

There When You Need It: County Government



101 W. OHIO, SUITE 1575 • INDIANAPOLIS, IN 46204
(317) 684-3710 • www.indianacounties.org

The purpose of this pamphlet is to provide basic information that will be useful in better understanding county government.

As proposed in Indiana's Constitution, County Government in Indiana still operates under a system of checks and balances that provide voters with the power to directly choose their local elected officials.

When our national government was formed, the framers of the constitution did not provide for local governments. Rather, they left the matters to the states. Subsequently, early state constitutions generally conceptualized county government as an arm of the state.

Today, county government impacts economic development, public safety, health, planning and zoning, the transportation system, judicial system, administration of the property tax system and much more.

What are the various responsibilities of county office holders? What statutorily established laws have been created to allow county officials to carry out their duties? This pamphlet will answer some of those questions. For more detailed information, you can visit the Association of Indiana Counties web page at www.indianacounties.org.

The structure of county government in Indiana diversifies power among officeholders to create a system of checks and balances. Power was diversified to prevent corruption and make county decision making inclusive. This diversification of power places the ultimate authority in the hands of voters as important positions are elected rather than appointed by other elected officeholders. Framers of the Constitution chose democracy over appointed bureaucracy.

State statute governs the duties of the Constitutional offices, thereby maintaining county government as an arm of the state. County government structure requires cooperative attitudes and a spirit of genuine teamwork among all elected officials.

Sheriff

The responsibilities of the sheriff serves the county and the state. The sheriff manages the county jail, the prisoners confined in the county and administers work release programs.

The sheriff serves as an officer of the courts in the county to deliver service of warrants, subpoenas, and other forms of process.

Collecting delinquent state income tax or levying on the property of taxpayers for the amount due when a warrant is issued by the Indiana Department of Revenue commanding him or her to do so, and transmitting to the Department of Revenue the amount collected.

The sheriff may also appoint reserve deputies, if the county commissioners have enacted an ordinance specifying an authorized number of reserve deputies.

Usually coordinates or is involved in the response to emergency (911) calls.

Judicial Functions

The county level court system is at the very heart of all judicial functions in Indiana. All county level courts are part of the network of the state court system. The Governor has the authority to fill all elected court vacancies. The circuit courts in Indiana are courts of original jurisdiction. They are presided over by judges who serve for a term of six years. Circuit court judges, like judges of all state courts, must be admitted to the practice of law. In addition to the circuit courts, the General Assembly has created superior courts, which in most cases, handle the same types of cases that the circuit courts handle. In some cases, counties have more than one superior court.

County government duties change continually due to state and federal legislation or regulation. Much of the change is self imposed as counties change to meet the demand of their community. Not all counties need to operate in exactly the same manner. Local control is the cornerstone in the delivery of effective and efficient public services. County government is there when you need it. For more information about county government, contact your county officials or the Association of Indiana Counties through our web page, www.indianacounties.org

Clerk Judicial Related Functions

Access to the courts often begins in the county clerks' office.

The clerk maintains all records of pleadings, motions, papers, evidence and court rulings of the court. The clerk also issues summonses and subpoenas to witnesses ordering them to appear in court.

The clerk issues marriage licenses, records, maintains oaths of offices, election duties, keeps a record of all judgments, orders and decrees of the court.

The clerk also must certify and attest to complete transcripts of court proceedings involving title to property, the imposition of prison sentences and in all court cases where a complete court record is required.

The clerk, in the presence of the jury commissioners, draws the names of prospective jurors for juries and issues summonses to prospective jurors.

The clerk collects court costs, fines and money judgments levied by the court. In the case of a money judgment, the clerk pays the money to the person or entity entitled to the judgment. In recent years, the collection of child support has become a major responsibility of the clerk's office.

PUBLIC SAFETY AND JUDICIAL FUNCTIONS

Coroner

The chief responsibility of the coroner is to determine the cause of death in cases involving violence, casualty, unexplained or suspicious circumstances or when the person has been found dead. When notified of a death under any of the above circumstances, the coroner must alert and obtain the investigative assistance of the law enforcement agency having jurisdiction in the area.

When the coroner determines the cause of death, the law requires the coroner to file a death certificate of his or her findings with the local health officer. If an autopsy is necessary, the coroner **must** employ a qualified pathologist to conduct it. Additional reports of the cause of death may be filed with the clerk of the circuit court.

Prosecuting Attorney

The original authority for the prosecutor is found in Article 7, Section 16, of the Indiana Constitution. Although elected by voters in each judicial circuit, the prosecuting attorney represents the state of Indiana, and prosecutes violators of state statutes in all courts having criminal jurisdiction within the judicial circuit. This office is not strictly a county office. The prosecutor is elected to represent a judicial circuit. There are two judicial circuits that have boundaries larger than a single county, Ohio and Switzerland counties.

