

W I S C O N S I N

COUNTY OFFICIAL'S HANDBOOK

7th Edition

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County Government Structure

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THE COUNTY BOARD OF SUPERVISORS

The governing body of the county is the county board of supervisors. Supervisors are elected from geographic districts, not at large. After each decennial census, county boards are required to draw up new district boundaries based on a uniform number of residents per district. Supervisory elections are conducted in the April general elections of even-numbered years. In cases where three or more candidates file in the same district for the office, primaries are held on the third Tuesday of February in the same year. Supervisors serve two-year terms. Each board meets after each election to select a board chairperson and up to two vice-chairpersons. The board chairperson conducts meetings, may make committee appointments as authorized by the board, and represents the board by virtue of being the chief elected board official of the county.

The maximum number of supervisors allowed for each board is prescribed in Wis. Stat. § 59.10(3) and is based on the latest census population for each county.¹ Counties with populations of 100,000 to 749,999 are allowed up to 47 board members. Counties with 50,000 to 99,999 may have a maximum of 39 members; those with 25,000-49,999 are limited to 31; and those with 25,000 residents or less may have up to 21. In most of the 72 counties, boards have reduced their membership to below statutory limits. Adjustments to board size can be made after each decennial census to coincide with redistricting, and one time between each decennial census by the board or through a citizen petition and referendum process.

Wis. Stat. § 59.10(3)(cm) allows further reductions during the decade based on the most recent census. It also provides for citizen petition and referendum to reduce board size. Using the authority of Wis. Stat. § 59.10(3)(cm), several Wisconsin county boards have opted to reduce their size.

COUNTY BOARD COMMITTEES

Wis. Stat. § 59.13 states "the board may, by resolution designating the purposes and prescribing the duties thereof and manner of reporting, authorize their chairperson to appoint before June 1 in any year committees from the members of the board, and the committees so appointed shall perform the duties and report as prescribed in the resolution."

A county board may establish as many standing and advisory committees as it deems necessary to conduct the business of the county. These are usually created by ordinance or resolution. Due to the size of county boards, preliminary business and most public hearings are conducted by committees, which then make referrals or recommendations to the full board for final action. State law requires that county committees be established for major social service programs, such as developmental disabilities and

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mental health programs.² It also requires a separate highway committee to oversee road maintenance and other public works. Additional standing committees usually include those dealing with finance, personnel, general administration, and intergovernmental matters. Wisconsin county boards often have standing committees assigned to major subject areas, such as public safety and planning/zoning matters. County boards also create numerous advisory committees that are often composed of both citizens and board members. Advisory committees may vote on resolutions, ordinances, or financial matters, but their recommendations are only advisory to standing committees and the board, which then make the final decisions. Advisory committee terms may be set for shorter time periods than standing committees and may “sunset,” or cease to exist, after they complete their assigned tasks. Subsequent to the reductions provided for by Wis. Stat. § 59.10(3)(cm), many county boards have consolidated many of their committees to significantly reduce their meeting load.

In addition to committees that the board may create at its own discretion, state statutes require certain committees be created. Required committees include:

- Wis. Stat. § 83.015 – county highway committee
- Wis. Stat. § 323.13(1)(a) – emergency management
- Wis. Stat. § 59.56(3) – extension committee
- Wis. Stat. § 46.82 – commission on aging
- Wis. Stat. § 251.04 – local board of health
- Wis. Stat. § 92.06 – land conservation committee
- Wis. Stat. Ch. 46 & 51 – community programs/social services/human services
- Wis. Stat. § 59.54(8) – local emergency planning committee
- Wis. Stat. § 45.81 – veterans service commission

It is worth remembering that counties have Administrative Home Rule authority and, other than the required committees, they can add, consolidate, restructure, or eliminate committees as they deem necessary.

COMMITTEE ASSIGNMENTS

Generally, the county board chair appoints a committee chair, as well as individual members, of each committee after surveying board members regarding their particular interests and strengths. Individual members may make requests for specific committee appointments directly to the chair at appropriate times before the committees' memberships are officially set. This is typically done in April or May of years members are elected. Committee chairs and members may or may not be removed from their duties during the middle of their terms of appointment depending on each county board's adopted rules. Standing committees usually are created by resolution or ordinance and may be dissolved or re-created every two years following the biennial spring elections. These committees usually consist solely of county board member appointees. Short-term or long-term advisory committees may also be appointed by a chair, county executive, or administrator to study and report on specific issues.

SELF-ORGANIZED COUNTY OPTIONS

Often it is said that a county board has little control over its own affairs, policies, and procedures, especially when compared to villages and cities, which operate under constitutional home rule powers. While this may be true in many cases, provisions in the state statutes do permit the county board some flexibility in setting member compensation, board terms, and filling board vacancies.

