

Chapter 7

State and Other Local Government Entities

State Agencies

County commissions interact with a number of state agencies which have been mentioned elsewhere in this text. They include the State Auditor's Office, Department of Tax & Revenue, Secretary of State, Division of Corrections, Regional Jail Authority, WV State Supreme Court, WV Development Office, Public Employees Insurance Agency, Public Employees Retirement System and the state legislature.¹

Other state agencies that have not been mentioned elsewhere include:

Attorney General's Office - Most often the WV Attorney General's Office is utilized when the county seeks an opinion on a legal question. These requests are generally made through the county prosecutor's office.

Ethics Commission - This office enforces the state ethics act (chapter 6B, article 1) and renders advisory opinions with regards to potential violations of the ethics act. Its authority includes investigatory powers upon receipt of a written verified complaint.

Division of Environmental Protection (DEP) - The DEP was created by Executive Order #8-92. Through its Office of Waste Management, and at the direction of the legislature, DEP has authority to promulgate rules and regulation for the control of solid waste in the state.

State Appointments of County Commissioners

There are various boards and commissions that county commissioners are appointed to by the governor or other state agencies. They may be the result of legislation or administrative action. These appointments are often made at the recommendation of the County Commissioners' Association of West Virginia or the West Virginia Association of Counties. Appointments may be on an ad hoc basis and only meet for a defined amount of time. Listed below are only the boards or commissions that legislation has specifically named a county commissioner to.

¹ See Appendix - L for listing of state agency phone numbers.

Prosecuting Attorney's Institute (§ 7-4-6) Two County Commissioners sit on this seven-member executive council that oversees and develops the duties and responsibilities for the WV Prosecuting Attorney's Institute. The committee appointments are submitted by the County Commissioners' Association annually.

Jail Standards Committee (§31-20-8) Three commissioners sit on this eleven-member board which sets standards for the state's jails, prisons and holding facilities. Appointed by the governor from recommendations made by the County Commissioners' Association of WV.

Regional Jail Authority (§31-20-3) Three County officials sit on this seven-member board which oversees and sets policy for the operation of the state's regional jails. Appointments are made by the governor.

Property Valuation Procedure and Training Commission (§11-1C-3) Two commissioners sit on this commission whose function is to set guidelines and generally oversee the completion of property reappraisal as mandated in 1990 Legislation. Appointments are made by the governor after recommendations are made by the County Commissioners' Association.

Emergency Medical Services Advisory Council (§ 16-4C-5) One commissioner is appointed to this council for a three-year term by the Governor, from names submitted by the County Commissioners' Association of WV. The purpose of this council is to develop standards for emergency medical service personnel and for the purpose of providing advice to the office of emergency medical services and the commissioner with respect to reviewing and making recommendations for and providing assistance to the establishment and maintenance of adequate emergency medical services for all portions of this state

Public Health Advisory Council (§16-1-16) One commissioner will serve on this council which was created to act as an advisory body to the Health Commissioner for the purpose of advising the commissioner as to the provision of adequate public health services for all areas in the state. Appointment is made by the governor after recommendations are made by the County Commissioners' Association of WV.

Records Management & Preservation Board (§ 5A -8-15) One commissioner will serve on this board whose function is to set guidelines and generally oversee the management and preservation of county records across the state. Appointment is made by the governor after recommendations are made jointly by the County Commissioners' Association of WV and the WV Association of Counties.

WV Courthouse Facilities Improvement Authority (§ 29-26-1)

Two County Commissioners will serve on this twelve-member authority, the President of CCAWV and one commissioner from a different congressional district appointed by the President of CCAWV. The purpose of this Authority is to develop comprehensive, uniform guidelines for use by the Authority in evaluating any request by a county for funding assistance for the modification of an existing courthouse facility or the construction of a new county courthouse facility.

Appointments Made by County Commissioners

County commissioners are involved in appointing members to various boards and commissions at the local and regional level as authorized by the legislature. These appointments may be made by virtue of a legislative mandate, e.g. the solid waste authority, or may be by virtue of the formation of a local board as allowed by the legislature.

Some boards require a county commissioner as a member, e.g. county fire board. Often county commissioners, though not mandated to serve on a particular board, will find themselves as the appointed member. Authorization for some of these boards and commissions may have been granted with a specific situation in mind and therefore are not often created in most counties. Listed below are boards and commissions to which county commissions make appointments. In addition to the listings below, commissioners often serve on local ad hoc committees.

County Coordinating Committee (§7-1-3j) The purpose of this committee is the coordination of county improvement programs with state and federal programs and it is created at the will of the county commission. There are no restrictions as to the number or make-up of appointees.

County Appraisal-Assessment Board (§7-1-3l) This is an advisory board authorized to review all appraisals made by the tax department and assessments made by the assessor, and whose purpose is to advise the county commission. There are no restrictions as to number or makeup of members. It is created at the will of the county commission.

