

# WEST VIRGINIA

## COUNTY GOVERNMENT OVERVIEW

### Counties

55

### Government Form

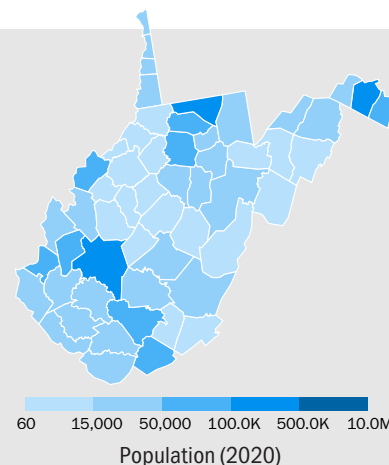
Mixed<sup>1</sup>

### Governing Body Size

3

### Population (2020)

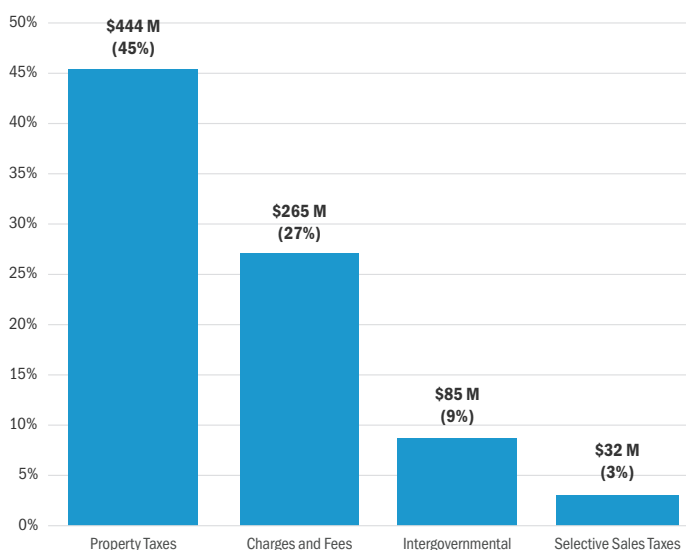
1.8 million<sup>2</sup>



### County Authority

**Most Restrictive (Dillon's Rule):** All counties in West Virginia are governed under Dillon's Rule and therefore have only the authority and government structure explicitly provided by state legislature.

## TOP REVENUE SOURCES FOR WEST VIRGINIA 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:

- Establish a county health board and a school board.
- Construct and maintain jails, courthouses and other buildings.

#### Services counties **MAY** provide:

- Establish hospitals and senior centers.
- Create libraries, resort districts, museum commissions and recreation commissions.
- Promote economic vitality and general welfare.

#### Services counties **CANNOT** provide:

- Administer mental health facilities.

# STRUCTURE/AUTHORITY

## SUMMARY

Most counties in West Virginia are governed by a three-member commission which serves as both the legislative and executive decision-making body. However, a county government may be modified in accordance with state legislature by way of resolution. Optional forms of government that may be taken on by a county include a county council, an administrator-commission, a manager-commission and a chief executive-commission plan. While many counties have chosen to adopt a plan with an appointed administrator or manager, no county has of yet to adopt a plan with a chief executive. The chief executive, manager and administrator positions all have similar powers; however, the executive is elected while the administrator and manager are appointed. The administrator also serves under the supervision of the commission while the manager and executive would have the exclusive authority to supervise, direct and control the administration of the county government. None of these positions have the authority to vote on legislation or veto it.

Row Officers	Elected/ Appointed	Mandatory/ Optional
Assessor	Elected	Mandatory
Circuit Court Clerk	Elected	Mandatory
County Clerk	Elected	Mandatory
Prosecuting Attorney	Elected	Mandatory
Sheriff	Elected	Mandatory
Surveyor	Elected	Optional



## COUNTY STRUCTURE

**Legislative Branch:** A three-member county commission is, in most counties, the sole legislative decision-making authority. Two counties are governed by county councils.

