



County Government in Wisconsin History & Background

*Revised by LGC Local Government Specialist Alan Probst
January 2012*

This Fact Sheet is part of a publication series produced by UW-Extension's Local Government Center. More information about related local government topics can be found on the Center's website, <http://lgc.uwex.edu>.

Introduction

County government is the oldest form of local government in Wisconsin. The first counties were formed in 1818, before statehood, during the time the area was still part of the Michigan Territory. Because of the distance between the territorial seat of Detroit and what is now Wisconsin, the territorial governor created three counties within portions of the area. The counties were Crawford County in the west, Brown County in the northeast, and Michilimackinac County in the far north and what is now the Upper Peninsula of Michigan. In 1829, population increases in southwest Wisconsin resulting from extensive lead mining led to the designation of a fourth county called Iowa. Counties primarily performed law enforcement and taxing functions for the territorial government, including providing sheriffs, judges, assessors, tax collectors and court clerks.

After statehood was granted by Congress in 1848, Wisconsin's new constitution called for the "establishment of but one system of town and county government, which shall be nearly uniform as practicable" (Article IV, Sec. 23). Differences over the form or structure county government could take soon emerged. Some counties chose a small governing body (3-5 members) of officials elected countywide called "commissioners." In this form of government, the county serves as the major provider of local government services. This form of government was popular in eastern and midwest states, such as Pennsylvania, Ohio and Michigan. Other counties opted for a larger governing body of "supervisors" who represented specific towns, villages and cities within the county boundaries. Under this unit representation system, the county primarily provided state administrative services such as tax collection, courts and sheriff-patrol while the towns, cities and villages served as the providers of purely local services such as road maintenance, building inspections, and fire protection. After 1870, a series of court challenges to the "uniformity clause," caused the supervisor, or unit system, to become the standard form for all Wisconsin counties.

Over the years, the legislature added new counties, until by 1901, they numbered 71. In 1961, the newest county of Menominee was created from the territory that made up the Menominee Indian reservation. This brought the total number to the current 72. Wisconsin counties are not uniform in either geographic or population size. Some of their boundaries were established based on surrounding or confining bodies of water, distances by horse and buggy from the county seat (where the courts conducted legal business), and historical considerations. Marathon County covers the largest geographic area at 1,545 square miles. The smallest is Ozaukee with 232 square miles. Wisconsin's most populous county is Milwaukee, with about 940,000 people. The least populated county is Menominee with about 4,600 residents. Counties contain towns (unincorporated areas), and villages and cities (incorporated municipalities).

The County Board of Supervisors

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

The maximum number of supervisors allowable for each board is prescribed in Sec. 59.10 (3) *Wisconsin Statutes*, and is based on the latest census population for each county.¹ Counties with populations of 100,000 to 499,999 are allowed up to 47 board members. Counties with 50,000 to 99,999 may have a maximum of 39 members; those with 25,000-49,999 are limited to 31; and those with 25,000 residents or less may have up to 21. In most of the 72 counties, boards have reduced their memberships to well below statutory limits. Adjustments to board size can be made only after each decennial census to coincide with redistricting. For example, in 2001 the Racine County board voted to reduce its membership for the next ten years from 31 to 23 supervisors, and consequently increased the average population size of each supervisory voting district.

The Legislature changed the statute in 2006 to allow further reductions in the size of county boards creating Wis. Stat. Sec. 59.10 (3) (cm) which states "the board may decrease the number of supervisors. In that case, the board shall redistrict, readjust, and change the boundaries of supervisory districts, so that the number of districts equals the number of supervisors, the districts are substantially equal in population according to the most recent countywide federal census, the districts are in as compact a form as possible, and the districts consist of contiguous municipalities or contiguous whole wards in existence at the time at which the redistricting plan

¹ Exceptions to state limits are Milwaukee County, which may establish its own number of supervisors (currently 25), and Menominee County, which is also a town and has the same seven members on both its town and county board, Sec. 59.10 (2) & (5) *Wisconsin Statutes*.

is adopted.” Using the authority of 59.10 (3)(cm), many Wisconsin county boards have opted to reduce their size with many now operating with approximately half their former numbers.