Commission on Intergovernmental Relations (§7-1-3q) This body's purpose is to disseminate information concerning federal programs which provide financial assistance to residents of the county. Appointees consist of all county commissioners and any other members they wish to appoint. This commission is mandated by state law.

Commission on Crime Delinquency and Correction (§7-1-3r) This commission is to collect and compile in the county information pertaining to the criminal justice system, and through working with the state and federal agencies make recommendations to improve the criminal justice system. Appointees consist of all county commissioners and any other members they wish to appoint. This commission is also mandated by state law.

Beautification Councils (§7-1-3w) These councils are formed to improve the aesthetic qualities of the landscape in the county. It is created at the will of the county commission and appointees are as selected by the county commission.

Hazardous Material Response Team (§7-1-3aa) This group's purpose is to respond to hazardous material accidents. It is created at the will of the county commission, who may appoint any qualified personnel.

Parks and Recreation Commission (§7-11-1) This commission, created at the will of the county commission, is for improving, creating, or maintaining county parks and recreation centers. This

eleven-member commission is selected by the county commission.

Museum Commission (§7-11A-1) The purpose of this commission is as described in the ordinance creating it, which can include the right of eminent domain to preserve historical or archeological sites. Its five to ten members as selected by the county commission. It is created at the will of the county commission alone or in conjunction with a municipality.

Development Authority (§7-12-1) The authority's purpose is to promote economic welfare. The county commission creates this authority and one county commissioner must serve on the 12-21-member board which it appoints.

Community Action Agency (§7-13-6a) If a county commission has been designated as a Community Action Program Agency pursuant to Title II of the Federal Economic Opportunity Act, then it may in-turn appoint a governing board to administer the program. The county may also provide financial and in-kind support to other recognized programs as long as it is toward that agencies federal matching requirement.

Civil Service Commission for Deputy Sheriffs (§7-14-3) This body prepares position classification and promotion plans for deputy sheriffs, as well as rules and regulations for applying for the position of deputy sheriff. It may also make investigations with regards to the enforcement of the civil service law for deputies. The commission is composed of one member each selected by the county commission, the deputy sheriffs' association and the local bar association and is mandated by state law for all counties. This commission must make an annual report to the county commission reviewing its past year's activity.

Civil Service Commission for Correctional Officers (§7-14B-3) This commission's purpose is to prepare a position classification and promotion plan for correctional officers, as well as to make rules and regulations with regard to applying for a position as a correctional officer. It may also initiate investigations with regard to the application of civil service laws to correctional officers. It is made up of five members, two each selected by the county commission and the bar association of the county, and one by the correctional officers association. It is mandated by state law for counties with a population of 25,000 or more.

Emergency Ambulance Authority (§7-15-4) This authority is to provide and maintain emergency services. It is created by a county alone or in conjunction with other counties and cities and is composed of five to fifteen members as selected by the creating bodies.

County Fire Board (§7-17-6) These boards are formed to improve fire service protection, including setting funding priorities and petitioning the county commission for funds. Upon request of the county fire association the county commission may create a fire board. Its members consist of one county commissioner, three members of the fire association selected from a list of five names submitted by the fire association, and three citizen members. All members are appointed by the

county commission.

Planning Commission (§8-24-1) A county or city has the authority to establish a planning commission, which is then charged with the creation of a comprehensive plan for the physical development of the county. This plan must be submitted to the county commission for adoption before being put into effect. The county commission is obliged to provide funds for the operation of a planning commission. The commission consists of 5-15 members, appointed by the county commission, one of which must be a county commissioner.

Historic Landmark Commission (§8-26A-4) Counties may establish and fund these commissions that are made up of five members appointed by the county commission.

Urban Mass Transit Authority (§8-27-4) Counties alone or with cities or other counties may form these authorities. There are no guidelines as to the makeup or function of these bodies.

County Airport Authority (§8-29A-1) The county commission may appoint a board of five members, one of which must be a commissioner, that would be authorized and empowered to establish and maintain a public airport.

Building Authority (§8-33-1) Counties alone or with cities and other counties form these authorities. The commission appoints the five members unless it is a joint authority in which case each county appoints 3 members.

Library Board (§10-1-5) If the county chooses to establish, equip or maintain a public library, alone or with other governmental authorities, they must appoint a board. The board is comprised of five members appointed by the county commission, unless it is a regional board, in which case the board consists of 5-10 members with each county represented.

Local Emergency Planning Commission (§15-5a-7) Each county has a Local Emergency Planning Commission (LEPC) that is responsible to the WV Emergency Response Commission. A county commissioner, or designee, serves as a member of this local commission. Other members are appointed by the state after being recommended locally. In addition to its other duties, the LEPC is responsible for developing and implementing a comprehensive emergency response plan in accordance with federal law.