These provisions, known collectively as “self-organized counties” legislation [Wis. Stat. § 59.10(1)], were passed in the mid-1970s in an attempt to provide flexibility regarding limited and specific county board matters.³ The major options available to county boards after approving this status are:

- ❑ The ability to set staggered terms for supervisors – electing half of them each year, rather than electing them all each even-numbered year.
- ❑ The flexibility in setting board member compensation, including the ability to pay fixed salaries and to pay for additional board or committee meetings in excess of current statutory limits based on population.
- ❑ The right to fill board vacancies by other means, such as by nomination from the board floor and/or the ability to schedule special elections before vacated terms expire.

Two counties already have specific provisions for self-organization under state statutes without adopting self-organized status and thus have no need to enact further self-organizing ordinances. The Milwaukee County Board of Supervisors, by virtue of being the only county in the state with a population in excess of 750,000, formerly had the right to create four-year terms for the its supervisors and to set its own supervisors’ salaries, subject to advance approval before the new supervisors take office. Since 2016 and subsequent elections, Milwaukee supervisors’ terms are 2 years. Milwaukee County supervisors are also precluded from accepting additional compensation over their annual salaries “for serving as a member of any committee, board or commission appointed by the county board or by the county executive,” however, the board may provide for some limited exceptions.⁴

Menominee County is also specifically exempted from state laws regarding terms of office and appointments to vacancies by virtue of being the only county with one town within the county limits. Its town board members and one supervisor representing the only incorporated village in the county also serve as the county board of supervisors and therefore, different provisions apply permitting staggered terms that coincide with town and village elections. However, the board members in Menominee County are still governed by the standard per diem compensation limits mentioned later in this chapter for non-self-organized counties.

HOW IS SELF-ORGANIZATION ACCOMPLISHED?

The county board may choose at any time to become a “self-organized county.” This is done by passing an ordinance stating its intent to self-organize and citing its authority to do so under Wis. Stat. § 59.10(1). If the board enacts such an ordinance, the county clerk must file a certified copy with the Wisconsin Secretary of State. Following this filing, the county board may adopt policies it desires

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TABLE 1: SELF-ORGANIZED COUNTIES*

Adams	1991	La Crosse	1997	Richland	1991
Calumet	1990	Lafayette	2001	Rock	1985
Chippewa	2002	Langlade	2015	Rusk	1993
Crawford	2005	Lincoln	2004	Sawyer	2016
Dane	1984, 1974	Manitowoc	1987	St. Croix	2004
Dodge	1991	Marathon	1975	Shawano	1997
Douglas	1999	Marinette	1990	Sheboygan	1985
Dunn	1997	Marquette	1991	Taylor	1978
Grant	2009	Monroe	2000	Vilas	2004
Green	1990	Oneida	1991	Walworth	2009
Green Lake	1990	Pierce	2004	Washington	2004
Iowa	1995	Polk	2014	Waukesha	2009
Iron	2004	Portage	1995	Waupaca	1999
Jefferson	2003	Price	2010	Wood	1997
Juneau	2003	Racine	2001		

* As of February 2018; Source: Wisconsin Secretary of State.

regarding staggered terms, compensation for board members, and the method for filling county board vacancies. This is usually accomplished through the board's adoption of a series of individual ordinances; each ordinance requires approval by a majority of the entire board membership. While the secretary of state's office maintains a file of all ordinances passed by counties enacting their self-organized status, the office does not verify the facts behind such documents, nor does it ever withhold approval of any county's claim of such status after the appropriate filing is made. It also does not exercise any ongoing oversight of counties' use of such powers. Once the self-organized status is obtained, the board is not required to enact ordinances enabling any or all of these provisions under any particular time schedule.

County boards have had the option to self-organize for over 40 years; 43 of 70 eligible counties have passed a local ordinance and are officially listed with the secretary of state's office as "self-organized" (see Table 1 above). The earliest county to take advantage of this provision was Dane County in 1974. It was followed in 1978 by Taylor County. The most recent counties to enact such an ordinance were Vernon, Pepin and Sawyer Counties, which joined the list in 2016. The 45 self-organized counties are fairly evenly distributed, both geographically and in population.

TERMS OF OFFICE FOR BOARD MEMBERS

Non-self-organized counties must hold an election of the entire county board every two years on the first Tuesday in April in even-numbered years. All terms run simultaneously. In the 2016 election, the Wisconsin Counties Association reported that 19% of supervisory seats across the state changed hands. Self-organized counties are permitted to hold elections in one half of their supervisory districts in April of even-numbered years, and in the other half in April of the odd-numbered years.

COMPENSATION FOR BOARD MEMBERS

Unless a county is “self-organized,” a board member’s compensation is to be paid on a per diem basis and must be based on actual board meetings attended by each member. Members who are absent due to illness, family emergencies, business obligations, or other legitimate reasons may not be paid for meetings missed.