County Board Committees

A county board may establish as many standing and advisory committees as it deems necessary to conduct its business. These usually are created by ordinance or resolution. Because of the size of county boards, much preliminary business and public hearings on legislation are conducted by committees, which then make referrals or recommendations to the full board for final action. State law requires that county committees be established for major social service programs such as Social Services, Developmental Disabilities, and Sec. 51.42 (Mental Health) programs, and that a separate Highway Commission be created to oversee road maintenance and other public works. Additional standing committees usually include those dealing with finance, personnel, general administration and intergovernmental matters. Wisconsin county boards also have standing committees assigned to major subject areas such as public safety and planning/zoning matters. County boards also create numerous advisory short-term or ongoing committees that often are composed of both citizen and board member representatives. These committees may vote on resolutions, ordinances, or financial matters, but their recommendations are only advisory to standing committees and boards, which then make the final decisions. In a survey of 33 Wisconsin counties by UW-Extension Racine County faculty showed that an average county surveyed has 17 standing board committees and another 17 advisory committees.

Subsequent to board reductions conducted under 59.10 (3)(cm), many county boards consolidated their committees to further reduce their meeting load and streamline board functions.

Executive and Administrative Options

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

In 1985, the legislature made the position of appointed County Administrator the chief administrative officer of the county, with authority to appoint and supervise department heads (Wis. Stat. Sec. 59.10). In those counties that do not have either an Executive or a County Administrator, the law further required those counties to designate an Administrative Coordinator within 2 years to be responsible for coordinating all administrative and management functions (Wis. Stat. Sec. 59.19).

ITEM	Executive	Administrator	Admin. Coordinator
	(Sec. 59.17, Wis. Stats.)	(Sec. 59.18, Wis. Stats.)	(Sec. 59.19, Wis. Stats.)
HOW CREATED	Board resolution, petition, and/or referendum	Board resolution, petition and/or referendum	Board resolution or ordinance
HOW CHOSEN	Spring election every four years (non-partisan)	Appointed by majority vote of County Board	Appointed by majority vote of County Board
QUALIFICATIONS	U.S. Citizen, 18 years of age, county resident	Training, experience, education (no consideration for residence, nationality or political affiliation)	Elected or appointed County Official Other qualifications set by County Board
SOURCE OF POWERS	State statutes	State statutes	Limited State statutes and board resolution/ordinance
REMOVAL	By Governor for cause	By County Board (majority)	By County Board (majority)
BUDGET AUTHORITY	Prepares & presents to board	Prepares & presents to board	Only as authorized by board
VETO BOARD ACTIONS	Yes	No	No
DEPT. HEADS	Appoints (Subject to board confirmation) Removes at pleasure	Appoints & removes (Subject to board confirmation)	No authority unless granted by County Board
ADVISORY COMMITTEES ADMINISTRATIVE BOARDS	Appoints & removes (Subject to Board confirmation unless waived or made under civil service)	Appoints & removes (Subject to Board confirmation unless waived or made under civil service)	No authority unless granted by County Board
COORDINATE DEPARTMENTS	Yes	Yes	Only management functions not assigned depts. by ordinance or law

Traditionally, in many counties utilizing the Administrative Coordinator option, most commonly in rural, less densely populated counties, the chair of the county board was assigned the duties of Administrative Coordinator as an additional duty. However, on October 27, 2011 the Wisconsin Attorney General issued a legal opinion that stated that, in an analysis of Wis. Stat. 66.0501 (2), a sitting county supervisor is precluded from accepting any other office or positions. Further analysis indicated that by accepting the position of Administrative Coordinator, any supervisor automatically resigns his/her position on the county board. Furthermore, an analysis of Wis. Stat. 59.10 (4) determined that the office of county supervisor is incompatible with any other county office or employment. Hence, neither the county board chair nor any other member of the board can hold the position of Administrative Coordinator without resigning his/her position as an elected member of the county board.

