

DELAWARE

COUNTY GOVERNMENT OVERVIEW

Counties

3

Government Form

Reformed¹

Governing Body Size

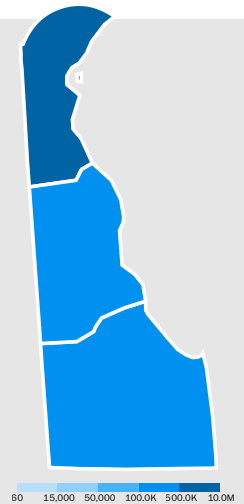
5-13

Population (2020)

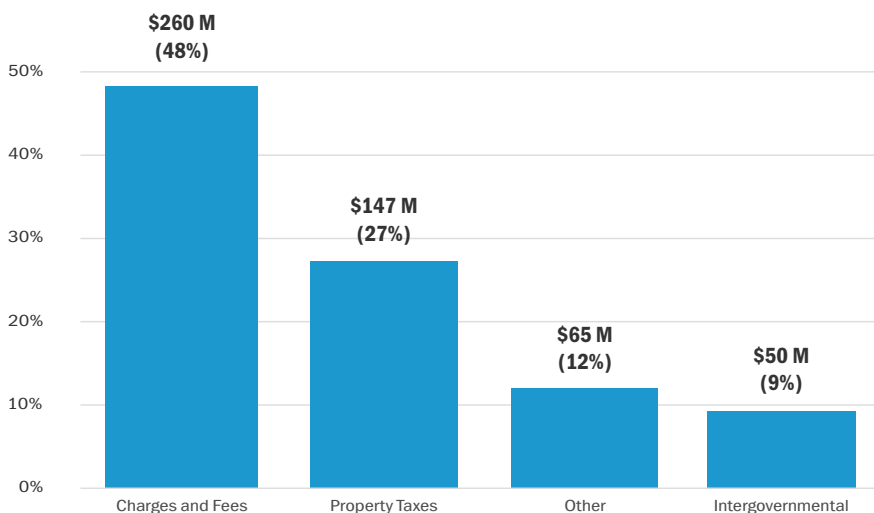
990,000²

County Authority

Dillon's Rule: Delaware counties do not have charters, home rule authority or any power to alter the structure of their county government. The state also provides specific powers, regulations and government structures for each of the three counties.



TOP REVENUE SOURCES FOR DELAWARE COUNTIES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

¹“Government Form” refers to the distribution of executive decision making authority in a county. “Traditional” county states mandate that counties exercise executive decision making power solely through the board of elected officials (commissioners, supervisors, etc.). “Reformed” county states mandate that counties employ an elected or appointed county executive, manager or similar position to take on at least some of the county’s executive decision making authority. “Mixed” county states means that some counties in that state are “traditional” and some are “reformed.”

²NACo Analysis of U.S. Census Bureau - 2020 Decennial Census

Summary of County Services

Services counties MUST provide:

- All counties - participate in the operation and funding of the statewide paramedic services program or operate their own paramedic service.
- All counties - create a library agency as a part of the executive branch of county government.

Services counties CAN provide:

- All counties - establish a county parks and recreation commission and issue bonds for the capital costs related to parks and recreation projects.
- New Castle and Kent counties - Fire services.

Services counties CANNOT provide:

- Anything not explicitly permitted by state law.

STRUCTURE/AUTHORITY

SUMMARY

Delaware counties are subject to Dillion's rule; therefore, the county governments' authority, powers and procedures are limited to those granted by state legislation. The state empowers each of the three counties - New Castle, Sussex and Kent - with different authorities and government structures. Counties have a legislature branch consisting of a different number of elected representatives ranging from 5 to 13. The executive power also differs for each county. New Castle voters must elect a county executive, the Sussex County council must appoint a county administrator and the Kent County levy board is the sole executive body for its government.

