WYOMING COUNTY COMMISSIONERS ASSOCIATION

2021-2022 COUNTY COMMISSIONER HANDBOOK

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WYOMING

COUNTY COMMISSIONERS

HANDBOOK

Wyoming County Commissioners Association
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I. INTRODUCTION / PURPOSE

The purpose of this handbook is to acquaint newly elected county commissioners with county government, and specifically the role of the county commissioner. It is intended to provide a summary of the functions of the county commissioners and their relationship to the other county offices. This handbook should not be used as a substitute for the applicable Wyoming statutes, nor is it designed to replace the specialized legal services which are available to county officers through the offices of the county attorney. Each county has its own legal team who should be consulted when local questions arise.

The provisions of Wyoming state law pertaining to county government are cited throughout this handbook. Rather than footnote each reference, the citation is placed in parentheses following the statement itself. This document includes legislation enacted through the 2020 session.

II. LOCAL GOVERNMENT STRUCTURE

There is no level in our American system of government where problems of intergovernmental relations are so marked and difficult as in the cities and counties. County and municipal agencies must carry on their functions close to the voters, subject to an extremely complicated framework of laws and regulations.

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. Wyoming's Constitution established the 14 counties in existence at the time of ratification, the other 9 were created via the statutory process. Occasionally there is talk of consolidating counties. This could be done, but without a Constitutional amendment, only back to the original 14 counties.

The only form of county government permitted by Wyoming statute is the traditional plural executive form. The plural executive simply means making various executive officials responsible to the electorate, rather than one official who would appoint the offices. Not only is that the primary reason for the various elective county offices, but it also is the reason the governing body of the counties, known as the Board of County Commissioners, is made up of three or five members (W.S. 18-3-501(b)).

County governments are political subdivisions of the state and are created to serve as an arm of the state at the local level providing a wide variety of services for their citizens. As an administrative arm of the state, counties have only those powers expressly granted to them by the constitution or statutory law or reasonably implied from powers granted (*Board of County Commissioners of Laramie County v. Dunnegan*, 884 P. 2d 35 (1994)). For example, the commissioners run the courthouse, set the county budget, and through the county road and bridge department are responsible for construction and maintenance of county roads. These, among others, are services that are required by state law.

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 and landfills. There has been a significant growth of many of these services, not as an administrative arm of the state, but as allowed governance at the local level. County libraries, airports, hospitals, public health, and senior citizen centers are further examples of county functions which have expanded to serve the demands of county residents.

Home Rule vs. Dillon Rule

Home Rule is the delegation of state authority to local governments to provide the widest possible latitude in the handling of local affairs. Wyoming's Constitution, Article 13, Section 1, as amended, empowers cities and towns, but NOT counties, to govern by ordinance. Rather, counties operate under the *Dillon Rule* – counties are generally limited to enacting those types of resolutions and regulations specifically permitted by state law. Basically, counties conduct the business of the state at the county level.

Powers and Duties

The general powers of counties established in W.S. 18-2-101 include:

a. To sue and be sued;
b. To purchase property for county use and acquire real property at tax sales, as provided by law;
c. To sell or convey property owned by the county, when it is in the best interest of the county;
d. To make contracts and perform other acts relating to the property and concerns of the county in the exercise of its corporate or administrative powers; and
e. To exercise other powers as provided by law.

III. ELECTED COUNTY OFFICERS

The Board of County Commissioners

General Powers and Duties

The general powers of the counties in W.S. 18-3-504 encompasses a wide range of the duties and responsibilities to be carried out by the commissioners. Appendix D of this handbook includes a reference guide of issues and their location in Wyoming statute. The authority of commissioners embraces practically every phase of county government. Some are responsibilities are permissive, some are mandatory. Among other duties, the commissioners:

a. Make such orders concerning the property of the county as they deem expedient;

b. Examine and settle all accounts of receipts and expenses of the county and examine, settle and allow all accounts against the county and issue county orders therefore, as provided by law;
c. Provide for the construction and maintenance of county buildings and insure them in the name of the county treasurer for the benefit of the county. If there are no county buildings, they may provide suitable rooms for county purposes;
d. Apportion and order the levying of taxes, as provided by law;
e. Represent the county, including as cooperating agencies with the federal government, care for county property, and manage the business and concerns of the county in all cases where no provision is made by law;
f. Lay out, alter or discontinue any road running through the county and, for such purposes, acquire title to lands therein either by gift, prescription, dedication, the exercise of the right of eminent domain, purchase or lease and perform such other duties respecting roads as required by law;
g. Grant licenses for keeping ferries, toll bridges and toll gates, as prescribed by law;
h. Provide snow removal on any county road designated as a school bus route by the local school board(s), and regulate the use of golf carts on county roads;
i. Provide for the burial of human remains of any deceased person not receiving personal opportunities with employment responsibilities (commonly known as POWER, a federal assistance program), supplemental security income or Medicaid at the time of death without sufficient means in his/her own estate or other resources to provide burial or cremation;
j. Perform such other duties as prescribed by law, some of which are:
    i. Grant liquor licenses in unincorporated areas (W.S. 12-4-201);
    ii. Establish a fund for daycare centers (W.S. 18-13-101);
    iii. Permit wind and solar energy facilities (W.S. 18-5-501 through 513);
    iv. Permit subdivisions and plat developments (W.S. 18-5-301 through 318 and 35-12-101 through 119)

Although statutes can be very general, they can also be so specific as to allow the commissioners to regulate ferries and golf carts. The list above is a broad overview of some of the major responsibilities of the commissioners. It is not exhaustive. The remaining list below are some of the major duties.

<u>Election of County Commissioners</u>

The Board of County Commissioners consists of either three or five members with staggered terms of office, each serving a four-year term. Election of commissioners is established to provide that normally no more than two open seats on the board are created at one time, except in counties with five commissioners, where normally there are no more than three open seats.

Every county in Wyoming began with three commissioners who were property owners in the county appointed by the Governor. Wyoming law allows voters to expand Boards to five commissioners and establishes election criteria. A proposition to increase or decrease

the Board size must be submitted to a vote of the qualified electors of the county (W.S. 18-3-501). Interestingly, while initially commissioners were required to own land in the county, at this time, no residency requirement exists for county commissioners. Nor do they exist for other county elected officials, except for the county assessor.

General elections are held the first Tuesday after the first Monday in November of even-numbered years. Those elected take office the first Monday in January in the year immediately following the election. On this day, newly elected commissioners take the oath of office.

County Board of Equalization

The Board of County Commissioners constitutes the County Board of Equalization (CBOE). The CBOE, under W.S. 39-13-102(c), is the first level of administrative review for taxpayer appeals of property valuations established by the county assessor. Its primary duty is to hear and determine the complaint of any person relative to their property assessment or valuation (W.S. 39-13-102(c)(iv)). County commissioners cannot set the value of the property in question; the commissioners must review the evidence and decide if the assessment is correct and supported by substantial evidence or instead if the assessment is incorrect. Either the taxpayer or the assessor may appeal the CBOE's decision to the State Board of Equalization (SBOE), and the taxpayer (but not the assessor) may appeal to the district court if the SBOE does not rule in their favor.

The CBOE meets at the office of the county commissioners at such times as necessary to perform its statutory duties, but no earlier than the fourth Tuesday in April to consider current year assessments. The county clerk acts as the clerk of the CBOE. The county assessor or his/her designee must attend all meetings to explain or defend the assessments at issue.

The CBOE, pursuant to W.S. 39-13-102(c), shall:

a. Approve any assessment or valuation contained in and complete the assessment roll;
b. Hear and determine the complaint of any person relative to any property assessment or value as returned by the county assessor subject to W.S. 39-13-109(b)(i); and
c. Decide all protests heard and provide the protestant with a written decision not later than October 1.

The CBOE is also required to take the necessary action to effectuate any equalization action ordered by the State Board of Equalization (W.S. 39-11-102.1(c)(ii)).

The CBOE may hire a hearing officer to ensure the hearings are performed according to rule and statute. However, the CBOE has no power to set tax policy, nor engage in any

administrative duties concerning assessment which are delegated to the State Board, the Department of Revenue, or the county assessor (W.S. 39-13-102(d)).

The CBOE is bound by the rules established by the SBOE with respect to appeals. Further, the CBOE must meet in public and the proceedings must be recorded in a manner prescribed by W.S. 39-13-109(b).

If a CBOE concludes a local-assessed property appeal may be appropriate for SBOE consideration, it may so request in writing, stating the reasons for certification to the State Board. If certification is not granted, the matter shall remain with the CBOE for disposition (Rules, Wyoming State Board of Equalization, Chapter 2, § 36).

Liability of County Officers / Governmental Claims Act

Public officials and public entities in Wyoming enjoy the doctrine of governmental immunity. Immunity is conferred upon certain people or organizations because of the status or position of that defendant. It does not deny that a tort or civil wrong has occurred, but rather prohibits collection for that wrong.

Governments are granted special status as defendants for several different reasons. Governmental immunity was enforced under the theory that it was wrong to divert public funds to compensate for private injury. Also, suits might be an intolerable financial burden for the governmental entity and bankrupt the public treasury.

Generally, government officials could share the immunity of their employer when acting within the scope of their authority. Since government can only act through its agents, public official immunity was fundamental to the existence of governmental immunity. Defining the parameters within which a government official can act and remain immune from personal liability is the subject of much discussion and litigation.

In many cases, governmental immunity came to be thought of as an unnecessary and unjust rule. If a private individual had been wronged by the government, it seemed fair to distribute the cost of this wrong among everyone rather than have that one injured individual bear the burden alone. Compensating wrongs became a cost of government administration.

The change in the immunity doctrine for Wyoming counties occurred in the case of *Oroz v. Board of County Commissioners of the County of Carbon*, 575 P.2d 1155 (WY 1978). In *Oroz*, the court stated judicial immunity from tort liability conferred upon counties and other political subdivisions was abolished. However, the state's immunity was not abolished.

Nevertheless, the removal of immunity does not mean that a governmental entity is liable for all harm which results from its activities. It does not impose absolute or strict liability, but merely subjects it to the same rules as private persons or corporations if a duty is established, the duty has been violated and damage has occurred.

In response *Oroz*, the 1979 Wyoming Legislature passed the Governmental Claims Act. In addition to responding to the problems highlighted by the *Oroz* decision, the Act abolished state immunity in certain areas.

The Governmental Claims Act specifically grants immunity to a governmental entity and its public employees while acting within the scope of duties, except as provided by W.S. 1-39-105 through 112. The exemptions make the county liable for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees in the following functions:

a. Operation of motor vehicles, aircraft, and watercraft (W.S. 1-39-105)
b. Operation or maintenance of any building, recreation area or public park (W.S. 1-39-106)
c. Operation of airports (W.S. 1-39-107)
d. Operation of public utilities and services (W.S. 1-39-108)
e. Operation of any public hospital or in providing public outpatient health care (W.S. 1-39-109)
f. Negligence of health care providers who are employees of the governmental entity while acting within the scope of their duties (W.S. 1-39-110)
g. Tortious conduct of law enforcement officers while acting within the scope of their duties (W.S. 1-39-112)

However, the liability imposed by the above actions does NOT include liability for damages caused by:

a. A defect in the plan or design of any bridge, culvert, highway, roadway, street, alley, sidewalk, or parking area;
b. The failure to construct or reconstruct any bridge, culvert, highway, roadway, street, alley, sidewalk, or parking area; or
c. The maintenance, including maintenance to compensate for weather conditions, of any bridge, culvert, highway, roadway, street, alley, sidewalk, or parking area. (W.S. 1-39-120)

The Governmental Claims Act repeatedly refers to two terms: "negligence" and "scope of duties" (or "scope of employment"). Negligence is defined by reference to what a reasonably prudent person would do or would not do in the same or similar circumstances. A person acts within the scope of his employment when he is doing something in furtherance of duties he owes to his employer and where the employer is, or could be, exercising some control, directly or indirectly, over the employee's activities (Black's Law Dictionary, 5th Edition). While “scope of duties” is defined in W.S. 1-39-103(a)(v), “negligence" and "scope of employment" are both subject to varying degrees of interpretation by the courts.

Settlement of Claims - A claim which is covered by insurance can be settled or compromised only if the damage claimed was caused by negligence that might entitle the claimant to a judgment (W.S. 1-39-115). Compromises or settlement of claims not covered by insurance can be made by the governing body of the affected local government.

When it is alleged that a public employee has committed a negligent act and it is determined that he was acting within the scope of his duty, the county must provide a defense for the employee at its expense. In addition to the costs of a defense, the county must indemnify and hold harmless the employee against any resulting judgment (W.S. 1-39-104(b)). There are statutory limits on the amounts of settlement (up to $500,000), except for federal constitutional claims.

Insurance

All counties must have a source of insurance coverage for both property and for personnel liability, whether it is through a self-insurance program, such as Wyoming Association of Risk Management, the Local Government Liability Pool, or through the purchase of private liability insurance. In all instances, the deductible and/or retained portion of a claim can vary by contract, as can the amount of coverage and scope of coverage.

In all cases, a government employee or agent is only covered if they are acting within the course and scope of their employment. If an employee is clearly outside the scope of their employment, such as committing a crime, the county may not be responsible for providing representation for the employee or be required to pay any portion of the judgment, claim or cost that are incurred defending the claim.

The Board of County Commissioners should diligently review county insurance coverage, including liability, property, and casualty coverage for fire and other damage to property, and the acquisition of necessary public officials' bonds. Sometimes this risk management is handled in the county commissioners' office, sometimes in the clerk's office and others within a separate risk manager office in the county. Please consult with your county clerk and/or county attorney.

a. Local Government Liability Pool:

   During the mid-eighties, most Wyoming local governments suffered tremendous liability insurance premium increases coupled with drastic reductions in coverage. In many instances, there was total unavailability of liability coverage. In response to that crisis, the Wyoming Legislature enacted W.S. 1-42-101, which enabled the State to create a State administered self-insurance account that would offer reasonably priced liability protection and loss prevention programs to Wyoming's local governments. The self- insurance account, known as the Local Government Self-Insurance Program (LGSIP), was an alternative to buying commercial liability insurance, allowing local governments to pool their funds to handle and pay claims

which they may be held liable for under the Wyoming Governmental Claims Act (GCA), and under the laws of other jurisdictions.

In 1997, LGSIP received legislative authorization to submit to all participating local governments a proposal to transfer administration of the account and all functions of LGSIP to a joint powers board. On July 1, 1997, the local Government Liability Pool (LGLP) was formed in accordance with W.S. 1-42-201 through 207 following the approval of two-thirds of participating local governments.

The LGLP board consists of seven members comprised of two county commissioners (currently Commissioner Bob King of Lincoln County and Commissioner Rick Grant of Converse County), two elected municipal officials, two representatives of special districts, and one at large member. The Executive Director of the LGLP is an *ex-officio* member of the board. The current LGLP Executive Director is Mark Pring. Members of the LGLP board are elected from among the participating local government entities upon the vote of the governing body of the member entities.

LGLP provides $500,000 per claimant per occurrence limit for covered claims arising under federal statutes (civil rights actions). LGLP also provides excess insurance for federal and out-of-state claims. Excess insurance limits are $1,500,000 per occurrence with a $5,000,000 aggregate, subject to change at each renewal period. Participating counties are responsible for amounts more than this limitation. Contributions (premiums) are paid by participating local governments.

Public employees of participating local governments, <u>other than law enforcement officers</u>, can be defended and indemnified against any claim which arises out of an alleged act or omission occurring in the scope of duty. Law enforcement officers are covered under the state self-insurance program (described below).

b. <u>State Self-Insurance Program</u>:

Certified local law enforcement officers, including the county sheriff and his deputies, have liability coverage through Wyoming's State Self-insurance Program (SSIP) (W.S. 1-41-101). The SSIP covers all full-time, fully compensated local law enforcement officers, who are charged with enforcement of state statutes. Other local government employees or officials, including county and prosecuting attorneys, are specifically <u>excluded</u> from coverage under the state self-insurance program.

Law enforcement officer coverage is distinctive in that a sheriff or deputy may be sued in his/her "official" capacity or his/her "individual" capacity. An official capacity suit is technically a suit against the public entity employer, while an individual capacity suit is a suit against the officer personally. <u>SSIP only provides liability coverage to peace officers for suits filed against them in their "individual"</u>

capacity under the Wyoming Governmental Claims Act (1-39-101, et seq.) or under any federal statute. Additionally, SSIP coverage is triggered if the act, error, or omission at issue occurred while the officer was acting within the course and scope of his/her duties.

SSIP funds are used to pay defense costs, settlements, and judgments for pending claims and lawsuits on behalf of peace officers in their individual capacity. SSIP finances litigation and defense costs provided by the Tort Litigation Division of the Attorney General's Office. The Attorney General's Office provides legal services for lawsuits involving peace officers. On occasion, private counsel is retained by the State to defend a peace officer suit. Whenever possible, the State joins forces with Wyoming Association of Risk Management (WARM), Local Government Liability Pool (LGLP), or the entity's insurance carrier to share on attorney's fees and costs.

SSIP bills public entities for attorneys' fees and costs based on the number of hours worked on a case and the actual costs associated with litigation. Outside counsel is retained when a conflict of interest presents itself or if another entity agrees to share defense costs.

SSIP is funded by the legislature and administered by the Risk Management Section of the State of Wyoming's Department of Administration and Information. Local governments are required to pay a dollar per dollar match up to $20,000 to the state for costs associated with the defense of a lawsuit and subsequent settlements or judgments. As such, the maximum payment by a public entity per claim or lawsuit is $10,000.

Eminent Domain

The Wyoming Eminent Domain Act (W.S. 1-26-501 through 516) is a tool available to government for the acquisition of property in return for just compensation. The act requires that there be prior good faith efforts to negotiate a purchase of property, unless specifically excluded by the statute. The act also requires the Board of County Commissioners to adopt a written resolution which authorizes the commencement of the condemnation action (W.S. 1-26-512). The statutes allow acquisition of property by eminent domain only if all the following are established:

a. The public interest and necessity require the project.
b. The project is planned or located in the manner that will be most compatible with public good and least private injury.
c. The property sought to be acquired is necessary for the project.

The act requires compensation equal to the fair market value of the property. In addition to fair market value, the owner of a business whose property is being taken can be compensated for loss of goodwill if he can prove that the taking of the property was a loss and that the loss cannot reasonably be prevented by a relocation of the business. Goodwill

benefit consists of benefits that accrue to a business because of its location, reputation, skill or other qualities resulting in probable retention of old or acquisition of new patronage.

Except a public utility that has been granted a certificate of public convenience and necessity, no person qualified to exercise the condemnation authority granted shall exercise the authority for the erection, placement or expansion of collector systems associated with commercial facilities generating electricity from wind. Collector systems means the conductor infrastructure, including conductors, towers, substations, switchgear, and other components necessary to deliver power from any commercial facility generating electricity from wind up to but not including electric substations or interconnection facilities associated with existing or proposed transmission lines that serve load or that export energy from Wyoming (W.S. 1-26-815 (d)).

Guardian Ad Litem

During the 2020 Budget Session, the Wyoming Legislature created an independent Guardians Ad Litem Program from State Public Defenders Office (W.S. 14-12-101 through 104). Each county may enter a Memorandum of Understanding with the Guardians Ad Litem Program whereby the county agrees to provide a 25 percent match of monies expended in that county and 25 percent of the administrative costs associated with the program prorated amongst participating counties. Because some counties have had trouble finding attorneys to take these cases, a county can also contract with an attorney for more than the stated rate. In this instance, the county is responsible for all amounts over the rate established by the Guardians Ad Litem Program.

W.S. 14-12-103 requires, where necessary, that counties provide adequate office space (not including telephone or furniture) or a monthly office space stipend. In the event a county does not make payments within ninety days, the state treasurer may deduct the amount from sales tax revenues due to the county from the state and shall credit the amount to the Program account.

A county which does not participate in the program, shall be responsible for the full cost of guardians ad litem legal fees as provided by W.S. 14-2-318(b)(i), 14-3-434(b)(vi), 14-6-235(b)(vi), and 14-6-434(b)(vi).

Involvement in Federal Land Management

County commissioners in counties with public lands possess a unique relationship with the federal land management agencies like the Bureau of Land Management (BLM) and the Forest Service (FS). The National Environmental Policy Act (NEPA), Federal Land Policy and Management Act (FLPMA), and the National Forest Management Act (NFMA) each contain language regarding the role of local governments.

NEPA requires federal agencies to prepare an environmental impact statement when a federal action may significantly affect the environment. The statute allows counties to serve

as cooperating agencies in the development of an Environmental Assessment or Environmental Impact Statement. The role of a cooperator is to contribute substantive, fact-based, constructive input to the NEPA process, informing the agency's analysis and decision. This often requires significant time and dedication of resources and can be overwhelming to the uninitiated.

Similarly, the Federal Land Management and Policy Act and National Forest Management Act require the U.S. Forest Service and Bureau of Land Management to coordinate their own plans and policies with those of state and local governments. These agencies are required to review local plans and policies and address inconsistencies.

The WCCA currently employs a full-time legal advisor tasked solely with helping counties navigate the maze of the federal land management laws, regulations, and relationships. Consulting with other commissioners who have participated as a cooperator will also prove beneficial. Also, make time to read WCCA's Public Lands Handbook, BLM's Cooperating Agency Desk Guide (available online or via a hardcopy at the WCCA) and the Citizen's Guide to NEPA (available online or via hardcopy at the WCCA).

