

WEST VIRGINIA

COUNTY GOVERNMENT OVERVIEW

Counties

55

Government Form

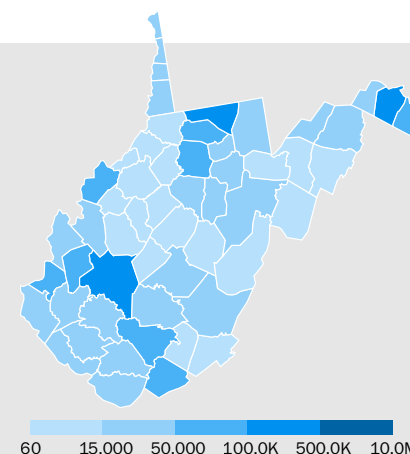
Mixed¹

Governing Body Size

3

Population (2020)

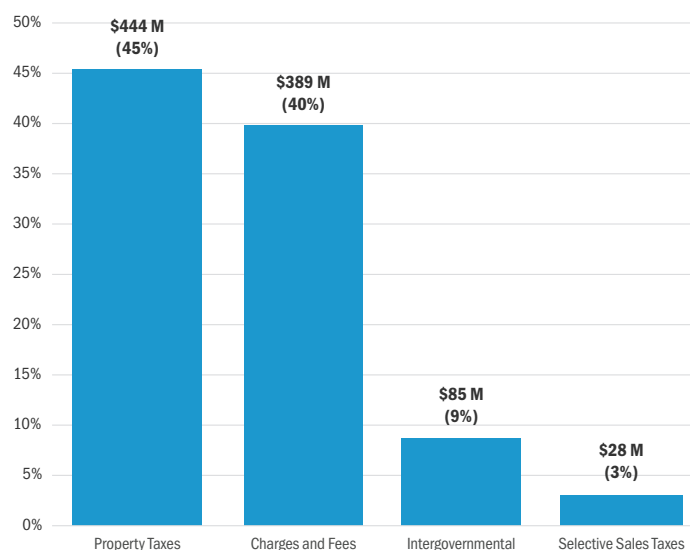
1.8 million²



County Authority

Dillon's Rule: All counties in West Virginia are governed under Dillon's Rule and therefore have only the authority and the government structure that is explicitly provided by state legislature.

TOP REVENUE SOURCES FOR WEST VIRGINIA 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:

- Establish a county health board and a school board.
- Construct and maintain jails, courthouses and other buildings.

Services counties **CAN** provide:

- Establish hospitals and senior centers.
- Create libraries, resort districts, museum commissions and recreation commissions.
- Promote economic vitality and general welfare.

Services counties **CANNOT** provide:

- Counties cannot provide any services not explicitly authorized by state law.

STRUCTURE/AUTHORITY

SUMMARY

Most counties in West Virginia are governed by a commission of three members who serve as both the legislative and executive decision-making body for their government. However, a county government may be modified in accordance with state legislature by way of resolution. Optional forms of government that may be taken on by a county include a county council, an administrator-commission, a manager-commission and a chief executive-commission plan. While many counties have chosen to adopt a plan with an appointed administrator or manager, no county has of yet adopted a plan with a chief executive. The chief executive, manager and administrator positions, as defined by the state statute, all have similar powers; however, the executive is elected while the administrator and manager are appointed. The administrator also serves under the supervision of the commission while the manager and executive would have the exclusive authority to supervise, direct and control the administration of the county government. None of these positions have the authority to vote on legislation or to veto it.

Row Officers	Elected/ Appointed	Mandatory/ Optional
Assessor	Elected	Mandatory
Circuit Court Clerk	Elected	Mandatory
County Clerk	Elected	Mandatory
County Surveyor	Elected	Optional
Prosecuting Attorney	Elected	Mandatory
Sheriff	Elected	Mandatory



COUNTY STRUCTURE

Legislative Branch: A 3-member county commission is, in most counties, the sole legislative decision-making authority. Two counties are governed by county councils.

Executive Branch: A 3-member county commission is also the sole executive decision-making authority except for two counties governed by councils. Counties may adopt an optional form of government to employ an elected chief executive, an appointed manager or an appointed administrator.

