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A MANUAL FOR
COUNTY SUPERVISORS OF IOWA

Institute of Public Affairs
Division of Continuing Education
The University of Iowa
Iowa City
December 1986

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FOREWORD

This is the eighth edition of A Manual for County Supervisors of Iowa published by the Institute of Public Affairs. The manual was first published in 1950, and the latest edition was 1985.

In the last several years several major changes have been made relating to counties, particularly the enactment of the county finance law and the establishment of the new county finance system. These matters are covered in chapters 2 and 3 of this manual. More detailed information about the finance system can be found in the new manual for county auditors also printed by the Institute.

This 1986 edition of the supervisors manual is in a loose-leaf format so that revisions in the future can be made by substituting pages.

The manual is intended to provide a brief, nontechnical description of the duties of the boards of supervisors and individual members. It is based largely on state laws relating to Iowa counties, but it also contains practical tips and procedures that have been used successfully by counties throughout the state. The manual also includes relevant Attorney General opinions and court decisions.

Preparation of this revised edition was a joint project of the Institute and the Iowa State Association of Counties. George B. Mather of the Institute staff coordinated our activities and ISAC staff members who contributed were John Torbert, Terry Larson, Victor Elias, and William Peterson.

We are grateful to Gary Meyers of the state department of management, who reviewed chapters 2 and 3, and to Lowell Richardson of the Iowa department of transportation, who reviewed chapter 6. Millie Lloyd, Hardin county supervisor and president of the Iowa Association of County Supervisors, reviewed the entire manual.

The manuscript was typed by Phyllis Zinkula

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The University of Iowa

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Chapter 1

THE OFFICE OF SUPERVISOR

At the November 7, 1978 election, Iowa voters approved an amendment to the Iowa Constitution to give a degree of home rule to Iowa counties. As part of the implementation of home rule, the County Home Rule Bill was enacted in 1981. This legislation clarified and changed certain powers and duties of boards of supervisors. This chapter and manual updates these responsibilities.

Scope of Authority

The functions of the board of supervisors are varied and its authority embraces practically every aspect of county government. Although these functions are primarily administrative in nature, the board exercises power characteristic of each of the three branches of government: executive, legislative, and judicial. For example, the board fills vacancies in county offices by appointing successors, fixes rules relating to the use of county buildings and grounds, and determines the disposition of claims against the county. The board acts as a general business manager for county government, plays a major role in matters of county taxation and finance, and is the governmental authority responsible for the construction and maintenance of the county road system. In some areas the duties of the board are nominal, while in others they are extensive.

County Home Rule

Following is the text of the county home rule amendment:[1]

"Counties or joint county-municipal corporation governments are granted home rule power and authority, not inconsistent with the laws of the general assembly, to determine their local affairs and government, except that they shall not have power to levy any tax unless expressly authorized by the general assembly. The general assembly may provide for the creation and dissolution of joint county-municipal corporation governments. The general assembly may provide for the establishment of

[1] This is the thirty-seventh amendment to the Iowa Constitution.

charters in county or joint county-municipal corporation governments.

If the power or authority of a county conflicts with the power and authority of a municipal corporation, the power and authority exercised by a municipal corporation shall prevail within its jurisdiction.

The proposition or rule of law that a county or joint county-municipal corporation government possesses and can exercise only those powers granted in express words is not a part of the law of the state."

Joint Exercise of Powers

As a means of enhancing the scope of governmental activities that may be undertaken, the legislature has granted broad power to units of government to undertake activities jointly. This, in effect, has permitted a county to undertake activities which may have been previously uneconomical or impractical due to a variety of limitations.

The board of supervisors is authorized to enter into agreements with other units of government and private agencies to provide joint services and facilities. [Secs. 331.304(1); 28E.1-.4][2] A resolution must be passed by the board of supervisors, as well as the other participating government units, before an agreement is effective. If the participating units so choose, a separate entity may be established to carry out the purposes of the act. [Sec. 28E.4] Otherwise, the agreement must provide for an administrator or a joint board. In the event a joint board directs the activities, all of the public bodies must be represented. [Sec. 28E.6]

The board of supervisors may appropriate funds, contribute services and materials, and furnish facilities for any joint undertaking as may be within its legal power. However, the manner of financing must be specified in the agreement, and all monies must be budgeted. [Secs. 28E.5, .11] An entity may issue revenue bonds payable from the proceeds of the project, provided that the participating units may not withdraw while any of the bonds are outstanding. [Goreham v. Des Moines Metropolitan Area Solid Waste Agency, 179 N.W. 2d 449 (1970)]

In addition, the agreement must contain provisions

[2] Unless otherwise indicated section references are to the Code of Iowa 1985 as amended by the 71st Iowa General Assembly.

regarding the length of time an agreement is in force, the purpose of the agreement, and a permissible method of terminating the agreement and disposing of all property. If a separate entity is created, the precise organization, composition, and delegation of powers must be specified in the agreement. [Sec. 28E.5]

The board of supervisors may contract with other public agencies to perform any service which any of the involved agencies are authorized to perform. [Sec. 28E.12; 1970 O.A.G. 92] The powers granted the board under this chapter are in addition to all other statutes relating to the joint exercise of power. [Sec. 28E.13] References to specific joint exercises of power that appear throughout this manual also may be undertaken through the broad grant of power authorized by Chapter 28E. It is advisable for the board to seek the advice of the county attorney regarding which provisions should be followed.

Qualifications

A person is eligible for election to the board of supervisors if a qualified elector of the county. [Sec. 331.201(2)] If, however, a county chooses to establish supervisor representation districts (Plan 2 or Plan 3 below) a candidate for supervisor must be a resident of the district from which election is sought. [Sec. 331.201(2); 1976 O.A.G. 123] A qualified elector is a person who is registered to vote in compliance with the requirements of Chapter 48 of the Code of Iowa. [Sec. 393.3(2)]

Representation

Members of the board of supervisors are elected according to one of three plans; "Plan 1" requires election at large for all members [Sec. 331.206(1)(a)]; "Plan 2" requires election at large for all members, but with equal population district residence requirements for members [Sec. 331.206(1)(b)]; "Plan 3" requires election from single-member equal population districts. [Sec. 331.206(1)(c)] Any plan adopted by the board must remain in effect for at least six years, unless modified by petition and special election. [Sec. 331.206(2)]

Although the board of supervisors has the initial responsibility of selecting one of the three representation plans, the electorate may select a different plan in a special election. When petitioned by at least 10 percent of the number of qualified electors in the county who voted in the last previous general election for the office of president of the United States or the office of governor, the board must arrange for a special election to be held. A plurality of votes is sufficient for adoption of a representation plan. When a plan is chosen in this manner, it must

remain in effect for at least six years. [Secs. 331.207(1), (4)]

When the plan of representation is changed by the electorate, the terms of all members of the board expire on the second secular[3] day in January following the next general election after the plan was adopted. Those supervisors whose terms would otherwise not expire (e.g., those who have served two years of a four-year term) must stand for reelection to retain their seats. The terms of supervisors under the new plan should be staggered, with the terms determined by lot prior to the primary election and indicated on the ballots. [Secs. 331.207(4), .203, 1976 O.A.G. 540]

Before November 1 of the nonelection year following each federal decennial census, the board of supervisors of any county employing a district representation plan (Plan 2 or Plan 3) must divide the county into supervisor districts of equal population. [Secs. 331.209, .210]

In addition to this mandatory reapportionment, the board may redistrict once every two years. However, the redistricting must be accomplished by November of the year preceding an election year to be applicable to that election. [Sec. 331.209(3)] If, as a result of a special election, a county adopts a district representation plan, the board must divide the county into supervisor districts by March 15 of the election year. [Sec. 331.209(1)]

To facilitate the drawing of districts of equal population for "Plan 2," the board must establish boundary lines in compliance with the redistricting standards for legislative and congressional districts found in Code Section 42.4. [Sec. 331.209(1)] For "Plan 3," however, the boundary lines must follow voting precinct lines. [Sec. 331.210]

Membership of the Board

The board of supervisors consists of three members unless the size is increased to five by a vote of the electors of the county. [Sec. 331.201(1)]

Membership Increased

A proposition to increase the membership of the board may be submitted by any regular election. The board of supervisors may submit the question to the voters on its own motion, but it is required to submit the question to the voters if petitioned to do so by 10 percent of the eligible electors voting in the last previous election for the office of governor or President of the United States. If a

[3] A secular day is any day not a Sunday or a holiday.

majority of the votes cast are in favor of the proposed change, two additional supervisors are elected at the next general election. [Secs. 331.203, .306]

Membership Decreased

The number of supervisors in any county may also be decreased from five to three. The question must be submitted to the voters in the manner described above. [Secs. 331.204, .306] If the decrease in membership is approved by the voters, a new board of supervisors must be elected at the general election following the election at which the question was submitted. [Sec. 331.204(3)] The terms of all members of the board holding office at the time the decrease was approved expire on the second secular day in January following the general election. [Sec. 331.204(2)]

Term of Office

Generally, the term of office for elected members of the board of supervisors is four years. [Sec. 331.201(4)] The terms are staggered so that no more than a bare majority of the board will be elected in any given election. To accommodate this, elections are held biennially. [Secs. 39.18; 331.203(2)(c), .204(3), .208(4)]

Whenever members are elected for terms other than four years, the length of the term of each office must be indicated on the ballot. Determination of the length of the term for the various candidates is to be decided by lot. [Secs. 331.203(2)(c), .204(3), .208(4)]

Qualifying for Office

Whether appointed or elected, a supervisor must "qualify" before entering upon the duties of the office. [Sec. 63.1] "Qualifying" consists of subscribing to an oath of office [Iowa Constitution, Art. XI, Sec. 5; Iowa Code (1983) Sec. 63.10] and posting a bond of not less than \$10,000, which must be approved by a judge or clerk of the district court.[4] [Secs. 64.8; .19(3)] In general, a supervisor must qualify by noon of the second working day of January in the first year of the term for which the supervisor is elected. [Sec. 63.1] Supervisors who are appointed or elected to fill vacancies must qualify within ten days following their election or appointment, but an officer holding over in office must qualify within ten days after

[4] If a supervisor chooses to furnish a bond with some association or corporation acting as surety, the reasonable cost of the bond is paid by the county. [Sec. 64.11]

failure to elect or appoint a successor or the successor's failure to qualify. [Sec. 63.8] However, sickness, inclement weather, unavoidable absence, or casualty will excuse an officer and permit him/her ten extra days in which to qualify. [Sec. 63.3]

Vacancies

A vacancy on the board of supervisors may occur in several ways. Death or resignation will leave the office vacant, as will the failure of an elected member to qualify, the failure of a member holding over to qualify, or the failure to elect a successor if a member does not hold over. If a supervisor represents a county at large, or a district within the county, the supervisor's change of residence to a different county, or to a different district, automatically creates a vacancy. [Sec. 69.2]

If a supervisor is absent from the county for sixty days in succession, the supervisor is deemed to have resigned from office and the board, at its next meeting, must declare the seat vacant. [Sec. 331.214] Vacation of the office in this manner, however, does not render such former member ineligible for reappointment. [1944 O.A.G. 108]

In addition, common law declares that the office of supervisor is vacant if the incumbent assumes the duties of an office which is incompatible with the duties of supervisor. [State v. Anderson, 155 Iowa 271, 136 N.W. 128 (1919)] Incompatibility usually exists when the duties of the offices held would cause conflicts of interest in the individual officer.

A supervisor may also be removed from office by a competent tribunal for several specific, statutorily defined reasons. These are: willful or habitual neglect or refusal to perform the duties of his/her office; willful misconduct or maladministration in office; intoxication, or being convicted of intoxication; corruption; extortion; conviction of a felony; or violation of the provisions of the Iowa Campaign Finance Law [Chapter 56]. [Sec. 66.1] The results of removal are vacancy of the office and a prohibition for one year following removal against appointing the person removed to fill a vacancy. [Sec. 69.9]

A vacancy on the board of supervisors is filled by either appointment or by election. If the unexpired term of the vacant seat has more than seventy days to run following

the next pending election,[5] the vacancy is filled at that election if the vacancy occurs sixty or more days prior to a regular or primary election or forty or more days prior to a special election. If the vacancy does not occur within these time limits, the vacancy must be filled by appointment. [Sec. 69.12(1)]

If the term of the vacant seat has less than seventy days to run prior to the next pending election, or after the date of the preceding election in which the office was on the ballot, the person elected to fill the succeeding term is deemed elected to fill the remainder of the unexpired term. If more than one nonincumbent is elected to the board, the person receiving the most votes is elected to fill the remainder of the unexpired term. Such person must qualify for the office as if elected for a regular term. Once qualified to serve the unexpired term, however, the person need not requalify for the office at the beginning of the regular term for which he/she was elected. [Sec. 69.12(2)]

If the vacancy is filled by appointment, the appointment is made by the county treasurer, the county auditor, and the county recorder. [Sec. 69.8(5)] In the event any of these offices have been abolished through consolidation, the county attorney shall serve on this committee. [Sec. 69.8(4) as amended by H.F. 2370, Sec. 2, 71st G.A. (1986)] The appointment must be in writing and filed in the office of the clerk of the district court. [Secs. 69.10, 64.23(5)] The appointee will serve until a successor has been elected and qualified. [Sec. 69.11]

Compensation

Compensation for members of the board of supervisors is based upon a compensation schedule recommendation made by the county compensation board and transmitted to the board of supervisors each December. The board of supervisors must determine the final salary schedule of all elected county officials (including its own compensation). [Secs. 331.322(6), .907, .321(6) and .906] Compensation may be on either a salary or a per diem basis. [Sec. 331.215(1)]

In addition to the salary or per diem allowance, each member of the board of supervisors is reimbursed for travel expenditures incurred while performing official duties. Official duties are defined as including the actual and

[5] The next pending election is defined as "any election at which there will be on the ballot either the office in which the vacancy exists, or any other office or any public question to be decided by the voters of the same political subdivision." [Sec. 69.12]

necessary travel to and from sessions of the board and all committee meetings. [1970 O.A.G. 404 citing 1968 O.A.G. 446] Payment is based upon the number of miles traveled, and cannot exceed a rate of twenty-one cents per mile. [Sec. 79.9 as amended by H.F. 2484, Sec. 773, 71st G.A. (1986)] The maximum amount expendable for the entire board, per year, is determined by multiplying the number of supervisors by the rate of mileage specified in Section 79.9. This product is then multiplied by 10,000. For example: [.21 mileage rate x 5 supervisors] x 10,000 = \$10,500 maximum expenditure for supervisor mileage per year. [Sec. 331.215(2)] It should be noted that members of the board are ineligible to receive transportation expenses if they are transported by another person free of charge, or if they are transported by another public official who is entitled to mileage. [Sec. 79.11]

Supervisors may be reimbursed for certain other necessary expenses. Claims for meals may be allowed where they are justified as a benefit to the county rather than to the individual involved. [1976 O.A.G. 382] Expenses for attendance at schools of instruction held by the Iowa State Association of Counties, workshops, seminars, and affiliate meetings held by the ISAC may also be allowed. The Attorney General has prescribed the following standards for the allowance of such claims:

1. Does the meeting have instructional value?
2. Does the instruction to be given relate directly to the duties of the office requesting approval?
3. Is the value of instruction likely to be such as to justify the absence of the officer from his/her duties for the period involved?

If each of these questions may be answered affirmatively, the expense may be allowed. [Secs. 331.215, .401(2), 1976 O.A.G. 382, 1956 O.A.G. 70]

Organization

At its first meeting in January, the board of supervisors must choose one of its members as chairperson who will preside at all meetings during the year. [Secs. 331.213; .211(1)(a)] While the selection of a chairperson should precede the transaction of any business, a delay in electing a chairperson does not impair the validity of any action taken by the board. [Beattie v. Roberts, 156 Iowa 575, 137 N.W. 1006 (1912)]

Besides being the person who presides at the meetings of the board, the chairperson is given other responsibilities by the Code of Iowa. In a civil court proceeding, notice

may be considered to have been served upon the county by delivery to either the county auditor or to the chairperson of the county board of supervisors. [Iowa Rule Civ. Pro. 56.1(i)] The chairperson is also the presiding officer at the contest of any election for a county office. [Sec. 62.1]

The county auditor, in effect, serves as the clerk and secretary to the board of supervisors. [Sec. 331.211(2); Thompson v. Chambers, 229 Iowa 1265, 296 N.W. 380, 383 (1941)] The board is authorized to elect a vice-chairperson from its membership [Sec. 331.211(1)(a)], and a clerk in the absence of the auditor or deputy. [Sec. 331.211(2)]

Standing committees are also appointed at the first meeting of the year. While there is no standard list of committees for each county, the most common are those on highways, bridges, human services, county care facilities, and public grounds and buildings. Some boards choose to divide the work among the supervisors according to districts. It must be remembered, however, that the action of individual supervisors cannot bind the board.

The board of supervisors is authorized to adopt rules of procedure to govern the conduct of its meetings. [Sec. 331.301(5), (8)] The attorney general has held that in the absence of such adopted rules, the board is assumed to operate under recognized rules of order and parliamentary procedure. This requires, for example, that a motion must be recorded in the records even though it dies for a lack of a second. Rules, however, may be suspended upon two-thirds vote of the board. [1976 O.A.G. 334] At the end of this chapter there is a "Model Rules of Procedure," prepared by the Iowa State Association of Counties, that may be useful. (See pages 19-20.)

To a certain extent, formally universal rules (such as parliamentary law) may be modified to fit the peculiarities of an organization. Rules should not be rigid or inflexible. Certain situations call for suspension or amending of rules. To assure this necessary flexibility, rules of procedure should be adopted by simple resolution rather than by formal ordinance. If rules are adopted by simple resolution at every meeting, they can be suspended or altered the same way. If adopted by ordinance, any amendments require the same formal procedures.

To facilitate the smooth flow of business at the meeting and to assure that each board member will be allowed to contribute equally in the board's decisions, each member should be provided a "Summary of the Rules Chart" explaining how business is to be conducted under the parliamentary rules adopted by the board. (See suggested summary of rules at the end of this chapter--page 21.)

Forms of Action by the Board

There are four forms of action that a board may take to exercise its powers or perform its duties. The board may pass a motion, a resolution, an amendment, or an ordinance. [Sec. 331.302(1)] A motion carries the least legal weight of the four. Basically, a motion is an official decision, administrative action, or other sort of routine business that requires consentor decision by the board. A motion is passed by a majority of the quorum present. It should require no special form and should be effective immediately upon the official vote.

A resolution must also be passed by a majority of the board, and the auditor must record the vote of each member on the proposed resolution. [Sec. 331.302(6)] A resolution becomes effective upon passage and must be recorded and authenticated by the auditor by signing and certifying the action. [Sec. 331.302(7), (8)]

Adoption of Ordinance

An ordinance requires a different set of rules to be followed for it to become effective. The Code of Iowa requires that the subject matter of any ordinance must be described in the ordinance title. [Sec. 331.302(3)] A proposed ordinance must be passed in one of two ways. The first alternative is for the board to consider and vote on the passage of an ordinance at two meetings and then vote on final passage at a third meeting of the board. The board may suspend the requirement of consideration and passage at two prior meetings by a recorded vote of the majority of the board.

The second alternative is for the board to publish a summary of the proposed ordinance and make copies available at the office of the auditor prior to first consideration of the ordinance by the board. If this is done, the board must consider and pass the ordinance at one meeting prior to the meeting at which it is finally passed. This requirement may also be suspended by a majority vote of the board as under the first alternative. [Sec. 331.302(5)] Final passage of the ordinance requires an affirmative vote of a majority of the board and the vote of each supervisor is recorded. [Sec. 331.302(6)]

It appears from the Code that an ordinance may be passed by considering it at three, two, or just one meeting. The purpose of the additional consideration requirements are to give the public notice of the actions the board proposes and an opportunity to be heard before the board makes final passage of an ordinance. The Code also provides the board a method of acting very quickly when the situation warrants an ordinance being passed and becoming effective as soon as possible. The desirability of public input and the need for

immediate action should be carefully weighed any time the board considers waiving the requirements of initial consideration in Section 331.302(5).

The requirements for passage of an ordinance set out in Section 331.302 are the minimum standards the board must meet. The board should be free to establish more strict procedures if it desires to give the public more notice and a greater opportunity to become involved in the actions contemplated by the board of supervisors.

The maximum penalties that may be imposed for violations of ordinances are a fine of \$100 and imprisonment for thirty days. [Sec. 331.302(2)]

After final passage of an ordinance, the auditor must record the action, publish the ordinance in a local newspaper, and authenticate the ordinance by signing it and certifying the time and manner of publication. The auditor must also keep copies of all ordinances passed for public use. [Sec. 331.302(8)] The ordinance will take effect upon the publication or at a later date if so provided in the ordinance. [Sec. 331.302(7)]

Whenever an effort is made to amend an ordinance, the specific ordinance must be repealed and the amendment must set forth in full the new ordinance as amended. [Sec. 331.302(4)] The amendment is subject to the same requirements for consideration, passage, recordation, and effective date as an ordinance. [Sec. 331.302(5), (6), (7), and (8)]

The board is also required to compile a "code of ordinances" at least once every five years. The code must contain copies of all of the county ordinances in effect. [Sec. 331.302(9)]

In some cases, the required form the legislation should take is spelled out by statutes. But, since County Home Rule and the county ordinance authority that comes with it is so new, those situations are rare.

The following advantages and disadvantages should be considered in deciding to use an ordinance or a resolution:

1. A resolution is more flexible and expedient. There are more formal requirements for the enactment of an ordinance. However, this means an ordinance should be considered with more care by the board of supervisors.
2. An ordinance will cost more, particularly since it must be published and compiled in a code of ordinances.
3. An ordinance is more difficult to change. To amend it, you must use the same procedures used in passing the original ordinance.

4. An ordinance furnishes better proof in a judicial or administrative hearing. By reason of the more formal deliberative procedure in adopting an ordinance, the ordinance statement is viewed by the courts as carrying more legal weight than a resolution. An ordinance is a local law. A resolution should generally be regarded as a statement of policy or a procedure provided for by law (including an ordinance).

Meetings

The board of supervisors is required to hold its first meeting on the first day in January which is not a Saturday, Sunday, or holiday. All subsequent meetings are held as scheduled by the board and must be conducted in compliance with Chapter 28A (Iowa Open Meetings Law). [Sec. 331.213] It should be noted that Section 331.213 no longer contains language requiring the board to hold its meetings at the county seat. [Cf. Sec. 331.213; Sec. 331.15 of the Code of Iowa 1981; State v. Naumann, 213 Iowa 418, 424, 239 N.W. 93 (1931)]

A quorum must be present before such meetings may be conducted. [A quorum is a majority of the total membership of the board.] [Sec. 331.212(1)] If a quorum fails to appear at any meeting, the county auditor must adjourn such meeting from day to day until a quorum is present. [Sec. 313.213(2)]

Special Meetings

The specific requirements regarding the calling of special meetings by the board of supervisors found in Sections 331.16 and 331.17 have not been reenacted in the County Home Rule Act. Instead, Section 331.213(1) states that all meetings, subsequent to the board's first meeting, are to be held as scheduled by the board subject to Chapter 28A. Presumably, the board's power to enact rules governing its operation would permit it to adopt rules governing the calling of special meetings by its members. These rules would have to meet the minimum standards noted.

Number Required to Act on Business

The County Home Rule Act provides that a majority of the whole board of supervisors must vote in favor of an action in order to levy a tax, appropriate money for the construction of highways and bridges, contract for erection of any public building, designate a site for a county building, buy or sell real estate, effect a settlement with any county officer, appoint or remove an officer from office, or make a change in the boundaries of any township. [Sec. 331.212(2)]

In all other cases, a majority of the members present, if there is a quorum, may transact business legally in the name of the board of supervisors. In counties with three supervisors, if only two members are present, both must agree to the action in order to bind the board. If there is a division, the question must be tabled until the full board is present. [Sec. 331.212(1)]

Definition

Meetings of the board of supervisors must be open to the public unless closed sessions are expressly permitted by law. A "meeting" is defined as a gathering in person or by electronic means, formal or informal, of the majority of the members of the board where there is deliberation or action upon any matter within the scope of the board's policy making duties. [Sec. 28A.2(2)]

Notice

The board is required to give at least twenty-four hours advance public notice of the time and place of each meeting whenever possible. If twenty-four hours notice is not possible, the board should give as much notice as is reasonably possible. This can be accomplished through use of the news media, posting a notice on public bulletin boards, or any other method of giving reasonable notice.[6] The location of the meeting must be reasonably accessible and the time of the meeting must be reasonably convenient. [Sec. 28A.4]

Minutes and Closed Sessions

The board is required to take minutes of all of its meetings. Said minutes must include the date, time, place, members present, and the action taken at each meeting. The minutes shall also show the results of each vote taken and the vote of each member shall be made public at the open session. [Sec. 28A.3] When twenty-four hours advance notice of the meeting has not been given, reason for this must be included in the minutes. [Sec. 28A.4(2)]

[6] The Attorney General has held that a governmental body must at least provide notice by posting a notice on a bulletin board or other prominent place which is easily accessible and clearly designated for that purpose at the principal office of the body holding the meeting, or if no such office exists, at the building in which the meeting is to be held. Notice must also be provided to members of the news media who have requested such notice and the governmental body is responsible for the cost of such notice. [Cook to Stromer, State Representative, 4-10-79, #7-4-10; Cook to Menke, State Representative, 4-20-79, #79-4-19]

The vote of each member on the question of holding a closed session and the reason for it shall be announced publicly at the open session and entered into the minutes. [Sec. 28A.5(2)] The board is required to keep detailed minutes of all discussion, persons present, and action taken at a closed session. The board is also required to tape record all of the closed sessions. Except for the provisions of paragraph 8 below, the detailed minutes and tape recording of a closed session shall be sealed and shall not be public records open to public inspection. Upon order of the court the detailed minutes and tape recordings shall be unsealed and examined by the court in chambers. [Sec. 28A.5(4)] Furthermore, the minutes and the tape recording of a closed session under paragraph 8, concerning the purchase of real estate, must be made available for public examination when the transaction discussed is completed. [Sec. 28A.5(1)(j)]

A two-thirds vote of the members of the body or of the members present is required before the board may go into closed session. The board may hold a closed session only to the extent a closed session is necessary for any of the reasons listed below. [Sec. 28A.5(1)] Additionally, the board is prohibited from discussing any business during a closed session which does not directly relate to the specific reasons announced for the closed session. [Sec. 28A.5(2)] The purposes for which the board of supervisors may hold a closed meeting are limited to the following:

1. To review or discuss records which are required or authorized by state or federal law to be kept confidential or to be kept confidential as a condition for that governmental body's possession or continued receipt of federal funds.
2. To discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where its disclosure would be likely to prejudice or disadvantage the governmental body in that litigation.
3. To discuss the contents of a licensing examination or whether to initiate licensee disciplinary investigations or proceedings of the governmental body as a licensing or examining board.
4. To discuss a decision to be rendered in a contested case conducted according to the provisions of Chapter 17A of the Code.
5. To avoid disclosure of specific law enforcement matters such as current or proposed investigations, inspection or auditing techniques or schedules, which if disclosed would enable law violators to avoid detection.