In many counties, members must submit monthly per diem request forms to the clerk’s office in order to be compensated after attending meetings. The board sets its members’ per diem at rates it determines. Typical per diem range from \$15 to \$50 per meeting. State statutes limit the total number of days in which a county board member can claim the per diem regardless of whether additional meetings are required. Specifically, Wis. Stat. § 59.10(3)(h) limits the county from paying supervisors per diem for more than 20 days in a calendar year if the county’s population is less than 25,000; for more than 25 days if the county population is 25,000 to 99,999; and for no more than 30 days total per year if it is between 100,000 and 749,999.

Similar limitations on additional compensation for committee meetings are applied to non-self-organized counties under Wis. Stat. § 59.13(2)(a) & (b). In counties of less than 25,000 population, supervisors are limited to no more than 20 days of per diem pay for committee meetings annually, of which not more than 10 days can be for services on any one committee. An exception is that the board may increase the number of committee meetings for which a member can be compensated by a two-thirds majority vote. In counties with a population of 25,000 or more, board members are limited to no more than 30 days of extra pay for committee duties unless the board increases the number by the same two-thirds vote. In addition, an attorney general’s opinion states that counties may not pay multiple per diem for committee meetings held on the same day as board meetings or for multiple committee meetings on the same day, unless the county is self-organized.⁵

In counties with a population of less than 750,000, the board may elect to pay members an annual salary through approval of a two-thirds majority of the members, without declaring itself self-organized. State law permits higher compensation for the county board chair and for up to two vice chairs. Under no circumstances may county boards adjust the compensation of their members or officers during the course of the members’ term.

REIMBURSEMENT FOR TRAVEL TO MEETINGS

County board members are entitled to mileage reimbursement for actual miles traveled to county board and committee meetings. The allowable manner for calculating member mileage reimbursement is stipulated in Wis. Stat. § 59.10(3)(g). A member shall be compensated for actual mileage based on the “usual traveled route”.... “in going to and returning from” board or committee meetings. Wis. Stat. § 59.22 adds that the rate at which mileage is compensated shall be determined by the county board itself and may be any amount deemed reasonable. The rate is set by resolution or ordinance by the governing body.

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In many counties, this means that the county sets a per mile reimbursement rate at or below the IRS maximum allowance as the standard for both employee and board member reimbursement. Amounts over that figure are subject to personal income tax reporting and taxes. The provisions related to “usual traveled routes” do not apply to counties with self-organized status where the board may elect to pay members for routes that contain mileage over and above present statutory limits.

FILLING BOARD VACANCIES

From time to time, due to resignation or death, a vacancy occurs on the county board of supervisors. In self-organized counties, the board may determine the procedure for filling a vacancy. Without self-organizational status, the county board chairperson, with the approval of the board, appoints a qualified elector who is a resident in the vacated supervisory district. The appointed person then serves for the remainder of the term, unless the board orders a special election to fill the vacancy. If a vacancy occurs before June 1 in the year preceding expiration of the term of office, the board may order a special election to fill the vacancy. In the case that the board orders such a special election, the appointed person serves until a successor is elected and qualified. The person that is elected in a special election serves for the remainder of the unexpired term.

EXECUTIVE AND ADMINISTRATIVE OPTIONS

Prior to 1960, Wisconsin county boards functioned as both the legislative branch and the executive branch for counties. However, as county government became more complex and the population became more urbanized, state statute was amended to permit the creation of a separate, elected position of county executive to administer and monitor county departments and exercise other specified powers. This position first was mandated for Milwaukee County in 1960. In 1969, the authority to create an executive position was extended to all counties, regardless of size (Wis. Stat. § 59.17). County executives are elected in the general nonpartisan election on the first Tuesday in April and serve four-year terms.

In 1985, the legislature specified the powers of appointed county administrator. The county administrator is responsible for the annual budget, providing oversight to county department heads, and reporting to the county board.⁶ Wisconsin currently has 12 elected county executives and 27 appointed administrators. Wis. Stat. § 59.19 required all counties no later than January 1, 1987 that do not choose to create either an administrator or an executive position to designate an administrative coordinator. The administrative coordinator is “responsible for coordinating all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in elected officers.” Thirty-three counties have selected this form of administration.