Extra-territorial Jurisdiction

For many years municipalities in Wyoming enjoyed broad authority outside of their city limits. There are three concentric rings around cities – ½ mile, 1 mile, and 5 miles – each with varying degrees of municipal jurisdiction allowed by the state. Since 2013, these so-called extra-territorial jurisdictions have been whittled away by the legislature – see W.S. 15-1-401 through 423.

In 2018, the legislature provided counties a path to end any extra-territorial jurisdiction beginning on January 1, 2019. So long as a county has an officially adopted comprehensive land use plan according to W.S. 18-5-202, then the county dictates to what extent municipalities participate in the approval of plat developments beyond the city limits.

Miscellaneous Duties

There are many miscellaneous duties for which the commissioners are responsible. These duties involve the commissioners in an array of activities and can be important, although they may not be used frequently. For example, commissioners establish a date for hearing incorporation petitions of cities and towns. Commissioners may also establish a law library (W.S. 5-3-111); regulate traffic (W.S. 31-5-109); enter leases and contracts for the exploration, development, and production of natural resources (W.S. 36-6-202); regulate, prohibit, or license alcoholic beverage sales in unincorporated areas; license and approve pari-mutuel racing; and oversee substance abuse and suicide prevention programs.

Additionally, counties are among the largest employers in the state of Wyoming. Collectively the counties employ approximately 4,500 Wyomingites. As a major employer

with similar duties, commissioners influence employment policies ranging from workers compensation, to health care and beyond.

Governmental Ethics

As a county commissioner, you will receive a high level of attention and scrutiny by the public and the media. It is extremely important to hold yourself to the highest standard possible as an elected trustee of your community. Wyoming statutes contain an entire section on governmental ethics (W.S. 9-13-101 through 109). The WCCA suggests that you carefully review the below section and contact your county attorney for questions regarding its contents. A violation of these statutes has a criminal penalty (W.S. 9-13-109). The WCCA suggests that you carefully review the following and contact your county attorney with questions regarding its contents.

- *Use of Title and Prestige*: W.S. 9-13-103 states that no public official, public member, or public employee shall use his office or position for private benefit. Private benefit means receipt of a gift which resulted from his holding that office. Food and beverage or a certificate, commemorative token or item, or plaque with a value less than $250 are examples of items that DO NOT constitute a gift as defined by W.S. 9-13-102(a)(vi).
- *Nepotism*: W.S. 9-13-104 states it is illegal for a public official, public member, or public employee to advocate or cause the employment, promotion, appointment, transfer, or advancement of a family member to an office or position of the state, a county, municipality or a school district. In addition, a public official cannot supervise, manage or engage in the discipline of a family member who is in an office or position of the state, a county, municipality or school district.
- *Misuse of Office*: W.S. 9-13-105 states that a public official can not use public funds, time, personnel, facilities, or equipment for his private benefit or that of another unless the use is permitted by law. This prohibition extends to political or campaign activity. Further, a public official cannot disseminate to another person official information which the public official obtained through or in connection with his position, unless the information is available to the public, or otherwise authorized by law.
- *Conflicts of Interest/Official Decisions and Votes*: There will be times that commissioners may find themselves in a position of having business before the board about which they have a private interest. This is acceptable, so long as the matter is handled properly. If you even feel there is an appearance that a commissioner may have a personal interest in a matter, it is best to abstain from voting on the matter and consult your county attorney on how to comply with the law. There are two statutes that address Conflicts of Interest – W.S. 6-5-118 and W.S. 9-13-106. In Wyoming, a public official shall not make an official decision or vote on an official decision if the public official has a personal or private interest in the matter. In determining whether he has a personal or private interest in a matter, the public official shall recognize the importance of his right to represent his

constituency and shall abstain from voting only in clear cases of a personal or private interest. A public official shall not vote to give money or any direct financial benefit to himself.

Duties and Powers of Other Full-time County Officers

There are five full-time county officers elected in addition to the commissioners. They include the county clerk, county treasurer, county assessor, clerk of district court and sheriff. Voters also elect a county coroner and county and prosecuting attorney, which may or may not be full-time depending on the size of the county and the decision of the commissioners. These officers are discussed in more detail later on in this chapter.

<u>County Clerk</u>

The county clerk acts as clerk to the commissioners and shall:

a. Attend all sessions of the commissioners either in person or by deputy;
b. Keep the seal, records and papers of the commissioners;
c. Record in a book provided for that purpose all proceedings of the board;
d. Make regular entries of all the board's resolutions, orders and decisions in all questions coming before it; and
e. Sign all orders issued by the board for the payment of money and preserve and file all accounts acted upon by the board with a memorandum of its action thereon.

The county clerk is the county budget officer (W.S. 16-4-102(a)(iv)). As such, the clerk facilitates management control and must present appropriate interim financial statements to the commissioners, with information as to financial operations. In addition, the clerk may be designated secretary for the planning commission (W.S. 18-5-202(a)) and perform other duties as required by the commissioners (W.S. 18-3-402(a)(i)(F).

Elections: The county clerk is the chief election officer of the county (W.S. 22-2-103). No later than its first meeting in May in every general election year, the commissioners, with the advice or recommendation of the county clerk, shall divide the county into not more than thirty election districts (W.S. 22-7-101), and may change precinct boundaries (W.S. 22-7-102). In establishing or altering election districts or voting precincts, the board shall follow the established guidelines (W.S. 22-7-103). In Wyoming, the trend is to consolidate voting centers resulting from logistical challenges and difficulty in securing adequate election judges. Further, while state statute allows for absentee and early voting in certain cases, in practice, early and absentee voting is skyrocketing.

Accounts payable: The county clerk is responsible for paying county bills on affirmative vote of the county commission (W.S. 16-4-101 through 125).

Personnel and Payroll: The county clerk is responsible for county employee payroll duties. This includes, but is not limited to, the payment of premiums and benefits (health

insurance premiums; health insurance claims, as appropriate; workers' compensation; pension plans; 457 plans or other benefits authorized county commissioners; and any withholding of money from an employee paychecks). The county clerk may or may not be the personnel officer for the county dealing with human resource issues.

Title Processing, Marriage Licenses, UCC Filings: The county clerk issues vehicle titles, records all deeds, mortgages and other instruments authorized by law, and issues marriage licenses.

Licenses: The county clerk is responsible for maintaining a book (digital or paper) on all licenses, except marriage, issued by the county. While many are state mandated licenses, there are county specific licenses. Some require action by the Board of County Commissioners (including pari-mutuel betting, wind energy, and road and land use). It is advisable to have your clerk review the licenses issued in your county.

County Board of Equalization: The county clerk serves as clerk of the Board of Equalization and shall attend all CBOE hearings in person or by deputy. The clerk shall also maintain records of the hearings and transfer the transcript, as needed, to the SBOE or to the taxpayer/attorney.

County Treasurer

Each county treasurer (W.S. 18-3-801 through 814) collects taxes as prescribed by law and must keep a true account of the receipts and expenditures of all monies which come into the office. The county treasurer's office has two divisions: (1) property tax (or ad valorem), and (2) motor vehicle registration. The property tax division bills and collects residential, commercial, and personal property taxes. The motor vehicle division issues license plates and collects sales tax on motor vehicles.

All monies received for the use of the county shall be paid out only on the orders or warrants issued by the commissioners, except where provisions for the payment are otherwise made by law (a further explanation of the warrant process is on page 37). The treasurer is charged with disbursing payments for county obligations.

On the first Monday in January of each year, or at such time prescribed by commissioners, the county treasurer must settle his/her account for the preceding year and exhibit to commissioners his/her books, accounts, and vouchers to be audited. The treasurer shall also report at each regular meeting of the commissioners the monies received and expended by him/her during the intervening time, if so required.

Additionally, treasurers oversee investing of unencumbered funds in accordance with the county investment policy.

County Assessor

The duties and authority of the county assessor are specifically defined in W.S. 18-3-204 and in various sections of Title 39. Through rules and regulations, the SBOE and Department of Revenue also prescribe methodologies and procedures that must be followed.

The requirements for qualification, education and certification of county assessors are set forth in W.S. 18-3-201. The assessor must be a qualified elector of the county and must own real property in that county – this requirement is unique to assessors; no other county elected official must meet this requirement. In addition, statute requires any person who makes valuation judgments to be certified by the Department of Revenue as a property tax appraiser. Educational requirements must be met to achieve such certification.

Each county assessor is required by law to discover, list, and value all taxable property, both real and personal, within the county annually. All property must be reviewed at least every six years. The assessor examines property transfer records and gathers other information necessary to assess all property to its rightful owner, including federal land transferred to private ownership. Mapping is an important part of this process and must be updated to reflect changes in property boundaries, new plats, etc. Data is also collected regarding land use. Under Wyoming statute, land used for agricultural purposes is valued based on its ability to produce as opposed to fair market value.

Further, the assessor administers veterans property tax exemptions and makes an initial determination whether property qualifies for other exemptions from taxation.

To accomplish mass appraisal of all properties annually, the assessor is required to use the Computer Assisted Mass Appraisal System (CAMA) as prescribed by the Department of Revenue. CAMA uses property characteristics such as size, quality, condition, etc., to calculate values. CAMA automates industry accepted cost calculations. Additionally, the assessor must monitor sales and perform statistical tests to determine what level of market adjustments are necessary to arrive at market value each year.

The county assessor prepares an assessment schedule, and, after the CBOE has finished its equalization, completes its roll. Not later than June 1, the assessor makes an abstract of the assessment roll containing the quantity and value of each class of property assessed for taxation and transmits the abstract to the SBOE. The SBOE then performs a statistical analysis of county data and forwards the abstracts to the Department of Revenue for any recommendations with respect to equalization of values. If the SBOE finds that the county assessor has complied with statutory requirements and SBOE rules and regulations, the SBOE certifies assessor values as appropriate for use in setting mill levies. Otherwise, the SBOE orders corrections prior to certification.

On or before the first Monday of August, the commissioners set the mill to levy the requisite taxes for the year. The assessor verifies that the mills levied are within the statutory limits and then submits a Report of Valuation, Levies and Taxes to the SBOE for their approval. After SBOE approval, and on or before the third Monday in August, the

assessor computes the taxes, and delivers the tax list and the warrant for the collection of the taxes to the county treasurer for collection.

Clerk of District Court

The duties of the clerk of district court, the only constitutionally (Article 5, Section 13) mandated county official, are established in Wyoming statute, Wyoming Court Rules, and at direction of the court. These duties are to keep the journals, records, books, dockets, and papers appertaining to the court and record its proceedings. This includes filing and preserving all papers in civil, domestic relations, criminal, probate, juvenile, adoption, involuntary hospitalization, and naturalization cases filed in the court. Other duties include collecting, receipting, recording, and processing all monies paid to or through the court, either by court order or statute, and entering orders regarding child support matters and judgments in civil matters, performing record searches. The clerk of district court also oversees all jury trials, summons, and maintains juries for each term of court, attends court sessions at the discretion of the presiding judge, makes quarterly statistical reports to the Wyoming Supreme Court, and processes appeals both from lower courts and administrative agencies, as well as prepares appeals to the Wyoming Supreme Court. The clerk of district court may also serve as a passport acceptance agent.

Despite the constitutional mandate and its clear nexus in administration of the State judicial branch, the clerk of district court is a budget responsibility of the county. To address district court financial stresses, the Wyoming legislature increased filing fees in 2019.

County Sheriff

The county sheriff preserves the peace in his/her respective county and suppress riots, unlawful assemblies, and insurrections. The sheriff also serves and executes all processes, writs, precepts, and orders issued of any county court of record or other lawful authority in criminal and civil cases and attends appropriate court proceedings in his/her county (W.S. 18-3-604 through 606). Further, the sheriff appoints all deputies.

Jails: In addition to his/her peacekeeping role, each sheriff is charged with management of the jail and the prisoners therein. Each sheriff must provide commissioners with a monthly account of expenditures made (W.S. 18-3-603(a)). To a limited extent, it is the responsibility of the county sheriff and county commissioners to pay for the cost of medical care for prisoners (W.S. 18-6-303). The county commissioners are required to pay the reasonable and necessary medical care for injuries incurred by a prisoner because of negligence by the sheriff or his staff during the arrest, so long as the injuries were not incurred while resisting arrest or on work release, for any infectious or communicable diseases they contract while in custody, or medical examinations required by law. Unless indigent, a prisoner is responsible for pre-custodial injuries and illnesses, any in-custody injuries not caused by the negligent or torrid acts of the sheriff, self-inflicted injuries, or

pre-custodial dental conditions. The obligation to provide necessary medical care can be limited, to some extent, to that necessary during incarceration only.

County and Prosecuting Attorney (Full- or Part-Time)

Types of Offices: Natrona and Laramie counties each elect a district attorney. The district attorney prosecutes all criminal and juvenile cases (except in a municipal court) in those counties. The county commissioners in these two counties also appoint a county attorney for a term of one year (who may be reappointed each year) to represents the county, its elected officials, and the boards appointed entirely by the county commissioners along with involuntary hospitalizations (Title 25 cases) and other statutory and civil obligations.

The other 21 counties all currently elect a county and prosecuting attorney that handles both civil and criminal matters in their county of jurisdiction. If one county in a judicial district reaches 60,000 people or more, there shall be a district attorney for the judicial district.

Boards of County Commissioners enjoy two other options regarding county and prosecuting attorneys or district attorneys, though no county has employed either of these options to date. First, where a majority of the county commissioners within the judicial district resolve to create an office of district attorney (W.S. 9-1-801). Second, where the boards of county commissioners of two or more contiguous counties not served by a district attorney agree by resolution to consolidate the offices through a single county and prosecuting attorney who shall be elected by a vote of the electors of all the counties within the consolidated area (W.S. 18-3-301(b)).

Budget: The county and prosecuting attorney is the only elected official that the State contributes directly to the payment of their salary (W.S. 9-1-803 and 18-3-107(f)).

a. A district attorney, staff and office expenses are paid entirely by the state. The county provides office space. In counties with a district attorney, the county must pay entirely for the county attorney, staff, and office.
b. A county and prosecuting attorney office receives from the state ½ of the elected official's salary (currently capped at $100,000) and ½ but not more than $30,000 of a deputy attorney's salary. The county and prosecuting attorney must budget the entire amount and the county clerk submits a reimbursement request.
c. A county and prosecuting attorney office that has been consolidated would receive the state money and be funded as agreed between the counties to the office.

Duties: Each county attorney acts in all courts in the state as legal counsel for the county and its officers acting in their official capacity and prosecutes or defends all suits instituted by or against his/her county or counties or its officers and gives his/her opinion in writing upon the request of any county officer of the county or counties, without fee, on all questions of law relating to the duties of such office. The county and prosecuting attorney works with and prosecutes criminal cases from 20+ local, state, and federal law

enforcement agencies. The county and prosecuting attorneys have the jurisdiction, responsibilities, and duties of the district attorney and the county attorney (W.S. 18-3-302(b)). County attorneys also have the right to request official State Attorney General opinions.

In addition to state law, all attorneys are governed by the Wyoming State Bar and the Wyoming Rules of Professional Conduct and many other rules determined by the Wyoming Supreme Court. For more information on duties, see W.S. 9-1-804, 18-3-302 and Wyoming Court Rules.

Private Legal Practice: A district attorney shall not have a private practice of law. A county attorney and a county and prosecuting attorney may not have a private practice if the county commissioners resolve to prohibit their private practice of law when salaries are set each four years, pursuant to W.S. 18-3-107(a)(iii). See also W.S. 9-1-802, 18-3-106 and 18-3-303.

County Coroner

The coroner is an elected official who is required to investigate all deaths within the county of jurisdiction that fall under the statutory definition of a "coroner case" (W.S. 7-4-104(a)(i)). The purpose of that investigation is to take custody of the body, determine the identity of the deceased, and the cause and manner of death, as well as notify the legal next of kin.

The county coroner is responsible for any human remains, whether the remains be modern, ancient or prehistoric and of Native American decent. The coroner works closely with the State Archeology Department, private landowners, and the Bureau of Land Management in these matters.

The coroner is required to be certified by the State of Wyoming and faces criminal penalty for performing the duties of office without certification. The coroner must maintain reports and has the power to summon jurors and issue subpoenas to hold an inquest into a death. The coroner is also responsible for the disposition of the body and effects of the deceased.

County Officer Compensation, Vacancies and Other Topics

Compensation

The commissioners hold a unique position in the county, and their salary reflects that position. Though the commissioners are responsible for many time-consuming duties, by statute the job is not considered to be full-time. The amount of time spent by each commissioner varies greatly, which adds to the difficulties involved in the fair distribution of compensation.

The upper and lower salary limits for county officials (county assessors, county clerks, clerks of district court, county sheriffs, county treasurers, county and prosecuting attorneys, coroners) are determined by statute. Currently, the statutory maximum for all full-time elected officials is one hundred thousand dollars ($100,000). Within the statutory limits (and with state subsidies in the case of the county and prosecuting attorney), the salaries are set by the commissioners once every four years and cannot be changed during the term of an elected official whose salary has already been determined. The elected officials also receive other benefits generally available to other employees, such as health insurance and retirement.

The commissioners determine their own salaries by resolution, but it may not be more than the lowest salary of any full-time elected official, excluding the county coroner. Many counties have staggered salaries that coincide with the staggered terms of the members of the Board. This ensures that the salaries of commissioners elected on different cycles are not increased during that commissioner's term. However, this is a policy decision made by the commissioners themselves, it is not dictated by state law.

The WCCA occasionally tracks salary and benefits of the counties for reference purposes.

Bonds

In addition to subscribing to the oath, most new county officers, except county attorneys, are required to give a bond to guarantee the faithful and honest performance of their duties. Commissioners and other officers post the bond within twenty days after the commencement of the term for which they were elected or appointed. The bond for the commissioners is to be in the sum of one thousand dollars ($1,000) (W.S. 18-3-102). The bonds for the other county officials are also set by statute, except for the treasurer, which is set by the commissioners.

Vacancy in County Officers and Legislative Appointment

When a vacancy occurs in a county elective office (not including a county commissioner vacancy), commissioners fill the vacancy according to the procedure outlined in W.S. 22-18-111(a)(ii). Commissioner vacancy is governed by W.S. 18-3-524.

a. Commissioner Vacancy

Whenever a vacancy on the Board of County Commissioners occurs, whether by death, resignation, disqualification, or otherwise, the remaining members of the board must declare a vacancy within 20 days, then give notice of the vacancy in writing to the chairman of the county central committee of the political party which the member whose office is vacant represented at the time of his/her election.

The chairman of the county central committee has 20 days after receipt of the notice to call a meeting of the county central committee. At the meeting, the central

committee selects three persons qualified to fill the vacancy and transmits the names to the Board of County Commissioners. The board fills the vacancy within 20 days after receiving the list by appointing one of the persons whose names are submitted.

If the county central committee fails to transmit the list of three names to the board, the remaining commissioners are required to proceed to fill the vacancy. They do so in such a manner as to appoint a qualified person who is affiliated with the same political party as the individual who vacated the position.

If the remaining commissioners fail to appoint for any reason, a petition is filed with the district court and the district judge will select the commissioner from the qualified electorate. The district judge is not required to select a name from the three names submitted to the commission from the central committee.

If the individual who vacated the position as commissioner was not affiliated with any party, the Board of County Commissioners shall publish in a newspaper of general circulation in the county notice that within 20 days after the publication any qualified person may make application directly to the county commissioners for appointment.

Within 20 days after the application deadline, the county commissioners shall fill the vacancy by appointment of one person qualified from those submitting applications (W.S. 18-3-524(a)(i)).

Appointed commissioners serve and hold their office until the next general election and until a successor becomes qualified to enter the duties of the office (W.S. 18-3-524).

b. Appointment of a County Elective Office

The procedure for appointment of a county elective office requires that the commissioners immediately notify, in writing, the chairman of the county central committee of the political party to which the county officer belonged that the office has been vacated due to resignation, death or other causes listed in statute. The chairman of the county central committee must hold a meeting of that committee not less than 15 days after receiving notice of the vacancy. At the meeting, the committee shall select and transmit to the commissioners the names of three persons qualified to fill the vacancy. Within five days after receiving these three names, the commissioners must fill the vacancy by appointment of one of the three to hold the office.

The newly appointed county official will serve for the remainder of the unexpired term until a successor is elected at the next general election and takes office on the first Monday of the following January. However, if a vacancy occurs after the first

day for filing an application for nomination pursuant to W.S. 22-5-209, a temporary successor shall serve until the first Monday in January following the second general election thereafter (W.S. 22-18-111(a)).

The appointment of county officers also extends to state representatives and senators in the county. The county commissioners appoint replacements for these positions as well, and for those instances where a house or senate district extends over the boundary of a county line, there may be more than one set of commissioners involved.

c. Commissioners Declaring a County Office to be Vacant

Under current law, the Governor on a verified complaint of qualified electors or the Board of County Commissioners, that any county officer is guilty of misconduct or malfeasance in office, may direct the Attorney General to commence and prosecute the official in county district court for removal (W.S. 18-3-902).

W.S. 18-3-902(f) defines that misconduct or malfeasance includes but is not limited to, instances when:

- The officer is absent from office for an aggregate of 60 days in any three month period, unless such absence is caused by illness or other disability, or
- The officer is absent from office for more than 90 days because of illness or other disability and the illness or disability will probably not terminate during the unexpired portion of the officer's term of office.

An assessor is subject to removal if he/she has not fulfilled the orders of the SBOE relating to assessment of property. A sheriff and district attorney are subject to removal where open and continuous violations of any law occur in the county for which such officers are employed. See W.S. 18-3-906.

