CHAPTER 11-09
COUNTY MANAGERSHIP

11-09-01. County manager government - Forms.

Any county in this state is authorized to adopt one of the following county manager forms of government:

1. Short form of county managership with the office of county manager to be an appointed office.
2. County manager form with the office of county manager to be an appointed office.
3. Short form of county managership with the office of county manager to be an elected office.
4. County manager form with the office of county manager to be an elected office.

The procedure for adopting any one of these forms of government shall be as is provided in this chapter. Unless otherwise expressly indicated, the provisions of this chapter shall apply to all the forms of county managership.

11-09-02. Board of county commissioners to submit plan to electorate.

Repealed by S.L. 1993, ch. 401, § 53.

11-09-02.1. Petition - Question submitted to electors.

Upon a petition filed with the county auditor at least ninety days in advance of any countywide election signed by not less than ten percent of the qualified electors of the county as determined by the total number of votes cast for the office of governor at the last general election, asking that an election be held on the question of the adoption of one of the forms of county managership and specifying which of the forms is to be submitted, the board of county commissioners shall submit the question at the next regular primary or general election.

11-09-03. Board of county commissioners may submit plan.

The question of the adoption of any county manager form of government may be submitted to the qualified electors of the county at the next primary election by the board of county commissioners by a resolution adopted by the affirmative majority vote of the entire board. The resolution must clearly designate which form of government is submitted.

11-09-04. Notice of election - How election held - Canvass - Return.

The county auditor shall publish once each week for four successive weeks prior to the election at which the question is to be submitted, in the official newspaper of the county, a notice of the election on the question of the adoption of a county manager form of government. The notice shall specify which form of county managership is to be submitted to the electors. The election upon such question shall be held and conducted and the votes canvassed and returned in the manner provided for the election of county officers at a general election.

11-09-05. Ballot for submitting question of the adoption of one of the county manager forms of government.

The ballot to be used at an election on the question of the adoption of one of the county manager forms of government shall be in substantially the following form:

Shall _____ County (name the county) adopt the _____ (name one of the plans given in section 11-09-01)?

Yes □

No □

11-09-06. Ballot for submitting question of adopting the short form of county managership.

Repealed by S.L. 1965, ch. 98, § 54.

11-09-07. Vote required - Effective date.

If a majority of the votes cast on the question of adoption of a county manager form of government are in favor of that form, it becomes effective on the first day of January next succeeding the election or on a later date as may be designated in the plan or resolution. All elected offices no longer filled by popular election are abolished on the effective date.

11-09-08. Board of county commissioners - Election - Term of office - Vacancies.

In a county adopting any form of county managership, the board of county commissioners shall consist of three or five members as is provided by general statute. Members of the board of county commissioners holding office when any form of county managership goes into effect shall continue in office until the expiration of their terms. Thereafter, county commissioners shall be elected in the manner provided by general statute.

11-09-09. Powers of board of county commissioners - Failure of witness to obey order of board is a misdemeanor.

The board of county commissioners of a county which has adopted any form of county managership shall be the policy-determining body of the county and shall have the following powers:

1. To exercise all of the powers of the county as a body politic and corporate in the manner provided in this chapter.
2. To levy taxes and to appropriate county funds.
3. To inquire into the official conduct of any officer or office under its control and to investigate the accounts, disbursements, bills, and receipts of any county officer. For these purposes, it may subpoena witnesses, administer oaths, and require the production of books, papers, and other evidence. If a witness fails or refuses to obey any lawful order of the board, the witness shall be deemed guilty of a class A misdemeanor.
4. To preserve order in its sessions and enforce obedience for this purpose by fines not exceeding five dollars or by imprisonment in the county jail for not more than twenty-four hours.

11-09-10. Appointment of county manager - Tenure of office - Compensation.

The county manager, in a county which has adopted either of the appointed forms of county managership, shall be appointed by the board of county commissioners. The county manager shall be appointed with regard to merit only and need not be a resident of the county at the time of appointment. No member of the board shall be chosen county manager during the time for which the member is elected nor shall the managerial powers be given to a person who at the same time is filling an elective office. The manager shall not be appointed for a definite tenure but shall be removable at the pleasure of the board. The county manager shall devote full time to county manager work. The county manager's compensation shall be fixed by the board. In the absence or disability of the manager, the board may designate some responsible person to perform the duties of the office.

11-09-10.1. Election of county manager - Tenure of office - Compensation - Vacancy - Removal - Recall.