FORMS OF COUNTY GOVERNMENT IN BRIEF

Wisconsin law provides for three forms of county government. Those are the county executive, county administrator, and county administrative coordinator. All counties have an elected board of supervisors

TABLE 2: COUNTY ADMINISTRATIVE OPTIONS

TOPIC	EXECUTIVE (Wis. Stat. § 59.17)	ADMINISTRATOR (Wis. Stat. § 59.18)	ADMIN. COORDINATOR (Wis. Stat. § 59.19)
How Created	Board resolution or citizen petition/referendum	Board resolution or citizen petition/referendum	Board resolution or ordinance
How Chosen	Spring election every four years (nonpartisan)	Appointed by majority vote of county board	Appointed by majority vote of board
Qualifications	U.S. citizen, 18 years of age, county resident	Training, experience, education (no consideration for residence, nationality or political affiliation)	Elected or appointed county official and other qualifications set by board
Source of Powers	State statutes	State statutes	Limited state statutes and board resolution/ordinance
Removal	By governor for cause	By county board majority	By county board majority
Budget Authority	Prepares & presents to board	Prepares & presents to board	Only as authorized by board
Veto Board Actions	Yes	No	No
Department Heads	Appoints (subject to board confirmation), removes at pleasure	Appoints (subject to board confirmation), removes at pleasure	No authority unless granted by board
Advisory Committees/ Boards	Appoints, removes subject to board confirmation unless waived or made under civil service	Appoints, removes subject to board confirmation unless waived or made under civil service	No authority unless granted by board
Coordinate Depts.	Yes	Yes	Only management functions not assigned departments by ordinance or law

comprised of members of the electorate with powers authorized by Section 22, Article IV of the Constitution and specified in Chapter 59 of the statutes. The Wisconsin county board is unlike the commission form of government found in some states in which individual county commissioners are directly responsible for the operational aspects of any county department.

The Wisconsin State Legislature and statutes chose the supervisor form of government. Unfortunately, the use of the term “supervisor” appears to be a source of misinterpretation of the duties of Wisconsin county boards of supervisors. Supervisors do not directly “supervise” under Wisconsin law; they “oversee” through their policy making and budgeting authority. The term “supervisor” is historical, not descriptive.

COUNTY EXECUTIVE (WIS. STAT. § 59.17). In this form of county government, a county executive is elected by the citizens specifically to act in the capacity of Chief Executive Officer (CEO) of the county. While Milwaukee County is required to have a county executive, any county in the state may choose this form of executive structure. This structure is often chosen for reasons such as political climate, complexity of governmental issues in that county, projected growth, or some other issue that compels the citizenry to elect a full-time CEO who answers directly to them.

The county executive coordinates and directs all administrative and management functions, appoints members to boards and commissions (subject to county board confirmation); supervises department heads; submits the annual budget; and holds veto authority over county board decisions, ordinances, resolutions, and appropriations. The county board can override vetoes of the county executive with a two-thirds majority vote. In short, the county executive is the highest level administrative leader in the county with powers and a relationship with the board that can be generally equated to

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those between a mayor and city council or the governor and legislature. While the county board of supervisors is restricted to legislative duties and oversight, the county executive manages and supervises all departments and activities, both day-to-day and long-term through planning. This includes every county action and service except those performed by constitutional officers, such as the sheriff, where the county executive's authority is essentially limited to budgetary control.

COUNTY ADMINISTRATOR (WIS. STAT. § 59.18). The county administrator form of government is optional. It can be chosen but its adoption is not required anywhere by statute. A county administrator form of government is very closely related to the city manager form at the municipal level. It is often chosen because population, growth, and/or complexity of government issues within the county are seen to require a full-time professional manager/administrator to ensure efficient service provision. The county administrator is the chief administrative officer (CAO) of the county. The administrator is appointed by a county board and Wis. Stat. § 59.18(1), requires the appointment be "solely on merit" with due regard for training, experience, administrative ability and experience with no weight or consideration given to residence, nationality religious or political affiliation. The county administrator coordinates and directs all administrative and management functions of a county government and appoints and supervises department heads subject to county board confirmation.

The county administrator appoints members to boards and commissions, and where statutes give appointment authority to the county board or its chairperson, subject to board confirmation. The county administrator is responsible for preparing and submitting the annual budget, which requires the board of supervisor's approval before becoming official. The county administrator answers to the county board of supervisors as a whole, not to the county board chairperson. A key point here is that the county administrator "supervises" versus "coordinates." Department heads work for, report to, and are evaluated by the county administrator, except for elected constitutional officers such as the county clerk or the sheriff. Through this supervisory authority, the county administrator is expected to manage or administer the daily business of county government. The county administrator has hiring authority (subject to county board approval) and firing authority over department heads unless that authority is revoked by local ordinance by the board of supervisors.

However, constitutional officers and elected department heads do not fall into this category. They do not "work for" the county administrator. Nevertheless, they must recognize the administrator's authority regarding coordination between departments; resource allocation; and management issues outside of the non-supervised department, which require coordination and support from other county departments. Essentially, the county administrator must foster a relationship of trust and cooperation with those officers and department heads not under his/her supervisory control to effectively manage county operations. County administrators commonly assume additional duties, especially in smaller populated and rural counties, such as human resources director, emergency management director, media spokesperson, which further exemplifies the need for a broad education and experience level for prospective county administrators.