6. To avoid disclosure of specific law enforcement matters, such as allowable tolerances or criteria for the selection, prosecution, or settlement of cases, which if disclosed would facilitate disregard of requirements imposed by law.
7. To evaluate the professional competency of an individual whose appointment, hiring, performance, or discharge is being considered when necessary to prevent needless and irreparable injury to that individual's reputation and that individual requests a closed session. [1980 O.A.G. 270]
8. To discuss the purchase of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property. [Sec. 28A.5(1)]

The vote of each member of the board on whether or not to hold a closed session and the specific reason under Section 28A.5(1) for calling a closed session must be announced at the public open session and recorded in the minutes of the session. [Sec. 28A.5(2)] Final action by the board on any matter must be taken in open session unless some other provision of the Code expressly permits final action to be taken in closed session. [Sec. 28A.5(3)]

The public may use cameras or recording devices at any open meeting. However, the board may make and enforce reasonable rules for the conduct of public meetings. [Sec. 28A.7]

The board may conduct a meeting by electronic means only in circumstances where such a meeting in person is impossible or impractical and only if the following conditions are met:

1. That public access is provided to the conversation of the meeting to the extent reasonably possible.
2. That reasonable public notice is given and that minutes are kept of the meeting. The minutes shall include a statement explaining why a meeting in person was impossible or impractical. [Sec. 28A.8]

Negotiating sessions, strategy meetings of public employers or employer organizations, mediation and the deliberative process of arbitrators shall be exempt from the provisions of Chapter 28A. However, the employee organization shall present its initial bargaining position to the public employer at the first bargaining session. The public employer shall present its initial bargaining position to the employee organization at the second bargaining session, which shall be held no later than two weeks following the

first bargaining session. Both sessions shall be open to the public and subject to the provisions of Chapter 28A of the Code. Hearings conducted by arbitrators shall be open to the public. [Sec. 20.17]

Also exempt from Chapter 28A are strategy meetings of the board of supervisors relating to the employment conditions of employees not covered by a collective bargaining agreement under Chapter 20. Employment conditions means scope of negotiations as designated in Sec. 20.9. [Sec. 28A.9]

Examination of Public Records

The board also needs to be familiar with the Iowa law concerning the public's right to examine public records. [Ch. 68A] The definition of public records in the Code of Iowa includes all records and documents of or belonging to a county. [Sec. 68A.1] The code lists several records which are considered confidential and are not to be made available for public inspection. This list includes the following:

1. Reports to governmental agencies which, if released, would give advantage to competitors and serve no public purpose.
2. Appraisals or appraisal information concerning the purpose of real or personal property for public purposes, prior to public announcement of a project.
3. Personal information in confidential personnel records of public bodies including but not limited to cities, boards of supervisors, and school districts.
4. Records of identity of owners of public bonds or obligations maintained as provided in Section 76.10 or by the issuer of the public bonds or obligations. However, the issuer of the public bonds or obligations and a state or federal agency shall have the right of access to the records.
5. Communications not required by law, rule, or procedure that are made to a government body or to any of its employees by identified persons outside of government, to the extent that the government body receiving these communications from such persons outside of government could reasonably believe that these persons would be discouraged from making them to that government body if they were available for general public examination.

Notwithstanding this provision:

- a. The communication is a public record to the

extent that the person outside of government making that communication consents to its treatment as a public record.

- b. Information contained in the communication is a public record to the extent that it can be disclosed without directly or indirectly indicating the identity of the person outside of government making it or enabling others to ascertain the identity of that person.
- c. Information contained in the communication is a public record to the extent that it indicates the date, time, specific location, and immediate facts and circumstances surrounding the occurrence of a crime or other illegal act, except to the extent that its disclosure would plainly and seriously jeopardize a continuing investigation or pose a clear and present danger to the safety of any person. [Sec. 68A.7 as amended by Ch. 90, Sec. 9, Acts 1983, 70th Iowa General Assembly, 1st Sess., (1983) and S.F. 2294, Sec. 6, 70th Iowa General Assembly, 2nd Sess., (1984)]

Every person has the right to examine all public records and make copies thereof. Members of the news media are to be allowed access to all public records and are permitted to publish the contents of any public records. [Sec. 68A.2 as amended by S.F. 2294, Sec. 2, 70th Iowa General Assembly, 2nd Sess., (1984)] The board may establish reasonable rules concerning access to records that are in the board's custody, to protect the records against damage or disorganization. The board must provide a place for the records to be viewed and copied but may charge a reasonable fee for the supervision and copying services provided to those who wish to examine the records. [Sec. 68A.3]

Legal Assistance

The county attorney is required by law to furnish written advice and opinions, without compensation, to the board of supervisors upon request by the board. Request of the board must be limited to matters in which the state or county is interested; these include questions regarding the duties of the board and its members. [Sec. 331.756(7)]

Administrative Assistants

Even though the board of supervisors is not expressly authorized to employ administrative personnel, it has the implied power to do so since the board is charged with representing the county, and is responsible for the care and management of the property and business of the county.

[Wilhelm v. Cedar County, 50 Iowa 254 (1878)] However, the board may not delegate any of its discretionary powers--only those powers that are merely administrative or executive. [1948 O.A.G. 166]

A few counties in Iowa have established county administrator positions (e.g., Polk, Woodbury, and Scott) and have given the administrators a great deal of the administrative responsibility in the county thus allowing the board to devote more time to its policy-making responsibilities. If your county is considering the creation of a county administrator position, information on the advantages, disadvantages, and the necessary steps of establishing the office is available from the National Association of County Administrators, 440 First Street NW, Washington D.C., 20001.

Conflict of Interest and Gifts to Supervisors

Problems may arise if a supervisor participates in the vote on any action by the board concerning a matter in which the supervisor has a vested interest. The safest action for the supervisor to take would be to abstain from voting on matters where the role as supervisor may conflict with the role as a private business person or affected resident of the county. A statement by the supervisor to decline to vote by reason of conflict of interest is conclusive, cannot be challenged, and must be entered of record. [Sec. 331.302(13)]

A measure voted on is not invalid because a supervisor had a conflict of interest, unless the vote of the supervisor was necessary for the measure to pass. If a majority or unanimous vote of the board is required, the vote shall be computed on the basis of the number of supervisors not disqualified by reason of conflict of interest. But remember that a majority of all the supervisors is necessary to constitute a quorum to carry on the business of the board. [Sec. 331.302(13)]

Supervisors must be very careful of gifts received while they hold their elected positions. The Code prohibits any state or local official or employee from accepting any gift worth \$50 or more. [Sec. 68B.5] Gifts that exceed \$15 in value must be reported to the county auditor. [Sec. 68B.11(4)] Several types of gifts are excluded by definition from this requirement, (e.g., gifts from family members). [See Sec. 68B.2(9) for a definition of gifts.] The board may establish its own rules concerning the reporting of gifts by its members, county employees, and the immediate families of both.

Model Rules of Procedure

The Board of Supervisors of Eagle County hereby adopts the following rules for the government of the members in meetings of said Board.

1. The Board shall meet regularly and publicly on Tuesday and Thursday of each week at 9:30 a.m. in the Chamber of said Board at the county courthouse. Where a regular meeting day falls upon a holiday, such meeting shall be cancelled and business shall be conducted on the next succeeding regular meeting day which is not a holiday, and all matters pending for hearing or consideration at such meeting shall be automatically continued from said holiday to such first succeeding regular meeting day which is not a holiday.

2. Any regular meeting of the Board may, by majority vote, be adjourned to any time, or from time to time, when such is in the interest of expeditious transaction of county business. Any such adjourned session of the meeting of the Board shall be deemed to be and is hereby made a part of such regular meeting. Any regular meeting of the Board may be adjourned in public, by majority vote, to another place when space in the Chamber is not sufficient to permit attendance of all members of the public appearing for such meeting, when such other place will adequately accommodate the public at a minimum of inconvenience.

3. If any member of the Board is absent at the time provided in paragraph 1 for regular meetings, without the consent of three members of the Board, then the Chairperson may in his/her discretion, direct the Sheriff to locate and produce such member of the Chamber.

4. Any member who intends to be out of the county may consent in advance to any or all special meetings requiring unanimous consent, upon such terms and restrictions as he/she may specify.

5. The Chairperson or three other Board members may call special meetings of the Board, provided each Board member not issuing the call is sent notice of the call in accordance with the Board's rules. No Board action at a special meeting, except adoption of an emergency ordinance, shall have effect after the next regular Board meeting unless ratified at the meeting.

6. Every regular meeting shall be recorded by an electronic recording device or other stenographic means.

7. Notice of the time and place of a Board meeting, including an agenda of all action to be considered at the meeting, shall be posted in a conspicuous place in the county courthouse in accordance with the Iowa Open Meetings Law.

8. All ordinances will be adopted according to procedures listed as set forth in Section 331.302.

9. Any order of the Board shall be enacted in open regular or special meeting and be approved by a majority of the Board and signed by the Chairperson. Upon being so signed, such order shall be immediately effective unless otherwise provided and shall thereafter be entered in the Board's journal.

10. All proceedings of the Board shall be recorded in the official journal of the Board. The journal shall be accessible to the public during regular office hours.

11. Any member of the Board excepting the Chairperson may make motions. Every member of the Board present at the meeting must vote (or abstain) on each voting issue and those votes shall be individually recorded in the official journal of the Board.

12. Upon concurrence by a majority of the Board any matter before the Board may be postponed for a period not to exceed two weeks or the next regular meeting thereafter.

13. All scheduled meetings of the Board shall be open to the general public.

SUMMARY OF

RULES

CHART¹⁰

RANK OR PRECEDENCE	MOVER MUST BE RECOGNIZED	NEEDS A SECOND	DISCUSSION ALLOWED
I. PRIVILEGED MOTIONS (Highest)			
(12) Adjourn	Recognize	Second	No
(11) Recess	Recognize	Second	No
(10) Question of Privilege....	No	No	No
II. INCIDENTAL MOTIONS*			
Appeal	No	Second	Discuss
Close Nominations	Recognize	Second	No
Division	No	No	No
Nomination	Recognize	No	No
(9) Object to Consideration	No	No	No
Parliamentary Inquiry...	No	No	No
Point of Order	No	No	No
Suspend Rules	Recognize	Second	No
Withdraw (as a motion)...	Recognize	Second	No
III. SUBSIDIARY MOTIONS			
(8) Postpone Temporarily..	Recognize	Second	No
(7) Close Debate	Recognize	Second	No
(6) Limit Debate	Recognize	Second	No
(5) Postpone Definitely...	Recognize	Second	Discuss
(4) Refer to Committee....	Recognize	Second	Discuss
(3) Amend	Recognize	Second	Discuss
(2) Postpone Indefinitely.	Recognize	Second	Discuss
IV. MAIN MOTIONS (Lowest)			
General Main Motion...	Recognize	Second	Discuss
Reconsider	Recognize	Second	Discuss
(1) Rescind	Recognize	Second	Discuss
Resume Consideration..	Recognize	Second	No

AMENDMENTS ALLOWED	METHOD OF DECIDING	APPLIES TO FOLLOWING ACTIONS, MOTIONS, OR SITUATIONS	MAY IT BE RENEWED AT SAME MEETING ¹
No	Majority vote	Renew
Amend*	Majority vote	Renew
No	Chair decides	Special requests	Renew
No	Majority vote	Decisions of chair	No
Amend*	Unanimous (1 candidate).. 2/3 vote (2 or more cand.)	Nominations	Renew
No	Chair decides	Doubtful votes	No
No	None	Nominating candidates ..	No
No	2/3 vote	Main motions	No
No	Chair answers	Issues needing..... clarification	No
No	Chair decides	Errors in procedure.....	No
No	2/3 vote	Rules which can	No
No	Majority vote**	be suspended	No
No	Majority vote**	Every motion*	Renew
No	Majority	Main Motions	Renew
No	2/3 vote	All debatable motions* ..	Renew
Amend*	2/3 vote	All debatable motions* ..	Renew
Amend*	Majority vote	Main motions	Renew
Amend*	Majority vote	Main motions	Renew
Amend	Majority vote	Amendable motions*	No
No	Majority vote	Main motions	No
Amend	Majority vote	No
No	Majority vote	Main, amend, appeal.....	No
No	2/3 vote**	Main motions.....	No
No	Majority	Motions postponed.....	Renew
		temporarily	

¹⁰Summary of Rules Chart" and all involved explanations of exceptions to precedence and alternate methods of procedure obtained from : Hoogestraat and Sikkink, pp.iii, iv, 22-24, 32,61.

¹No motion may be renewed until there has been additional discussion or action since its defeat ("a change in the Parliamentary Situation").
*Indicates possible exceptions to the rules of precedence - see following page
**Indicates alternative procedure available. See following page.

Chapter 2

BUDGETING

The county finance committee, composed of five elected county officials, a CPA in public practice, an operations research analyst, and the state auditor or a designee, is generally responsible for designing the form and content of county budgets and annual financial reports. [Ch. 333A] To ensure compatibility among budgeting, accounting, and financial reporting, the committee has promulgated a Uniform Chart of Accounts (UCOA) for county governments. The UCOA is intended to be used for budgeting, accounting, and financial reporting.

County Property Tax Levies

Part of the purpose of preparing a budget is to certify property taxes. The board may certify four categories of property tax levies:

1. Taxes for general county services may be levied upon all taxable property within the county. "General county services" are broadly defined as those services which are primarily intended to benefit all residents of a county, excluding services financed by other statutory funds.

2. Taxes for rural county services may be levied upon all taxable property not within incorporated areas of the county. "Rural county services" are defined as services primarily intended to benefit persons residing in the county outside of incorporated areas, excluding services financed by other statutory funds.

3. Taxes in the amount necessary to pay for debt service may be levied upon all taxable property, except where otherwise provided by state law.

4. Other taxes may be levied as provided by state law.

Basic Property Tax Levies

The board may certify a basic property tax levy for general county services and a basic property tax levy for rural county services. The general county services basic levy is limited to \$3.50 per thousand dollars of taxable valuation and is levied upon all taxable property within the county. The rural county services basic levy is limited to \$3.95 per thousand dollars of taxable valuation and is levied on

taxable property outside of incorporated areas. [Sec. 331.424]

Following are some of the purposes for which the basic tax levy for general county services may be used in addition to the normal county office and departmental expenses: [Sec. 331.427]

1. Expenses of a joint disaster services administration under Section 29C.9.
2. Development, operation, and maintenance of memorial buildings under Chapter 37.
3. Purchase of voting machines under Chapter 52.
4. Expenses incurred by the county conservation board established under Chapter 111A.
5. Local health services.
6. Expenses relating to county fairs, as provided in Chapter 174.
7. Maintenance of a juvenile detention home under Chapter 232.
8. Relief of veterans under Chapter 250.
9. Care and support of the poor under Chapter 252.
10. Operation, maintenance, and management of a health center under Chapter 346A.
11. For use of a nonprofit historical society under Chapter 504 or 504A.
12. Any general supplemental purpose.
13. For transfer to the secondary roads fund, subject to limitations on the size of the transfer. [See Sec. 331.429(1)(a).]

Following are some of the purposes for which the basic tax levy for rural county services may be used: [Sec. 331.428]

1. Road clearing, weed eradication, and other expenses incurred under Chapter 317.
2. Maintenance of a county library and library contracts under Chapter 358B.
3. Planning, operating, and maintaining sanitary disposal projects under Chapter 455B.

4. Any rural services supplemental purpose.

5. For transfer to the secondary road fund, subject to limitations on the size of the transfer. [See Sec. 331.429(1)(b).]

Exceeding the Basic Levy Limits

The limits on the basic property tax levies can be exceeded in either of two ways:

--by a special levy election. [Sec. 331.425]

--by including some additional information on the notice of a hearing on the county budget. [Sec. 331.426]

A special levy election is subject to the following provisions [Sec. 331.425]:

1. The board of supervisors must give notice to the commissioner of elections that the election is to be held not later than February 15.
2. The election must be held on the second Tuesday in March.
3. The proposition must be in substantially the following form:

"Vote for only one of the following:

Shall the county of _____ levy an additional tax at a rate of \$ _____ each year for _____ years beginning next July 1 in excess of the statutory limits otherwise applicable for the (general or rural services) fund?

or

The county of _____ shall continue the (general or rural services) fund under the maximum rate of _____."

4. Notice of the proposed special levy election shall be published at least twice in a newspaper as specified in Section 331.305 prior to the date of the special levy election. The first notice shall appear as early as practicable after the board has decided to seek an additional levy.

The addition to the basic levy may be certified if the proposition receives a favorable majority of the votes cast.

An addition to the basic levies may also be certified if a county has "unusual circumstances" and includes the

following additional information on the public notice of a hearing on the county budget. [Sec. 331.426]:

1. A statement that the accompanying budget summary requires a basic property tax rate exceeding the maximum established by the general assembly.
2. A comparison of the proposed basic tax rate with the maximum basic tax rate and the dollar amount of the difference between the two.
3. A statement of the major reasons for the difference between the proposed rate and the maximum rate.

Such information shall be provided on forms prescribed by the county finance committee through the department of management and must be published in all official newspapers of the county. According to the committee's administrative rules, the publication cannot appear on a page containing classified advertisements or other types of legal notices.

The basis for justifying an addition to the basic levy under these procedures must be one or more of the following:

1. An unusual increase in population as determined by the preceding certified federal census.
2. A natural disaster or other emergency.
3. Unusual problems relating to major new functions required by state law.
4. Unusual staffing problems.
5. Unusual need for additional monies to permit continuance of a program that provides substantial benefit to county residents.
6. Unusual need for a new program which will provide substantial benefit to county residents, if the county establishes the need and the amount of necessary increased cost.
7. A reduced or unusually low growth rate in the property tax base of the county.

Supplemental Property Tax Levies

In addition, the board may, under certain conditions, certify supplemental tax levies for general county or rural county services. However, unlike the basic levy, the supplemental levy cannot be used for all general county services or for all rural county services. Instead, the supplemental levies can be used only for the specific purposes listed in the Code of Iowa.

The general county services supplemental levy may be used for only the following: mental health services, elections and voter registration, the county's share of FICA, IPERS, and unemployment associated with salaries for general county services, joint building authorities, tort liability, maintenance and operations of the courts.

The rural county services supplemental levy may be used for only FICA, IPERS, and unemployment associated with salaries for rural county services. Section 331.424 details the purposes for which a supplemental levy may be used.

There is no statutory limit on the size of either of the supplemental levies. However, these levies cannot be made unless the associated basic levy is at its statutory maximum. For example, the general county services supplemental levy cannot be made unless the general basic tax levy is \$3.50. Thus, the basic levy may be used for any general county services purpose, including supplemental purposes.

Debt Service Tax Levy

A separate tax levy may also be certified for debt service. This levy may be used to pay principal and interest on general obligation bonds issued by the county, and to pay judgments against the county, except those authorized to be paid from other sources. There is no specific rate limit for a debt service levy. The size of the debt service levy is effectively limited by the fact that most general obligation bond issuances must be approved by vote of the people. In addition, the amount of outstanding general obligation debt is constitutionally limited to 5 percent of assessed valuation. Supervisors should be aware that a violation of constitutional and statutory debt limitations may subject them to personal liability. [Sec. 331.422; Art XI, Sec. 2, Constitution of the State of Iowa]

Other Property Tax Levies

There are only a few additional tax levies that may be certified by the board, and they are mostly used by a small number of counties. One is a tax levy for flood and erosion control purposes, to be levied only against agricultural valuations. It is limited to \$0.0675 per thousand dollars of taxable valuation. [Sec. 467B.9]

Another tax levy is for united law enforcement under Chapter 28E of the Code. The county levy is only on property outside of incorporated areas and it is limited to \$1.50 per thousand dollars of taxable valuation. A vote of the people is required to establish this levy. [Sec. 28E.22]

Other Taxes

The board of supervisors must also levy taxes on loan agencies and credit unions. Capital employed in the business of making loans or investments, defined in Sections 430A.1 and 430A.2, must be taxed at the rate of \$5.00 per thousand dollars of taxable valuation. Taxable value is determined according to Section 430A.4. The amounts collected in each taxing district in cities are apportioned as follows: 20 percent to the county general fund, 30 percent to the city general fund, and 50 percent to the general fund of the state. The amount collected in each taxing district outside of cities is apportioned 50 percent to the county and 50 percent to the general fund of the state. [Sec. 430A.3]

The board of supervisors is required to levy a tax of \$5.00 per thousand dollars of taxable valuation of legal and special reserves of credit unions, as defined in Chapter 533. A \$40,000 exemption is given to each credit union. The tax is collected at the location of the credit union as shown in its articles of incorporation. The amounts collected are apportioned in the same manner as taxes collected on loan companies. [Sec. 533.24]

The board of supervisors may levy a hotel and motel tax, at a rate not to exceed 7 percent, upon the gross receipts from the renting of any and all rooms, apartments, or sleeping quarters in any hotel, motel, inn, public lodging house, rooming house, or tourist court, or in any place where sleeping accommodations are furnished to transient guests for rent, whether with or without meals. However, before such tax may be imposed, it must be approved by a majority of the qualified electors voting in that county's general election.

The tax shall not apply to the following: (1) gross receipts from the renting of sleeping rooms in dormitories and memorial unions at all state of Iowa universities and colleges; (2) gross receipts from the renting of a room, apartment, or sleeping quarters while rented by the same person for a period of more than 31 consecutive days. [Ch. 422A]

Local Option Taxes

Counties and cities also have the authority to impose two types of local option taxes--vehicle and sales. In each case, voter approval is required before imposition. The vehicle tax must be imposed county-wide while the sales tax may be imposed by individual cities within a county or county-wide. If a local option sales tax is imposed, the resulting revenue is distributed by a formula that considers the population and property tax levies of each participating jurisdiction. Vehicle tax money would be distributed based

on the place of residence of the person registering the vehicle. In both types of taxes, very specific guidelines must be met in order to have the issue placed on the ballot. [Ch. 422B as amended by S.F. 2302, 71st G.A. (1986)]

County Budget Forms

Supplemental Details

The county finance committee, through the department of management, prescribes the forms to be used for reporting the county budget. The budget must provide supplemental details for county expenditures by fund and function, and supplemental details for county revenues by fund and source. In addition, county budget worksheets must indicate proposed expenditures by department and object. These worksheets do not have to be filed with the department of management.

Supplemental details for expenditures are presented on Form 634B, sheets 1 through 10. On this form, expenditures are listed by fund and activity. The code number to the left of the activity name refers to the description of an activity classification in Section II of the Uniform Chart of Accounts.

Supplemental details for revenues are presented on Form 634A. On this form, revenues are listed by fund and source. The code numbers to the left of the particular source refer to a revenue source classification in Section VII of the UCOA.

Each page of the budget detail forms (Form 634B, sheets 1 through 10) and the revenues detail form (Form 634A) specifies certain funds and types of funds which must be reported on the budget. These include general basic, general supplemental, rural services basic, rural services supplemental. The forms must be completed for each of these funds for which a tax levy is certified.

In addition, the budget forms require reporting of revenues and expenditures for the secondary road, revenue sharing, all other special revenue, all capital project, all debt service, and all expendable trust funds.

When a column on the forms is headed by "all" or "other," it means a total of the funds of that type. There may be a need, for example, for more than a single "other special revenue fund." In that case, it is the county's responsibility to establish as many funds as needed. A fund or fund type other than those listed on the forms should be used.

A county may establish other funds in accordance with generally accepted accounting principles. The county is

responsible for setting up sufficient funds to comply with legal, grant, contractual, trust, or other requirements.

Summary of Proposed Budget

The summary of the proposed budget, as required by Section 331.434, subsection 3, must include the following information according to administrative rules promulgated by the county finance committee:

1. Amounts required for each of the following twelve major areas of county services:
 - a. public safety
 - b. court services
 - c. physical health and education
 - d. mental health services
 - e. social services
 - f. county environment
 - g. roads and transportation
 - h. state and local government services
 - i. interprogram services
 - j. nonprogram services
 - k. debt services
 - l. capital projects.
2. Property tax levies, estimated credits to taxpayers, and net current and delinquent property taxes.
3. Amounts anticipated from each of the following eight sources of revenues:
 - a. penalties and interest on taxes
 - b. other county taxes
 - c. intergovernmental revenues
 - d. licenses and permits
 - e. charges for services
 - f. use of money and property
 - g. fines, forfeits, and defaults
 - h. miscellaneous revenues.
4. Beginning and ending fund balances.
5. Other financing sources and uses.
6. Comparisons of the above amounts with similar amounts for each of the two preceding years.

On the summary forms, funds are reported by fund type. The groupings of funds should be clear from the headings on the detail forms. The general fund is the sum of the general basic and general supplemental funds. Special revenue funds are the sum of the rural services basic, rural services supplemental, secondary roads, revenue sharing, and all other special revenue funds. The columns for capital

projects, debt service, and expendable trust funds are simply the totals carried forward from the expenditures detail forms. Only the funds and fund types listed in the budget forms should be used on the materials sent to the state.

The County Budget Process

Selection of Budget Official

In this section, the words "budget official" will be used to describe the duties that may be performed by the county auditor or by someone other than the county auditor. The county auditor serves as the budget official unless the board specifically designates someone else. [Sec. 331.433(1)]

Departmental Budget Estimates

On or before January 15, each county officer and department must submit budget estimates to the budget official. The estimates must be itemized in the detail required by the board, and they must be consistent with existing county accounts. The estimates must show the proposed expenditures of the office or department for the next fiscal year, and must also include an estimate of the revenues, except property taxes, expected to be collected for the county by the office during the next fiscal year. [Sec. 331.433(1)]

A suggested set of forms from the committee may facilitate this process. The individual Activity Worksheets (Form 701R) are the building blocks for preparation of departmental budget expenditure estimates. Each worksheet indicates the fund intended to finance that particular activity and also the objects necessary to perform it. Objects should be itemized in the detail needed.

Each department should prepare a separate worksheet for each activity performed by that department. For example, the treasurer would have separate worksheets for the Treasury Management Services activity and for the Motor Vehicle Registrations and Licensing activity. Form 702 may be used to gather information about departmental revenue estimates.

The sum of the Activity Worksheets for each department constitute the total budget estimate for that department. The Activity Worksheets for each department can be summarized on the Departmental Totals Worksheet (Form 701A-R)

Compilation of Expenditures

The budget official must compile the budget estimates received from the departments and submit them to the board by January 20. [Sec. 331.433(2)] Once the individual

Activity Worksheets have been submitted by departments, the total for each fund from the Worksheet can be transferred to the appropriate activity and fund on the expenditures detail budget forms. (Form 634B) On both the proposed and adopted budget summary forms, use of all three totals columns is required.

Compilation of Revenues

On the budget forms, revenues must be classified by fund and source. The revenues detail form (Form 634A) indicates the funds and fund types which must be used. These, of course, are the same as for the expenditures detail forms. In addition, Form 634A shows the revenue sources which must be used. The number to the left of the particular source refers to a revenue source classification in Section VII of the Uniform Chart of Accounts. The estimated revenues from sources other than taxation may be gathered from departments by using Form 702.

The budget official has the responsibility for handling the details of the revenue and expenditure estimates. So that person ought to be able to provide answers to questions on how this detail is handled.

Proposed Budget

From these estimates, the board must prepare its proposed budget. During this process, the board may consult with any officer or department, and may adjust the requests. After consideration, the board must set a time and place for a public hearing on the budget before the final certification date. Notice of the hearing must be published not less than ten nor more than twenty days prior to the hearing in one or more newspapers meeting the requirements of Section 618.14.

