



MRSC

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COMMISSIONER  
COUNTY  
GUIDE

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## **County Commissioner Guide**

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# Introduction

Being an effective leader is not something that simply happens the moment you're elected to office – you have to learn and hone leadership skills. As a county commissioner, you'll need to listen to the residents of the county, develop goals, and work effectively with the board of county commissioners to achieve these goals.

We hope this publication will serve as both a basic primer on the role and duties of a county commissioner, and also as a resource with answers to some common questions.

You should use this publication to learn how to find information, assistance, and advice. While this text doesn't contain all of the answers you might have, it will guide you to the relevant statutes, publications, and to those people who can best answer your questions.

There are a lot of people counting on you in your role as county commissioner. They want you to succeed, and so do we. Good luck!

# 2 Origin of County Government

As a commissioner, it's important for you to understand the foundation and origin of county government. The organization of county government is provided in Article 11 of the Washington State Constitution. The counties of the Territory of Washington that existed at the time statehood was granted are recognized in sections 1 and 2 of this article, and section 3 allowed for the creation of new counties. When the state constitution was adopted, 34 counties already existed. The remaining five counties were created by the legislature between 1899 and 1911. The same 39 Washington counties have existed since 1911 – no new counties have been created since, and the geographic boundaries of these counties are fixed by state statute. Keeping all of this in mind, let's move on to exploring a brief history of county government.

## History of County Government

Did you know county governments in America have their roots in Britain where the Shires were an administrative arm of the national government? In Washington, counties are the oldest form of government; the first counties were created by the "Provisional Government" set up by the Oregon Trail settlers before the territory was organized by Congress. By the time Washington achieved statehood, there were thirty four counties established. Since that time, only five additional counties have been created.

Like in Britain, Washington's counties were initially organized as administrative arms of the territory with responsibilities such as maintenance of vital records, providing courts and law enforcement, building and maintaining roads, assessing property values, collecting taxes, and conducting elections. The Territorial Legislature initially created counties with the theory that the county "seat" should be no more than one half day's journey by horseback, so citizens could conduct their business and return home in one day.

The form of county government chosen by the early Provisional Government Legislature and later continued in the state constitution, was that of Iowa counties. This model had many separately elected officials independently performing specific functions like property assessment, law enforcement, and electoral processes. It continues to be the organizational form we use in Washington State today.

By 1854, the three county commissioners in each county were responsible for erecting and maintaining public buildings, constructing and repairing roads, granting licenses, levying and collecting taxes, approving bills charged to counties, and supporting indigents. Also, before statehood was achieved, Public health was added as a responsibility.

Later, in 1863, an important restriction of county

powers was enacted by the Territorial Legislature. A single sentence was added at the end of the list of powers delegated to the board of commissioners, it read “...and they shall have no other powers, except such as are, or may be given to them by law.” Following this restriction, the state constitution of 1889 conveyed limited home rule authority to counties in the local government article, section 11, as follows:

Any county, city, town, or township may make and enforce within its limits all such local police, sanitary, and other regulations as are not in conflict with general laws.

While this provision appears to grant counties equal footing with other local governments as municipal corporations with full “police power,” later interpretations by the state courts haven’t been favorable to broad “home rule.” The courts have generally held that counties only have those powers expressly given to them by the legislature.

## County Classification and Organization

Now that we’ve finished the history lesson, we can move on to an overview of county classification and organization. Based on [article 11, section 5](#) of the Washington State Constitution, the state legislature is authorized to provide for a system of county classification based on population. In 1991, the legislature abandoned the system of formal county classes and substituted the use of the most current county population figures to distinguish counties.

It’s important to point out that official population determinations for counties and cities are made by the state Office of Financial Management (RCW [36.13.100](#) and Ch. [43.62](#) RCW). These population determinations are used to allocate certain revenues and to determine governing law where the applicable law is based on total county population.

With few exceptions, the general state law governing counties and county government is set out in Title [36](#) RCW and applies equally to all counties.

You may find it interesting that different provisions can apply based on county population. For example, the minimum annual salary for elected county officers varies depending on population (RCW [36.17.020](#)), and counties with a population of at least 300,000 can expand the size of the board of commissioners from three to five members without needing to adopt a charter (RCW [36.32.055](#)). Counties with a population of 400,000 or more are subject to different purchasing and bidding laws than counties with a population under 400,000 (RCW [36.32.235](#) and RCW [36.32.240](#)).

In contrast to counties, there are several classifications of cities and towns (e.g., first class, second class, towns, optional municipal code, and unclassified cities).

## Creation of New Counties

Did you know the legislature is authorized to provide for the creation of new counties by general law ([article 11, section 3](#) of the Washington State Constitution)? Interestingly, the state legislature has never adopted any laws to guide such a process.

After the adoption of the Growth Management Act in 1990, interest in formation of new counties increased, and some counties experienced active “new county movements” by citizens dissatisfied with county efforts to implement state-mandated land use and environmental laws. As a result, there have been lawsuits over the procedures for formation of new counties. In 1998, the state supreme court decided a case – *Cedar County Committee v. Munro*, 134 Wn.2d 377 (1998) – involving a citizen petition for the creation of a new county, Cedar, in eastern King County. The court’s decision made it clear that, in order for counties to be created, the state legislature must enact legislation providing for their creation.

You’ve probably noticed that, in recent years, various bills establishing procedures for creating new counties have been introduced, but none have been successful in gaining final passage. Without legislative action, it is unlikely that any new counties will be created.

# 3

## Structure and Composition of County Government

Your job as county commissioner is far from simple because counties are complex organizations. They operate dozens of distinct business functions; are governed by 11 elected officials, or more, depending on the number of judges a county has; and are overseen by a board of commissioners that acts as the executive, legislative, and quasi-judicial branches of government. This means your job as commissioner is also complex. You must understand each level of your responsibility as commissioner to effectively lead a county.

For counties that do not adopt a home rule charter, [article 11, section 5](#) of the Washington Constitution makes the commission form the standard form of county government throughout the state. In general terms, article 11, section 5 sets forth the governmental structure that all commission counties must have. Of Washington's 39 counties, 32 "noncharter" counties operate under the commission form of government provided by state law. Under the commission form of county government, the board of county commissioners consists of three members that serve as full-time executives and legislators (or policy makers) for the county. While state law allows counties with a population of 300,000 or more to increase the size of its board to five members, no counties have.

By comparison, seven Washington counties have successfully adopted home rule charters: King,

Clallam, Whatcom, Snohomish, Pierce, Clark, and San Juan. As you've probably guessed, these are called charter counties because they're organized under a locally developed charter permitted by Washington's constitution. Charter counties have some freedom in developing alternate structures that typically result in larger county boards which are usually limited to legislative functions and are called county councils.

### Structural Overview

Part of your responsibility as county commissioner is to be familiar with the various forms of county government. So, it's important to note that the creation and governance of counties is controlled by [article 11, sections 3 through 5](#) of the Washington Constitution. The constitution allows for three forms of county government: (1) the "commission" form; (2) the "home rule" charter form; and (3) the consolidated city-county form.

### Commission Form of County Government

First, let's go look at the commission form of county government. [Article 11, section 5](#) of the Washington Constitution makes the commission form the standard form of county government throughout the state for counties that do not adopt a home rule charter and sets forth, in general terms, the

governmental structure that all commission counties must have.

The commission form is often referred to as the “plural executive” form of government. Under the commission form, the county governing body consists of a three-member board of commissioners, elected on a partisan basis, who serve as the county’s legislative body and also perform executive functions. Counties with populations greater than 300,000 can increase the size of the commission from three to five members.

While you, as county commissioner, establish the budget and act as the county legislative body, you also share administrative functions with several other independently-elected county officials, including a clerk, treasurer, sheriff, assessor, coroner (or medical examiner), and auditor (or recorder). The county prosecuting attorney and the judges of the superior and district courts are also independently-elected.

Although there is no constitutional or statutory requirement for you to delegate any of your executive authority to a separately-appointed administrator, many county commissioners do, to a limited degree.

#### **Authority – Commission Form of County Government**

- Ch. 36.32 RCW – Basic authority and procedures for board of county commissioners
- RCW 36.32.055, .0552, .0554, .0556, .0558 – Provide for increasing the size of the board of county commissioners from three to five members

## **“Home Rule” Charter Form of County Government**

In contrast to the commission form of county government, there is the “home rule” charter form of county government. Home rule charters

provide their own form of government, and their adoption is allowed by article 11, section 4 of the state constitution. Home rule charters can provide for any needed county officers to perform county functions, but they can’t affect the election of the prosecuting attorney, the county superintendent of schools, the judges of the superior court, the justices of the peace, or the jurisdiction of the courts.

After adoption of a charter, the powers, authority, and duties of county officers provided for by state law (except for the prosecuting attorney) are vested in the county legislative authority, unless the charter expressly assigns powers and duties to specific officers. The duties of the board of county commissioners and other elected officers can also be changed by charter. Also, the commissioners and other elected officers can be replaced, though certain restrictions apply.

It’s important to mention home rule charters can also provide the powers of initiative and referendum to the citizens of the county. Not surprisingly, all charter counties have adopted initiative and referendum powers. You’re probably wondering what counties in Washington have adopted home rule charters – seven counties have: King (1969), Clallam (1979), Whatcom (1979), Snohomish (1980), Pierce (1981), San Juan (2005), and Clark (2014).

Of the seven charter counties, four adopted the council-elected executive form (King, Whatcom, Snohomish, and Pierce). In the council-elected executive form, the county executive is elected by the voters and serves as the head of the executive branch of government. The county council is the legislative branch of government, and is responsible for enacting ordinances, adopting the budget, and overseeing the administration. Ultimately, its role is similar to the role of a city council in a mayor-council city, and it must work closely with the county executive.

Of course the power to veto legislation belongs to the county executive, though a veto can be overridden by the council with a two-thirds majority

vote or greater. The county executive also holds the responsibility of proposing policies to the council, executing policies adopted by the council, preparing a budget, and providing general administration of the county. Additionally, and typically with the consent of the council, the county executive has the authority to appoint and dismiss department heads. Overall, the county executive's role is similar to the role of a mayor in a mayor-council city.

