

CHAPTER 58-02
CREATION, CONSOLIDATION, DIVISION, AND DISSOLUTION

58-02-01. Organization of township - Petition - Election.

If twenty-five percent of the qualified electors who voted for governor in the last general election of a congressional township which has taxable valuation of more than twenty thousand dollars and which contains twenty-five or more qualified electors petition the board of county commissioners for the organization of the congressional township into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the qualified electors in the congressional township. If twenty-five percent of the qualified electors who voted for governor in the last general election of two or more neighboring congressional townships which have an aggregate taxable valuation of more than twenty thousand dollars and which contain an aggregate of twenty-five or more qualified electors petition the board of county commissioners for the organization of the congressional townships into a civil township, the board of county commissioners shall then submit the question whether said township shall be organized to the qualified electors in the congressional townships. Thirty days' published notice in at least one newspaper of general circulation in the township must be given of the election. The board of county commissioners shall appoint the election officials necessary for the election. If a majority of the votes cast approve of organization, the township must then be organized, and if the petitions filed for organization did not designate a name, the board of county commissioners shall select one.

58-02-02. Commissioners report to county auditor.

The board of county commissioners shall make and file a full report with the county auditor in relation to all its proceedings in the establishment of a civil township.

58-02-03. Name of township.

A township must be named in accordance with the expressed wish of a majority of the legal voters residing therein. If the legal voters fail to designate a name, the board of county commissioners may select one.

58-02-04. County auditor transmits name and report to state auditor.

Repealed by S.L. 1987, ch. 262, § 3.

58-02-05. Duty of state auditor when similar names are adopted by different townships.

Repealed by S.L. 1987, ch. 262, § 3.

58-02-06. First township meeting.

The first township meeting of a newly organized township must be held within twenty days after the township is organized at a time and place designated by the board of county commissioners. Notice of the time and place of the meeting must be prepared by the board. The sheriff shall post such notice in the township not less than ten days before the day set for the meeting.

58-02-07. Changing boundary lines of township.

The boundary lines of an organized township may be changed only in the manner provided in this chapter.

58-02-08. Fractional township - Annexing to another township.

The board of county commissioners may attach a fractional congressional township to an adjoining township within the same county or divide it between two or more townships within the same county upon the petition of a majority of the qualified electors to be affected.

58-02-09. Annexing parts of township divided by river from rest of township.

If rivers, lakes, or creeks divide a civil or congressional township and make it inconvenient to do township business, the board of county commissioners of the county in which the township is located may annex that part of the township segregated by such river, lake, or creek to an adjoining township in the same county upon the petition of not less than two-thirds of the qualified electors residing in the part of the township so segregated.

58-02-10. Division of township in which there are two or more cities.

The board of county commissioners may divide a township in which there are two or more cities, each containing two hundred or more inhabitants, upon the petition of a majority of the qualified electors to be affected. If the division is ordered, it must be made in the manner best suited to the convenience of the territory concerned.

58-02-11. Uniting congressional townships into civil townships.

The board of county commissioners may unite two or more congressional townships into one civil township or may add not more than three congressional townships to any congressional township already organized as a civil township when petitioned to do so by a majority of the qualified electors to be affected.

58-02-12. Notice to board of supervisors when change is made in township boundaries.

Before any change is made in the boundaries of a civil township, twenty days' notice of such proposed change must be given to the chairman of the board of supervisors of such township.

58-02-13. Obligation to pay taxes assessed or indebtedness incurred prior to township alteration continues.

Property which has been detached from an organized civil township under any provision of this chapter remains liable for and subject to any tax levied or assessed in the township of which it was a part prior to such detachment. A portion of any township annexed to another township and a city separated from a civil township of which it was a part shall not be released or discharged from the payment of any bonded or other indebtedness that may have existed against the township from which it was detached or separated.

58-02-14. Consolidating townships - Majority of supervisors and clerks of townships affected determine amount due.

When a township or a fraction of a township has been attached to another township, the several boards of township supervisors and the clerks of the townships affected by the change shall meet prior to the annual township meeting at the usual meeting place of the township to which the annexation has been made or at a location mutually agreed upon in the township to which the annexation has been made or in an adjacent township, and upon notice of such meeting given by the clerk thereof, for the purpose of determining the amount due to the township to which the annexation has been made. All questions arising at such meeting must be determined by a majority vote of the members of the boards of township supervisors and the clerks present at such meeting.

58-02-15. Determination of assets and liabilities of territory detached from one civil township and attached to another.