A budget summary (Form 634R) must be included in the published notice. Proof of publication must be filed with and approved by the auditor. [Sec. 331.434(3)]

Not less than twenty days before the final certification date, and not less than 10 days before the hearing date, the board must file the proposed budget with the auditor. The final certification date is no later than March 15. The auditor must make available copies of the budget to meet the requests of taxpayers and organizations. The copies must be available for distribution at the courthouse or other place designated by the board. [Sec. 331.434(2)]

At the hearing, taxpayers and residents may present to the board their objections to, or arguments in favor of, any part of the budget. [Sec. 331.434(4)]

Adopted Budget

After the hearing, the board must adopt, by resolution, a budget and certificate of taxes (Form 638R, sheets 1 and 2). The board cannot adopt a tax in excess of the published estimates, except for a tax approved by vote of the people. Similarly a tax greater than that adopted cannot be levied or collected. [Sec. 331.434(5)]

The board must then direct the auditor to certify and file the budget and certificate of taxes. One copy of each of the following should be filed with the state comptroller:

1. Adopted Budget Summary (Form 638R, sheet 1)
2. Adoption of Budget & Certification of Taxes (Form 638R, sheet 2)
3. Revenues Detail (Form 634A)
4. Expenditures Detail (Form 634B, sheets 1 through 10)
5. General Obligation Bond Schedules
6. Compensation Schedule
7. Proof of Publication

The adopted budget and certificate of taxes become effective on the first day of the following fiscal year. The county budget, as adopted, is subject to protest. Protest procedures are described later in this chapter.

Budget Calendar

A budget calendar for the county, listing dates when certain steps in the budget process ought to be completed, can be of help to all county officials. A suggested calendar is printed on the next page. The board can set whatever dates it wants, except for the mandatory dates explained above.

Appropriations

In addition, the board must appropriate, by resolution, the amounts deemed necessary for each of the different county officers and departments during the ensuing fiscal year. This resolution is not the same as the adoption of the budget, although they are related to one another. Without an appropriation, expenditures cannot be authorized. Appropriations need not be made in any specific level of detail. Form 701B-R may form the basis for making appropriations. It lists the amounts of proposed expenditures by each department in the county. It is unlawful for a county official to authorize an expenditure larger than the amount which has been appropriated by the board of supervisors. [Sec. 331.437]

Budget Amendments

A budget amendment is required if there is to be any

SUGGESTED BUDGET CALENDAR FOR IOWA COUNTY GOVERNMENTS

- | | |
|-----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| By November 15 | Budget official* sends budget worksheets to county departments. |
| By January 15 | Budget departments return worksheets with budget estimates to the budget official. |
| By January 20 | Budget official gives board of supervisors a compilation of the departmental budget estimates. |
| By February 10 | Board of supervisors meet with department heads about their budgets. |
| By at least 10 days before the hearing and at least 20 days before March 15 | Board of supervisors and budget official prepare the proposed budget for the entire county and file with the county auditor. |
| 10 to 20 days before the hearing | Board of supervisors set the date for a public hearing on the proposed budget and have it advertised. |
| By March 15 | Public hearing and adoption of budget and certificate of taxes. |
| By April 1 | County auditor sends budget forms to state department of management. |
| By July 1 | Board of supervisors enact an appropriation resolution. |

*The board of supervisors may designate someone other than the county auditor to serve as budget official. The auditor will serve as the budget official, however, unless the board specifically designates someone else.

increase in the totals for any one of the twelve major classes of expenditures listed on the adopted budget summary. These twelve classes are: public safety, court services, physical health and education, mental health, social services, county environment, roads and transportation, state and local government services, interprogram services, nonprogram current expenditures, debt service, or capital projects. The amounts of budgeted operating transfers can be increased without a budget amendment; however the board of supervisors must pass a resolution to increase those transfers.

An amendment should be effective before expenditures exceed the amounts on the adopted budget summary. A budget amendment is prepared and adopted by the same manner as the original budget. Budget amendments are also subject to protest. An amendment of a budget after May 31 which is properly protested but without adequate time for hearing and decision on the protest is void. [Sec. 331.435]

Changing Appropriations

Increases or decreases in appropriations do not require a budget amendment, as long as none of the major classes of expenditures listed in the previous section is to be increased. Instead, changes in appropriations may be provided by resolution at any regular meeting of the board.

However, decreases in appropriations for an office or department of more than 10 percent or \$5,000, whichever is greater, are not effective until the board holds a public hearing on the proposed decrease. Notice of such hearing must be published not less than 10 nor more than 20 days prior to the hearing in one or more newspapers meeting the requirements of Section 618.14. [Sec. 331.434(6)]

Preparing the County Road Budget

On or before April 15 of each year, the board of supervisors, with the assistance of the county engineer, shall submit to the department of transportation for approval the county secondary road budget for the next calendar year. [Sec. 309.93]

Included in the budget shall be an itemized statement of: (1) estimated revenues to be raised by property taxation for secondary roads, (2) estimated revenues to be received from the state road use tax, (3) estimated revenues from all other sources for secondary road purposes, (4) the proposed expenditures from the road fund during the next fiscal year (the estimates of such proposed expenditures shall be itemized and classified in a manner which the department shall prescribe), (5) the actual expenditures for the preceding two fiscal years and the estimated

BOOTH SPACE CONTRACT
IOWA STATE ASSOCIATION OF COUNTIES (ISAC)
1988 SPRING SCHOOL OF INSTRUCTION

MARCH 8-10, 1989 / DES MOINES AIRPORT HILTON HOTEL / DES MOINES, IOWA

NAME OF COMPANY: _____

NAME OF CONTACT PERSON: _____ TITLE: _____

PRODUCT OR SERVICE TO BE EXHIBITED: _____

MAILING ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

AREA CODE: _____ PHONE NUMBER: _____

NUMBER OF BOOTH SPACES: _____ BOOTH SPACE # REQUESTED: _____

Exhibit management reserves the right to make final decisions on booth assignments
(This space to be filled out by ISAC)

SPACE ASSIGNMENTS: _____ AMOUNT DUE NOW: _____ AMOUNT DUE 4/14/89 _____

ISAC agrees to install, service, and disantle the exhibition booth including an 8' background drapery and 42" side dividers; and to furnish each booth with a company name sign, individual space table, and two chairs. Each booth will measure 8' X 10'. Security will be provided on Wednesday, March 8 from 3:00 p.m. until 7:30 a.m. Thursday, March 9.

The charge for exhibit space is \$400.00 per 8' X 10' booth. The exhibitor agrees to pay a non-refundable deposit of 50% of the total amount due for the assigned space(s) upon confirmation and the balance no later than April 14, 1989.

The exhibitor agrees to assume all other charges and expenses in connection with the shipment, set up, and dismantling of exhibit materials. The exhibitor has the option of shipping all materials for the exhibit to the Airport Hilton, 6111 Fleur Drive, Des Moines, Iowa 50321 (Phone: 515/287-2400). The Hilton has been designated as the official decorator for the conference. The exhibitor also assumes responsibility for any damage to the Hilton's property or premises resulting from the exhibit.

The exhibitor agrees not to hold ISAC liable or responsible for any injury, loss, or damage that may occur to the exhibitor, or the exhibitor's employees, or property from any cause whatsoever, prior, during or subsequent to the period covered by the Annual School of Instruction. Insurance shall be at the exhibitor's own expense.

The exhibitor further agrees not to exceed the conference hours of 6:00 a.m. to 7:00 p.m. on Wednesday, March 8, and 7:00 a.m. to 7:00 p.m. on Thursday, March 9, 1989.

The terms of the attached letter, dated January 30, 1989, from ISAC are incorporated by reference into this contract.

ACCEPTED AND AGREED: _____

IOWA STATE ASSOCIATION OF COUNTIES

EXHIBITOR

BY: _____

BY: _____

TITLE: _____

TITLE: _____

CONFIRMATION DATE: _____

DATE: _____

700 THIRD STREET / DES MOINES, IOWA 50309 / PHONE (515) 244-7181

Iowa State Association of Counties
Spring School of Instruction
Hilton Inn, Des Moines
March 8, 9, and 10, 1989

T E N T A T I V E A G E N D A

Wednesday, March 8, 1989

7:30 a.m. - 4:30 p.m. - ISAC Registration (Hilton Courtyard)
9:00 a.m. - 12:00 p.m. - Affiliate Time
12:00 p.m. - 1:00 p.m. - OPEN LUNCH
1:00 p.m. - 3:00 p.m. - Affiliate Time
3:45 p.m. - 4:45 p.m. - Legislators' Appreciation Reception
Prairie Meadows Race Track

Thursday, March 9, 1989

7:45 a.m. - 4:00 p.m. - ISAC Registration (Hilton Courtyard)
8:00 a.m. - 9:00 a.m. - Coffee & Rolls with Exhibitors
9:00 a.m. - 11:00 a.m. - ISAC Annual Business Meeting
11:00 a.m. - 12:00 p.m. - ISAC General Session
-Keynote Speaker
12:00 p.m. - 1:00 p.m. - OPEN LUNCH
1:30 p.m. - 3:30 p.m. - ISAC Seminars
3:30 p.m. - 4:30 p.m. - Ice Cream Social with Exhibitors
9:00 p.m. - 12:00 a.m. - ISAC Dance (Hilton Ballrooms)

Friday, March 10, 1989

8:00 a.m. - 11:00 a.m. - ISAC Registration (Hilton Courtyard)
9:00 a.m. - 12:00 p.m. - Affiliate Time

expenditures for the current fiscal year (these shall be itemized and classified in the same manner as the proposed expenditures), (6) the cash balance of the road fund at the end of the preceding fiscal year, an estimate of the cash balance at the end of the current fiscal year, and an estimate of the cash balance at the end of the next fiscal year. [Sec. 309.93]

The department of transportation has the power to approve or to disapprove the budget adopted by the board of supervisors. The department will act upon the budget and return the budget to the county not later than June 1. In the event the budget is not approved by the department, the department shall state the reasons for disapproval when the budget is returned to the county. [Sec. 309.94] Within twenty days of receipt of budget or amended budget disapproval, the board of supervisors shall publish a notice of a public hearing to be held within ten days of publication. At the hearing the department recommendations shall be considered and the board of supervisors shall amend or adopt its original budget. [Sec. 390.96(2)] If the board of supervisors amends the budget, a revised budget may be submitted to the department for approval. The department will act upon the revised budget within 30 days. [Sec. 309.94]

The county may elect to operate under the proposed budget even though it has not been approved by the department. Lack of approval of the budget by the department has no effect other than to cause the budget to be reconsidered by the board of supervisors after having a public hearing on the disapproved expenditures. [Sec. 309.96(2)]

No county may spend money from its secondary road fund in excess of the amount fixed in the budget adopted by the board of supervisors, whether such budget is approved or disapproved by the department of transportation. In order to permit any county to adjust its secondary road income to changing needs that may occur after the budget has been approved, the expenditures for any individual item within the budget may exceed by not more than 10 percent the amount originally budgeted for that item without permission from the department. This may be done only if other items are less than budgeted so that the total expenditures from the secondary road fund do not exceed the total secondary road budget. [Sec. 309.96(1)]

A secondary road budget, after final adoption by the board of supervisors, is binding in all cases unless bona fide unforeseen conditions arise. In such cases, the board of supervisors may amend the budget and submit the amendment to the department for approval. If the amendment is not approved, the same hearing procedure is used as in the case of the original budget. [Sec. 309.95] It should be kept in mind that amendments to an adopted budget are permitted only in cases of unforeseen circumstances. For that reason it is

imperative that any amended budget be accompanied by adequate documentation to remove all doubts as to the actual need for the amendment.

Project Priority List

On or before the fifteenth day of April of each year the board of supervisors shall, subject to the approval of the state department of transportation, adopt a road project accomplishment list for the next fiscal year, and a project priority list for the succeeding four fiscal years based upon the construction funds, local, secondary, and farm-to-market, estimated to be available for the period. Subject to department approval, any project on the approved priority list may be advanced to and constructed in the accomplishment year and the project accomplishment list may be revised due to unforeseen conditions. [Sec. 309.22] The purpose of such lists is to encourage judicious planning and inform the public of how, when, and where public funds are to be expended.

Levying Taxes of Other Taxing Authorities

Local Government Levies

The board of supervisors is required to levy taxes sufficient to produce an amount required for the various taxing bodies as certified to it by the certifying boards of those bodies. [Sec. 24.19] The board cannot levy a tax in excess of any limitation imposed by the constitution and the laws of the state. [Sec. 24.15] Among the taxes certified to the board of supervisors are those of schools, cities, conference boards, area community colleges, and several special districts and taxing authorities.

Other Levies

If funds from other sources are insufficient, the state secretary of agriculture may certify to the county auditor a levy for the state brucellosis and tuberculosis eradication fund. [Sec. 165.18] This levy is not included within the county's budget, and is handled as if the state were another taxing authority.

Benefited Water District Tax

Whenever a water district has been established under the provisions of Chapter 357, and when sufficient funds are not available from the assessments to pay the interest and retire the bonds issued for the water district improvements, the board of supervisors is required to levy the annual tax of \$.81 per thousand dollars of assessed value of taxable property so long as the boards are in arrears. This tax is

levied only on property within the particular benefited water district. [Secs. 357.22-.23]

County Public Hospital Fund

If approved by the voters, a county may establish or add to a public county hospital. The proposal submitted to the voters must include the amount proposed to be raised by general obligation bonds. Upon approval, the board must issue bonds in the amount specified in the proposal. The board of supervisors must annually levy a tax, not to exceed \$.54 per thousand dollars of assessed valuation to pay the principal and interest on these bonds. [Secs. 331.441(2)(c)(7), .442; Sec. 347.7]

In addition, the board must levy an annual tax not to exceed \$.27 per thousand dollars of assessed valuation for the purpose of maintaining and improving the hospital. This levy cannot, however, be made until the hospital has been constructed, staffed, and is receiving patients. The exact amount of this levy is determined by the amount certified to the board of supervisors by the board of hospital trustees, who act as the certifying board of the hospital.[1] [Sec. 347.7]

These two tax levies constitute the county public hospital fund. The tax monies may be commingled in a single fund and, if unappropriated funds exist in the fund, appropriations may be made from it to construct and equip hospital facilities without authority from the voters of the county. [Sec. 347.7; 1970 O.A.G 360]

Revenue bonds may also be used to pay the cost of equipping, expanding, and improving an existing county public hospital. If, after the payment of the principal and interest accruing in any year, the income of the hospital is insufficient to pay the operating and maintenance expenses, the board of supervisors must levy a tax to provide sufficient revenue for such purposes. This levy may not exceed \$.27 per thousand dollars of assessed valuation in counties of less than 225,000 population, or \$1.215 per thousand dollars of assessed valuation in counties of more than 225,000 population. [Secs. 331.461(1)(d); 347.7]

County Hospitals Supported by Revenue

If the county operates a county public hospital supported by revenues derived from the hospital's services, as

[1] In counties of over 225,000 population, the limit is \$1.35 per thousand dollars of assessed valuation. In these counties, the board of supervisors retains the power of review over the county public hospital fund. [Sec. 347.7]

provided in Chapter 347A of the Code, the board of hospital trustees must fix charges for the services furnished so that revenues are always sufficient to pay interest and principal on any outstanding revenue bonds issued for the hospital [Sec. 331.461(1)(e)] plus all operating and maintenance expenses. [Sec. 347A.1]

Budget Appeals

Protests to the proposed budget of any local government must be filed with the county auditor by March 25. (If a budget is certified after March 15, however, all appeal time limits are extended to correspond to allowances for a timely filing.) An appeal for all local governments other than a city must be signed by at least one-quarter of 1 percent of those voting for the office of president of the United States or governor, as the case may be, at the last general election. An appeal for a city must be signed by at least one-quarter of 1 percent of the votes cast for governor at the last preceding general election in the city. In either case, however, the number signing the appeal must be at least ten, but need not be more than one hundred. The appeal must state the objections to the budget, expenditures, or tax levy and the grounds for the objections.

When the protest is filed, the county auditor must immediately prepare a complete copy of the protest, together with the budget, tax levy, or expenditure and the grounds for objection. The auditor must then transmit this information to the State Appeal Board. The auditor must also send a copy of the protest to the appropriate local government.

After the hearing by the State Appeal Board, the board certifies its decision to the county auditor and to the parties appealing. The auditor must then correct his/her records in accordance with the board's decision, and the levying board must make its levy in accordance with the decision.

Protests of amendments to budgets are considered within the same general procedures and time constraints as are applicable to original budgets. A budget must be amended by May 31 of the current fiscal year to allow time for a protest hearing to be held and a decision rendered before June 30. The amendment of a budget after May 31, which is properly appealed but without adequate time for hearing and decision before June 30, will be ruled null and void. [Secs. 331.436, 24.27-.32]

Chapter 3

BUSINESS MANAGEMENT AND FINANCE

Duties Pertaining to Tax Collection

After the taxes have been levied, the county auditor and the county treasurer assume most of the responsibility for the collection of the taxes. The board of supervisors, however, has a few important duties relating to the collection of taxes.

Remission of Taxes

If a taxpayer has suffered property losses because of fire, tornado, or some other unavoidable casualty, the board of supervisors may exercise its discretionary powers and remit his/her taxes up to the full amount of taxes paid. The limitations on this power are that the property must not have been sold for delinquent taxes nor must the taxes have been delinquent for more than 30 days. Also, the loss for which refund is permitted is only that part of the loss not covered by insurance. [Sec. 455.62]

Tax Collectors for Delinquent Taxes

In the exercise of its discretionary power, the board of supervisors may authorize the county treasurer to appoint collectors to collect delinquent personal taxes. The collectors are compensated at a rate not to exceed 10 percent of the amount they collect but in no event may compensation be paid until the county treasurer has received the full amount collected by the collector. [Sec. 445.50]

Tax Compromises

If property has been offered for sale for taxes by the county treasurer for two consecutive years and has not been sold, or has been sold for only a portion of the taxes due on the property, the board of supervisors is authorized to compromise the taxes due on the property (if due prior to the tax sale certificate or due during the year in which the tax sale occurred). The compromise is to be in writing and may be entered into with the owner of the legal title or any lienholder and it should stipulate the sum that will be regarded as full satisfaction of the delinquent taxes. [Sec. 445.16] The purpose of such power is to enable the title to such property to be cleared when it is apparent that the full sum of the taxes cannot be recovered by a sale.

If personal property taxes that are not a lien on real estate have been delinquent for one or more years and it is

evident that these taxes are not collectible in the usual manner, the board of supervisors may compromise such taxes by written agreement. [Sec. 445.19] Copies of the compromise agreement are filed with the county treasurer; upon payment, the taxes are deemed to be satisfied, and the appropriate books of the county treasurer must reflect the cancellation of the tax debt. [Secs. 445.17-.18]

Tax Suspension

Whenever a person by reason of age or infirmity is unable to contribute to the public revenue, he or she may file a petition with the board of supervisors. The board of supervisors then may order the county treasurer to suspend the collection of taxes assessed against the petitioner of his/her estate for the current year or may cancel and remit the taxes. The petition must first be approved by the city or town council of the town or township trustees of the township in which the property of the petitioner is located. [Sec. 427.8]

Whenever a person is a recipient of federal supplementary security income or state supplementary assistance as defined in Section 249.1 or is a resident of a health care facility, as defined by Section 135C.1, which is receiving payment from the department of social services for care, such person shall be deemed to be unable to contribute to the public revenue. The commissioner of human services shall notify the board of supervisors of the county in which the recipient owns property. Such notice shall include a listing of the property. The board of supervisors when so notified, and without need of petition as required in Section 427.8, will order the county treasurer to suspend the collection of all taxes on the property as long as the person continues to receive aid as described in this section. [Sec. 427.9]

The board of supervisors, in the best interests of the public and the petitioner, may make an additional order to cancel or remit taxes assessed even though prior action of suspension was ordered as provided in Sections 427.8 and 427.9. [Sec. 427.10] The board of supervisors also has the authority to cancel or remit taxes on the property of a deceased aged person on application of the administrator of his/her estate. [1958 O.A.G. 337; see also 1958 O.A.G. 277 and 1972 O.A.G. 30]

Claims

The Code of Iowa prescribes the method by which people who are owed money by the county can present their claims for payment. Although claims normally are presented to the county auditor and are paid through issuance of warrants, the board of supervisors is empowered to examine the claims

first and give its approval before warrants are issued. [Sec. 331.401(1)(r)] The function of the board is a nondelegable duty. [Heath v. Albroom, 123 Iowa 559, 569, 98 N.W. 619 (1904); 1974 O.A.G. 679] Some claims, however, are exempted by statute from the board's examination and approval. [1962 O.A.G. 498]

Handling of Warrants and Claims

In order to perform its function of approving claims against the county, the board of supervisors must maintain both a warrant book and a claim register. [Secs. 331.303(1)(b) and (c)] Claims are numbered consecutively according to the order in which they are received. They are entered in the claim register in alphabetical order with: (1) the date of the filing, (2) the number assigned to the claim, (3) a statement of the general nature of the claim, and (4) the name of the claimant. The claim register also must have space available in which to record the action on the claim taken by the board. [Secs. 331.303(1)(c), .504(7)]

The board, in session, then acts upon the claim. If the claim is allowed, this will be noted in the minute book of the board of supervisors by reference to the number assigned to the claim. [Secs. 331.303(1)(a), .303(1)(c), .504(7)] The claim number provides a cross reference between the minute book and the claim register. An entry is made in the claim register showing that the claim has been allowed and that the allowance is made against a certain county fund.

The board of supervisors may pursue three courses of action in regard to claims on which it must act: it can approve, refuse, or do nothing in respect to the claim. An unliquidated claim[1] either must be refused or "neglected" (no action taken) before a claimant can take further action against the county to enforce his/her claim. [Sec. 331.504(8)] Those claimants whose claims are approved and paid must be listed by name in the official publication of the proceedings of the board of supervisors. [1930 O.A.G. 257, Op. 2]

Tort Liability

Every county is subject to liability for its torts and those of its officers, employees, and agents acting within the scope of their employment or duties, whether arising out of a governmental or proprietary function. The Supreme Court of Iowa has held this to mean that the county will be

[1] The required information and the preparation for submission of an unliquidated claim is described in Section 331.504(8) of the Iowa Code.

liable for the commission of torts by its employees except as limited by Section 613.4. The government immunity of counties has been greatly diminished. [Strong v. Town of Lansing, 179 N.W. 2d 365 (1970); Jahnke v. Incorporated City of Des Moines, 191 N.W. 2d 780 (1971)] A tort is to be within the scope of employment or duties if the act or omission reasonably relates to the business or affairs of the county and if the officer, employee, or agent acted in good faith in the best interest of the county. [Sec. 613A.2]

A tort is to be defined as every civil wrong which results in wrongful death or injury to: person or property, or personal or property rights. This includes but is not restricted to actions based on: negligence, error or omission, nuisance, or breach of duty. [Sec. 613A.1]

An employee is to be defined as a person who performs services for the county whether compensated or not for services, unless they are performed only as an incident to the person's attendance at a county function. [Sec. 613A.2]

Unless an expressed statute extends liability, the county has governmental immunity from certain claims. Claims immune from liability include: claims covered by workmen's compensation, [2] claims in connection with the assessment or collection of taxes, or claims based on acts or omissions of an officer, employee, or agent performing his/her duty with due care. In addition, the county is exempt from any claim against the county if the county is immune from liability by provision of any other statute or where action based upon a claim has been barred or abated by operation of statute or civil procedure. [Sec. 613A.4]

Any claim against the county may be settled by the board of supervisors. The board is empowered to appropriate money to pay the agreed upon amounts of the settlement. [Sec. 613A.9]

If the claimant should seek judicial relief, the board of supervisors is required to provide county officers, employees, and agents with a defense against the tort claims arising out of an alleged act or omission occurring in the performance of duty. The county is not, however, required to provide defense in cases of malfeasance in office, willful and wanton neglect of duty, or unauthorized injury to persons or property. [Sec. 613A.8]

For discussion of possible liability problems in

[2] Since a volunteer worker is not covered by workmen's compensation, a county would be liable for any injury incurred to the same extent as if the injury was incurred by a nonemployee. [1970 O.A.G. 672]

connection with secondary roads, such as traffic control and snow and ice removal, see pages 106-109.

Support of the Poor Claims

Claims for the support of the poor, including claims for medical care, after having been allowed and certified by the general relief director, are subject to further examination by the board of supervisors. If the board finds that the claim is for an unreasonable sum or for goods or services other than the necessities of life it may reject the claim or reduce it to an amount it deems reasonable. [Secs. 252.35, 331.381(8)]

Claims for Secret Investigations

The attorney general has ruled that it is proper for the county attorney to undertake secret investigations in performing official duties and may bill the county for any reasonable expense incurred in carrying out such an investigation. Such claims, however, must be reviewed and approved by the board like other claims against the county, and the warrants issued by the auditor must state the purpose for which the payment is made and must be made payable to the person who performed the services. On the other hand, secret investigations by the grand jury may be made without having the board of supervisors audit the resulting claims for expenses incurred, because warrants on such claims must be issued if the judge of the district court has approved them. [1948 O.A.G. 6; cf. 1952 O.A.G. 84]

Travel Expense Claims

When private automobiles are used by county officers and employees in performing their official duties, these officers or employees are entitled to receive up to twenty-one cents per mile for actual and necessary travel. [Sec. 79.9 as amended by H.F. 2484, Sec. 773, 71st G.A. (1986)] When allowed mileage, the officer or employee is not permitted to be reimbursed for expenses incident to the same trip. [Sec. 79.10] Interpretation by the attorney general has fixed the rule that if a person is allowed mileage, charges for gas, oil, and other costs associated with vehicle maintenance may not be allowed, but the officer or employee may recover expenses for meals, lodging, and vehicle storage incurred during the trip. [1932 O.A.G. 55; O.A.G. #80-10-2; O.A.G. #81-7-18(L)]

In no case shall any official be allowed mileage or travel expense if transportation was gratuitous or if the person rode with another officer or employee who was entitled to mileage. [Sec. 79.11] Moreover, in no case may any claim for expenses by a county officer be allowed if the expenses were incurred by the officer's attendance at any convention for county officials. [Secs. 331.215, .401(2)]

The attorney general has ruled, however, that the board of supervisors may, at its discretion, allow reasonable expenses of county officers who attend conferences which are for the betterment of the officers in the performance of their official duties. Whether the meeting attended is such a conference or is a convention is a question to be determined by the board of supervisors. [1956 O.A.G. 70]

A claim for mileage or travel expenses shall not be allowed by the board whenever the claimant is a peace officer unless the destination and the number of miles in each trip are given. If the peace officer's trip was an extended one, the trip's expenses, except the cost of meals, must be verified before the board can approve the claim. [Sec. 79.13]

Warrants

The county auditor cannot sign or issue a county warrant unless the claim for which the warrant is issued has been approved by the board of supervisors or unless the claim falls within one of the specified exceptions to the requirement of the board's approval. The board signifies its approval by a recorded vote of its members or by a resolution. [Secs. 331.401(1)(r), .402(2)(d), .506(1)-(3)]

There are exceptions to the requirement of the board's prior approval: (1) Bills and claims of special units that certify their own taxes usually are paid upon written order of one or more officers and employers of that unit, i.e., board of trustees of a county hospital. [Sec. 347.12] (2) The auditor may issue warrants before the board approves the bill when the bill is for expenses relating to the operation of the courts. [Sec. 331.506(2)] (3) The auditor may also issue warrants in cases in which the board of supervisors, by resolution, has authorized payment without its prior approval if the bill is presented to the auditor when the board is not in session. The board of supervisors, however, may authorize such action by the county auditor only in cases of fixed charges such as water, light, telephone, freight, express, and postage bills that are duly verified, and salaries and payrolls if the compensation was fixed by the board, and the officer or foreman in charge certifies that the compensation has been earned. [Secs. 331.402(2)(d), .506(3)] (4) The auditor may issue warrants for liquidated claims and reimbursements, to be paid from annually appropriated funds required by statute. [1962 O.A.G. 498]

In all cases in which a warrant is issued in payment of a bill that has not been approved previously by the board of supervisors, the bill must be presented to the board for its approval at the first meeting following payment. The bill of sale is then entered in the minutes just as are other claims that the board has allowed. [Sec. 331.506(4)]

Deposit of Public Funds

Public funds may be deposited by the county treasurer only in depositories that have been approved by the board of supervisors; funds not needed for current operating expenses may be invested as permitted by Section 452.10. [Sec. 453.1] The approval of the board must be in the form of a resolution or order entered in the minutes. The resolution or order must distinctly name each depository approved and specify the maximum amount of public funds that may be deposited in each. [Sec. 453.2] The board, however, is limited in that it must select depositories within the county or in an adjacent county. [Sec. 453.4] Two exceptions are permitted: (1) If the depositories refuse to receive the deposits, the board may approve any depositories that is conveniently located within the state. [Sec. 453.5] (2) For the payment of bonds, the board may authorize deposits at one or more depositories within or without the state, but these deposits may not be so placed more than ten days before the principal and interest become due. [Secs. 76.6; 453.4]

A booklet on investment of public funds entitled, "A Penny Saved Is a Penny Earned," is available from the Institute of Public Affairs of The University of Iowa.

