



SO YOU'RE CONSIDERING A RUN FOR COUNTY COMMISSIONER...

*A Candidate's Guide to the
Roles and Responsibilities of
County Commissioners*

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**CREATED BY:
THE WYOMING COUNTY
COMMISSIONERS ASSOCIATION
PO BOX 86
CHEYENNE, WY 82003
(307) 632-5409**

FOREWORD

Why do you want to be a county commissioner?

Hopefully you've considered that question for philosophical reasons correlated with civic leadership, opportunities to positively impact communities and residents, or pursuing your vision for strengthening Wyoming. However, each person should consider the question from a more practical perspective. No matter the issue, attending to the day-to-day issues before county commissioners is likely to demand far much more. Your potential constituents will need you to be prepared for complex problems – like a global pandemic.

If a single issue prompted your run (e.g., county roads, budget matters, government responsiveness, etc.), then becoming a subject matter expert is important. But remember, you will also be required to coordinate public (i.e., transparent) meetings, advocate county needs statewide, including at the state capitol, and act as a cooperating agency in federal land and mineral management issues. As many commissioners say, being a county commissioner is the most full-time, part-time job they've ever had.

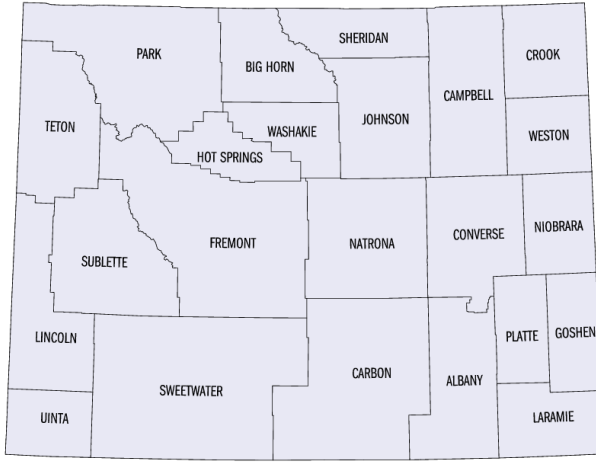
During the election cycle, it's not uncommon for people to contact the Wyoming County Commissioners Association (WCCA) to seek our advice. Because the WCCA represents sitting commissioners, not election candidates, answering those calls usually poses a conflict.

Nevertheless, the WCCA's mission is to “strengthen Wyoming’s counties . . . through a program of networking, education, and unified action.” Every two years the ranks of Wyoming’s county commissioners turn over by approximately one-third, through retirement or election loss. Therefore, it seems appropriate to provide a starting point for prospective commissioners in becoming an effective public servant. Should you win, you will automatically become a WCCA member with access to all of the privileges and resources being a member provides. My hope, in the meantime, is that this guide provides insight into the role of county commissioners.

Good luck on the campaign trail.

Jerimiah Rieman
Executive Director
Wyoming County Commissioners Association

What is county government?



Counties are political subdivisions of the state created to provide a wide variety of services to citizens at the local level. Wyoming has 23 counties, each with unique geographic, economic, and social characteristics which influence the services county government provides and the ability of citizens to support those services.

As an extension of the state, counties have only those powers expressly granted to them through the Wyoming Constitution or statutory law. There are seven general duties granted to counties – see Wyoming Statute (W.S.) 18-2-101. The fifth, however, reads: “Exercise other powers as provided by law[.]” This catch-all provides for the broad powers and duties exercised by counties.

For example, county commissioners operate the courthouse, set budgets, and, through county road and bridge departments, are responsible for the construction and maintenance of county roads (which constitute two-thirds of all Wyoming roads). The seven other county elected offices – assessors, clerks, clerks of district court, coroners, county and prosecuting attorneys, sheriffs, treasurers – each have their own statutory duties as well. Each office offers services required by state law. At the end of this document you

will find an extensive list of statutes related to counties.

Additional services provided by county government, but not necessarily required by state law, include: planning and zoning, building codes, animal control, fire protection, parks and recreation programs, landfills, county libraries, airports, hospitals, public health and senior citizen centers. Further, there has been significant growth in some of these services, not as an administrative arm of the state, but rather, as independent, authorized arm of local government.



How does county government differ from city government?

While other structural differences exist between city government and county government, the most significant is “Home Rule” authority. Home Rule provides local governments the widest possible latitude in the management of local affairs. In Wyoming, our Constitution – Article 13, Section 1 (as amended) – empowers cities and towns, but not counties, to govern their affairs by ordinance. County commissioners are limited to enacting those ordinances and regulations specifically permitted by state law. Basically, commissioners conduct state business at the county level.

