



SO YOU WANT TO BE A COMMISSIONER...

*A candidate's guide to the
roles and responsibilities of
the County Commissioner*



CREATED BY:
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FOREWORD

Why do you want to be a County Commissioner?

Hopefully you have considered that question for philosophical reasons related to leadership, or giving back to your community, or to accomplish your vision for a better Wyoming. I want to ask you to consider the question for a much more practical reason. No matter the issue that gave rise to your desire to run, the day-to-day job of actually being a Commissioner is likely to demand from you much more than that. Your potential constituents need you to be prepared for the wide range of issues you will face.

If it was a single issue that prompted you to run (county roads, budget matters, county responsiveness, etc.), then becoming a subject expert on those matters is important. However, you will also be required to know how to run a public meeting, serve on a transparent board, operate as the Board of Equalization, advocate for your county at the state level, and act as a Cooperating Agency with the federal government. As many Commissioners like to say, it is the most full-time, part-time job they've ever had.

During the election cycle it is not uncommon for people to call our office at the Wyoming County Commissioners Association and ask for advice on what they should be thinking about to be a successful Commissioner. The WCCA is charged with representing sitting Commissioners, not those who are seeking the job. For this reason answering those phone calls can sometimes pose a conflict.

Still, the WCCA's mission is in part to "strengthen Wyoming's counties...through education." Every two years the ranks of Wyoming's Commissioners turns over by about a third through retirements or election losses. It seems only right to provide at least a starting point for potential new Commissioners to speed the process of becoming an effective public servant. Should you win, you will automatically become a member of the WCCA with the full privilege and resources being a member provides. My hope is that in the meantime this booklet will provide you a springboard for a better understanding of the job of County Commissioner.

Good luck on your campaign.

Pete Obermueller
Executive Director
Wyoming County Commissioners Association

What is County Government?



County governments are political subdivisions of the state, and are created to serve as an arm of the state at the local level in providing a wide variety of services for their citizens. Wyoming has 23 counties, each with economic, geographical and social characteristics which affect the type of services provided by county government and the ability of the citizens to support these services.

As an arm of the state, counties have only those powers expressly granted to them by the constitution or statutory law. There are only 5 general duties granted to counties. They are listed in Wyoming Statute 18-2-101. The fifth duty, however, reads “to exercise other powers as provided by law.” This catch-all provides for the broad powers and duties granted to counties.

For example, the commissioners run the courthouse, set the budget, and through the County Road and Bridge Department are responsible for construction and maintenance of county roads. The other 7 county elected offices each have their own statutory duties as well. These are services that are required by state law. At the end of this document you can find an extensive list of statutes related to counties.

Additional services provided by county governments, 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. There has been a significant growth of many of these services, not as an administrative arm of the state, but as an independent but authorized arm of local government.



How does county government differ from city government?

While there are differences in the structure of city government vs. county government, the most significant difference is “Home Rule” authority. Home Rule is the process of giving local governments the widest possible latitude in the handling of their local affairs. To this end, the Wyoming Constitution, Article 13, Section 1, as amended, empowers cities and towns to provide for their own government and local affairs by ordinance. This power does not apply to counties. Commissioners are generally limited to enacting those types of ordinances and regulations specifically permitted by state law. Basically, their duties are to conduct the business of the state at the county level.

So the county has limited authorities, what about Office of Commissioner? If I win I’m the boss of the county, right?

Sorry to disappoint you, but if you are thinking that when you become a Commissioner you will “run the county” you will quickly find out from the other county elected officials that you do not. Despite this, Commissioners

do have significant and expanding powers and duties. The general powers and duties can be found in W.S. 18-3-504, so be sure to look at those, but following are a few critical duties to note and a couple of extra duties captured in the power vested in Commissioners to “perform such duties as prescribed by law.”

1. **Budgeting.** The County Clerk is the chief budget officer of the county. It is the Clerk’s responsibility to prepare the annual budget in conjunction with the various departments. The Commissioners have the authority to approve the budget, and so are intimately involved in spending decisions. A keen understanding of the sources

of revenue and expenditures of the county is an essential skill for a successful Commissioner. The WCCA publishes on its website the “County Snapshot” which will give you an overview of the fiscal health of all 23 counties and a comparison across counties. The budgeting procedure for counties is administered through the Uniform Municipal Fiscal Procedures Act (W.S. 16-4-101 through 124).

