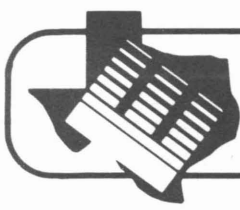


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Texas Agricultural Extension Service



County Government Topics

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POINTS OF COUNTY LAW

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Counties are political subdivisions of the State created by the State for governmental purposes. Their functions are political and administrative, and powers conferred upon them are duties imposed rather than privileges granted. The State may use counties as agents in the discharge of the State's functions and duties.

The "county seat" is that town or city where county government and the courthouse are located, where courts are held and where county officers perform their functions.

Each county is divided into four commissioner's precincts. In each, qualified voters elect one County Commissioner who holds office for 4 years. County Commissioners, so chosen, with the County Judge as presiding officer, compose the County Commissioners Court. Member Commissioners when sitting as Commissioners Court are primarily representatives of the whole county, not merely representatives of their respective precincts.

Commissioners Court

The Commissioners Court is the governing and administrative body of the county. Despite its name, a County Commissioners Court is not a purely judicial entity. It is assigned tasks typically charged to executive or administrative departments, some that would normally be considered legislative and a few others that are judicial. Except in a few instances such as the ability to punish contempts by fine, all powers of a Commissioners Court are administrative or legislative. Commissioners Courts, when acting within the sphere of powers conferred upon them, are acting as courts and their Judgments are entitled to the same considerations as Judgments of other constitutional courts. Legislative functions are negligible. All county ordinances must find their genesis in specific legislative or constitutional language. Counties do not have general ordinance-making authority as municipalities do.

The primary function of the Commissioners Court is the administration of the business affairs of the county.

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Functions of the Court

Powers of counties and Commissioners Courts are limited to those activities specifically provided in the State Constitution and statutes. Unless a particular county action is explicitly authorized by the Texas Constitution or a statute passed by the Legislature, a county will not be allowed to exercise it.

The Commissioners Court sits in regular term at the courthouse on the second Monday of each month and may continue in session 1 week. The Court need not hold more than one session per quarter if Court business does not demand a session. Almost all Commissioners Courts meet on second Mondays; some meet every Monday. Special and emergency meetings may be called by the County Judge or three of the Commissioners and held after proper notice.

Any three members of the Commissioners Court constitute a quorum for the transaction of most county business.

County Judge, County Clerk

The County Judge prepares the agenda for all regular and special meetings of the Court. The County Clerk must post the agenda at least 72 hours preceding the scheduled time for regular meetings. In case of emergency or urgent public necessity, which shall be expressed in the notice, it shall be sufficient if the notice is posted 2 hours before the meeting is convened. Where a meeting has been called and proper notice published, additional subjects may be added to the agenda for such meeting by posting a Supplemental Notice in which the necessity requiring consideration of such additional subjects is expressed. It is sufficient if the Supplemental Notice is posted 2 hours before the meeting. If news media have previously requested notification of supplemental notices, they need to be telephoned at least 2 hours before the meeting.

The County Judge, when present, must preside over the Commissioners Court. In the County Judge's absence the Commissioners present, if at least three, select one among them to preside, and may transact any business except that of levying a county tax which requires at least four members to be present.

The County Clerk is the Ex-Officio Clerk of the Commissioners Court and is the proper person to take court minutes and attest to them.

The County Judge enjoys equal voting rights with Commissioners, including the right to make or second any motion and the right to vote whether there be

a tie among the votes of other Court members or not. The County Judge or any member of the Commissioners Court may, at his or her discretion, vote or refrain from voting on any matter.

The county can act only through its Commissioners Court. A Commissioners Court can act as a body only through its members. Individual members of the Commissioners Court have no authority to bind the county by separate actions. Verbal permission given to persons by members of the Court, when formal court action is required, is not an "act" of the Commissioners Court.

Open Meetings Law

The Open Meetings Law provides every regular, special or called meeting of Commissioners Court is open to the public. No closed or executive meetings, for any of the purposes for which closed or executive meetings are authorized, can be held unless the Commissioners Court has first convened in open meeting, for which notice has been given, during which the presiding officer has publicly announced that a closed or executive meeting will be held. The presiding officer must identify the section of the Open Meetings Law authorizing such closed or executive meeting. A tape recording or certified agenda must be kept for each meeting that is closed to the public except for certain consultations as provided by law.

The Commissioners Court has the power to fill vacancies in the office of County Judge, County Clerk, combination County and District Clerk, Sheriff, County Attorney, County Treasurer, Tax Assessor-Collector, Justice of the Peace and Constable. Vacancies are filled by a majority vote and the person chosen holds office until the next general election. Vacancies in the office of County Commissioner are filled by the County Judge who appoints someone living in that precinct where the vacancy occurs to serve until the next general election.

The County Judge serves as budget officer for the Commissioners Court in each county except those having populations of 225,000 or more, in which case the County Auditor serves as budget officer. Each July (or April for counties on an October 1 fiscal year) the budget officer, assisted by the County Auditor or County Clerk, prepares a budget to cover all proposed expenditures of county government for the succeeding year. When completed by the budget officer, a copy of the budget must be filed with the County Clerk. The budget must be made available for inspection by any taxpayer.

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