Now let's look at the three remaining counties – one county adopted a council-appointed administrator plan (San Juan), one adopted a commission-appointed administrator plan (Clallam), and one adopted a council-manager plan (Clark). In each of these plans an elected body, be it a county commission or council, continues to have the policy-making, legislative, and budget-adoption responsibilities. However, the council or commission delegates all, or a portion, of its administrative authority to an appointed professional administrator. As an appointed official, the county administrator/manager serves the council or commission with the goal of enhancing administrative functions.

#### **Authority – “Home Rule” Charter Form of Government**

- Article 11, section 4 of the Washington State Constitution

## **Consolidated City-County Form of Government**

When we look at counties with a “home rule” charter, we see they can provide for the formation and government of a combined city and county municipal corporation under [article 11, section 16](#) of the Washington State Constitution. This is known as a “city-county,” and the same procedures that apply to the adoption of a county charter also apply to the adoption of a city-county charter, except for a couple differences. For instance, the only method of beginning the combined city-county charter process is through a voter petition, and there is no minimum population requirement.

In addition to providing for an alternative form of county government, a city-county charter can also merge the county with cities and other municipal corporations within its boundaries. Consolidated city-county governments have been proposed as a way to improve local government service provision by eliminating conflicts between competing levels of local government. Although a few Washington counties have explored this option, no combined city-county governments have been formed.

#### **Authority – Consolidated City-County Form of Government**

- Article 11, section 16 of the Washington State Constitution

## **County Government Services**

As you know, counties in Washington State provide a broad range of services, and most them are mandated by the state as its agent or as regional service provider. Criminal justice services like those provided by the prosecuting attorney, public defender, district and superior courts, juvenile detention, jail, and coroner are provided by counties as agents of the state. They account for a large portion of services paid from the general fund, also known as the current expense fund. Public health services, which are a crucial regional service to all citizens of a county, are financed partly with local dollars and supplemented by locally-administered state and federal grants. Local government services for residents living in the unincorporated areas include law enforcement by the sheriff, and construction and maintenance of roads and bridges. You'll find these services outlined in Chapters Four and Five.

A very useful view of county services has been developed by Judith Frolich of the WSAC. It's been adapted for this guide in the table on the following page.

While it's not a comprehensive list of all county services, the table organizes various services according to which role the government is playing: state agent, regional service provider, or local

government. It's important to keep these roles in mind when you're making policy decisions for counties. Your ability to have an influence on service outcomes hinges on your ability to match strategies for constituents' needs with the county's role. For example, you have broader discretion and a narrower constituency when making decisions for county roads, since you're acting as a local

government service provider serving the unincorporated area population. If you want to influence the jail operation, you must deal with state law, state administrative code, city police departments, your constituents' attitudes about safety, the sheriff, the prosecuting attorney, and the county judges. Clearly, this is a much more complex issue area to influence.

### Counties Are Unique Because They Have Three Major Roles

State	Regional Government	Local Government
Prosecuting Attorney	Specialized Law Enforcement	Law Enforcement
Public Defender	District Court	Roads & Bridges
Superior Court	Domestic Violence	Land Use Planning
Juvenile Court	Medic 1 Ambulance	Zoning
Jail	E-911 & Central Dispatch	Building Permits
Juvenile Detention	Transit Programs	Parks & Recreation
Medical Examiner	County Airports	Garbage & Recycling
Mental Health	Public Health Services	Surface Water Management
Developmental Disabilities	Aging & Senior Services	Sewer Service
Alcoholism & Drug Abuse	Housing Programs	Water Service
Elections	Housing Repair Assistance	Weed Control
Treasurer	Energy & Weatherization	
Document Recording	Veterans Assistance	
Vital Statistics	Cooperative Extension	
Property Tax Admin.	Emergency Management	
Vehicle & Marriage Licenses	Search & Rescue	
	Sewer Service & Treatment	
	Growth Management Policies	
	River Basin Flood Plans	
	Solid Waste Management	
	Economic Development	
	Tourism & Facilities	
	Arts Commissions	
	County Fair	

# 4

## Job of a Commissioner

No doubt you now know that the roles and duties of county commissioners are numerous and varied. It is imperative that commissioners be knowledgeable about each level of responsibility they are expected to carry out as they guide the county decision-making process. This chapter covers some of those responsibilities that you must discharge.

### Legislative Duties

As a commissioner, you are authorized and required to make policy for the county. Policy-making means defining high-level goals and long-range outcomes for county government. This includes choosing the direction, the ways and the means to achieve those outcomes, and to guide the decision making process leading to them.

The primary legislative powers of the board of commissioners are found in RCW [36.32.120](#) and RCW [36.40.100](#). The powers include: budgeting and appropriation of funds for all county activities; building and maintaining county roads; making and enforcing civil and criminal resolutions and ordinances not in conflict with state law, including those for land use and building construction; supporting and implementing state and federal mandates; executive oversight of all appointed county agencies; construction and maintenance of public buildings; fixing the tax levies for the county and its subordinate jurisdictions; authorizing payments

owed by the county and auditing all officers having control of county monies; managing county property and county funds; and prosecuting and defending all actions for and against the county.

### Goal-Setting and Long Range Planning

County policies will have an impact on the lives of its citizens, and for that reason those citizens expect county commissioners to influence the direction of county government. Policy-making is far more art than science. The key to good policy-making is to see “the forest for the trees.” Keep in mind the mission of the organization, and whether the county is following that direction to realize your long-range outcomes. Policy-making describes outcomes; it describes what you want. How your ideas are realized is administration.

It is essential to recognize competing interests among the public and staff, and to cultivate support from these groups by involving them as stakeholders in your policy development. How to do this varies greatly from county to county and from board to board. Generally, policy development first requires you to affirm or define the county’s mission and direction. In other words, make sure you can answer to your own satisfaction the question, “To what purpose is the county here and where must it be pointed to accomplish that purpose?” After that:

1. Identify issues and needs that are obstacles to your mission and direction;
2. Set goals and objectives to address obstacles and to realize your mission;
3. Determine strategies to meet goals and objectives;
4. Set priorities and timelines for completing goals and objectives;
5. Accomplish the work;
6. Evaluate the results.

Commissioners are directly responsible for the first two or three of these elements, and there are opportunities throughout for the involvement of stakeholders.

## Making Policy through the Budget

The county will only do what commissioners authorize it to pay for; conversely, nothing that commissioners refuse to pay for will get done. The most basic definition of “policy” is “what you do,” so the budget becomes the commissioners’ main tool for affecting policy. Commissioners also provide overall organizational leadership and are expected to create paths to better management. The budget is also a management tool; it is the only mechanism for managing all the manifold activities of county government at once. This comprehensive document sets the limits for spending for every program and department in the organization. The only way to see the complex relationship of all the moving parts that compose the county is through the budget. State law requires the board of county commissioners to adopt a budget every year or every other year if the county opts to do a biennial budget.

### The Budget Cycle

The county budget cycle typically starts in the spring or summer with an estimate of revenues for the next year. Based on this forecast, commissioners set guidelines for the budget. These include compensation targets for labor negotiations and whether budgets may grow or must be reduced. Spending proposals are submitted by

elected officials and appointed managers in mid-August. These proposals are reviewed by the board of commissioners throughout the fall. Final adoption of the budget occurs in December.

### Theory and Practice

In theory, broad goals are developed by the board early on as the framework for the annual budget process. In reality, most budget decisions continue previously set policies or confirm policies adopted at other government levels. Decisions to set new policies are typically incremental and at the margins of the entire budget; the vast majority of budgets are already committed to baseline activities and mandates. Department heads, elected officials, and community groups often come to the board of commissioners with unforeseen financial needs during the budget year. These “emergencies” can have more of an impact on policy than the annual budget development process. These isolated spending requests are difficult to link with spending priorities which have been considered as a whole during the formal budget process. So even though it may be occasionally necessary, making budget decisions out of the context of the larger budget process makes commissioners’ jobs more difficult. Be sparing with budget promises and appropriate some set-aside for emergent issues, and aggregate emergent requests into quarterly or annual supplemental budgets. That way everyone knows the money is limited and the timing is not immediate.

### Fund Structure

The complex fund structure of counties makes the overall weighing of priorities more difficult. There may be as many as 40 to 80 or more separate funds, most of which are dedicated for specific purposes. It is like having 40 or more separate companies, each with a separate set of books. As a commissioner, you will benefit greatly from studying your county’s fund structure and learning which programs are funded from each fund.

The general fund is also referred to as the current expense fund. It typically funds most criminal

justice functions, internal services, other elected officials' departments, parks, and portions of zoning and building code enforcement. It is where most of the "action" occurs in the budget process.

The next most important fund is typically the road fund. It is referred to as a special revenue fund because its revenues are dedicated for the construction and maintenance of roads and bridges. Decision-making is often less contentious for this fund than it is for the current expense fund; it has far fewer officials competing for it because its revenues are dedicated for limited purposes. This is true for most other funds, except the general fund, as well.

### Other Special Revenue Funds

Other common special revenue funds include veterans' relief, county fair, public health, law library, auditor's operations and maintenance, parks, elections, human services, and emergency management. Similar to special revenue funds are internal service funds for separately financing internal operations.

### Enterprise Funds

Activities in enterprise funds operate as separate businesses. These are self-sustaining, autonomous functions like sewer, water, and garbage.

### Debt Service Funds

Debt service funds used to accumulate debt service payments, capital projects funds for major capital improvements, proprietary funds expected to develop equity and operate like a business, and internal service funds for financing internal service operations.

An occasional review of the BARS Manual published by the State Auditor's Office will familiarize you with the fund structure, accounting issues, and budgeting procedures mandated by the state for all local governments. Your auditor or financial manager will have a copy.

### County Finance Committee

Finally, in developing long-term financial goals and policies, consider using the county finance committee for recommendations. The committee is established by RCW [36.48.070](#) to approve county investment policies, and it consists of the chair of the board, the treasurer, and the auditor. It can be a creative vehicle for the development of other important financial policies to keep the county financially sound.

