

County Structure

Kristi Harshbarger, ISAC General Counsel

New County Officer School

January 15, 2025

Disclaimer

- ▶ The Iowa State Association of Counties (ISAC) provides education and information primarily as a general service to ISAC members. This communication, or any other communication with ISAC, does not create an attorney-client relationship. The information provided should not be interpreted or used as a substitute for a legal opinion from your county attorney or otherwise retained and qualified legal counsel.

Organizational Chart

- ▶ I used to display a graphic here of the county departments.
 - ▶ It was from 2003.
 - ▶ Things have changed. Who remembers CPCs from before Regions?
 - ▶ It didn't accurately describe the quasi-independent boards.

Chain of Command - Horizontal vs. Vertical

- ▶ County government has a horizontal leadership structure (as opposed to a typical vertical leadership structure found in most businesses).
- ▶ This means several quasi-independent offices and departments have to work together to get things done in the most efficient manner. Cooperation.
- ▶ A power of a county is vested in the board of supervisors, and a duty of a county shall be performed by or under the direction of the board of supervisors, except as otherwise provided by law. (Iowa Code 331.301(2)).
- ▶ BUT, see “The board appears to have proceeded as though our system of county government consisted of central management with subsidiary departments. With few exceptions, however, our statutes establish autonomous county offices, each under an elected head.” McMurry v. Lee County Board of Supervisors, 261 N.W.2d. 688 (Iowa 1978)

But who has the POWER?!

- ▶ Influence without authority!
 - ▶ Borrowed this phrase from the Black Hawk County HR
- ▶ There is no CEO of a county.

Horizontal Leadership- Employee Handbooks

- ▶ There is an Iowa Attorney General opinion (2000 WL 33258481 (Iowa A.G.)) and case law (see McMurry v. Lee County Board of Supervisors, 261 N.W.2d. 688 (Iowa 1978)) that limit a Board of Supervisors' ability to impose personnel policies on deputies of other elected officials and there are arguments that could be made to say the same is true of various county departments that are governed by quasi-independent county boards.
- ▶ From a practical standpoint, it makes sense for everyone to be operating under the same set of policies. It's more efficient, easier to be consistent in enforcement, overall easier from an administrative standpoint.
- ▶ But to make a county-wide handbook work, you have to achieve consensus among the departments.

Horizontal Leadership- Employment Decisions

- ▶ “The number of deputies, assistants, and clerks for each office shall be determined by the board and the number and approval of each appointment shall be adopted by a resolution recorded in the minutes of the board.” Iowa Code 331.903.
- ▶ But, “County supervisors lack authority to require another elected county officer to comply with their comprehensive hiring policy and may not unreasonably refuse to approve any appointments made by other elected county officers.” 2000 WL 33258481 (Iowa A.G.)
- ▶ Employees of quasi-independent boards (conservation, public health, emergency management, veterans affairs, conference board) - have to review the individual Iowa Code Sections related to that board/employee.
- ▶ There are even some differences here amongst elected officials. For example, sheriffs have slightly different rules related to deputies under 331.904(2) and 341A.7.

Horizontal Leadership- Employment Decisions

- ▶ Don't forget about veterans' preference law as it relates to hiring (Iowa Code 35C.1)
- ▶ *A small aside (Appointments):* Supervisors make many appointments to various boards and commissions. Some of those boards and commissions have applicable laws or their own rules on removing an appointee. As a general rule, always put a removal in writing and give the person an opportunity for a public hearing on the removal. Iowa Code 331.321(3) and *Helmick v. Louisa County BOS*.
 - ▶ *Gender balance is no longer a state requirement*
- ▶ *Another aside about appointments* - A county supervisor is permitted by law to serve on any board or commission, unless specifically prohibited by law (Iowa Code §331.216). So, for instance, county supervisors can serve on county boards of health. An Attorney General Opinion held that Iowa Code §331.216 supersedes the common law and permits county supervisors to appoint one of their own members to serve simultaneously on the county's conservation board (Attorney General Opinion 01-4-4).
- ▶ Special rules apply to sheriff's deputies under Civil Service Chapter 341A and Chapter 80F.

