

## **CHAPTER 11-03**

### **DIVISION OF COUNTIES**

**11-03-01. Division of counties - Electors' petition - Election held.** Whenever it is desired to form a new county out of one or more of the then existing counties, a petition conforming to the provisions of this chapter shall be presented to the board of county commissioners of each county to be affected by the division. If it appears to such boards of county commissioners that a new county can be constitutionally formed, they shall make the necessary orders to provide for the submission at the next general election of the question of the formation of such new county to the qualified electors of the counties to be affected.

**11-03-02. Petition - Contents - Signers necessary.** The petition for the formation of a new county under this chapter shall:

1. Describe the territory proposed to be taken for the new county.
2. Set forth the name of the proposed new county.
3. Be signed by a majority of the qualified electors residing in the territory to be taken from the existing county or counties as determined by the vote cast for the office of governor at the last preceding general election.
4. Pray for the formation of a new county from the territory described in such petition.

**11-03-03. Notice of election - Canvass and return of votes cast.** Notice of the election shall be given and the votes polled at the election shall be canvassed and returned as in the case of general elections.

**11-03-04. Ballot - Form.** The ballot to be used in an election under this chapter shall be in substantially the following form:

Shall the county of \_\_\_\_\_ (name county) be formed from territory in the county of \_\_\_\_\_, or the counties of \_\_\_\_\_ (name the county or counties affected)?

Yes ☐

No ☐

**11-03-05. Affirmative vote necessary - Notice to secretary of state - Notice to governor.** If a majority of all the votes cast at the election in each of the counties affected is in favor of the formation of the new county, the county auditor of each of such counties shall certify the same to the secretary of state. Such certificate shall state the name, territorial content, and boundaries of the new county. The secretary of state shall notify the governor of the result of the election.

**11-03-06. Governor to appoint county commissioners - When county deemed in existence.** The governor shall appoint three persons who reside in and who are qualified electors of such new county and who will accept and qualify as county commissioners for the new county. The commissioners so appointed shall hold office until the first general election thereafter and until their successors are elected and qualified. After the county commissioners appointed by the governor have qualified, the county shall be deemed to have existence as a county.

**11-03-07. Temporary county seat - How located.** The board of county commissioners appointed by the governor shall fix the temporary location of the county seat. The county seat shall remain at such location until after the first general election thereafter.

**11-03-08. Board of county commissioners to appoint county officers - Exception.** The board of county commissioners appointed by the governor, after the members thereof have

qualified, shall appoint all the county officers of the newly organized county. Such officers, after having qualified, hold their offices until the first general election thereafter and until their successors are elected and qualified.

**11-03-09. Division of county into commissioners' districts - Terms of office of commissioners first elected.** The county commissioners appointed by the governor shall divide the county into three commissioners' districts, which districts shall be numbered from one to three. At the first general election after the organization of the county, three commissioners shall be elected, one from each such district, one of whom shall be chosen for the term of two years and two for the term of four years, the order of succession to be determined by lot. Thereafter, each commissioner shall be elected for a term of four years.

**11-03-10. Records to be transcribed.** When a new county is organized, the board of county commissioners thereof shall cause to be transcribed, by copying or by photographing into the proper books, all the records, deeds, and other instruments relating to real estate, and all other records and instruments of every kind required by law to be kept on file or recorded in the respective county offices in the new county. All records transcribed by copying or by photographing shall have the same effect as original records. A person authorized by the board of county commissioners to transcribe the records shall have free access at all reasonable times to the original records for the purpose of transcribing them.

**11-03-11. Indebtedness of new county to original county - How and when determined.** A county organized under this chapter shall assume and pay a just proportion of the indebtedness of the county from which it is segregated, based upon the last assessed valuation of the original county and in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county. The boards of county commissioners of the county organized under this chapter and of the county from which the latter segregates shall meet at the county seat of the original county on the third Monday in the sixth month following the appointment of the county commissioners of the new county by the governor. They shall ascertain, as near as may be, the total outstanding indebtedness of the original county on the first of January or July, as the case may require, next preceding the date of the joint session and from such total, they shall make the following deductions:

1. The amount of rents due and payable to the original county.
2. The present value of all public property owned by and remaining within the limits of the original county. Such present value in all events shall be deemed equal at least to the amount of any outstanding bonds issued for the payment of such property.
3. The amount of public funds on hand and belonging to the original county on the day for which its outstanding indebtedness is ascertained which do not belong to the special funds hereinafter mentioned.

The amount remaining after such deductions, for the purpose of the settlement herein provided for, shall be the amount of which the county organized under this chapter shall pay a portion in the proportion hereinbefore specified. The new county shall be charged with the value of county real property within the boundaries thereof. The boards of county commissioners shall ascertain and fix the amount the new county shall assume and pay to the county from which it segregates. The provisions of this section shall be followed even though the new county is organized from parts of two or more organized counties except that the boards of county commissioners of all counties involved shall participate in the proceedings herein described.

**11-03-12. Indebtedness of new county to original county to be paid in bonds.** The amount of indebtedness of a county organized under this chapter, as ascertained by the two boards of county commissioners, shall be paid to the county from which it segregates in the bonds of the new county.

**11-03-13. Issuance of bonds - Classification - Exchange by original county.** The bonds of the new county shall be:

1. Dated as of the first day of the January or July from which the outstanding indebtedness of the original county is calculated as provided in section 11-03-11.
2. Issued for a period corresponding with the time or term on which the obligations of the original county become due and payable.
3. Payable at the same place and bear the same rate of interest as the obligations of the original county.