Judicial Branch: West Virginia's circuit court divides the state into 31 judicial circuits, each of which serves one or more counties. Circuit courts have jurisdiction over all civil cases at law over \$300, all civil cases in equity, all felonies and all misdemeanors. West Virginia also has family courts which are divided into 27 judicial districts, a magistrate court for each county and a system of municipal courts.

Optional Forms of Government:

- Commission
- Council
- City-County Consolidated



COUNTY AUTHORITY

Executive Power: As counties are governed under general law, their powers and functions are limited to that which is provided by legislature.

Ability to Form Partnerships: Counties may form partnerships through contracts with other governmental entities, private persons or corporations for the purpose of carrying out any function of the county government. A county may also consolidate part or all of its governmental and corporate functions with a municipal government or with another county government.

Call a State of Emergency: Only West Virginia's governor can declare or authorize a state of emergency for the state and local governments.

Special Districts: West Virginia has over 300 special districts throughout the state. The different types of districts and authorities include, but are not limited to, soil conservation districts, airport authorities, sewage districts and housing authorities.

SERVICES

OVERVIEW OF COUNTY SERVICES

West Virginia counties have jurisdiction over many services including, but not limited to, the establishment of county health departments, senior centers and libraries. Counties may exercise zoning and land use powers over their jurisdictions but are subject to review from local governing bodies. In education, counties and the state general legislature share the finance costs of providing public school systems and the administration of its services. Despite the rigidity of Dillon's Rule, West Virginia's Local Government Flexibility Act permits counties to apply for a waiver to a policy, rule or regulation that the county commission believes is preventing the efficient and effective provision of county services. This act allows counties to explore new methods of governance and service provision.



HEALTH AND HUMAN SERVICES

County Health Department: Counties must establish a county health board to service areas that do not have a local health administration. In 2021, counties were granted greater local political oversight and control over rules promulgated by health boards.

Hospitals: A county commission may acquire, construct and operate a county clinic, hospital or nursing home and is empowered to sell revenue bonds to fund these services.

Senior Care Facilities: A county commission may appropriate funds to establish and operate a senior center and long-term care center. The West Virginia bureau of senior services is responsible for coordinating with local governments to establish senior services and the state may provide matching funding for local programs.

Mental Health Facilities: Mental health facilities are administered by the state.

Child Welfare: Counties may provide care and services for children who are neglected, disabled or abused.

Welfare: Counties do not disperse welfare services but may contribute to state welfare funds to secure more funding for their respective jurisdictions. In addition, counties may establish community action programs aimed at combating poverty and economic disparities within West Virginia counties.



INFRASTRUCTURE

Roads: Counties may construct and maintain county roads that are not part of the state road or highway system. Counties also have the power to improve streets, sidewalks and alleys in their jurisdiction.

Maintenance Associations: Upon receipt of a petition from county residents, a county commission may hold a hearing to determine if there is need for a maintenance association for a proposed area and, if so, establish such an association. The association establishes and maintains improvements for its designated area which may involve streets, sidewalks, water and sewer systems, street lights and other improvements.

Solid Waste Authority: A county commission may establish a county solid waste authority to provide services relating to the disposal of solid waste.

Utilities: County commissions may establish and operate sewer, water and solid waste disposal facilities. However, counties may not establish an electrical or gas facility within their jurisdiction as these are generally established by municipal corporations. The West Virginia public service commission has the power to regulate the operation and rates of all utilities throughout the state.

- **Water:** Counties are authorized to supply water and install water and sewage pipes.
- **Solid waste:** Counties may participate in local, joint or regional solid waste recovery disposal systems. They may also provide garbage and rubbish collection services.
- **Electric:** Counties are not authorized to provide electric utility services.
- **Gas:** Counties cannot provide gas utility services.

SERVICES, CONTINUED



PUBLIC AMENITIES

Parks and Recreation: County commissions may establish park and recreation commissions to construct and maintain a public parks and recreation system throughout the county. Any real estate or personal property that is owned by the commission may be leased for the purpose of establishing a fire prevention school or educational institution.

Libraries: County commissions have the authority to establish and maintain a free public library.