County Health Officer (§16-2-1) It is the county commission's responsibility to recommend to the state department of health a legally qualified physician who serves as the county health officer.

Combined Board of Health (§16-2-3) A county can join with other counties and cities to form a multi-jurisdictional health board. Each participating governing body appoints 1 to 3 persons to serve on the combined board.

Public Service Districts (§16-13A-3) County commissions are given the authority, on their own motion or by virtue of a petition, to create public service districts to provide water, sewage or gas to defined communities in the county. Commissions may also alter PSD's to the benefit of the county. In either case a public hearing must be held. After its creation a PSD is considered a political subdivision of the state and may issue bonds, but it must file a copy of its annual budget and audit with the county commission. The state public service commission provides assistance and oversees the operation of PSD's.

PSD's must consist of at least three members. Appointments are made by either the cities within the district or the county commission, based on the population of the cities involved.

In 1986 the legislature ordered plans developed for possible consolidation of the PSD's. If the county commission did not develop a plan, then the public service commission was to develop a plan, seek county commission input, approve the plan and have it implemented by the county commission. In 1993, plans in many counties were still in various stages of development.

Solid Waste Authority (§22C-4-3) Each county must have a Solid Waste Authority (SWA) or belong to a regional authority. There are five members of a county SWA, two of which are appointed by the county commission. SWA's are required to develop a comprehensive litter and solid waste control plan as well as a timetable for its implementation. These plans are approved by the state Solid Waste Management Board. Funding for SWAs' is provided by §7-5-22, which authorizes county or regional SWAs' to impose a solid waste assessment fee at a rate not to exceed fifty cents per ton or part thereof upon the disposal of solid waste in that county or region. All assessments due shall be applied to the reasonable costs of administration of the county's regional or county solid waste authority including the necessary and reasonable expenses of its members, and any other expense incurred from refuse cleanup, litter control programs, or any solid waste programs deemed necessary to fulfill its duties.

Fiduciary Supervisor (§44-3A-3) The county commission may appoint a fiduciary supervisor whose role is to supervise all fiduciary matters. The county commission sets the supervisor's salary and must set up a special fund to receive all moneys collected by the fiduciary, from which salaries and expenses may be paid.

House Authorities (§16-15-3) Chapter 16, article 15, section 3 of the Code authorizes county commissions to create a housing authority when they perceive the need or when petitioned to do so by twenty-five residents of the county asserting that there is need for an authority. Chapter 16, article 15, section 3a, allows for city and county housing authorities to merge to form a regional housing authority. A merger may be initiated by joint resolution including transfer of assets and liabilities.

Farmland Protection Board (§8A-12-2) The county commission of each county may adopt and implement a farmland protection program within the county. The county commission will appoint a seven-member board (as specifically spelled out in 8A-12-4) which shall administer on behalf of the county commission all matters concerning farmland protection. The county commission has final

approval authority for any and all purchases of easements for the farmland protection program by the board.

Other County Entities

In addition to county government, the other two major political sub-divisions in the county are municipalities and the boards of education.

1. Municipalities

Chapter 7, article 1, section 3i allows counties to join with municipalities, as well as other counties and the United States government to carry out any of its powers, duties, and responsibilities as long as it does not conflict with the Constitution. This section also allows for reciprocal agreements with out-of-state jurisdictions for the protection of people and property from fire and for medical equipment and personnel for such purpose.

The county tax department collects property taxes for the municipalities and conducts their elections. Municipalities are responsible for the expense of their elections not held in conjunction with a primary or general election.

With regard to annexation, a city may annex part of the county in one of the following ways (chapter 8, article 6):

1. By majority vote of both the municipality and the area to be annexed. Once certified the county commission enters an order approving the annexation.
2. By petition of a majority of both qualified voters and freeholders of the annexation area. Upon verification of the petition the county commission enters an order of approval.
3. By request of a "minor boundary adjustment". In this case the municipality request the county commission to approve the annexation. In making a final decision the county commission shall at a minimum, consider the following factors:
 - 1) Whether the proposed territory is contiguous to the municipal city limits.
 - 2) Whether proposed annexation is limited solely to Division of Highways right-of way or whether Division of Highway holds title to the property in fee.
 - 3) Whether affected parties oppose or support the proposed annexation.
 - 4) Whether the proposed annexation consists of a street or highway and one or more free holders.
 - 5) Whether the proposed annexation consists of a street or highway without a freeholder but is necessary for providing emergency services.
 - 6) Whether another municipality has requested an annexation of the same territory.
 - 7) Whether the annexation is in the best interest of the county as a whole.

The final order of the county commission shall include the reasons for the grant or denial of the proposed annexation. Municipalities bear any costs associated with this procedure.

II. Boards of Education

As with municipalities the county collects property taxes for the board of education. Also, as with municipalities, the county is responsible for conducting school board elections. When a Board holds a special election, it must pay for the cost of conducting that election.