Expenses

Reimbursements for necessary meals and travel expenses are also paid to the commissioners and other county officials. This allowance includes mileage for travel when a commissioner is traveling to and from meetings of the board and when traveling in discharge of official duties. However, county elected officials cannot be reimbursed unless receipts for monies expended are submitted. See W.S. 18-3-110.

IV. GENERAL OPERATION AND CONDUCTING OF BUSINESS

Commissioner Meetings in General

County commissioners shall meet at the county seat of their respective counties on the first Tuesday of each month, or at such other times as may be designated by resolution of the board or when it is necessary to meet for the transaction of urgent county business (W.S. 18-3-502). As a practical matter, virtually all counties meet on at least the first and third Tuesdays of each month. Many counties meet more often. Importantly, while all 23 counties currently meet on the first Tuesday of each month, the statute does appear to grant leeway for Boards to meet at any time designated by resolution.

The commissioners may establish rules and regulations to govern the transaction of their business. In establishing an orderly meeting process, it is important to recognize that there are statutory processes that need to be followed, which override strict parliamentary procedure. In general, these processes regard the need to publish meetings, stick to published schedules, operate with a quorum, and avoid meetings outside the officially designated public meeting. Additionally, commissioners shall elect a chairperson who shall preside at all meetings at the first meeting after their election or appointment (W.S. 18-3-507). In the case of the chairperson's absence, any other member may act as temporary chairman (W.S. 18-3-507). Any two members of the board constitute a quorum (W.S. 18-3-501(a)), except where there are five commissioners, then three constitutes a quorum (W.S. 18-3-501(e)).

All 23 counties have slightly different ways of operating meetings depending on the custom and culture of the county and the propensity for controversial meetings. Counties with greater populations and more controversial actions tend to operate more formally to maintain decorum and control at their meetings, as well as to keep meetings to a reasonable time limit. Smaller counties tend to be more informal, sometimes dramatically so. The important point is that meeting procedures do not need to follow a common set of rules among counties; however, each individual county should have a policy and maintain it to ensure that your decisions cannot be overturned on procedural grounds and to have a means to keep meetings from getting out of hand. It is hard to achieve public respect for the public body if meetings are not properly managed.

Conduct at Meetings

If any public meeting is willfully disrupted to render the orderly conduct of the meeting unfeasible, the governing body may order the removal of the person or persons responsible from the meeting room and continue in session; or it may recess the meeting and reconvene at another location, but only matters on the agenda can be acted upon at such reconvened meeting (W.S. 16-4-406). All persons conducting themselves in an orderly manner may attend commissioner meetings (W.S. 18-3-506).

Open Meeting Law and Public Records Act

In 1973, a law, commonly referred to as the "Open Meeting Law", was passed to assure that the public would be informed when an agency is to hold a meeting and be given an opportunity to hear what is said during that meeting (W.S. 16-4-401 through 408).

The law provides that:

> "All meetings of the governing body of an agency are public meetings, open to the public at all times, except as otherwise provided. No action of a governing body of an agency shall be taken except during a public meeting following notice of the meeting in accordance with this act. Action taken at a meeting not in conformity with this law is null and void and not merely voidable." W.S. 16-4-403(a)

"Meeting" means an assembly of at least a quorum of the governing body of an agency which has been called by proper authority of the agency for the expressed purpose of discussion, deliberation, presentation of information or taking action regarding public business[.]" (emphasis added) W.S. 16-4-402 (a)(iii)

"Action" means the transaction of official business of an agency including a collective decision, a collective commitment or promise to make a positive or negative decision, or an actual vote upon a motion, proposal, resolution, rule, order or ordinance at a meeting[.]" W.S. 16-4-402(a)(i)

Importantly, from time to time the WCCA will call a meeting of commissioners to discuss association business. Since these meetings are called by the association, not by the proper authority of the agency; and because the intent of these meetings is to set association policies and positions as a private entity rather than "public business," it is permissible under the law. However, if you use WCCA meetings to sit with your other board members in a quorum and make decisions regarding your county, that is not permissible.

Notice of all meetings must be given as provided in the act with a few exceptions.

Emergency Meetings (W.S. 16-4-404(d))

Emergency meetings on matters of serious immediate concern can be held for the purpose of taking temporary action without notice, but reasonable efforts shall be made to offer public notice. For temporary actions to be made permanent, it shall be reconsidered and acted upon at an open meeting within 48 hours, excluding weekends and holidays, unless the event constituting the emergency continues to exist after 48 hours. In such case the governing body may reconsider and act upon the temporary action at the next regularly scheduled meeting of the agency, but in no event later than thirty (30) days from the date of the emergency action. Day-to-day administrative actions are not subject to this section.

Special Meetings (W.S. 16-4-404 (b))

Special meetings may be called by giving notice of the meeting to each member of the governing body and to each newspaper of general circulation, radio or television station requesting the notice. The notice must specify the time and place of the special meeting and

the business to be transacted and must be issued at least eight hours prior to commencement of the special meeting. No other business may be considered at a special meeting.

Executive Session (W.S. 16-4-405)

The opportunity to discuss items in executive session must be used sparingly, and only when clearly authorized by the open meeting law. The commissioners may exclude anyone from an executive session, except the county clerk, who must attend to take minutes. The minutes must reflect the session, except for any objection by a member as to her opinion that the session violates the act. Minutes are not published and must be kept under seal and only produced in response to a court order.

Executive sessions can be held only as specified in W.S. 16-4-405, and must be approved by a vote of the Board after a motion and second that outlines which of the following reasons for the executive session:

a. Meetings with the attorney general, county attorney, district attorney, and law enforcement officials or their deputies to consider matters posing a threat to the security of public or private property, or a threat to the public's right of access;
b. Meetings to consider the appointment, employment, right to practice or dismissal of a public officer, professional person, or employee, or to hear complaints or charges brought against an employee, professional person or officer, unless the person concerned requests a public hearing. Witnesses at either a public or private hearing can be excluded during the examining of all the other witnesses. Following the hearing, be it open or closed, the governing body may deliberate on its decision in executive sessions;
c. Meetings on matters concerning litigation to which the governing body is a party or proposed litigation to which it may be a party;
d. On matters of national security;
e. Meetings to consider the selection of a site or purchase of real estate when publicity regarding such consideration probably would have a tendency to cause an increase in the price;
f. Meetings to consider the acceptance of gifts, donations and bequests which the donor in writing has requested be kept confidential;
g. Meetings to consider or receive any information classified as confidential by law; and
h. Meetings to consider the acceptance or tender of offers regarding wages, salaries, benefits, and terms of employment during all such negotiations.

The Public Records Act dictates what documents and communications are public documents and available for inspection. As a rule of thumb, every document generated by the county is subject to public inspection. This includes communications between commissioners and anyone else while the commissioner is using her official email address.

In addition, texts and social media communications using a mobile phone may also be subject to public scrutiny.

V. BUDGETING PROCESS

County Budget Process

The budgeting procedure for counties is administered through the Uniform Municipal Fiscal Procedures Act (UMFPA) (W.S. 16-4-101 through 125).

The county clerk is responsible for coordinating the county budget. As the county budget officer, the clerk plans the fiscal operations for the fiscal year (W.S. 16-4-104). County departments must submit budget requests by May 1st (unless otherwise allowed) estimating fiscal needs for the ensuing fiscal year. Based on these requests, the clerk prepares a draft budget for presentation to commissioners.

Each proposed and adopted budget must contain the estimates of expenditures and revenues developed by the budget officer together with specific work programs and other supportive data. This information must contain estimates of all anticipated revenues from any source, including any revenues from state distribution of taxes including sales and use tax, grants from the state or federal government, and any local sources including business permits and building permits. The WCCA prepares a Revenue Estimating Manual each March/April to assist in this process.

The budget must be accompanied by an explanation, including departmental financial policies and an explanation of changes made from the last budget submitted. This procedure is followed for all requests before the budget officer submits the request to the commissioners. The budget request must be given to the commissioners by May 15th.

A summary of the proposed budget must be published at least one week before the hearing date in a newspaper having general circulation or, if there is none, shall be posted in three conspicuous places. Hearings for the county budget shall be held not later than on the third Monday in July. Special purpose districts may choose to hold their budget hearings in conjunction with the county hearings and must advertise accordingly (W.S. 16-4-109). Because this procedure is to be informative to the public, public accommodations must be made.

There are special considerations regarding the budgets for special districts, but they vary depending on the special district's enabling act, and commissioners have different levels of oversight authority and responsibility. See the section on special districts in this handbook.

Within 24 hours of the conclusion of the public hearing on the budget held under W.S. 16-4-109(b), the commissioners, by resolution or ordinance, make the necessary appropriations and adopt the budget which shall be in effect for the next fiscal year. The governing body

cannot make any appropriations in the fiscal budget more than the estimated expendable revenue for the budget year.

Auditing

County commissioners do not perform any direct accounting functions. However, they are required to arrange for an annual audit of all financial affairs each fiscal year. This process is done by independent auditors, according to current government audit standards (W.S. 9-1-507(c)). The county must budget for the audit and make available all records requested for the audit. It is the duty of the Wyoming Department of Audit to exercise supervision over the books, financial accounts and the financial records of all counties and county officials.

Investment of County Money

A county must have a written Statement of Investment Policy as required by W.S. 9-4-831(h). The written policy should delineate the financial accounting procedures of a county, which are usually divided among the commissioners, the county clerk, and the county treasurer. No investment of public funds may be made by the treasurer until the Board of County Commissioners has first authorized that investment (W.S. 9-4-831(b)). Counties must invest public funds in a manner which will provide a reasonable rate investment return while assuring the maximum security of principal, meeting the daily cash flow demands of the county and conforming to all federal, state, and local laws and regulations governing the investment of public funds. This policy applies to all financial assets of the county.

Investments must be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, and not used for speculation. The "prudent person" standard is applied in the context of managing an overall county portfolio. Investment officers acting in accordance with written procedures and the investment policy and exercising due diligence are usually relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to control adverse developments. Normally, the primary objectives of the county investments, in priority order, should be:

1. Safety
2. Liquidity
3. Return on Investment

In recent years, the legislature has opened additional investment opportunities for local governments that allow for a more diversified portfolio while remaining conservative. Programs offered by the Wyoming State Treasurer include WYO-STAR I (Local Government Investment Pool – Short Term) and WYO-STAR II (Local Government Investment Pool – Long Term).

VI. REVENUE AND EXPENDITURES

General County Revenue

Major Sources of County Revenue

a. Property Tax (also called Ad Valorem Taxes)
b. State Shared Revenue
    i. Sales and Use Taxes
    ii. Severance Taxes
    iii. Fuel Taxes
    iv. Cigarette Taxes
    v. Wind Energy Generation Tax
    vi. Wyoming Lottery Proceeds
    vii. Pari-mutuel and Skill-based Proceeds
    viii. Direct Distribution
c. Local Option Taxes (aggregate maximum of 3 pennies)
    i. General Purpose Sales and Use Tax (maximum of 2 pennies)
    ii. Specific Purpose Sales and Use Tax (maximum of 2 pennies)
    iii. Economic Development Sales and Use Tax (maximum of 1 penny)
d. Federal Shared Revenue
    i. Secure Rural Schools
    ii. PILT (Payment in Lieu of Taxes)
e. Grants and Loans
f. Locally Assessed Fees

The most important sources of county revenue are property and sales taxes. 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. Sales taxes are administered and collected at the state level and distributed back to local governments. Additional significant sources of revenue include other state-shared revenues, service charges, interest earnings, and money from the federal government, including Payment-in-Lieu-of-Taxes (PILT) and the Secure Rural School Funds (SRS).

Please note: Because revenue collections can vary widely each year, this document does not include revenue estimates. For annual estimates and explanations of the statute and distribution methods of these revenue sources, please review the "Revenue Estimating Manual" produced annually by the WCCA.

All public money received by any county officer is required to be placed in the county treasury of that respective county (W.S. 18-4-101). Also, for the payment of any tax, assessment, license, permit, fee or fine by any county's citizen, the commissioners are authorized to allow any county officer, agent or employee to accept negotiable paper

(money orders, checks and drafts signed by a holder of a lender credit card issued by a bank maintaining a revolving loan account) as payment (W.S. 18-3-505).

Property Tax and the County Mill Levy

Property tax is the largest source of county revenue in most, but not all, counties. Property tax – also termed ad valorem tax – revenue is generated from a "mill levy" on the assessed value of all property in the county. A mill is equivalent to one thousandth (1/1,000) of the whole value. The average total county levy is about 70 mills, or 70/1,000, or seven percent of the value.

Although the total county mill levy may vary from less than 70 to more than 80 mills, the county itself is limited to 12 mills for its own purposes by the Wyoming Constitution (Article 15, Section 5). In total, while counties collect 100 percent of the property tax owed to all entities, counties themselves retain approximately 19% of the total. Schools and school programs receive about 70 percent of all property tax revenue, with the remainder retained by municipalities and special districts.

a. *Mill Levies*: Mill levies are authorized by statute (W.S. 39-13-104). Each county may apply its levy for the following purposes: the operation of a county hospital, library, fair, and museum; the support of public assistance and social services; the operation of an airport; for civil defense; a county building fund (W.S. 18-4-201); county road and bridge purposes; dedicated recreation purposes (W.S. 18-9-201); and a district health department (W.S. 35-1-304).

   In addition to mills for county operations (up to 12 mills), mills for municipal operations (up to 8 mills), and state-mandated mills for education purposes (up to 42 mills), each special district has a statutory mill limit.

   The below list details special districts and associated tax levy limits as established at W.S. 39-13-104(e), plus additional mills allowed in other areas of state law as noted in parentheses.

Community College District	Ten mills *(W.S. 21-18-303 allows for one additional mill for the regular support and operation of a college and W.S. 21-18-311 allows for four additional mills for community college operations)*
Hospital District	Three mills *(W.S. 35-2-414 allows for three additional mills for operations and maintenance)*
Special Cemetery District	Three mills
Fire Protection District	Three mills
Sanitary and Improvement District	One mill
Special Museum District	One mill

Solid waste disposal district	Three mills
County Weed and Pest Control District	One mill *(W.S. 11-5-303 allows for one additional mill for a special management program)*
Water and Sewer District	Eight mills
Water Conservancy District	One mill
Rural Health Care District	Two mills *(W.S. 35-2-708 allows for two additional mills for operations)*
Soil and Water Conservation District	One mill
Senior Citizens Services District	Two mills
Senior Health Care District	Two mills

Improvement and service districts and water and sewer districts may place special assessments on the tax bill to be collected with other taxes. Special assessments pay for local infrastructure - roads, water, sewer lines, etc.

b. *Method of Assessment*: The county assessor delivers to commissioners the assessment roll with properties listed with associated valuations on or before the fourth Monday in May. Further, the assessor presents commissioners with valuation list of assessed property in every school district within the county. Once an assessor completes these tasks, Board of County Commissioners are required to convene as the CBOE (refer to page 4). Following, and on or before the first Tuesday (statute says Monday) of August, the Board of County Commissioners shall by order of record levy the requisite taxes for the year (W. S. 39-13-102 (g)). In essence, the Board of County Commissioners is responsible for setting the county mill levy. The levy shall include the state taxes certified by the SBOE, county taxes, municipal taxes, school taxes, special district taxes and community college district taxes.

On or before the third Monday in August, the assessor computes the taxes and delivers the tax list and the warrant for the collection of the taxes to the county treasurer. The assessed valuation of property is primarily based on three classifications of property: (1) mineral production – valued at 100 percent of its market value; (2) industrial property – valued at 11.5 percent of its market value; and (3) agricultural, commercial and residential lands – valued at 9.5 percent of its market value (agricultural is based on production).

A sample method of determining the property tax on a residential structure using the state average of a 70 mill county levy is as follows:

Fair Market Value	x	Tax Assessment Rate	=	Assessed Value	x	Mill Levy	=	Property tax
$100,000	x	9.5 %	=	$9,500	x	.07	=	$665

*See appendix A for a property tax calendar of events.

State-Shared Revenue Sources

Sales and Use Taxes – Sales and use tax is distributed per W.S. 39-15-111 and W.S. 39-15-211. 69 percent of the state's four-percent sales tax is deposited in the state's general fund. Then, after a deduction of one percent for "administrative expenses," the remainder (30 percent) is distributed to local governments. Of this, the first percent is distributed to each county. That amount is paid in equal payments of $40,000, with the remainder by county population. The remaining local share is returned first to the county of origin of the sale, and then the county and municipalities based on the percentage the population bears to the total county population. For example, the 2010 census showed the unincorporated area of Albany County with a population of 5,332; the city of Laramie with 31,312; and the town of Rock River with 245, for a total population of 36,889. Therefore, the county receives 14.46%, Laramie 84.88% and Rock River 0.66% of the sales tax allocated in Albany County. Sales and use taxes are distributed monthly by the Department of Revenue.

Severance Taxes – In 2001, the Wyoming Legislature altered the distribution of severance taxes and Federal Mineral Royalties (FMR), diverting FMRs to cities, but not counties, and instituted a cap on the severance fund under which revenue flows to counties. That current cap is $155 million. Allocations over $155 million must be directly appropriated by the Legislature.

The counties receive three different allocations from severance taxes, each with a different distribution formula:

- To the county road construction and maintenance fund (CRCMF), 2.9 percent. Each county's proportionate share of the fund is computed as follows: one-third population; one-third miles of county roads; one-third inverse assessed value. (W.S. 39-14-801(e)(vii))
- To the county general fund, 0.78 percent. Each county's proportionate share of the fund is computed as follows: one-half population; one-half inverse assessed value. (W.S. 39-14-801(e)(v))
- To the county general fund, 3.1 percent. Each county's share of funds is computed solely on population. (W.S. 39-14-801(vii))

Fuel Taxes –

a. *Gas Tax*: The state tax on gasoline is $.24 per gallon. Counties receive 13.5 percent of the total gas tax collected, after deductions, deposited in the County Road Fund within the county general fund. Per W.S. 39-17-111(d), gasoline tax is distributed on three factors – one-third based on the area of the county, one-third based on the percentage of rural population in the county (including towns less than 1,400) in relation to total rural population, and one-third based on the assessed value of the county, as compared to the valuate of the whole state. <u>This gasoline tax revenue must be used for the construction and maintenance of county roads</u> and is distributed monthly by the Department of Transportation. In addition, fourteen percent (14%) of the gas tax is given to the counties for deposit in the CRCMF, for

the construction and maintenance of county roads primarily contracted to private entities rather than performed by county road and bridge departments. These road construction funds are allocated using a two-part formula of one-half rural population (including towns under 1,400), and one-half area. (W.S. 39-17-11(d)(ii))

b. *Diesel Tax*: The state tax on diesel is $.24 per gallon. Counties receive 20 percent of the total diesel fuel tax collected, after deductions, for the County Road Fund within a county's general fund. The distribution formula is the same as gasoline (above). This revenue must be used for the construction and maintenance of county roads and is distributed monthly by the Department of Transportation. (W.S 39-17-211(d)(ii))

Cigarette Taxes – Pursuant to W.S. 39-18-104, the cigarette tax is $0.60 per package of 20 cigarettes, $0.75 per package of 25 cigarettes, or $0.03 per cigarette. Local governments receive 15 percent of the total collection of cigarette taxes. Cigarette taxes are distributed to municipalities and counties based on the point of sale (W.S. 39-18-111). For example, if a vendor is in the unincorporated area of a county and sells five percent of all cigarettes sold in the state, that county will receive five percent of the total cigarette taxes dedicated to municipalities and counties. Cigarette taxes are distributed monthly by the Department of Revenue.

In 2020, the Wyoming Legislature expanded Wyoming's cigarette tax to other nicotine products, including electronic cigarettes and vapor material. Per W.S. 39-18-104, the taxation rate on these products is 15 percent of the wholesale purchase price of which local governments receive 15 percent. The amount distributed is based on the proportion of sales in each county, and among the cities and towns.

Wind Energy Generation Tax – In 2010, the Wyoming Legislature imposed a $1/mw hour on the production of electricity produced from wind energy resources (W.S. 39-22-103). Revenue collected is divided between wind producing counties and the state (W.S. 39-22-111). Funds are distributed as follows:

- 60 percent to counties where the generating facility is located proportionate to the assessed value of facilities compared to the total assessed value of all generating facilities in the state.
- 40 percent to the state general fund.

Collection starts three years after the turbine first produces electricity for sale (W.S. 39-22-105(b)).

Wyoming Lottery – In 2013, the Wyoming Legislature passed a framework to allow for Wyoming to participate in the multi-state lottery system through a separate and independent lottery corporation. While the Wyoming Lottery Corporation (WyoLotto) must report to the Department of Audit and the Legislature, it is not a state agency.

After expenses, WyoLotto is required by law to distribute revenue to the State Treasurer, who is obligated to distribute that revenue to the treasurers of the counties and municipalities at least once per fiscal year for payment into their respective general funds. There is currently no cap on the amount of distribution.

Pari-mutuel and Skill-based Proceeds – In 2020, the Wyoming Legislature reconstituted the Pari-mutuel Commission as the Wyoming Gaming Commission and folded in responsibility for regulation of skill-based amusement games. W.S. 11-25-105 establishes a framework for off-track horse race wagering in Wyoming in counties where the electors have allowed the practice. Locations of operation within the county are approved by a vote of the board of county commissioners, even in the case of a location within the city. The Wyoming Gaming Commission is authorized to issue a permit to a county, city, incorporated town, county fair board or any corporation or association which has been approved by the board of county commissioners and provides an acceptable bond.