ADMINISTRATIVE COORDINATOR (WIS. STAT. § 59.19). County administrative coordinator is the third form of county government and the least defined by statutes; consequently, it is probably the most misunderstood form. The law provides that if a county has not adopted the county executive or county administrator form of government, it must adopt the administrative coordinator form of government. The law provides that an elected official, such as the county clerk, or an appointed official may be designated administrative coordinator, almost as an additional duty.

Historically, some counties utilizing the administrative coordinator option designated the chair of the county board as administrative coordinator. However, the Wisconsin attorney general's office issued a formal opinion in 2011 stating that a sitting county supervisor is precluded from accepting any other office or position, including the position of administrative coordinator, because the additional positions are legally incompatible.⁷ Under Wisconsin law, any supervisor holding an incompatible position automatically vacates their board membership as a matter of law.⁸ Hence, neither the county board chair nor any other member of the board can hold the position of administrative coordinator without resigning his/her position as an elected member of the county board.

The law provides that the administrative coordinator "is responsible for coordinating all administrative and management functions." The duties and authority of an administrative coordinator are similar to a county administrator. The administrative coordinator's duties are comparable to those of a city or village administrator who works under a mayor or village board. A village administrator coordinates daily municipal operations but must defer to the village board for final decisions on non-routine matters. The county administrative coordinator performs in a similar manner with the county board holding final approval authority over non-routine decisions. With Administrative Home Rule authority, the position of administrative coordinator can be made as strong or as weak as the board chooses via local ordinance. Although the statutes do not give the administrative coordinator supervisory authority over department heads, there are valid reasons for a board of supervisors to give a limited amount of such authority to the administrative coordinator.

The administrative coordinator could, like the county administrator, be assigned additional duties that need to be performed and no other position exists to perform them. The administrative coordinator reports and answers to the board of supervisors and the board chair. When a county comes to the conclusion that a full-time professional is required to perform the duties of either county administrator or administrative coordinator, there are a number of criteria commonly considered essential for that person to be qualified for the position. Persons selected for these positions are generally expected to possess at least a bachelor's degree in Public Administration, Business Administration, Finance, Planning, or some other closely-related field. A Master's Degree is often listed as "preferred" on advertisements for such positions. Experience in a staff position and/or as an assistant administrator or coordinator is commonly expected. A period of five years of such experience is often required before entering that primary administrative position. Candidates for either of these positions are routinely screened via background checks, criminal history checks, financial records checks, and reference checks prior to an

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offer being made for the position. The county with a county administrator or full-time administrative coordinator should be able to count on an experienced, well-educated manager and leader to keep daily operations and service provision running and operating at an optimal level of efficiency, allowing the board of supervisors to concentrate on long-term visioning and policy.

THE JUDICIAL BRANCH

The 1977 Court Reorganization Act merged Wisconsin circuit courts and county courts into one trial court system under the administration of the Wisconsin Supreme Court and 10 district administrators. The circuit courts are divided into branches within counties, and at least one branch exists in every county, with the exception of six counties that are paired off and share a single judge. The paired counties are: Buffalo/Pepin, Florence/Forest, and Shawano/Menominee. Judges' and court reporters' salaries are paid by the state, but most court staff salaries and court facilities are funded by county taxpayers. Circuit court judges are elected to a six-year term in the spring general election by the residents of the counties they serve. Circuit courts are a necessary part of state law; thus judges have implied authority to require local county boards to fund the courts at a level necessary to meet caseloads. The county Register of Probate is appointed by the chief circuit court judge for that county.

OTHER ELECTED AND KEY APPOINTED OFFICIALS

Under state law, county residents elect certain other county officials. These are the clerk, treasurer, sheriff, clerk of circuit court, register of deeds, and district attorney. These officials are elected in partisan, general elections that are held on the Tuesday after the first Monday in November in even-numbered years and are referred to as Wisconsin's Constitutional Officers. Sheriffs, clerks of circuit court, district attorneys, elected surveyors, registers of deeds, treasurers, county clerks and coroners are elected to four-year terms. The popular election of a county surveyor and coroner is a local option that is on the decline in Wisconsin counties. When a county chooses not to have an elected coroner, the office is appointed and is called a medical examiner. When no candidates file for county surveyor, the board usually hires a state certified land surveyor to perform the duties.

People wishing to hold these offices must be legal residents of the county, U.S. citizens, and at least 18 years of age. Other department head positions are appointed by the executive or administrator, and in rare cases by the administrative coordinator, and are confirmed by the county board. Wis. Stat. § 83.01 requires each county board must elect a highway commissioner, whose term is for two years, unless otherwise set by local ordinance. Appointment of a head of emergency management services is also required by law (Wis. Stat. § 323.14(1)(a)2.). A county social or human services director must also be appointed to oversee each county or multi-county department of social or human services. Many counties also have a finance director, corporation counsel, parks director, general services administrator, human resources director, and other professional managers to perform other specific duties. Counties often contract with private attorneys to provide corporation counsel services.