## Environmental and Land Use Policy-Making

Setting environmental and land use policy, especially since the 1990s with the passage of the Growth Management Act (GMA), is another challenging issue area for county commissioners. A broad understanding of land use issues is essential if you wish to be an effective commissioner. In most mid-size to larger counties with urbanized areas, commissioners spend a great deal of time working on land use policy. Citizen participation is encouraged in shaping land use policies under the GMA, and much of the input from constituents will continue to be on environmental and land use issues. Difficulty with land use planning issues has been brought to the forefront with growth management, and it is likely to remain a difficult area for commissioners to find community consensus.

The civil staff of the prosecuting attorney's office is usually assigned to assist in land use matters. An informed and trusted legal advisor is one of a county commissioner's best assets. The county prosecutor is the legal advisor to the board. However, with approval from the prosecutor many counties hire legal firms that specialize in land use law to assist in negotiating the complexities of growth management.

Another important asset in setting land use policy is staff that you trust. It is especially important with land use professionals that you make your expectations clear. If commissioners set a general direction and clear expectations about how to interpret the

county's land use code, this staff will bring only those options to constituents, disarming many potential confrontations with the board.

## Policy Making on Non-County Boards

State law requires that commissioners serve on boards of other public organizations. Public transit and health district boards both require commissioner participation. Regional support networks for mental health, regional transportation planning councils, housing authorities, air pollution control authorities, and area agencies on aging are all governed by county officials who compose all or part of their governing boards. There are many more such organizations, some unique to a particular county. Be sure to understand and discharge your fiduciary responsibilities when serving on these bodies. You are held to the same level of public trust as in your county responsibilities.

Each of these boards set policy for complex and highly specialized services. Most are highly regulated by and receive money from the state and federal governments. The boards often meet monthly and usually have a wide diversity of membership. Contact with management staff is often limited to the board meetings or to the telephone. Given these characteristics, the traditional approach to goal-setting is most appropriate for these organizations. Set goals at an annual retreat, and let staff implement them. There is a danger you could overcommit on these boards. Before committing a lot of time, assess the benefits. Finally, communicate the activity of these boards with the other commissioners by making good reports.

## Executive Duties

The board of commissioners not only sets policy but is also responsible for its implementation. Commissioners are the chief executives of the county organization. The executive role of a commissioner varies greatly from county to county. The role may be determined by prior executive experience, or it might be tailored to the particular

circumstances in the county. It may be defined by the existing commissioners or by historical tradition.

Sometimes a long-tenured commissioner becomes quite skilled in the executive duties of the office and evolves into an unofficial county executive. In other instances these executive duties may be delegated to a county administrator or to a team of appointed department heads. Most counties have either a county administrator or a staff person that assists the commissioners with executive duties. These positions have different titles and sets of responsibilities; among the titles used are chief administrative officer (CAO, "administrator"), budget director, and administrative services director.

## Hiring and Supervising Management Staff

Regardless of the organizational structure, you and your board have a role in hiring and supervising your management staff. Who you hire and how they perform reflects directly on the performance of the board. Remember, with skilled and trusted management staff running the day-to-day affairs of the county, you will have more time and energy available to work on challenging policy issues and other important leadership activities. It is also beneficial to have a person who can act as a sounding board for new ideas or approaches and for problem solving, since doing the same with another commissioner may constitute a meeting under the Open Public Meetings Act.

Your management staff can be hired with the help of other county administrative staff, typically personnel or human resources support. Often a group interview process with other elected officials and managers is a good idea. Recruiting and selecting a county government administrator requires careful planning, astute evaluation of candidates, and a clear understanding of community needs and the style of manager who can best work with the elected officials. Patience is also important since recruitment can take up to six months, from the time

the process begins until the position is filled with a person on the job.

Once hired, your management staff requires active supervision. This includes setting clear expectations, encouraging teamwork and cooperation, and evaluating the work that is done. Supervision is most effective when done by the commissioners as a team. Team supervision of one or more employees can be a challenge. Conflict among commissioners is not uncommon when it comes to reviewing staff performance. It is preferable to invest the necessary time up front setting explicit staff and management expectations rather than reacting when unstated expectations are not met.

This investment means regularly spending time in formal work sessions, with every person reporting directly to the commissioners. In these work sessions, progress towards goals and possible performance problems can be discussed. A written performance evaluation, at least annually, is also recommended. The performance evaluation should address whether pre-established goals and expectations have been met and should cite areas of concern and need for improvement, if appropriate.

## Other Executive Duties

Other executive duties of the commissioners may vary greatly. They may include negotiating contracts with labor unions and vendors, interviewing and selecting consultants or managing construction projects. A commissioner's executive and administrative responsibilities are very time consuming, and consequently, boards of commissioners should seriously consider hiring professional staff for managing the day-to-day affairs of the county.

## Quasi-Judicial Duties

Counties have the authority to regulate the division and use of property in the unincorporated areas. County regulatory action over land use is guided by federal, state, and local laws. The planning commission, the board of adjustment (if one has been established), and sometimes the commissioners,

approve or deny development proposals in light of these laws. If a development applicant or any other citizen disagrees with a decision on a development proposal, they can in many cases appeal that decision to the board of commissioners, if the board itself is not making the final decision on the proposal. As with all land use issues, legal and planning staff can provide information and assistance.

When making a decision on a development proposal or when considering an appeal, the actions and decisions of the board are considered "quasi-judicial." Commissioners must determine whether the development proposal is in accordance with the law. To accomplish this, commissioners sit like judges to interpret how the relevant land use laws apply to the particular proposal before them. Quasi-judicial public hearings on development proposals involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the "record" developed at the hearing. Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings. Some counties use a hearings examiner, who holds the hearing and makes a decision that is either a recommendation to the board or is appealable to the board.

When acting in a quasi-judicial capacity, the county commissioners are subject to the appearance of fairness doctrine, which requires that hearings not only be fair but also appear to be fair. A commissioner can violate the appearance of fairness doctrine by being biased regarding or prejudging a quasi-judicial matter or by having a prohibited personal interest in that matter. If the doctrine is violated, the quasi-judicial decision made by the board can be invalidated by the courts.

The appearance of fairness doctrine also prohibits ex parte (one-sided or outside the record of the hearing) communications between a commissioner and a proponent or opponent of the matter being considered in a pending quasi-judicial proceeding. A basic principle of fair hearings is that decisions are made entirely on the basis of evidence

presented at the proceedings, and ex parte communications violate that principle. Nevertheless, a commissioner may “cure” a violation caused by an ex parte communication by placing the substance of the communication on the hearing record, by making a public announcement of the content of the communication, and by allowing involved parties to rebut the substance of the communication.

## FAQ – Performance of Commissioner Duties

This section provides answers to some common questions relating to the performance of the duties of a county commissioner.

*Question: How does a commissioner know the key laws?*

The prosecuting attorney (PA) is a crucial working partner for the board since only the PA’s office, or outside counsel with the consent of the superior court, is allowed to deliver legal advice. A board may find a PA very amenable to using outside counsel for specialized advice, but the cost per hour is far above that of a senior and experienced deputy prosecutor. For the defense of lawsuits, outside counsel is common for arcane subject matter or when insurance can cover the cost. A commissioner who follows legal advice effectively cuts off accusations of bad faith or of acting with misfeasance or malfeasance.

State law controls most of what counties do and how they do it. Each commissioner will benefit from having general knowledge of the laws that affect counties and their responsibilities. The following list is only a good starting point for the statutes relevant to county officers.

Title [42](#) RCW, “Public Officers and Agencies,” provides the basic statutory law for conducting public business. These laws are designed to ensure fairness and an open, democratic process, but they are not necessarily designed for efficiency. The key provisions include:

- Ch. [42.36](#) RCW, Appearance of Fairness Doctrine, which restricts the communication and activities of elected officials when acting in a quasi-judicial capacity. It goes beyond a conflict of interest to prohibit participation in a decision where there appears to be a conflict of interest.
- Ch. [42.30](#) RCW, Open Public Meetings Act.
- Ch. [42.23](#) RCW, Code of Ethics for Municipal Officers – Contract Interests, which prohibits and/or restricts financial interests and specifies other prohibited conduct by county officers.
- Ch. [42.20](#) RCW, Misconduct of Public Officers, which sets out prohibited misconduct.
- Ch. [42.17](#) RCW, Public Records Disclosure – Campaign Financing – Lobbying, which addresses public records disclosure, campaign finance, including restrictions on use of public facilities and resources for campaign purposes, and lobbying.

Other constitutional, statutory, and common law doctrines may affect the conduct of the board of commissioners and the legislative choices and quasi-judicial actions of commissioners. For example, the common law doctrine of conflict of interest, constitutional and statutory provisions prohibiting private use or gifts of public funds and mid-term pay increases, the doctrine of incompatible offices, and federal and state constitutional guarantees of private property rights and individual civil rights, may affect the actions of the board of commissioners. Understanding the legal requirements and constraints within which the board of commissioners must operate necessitates a partnership with the PA and other county legal advisors.

Legal advice is not the same as business advice. Legal advice answers specific questions whereas business advice strategically weighs varying options, all of which must be legal. Legal advice tends to be narrow in scope and seemingly restrictive since the question asked will be reduced to more narrow legal issues some of which may not have a clear legal answer to follow. A commissioner is

well-advised to ask in writing for a legal opinion about how to legally accomplish a business goal; a well-crafted written question can avoid an answer that, at first blush, may seem frustratingly conservative. Each elected county official must decide how and with whom the lawful business options are to be weighed; the PA may be such a business advisor in addition to persons within and outside of government.

*Question: How can a commissioner be recalled?*

The procedure for the recall of elected officials is found in chapter [29A.56 RCW](#). As an elected official, a county commissioner may be recalled on grounds of malfeasance, misfeasance, or violation of the oath of office, as those terms are defined in the recall statutes. Under the recall procedure, a voter may file a charge stating the grounds for recall with the county auditor, a ballot synopsis is prepared regarding the charge by the prosecuting attorney, and the superior court then determines whether the charges are sufficient to meet the criteria for a recall and whether the ballot synopsis is adequate. Often, the recall process stops at the superior court review stage, with the court finding the charges legally insufficient. However, if the court finds the charges to be sufficient and the sponsors of the recall gather a sufficient number of signatures on a recall petition, a recall election is held. The voters then decide by majority vote on whether to recall the commissioner or commissioners.

