

How Our Courts View the Distinction Between Policy and Administration

Court sites to leading treatise

“Legislative power, as distinguished from executive power, is the authority to make laws, but not to enforce them, or appoint the agents charged with the duty of such enforcement.” See 2A MCQUILLIN, MUNICIPAL CORPORATIONS § 10.06 at 311 (3d ed. 1996).

“The crucial test for determining what is legislative and what is administrative has been said to be whether the ordinance is one making a new law, or one executing a law already in existence.” *Id.*

Schuetz v. Van De Hey, 205 Wis.2d 475 (Ct. App. 1996).

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Court cites to Attorney General Opinion and dictionary

The county boards function is primarily policy making and legislative, while the county executive functions as an administrator and manager. See, e.g., 80 Op. Atty Gen. 49 (1991).

Policy has been defined as “a high-level overall plan embracing the general goals and acceptable procedures esp. of a governmental body.” *Webster's New Collegiate Dictionary* 890 (1977).

Schuetz v. Van De Hey, 205 Wis.2d 475 (Ct. App. 1996).

Required Committees

Wis. Stat. § 83.015 – county highway committee

Wis. Stat. § 166.03 – emergency management

Wis. Stat. § 59.56(3) – extension committee

Wis. Stat. § 46.82 – commission on aging

Wis. Stat. § 251.04 – local board of health

Wis. Stat. § 92.06 – land conservation committee

Community programs/social services/human services

Wis. Stat. § 59.54 – local emergency planning committee

Wis. Stat. § 45.81 – veterans service commission

Forms Of Governance

- * **Traditional Governance:** The board approves staff action plans and then exercises oversight by monitoring all aspects of the operation. The board tries to keep up with and to instruct management.
- * **Policy Governance:** The board states what the organization must achieve and holds management accountable. The board must lead. Also the board describes what means will not be acceptable. The work of the board is focused on revising the desired results and means. Consequently its attention is given mainly to attending to the needs of the community served.

Comparison of County Committees
March 30, 2015

County # on Board Form of Govt	Committee Name	#	Departments for Oversight	Responsibilities
Adams 20 Admin Coord	Administration and Finance Executive Highway Parks Solid Waste Public Safety and Judiciary Extension		Highway Parks Solid Waste Courts, Law Enforcement, DA, Medical Examiner, Child Support Extension	Finance and items related Policy
Brown 26 Executive	Administration Education & Recreation Executive (each chair of the standing committee) Human Services Planning, Development & Transportation Public Safety		Admin, Child Support, Clerk, Corp Counsel, HR, MIS, Treasurer Golf Course, Library, Museum, Zoo and Park Management Aging, Health, HS, Handicap School, Veterans Services Airport, Land & Water, Plan & Land, Port, PW, Deeds, UW Ext Courts, Clerk of Courts, DA, Med Exam, Communications, Sheriff	Handle all items required per ordinance and resolution
Calumet 21 Administrator	Administrative Services Agricultural & Extension Education Committee Committee on Appointments Committee on the Rules of Order Highway Committee Legislative Services Committee Protection of Persons and Property Public Grounds and Property	7 5 5 5 5 5 5	Out on website	Out on website
Dunn 29 Admin Coord	Executive Committee Committee on Administration Community Resources and Tourism Committee Facilities Committee Health and Human Services Board The Neighbors of Dunn County Committee Highway Committee Judiciary and Law Committee Planning, Resources and Development Committee		Admin, Corp Counsel, Clerk, Treasurer UW Extension Facilities and Parks Human Services, Health, Home Care Nursing, Vets Health Care Center Highway Division of the Public Works Sheriff, DA, Emeg Govt, Courts, Child Support, Med Exam Environmental Services Dept, Deeds, Econ Dev	Budgets and all other matters not specific to other committees Fiscal, investments, insurance, invoices, personnel matters Promote tourism County properties, Infrastructure, Fair Board Social services activities Nursing Home Infrastructure and machinery Land and water, zoning, deeds, solid waste
Eau Claire 29 Administrator	Administration Finance and Budget Highway Human Resources Judiciary and Law Enforcement Parks and Forest Planning and Development UW-Extension Education		Admin, Corp Counsel, MIS, Facilities, Vets Finance, Treasurer, County Clerk Human Resources Sheriff, DA, Courts, Medical Examiner, Probate Also Register of Deeds	
Jackson 19 Admin Coord	Executive, Finance and Insurance Personnel, Bargaining and Risk Management Law Enforcement Zoning and Land Information Forestry and Parks Extension and Education Property Highway Tax Deed and Land		County Clerk, Treasurer, Clerk of Courts, Veterans Services, Judges	Review items to Board, Budget, Vouchers, Ins, Ordinances All personnel related matters with employees Approves spending, law enforcement programs, employees Anything to do with Zoning, comprehensive planning, mapping Forestry cutting and manages the county owned parks 4-H programs, Ag education, education and support to families County buildings maintenance, lawns, plowing County roads repair and replacement Take and sell tax deed property