The board of county commissioners in a county which has adopted either of the elected forms of county managership shall appoint a temporary county manager until a person shall be elected to such office at the next general election following the effective date of said form of government. The person so elected shall take office on the first day of January following the general election and serve for a term of four years. The compensation for the office shall be fixed by the board of county commissioners. A vacancy in the office of county manager shall be determined and filled pursuant to chapter 44-02. The elected county manager shall be subject to removal and recall as provided by general law for other elected county officials.

11-09-11. Manager and officers attend meetings of board of county commissioners.

The county manager, and in a county adopting a county manager form of government, the directors of all departments, and all other officers of the county shall be entitled to be present at all sessions of the board of county commissioners. The manager shall have the right to present the manager's views on all matters coming before the board, and the directors and other officers, whether elective or appointive, shall be entitled to present their views relating to their respective departments or offices.

11-09-12. Powers and duties of county manager.

The county manager of any county adopting any form of county managership shall:

1. Serve as the administrative head of the county government and be responsible to the board of county commissioners for the proper administration of all the affairs of the county which the board has authority to control.
2. Supervise the collection of all revenues.
3. Guard adequately all expenditures and secure proper accounting of all funds.
4. Look after the physical property of the county and exercise general supervision over all county institutions and agencies.
5. With the approval of the board of county commissioners, coordinate the various activities of the county and unify the management of its affairs.
6. Execute and enforce all resolutions and orders of the board of county commissioners and see that all laws of the state required to be enforced through the board or other county officers subject to its control are faithfully executed.
7. Attend all meetings of the board of county commissioners and recommend such actions as the county manager may deem expedient.
8. Appoint all officers and employees in the administrative service of the county except as otherwise provided in this chapter, and such employees may be employed on a part-time basis and may be transferred among the different departments.
9. With the approval of the board of county commissioners, fix the compensation of all officers, both elective and appointive, and of all employees whom the county manager or a subordinate appoints.
10. Have the power to remove such officers, agents, or employees as the county manager may appoint, and report every appointment or removal to the next meeting of the board of county commissioners.
11. Prepare and submit the annual budget and execute the budget in accordance with the resolutions and appropriations made by the board of county commissioners.
12. Make regular monthly reports to the board of county commissioners in regard to matters of administration, and keep the board fully advised as to the financial condition of the county.
13. Examine regularly the books and papers of every officer and department of the county and report to the board of county commissioners the condition in which the county manager finds them, and the county manager may order an audit of any office at any time.
14. Perform such other duties as may be required of the county manager by the board of county commissioners.

11-09-13. Removal of an appointed county manager.

If the board of county commissioners of a county which has adopted either of the appointed forms of county managership determines to remove the manager, the manager shall be given, if the manager so demands, a written statement of the reasons alleged for the proposed removal and a right to a hearing thereon at a public meeting of the board prior to the date on which the manager's final removal shall take effect. Prior to and during the hearing, the board may suspend the manager from office, but the period of suspension shall be limited to thirty days. The action of the board in suspending or removing the manager shall not be subject to review.

11-09-14. Administrative activities, responsibility of county manager.

The county manager shall be responsible to the board of county commissioners for the administration of the following activities:

1. All duties now or hereafter imposed by general law on the county auditor in the matter of assessment of property for taxation and the preparation of the tax rolls.
2. The collection of the taxes, license fees, and other revenues of the county and its subdivisions.
3. The custody of and accounting for all public funds belonging to or handled by the county.
4. The purchase of all supplies for the county except those specifically excepted by this chapter.
5. The care of all county buildings.
6. The care and custody of all the personal property of the county.
7. The recording of deeds, mortgages, and other instruments, and the entry and preservation of such other public records as the law requires.
8. The construction and maintenance of county highways and bridges.
9. Such relief and welfare activities as by general law are made county functions.
10. Public health work and the operation of the county hospitals.
11. Such other activities of the county as are not assigned specifically to some other officer or agency by this chapter.

11-09-15. Administrative activities assigned to departments in county adopting county manager form of government.

In a county which has adopted a county manager form of government, the county manager shall distribute the administrative activities among the following departments:

1. Department of finance.
2. Department of public works.
3. Department of public welfare.

The board of county commissioners may establish additional departments. Upon recommendation of the county manager, any activity which is unassigned by this chapter shall be assigned by the board to an appropriate department and any activity so assigned may be reassigned to another department.

11-09-16. Directors of departments appointed.

The county manager in a county adopting a county manager form of government shall appoint a director for each department provided for or authorized by section 11-09-15. With the consent of the board of county commissioners, the manager may act as the director of one or more departments or appoint one director for two or more departments.

11-09-17. Auditor - Who to act.

Except as otherwise provided in this chapter, in counties adopting a short form of county managership, the functions imposed on the county auditor by general statute shall be performed by or under the direction of the county manager, and in counties adopting a county manager form of government, by the director of finance.