The Judicial Branch

In 1977 the “Court Reorganization Act” merged Wisconsin circuit courts and county courts into one trial court system under the administration of the Wisconsin Supreme Court and 10 district administrators. As of the year 2000, there were 241 circuit court judges sitting in courthouses throughout the 69 counties (3 pairs of counties share 1 court between them). Judges’ salaries are paid by the state, but most court staff salaries and court facilities are funded by county taxpayers. Circuit courts are established by state legislation. Circuit court judges are elected in the spring general election by the residents of the counties they serve and hold office for six-year terms. The judges have considerable authority to require local county boards to fund the courts at a level necessary to meet caseloads.

Other Elected and Key Appointed Officials

Under state law, county residents elect certain other county officials. These are the clerk, treasurer, sheriff, clerk of circuit courts, register of deeds, and district attorney.² These officials are up for re-election every two years at the partisan, general elections which are held on the Tuesday after the first Monday in November in even numbered years. The popular election of a county surveyor and a coroner is a local option, which is on the decline in Wisconsin counties. When a county chooses not to have an elected coroner, the office is appointed and is called a “medical examiner.” When no candidates file for county surveyor, the board usually hires a state certified land surveyor to perform the duties.

People wishing to hold these offices must be legal residents of the county, U.S. citizens and at least 18 years of age. Other department head positions are appointed by the executive or administrator, and, if the board provides the authority under the provisions of home rule, by the administrative coordinator, and are confirmed by the county board. Each county board must elect a highway commissioner, whose term is for two years, unless otherwise set by local ordinance (Sec. 83.001 (1) & (2) *Wisconsin Statutes*). Appointment of a head of emergency management services (Sec. 166.03 (4) (a) & (b), *Wisconsin Statutes*) is also required by law. Larger counties also have a finance director, social or human services director, corporation

² District Attorneys are considered state employees for salary purposes.

counsel, parks director, general services administrator, human resources director and other professional managers to carry out other specific duties.

Functions and Duties of Wisconsin Counties

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

Beginning in 1970, counties were permitted to pass ordinances declaring themselves “self-organized” for the purpose of setting board offices and compensation, establishing staggered supervisory terms, and filling vacancies in supervisory districts.³

In 1985 counties were granted “administrative home rule,” which allows them to organize their administrative departments, or consolidate them as they see fit. The legislature has also granted counties authority to permit them to address and fund local issues in metropolitan areas without specific state enabling laws (Sec. 59.03(2) *Wisconsin Statutes*). This home rule authority has allowed county government to gradually expand as a regional government in areas such as recycling, water quality management, transportation planning, and zoning review, but only in cases where a municipality or group of municipalities have requested the county to do so on their behalf through voluntary agreements.

Resources and References

Paddock, Susan C. “The Changing World of Wisconsin Local Government,” *State of Wisconsin Blue Book – 1997-98*. Wisconsin Legislative Reference Bureau, 1997, pages 101-171.

State of Wisconsin Blue Book 2001-2002, page 733.

University of Wisconsin-Extension, Local Government Center. Fact Sheet #8: Self-Organized Counties, February 1997.

Wisconsin Counties Association. “County Government History, Services, and Funding,” educational pamphlet, February 2002, 6 pages.

³ Please see UW-Extension Local Government Center Fact Sheet #8: Self Organized Counties.

The Wisconsin Taxpayers Alliance. *The Wisconsin Taxpayer*, “County Organization and Administration,” April 1997, Vol. 65 No. 4.

The Wisconsin Taxpayers Alliance. *The Framework of Your Wisconsin Government*, 16th Edition 2001. pages 69-79.

Wisconsin State Statutes. (In general, Chapter 59 in its entirety deals with county structure and duties.)

Opinion of the Wis. Attorney General to Bradley D. Lawrence, Pierce County Corporate Counsel, AG-01-11 (October 27, 2011).

Acknowledgments

This publication was updated from a document initially authored by Dan Elsass, Local Government Specialist, UW-Extension Local Government Center. Reviewed by Kate Lawton, Chuck Law, Jim Schneider and David Hinds, UW-Extension Local Government Center. Also reviewed by Sarah Diedrick-Kasdorf, Wisconsin Counties Association.