

# DELAWARE

## COUNTY GOVERNMENT OVERVIEW

### Counties

3

### Government Form

Reformed<sup>1</sup>

### Governing Body Size

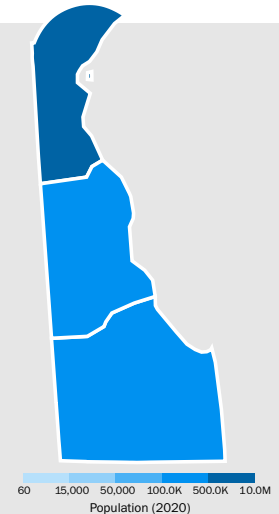
5-13

### Population (2020)

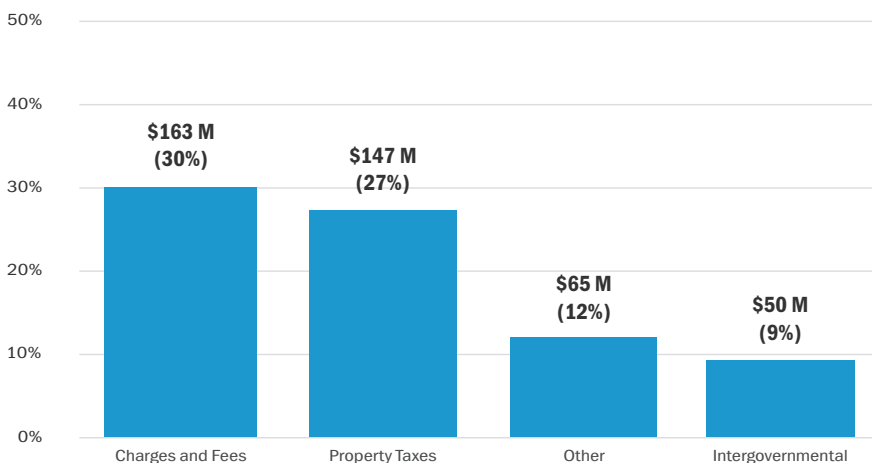
990,000<sup>2</sup>

### County Authority

**Most Restrictive (Dillon's Rule):** Delaware counties do not have charters, home rule authority or power to alter their government structure. The state provides specific powers, regulations and government structures for each of the three counties.



## TOP REVENUE SOURCES FOR DELAWARE COUNTIES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017

<sup>1</sup>“Government Form” refers to the distribution of executive decision making authority in a county. “Traditional” county states mandate that counties exercise executive decision making power solely through the board of elected officials (commissioners, supervisors, etc.). “Reformed” county states mandate that counties employ an elected or appointed county executive, manager or similar position to take on at least some of the county’s executive decision making authority. “Mixed” county states means that some counties in that state are “traditional” and some are “reformed.”

<sup>2</sup>NACo Analysis of U.S. Census Bureau - 2020 Decennial Census

### Summary of County Services

#### Services counties MUST provide:

- Operate and fund the statewide paramedic services program or operate their own paramedic service.
- Create a library agency as a part of the county’s executive branch.

#### Services counties MAY provide:

- Establish a county parks and recreation commission and issue bonds for the capital costs related to parks and recreation projects.
- Enter contracts with insurance companies to insure county employees. services.

#### Services counties CANNOT provide:

- Anything not explicitly permitted by state law.

# STRUCTURE/AUTHORITY

## SUMMARY

Delaware counties are subject to Dillion's rule; therefore, the county governments' authority, powers and procedures are limited to those granted by state legislation. The state empowers each of the three counties - New Castle, Sussex and Kent - with different authorities and government structures. Counties have a legislative branch with 5 to 13 elected representatives. The executive power differs for each county. New Castle voters must elect a county executive, the Sussex County council must appoint a county administrator and the Kent County levy board is the sole executive body for its government.