11-09-18. State's attorney to be elected - Powers - Duties.

Except as provided in section 11-10-02.3, the state's attorney of a county adopting any form of county managership must be elected in the manner prescribed by general statutes. The state's attorney shall serve as legal adviser to the board of county commissioners and to the county manager, act as counsel for the county in any suit instituted by or against it, and perform other duties as may be prescribed by the board of county commissioners or which are imposed on state's attorneys by general statute. The state's attorney of an adjoining county may run for election in a county which has adopted a short form of county managership. The compensation of the state's attorney of an adjoining county must be that agreed upon by the person so

elected, the county manager, and the boards of county commissioners of the two counties affected.

11-09-19. Sheriff - Election - Duties - Powers.

The sheriff of a county adopting any form of county managership must be elected in the manner prescribed by general statutes and must perform the duties and be subject to the restrictions contained in the general statutes. The sheriff of an adjoining county may run for election in a county that has adopted a short form of county managership. The compensation of the sheriff of an adjoining county must be that agreed upon by the sheriff so elected, the county manager, and the boards of county commissioners of the counties affected.

11-09-20. Treasurer - Who to perform functions.

The functions imposed on county treasurers by general statutes shall be performed by or under the direction of:

1. The county manager in a county adopting a short form of county managership.
2. The director of finance in a county adopting a county manager form of government.

Each of such officers shall act as tax collector and county treasurer or shall appoint and have supervision over the person performing such duties.

11-09-21. Designation of depository in lieu of appointment of treasurer.

In a county adopting any form of county managership, the board of county commissioners, in lieu of the appointment of a treasurer, may select and designate annually, by ordinance or recorded resolution, some bank or trust company as an official treasury for the funds of the county. Any bank or trust company serving as depository for county funds shall be subject to such requirements as to security therefor and interest thereon as are provided by general statutes for public depositories. All interest on moneys so deposited shall accrue to the benefit of the county.

11-09-22. County judge - Election - Duties.

Repealed by S.L. 1991, ch. 326, § 203.

11-09-23. Clerk of the district court - Who shall act.

Repealed by S.L. 1991, ch. 326, § 203.

11-09-24. County superintendent of schools - Election or appointment - Duties.

Repealed by S.L. 1989, ch. 137, § 10.

11-09-25. Recorder - Who to act.

In counties adopting a short form of county managership, the functions imposed on the recorder shall be performed, except as otherwise provided in this chapter, by or under the direction of the county manager. In counties adopting a county manager form of government, such functions, except as otherwise provided in this chapter, shall be performed by or under the direction of the director of finance.

11-09-26. Constable - Office abolished - Who to perform duties.

Repealed by S.L. 1985, ch. 151, § 35.

11-09-27. Coroner - Office abolished - Who to perform duties.

In counties adopting any form of county managership, the office of coroner shall be abolished. The functions of that office shall be performed by the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by the sheriff. If there is a conflict or inconsistency between the functions of the coroner and the sheriff, the duties of the coroner shall be performed by the state's attorney.

11-09-28. County justice - Office abolished - Who to perform duties.

Repealed by S.L. 1965, ch. 98, § 54.

11-09-29. Public administrator - Office abolished - Who to perform duties.

In counties adopting any form of county managership, the office of public administrator is abolished. The county manager shall perform the functions of that office in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by a suitable person appointed by the presiding judge of the judicial district in which the county is located, after consultation with the judges of the judicial district. Any person so appointed is entitled to receive compensation at the rate allowed the administrator of an estate.

11-09-30. Surveyor - Office abolished - Who to perform duties.

In counties adopting any form of county managership, the office of county surveyor shall be abolished. The functions of that office shall be performed by or under the direction of the county manager in counties adopting a short form of county managership, and in counties adopting a county manager form of government, by the director of public works unless otherwise specified in this chapter.

11-09-31. When not clear who is to exercise power, board of county commissioners designate officer.

Whenever there is doubt as to what officer of a county adopting any form of county managership shall exercise a power or perform a duty conferred upon or required of the county, or any officer thereof, by general law, such power shall be exercised or duty performed by such officer as shall be designated by ordinance or resolution of the board of county commissioners.

11-09-32. Appointment of subordinates - Terms of office.

The manager in a county which has adopted a county manager form of government may authorize the head of a department or office responsible to the manager to appoint subordinates in such department or office. All appointments shall be made on the basis of ability, training, and experience of the appointees. Appointments shall be without definite terms unless for temporary service not to exceed sixty days.

11-09-33. Removal of subordinate officers and employees.