Upon a request by the commissioner subject to the recall, the board, with the approval of the prosecuting attorney, may agree to pay the expenses involved with the judicial proceeding to determine the sufficiency of the recall charge, including an appeal of the superior court decision.

*Question: Can I be held liable for my actions as a commissioner?*

State law provides immunity from civil liability for a county commissioner for any discretionary (legislative) decision or failure to make a discretionary decision made in his or her official capacity. For decisions that are not considered discretionary, such as quasi-judicial and administrative or executive decisions, a county commissioner can be held liable for damages caused by tortious conduct under both state law and federal civil rights law, 42 U.S.C 1983.

*Question: How can I protect myself? Who will pay to defend me?*

Although a county commissioner can be held liable for nondiscretionary acts, [RCW 4.96.041](#) requires that the county pay for the necessary expenses of defending a commissioner (as well any county official, employee, or volunteer) in an action for damages arising from acts made in good faith while performing official duties. “Good faith” is a legal term not easily defined, but suffice it to say that the method must be lawful and the goal must be for a public purpose, not a personal or self-serving one.

When a commissioner is defended at the expense of the county, the county is responsible for any nonpunitive damages awarded to the plaintiff. The board has the discretion to pay or not pay for an award of punitive damages

*Question: Where is the authority for county actions?*

Title [36 RCW](#) identifies many of the powers and duties of county officials. It is the basic body of statutory law cited for county jurisdiction, although county duties can be found throughout the RCWs.

# 5

## Legal Issues

Many actions of county commissioners are regulated or otherwise governed by state law. This chapter gives a brief overview of the Open Public Meetings Act, the Public Records Act, and the Appearance of Fairness Doctrine. Your county prosecutor should be consulted whenever a legal issue arises.

### Open Public Meetings Act<sup>1</sup>

The job of a commissioner includes attending many meetings. The Open Public Meetings Act, Ch. 42.30 RCW, applies to the board of county commissioners, as well as to some subordinate commissions, boards, and committees, and it requires, basically, that all “meetings” of such bodies be open to the public and that all “action” taken by them be done at meetings that are open to the public. The terms “meetings” and “action” are defined broadly in the Act, and so the Act can have daily significance for commissioners, even when no formal meetings are being conducted.

A board of county commissioners is conducting a meeting subject to the requirements of the Open Public Meetings Act whenever a majority of its members (a quorum) meet together and deal in any way with county business. This includes simply

discussing some matter having to do with county business. It does not matter if it is called a “workshop,” a “study session,” or a “retreat,” it is still a meeting if a quorum is addressing the business of the county. However, if board just meets socially or travels together, it is not having a meeting subject to the Act as long as the commissioners do not discuss county business.

The Act thus presents practical difficulties for three-member boards of commissioners because a discussion of county business by two commissioners actually qualifies as a “meeting” which should be open to the public. Policy development can be hampered because of this. In most forms of government, an executive develops proposed policy behind closed doors and then presents the refined policy to the legislative body, which then addresses the proposal in public meetings. Since a board of commissioners acts both as the executive and legislative body, the commissioners are restricted in their ability to meet and confer on policy except in public meetings. Use of a county administrator with whom to bounce around ideas and discuss policy options can be very beneficial and can help avoid open meetings violations.

All meetings of the board are, under the Act, either “regular” or “special” meetings, even if they are called something else. A regular meeting is one that is held according to a schedule adopted by

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<sup>1</sup>For more information see MRSC, *The Open Public Meetings Act – How it Applies to Washington Cities, Towns, and Counties* (2014), available at <http://www.mrsc.org/publications/publications.aspx>.

ordinance, resolution, order or rule, as may be appropriate. Regular meetings of the board must be held at the county seat.

A special meeting is any meeting that is not a regular meeting. In other words, special meetings are not held according to a fixed schedule. Under the Act, special meetings have specific notice requirements, including at least 24-hour notice to the media that have filed a request to be notified, to the members of the board, and to the public. A special meeting may be held outside of the county seat, but inside the county, when issues to be addressed at the meeting are of unique interest or concern to citizens in the area where the meeting is held.

### What Procedural Requirements Apply to All Meetings of the Board of Commissioners?

The following requirements apply to **both regular and special meetings** of the board:

- All meetings must be open to the public.
- A member of the public may not be required as a condition of attendance to register his or her name or other information, or complete a questionnaire, or be required to fulfill any other condition precedent to attendance.
- The board may require the removal of individuals, the board may order the meeting room cleared and may continue in session or it may adjourn and reconvene the meeting at another location, subject to certain limitations.
- Votes may not be taken by secret ballot.
- Meetings may be adjourned or continued subject to the specific procedures.
- The board may meet in executive (closed) session, but only for one of the reasons specified in RCW [42.30.110](#).

### What Procedural Requirements Apply Specifically to Regular Meetings?

The following requirements apply specifically to **regular meetings**:

- The date and time of regular meetings must be established by ordinance, resolution, order, or rule.
- If the regular meeting date falls on a holiday, the meeting must be held on the next business day.
- The meeting agenda must be made available online at least 24 hours in advance of the regular meeting. This requirement does not apply if the county does not have a website.

### What Procedural Requirements Apply Specifically to Special Meetings?

The procedural requirements that apply to **special meetings** deal primarily with the notice that must be provided. These requirements, contained in RCW [42.30.080](#), are as follow:

- A special meeting may be called by the presiding officer or by a majority of the members of the governing body.
- Written notice must be delivered personally, by mail, by fax, or by e-mail at least 24 hours before the time of the special meeting to:
  - Each member of the governing body; and
  - Each local newspaper of general circulation and each local radio or television station that has on file with the governing body a written request to be notified of that special meeting or of all special meetings.
- Notice of the special meeting must be provided to the public as follows:
  - “prominently displayed” at the main entrance of the agency’s principal location, and at the meeting site if the meeting will not be held at the agency’s principal location; and
  - Posted on the agency’s website. Website posting is not required if the agency:
    - Does not have a website;

- Has fewer than 10 full-time equivalent employees; or
- Does not employ personnel whose job it is to maintain or update the website.
- The notice must specify:
  - The time and place of the special meeting; and
  - The business to be transacted at the special meeting.
- The governing body may take final action only concerning matters identified in the notice of the meeting.
- Written notice to a member or members of the governing body is not required when:
  - A member files at or prior to the meeting a written waiver of notice or provides a waiver by telegram, fax, or e-mail; or
  - The member is present at the meeting at the time it convenes.
- Special meeting notice requirements may be dispensed with when a special meeting is called to deal with an emergency involving injury or damage to persons or property or the likelihood of such injury or damage, when the time requirements of the notice would make notice impractical and increase the likelihood of such injury or damage. An emergency meeting must, nevertheless, be open to the public.

### What Is an Executive Session and When May One Be Held?

“Executive session” is not expressly defined in the Open Public Meetings Act, but the term is commonly understood to mean that part of a regular or special meeting that is closed to the public. The board may hold an executive session only for specified purposes, which are identified in RCW [42.30.110\(1\)](#), and only during a regular or special meeting. However, nothing prevents the board from holding a meeting for the sole purpose of having an executive session.

Certain procedures must be followed before convening an executive session. The chair must announce the executive session to those attending the meeting by stating two things: (1) the purpose of the executive session; and (2) the time when the executive session will end. The announced purpose of the executive session must be one of the statutorily-identified purposes for which an executive session may be held. If the executive session is not over at the stated time, it may be extended only if the chair announces to the public at the meeting place that it will be extended to a stated time.

The board should always follow the basic rule that it may not take final action in an executive session. However, there may be circumstances where the board will need to reach an informal consensus concerning the matter being considered in closed session.

The board may meet in executive session for the following purposes identified in RCW [42.30.110\(1\)](#):

- To consider the selection of a site or the acquisition of real estate when public knowledge would cause likelihood of increased price;
- To consider the minimum price at which real estate will be offered for sale or lease when public knowledge would cause a likelihood of decreased price;
- To receive and evaluate complaints or charges brought against a county officer or employee, although the board must honor any request by the officer or employee to consider the complaints or charges in an open meeting;
- To evaluate the qualifications of an applicant for county employment or to review the performance of a county employee;
- To evaluate the qualifications of a candidate for appointment to elective office, such as when filling a board vacancy, although the interview of the candidate and final action must be in an open meeting; and

- To discuss with legal counsel representing the county, matters relating to county enforcement actions, or litigation or potential litigation to which the county, the board, or one of its members acting in his or her official capacity is or is likely to become a party.
- To review negotiations on the performance of publicly bid contracts when public knowledge regarding such consideration would cause a likelihood of increased costs.

Other purposes for which an executive session may be held that are identified in the Act do not really apply to counties and therefore have been left out of this publication.

### What Meetings are Exempt from the Open Public Meetings Act?

RCW [42.30.140](#) sets out three situations that have possible application to a board of commissioners where the board may meet and not be subject to any requirements of the Open Public Meetings Act:<sup>2</sup>

- Certain licensing proceedings;
- Quasi-judicial matters between named parties (although other state law requires hearings on such matters to be public hearings); and
- Collective bargaining sessions with employee organizations, when the board is developing or adopting strategies or positions to take in those sessions or in mediation grievance proceedings, or when the board is reviewing proposals made in the collective bargaining or professional negotiations.

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<sup>2</sup>RCW [42.30.140](#) also lists a fourth situation where the board may meet and not be subject to any requirements of the Open Public Meetings Act: "Matters governed by chapter [34.05](#) RCW, the Administrative Procedures Act." This exception has no application to counties.

### What Happens if the Open Public Meetings Act is Violated?

There are several potential consequences for violating the procedural requirements of the Open Public Meetings Act. Actions, including ordinances and resolutions, taken in meetings held in violation of the Act are null and void. In addition, commissioners can be fined \$100 if they attend an improperly held meeting knowing that it is in violation of the Act. The party that prevails in an action for violation of the Act may recover reasonable expenses and attorneys' fees under certain circumstances.

### What Training is Required by the Act?

The 2014 Legislature enacted a requirement that all members of governing bodies, state and local, receive training on the requirements of the Open Public Meetings Act. The training must be completed within 90 days after a governing body member takes the oath of office or otherwise assumes the duties of the position. The training must be repeated at intervals of no longer than four years, as long as an individual is a member of the governing body. This legislation does not specify the training that must be received, other than it is to be on the requirements of the OPMA and that it may be completed remotely. No penalty is provided for the failure of a member of a governing body to receive the required training.