If I’m elected, I’m the boss of the county, right?

Sorry to disappoint you, but if you’ve been misled to believe county commissioners “run the county,” you will quickly find out you don’t. Nonetheless, county commissioners do have significant and expanding duties. The general powers of commissioners are outlined in W.S. 18-3-504. The following are several critical duties:

1. *Budgeting.* As the chief budget officer, county clerks are vested with the responsibility of preparing the county annual budget in conjunction with departments and special districts. County commissioners have approval authority over the budget and, so, are intimately involved in spending decisions. A keen understanding of revenue sources and county expenditures is an essential skill for any successful commissioner.

To assist commissioners and county personnel, the WCCA produces a revenue estimating manual which provides an overview of revenue sources and projections for upcoming fiscal years. County budgeting procedures are detailed in the Uniform Municipal Fiscal Procedures Act (W.S. 16-4-101 through 124).



A LOOK *at the* BUDGET

2. *County Roads:* County commissioners are responsible for the care and maintenance of county roads (W.S. 24-1-104). Counties alone own and manage more miles of road in Wyoming than federal, state, and municipal governments combined. In fact, counties manage approximately twice as many road miles. Most commissioners will agree (global pandemics aside) that the number one issue constituents engage them on is the condition of county roads.

3. *County Buildings:* County commissioners are also responsible for managing the county courthouse and all county buildings. This can be a significant expense, especially in counties with more significant law enforcement and judicial assets.

4. *Planning and Zoning:* County commissioners are authorized to regulate and restrict the location and use of buildings and structures, and the use, condition of use or



occupancy of lands for residence, recreation, agriculture, industry, commerce, public use, and other purposes in the unincorporated area of the county. Planning and zoning can be an important tool “to promote the public health, safety, morals and general welfare of the county” (W.S. 18-5-201 through 208). Counties are statutorily required to have comprehensive land use plans in place (W.S. 9-8-301).

5. *Emergency Preparedness:*

County commissioners serve an important role in homeland security/emergency management. The Wyoming Homeland Security Act and the Wyoming Emergency Response Act envision a leadership role for county commissioners in all aspects of emergencies



and disasters regardless of whether the cause is natural, manmade, or terrorism related. Current threats to national security and the creation of the Federal Homeland Security Agency have elevated the importance of the issue for commissioners.

6. *Federal Cooperating Agencies:* Counties often serve as cooperating agencies under the National Environmental Policy Act, providing insight to the federal government on how a federal action (a broad term including any action permitted or funded by the federal government) might affect local socioeconomics, custom and culture. Moreover, counties with federally owned lands and minerals regularly engage on management of these resources. Don't be fooled; the federal government governs cooperating agencies. However, the position confers on commissioners an opportunity to determine the management of federal lands within their county. Wyoming's county commissioners are national leaders in this role, and a successful commissioner must devote a significant amount of time in understanding and participating in these colossal efforts. The WCCA frequently publishes a reference guide –

the Wyoming Public Lands Handbook – to inform commissioners, and others, on the laws and policies that govern federal land management.

Where does the revenue come from to deal with all of these issues?



County revenue is derived from various sources. The most significant sources of revenue are property (ad valorem) and sales and use taxes. Additional sources of revenue include state-shared revenue (e.g., direct distribution, severance, and fuel taxes), service charges, interest earnings, and money appropriated by the federal government. Most property taxes are collected at the county level and distributed to the county general fund, municipalities, school districts, and other political subdivisions (e.g., special districts).

On an annual basis, the WCCA publishes the Revenue Estimating Manual which provides an overview of major federal and state revenue sources. The manual by no means lists every revenue source, but it includes narration and diagrams explaining the various distribution methods of revenue sources. The formulas are so complex that they are not discussed in this guide, but should you become a county commissioner, understanding revenue distribution will be important.

The following is a list of major county revenue sources:

1. *Property (Ad Valorem) Tax*: Counties are constitutionally limited to collecting 12 mills for county operations.
2. *State Shared Revenue*
 - a. *Sales and Use Taxes* - Counties receive approximately one-third of the local share of state four percent sales and use tax collections.