Any officer or employee appointed by the manager of a county adopting any form of county managership, or upon the manager's authorization, may be laid off, suspended, or removed from office or employment by the manager and, in a county adopting a county manager form of government, by the officer or head of the department in which such officer or employee is employed.

11-09-34. Bonds of county officers.

Before entering upon the duties of office, the county manager of a county adopting any form of county managership shall furnish the county a bond in the penal sum of not less than ten thousand dollars. In counties adopting a county manager form of government, the director of finance shall furnish a bond in the penal sum of ten thousand dollars and if the county manager serves as the director of finance, the manager shall furnish a bond in the amount of twenty thousand dollars. The board of county commissioners may fix bonds in excess of these amounts and may require bonds of other county officers.

11-09-35. Schedule of compensation.

The county manager of a county adopting any form of county managership shall establish a schedule of compensation for officers and employees which shall provide uniform compensation for like service. The schedule may establish a minimum and maximum for any class, and an increase in compensation within the limits provided by any class may be granted at any time by

the county manager or other appointing authority upon the basis of efficiency and seniority records.

11-09-36. Salary of subordinates - Fees paid over to treasurer.

The salary of any subordinate, employee, or officer shall be set by the county manager with the approval of the board of county commissioners. Every subordinate, employee, or officer shall account for and pay into the county treasury all fees and compensation received for any act or service rendered in an official capacity.

11-09-37. County officers and employees to pay public moneys to treasurer.

All moneys received by an officer or employee of the county for the county or in connection with the business of the county shall be paid promptly into the hands of the county treasurer or the bank or trust company acting as county treasurer under the provisions of section 11-09-21.

11-09-38. Board of county commissioners not to interfere in appointments or removals - Penalty.

In a county which has adopted any form of county managership, neither the board of county commissioners nor any of its committees or members shall direct or request the appointment or removal of any person by the county manager or any of the manager's subordinates nor in any manner take part in the appointment or removal of officers or employees in the administrative service of the county. Except for the purpose of inquiry or in an emergency, the board of county commissioners and its members shall deal with that portion of the administrative service over which the county manager is responsible solely through the manager. Neither the board of county commissioners nor its members shall give orders to any subordinate of the county, either publicly or privately. Any member of the board of county commissioners who violates any provision of this section shall be guilty of a class A misdemeanor and, in addition to the penalty prescribed for such an offense, shall forfeit the person's office.

11-09-39. Preparation and submission of the budget.

On or before the sixth day of July of each year, the county manager of a county which has adopted any form of county managership shall prepare and submit to the board of county commissioners a budget presenting a financial plan for the conduct of the affairs of the county for the ensuing year. The budget shall be set up in the manner prescribed by general statute and shall be published prior to the date of its adoption by the board of county commissioners. Published notices and hearings shall be in accordance with the general statutes.

11-09-40. Finances - Administration.

The county manager in a county adopting a short form of county managership and the director of finance in a county adopting a county manager form of government shall have charge of the administration of the financial affairs of the county, including:

1. The budget.
2. The assessment of property for taxation.
3. The collection of taxes, license fees, and other county revenues.
4. The custody of all public funds belonging to or handled by the county.
5. The control over the expenditures of the county.
6. The disbursement of county funds.
7. The purchase, storage, and distribution of all supplies, materials, equipment, and contractual services needed by any department, office, or other using agency of the county.
8. The keeping and supervision of all accounts.
9. Such other duties as the board of county commissioners by ordinance or resolution may require.

11-09-41. No money drawn from treasury unless in pursuance of appropriation - Accounts of appropriations.

No money shall be drawn from the treasury of the county, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation by the board of county commissioners. Accounts shall be kept for each item of appropriation made by the board. Each account shall show in detail the appropriation made thereto, the amount drawn thereon, the unpaid obligations charged against it, and the unencumbered balance in the appropriation account.

11-09-42. Reports of financial officer to board of county commissioners.

The county manager in counties adopting a short form of county managership and the director of finance in counties adopting a county manager form of government shall be charged with the keeping of all general books of financial and budgetary control for all departments and offices of the county. Reports shall be made to the manager or director daily, or as often as that officer may require, showing the receipt of all moneys and the disposition thereof. The county manager, or in counties adopting a county manager form of government, the director of finance through the county manager, each month shall submit to the board of county commissioners a summary statement of revenues and expenses for the preceding month, detailed as to the appropriations and funds in such manner as to show the exact financial condition of the county and of each department and division thereof. Such officer shall submit once a year, or more often if the board of county commissioners requires it, a complete financial statement showing the assets and liabilities of the county.