## The Open Public Meetings Act and E-mail Communications

Washington courts have found that e-mail communications between members of a governing body – such as county commissioners – can, under certain circumstances, constitute a "meeting" under and in violation of the Open Public Meetings Act. In *Wood v. Battle Ground School District*, 107 Wn. App. 550 (2001), a state court of appeals concluded that such an e-mail exchange violates the Open Public Meetings Act if: (1) the members participating constitute at least a majority of the governing body's members; (2) the participating members collectively intend to meet to transact the govern-

ing body's official business; and (3) the participating members communicate about issues that may or will come before the governing body for a vote. The court, however, indicated that the mere passive receipt of e-mail does not automatically constitute a meeting. Therefore, county commissioners can receive information about upcoming issues or communicate among themselves about matters unrelated to government business, without implicating the Open Public Meetings Act.

### Public Hearings<sup>3</sup>

All public hearings are also public meetings, but additional rules and procedures apply to them. Although a public hearing is also a public meeting, the main purpose of most public hearings is to obtain public testimony or comment. A public hearing may be part of a regular or special meeting, or it may be the sole purpose of a meeting, with no other matters addressed.

There are two types of public hearings, legislative and quasi-judicial, and it is important to understand the distinction between them. The purpose of a legislative public hearing is to obtain public input on legislative decisions on matters of policy. Legislative public hearings are required by state law when the board addresses such matters as comprehensive land use plans or the annual or biennial budget. Legislative public hearings are generally less formal than quasi-judicial public hearings. They do not involve the legal rights of specific, private parties, but rather affect a wider range of citizens or perhaps the entire county.

Quasi-judicial public hearings, unlike legislative ones, involve the legal rights of specific parties, and the decisions made as a result of such hearings must be based upon and supported by the "record" developed at the hearing. Quasi-judicial hearings are subject to stricter procedural requirements than legislative hearings. Most quasi-judicial

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<sup>3</sup>For further reading, see MRSC, *Public Hearings – When and How to Hold Them* (2013), available at <http://www.mrsc.org/subjects/governance/hearings.aspx>.

hearings held by boards of commissioners involve land use matters, including site-specific rezones, preliminary plats, variances, and conditional uses. A county commissioner's role in a quasi-judicial setting is much different than in a legislative setting.

### Public Records Act<sup>4</sup>

In 1972, the voters of Washington State adopted Initiative 276, which requires that most records maintained by state, county, city governments, and all special purpose districts be made available to members of the public.

The public disclosure statutes have been frequently revised over the past three decades. Since 2006, the public disclosure statutes are now referred to as the Public Records Act (PRA). The PRA is "a strongly worded mandate for broad disclosure of public records."<sup>5</sup> The PRA itself makes clear its purpose:

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.<sup>6</sup>

Although the public records disclosure statutes do not apply to judicial records (case files), the legislature has specifically extended their coverage to state legislative records. In addition, the public records disclosure statutes apply equally to "every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district or any office, department, division, bureau, board,

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<sup>4</sup>For further reading, see MRSC, *Public Records Act for Washington Cities, Counties, and Special Purpose Districts* (2014), available at <http://www.mrsc.org/publications/publications.aspx>.

<sup>5</sup>*Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 127, 580 P.2d 246 (1978).

<sup>6</sup>RCW 42.56.030.

commission, or agency thereof, or other local public agency.” RCW [42.56.010\(1\)](#).

## What Are Public Records?

The definition of what is a “public record” is quite broad and is embodied in RCW [42.56.010\(3\)](#). Public record “includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.”<sup>7</sup> Writing is defined to include “handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recording, and other documents, including existing data compilations from which information may be obtained or translated.”<sup>8</sup> Therefore, papers, photos, maps, videos, and electronic records including email are all covered by the Public Records Act.

Local governments are not required to create documents in order to comply with a request for specific information. Rather, they must produce existing records for review and copying. Also, local governments are not obligated to compile information from various records so that information is in a form that is more useful to the requestor. In addition, county employees are not required to do research for private individuals.

## County Obligations Under the Public Records Act

The Public Records Act establishes basic procedural requirements that each county must adopt.

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<sup>7</sup>RCW [42.56.010\(3\)](#).

<sup>8</sup>RCW [42.56.010\(4\)](#).

Use this list as a start for Public Records Act compliance:

1. **Assign a Public Records Officer (PRO):** Post the PRO’s contact information at the agency’s place of business, on the agency’s website (if any), and in any relevant publications.<sup>9</sup>
2. **Adopt a Local Public Records Act Policy:** The local PRA policy should outline reasonable regulations for the county’s handling of public records requests, such as the county’s response process when it receives a records request. The policy must be prominently displayed.<sup>10</sup>
3. **Publish a List of Exemptions and Prohibitions Found Outside the PRA:** Publish a list of exemptions and prohibitions to disclosure other than those listed in the PRA.<sup>11</sup>
4. **Maintain an Index of Public Records:** Maintain a current index of many types of county records unless to do so would be unduly burdensome for the county. If it’s unduly burdensome, the county must adopt a formal order specifying the reasons why and the extent to which compliance would unduly burden or interfere with agency operations.<sup>12</sup>
5. **Adopt a PRA Fee Schedule:** Establish fees for PRA costs, including costs for hard copies, electronic copies, and mailing costs.<sup>13</sup>
6. **PRA Training Requirements, Effective July 1, 2014:** Every local elected official and every local government PRO must receive records training (PRA training concerning chapter [42.56 RCW](#) and records retention training concerning chapter [40.14 RCW](#)). This training must be completed no later than 90 days after these elected officials and PROs take their oath of office or assume their duties. They must also receive “refresher” training at intervals of no more than four years.<sup>14</sup>

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<sup>9</sup>RCW [42.56.580](#).

<sup>10</sup>RCW [42.56.040](#).

<sup>11</sup>RCW [42.56.070](#).

<sup>12</sup>RCW [42.56.070](#).

<sup>13</sup>RCW [42.56.070](#) and RCW [42.56.120](#).

<sup>14</sup>RCW [42.56.150](#).

## Determining What Must Be Disclosed Under the Public Records Act

All local government records are available for review by the public, unless they are specifically exempted or prohibited from disclosure by the state statutes. If no statutory exemption or prohibition covers the requested record, it must be disclosed. A listing of the primary exemptions are found at RCW [42.56.230](#) through RCW [42.56.480](#). Numerous other exemptions and disclosure prohibitions are sprinkled throughout the state statutes. Once an exemption is found to apply, the county must determine whether exempt information can be deleted from the record so that the rest of the record can be released. The requirement that exempt material be deleted and the rest of the record disclosed is sometimes referred to as “redaction.”

## Responding to a Public Records Request

County governments are required, within five days of receiving a public disclosure request, to respond by (1) providing the requested record; (2) providing an internet address and link on the county’s website to the specific records requested, except that if the requestor notifies the county that he or she cannot access the records through the internet, then the county must provide copies of the record or allow the requestor to view copies using a county computer; (3) acknowledging receipt of the request and providing a reasonable estimate of the time required to fill the request; or (4) denying the request.

Given limited budgets and staff, county governments tend to have all available resources invested in day-to-day county operations. Requests for disclosure of public records often occur at inconveniently busy times. Despite this extra burden, both the state legislature and the voters of Washington are clear about their position on public disclosure: the citizens of this state have a right to know almost all of the details of how local and state governments are run. The courts have enforced this

policy by liberally construing the PRA’s disclosure provisions and narrowly construing its exemptions.

## Costs of Responding to Public Records Requests

Counties are not allowed to charge for the staff time spent in locating a public record, or for making a record available for inspection. A county may, however, charge for the actual costs connected with copying public records, including the staff time spent making the copies. A county cannot charge more than 15 cents a page for photocopying unless it has calculated its actual costs per page and determined that it is greater than 15 cents. Actual costs for postage and delivery can be included, as well as the cost of any envelopes. If a county has to pay an outside source for making duplicates of records such as photographs, blueprints, or tape recordings, those costs may be charged to the requestor.

A county may require a deposit in an amount not to exceed 10 percent of the estimated cost of providing copies for a request. If a county makes a request available on a partial or installment basis, the county may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the county is not obligated to fulfill the balance of the request.

## The Appearance of Fairness Doctrine<sup>15</sup>

The appearance of fairness doctrine is a rule of law requiring government decision-makers to conduct non-court hearings and proceedings in a way that is fair and unbiased in both appearance and fact. It was developed by the courts as a method of insuring that due process protections, which normally apply in courtroom settings, extend to certain types of administrative decision-making hearings, such as rezones of specific property. The doctrine

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<sup>15</sup>For further reading, see MRSC, *The Appearance of Fairness Doctrine in Washington State* (2011), available at <http://www.mrsc.org/publications/afd11.pdf>.

attempts to make sure that all parties to a quasi-judicial matter receive equal treatment.

The doctrine requires that adjudicatory or quasi-judicial public hearings meet two requirements:

- they must be procedurally fair, and
- must appear to be conducted by impartial decision-makers.

In 1982, the state legislature codified the requirements for the doctrine, and applied them only to quasi-judicial actions of local decision-making bodies when a hearing is required by statute or local ordinance. See Ch. 42.36 RCW. The following matters have been determined to be quasi-judicial if a public hearing must be held:

- conditional uses, variances, subdivisions, rezoning a specific site, PUD approval, preliminary plat approval, discretionary zoning permits, appeal of a rezone application, other types of zoning changes that involve fact-finding and the application of general policy to a discrete situation.

The following are not considered to be quasi-judicial actions:

- Legislative or policy-making decisions, such as the adoption or amendment of comprehensive plans or zoning decisions of area-wide significance. RCW 42.36.010.

By following appearance of fairness requirements, local governments have a method for disqualifying decision-makers from quasi-judicial hear-

ings who have prejudged the issues, who have a bias in favor of one side in the proceeding, who have a conflict of interest, or who cannot otherwise be impartial. “Ex parte” communications between a decision-maker and a proponent or opponent of the matter being decided are prohibited. RCW 42.36.060. However, appearance of fairness concerns do not apply to statements made while campaigning for elective office, nor is it implicated by the receipt of campaign contributions. RCW 42.36.040, .050.