When a fraction of a township has been detached from one organized township and attached to another, the detached territory shall assume and pay a just proportion of the indebtedness of the township from which it has been detached, based upon the last assessed valuation of the original civil township and in the proportion that the valuation of the detached portion bears to the valuation within the whole of the township from which it has been detached. At the meeting described in section 58-02-14, the members of the boards of township supervisors and the township clerks there present shall ascertain, as near as may be, the total outstanding indebtedness of the original township, as of the date upon which the detachment

became effective, and the amount of township assets which shall remain with the original township after the detachment, and the amount of the assets which must be paid over to the detached portion of such township and to the civil township to which such detached territory has been attached. Such determination must be based upon the last assessed valuation of the original township as provided in this section.

58-02-16. Determination of net assets of township to which territory is annexed and of annexed territory.

At the meeting described in section 58-02-14, the members of the boards of township supervisors and the township clerks there present shall determine the value of the townhall and of all other property owned and used by the township to which the new territory has been annexed and the value of the property of the township or fraction of a township which has been annexed thereto, and shall compute the amount of moneys in the township treasury and of moneys due to the township to which the new territory has been annexed and to the township or fraction of a township annexed thereto, from the county and from other sources, and the amount of back or unpaid taxes due to the township to which the new territory has been annexed and due to and receivable by the township or fraction of a township annexed thereto, to determine the gross assets of the territories involved. They shall compute the amount of all bonds and debts which constitute the legal liabilities of the township to which the territory is annexed, and the difference between the gross assets and the liabilities constitutes the net assets or the net liabilities of such township for use in determining the pro rata amount, if any, due from the annexed territory.

58-02-17. Determination of pro rata amount due from annexed territory.

The members of the boards of township supervisors and the township clerks present at the meeting provided for in section 58-02-14 shall determine the amount due from the annexed territory to the township to which it has been annexed by taking into account the assets and liabilities of the township to which the new territory has been annexed and of the township or fraction of a township annexed thereto. Such amount must be determined by the relative valuation of the annexed territory and of the township to which the annexation has been made as shown by the last preceding assessment.

58-02-18. Tax levies against territory annexed.

At the first annual township meeting after the consolidation of the townships or the consolidation of a township and a fraction of a township, there must be levied against the fraction of a township or township annexed the sum found to be due to the township to which the annexation was made, and if the territory annexed is a fraction of a township which was detached from a civil township, the amount due to the original township to pay the outstanding indebtedness thereof, if any. Such levy is in addition to the levy provided by law. Taxes levied on the detached territory while it was a part of another civil township to pay anticipated obligations must be allocated to the detached territory, if the obligations for which the levy was made had not been incurred at the time the detachment became effective. Such taxes must be considered in levying the taxes provided for in this section. When the adjustment between a township and a fraction thereof detached therefrom and joined to another township involves the modification of tax levies theretofore made for the payment of any indebtedness for which an irrevocable levy was required to be made, notice of such modification must be given to all holders of bonds or other evidences of indebtedness. If such holders do not object to the modification within twenty days after such notice, they must be deemed to have concurred therein.

58-02-19. Division of organized township - Requirements.

A fractional township which contains more than eighteen sections of land and borders on a lake or river or any congressional township may be set off from the civil township of which it is a part if:

1. There are one hundred or more inhabitants residing in the proposed township; and

2. The division does not leave less than one hundred inhabitants residing in the township from which it is separated.

58-02-20. Division made on congressional township lines.

The separation of a congressional township or fractional township from an organized civil township must be made only along congressional township lines.

58-02-21. Petition for and notice of application for division - Publication.

A petition for the division of a township as provided in section 58-02-19, addressed to the board of county commissioners and signed by a majority of the qualified electors residing within the proposed township, may be presented to the board at any regular meeting of the board. Notice of the time and place of the hearing on such petition must be given at least thirty days prior to such hearing by the publication of such notice at least three times in the newspaper in which the proceedings of the board of county commissioners are published, or if there is no such newspaper, the notice must be posted in at least three public places in the proposed new township and in at least three public places in the remainder of the township affected by the division. One of such notices must be posted at the place where the last township election was held for the township from which the separation is sought.

58-02-22. Board of county commissioners may establish new township.

Upon presentation of the petition described in section 58-02-21, with proof of notice as provided in that section of the existence of the requirements for division and proof that the petition was signed by the requisite number of voters residing in the proposed township, the board of county commissioners shall set off the congressional township or fractional township described in the petition as a separate civil township.

58-02-23. Division of assets and liabilities of the original township.

Within thirty days after the first election is held in a civil township established upon a petition described in section 58-02-21, the board of county commissioners, the county auditor, and a district judge designated by the presiding judge of the judicial district in which the new township is located shall meet as a board of arbitrators and shall determine a just and fair distribution of the property and apportionment of the debts of the original township between it and the township separated therefrom and established as a civil township. The new township shall succeed to a proportional share of the moneys and other property of the original township and shall assume a proportional share of the debts and liabilities thereof existing at the time of the division, such proportion to be determined by the relative valuation of the property of the respective parts as shown by the last preceding assessment. The board of arbitrators, upon subpoena issued by the clerk of the district court on the request of such board, may bring before it all necessary witnesses, books, and papers. The determination of the board of arbitrators may be reviewed by the district court on appeal in accordance with the procedure provided in section 28-34-01 and shall be enforced by the courts.