The skill-based amusement game taxation rate is equivalent to 20 percent of the net proceeds earned of which counties will receive 45 percent. Pari-mutuel wagering is taxed equal to one percent of the total amount wagered in historic pari-mutuel events. For gaming forms, if the permittee is in the county, the county receives 100 percent of the distribution. If the permittee is located inside the city limits, proceeds are split equally between the city and county. Distributions are based on a calendar year, not fiscal year, and are paid to participating counties every six months.

Direct Distributions – For several years, the legislature has appropriated money directly to municipalities and counties for general fund usage. While the amount has varied, the current amount is $105 million. This is a discretionary amount decided upon every two years by the legislature and consumes a great deal of time in the form of conversations with legislators about the importance of this money to meeting local budgeting requirements. The distribution of these funds is different for municipalities and counties, but both are governed by a very complicated distribution formula that is intended to measure how much local revenue a county can generate on its own. The formula then favors those counties that do not generate adequate local revenue. See the WCCA's Revenue Estimating Manual for a more complete explanation and distribution model.

Local Option Taxes – Local option taxes are a significant source of revenue for nearly all counties and municipalities. However, local elected officials cannot self-impose them. Instead, local option taxes require voter approval.

There are three local option taxes allowed by statute. Colloquially, these have referred as the fifth, sixth, and seventh penny taxes. This implies a whole penny, and only a penny, is allowed for each purpose. The statute, however, provides local governments a wide range of options, with five different pennies available, so long as no government exceeds three additional whole pennies over the state sales and use tax rate. For example, a county could impose a penny and a half for general purpose, another penny for a specific purpose, and another half penny for economic development. That does not fit neatly into the fifth, sixth and seventh penny parlance, but nonetheless is an authorized local sales tax scheme and

fits underneath the three-penny cumulative total cap. Moreover, a county and its cities could have multiple pennies and fractions of pennies come before the voters at different election cycles without fear of losing previously approved revenue.

a. *General Purpose Option Tax*: Counties and their municipalities can put before the voters up to two pennies, in half penny increments, for general revenue purposes. Many counties publish their intended uses of this revenue prior to the ballot election, but that is not required. The money collected is distributed in the same manner as the state four percent tax (see discussion below), on a population basis within the county. It must be renewed every four years by vote, or, once the citizens have voted in the initial tax, the commissioners may extend the tax by resolution, with the concurrence of most of the cities and towns (W.S. 39-15-203(a)(i)).

b. *Specific Purpose Option Tax*: Counties and their municipalities can put before the voters up to two pennies, in whole penny increments, before the voters for a specific purpose. This revenue is for a specific amount for a specific project or projects listed on the ballot. When the dollar amount is collected, the tax ends. For instance, if a new jail costs $5 million, the tax is collected up to that amount and then terminated. It is often the only source of funding for non-revenue producing projects. Operation and maintenance costs can also be figured into the total tax amount yet must specifically appear on the ballot (W.S. 39-15-203(a)(iii)).

c. *Economic Development Option Tax*: Counties and their municipalities can put before the voters up to one penny, in quarter penny increments, for economic development. Currently two counties impose the economic development option tax.

<u>Federal Revenue Sources</u>

There are several sources of federal revenue for counties. Most come in the form of grants for specific purposes, including various highway projects, homeland security, community development block grants, and many others.

Beyond grants there are two other major sources of federal money dedicated to counties as part of the federal appropriations process. These are the so-called Secure Rural Schools program under the Forest Service, and the Payment in Lieu of Taxes program under the Department of the Interior.

a. *Secure Rural Schools (SRS)*: Since 1908, 25 percent of Forest Service revenues from timber sales, mineral leases, recreation, grazing and other sources have been shared with states and counties in which national forest lands are located. In the 1980s, Forest Service revenues began to decline, largely because of endangered species protections and diminished timber sales volume. The SRS and Community Self-Determination Act of 2000 authorized enhanced and gradually declining payments to ease the transition to reduced Federal revenues. Intended as “bridge payment” to counties, Congress has extended the Act multiple times.

The SRS fund allows counties a choice – collect 25 percent of its forest product receipts on a rolling average, or a share of state payments. All but two of Wyoming's counties have historically opted for the latter. SRS funds are allocated by the Forest Service to each state and distributed in Wyoming by the State Treasurer. Please note, SRS funding is delayed an entire fiscal year, thus payments in FY 2019 are received by the county in FY 2020. On December 20, 2019, President Trump signed the Further Consolidated Appropriations Act, 2020 (Public Law 116-94), which reauthorized SRS payments for FY 2019 and FY 2020.

SRS revenue is distributed through the State Treasurer's office as governed by W.S. 9-4-501 through 504. Counties must apportion monies between the general school fund and the county road fund, with not less than five percent of the monies credited to either one of the funds. Funds are typically distributed in December of each year.

b. *Payment-in-Lieu-of-Taxes*: "Payments In Lieu of Taxes" (PILT) are Federal payments to local governments that help offset losses in property taxes due to the existence of nontaxable Federal lands within their boundaries. The original law is Public Law 94-565, dated October 20, 1976. This law was rewritten and amended by Public Law 97-258 on September 13, 1982 and codified at Chapter 69, Title 31 of the United States Code. PILT payments help fund vital services such as firefighting and police protection, construction of public schools and roads, and search-and-rescue operations. The payments are made annually for tax-exempt Federal lands administered by the U.S. Department of the Interior, the U.S. Department of Agriculture and for Federal water projects and military installations.

   The formula used to compute PILT payments is contained in the PILT Act and is based on population, revenue-sharing payments (e.g., Secure Rural Schools), and the amount of Federal land within an affected county. The precise formula is too detailed to explain in this document and the inputs and available funds adjust from year to year. The data provided here represents actual payments for fiscal years 2018 and 2019. On December 20, 2019, President Trump signed the Further Consolidated Appropriations Act, 2020 (Public Law 116-94), which appropriated full funding for PILT

<u>Grants and Loans</u>

One of the most effective ways for counties to obtain additional funds is through various grants and loans from the state and federal government. However, proceed with caution because all grants contain requirements for grant administration and auditing of funds. These costs must be considered when looking at the total cost of a project. Each county is responsible for complying with the conditions and reporting requirements of the grants. This is a team effort. Before pursuing a grant, it is wise to consult with the county clerk, county treasurer, and county attorney so a potential grant can be evaluated from an administrative, fiscal, and legal perspective. Some counties employ a grant writer who attempts to secure federal grants for the county.

The Wyoming Business Council (WBC), the United States Department of Agriculture's Rural Development Office, and the Wyoming Department of Transportation, among others, all have staff available to assist counties attempting to access grant funding. By doing this review on the front end of the grant application procedure can prevent extra work for the commissioners and other county elected officials once the grant is received.

a. *State Loan and Investment Board*: The primary source of grants and loans for local government is the State Loan and Investment Board (SLIB). The SLIB consists of the State's five elected officials who make the ultimate decisions on the funding of grant/loan requests. The Office of State Lands and Investments (OSLI) provides day-to-day administration and recommendations to the SLIB on grant/loan proposals. Eligible activities include grants and loans for water and sewer, streets and roads, and other critical infrastructure needs. Grants have historically been issued with a minimum 50-50 match requirement, however, beginning in 2003, one-eighth of the funding was set aside for applications that will allow a 75/25 match.

   Applications for regular Mineral Royalty Grant (MRG) funding are reviewed by the SLIB the third Thursday in January and June of each year. Applications for the January meeting must be received by OSLI by the third Thursday of the preceding September. Applications for the June meeting must be received by the third Thursday of the preceding February. Applications for emergency MRG funding may be considered at any regularly scheduled SLIB meeting and must be received at least ten working days prior to the SLIB meeting at which it will be considered.

   When a county has a project before the SLIB, it is very helpful for a county commissioner, a legislative member, and a county staff member to be present when the project is reviewed to address any questions from the SLIB.

b. *Community Development Block Grant (CDBG) Program*: The WBC administers the CDBG Program, a federally funded pass-through grant program from the U.S. Department of Housing and Urban Development (HUD). The State normally receives an annual allocation of $2.2 to $3.7 million.

   The WBC administers the CDBG program for economic and community development projects, and its board of directors approves grant recipients. The Wyoming Community Development Authority, called the WCDA, manages the portion of funding designated by the WBC for housing in Wyoming.

   Wyoming is given broad authority to design and structure a program that meets the community and economic development needs of Wyoming communities; however, any project funded with CDBG funds must meet one of three HUD imposed national objectives. The three objectives are:

   i. Benefit to low and moderate income families;
   ii. Elimination of slums and blight; and

iii. Projects which meet an urgent community development need that pose a serious and immediate threat to the health or welfare of the community.

Moderate income is defined as 80% percent of the median income and is adjusted by family size.

Only counties and incorporated cities and towns are eligible to apply for CDBG funds. However, local governments may apply on behalf of other units of government, non-profit and for-profit businesses, and special interest groups. The cities of Casper and Cheyenne are not eligible because they are entitlement cities and receive CDBG funds directly from HUD. Laramie and Natrona counties may apply on behalf of a project located within the municipal boundaries of Cheyenne and Casper respectively, if it can be demonstrated the benefits of the project are available on a countywide basis.

c. *Community Facilities Grant and Loan Program*: A federal grant and loan program intended to assist rural communities with infrastructure programs. It is administered by the United States Department of Agriculture's Rural Development office in Wyoming.

d. *Business Ready Community Grant and Loan Program*: The Business Ready Community Grant and Loan Program can provide financing for publicly owned infrastructure that promotes economic development within Wyoming communities. Projects may include direct job creating projects where a business has committed to locate or expand in a community, and community readiness projects where no specific company has committed to expand or locate in a community.

This program provides financing for publicly owned infrastructure that serves the needs of businesses and promotes economic development within Wyoming communities. Cities, towns, counties, joint powers boards and both Tribes are eligible to apply for funding. Public infrastructure that is eligible for funding includes water; sewer; streets and roads; airports; rights of way; telecommunications; land; spec buildings; amenities within a business park, industrial park, industrial site or business district; landscaping, recreation and educational facilities; and other physical projects in support of primary economic and educational development.

e. *Federal Natural Resource Policy Account (FNRPA)*: The FNRPA was established in 1999 to provide a funding mechanism to respond to federal natural resource policies that affect Wyoming. Counties have used this resource to participate with specialized consultants and lawyers in resource management plans, winter use studies, mineral development studies, and other land use planning. Expenditures must be authorized by the Governor on behalf of the State of Wyoming and its local governments. Proposals are judged against a set of criteria laid out in the statutes (W.S. 9-4-218). In 2010, the WCCA received a FNRPA grant from Governor Freudenthal to fund an attorney position in the WCCA to assist counties statewide

with natural resource issues. The grant has been renewed under Governor Mead and Governor Gordon.

Additional information on fund availability and use is available from the Governor's Office and the WCCA Natural Resource Counsel can provide additional support.

f. *Energy Lease Program*: The WCCA and the Wyoming Association of Municipalities (WAM) jointly operate this small, no interest loan program to help counties and cities make energy efficient upgrades to public facilities. Applications are due in the fall and are awarded by a joint WCCA/WAM committee in January.

Locally assessed fees:

Fees charged at the local level account for about one-third to one-fourth of most counties' budgets, although the percent varies widely. Some of the more common fees are listed below.

- County clerk, county treasurer, clerk of district court and sheriffs' fees
- Planning and zoning fees (building permits, water samples)
- Liquor licenses
- Contracts (law enforcement, out of county prisoners, Forest Service law enforcement, etc.)
- Public health nurse fees
- Motor vehicle titling and licensing
- Business licenses
- Miscellaneous (sale of county property, E-911 reimbursement, etc.)

General County Expenditures

Each county funds a wide range of county-related projects. Most expenditures are channeled into such areas as county administration, public buildings, roads and bridges, and law enforcement. The county clerk must present to the commissioners, at their regular meeting held in July each year, a statement of the receipts and expenditures of the county during the twelve months immediately preceding the report, regardless of the amount spent. The report is itemized and must also be published once in the county's officially designated newspaper, and on the county's website. (W.S. 18-3-515)

Within 60 days after the end of each fiscal year, the name, position, base annual salary, and amount of overtime paid to full-time employees and elected officials. The salary publication must include a statement that all salaries are listed as base annual salaries or actual wages, not including any benefits such as health insurance costs, life insurance benefits, and pension plans (W.S. 18-3-516). Undercover law enforcement personnel are exempt from publication (W.S. 18-3-516 (d)).

Warrant Process

For accounting purposes, county governments work with a warrant system on the payment of bills and salaries. The warrant is a form of a check and is treated like a check at a financial institution.

When an office of the courthouse makes a purchase, a voucher is used to describe the purchase and the warrant is issued to pay for the goods.

Example: The sheriff's office needs tires for a deputy's vehicle. He/She makes arrangements with the local service station to order the tires. When the tires arrive, the vendor submits the bill to the sheriff's office. The sheriff's office has the vendor fill out and sign a voucher that the tires were ordered and received, and the sheriff authorizes payment for these tires by the county. The voucher is turned over the county clerk's office and the warrant (payment) process begins. The voucher is entered into the system, assigned a warrant number, who the warrant is for, the amount, the item and what office or department this item should be charged to. The voucher is presented to the commissioners for approval and is signed by the members of the commission. After approval, the warrant is issued. The warrant is signed by the chairperson, the county clerk (budget officer), and the county treasurer (W.S. 18-3-510).

Debt Financing

<u>Short Term Financing</u>

The expenditures incurred by counties can be quite high. This section on county indebtedness will explain how large expenditures are handled. The WCCA recommends consulting with the county attorney before entering any form of debt financing as there are very specific legal limitations in this area.

a. *Certificates of Indebtedness*: One of the most common and simple methods of addressing short term cash flow needs is a certificate of indebtedness. The commissioners are authorized by law to issue such certificates when there are not sufficient funds in the county treasury to meet current expenses. Certificates of indebtedness provide funds to meet temporary cash deficits arising from a mismatch between the receipt of revenues and the requirements for expenditures. Since debts are always paid off within the current fiscal year, certificates of indebtedness are not considered a long-term debt of the county and therefore do not require a vote of the electorate. It is suggested in the statutes that these certificates be issued particularly for the expenses of maintaining the courts, the boarding of prisoners, the prosecution of criminals, the salaries of county officers, and such expenses as arise during the current year. The statute continues to include (with the consent and permission of the Board of County Commissioners) "the county hospital, library, welfare or fair board of any county..." (W.S. 18-4-104). The total amount of the certificates issued by each of the boards shall not exceed the following amounts in any one year of issuance: for county hospitals – 30 percent of that portion of the budget as approved by the commissioners that is to be derived

from tax levies during the current year; for county fairs – 80 percent of the budget estimate of anticipated income for the year of issuance; for the county libraries – 30 percent of the budget estimate of anticipated income for the year of issuance; for welfare boards – 50 percent of that portion of the budget for general welfare and health only as approved by the commissioners that is to be derived from tax levies during the current year (W.S. 18-4-104).

Though it is up to the commissioners to determine whether these certificates of indebtedness should be issued, definite guidelines must be followed regarding their issuance. The interest rate limit is no more than six percent per annum (W.S. 18-4-104(c)).

All certificates of indebtedness issued by the several boards are payable out of the first tax funds available to respective boards. The forms for the certificates of indebtedness shall state "that they are payable out of the revenue of the county for the year of issuance and shall be of such forms as to clearly distinguish them from county orders or warrants" (W.S. 18-4-104(f)).

b. *Lease agreements*: These agreements are a form of short-term financing. Leases must have a non-appropriation clause in the agreement. It then becomes a year-to-year lease. Lease agreements have been used to finance various forms of equipment.

<u>Long-Term Financing</u>

a. *Building Fund*: The commissioners may provide for an election to decide whether a building fund of a specified amount within a specified period not to exceed ten years should be accumulated to erect county buildings, additions, or improvements. The proposal shall be submitted on a separate ballot at any special, primary, or general election in the county (W.S. 18-4-201). If the proposal is approved, the commissioners may, by a mill levy not to exceed two mills, raise money directly for the building fund. However, the two mills must be within the 12 mill county levy (W.S. 18-4-201(b)).

b. *General Obligation Bonds*: Another common type of long-term county indebtedness is bonded indebtedness. The entire process of issuing and paying off such bonds is a complex process outlined in Wyoming Statutes (W.S. 18-4-301 through 506).

The commissioners of any county can issue bonds if they are authorized to do so by most of the electors of the county, provided that the amount of the bonds to be issued together with any existing county indebtedness does not exceed the constitutional debt limitation for counties (W.S. 18-4-301). The Wyoming Constitution provides that counties can incur general obligation indebtedness in an amount that does not exceed two percent of its assessed valuation. General obligation bonds are backed by the full, faith and credit of the county. In other words, the county pledges to the bondholders that it will levy sufficient property

taxes to pay the annual payment on the bonds. Importantly, the mill levy required to make the annual payment is not included in the county's 12 mill limitation.

Whenever most of the commissioners decides that bonds should be issued, the Board can submit the questions of whether the Board shall be authorized to issue such bonds to the electors of the county. The maximum amount of bonds to be issued must be stated. The proposed bond issue must not exceed constitutional and statutory debt limitations. The bonds must bear interest at a fixed rate and must be issued, payable and redeemable in the manner hereafter provided. General obligation bonds may be issued for the following purposes:

- Courthouse or jail
- County library or library branches
- Fiber optic communication system
- Roads, highways, bridges, viaducts, or subways
- County hospitals
- Senior citizen centers
- Acquire lands and other property for fairgrounds, airports, parks, and pleasure grounds
- Construct, maintain and operate a public auditorium, athletic fields, civic center, or other community building, which may be designated as a memorial to the war veterans of the United States of America.

Bonds issued by the commissioners may mature at a time not exceeding 25 years from their respective dates. The various annual maturities shall commence not later than the fifth year after the date of the bonds. All bonds mature serially, at the option of the commissioners, in substantially equal annual installments or upon an amortization plan for the bonds or proposed bonds and all outstanding bonds of the county, or in any other manner as the board may determine. (W.S. 18-4-304)

The commissioners are required to serve notice to the public of their intention to issue and sell bonds and to invite bidders for this purpose. The notice must be published in a county's designated official newspaper and posted on the county's official website (W.S. 18-4-306 and 18-3-516(f)). Upon such notification, the Board is required to ascertain those terms which are most favorable to the county. Such terms include the lowest interest rates possible and the final maturity date of the bonds.

The statutes also contain provisions for accumulating funds from a levy for bonds that are callable prior to the original final maturity date. For example, a Board of County Commissioners may issue bonds with a 15 year maturity. The bond documents state that the Board of County Commissioners has the option of calling all or a portion of the bonds in year ten if there are sufficient funds to pay the principal and interest on those bonds called prior to the original maturity date. The statutes provide that if bonds are callable, the Board shall annually levy not less

than one mill at least five years prior to the call date in year ten. The language in the statutes suggests that the annual levy shall be sufficient to pay the bonds as they become optional.

All such taxes shall be levied, assessed, and collected as other county taxes until the bonds are fully paid including the interest. If the tax for the payment of interest is not levied or collected in time to meet the payment, the interest shall be paid out of any monies in the general fund of the county. Any money so used for such payment of interest shall be repaid to the fund from which it was taken, out of the first monies collected from taxes (W.S. 18-4-309).

c. *Revenue Bonds*: The statutes provide that the county may issue revenue bonds for county owned hospitals and airports. They may also be used for jail construction where federal or other prisoner contracts can pay off the debt. The Board of County Commissioners, when requested by the board of trustees of a county memorial hospital, may issue revenue bonds, notes and warrants or other revenue securities for the purpose of acquiring, erecting, constructing, reconstructing, improving, remodeling, furnishing or equipping hospitals or related facilities, or acquiring a site (W.S. 18-8-201).

d. *Funding Bonds*: Funding bonds refer to refunding of bonds that have been previously issued by a Board of County Commissioners. The issuance of refunding bonds may be authorized by the commissioners; however, such authorization does not need the approval of the electors of the county. Bonds may be issued for "the purpose of paying, redeeming, funding, or refunding the principal and interest of any indebtedness of the county when the same can be done at a lower rate of interest and to the profit and benefit of the county". Generally, refunding bonds are issued to "refinance" outstanding general obligation or revenue bonds. This may be done if interest rates have declined to where the annual payments on the bonds could be reduced by refunding the existing bonds. Another situation that has occurred in Wyoming is if a county's assessed valuation has declined since the bonds were originally issued, the mill levy required for the payment of bonds may need to increase to unacceptable levels and lower annual payments could be achieved by extending the original maturity schedule through the refunding process.

   Refunding bonds must also be sold at public, competitive sale after proper advertisement. The place of payment is to be the office of the county treasurer or a place designated by the commissioners at the option of the holder. The total amount of bonds issued (including the present indebtedness of the county) cannot exceed the constitutional debt limitations for counties (W.S. 18-4-501).

e. *Bond Anticipation Notes*: Bond anticipation notes can be authorized for issue based on any resolution of a general obligation bond or a revenue bond. Any governing body (meaning municipalities or counties) can issue the notes in anticipation of the actual issuance of the authorized bond passed by the voting population. For further

consideration of county bond anticipation notes and the issuance of certificates, review W.S. 16-5-401 through 412.

Emergency Expenditures

The Uniform Municipal Procedures Act also allows for emergency expenditures after a determination by the commissioners that an emergency exists and that expenditure is necessary to cover the emergency. If the amount needed exceeds the general budget fund, the Board may make the necessary expenditures out of accumulated retained earnings (see W.S. 16-4-114). This section provides for a general fund to accumulate fund surplus to be used for emergencies.