- b. *Severance Taxes* - Shared by formula with counties for general government purposes and, separately, for county road construction and maintenance.
 - c. *Fuel Taxes* - Shared by formula and must be use for the maintenance and construction of roads and bridges.
 - d. *Nicotine Taxes*
 - e. *Wind Energy Generation Taxes*
 - f. *Discretionary Appropriations* - Determined every two years by the legislature and (usually) distributed by formula.
7. *Local Option Taxes*: Voter option taxes as proposed by county commissioners with the approval of 50% of the municipalities within the county.
- a. *General Purpose*
 - b. *Specific Purpose*
 - c. *Economic Development*
4. *Federal Shared Revenue*
- a. *PILT (Payment in Lieu of Taxes)* - Revenue to offset untaxable federal lands within the county.
 - b. *Secure Rural Schools*
5. *Grants and Loans*
6. *Locally assessed fees*

Why are commissioner meetings so formal in my county, and why are they always on set days and held publicly?

One of the most surprising things for new county commissioners is the tension between the casual nature of Wyoming and the importance of the Office of the County Commissioner. As an elected official you are rightfully (according to the rules of etiquette), the “Honorable [insert your first name].” This sort of formality is bothersome to some county commissioners because it seems too formal, but it serves an important purpose.

On occasion, you’ll find yourself making hard decisions where, no matter the option you select, someone will be disappointed. Therefore, the way

meetings are conducted is important. It's difficult to achieve public respect when meetings aren't run properly. While the law requires all persons to conduct themselves in a respectful manner, the formality of the office and its governance serves as a protection and establishes what's considered "orderly." More importantly, state law requires a certain level of decorum and formality or the decisions of county commissioners can be overturned.



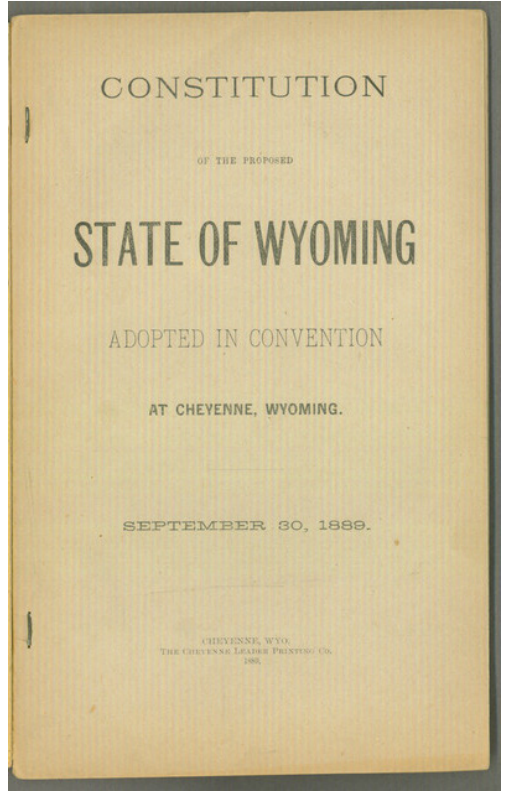
Finally, state statute requires that meetings be held with "open doors" and always on the first Tuesday of each month. Again, this rigidity serves a purpose as county business is public business and requires "open meetings" to discuss almost every issue before commissioners. Again, failing to follow these procedures can invalidate a commission decision.

Where can I go to learn more?

The most important place to learn more about the duties and responsibilities of county commissioners is in Wyoming's Constitution and statutes. Both can be found at <https://wyoleg.gov>. On the next page you will find a comprehensive list of constitutional provisions specific to counties along with relevant laws.

WYOMING CONSTITUTIONAL PROVISIONS

Wyoming was admitted into the Union in 1890, whereas the Wyoming Constitution, which formed the legal basis for counties, was written in 1889. The Constitution grants the legislature the authority to outline the powers and duties of county government. Since the territorial legislature met prior to 1889, the Constitution merely ratified those acts concerning counties that had already passed. Thus, the Office of the County Commissioner was created in 1876, thirteen years before the Constitution was approved by the people of Wyoming. State statute provides that: “Each organized county in the state is a body corporate and politic. The powers of the county shall be exercised by a board of county commissioners.” (W.S. 18-2-101). From this legal basis, counties and their officers have been assigned a wide array of responsibilities.



The basic framework for county government is set forth in Article 12 of the Wyoming Constitution. Section 1 states that all of the counties in the Territory of Wyoming as they existed at the time of admission into the Union are declared counties of the State of Wyoming.

The remaining sections of Article 12 (sections 2 through 5) provide the organization of townships, all of which are created by the legislature. Section 5 states that the legislature shall provide for the election of such county officers as may be necessary.