FUNCTIONS AND DUTIES OF WISCONSIN COUNTIES

Unlike Wisconsin cities and villages, counties do not have broad constitutional “home rule” authority. This means that while cities and villages have broad authority to act for the health, welfare, and safety of their citizens, counties may only undertake functions that are expressly granted by state statutes. This has resulted in counties being assigned increased tasks on behalf of the state, but having limited authority to address specific local priorities. Major responsibilities required of the county include the provision of most social service programs (i.e., child welfare, juvenile justice, services, for the aged and disabled, public health, mental health, jail, developmental disabilities, etc.) and for local and state road maintenance. Counties also provide cultural and recreational amenities (e.g., parks, libraries and snowmobile trails), law enforcement, health services, zoning, and road maintenance for citizens in rural, unincorporated areas within their borders. Some of these same services are also provided to cities and villages through joint agreements.

Home rule authority has allowed county government to expand gradually as a regional government in areas such as recycling, water quality management, transportation planning and zoning review, but only in cases where a municipality or group of municipalities have requested the county to do so on their behalf through voluntary agreements.

Sources & References

- Paddock, Susan C. “The Changing World of Wisconsin Local Government”, *State of Wisconsin Blue Book – 1997-98*. Wisconsin Legislative Reference Bureau, 1997, pages 101-171.
- *State of Wisconsin Blue Book 2019-2020*, page 380-381.
- University of Wisconsin-Extension, Local Government Center. Fact Sheet #8: Self-Organized Counties, 1997.
- University of Wisconsin-Extension, Local Government Center. Fact Sheet #19: County Government in Wisconsin, 2012.
- University of Wisconsin-Extension, Local Government Center. Fact Sheet #21: County Board Administrative Authority, 2012.
- Wisconsin Counties Association. “County Government History, Services, and Funding,” educational brochure, 2018.
- The Wisconsin Taxpayers Alliance. *The Wisconsin Taxpayer*, “County Organization and Administration,” April 1997, Vol. 65 No. 4.
- The Wisconsin Taxpayers Alliance. *The Framework of Your Wisconsin Government*, 16th Edition 2001, pages 69-79.
- Wisconsin State Statutes. (In general, Wis. Stat. § Chapter 59 in its entirety deals with county structure and duties.)
- *Opinion of Wis. Att’y Gen. to Bradley Lawrence, Price County Corp. Counsel, OAG 1-11 (October 27, 2011).*
- *Opinion of Wis. Att’y Gen. to Dennis Kenealy, Ozaukee County Corp. Counsel, OAG 1-10 (January 28, 2010).*

Endnotes

- 1 Exceptions to state limits are Milwaukee County, which may establish its own number of supervisors (currently 18), and Menominee County, which is also a town and has the same seven members on both its town and county board, Wis. Stat. §59.10(2) & (5).
- 2 Wis. Stat. § 51.42.
- 3 UW-Extension Local Government Center, *Fact Sheet #8: Self-Organized Counties*.
- 4 Wis. Stat. § 51.10(2)(c).
- 5 79 Op. Att’y Gen. 122 (1990).
- 6 Wis. Stat. § 59.18.
- 7 *Opinion of Wis. Att’y Gen. to Bradley Lawrence, Price County Corp. Counsel, OAG 1-11 (October 27, 2011).*
- 8 *State ex rel. Stark v. Hines*, 194 Wis. 34, 215 N.W. 447 (1927), 73 Op. Att’y General 83, 85 (1984).

ISSUE FOCUS

County Board Rules

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After the April elections, Wis. Stat. § 59.11(1)(c) requires the county board to meet on the third Tuesday of April to organize and transact business. The organizational meeting provides an opportunity for counties to elect leadership and establish the rules that will govern the board for the next two years. This *Issue Focus* will address a component of that biennial county organizational process critical to the effective operation of the county board – the county board rules.

COUNTY BOARD RULES

State statutes, local rules, and *Robert's Rules of Order* all provide guidance on how county business is conducted. There is no statute that requires counties to adopt county board rules. However, there are a few statutes that require county boards to conduct business in a specified manner. For example, Wis. Stat. § 19.81, *et seq.*, Wisconsin's Open Meetings Law, requires that meetings of county boards and committees of the board be open to the public consistent with certain notice requirements. Beyond Open Meetings Law requirements, other statutes require that county boards maintain certain committees, such as the county highway committee, and specify committee membership and the method for appointing members to the committee. Still other statutes identify required county board officers and the method for electing those officers, such as board chair. With the exception of these relatively few required procedures, counties are free to organize and conduct business in a manner similar to any other deliberative assembly.

PROCESS

To begin the process of reviewing and suggesting modifications to the current board rules, the current board or a committee should review the rules and propose amendments, as necessary, prior to the organizational meeting. In addition, counties should consider codifying the rules in ordinance such that they become a permanent feature of the county code.

