a township or municipal election within the area of the new municipality, is eligible to vote at such election.

(g) Any excess in the expense of conducting the election over receipts from filing fees shall be a charge against the new municipality; any excess of receipts shall be deposited in the treasury of the new municipality.

History: *1969 c 1146 s 19; 1973 c 123 art 5 s 7; 1975 c 271 s 6; 1976 c 44 s 31; 1978 c 705 s 32; 1984 c 543 s 48; 1994 c 511 s 11,12; 2002 c 223 s 25; 2002 c 235 s 2; 2003 c 2 art 5 s 10,17; 2008 c 196 art 2 s 15; 1Sp2017 c 1 art 18 s 3*