2. **County Roads.** Commissioners are charged with the care and maintenance of county roads (W.S. 24-1-104). Counties own more road miles in Wyoming than the federal, state and city governments combined. Most Commissioners will agree that the number one issue their constituents talk to them about is the status of county roads.

3. **County Buildings.** Commissioners are required to manage the county courthouse and all county buildings. This can be a large expense especially in larger counties with more significant law enforcement and judicial needs.



A LOOK *at the* BUDGET



1. **Planning and Zoning.** Commissioners are authorized to regulate and restrict the location and the 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. The purpose of planning and zoning is as stated in the statutes: “to promote the public health, safety, morals and general welfare of the county” (W.S. 18-5-201 through 208).

2. **Emergency Preparedness.**

County commissioners have 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 homeland security emergencies and disasters regardless of whether the cause is natural, manmade or terrorism related. The current threats to national security and the creation of the Federal Homeland Security Agency have made the position an even more prominent issue for commissioners.

3. **Federal Cooperating Agencies.** If you are running for Commissioner in a county with land owned by the federal government, you will likely be called upon to act as “cooperator” with the federal government in land use planning and environmental assessment actions. Don’t be fooled by the term, the role is a federally granted position that Commissioners possess to be at the table in determining the management actions of federal lands within the borders of your county. Wyoming’s Commissioners are national leaders in this role, and a successful Commissioner must devote a significant amount of time to understanding and participating in these colossal efforts. The WCCA recently published a helpful reference guide call the Public Lands Handbook. It is available on our website.

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



County revenue is derived from many different sources. The most important sources of revenue are property and sales taxes. Additional significant sources of revenue include state-shared revenue, service charges, interest earnings, and money from the federal government. Property taxes are collected at the county level and redistributed to the county general fund, cities, towns, school districts and other local units of government.

The WCCA publishes on its website a document called the “County Snapshot” which will give you an overview of the major revenue sources and expenditures of each county. The County Snapshot by no means lists every revenue source, and it spends no time discussing the many and various distribution methods of the revenue sources. Those formulas are so complex that they will not be discussed in this booklet either, but should you find yourself in a Commissioner seat, understanding those distributions will be important.

Following is a list of major sources of County revenue:

1. **Property Tax.** Counties are statutorily limited to collecting 12 mils for county operations.
2. **State Shared Revenue**
 - a. **Sales and Use Taxes.** Counties receive about 1/3 of the 31% of the 4% sales tax collected by the state.
 - b. **Severance Taxes.** Shared by formula with the counties and can be used for both general government and exclusively on county roads.



- a. Fuel Taxes. Shared by formula and must be used on roads and bridges. Fuel taxes in Wyoming are a significant source of funding for counties, but continue to fall woefully short of the need for road maintenance in the state.
 - b. Cigarette Taxes
 - c. Wind Energy Generation Tax
 - d. Discretionary Appropriations from the Legislature. Determined every two years and distributed by formula.
3. Local Optional Taxes
 - a. 1% Optional Sales and Use Tax. Otherwise known as the 5th and even 6th penny. This revenue can be used for operations. Commissioners, with the approval of the majority of the cities and towns in their county, have the authority to extend this revenue source by resolution rather than by vote of the citizens.
 - b. Capital Facilities Sales and Use Tax. Otherwise known as the 6th and 7th penny, though no county has a 7th penny. This must be used for capital construction, but can also take into account operations and maintenance of the facility.
 4. Federal Shared Revenue paid directly to counties
 - a. PILT (Payment in Lieu of Taxes). This payment is a significant source of revenue for counties with high percentages of public lands.
 - b. US Forest Service payments under the Secure Rural Schools Act.
 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 in public?

One of the most surprising things new Commissioners encounter is the tension between the casual nature of Wyoming, and the importance of the Office of Commissioner. If elected you are rightfully – according to rules of etiquette – the “Honorable [insert your name]”. This kind of formality of both the Office and the Board of County Commissioners meetings is

bothersome to some elected Commissioners because it seems too formal. However, it does serve a purpose.