11-09-43. Books of officers, manager, director of finance audited.

The board of county commissioners of a county adopting any form of county managership shall require an annual audit of the books of every county officer who handles public funds to be made by an accountant who is not a regular officer or employee of the county and who is thoroughly qualified by training and experience. Any audit service provided by the state, whether at the expense of the state or the county, shall satisfy the requirements of this section. Either the board of county commissioners or the county manager, at any time, may order an examination or audit of the accounts of any officer or department of the county government. Upon the death, resignation, removal, or expiration of the term of office of any officer of the county, the county manager, or the director of finance in a county adopting a county manager form of government, shall cause to be made an audit and investigation of the accounts of such officer and shall report the result thereof to the board of county commissioners or if the audit is made by the director of finance, to the county manager and the board of county commissioners. In case of the death, resignation, or removal of the county manager or the director of finance, the board of county commissioners shall cause an audit of that officer's accounts to be made. If, as a result of any such audit, an officer is found indebted to the county, the board of county commissioners shall proceed to collect such indebtedness forthwith.

11-09-44. Purchasing agent - Powers and duties - Supplies purchased on bids - Sale of supplies.

The county manager of a county adopting a short form of county managership or the director of finance of a county adopting a county manager form of government shall act as purchasing agent or shall appoint and have supervision over this official. The purchasing agent shall make all purchases for the county in the manner provided by the board of county commissioners. The purchasing agent may make transfers of supplies, materials, and equipment between departments and offices and may sell any surplus supplies, materials, or equipment and make such other sales as are authorized by the board of county commissioners. With the approval of the board, the purchasing agent may establish suitable specifications or standards for all supplies, materials, and equipment to be purchased by the county and may inspect all deliveries to determine their compliance with such specifications and standards. The purchasing agent shall have charge of such storerooms and warehouses of the county as the board of county commissioners may provide. Before making any purchase or sale, the

purchasing agent shall invite competitive bidding under such rules and regulations as the board of county commissioners may establish by ordinance or resolution. The purchasing agent shall not furnish any supplies, materials, equipment, or contractual services to any department or office except upon receipt of a properly approved requisition and unless there is an unencumbered appropriation balance sufficient to pay for the same.

11-09-45. Public works - Who in charge - Duties.

The county manager in counties adopting a short form of county managership and the director of public works in counties adopting a county manager form of government shall have charge of the construction and maintenance of county roads and bridges, county drains and other public works, public buildings, storerooms, warehouses, and such equipment and supplies as the board of county commissioners may authorize. The manager or director shall perform such other duties as the board may prescribe.

11-09-46. Public welfare - Who in charge - Duties.

The county manager in counties adopting a short form of county managership and the director of public welfare in counties adopting a county manager form of government shall have charge of hospitals, charitable and correctional institutions, parks and playgrounds, public health, and the relief and welfare activities imposed upon counties by general statutes. The manager or director shall perform such other duties relating to public welfare as the board of county commissioners may prescribe.

11-09-47. Interest in contracts by officers and employees prohibited.

No member of the board of county commissioners or other officer or employee of a county which has adopted any form of county managership, and no person receiving a salary or compensation from funds appropriated by the county, shall be interested, directly or indirectly, in any contract to which the county is a party, either as principal, surety, or otherwise. No such officer or employee or an officer's or employee's partner, agent, servant, employee, or the firm of which the officer or employee is a member, shall purchase from or sell to the county any real or personal property, nor shall an officer or employee be interested, directly or indirectly, in any work or service to be performed for the county or in its behalf. Any contract made in violation of the provisions of this section shall be void.

11-09-48. Election as to retention of plan.

At any time after any form of county managership has been in force in a county for a period of four years, the board of county commissioners may submit, and, when petitioned to do so at least ninety days before a primary election by at least twenty-five percent of the qualified electors of the county as determined by the total number of votes cast for the office of governor at the last general election, shall submit to the electors at a primary election the question of whether or not the county manager plan in force shall be retained. If a majority of the legal votes cast on such question at the primary election shall be against retaining such plan, it shall cease to be operative on the first Monday in January next succeeding the primary election, and the county shall revert to the plan of government in force prior to the adoption of the county managership. Thereafter, the provisions of this chapter shall not be applicable in such county until after another compliance with its terms. When the petition has been filed, candidates for all county offices required under the plan in force prior to the adoption of the county managership may file nominating petitions. If a majority of the legal votes cast on the question are against retaining the county manager plan, the candidates nominated at the primary election shall be voted upon at the general election, and officers shall be elected in accordance with the general election laws. The terms of office of all officers elected as provided in this section shall commence on the first Monday in January next succeeding the primary election.