County Debt

Sometimes, there may be insufficient cash in a county fund. In these cases, the fund must incur debt to pay outstanding claims. There are two types of debt: current and noncurrent.

Current Debt

Under the County Finance Act, "current debt" means a debt payable from resources which will have accrued in a fund by the end of the fiscal year in which the debt is incurred. Such debt must be approved by resolution of the board. The debt may take the form of anticipatory warrants subject to Chapter 74, loans from other county funds, or other formal short-term debt instruments or obligations such as stamped warrants or warrant orders. [Sec. 331.477]

If warrants written on a fund are presented to the treasurer for payment, and there is insufficient cash in the fund to redeem the warrant, the treasurer notes on the warrant that it is "not paid due to lack of funds," signs the warrant, and marks the date on it. The warrant then draws interest at the rate determined under Chapter 74A until monies become available to redeem the warrant. The treasurer may also arrange to sell the warrant at face value but at a lower rate of interest. [Secs. 331.554(5); 74.2, .3]

The treasurer is responsible for calling in the unpaid

warrants as monies become available to redeem them. [Sec. 76.2] When the warrants are paid, the treasurer notes on the warrant the date of payment and the amount of interest paid. [Sec. 74.7]

Warrants for levee and drainage districts that are unpaid for lack of funds are handled in the same manner, and the interest rate is also determined according to Chapter 74A.

Noncurrent Debt

Noncurrent debt is defined as debt payable from resources accruing in a fund after the end of the fiscal year in which the debt is incurred. Generally, a county fund cannot be in debt at the end of a fiscal year. Section 331.476 of the Code states that a county officer or employee cannot allow a claim, issue a warrant, or execute a contract which will result during a fiscal year in an expenditure from a county fund in excess of an amount equal to the collectible revenues in the fund for that fiscal year plus any unexpended balance in the fund from a previous year. A county officer allowing a claim, issuing a warrant, or executing a contract in violation of this provision is personally liable for the payment of the claim or warrant or performance of the contract.

Even though Section 331.476 generally prohibits noncurrent debt in a fund, there are several specific purposes for which the board may authorize noncurrent debt. These purposes include: [Sec. 331.478(2)]

- a. Bridges or buildings destroyed by fire, flood, or other extraordinary casualty.
- b. Operation of the courts.
- c. Bridges made necessary by the construction of a public drainage improvement.
- d. For the benefit of a person entitled to receive assistance from public funds.
- e. Expenditures authorized by vote of the electorate.
- f. Contracts executed on the basis of the budget submitted as provided in Section 309.93.
- g. Expenditures authorized by supervisors acting as trustees or directors of a drainage district or other special district.
- h. For land acquisition for county conservation (not to exceed in a year the monetary equivalent of a tax of six and three-fourths cents per thousand dollars of

assessed value on all taxable property in the county).

1. Purposes for which counties may issue general obligation bonds without an election under state law.

Noncurrent debt for these purposes must be authorized by resolution of the board. The form of the debt authorized by the board can include anticipatory warrants, advances from other funds, installment purchase contracts, or other formal debt instruments or obligations other than bonds.

Before the board can authorize this debt, however, it must give proper notice and hold a hearing on the matter. The notice must include a statement of the amount of the debt, its purpose, form, and the proposed time of its liquidation. After the hearing, the board may take additional action to authorize the debt or abandon the proposal. [Sec. 331.479]

If noncurrent debt is authorized under these provisions, it must be retired from the resources of the fund from which the expenditure was originally made for which the debt was incurred. [Sec. 331.478(4)]

General Obligation Bonds

The issuance of general obligation bonds also involves the incurrence of noncurrent debt by the county. There are two categories of general obligation bonds: essential county purpose and general county purpose. The difference between the two is that general county purpose bonds generally require a vote of the people before they can be issued, while essential county purpose bonds do not.

Essential County Purpose Bonds

Essential county purpose bonds may be issued for any of the following purposes:

1. Voting machines or electronic voting systems.
2. Bridges on highways or parts of highways which are located along the corporate limits of cities and are partly within and partly without the limits and are in whole or in part secondary roads.
3. Sanitary disposal projects pursuant to Section 455B.301.
4. Works and facilities useful for the collection, treatment, and disposal of sewage and industrial waste, for the collection and disposal of solid wastes, and for the collection and disposal of surface waters and streams.

5. Public buildings, including sites and grounds; and the erection, equipment, remodeling, or reconstruction of, and additions or extensions to the buildings, when the cost does not exceed the following limits:
 - a. \$200,000 in a county with a population of 25,000 or less.
 - b. \$250,000 in a county with a population over 25,000 but not more than 50,000.
 - c. \$300,000 in a county with a population over 50,000 but not more than 100,000.
 - d. \$400,000 in a county with a population over 100,000 but not more than 200,000.
 - e. \$500,000 in a county with a population over 200,000.
6. Funding or refunding outstanding indebtedness if the outstanding indebtedness exceeds \$5,000 on the first day of January, April, June, or September in any year.
7. Enlargement and improvement of a county hospital acquired and operated under Chapter 347A, subject to a maximum of 2 percent of the assessed value of taxable property in the county. [Sec. 331.441(2)(b)]

Before the board may institute proceedings to issue bonds for any of the above essential county purposes, a notice of the proposed action, including a statement of the amount and purposes of the bonds, and the time and place of the meeting at which the board proposes to take action for issuance of the bonds, must be published as provided in Section 331.305. At the meeting, the board must receive oral or written objections from any resident or property owner of the county. After all objections have been received and considered the board may take additional action for the issuance of the bonds or abandon the proposal. [Sec. 331.443(2)]

General County Purpose Bonds

General county purpose bonds, which require a vote of the people, may be issued for any of the following purposes:

1. Memorial buildings or monuments as provided in Chapter 37.
2. Acquisition and development of land for a recreation or conservation purpose to be managed by the conservation board. The board may submit a proposition for this purpose only upon receipt of a petition from the conservation board asking that bonds be issued for a specified amount.
3. Building and maintaining a bridge over state boundary line streams. The board shall submit a proposi-

tion for this purpose to an election upon receipt of a petition which is valid under Section 331.306.

4. Contributions to help finance the construction of toll bridges across navigable rivers constituting boundaries between the county and an adjoining state.
5. Airports.
6. Joint city-county buildings.
7. County health center as defined in Section 346A.1.
8. A county public hospital, subject to the levy limits in Section 347.7.
9. Public buildings, when the cost exceeds the limits stated under item #5 under essential purpose bonds.
10. Undertaking of any project jointly or in cooperation with any other governmental body which, if undertaken by the county alone, would be for a general county purpose.
11. Any other facilities or improvements which are necessary for the operation of the county or the health and welfare of its citizens. [Sec. 331.441(2)(c)]

Before the board may institute proceedings for the issuance of general county purpose bonds, it must call a county special election to vote upon the question of issuing the bonds. At the election the proposition shall be submitted in the following form:

"Shall the county of _____, state of Iowa, be authorized to (state purpose of project) at a total cost not exceeding \$_____ and issue its general obligation bonds in an amount not exceeding \$_____ for that purpose?"

Notice of the election must be given by publication as specified in Section 331.305. The proposition of issuing bonds for a general county purpose is not carried or adopted unless the vote in favor of the proposition is equal to at least 60 percent of the total vote cast for and against the proposition at the election. If approved, the board may proceed with the issuance of the bonds. [Sec. 331.442]

Sale of Bonds

The board may sell general obligation bonds at public or private sale in the manner prescribed by Chapter 75. [Sec. 331.444(1)] All public bonds may be sold at a price not less than 98 percent of par, plus accrued interest from the

date of the bonds to the date of delivery of the bonds.
 [Sec. 75.5] Bonds may be sold in one or more denominations as provided by the proceedings of the governing body authorizing their issuance. [Sec. 75.10]

General obligation funding or refunding bonds may be exchanged for the evidences of the legal indebtedness being funded or refunded, or the funding or refunding bonds may be sold in the manner prescribed by Chapter 75 and the proceeds applied to the payment of the indebtedness. Funding or refunding bonds may bear interest at the same rate as, or at a higher or lower rate or rates of interest than the indebtedness being funded or refunded. [Sec. 331.444(2)]

Taxes to Pay Bonds

Taxes for the payment of general obligation bonds must be levied in accordance with Chapter 76, and the bonds are payable through the county's debt service tax levy. [Sec. 331.447(1)] The annual tax must be sufficient to pay the interest and a portion of the principal that will ensure retirement of the bonds within a period of 20 years or less. [Secs. 76.1; 331.430] The laws "not only specifically provide for the levy of taxes to pay the interest and principal of bonds issued..., they make such a levy mandatory." [Yarn v. City of Des Moines, 243 Iowa 991, 54 N.W. 2d 439]

Approval of Capital Projects not Financed by Bonds

Capital projects that are not financed by bonding (for example, from federal revenue sharing money) no longer require the approval of the county's qualified electors before they can be undertaken. However, such projects must still be annually budgeted and appropriated, and they are subject to the provisions governing the letting of contracts.

Operating Transfers

There are several statutory requirements applicable to operating transfers:

1. Operating transfers cannot be made between the general and rural services funds. [Sec. 331.432]
2. Operating transfers cannot be made from the secondary road fund. [Sec. 331.432]
3. Only excess monies remaining after retirement of all indebtedness payable from the debt service fund may be transferred from the fund to the fund most closely related to the project for which the indebtedness arose, or to the general fund, subject to the terms of the original bond issue. [Sec. 331.430(3)]

4. Transfers to the secondary road fund from the general fund cannot exceed in any year the dollar equivalent of a tax of sixteen and seven-eighths cents per thousand dollars of assessed value on all taxable property in the county and an amount equivalent to the monies derived by the general fund from livestock tax credits under Section 427.17, military service tax credits under Chapter 426A, and mobile home taxes under Section 135D.22 multiplied by the ratio of sixteen and seven-eighths cents to the general fund tax rate.
5. Transfers to the secondary road fund from the rural services fund cannot exceed in any year the dollar equivalent of a tax of three dollars and three-eighths cents per thousand dollars of assessed value on all taxable property not located within the corporate limits of a city in the county and an amount equivalent to the monies derived by the rural services fund from the livestock tax credits under Section 427.17, military service tax credits under Chapter 426A, and mobile home taxes under Section 135D.22 multiplied by the ratio of three dollars and three-eighths cents to the rural service fund tax rate.
6. All operating transfers must be authorized by resolution of the board of supervisors. Approvals for transfers do not need to be secured from the State Appeal Board.

County Conservation Reserve

The County Finance Act permits the use of a reserve for county conservation land acquisition and capital improvement projects. [Sec. 111A.6] It is recommended that the reserve, if needed, be established as an expendable trust fund.

There are four basic steps to take in using the conservation reserve:

1. The reserve is established:
 - a. If requested by the conservation board, the board of supervisors must establish the reserve.
 - b. County conservation operating expenditures may not be paid from the reserve. Operating expenditures must be paid from the general basic fund or other legal source.
 - c. The determination of what constitutes a "capital improvement project" payable from the reserve is in effect left to the discretion of the conservation board. Recommended guidelines for

- the classification of an expenditure as a "capital project" are included above.
- d. County conservation land acquisition and capital improvement projects may be paid from the general basic fund or other legal source, as well as from the reserve.
2. Money is credited to the reserve by the board of supervisors.
 - a. The board of supervisors may credit an amount of money to the reserve at any time. Usually, this will be accomplished by authorizing an operating transfer to the reserve from the general basic fund.
 - b. Once money has been credited to the reserve, it remains there until spent for county conservation land acquisition and capital improvement projects, upon warrants requisitioned by the conservation board. The reserve's fund balance does not revert to the fund which provided it.
 - c. The total amount of money credited to the reserve, plus monies appropriated for general conservation purposes from sources other than the reserve, cannot be less than anticipated conservation board receipts (fees, licenses, other revenues). The reserve is not guaranteed all conservation board receipts. Such receipts may be credited to the reserve, or they may be applied toward conservation board appropriations from other sources. How much is placed in the reserve is the decision of the board of supervisors.
 3. The reserve is budgeted and appropriated annually by the board of supervisors.
 4. Warrants are issued by the auditor only upon requisition of the conservation board.

Bids and Contracts[3]

Repair or Construction of County Buildings

All work in connection with the construction or repair of county buildings must be done under written contract.[4]

[3] For the bidding requirements for data processing services for voter registration, see page 153.

[4] See "Public Improvement Contracts" below for requirements in letting contracts that involve more than \$5,000.

If the cost of a public improvement is expected to exceed \$25,000, formal bidding procedures must be used before a contract can be awarded. [Sec. 331.341(1)] Formal procedures require that bids be solicited by advertisements published once each week for three weeks in all of the official newspapers of the county in which the work is to be done. However, before advertising for the bids, the plans and specifications for the improvements must be filed and open to public inspection in the county auditor's office.

If the cost of construction or repair is expected to be less than \$25,000, the county may use either formal or informal procedures. These procedures are not required by state law, but they are good business practices. Informal procedures involve notifying in writing at least three qualified bidders at least two weeks before the contract is awarded. If informal procedures are used, the bids received and a statement of the reason for the use of the informal procedure must be included in the minutes of the board of supervisors at which this action took place.

Neither the formal nor informal bidding process have to be used when: (1) the expected cost of repairs is less than \$500 or (2) emergency repair costs are not expected to exceed \$2,000. "Emergency repairs" are those repairs which are necessary to prevent further damage to a building and cannot reasonably be delayed to allow compliance with the requirement of the formal or informal bidding procedures.

When the board approves expenditures using neither the formal nor informal procedures, the minutes of the meeting at which such approval takes place must include a statement explaining the need for such repairs and the reason for not complying with the formal and informal procedures.

In any case, a contract must be awarded to the lowest responsible bidder. Further, the contract must be awarded at a time and place which shall be stated in any advertisement or written notice required under any of the permissible bidding procedures. On the day specified for the awarding of the contract, the board can adjourn the proceedings to a later time and place. The board may reject all bids and advertise or give notice for new bids.

Other Public Improvement Contracts

Before the board of supervisors can enter into a contract for any public improvement costing \$25,000 or more -- except secondary road improvements -- it must adopt proposed plans, specifications, and contract forms.[5] [Secs. 331.341(1); 384.102] A hearing must be held on these

[5] For a discussion of contracts for secondary road improvements, see page 95.

proposals, with a notice of the hearing published in at least one newspaper of general circulation in the county not less than four nor more than twenty days prior to the hearing. [Secs. 331.305, .341(1); 384.102] At the conclusion of the hearing, the board must make a decision concerning the contract proposals by resolution. At the hearing any interested person may appear and file objections to the proposed plans, specifications, contract, or estimated cost of the improvement. After hearing objections the board must make a decision concerning the plan, specifications, contract, or estimated cost of the improvement by resolution. [Sec. 384.102]

In letting contract for the proposed improvement, the board must advertise for bids by publishing a request for bids at least once in a newspaper published in the county in which the work is to be done. The notice to bidders published may be more than twenty days but not more than forty-five days before the date set for receiving bids. [Secs. 331.305, .341(1); 384.96] The contract must be awarded to the lowest responsible bidder. [Sec. 384.99]

All bids must be accompanied by a deposit of money, certified check, certified share draft drawn on a credit union, or bid bond executed by authorized corporations in an amount specified by the board, as security that the bidder will enter into contract for the performance of the work. [Sec. 384.97(5)] The amount of the bid security must be equal to at least 5 percent, but not more than 10 percent, of the estimated total cost of the work. [Sec. 384.98] The deposits of the unsuccessful bidders are returned as soon as a contractor is chosen, but the successful bidder does not get his/her deposit back until the contract has been executed. [Sec. 384.100]

Every contract for public improvements other than for road and highway construction must contain a provision that preference will be given to Iowa domestic labor. [Sec. 331.341(2)] Failure to abide by the Iowa Preference Law is a simple misdemeanor punishable by a fine up to \$100 or by imprisonment for not more than 30 days for each offense. [Secs. 73.3-.5; 903.1(3)]

When emergency repair of a public improvement is necessary and the delay of advertising and a public letting might cause serious loss or injury to the county, the board shall by resolution, make a finding of the necessity to institute emergency proceedings under Section 384.103(2) and shall obtain a certificate certifying that emergency repairs are necessary. The certificate must come from a competent, registered professional engineer or architect, who is not in the regular employ of the county.

In this event the board may contract for emergency repairs without holding a public hearing and advertising for

bids. The provisions of Sections 384.96 to 384.102 do not apply in this event. [Secs. 331.341(1); 384.103(2)]

Performance Bonds

Whenever a contract is made for the construction of any public improvement costing \$25,000 or more, a performance bond is mandatory; if the improvement costs less than that sum, a performance bond is optional. [Sec. 573.2] (See below where sufficient performance bond is required of successful coal contract bidder if the value of the coal to be delivered exceeds \$300 per year.)

The amount of the bond is fixed by the board of supervisors. If payments are to be made while the improvement is under construction, the bond must equal at least 75 percent of the contract price; if payment is not to be made until after the completion of the public improvement, the bond may be for a lesser amount, but it may not be fixed at less than 25 percent. [Sec. 573.5] Section 573.6 of the Code fixes certain terms of the performance bonds that should be placed verbatim on the bond. Even if they are not, they are still deemed as a matter of law to be contained in the terms of the bond. [Sec. 573.6]

The contractor is free to provide a bond or to provide a money deposit, a certified check, a credit union certified share draft, state or federal bonds, bonds issued by any Iowa county, city, town, or school corporation, or highway paving district, or drainage district bonds issued in the state of Iowa. [Sec. 573.4]

Purchasing

Apparently, on ordinary purchases the board of supervisors need not call for bids. Certain limitations are provided by statute, however.

Preference for Iowa Products

The Iowa Preference Law requires the county to use only products and materials grown or produced in Iowa if they are available in a marketable quantity and of a quality adequate for the purpose for which the county will use them, and if the cost is no higher than that of the same products produced in a different state. [Sec. 73.1] The law requires that all requests for bids and all proposals for expenditures of public funds must be made in general terms so that no brand or trade names are specified. Also, all requests must contain this statement: "By virtue of statutory authority, a preference will be given to products and provisions grown and coal produced within the state of Iowa." [Sec. 73.2]

Purchase of Coal

Another area specifically covered by statute is that concerning the county's purchase of coal. If the annual purchase price of coal for county needs exceeds \$300, it is the duty of the board of supervisors to advertise for bids in a paper published in the county. The notice must be published at least fifteen days before the time the bids are to be received and must contain a statement of the place, date, and time for receipt of bids, the quantity needed, and a description of the coal to be purchased. [Sec. 73.7]

The bids must be opened in public at the date and place fixed in the notice. The lowest bid must be accepted unless the board feels that, in the best interests of the taxpayer or the employment of labor, or because of the efficiency or cost of operation of the county's heating plants, the lowest bid should not be accepted. However, coal mined and produced in this state may be granted up to a 5 percent preference over coal mined or provided outside this state on the delivered cost per unit of heat produced. The board, therefore, may reject any or all bids, but if all are rejected, a new bidding must be held after proper notice. [Sec. 73.7] In receiving bids, the board must not consider any bid that does not state the name of the producer and the location of the mine. [Sec. 73.8]

Upon accepting a bid, the board must enter into a written contract to purchase the coal, and the successful bidder must provide a sufficient performance bond. Contracts for coal may contain a provision that in case an emergency arises the county may purchase up to 10 percent of its coal requirements from other sources without taking bids. [Sec. 73.7]

It is unlawful for the county to use coal mined in another state whenever suitable Iowa coal may be purchased. If a sufficient quantity cannot be obtained, or if the quality available is not suited to the county's needs, or if the heating plant equipment is not adapted to use this coal, or if Iowa coal would decrease the heating plant's efficiency or increase costs, then the use of Iowa coal is not required. [Sec. 73.6]

Joint County-City Buildings

A county may contract with its county seat city for the joint acquisition, construction, maintenance, and operation of buildings for use by the city and the county jointly. The contract must contain provisions setting forth the amount of money, or the proportion of the cost, to be contributed by each party toward the acquisition of the site and its improvement. Also, the purpose for which the building is to be used must appear in the contract. Other provisions, such

as annual maintenance and operation contributions, may be included. Before the contract is effective, it must be approved by a resolution of the board of supervisors. [Sec. 331.304(1)]

For the purpose of paying its respective cost of the project, a county may issue general obligation bonds. [Sec. 331.441(2)(c)(6)] Before such bonds are issued, however, the board is required to submit the proposition to the voters of the county. Notice of the election must be published at least once and not less than four (4) nor more than twenty (20) days before the election in a newspaper of general circulation in the county. If 60 percent of the votes cast affirm the proposition, the bonds may be issued. [Sec. 331.442] The interest rate on bonds may not exceed a rate established by Chapter 74A. [Sec. 331.446(1)(b)]

Contracts let for the construction of any building (public improvement) which will result in expenditures of more than \$25,000 is subject to the contract letting procedures provided for cities in Sections 384.95 to 384.103. [Sec. 331.341(1)] A county may apply for and accept federal aid for any such construction.

A county and its county seat city, may incorporate an authority for this purpose of establishing joint county-city buildings. [Sec. 346.27(2)] The articles of incorporation must be approved by a majority of the members of the board of supervisors and a majority of the city's council members. [Sec. 346.27(3)] Upon adoption, the articles of incorporation must be recorded with the county recorder and filed with the secretary of state, and published once in a designated newspaper of general circulation in the county. [Sec. 346.27(6)]

The governing body of the authority is composed of three commissioners appointed for six-year terms of office. One commissioner, who must reside outside of the county seat city, is appointed by the board of supervisors. The city council appoints one member who is a resident of the county seat city. The third member is chosen through joint action of the board of supervisors and the city council. If the board and the council fail to agree on an appointee within 60 days, the appointment is made by the governor. The commissioners serve without compensation. [Sec. 346.27(5)]

The authority is empowered to issue revenue bonds to finance any project which is permitted in the articles of incorporation. However, before the bonds may be issued, the authority must call an election with the concurrence of the board of supervisors and the city council. Publication of a notice of election is required once each week for at least two weeks in a newspaper published in the county. The proposition submitted to the voters must specify the amount of the proposed bond issue. If a majority of the votes cast in

the county-wide election approve the proposition, it is deemed carried. [Sec. 346.27(10)]

The principal and the interest earned by the revenue bonds are payable solely from the income produced by the operation of the project. [Sec. 346.27(15)] Such bonds do not constitute debt as applied to statutory or constitutional debt limits. [Sec. 346.27(20)]

The authority is empowered to lease any or all of the building space to the city and the county. Rental terms are those agreed upon between the authority and the incorporated units; however, the rents are subject to increase through the mutual consent of the parties if it is necessary to provide additional funds to meet the obligations of the authority. [Sec. 346.27(21)] The board may pay its share of the annual rent from the general supplemental tax levy. [Sec. 331.424(1)(k)]

After the retirement of all bonds issued by the authority, the authority may convey the title to the property to the county and the city. However, before such a conveyance may be made, it must be approved by a majority of the voters of the city and the county voting on the proposition. [Sec. 346.27(25)]

Licenses and Permits

The powers to regulate business establishments are found in Section 331.382 and as inferred from the general home rule authority in Section 331.301. These powers must be exercised in accordance with Secs. 331.301(2)-(6); in particular, these powers usually are exercised by the passage of a motion, a resolution, an amendment, or an ordinance. [Sec. 331.302] As the county home rule act indicates, all valid measures adopted prior to July 1, 1981 remain valid unless irreconcilable with a state law. [Sec. 331.302(14)] Thus, existing licensing requirements, not otherwise irreconcilable with a state law, should be valid. An example of an existing licensing and regulation which may thus be maintained is the licensing of auctioneers under former Chapter 546 and the regulation of auction sales under former Chapter 546A.

While regulatory measures that were adopted before July 1, 1981, remain valid exercises of county powers, any amendments to these regulations or adoptions of additional regulations would require new action by the board. It would seem prudent for the board to adopt ordinances in such cases. (See page 10.)

Cigarette Permits

The county board of supervisors is authorized to issue

retail permits for the sale of cigarettes outside of the corporate limits of cities, but such action must be certified to the state department of revenue and finance. [Secs. 331.303(3); 98.13(2)] Sales of cigarettes may not be made until a permit has been obtained; this entails the filing of an application, the giving of a bond, and the payment of a prescribed fee. [Secs. 98.13(5)-(6)]

The fees required for cigarette permits are fixed by the General Assembly and are as follows: [Sec. 98.13(3)]

MONTH PERMIT GRANTED	FEE
July, August, September	\$50.00
October, November, December	37.50
January, February, March	25.00
April, May, June	12.50

All permits expire on June 30 of each year, and no permit may be granted until all fees are paid for the period ending the following June 30. Notwithstanding the provision of Section 331.361(4), which authorizes the location in the courthouse of newsstands operated by disabled veterans, the board of supervisors cannot waive the requirements of Chapter 98 of the Code, and any veteran dispensing cigarettes at such a newsstand is required to obtain the necessary permit. [1938 O.A.G. 579]

In such cases where the holder of a cigarette permit desires voluntarily to surrender the permit, the schedule of refunds established by the General Assembly is as follows: [Sec. 98.13(4)]

FEE PAID	MONTH SURRENDERED	REFUND
Full Annual (\$50.00)	July, August, or September	\$37.50
Full Annual (\$50.00)	October, Nov., or December	25.00
Full Annual (\$50.00)	January, February, or March	12.50
Three-fourths (\$37.50)	October, Nov., or December	25.00
Three-fourths (\$37.50)	January, February, or March	12.50
One-half (\$25.00)	During first three months of period covered by the fee	12.50

No refunds may be given during the last three months of the permit period.