Row Officers	Elected/ Appointed	Mandatory/ Optional
Clerk of the Peace	Elected/ Appointed	Mandatory
Recorder	Elected/ Appointed	Mandatory
Register of Wills	Elected/ Appointed	Mandatory
Sheriff	Elected/ Appointed	Mandatory



## COUNTY STRUCTURE

### Legislative Branch:

- **Kent:** A 7-member "levy court," one member from each of the six districts and one at-large member.
- **New Castle:** A county council with 13 members. There is one member from each of the 12 districts and one at-large member who serves as board president.
- **Sussex:** Five members, each representing a district. A president and vice president of the council are selected internally.

### Executive Branch:

- **Kent:** The levy court serves as the executive body.
- **New Castle:** The county executive is elected every four years and is the sole executive decision maker.
- **Sussex:** The county council holds the executive power of the government but must appoint a county administrator to oversee certain functions.

**Judicial Branch:** Each county has a court of chancery. The court has jurisdiction over equality, deeds and business disputes.

**Optional Forms of Government:** Each of the three Delaware counties has a unique form of government. Counties cannot change government forms.



## COUNTY AUTHORITY

**Executive Power:** Counties have the direction, management and control of the business and finances of their areas. In New Castle and Sussex counties, the executive officer may appoint and remove employees, direct and supervise the county agencies and oversee county ordinances and regulations. The New Castle executive may sign contracts as well as create, remove and define the functions of county departments and offices.

**Ability to Form Partnerships:** Counties may make appropriations to public and private corporations and contract insurance companies to insure county employees and appointed officers.

**Call a State of Emergency:** Kent County may issue an emergency declaration for the county. New Castle may adopt emergency ordinances to address a public emergency affecting life, health, property or the public peace.

**Special Districts:** If petitioned and approved by voters, all counties may create a park district. Counties have different special district creation authority. For example, each county may create a sewage district, but only Kent and New Castle County may establish a development district.



# SERVICES

## OVERVIEW OF COUNTY SERVICES

Delaware counties have varying jurisdiction over a few services. All county governments must provide library services, and they all may have a parks and recreation department. New Castle County may provide additional services such as a community service department, and can contract with fire departments. Counties also have limited jurisdiction over utilities: Kent County can provide water services, New Castle may provide sewage services and Sussex may provide both services. New Castle and Kent counties both may establish contracts with waste disposal facilities.



### HEALTH AND HUMAN SERVICES

**Public Health, Generally:** The **state** health department oversees public health, and cities and towns may establish local boards of health. County public health administrators manage public health programs for a specific county, but they are state level employees.

**Hospitals:** The **state** health department establishes and manages hospitals in the counties.

**Senior Care Facilities:** New Castle County **may** implement and supervise senior programs.

**Child Welfare:** The **state** administers child welfare services.

**Insurance:** Counties **may** enter contracts with insurance companies to insure county employees against injury or death incurred while performing their duties.

**Welfare:** New Castle County **may** implement senior, community development, housing and other community related programs.



### INFRASTRUCTURE

**Roads:** In unincorporated areas, counties **must** be responsible for private suburban roads.

**Repairs:** If petitioned by citizens, counties **may** improve or maintain sidewalks, streets, street signs, drainage and storm sewers.

**Parking:** Counties **must** provide signage on parking spaces or zones for people with disabilities.

#### Utilities:

- **Water:** Kent and Sussex counties **may** construct and manage water systems, issue bonds and enter contracts.
- **Sewage:** New Castle and Sussex counties **may** create and operate sewage systems, issue bonds and enter contracts.
- **Landfill:** New Castle and Kent counties **may** establish garbage disposal plants, establish fees and enter contracts.
- **Solid Waste:** All counties **must** administer a comprehensive system of collecting, storing and disposing of solid wastes.

# SERVICES, CONTINUED



## PUBLIC AMENITIES

**Parks and Recreation:** Counties **may** establish a permanent county parks and recreation commission. They may also issue bonds for the capital costs parks and recreation projects.

