



COMMISSIONER V. OTHER ELECTED OFFICIALS' RESPONSIBILITIES

William W. Thompson, Jr., Latah County Prosecuting Attorney

IAC Annual Conference
September 2026

COUNTIES ARE THE BACKBONE OF THE STATE OF IDAHO

Among other things, Idaho's 44 counties provide:

- Courts
- Jails
- Elections (Federal, State, Municipal and other local jurisdictions and municipalities)
- Real and personal property assessment and taxation, including all tax collections
- Prosecution for all crimes, child protection, juvenile delinquency and hospitalization cases (except misdemeanors and infractions issued by a city who has its own prosecutor)
- Social Services/Indigency
- Juvenile and misdemeanor probation



There are 44 counties in Idaho ranging in size from 494,410 (Ada County) to 839 (Clark County)*

*2020 figures from World Population Review

COUNTY GOVERNMENT STRUCTURE

- County government in Idaho is typically* made up of 7 elected offices filled by a total of 9 independently elected officials
- Except for the 3-member Board of County Commissioners, each elected county office is held by a single individual. Those offices are:

* Idaho law allows for optional forms of county government if approved by the voters – unaware of this occurring.



COUNTY ASSESSOR

Assessment/Reappraisal of Property

- Title 63, Idaho Code
- Idaho Code, 31-2501
- Mapping

Motor Vehicles and Manufactured Homes

- Title 49, Idaho Code
- Licensing & Titling



COUNTY CLERK OF THE COURT, AUDITOR AND RECORDER

Five distinct responsibilities:

- Clerk of the District Court – Article V, Section 16 – Judicial
- County Auditor – Article XVIII, Section 6
- County Recorder – Article XVIII, Section 6
- Clerk to the Board of County Commissioners - I.C. § 31-2001
- Chief Elections Officer – Title 34



COUNTY CORONER

- Idaho Code, Title 31, Chapter 28
- Idaho Code, Title 19, Chapter 43
- Determining Cause of Death
 - Inquests
- Disposition of Dead Bodies



COUNTY PROSECUTING ATTORNEY

- Idaho Constitution Article V, Section 18 – Judicial
- Idaho Code, Title 31, Chapter 26
- Chief Law Enforcement Officer, Idaho Code, 31-2227
- Criminal Actions – Title 18
 - Prosecute all felonies regardless of issuing agency
 - Prosecute misdemeanors issued by county or state officer
- Legal Advisor to County Officers (Civil)



COUNTY SHERIFF

- Police Powers
 - Chief Law Enforcement Officer
 - Idaho Code, Title 31, Chapter 22
- Jail-keeping Powers
- Officer of Court and Civil Process
- Extradition Proceedings
- Peace Officer
- Emergency Dispatch Services



COUNTY TREASURER

Idaho Code, Title 31, Chapter 21

- County Finance Officer
- County Investment Officer
- Tax Collector

Idaho Code, Title 14, Chapter 1

- Public Administrator



BOARD OF COUNTY COMMISSIONERS

Three branches of government in one:

1. Executive

- Manager and Administrator

2. Legislative

- County Ordinances
- County Policy Resolutions

3. Judicial (Quasi)

- Planning and Zoning
- Board of Equalization



BOARD OF COUNTY COMMISSIONERS

Statutory Authority:

- Title 31 – General County Authority
 - Chapter 7 – Structure, Term and Operations
 - Chapter 8 – Powers and Duties
 - Chapters 15 & 16 – Budget and Finance
 - Chapters 34 & 35 – Indigency
- Title 63 – Property Tax Authority
 - Chapter 5 – Equalization of Assessments
 - Chapter 8 – Levy Authority



BOARD OF COUNTY COMMISSIONERS

- Planning and Building
- Road and Bridge (not in all counties)
- Noxious Weeds
- Parks and Recreation
- Computer Services/IT
- Fair and Event Center
- Juvenile Probation & Detention
- Misdemeanor Probation
- County Agent
- Emergency Management Services
- Custodial/Maintenance
- Enterprise Fund Supported Services (i.e.: solid waste)



BOARD OF COUNTY COMMISSIONERS

- Appointment Authority
 - Department heads
 - Vacancy in county elected office
 - County boards, committees, subcommittees, etc.
- Role as an Individual Commissioner
 - Magistrate Commission
 - Health District Budget
 - Other Boards and Commissions



“CHAIN OF COMMAND”

Although the Board of County Commissioners are technically tasked with general supervision of the other county offices, the only real legal authority they have is in regard to the budget and to the setting of general county policy.