If a decision-maker’s participation in a quasi-judicial decision violates the appearance of fairness doctrine and that participation is challenged in a timely manner, a court can invalidate the decision. A new hearing and decision will then need to be made without the disqualified decision-maker.

The appearance of fairness regulations apply to all local decision-making bodies including:

- members of governing board or council;
- hearing examiners;
- planning commissions;
- boards of adjustment;
- civil service boards;
- any other body that determines the legal rights, duties or privileges of specific parties in a hearing or other contested case proceeding.

# 6

## Ethical Issues

Part of being a public official is subjecting yourself to public scrutiny. Like it or not, the public expects you to behave according to higher standards than the next person on the street. This section gives general tips on ethical best practices as well as a brief overview of state and local ethics laws.

### General Tips

The following list includes some of the more common problems that get newspaper coverage. At the very least, most will result in public criticism. They can also be terminal to your career.

- **Credit cards.** Using county credit cards for an unauthorized expenditure or to charge a personal item (even if the amount is repaid later).
- **Travel and conferences.** Submitting inflated or false travel expenses. This includes using agency funds for personal trips or vacations.
- **Use of letterhead.** Using official letterhead to endorse another political candidate or to achieve a personal or business gain.
- **Use of agency vehicles.** Using an agency vehicle for personal trips, vacations, or political campaign activities.
- **Phones, fax and computers.** Using official equipment for personal purposes.
- **Agency staff.** Using agency staff and

resources for personal services or political campaigning.

- **Confidentiality.** Divulging privileged personnel, legal, or executive session information.
- **Sexual harassment.** Telling off-color jokes at meetings, improper comments, or touching of staff.

### State and Local Ethics Laws

State law provides a specific code of ethics for county officials. RCW [42.23.070](#) prohibits a municipal official from:

- Using his or her position to secure special privileges or exemptions for himself, herself, or others.
- Directly or indirectly, giving or receiving any compensation, gift, gratuity, or reward from any sources, except the employing city, for a matter related to the official's services.
- Accepting employment or engaging in business that the officer might reasonably expect would require him or her to disclose confidential information acquired by reason of his or her position.
- Disclosing confidential information gained by reason of the officer's position, or use of such information for personal gain.

Finally, be aware that your county may have a local ethics code that interprets or supplements the state laws. Ask the county clerk or county prosecutor for a copy of any local ordinances or guidelines relating to ethics and conflict of interest.

## Conflict of Interest<sup>16</sup>

Washington law governing conflicts of interest regarding municipalities is derived from the State Constitution, statutes, and from law made from court decisions (known as common law). The general rule from which our state's conflict of interest law derives is that a municipal officer shall not use his or her position to secure special privileges or exemptions for himself, herself, or others. As expressed by our state supreme court over a century ago, the common law principle that a municipal officer is prohibited from adjudicating his or her own cause is "a maxim as old as the law itself." *Smith v. Centralia*, 55 Wash. 573 (1909).

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<sup>16</sup>For a more detailed overview, see Conflicts of Interest, MRSC, <http://www.mrsc.org/subjects/legal/conflict-web.aspx>.

State law forbids county officials from having personal financial interests in public contracts made by, through, or under their supervision, regardless of whether or not they vote on the matter. There are some exceptions, based on contract amounts. Review the statute carefully and, when in doubt, consult with your county prosecutor. RCW [42.23.030](#).

State law regarding conflicts of interest is based on the fundamental principle that municipal officers hold a public trust and they are required to uphold that trust. These rules apply to real and perceived conflicts of interest and, as below described in more detail, include a prohibition against elected officials voting on matters in which they stand to benefit financially.

# Your County's Other Elected Officials

## Overview

Counties serve as an administrative arm of the state by maintaining records, providing courts and law enforcement, building roads, assessing property and collecting taxes, and conducting elections. Counties perform these functions, as well as a growing list of other functions, under the supervision of various elected and appointed officials.

Of the 39 counties, 32 noncharter counties operate under the commission form of government provided by state law. In these counties, all of the officials listed below are elected. Seven counties (King, Whatcom, Clallam, Snohomish, Pierce, San Juan, and Clark) have adopted “home rule” charters as provided for in the state constitution. Adoption of a home rule charter allows a county to choose a different form of government from the commission form specified by statute and to alter the status and functions of some of the county elected officials. In the seven charter counties some of the elected positions listed below have been made appointive.<sup>17</sup>

The sections below contain brief descriptions of the basic powers and duties of elected county officials. Relevant constitutional provisions, statutes, and other helpful resources are also listed.

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<sup>17</sup>See County Forms of Government, MRSC, <http://www.mrsc.org/subjects/governance/locgov12.aspx>.

## Assessor

**Statutes.** Ch. 36.21 RCW; Ch. 84.41 RCW

**Duties.** The assessor determines the value of all taxable real and personal property in the county for the purpose of distributing tax liabilities in an equitable manner. State law requires that the assessor revalue taxable real property at least once every four years. If the Department of Revenue provides the necessary guidance and financial assistance, taxable real property must be revalued annually, as of January 1, 2014. Tax rolls provided by the assessor are used by the county treasurer for billing property owners. In addition to keeping records on all property appraisals, the Assessor updates the parcel record and maintains a series of maps showing the location and characteristics of properties in the county. Each time a parcel of property is sold or segregated, or a new plat is filed, the Assessor records the transaction. This information covers ownership, descriptions, tax codes, locations, and assessed values. Additionally, the Assessor is responsible for processing and maintaining records regarding tax exemptions, including senior citizens, historical properties, churches, and public properties as well as programs such as open space and forest land.

**Personnel.** The Assessor is an independent official elected on a partisan ballot for a four-year term. Vacancies resulting in unexpired terms are filled by

appointment of the board of commissioners from a list of qualified candidates submitted by the central committee of the political party from which the incumbent was a member. Thereafter, the successor must run for election at the next general election.

Other employees in the office are selected by the Assessor.

**Relationship to the Board of Commissioners.**

The board of commissioners establishes personnel positions and salaries, approves labor contracts and general personnel policies, and approves the annual operating budget. In many counties, elected officials also sign personnel policies.

**Departmental Revenues.** The assessor’s office may generate minimal revenues through the sale of maps, photocopies, and other reports.

## Auditor

**Statutes.** Chs. 36.22 and 36.40 RCW; Titles 29A and 65 RCW.

**Duties.** The county auditor provides a principle support function in the auditing, recording, and control of financial transactions in the county as prescribed by state law. These functions include preparation of the county budget and the annual financial reports. The auditor processes all financial claims against the county and the special purpose taxing districts. In the performance of these duties, the auditor serves ex officio as deputy supervisor under direction of the state auditor. The county auditor usually administers the county payroll. The auditor serves as custodian of public records, including land records, and issues a variety of licenses. In particular, the auditor may operate as a vehicle/vessel licensing agent of the director of the state Department of Motor Vehicle Licensing and coordinates with vehicle/vessel licensing subagents.

The auditor is the ex officio supervisor of all primary, general, and special elections for all state, county, and special purpose districts under the

direction of the Secretary of State. The elections division has three areas of responsibility including administration of elections, voter registration, and voter outreach. The county auditor also acts as clerk of the board of county commissioners, unless the board designates one of its employees to attend board meetings and keep a record of its proceedings.

**Personnel.** The auditor is an independent official elected on a partisan ballot for a four-year term. The auditor may appoint a chief deputy auditor to act in his or her absence with the same powers. Vacancies resulting in unexpired terms are filled by the appointment of the board of commissioners from a list of qualified candidates submitted by the central committee of the political party from which the incumbent was a member. Thereafter, the successor must run for election at the next general election.

Other employees in the office are selected by the auditor.

**Relationship to the Board of Commissioners.**

The board of county commissioners establishes personnel positions and salaries, approved labor contracts and personnel policies, and approves the annual operating budget. In many counties, elected officials also sign personnel policies.

**Departmental Revenues.** Revenues are from special taxing districts (schools, cities, and public utility districts, for example) for costs incurred in conducting elections, filing fees for candidates in elections, fees from requests for voter lists and precinct maps, and recording fees (deeds of trust, quit-claim deeds, etc.). The auditor’s office serves as an agent for the Department of Licensing and generates revenues from vehicle/vessel fees. Other revenues are also generated through charges for certified copies of legal documents such as marriage licenses or property titles.

## Clerk (Superior Court Clerk)

**Legal Basis.** Washington State Constitution article 4, section 26; article 11, section 5; Chs. 2.32 and 36.23 RCW.

**Duties.** The clerk is the custodian of the seal and the records of the superior court, must be present or represented by a deputy at every court hearing, and assumes responsibility for all exhibits admitted in hearings and trials. The clerk administers oaths, usually manages juries and receives jury verdicts, and records all documents, hearings, orders, judgments, and decrees issued by the court and permanently preserves all records. The clerk has the authority to issue passport applications, writs of arrest, commitment to prison, and execution on judgments; subpoenas, letters of qualification for probates and guardianship; and to register witnesses. The clerk is responsible for case management, for preparing calendars and cases for court hearings, and for ensuring the superior court records are open to inspection by the citizens. The clerk files all other local officials' bonds including commissioners and councilors.

**Personnel.** Generally, the clerk is an independent official elected on a partisan ballot for a four-year term. Unexpired term vacancies are filled by the board of commissioners or council from names submitted by the incumbent's political party's central committee. The successor then runs for election at the next general election. All employees are appointed by the clerk to fill positions created by the board of commissioners.

Relationship to the board of commissioners. The board establishes personnel positions and salaries, and approves the annual operating budget, and approves labor contracts and personnel policies. Board expenses are filed with the clerk, approved by the judge, and certified by the clerk to the auditor.

**Departmental Revenues.** The clerk is responsible for all fees, court assessments, bail, restitution to victims, and all other money deposited. Daily fees

are divided by statute between the county general fund, the state Public Safety & Education Account, and designated funds such as drug funds. The clerk's trust and investment accounts cannot be co-mingled with public funds, therefore they are deposited and managed separately by the clerk.