Row Officers	Elected/ Appointed	Required/ Optional
Clerk of the Orphans Court	Elected	Mandatory
Clerk of the Peace	Elected	Mandatory
County Library Administrator	Appointed	Optional
Prothonotary	Elected	Mandatory
Recorder	Elected	Mandatory
Register in Chancery	Elected	Mandatory
Register of Wills	Elected	Mandatory
Sheriff	Elected	Mandatory



COUNTY STRUCTURE

Legislative Branch:

- **Kent:** A 7-member "levy court," one member from each of the six districts and one at-large member.
- **New Castle:** A county council which consists of 13 members. There is one member from each of the 12 districts and one at-large member who serves as board president.
- **Sussex:** Five members, each representing a district. A president and vice president of the council are selected internally.

Executive Branch:

- **Kent:** The levy court serves as the executive body.
- **New Castle:** The county executive is elected every four years and is the sole executive decision maker.
- **Sussex:** The county council holds the executive power of the government but must appoint a county administrator to oversee certain functions.

Judicial Branch: Each county has a court of chancery. The court has jurisdiction over matters and causes in equality, enforcement of deeds and arbitrating business disputes.

Optional Forms of Government: Each of the three Delaware counties exhibits a unique form of government as prescribed by the state. No other forms of government are permitted, nor are they permitted to change their government form.



COUNTY AUTHORITY

Executive Power: Counties have the direction, management and control of the business and finances of their areas. In New Castle and Sussex counties, the executive officer has the authority to appoint and remove employees, direct and supervise the county agencies and oversee county ordinances and regulations. The New Castle executive is further prescribed to sign contracts as well as create, remove and define the functions of county departments and offices.

Ability to Form Partnerships: Counties have the authority to make appropriations to public and private corporations and may enter into contracts with insurance companies to insure county employees and appointed officers.

Call a State of Emergency: The levy board of Kent County may issue an emergency declaration for the county. New Castle may adopt emergency ordinances to address a public emergency affecting life, health, property or the public peace.

Special Districts: All counties may create a park district when initiated by a petition and approved by voters. The state also empowers each county with different special district creation authority. For example, each county may create a sewage district, but only Kent and New Castle County may establish a development district.

SERVICES

OVERVIEW OF COUNTY SERVICES

Delaware counties are granted jurisdiction over few services, the specific jurisdiction and extent of which vary by county. All county governments must provide library services, and they all may have a parks and recreation department. New Castle County can provide additional services such as a community service department, and the county can contract with fire departments. Counties also have limited jurisdiction over utilities: Kent County can provide water services, New Castle may provide sewage services and Sussex may provide both services. New Castle and Kent counties are both authorized to establish contracts with waste disposal facilities.



HEALTH AND HUMAN SERVICES

Public Health, Generally: The state health department is responsible for overseeing public health, and local boards of health may be established by cities and towns. County Public Health administrators manage public health programs for a specific county, but they are state level employees.

Hospitals: The state health department is responsible for establishing and managing hospitals in the counties.

Senior Care Facilities: New Castle County is authorized to execute and supervise senior programs. No other county is found to have a similar authority.

Child Welfare: Child welfare services in Delaware are administered by the state and not the counties.

Insurance: All county governments may enter contracts with insurance companies to insure county employees against injury or death incurred while performing their duties.

Welfare: New Castle County has a Department of Community Services which executes programs related to senior programs, community development, housing and any other community related programs. No other county is known to have welfare programs.



INFRASTRUCTURE

Roads: Counties are responsible for private roads located in unincorporated suburban areas.

Repairs: Counties can be petitioned by citizens to undertake the improvement and/or maintenance of sidewalks, streets, street signs, drainage and storm sewers.

Parking: Counties must adopt regulations or ordinances regarding the provision of signage on parking spaces or zones for people with disabilities.

Utilities:

- **Water:** The counties of Kent and Sussex are authorized to construct and manage water systems and issue bonds to financially support them and enter contracts.
- **Sewage:** New Castle and Sussex counties may create and operate sewage systems and issue bonds and/or enter contracts.
- **Landfill:** New Castle and Kent counties can establish garbage disposal plants and enter contracts and/or establish fees for the services rendered by the garbage disposal plant.
- **Solid Waste:** All counties must administer a comprehensive plan for a system of collecting, storing and disposing of all solid wastes within the respective counties.