**New Castle:** Residents of New Castle County **may** petition the county to establish a park district.

**Libraries:** Counties **must** create a library agency as part of the executive branch. Counties may establish and administer a county library system.

**Cemeteries:** Counties **may** regulate maintenance of for-profit cemeteries, including maintaining the lawn, roads and crypts.



## ZONING AND DEVELOPMENT

**Zoning Power:** In unincorporated areas, counties **may** regulate size, density, location and other features of industrial, commercial and residential developments.

**Zoning Restriction:** Counties **cannot** place zoning regulations on agricultural lands or facilities. New Castle County also cannot regulate zoning of hospital facilities.

**Housing Authority:** The **state** establishes county housing authorities and does not give counties management responsibilities.

**Economic Development:** Kent and New Castle counties **may** borrow money by issuing and selling bonds to finance the development of an industrial, commercial or residential area.

# SERVICES, CONTINUED



## PUBLIC SAFETY

**Law Enforcement:** Counties **must** have a sheriff's office under the court system. Sheriffs may take a person into custody or transport them to a prison system by a court order, but they cannot make arrests.

**Jails:** The **state's** department of corrections constructs and maintains jails, but the state must consult with the county executive to decide on the location of a new facility.

**Courthouses:** County **must** have a court of chancery. The court has jurisdiction over matters and causes in equality, enforcement of deeds and arbitration of business disputes. Sussex County must operate, maintain and repair its courthouses.

**Fire:** New Castle County **may** contract with any state-authorized fire company. Sussex and Kent counties **must** appropriate money to each fire company in their county.

**Ambulance:** Counties **must** participate in operating and funding the statewide paramedic services program, although a county may decide to operate its own service. Counties must also appropriate \$750 annually to each fire company for ambulance maintenance.

**Firearms:** Counties **cannot** regulate the ownership, possession or licensing of firearms except within police stations and county buildings. Counties **may**, however, regulate the discharge of firearms.

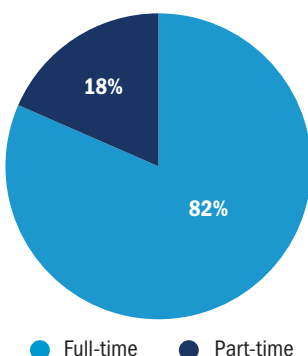


## SCHOOLS

**Education, Generally:** The **state** is responsible for education administration. School boards levy property taxes and provide public education. County governments have no jurisdiction.

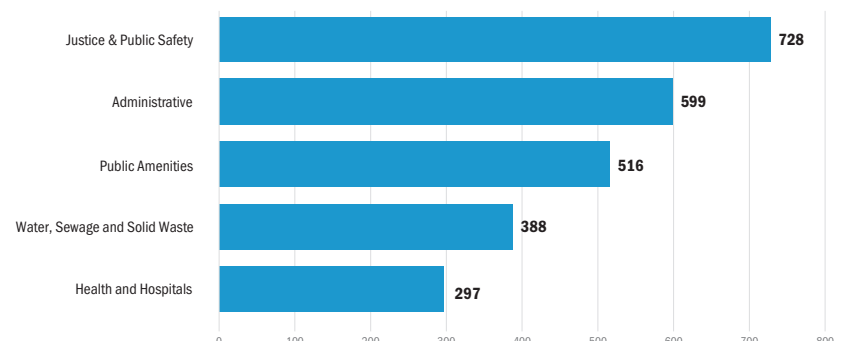
**Community Colleges:** The **state** administers the Delaware Technical and Community College. While county governments are not involved, the college has a branch in each of the three counties.