Horizontal Leadership- Compensation

- ▶ Elected officials: Iowa Code 331.907
 - ▶ Compensation process has changed (BOS can serve as comp board) and the equal percentage requirements are no longer there.
- ▶ Deputies of elected officials: Iowa Code 331.904
 - ▶ Base salary is set by the applicable elected official and so long as it meets threshold requirements of 331.904, the supervisors shall approve it.
- ▶ Employees of quasi-independent boards (conservation, public health, emergency management, veterans' affairs, and conference board) - have to review the individual Iowa Code Sections related to that board/employee.
- ▶ Other county clerks and extra help: Iowa Code 331.904
 - ▶ Set by the Board of Supervisors.

Horizontal Leadership- Budgets and Claims

- ▶ On or before January 15, each elective or appointive officer or board, except tax-certifying boards, shall submit to the county budget official or auditor the budget estimate worksheets for each office or department. The worksheets shall contain proposed (requested) expenditures and estimated revenues, except property taxes, for the next fiscal year, itemized in the detail required by the board and in a format consistent with the auditor's accounting system (Iowa Code 331.433(1)).
- ▶ Although claims normally are presented to the county auditor and are paid through issuance of warrants, the board is empowered to examine the claims first and give its approval before warrants are issued [Iowa Code §331.401(1)(p)].
- ▶ 1985 Iowa Op. Atty. Gen. 29, 1985 WL 68971 (June 19, 1985) -While the Board of Supervisors sets the budget and approves claims, the Board of Supervisors “may not disapprove a claim submitted by elected county officers on the ground that the claim exceeds the appropriation for a particular line item category that the claims falls within.”
- ▶ Iowa Code 331.323(2)(b) gives the board of supervisors authorization to remove from office any county officer who refuses or neglects to make any report within twenty days after being required by the board to do so.
- ▶ Keep in mind -all claims must serve a public purpose.

Alternative Structures of County Government

- ▶ While a few counties have explored alternative structure options, no counties have actually successfully adopted an alternative structure (there are a few counties that have combined certain offices)
- ▶ It's much more likely to see informal options utilized - finance/budget directors, BOS assistants, human resource managers, etc.

Opportunities to work with other public or private entities

- ▶ Chapter 28E
- ▶ Written Agreement - can create a separate entity with a separate board
- ▶ File with the SOS, may need audit depending upon funds
- ▶ Certain provisions must be in the agreement and think about all your typical contract provisions
- ▶ Subject to open meetings and public records
- ▶ Think about fiscal agent and employee of record

A few examples:

- ▶ Assessors (handbooks and assessor can only be terminated for misconduct)
- ▶ Conservation Board
 - ▶ Iowa AG Opinion - The county conservation board has approval authority over employment and compensation decisions by its director regarding individual employees and assistants. The county conservation board may exercise its discretion to approve, deny, or modify the director's decisions regarding employment and compensation matters, but should give respectful consideration to the director's decisions on these issues.
 - ▶ No direct authority given to the BOS, but could still indirectly impact decisions through budget.
- ▶ Veterans' Affairs
 - ▶ Section 35B.6(1) provides that a county commission, subject to approval of the BOS, shall have the power to employ an executive director (and other staff), the compensation of such employees to be fixed by the BOS. (1998 AG opinion says BOS should give respectful consideration to commission recommendations).

When in doubt, have a policy that everyone has agreed upon...

- ▶ I know this is easier said than done but is certainly the ideal/best practice.
- ▶ An example: Who can close the courthouse?
 - ▶ Section 331.502(1) states the auditor has general custody and control of the courthouse *subject to the direction of the board of supervisors*. There is an Iowa Attorney General Opinion that gives more detail about the back and forth and joint processes that should be followed by the auditor and the Board of Supervisors. 2001 Iowa Op. Atty. Gen. 01-4-1, 2001 Iowa AG LEXIS 13 (April 12, 2001). Also of note, the answer regarding who can close the courthouse may be different than the answer to who can close an office or department within the courthouse. This is a perfect example of how layers of horizontal leadership built within Iowa law results in the need for collaborative polices for the county to use.
- ▶ Think about when there might be reasons different departments need different rules and make sure that is documented in your policy.

Questions?

- ▶ Please contact me at kharshbarger@iowacounties.org.