Upon five days' written notice, the board of supervisors may hold a hearing and revoke a permit if there is a violation by the permit holder of any provision of Chapter 98. The notice is served by certified mail to the permittee's place of business and contains a statement of the reasons for the proposed revocation and the time and place of the hearing. The revocation is mandatory if Section 98.2 (sale to minors) is violated. [Sec. 98.22(1)-(2)]

Whenever a permit is revoked, a new permit cannot be issued to the violator for any place of business, or to any other person for the place of business where the violation occurred, for one year unless "good cause" is shown why a new permit should be granted. [Sec. 98.22(3)]

Liquor Control Licenses and Beer Permits

An application for a class "A," "B," "C," or "E" liquor control license, a retail wine license, or a beer permit must be filed with the board of supervisors if the premises for which the license or permit is sought is located outside the incorporated limits of a city. [Sec. 123.32(1) as amended by H.F. 2484, Sec. 743, 71st G.A. (1986)] The application can only be from a person seeking authorization to engage in retail sales.[6] The board of supervisors is empowered to approve or disapprove the issuance of the license or permit, and the decision of the board must be endorsed on the application and forwarded to the alcoholic beverages division of the department of commerce. Along with the application, the board should forward the required fee and bond collected from the applicant. [Sec. 123.21(2)]

In deciding whether to approve or disapprove an application for a license or permit, the board of supervisors must determine if the applicant is fit to hold a liquor control license or a beer permit.[7] Fitness is determined, in part, by judging the moral character of the applicant. [Sec. 123.30(1)] Good moral character as defined by Chapter

[6] The liquor control licenses that the board of supervisors may approve or disapprove are class "A," class "B," class "C," and class "E." Class "A," "B," and "C" licenses permit the holder to sell liquor for consumption on the premises and to sell beer for consumption both on and off the premises. [Sec. 123.30(3)(a)-(c)] A class "A" license may be issued to any nonprofit organization occupying a permanent building and one that requires the prepayment of dues by its members. A hotel or motel with twenty or more rooms for the lodging of transient guests may be approved for a class "B" license. Places of business with sufficient accommodations for twenty-five persons are to be approved under a class "C" license. [Secs. 123.3(29)-(32)] Class "E" licenses are for the sale of packaged liquors.

The retail beer permits that the board of supervisors may approve or disapprove are class "B" and class "C." A class "B" permit authorizes the holder to sell beer for consumption both on and off the premises. A class "C" permit restricts the holder to sales of beer for consumption off the premises, only. [Sec. 123.124]

[7] No liquor control license holder shall be required to hold a separate class "B" beer permit or to post a separate bond. [Sec. 123.122]

123 means that the applicant has a financial standing and reputation which indicates a compliance with all the laws relating to beer and liquor control. The applicant must be a citizen of the United States and a resident of Iowa.[8] Furthermore, the applicant must not possess a federal gambling stamp nor may he/she have had a liquor control license or beer permit revoked within the previous two years. Under the proper circumstances a person convicted of a felony more than five years before the date of application may be judged of good moral character. In determining good moral character, the applicant and the spouse are regarded as one person. [Sec. 123.3(11)]

In addition, the applicant is required to post bond conditioned on the faithful observance of the beer and liquor control laws. The amount of the bond is dependent upon the type and class of license or permit. The applicant's premises where he/she intends to operate must conform to all the legal requirements of the state and the county. Consent must be given by the applicant for inspections of the premises by officials without first securing a warrant. [Secs. 123.30(1), .127(3), .128(3), .129(3)] The premises for which the applicant is seeking a license or permit cannot have been previously covered by a license or permit that has been revoked within the last year. [Sec. 123.40]

Even though the board is empowered to disapprove the issuance of a license or permit, it may not arbitrarily, capriciously, or without reasonable cause refuse to issue the license or permit. The applicant may appeal to the state hearing board if he/she feels the board of supervisors acted in such a manner. The hearing board may overrule, or uphold, the decision of the board of supervisors; thus, it may either grant or deny the issuance of the license or permit. [Sec. 123.32(4)] If the hearing board rules contrary to the board of supervisors, the county board may appeal the decision to the district court in its county. The appeal must be filed in accordance with the terms of the Iowa Administrative Procedure Act. The applicant may, if he/she feels aggrieved, use the same appeal procedure. [Sec. 123.32(5)]

Even though the board of supervisors approves the issuance of a license or permit, the director of the department is authorized to make whatever investigation he/she deems as necessary. If the director concludes from his/her findings that the applicant does not qualify to hold a license or permit, he/she may refuse to issue the license or permit. [Sec. 123.32(3)] The applicant has the same appeals available that are available if the board of supervisors refuses to approve the application. [Sec. 123.32(4)-(5)]

[8] A corporation is considered to be a resident if it is licensed to do business in the state.

Liquor control licenses and beer permits automatically expire one year from the date of issuance. Seasonal licenses or class "B" beer permits may be issued for periods of six months or eight months, but these cannot be renewed except after a period of two months. [Sec. 123.34] Renewal applications are filed in the same manner as the original request; however, a more simplified application form may be used. If the simplified form is used, the applicant must verify under oath that the detailed information in the original application is still current. [Sec. 123.35]

Since the state has the exclusive power to establish licenses and permits and levy taxes relating to beer and alcoholic beverages, [9] the board of supervisors cannot adopt resolutions requiring local licenses and taxes. [Sec. 123.37] However, the board is empowered to enact regulations controlling the location of liquor or beer establishments. [Sec. 123.39] This extends to authorizing the board to permit a holder to transfer his/her business from one location to another without obtaining a new license or permit provided the new premises meet all the qualifications. [Sec. 123.38] The board must report all such transfers to the director of the Iowa beer and liquor control department. If the director establishes a uniform transfer fee to cover administrative costs, the county is permitted to assess and retain the entire sum. [Sec. 123.38] In addition, the board may establish regulations concerning the sale and consumption of beer and alcoholic beverages and to protect the health, welfare, and morals of the community. The board is limited, though, to regulations that do not conflict with state statutes and do not diminish the number of hours during which beer or alcoholic beverages may be sold or consumed at retail. [10] [Sec. 123.39]

The department will remit to the county a sum equal to 65 percent of the fees collected for each class "A," class "B," or class "C" license covering premises within the

[9] The fees for special liquor permits and liquor control licenses issued under Sections 123.29 and 123.30 are found in Section 123.36 of the Code. The fees for beer permits are found in Section 123.134 of the Code. Fees relating to seasonal permits are found in Section 123.34 of the Code.

[10] State law provides that beer and alcoholic beverages may not be sold or consumed between the hours of 2:00 a.m. and 6:00 a.m. on any weekday, and between the hours of 2:00 a.m. on Sunday and 6:00 a.m. on the following Monday. However, the holder of a liquor control license or class "B" beer permit that is granted the privilege of selling alcoholic liquor or beer on Sunday may sell or dispense liquor or beer between the hours of noon and 10:00 p.m. on Sunday. [Sec. 123.49(2)(b)]

county's jurisdiction. [Sec. 123.36(8)] All retail beer permit fees collected by the county will be retained by the county. [Sec. 123.143(1)]

Any license or permit may be voluntarily surrendered to the Iowa beer and liquor control department. The department has the duty of notifying the board of supervisors. If a refund is allowed for the surrender of a liquor control license, the department and the board jointly make the refund. If a beer permit is surrendered, the board is responsible for providing whatever refund is authorized. [Sec. 123.38]

Whenever a license or permit holder voluntarily surrenders his/her license or permit, a refund of a portion of the fee is paid as follows: if surrendered during the first three months of an annual period, three-fourths of the fee; if surrendered during the fourth, fifth, and sixth months of an annual period, one-half of the fee; if surrendered during the seventh, eighth, or ninth months of an annual period, one-fourth of the fee; no refunds are to be made when a license or permit has been held more than nine months. [Sec. 123.38] No refund shall be made for seasonal licenses or permits. [Sec. 123.34] Also, no refund on an annual license or permit may be made if a complaint has been filed charging a violation of Chapter 123.[11] If the license or permit is not revoked subsequently, the holder may voluntarily surrender his/her license or permit and secure the refund provided above. If charges against a holder are sustained and his/her license or permit revoked, no refund may be made. [Sec. 123.38]

The board of supervisors has the power to suspend for up to one year, or to revoke a liquor control license or a beer permit. The holder of the license or permit must be notified in writing and granted a reasonable opportunity for a hearing prior to the suspension or revocation. Briefly, reasons for suspension or revocation include violations of any of the provisions of Chapter 123, violations of any county regulations, or the failure of the holder to continue to meet the qualifications and standards required of a licensee or permittee. [Sec. 123.39][12]

A licensee or permittee whose license or permit has been suspended or revoked may appeal to the state hearing board.

[11] Any refund made while a citizen's complaint is on file makes the board members personally liable for the amount refunded. [Lehan v. Greigg, 257 Iowa 823 (1965)]

[12] A criminal conviction is not necessary for revocation or suspension of a license or permit. [1976 O.A.G. 113]

The hearing board, if good cause is shown, must reduce the period of suspension or reinstate the license or permit. [Sec. 123.32(4)] A judicial review of the action of the hearing board may be sought in accordance with the terms of the Iowa Administrative Procedure Act. In addition, petitions for judicial review may be filed with the district court of the county wherein the premises covered by the application are situated. The county may seek judicial review of a board decision according to the terms of the Iowa Administrative Procedure Act within thirty days. [Sec. 123.32(5)]

The board of supervisors is required to suspend a holder's license or permit if the holder or his/her employee is found guilty of making available any alcoholic beverage or beer to any person who is not of legal age. Conviction, however, is dependent upon the accused's knowledge of his/her act, or a reasonable cause to believe the person to be under age. Upon a first conviction, the suspension is for a period of fourteen days; a second conviction within two years, thirty days; a third conviction within five years, sixty days. If there is a fourth conviction within a period of five years, the violator's license or permit must be revoked. [Secs. 123.49(2)(h), .50(3)(a)-(d)]

The board is compelled to suspend the permit of a retail beer permittee if the holder of his/her employee is convicted of knowingly allowing any alcoholic beverage to be mixed or added to any beverage in or about his/her place of business. The suspension penalty assessed is the same as for serving a person who is under age. [Secs. 123.49(2)(i), .50(3)(a)-(d)]

Upon a single conviction for certain violations, a holder's liquor control license or beer permit must be revoked. If the holder is found guilty of knowingly allowing gaming, gambling, solicitation for immoral purposes, or immoral or disorderly conduct on the premises, the license or permit must be immediately surrendered. In addition, a liquor control license holder will have his/her license revoked if convicted of keeping any alcoholic liquor in any container other than the original package purchased from the department, or knowingly reusing any container or other adulteration of the contents of any package. [Sec. 123.49(2)(a), (d), (e)]

In the event a holder's license or permit is revoked, neither the holder nor the spouse is eligible to be relicensed for a period of two years. The premises covered by the license or permit cannot be relicensed for one year. [Sec. 123.40]

Dog Licenses

The board of supervisors is required to set the annual

dog license fees. The fee must accompany the application. [Sec. 351.6]

The board of supervisors is charged with responsibility for providing by contract or otherwise, for the seizure, impoundment, and disposition of dogs not wearing a license as required by Chapter 351. [Sec. 331.381(14)]

Insurance

Code Section 517A.1 provides that all state commissions, departments, boards, etc., and agencies of all political subdivisions, of the state of Iowa not otherwise authorized are authorized to purchase liability, personal injury, and property damage insurance covering all officers and employees while in the performance of their duties, including operating an automobile, truck tractor, machinery, or other vehicles owned or used by the political subdivision.

Counties have several options available to them in providing insurance coverage. "A county may enter into insurance agreements obligating the county to make payments beyond the current budget year to procure or provide for a policy of insurance, a self-insurance program, or a local government risk pool to protect the county against tort liability, loss of property, or any other risk associated with the operation of the county." [Sec. 331.301(11) added by 71st G.A., S.F. 2265 (1986), Sec. 19]

To implement a self-insurance program, a county may credit money to a reserve account for such purposes. [S.F. 2265, Sec. 20, 71st G.A. (1986)]

For advice and assistance in providing adequate insurance for county operations, county officials may consult the risk management division of the state department of general services.

Payment for premiums should be made from the funds of the respective county departments that purchase the insurance. [1962 O.A.G. 86] However, the secondary road fund may not be used for the payment of insurance premiums on insurance covering secondary road employees. [1962 O.A.G. 173, Op. 7]

Under Code Chapter 613A, a county is subject to liability for accidents causing death or injury to a person, or injury to property, which results from negligence and breach of duty on the part of the county. Since the county is no longer immune from suit, the board of supervisors is authorized to purchase a policy of liability insurance. The policy may insure against all or any part of the liability which the county or its officers, employees, and agents may incur.

A tax in excess of any tax limitation imposed by statute may be imposed to pay the premium costs. [Sec. 613A.7]

The board of supervisors is required to provide defense for any county officers, employees, or agents against any tort claim or demand arising out of an alleged act or omission occurring within the scope of their cases of malfeasance in office, willful and unauthorized injury to persons or property, or willful or wanton neglect of duty. [Sec. 613A.8]

Any liability incurred by a county officer or employee in the performance of official duties that is not fully covered by insurance must be paid by the board of supervisors from the general fund.[13] The board of supervisors is authorized to compromise and settle any such claim. [Sec. 613A.9]

If a judgment or settlement remains unpaid at the time of adoption of the annual budget, the board is compelled to appropriate an amount sufficient to pay the judgment or settlement with accrued interest. Taxes may be levied to pay the judgment or settlement, and these taxes may be in excess of any limitation imposed by statute. [Sec. 613A.10]

The board of supervisors may establish plans for and procure group insurance, health, or medical services for the employees of the board of supervisors under its general home rule authority [Secs. 331.301, 509A.1, and by implication Sec. 331.324]. The term "employee" does not include temporary or retired employees. However, a retired employee may continue, at personal expense, any existing contract [Secs. 509A.7 and 509A.13]. Any employee, dependent, or spouse (unless terminated for gross misconduct) may extend their participation in the group health plan at personal expense for a specified time beyond the normal termination of coverage. Likewise, an employee who has terminated service with the county is permitted to retain the life insurance policy at personal expense. [Sec. 509A.6] The board of supervisors may also plan and procure the above services for the county auditor, the county treasurer, the county recorder, the county attorney, the county sheriff, and the members of the board of supervisors. [Sec. 590A.1]

The cost of the programs may be borne wholly or in part by the board of supervisors or from contributions of the employees. [Sec. 509A.2] The employees' contributions may be deducted from the earnings of the employees, but, first a

[13] This does not apply to the treasurer, recorder, auditor, attorney, sheriff, engineer, and assistants and employees of said offices on matters relating to road and bridge design only.

written authorization must be filed with the county auditor. [Sec. 509A.3]. The administration of the programs and all the decisions relating to the carrying out of the provisions of Code Chapter 509A is the responsibility of the board. [Sec. 509A.8]

Upon request of an employee, the board of supervisors may acquire through contractual agreements with an authorized company of the employee's choice, a deferred payment contract for the purpose of funding a deferred compensation program for the employee. The program must be administered so that the county may remit one sum for the entire program according to a single billing. [Sec. 509A.12]

Offices and Supplies

It is the duty of the board of supervisors to furnish offices at the county seat, fuel, lights, blanks, books, and stationary necessary for the sheriff, recorder, auditor, county attorney, county assessor, and county surveyor or engineer.[14] [Sec. 331.322(5)] The board of review meets in quarters which the board of supervisors must provide. [Sec. 441.34]

County Vehicles and Garages

The board of supervisors is empowered to own and operate such automobiles and motorcycles as the county sheriff uses or needs in the performance of the duties of that office. If the board chooses, it may contract with the employees of the sheriff's office for the use of their automobiles if the board decides this would be advantageous to the county. [Sec. 331.322(8)] A garage may be operated by the county for the purpose of servicing automobiles and other vehicles that are owned and operated by the county. [Sec. 331.301]

[14] The attorney general has held that this obligation also extends to the office of the county board of social welfare. The opinion further states, "...it would be an unusual anomaly if the Legislature created a county office and did not intend the board of supervisors should provide it with such necessities (office, fuel, stationary, etc.)." [1944 O.A.G. 98]

Chapter 4

SUPERVISION OF PERSONNEL

Although the majority of county officers--auditor, treasurer, recorder, attorney, and sheriff--are elected, the board of supervisors plays an important role in appointing and fixing the salaries of certain officers, deputies, and temporary help, and in filling vacancies in county offices. Furthermore, the final determination of the amount of appropriations allowed to county offices, including those of elected officials, rests with the board of supervisors. Thus, in effect, an elected county official has no control over the amount of money budgeted to him/her. However, once the appropriation has been made, the elected official has control over the expenditure of the funds--within the budget limits. [1968 O.A.G. 614] Therefore, the board of supervisors has the significant role in coordinating and determining the scope of county activities even though these officers are not formally responsible to the board.

Mandatory Appointments

Vacancies

Under the provisions of Section 69.8(4) of the Code, the board of supervisors must fill vacancies that occur in county offices.

County Engineer

Because of the extensive network of roads and highways in each county, the appointment of a county engineer is highly important. The selection of one or more county engineers, who must be registered engineers, is mandatory with the board of supervisors. [1934 O.A.G. 58] The term of office for county engineers may not exceed three years, but the board may terminate appointments at any time. Compensation of the engineers is fixed by the board. [Secs. 309.17-.18 as amended by Ch. 123, Sec. 109, Acts 1983, 70th Iowa General Assembly, 1st Sess., (1983); 331.321(1)(k)]

Two or more adjacent counties may jointly appoint a county engineer. A written agreement must be approved by the participating counties and entered into the minutes of each board. Although one board must be designated to make all payments for salaries and other expenses of the joint program, that county is reimbursed according to the allocation set forth in the written agreement. [Sec. 309.19, also see Chapter 28E]

County Medical Examiner

The county board of supervisors must appoint a medical examiner for a term of two years. The medical examiner must be licensed in Iowa as a doctor of medicine and surgery or as an osteopathic physician or a doctor of osteopathic medicine and surgery. He/she must be appointed by the board of supervisors from lists of two or more names submitted by the component medical society and the osteopathic society of the county in which he/she is a resident. If no list of names is submitted by either society, the board of supervisors must appoint a county medical examiner from the licensed doctors of medicine, or licensed osteopathic physicians or osteopathic physicians and surgeons, of the county. If no qualified appointee can be found in the county, the board of supervisors must appoint the medical examiner from another county. If, for good cause, a county medical examiner is unable to serve in any particular case or for any period of time he/she must notify the chairperson of the board of supervisors promptly and the chairperson must designate some other qualified person to act in his/her place. [Sec. 331.321(1)(m); 331.801(1)(2)]

The county board of supervisors is authorized to provide for laboratory facilities, deputy medical examiners, and such professional, technical, and clerical assistance that may be required by the county medical examiner in the performance of his/her duties. However, such requirements are subject to prior approval by the state medical examiner. [Secs. 331.321(1)(m); 331.801(3)]

Compensation for the duties of the county medical examiner is made from fees prescribed by the board of supervisors. These fees and the expenses which the medical examiner actually incurs, are to be paid by the county for whom the services are performed. If an autopsy or an investigation is performed concerning a person who dies after being brought into the state for emergency medical treatment by or at the direction of an out-of-state law enforcement officer or public authority, the fees and expenses of the medical examiner must be paid by the state of Iowa. [Sec. 331.802(2), see generally Secs. 331.801-.805 for the responsibilities of the county medical examiner.]

County Weed Commissioner

Appointment of the county weed commissioner, who must pass minimum standards set by the department of agriculture, is also mandatory with the board of supervisors. The weed commissioner is appointed for a one-year term commencing March 1 and may otherwise be employed by the county. The name and address of the person appointed must be certified to the county auditor and to the secretary of agriculture within ten days of the making of the appointment. With the approval of the board of supervisors, the weed commissioner

may appoint a deputy or deputies. The board prescribes the time per year the weed commissioner is to work and the compensation. Compensation must be based on actual work performed per hour, per day, or per month. The commissioner and any deputies appointed are to be paid any necessary travel expenses in addition to regular compensation. [Secs. 331.321(1)(1); 317.3]

With the approval of the board of supervisors, the weed commissioner may require that commercial applicators of weed control chemicals and their employees pass the same standards for weed identification and control methods set by the department of agriculture that the weed commissioner must meet. [Sec. 317.3]

At its discretion, the board may require the weed commissioner to attend training programs conducted or approved by the state department of agriculture. [Sec. 317.3]

The responsibility for the enforcement of all the provisions of Code Chapter 317 is vested in the board of supervisors. The jurisdiction of the board regarding the eradication of weeds includes all farm lands, railroad lands, abandoned cemeteries, state lands and state parks, primary and secondary roads, and roads, streets, and other lands within cities unless otherwise provided. Subsequently, the weed commissioner is subject to the direction and control of the board of supervisors. [Sec. 317.4] In addition to enforcement, the board annually must by resolution prescribe and order a program of weed destruction to be followed by landowners or tenants or both. [Sec. 317.13]

County Judicial Magistrate Appointment Commission

The county judicial magistrate appointing commission consists of a district court judge chosen by the chief judge of the district, two attorneys elected by the county bar, and three electors appointed by the board of supervisors. None of the three electors appointed by the board of supervisors may be an attorney at law or an active law enforcement officer. The board's appointments are for six-year terms. [Secs. 331.321(1)(2); 602.6503]

In the event there is only one resident member of the county bar, the number of appointments which the board of supervisors is permitted to make is reduced to two. If there are no attorneys in the county, the board may only appoint one person to the commission. [Sec. 602.6503]

Approval of Appointments

Deputy County Officers

The county auditor, treasurer, recorder, sheriff, and

attorney may appoint deputy officers or assistants but these appointments must be approved by the board of supervisors. The board also is responsible for determining the number of deputies, assistants, and clerks to be allotted to each office. This determination, as well as the approval of appointments, is by resolution of the board and is entered in the board's proceedings. Revocations of appointments, however, are made by the principal officer, who also is responsible for the acts of the assistants, deputies, and clerks. [Secs. 331.323(2)(h), .903(1), .903(2)]

Jail Assistants

While the sheriff is to provide board and care for prisoners in the sheriff's custody, the board is to determine and pay the costs necessary for the board and care of the prisoners in the county jail. While the board may determine the manner in which meals are provided for the prisoners, the board shall appoint assistants at the jails and pay their salaries. [Secs. 331.322(10); 331.658(1)(2)]

Participation in Appointment of County Assessor and Board of Review

The board of supervisors is an integral part of the conference board, which appoints the assessor and the county board of review for tax assessments. The county conference board is composed of members of the board of supervisors, mayors of all the incorporated cities in the county where property is assessed by the county assessor, and one FORMAT representative from the board of directors of each high school district of the county, who is a resident of the county.[1] Each classification of members constitutes one voting unit; thus, the entire board of supervisors may cast one vote. The chairperson of the board of supervisors serves as chairperson of the conference board. [Sec. 441.2]

It should be noted that a city with an assessor of its own has a conference board. Members of the board of supervisors sit on city conference boards and vote as one. [Sec. 441.2]

At a regular meeting of the conference board, each voting unit of the conference board shall appoint one qualified person to serve as a member of an examining board to hold an examination for the positions of assessor or deputy assessor.[2] [Sec. 441.3] The purpose of the examining board is

[1] A person must be a qualified elector of the county in order to be eligible for membership on the conference board. [1968 O.A.G. 74]

[2] Persons appointed to the examining board should not be members of the conference board. [1960 O.A.G. 226]

to provide lists of qualified candidates for the office of county assessor. [Sec. 441.5] The process by which a list of qualified candidates is compiled is described in Section 441.5 of the Code. Within seven days of the occurrence of a vacancy in the office of county assessor, the examining board must request a list of qualified candidates for the office of assessor from the director of revenue. The examining board shall submit the names of qualified individuals as certified by the director of revenue, together with a written report of any further examination, conducted by the examining board at its expense, of individuals appearing on the register, within fifteen days after the receipt of the register from the director of revenue. Upon receipt of this report, the chairperson of the conference board must by written notice call a meeting of the conference board to appoint an assessor. [Sec. 441.6] The appointment is for a term of six years. [Sec. 441.8] Once the decision is made, the chairperson must give written notice to the director of revenue of the appointment within ten days of the decision. [Sec. 441.6]

The assessor appoints his/her own deputies, but the appointments must be made from a list of qualified applicants as provided by the director of revenue. [Sec. 441.10] The number of deputies is determined by the conference board. [Sec. 441.16]

The conference board is empowered to employ appraisers and other technical or expert help to assist in the valuation of property. [Sec. 441.50] The board of supervisors may enter into a contract for such services which extends over a period of more than one year. [1962 O.A.G. 85]

The chairman of the conference board must call a meeting by written notice to all members for the purpose of appointing a board of review for all assessments made by the assessor. The board of review may consist of three or five members. As nearly as possible, the board should include one licensed real estate broker, one registered architect or person experienced in the building and construction field, and one farmer. No more than two members of the board of review may be of the same profession, and not more than one member may be from the same city or township.[3] The terms of the members of the board of review are for six years and are staggered so that in any one year there will be some incumbent members on the board. [Secs. 441.31-.32]

[3] Removal of residence by a member from the township from which he/she was appointed to a township in which another member of the board resides creates no vacancy; the statute applies only to the board as selected. [1958 O.A.G. 73]

In accordance with a ruling of the Iowa attorney general, members of the board of supervisors are not eligible for appointment to the board of review. [1948 O.A.G. 120]

Optional and Other Appointments

A number of appointments are optional with the board of supervisors. A registered land surveyor, holding a certificate under Chapter 114 of the Code, may be appointed as county surveyor. There is no set term of office; he/she holds his/her office at the pleasure of the board. [Secs. 331.321(3); 355.1] The Code makes no provision for the surveyor's compensation other than on a fee basis. In the event the surveyor and the person requesting his/her services cannot reach an agreement on the amount of the fee, the sum is fixed by the board of supervisors. [Sec. 355.15]

The board also may authorize the county treasurer to employ personal property tax collectors, with compensation not to exceed 10 percent of the total amount of delinquent taxes collected. Payment to such collectors may not be made, however, until all taxes that have been collected have been paid over to the county treasurer. [Sec. 445.50]

The county attorney, with the approval of a judge of the district court, may procure assistants necessary to prosecute a person charged with a felony. Upon presentation to the board of a certificate signed by the judge before whom the case was tried, the board is required to allow a reasonable compensation for the services of such assistants. [Sec. 331.757(1)] Also, the district court has inherent power independent of Section 341.7 to appoint an attorney to assist the county attorney in an investigation before the grand jury. [State vs. Olson, 249 Iowa 536 (1957)]

Temporary assistance also is authorized for the county auditor in cases where a deputy has not been appointed. Although apparently the board plays no part in the hiring of such temporary assistants, the board is required to make a reasonable allowance for their services. [Sec. 341.8]

In counties in which there is no agricultural society or in which the society fails to report to the state fair board as required for state aid, the board of supervisors is authorized to appoint a delegate to the convention held at a time and place designated by the Iowa State Fair Board. This convention meets to elect members of the state fair board. [Secs. 331.321(1)(e); 173.2]

Appointments referred to elsewhere in this handbook are:
[331.321(1)....