## Coroner (Medical Examiner)

**Statutes.** Chs. 36.24, 68.50, and 70.58 RCW.

**Duties.** The coroner's duties include three areas of responsibility: medical, administrative, and investigative. The coroner conducts autopsies, removes bodies and transports them, verifies the cause of death, and signs death certificates. The coroner conducts investigations to determine the cause of death and may be required to identify the deceased and locate and notify families. The coroner also maintains records related to these duties and provides for the custody and security of valuables, and delivers unclaimed property to the county treasurer.

For counties with a population greater than 250,000, the board of commissioners, with voter approval, may replace the elected coroner's position with an appointed medical examiner. In counties with less than 40,000 population, the prosecuting attorney acts as coroner.

**Personnel.** The coroner is elected on a partisan ballot for a four-year term. Vacancies resulting in unexpired terms are filled by appointment of the board of commissioners from a list of qualified candidates submitted by the party's central committee from which the incumbent was a member. Thereafter, the successor must run for election at the next general election.

Other employees in the office are selected by the coroner and appointed by the board of commissioners.

**Relationship to the Board of Commissioners.** The board of commissioners establishes personnel

positions and salaries, approves labor contracts and personnel policies, and approves the annual operating budget.

**Departmental Revenues.** The most significant revenues include reimbursement from the state from the Death Investigations Account. Up to 40 percent of the cost of contract autopsies or 25 percent of the salary of the coroner or personnel conducting autopsies is reimbursable according to RCW [68.50.104](#). Revenues for the department are deposited into the general fund.

## District Court Judge(s)

**Legal Basis.** Washington State Constitution [article 4, sections 6 and 12](#); [article 27, section 8](#); Chs. [3.30-3.74 RCW](#); Chs. [7.80](#) and [12.40 RCW](#).

**Duties.** District courts hear and decide controversies and handle related hearings and proceedings regarding criminal misdemeanors and gross misdemeanors, civil proceedings up to \$75,000, and small claims up to \$5,000. The court also hears traffic and non-traffic civil infractions including mitigation and contested hearings, and parking cases. District court may also hold preliminary felony hearings to determine whether to transfer cases to superior court, as well as conducting week-end probable cause hearings.

**Personnel.** District court judges are elected on a non-partisan ballot for a four-year term. District court judges may appoint a person to manage administrative matters for the court and district court clerks and deputy clerks.

**Relationship to the Board of Commissioners.** The Office of the Administrator for the Courts, a state agency, establishes the number of full-time equivalent judges that courts may appoint based upon an analysis of the court's caseload. District court judges are elected on a non-partisan ballot for a four-year term. The salaries of the district court judges are established by the Washington Citizen's Commission On Salaries

for Elected Officials and the county pays the established salaries. Other employees in the office are appointed by the district court judges to fill positions approved by the board of commissioners. The board of commissioners establishes personnel positions and salaries, approves labor contracts and personnel policies, and approves the annual operating budgets for the district court.

**Departmental Revenues.** The district court collects revenues from criminal and non-criminal fees, fines, and forfeitures related to court matters. Revenue is also generated through filing fees for civil matters. Some district courts contract with municipalities to provide services and receive fees for those services.

## Prosecuting Attorney

**Legal Basis.** Washington State Constitution [article 11, section 5](#); Ch. [36.27 RCW](#).

**Duties.** The prosecuting attorney serves a dual role. He or she is a constitutionally-mandated state official who serves as an agent of the state and is also the chief civil law enforcement officer for the county and legal counsel for the county, its employees, and all elected and appointed officials and for other agencies and districts. In the capacity as legal adviser to the commissioners and other county officials, the prosecutor provides written legal opinions relating to the management of county affairs and drafts contracts, resolutions, ordinances, and any other instruments of an official nature for the use of those officers.

The prosecuting attorney, and deputy prosecuting attorneys, are authorized by law to appear for and represent the state and counties in actions and proceedings before the courts and judicial officers. The prosecutor appears for and represents the state, county, and all school districts subject to the supervisory control and direction of the attorney general, in all criminal and civil proceedings in which the state or the county or any school district in the county may be a party. He/she prosecutes

all criminal and civil actions in which the state or the county may be a party and defends all suits brought against the county. The prosecutor institutes and prosecutes felony proceedings.

**Personnel.** The prosecuting attorney is an independent official elected on a partisan ballot for a four-year term. The prosecutor may appoint one or more deputies who have the same power in all respects as the prosecutor. Vacancies of the elected prosecuting attorney resulting in unexpired terms are filled by appointment of the board of commissioners from a list of qualified candidates submitted by the party's central committee from which the incumbent was a member. Thereafter, the successor must run for election at the next general election. One-half of the prosecutor's salary is paid by the state. Other employees in the office are appointed by the prosecutor.

**Relationship to the Board of Commissioners.** The board of commissioners establishes personnel positions and salaries, approves labor contracts and personnel policies, and approves the annual operating budget. The board may contract for legal services with approval of the prosecuting attorney and the presiding superior court judge. The prosecutor may appoint civil deputies to support the board and for land use hearings.

**Departmental Revenues.** As a general rule, the prosecutor's office has no significant operating revenues. However, revenue may be generated through state and federal grants, the child support enforcement program or the collections of judgments and settlements all of which are reflected as general fund receipts.

## Sheriff

**Legal Basis.** Washington State Constitution article 11, section 5; Chs. [36.28](#), [41.14](#) RCW.

**Duties.** "The sheriff is the chief executive officer and conservator of peace of the county." (RCW [36.28.010](#).) In this capacity, the sheriff and

deputies have the power of arrest and a duty to serve orders of the courts or judicial officers, investigate crimes, provide marine safety, and perform search and rescue operations. In most counties, the sheriff is also responsible for managing the 911 communications center, emergency service operations, and the county jail.

**Personnel.** The sheriff is an independent official elected on a partisan ballot for a four-year term, unless the county charter provides otherwise. Vacancies resulting in unexpired terms are filled by appointment of the board of commissioners from a list of qualified candidates submitted by the central committee of the political party from which the incumbent was a member. Thereafter, the successor shall run for reelection at the next general election.

Deputies in the office are appointed by the sheriff in accordance with civil service procedures. The civil service laws provide that civil service employees are hired on the basis of merit and can be fired only for cause. Chapter [41.14](#) RCW requires the civil service system for deputies. The three civil service commissioners are appointed to six-year terms by the county board of commissioners. By law the sheriff may fill some positions that are exempt from civil service procedures.

**Relationship to the Board of Commissioners.** The board of commissioners establishes positions, approves the annual operating budget, and approves labor contracts with the concurrence of the sheriff. Counties participate in a number of state and federal grants programs such as marine safety, D.A.R.E., community policing, and regional drug enforcement. The board approves contracts for such programs.

**Departmental Revenues.** As a general rule, the sheriff's office has no significant operating revenues. However, revenue may be generated through state and federal grants, gambling taxes, gun permits, and sale of confiscated property, all of which are reflected as general fund receipts. In addition, revenue may be received from the operation of the

jail, charges for other services provided, and civil fees.

## Superior Court Judge(s)

**Legal Basis:** Washington State Constitution article 4; Chs. [2.08](#), [2.24](#), [2.28](#), [2.32](#), [13.04](#), and [26.12](#) RCW.

**Duties.** The superior court is the court of original jurisdiction for all felony criminal proceedings, cases involving contract disputes, landlord-tenant disputes, real estate matters, personal injury suits, domestic relations, probate, juvenile cases, and civil claims over \$25,000. The superior court also has appellate jurisdiction in cases arising in courts of limited jurisdiction (municipal and district courts) and hears appeals involving decisions by an administrative law judge.

Juvenile court is a division of the superior court. Juvenile court services include a broad range of both offender and non-offender cases for juveniles, probation services, diversion programs, guardian ad litem programs, and counselors for at-risk and truant youth. Many juvenile service departments are responsible for operating juvenile detention centers or placing youth in appropriate secure facilities or programs. Juvenile court services can be administered by either the superior court or by local court rule and agreement with the board of commissioners, a juvenile services department. When superior court is exercising jurisdiction involving certain family law proceedings, the court is referred to as “family court.”

**Personnel.** Superior court judges are elected on a nonpartisan ballot for a four-year term. The number of judges in each county is set by statute. Judges are considered employees of the state whose salaries are set by state salary commission. Salaries however, are paid 50 percent by the state and 50 percent by the county. Vacancies resulting in unexpired terms are filled by appointment of the governor.

Other personnel for the courts typically include court administrators, court commissioners, court reporters, and clerical staff who are selected and appointed by the superior court judges. All court positions must be authorized by the board of commissioners.

### **Relationship to the Board of Commissioners.**

The board of commissioners establishes positions and salaries and adopts the annual operating budget for the superior court and/or juvenile services department.

**Departmental Revenues.** As a general rule, the superior court has no significant operating revenues. However, revenue which is generated through the department is typically reflected as general fund receipts. Juvenile Services generate revenues through state contracts with the Juvenile Rehabilitation Agency (JRA) and other state and federal grants. It may also generate revenue through fees charged to parents for youths’ incarceration or other municipalities for facility rent.

## Treasurer

**Legal Basis.** Chs. [36.29](#) and [84.56](#) RCW.

**Duties.** The county treasurer is the custodian of all funds for the county and its governmental subdivisions, maintaining financial records reflecting the receipt and disbursement of funds in accordance with generally accepted accounting principles. Funds are disbursed on warrants issued by the county auditor and other district authority. The treasurer bills and collects all real and personal property taxes certified on the tax rolls of the county, including foreclosure proceedings against properties for the non-payment of tax. Funds held in the county treasury are invested for the benefit of the various funds in accordance with statutory guidelines. The treasurer accounts for and pays all bonded indebtedness for the county and its governmental subdivisions. In addition, the treasurer acts as agent for the Department of Revenue in the administration of real estate excise tax and administers all surplus property sales for the county.

**Personnel.** The treasurer is an independent official elected on a partisan ballot for a four-year term. Vacancies resulting in unexpired terms are filled by appointment by the county commissioners from a list of qualified candidates submitted by the central committee of the incumbent's party.

The employees in the treasurer's office are appointed by the treasurer.

**Relationship to the Board of Commissioners.**

The board of commissioners approves the annual operating budget. This may include approving personnel positions, salaries, personnel policies, and

labor contracts. In many counties elected officials also sign personnel policies.