Museum Commission: A county commission may, either individually or jointly with the governing body of a municipality, establish a museum commission. Such a commission is required to coordinate its activities with the West Virginia department of archives and history, the West Virginia historical society and the West Virginia antiquities commission.

Resort Districts: A county commission may create, modify, reject or expand resort area districts to assist in the provision of services and development, construction or improvement of a resort project to stimulate the economy for unincorporated areas. This can only affect the unincorporated areas of a county unless an agreement is made with a municipality.



ZONING AND DEVELOPMENT

Zoning Power: County commissions have broad zoning authority to regulate and restrict the use and construction of buildings and spaces including population density and distribution. County commissions may do this by adopting a comprehensive plan, working with the planning commission to develop a zoning ordinance and, finally, enacting a zoning ordinance. Generally, a county zoning ordinance applies only to the unincorporated areas of a county, unless a municipality decides to also adopt a county zoning ordinance.

Housing Authority: Counties have the power to create housing authorities and to appoint their commissioners. Petitions to establish housing authorities must be filed with the state before they can constitute a body corporate and politic.

Economic Opportunity Development Districts: A county commissioner may create one or more economic opportunity development districts and provide for the administration and financing of the districts. These districts enable county commissions to authorize or make development expenditures that will promote the economic vitality of the district and the general welfare of the county.

County Development Authorities: County commissions may establish county development authorities for the purpose of promoting, developing and advancing the business prosperity and economic welfare of the county.

SERVICES, CONTINUED



PUBLIC SAFETY

Enforcement: The prosecuting attorney is the chief legal authority of a county while the sheriff is the chief law enforcement officer.

Jails: Each county must establish, build and maintain a county jail. The county sheriff oversees the jail and its prisoners. If a county facility is not sufficient to the needs of a county, multiple counties may cooperate to provide a joint jail facility. A county may also cooperate with a city to construct and manage a workhouse for shared use.

Courthouses: Counties are responsible for constructing a courthouse for the use of local officials and the circuit court. Counties must appropriate the necessary funds for establishing a courthouse.

Fire: County commissions may form county-wide fire department agencies or form volunteer departments to provide fire protection services to the entire county. Counties may levy taxes to pay for the operation of fire departments or to contract out fire protection services. Any fire department within a county may establish a county fire association to discuss more effective fire protection strategies.

Ambulance: County commissions may provide and maintain an ambulance service. They may also contract with private operators or nonprofit general welfare corporations to provide such a service.

Emergency Management Agency: County emergency services and 9-1-1 offices are under the funding authority of county commissions.



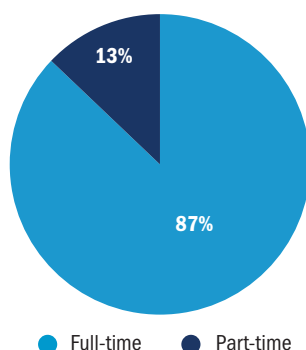
SCHOOLS

Education, Generally: It is the responsibility of the general legislature to establish a public education system, appropriate the necessary state funds and determine the amount of funds counties must provide in support of the education system. The amount of funding is determined by the valuation of property within the county.

School Board: Each county must establish a county school board to carry out administrative duties and implement state education policy.

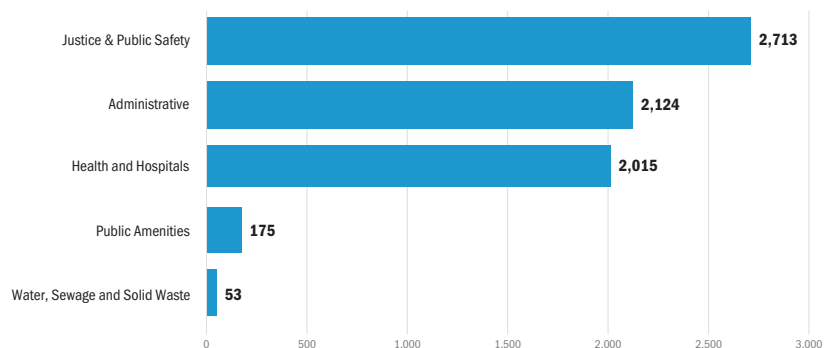
Community Colleges: It is the responsibility of the state legislature to establish and administer a community college system throughout West Virginia.