Board of hospital trustees (r,s) (see page 128)
Board of library trustees (u) (see page 156)

Conservation board (c) (see page 144)
 County board of health (d) (see page 127)
 County care facility administrator (ac) (see page 122)
 General relief director (i) (see page 117)
 Public health nurses (ac) (see page 132)
 Social welfare board (g) (see page 115)
 Commission of veteran affairs (h) (see page 120)
 Tax collectors [Sec. 445.50] (see page 39)
 Zoning adjustment board (t) (see page 150)
 Zoning administrative officer (t) (see page 149)
 Zoning commission (t) (see page 149)
 Weather modification board (v) (see page 143)

Considerations in Approving Appointments and Employment

In making or approving appointments or employment by the county, the board should be aware of the nepotism laws of the state. Under these laws it is unlawful for any person appointed or elected to any public office or position to appoint as his/her deputy, clerk, or helper any person who is related to him/her within the third degree, unless the appointment is first approved by the board or person who approves the bond of the principal officer. [Sec. 71.1] However, the board of supervisors is the authority which approves the bonds of county officers. [Secs. 331.322(1); 64.19], so it is within the board's power to validate most appointments to county positions that would be unlawful otherwise. The nepotism laws are subject to several exceptions: (1) employees receiving \$600 or less per year, (2) public school teachers, and (3) clerks employed by members of the general assembly. [Sec. 71.1; 1934 O.A.G. 382]

In addition, the laws of Iowa make it mandatory for honorably discharged men and women of the armed forces of the United States who served in any war, including the Korean conflict and Viet Nam conflict, to be given preference for public employment, provided their qualifications are the same as other applicants. [Sec. 70.1] However, the Code specifically excludes from this law's requirement all appointments of private secretaries, deputies, and any person holding a strictly confidential relationship with the appointing officer. [Sec. 70.8]

Compensation

County Compensation Board

Compensation for all elected county officers in each county is determined by a compensation board in that county. Each county must create a county compensation board composed of five members who are residents of the county. The members of the compensation board are to be chosen as follows:

- a. One member shall be a mayor or a member of a city

council of an incorporated city located within the county selected by a convention of the representatives of all incorporated cities located within the county.

- b. One member shall be a member of a board of directors of a school district located within the county selected by a convention of members of the boards of directors of all school districts located within the county.
- c. One member shall be an elector of the county representing the general public selected by the members of the board of supervisors.
- d. One member shall be a person representing the general public selected by a convention of members of the boards of directors of all school districts located within the county.
- e. One member shall be a person representing the general public selected by a convention of the mayors of all incorporated cities located within the county. [Sec. 331.905(1)]

Members of the compensation board chosen under Subsections c, d, and e of Section 331.905(1) of the Code shall not be an employee or officer of a state government, or a political subdivision of a state, or related within the third degree of consanguinity to any such governmental employee or officer. [Sec. 331.905(2)]

The board of supervisors shall provide the necessary office facilities and technical and clerical assistance requested by the county compensation board to carry out its duties. [Sec. 331.905(6)]

The county compensation board shall annually review the compensation paid for comparable offices in other counties of the state, other states, private enterprise, and the federal government. The compensation board shall prepare a recommended compensation schedule for the elective county officers. The compensation board shall then publish and hold hearings on the compensation schedule. The recommended compensation schedule must be published in a newspaper that has general circulation throughout the county. Along with a copy of the schedule, the notice must also contain the date (not less than one week nor more than three weeks from the date of notice) and the location of a hearing to be held by the compensation board to discuss the proposed compensation schedule. Upon completion of the public hearing, the compensation board shall prepare a final compensation schedule recommendation. [Sec. 331.907(1)]

Each December, the county compensation board transmits its recommendations to the board of supervisors. The board of supervisors reviews the recommendation and has two options available to it. They are: (1) accept the recommendation as presented; (2) reduce salary increases by an

equal percentage. (In other words, if the compensation board recommended increases for some officials and none for others, the supervisors could apply an equal percentage reduction factor to each salary recommended for increase. The supervisors could, for example, reduce all increases by 100 percent and retain everybody at existing salary levels.) A copy of the final compensation schedule must be included in your county budget when it is submitted to the state. The compensation schedule then takes effect with the advent of the fiscal year (July 1). [Sec. 331.907(2) as amended by S.F. 2159, 71st G.A. (1986)]

The attorney general has found that the board of supervisors may provide some fringe benefits, such as a group insurance plan, for county officers because this is not truly compensation. Therefore, the board may provide such benefits even if not recommended by the county compensation board. [Fortney to Bordwell, Washington County Attorney, 6-16-81, #81-6-7]

County Assessor and Deputies

The county conference board, of which the board of supervisors is a part, has the duty of fixing the salary of the members of the board of review, the salary of the county assessor, and the compensation of his deputies and assistants. [Sec. 441.16]

Deputies and Assistants

Although the county auditor, recorder, and treasurer determine the salaries of their own deputies, within legal limits, the board of supervisors is required to certify the annual salary of each deputy to the county auditor. The board cannot certify a salary in excess of the amount authorized by law. The amounts authorized for first and second deputies and deputy in charge of the motor vehicle registration and title department cannot exceed 80 percent of the amount of the annual salary of the principal officer in charge. Deputies in excess of two are not to be paid more than 75 percent of the amount of the annual salary of the principal officer in charge. [Sec. 331.904(1)] Compensation for all extra help and clerks is fixed by the board of supervisors. [Sec. 331.904(4)]

The annual salary of each assistant county attorney shall be determined by the county attorney but shall not exceed 85 percent of the maximum salary of a full-time county attorney. [Sec. 331.904(3)]

The annual salary of the county attorney constitutes the full compensation for the duties performed in the office of county attorney. [Secs. 331.752(1); 331.755(1)] The board of supervisors may accept grants, state or federal funds which may be used to pay the salary of the county attorney,

and the salaries of the assistant county attorneys. [Sec. 331.301(1)(3)] The county attorney is entitled to receive any actual and necessary expenses incurred in the performance of official duties of the office of county attorney. [Sec. 331.907(3)]

In the event the county attorney or his deputies are unable to conduct necessary business because of absence, sickness, or disability, the court may appoint an attorney to act as county attorney. In proceedings before a judicial magistrate compensation is determined by the board of supervisors. In proceedings before a district associate judge or district judge, reasonable compensation is determined by the judge. The individual acting under the above appointment shall have all the authority and be subject to all the responsibilities conferred upon county attorneys. [Sec. 331.754]

In counties having two courthouses, the principal official of any county office and his/her first deputy or first assistant may enter into a written agreement for the division of their salaries. The payment cannot be greater than the sum of the two salaries. The board of supervisors must certify the agreement to the county auditor. [Sec. 331.907(4)]

When the duties of two or more offices are combined, the principal officer's salary is to be set by the board of supervisors 30 percent greater than the salary for the single office. The salary for deputy county officers continues to be based on that salary which would be drawn by the principal officer if the combination had not taken place. The person filling the combined office must take the oath and give the bond required for each office. [Sec. 331.323(1)]

Deputy Sheriff Compensation

The amount of salary which a deputy sheriff receives is fixed by the board of supervisors, but the base salary of the first or second deputy cannot exceed 85 percent of the base salary of the sheriff of that county.[4]

Any deputy other than the first or second deputy sheriff shall receive an annual salary not to exceed annual base

[4] The county board of supervisors has no authority to receive reimbursement for salaries of deputy sheriffs. [1962 O.A.G. 98 (Op. 2); 1974 O.A.G. 581; 1978 O.A.G. 337] In addition, where under former statutes the sheriff was entitled to an additional allowance for residence that allowance was not considered as salary in computing the salary of deputies. [1966 O.A.G. 109; 1972 O.A.G. 13; 1974 O.A.G. 54]

salary of the first or second deputy sheriff. In any county with a population over 250,000, deputy sheriffs in excess of two may be paid an amount not to exceed 75 percent of the annual salary of the sheriff. The board fixes all compensation for extra help and clerks. The total annual compensation received by a deputy sheriff must be less than the total annual compensation received by the sheriff.[5] [Sec. 331.904(2)]

Civil Service for Deputy Sheriffs

All deputy sheriffs are subject to civil service requirements except the following: (1) a chief deputy sheriff, (2) two second deputy sheriffs in counties of more than 100,000 population, (3) four second deputy sheriffs in counties with a population of more than 200,000. [Sec. 341A.7] Each county must have a civil service commission with three members. One member is appointed by the board of supervisors, one by the presiding district court judge of the county, and one by the county attorney. Each member serves for a term of six years but a member of the commission may be removed by the authority that appointed him/her for good cause. However, a member of the commission cannot be removed until the member has been given notice of the nature of the charges against him/her in writing and a hearing before the board of supervisors is held concerning the charges. [Sec. 341A.2]

The Code of Iowa requires that all appointments and promotions to classified civil service positions as deputy sheriffs must be made solely on merit, efficiency, and fitness. These qualifications are to be ascertained by open competitive examination and impartial investigations conducted by the county civil service commission. [Sec. 341A.8] The civil service commission is granted many duties and powers in connection with administering the tests and certifying the qualified applicants to the sheriff for his/her final selection to fill any vacancy. [Sec. 341A.6]

In the alternative to the creation of a single county civil service commission, two or more counties in the state may establish a combined civil service system to serve all the counties. A combined system may be established by resolution of the board of supervisors in each county involved. The commissioners are to be appointed one each by joint meetings of the boards of supervisors, district court judges, and county attorneys, respectively. [Sec. 341A.3] [See generally Ch. 341A for the full duties and requirements regarding the appointment of deputy sheriffs.]

[5] Total annual compensation includes the annual base salary, overtime pay, longevity pay, shift differential pay, or other forms of supplemental pay and fringe benefits. [Sec. 331.904(2)]

Vacancies, Resignations, Removals

Elective county offices become vacant when any of the events listed on page 5 [Sec. 69.2], and removal of any appointed or elected officer may be obtained on the grounds listed on page 6.[6] [Sec. 66.1] Removal, of course creates a vacancy in office.

In addition to the above procedures, the board of supervisors has specific authorization to remove from office any county officer who refuses or neglects to make any report or give any bond within twenty days after being required by the board to do so. A majority vote of the board is required. The board of supervisors can require any county officer to report on any subject connected with the duties of his/her office or to give such bonds as are necessary to assure the faithful performance of the duties of his office. [Sec. 331.323(2)(c)][7]

When an elective county office other than that of a county supervisor becomes vacant, the board of supervisors has a duty to make a temporary appointment to fill the position until it can be filled by election. [Sec. 69.8(4)]

Combining County Offices

The duties of two or more county officers or employees may be combined. Offices subject to this provision are: sheriff, treasurer, recorder, auditor, medical examiner, general relief director, county care facility administrator, commission on veteran affairs, director of social welfare, assessor, and weed commissioner. [Sec. 331.323(1)]

The board of supervisors, if petitioned by voters equal to at least 25 percent of the votes cast for the county office receiving the greatest number of votes at the last preceding general election, must call an election for the purpose of voting on a proposal (or proposals) for combining the duties of any of these officers or employees. If the

[6] The discussions pertain to vacancies in the board of supervisors and removal of a supervisor from office. The same reasons for vacancy of office and the same rules for removing a supervisor pertain to other elective offices.

[7] The board does not, however, have power to remove employees in offices such as the auditor, the treasurer, the sheriff, the county attorney, etc., except for the above named reasons. [1942 O.A.G. 29; 1970 O.A.G. 327 and also 1950 O.A.G. 111 for principle of the county officer's exclusive power over employees in the performance of their duties.]

petition contains more than one proposal, each proposal must be listed on the ballot as a separate issue. The petition must state the offices and positions to be combined and the office or position that is to be abolished. [Sec. 331.323(1)]

If an appointive position is abolished, the incumbent's term of office terminates one month from the day the proposal is approved. When an elective office is abolished, the incumbent holds office until the completion of the term to which he/she was elected, but if the proposal is approved at a general election at which an abolished office is filled, the person elected to the abolished office does not take office. [Sec. 331.323(1)]

The procedure for separating combined offices is the same as for combining said offices. [Sec. 331.323(1)]

Bonds for County Officers

The bonds of members of the board of supervisors, county attorneys, recorders, auditors, sheriffs, and assessors shall each be in a penal sum of not less than \$10,000 per annum. [Sec. 64.8 as amended by Ch. 186, Sec. 10028, Acts 1983, 70th Iowa General Assembly, 1st Sess., (1983)] The county treasurer's bond is fixed by statute at \$25,000 per annum. [Sec. 64.10] The bond of the county engineer may range from \$2,000 to \$5,000. [Sec. 309.18] The assessor's bond and his/her deputies' bonds are set by the conference board.[8] In cases where no limits are fixed by law, the board of supervisors fixes the amount of the bond. [Sec. 64.7] Subject to these minimum surety bond requirements, the board of supervisors may purchase a blanket surety bond insuring the fidelity of county officers and county employees who are accountable for county funds or property. [Secs. 64.11; 331.301(1), (3)]

Bonds required of deputy officers may be in any amount fixed by the board of supervisors. The giving of the bond by the deputy, however, does not relieve the principal officer from liability for official acts of the deputy. The reasonable costs of bonds required of deputy county officers, clerks, and cashiers are paid by the county. [Sec. 64.15] The bonds of deputy sheriffs may be either bonds or liability policies, according to whichever the sheriff requires, subject, of course, to approval by the board of supervisors. [Sec. 331.903(3)]

[8] Although the conference board sets the bond, the bond is subject to the approval of the board of supervisors. [1960 O.A.G. 226]

The bonds required of county officers must be executed with at least two sureties (and in the case of the county treasurer's bond, at least four sureties). [Sec. 64.16][9] The obligation of the surety includes liability for all money or public property that comes into the hands of the officer. [Sec. 64.3] Upon petition, a surety may be relieved of his/her obligation if, after a hearing [Sec. 331.323(2)(a)], the board of supervisors decides that there is "substantial ground for apprehension." [Secs. 65.4, .7] In this event, the county officer must supply a new bond or the office is declared vacant. [Secs. 65.7-.8]

Within five days after the presentation of bonds to the board of supervisors by the county officers, township clerks, and assessors, the board must approve (by endorsing approval on the bond) or disapprove the bond. [Sec. 64.20] If the board refuses or neglects to approve the bond of a county officer, he/she may present the bond within five days to a judge of the district court for approval. If, upon hearing, the bond is found to be sufficient, the judge's approval has the same effect as that of the board of supervisors. [Sec. 64.22]

Whenever a bond is presented to the board of supervisors after final adjournment of the board's January session, the county auditor may give his/her approval to all bonds except those of the county auditor and county treasurer. The county auditor then must report this approval to the board at its next meeting. Unless the board disapproves, the bonds the auditor has approved will be deemed approved by the board. However, if the board disapproves of the bond, a new bond sufficient for approval must be furnished by the officer within five days. Nevertheless, the disapproved bond will cover all acts done up to the time of substituting an approved bond. [Sec. 64.21]

Those officers whose bonds are approved by the board of supervisors may be required by the board to furnish a new bond as additional security if it is the board's opinion that public security requires it. In such cases, the board must give the officer ten days' notice to show cause why a new bond should not be required. Upon failing to show cause, the officer must furnish a bond within the time prescribed (which the law requires to be no less than a "reasonable" time) by the board. [Sec. 65.2] The result is

[9] Any association or incorporation which does the business of insuring the fidelity of others, and which has authority by law to do business in Iowa, shall be accepted as surety upon bonds required by law. [Sec. 64.17] Under Section 64.11, if such an association provides acts as surety for any of these county officers, the reasonable cost of the bond shall be paid by the county.

that one officer will be covered by two valid bonds. If the officer does not furnish the second bond, his/her office becomes vacant. [Sec. 65.3]

If a judgment has been rendered against any county officer and the sureties to his/her bond, in favor of the county, and if the board is satisfied that the full amount cannot be collected, the board of supervisors may compromise the judgment. [Sec. 331.323(2)(d)]

If any officer refuses or neglects to provide a bond within twenty days after he/she is required to do so, the board of supervisors is authorized to remove him/her from office upon a majority vote of the board. [Sec. 331.323(2)(c)] In addition, action by any officer in an official capacity without giving bond when it is required constitutes grounds for removal from office. [Sec. 64.25]

Reports and Records of County Officers

The board of supervisors may require any county officer to report to it, under oath, on any subject connected with the duties of his/her office. [Sec. 331.323(2)(c)] In addition to this general provision, the various county officers are required by law to make certain reports quarterly and annually to the board and to keep certain records ready for inspection at all times.

All fees and charges collected by the county auditor, recorder, sheriff, and their deputies or clerks must be reported quarterly to the board of supervisors. This mandatory report must give an itemized account of all fees collected during the preceding quarter. County treasurers may make these quarterly reports if they choose, or they may choose instead to provide a monthly report to the auditor and supervisors and credit any fees daily to the county treasury. The county auditor's transfer fees are paid directly by the recorder to the treasurer. [Sec. 331.902(3) as amended by S.F. 2227, 71st G.A. (1986)]

In addition, the Code specifies that unless otherwise provided, all officers required to collect and pay over fines must make a sworn report in writing to the board on the first Monday in July each year. This report must indicate the amount of the fines assessed, the amount of the fees and fines collected, and the vouchers showing payments of these sums to the proper officials. [Sec. 79.7]

In all counties, the sheriff is required to account to the board of supervisors for all fees collected or due for the boarding, lodging, and care of federal prisoners in his/her custody. [Sec. 331.658(3)] (Usually, however, counties of this size enter into a contract with the federal bureau of prisons for maintenance of federal prisoners.)

The county board of supervisors bears the responsibility of enforcing most of the weed control provisions of the Iowa Code, Chapter 317 [Sec. 317.9]; consequently, it is entitled to receive, on or before the first day of November, the weed commissioner's annual mandatory report. [Sec. 317.7]

When county libraries are established under the provisions of Chapter 358B of the Code, the board of trustees is required to make a report to the board of supervisors at the close of each fiscal year. The report covers the general condition of the library and the business it has transacted during the fiscal year. [Sec. 358B.11]

The board of supervisors may authorize a county officer to destroy records in the officer's possession which have been on file for more than ten years and are not required to be kept as permanent records. [Sec. 331.323(2)(e)]

Personnel Policy

The passage of a county-wide personnel policy is not mandatory under the laws of Iowa but it is advisable that each county have such a policy. This is designed to ensure that the hiring, firing, and promotion practices of the county offices are uniform and not arbitrary or capricious. The personnel policy adopted may be very general and need not go through the requirements of each and every county position. The purpose is to protect the county in case it is charged or sued for discriminatory or illegal practices in its employment procedures.

Probably the best way to achieve a personnel policy which all the county officers will respect is to have their participation in the drafting of the policy. The board will have to finalize and adopt the policy but this participation by the officers in the creation of the policy will allow them to better understand the purpose of the policy and what is required of them in their dealings with employees of their respective offices.

Chapter 5

COLLECTIVE BARGAINING

The general assembly has declared that it is the public policy of the state to promote harmonious and cooperative relationships between government and its employees by permitting public employees to organize and bargain collectively; to protect the citizens of the state by assuring effective and orderly operations of government in providing for their health, safety, and welfare; to prohibit and prevent all strikes by public employees; and to protect the rights of public employees to join or refuse to join, and to participate in or refuse to participate in, employee organizations. [Sec. 20.1]

Public Employment Relations Board

For purposes of directing collective bargaining, a board known as the "Public Employment Relations Board" has been established. The board consists of three members appointed by the governor. [Sec. 20.5(1)]

The duties of the Public Employment Relations Board are to administer the provisions of the Public Employment Relations Act, including determination of appropriate bargaining units, the conduct of bargaining representative elections, and adjudication of prohibited practice complaints. The board also collects and disseminates data relating to terms and conditions of public employment; and maintains a list of mediators, fact-finders, and arbitrators, and establishes their rate of compensation. The staff of the board includes an executive director and labor relations examiners, who may act as hearing officers, conduct investigations of prohibited practices, act as election agents, and conduct research projects for the board. The executive director is responsible to the board, and is responsible for administrative matters and general supervision of the board staff. [Secs. 20.6; 660 I.A.C. 1.2(20) regarding Iowa Public Employee Relations Board Rules and Regulations][1]

The Public Employer

The employer of county employees for the purpose of all matters pertaining to the Collective Bargaining agreement is the county board of supervisors. [Sec. 331.324(1)(a)]

[1] For complete examination of PER board procedures see Chapter 660 of the Iowa Administrative Code.

County elected officials are also public employers and they retain the right to hire, fire, and direct the work of their employees within the context of the Collective Bargaining agreement. [1976 O.A.G. 65]

Employer Rights

Under the provisions of collective bargaining the county supervisors should keep in mind that they retain specific employer rights in addition to all powers, duties, and rights established by constitutional provision, statute, ordinance, charter, or special act.

The supervisors retain the exclusive power, duty, and right to:

1. Direct the work of its public employees.
2. Hire, promote, demote, transfer, assign, and retain public employees in position within the public agency.
3. Suspend or discharge public employees for proper cause.
4. Maintain the efficiency of governmental operations.
5. Relieve public employees from duties because of lack of work or for other legitimate reasons.
6. Determine and implement methods, means, assignments, and personnel by which the public employer's operations are to be conducted.
7. Take such actions as may be necessary to carry out the mission of the public employer.
8. Initiate, prepare, certify, and administer its budget.
9. Exercise all powers and duties granted to the public employer by law. [Sec. 20.7]

The attorney general's office points out that the responsibility of county supervisors will vary greatly depending on whether or not the employees of the county elect to be represented by an exclusive bargaining representative. If indeed county employees do elect to be represented by an exclusive bargaining representative, the board of supervisors is advised by the Attorney General's office to employ, whether full or part time, competent assistance. [1976 O.A.G. 65]

The Public Employee

Employee Rights

Upon the receipt by a public employer of a request from an employee organization to bargain on behalf of public employees, the duty to engage in collective bargaining shall arise if the employee organization has been certified by the board as the exclusive bargaining representative for the

public employees in that bargaining unit. [Sec. 20.16] Under the provisions of collective bargaining public employees are granted explicit rights with regards to collective bargaining activities. Employees have the right to:

1. Organize, or form, join, or assist any employee organization.
2. Negotiate collectively through representation of their own choosing.
3. Engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection insofar as any such activity is not prohibited by this chapter or any other law of the state.
4. Refuse to join or participate in the activities of employee organizations, including the payment of any dues, fees, or assessments or service fees of any types. [Sec. 20.8]

Excluded Employees

Certain employees of the county are excluded from the provisions of collective bargaining. These include: elected officials and persons appointed to fill vacancies in elective offices, and members of any board or commission. [Sec. 20.4(1)] Also excluded are representatives of a public employer, including the administrative officer, director, or chief executive officer of a public employer or major division thereof as well as his/her deputy, first assistant, and any supervisory employees. The Code explicitly defines a supervisory employee as any individual having authority in the interest of the public employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other public employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the exercise of authority that is not merely routine or clerical in nature, but requires the use of independent judgment. [Sec. 20.4(2)] Public employees employed for a period of four months or less are also excluded from the provisions of collective bargaining. [Sec. 20.4(5)]

Scope of Negotiations

The Code specifically defines the scope of negotiations that may take place between the board of supervisors and employee organizations for the purposes of collective bargaining. The two parties shall negotiate in good faith with respect to wages, hours, vacations, insurance, holidays, leaves of absence, shift differentials, overtime compensation, supplemental pay, seniority, transfer procedures, job classifications, health and safety matters, evaluation procedures, procedures for staff reduction, in-service training, and other matters mutually agreed upon. The boards of supervisors are specifically authorized to bargain on the

question of overtime under the process of collective bargaining. (PER board #804) Negotiations shall also include terms authorizing dues check-off for members of the employee organization and grievance procedures for resolving any questions arising under the agreement, which shall be embodied in a written agreement and signed by the parties. [Sec. 20.9]

It should be noted by the county supervisors that the obligation to negotiate in good faith does not compel either party to agree to a proposal or make a concession. [Sec. 20.9]

It should also be noted that Chapter 97B of the Code, the Iowa Public Employees' Retirement System, is specifically excluded from the scope of negotiations. [Sec. 20.9]

Prohibited Practices

Employers

The Code is also very specific with regards to prohibited practices. First, it shall be a prohibited practice for any public employer, public employee, or employee organization to willfully refuse to negotiate in good faith with respect to the scope of negotiations as defined in Section 20.9. [Sec. 20.10(1)]

It is specifically prohibited for county supervisors or their designated representative to willfully:

- a. Interfere with, restrain, or coerce public employees in the exercise of rights granted by this chapter.
- b. Dominate or interfere in the administration of any employee organization.
- c. Encourage or discourage membership in any employee organization, committee, or association by discrimination in hiring, tenure, or other terms or conditions of employment.
- d. Discharge or discriminate against a public employee because he/ she has filed an affidavit petition or complaint or given any information or testimony under this chapter, or because he/she has formed, joined, or chosen to be represented by any employee organization.
- e. Refuse to negotiate collectively with representatives of certified employee organizations.
- f. Deny the rights accompanying certification or exclusive recognition.
- g. Refuse to participate in good faith in any agreed upon impasse procedures or those set forth in Chapter 20 of the Code.
- h. Engage in a lock out. [Sec. 20.10(2)]

Employees

The county board of supervisors should be aware of practices prohibited on the part of employees or employee organizations in order to insure a fair and representative bargaining process. Public employees, or an employee organization or any person, union, or organization or their agents are prohibited from willfully:

- a. Interfering, coercing, or harassing any public employee with respect to any of his/her rights or exercise of his/her rights, without limitation, under Section 20.8 of the Code.
- b. Interfering, restraining, coercing, or harassing a public employer with respect to rights granted in Chapter 20 or with respect to selecting a representative for the purposes of negotiating collectively on the adjustment of grievances.
- c. Refusing to bargain collectively with a public employer.
- d. Refusing to participate in good faith in any agreed upon impasse procedures.
- e. Violating strikes prohibited provisions.
- f. Violating boycotts and work slowdown prohibited procedures.
- g. Picketing in a manner which interferes with the right of access to facilities of the public employer.
- h. Engaging in, initiating, sponsoring, or supporting any picketing that is performed in support of a strike, work stoppage, boycott, or slowdown against a public employer.
- i. Picketing for any unlawful purpose. [Sec. 20.10(3)]

Strikes

Strikes are expressly prohibited by statutes as is the toleration of strikes on the part of the public employer. [Sec. 20.12]

Expression of Views

The expression of views, arguments, or opinions, whether in written, printed, graphic, or visual form, does not constitute unfair labor practice if such expression contains no threat of reprisal, force, or promise of benefit. [Sec. 20.10(4)]

Violations

If the board of supervisors feels an employee or employee organization has violated the provision of Section 20.10, a complaint may be filed with the public employment

relations board within ninety days of the alleged violation. The accused is given ten days to file a written answer to the complaint. The board of supervisors should be aware that employees or employee organizations may file complaints against the supervisors as public employers in the same manner for alleged violations on the part of the board of supervisors or their designated representative. [Sec. 20.11(1)]

Upon receipt of a petition or complaint, the public employment relations board may assign an investigator to the case to prepare a preliminary report. In the case of a complaint, the board may determine that the charge is without basis and dismiss the complaint without further proceedings. [Sec. 20.11(1)] Complaints not dismissed and petitions are assigned for a hearing before either a hearing officer or the public employment relations board, unless the procedures for informal settlement described in these rules are followed. The hearing officer of the board will conduct a hearing on the complaint or petition and issue an order. The decisions of hearing officers are appealable to the public employment relations board, and final orders and decisions of the board are appealable to the district court. [Secs. 20.11(2); 660 I.A.C. 1.3(20)]

Impasse Procedures

As the first step in the performance of their duty to bargain, the board of supervisors or their designated representative and the employee organization shall endeavor to agree upon impasse procedures. The parties may opt for mediation, fact-finding, binding arbitration, or a combination of some or all of the above. It is extremely important that the board of supervisors gain agreement on impasse procedures and implement them not later than 120 days prior to the certified budget submission date required of the board of supervisors.