THE LEGAL STATUS OF COUNTY OFFICIALS

Becoming an Elected Official

Who is Elected

According to the Indiana Constitution, Article 6, Section 2, the following officers shall be elected; a Clerk of the Circuit Court, Auditor, Recorder, Treasurer, Sheriff, Coroner, and Surveyor. The offices of county council, board of county commissioners, and county assessor, however, are not constitutional offices. The General Assembly created these offices by statute.

Article 7 of the Constitution provides for the election of a prosecuting attorney and a judge of the circuit court. Statutes provide for the election of superior and county court judges in many counties.

Terms of Office

Most county officials are elected for a four-year term of office. Except for the county commissioners, council, assessor, surveyor, and judicial officers, county officers are limited to two terms or eight years of service in a period of twelve years. There is no limitation on the number of terms a statutory county officer can serve. Circuit, superior and county court judges are elected to six-year terms, and the prosecutor is elected to a four-year term.

An effective county official not only needs an understanding of his or her own office, but also needs a working knowledge of the duties and responsibilities of the other county offices.

POWERS AND DUTIES OF COUNTY OFFICIALS

Legislative Functions

Throughout the Indiana Code, the board of county commissioners is variously referred to as the executive body or the legislative body. In all but three of the counties: Lake, Marion, and St. Joseph, the legislative power of the county is divided between the board of county commissioners and the county council. In these three counties full legislative power is vested in the council by state statute. Under IC 36-2-3.5, other counties may adopt this arrangement if the county commissioners and county council pass identical ordinances.

As a rule, the council has jurisdiction over fiscal matters and the commissioners have jurisdiction over matters concerning either the exercise of regulatory or administrative powers.

The following generally describes the legislative role of the commissioners and the council in most Indiana counties.

County Commissioners

The three commissioners are the custodians of the home rule powers of the county. Counties have 3 commissioners, one from each district in the county. Within the scope of home rule, commissioners may adopt and vest themselves with additional regulatory powers. In Lake, Marion, and St. Joseph counties, the county councils are the home rule custodians and have authority to bestow specific, additional powers on the commissioners. Specifically, all commissioners have authority to pass ordinances in the following broad areas:

- Controlling, maintaining, and supervising county property including courthouses, jails, and public offices.
- Supervising construction and maintenance of roads, bridges and to provide for traffic control.
- Developing economic development programs to attract and retain jobs in the county.
- To grant vacation pay, sick leave, paid holidays and other similar benefits to county employees.
- To administer elections in conjunction with the county election board.

The recorder may under IC 32-21-2-3 acknowledge any conveyance, mortgage or instrument of writing to be recorded.

The county recorder files Uniform Commercial Code financing statements that pertain to fixtures to the real property. They also conduct searches on names presented to them by a financial institution or company.

The recorder is a member of the county commission on public records, which has authority over the preservation or disposition of all public records maintained by the county.

Clerk of the Circuit Court

The General Assembly, by statute, has assigned responsibility for many of the administrative functions of the county courts to the clerk of the circuit court, which is sometimes referred to as the county clerk. This is a Constitutional Office. In addition, the General Assembly has assigned other non-court related governmental duties to the office of the clerk. The following is a brief description of the functions of the clerk of the circuit court.

The county clerks serve dual roles as state election law administrators and administrators to the judiciary.

Election Related Functions

Elections are fundamental to our democracy and the responsibility of making sure elections are run smoothly is given to the county clerks. The clerks administer Indiana's election laws in a non-partisan manner.

The clerk receives filings of candidacy from persons seeking certain elective public offices and issues certificates of election to successful local candidates except in the cases of constitutional officers, who receive their commissions from the Governor.

The clerk serves as an *ex-officio* member and secretary of the county election board and as a member and clerk of the county board of canvassers. The clerk appoints the other members of the county election board and the board of canvassers.

The clerks make sure all election polling sites meet state and federal guidelines and insure that election workers are trained.

PROPERTY AND ELECTION FUNCTIONS

Surveyor

The duties of the surveyor have expanded over the years, and the use of modern technology has made the office an important depository of information.

Your surveyor must prepare, maintain, and keep in their office a legal survey record book showing maps of sections, grants, subdivisions, or groups of such areas in sufficient detail so that the location of each is shown.

Your surveyor maintains a corner stone record book. The information is the basis for determining the location of parcels within your county.

In addition, your surveyor supervises all regulated drain construction, reconstruction and maintenance. They serve as an ex officio member of the county drainage board, and serve as a member of the county plan commission.