	Board of Adjustment		Appeal board of zoning issues
Kenosha 23 Executive	Executive (each chair of the standing committee) Finance/Administration Public Works/Facilities Human Services Judiciary & Law Planning, Development & Extension Education	7 7 5 7 7 5	Budget, Finance, Personnel issues Oversees county property, maintenance, highways and PW Health, aging and disability etc. Sheriff and Courthouse divisions All planning and development and UW Ext
Kewaunee 20 Administrator	Extension Education & Zoning Finance & Public Property Health, Veteran Service & Child Support Highway/Solid Waste Human Services Human Services Aging Advisory Land & Water Conservation Law Enforcement, Emergency Management Personnel, Advisory & Legislative Promotion & Recreation	4 5 5 5 6 2 4 4 9 5	Would Share upon Request Would Share upon Request
La Crosse 29 Administrator	Executive Veterans, Aging & Long Term Care Health & Human Services Board (6 and 3 citizens) Judiciary & Law Committee Planning, Resources & Development (7 and 1 citizen) Public Works & Infrastructure	9 5 6 5 7 7	Admin, Corp Coun, Child Support, Clerk, Finance, MIS, HR, Treas Vets, Aging, Health Care Centers Human Services, Health Courts, DA, Emerg Services, Medical Exam, Sheriff Land Con. Zoning, Planning and Land Info, Deeds, Surveyor, UW Ext Highway, Facilities, Solid Waste
Manitowoc 25 Executive	Executive Finance Highway Land Conservation/Natural Resources & Education Personnel Public Safety Public Works	3 5 5 5 5 5 5	Comptroller, MIS Deeds, Clerk and Treasurer Highway, Airport UW Extension, Soil Conservation Office Corp Counsel, Personnel Dept, Veterans Services Office Courts, Sheriff, Coroner, Emer Manage, DA, Probate Public Works/Solid Waste, Recycling and Manitowoc Industrial Comm
Marathon 38 Administrator	Education and Economic Development Environmental Resources (6 and 1 citizen) Executive Finance and Property Health and Human Services Human Resources Infrastruture Public Safety Technology	7 7 9 7 7 7 7 7 7	Out on website Out on website
Marquette 17 Admin Coord	Highway Property & Long Term Planning Zoning and Land Information Public Safety Executive & Finance	5 5 5 5 7	Highway Department Buildings and Grounds, MIS Zoning, Surveyor/Land Records Dept Sheriff, EMS, Emergency Govt, Animal Control Admin, Clerk, Treasurer, Deeds, Courts, DA, Vets
Milwaukee 18 Executive	Economic and Community Development Finance, Personnel and Audit Health and Human Needs Intergovernmental Relations Judiciary, Safety and General Services Parks, Energy and Environment Transportation, Public Works and Transit Committee of the Whole		Budget and Personnel matters Economic Development, CDBG, Disposition of County Property Budgets, Taxation, insurance, personnel matters Human Services, Medical services Proposed fed, state and local legislation Lawsuits, WC, Courts, Probate, Clerk, Deeds, DA, Emer Man, Etc Parks, Zoo, UW Ext Activities Infrastructure, transportation, etc Significant policy impact or unique situations