SERVICES, CONTINUED



PUBLIC AMENITIES

Parks and Recreation: Any county government may establish a permanent county parks and recreation commission. They may also issue bonds for the capital costs related to parks and recreation projects.

- **New Castle:** May be petitioned by resident voters to establish a park district.

Libraries: The government of each county must create a library agency as a part of the executive branch of county government. Counties may establish and administer a county library system.

Cemeteries: The government of each county may establish regulations regarding maintenance of for-profit cemeteries, including maintaining the lawn, roads and crypts.



ZONING AND DEVELOPMENT

Zoning Power: County governments may regulate size, density, location and other features regarding industrial, commercial and residential developments in any portions of the county which lie outside of incorporated municipalities.

Zoning Restriction: In all counties, zoning regulations do not apply to land or facility used for agriculture. New Castle County is also prohibited from regulating zoning on hospital facilities.

Housing Authority: Housing authorities on the county level are established by the state's housing authority and do not delegate any management responsibilities to the county governments.

Economic Development: Kent and New Castle counties may borrow money by issuing and selling bonds to finance the development of an industrial, commercial or residential area.

SERVICES, CONTINUED



PUBLIC SAFETY

Law Enforcement: Each county has a sheriff's office under the court system. Sheriffs may take a person into custody or transport them to a prison system by a court order, but they are not allowed to make arrests.

Jails: The state's department of corrections is responsible for construction and managing jails, but the state must consult with the county executive to decide on the location of a new facility.

Courthouses: Each county has a court of chancery. The court has jurisdiction over matters and causes in equality, enforcement of deeds and arbitrate business disputes. Sussex County is responsible for the operation, maintenance and repair of its courthouses.

Fire:

- **New Castle:** May contract with any fire company authorized by the state.
- **Sussex and Kent:** Appropriate money to each fire company in their county.

Ambulance: Counties must participate in the operation and funding of the statewide paramedic services program, although a county may decide to operate its own service. Counties must also appropriate \$750 annually to each fire company for the maintenance of ambulances.

Firearms: Counties cannot regulate the ownership, possession or licensing of firearms except within police stations and county buildings. Counties may, however, regulate the discharge of firearms.



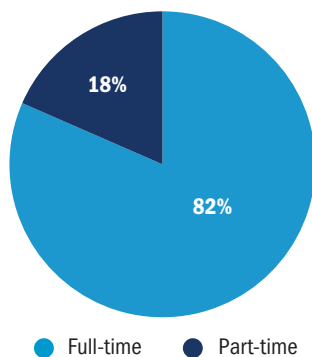
SCHOOLS

Education, Generally: Education administration are under the jurisdiction of the state's department of education and does not provide for involvement from the county governments.

School Board: School boards are responsible for providing public education and are authorized to levy property taxes to provide financial support for schools. County governments have no jurisdiction.

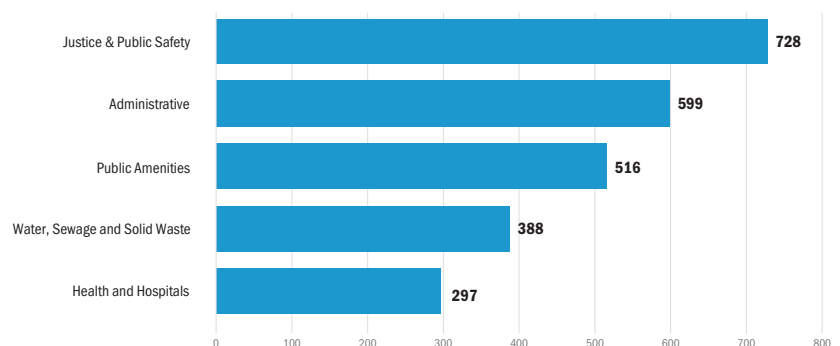
Community Colleges: Community colleges are administered by the state through the Delaware Technical and Community College. While county governments are not involved, a branch of the college is established in each of the three counties.