Other Constitutional Provisions

Other provisions of the Wyoming Constitution which apply to county governments include:

Article 3, Section 27: Prohibits passage by the legislature of local or special laws except in certain enumerated cases. According to Mountain Fuel

Supply Co. v.

Emerson, 578

P. 2d 1351

(Wyo. 1978),

the prohibition against special legislation does

not mean to say

that the statute

passed must affect

all persons the

same way. The

classification must only be reasonable and operate upon all persons or property in like or the same circumstances.



Article 3, Section 30: Prohibits bills from giving extra compensation to any county officer, after services are rendered or contract made.

Article 3, Section 37: Prohibits the delegating of the taxing power and other purely municipal functions to officials not subject to the people's control. This provision prevents the legislature, either directly or indirectly, from taking away municipal powers from municipal authorities and then conferring them on some other commission in no way connected with the municipal authority. Frank v. City of Cody, 572 P. 2d 1106 (Wyo. 1977).

Article 14, Section 2: Requires county officials to account for all monies collected by them.

Article 15, Section 5: For county revenue, exclusive of debt payment, a tax shall be levied annually not to exceed 12 mills on the dollar for all purposes including a general school tax.

Article 15, Section 8: It is a felony for any public officer to make a profit out of public funds or to use them for any purpose not authorized by law.



Article 15, Section 12: Exempts county property from taxation when used primarily for a governmental purpose.

Article 16, Section 3: Limits state debt to one percent, while the county debt limit is two percent (Article 16, Section 3).

Limitations on indebtedness can be eased in cases where a county transaction is considered as a property lease, rather than a sale to the public entity. Leasing is a tool available to the county commissioners to use in those cases where money is not available to finance a purchase up front. Laramie Citizens for Good Government v. City of Laramie, 617 P.2d 474 (Wyo. 1980).

Article 16, Section 4: Limits county debt to taxes for the current year unless approved by a vote of the people. However, no debt is created within the constitutional limiting provision when the obligation is payable from a special fund.



Article 16, Section 6: Forbids counties from loaning, giving credit, or donating money or aid to a private entity. In November 2004, voters approved a constitutional amendment that reads - "The adoption

of this provision authorizes the legislature to enact laws for local governments to use local sources of revenue for economic or industrial development subject to approval of the voters.” The uses are only for economic or industrial development.



Article 16, Section 7: Specifies that money shall be paid out only after properly appropriated and on a properly drawn warrant; and requires all money claims to be supported by an itemized written statement.

Article 16, Section 8: Requires all evidence of debt to have a proper certificate stating that it is issued pursuant to law and is within the debt limit.

STATUTORY REFERENCE GUIDE ON COUNTY ISSUES

Administrative Procedure Act	W.S. 16-3-101
Auditing	W.S. 9-1-507
Bonds – Anticipation Notes	W.S. 16-5-401
Bonds – Funding	W.S. 18-4-501
Bonds – General Obligation	W.S. 18-4-301
Bonds – Revenue	W.S. 18-8-201
Budget Process (Municipal Fiscal Procedures Act)	W.S. 16-4-101
Building Fund	W.S. 18-4-201
Cemetery Districts	W.S. 35-8-301
Certificates of Indebtedness	W.S. 18-4-104
Conservation Districts	W.S. 11-16-101
County – Airports	W.S. 18-9-101
County – Compensation of County Officers	W.S. 18-3-107
County – Fairgrounds	W.S. 18-9-101
County – General Powers of the Counties	W.S. 18-2-101
County – Construction of Jails	W.S. 18-2-201
County – Jails	W.S. 18-6-301
County – Libraries	W.S. 18-7-101
County – Museums	W.S. 18-10-101
County – Planning and Zoning	W.S. 18-5-101