You will find yourself making difficult decisions where no matter what you decide someone will be angry. The manner in which the meetings are conducted is important. It is hard to achieve public respect for the public body if meetings are not run properly. While the law requires that all persons conduct themselves in

an orderly manner, the formality of the office serves as a protection, and an establishment of what is meant by “orderly.” More importantly, state law requires a certain level of decorum and formality or decisions of the Commissioners can be overturned.

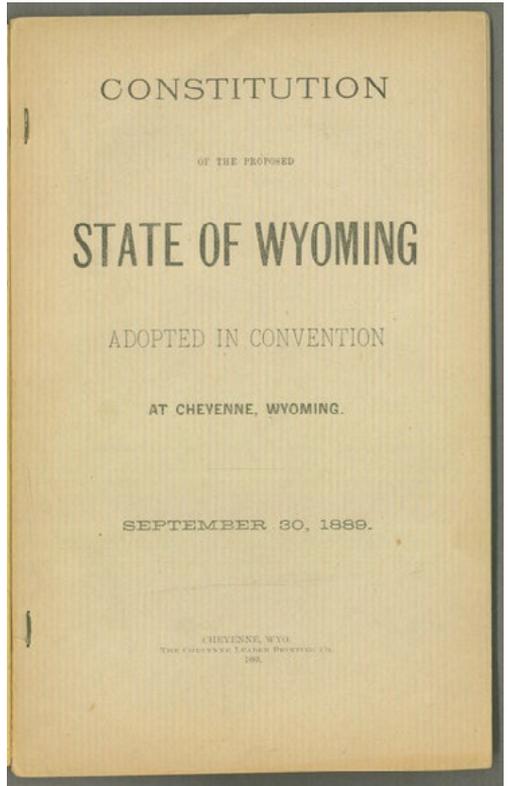
Finally, the statutes require that the meetings shall be held with “open doors” and always on the first Tuesday of each month. Again, this rigidity serves a purpose as county business is public business, and you will be required to meet in “open meetings” to discuss almost every item you face. Again, failing to follow these laws can invalidate a Commission decision.

Where can I go to learn more?

The most important place for you to learn about the duties and responsibilities of the Commissioner is in Wyoming’s Constitution and Statutes. You can find both on the State’s website at <http://legisweb.state.wy.us/LSOWEB/wyStatutes.aspx>. Below is a comprehensive list of Constitutional provisions related to counties as well as current laws related to counties arranged by topic. Take a careful look at those and be sure to look up the text of issues of particular interest to you.

WYOMING CONSTITUTIONAL PROVISIONS

Wyoming was admitted to the union in 1890, but the Wyoming Constitution was written in 1889 and formed the legal basis for the counties in the state. The legislature was given the authority to outline the powers and duties of county government. Since the Territorial Legislature of Wyoming met prior to 1889, the Constitution merely ratified those acts concerning counties that had already been passed. Thus, the office of county commissioner was actually created in 1876--thirteen years before the Constitution was approved by the people of Wyoming. The statutes provide: "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 of counties and its officers has evolved a wide array of responsibilities for the commissioners.



The basic framework for county governments 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 exist at the time of the admission of the territory as a state are declared to be counties of the State of Wyoming.

The remaining sections of Article 12 (2 through 5) provide for the organization of townships, all of which can only be enacted 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 legislature of local or special laws in certain enumerated cases and provides that in all other cases,

no special law shall be enacted where a general law can be made applicable.

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: A bill cannot be passed 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 is to prevent 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 twelve 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: The state debt limit is one percent under the provisions of Art. 16 g.1 Wyo. Const., while the debt limit for a county is two percent (2%) under Art. 16 Subsection 3 Wyo. Const. 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.