WEST VIRGINIA COUNTIES EMPLOY 8,356 GOVERNMENT EMPLOYEES



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

WEST VIRGINIA 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

As West Virginia applies Dillon's Rule to counties, commissions cannot levy any tax unless expressly authorized by state legislature. Counties receive most of their revenue from property taxes since most other types of taxes are not available to be imposed by county commissions. Personal property tax is included in the assessment of property taxes but there is no county income, sales, mineral or gas taxes. The hotel occupancy tax is a less common tax that is authorized to West Virginia counties, empowering them to tax room rentals that occur in the unincorporated areas of a county. Counties can also invest in linked deposit programs, but no county can take on a debt that exceeds 5 percent of the assessed valuation of all taxable property in the county.



FINANCES, TAXES AND LIMITATIONS

Property Tax: The elected county assessor reviews/assesses all county property over a running, three-year period to evaluate property values for taxation. The county sheriff collects the taxes and distributes it among the county commission and county school board. Approximately two-thirds of property taxes go to schools, about 27 percent to counties/county government and operations and approximately 10 percent to municipal government.

Personal Property: Personal property can be assessed for property taxes.

Income Tax: Counties cannot impose an income tax.

Sales Tax: Counties cannot impose a sales tax.

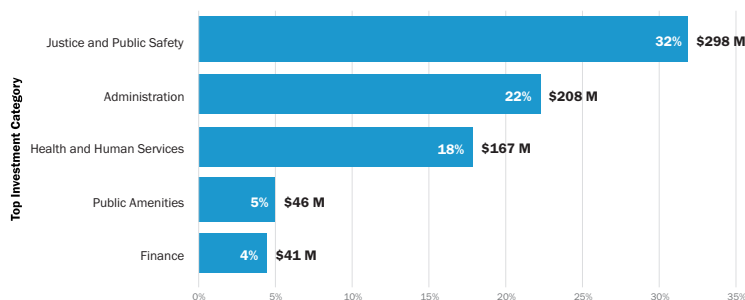
Mineral Tax: Counties cannot impose a mineral tax.

Gas/Fuel Taxes: Counties cannot impose a gas or fuel tax.

State Shares: Counties must share approximately 1 percent of assessed property taxes with the West Virginia state government.

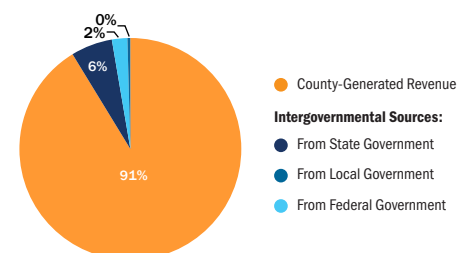
Debt and Debt Limit: No county shall be indebted for any purpose in an aggregate amount exceeding 5 percent on the value of all taxable property in the county. Counties may issue general bonds with the permission of the state legislature to finance economic development programs or other programs that support public health, welfare and safety.

WEST VIRGINIA COUNTIES INVEST \$935 MILLION ANNUALLY



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

WEST VIRGINIA COUNTIES RECEIVE \$85 MILLION FROM INTERGOVERNMENTAL SOURCES



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



TAXATION/FINANCES, CONTINUED

Other Finance Info:

- **Hotel Occupancy Tax:** Any county may impose a privilege tax upon the occupancy of hotel rooms within its taxing jurisdiction. The tax applies to all hotels in the unincorporated territory of a county, including those owned by the state. The rate of the tax imposed must be 3 percent of the cost of the room.
- **Investing in Linked Deposits:** County commissions may invest up to 10 percent of the county's total investment portfolio in linked deposit programs. The amount of a reduced rate loan may not exceed \$10,000 per job created or preserved as determined by the agent, subject to the availability of funds.
- **Financial Stabilization Fund:** A county commission may create a financial stabilization fund which can receive appropriations, gifts, grants and any other funds, as long as the stabilization fund does not exceed 30 percent of the general fund. These funds may be used to cover a general fund shortfall or any other purpose the commission considers appropriate.