**Executive Branch:** A three-member county commission is also the sole executive decision-making authority except for two counties governed by councils. Counties may adopt an optional form of government to employ an elected chief executive, appointed manager or appointed administrator.

**Judicial Branch:** West Virginia's circuit court divides the state into 31 judicial circuits, each of which serves one or more counties. Circuit courts have jurisdiction over all civil cases at law over \$300, all civil cases in equity, all felonies and all misdemeanors. West Virginia also has family courts which are divided into 27 judicial districts, a magistrate court for each county and a system of municipal courts.

### Optional Forms of Government:

- Commission
- Council
- City-County Consolidated



## COUNTY AUTHORITY

**Executive Power:** County power and functions are limited to that which is provided by the state.

**Ability to Form Partnerships:** Counties may form partnerships with other governmental entities, private persons or corporations to carry out any function of the county government. A county may also consolidate part or all of its governmental and corporate functions with a municipal government or another county government.

**Call a State of Emergency:** Only the state can declare or authorize a state of emergency.

**Special Districts:** West Virginia has over 300 special districts throughout the state. Some examples include soil conservation districts, airport authorities, sewage districts and housing authorities.



# SERVICES

## OVERVIEW OF COUNTY SERVICES

West Virginia counties may provide many services, including establishing county health departments, senior centers and libraries. Counties may exercise zoning and land use powers over their jurisdictions but are subject to review from local governing bodies. Counties share the finance costs of providing public school systems and administration with the state. West Virginia's Local Government Flexibility Act permits counties to apply for a waiver to a policy, rule or regulation that the county commission believes is preventing the efficient and effective provision of county services. This act allows counties to explore new methods of governance and service provision.



### HEALTH AND HUMAN SERVICES

**County Health Department:** Counties **must** establish a county health board to service areas that do not have a local health administration. In 2021, counties were granted greater oversight and control over rules enacted by health boards.

**Hospitals:** Counties **may** acquire, construct and operate a county clinic, hospital or nursing home and may sell revenue bonds to fund these services.

**Senior Care Facilities:** Counties **may** appropriate funds to establish and operate a senior center and long-term care center. The West Virginia bureau of senior services is responsible for coordinating with local governments to establish senior services and may provide matching funding for local programs.

**Mental Health Facilities:** The **state** administers mental health facilities.

**Child Welfare:** Counties **may** provide care and services for children who are neglected, disabled or abused.

**Welfare:** The **state** has sole discretion over dispersing welfare services. Counties **may**, however, contribute to state welfare funds to secure more funding for their respective jurisdictions. Counties may also establish community action programs aimed at combating poverty and economic disparities.



### INFRASTRUCTURE

**Roads:** Counties **may** construct and maintain county roads outside of the state road or highway system. Counties may also improve streets, sidewalks and alleys in their jurisdiction.

**Maintenance Associations:** Counties **may** hold a hearing to determine if there is need for a maintenance association for a proposed area and, if so, establish such an association. The association improves its designated area which may involve streets, sidewalks, water and sewer systems, street lights and other improvements.

**Solid Waste Authority:** Counties **may** establish a solid waste authority to provide waste disposal services.

**Utilities:** Counties **may** establish and operate sewer, water and solid waste disposal facilities. Counties cannot establish an electrical or gas facility within their jurisdiction. The West Virginia public service commission has the power to regulate the operation and rates of all utilities throughout the state.

- **Water:** Counties **may** supply water and install water pipes.
- **Sewage:** Counties **may** install sewage pipes.
- **Solid waste:** Counties **may** participate in local, joint or regional solid waste recovery disposal systems. Counties may also provide garbage and rubbish collection services.
- **Electric:** Counties **cannot** provide electric utility services.
- **Gas:** Counties **cannot** provide gas utility services.

