CHAPTER 58-04
TOWNSHIP MEETINGS AND ELECTIONS

58-04-01. Annual township meeting - When held - Change in meeting place - Notice.

The electors of each township annually shall assemble and hold a township meeting in the month of March at the place in the township or in an adjacent township designated by the board of township supervisors. Notice of the time and place of holding the meeting must be given by the township clerk at least ten days before the meeting by publication in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper. Before a change in the place of holding the annual township meeting is made, notice of the contemplated change may be given by any member of the board of township supervisors to the township clerk, who shall have such change published if time allows. Otherwise, the township clerk shall post notice of the change. If an incorporated city is wholly or partially within the boundaries of the township or an adjacent township, all township meetings may be held at the place within an incorporated city designated by the board of township supervisors.

58-04-02. Special meetings - When held.

A special township meeting may be held for the purpose of:

1. Electing township officers to fill vacancies that occur;
2. Authorizing expansion of the board of township supervisors from three to five members;
3. Removing an elected township officer;
4. Transacting other lawful township business whenever the supervisors or township clerk, or any two of them, or twenty percent of the freeholders of the township, shall file in the office of the township clerk a written statement that a special meeting is necessary; or
5. Whenever a special meeting is required by any other provision of the laws of this state.

58-04-02.1. Expansion of membership of the board of township supervisors.

At the annual township meeting or a special meeting, the electors of the township may approve expansion of the board of township supervisors from three to five members. At the first annual meeting after a special meeting at which the expansion is authorized, or at the annual meeting at which the expansion is authorized, the electors of the township shall elect three members of the board of township supervisors. Two of the members of the board elected under this section must be elected for three-year terms and one supervisor must be elected for a two-year term. Thereafter, terms of office of members of the board of township supervisors will be as provided in section 58-05-02.

58-04-02.2. Removal of township officers - Special meeting.

An elected township officer may be removed from office upon an affirmative vote of the majority of votes cast at a special meeting of the township which is called for the purpose of removing an elected township officer. If an officer is removed from office at the special meeting, the voters shall elect a replacement officer at the same meeting.

58-04-03. Clerk to give notice of special meeting.

Each township clerk with whom a statement provided for in section 58-04-02 is filed shall record the same and shall cause notice of the special meeting to be published at least ten days before the meeting in a legal newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper.

58-04-04. What notice of special meeting must specify - Business transacted at meeting limited.

Each notice given for a special meeting must specify the purpose for which it is to be held. No business other than that specified in the notice may be transacted at such meeting. If

vacancies in office are to be filled at the meeting, the notice must specify in what offices the vacancies exist, how they occurred, who was the last incumbent, and when the term of each office expires.

58-04-05. Organization of annual or special meetings.

The qualified electors present on the day of the annual or special meeting must be called to order by the township clerk, or, if the township clerk is not present, the qualified electors may elect by acclamation one of their number to act as chairman for the purpose of calling the meeting to order and to act as clerk after the selection of a moderator. The qualified electors shall elect by acclamation three of their number as judges, and such judges must be sworn and shall act as the judges of the qualifications of the qualified electors of the township. The qualified electors shall proceed to choose one of their number to preside as moderator of the meeting. The township clerk, if present, or in the township clerk's absence, the clerk of the meeting, shall keep full minutes of its proceedings in which must be entered at length every order, direction, rule, and regulation made by the meeting. Meeting and voting hours of an annual or special meeting are optional with the township board, provided proper notice is given under the provisions of this chapter. The positions of moderator, clerk, and the three judges must be separate and distinct positions and no such positions may be held by the same person. The moderator, clerk, and the three judges each may be entitled to compensation of no more than sixty dollars per day for each day actually expended in the performance of their duties. Such salary must be paid out of township funds made available for such purpose. However, in those townships in which the offices of township clerk and treasurer have been merged, the person holding such office shall receive compensation as provided by law as township treasurer only and may not receive additional compensation for duties as clerk.

58-04-06. Duty of moderator - Reconsideration of vote - Majority vote required.

At the opening of each meeting, the moderator shall state the business to be transacted and the order in which it must be entertained. A proposition to vote a tax may not be acted on out of the order of business as stated by the moderator. A proposition to reconsider a vote may not be entertained at any meeting unless the proposition is made within one hour from the time the vote was taken or unless the motion for the reconsideration is sustained by a number of electors equal to a majority of all the names entered upon the poll list at the election up to the time the motion is made. All questions upon motions made at township meetings must be determined by a majority of the electors voting. The moderator shall ascertain and declare the result of the vote on each question.