Outagamie 36 Executive	Ag., Extension Education, Zoning & Land Cons. Finance Health & Human Services Highway, Recycling and Solid Waste Legislative Audit/Human Resources Property, Airport, Recreation & Econ Development Public Safety Committee Chairperson (Chair, VC and Com Chairs)	5 5 5 5 5 5 5 9		A lot of Detail, most of it was normally what you would expect these committees to do
Pepin 12 Admin Coord	Highway Committee Land Conservation Committee Recycling/SW/Econ Dev & Tourism, Ag and Ext Ed Human Services/Veteran Services Finance/Property/Resolution Board of Health Law Enforcement/Zoning Personnel		Finance, Clerk, Treasurer, Deeds, Surveyor and Land Records, Maint Sheriff, DA, Courts, Probate, Coroner, Zoning	Supervises Hwy Dept Governs land conservation regulations Education Services for UW, oversight fair, supervises the rest Administrated HS and oversees Vet Services office Budget, fiscal, vouchers, property transactions, resolutions Supervises the Health Dept Review Ordinances, Conducts Zoning Hearings Supervises Personnel matters
Price 13 Administrator	Buildings & Grounds/Dams Executive Committee Forestry & Parks/Tourism Highway & Transportation Land Use & UW-Extension Law Enforcement Personnel Health & Human Services (5 County, 4 non board)	5 5 5 5 5 5 5 9	Admin, Clerk, Treasurer, Deeds, Tax Lister, Vets, Courts, MIS Highway, Airport Land Cons, Zoning, UW Extension Sheriff, DA, Coroner, Child Supprt	Handle the budget and financial concerns
Rusk 19 Admin Coord	Finance Personnel Property Highway Emergency Services Forestry Land Information/Zoning UW Extension Education & Recycling	5 5 5 5 5 5 5 5	Finance, Econ Development, County Clerk Human Resources Maintenance, IT (MIS) Highway Sheriff, Emerg Management, Medical Examiner Forestry Department Land Info, Zoning, Treasurer, Register of Deeds UW Ext, Recycling, Jr. Fair	Payments, Budget Wages, Benefits, Contracts, HR Issues Buildings & Grounds, Ins, Maint Roads & Bridges Public safety, policy, jail operations, ambulance, EMT Forest operations, timber bids, parks and campgrounds Addressing, mapping, septic, permits, public hearings UW programs, site attendance, recycling, Jr. fair
Sheboygan 25 Administrator	Executive Finance Health and Human Services (6 County, 3 Citizen) Health Care Center Human Resources Law Planning, Resources, Ag and Ext (1 Citizen) Property Transportation	5 5 9 5 5 5 6 5 5	County Administrator Finance, IT, County Clerk, Treasurer/Real Property HHS, (Child Support with HHS), Veterans Services Health Care Center HR, Corp Counsel Sheriff, Clerk of Courts, DA, Medical Exam, Family Court Planning and Conservation, UW Ext, Register of Deeds Building Services, UW-Sheboygan Highway, Airport	No Detail
St. Croix 19 Administrator	Administration Community Development Public Protection Transportation Health and Human Services (6 County, 3 Citizen)	5 5 5 5 9		No Detail

Trempealeau 17 Admin Coord	Agriculture/University Extension (5 board, ? Citizen) Board of Health (5 board, ? Citizens) Environment & Land Use (5 board, ? Citizens) Executive & Finance Audit Human Services (5 board, ? Citizens) Highway Law Enforcement & Emergency Management Personnel & Budgeting Property	5 5 5 5 3 5 5 5 5 5 5	UW Extension Health Dept Department of Land Management Vets, Corp Counsel, Admin, MIS, Land Records, Clerk, Deeds, Treas Human Services Highway Emerg Management, Sheriff, Child Support, Courts, Coroner, DA Human Resources Maintenance Dept	A lot of Detail, most of it was normally what you would expect these committees to do Approve bills, Claims
Waushara 11 Admin Coord	Buildings & Grounds Executive Personnel Public Safety Public Works Veterans Services	3 3 3 4 3 3	Admin, Corp Counsel, Clerk, Courts, Treasurer, Deeds, DA, Surveyor Sheriff, Coroner, Emergency Services, Emergency Government Highway, Parks, Solid Waste Vets	Oversee all county owned property All personnel related matters with employees County emergency govt
Wood 19 Admin Coord	Executive Health and Human Services (5 County, 4 Citizen) Judicial and Legislative Highway Infrastructure & Recreation Public Safety Conservation, Education & Economic Development	5 9 5 5 5 5		Budget, functions, personnel, oversee management of depts Budget, functions, personnel, oversee management of depts

Columbia-28	Has 13 Standing Committees	Admin Coord
Door-21	Has 13 Standing Committees	Administrator
Jefferson-30	Has 12 Standing Committees	Administrator
Oconto-31	Has 12 Standing Committees	Admin Coord
Sauk-31	Has 13 Standing Committees	Admin Coord
Vilas-21	Has 15 Standing Committees	Admin Coord