CONTENT

There are three basic components to a set of county board rules: (1) county board officers; (2) organization of the county board; and (3) county board rules of procedure. Common drafting considerations for each of these three categories are discussed below.

County Board Rules

COUNTY BOARD OFFICERS

The statutes require counties to elect a chair and vice chair. However, counties should consider whether additional officer positions, such as 2nd vice chair or sergeant-at-arms, are desirable. A 2nd vice chair is beneficial when the chair and vice chair are absent or they both wish to speak on an issue and need to step down as the presiding officer. Once the officer positions are established, any rules and duties relating to the particular office should be codified.

The statutory duties of the board chair and vice chair are contained in Wis. Stat. § 59.12; however, the statute only provides the minimum duties. Counties are free to add to those duties at the discretion of the board. For example, the rules could specify whether the board chair is an automatic member of a committee or committees, whether the board chair is able to fill in for absent committee members at committee meetings, how the vice chair assumes chair responsibilities in the absence of the chair, and what happens in the event the chair seat is vacated. In addition, the rules should specify that the board chair maintains the right to vote (not just on tie votes) and whether the board chair makes committee appointments, serves as chair of other committees, and sets the county board agenda.

Some of the duties of a board chair as described in Wis. Stat. § 59.12 are as follows:

- Perform all duties required of the chair.
- May administer oaths to persons required to be sworn.
- Countersign all ordinances of the board.
- Preside at meetings and when directed by ordinance.
- Countersign all county orders.
- Transact all necessary board business with local and county officers.
- Expedite all measures resolved upon by the board.
- Take care that all federal, state, and local laws pertaining to county government are enforced.

Some of the duties of the vice chair as described in Wis. Stat. § 59.12 are to perform the chair's duties when the chair is unable due to disability or absence, as well as attend official events representing the county in the absence of the chair. Other rules to consider are whether the vice chair should receive the chair's salary if the chair is disabled or incapacitated for any length of time. Additionally, in the event of death or resignation, if the vice chair becomes chair or whether a special election is held.

Similarly, if a county establishes the position of sergeant-at-arms, the board rules should provide guidance on the powers of the sergeant-at-arms. A sergeant-at-arms may be used to gather members for the start of a meeting, remove unruly members of the board or public as directed by the chair, notify board members or the public of special events or procedures, contact department heads, or distribute materials to board members relevant to agenda topics.

A process and rules for removal of board officers should also be stated. A motion filed with the clerk, introduction of a resolution, majority versus two-thirds vote of the members, and cause such as inefficiency, neglect of duty, official misconduct or malfeasance in office are all points to consider. However,

the attorney general's office opined that a board chair may be removed at will by a simple majority of the members and it is advisable that a county consider the same process for other board officers. The process for removal of committee officers or committee members, if allowed, should specify the responsible party – be it the board, board chair, or committee.

ORGANIZATION OF THE BOARD

The second part of the rules relates to how the board is organized.

Standing committees. These are the “permanent” board committees. In some cases, the statutes require that the board establish certain committees, e.g., the county highway committee. In other instances, the board may want to establish a permanent committee even if not required by statute, e.g., the finance committee. Some of the duties and responsibilities may include:

- Provide policy oversight.
- Provide policy direction and make program recommendations.
- Recommend policy and planning initiatives.
- Monitor certain activities.
- Act as a liaison.
- Advise the county board.

The rules should specify:

- The number of members, odd number if possible, and how members are appointed whether it is the board chair, board election, or a committee on committees;
- If members are allowed to serve on multiple committees;
- The officers of each committee and whether they are elected by the committee or appointed by the chair;
- If the board chair is a member, ex-officio member, voting member or allowed to fill in for absent members;
- The removal process of officers and members, whether by the board chair, the county board or the committee, by a majority or super majority and with or without cause; and
- The authority of the chair to preside at meetings, set agendas, schedule meetings, and make reports on behalf of the committee.

All of the board's standing committees and each committee's duties or charge should be contained within the rules.

Other committees. The rules should specify how additional “ad hoc” committees are created and populated. In addition, the rules should specify that “ad hoc” committees are automatically discharged once the purpose for the committee's creation is satisfied.

County Board Rules

Committee procedure. All committees should follow a uniform set of procedural rules. The procedural rules should likely address: (a) meeting minutes; (b) staff involvement; (c) budget involvement; (d) process for introducing and considering items of business; (e) responsibility for the agenda (coordinate posting and notice form with county clerk); (f) committee officer elections or appointment and removal; (g) any rules for “ex officio” members; (h) meeting schedule; (i) ability to call special meetings and similar matters.