Our founding fathers placed the office of County Surveyor in the State Constitution. They wanted to keep people with the knowledge of county parcels, town and city boundaries, drains and topography as officeholders elected by the people. They wanted the surveyors to remain in service to their counties for longer periods of time, and therefore did not impose term limits on County Surveyors.

Recorder

Most states have an elected recorder or a register of deeds. A Constitutional Office, the county recorder's primary function is to maintain permanent public records submitted for recording. These records are the legal basis for determining ownership of real property. These documents, sometimes called instruments, include mortgages, deeds, liens, military discharges, subdivision plats, leases, public and private bonds, personal property, and powers of attorney.

Instruments are recorded either for giving legal public notice of their existence or for safekeeping and future reference. It is the duty of the recorder to see that each instrument meets the essential requirements for recording. Each instrument must be scanned and indexed into a computer system and then microfilmed for archival purposes.

The county recorder prepares and furnishes official copies of any record or instruments when required by law or ordered by the court, or requested by any parties. And if requested the recorder certifies that it is a true and correct copy of the document in the records of the office.

- To establish minimum housing standards.
- Auditing and authorizing payments on behalf of the county.
- To incorporate new towns and alter township boundary lines, on petition.
- Receiving bids and authorizing contracts.
- Exercising appointive powers including both the selection of members to fill positions on boards, commissions, and committees, and appointments of certain department heads.
- Planning and implementing strategies for solid waste handling as members of solid waste district boards.

County Council

The council has the ultimate decision-making power regarding fiscal affairs. The council has authority to view or review fiscal matters, determine proper policy, and set priorities for the allocation and expenditure of county funds. The General Assembly determines the powers of the county council in this area. Typically these powers include:

- Approving and fixing annual operating budgets of all county government offices and agencies.
- Establishing salaries, wages, per diems, and other compensation for all county officials and employees.
- Fixing tax rates and establishing levies on all county property for the purpose of raising funds to meet budget requirements in conducting county business as well as authorizing the borrowing of money in the form of bonds and notes.
- Appropriating public funds, i.e., authorizing the expenditure of county money by particular officials or departments for specific purposes.
- Authorizing certain purchases or sales of county owned land.
- Non-binding review of budgets for certain non-elected boards in the county and other civil units.

THE FINANCE TEAM

The offices of Auditor, Treasurer and Assessor must work together as a team. The success of these offices carrying out their duties are interdependent. These offices must work closely with state agencies, the county commissioners, county council and each other to best serve the taxpayers. The auditor and Treasurer act as a check and balance over the county's finances.

Auditor

The auditors, a Constitutional Office, must wear many hats. The following attempts to categorize the most important duties of the office.

The auditor serves as a secretary to the board of county commissioners and the clerk to the county council.

The auditor has responsibility for keeping accounts and issuing checks for the county. As a result, the board of commissioners, the council and other officials often look to the auditor for day-to-day operational assistance, information and advice.

Coordinator of Tax Collection and Distribution

The auditor is directly responsible for preparing tax duplicates that show the value of property and taxes assessed against each taxpayer.

After taxes are collected by the treasurer, the auditor distributes them to the governmental units and agencies for which they were collected.

As a part of the tax function, the auditor must also prepare plats that show the ownership and assessed valuation of each parcel in each township in the county. The plats must contain information prescribed by the Department of Local Government Finance and must be kept current.

County "Comptroller"

In keeping accounts and issuing warrants, the auditor must develop financial analysis and cash flow projections and assist with budget preparations. The auditor is the principal financial officer in county government and is defined under IC 36-2-9-2 as the fiscal officer of the county.

The county auditor must also prepare and file an annual financial report with the State Board of Accounts.

Treasurer

In Indiana, voters choose their county treasurer as it is a Constitutional Office. In some states, the person who performs the duties performed by county treasurers in Indiana is referred to as the tax collector. That title perfectly describes the primary duty of the county treasurer.

- The county treasurer is responsible for collecting taxes, In the case of delinquent taxes, the treasurer may order the sale of real property to pay delinquent taxes.

The treasurer also receives distributions of local income and other taxes that are collected by the state.

The treasurer is responsible for the collection of some taxes imposed by state law on behalf of the state and also has custodial and investment responsibility for all taxes and other revenues collected by county government.

Together with the auditor, the treasurer insures the proper distribution of funds. The county treasurer serves as treasurer ex officio to the board of hospital trustees in some counties.

Assessor

The County Assessor is a statutory office. The primary duties of the county assessor are to determine the assessed value of property in the county and certify the values to the county auditor.

County assessors use modern technology to perform mass appraisal.

Taxpayers can file an appeal with the county assessor to challenge the value placed on their property.

The assessor does not establish the tax rate, only the assessed value of the property.