



Wisconsin Counties Association  
**ANNUAL CONFERENCE**  
*& Exhibit Hall* **2022**

**8:00 - 9:00 AM**

**The Top 10 Misconceptions About Being  
a County Board Supervisor – Part 1**

# Top 10 Misconceptions About Being a County Board Supervisor (Part 1)

2022 WCA Annual Conference

Attorneys Andy Phillips and Jake Curtis

## What We'll Cover Today

- **The Top 10 Misconceptions**
- **The real story about being a board supervisor**
- **Questions and Answers surrounding the role of a county board supervisor**

## Misconception Number 1

- **“If I read through Chapter 59 of the Statutes, I’ll know all I need to know to be an effective county board supervisor.”**

# Reality Number 1

- Chapter 59 is important and certainly the most comprehensive discussion on county authority, but it is not the only statute important to counties.
  - Chap. 19 – General duties of public officials
  - Chap. 46 – Social services
  - Chap. 48 – Children’s code
  - Chap. 51 – State alcohol, drug abuse, developmental disabilities and mental health act
  - Chap. 83 – County highways

# Reality Number 1 (cont)

- The history of Wisconsin counties sheds light on the organizational construct enjoyed today
  - More on this later...
- The Legislature doesn't always do the best job updating statutes
  - There are many statutes on the books that are either irrelevant or make very little sense in today's environment
    - (See e.g., s. 59.52(3) – the **county** public records law??)

# Misconception Number 2

- “There isn’t much I need to know about human services, social services, community programs, disability services and services for the elderly.”

## Reality Number 2

- Unless a human services department is created, all counties are required to have a department of social services
- Unless a human services department is created, all counties are required to have a department of community programs
- Unless a human services department is created, all counties are required to have a department of developmental disabilities services
- **All of these programs and responsibilities are critically important to the residents of your county and all of these services require significant funding. The statutes place the care and well being of many of society's most vulnerable citizens in county hands.**



## Reality Number 2 “Reality Check”

- **What percentage of your county’s budget is dedicated to health and human services?**
- **Do your constituents know this?**
- **Why would it be important for constituents to know this?**

## Misconception Number 3

- **The County Budget is a financial document**

## Reality Number 3

- The County Budget is the preeminent policy document in county government.
  - Wis. Stat. § 65.90(2)(a) – “An annual budget shall list all existing indebtedness and all anticipated revenue from all sources during the ensuing year and shall likewise list all proposed appropriations for each department, activity and reserve account during the said ensuing year.
- The budget links current year expenditures with a county’s long-range vision
- Even though the budget is a “year in a glance,” there should be attention to the county’s long-term plans.

## Misconception Number 4

- **“Hah – the State can’t tell us what to do!”**

# Reality Number 4

**“This court recently affirmed the principle that counties are creatures of the Legislature and their powers must be exercised within the scope of authority ceded to them by the state ... In governmental matters, the county is simply the arm of the state; the state may direct its action as it deems best and the county cannot complain or refuse to obey ... The county exists in large measure to help handle the state’s burden of political organization and civil administration ... But as a creature of the state, it is not permitted to ‘censor or supervise’ the activities of its creator.”**

*Dane County v. Wisconsin Dept of Health and Soc Svcs*, 79 Wis. 2d 323 (1977) (many other citations omitted).

**“This court has often expressed the fundamental rule that counties, as creatures of the legislature, exist largely for purposes of political organization and administrative convenience ... Because of its status as an arm of the state, a county cannot be heard to challenge or question the wisdom of its creator ... It follows logically from this, for example, that a county may not raise a constitutional challenge to a statute.”**

*Brown County v. Dept of Health and Soc Svcs*, 103 Wis. 2d 37 (1981) (many other citations omitted).

# Reality Number 4 (cont. post-Administrative Home Rule)

“A county is a creature of the legislature and as such, it has only those powers that the legislature by statute provided. Wis. Const. art. IV, § 22. For more than a century, Wisconsin courts consistently have interpreted counties' powers as arising solely from the statutes:

Counties are, at most, but local organizations, which, for the purposes of civil administration, are invested with a few functions characteristic of a corporate existence.... [T]he statutes confer upon them all the powers they possess.