If the two parties involved fail to agree upon impasse procedures, mediation and arbitration procedures shall apply. [Sec. 20.19]

Mediation

Mediation is incorporated when requested by either party in the absence of an impasse agreement or if either party fails to utilize its procedures 120 days prior to the certified budget submission date. The board shall appoint an impartial and disinterested party to act as mediator. The function of the mediator is to bring the parties together to effectuate a settlement of the dispute, but the mediator may not compel the parties to agree. [Sec. 20.20]

Fact-Finder

If the impasse persists ten days after the mediator has been appointed, the board shall appoint a fact-finder representative of the public. The fact-finder shall then conduct a hearing, may administer oaths, and may request the board to issue subpoenas. Not more than fifteen days after appointment, the fact-finder shall make written findings of facts and recommendations for resolution of the dispute and serve such findings on the public employee and the certified employee organization.

If the public employer and the certified employee organization fail to accept the fact-finder's recommendations, the recommendations must be submitted to the governing body and the certified employee organization within five days. If the dispute continues ten days after the report is submitted, the report shall be made public by the board. [Sec. 20.21]

Arbitration

If an impasse persists after the findings of fact and recommendations are made public by the fact-finder, the parties may continue to negotiate or, the board shall have the power, upon request of either party, to arrange for arbitration, which shall be binding. The request for arbitration shall be in writing and a copy of the request shall be served upon the other party. [Sec. 20.22(1)]

The provisions of arbitration are found in Section 20.22 of the Code. The boards of supervisors are advised to familiarize themselves with the procedure should they choose, or be required by other parties, to incorporate binding arbitration into the collective bargaining process.

Public Right to Know

The results of collective bargaining sessions must be made public, protecting the public's right to know the contracted terms agreed upon in the negotiations. Pre-negotiation materials relative to collective bargaining, as well as working papers and studies are not subject to Chapter 68A, and are confidential. [1976 O.A.G. 514]

Federal Funds

If any provision of Chapter 20 jeopardizes the receipt by the state or any of its political subdivisions of any federal grant-in-aid funds or other federal allotment of money, the provisions of Chapter 20 shall insofar as the fund is jeopardized, be deemed to be inoperative. [Sec. 20.27]

Individual's Right to a Closed Meeting

Remember, that if an individual's employment is being discussed at a meeting of the board, the individual may request that the matter be considered at a closed session to prevent any needless and irreparable injury to his/her reputation. [See Sec. 28A.5(1) and 1980 O.A.G. 270]

Chapter 6

SECONDARY ROADS AND BRIDGES

The board of supervisors is charged with the general supervision of the secondary roads and bridges in the county which consists of all public highways outside of cities except primary roads and park and institutional roads.[1] [Secs. 306.3, .4] The magnitude of the responsibilities thus imposed on the supervisors of the 99 counties may be illustrated by the total mileage in the secondary road system--approximately 90,000 miles.

Although the board of supervisors has general supervision of the secondary road system, all construction and maintenance work is performed under the immediate supervision of the county engineer, who bears the responsibility for seeing that the work is performed efficiently and economically. [Sec. 309.21]

The attorney general has ruled that the county engineer is not merely an employee of the board, but is a public official charged with certain defined powers and duties. Since the engineer has special knowledge and training, the legislature has chosen to place upon him/her the responsibility for performing the work. It is within his/her authority to direct the work and to supervise the county employees. In short, the board establishes policy and the engineer executes that policy. [Sec. 309.67; 1948 O.A.G. 150]

Functional Classification

Functional classification is defined as the grouping of roads and streets into systems according to the character of service they will be expected to provide and the assignment of jurisdiction over each class to the governmental unit having primary interest in each type of service. The Secondary Road System is classified into three categories:

Trunk--intracounty and intercounty roads, which serve principal traffic generating areas and connect such areas to other trunk and/or primary roads. These

[1] If the state park road is an extension of a secondary road, and if it enters and exits from the park at different points, the board of supervisors' jurisdiction over the road is concurrent with that of the state department of natural resources. [Sec. 306.4(5)(b)]

roads are normally the federal-aid secondary routes and are limited to 15,000 miles statewide.

Trunk Collector--short distance intracounty and inter-county roads which connect trunk or primary roads to area service roads. They are limited to 20,000 miles statewide and along with the trunk roads constitute the farm-to-market system.

Area Service--consists of all other rural roads not otherwise classified. In 1981, the legislature subdivided this classification into area service system A and area service system B roads. The B classification allows counties to have roads with a lesser level of maintenance as specified by the board of supervisors, after consultation with the county engineer. [Sec. 309.57]

The classification of roads is initially determined by the functional classification board which exists in each county and is composed of three members, the county engineer or a board member, a city official within the county, and a member appointed by the Iowa DOT. [Sec. 306.6]

If a road is reclassified or is presently classified such that a change in jurisdiction is appropriate, an agreement may be entered into between the governmental units involved. The road and structures shall be placed in good repair or a transfer of money sufficient for the repairs shall be provided. [Sec. 306.8] A notice of the proposed transfer must be published and if petitioned by 100 or more residents, a hearing is required. [Sec. 313.2]

Financing

Qualification of County for Aid

The board of supervisors has been given a general grant of power to make arrangements and agreements with federal or state authorities and with other parties for federal or state financial aid for secondary road construction. [Sec. 310.2]

The county may apply for the use of Revitalize Iowa's Sound Economy (RISE) funds for qualifying road projects. The state transportation commission will select projects for full or partial financing according to the guidelines under Administrative Rule 820-(06,Q), Chapter 4. [Sec. 315.1-.10 as per S.F. 565, 71st G.A. (1985)]

Source of Secondary Road Funds

Counties maintain a fund for secondary road expenses: the secondary road fund. It consists of transfers from the general fund not to exceed sixteen and seven-eighths cents per thousand dollars of assessed value per year on all

taxable property in the county, transfers from the rural services fund not to exceed \$3.00 and three-eighths cents per thousand dollars of assessed value per year on all taxable property not located within the corporate limits of a city, funds allotted to the county from the state road use tax fund, funds provided by individuals for improvement of secondary roads, and other funds provided by law. [Sec. 331.429(1)]

Use of the Secondary Road Fund

The secondary road fund may be used for any or all expenses relating to secondary roads as specified by the Code of Iowa. [Sec. 331.429(2)] It is against the law to use these funds for a private owner. If the county does work for another political subdivision, the secondary road fund must be reimbursed for the costs.

Anticipatory Certificates

The county board of supervisors is empowered to issue anticipatory certificates (anticipating secondary road revenues) that are similar to bonds. However, before these certificates can be issued, the board must obtain the advice of the state department of transportation. [Sec. 309.46]

Construction Program

Department of Transportation Advice

Supervisors should be aware that the department of transportation is available for advice regarding the manner of construction and maintenance of secondary roads. [Sec. 309.16]

On or before April 15 of each year the board of supervisors, with the assistance of the county engineer, must prepare and adopt a secondary road construction program which must include a project accomplishment list for the next fiscal year and a project priority list for the next four fiscal years. The secondary road construction program is subject to the approval of the DOT. The lists shall be based upon estimated local secondary and farm-to-market construction funds available for the periods. The project accomplishment list may be revised only due to unforeseen circumstances and any revision must be approved by the DOT. [Sec. 309.22] See page 34 for discussion of secondary road budgets and note the interrelation of the preparation of the budget and accomplishment and priority lists.

After consulting with the county engineer, the board must select roads tentatively to be included in the improvement program, being mindful that the objective should be to provide the best possible system of intracounty and

intercounty connections of all roads in the county, and directs the county engineer to make a reconnaissance survey and estimate of costs. [Secs. 309.25-.26] Also, the board may order the engineer to file a written report with the board designating the order of urgency of construction for those roads included in the plan. [Secs. 309.27-.30]

Before the program can be initiated by the board of supervisors, it must be approved by the department of transportation. [Sec. 309.22] However, the department of transportation need approve only the type and manner of construction; the priority of improvement of secondary roads is within the sound discretion of the board of supervisors. [1958 O.A.G. 139; see also 62 O.A.G. 249] Prior to program approval any proposed paving projects on the accomplishment list will be reviewed against the 50 point requirement under the "Point System Determination for Paving" as agreed to by the combined county engineers and supervisors associations on November 11, 1982. Upon final adoption of the comprehensive road program, it is given to the county auditor for recording in the county road book. [Sec. 309.34]

The county shall provide copies of its annual construction program to the soil conservation district commissioner's office for review. Any recommendations by the soil conservation district commissioner which are rejected must be reported to the state department of transportation. [Sec. 306.50-.54 as per H.F. 514, 71st G.A. (1985)]

Contracting for Construction Work

The board of supervisors, as the contracting authority for the county's road construction program, may require, if it so elects, that each person or company filing a bid shall also file with the board a statement disclosing the bidder's financial standing, the nature and extent of equipment, and experience in performing similar work. Such statements must be filed before the letting in which the bidder expects to bid. Prior to letting the bid, the board may notify the bidder of the limits on the amount and nature of work for which the bidder is deemed qualified to bid. [Sec. 314.1]

If the engineer's estimate exceeds \$40,000, a contract for road or bridge construction shall be advertised and let at a public letting. However, this does not apply to contracts for surfacing materials obtained from local pits and quarries. [Sec. 309.40] Contracts not falling under the provisions of Section 309.40 of the Code shall be either advertised and let at a public letting; or, where the cost does not exceed the engineer's estimate, let through informal bid procedure by contacting at least three qualified bidders prior to letting the contract. The informal bids received together with a statement setting forth the reasons for use of the informal procedure and bid acceptance shall be entered in the minutes. A third alternative open to the

board in such cases is to have the construction project built by regularly employed county road personnel if the project is within their capability as determined by the county engineer. [Sec. 309.41]

Awarding of Contracts

Insofar as possible, each contract awarded should be accompanied by standard specifications and in no case may the contract call for a traveled roadway to be less than 22 feet from shoulder to shoulder. [Sec. 309.39] Also, if according to the engineer's estimate the work will cost a total of more than \$20,000, the department of transportation must review the contract before it can become effective. [Sec. 309.42]

In awarding a contract, the board shall consider the prices bid and the nature and extent of each bidder's equipment, financial responsibility, and experience in performing similar types of work. [Sec. 314.1]

The contract must be in writing and it must be secured by a bond. [Sec. 314.1] Any provision in the contract that seeks to limit the time for suit on the bond to less than five years for bonds covering concrete work or to less than one year for bonds covering other work is invalid. [Sec. 309.58] Also, if any state or county official or employee, whether elected or appointed, is directly or indirectly interested financially in the contract, the contract will be invalidated.[2] [Sec. 314.2] However, state or county officials and employees may sell materials to be used in performing the contract without affecting the contract's validity if no agreement existed prior to the awarding of the contract that the employee or official would sell the materials. [1956 O.A.G. 59]

Purchase and Condemnation of Right-of-Way

If additional land is required in the maintenance, improvement, relocation, or establishment of a secondary road, or if additional land is required to provide drainage of the road or to obtain materials for improving or maintaining a secondary road (including obtaining access to such materials), the board of supervisors may enter into an agreement with the property owner for the purchase of the

[2] A county engineer who is a majority stockholder is prohibited from bidding on contracts for highways in other counties as well as his/her own county. [1970 O.A.G. 479] It should be noted that Section 331.342 which permits certain exceptions to the conflict of interest in contracts does not apply to Section 314.2 or Section 347.15.

land. As an alternative, the board may bring a condemnation proceeding, or it may use a special proceeding as provided in Sections 306.28-.37 for acquiring land. [Sec. 306.19]

The board of supervisors may on their own motion change the course of any part of any road or stream, watercourse, or dry run, and may pond water in order to avoid the construction and maintenance of bridges, or to avoid grades, or railroad crossings, or straighten any road, or to cut off dangerous corners, turns, or intersections on the highway, or to widen any road above statutory width, or for the purpose of preventing the encroachment of a stream, watercourse, or dry run upon such highway. The board of supervisors shall conduct its proceedings to accomplish the above in the form prescribed in Sections 306.28 to 306.37. [Sec. 306.27]

State Monitored Right-of-Way Acquisition Procedures

Procedures

In order to gain federal-aid funds to be utilized in any phase of construction of a project, the supervisors must observe certain procedures during right-of-way acquisition. These procedures are set forth in Title III of the 1970 Uniform Relocation Assistance and Land Acquisition Policies Act, codified as 42 U.S.C.A. Sec. 4651 et. seq. The federal government has directed state highway departments to monitor real property acquisition and relocation assistance activities conducted by political subdivisions, to the extent necessary, to ascertain there is compliance with provision of law and all applicable FHWA requirements. The required federal procedures which must be followed by the county and the department of transportation's interpretation of each as applicable to the county are outlined in the instructional memorandums to county engineers. Although much of the procedure must be carried out by the county engineer, the board of supervisors must work closely with the engineer to insure compliance with federal requirements. In summary, if any county proposes to utilize federal-aid funds in a project, it is required to follow all applicable policies and federal highway administration procedures. To insure compliance, the county should contact the office of local systems prior to beginning any right-of-way activities. Chapter 306 and 316 provide similiar procedures for all projects including those with no federal funds.

It is extremely important that the right-of-way appraisal, negotiation, and/or condemnation procedures be conducted in a very business-like manner and that adequate records are retained indicating the steps that were followed. It would be suggested that these records be retained as part of the right-of-way parcel file until at least three years after the final federal aid payment has been made for

the last phase of the project. In some cases, the county may desire to retain these records as part of their permanent right-of-way parcel file.

Right-of-Way Assurance Statement

The first step in the monitoring of right-of-way acquisition procedures is to receive a signed assurance statement from each county board of supervisors annually indicating that they will follow the provisions of law. This assurance will be retained by the department of transportation and will be required prior to approving project locations and designs.

Forms for Right-of-Way Acquisition

Sample forms are included in Instructional Memorandum 3.31 which can be used in the right-of-way acquisition procedures.

Transfer of Rights-of-Way Between the State and Political Subdivisions

The state department of transportation is required to transfer its legal and equitable title and interest in rights-of-way for roads to the county having jurisdiction over the road. Similarly, the board of supervisors is required to transfer its legal and equitable title and interest in rights-of-way for roads to the state department of transportation where said state agency has jurisdiction over the road. [Sec. 306.42(1)]

All transfers shall be made by quit claim deed. [Sec. 306.42(2)-(3)] All available descriptions, plats, maps, or engineering drawings may be used to facilitate such transfers. [Sec. 306.42(5)]

Transfers shall be subject to the right of a utility, association, company, or corporation to continue in possession of a right-of-way in use at the time of the transfer. Transfers shall also be subject to rights of ingress and egress to land adjacent to the right-of-way. [Sec. 306.42(4)]

Maintenance of County Roads

It is the duty of the board of supervisors to establish policies and provide adequate funding in order to properly maintain the secondary road system. [Sec. 309.67] Since bridges and approaches are considered an integral part of the system, the board is obligated to repair, maintain, and keep in reasonable safe condition all such bridges and approaches. [Larsen v. Pottawattamie County, 173 N.W. 2nd

579 (1970)] The board of supervisors is charged with removing all obstructions in highways under their jurisdiction. [Sec. 319.1] The county engineer, pursuant to Section 309.21 and board policy, shall adopt methods and recommend personnel and equipment necessary to maintain continuously in the best condition practicable, the entire mileage of the secondary road system. [Sec. 309.67]

Farm-to-Market Roads

The farm-to-market road system of a county consists of those main secondary roads as defined in Section 306.3(5). [Sec. 310.10]

In general, the board of supervisors plays a less significant role in farm-to-market road construction than in the construction of other secondary roads. The reason is that the state department of transportation administers the expenditure of funds and the contracting for the construction to a greater degree. [Sec. 310.14] The state department of transportation maintains a farm-to-market road fund, crediting and debiting the fund according to receipts and disbursements, and allotting to each county its share of the fund. [Sec. 310.6] Each quarter the county engineer receives a statement from the state department of transportation showing the transactions pertaining to the county's account and the balance remaining in the county's account at the quarter's end. [Sec. 310.8] The board of supervisors may increase the account's revenue only by passing a resolution making available for improvement or construction of farm-to-market roads any portion of the county's allotment of road use tax funds the board sees fit. [Sec. 310.20]

If funds allotted to a county are not expended within three years following the close of the year in which the funds were allotted, the balance unspent at that time is apportioned among all the counties as if it were an original allocation. The funds are deemed expended if a contract has been let which obligates the payment of the funds upon performance of the contract. Upon request by the county, the department may, at its discretion, temporarily allocate additional monies up to five fiscal years of the county's anticipated farm-to-market road fund. [Sec. 310.27 as amended by S.F. 413, 71st G.A. (1985)]

Planning and Contracting

The board of supervisors of a county that has qualified itself to receive farm-to-market road funds may draft and submit to the department of transportation for its approval proposed projects for the construction, reconstruction, or improvement of farm-to-market roads. [Sec. 310.11] The county engineer makes surveys, plans, and cost estimates of the project, submitting these both to the board of

supervisors for approval and to the department of transportation for authorization for letting. [Sec. 310.13]

The department of transportation handles the letting. It then recommends to the board of supervisors that it award the contract, which the board may agree or decline to do. [Sec. 310.14]

Claims for work performed under the contracts may be approved by the chairperson of the board or a majority of the board's members signing the claim, and all claims are paid from the farm-to-market fund and are charged to the county's allotted share of the fund. [Secs. 310.16, .18]

The county engineer has the duties of supervising, inspecting, and directing the work performed. He/she is, in performing these duties, responsible for the efficient, economic, and good-faith performance of the work. [Sec. 310.19]

Obtaining Right-of-Way

The right-of-way for farm-to-market projects must be acquired by the county in accordance with Chapter 306 and Chapter 316 and FHWA requirements when federal funds are used. [Sec. 310.22]

Maintenance of Farm-to-Market Roads

The board of supervisors must maintain federal aid secondary roads in a manner satisfactory to federal authorities and the state department of transportation. If this is not done, the department of transportation will give notice to the board and sixty days will be allowed to put the road into a proper condition of maintenance. After sixty days, the highway department may withhold authorization for letting of any project using farm-to-market funds until a proper condition of maintenance has been restored. [Sec. 310.29]

Extensions of Secondary Roads in Municipalities

Except in cities that have populations exceeding 2,500 and in which the houses or business places average less than 200 feet apart, the board of supervisors may construct, reconstruct, improve, repair, and maintain any street or road that is an extension of any secondary road subject to the approval of the municipality's council.[4] [Sec. 314.5]

[4] The board is not required to provide such extensions nor to maintain previously placed extensions in any city or town. [1970 O.A.G. 476]

If a farm-to-market road is located along the corporate boundary line of any municipality, it may be included in the farm-to-market road system and subjected to the board's authority over farm-to-market roads. [Sec. 314.6]

Changes in Highways

The board of supervisors, on its own motion, has the power to alter, vacate, or close any secondary road or railroad crossing thereon and to establish new roads within the county if such roads are intended to become part of the county's secondary road system. [Sec. 306.10]

In order to exercise this power, however, it is necessary for the board to conduct a hearing before vacating and closing a road. [Sec. 306.11] Notice of the hearing must be published at least twenty days before the hearing date and must fix the time and place and state the subject of the hearing. [Sec. 306.12-.13] Further, the department of transportation, any state board or commission controlling lands that may be affected, the adjoining property holders and utility companies whose facilities adjoin the right-of-way must be notified by certified mail. [Sec. 306.12] However, if the action proposed is the establishment of a new secondary road, the board may provide a hearing and publish notice of its action but it is not required to do so. [Sec. 306.18]

Those parties served with mailed notice, and any persons interested in the proposed action of the board, have a right to appear, object, and have a hearing with the board. The parties owning land abutting a road that the board proposes to vacate or close may file a written claim for damages with the board no later than the date fixed for hearing. [Sec. 306.14] Upon completion of the hearing, the board must enter either an order dismissing the proceedings or an order to vacate or close the road which must include the damages to be allowed to those claimants. The order is final in all aspects except the issue of damages [Sec. 306.16]; notwithstanding the Iowa Administrative Procedure Act, appeal may be made as to the amount of damages to the district court of the county in which the land is located. [Sec. 306.17]

Secondary Road Assessment Districts

The Code of Iowa provides for a source of revenue for surfacing secondary roads in addition to the general secondary road funds of the county. [Sec. 311.1] If petitioned by 50 percent or more of the owners of land within a proposed district, or by 50 percent of the owners of the land within the proposed district who reside in the county, the board may create a special assessment district. [Sec. 311.6 as amended by S.F. 560, 71st G.A. (1985)] The petition

cannot propose a payment of less than 50 percent of the county's costs [Secs. 311.3], and in no case can the proposed district or the special assessment district actually created extend more than one-half mile on each side of the road to be improved. [Sec. 311.2] It is also possible to include property in a city in such an assessment district if both the board of supervisors and the city council concur. [Sec. 311.5]

The owners of at least 75 percent of the land that abuts a secondary road or is adjacent thereto may request by petition, prior to October 1 of any year, that the road be improved. The petition must state that the owners of abutting or adjacent land will pay a fixed percent of the estimated costs (at least 50 percent). When the petition has been filed, the board of supervisors reviews the proposed project and accepts or rejects it. If the proposed project is accepted, the board of supervisors establishes a priority for the project in the secondary road construction program. [Sec. 311.7]

The petition is originally filed with the county engineer who prepares a report on the proposed district that contains an estimate of the project's cost and an apportionment of the percentage of the cost. [Secs. 311.8-.10]

The board of supervisors then fixes a time for a hearing and directs the county engineer to publish a notice concerning the hearing. [Secs. 311.11-.13]

On the final hearing, the board may reject or approve the proposed district, or it may adopt a modified version of the originally proposed district. Thereafter, no lands can be added to or removed from the special assessment district. [Sec. 311.15]

The board, at the final hearing, also considers the assessments to be made, hears all objections, and orders the assessments increased, diminished, annulled, or adopted as fixed by the engineer's report. The assessments are levied on all realty in the district and collected at the time the semi-annual installment of other taxes is collected in March. [Sec. 311.16] Within 15 days of the levy by the board, any landowner whose lands are within the district may institute an appeal to the district court regarding the board's assessment and if the district court orders an adjustment of the assessment, the board of supervisors must adjust it at once as ordered. [Sec. 311.24]

If immediate cash is needed to finance the project, the board may issue certificates in anticipation of the revenue to be received from the special assessment district. [Secs. 311.28-.29]

Any road established by petition does not preclude the

board from exercising its responsibility over these roads as secondary roads. [Sec. 311.32 as per S.F. 2152, 71st G.A. (1986)]

Bridges and Culverts

Requirements for All Bridges and Culverts

The state department of transportation will furnish, free of cost, standard specifications for bridges and culverts. [Sec. 309.79] The statute requires that all culverts have a clear width of roadway of at least twenty feet and that bridges have at least sixteen feet. [Sec. 309.74] Any contract for the construction or repair of a bridge or culvert which calls for a total expenditure of \$20,000 or more must be reviewed by the state department of transportation before the contract can be effective. [Sec. 309.42]

Intercounty and Interstate Bridges

Where a bridge is required on a county line road, the boards of supervisors of the adjoining counties may agree to locate the bridge wholly within one county in order to obtain a proper site for the bridge or to avoid unnecessary expense in attempting to use a less favorable site on the county line. The boards shall determine jointly the proportionate share of the expense that each county is to bear. [Sec. 309.68] When such action is taken, the board of supervisors may appropriate money for the condemnation of land even though the land lies within the adjoining county. [1923-24 O.A.G. 190]

Toll Bridges (Interstate)

A county that would benefit from an interstate bridge is empowered to enter into agreements with the state for the purpose of investigating the feasibility of any interstate toll bridge across a navigable river. [Sec. 313A.4]

Approval of Contract Work

All claims for construction, reconstruction, improvement, repair, or maintenance of any highway must be itemized on voucher forms prepared for that purpose, sworn to by the claimant, certified by the engineer in charge, and then forwarded to the board of supervisors for final audit and approval. If the work is performed on a farm-to-market road, the board and the department of transportation both must approve the claim before the state comptroller may pay the claimant. [Secs. 314.3-.4]

When at least 95 percent of any contract for the construction of a public improvement has been completed satis-

factorily, and the remaining work cannot proceed for a period of more than sixty days because of conditions beyond the control of the contractor, the board of supervisors may make full payment for the completed work and enter into a supplemental contract with the contractor on the same terms and conditions as far as applicable for the remaining work, provided the contractor's bondsperson consents and agrees that the bond will remain in full force and effect. [Sec. 573.27]

Miscellaneous

Payrolls for Day Labor

If the board of supervisors so elects, it may authorize the county auditor to draw warrants for payrolls for labor furnished under the day labor system of construction. The auditor draws warrants for payrolls certified by the engineer in charge of the work. These warrants are passed on by the board at its next meeting. [Sec. 309.61]

Gravel Beds

The board of supervisors is empowered to purchase or condemn land within the county outside the limits of cities for the purpose of obtaining gravel or other suitable material for the improvement of the county's secondary roads. However, if the board so chooses, it may purchase the gravel or other material from a source outside the county. [Sec. 309.63] If the board of supervisors has given permission, private parties or municipal corporations may take materials from this land if the materials are used to improve any street or highway within the county. However, it is a serious misdemeanor for the board of supervisors to dispose of any of these materials for any purpose other than the improvement of streets or highways within the county. [Sec. 309.66]

Procurement of Gravel for Road Improvement

If the board is seeking suitable surfacing materials or locating a highway, it shall give written notice to any landowner and the occupant of the land; and after 30 days enter upon the land. [Sec. 314.9]

Interstate Highways and Bridges

If the board of supervisors controls a part of a road or bridge that lies on or crosses a state line, it is empowered to negotiate and make agreements with the proper authorities of the bordering state regarding plans for the improvement and maintenance of the road or bridge and permit utility companies use of the bridge for suspension of pipes and lines. [Secs. 314.10-.11]

Intercounty Highways

The boards of supervisors of contiguous counties must act to provide proper connections of secondary roads that cross county lines and provide continuous lines of travel. Likewise, boards must adopt a joint agreement for the maintenance, construction, and location of roads which lie wholly in one county but are located so as to provide the most practical and economical method of intercounty access. [Sec. 309.68]

If the boards fail to perform their duty, either by not acting at all or by failing to agree, the department of transportation may, on its own motion or upon the appeal of one of the boards hold a hearing to determine all matters relating to the board's duty. [Sec. 309.69]