The board of county commissioners shall classify the liquidating bonds and issue a portion of each class in proportion to each class of obligations of the original county bearing different rates of interest and places of payment. The original county shall have authority to exchange such bonds for an equal amount of obligations of its own of the same class.

**11-03-14. County treasurer to keep bond register.** The county treasurer of a county issuing bonds under the provisions of this chapter shall provide a book to be called the "bond register" wherein the treasurer shall note, as to each such bond:

1. The number and denomination thereof.
2. The date of its issue.
3. When and where the same is payable.
4. Such other facts as the county commissioners of the county shall direct.

The bond register when completed shall be deposited with the county auditor and shall be and remain a part of the records of that office.

**11-03-15. Commissioners of new county to issue bonds in denominations required by original county - Exception - Delivery.** The board of county commissioners of a county organized under this chapter shall issue the liquidating bonds in such denominations, not to exceed one thousand dollars each, as may be required by the original county. It shall deliver the same to the county auditor of the original county. The county auditor shall receipt therefor and affix the seal of the county auditor's office to such receipts. The county auditor of the county organized under this chapter shall enter such receipts at large upon the records of the board of county commissioners and note the same in the bond register of that county.

**11-03-16. Tax levy by new county for payment of bonds.** The board of county commissioners of a county issuing bonds under the provisions of this chapter shall levy and cause to be collected for each year after the date of such bonds a tax sufficient to pay the interest thereon as it shall become due and also sufficient to establish sinking funds required under the laws under which the bonds of the original county were issued and sufficient to redeem the bonds at maturity.

**11-03-17. Tax collected for payment of bonds must be used for that purpose - Use of surplus.** The money collected for the payment of the interest or principal of the bonds issued under the provisions of this chapter shall not be used for any other purpose until the bonds are redeemed. Any surplus shall be placed in the county general fund.

**11-03-18. Payment to new county when public funds of original county exceed its indebtedness.** A county in which the amount of public funds on hand at the time of the settlement provided for in section 11-03-11 exceeds the total of its outstanding indebtedness after the deductions provided for in that section have been made shall pay over a just proportion of such funds to the county segregated from it and organized under this chapter. The portion paid to the segregated county shall be based upon the assessed valuation of the whole of the

original county and for the year prior to the date of the segregation and shall be in the proportion that the valuation within the segregated portion bears to the aggregate of the valuation within the whole of the original county. The boards of county commissioners shall meet as provided in section 11-03-11 and ascertain the amount to be paid. The board of county commissioners of the original county shall order warrants issued for such amount, payable immediately, to the treasurer of the county organized under this chapter. The treasurer of the segregated county shall place the amount received to the credit of the proper funds of the segregated county.

**11-03-19. Special funds belonging to taxing districts within new county - Delivery - Distribution.** At the time of the settlement provided for in section 11-03-11, all money on hand in the treasury of a county from which a portion segregates under this chapter and which belongs to special funds owned by taxing districts which, after the segregation, are within the boundaries of the new county, shall be turned over in full by the treasurer of the original county to the treasurer of the new county. The treasurer of the new county shall receipt for such funds and shall place the same to the credit of the taxing districts within the new county to which they properly belong.

**11-03-20. Commissioners of original county to fill vacancies and redistrict county.** The board of county commissioners of a county from which a portion segregates under this chapter, immediately after such segregation, shall redistrict its county into the commissioners' districts provided for by the laws then existing and shall fill any vacancies occasioned by the segregation in the manner provided by law for filling vacancies.

**11-03-21. School and road districts renumbered and renamed.** School districts and road districts within a county affected by this chapter shall be renumbered so as to make their numbers run consecutively in each county.

**11-03-22. Validity of bonds issued by school district not affected by division.** The validity of bonds issued by school districts prior to the division of a county under this chapter shall not be affected by the division nor by the renumbering or renaming of the school district which issued them.

**11-03-23. Original county cannot collect revenue in new county.** The authority of a county, from which a portion segregates under the provisions of this chapter, to collect revenue within the boundaries of the new county shall cease on the date upon which the two boards of county commissioners base the settlement between their counties. All assessments and levies lawfully made by the original county prior to such date affecting any of the territory embraced in the boundaries of the new county shall remain the same and shall be payable to and collectible by the lawful authorities of the new county.

**11-03-24. New county within judicial district.** A county organized under the provisions of this chapter shall remain a part of the judicial district to which it belonged before its organization.

**11-03-25. Judges to appoint term of district court in new county.** The judges of the judicial district in which a county organized under this chapter is situated shall appoint and hold at least two terms of the district court each year at the county seat of such county.

**11-03-26. Writs, bonds, and recognizances issued from new county.** All process, writs, bonds, notices, appeals, recognizances, papers, and proceedings in actions changed to a new county under this chapter, issued and made returnable to the district court of the original county prior to the creation of the new county, shall be taken and considered as made, taken, and returnable to the district court within the boundaries of the new county. Such bonds, recognizances, and obligations shall be payable to the new county and recoverable upon in the name of the new county. All papers and certified copies of all proceedings had in any such action shall be transmitted by the clerk of the district court of the original county to the clerk of the district court of the new county.

**11-03-27. Fees of county commissioners.** County commissioners while in the discharge of their duties as provided for in this chapter shall receive the same compensation as is allowed by law for the performance by county commissioners of their ordinary official duties.

**11-03-28. Elections governed by general election law.** All elections held under this chapter, when it is not otherwise provided, shall be conducted in the manner prescribed by law for the conduct of general elections. The refusal or neglect on the part of an official to perform the official's lawful duties in connection with an election under this chapter shall not affect the validity of the election.