VII. THE COURTS

Circuit Court System

The Court Consolidation Bill of 2000 established the Circuit Court System in Wyoming, replacing the County Court System. In 2003, the Circuit Court System also replaced the Justice of the Peace Courts. Wyoming currently has a statewide Circuit Court System. The geographic boundaries of the circuit courts are the same as the nine judicial boundaries for the district courts.

W.S. 5-9-102 is the principal section of statute governing the establishment and operation of the Circuit Court System. The Legislature determines the number and location of circuit court judges. The civil jurisdiction of the circuit court covers cases in which the damages or amount sought for recovery does not exceed seven thousand dollars $7,000. Circuit court judges also preside over domestic violence and stalking cases. The criminal jurisdiction of the circuit court includes misdemeanors and an initial appearance on felony charges. In addition, circuit court judges can review and set bond and authorize a search warrant.

The Governor appoints circuit court judges. They serve four year terms and then stand for retention on the ballot. A circuit court judge must be an attorney admitted to the Wyoming State Bar and must be a qualified elector of the state. Circuit court judges are full-time judges and may not have a private law practice.

Currently, by statute, counties that do not have a resident circuit court judge are entitled to a full-time magistrate. Circuit court judges within the district agree on a person to fill the office of magistrate. The name of the person is submitted to the Board of County Commissioners for approval or rejection. The term of office for a full-time magistrate is four years. Irrespective of any vote of the electorate, the circuit court judges of the circuit may remove the magistrate by a unanimous vote.

District Courts

The district courts in Wyoming are responsible for handling felony cases, civil matters above seven thousand dollars $7,000 and domestic relations. In addition, the district courts

are also the state's juvenile and probate courts. The State of Wyoming pays for judicial salaries and the salaries of the judge's immediate staff. The counties pay for the offices of the clerks of district court and jury expenses. The county pays a portion of the fees for Guardians *ad Litem* (GAL) for counties who have executed a MOU with the GAL Program, (W.S. 14-3-434(b)), fees for court commissioners, and court appointed attorneys for involuntary commitments (W.S. 25-10-110).

Funding the Circuit and District Courts

The State of Wyoming pays for the judicial salaries, salaries of the clerical staff, jury expenses, supplies and other operating costs of the circuit and district courts. By statute, the counties are responsible for providing suitable quarters to house the district court and for providing necessary furniture and fixtures.

Funding for both circuit and district court security is a current issue faced by many counties. While Homeland Security grants are available for equipment purchases, many courthouses require significant upgrades to fully secure the staff at these buildings. Some of the recommended upgrades must be balanced with the historical and "open" nature of the courthouse. Ultimately, the county commissioners are charged with care of the courthouse, and so long as an activity is not mandated by the state, the commissioners retain the authority to make any changes they deem necessary or refuse changes they deem unnecessary.

Additionally, the judicial branch is in the process of IT upgrades in courthouses around the state on a five-year plan. In 2018 the legislature passed legislation that clarified the responsibilities of the counties and the court with respect to technology. Counties are responsible for the wiring and infrastructure "up to the wall" at the courthouse while the judicial branch is responsible for the hardware and software that exists "outside the wall" for courtroom IT.

VIII. THE OFFICE OF HOMELAND SECURITY AND EMERGENCY MANAGEMENT

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.

Emergency Coordination and Response

County commissioners and local emergency managers share with the county sheriff the responsibility as the first line of official public responsibility for emergency management activity. In the event of an emergency or disaster of such severity and magnitude assessing recovery beyond the capabilities of a county, the declaration of a local disaster is an

essential first step in applying for federal disaster assistance. This process falls under the provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The county commissioners' role of developing and maintaining an on-going emergency response program has been expanded significantly. Wyoming law specifies each political subdivision shall establish a homeland security/emergency management program and maintain a written emergency operating plan. The law also mandates the political subdivision to develop mutual aid agreements and to provide for funds, supplies and equipment.

Many municipalities elect to participate in a county plan rather than develop a separate plan of their own. There are terrorism planning requirements for all counties, as well as the financial management of federal grants for terrorism planning, equipment, training, and exercises. The National Incident Management System (NIMS) is also a new requirement for counties to officially adopt, train and use a uniform system (known as the Incident Command System – ICS) when managing emergencies and disasters. Homeland Security Presidential Directive #5, dated 2/28/03, requires each political subdivision to adopt the NIMS. **Failure to adopt NIMS may affect eligibility for future homeland security funding.**

Pursuant to Wyoming law, each local homeland security program shall have a coordinator appointed by the Governor upon the recommendation of the local jurisdiction, often counties. The coordinator is responsible for administering a comprehensive program to mitigate, prepare, respond, and recover from disasters. This coordinator works with all local emergency service agencies and provides coordination for the county commissioners to the state and other jurisdictions (W.S. 19-13-108). When an emergency or disaster occurs, the Wyoming Office of Homeland Security (WOHS) is notified. If the initial assessment identifies the need for resources beyond local capability, the Chairman executes a local "declaration of disaster" and requests state assistance. If WOHS determines federal assistance will also be required, the Federal Emergency Management Agency (FEMA) will be alerted. Only the governor can request a federal disaster declaration.

The county emergency manager also has a role with the Local Emergency Planning Committees (LEPC). The LEPCs collect information from fixed facilities within the county who store and possess hazardous materials, whether public or private. They are responsible for developing and regularly revising the county Hazardous Material Emergency Response Plan. This plan is utilized by the LEPC to develop emergency plans for response, evacuation, and recovery in the event of an accidental or terrorism related release. County emergency management coordinators play a key role with this program and report on its progress to the county commissioners.

Under Governor's Executive Order 2001-6, a State Emergency Response Commission (SERC) was created pursuant to the Federal *"Emergency Planning and Community Right- to-Know*" law. The SERC is made up of 19 members representing emergency response agencies at the local and state level and private industry. The executive order also created an emergency planning district in all 23 counties. The Wyoming Office of Homeland Security continues to support the SERC, which became an independent commission under

the Wyoming Emergency Response Act in 2004. The SERC has a responsibility to support the Local Emergency Planning Committees (LEPC) in the state. County commissioners also have a significant responsibility in supporting their local LEPC.

Commissioners are a primary point-of-contact for all federal grant programs administered by the Wyoming Office of Homeland Security. Federal homeland security grants have recently been distributed to local counties and tribes for homeland security needs, such as equipment, exercises, training for first responders and Citizen Corps programs for local/county residents.

Finally, a growing concern at all levels of government is the protection of personal data, and the threat of cybersecurity. While much of the data stored by counties is already considered public information, some (like credit card information potentially stored by county clerks) is not. In addition, there have already been high profile cyber-attacks on local governments ranging from pranks (a Montana county's emergency alert system was hacked, and a warning issued that the zombie apocalypse was occurring), to the more serious (ransomware that has shut down local government servers until a ransom is paid). While IT costs continue to skyrocket, it is advisable to work with your county team to bolster your cybersecurity. Wyoming's Enterprise Technology Services, the IT Department for the State, has developed helpful guidelines.

Emergency Communications

An ongoing and growing expense for all local jurisdictions is the cost of emergency communications via 911 emergency systems and the public safety communications system known as WyoLink. 911 systems are intended to allow the public to communicate with first responders, while public safety communications are intended to allow first responders and other emergency management personnel to communicate with each other.

911 calls are routed through public safety answering points (PSAP). These PSAPs can be very local or expand out to a more regional capacity. Currently Wyoming has over 30 PSAPs, but all of them are funded with a combination of city and county general fund dollars and revenue received by a fee levied at the county level (for most counties) of 75 cents per phone per month, or 1.5% of the cost of prepaid phones.

WyoLink is the statewide public safety interoperable radio system intended to allow multiple law enforcement and emergency personnel to communicate seamlessly no matter the jurisdiction. The large capital expenditures for WyoLink, like communications towers, are an expense borne by the state. However, each county has spent significant county revenue to purchase radios, radio consoles, and other equipment.

IX. TRANSPORTATION

Wyoming's statutes place county roads and highways under the management of the Board of County Commissioners in each county (W.S. 24-1-104). A county road is a road established pursuant to W.S. 24-3-101. This statute has specific requirements that must be

met to establish a county highway. There are many statutes that apply to county roads, so they are not all listed in this section. A listing of many of the statutes applicable to county roads is found in Appendix J of the County Road Fund Manual.

The commissioners of each county must divide their county into road districts of as compact form and convenient size as is practical and embracing the territory within an election district where possible (W.S. 24-1-111).

County commissioners' duties include:

- Establish a road construction account separate from other county general fund accounts,
- Consider requests for roads,
- Develop a road priority project list,
- Explore other funding sources (i.e., grants, railroad funds, Industrial Revenue Program (IRP), Bridge Replacement Off-System (BROS), etc., and account balances),
- Implement professional input and design, in-house, or hired consultant,
- Follow statutory procedures for bridge review process prior to bridge construction,
- Advertise for bids (only required on bridges and CRCF projects over $50,000 in total costs),
- Award a contract,
- Ensure that construction is supervised and inspected during progress,
- Ensure that progress payment(s) and final payment for construction is made, and
- Report cost of the project and provide sufficient detail to account for project costs (only required on CRCF projects, however, it is often a good idea in general).

Road & Bridge Funding

Counties receive a share of both the state gasoline and diesel fuel taxes for county roads. Counties receive approximately 13.5 percent of the total gas tax collected, and approximately 20 percent of the total diesel fuel tax collected. In addition, counties receive separate funding for road construction through the County Road Construction Fund. That funding comes from two sources, 14 percent of the gas tax and 2.9 percent of the state severance taxes. The severance taxes are capped at about $4.5 million. All these funds are described in more detail in the section State-shared Revenue. Currently, the counties do not receive an annual allotment of federal funds.

Bridges

The Federal Bridge Management Program has delegated authority and responsibility of bridge maintenance to Wyoming Department of Transportation (WYDOT). W.S. 24-1-132(b) provides a technical definition for bridge. A WYDOT inspection program monitors and manages the condition of all bridges on and off the state highway system on public roads. Any bridges less than 20 feet of span on a county road are the responsibility of the county. Any proposed structure greater than 20 feet long is required to be reviewed and

approved by WYDOT prior to construction. In addition, any bridge construction over $25,000 is required to be competitively bid (W.S. 24-1-132(c)).

County Road Construction and Maintenance Fund

The County Road Construction and Maintenance Fund (CRCMF) receives funds from mineral severance taxes and fuel taxes. The funds pass directly to each county (W.S. 24-2-110). The CRCMF provides for the construction and reconstruction of county roads. A county road is defined as a road that is open to the public, serves as access to farms, ranches, residences, businesses, and other local properties and has been established in accordance with the provisions of W.S. 24-3-101.

The statutes charge the county commissioners of each county with the responsibility to "establish a separate road construction fund solely for the construction of county roads, bridges and culverts", and restricts the use of the CRCMF funds, including any interest earned by the funds, to be used for construction of county roads and bridges. The CRCMF statute also requires all projects more than $50,000 be competitively bid and does not authorize transfers from this fund to the county general fund.

The Wyoming County Road Standards Committee was created by statute to help set standards for CRCMF projects. County commissioners have two representatives that serve on the County Road Standards Committee. The committee has provided each county with the County Road Fund Manual and annually reviews each county's CRCMF spending. The intent of the manual is to provide the counties with a uniform set of criteria to follow in implementing the program and complying with the new statute. This manual provides minimum design values for county roads.

Cattle Guards and Fences

Boards of County Commissioners may authorize the erection of a lawful fence upon the right-of-way of any public road and locate and build constructed gates and cattle guards at such intervals as it deems necessary for the convenience of the public. However, this is not a mandate on the county. Boards of County Commissioners have full authority to bill the costs of fences and cattle guards to the landowners who will benefit (W.S. 11-28-105).

Congestion Mitigation Air Quality (CMAQ)

CMAQ is a federal highway program whose funds are directed toward either reducing dust particulate or reducing traffic congestion. Recent changes in the federal statutes allow CMAQ funding to be used proactively. CMAQ projects were restricted to areas that failed to meet federal air quality standards. Now, Wyoming has the authority to use the funding for implementation of the program through the Wyoming Department of Transportation. Primarily used by counties that are particularly affected by industrial development, the CMAQ's purpose is to help reduce air pollution across Wyoming and to assist local communities in mitigating the impacts of energy development.

Federal Lands Access Program (FLAP)

FLAP is a program of the Federal Highway Administration designed to construct, reconstruct, and maintain roads that provide access to federal lands. Historically, Wyoming has received approximately $9 million in funds for this program. Grants are distributed by a committee in Wyoming that evaluates applications. Currently Converse County Commissioner, Jim Willox, serves on the FLAP committee.

Airports

Boards of County Commissioners are authorized to acquire lands and other property for airport purposes, and to construct, maintain and operate these facilities. This authority includes all normal facilities such as runways, terminals, offices, security, marketing, air traffic control and all other attendant facilities. All facilities must be constructed in accordance with federal and state standards. Currently, all aviation security guidelines are established by the Transportation Security Administration.

Commissioners may also appoint a board of trustees to act under any authority granted to the county. The commissioners may levy taxes, issue bonds, or incur indebtedness, and may issue revenue bonds or other revenue securities for the purposes listed above. All taxes collected, together with other monies received from the sale of bonds, cities and towns, rents and revenue, donations, federal and state grants-in-aid, or other sources for this purpose, shall be placed in an airport fund which shall be expended only by the authority provided by law.

X. PLANNING AND ZONING

The Board of County Commissioners of each respective county is 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). County commissioners or planning and zoning commissions do not have the authority to prevent the extraction or production of the mineral resources in or under any lands.

Regulating land use requires a comprehensive land use plan. A comprehensive plan is a policy guide (not regulations) for decisions about the physical development of the county (e.g., where development should occur and what it should be). Zoning regulations are the normal means of implementation, by regulation, of the policy (plan). <u>A comprehensive plan is a prerequisite to the adoption of a zoning resolution.</u> In 1996, the Supreme Court concluded that zoning is the only allowed method to enforce the comprehensive plan (*Ford v. Board of County Commissioners of Converse County*). A comprehensive plan is also a prerequisite for ensuring that municipalities cannot exercise jurisdiction in areas outside the city limits.

County commissions that have officially adopted a comprehensive plan pursuant to W.S. 18-5-202(b) may participate in efforts to coordinate the plan with federal regional forest or other resource management plans as provided in the Federal Land Policy and Management Act of 1976, the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976 and any other federal statute which provides for coordination with local governments and federal regulations adopted pursuant to those acts (W.S. 18-5-208(b)). Having a comprehensive plan that includes natural resource planning on federal lands is a helpful tool, but not required by federal law.

The first step towards zoning is the appointment of a planning and zoning (P&Z) commission by the Board of County Commissioners (W.S. 18-5-202). The commission serves in an advisory capacity to the Board of County Commissioners. The purpose of this commission is to recommend the boundaries of the zoning district, appropriate regulations to be enforced within the zoning district and prepare a comprehensive plan with zoning recommendations. This comprehensive plan shall be submitted to the commissioners for final approval. Before submitting its comprehensive plan, the P&Z Commission must hold at least one public hearing. Notice of time and place of the hearing shall be published in a newspaper of general circulation in the county at least 30 days before the date of the hearing. Any person has the right to petition the P&Z Commission for the amendment of any previously adopted land use plan.

The P&Z commission is also empowered to make recommendations concerning zoning matters. At least one public hearing must also be held before a recommendation can be adopted by the board. After the hearing, the board shall vote upon the adoption of the P&Z commission's report (W.S. 18-5-202).

The P&Z commission is to be composed of five members, at least three of whom must reside in the unincorporated area of the county, to be appointed by the county commissioners. The terms of the members appointed to the first P&Z commission are staggered so that the term of one member expires each year. Thereafter, each member shall be appointed for a term of three years (W.S. 18-5-202). The county commissioners shall designate the county clerk, another county employee or a member of the P&Z commission to serve as secretary to the planning commission (W.S. 18-5-202 (a)).

In the event of a vacancy in the P&Z commission, the county commissioners fill the vacancy by appointment for the unexpired term. All meetings, records and accounts of the P&Z commission shall be open to the public. Three members constitute a quorum for the transaction of business (W.S. 18-5-202).

Court and Attorney General Opinions on Land Use

The county's planning and zoning duty has been open to quite a bit of controversy for many years. The Wyoming Supreme Court, through case law, and Attorney General, through opinions, have tried to interpret the boundaries of the commissioners' powers as a board and interpreted their obligations under statutory guidelines. This supplementary part will

evaluate case precedent and Attorney General opinions in an attempt to explain new developments in the counties' planning and zoning function.

The grant of authority under W.S. 18-5-201 is to regulate and restrict the use of the land in the county. This is done through the P&Z commission and the further recommendation of a comprehensive plan for the county. A comprehensive plan is a prerequisite to the adoption of a zoning resolution. **In 1996, the Supreme Court concluded that zoning is the only allowed method to enforce the comprehensive plan.** While allowing the board to retain control over the adoption of a comprehensive plan and to impose restrictions within the plan, W.S. 18-5-201 does not enable the board to control the division or subdivision of land. The subdivision statutes (W.S. 18-5-301 through 318) authorize the commission and board to receive and evaluate applications for subdivision permits (Attorney General Opinion 79-35, p. 180). Thus, zoning and subdivision controls are separate and distinct control mechanisms with different functions and purposes. The use of the land is controlled by zoning and the division of land is controlled by subdivision regulations. Under W.S. 18-5-305, the county shall enact local resolutions which impose additional requirements on subdivisions. W.S. 18-5-315 allows any board to enact subdivision regulations which impose requirements which are more restrictive than the Real Estate Subdivision Act.

In Attorney General Opinion 80-022, the Attorney General recognized the right of the P&Z commission to request mining operations to submit applications for zoning permits in unincorporated areas to establish conformity with zoning restrictions. Under this opinion, counties are limited to control of mining permits and may not impose restrictions outside the county plan itself. The statute will not allow county use of permits to regulate environmental concern. Before any of this power of requiring conformity can be effective, the opinions indicate that a comprehensive plan must have been adopted.

Within the issue of comprehensive planning falls the question of freezing land use (or moratoriums) and the long-term effects of such actions. The Supreme Court in *Schoeller v. Board of County Commissioners of Park County*, 568 P.2d 869 (Wyo. 1977), held that an emergency land freeze cannot be made permanent policy or plan of the county without hearings and notice according to the statutes. The court ruled that the county freeze resolution may continue only for a length of time which affords an opportunity to give notice and hold a hearing. After the hearing, the authority for a freeze will not be allowed to be made the permanent plan.

The preparation and adoption of a plan must be for the total area of the county but may be adopted with special plans for areas under certain strains (Attorney General Opinion 81-001). For a detailed analysis in this area of county government, see the statutes, cases and opinions: *Schoeller v. Park County*, 568 P.2d 869 (Wyo. 1977); *Snake River Venture v. Teton County*, 616 P.2d 744 (Wyo. 1980); *Snake River Brewing, Inc. v. Town of Jackson*, 70 P.38 241 (Wyo. 2003); and Attorney General Opinions 79-035, 80-022 and 81-001.

Subdivision Control

The subdivision of land in unincorporated areas in each county is regulated and controlled by the commissioners under the authority of the Real Estate Subdivisions Act. Zoning typically sets minimum lot sizes in particular districts. Subdivisions control the actual division of property, including roads, easements, utilities, drainage, layout water and sewerage systems, etc. Except as noted in the Act, no person can subdivide land or commence the physical layout or construction of a subdivision without first applying for and obtaining a subdivision permit from the board of the county in which the land is located (W.S. 18-5-301). Provisions relating to the minimum requirements for a permit, and the rights, powers and duties of the board are detailed in the Act (W.S. 18-5-301 through 315). Specific information to be submitted for a subdivision permit includes:

- Evidence of zoning compliance
- Survey Plat
- Evidence of merchantable title
- Sewage system study
- Easements for access and utilities
- Water supply system study
- Adequate access documentation
- Adequate financial resources documentation
- Public notice of intent
- Any county-specific information
- Water rights disposition documentation
- Conservation District review
- Department of Environmental Quality (DEQ) review

In 2001, the Wyoming Legislature significantly amended the subdivision act as a result of suggestions made by the WCCA, the Wyoming Planning Association, title companies, other county elected officials and developers. The amendment was chiefly aimed at closing loopholes that fostered illegal divisions of land and that allowed counties the discretion to relax subdivision permit submission requirements for small (five or fewer lots) subdivisions. The most significant change was to redefine the term "subdivision". The old definition said any division of land into three or more parcels was a subdivision. That was amended to say that <u>any</u> division of land, with certain exemptions, was a subdivision. However, the legislature did not want to burden someone selling a single lot or two to be held to the standards of a 50 unit subdivision. They added language that allowed county discretion in applying minimum requirements for five or fewer lots. Among other things, a county can exempt a small subdivision from the statutory requirement of the DEQ review.

The DEQ review of a subdivision may have a major financial impact on the cost of subdividing property (W.S. 18-5-306(c)). The legislature also expanded the list of exemptions to include the sale or transfer of land to a relative, known as the “family exemption”. Moreover, property divided into parcels, all of which are 35 acres or more, are exempt from most subdivision regulations. The legislature did require access to be provided to lot sizes more than 35 acre developments, even though the subdivision laws do not apply.

In 2018, the legislature changed the law regarding municipal approval of subdivision and development plats within one mile of the city limits. Beginning in January of 2019, municipal approval of subdivision and development plats is no longer necessary so long as a county has a comprehensive plan. Instead, counties must notify the city and seek comments on issues like street alignment, etc.