Public appearances. While the Open Meetings Law allows the public access to public meetings, it does not require public participation in meetings. Certain matters, such as matters related to zoning, require public hearings. In other cases, committees will allow public comment on matters appearing on the meeting agenda. The board rules should specify the process for public hearings and public comment. Common considerations for public participation include the following:

- ❑ Should the public be limited to speaking to a specific agenda item?
- ❑ Should members of the public be encouraged to speak at the committee level?
- ❑ Specify time period, e.g., three, four, or five minutes.
- ❑ Clarify if board members are allowed to speak as a matter of right at committee meetings.
- ❑ Specify that board members should not be allowed to discuss or participate in debate, if not a member of the committee.
- ❑ Should members of the public be required to register?
- ❑ Are members allowed to ask questions?
- ❑ Are the rules different for a public hearing versus a public comment?

Meeting Minutes. It is important to coordinate with the county clerk’s office on the form, content, and responsibility for minutes given the clerk’s responsibility under Wis. Stat. § 59.23. While the county clerk is responsible for the minutes, the clerk may delegate functions to staff related to taking and filing the minutes.

PROCEDURAL RULES

The final section of the board rules relates to how the board conducts its business.

Board Meetings. The board rules should specify the following as it relates to meetings of the county board:

- ❑ Specify meeting dates and times.
- ❑ Specify if the chair may cancel meetings or call special meetings.
- ❑ Allow the chair to designate special budget meetings during the budget process with no other business.
- ❑ Specify rules for committee of the whole.
- ❑ Allow the chair to schedule public hearings.

Form of Resolutions. The transaction of official business should be in ordinance or resolution format. All resolutions and ordinance amendments should be sponsored by a supervisor and allow for co-sponsors. Drafting of certain resolutions and ordinances can be limited to certain departments such as the corporation counsel preparing ordinance amendments, and the finance director preparing budget amendments. The rules should define the introduction process; i.e., submit to county clerk, board chair, committee, by certain date, etc. Likewise, if there is a preferred review process for the corporation counsel or finance director, that process should be codified.

Referral of Resolutions. Resolutions and ordinance amendments should proceed before a committee before going to the county board. **The rules could authorize the chair or committee to refer a resolution to an appropriate standing committee, board, or commission.** The matter's primary sponsor should be invited and allowed to speak at the committee meeting.

Board Action on Resolutions. The rules should define the process for placing resolutions and ordinance amendments on the agenda once the committees have acted. A motion before the board could be the committee recommendation (there is no need for formal motion or second). Consider requiring all amendments to resolutions and ordinance amendments to be in writing.

Seating Arrangements for Board Meetings. The rules should designate the process for supervisor seat selection. Likewise, the rules should designate seating for the public, press, staff, corporation counsel, county clerk, administrator, department heads, and a place for the public to address the board.

Agenda - Order of Business. The rules should specify the order of business for all county board meetings. The order of business could include:

- ❑ Call to order.
- ❑ Roll call.
- ❑ Pledge of Allegiance.
- ❑ Special matters & announcements.
- ❑ Approval of bills & accounts.
- ❑ Approval of county board minutes.
- ❑ Consent calendar.
- ❑ Reports on zoning petition.
- ❑ Motions from previous meetings.
- ❑ Ordinances.
- ❑ Award of contracts.
- ❑ Resolutions.
- ❑ Special order of business.
- ❑ Adjournment.

County Board Rules

Conduct at County Board Meetings. This is a very important part of the rules as it establishes the foundation for an orderly, deliberative process. The rules should specify that:

- ❑ Committees should not meet when the board is in session.
- ❑ Supervisors, visitors, staff, and others shall at all times conduct themselves in a respectful manner.
- ❑ No conversation is allowed on the board floor or in the visitor's section.
- ❑ All electronic devices shall be kept in the silent mode.
- ❑ Supervisors shall use county-provided electronic devices in accordance with policy.
- ❑ A designee should be chosen to distribute literature – supervisors, county board staff, sergeant-at-arms, county clerk, administrator, etc. – not the general public.

County Board Voting. The rules should indicate that any supervisor should be able to request a roll call vote as long as it is done prior to the next order of business. The vote should be recorded in the minutes. Roll call votes should, if possible, be taken in a rotating fashion per meeting so that the same supervisor is not always casting the first ballot. Supervisors should be in their seats when voting.

Defining a "Session." A session determines when business can be brought back before the assembly. A session may be one meeting, one year, the term of supervisors, or as determined in the rules.

Parliamentary Procedure. The rules should specify the latest edition of *Robert's Rules of Order, Newly Revised*, 11th Edition (RONR) as the rules governing the board. In addition, to the extent the board adopts rules that vary from the procedure in RONR (as is expressly allowed in RONR), those variations should be codified in the board rules. It is also a good idea to provide basic information concerning *Robert's Rules* within the board rules as an easy reference for supervisors.

CONCLUSION

Codifying county board rules may seem like a daunting task. However, by breaking the task into the sections identified above, the task becomes much more manageable. In addition, there are a variety of resources available to assist counties in the process. If you would like additional information relating to board rules or the process for adopting board rules, please do not hesitate to contact the authors at 1.866.404.2700.