DELAWARE COUNTIES EMPLOY 2,748 GOVERNMENT EMPLOYEES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

DELAWARE COUNTY GOVERNMENT EMPLOYEES BY TOP FUNCTIONAL CATEGORIES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

TAXATION/FINANCES

OVERVIEW OF COUNTY FINANCE STRUCTURE

Delaware counties may, by ordinance, impose and collect taxes upon the transfer of real property located within the unincorporated areas of the county, subject only to the conditions and limitations provided by state law. As with county services, each of Delaware's three counties has its own variations on the authority and provisions regarding finances. For example, each county has a different law regarding debt limits. Kent and Sussex are authorized to levy a capitation tax and all counties may levy a property tax.



FINANCES, TAXES AND LIMITATIONS

Property Tax: County governments shall fix a property tax rate to meet the financial needs of the county budget. Counties are not restricted by law to a certain tax rate limit except for Kent County which cannot exceed a tax rate levy of 0.5 percent. Retired seniors and people with disabilities may be partially exempt from county taxes.

Personal Property: Personal property cannot be assessed for property taxes.

Income Tax: County governments have no authority to impose an income tax.

Sales Tax: County governments may not impose a sales tax.

Mineral Tax: Counties are not found to have the authority to impose a mineral tax.

Gas/Fuel Taxes: Counties are not found to have the authority to impose a gas or fuel tax.

Debt and Debt Limit:

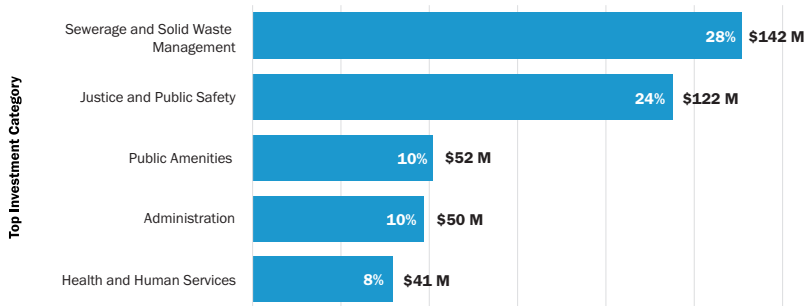
- Each county has different regulations and limitations on debt.
- New Castle:** The total debt of the county may not exceed \$10 million at one time.

- Kent:** Total amount of general obligation bonds may not exceed 12 percent of the assessed value of all real property.
- Sussex:** All county debt must contribute to a specific fund and the total amount of debt may not exceed \$2 million. Any deficiency shall be considered in the following year's annual budget.

Misc. Tax Info:

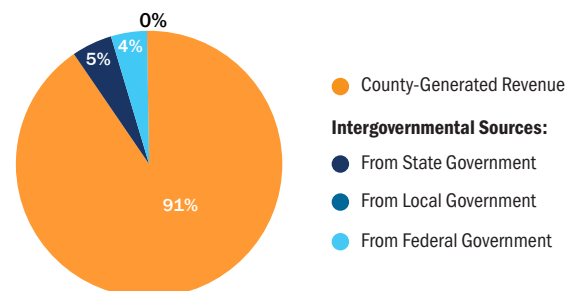
- Realty Transfer Tax:** County governments shall have the power to collect a tax on the transfer of real property in the unincorporated areas of the town, not to exceed 1.5 percent of the property's value. Twenty-five (25) percent of the state realty transfer tax must be disbursed to the state treasurer to be deposited in a special fund for distribution to municipalities and counties. Funds distributed to the counties may be used by the counties for any object, programs, function or purpose.
- Capitation Tax:** A capitation tax may be levied by Kent and Sussex counties for each person over the age of 21. The tax and may not exceed \$5 for Kent and \$10 for Sussex.

DELAWARE COUNTIES INVEST \$513 MILLION ANNUALLY



Source: NACo Analysis of U.S. Census Bureau - 2017 Census of Individual Governments: Finance

DELAWARE COUNTIES RECEIVE \$50 MILLION FROM INTERGOVERNMENTAL SOURCES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017