Wind and Solar Energy Development

The Wyoming Legislature granted county commissioners the authority to permit wind and solar energy facilities prior to construction (W.S. 18-5-502). A wind energy facility is any wind powered electrical generation development consisting of an individual wind turbine or multiple wind turbines rated by the manufacturer to generate more than one-half megawatt of electricity and includes all contiguous lands where the owner or developer has rights to erect wind turbines (W.S. 18-5-501(a)(ii)). A solar energy facility is a commercial facility with a rated power capacity of more than one-half megawatt of electricity from solar power that includes all lands where the owner or developer has rights to erect solar energy facilities, including lands for battery storage (W.S. 18-5-501(a)(vi)).

The statutes set out a process for the developer to apply to the county commissioners for a permit and the time frames for which the application must be acted upon by the county commissioners. Also enacted was a statute that specifies the minimum standards for construction of wind and solar projects (W.S. 18-5-504). These are minimums set by statute. A county can impose more stringent requirements than are articulated in all areas except for decommissioning and reclamation. The Industrial Siting Council has promulgated the standards for decommissioning and reclamation that must be adhered to by all projects. These standards are found at W.S. 35-12-105(d).

In addition to the county permitting process, all wind farms of 20 or more turbines and solar facilities that have a rated power capacity of more than 30 megawatts, would result in at least 100 acres of surface disturbance or is expanded satisfy either of these criteria must go through the Industrial Siting Council permit process. The Industrial Siting Council is a board appointed by the Governor who oversees industrial development within the State of Wyoming. The Industrial Siting Council is included in the Department of Environmental Quality and works in conjunction with the administrator and staff of the Division of Industrial Siting. See below for more on the Industrial Siting Council

XI. COOPERATION WITH OTHER UNITS OF GOVERNMENT

As an administrative arm of the State, counties interact with many state agencies on a regular basis. The State of Wyoming and any one or more of its counties, municipal corporations, school districts, special districts, public institutions, agencies, boards, commissions, and political subdivisions may cooperate with and assist each other. This power includes like entities or authorities of other states, the United States and the Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation.

Such cooperation may be informal or subject to resolution, ordinance, or other appropriate action. It may be embodied in a written agreement specifying purpose or purposes, duration, means of financing, methods of operation, termination, acquisition and disposition of property, employment of executive and subordinate agents and other appropriate provisions.

Wyoming Joint Powers Act

The most formal use of cooperative authority is through the Wyoming Joint Powers Act (JPA) (W.S. 16-1-101 through 108). The JPA provides that two or more agencies having similar powers, privileges or authority may enter into agreements with one another for joint action provided no cost is incurred, no debt is accrued, and no money is expended by any of the contracting parties which will exceed any limits prescribed by law. All joint powers agreements are required to be approved by the Wyoming Attorney General.

The JPA specifically authorizes any county to enter into a joint powers agreement with one or more counties, cities, school districts, or community college districts and, in operating under that agreement, to perform any function that the county, city, school district, or community college district is authorized to perform, except the creation, expansion, financing, operation or planning of municipally owned electrical facilities (W.S. 16-1-104).

A joint powers board must consist of not fewer than five members, all of whom shall be qualified electors of the counties in which the board operates. Members are appointed by the governing bodies of the participating agencies in any proportion or number the bodies feel would adequately reflect their interest. The initial appointments shall be by mutual agreement with staggered terms of one, two and three years and are subject to reappointment. Thereafter, appointments for a full term shall be for three year staggered terms. It is not incompatible office holding for an officer or legal representative of a county to be a member of a joint powers board.

A joint powers board has a chairman, vice-chairman, secretary, and treasurer. The secretary must notify the participating agencies of the board's organization and must file a certificate with the county clerk and the secretary of state showing its organization. Further provisions relating to the types of projects undertaken; the contents of a joint powers agreement and when the agreement is effective; the meetings, rights, powers and duties of the board; and the ways in which a project undertaken under this Act may be financed are detailed in W.S. 16-1-104 through 109.

In addition to a formal joint powers agreement, the law allows counties to cooperate with other local units of government in specific situations, for example:

a. A county may contract with a municipality and/or private organizations to give or receive fire protection, to jointly provide fire protection or to contribute toward the support of any fire department in return for fire protection service (W.S. 18-3-509);
b. A county may, by agreement, with a municipality which is the county seat of that county, acquire and use a joint county courthouse and city municipal hall, a public

auditorium, athletic fields, civic center or other community buildings (W.S. 18-2-104);

c. Each county, municipality, school, hospital, or other special district, or any two or more of them may, by contract or agreement, jointly establish and operate recreational facilities, water, liquid or solid waste facilities, police protection agency facilities, fire protection agency facilities, transportation system facilities including airports, public school facilities, public health facilities, community college facilities, hospital and related medical facilities, courthouse, jail, and administrative office facilities, or any combination thereof, and public access roads to such school, hospital or other special districts where not otherwise provided by law (W.S. 18-2-108). When such units of local government agree to establish and operate any of the enumerated facilities, they may, by contract or agreement, jointly purchase, lease, construct and operate facilities and equipment used in the joint operation and issue their bonds for such purpose as provided by statute (W.S. 18-2-108(b)); and
d. Any county may acquire by lease, purchase or otherwise lands and other property for airport purposes, and may construct, maintain, and operate thereon those facilities it finds to be necessary for such airport operation; or if it is agreeable to both parties, the county can do so jointly with a city (town). The statutes, W.S. 10-5-101 through 302, set forth the provisions governing such airports in considerable detail.

State and Federal Agencies and the State Legislature

Counties also interact with state agencies on policy issues across the spectrum. Here are a few examples:

- The Department of Family Services reimburses counties for the costs of indigent burials.
- The Department of Workforce Services manages workers compensation for county employees.
- The Wyoming Retirement System manages retirement and deferred compensation for county employees.
- The Departments of Revenue, State Lands and Investments, and the State Treasurer's office all play a role in distributing funds to counties.
- The Department of Health administers many programs that affect counties, including Title 25 involuntary hospitalizations, public health nursing, and prevention services.
- The Department of Environmental Quality administers landfill regulations, as well as air and land quality regulations. It also works with the Industrial Siting Council (ISC).
    - The ISC is a permitting agency for wind farms, as mentioned above, but also for large industrial projects that exceeds $227.7 million in expected construction costs. If the estimated cost $182.2 million to $227.7 million, a certificate of insufficient jurisdiction must be obtained. Counties are eligible for impact assistance payments from the state when these large projects are undertaken

and their construction impacts county services prior to the realization of tax revenue from the project. In 2015 the legislature changed the payment methodology from a formula to a justification model. Counties must now show impact to the ISC before receiving funds. This change is only now being tested, and further changes are likely.

While many meetings take place in person, often your county will draft official correspondence to agencies and/or legislators. As a rule, letters from your board of county commissioners should be addressed to the highest appropriate elected or appointed official in the agency with which you are corresponding. For example, letters should be addressed to the Director of the Department of Health rather than the division head you may be working with.

Please note that when drafting letters to federal, state, or local elected officials, etiquette dictates the way these letters should be addressed. Even in a less formal place like Wyoming, following these rules of etiquette is a good idea to maintain decorum in official correspondence. For elected officials, letters should be addressed to "The Honorable...." For example:

The Honorable Mark Gordon
Governor
State of Wyoming
{rest of physical address}

The Honorable John Barrasso
United States Senator
{rest of physical address}

The Honorable Dan Dockstader
President
Wyoming State Senate
{rest of physical address}

The "Honorable" moniker is also required for cabinet secretaries at the federal level, but not for state agency directors. Much to the chagrin of many commissioners, the Honorable moniker should also be used when addressing county commissioners – you are, after all, elected to your post often with more votes of people in your county than any state legislator.

Finally, commissioners are often called upon to testify in front of legislative committees. The WCCA will often be involved in this when issues are of statewide interest, but sometimes you might testify on a specific county issue. In any case, it is very important to follow certain protocols for proper decorum at legislative committee hearings. Dress code is business for both men and women (suit and tie, closed-toed shoes, etc.), and discussions between members and those testifying must always begin with getting the Chairman's

permission to speak, even if the dialogue is a back-and-forth with another member of the committee.

XII. OTHER COUNTY FUNCTIONS

County Extension Agents

Wyoming counties have had a partnership with federal and state levels of government through the Cooperative Extension Service since 1914. The Cooperative Extension Service is a part of the University of Wyoming and is active in investigating a wide range of issues of importance to counties and making current and factual information readily available to counties. Extension's goal is to provide Wyoming youth, adults and communities with life-long learning opportunities that encourage the application of research-supported information and leadership skills.

Funding for the office is a shared responsibility between the University and county government. Generally, the University provides funding for two extension agents per county. Subject matter specialists are located at the University and serve counties based on their needs. The county in turn provides a budget for office space, financial support for staff, operating expenses and supplies for the extension office. Additional agents may be contracted as needed, along with county support and approval.

Public Health, County Health Officers and Prevention Programs

There are public health offices, or health departments, in each county. Their function is to provide a variety of health-related services and programs to the local population. Those functions include: 1) health education; 2) health status monitoring; 3) communicable disease investigations and treatment; 4) mobilization of community partnerships to identify and solve health problems; 5) systems which link people to needed personal health service; and 6) direct health care when otherwise unavailable.

Specific services may include home health, adult health maintenance, services for the child with special health care needs, immunizations, infectious disease control, maternal and child programs, pre-admission reviews for nursing home placements and screening and referrals for a variety of health care problems such as diabetes. Public health works with agencies, businesses, and leaders in their communities to determine which services are needed.

Every county has a public health office, with sub-offices located in other areas of the counties. Of the 23 counties, all but one is funded through a state-county partnership. The State currently funds two-thirds and each county funds one-third. Campbell County funds their entire public health nursing budget. Other revenue sources include grants, insurance, fees, and donations.

Services are delivered regardless of ability to pay, although some programs have a financial eligibility. A county may also, by resolution of the commissioners or by most of the votes

cast by the qualified electors of the county, establish and maintain a county health department with a governing board of health. While the board administers the department, the participating counties and municipalities fund the operation. Currently Laramie, Natrona, Sweetwater, and Teton counties have city/county health departments (W.S. 35-1-302).

In areas where there is no county health board, the county commissioners appoint a county health officer (W.S. 35-1-306(a)). The health officer can either be full-time or part-time, and the minimum compensation for the health officer statutorily is $25 per month and fees for travel expenses.

Finally, in 2018 the legislature directed $8 million to counties as the fiscal agent and oversight body for the delivery of substance abuse and suicide prevention programs at the local level. This was a significant change as for some time counties did not have direct oversight of these programs, and many commissioners had no connection to them at all. While most counties have subcontracted with their departments of health or other, outside groups, the responsibility for the program's rests with the board of county commissioners.

Libraries

The commissioners of any county are authorized to annually levy a tax for the purpose of maintaining a library. The board of county commissioners also must appoint a library board of directors and may remove board members for misconduct or neglect of duty. The control and use of the county library fund are entrusted to the library board of directors, who must appoint a competent librarian who, with the approval of the board of directors, shall appoint a library staff. The library board of directors sets the budget and expends funds on the maintenance, operation and promotion of the county library and the county library system (W.S. 18-7-101 through 103).

Upon the library board's discretion, they may receive gifts for the library in the form of property or money, appoint a competent librarian and determine his/her duties and compensation and establish and maintain branch libraries (W.S. 18-7-104 through 105). The commissioners set the mill levy that goes to the library, out of the county 12 mill levy. Some counties also supplement that with other funds such as the optional sales tax. Some county libraries now receive county funds based on needs and county revenues, not explicitly directed mills.

Hospitals

Wyoming statutes provide for the establishment of a county hospital and the appointment of a board in very specific terms, although the original minimum of fifteen thousand dollars referenced in the paragraph below would not build much today:

> When the board of county commissioners has received sufficient guaranties that not less than fifteen thousand dollars ($15,000.00) is available for constructing, acquiring or equipping a county hospital, wing or portion of a

building suitable for operation of a county hospital so arranged as to be capable of future enlargement, or where a county has acquired a hospital valued at not less than twenty-five thousand dollars ($25,000.00), it shall appoint a nonpartisan board of trustees of the hospital, none of which shall be a county commissioner or an employee of the county hospital. W.S. 18-8-102(a)

County indebtedness may be created, and county bonds issued for the construction, acquisition, and equipment of the hospital in the same manner as indebtedness is created and bonds issued for the construction of a courthouse or county jail. Once the hospital is fully established, the commissioners are required to annually levy a sufficient tax on all the taxable property in the county to provide the means for the maintenance of the hospital (W.S. 18-8-102(b)).

The construction, management and control of the hospital, the hospital funds and all donated property and funds are to be placed under the control of the board of trustees, consisting of not less than five nor more than 11 members. The board is appointed by the commissioners (W.S. 18-8-104). In accordance with W.S. 18-8-107, the board of trustees of a hospital must keep a careful record of all its proceedings and keep duplicate vouchers of all expenditures. One set of vouchers of all expenditures for the year must be filed with the commissioners at the June commissioners meeting. In addition, the board of trustees shall annually report at the June meeting of the commissioners all the important transactions for the previous 12 months, specifying in each report the money received from the county memorial hospital fund, all monies and property received from other sources, the use and disposition of such monies and other property and such other facts as they deem of public interest that the Board of County Commissioners may require. The county commissioners have the statutory authority to request the hospital board of trustees to make monthly reports to the commissioners.

a. *Hospital Funding*: The county commissioners of a county having a memorial hospital may establish a fund of a certain amount to be raised within a certain number of years for the purpose of constructing improvements, equipping improvements already erected, or purchasing land. This fund can be created and added to from the levy as set forth below as required in W.S. 18-8-102(b). The funds must be expended in accordance with W.S. 18-8-102(b).
b. *County Levy*: W.S. 18-8-102(b) requires that when a hospital has been built and equipped, the county commissioners shall annually levy a sufficient tax on all the taxable property in the county to provide for the maintenance of the hospital. This tax is collected like any other county tax and must be held in a separate fund called the county memorial hospital fund. No money can be expended from this fund without the approval of the board of county commissioners.
c. *Contracts for Operation*: It is possible for the hospital trustees, with the approval of the commissioners, to contract or lease the operation of the hospital to a person, group, association, or corporation (W.S. 18-8-108).

d. *Hospital Districts and Rural Health Care Districts*: A special hospital district can be formed in accordance with W.S. 18-8-301. See the Special Districts section below for more information.

Fairgrounds, Airports, Parks and Recreational Systems

The commissioners are authorized to acquire lands and other property for the purposes of fairgrounds, airports, parks, and pleasure grounds. The commissioners are also authorized to maintain, manage, and conduct agricultural, industrial, and other fairs and exhibitions, public parks, and pleasure grounds (W.S. 18-9-101). In practice, fairgrounds, airports, and parks and recreation boards are generally set-up separately.

The commissioners are allowed by law to acquire property for this purpose and to appoint a five to nine member board of trustees to manage and maintain all types of fairs, exhibitions, public parks, and pleasure grounds, and adopt rules and regulations (W.S. 18-9-102). As with libraries, the commissioners set the mill levy that goes to the county fair out of the county 12 mill levy.

The commissioners have the authority to levy taxes, issue bonds or incur indebtedness as is authorized by law for this purpose. The commissioners are also allowed to establish a sinking fund to provide for the raising of money within a certain number of years for improvements or the purchasing of land and equipment for the fairgrounds (W.S. 18-9-103). All money collected in any manner is designated as the county fair fund and managed by the board of trustees, who must submit an annual financial report to the commissioners (W.S. 18-9-101). Specific to county fairs, the commissioners may establish a county fair endowment fund for erecting or constructing improvements, equipping investments already erected on a county fairground, purchasing land for county fairgrounds or operating county fairs (W.S. 18-9-104).

It is also possible for any city, town, village, county or school district or other county to establish a recreational system independently or jointly with the county (W.S. 18-9-201). The board governing this system is described in W.S. 18-9-202. A recreation mill levy set by the school district is also available, and it is not part of the county mill levy.

Museums

Museums are another facility the commissioners may establish for the enjoyment and use of the public. The commissioners are authorized to purchase, construct, or acquire by donation or otherwise archeological, geological, and historical museums and collections of exhibits and articles to be included in or added to such museums and collections (W.S. 18-10-101).

The commissioners may annually levy a tax, for the construction, care, and maintenance of museums. The proceeds from the collection of the levy are kept in a special fund by the county treasurer and used solely for the purpose for which the levy was made (W.S. 18-10-

102). A special museum district can be formed under W.S. 18-10-201. See below for more information.

A five member board of trustees is appointed by the commissioners to manage the museum (W.S. 18-10-103). Not later than the first day of June of each year, the board of trustees must file with the commissioners a report detailing all gifts and donations made to the museum or collection and the receipts and expenditures during the immediately preceding fiscal year. The report must also contain a schedule of estimated requirements for expenditures for the museum or collection during the ensuing fiscal year (W.S. 18-10-104). The trustees have the immediate custody, charge and control of the museum or collection and may employ necessary personnel and make rules and regulations for the preservation, upkeep, care, maintenance, operation and support and display contained therein.

Special Districts

Many counties can fund functions and services like libraries, museums, recreation, fairs, senior centers, and hospitals out of the 12 mill maximum county levy. However, in cases where the cost of those functions begins to strain the general fund, counties, through an election process, may often form a special district to handle those costs. These special districts have separately elected boards of directors in some cases, are funded outside the county 12 mill levy, and have a separate mill levy authority and citation as to means of formation. Types of districts include: cemetery, fire protection, flood control, hospital, museum, rural health care, sanitary and improvement, and watershed improvement. <u>It should be noted that while the formation of a district allows greater funding flexibility, it also generally reduces the control of the commissioners and places it with the elected board of the district.</u>

The statutory requirements for the formation of a special district may vary significantly. Specific details can be found below or in Title 18 or W.S. 22-29-101. Most special districts require a petition signed by a certain percent of voters owning a certain percent of the assessed valuation of property within the area proposed to be established.

At over 700 entities and growing, special districts command over $1 billion in tax revenue annually. This growing source of taxation is sometimes of concern to the legislature, and to county officials. When a special district acts contrary to the wishes of some constituents, those constituents often seek the county commissioners' assistance in redress. However, commissioner authority is somewhat limited when it comes to oversight. The following are the four most critical oversight responsibilities and authority of the commissioners:

1. Wyoming statute requires all special districts (except irrigation districts) to file their proposed budget with the Department of Audit and the counties. If any special district fails to meet this requirement, the county is authorized to withhold funding of the mill levy. W.S. 18-3-504(d) and W.S. 9-1-507
2. For special districts created by counties and whose boards are wholly appointed by the commissioners, the boards of county commissioners have the authority to veto in whole, or in part, the budget submitted by the special district. Additionally, the

special district may not expend any funds not authorized by the Board of County Commissioners. W.S. 16-4-111(b) and (c)

3. The Department of Audit can seek to immediately dissolve a special district by notifying a board of county commissioners that a special district has failed to comply with reporting requirements under W.S. 9-1-507 by December 30th of a given year. This dissolution would occur without an election and is the only case in which a Board of County Commissioners could dissolve a district without an election of the district electors. W.S. 22-29-408(b)
4. The Wyoming Supreme Court in *Albany County Weed and Pest District v. Albany County*, 592 P.2d 1154 (Wyo. 1980) found that in the case of Weed and Pest, Boards of County Commissioners do have the right to reduce a mill levy request for special districts when the principal act appears to give that discretion. By extension, it appears a limited number of other special districts fall into this category, but case law is scant to support this claim.
5. Special districts are important for residents to provide services not provided by the county, and permit or require funding of other services for county residents separate and apart from the county 12 mill levy and traditional county revenues. Some major ones are listed below.

Senior Citizen Service Districts – May be formed by an election called for either by the commissioners adopting a resolution favoring establishing a district, or by the commissioners receiving a petition signed by at least 15 percent of the resident voters in the proposed district who voted in the last general election (W.S. 18-15-102) and must be resubmitted to voters every two years.

Solid Waste Disposal Districts – The commissioners may, by resolution, establish one or more solid waste disposal districts composed of any portion of the county. The commissioners then appoint the board. Because the board is appointed, not elected, the commissioners have full authority over the budget of the district (W.S. 18-11-101).

Special Museum Districts – In addition to the statutory language allowing counties to maintain a museum, there is also language that allows a special museum district to be formed if the voters so approve (W.S. 18-10-201 (e)). Special museum districts may be formed in one or more counties in accordance with the Special District Elections Act of 1994.

Weed and Pest Control Districts – All land within the boundaries of Wyoming, including all federal, state, private and municipally owned lands, is included in weed and pest control districts within the county in which the land is located, with the boundaries of the district being the same as the boundaries of the county. The commissioners of each district appoint a district board of directors. The commissioners establish the number of members of the district board and establish district board member areas. The district board is charged with implementing an effective program for the control of designated weeds and pests.

The commissioners annually levy a tax to carry out this act. The tax is levied on all property in the district and shall not exceed one mill on each one dollar of assessed valuation, with

another one mill allowed for leafy spurge control. The tax is not part of the general county 12 mill levy. All taxes levied and collected are kept in a separate fund to be known as the weed and pest control fund and can only be used to carry out these activities.

Fire Protection Districts – Fire protection districts are created to provide protection from fire for persons and property within its boundaries. They may also contract to give or receive such protection from municipal corporations, private organizations, or individuals. The procedure for establishing a fire protection district is set forth in the Special District Elections Act of 1994. The board of county commissioners may, by resolution, identify lands to be included within the proposed district and submit the question of establishing the district to the electors of the proposed district at the next general election.