58-02-24. Obligations of original township enforced.

The division of a congressional or fractional township from an organized civil township does not prevent the enforcement of the obligations of the original township existing prior to the division.

58-02-25. Dissolution of township - Petition - When considered by supervisors or board of county commissioners - Hearing.

If a petition asking for the dissolution of an organized civil township and setting forth the reasons therefor and signed by one-half of the qualified electors of such township is presented to the board of township supervisors at least ten days prior to the second Tuesday in March in any year, the petition must be considered by such board at its regular meeting on the second Tuesday in March in such year. If the qualified electors of an organized township, as determined by the board of county commissioners, do not exceed five in number, said board of county

commissioners, upon the petition of any qualified elector of such township or upon its own motion without any such petition, may dissolve such township by filing in the office of the county auditor its resolution to dissolve such township. Following the filing of the resolution by said board of county commissioners, the county auditor shall designate a time and place for a public hearing of all qualified electors who are owners of any interest in real property assessed for taxation in the township and who reside within the boundaries of the township as fixed by the order of the board of county commissioners. Notice of the hearing must be given by publication once each week for two consecutive weeks in a newspaper of general circulation in the township, the last publication appearing at least seven days prior to the hearing. The notice must be addressed to all qualified electors who are owners of any interest in real property assessed for taxation in the township or who are residing within the boundaries of the township. The county auditor shall also notify all owners of property within the township by mail at least two weeks in advance of the proposed dissolution hearing.

58-02-26. Question of dissolution submitted at annual meeting - Notice.

If the petition described in section 58-02-25 has been signed by the requisite number of qualified signers, the question of dissolution must be submitted to the voters of the township at the annual township meeting. A notice specifying the question of dissolution to be submitted at the annual meeting must be signed by the township clerk and posted in five of the most public places in the township at least five days prior to the annual meeting and published once before the time appointed for the meeting in a legal newspaper published in the county in which the township is located.

58-02-27. Vote on question of dissolution - Form of ballot - Result.

The board of township supervisors shall preside at the meeting. The polls must be opened and closed as at other township meetings. The voters shall vote by ballot. The ballot used must be in the following form:

Shall _____ township be dissolved?

Yes

No

The result of the vote must be announced publicly after the polls close and as soon as ascertained by the officers of the meeting. If a majority of all votes cast are in favor of dissolution, a statement of the vote, signed by the chairman of the board of township supervisors and attested by the township clerk, must be filed in the office of the county auditor of the county within which the township lies.

58-02-28. When township dissolved - Disposition of property and records.

If a majority of votes cast at the township meeting are in favor of dissolution, the township ceases to be a corporation on the next succeeding January first. After payment of the township's debts and liabilities, any funds on hand derived from property taxes levied by the township may be allocated among taxpayers of the township in proportion to their relative ownership shares of the taxable valuation of property in the township, any funds on hand from sources other than property taxes levied by the township must be transferred by the township treasurer to the treasurer of the county in which the township is located for deposit in the county general fund, and any real or personal property must be disposed of in the manner directed by a majority of the voters of the township at any special meeting. All of the township records must be turned over for preservation and safekeeping to the county auditor of the county in which the township is located.

58-02-29. Personal rights not affected by township dissolution.

The dissolution of a township may not affect the rights of any person in any contract or agreement to which the township is a party.

58-02-30. Township attached to other assessment district - Levy for payment of township debts.

Upon the dissolution of a civil township, the board of county commissioners of the county within which the township lies shall attach the territory embraced within such township to such assessment district of the county as the board may deem advisable for the purpose of assessment and taxation. The board shall levy on the taxable property in the township, in addition to the other levies provided by law, a sum sufficient to discharge all debts and liabilities existing against the township at the time of its dissolution, and the county auditor shall enter the levy on the county tax list to be collected by the county treasurer as other county taxes are collected. The county treasurer shall credit the money derived from such levy to a special fund to be used for the payment of such debts and liabilities, and any balance remaining in the fund after the payment of the debts and liabilities must be transferred to the credit of the assessment district to which the territory is attached to be used in the construction of roads and bridges therein.

58-02-31. Duty of county auditor on dissolution.

The county auditor, upon dissolution of any civil township in the auditor's county, shall enter the fact of the dissolution upon the proper record book.

58-02-32. Proof of signatures on petition.

The fact that any petition required under any provision of this chapter is signed by the required number of signers residing in the territory described therein may be proved by the affidavit of any qualified elector residing in the territory and having knowledge of the facts.