The Board cannot direct the activities of any individual elected office, nor can any individual elected office direct the activities of another elected office.



“CHAIN OF COMMAND”

Inherently, county government works best when each of the elected officers place the interests of the county as a whole ahead of any personal or partisan interest they may hold.



SPEAKING OF “PARTISAN”

- What is the role of partisan politics?
- Examples?



EXTERNAL RELATIONSHIPS

- With cities
- Taxing districts
- State government
- The courts

DISCUSSION ONLY:

POTENTIAL GOVERNMENT SCENARIOS

THIS IS NOT LEGAL ADVICE.
These are hypotheticals compiled by IAC staff

BOCC REQUESTED LEGAL ADVICE

The BOCC in a small county requests legal advice from its prosecuting attorney, who replies to the board that they are too busy and unable to provide advice within the next two weeks. The advice is needed within the week.

- What is the responsibility of the prosecuting attorney regarding providing timely legal advice to the board?
- Does the board have other resources? What if the prosecutor is in the middle of a major criminal case and can't provide the timely advice?
- What does the board do if the prosecutor simply does not want to provide advice?

- I.C. 31-2604 (3) – Prosecuting Attorney's duty is “to give legal advice”
- I.C. 31-2607 – BOCC to authorize Deputy Prosecuting Attorneys “as necessary for the proper conduct of the PA's office”
- I.C. 31-3107 – Elected Official has power to appoint deputies “as office may require” and BOCC to set pay
- Outside counsel: I.C. 31-2603(a) special PA
 - OAG-93 requires findings of necessity on case-by-case basis, see also Meller below.

BOCC SUPERVISION OF COUNTY OFFICERS

A county commissioner in their first term is struggling with the concept of independently elected county officials. The new commissioner frequently directs the staff of other elected officials to perform tasks. The commissioner is also meeting with staff for employee performance reviews.

- What options does a county elected official have when a county commissioner attempts to direct the work of their staff, including scheduling performance reviews?



I.C. 31-802: SUPERVISION OF COUNTY OFFICERS. To supervise the official conduct of all county officers, and appointed boards or commissions of the county charged with assessing, collecting, safekeeping, management or disbursement of the public moneys and revenues; see that they faithfully perform their duties; direct prosecution for delinquencies; approve the official bonds of county officers, and when necessary, require them to make reports, and to present their books and accounts for inspection.

BUT...

- Allied Bail Bonds v. Kootenai County, 151 Idaho 405, 412 (2011)
 - BOCC is not authorized to control the other constitutional offices...
- Gorman v. Board of Commissioners, 1 Idaho 553 (1873)
 - BOCC has no power/authority to pass on malfeasance of another Elected Official
- Meller v. Board of Commissioners, 4 Idaho 44 (1894)
 - BOCC has no authority where power is already fixed to another office
- Conger v. Commissioners of Latah County, 5, Idaho 347 (1897)
 - BOCC can't direct another office's statutory function, such as criminal prosecution

AUDIT AUTHORITY OF THE BOCC

A county commissioner wants to audit funds within the county coroner's office.

- Can a single county commissioner perform an audit?
- What actions can a single county commissioner take?
- If there is a need to perform a special audit of the coroner's office, what can the county board of commissioners do?

- 
- I.C. 31-809 – BOCC audit authority
 - Commissioners can only act as a board, not individually (see Conger above)
 - I.C. 31-818(2) – Board can appoint 1 as “administrator” but is limited to procedures/duties specified by BOCC via ordinance/regulation
 - Appointment of “administrator” cannot expand authority beyond that of the BOCC as a body

BOCC POLICY/LAWMAKING AUTHORITY

The BOCC sets a county land use ordinance. The prosecuting attorney does not agree with the policy the board wishes to enact.

- What is the role of the prosecuting attorney versus the role of the board of county commissioners in developing a county ordinance, or a county personnel policy?
- Can a prosecutor direct the board not to adopt an ordinance or resolution based solely on a policy or philosophical disagreement, or should the prosecutor's advice and direction of the prosecutor be based on the legality of a proposed county resolution or ordinance?

- 
- I.C. 31-2604(3) – Prosecuting Attorney’s duty “to give advice...”