## DELAWARE COUNTIES EMPLOY 2,748 GOVERNMENT EMPLOYEES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

## DELAWARE COUNTY GOVERNMENT EMPLOYEES BY TOP FUNCTIONAL CATEGORIES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Employment, 2017

# TAXATION/FINANCES

## OVERVIEW OF COUNTY FINANCE STRUCTURE

Delaware counties impose and collect taxes on the transfer of real property in unincorporated areas. As with county services, each of Delaware's three counties has variations on the authority and provisions regarding finances. For example, each county has a different law regarding debt limits. Kent and Sussex are authorized to levy a capitation tax and all counties may levy a property tax.



### FINANCES, TAXES AND LIMITATIONS

**Property Tax:** Counties **must** fix a property tax rate to meet the financial needs of the county budget. Counties are not restricted by law to a certain tax rate limit except for Kent County which cannot exceed a tax rate levy of 0.5 percent. Retired seniors and people with disabilities may be partially exempt from county taxes.

**Personal Property:** Counties **cannot** tax personal property.

**Income Tax:** Counties **cannot** tax income.

**Sales Tax:** Counties **cannot** impose a sales tax.

**Mineral Tax:** Counties **cannot** impose a mineral tax.

**Gas/Fuel Taxes:** Counties **cannot** tax gas or fuel.

**Debt and Debt Limit:**

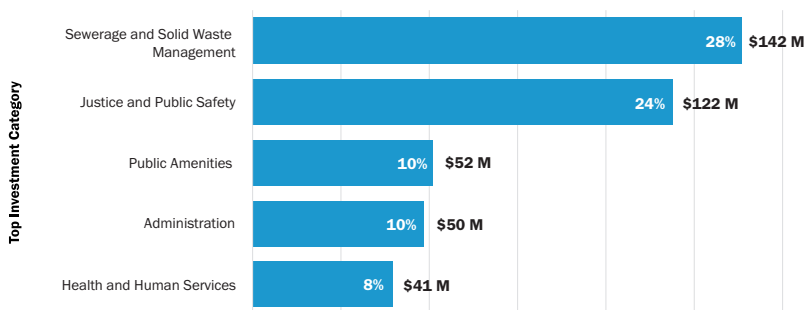
- **New Castle:** The total debt of the county **cannot** exceed \$10 million at one time.
- **Kent:** The total amount of general obligation bonds **cannot** exceed 12 percent of the assessed value of all real property.

- **Sussex:** All county debt **must** contribute to a specific fund and the total debt may not exceed \$2 million. Any deficiency must be considered in the following year's budget.

**Misc. Tax Info:**

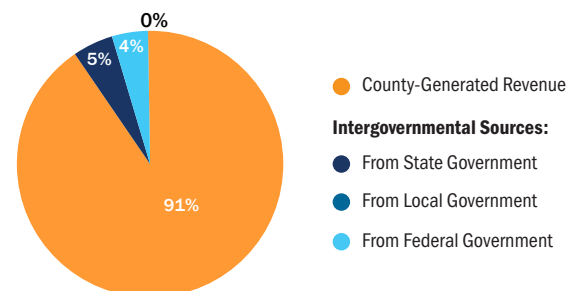
- **Realty Transfer Tax:** In unincorporated areas, counties **may** impose a tax of 1.5 percent or less on real property. Twenty-five (25) percent of the state realty transfer tax must be distributed to municipalities and counties. Counties may use these funds may be used by the counties for any object, program, function or purpose.
- **Capitation Tax:** A capitation tax **may** be levied by Kent and Sussex counties for each person over the age of 21. The tax may not exceed \$5 for Kent and \$10 for Sussex.

## DELAWARE COUNTIES INVEST \$513 MILLION ANNUALLY



Source: NACo Analysis of U.S. Census Bureau - 2017 Census of Individual Governments: Finance, 2017

## DELAWARE COUNTIES RECEIVE \$50 MILLION FROM INTERGOVERNMENTAL SOURCES



Source: NACo Analysis of U.S. Census Bureau - Census of Individual Governments: Finance, 2017