STATUTORY REFERENCE GUIDE ON COUNTY ISSUES...*cont.*

County – Planning and Zoning Commission	W.S. 18-5-201
County – Recreational Systems	W.S. 18-9-101
County and Prosecuting Attorneys	W.S. 18-3-301
County Assessor	W.S. 18-3-201 and W.S. 39-13-101
County Board of Equalization	W.S. 39-13-102(c)
County Clerk	W.S. 18-3-401
County Clerk of District Court	W.S. 5-3-101
County Commissioners – General Powers	W.S. 18-3-504
County Commissioners – Increasing to Five	W.S. 18-3-501
County Commissioners – Meetings in General	W.S. 18-3-506
County Coroner	W.S. 7-4-101
County Extension Agents	W.S. 21-17-305
County Sheriff	W.S. 18-3-601
County Treasurer	W.S. 18-3-801
Courts – Circuit Courts	W.S. 5-9-102
Courts – Judicial Districts	W.S. 5-3-101
Day Care Centers – Fund Established by Commissioners	W.S. 18-13-101
Drainage Districts	W.S. 41-9-101
Emergency Expenditures	W.S. 16-4-114
Emergency Management	W.S. 19-13-108
Eminent Domain	W.S. 1-26-501 through 516
Executive Session	W.S. 16-4-405
Federal Revenue – Abandoned Mine Reclamation	W.S. 35-11-1201
Federal Revenue – U. S. Forest Reserve Funds	W.S. 9-4-501
Federal Revenue – Government Royalty	W.S. 9-4-601
Federal Revenue – Taylor Grazing Act Funds	W.S. 9-4-401
Financing – Generally	W.S. 18-4-101
Fire Protection Districts	W.S. 35-9-201
Governmental Claims Act	W.S. 1-39-105
Governmental Ethics	W.S. 9-13-101 through 109
Grants and Loans – Abandoned Mine Land	W.S. 35-11-1202(a)(v)
Grants and Loans – State Loan and Investment Board	W.S. 9-4-601
Hospital District Finances	W.S. 35-2-414
Hospital Districts	W.S. 18-8-301 and W.S. 35-2-401
Hospitals	W.S. 18-8-101 through 301
Improvement and Service Districts	W.S. 18-12-101
Industrial Development Projects	W.S. 15-1-701
Industrial Siting Act	W.S. 35-12-101
Insurance – Local Government Insurance Program	W.S. 1-42-101
Insurance – State Self-Insurance Program	W.S. 1-41-101
Investment of County Money	W.S. 9-4-831(h)
Irrigation Districts	W.S. 41-7-101
Liquor Licenses	W.S. 12-4-201

STATUTORY REFERENCE GUIDE ON COUNTY ISSUES...*cont.*

Misuse of Office	W.S. 9-13-105
Nepotism	W.S. 9-13-104
Official Decisions and Votes	W.S. 9-13-106
Open Meeting Law	W.S. 16-4-401
Predatory Animal Districts	W.S. 11-6-201
Public Health	W.S. 35-1-305
Public Health Officers	W.S. 35-1-306
Public Records and Publication of Proceedings	W.S. 16-4-201 and W.S. 18-3-516 through 519
Resort Districts	W.S. 18-16-101
Roads – Private Road Petition	W.S. 24-9-101
Roads – Private Road Second Hearing, Viewers Report	W.S. 24-9-103
Roads – Private Roads	W.S. 24-9-101
Roads and Bridges – Generally	W.S. 24-3-101
Rural Health Care District Finances	W.S. 35-2-708
Rural Health Care Districts	W.S. 35-2-701
Solid Waste Districts	W.S. 18-11-101
Special Districts – Dissolution	W.S. 22-29-401
Special Districts – Elections	W.S. 22-29-101
Special Districts – Reporting	W.S. 9-1-507(a)(vii)
State-County Road Fund	W.S. 24-2-110
Subdivisions	W.S. 18-5-301 and W.S. 34-12-103
Taxes – Ad Valorem (Property)	W.S. 39-13-101
Taxes – Capital Facilities Sales Tax	W.S. 39-15-204(a)(iii)
Taxes – Cigarette Tax Revenue	W.S. 39-18-111
Taxes – Diesel Fuel Tax	W.S. 39-17-211(d)(ii)
Taxes – Gas Tax	W.S. 39-17-111(d)(i) and (d)(ii)
Taxes – Lodging Tax	W.S. 39-15-204(a)(ii)
Taxes – Mineral Severance Tax Revenue	W.S. 39-14-801(d)(v),(vi), and (vii)
Taxes – One Percent (1%) Optional Sales Tax	W.S. 39-15-204(a)(i)
Taxes – Sales and Use Tax	W.S. 39-15-111(b)
Vacancy – County Commissioner	W.S. 18-3-524
Vacancy – Legislators	W.S. 22-18-111(a)(iii)
Vacancy – Other County Officers	W.S. 22-18-111(a)(ii)
Water and Sewer Districts	W.S. 41-10-101
Wind and Solar Energy – Application Contents	W.S. 18-5-503
Wind and Solar Energy – Facilities Definitions	W.S. 18-5-501
Wind and Solar Energy – Minimum Standards	W.S. 18-5-504
Wind Energy – Tax Rate	W.S. 39-22-104
Wind Energy – Taxes	W.S. 39-22-103
Wyoming Joint Powers Act	W.S. 16-1-101