The districts are governed by an elected board of directors. Among its authorized duties are to enact ordinances necessary to establish and operate a fire department. Funds for the operation of the district come primarily from a property tax (not to exceed three mills) that the board requests the board of county commissioners to levy annually. The board may also submit to the electors of the district the authority to issue the coupon bonds, not to exceed two percent of the assessed valuation in the district, for the construction or purchase of improvements, and for equipment for fire protection district purposes.

If the establishment of the district is defeated at the election, the commissioners may refuse to provide fire protection to the area within the proposed district commencing with the succeeding fiscal year.

Conservation Districts – The Wyoming State Legislature recognized in 1941 the need for a local governmental entity which would assist landowners and resource users with conservation practices and provide leadership in natural resource management issues and efforts. As a result, legislation was enacted which enabled the formation of local conservation districts and the election of conservation district supervisors.

The purpose of conservation districts is to provide for the conservation of the soil and water resources of the state, the control and prevention of soil erosion and flood prevention, to preserve natural resources, preserve wildlife, protect public lands, and protect and promote the health, safety, and general welfare of the people of the state.

A district's primary funding is normally through a property tax voted in by the qualified electors of the district. The tax is levied on all property in the district but may not exceed one mill on each one dollar of assessed valuation. The tax is not part of the general county or city mill levies.

There are 34 local conservation districts located throughout the State of Wyoming, with 170 supervisors representing rural and urban interests. These supervisors are elected during the general election and serve voluntarily. Conservation districts today offer a wide variety of programs to help anyone interested in conservation. Some of the programs offered include tree planting, waste management, water quality, wildlife habitat, recycling and information/education programs.

Conservation districts, as local governments, also play a key role in federal land management planning processes and federal and state legislative and administrative initiatives affecting local conservation and land use activities (W.S. 11-16-101).

Improvement and Service Districts – Improvement and service districts are important for residents to provide services not provided by the county (e.g., roads, water, and sewer). Special assessments are collected with other property taxes (W.S. 18-12-101).

Hospital and Rural Health Care Districts – A hospital district may be established under W.S. 35-2-401 and a rural health care district can be established under W.S. 35-2-701. The procedure for the formation of both districts is outlined in the Special District Elections Act of 1994 (W.S. 22-29-101). For a hospital district, five or seven trustees are elected to serve without compensation for four year terms. The hospital board of trustees of hospital districts shall administer the finances of the districts. The Board of County Commissioners set the mill levy for a hospital district. Generally, a hospital district does not levy over three mills. However, there is a statutory provision to go beyond three mills if desired (W.S. 35-2-414).

A rural health care district is very similar to a hospital district. A rural health care district has a five member board and can only levy two mills. Again, the amount of the mill levy is established by the county commissioners (W.S. 35-2-708).

Liquor Licenses and Permits

The following liquor licenses and permits are issued by the county: 1) retail liquor licenses; 2) limited retail liquor licenses; 3) resort liquor licenses; 4) county retail malt beverage permits; 5) malt beverage permits; 6) restaurant liquor licenses; and 7) catering permits.

The commissioners may only issue licenses for establishments outside the incorporated limits of a city or town. Fees for such licenses are established by the commissioners within the limits set by the Wyoming statutes.

Retail Liquor Licenses and Malt Beverage Permits – W.S. 12-4-201(a) defines a retail liquor license as "the authority under which a licensee is permitted to sell alcoholic liquor or malt beverages for use or consumption but not for resale." W.S. 12-4-201(b) defines a malt beverage permit as "the authority under which the licensee is permitted to sell malt beverages only."

Retail liquor licenses and malt beverage permits may be granted by the county commissioners to establishments located outside of incorporated cities and towns. The number of licenses to be granted is based on a population formula: one retail liquor license issued for each 500 population residing outside cities and towns, but no more than three retail liquor licenses issued for locations within five miles of the corporate limits of a city or town. Malt beverage permits may be issued for county locations beyond a five mile zone around incorporated cities and towns without regard to population.

The fees for retail liquor licenses and malt beverage permits are outlined below:

a. When licensing an establishment for a retail liquor license within five miles of a city or town, the license fee may not be less than the comparable fee charged by the adjacent town or city.
b. When licensing an establishment for a retail liquor license outside the five mile limit, the annual fee charged cannot be less than $300 nor more than $1,500.
c. When licensing an establishment for a malt beverage permit, the annual fee shall not be less than $100 nor more than $1,500 (W.S. 12-4-201 (h)).
d. The fee for 24-hour malt beverage permits is not less than ten dollars or more than $50 per 24-hour period (W.S. 12-4-502(e)).

Limited Retail Liquor Licenses – Bona fide clubs as defined by W.S. 12-1-101(a)(iii) may be licensed by the commissioners. Such clubs are issued limited retail liquor licenses which allow the club to sell alcoholic or malt beverages within the club's premises to members and their accompanied guests (W.S. 12-4-301).

Upon application for the permit, the club must file a petition with the county clerk with the signatures of at least 51 percent of the membership indicating the desire to obtain a limited retail liquor license.

Resort Liquor Licenses – Resort retail liquor licenses may be issued by the commissioners under the provisions of W.S. 12-4-401. To qualify for such a license, the resort complex must have the following facilities: 1) an actual valuation of, or a commitment to spend on the complex, not less than $1 million, excluding the value of the land; 2) a restaurant and a convention facility which seats no less than 100 people; 3) motel or hotel accommodations with a minimum of 100 sleeping rooms, or; 4) a ski resort facility open to the general public in which the applicant shall have committed or expended on the facility not less than $10 million.

The annual fees for a resort liquor license shall not be less than $500 or more than $3,000.

Twenty-Four Hour Malt Beverage Permits and Catering Permits – Up to twelve 24-hour permits may be issued a year to each individual establishment or organization. A 24-hour malt beverage permit may be issued to any responsible person or organization for sales at a picnic, bazaar, fair, rodeo, special holiday, or similar public gathering. The permit only authorizes the sale of malt beverages, and such beverages must not be consumed off the premises described on the permit (W.S. 12-4-502(a)).

A catering permit may be issued to an establishment holding a retail liquor license. Up to thirty-six catering permits are allowed per licensee for sales at the same premises per year. The permit authorizes the off-premises sale of both alcoholic and malt beverages for sales at meetings, conventions, private parties, dinners, etc., which are not capable of being held within the licensee's licensed premises. The catering permit only permits sales within the

premises described in the permit (W.S. 12-4-502(b)). The fee for a catering permit is not less than ten dollars nor more than $100 per 24-hour period (W.S. 12-4-502(e)).

Restaurant Liquor Licenses – Restaurant liquor licenses, as defined by W.S. 12-1-101(a)(xiv), may be issued by the commissioners. The applicant must have a valid food service permit in addition to the other licensing requirements (W.S. 12-4-407(a)). Not less than 60 percent of gross sales from the preceding 12 months operation shall be derived from food services (W.S. 12-4-408 (b)).

There are no numerical restrictions on restaurant licenses issued by a local licensing authority. Any person who desires a license or permit must apply to the commissioners. The application forms are prepared by the Wyoming Attorney General and distributed by the Department of Revenue, Liquor Division (Division). The application is filed in the office of the county clerk (W.S. 12-4-102(a)).

Once an application for a license, permit, renewal, or any transfer of location of ownership is filed with the county clerk, the clerk must immediately prepare a notice of application. Such notice must be conspicuously placed upon the premises shown by the application as the proposed place of sale. The notice must also be published in the newspaper once a week for four consecutive weeks. Every applicant must pay the county clerk a sufficient amount to cover the publishing costs.

A copy of all applications must also be forwarded to the Division. No application may be approved or denied until the Division has certified its completeness. Upon approval or denial of an application, the commissioners or the county clerk must promptly notify the Division.

All fees for licenses and permits issued by the commissioners shall be deposited in the county treasury. No refunds can be made following issuance of the license (W.S. 12-4-105).

Industrial Development Projects

To further the economic well-being of the state and its citizens, counties are authorized to acquire one or more projects for the purpose of creating or encouraging the expansion of business and industry within the state. The project(s) must be located within the territorial limits of that county. No project or any part of it can be acquired by condemnation. Project means any land, building, pollution control facility, or other improvement, and all necessary and appurtenant real and personal properties, whether in existence, suitable for manufacturing, industrial, commercial or business enterprises (W.S. 15-1-701).

The cost of acquiring or improving any project(s) is defrayed through the issuing of revenue bonds. Short term anticipation bonds can be issued in the general procedure for issuing refunding bonds (W.S. 15-1-705 and 706). Under W.S. 15-1-706(a)(i), the principal proceeds from the sale of any refunding bond may be applied to immediate payment or retirement of the bonds or to a trust for the future retirement of the bonds. The governing body concerned can lease any or all of its projects upon terms and conditions fixed by it so

long as they are consistent with the provisions of law. It can also sell and convey any real or personal property so acquired upon such terms and conditions as appear to it to be in the best interest of the county. In so selling, the governing body can defer payment of the purchase price for a period not exceeding ten years if it complies with the specified requirements. Any such project(s) cannot be operated by the county as a business or in any manner except as the lessor.

In lieu of ad valorem taxes on leased projects, the governing body concerned must negotiate annually with the proposed lessee and provide for an annual charge or fee which will fully compensate for the exempted taxes. This charge or fee is then distributed in the same manner as the ad valorem tax revenues.

As an alternative to the above, a county may, as provided by W.S. 15-1-710, finance an industrial development project by issuing revenue bonds without having any ownership interest in the project.

XIII. WYOMING COUNTY COMMISSIONERS ASSOCIATION

The office of a county commissioner can be extremely varied in its range of duties. In the same week you may be asked to deal with an issue on brucellosis, public safety radio frequencies, childcare, or land use. It is therefore often important to seek outside advice or expertise. Often, that expertise is found right in the courthouse or other county offices. State and federal agencies often can provide information that will help your decision-making.

The Wyoming County Commissioners Association (WCCA) is an organization consisting of the Boards of County Commissioners of all 23 counties. The WCCA's mission is to strengthen Wyoming's counties and the people who lead them through a program of networking, education, and unified action. Please view the WCCA as an extension of your staff for research and advocacy purposes. We are here to work on your behalf and represent commissioners. We are available to research and advise even if another county elected representation is the subject.

The WCCA provides information through written and electronic correspondence, video conferences, manuals, workshops, and seminars. The WCCA also provides training on how to properly address legislative committees, and other matters of etiquette in both state and federal government situations.

The WCCA has a 23-member governing board consisting of one commissioner from each county. The WCCA also has standing policy committees that help to guide the association's policy work at the state and federal level. While not mandatory, participation in these committees is valuable as state policy is ever changing and requires constant monitoring. Many duties of the commissioner happen only occasionally, but the work of the state legislature and state agencies is ongoing. The WCCA policy committees do extraordinary work to protect the interest of all Wyoming's counties.

The WCCA is broadly respected by both state and federal agencies and the state legislature because commissioners and staff have built a reputation as engaged problem solvers. Participation in statewide discussions and WCCA meetings strengthens the county position and enables commissioners to affect the direction of policy in ways not possible individually. In other words, if you are expecting the WCCA to be a sleepy organization, you will find that to the contrary, we are an extremely active association.

Each county is also a member of the Wyoming Association of County Officers (WACO). WACO is an organization made up of all the associations of the elected county officers, including the clerks, treasurers, assessors, sheriffs, clerks of court, county attorneys and coroners. WACO hosts an annual convention each September, providing the organizations and their members a chance to discuss common problems and issues. WACO has no staff, but contracts with the WCCA to provide staff support on meeting planning and bookkeeping. In general, the WCCA staff does not lobby on behalf of WACO or other associations except by direction of the WCCA board of directors.

Membership in the WCCA also provides membership to the National Association of Counties (NACo). NACo is an organization based in Washington D.C. with a membership of more than 2,000 of the country's approximately 3,000 counties. It provides services like the WCCA, but its focus is on the national issues that affect counties. The counties from 15 western states also work together under the NACo umbrella as the Western Interstate Region (WIR). WIR focuses much of its attention on public lands and federal land policies that affect the western states. The WCCA is represented by Wyoming commissioners on the NACo and WIR boards of directors.

NACo and WIR host meetings throughout the year, and attendance is strongly encouraged at both. The WCCA pays the expenses of attending these meetings for the commissioners that serve on the NACo and WIR board as well as the WCCA's President if he or she chooses to attend. As funding allows, and at the discretion of the Executive Director, the WCCA will also assist other commissioners with travel expenses to these meetings if your county has a limited travel budget. Contact the Executive Director for more details.

The WCCA is staffed by Jerimiah Rieman, Executive Director, who handles most policy issues as well as day to day management of the association; Kelli Little, Deputy Director, who handles meeting planning, publishing, website management, and some policy issues; Bailey Brennan, Natural Resource Counsel, who advises counties on federal land and environment related issues; and Britney Butler, Executive Assistant, who serves as office manager.

The Wyoming County Commissioners Association is located at 408 West 23rd Street in Cheyenne. The mailing address is: P.O. Box 86, Cheyenne, WY 82003.

Jerimiah Rieman
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XIV. APPENDICES

APPENDIX A – TAX CALENDAR FOR COUNTIES

DATE	WHAT	WHO
January 1	Assess all locally assessed property	Assessor
February		
March 1	Deadline for Personal Property Schedule	Taxpayer
April 4th Monday 4th Tuesday	 Mail assessment schedules and return assessment roll to county commissioners Review assessment rolls	 Assessor County Board of Equalization
May May 10th	File appeal within thirty days of mailing of assessment notice Second ½ of annual taxes due	Taxpayer Taxpayer
June 1st 3rd Tuesday	Submit abstract to SBOE Advise County Board of needed levies according to adopted budget	Assessor Cities and Towns
July 1st 3rd Tuesday	Approve abstract Advise of mills to levy	SBOE All tax districts other than Cities and Towns
August 1st Tuesday August 10th 3rd Monday	 Advise Counties of statewide Mills to be levied County Board of Equalization orders from appeals entered Levies set for all tax districts in counties Valuations and levies sent to SBOE Compute taxes from SBOE and send tax list to Treasurer	 SBOE County Board of Equalization County Board of Equalization Assessor Assessor

September 1st	Mobile Machinery Mill Set	SBOE
October 10th	Tax Notice Sent	Treasurer
November 10th	First ½ payment of annual taxes due	Taxpayer
December 31st	All taxes payable unless first ½ paid	Taxpayer

APPENDIX B – 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 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. For a general discussion concerning the powers exercised by county commissioners in Wyoming, see "Wyoming's Local Government and the Quality of Growth - A Preliminary Discussion," [14 Land and Water L. Rev. 491 (1979)].

The basic framework for county governments is set forth in Article 12 of the Wyoming Constitution. Section 1 provides that all 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.

<u>Other Constitutional Provisions</u>

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, Sections 3 and 19: Requires that minerals be taxed based on value both for state severance taxes and for county ad valorem taxes.

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 county debt limit is two percent. 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. Wyoming Constitution, Article 16, Section 13.

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.

APPENDIX C – RECENT ATTORNEY GENERAL OPINIONS

Occasionally, elected officials may disagree on the interpretation of a particular statute or county policy, or require legal advice on whether to implement a particular procedure. In those instances, an elected county official may request an opinion from the county attorney. Generally, the county attorney can research the matter, reach a conclusion, and provide a written opinion.

However, situations do arise when the county attorney is unable to reach a conclusion. Typically, this occurs when there is little or no supporting case law, when the legislature has just enacted legislation that is confusing or contradictory, or if the county attorney has a conflict (e.g., the county attorney is one of the parties to the dispute). In these instances, the county attorney can request the assistance of the Wyoming Attorney General's Office.

There are different levels of A.G.'s opinions. A formal A.G.'s opinion is simply an opinion that is published statewide, they can be found on the A.G.'s website. An informal opinion is an opinion written to a county attorney that carries with it the attorney/client privilege. That is, the A.G.'s office will not release it to a third party without the consent of the individual requestor. However, if an informal opinion is requested by a member of the legislature, the attorney/client privilege is automatically waived. These opinions are public but are not posted like formal opinions. A letter of advice is simply an opinion written in letter form that carries the same privileges as an informal opinion.

Upon request from a county attorney (or elected/appointed state official), the Attorney General may issue an opinion. Wyoming Statute 9-1-603 provides that the Attorney General shall:

> ". . . (v) Be the legal adviser of all elective and appointive state officers and of the county and district attorneys in the state;"

When reviewing Attorney General opinions, the reader must always keep the following in mind:

a. The opinion addresses a specific issue that arose at a specific time. It is imperative that the reader perform additional research. The statute in question may have been changed or the courts may have issued an opinion on the issue.
b. An Attorney General opinion is merely that – an opinion. The document does not have the effect of law and cannot be used in court to prove a case. It merely reflects the opinion of the Attorney General.
c. The Attorney General is a political appointment of the governor. When a new governor is elected, the philosophy and direction of the Attorney General's office may change as well.

Attorney General opinions are valuable research documents for elected officials. The information contained in these documents will frequently provide the reader with a solid foundation from which to proceed. Additional research will inevitably be required.

However, for an elected official searching for a starting point to frame an issue and argument, Attorney General opinions are a valuable resource often overlooked.

Following is a summary of the more recent Attorney General opinions that address issues related to county operations. All formal opinions are on file at the State Library in Cheyenne and can be found on the Attorney General's website. Informal opinions dealing with county issues are kept on file at the WCCA headquarters. The most recent informal opinion dealing with counties is a June 2014 opinion clarifying that county commissioners have the authority to temporarily ban fireworks in the case of extreme fire danger but cannot permanently ban fireworks without a vote of the electorate.

RECENT ATTORNEY GENERAL OPINIONS AFFECTING COUNTY GOVERNMENT

OPINION	YEAR	SUMMARY
80-07	1980	County regulations are not entirely voidable because they modify the statutory definition of a subdivision found in the Real Estate Subdivision Act and the Board of County Commissioners does have the power to review subdivision plats without first enacting subdivision rules and regulations.
80-15	1980	The Wyoming Administrative Procedures Act (WAPA) requires that the adoption procedures of a county comprehensive plan under W.S. 18-5-202 conform to the procedure outlined under WAPA.
81-1	1981	A citizen board may serve in an advisory capacity to the County Planning and Zoning Commission when the Commission is preparing a comprehensive plan for the county.
81-7	1981	The county commissioners do not have an obligation to pay for the costs of fire protection in unincorporated areas of a county wherein no fire protection district has been organized.
82-7	1982	Use of results of special local census data to form a basis for distribution of severance taxes and royalty revenue is prohibited.
83-009	1983	County and prosecuting attorney is expected to represent county agencies, departments, and boards.
85-001	1985	The county sheriff is responsible for all medical bills incurred in the treatment of those persons who are in his custody.
85-003	1985	The Board of County Commissioners may adopt an ordinance or resolution to regulate junkyards.
86-027*	1986	The Board of County Commissioners may not employ private legal counsel to advise the Board when the county attorney is available and willing to serve the Board. ***NOTE: This opinion is contradicted and reversed by AG Opinion 2012-01.**

OPINION	YEAR	SUMMARY
88-024	1988	The county sheriff must receive prisoners, arrested by city or town officers, for violations of state law and the county shall pay the costs for incarceration.
88-025	1988	The Board of County Commissioners has no authority to grant tax relief of any kind to encourage economic development, or for any other purpose, unless the exemption is provided for in the constitution or the Wyoming Statutes.
91-008	1991	The Board of County Commissioners may not appropriate county funds to create an endowment managed by a non-profit corporation for the benefit of a county agency.
95-003	1995	Juvenile prisoners shall be kept separate from adult prisoners.
96-002	1996	County commissioner minutes must be published in a newspaper of general circulation if action has been taken.
96-003	1996	Certain senior citizen centers are covered by the provisions of the Wyoming Governmental Claims Act.
98-009	1998	Wyoming Statute (W.S. 9-13-103)(a) prohibits an elected official's family member from working in the office of the elected official in most cases, but may work in an office under certain circumstances.
99-001	1999	Regarding whether the Sheridan County Board of Commissioners have the authority to enter into collective bargaining agreement.
2001-001	2001	Regarding whether a new town incorporated under Wyoming law prior to July 1, 2001, may participate in the distribution of the Wyoming Mineral Trust Fund.
2005-001*	2005	This opinion states that a Board of County Commissioners cannot appoint a special prosecutor to work under the sole supervision of the Board. Additionally, the opinion addresses that the county attorney cannot hire, supervise, or manage a family member in any capacity. Public officials are strictly prohibited from taking part in any form of nepotism, a practice which is defined as the appointment of others to position by reason of blood or marriage relationship to the appointing authority. ***NOTE: this opinion contradicts AG Opinion 98-009 and is itself contradicted by AG Opinion 2011-001.**

2011-001	2011	In direct contradiction to the 2005-001 letter, this opinion clarifies that the nepotism law does allow a family member to work in the same office as an elected official so long as the official did not cause the hiring and does not have direct supervision over the family member.
2012-001	2012	Clarifies that the Boards of County Commissioners can hire independent, private counsel outside the county attorney's office for specific purposes; namely, to assist the county attorney.

APPENDIX D – THE WYOMING ADMINISTRATIVE PROCEDURE ACT

The Administrative Procedure Act (APA) requires that specific procedural requirements must be followed by all agencies (W.S. 16-3-101 through 115).