# SERVICES, CONTINUED



## PUBLIC AMENITIES

**Parks and Recreation:** Counties **may** establish parks and recreation commissions to construct and maintain a public parks and recreation system. Counties may also lease any county-owned real estate or personal property to establish a fire prevention school or educational institution.

**Libraries:** Counties **may** establish and maintain a free public library.

**Museum Commission:** Counties **may**, either individually or jointly with a municipality, establish a museum commission. Commissions must coordinate activities with the West Virginia department of archives and history, the West Virginia historical society and the West Virginia antiquities commission.

**Resort Districts:** Counties **may** create, modify, reject or expand resort area districts to help stimulate the economy for unincorporated areas.



## ZONING AND DEVELOPMENT

**Zoning Power:** Counties **may** regulate and restrict the use and construction of buildings and spaces. County commissions may do this by adopting a comprehensive plan, working with the planning commission to develop a zoning ordinance and enacting a zoning ordinance. County zoning ordinances apply only to the unincorporated areas unless a municipality decides to also adopt a county zoning ordinance.

**Housing Authority:** Counties **may** create housing authorities and appoint their commissioners. Petitions to establish housing authorities must be filed with the state before they may constitute a body corporate and politic.

**Economic Opportunity Development Districts:** Counties **may** create, administer and finance one or more economic development districts. These districts allow county commissions to promote the economic vitality of the district and general welfare of the county.

**County Development Authorities:** Counties **may** establish county development authorities to promote, develop and advance the business prosperity and economic welfare of the county.

# SERVICES, CONTINUED



## PUBLIC SAFETY

**Enforcement:** The prosecuting attorney is the chief legal authority of a county while the sheriff is the chief law enforcement officer.

**Jails:** Each county **must** establish, build and maintain a county jail overseen by the county sheriff. If local needs are not met, counties may cooperate to provide a joint jail facility. Counties may also cooperate with a city to construct and manage a shared workhouse.

**Courthouses:** Counties **must** construct and fund a courthouse for the use of local officials and the circuit court.

**Fire:** Counties **may** form county-wide fire department agencies or volunteer departments to provide fire protection services to the entire county. Counties may levy taxes to pay for the operation of fire departments or to contract out fire protection services. Any fire department within a county may establish a county fire association to discuss more effective fire protection strategies.

**Ambulance:** Counties **may** provide and maintain an ambulance service or contract with outside partners to provide this service.

**Emergency Management Agency:** County emergency services and 9-1-1 offices are under the funding authority of county commissions.



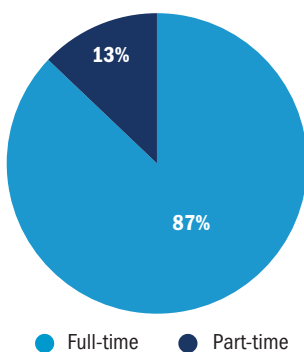
## SCHOOLS

**Education, Generally:** The **state** must establish a public education system, appropriate the necessary state funds and determine the amount counties must provide in support of the education system. The amount of funding is determined by the property values within the county.

**School Board:** Each county **must** establish a county school board to carry out administrative duties and implement state education policy.

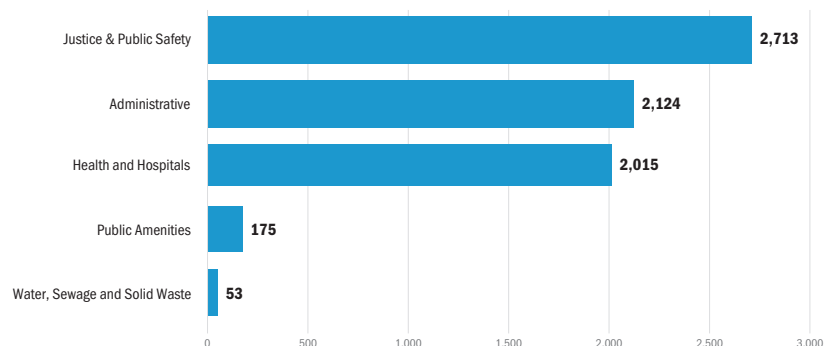
**Community Colleges:** The **state** must establish and administer a community college system throughout West Virginia.