Please Note: 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
Ad Valorem (property) Taxes	W.S. 39-13-101
Airports	W.S. 18-9-101
Auditing	W.S. 9-1-507
Assessor	W.S. 18-3-201; 39-13-101
Budget process (Municipal Fiscal Procedures Act)	W.S. 16-4-101
Courts	W.S. 5-9-210
Clerk of district court	W.S. 5-3-101
Compensation of county officers	W.S. 18-3-107
Conservation districts	W.S. 11-16-101
Clerk	W.S. 18-3-401
County Board of Equalization	W.S. 39-13-102 (c)

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

County commissioners - general powers of the	W.S. 18-3-504
Increasing to five commissioners	W.S. 18-3-501
County extension agents	W.S. 21-17-305
County - General powers of the counties	W.S. 18-2-101
Building fund	W.S. 18-4-201
Bonds - generally	W.S. 18-4-301
Bond Anticipation Notes	W.S. 16-5-401
Certificates of Indebtedness	W.S. 18-4-104
Financing - generally	W.S. 18-4-101
Funding Bonds	W.S. 18-4-501
Emergency Management	W.S. 19-5-104
Eminent Domain	W.S. 1-26-501 through 517
Fairgrounds	W.S. 18-9-101
Governmental Claims Act	W.S. 1-39-105
<i>Grants and Loans</i>	
AML	W.S. 35-11-1202 (a) (v)
SLIB	W.S. 9-4-601
Hospitals	W.S. 18-8-101-301
Hospital Districts	W.S. 35-2-401
Hospital District finances	W.S. 35-2-414
Rural Health Care District	W.S. 35-2-701
Rural Health Care District finances	W.S. 35-2-708
Industrial Development Projects	W.S. 15-1-701
<i>Insurance</i>	
Local Government Insurance Program	W.S. 1-42-101
State Self-Insurance Program	W.S. 1-41-101
Investment of county money	W.S. 9-4-831(h)
Day Care Centers: Fund established	
by commissioners	W.S. 18-13-101
Jails	W.S. 18-6-301
Joint Powers Act	W.S. 16-1-101
Libraries	W.S. 18-7-101
Liquor licenses	W.S. 12-4-201
Commissioner meetings in general	W.S. 18-3-506
Open Meeting Law	W.S. 16-4-401
Executive Session	W.S. 16-4-405
Governmental Ethics	W.S. 9-13-101 - 109
Nepotism	W.S. 9-13-104
Misuse of Office	W.S. 9-13-105
Official decisions and votes	W.S. 9-13-106
Museums	W.S. 18-10-101
Planning and zoning	W.S. 18-5-101

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

Planning and Zoning Commission	W.S. 18-5-201
Subdivisions	W.S. 18-5-301
Wind Energy Facilities definitions	W.S. 18-5-501
Wind Energy application contents	W.S. 18-5-503
Wind Energy minimum standards	W.S. 18-5-504
Property (Ad Valorem) taxes	W.S. 39-13-101
Private Road Petition	W.S. 24-9-101
Private Road Second Hearing, viewers report	W.S. 24-9-103
Public Health	W.S. 35-1-305
Public Health officers	W.S. 35-1-306
Recreational Systems	W.S. 18-9-101
Records and publication of proceedings	W.S. 16-4-201 & W.S. 18-3-516-19
<i>Federal Revenue sources</i>	
Taylor Grazing Act Funds	W.S. 9-4-401
U. S. Forest Reserve Funds	W.S. 9-4-501
Revenue Sources - Local Optional Taxes	W.S. 39-15-204(a)(i)
Capital Facilities Sales Tax	W.S. 39-15-204(a)(iii)
Lodging Tax	W.S. 39-15-204(a)(ii)
One Percent (1%) Optional Sales Tax	W.S. 39-15-204(a)(i)
Cigarette Tax Revenue	W.S. 39-18-111
Diesel Fuel Tax	W.S. 39-17-211(d)(ii)
Gas Tax	W.S. 39-17-111(d)(i) and (d)ii)
Mineral Severance Tax Revenue	W.S. 39-14-801(d)(v),(vi)(vii)
Sales and Use Tax	W.S. 39-15-111(b)
Wind Energy Taxes	W.S. 39-22-103
Wind Energy Tax Rate	W.S. 39-22-104
Roads and Bridges - generally	W.S. 24-3-101
State-County Road Fund	W.S. 24-2-110
Private Roads	W.S. 24-9-101
Sheriff	W.S. 18-3-601
Treasurer	W.S. 18-3-801
Special Districts	W.S. 18-11 through 15 and W.S. 22-29-101
<i>Vacancies</i>	
Commissioner vacancy	W.S. 18-3-524
Other county officers	W.S. 22-18-111 (a) (ii)
Legislators	W.S. 22-18-111 (a) (iii)