*Frederick v. Douglas County*, 96 Wis. 411, 416–17, 71 N.W. 798 (1897) (citations omitted). We have held that counties exist for, and derive their powers from, the state, through legislation. *State ex rel. Conway v. Elvod*, 70 Wis.2d 448, 450, 234 N.W.2d 354 (1975) (explaining that a “county is totally a creature of the legislature, \*511 and its powers must be exercised within the scope of authority ceded to it by the state”); *Kyncl v. Kenosha County*, 37 Wis.2d 547, 555, 155 N.W.2d 583 (1968) (citation omitted) (explaining that a county “exists not by virtue of its own will or consent, but as a result of the superimposed will of the state”); *Douglas County v. Indus. Comm'n*, 275 Wis. 309, 313–14, 81 N.W.2d 807 (1957) (citations omitted) (pointing out that “[c]ounties, like other municipal corporations, are mere instrumentalities of the state, and statutes confer upon them their powers, prescribe their duties, and impose their liabilities”); *Spaulding v. Wood County*, 218 Wis. 224, 226, 260 N.W. 473 (1935) (citations omitted) (explaining that a county has “only such powers as are conferred upon [it] by statute, or such as are necessarily implied therefrom”).”

*Jackson County v. State, Dept of Nat Resources*, 2006 WI 96.

## Reality Number 4 (cont.)

- A county's home rule authority found in s. 59.03 is not nearly as expansive as the constitutional home rule authority enjoyed by cities and villages in the Constitution.
- The historical partnership between the state and counties may at times appear strained, but it is critically important to the efficient delivery of services.
- The history lesson...
- So the lesson for us here in modern times is?

## Misconception Number 5

- **A county board supervisor should have tons of relevant professional experience. After all, how can he/she “supervise” things without experience?**



# Reality Number 5

- A connection to the electors is the primary and **ONLY** qualification that truly matters.
- A policy-making body should reflect the will of the citizens that put the policy makers in their seats.

**STAFF**

Education

Experience

Background checked

Bonded

Professionally current

Professional associations

**BOARD**

Elected by people

Local connection

Reality Number 5 (cont.) - County  
Staff Qualifications Compared to  
Supervisor Qualifications



INTERMISSION



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## Misconception Number 6

- **Meetings are a great place to solve all the county's problems**

- If meetings are a place where problems are solved, you have some **REALLY** long meetings!
- **Reactivity vs. Proactivity**
  - What is the difference and why is this important?
- Does a “visionary” really only react to issues that are brought to the body’s attention at a meeting?

Reality  
Number 6

## Misconception Number 7

- **Zoning and land use issues aren't that complicated**



## Reality Number 7

- **Land use issues and disputes are or can be:**
  - Highly contentious
  - High stakes
  - Resolved through time-consuming administrative and legal processes
  - Subject to confusing statutory and common law legal principles
  - Time consuming

## Misconception Number 8

- **As a county board, we oversee constitutional officers and can provide direction to them on how to do their job.**

# Reality Number 8

- Constitutional officers (sheriff, clerk, treasurer, register of deeds, clerk of courts) have a constitutional and statutory obligation and prerogative to perform their duties without interference.
  - But does the Constitution have a job description for county constitutional officers? So where do we look?
- The legislature established the “grand unresolved conflict.” What is it?
- The goal is to work together with constitutional officers to understand duties, responsibilities and needs.

## Misconception Number 9

- **As a county board supervisor, it is my job to make sure I help constituents by resolving their problems with the county.**

## Reality Number 9

- Supervisors serve primarily a legislative function
- The legislative function is largely limited to policy making, law making, budgetary approval and cooperative decision making
- No operational control resides with individual supervisors
- Supervisors authority is collective versus individual
- When appointed to a committee chair position, a supervisor has the authority to set the agenda for committee meetings, preside at meetings and make reports and recommendations on the committee's behalf
- So do “supervisors” actually “supervise” anything?
  - Thank you legislature for creating confusion with the name!

## Misconception Number 10

- **There aren't a lot of resources out there to help me be the best board supervisor I can be.**

# Reality Number 10 – WOW!

- The Wisconsin Counties Association...
  - Is the voice for county government in the State Capitol
  - Is held in the highest regard in all three branches of state government
  - Provides live “on demand” educational opportunities for members
  - Coordinates legal questions impacting county government across the state
  - Links Wisconsin counties to federal decision makers
  - Employs some really awesome people!
- And this is all because of you and for you – just ask!

Thank you for your  
service to county  
government!







Questions? Comments?

# Contact Information



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