## WEST VIRGINIA COUNTIES EMPLOY 8,356 GOVERNMENT EMPLOYEES



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

## WEST VIRGINIA 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

As West Virginia applies Dillon's Rule to counties, commissions cannot levy any tax unless expressly authorized by state legislature. Counties receive most of their revenue from property taxes. Personal property tax is included in the assessment of property taxes but there are no county income, sales, mineral or gas taxes. The hotel occupancy tax is a less common tax that is authorized to West Virginia counties, empowering them to tax room rentals that occur in the unincorporated areas of a county. Counties may also invest in linked deposit programs, but no county may take on a debt that exceeds 5 percent of the assessed valuation of all taxable property in the county.



### FINANCES, TAXES AND LIMITATIONS

**Property Tax:** The elected county assessor reviews all county property over a running, three-year period to evaluate property for taxation. The county sheriff collects the taxes and distributes it among the county commission and county school board. Approximately two-thirds of property taxes go to schools, about 27 percent to counties/county government and operations and approximately 10 percent to municipal government.

**Personal Property:** Counties **may** assess personal property for property taxes.

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

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

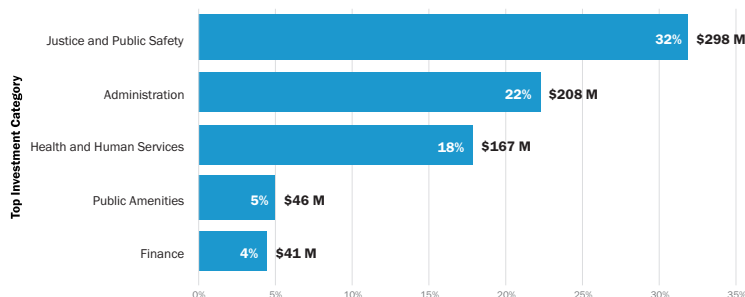
**Mineral Tax:** Counties **cannot** impose a mineral tax.

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

**State Shares:** Counties **must** share approximately 1 percent of assessed property taxes with the state.

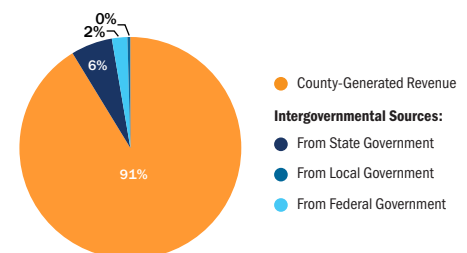
**Debt and Debt Limit:** Counties **cannot** incur debt beyond five percent of the value of all taxable property in the county. Counties **may** issue general bonds with the permission of the state to finance economic development programs or other public health, welfare and safety programs.

## WEST VIRGINIA COUNTIES INVEST \$935 MILLION ANNUALLY



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

## WEST VIRGINIA COUNTIES RECEIVE \$85 MILLION FROM INTERGOVERNMENTAL SOURCES



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



# TAXATION/FINANCES, CONTINUED

## Other Finance Info:

- **Hotel Occupancy Tax:** Counties **may** impose a privilege tax on occupied hotel rooms within its taxing jurisdiction. The tax applies to all hotels in the unincorporated territory of a county, including those owned by the state. The tax rate must be 3 percent of the cost of the room.
- **Investing in Linked Deposits:** Counties **may** invest up to 10 percent of the county's total investment portfolio in linked deposit programs. The amount of a reduced rate loan cannot exceed \$10,000 per job created.
- **Financial Stabilization Fund:** Counties **may** create a financial stabilization fund which may receive appropriations, gifts, grants and any other funds, as long as the stabilization fund does not exceed 30 percent of the general fund. These funds may be used to cover a general fund shortfall or any other purpose the commission considers appropriate.