**Departmental Revenues.** All monies collected by the treasurer are deposited into the appropriate funds. Receipts distributed by the treasurer include real and personal property taxes, timber taxes, excise and sales taxes, and state and federal shared revenues, as well as interest. Interest earned on all county funds and any funds not invested by the other districts are deposited in county current expense.



## Resources

### **MRSC** [MRSC.ORG](http://MRSC.ORG)

The Municipal Research and Services Center (MRSC) is the first place to start when you don't know where to go. Consultants at MRSC can answer your questions over the phone, via email, or in writing. Staff experience includes municipal law, budgeting and finance, planning and growth management, public works and utilities, and public policy. In addition, MRSC maintains a website containing a wealth of information relevant to local governments in Washington State.

### **WSAC** [WACOUNTIES.ORG/WSAC](http://WACOUNTIES.ORG/WSAC)

Created in 1906, the Washington State Association of Counties (WSAC) is a voluntary, non-profit association serving all of Washington's 39 counties. WSAC members include elected county commissioners, council members, and executives from all of Washington's 39 counties.

The association provides a variety of services to its member counties including: legislative advocacy, trainings and workshops, a worker's compensation retrospective rating pool, and a forum to network and share best practices.

### **WACO** [WACOUNTIES.ORG/WACO/](http://WACOUNTIES.ORG/WACO/)

The membership of the Washington Association of County Officials (WACO) includes elected county assessors, auditors, clerks, coroners and medical examiners, prosecuting attorneys, sheriffs, treasurers, and comparable appointed officials in charter counties.

WACO provides the following to its members: legislative representation; education and training; informational publications; day-to-day assistance concerning a wide variety of issues of importance to counties; local, state, and federal agency liaison; an annual conference for training and to develop a legislative package; affiliate support; and other forums in which to develop ideas and build consensus.

### **NACo** [NACO.ORG](http://NACO.ORG)

The National Association of Counties (NACo) is the only national organization that represents county governments in the United States. Founded in 1935, NACo assists America's 3,069 counties in pursuing excellence in public service to produce healthy, vibrant, safe, and resilient counties. NACo promotes sound public policies, fosters county solutions and innovation, promotes intergovernmental and public-private collaboration, and provides value-added services to save counties and taxpayers money.

With its headquarters on Capitol Hill, NACo is a full-service organization that delivers its services through its dedicated and skilled staff who comprise the following departments: Executive Management, Legislative Affairs, Public Affairs, County Solutions and Innovation, Information Technology, Finance and Administration and the Financial Service Corporation.

## **ICMA** [ICMA.ORG](https://www.icma.org)

Founded in 1914, ICMA, the International City/County Management Association, advances professional local government worldwide. Our mission and vision is to create excellence in local governance by developing and fostering professional management to build sustainable communities that improve people's lives worldwide. ICMA provides member support; publications; data and information; peer and results-oriented assistance; and training and professional development to nearly 9,000 city, town, and county experts and other in-

dividuals and organizations throughout the world. The management decisions made by ICMA's members affect millions of individuals living in thousands of communities, from small villages and towns to large metropolitan areas.

ICMA's primary audiences are the professional city, town, and county managers who are appointed by elected officials to oversee the day-to-day operation of our communities.

ICMA is a 501(c)(3) nonprofit organization that offers a wide range of services to its members and the local government community. The organization is an internationally recognized publisher of information resources ranging from textbooks and survey data to topical newsletters and e-publications. ICMA provides technical assistance to local governments in developing and decentralizing countries, helping them to develop professional practices and ethical, transparent governments.



## Appendix A: Ideas for Commissioner Effectiveness

1. **Learn all you can about your county**, its history, its operations, its financing. Do your homework. Know your county code. Dust off your comprehensive plan.
2. **Devote sufficient time to your office** and to studying the present and future problems of your county and its communities.
3. **Don't burn yourself out** on the little things, but recognize that they are often important to the public. Save your energy and time for the important matters.
4. **Don't let honest differences of opinion** within the board degenerate into personality conflicts.
5. **Remember that you represent all the people of your county** as well as your district, and each of its communities, not just neighbors and friends. Be wary of personal experiences coloring your public decisions.
6. **Don't act as a committee of one.** Governing a county requires a multiple team effort—practically and legally. Be a team player and leader.
7. **Take your budget preparation job seriously**, for it determines what your county does or does not do for the coming year and will also influence what happens in future years.
8. **Establish policy statements.** Written policy statements let the public, and the other county officials and staff know where they stand. The policy statements help the board govern, and writing them provides a process to develop consensus.
9. **Make decisions on the basis of public policy and be consistent.** Treat similar situations similarly and avoid favoritism.
10. **Focus your attention on ways to prevent problems**, rather than just trying to solve them as they occur. Filling potholes is one approach to governing; developing plans to prevent them is more effective.
11. **Don't be misled by the strong demands of special interest groups** that want something done now, their way. Your job is to find the long-term public interest of the county as a whole, and you may be hearing from the wrong people.
12. **Don't be afraid of change.** Don't be content to just follow the routine of your predecessors. Charge your appointed officers and employees with being responsible for new ideas and better methods. Listen to what they have to say and support good ideas.
13. **Don't give quick answers** when you are not sure of the real answer. It may be embarrassing to appear unknowledgeable, but it can be more embarrassing, and damaging, to give incorrect information. Just say "I'll get the answer and get back to you."
14. **Don't rush to judgment.** Few final actions have to be taken at the first meeting at which they are considered. Avoid "crisis management."

15. **As an individual commissioner, don't make promises you can't deliver!** Most decisions and actions require approval of the entire board as well as other elected officials with an interest in the subject.
16. **Remember that you have legal authority** as a governing board member only when the board is in legal session.
17. **Don't spring surprises on fellow commissioners** or your county staff, especially at public meetings. If a matter is worth bringing up for discussion, it's worth being on the agenda. Surprises may get you some publicity, at the embarrassment of others, but they tend to erode any "team" approach to governance.
18. **Participate in official meetings with the dignity and decorum** fitting those who hold a position of public trust. Professional dress and courteous behavior at meetings help create an environment for making sound public decisions.
19. **Conduct official public meetings with formality and follow rules of procedure.** Have an agenda and follow it. Most governing body members agree that formal meetings expedite the process and promote better decision making.
20. **Don't be afraid to ask questions.** It is one of the ways we learn. Do your homework by studying the agenda material before meetings.
21. **Vote yes or no on motions.** Don't cop out by abstaining except when you have a legitimate conflict of interest. A pass does not relieve you of responsibility when some decision must be made.
22. **Respect the official position** once a majority decision of the governing body has been made and defend it if necessary, even if you personally disagreed.
23. **Respect the intent of the open meetings law,** but also keep private and confidential matters to yourself – don't gossip.
24. **Retain competent, key employees.** Pay them well, trust their professional judgment, and recognize their authority and responsibilities.
25. **Don't bypass the system** if you have an administrator responsible for day to day operations; respect the process.
26. **Don't let others bypass the system.** Insist that people such as equipment or service suppliers work with your purchasing staff. If direct contact with governing body members is necessary, it should be with the board as a whole.
27. **Don't pass the buck** or responsibility for a hot issue to the staff or employees when they are only following your policies or decisions.
28. **Don't always take no for an answer.** The right question may be "How can we do this?" instead of "is it possible to do this?"
29. **Encourage imaginative solutions.** Learn to evaluate recommendations and alternative courses of action. Ask staff to provide options.
30. **Be concerned about the long-term future of the county.** Avoid taking short-term gains at the expense of long-term losses.
31. **When determining the public interest,** balance personal rights and property interests, the possible harm to a few versus the good of the many. Recognize in many situations, everyone can't be a winner.
32. **Provide leadership** in the intergovernmental system. Keep in contact with and cooperate with your federal, state, city, and special district officials.
33. **Learn to listen – really listen – to your fellow commissioners,** as well as other county officials and the public. Hear what they are trying to say, not just the words spoken.
34. **Learn to be effective with the media.** Cultivate good media relationships and communicate successes. Consider funding a public information officer's position.
35. **Maintain your sense of humor.** Don't take yourself or the business of government so seriously that you don't enjoy it. It should be fun as well as a rewarding experience.

# B Appendix B: Charter Counties

The following table is available online at County Forms of Government, MRSC (last updated March 16, 2015), <http://www.mrsc.org/subjects/governance/locgov12.aspx#3>.

County	Year	Form	Elected Officials	Appointed Officials
King	1969	Council-Elected Executive	Nine-member Council (NP) County Executive (NP) Assessor (NP) Prosecuting Attorney (P) Sheriff (NP) Director of Elections (NP)	Auditor County Administrative Officer Treasury Operations Manager Clerk Medical Examiner
Whatcom	1978	Council-Elected Executive	Seven-member Council (NP) County Executive (NP) Assessor (NP) Prosecuting Attorney (P) Auditor (NP) Sheriff (NP) Treasurer (NP) Clerk	Clerk Deputy Administrator Medical Examiner

County	Year	Form	Elected Officials	Appointed Officials
Clallam	1979	Commission-Appointed Administrator	Three-member Commission (P) Assessor (NP) Prosecuting Attorney/ Coroner (P) Auditor (NP) Sheriff (NP) Treasurer (NP) Community Development Director (NP)	County Administrator Clerk
Snohomish	1980	Council-Elected Executive	Five-member Council (P) County Executive (P) Prosecuting Attorney (P) Assessor (NP) Auditor (NP) Sheriff (NP) Clerk (NP) Treasurer (NP)	Medical Examiner
Pierce	1981	Council-Elected Executive	Seven-member Council (P) County Executive (P) Prosecuting Attorney (P) Sheriff (P) Assessor-Treasurer (P) Auditor (P)	Clerk Medical Examiner
San Juan	2006	Council-Appointed Administrator	Three-member Council (NP) Prosecuting Attorney/ Coroner (P) Assessor (NP) Auditor (NP) Clerk (NP) Sheriff (NP) Treasurer (NP)	County Manager
Clark	2015	Council-Appointed Administrator	Five-member Council (P) Assessor (P) Auditor (P) Clerk (P) Prosecuting Attorney (P) Sheriff (P) Treasurer (P)	County Manager