58-04-07. Proclamation of opening and closing polls.

Before the electors proceed to elect any township officer, the moderator shall proclaim the opening of the polls, and proclamation in like manner must be made of any adjournment and of the opening and closing of the polls until the election is ended.

58-04-08. Who are voters at township meetings.

A person may not vote at any township meeting unless that person is qualified to vote at general elections therein.

58-04-09. Challenge to voter - Duty of judges.

Repealed by S.L. 2013, ch. 167, § 8.

58-04-10. Officers to be elected by ballot.

The supervisors, treasurer, and clerk in each township must be elected by ballot. All other officers, if not otherwise provided by law, must be chosen either by yeas and nays or by a division as the electors determine.

58-04-11. Names of all candidates to be on one ballot.

When the electors vote by ballot, all the candidates voted for must be named on one ballot, which must contain, written or printed or partly written and partly printed, the names of the persons voted for and the offices to which such persons are intended to be chosen.

58-04-12. Judges to deposit ballots.

When the election is by ballot, the marked ballot must be delivered to one of the judges so folded as to conceal its contents, and the judges shall deposit the ballots in a box provided for that purpose.

58-04-13. Poll list kept by clerk.

When the election is by ballot, a poll list on which must be entered the name of each person whose vote is received shall be kept by the clerk of the meeting.

58-04-14. Judges to canvass the votes - Manner of canvassing - Declaration of election.

At the close of every election by ballot, the judges shall proceed publicly to canvass the votes, which canvass when commenced must continue without adjournment or interruption until the same is completed. The canvass must be conducted by taking one ballot at a time from the ballot box and counting until the number of ballots is equal to the number of names on the poll list, and if there are any left in the box, they must be destroyed immediately. If on the opening of the ballots, two or more ballots are found to be so folded that it is apparent that the same person voted them, the board shall destroy such unlawful ballots immediately. The person having the greatest number of votes for an office must be declared elected.

58-04-15. Tie vote - How determined.

If two or more persons have an equal and the highest number of votes for an office, the judges of election, immediately and publicly, shall determine by a drawing of names who of such persons shall be declared elected. A candidate involved in a tie vote may withdraw the candidate's name from consideration if the candidate is willing to sign a statement to that effect in the presence of and witnessed by the filing officer of the election. If no candidates remain, the office is to be filled according to the rules for filling an office when a vacancy exists.

58-04-16. Result of canvass to be announced - Notice to voters.

When the canvass is completed, the clerk shall enter at length in the minutes of the meeting kept by the clerk, as required in section 58-04-05, a statement of the result of the election which must be read publicly by the clerk to the meeting, and such reading must be deemed notice of the result of the election to every person whose name is entered on the poll list as a voter.

58-04-17. Minutes to be filed.

The minutes of the proceedings of each township meeting, subscribed by the clerk and judges of the meeting, must be filed in the office of the township clerk within two days after the meeting.

58-04-18. Township clerk to notify officers elected.

The clerk of the township meeting, immediately after the votes are canvassed, shall transmit a notice of election to each person elected to any township office.

58-04-19. Special meeting when officers not elected at annual meeting.

If a township meeting is not held for the purpose of organizing and electing its officers at the time fixed by law for holding the annual township meeting, a special township meeting for that purpose must be called by the township clerk. Such meeting must be held within the township or in an adjacent township. If notice of such meeting is not given by the clerk within ten days, any three electors of the township may call such meeting. Notices setting forth the time, place, and object of the meeting must be published at least five days prior to the meeting in a legal

newspaper published in the township or, if there is no such newspaper, then in the county's official newspaper. The electors, when assembled by virtue of such notice, shall possess all the powers conferred upon electors at the regular annual township meeting.

58-04-20. When board of county commissioners may designate township officers - Powers and duties of appointed officers.

If notice of a township meeting is not given under section 58-04-19 within thirty days after the time set by law for the holding of the annual township meeting, the board of county commissioners of the county in which the township is located shall appoint the necessary township officers. Such appointment must be made upon the filing in the office of the county auditor of an affidavit of a freeholder of the township setting forth the facts. The persons appointed by the board shall hold their respective offices until their successors are elected and qualified.