SALARIES OF COUNTY ELECTED OFFICIALS

The BOCC sets the salary for county elected officials.

- Can the board base compensation on time in office or experience, or is the compensation for the position regardless of the elected official's experience?
- What about COLAs? Can the board give some county elected officials a COLA while withholding it from others?



I.C. 31-3106 BOCC sets salaries

- Kovacs v. Kootenai County, 175 Idaho 505 (App. 2025)
 - Reduction of elected officials' salary must be based on "substantial evidence", and
 - Cannot be arbitrary, capricious, or abuse of discretion
- Reynolds v. Oneida County, 6 Idaho 787 (1899)
 - "reasonable compensation" based on duties and labor involved does not equal abuse of discretion
 - "fair consideration of all the facts and circumstances"
- Planting v. Board of County Commissioners, 95 Idaho 484 (1973)
 - Can't use compensation to control another office

Note: Once an elected official's salary is set, it is fixed for that fiscal year regardless of who occupies the elected office. I.C. 31-3106

FOLLOWING COUNTY POLICY

The BOCC is authorized to adopt countywide employment policies (personnel policies, credit card policies, procurement policies, fee schedules, etc.). Because county elected officials are independently elected, must they follow county policies?

- Hansen v. White, 114 Idaho 907 (1988)
 - BOCC has the authority to create reasonable, general county policy....
- Pena v. Minidoka County; Crooks v Maynard, 112 Idaho 312 (1987)
 - BOCC authorize and fund a new deputy position but cannot override another office's hiring decisions



The county personnel policy requires employees to work in the office five days a week (with exceptions for staff of the coroner's office and sheriff's office). Employees in the clerk's office would like to work remotely two days a week. The county clerk proceeds to implement a policy for their employees permitting remote work two days a week, which conflicts with the county personnel policy.

- Can the BOCC compel the employees of the clerk's office to follow the county in-office work policy?
- What recourse does the board have?

- 
- I.C. 31-2009 – “Sheriffs, recorders, treasurers, assessors, and in counties having a population of over 7,500, prosecuting attorneys must have their offices at the county seat, and keep them open for the transaction of business on such days and during such hours as the boards of county commissioners may prescribe. Provided, that in counties having a population of 7,500 or less, the prosecuting attorney must have an office at the county seat and must, by and with the approval of the board of county commissioners, establish such rules and hours for official business as may be necessary for the dispatch thereof.”
 - The more related a policy is to the actual functions of the office, the less BOCC has power



The appraisers in the assessor's office would like to work four ten hour days instead of five eight hour days. The assessor agrees and authorizes their appraisers to work four ten hour shifts as long as there isn't a drop in performance. After receiving complaints from other county departments the board directs the assessor to require employees to work five eight hour days a week.

- What recourse does the assessor have?
- Can an elected office set different hours of operation from the board directed courthouse hours of operation?

- 
- I.C. 31-2009 – “Sheriffs, recorders, treasurers, assessors, and in counties having a population of over 7,500, prosecuting attorneys must have their offices at the county seat, and keep them open for the transaction of business on such days and during such hours as the boards of county commissioners may prescribe. Provided, that in counties having a population of 7,500 or less, the prosecuting attorney must have an office at the county seat and must, by and with the approval of the board of county commissioners, establish such rules and hours for official business as may be necessary for the dispatch thereof.”



A county sheriff adopts a procedures handbook for sheriff's office employees. The handbook generally follows the county personnel policy but includes additional requirements specific to patrol, detention, and dispatch deputies. The board is at odds with the sheriff over the procedures handbook.

- How can the sheriff best navigate these perceived conflicts with the board?
- Can the board prohibit an elected office from adopting policies not in conflict with existing county policies?

- 
- I.C. 31-2009 – “Sheriffs, recorders, treasurers, assessors, and in counties having a population of over 7,500, prosecuting attorneys must have their offices at the county seat, and keep them open for the transaction of business on such days and during such hours as the boards of county commissioners may prescribe. Provided, that in counties having a population of 7,500 or less, the prosecuting attorney must have an office at the county seat and must, by and with the approval of the board of county commissioners, establish such rules and hours for official business as may be necessary for the dispatch thereof.”
 - The more related a policy is to the actual functions of the office, the less BOCC has power



DISCUSSION & QUESTIONS



THANK YOU