Recent judicial decisions on the APA have focused on the record available for judicial review if someone appeals a case before the Board of County Commissioners. The courts want an adequate record so they can review what actions are taken. They want to know what the issues were whether the procedural aspects were followed and what basis the commissioners used to decide. If the court, from reviewing the transcripts of the hearing, the evidence, and the documents, determines that there was basis for the decision, they normally affirm the decision. However, the court will not affirm a decision if it cannot determine the basis for the decision. The decision still must be in accordance with law and cannot be arbitrary or capricious.

If the county does not follow its own procedural rules, or it does not explain what evidence it used to arrive at its decision, the court will send it back for further review and further development of the record or will make their own decision about evidence presented at the hearing. There are three requirements in this act.

First, each county agency must adopt rules of practice setting forth the nature and requirements of all formal and informal procedures available in connection with contested cases; second, they must make available for public inspection all rules and all other written statements of policy or interpretations formulated, adopted, or used by the agency in the discharge of its functions; and third, they must make available for public inspection all final orders, decisions, and opinions.

The first part of the act, contested cases, is used primarily for property assessments and for planning and zoning actions in the county. W.S. 16-3-101(b)(ii) describes a contested case as "A proceeding including but not restricted to rate making, price fixing and licensing, in which legal rights, duties or privileges of a party are required by law to be determined by an agency after an opportunity for hearing." W.S. 16-3-107(a) states, “all parties shall be afforded an opportunity for hearing after reasonable notice served either personally or by mail.” In all contested cases, agencies have the authority to administer oaths, subpoena witnesses and require the production of any books, papers, or other documents relevant to the inquiry. Opportunity must also be afforded all parties to respond and present evidence and argument on all issues involved (W.S. 16-3-107 (j)). In any contested case, the agency, or the person designated as presiding officer, must be present at all proceedings (W.S. 16-3-112). All final decisions or orders adverse to a party in a contested case must be in writing or dictated into the record (W.S. 16-3-110). Written decisions must contain separately stated findings of fact and conclusions of law. Any person adversely affected by a decision of an agency is entitled to a judicial review in the district court of the county, provided administrative remedies have been exhausted and there is no statutory or common law provision limiting judicial review (W.S. 16-3-114 (a)). Once appealed to the district court, the aggrieved party may appeal to the supreme court (W.S. 16-3-115).

The second part of the act, making available for public inspection all rules and other written statements of policy used by the agency is used more generally. A rule means each agency statement of general applicability that implements, interprets, and prescribes law or policy, or describes the organization, procedures, or practice requirements of any agency. All final orders, decisions and opinions must also be made available for public inspection. No agency rule, order or decision is valid until it has filed with the registrar of rules and been made available for public inspection (W.S. 16-3-102 (b)). This does not apply to orders or decisions in favor of any person or party with actual knowledge.

Prior to an agency's adoption, amendment, or repeal of a rule, other than a procedural use or statement of general policy, the agency must give 45 days' notice of its intended action. The notice must include a description of the terms of the rule and the time when, the place where, and the way interested persons may present their views. Each agency must afford all interested persons reasonable opportunity to submit data and express their views or arguments. Any interested person may petition an agency requesting the promulgation, amendment or repeal of any rule and may accompany his petition with relevant data and views (W.S. 16-3-106). If 25 or more people request it, or if an organization, with at least 25 members, requests it, the agency must have a hearing on the proposed rules. If any agency has overruled a consideration, a statement explaining its reasoning must be issued if requested to do so by an interested person. Each agency must file a copy of each rule adopted by it with the Secretary of State who must keep a permanent register of the rules to the public (W.S. 16-3-104). <u>For local rules, the rule needs to be filed with the county clerk of the county affected (W.S. 16-3-101(b)(viii).</u>

In 1979, the legislature amended the definition of agency under W.S. 16-3-101 to the governing body of a town or city but did not exempt county government. Thus, the commissioners, and any board or authority created by the commissioners, is required to comply with the APA. The purpose of the act is to provide uniform procedures for the adoption of rules so that the public is afforded rights of notice, open hearings, and judicial review.

In 1980, the Wyoming Attorney General's office offered an opinion dealing with the applicability of the APA to county functions (specifically, the adoption of a zoning commission's comprehensive county zoning plan by the board). The opinion, after reviewing recent Wyoming Supreme Court cases, concluded that the county and its officers are required to comply with the rule making provisions of the APA and, until the Wyoming Legislature enacts an exemption for counties as it did for cities, the county must comply with the APA.

Recent cases dealing with various applications of the act have held that, while the act binds agencies such as a county board, the act only sets the minimum procedural standards for compliance. The county can exceed the minimum procedural standard. This was the opinion of the Attorney General and the Wyoming Supreme Court in *Tri-State Generation and Transmission Association v. Environmental Quality Council*, 590 P.2d 1324 (Wyo. 1979).

The *Tri-State* case also imposed an additional rule-making requirement. The administrative agency must provide a brief and concise statement as to the principal reason for adoption of the rule.

It should be noted that the Secretary of State has promulgated rules pursuant to W.S. 16-3-104(c) prescribing the manner and form in which all rules shall be prepared. They are found under the "Rules for Local Agencies" at the Secretary of State's office or website.

W.S. 16-3-114, dealing with the judicial review aspect of the APA, was amended in 1979. The court can compel action or set aside a finding or action that is arbitrary, capricious, or contrary to enumerated rights or more than authority. Because the Attorney General has ruled that counties fall within the boundaries of the APA, the commissioners must follow the minimum guidelines provided to ensure that the rule adopted was procedurally correct.

APPENDIX E – 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 through 506
• Bonds – Revenue	W.S. 18-8-201
• 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 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 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 – 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. 1-39-101
• Governmental Ethics	W.S. 9-13-101 through 109
• 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. 1-42-201
• 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
• 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. 16-4-403
• 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. 18-3-516-19
• Resort Districts	W.S. 18-16-101
• 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, 34-12-103
• Taxes – Ad Valorem (Property)	W.S. 39-13-101
• Taxes – Capital Facilities Sales	W.S. 39-15-204(a)(iii)
• Taxes – Cigarette Revenue	W.S. 39-18-111
• Taxes – Diesel Fuel	W.S. 39-17-211(d)(ii)
• Taxes – Gas	W.S. 39-17-111(d)(i) and (d)(ii)
• Taxes – Lodging	W.S. 39-15-204(a)(ii)

• Taxes – Mineral Severance	W.S. 39-14-801(e)(v) and (vi)(vii)
• Taxes – One Percent (1%) Optional Sales	W.S. 39-15-204(a)(i)
• Taxes – Sales and Use	W.S. 39-15-111(b)(iii)(A)
• Uniform Municipal Fiscal Procedures Act	W.S. 16-4-101
• Vacancy – County commissioners	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 Energy Application Contents	W.S. 18-5-503
• Wind Energy Facilities Definitions	W.S. 18-5-501
• Wind 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

APPENDIX F – Bylaws of the Wyoming County Commissioners Association

WYOMING COUNTY COMMISSIONERS ASSOCIATION

Bylaws of the Association:

ARTICLE I - NAME

This organization, a nonprofit, non-partisan, public corporation, shall be known as the Wyoming County Commissioners Association (hereinafter referred to as the Association).

ARTICLE II - PURPOSE and OBJECTIVES

The purpose and objectives of the Association shall include, but not be limited to the following:

1.) To improve County Government in the State of Wyoming.

2.) To provide a permanent organization composed of county commissioners to serve as the united voice of all Wyoming counties.

3.) To establish a centralized state office staffed and equipped with the capability of delivering service to the general members.

4.) To provide the means whereby county elected officials may exchange ideas and experiences.

5.) To collect, compile and distribute information concerning the administration of county government and to engage in the study of standardization of best practices to increase efficiency, uniformity and reduce costs of operation.

6.) To cooperate with members of the Wyoming Congressional Delegation in the protection of the interest of Wyoming counties in matters of national legislation.

7.) To formulate, promote and lobby such state legislation as will be beneficial to the counties of this state and the citizens thereof and to oppose legislation detrimental thereto.

8.) To do all things necessary and proper for the benefit of the counties of this state.

ARTICLE III – MEMBERSHIP and PARTNERSHIPS: General, *Ex Officio* and Business Partners

Section 1 **GENERAL MEMBERSHIP**

The General members of the Association shall consist of qualified dues-paying members of Boards of County Commissioners of the State of Wyoming.

Section 2 ***EX OFFICIO* MEMBERS**

One representative each from the Associations of the County Clerks, County Assessors, County Treasurers, Clerks of District Court, County Sheriffs, County Attorneys and County Coroners who are duly elected WACO officers are ex officio members to the Association.

Section 3 **BUSINESS PARTNERS**

A private entity, company, organization or individual that is not a member county or employee of a member county may be considered for Business Partner Status:

a. Through application in writing to the Board of Directors for Business Partner Status;
b. By paying an annual partner fee established by the Board; and
c. By accepting and signing the Business Partner Code of Conduct Agreement adopted by the Board of Directors.

a) BUSINESS PARTNERS

a. May not be a voting member of any Association Committee or Association task force, but may attend such meetings with the approval of the chair to participate in the group discussions.
b. Shall be eligible for discounts on registration fees and priority vendor booth space at meetings.
c. Shall receive discounts on advertising space in Association materials as available.
d. Shall have the exclusive opportunity to sponsor Association activities and receive recognition for their contribution.

b) PARTNERSHIP LIMITATIONS

a. Nothing in this section confers any rights over the governance, income or assets of the Association to any private entity, company, organization or individual.

ARTICLE IV - BOARD OF DIRECTORS and OFFICERS

BOARD OF DIRECTOR MEMBERSHIP: The Board of Directors shall consist of the Executive Committee and one representative from each member county. The Board Representative shall be designated by each County Board of Commissioners. The term of each director shall be for two (2) years. Counties represented on the Board by a member of the Executive Committee may not have an additional representative on the Board.

<u>County Representatives</u>:

a. **The County Representative shall act as the liaison between the local County Board of Commissioners and the Association. The Representative is expected to attend all Association Board Meetings, and if unavailable, shall find a replacement to represent their respective county. The Representative shall notify the alternate county representative when unable to attend the Board meeting to ensure that the county will have proper representation.**
b. **The Representative is expected to bring ideas, comments and concerns of that county to the Board of Directors and report back on the Board's actions to local colleagues.**
c. **The Representative should be familiar with the overall workings of the Association.**
d. **The Representative should notify the Association of any changes in leadership and contact information at the local level.**
e. **The Representative should review Association agendas, correspondences and poll members on relevant issues before coming to Association meetings.**
f. **The Representative should distribute information provided by Association to local board members.**
g. **The Representative should approve the Association Budget, including a dues assessment for each county based upon the accepted Association formula.**
h. **The Representative should acquaint new county commissioners with the function and purpose of the Association upon their election to office.**

OFFICERS: The Officers of the Association shall be the President, Vice-President and Treasurer. The Duties and responsibilities of each office are outlined herewith.

<u>Vacancies</u>:

a.) **Except for vacancy in the office of President, any vacancy of office shall be filled by appointment by the President.**
b.) **If the office of the President becomes vacant during the term of such office, the vacancy shall be filled by the Vice-President.**
c.) **An individual appointed to fill a vacancy in an elective office as provided in this section shall hold office for the remainder of the term.**

<u>Selection of Candidates for Office</u>:

a.) **Any eligible commissioner may seek an Association Officer position. The President of the Association shall form a Nominating Committee every two (2) years or in each election cycle. The Nominating Committee shall be comprised of five general members each representing a region of the state.**

b.) **The Nominating Committee shall present candidates for the Office of President, Vice-President and Treasurer at a duly noticed meeting of the Association.**

c.) **The Nominating Committee shall make every effort to present a minimum of two candidates, but not more than 3 candidates, for each Executive Committee Office.**

d.) **Nominations may also be made from the floor. Such nominees shall be qualified and shall have given their consent for nomination.**

<u>Elections</u>:

a.) **A President, Vice-President and Treasurer shall be elected by ballot, or in the case of a single nominee for any office, a voice vote is permissible at the discretion of the President.**

b.) **Any candidate receiving the highest number of votes cast for any office shall be declared elected. If a candidate does not receive a majority, another ballot shall be taken on the two candidates who receive the largest number of votes. At that time, the candidate receiving the majority of votes shall be declared elected.**

ARTICLE V - COMMITTEES

STANDING COMMITTEES: There shall be eight (8) standing committees of the Association:

EXECUTIVE COMMITTEE: An Executive Committee which shall consist of the officers of the Board of Directors. The Officers are the Association President, Vice-President and Treasurer. The Officers of the Association shall serve a two (2) year term beginning with their election and ending with the election of their successor. The Officers shall be elected in even number years by ballot of the general members. The duties of the Officers are as follows:

PRESIDENT:

a) The President shall be the principal officer of the Association;

b) The President may sign contracts, deeds, leases and other instruments or documents as authorized by the Board of Directors as necessary to carry out the purpose of the Association;

c) The President shall serve a two (2) year term;

d) The President shall preside over all general and special meetings;

e) The President shall have the general supervision of all business of the Association;

f) The President conducts the annual evaluation of the Executive Director;

g) The President shall appoint all committees that shall serve during his/her administration;

h) The President shall serve as Chairperson of the Board of Directors and Chairperson of the Executive Committee;

i) The President shall serve as an ex officio member on all committees except the Nominating Committee and the Bill Review Committee, where the President shall be the Chairperson and voting member of each committee;

j) The President shall appoint an active general member to the WIR Board and shall appoint a NACo Representative; and

k) The President shall strive to attend Legislative Interim functions, Legislative Sessions and other necessary events on behalf of the Association.

VICE-PRESIDENT:

a) The Vice-President shall perform the duties of the President in the absence of the President;

b) The Vice-President shall become President for the unexpired term in case of death, resignation or incapacity of the President;

c) The Vice-President shall serve on the Board of Directors and on the Executive Committee;

d) The Vice-President shall perform other duties that may be assigned by the President; and

e) The Vice-President shall participate in the evaluation of the Executive Director.

TREASURER:

a) The Treasurer shall oversee the financial affairs of the Association, including oversight of the internal control system and ensure an annual audit or financial review of the Association accounts;

b) The Treasurer shall counsel with the Executive Director and the Executive Committee on recommendations for investments of Association funds consistent with the Association investment policy;

c) The Treasurer shall counsel with the Executive Director and Executive Committee on recommendations for an annual budget for presentation to the Board of Directors prior to June 30 each year;

d) The Treasurer shall serve on the Board of Directors;

e) The Treasurer shall serve on the Executive Committee;

f) The Treasurer shall participate in the evaluation of the Executive Director.

REVENUE COMMITTEE: The Revenue Committee shall consist of a Chairman and a Co-Chairman as selected by the Association President, in addition to any other general members selected by the President. The Revenue Committee shall examine and evaluate financial comparison data related to county expenditures, personnel, health care expenses, retirement benefits; Analyze Legislative issues directly related to County Funding; and may examine any other issue at the request of the Executive Committee.

AGRICULTURE, WATER, STATE and PUBLIC LANDS: The Agriculture, Water, State and Public Lands Committee shall consist of a Chairman and Co-Chairman as selected by the Association President, in addition to any other general members selected by the President. The Agriculture, Water, State and Public Lands Committee shall examine all issues directly related to agriculture, water and land use on state and Federal lands. This committee shall also examine trends in the Federal planning process and shall track and

monitor Federal and state legislation on relevant topics; and may examine any other issue at the request of the Executive Committee.

TRANSPORTATION: The Transportation Committee shall consist of a Chairman and a Co-Chairman as selected by the Association President, in addition to any other general members selected by the President. The Transportation Committee shall consider and examine all matters related to county road and bridge items; coordinate with the Wyoming Department of Transportation, the County Road Standards Committee, the University of Wyoming and any other state or local entity that creates policy related to county road and bridge matters; and may examine any other issue at the request of the Executive Committee.

HEALTH, SAFETY and SOCIAL SERVICES: The Health, Safety and Social Services Committee shall consist of a Chairman and a Co-Chairman as selected by the Association President, in addition to any other general members selected by the President. The Health, Safety and Social Services Committee shall consider and examine all matters related to local government that may have affect on public health and safety; coordinate with state and local entities that create policy related to public health, safety and social services; and may examine any other issues at the request of the Executive Committee.

ELECTIONS, LAND USE, and GOVERNMENT OPERATIONS COMMITTEE: The Elections, Land Use, and Government Operations Committee shall consist of a Chairman and a Co-Chairman as selected by the Association President, in addition to any other general member selected by the President. The Elections, Land Use, and Government Operations Committee shall consider and examine all matters related to personnel and county employees, state and local elections practice, land use planning and development, landfill policy and any other relevant matter that may affect elections, land use, and counties as employers; and may examine any other issues at the request of the Executive Committee.

ENERGY AND ENVIRONMENT COMMITTEE: The Energy and Environment Committee shall consist of a Chairman and a Co-Chairman as selected by the Association President, in addition to any other general member selected by the President. The Energy and Environment Committee shall consider and examine all matters related to energy policy development at the state and local level; shall examine impacts from energy development on the environment and any other relevant matter that may affect energy development and environmental impacts; and may examine any other issues at the request of the Executive Committee.

BILL REVIEW COMMITTEE: The Bill Review Committee shall consist of the Executive Committee and the Chairman and Vice-Chairman of the other seven (7) standing committees, or their designee. The Association President shall be the Chairman of this Committee and he/she shall select a Co-Chairman. The Bill Review Committee shall convene each year during the Legislative Session at a time, place and manner as determined by the Association President to examine, analyze and prioritize proposed legislation; the Committee may recommend to the general members proposed legislation; the Committee shall coordinate with the Legislative Services Office, the Governor's office, State Legislators, and any other local, state or Federal interests that affect County

government; and may examine any other issues at the request of the Executive Committee.

ARTICLE VI - MEETINGS

FREQUENCY: There shall be at least one meeting of the membership each year, which shall be held in conjunction with the Wyoming Association of County Officers' annual meeting. Other meetings of the Association may be held at a time and place designated by the Executive Committee.

NOTICE: All members and ex officio members of the Association shall be notified of the date, time and place of each regular meeting no later than 14 days preceding the meeting.

QUORUM: Twelve counties represented at a meeting shall constitute a quorum.

PROCEDURES: All meetings of the membership may be conducted in accordance with Robert's Rules of Order, Revised.

VOTING: Each county present at Board meetings is entitled to one vote per county on matters of Association business decided by the Board. Each county present at all other official meetings is entitled to one vote per county, except in the case of votes under Article IV, or if an alternate procedure is agreed to by a vote of the Board.

EX OFFICIO MEMBERS: All ex officio members as defined in Article III, Section 2, or their designee, may attend and participate in each regular meeting of the Association, and shall be afforded the opportunity to present issues of interest at a time and in such a manner as designated by the Executive Committee. Ex officio members and designees shall not have voting privileges in the Association.

ARTICLE VII - FINANCES

FISCAL YEAR: The Association shall operate on a fiscal year basis, from July 1 to June 30. The Executive Director shall cause either an annual audit to be performed by a qualified, independent auditor, or a thorough internal financial review. The annual audit or financial review shall be reviewed by the Executive Committee to make appropriate recommendations to the Board of Directors.

BUDGET: The budget shall be set once a year prior to June 30 by the Board of Directors.

DUES: Membership dues for each county shall be an assessment on each county established by the Board of Directors and voted on annually in conjunction with the annual Budget.

PROCEDURES: Funds of the Association shall be received, maintained, distributed and accounted for in generally the same manner as provided by law for all public corporations.

MEMBERSHIP IN ASSOCIATIONS: Upon the approval of the Board of Directors, the Association may join and pay dues to regional and national associations when such membership will serve to further the purposes of the Association. Dues may also be paid to

other associations as authorized by the Executive Committee.

TRAVEL TO NATIONAL ASSOCIATION MEETINGS: The President of the Association, the Executive Director, the NACo Representative and the Western Interstate Region Representative, upon application thereof and availability of funds, shall be entitled to reimbursement for expenses incurred in attending meetings of national county organizations.

ARTICLE VIII - ASSOCIATION STAFF

EXECUTIVE DIRECTOR: The Executive Director shall conduct the daily operations of the Association and shall oversee implementing the purposes of the Association.

a. **The Board of Directors shall appoint the Executive Director.**
b. **Annual performance appraisals shall be conducted by the Executive Committee.**
c. **The Executive Director shall receive direction from the Executive Committee.**
d. **The Executive Director shall manage the business of the Association, including the approval of the bills with another general member's signature, the appointment and supervision of office personnel, and all day-to-day operations of the Association.**
e. **The Executive Director shall assist all officers and committees with their duties.**
f. **The Executive Director shall organize the orientation for the newly elected officials after each election cycle and additional training opportunities as requested by the Executive Committee.**
g. **The Executive Director shall be responsible for researching, lobbying objectives and tracking of bills affecting the general membership.**

ARTICLE IX - PROCEDURES

AMENDMENTS: This document may be amended at any duly noticed regular meeting by a two-thirds (2/3) vote of the general members present and voting. A copy of the amendments to be presented shall be provided to each member at least thirty (30) days prior to said meeting. Proposed bylaw amendments may be submitted by any general member in good standing through that member's Board Representative.

DISSOLUTION: In the event this Association is dissolved or otherwise terminated, all of its assets of every nature shall be disbursed to the Counties then of record whose dues are paid and current in proportion to the amount contributed to the previous year's due structure or as otherwise required by Federal and state laws.

BYLAWS: This document, the Bylaws of the Association shall govern the basic operations of the Association. The Executive Committee is authorized to adopt policies to govern the detailed operations of the Association so long as the policies adhere to the provisions of this document.

Adopted this 28th day of September 2017.

Rob Hendry
President and Chairman of the Board of Directors