Mains, Walks, and Ways

If the board of supervisors receives written application, the board has discretionary power to grant the applicant permission to lay gas or water mains under the highway, or to construct and maintain cattleways over or under the highway, or to build sidewalks upon or along the highway. [Secs. 320.4-.5; 331.362(8)]

Obstructions Upon the Highways

The board of supervisors is charged with the duty of removing all obstructions from secondary highways, and is empowered to remove billboards and advertising signs from property devoted to secondary road use. [Secs. 319.1,.13] No pole used for telephone, telegraph, or other transmission purposes and no fence may be removed unless the owner is given thirty days written notice. If such fences or poles constitute an immediate and dangerous hazard to persons lawfully using the right-of-way, then thirty days written notice is not necessary. [Secs. 319.2-.3] If the poles or fence are not moved back to a line designated by the county engineer within the time allowed, the board may cause the removal of the poles or fence at the expense of the owners. [Secs. 319.4, .6]

The remedy of a court injunction restraining obstruction of the road is also available to the board of supervisors upon application to a proper court. [Sec. 319.9]

Even though a billboard or a sign is built upon private property, if it obstructs the view of part of the secondary highway or a railroad track and by so doing renders the use of the highway dangerous, the board of supervisors may have the billboard or sign abated as a public nuisance and have the persons responsible for the erection of the nuisance punished as provided in Chapter 657 of the Code. [Sec. 319.10]

Cemeteries

The board should note that a road may not be established through any burying ground without the consent of all interested parties. [Sec. 306.20]

Road Plans, Plats, and Field Notes

All road plans, plats, and field notes for rural subdivisions must be filed with and recorded by the county auditor and approved by the board of supervisors and the county engineer before the subdivision is laid out and platted. If the proposed subdivision is within one mile of the corporate limits of any city or town, the road plans must be approved also by the city engineer or council of that municipality. [Sec. 306.21]

Sale of Unused Right-of-Way

When title to any tract of land has been or may be acquired for the construction or improvement of any highways under the control of the board of supervisors, and when in the judgment of the board of supervisors, the tract will not be used in connection with or for the improvement, maintenance, or use of the highway the board may sell the tract for cash. If the tract of land is held or used in connection with any primary road, or state park or institutional road, the sale shall be subject to approval of the executive council of the state. [Sec. 306.22] The board of supervisors must follow the procedure for disposition of an interest in real property as set forth in Section 331.361(2)-(3). [Sec. 306.23]

The conveyance is made in the name of the county and may contain such provisions as the board of supervisors may prescribe. The chairperson of the board and the county auditor are required to sign the conveyance. [Sec. 306.25]

Rental of Acquired Property Pending Use

If the land acquired for highway improvement is not needed immediately for such improvement, the board of supervisors may rent the land or the buildings for a cash rental consistent with the fair market value of similar property. [Sec. 306.38]

Traffic Control

Speed Limits

Section 321.285 of the Code provides that speed on secondary highways shall be "reasonable and proper," but not to exceed fifty-five miles per hour in the daytime or at night. However, the board of supervisors may declare a lesser speed

to be reasonable and proper on any secondary road within a county. The declaration must be based on engineering and traffic investigations conducted by the state department of transportation at the board's request. [Sec. 321.285(7); 1970 O.A.G. 557] The lower speed limits become effective when appropriate signs that give notice of the speeds are erected by the board. [Secs. 321.285(5), (7)]

Temporary Closing of Roads

The board of supervisors or the county engineer when designated by the board may temporarily close sections of a highway by formal resolution entered upon the minutes. Such closings should be made reasonably necessary because of construction, reconstruction, maintenance, or natural disaster. Further, such closings must be marked with "Road Closed" signs and partial or total barricades in the roadway at each end of the closed highway section. [Sec. 306.41]

Detours

Any numbered road closed for over 48 hours shall have a designated detour route. Unless damages to vehicles using said road are the result of gross negligence of the board, the county will not be liable for any such accidents. [Sec. 306.41]

Signs

The board may designate through highways and erect stop signs or yield signs in accordance with specifications of the department of transportation. [Sec. 321.345] Other signs may be placed upon highways for the purposes of regulating, warning, and guiding traffic. [Sec. 321.255] The cost of such signs is to be paid by the county. [Sec. 321.346] The signing and marking of all highways is to be in accordance with the Manual on Uniform Traffic Control Devices which has been adopted by the state.

Parking

The board of supervisors may adopt, amend, or repeal rules regulating or prohibiting the parking or standing of vehicles within the right-of-way of any road under its jurisdiction. [Sec. 321.239]

Parks and Cemeteries

The board of supervisors may by general rule, ordinance, or regulation exclude vehicles from parks and cemeteries. The general rule ordinance or regulation is not enforceable, however, until such time as a sign is posted which is plainly legible from the middle of the highway indicating the exclusion of vehicles. The board may limit the exclusion to commercial vehicles if the resolution applies

equally to all vehicles used for the same purposes. [Sec. 321.248]

School Zones

Counties are empowered to establish school zones and provide for the stopping of all vehicles approaching the zone when movable stop signs are placed in the roads at the limits of the zone. [Sec. 321.249]

Snow Routes

The board may designate highways or portions of highways as snow routes. Vehicles traveling these routes when conditions of snow or ice exist are required to be equipped with special accessories. However, the provisions are not enforceable until signs giving notice of such local traffic regulations are posted. [Secs. 321.236(12); 321.237]

Rural Residence Districts

The board of supervisors may establish rural residence districts by resolution or ordinance, and regulate the speed and parking of vehicles on the roads in such districts. The proposed district must be contiguous to and include a secondary road; 40 percent of the frontage on the highway for a distance of 300 feet or more must consist of dwellings or dwellings and buildings used for business. Farm houses and buildings are not to be considered. Before establishing such a district, the board must hold a public hearing, notice of which must be published in a newspaper having general circulation in the area of the proposed districts at least twenty days before the date of the hearing. [Secs. 321.1(60A) and 321.236(13), added by 71st G.A., H.F. 710 (1986)]

Oversized and Overweight Permits

The board of supervisors may issue permits to parties operating vehicles of excessive size and weight for travel on roads under the board's jurisdiction. [Sec. 321E.1] Although Section 321E.1 specifically states that the board may exercise discretion in issuing permits, the attorney general has ruled that the board must issue permits except where in their judgment such a move will cause undue hazard to the public safety or undue damage to property. [1968 O.A.G. 774] The board should consult Code Chapter 321E for the limits on size, weight, time, distances, and methods of movement within which the board may issue permits. [Sec. 321E.1] The state department of transportation may issue all system permits unless objected to by the county. [Sec. 321E.2 as amended by S.F. 2296, 71st G.A. (1986)]

Although the rate of fees is set by statute, the board may exercise some discretion. The board may charge, in

addition to the set fee, an amount sufficient to cover the costs of inspection of unusual vehicles or loads, and movements of buildings, or parts of buildings. Charges may be levied for escort services, but these charges may not exceed \$100 per ten-hour day per person and car.[5] [Sec. 321E.14]

After a notice to the permit holder and a hearing before one or more members of the board, permit privileges may be suspended, modified, or revoked in whole or in part for willful failure to comply with any of the provisions relating to excessive size and weight. [Sec. 321E.19] The first violation can result in a suspension, modification, or revocation, but the penalty may not be imposed for longer than 180 days. Subsequent violations within a twelve-month period automatically cause a suspension, modification, or revocation not exceeding two years. [Sec. 321E.20]

Embargoes

The board of supervisors may, by resolution, prohibit the operation of vehicles upon any highway or impose restrictions as to the weight of the vehicles for a period not exceeding ninety days in any one calendar year whenever climatic conditions will contribute to seriously damaging or destroying the highway. [Secs. 321.471-.473] No resolution may be enforced until signs are erected and maintained designating the provisions of the resolution at each end of that portion of any highway so affected. [Sec. 321.472]

Snow and Ice Removal Policy

If a government entity has complied with its own snow and ice removal policy, no percentage of fault will be assigned to that entity in a suit brought under the "comparative fault" statute. [Sec. 668.10]

For optimum protection, a county should adopt an ordinance establishing its policy and level of service regarding snow and ice removal. An ordinance is a law, and thus has the force of law in the same way as any other law, including state law (notwithstanding a conflict, of course). A law will stand up better in the courts than a simple set of policies adopted with little public notice or input and subject to change on whim.

A copy of a proposed model ordinance follows this chapter. (See page 111.)

[5] The board may use its own employees as escorts. If the sheriff refuses to supply escorts, the board is without power to require an escort to be furnished by that office. [1968 O.A.G. 727]

Airports

A county may enter into an agreement to provide for the creation and establishment of a joint airport commission. [Sec. 330.4] The commission shall annually certify the amount of tax to be levied and make payments for the indebtedness arising from the acquisition and construction of airports and their maintenance, operation, and extension. [Sec. 330.21]

A county is permitted to incur indebtedness in establishing airport facilities. General obligation bonds or revenue bonds may be issued to pay the cost of constructing and equipping an airport. [Secs. 331.442, .463]

Model Ordinance

Title: An ordinance establishing the policy and level of service in respect to clearance of snow or ice and maintenance of this county's secondary roads during the winter months.

Be It Enacted by the Board of Supervisors of _____
County, Iowa:

SECTION 1. Purpose. The purpose of this ordinance is to establish this County's policy and level of service in respect to clearance of snow or ice and maintenance of its secondary road system during the winter months, as provided in H.F. 2487, Section 10(2), Acts of the 63rd G.A., Second Session, and pursuant to the provisions of Section 309.67, Code of Iowa. This policy and level of service are to be implemented within the amount of money budgeted for this service, and as contained in this County's secondary road budget as submitted to and approved by the Iowa Department of Transportation and adopted by the Board of Supervisors.

SECTION 2. Level of Service. Clearance of snow or ice and maintenance of the secondary road system during the winter months is primarily for the benefit of the local residents of this County. Each storm has individual characteristics and must be dealt with accordingly. The portion of the roadway improved for travel will have upon it snow and ice in a compacted condition. These conditions may be continuous, or they may be more concentrated on hills, in valleys, curves, and/or intersections. The County's existing snow removal equipment will be utilized for this purpose. All clearance of snow and ice, sanding, salting, and other maintenance respecting winter conditions shall be accomplished within the amount of money budgeted for this service. The entire width of that portion of the road improved for travel may not be cleared of snow, ice, compacted snow and ice, or frost. Snow cleared from that part of the roadway improved for travel shall be placed on or in the adjacent shoulder, ditch, or right-of-way. Snow can be expected to accumulate adjacent to the traveled portion to the extent that a motorist's sight distance to both the left and right may be greatly reduced or impaired. The snow removed from intersections will be piled in its corners in piles of unequal height. The line of sight, sight distance, or visibility of motorists approaching these intersections may be greatly reduced or impaired. The County shall not be responsible for snow pushed or otherwise placed on the roadway or shoulder by others. Motorists shall drive their vehicles during these conditions with additional caution and watchfulness, especially in respect to the surface of the roadway, and reduced or impaired visibility, and are advised

to reduce their speed at least twenty-five miles per hour below that legally permitted or advised under normal conditions. In respect to roadways that have only one lane open, further extreme watchfulness and caution should be exercised by the motorist, and their speed should not exceed ten miles per hour. During these conditions no additional warning or regulatory signs will be placed that warn of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

SECTION 3. Sequence of Service. In the implementation of snow and ice removal and other maintenance of the county's secondary road system during the winter months, the County Engineer shall select the actual sequence of roads to be cleared as provided for in this Section of this Ordinance, and shall determine when drifting, wind velocity, and additional snow or snowstorms require that the snow removal equipment be removed from the roadway, or that additional clearance of paved routes be accomplished prior to the clearance of gravel and dirt roads. The County Engineer's professional judgment shall prevail unless it is clearly erroneous.

A. Paved routes.

- (1) The initial effort will be to get all routes open to one-lane traffic as soon as possible.
- (2) After one-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
- (3) The truck mounted snow plows and spreaders will not normally be in operation between the hours of _____ and _____. The trucks may be called off the road if snow and/or blowing snow reduces visibility to hazardous working conditions, in the professional judgment of the engineer or his/her delegated representative.
- (4) When required, due to drifting snow, motor graders may be used to keep the paved roads open and the opening of gravel roads may be delayed.
- (5) It is not the policy of the county to provide a "dry" pavement condition.
(Optional) You may exclude (6) if you want.
- (6) After roads have been plowed as provided in this section, intersections, hills, and curves may have placed on them, salt, sand, or other abrasive. These intersections, hills, and curves will not be resanded, resalted, or have other abrasives replaced on them between snowstorms. This sequence of service shall be performed only between the hours of _____ and _____ each day, exclusive of Saturdays, Sundays, and legal holidays observed by County employees.

B. Unpaved roads.

- (1) The initial effort will be to get all routes opened to one-lane traffic as soon as possible after a storm has passed.
- (2) After one-lane travel is possible, subsequent snow removal will be carried on during normal working hours.
- (3) Motor graders and/or truck plows will not normally be in operation between the hours of _____ and _____. Gravel roads may not be plowed if the wind is causing continual drifting.
- (4) Snow may not be removed from roads designated at Level B. (In counties not designating roads as Level B, these are dirt roads.)

C. Private drives.

The County will not clear snow from private drives. Normal snow removal operations may result in snow being deposited in private drives. Snow from private drives shall not be placed on the roadway or shoulders.

(Optional - depending on what you want your county's policy to be)

The County shall not replace or repair mailboxes destroyed or damaged during snow removal operations.

There is no time limit after a snowstorm in which any of the above sequence of clearance, on paved or unpaved roads, shall take place.

*SECTION 4. Limitation of Service. The policy and level of service provided for in this Ordinance shall not include the performance of the following services:

- A. Sanding, salting, or placing of other abrasives upon the roadway that are slick, slippery, and dangerous due to the formation of frost.
- B. Sanding, salting, or placing other abrasives upon paved roadways due to freezing precipitation that occurs outside the county's usual working hours.
- C. Placing of additional warning or regulatory signs warning of impaired sight distances, visibility at intersections, road blockages, one-lane conditions, or that the road surface is slick or slippery, or what the advised speed should be.

SECTION 5. Emergency Conditions.

- A. The sequence of service may be suspended during "Emergency" conditions. An "Emergency" condition shall be considered as one where a loss of life is probable, where a serious injury has occurred, or where extensive loss of property is imminent. These conditions should be verified through a physician's or sheriff's office. The County will respond to all "Emergency" conditions, either during or after a snowstorm.

- B. The provisions of the Ordinance shall be further suspended in the event the Governor, by proclamation, implements the State disaster plan, or the Chairman of the Board of Supervisors, by proclamation, implements the County disaster plan. If such occurs, the County personnel and equipment shall be immediately subject to the direction of the Governor or the Chairperson of the Board of Supervisors.

SECTION 6. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. Severability Clause. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. When Effective. This ordinance shall be in effect after its final passage, approval, and publication as provided by law.

*Footnotes:

(ISAC legal counsel has advised the addition of the following subsections to section 4 if you choose to further limit service.)

- D. Sanding, salting, or placing abrasives upon any road, except for paved roads.
- E. Resanding or resalting for freezing and thawing between snowstorms.

Chapter 7

HUMAN SERVICES

Traditionally the local units of government have been responsible for the social welfare of their citizens. While the state government of Iowa has provided hospitals for indigent and mental patients, homes for orphans and dependent children, schools for the blind, deaf, mentally retarded, and epileptics, and old-age assistance, much of the responsibility for the welfare of the people still resides in the local units of government. At the same time, the General Assembly has prescribed many statutory requirements and limitations, and many controls are exercised through state agencies, particularly the state and county offices of the state department of human services.

County Board of Social Welfare

In each county the board of supervisors is required to appoint a county board of social welfare. The social welfare board in counties of less than 33,000 population consists of three members, no more than two of whom may be members of the same political party, and one member must be a woman. In counties with populations greater than 33,000, the social welfare board has a membership of five persons including one woman; no more than three members may be members of the same political party. One or more members of the board of supervisors may be appointed to serve as members of the social welfare board. Appointments are for a term of one year and must be entered on the records of the board of supervisors and filed with the county auditor and the director of the division of social services of the department of human services. [Sec. 234.9; 331.216; 331.321(1)(g)]

The duties of the county board of social welfare are set out in Section 234.11 of the Code. Among the board's duties are to direct emergency relief and allocate funds to child day care facilities, serve as advisor to department of human services programs, and review policies and procedures of local departments of human services.

Members of the board of social welfare are compensated at the rate of \$6 per day for services, but total yearly compensation (excluding actual and necessary expenses incurred in the discharge of duties) for each member may not exceed \$150. [Sec. 234.10] Section 234.10 formerly specifically excluded supervisors, who are also serving as members of the county board of social welfare, from receiving com-

compensation for duties performed for the welfare board on the same day on which they are paid for official duties as supervisors; although, when performing his/her duties solely for the welfare board, a supervisor could be reimbursed for "actual and necessary" expenses incurred at \$6 per diem. Even though no longer an explicit part of Section 234.10, this practice should be observed by supervisors in any dual public capacity. [Sec. 331.321(6)]

Welfare Duties of Supervisors

Existence of the board of social welfare does not exempt the board of supervisors from certain duties and responsibilities in connection with the general function performed by the social welfare board.

Emergency Relief

The state division of child and family services of the department of human services is charged with supervision and administration of any federal emergency relief funds which come into the state. [Sec. 251.2] If the county is granted emergency relief funds from the state division, the county board of social welfare shall administer the funds, if the board of supervisors so requests. [Sec. 251.5(3)] The county board of social welfare is also given responsibility for preparing requests for grants of state funds (at the request of the board of supervisors), administering state and county relief funds, and any other duties which the director of the department of human services or the county board of supervisors may prescribe. [Sec. 251.5(2), (4), (5)]

The board of supervisors is charged with supervising the administration of emergency relief. This supervision includes determining the minimum amount of relief required by such persons and their families and which persons seeking relief are employable. The board of supervisors shall determine whether and under what conditions persons receiving emergency relief may be employed by the county. [Sec. 251.6]

Support of the Poor

Those people who have no property and are unable to earn a living by their own labor because of physical or mental disabilities are classified as "poor persons" by the Iowa Code. However, aid may be given other needy persons also, even though these persons may have some means of support, if the board of supervisors is of the opinion that aid would be conducive to the welfare of these persons and in the best interest of the public. [Sec. 252.1] The Iowa Supreme Court has occasionally found people with some property to still fall within the definition of poor when their property

is unavailable or insufficient to provide support for them. [Jasper County v. Osborn, 59 Iowa 208, 13 N.W. 104; In re Estate of Frentress, 249 Iowa 783, 89 N.W. 2d 367]

In administering relief to the poor of the county, the board must establish a set of general rules to be followed so that the county's general relief practices are consistent and not arbitrary. [Sec. 252.25] ISAC legal counsel recommends that general relief guidelines be provided in an ordinance.

General Relief Director - A general relief director had to be appointed by the board of supervisors not later than July 1, 1980.[1] The director's powers and duties encompass all those granted by Chapter 252 of the Code. The board of supervisors is authorized to determine the director's salary, and to pay it from the general fund. [Sec. 252.26; 331.321(1)(i)]

Application for Relief - Persons eligible for relief under the provisions of Section 252.1 may make application to a member of the board of supervisors, or to the general relief director. The general relief director may afford temporary relief to an applicant as the necessities of the applicant require and subject to the approval of the board of supervisors. [Sec. 252.33] In the event the general relief director does not grant the requested relief, the applicant may appeal to the board of supervisors, which is authorized to direct the general relief director to provide relief or to prescribe the relief to be given. [Sec. 252.37]

Form of Relief - The board of supervisors shall determine the form of relief; for example food, rent, clothing, utilities, medical care, etc. If a county wishes to provide legal aid the legal aid program must be approved by the board. The amount of assistance granted must be in accord with standards established by the board of supervisors. [Sec. 252.27; Collins v. Hoke, 705 F.2d 959 (1983)]

As a condition to the granting of relief, and in payment therefor, the board may require any able-bodied recipient to work on public programs or projects at the prevailing local hourly wage. [Sec. 252.27] The board also is authorized to join with the United States government, or with cities and towns in the county, or with both the federal government and cities and towns in the county, in sponsoring work projects. However, the county may not use money for such projects in

[1] Under the "integrated" plan of county relief, the duties of the general relief director may be exercised by an employee of the county office of the department of human services.

excess of what would be the cost per month of direct relief to those poor people working on the projects. [Sec. 252.42]

Allowance of Claims - Claims for support of the poor, including claims for medical care, after having been allowed and certified by the general relief director, are subject to further examination by the board of supervisors. If the board should find that the claim is for an unreasonable sum or that it is for goods or services other than the necessities of life, it may reduce the claim to an amount it deems reasonable or reject the claim entirely. [Secs. 252.35] However, claims which provide relief in accordance with the county's written relief policy should not be rejected.

Legal Settlement and Paupers from Outside the County - A legal settlement may be acquired in any of the ways designated by Code Section 252.16. Generally, any person continuously residing in any county in the state for a period of one year acquires a settlement in that county. Any person having acquired a settlement in any county of the state shall not acquire a settlement in any other county until such person has continuously resided in that county for one year. [Sec. 252.16(1)-(2) as amended by S.F. 2091, Sec. 1, 70th Iowa General Assembly, 2nd Sess., (1984)] You cannot deny assistance or relief to a person because that person does not have legal settlement in your county. The county of residence must provide assistance or relief to the individual. The county of residence providing relief or assistance can charge the county of legal settlement for any assistance or relief provided.

However, any person who has moved into a county from another state or from another county in Iowa and who is or apparently will become a public charge may be transported back to his/her original residence upon the county's petition and the district or superior court's approval. [Sec. 252.18]

When relief is granted to a poor person who has a settlement in another county, the auditor must notify the auditor of the county of the person's settlement of the fact. That county then must state whether it plans to dispute the claim. If not disputed, the person may be maintained at the request of the auditor or the board of supervisors of the county of his/her settlement at the expense of the county of his/her settlement, without affecting his/her legal settlement. [Sec. 252.22]

If the alleged settlement is disputed, the issue is tried in district court. The county of settlement, when that has been determined, is liable for all reasonable charges and expenses incurred in the relief and care of the poor person. [Secs. 252.23-.24]

Indigent Patients

Legal residents of a county who are pregnant or suffering from some malady or deformity that probably can be treated, improved, or cured, may be hospitalized at public expense if they personally are unable to meet the costs. Any adult may file a petition to this effect with a juvenile court (which is the first step toward securing the needed medical treatment), and it is also the duty of any county supervisor, among others, having knowledge of any person in such a condition to file or cause such a complaint to be filed. [Secs. 255.1-.2]

Complaints regarding indigent patients are investigated by the general relief director or by some other agent selected by the board. The investigation is for the purpose of ascertaining the legal residence of the patient and the ability of the patient or those responsible for that person to pay the cost of care and treatment. A report of the investigation must be filed with the clerk of court at or before the time of hearing. [Sec. 255.6] If the court finds that medical treatment is required at public expense and that the patient cannot be admitted to the state university hospital, a court order must be rendered requiring the board of supervisors to provide treatment, at county expense, either at the patient's home or in a hospital. [Sec. 255.8]

A certain number of indigent patients may be treated at the state university hospital each year without expense to the county. The number which each county may admit is determined by a quota based upon the county's population as determined by the census. If the number of patients admitted from the county exceeds the quota by more than 10 percent, the county must pay the actual cost of care for the excess patients. [Secs. 255.8, .16] The hospital requires that Commitment Form No. 11 and Physician's Report No. 4 must be submitted by the county when seeking admission of an indigent to the state university hospital. [720-6.2(255) I.A.C.]

As part of H.F. 2487 passed during the 1986 legislative session, a program partially decentralizing the provision of state paid obstetrical care was created. The program became effective October 1, 1986. This program allows each county a specified number of obstetrical cases to be provided locally at state expense. Each county's local quota of local state paid cases is determined by a formula set forth in the legislation. Despite the formula the legislation provides that no county receive a local quota of fewer than four cases. Any cases exceeding a county's local quota will be provided at state expense at the university of Iowa hospitals and clinics without charge to the county. There is no limit on the number of cases a county can send to the university for obstetrical care.

The legislation also provides for statewide uniform eligibility standards for all state paid obstetrical care. These standards are promulgated in administrative rules by the department of public health. The legislation requires that the rules provide for eligibility for persons below 150 percent of poverty level, and for persons who are uninsured or underinsured. The legislation also allows for a spend-down eligibility provision that the department of public health has adopted in its rules. The program is to be administered by the county general relief director just as the indigent patients (state papers) program. For further information contact the department of public health or the university of Iowa hospitals and clinics.

Commission of Veteran Affairs

The board of supervisors is required to appoint a three-member commission of veteran affairs to administer the relief functions of Chapter 250 of the Code. [Sec. 331.321(1)(h)] Members of the commission must be citizens of the United States who have been honorably discharged from one of the country's armed forces and who have served in any war including the Korean conflict and the Viet Nam conflict. The membership must be equally divided, as nearly as possible, among veterans of World War I, World War II, the Korean conflict, and the Viet Nam conflict. [Sec. 250.3] Appointments are made at the regular June meeting of the board and are for terms of three years. If any appointee is guilty of neglect of duty or maladministration, the board may remove him/her from office. [Sec. 250.4] Members of the commission receive \$25 per month when engaged in the work of the commission. They also receive the same mileage allowance as that granted to the board of supervisors. The per diem and mileage is paid out of the appropriation by the board of supervisors authorized by Section 250.14. [Secs. 250.5, .14] (See pages 8 and 59.)

This commission, with the board of supervisors' approval, may employ administrative and clerical assistants whose compensation is fixed by the board of supervisors. One of the deputies of the county auditor is appointed by the commission to serve as its administrative assistant, but this appointment also must be approved by the board. [Sec. 250.6] The board does not have any other control over employees of the commission. [1948 O.A.G. 140]

Veteran Affairs Program

The commission prepares and certifies its own budget to the board of supervisors; the board has power to approve the budget or to reduce it for valid reasons which must be entered in the records. The decision of the board of supervisors on this matter is final. [Sec. 250.7]

The board of supervisors reviews all the veteran affairs' claims that have been certified during the past month. [Sec. 250.10] In addition, following every regular meeting of the commission, the board receives a certified list of those persons to whom assistance has been authorized, with the amounts awarded to each recipient. [Sec. 250.9] Just as for general relief, a county's veterans affairs program should be established by ordinance.

Burial Expenses

The commission is responsible to procure decent interment in a suitable cemetery for persons entitled to relief under Chapter 250, their spouses, or minor children who die without leaving sufficient funds to defray funeral expenses. The commission pays these expenses but can spend no more than the amount set by the board of supervisors.[2] [Secs. 250.13-.14]

The county in which the person dies has the duty of paying for the burial and the headstone, but the county of which the deceased was a resident must reimburse the former county. The board of supervisors of any county expending funds for such burial and headstones has a duty to audit the account of those people providing the burial and to pay the account in the same manner as other claims are paid. [Sec. 250.15]

Care and maintenance of the lots in which people are buried pursuant to Chapter 250 is provided by the county board of supervisors' payment to those having control of those cemeteries. However, the care and maintenance rates assessed to the county may not exceed the costs for care and maintenance of similar lots in the same cemetery. [Secs. 250.17-.18]

County Care Facilities

County care facilities may be established by order of the board of supervisors. [Sec. 331.382(1)(g)] The supervisors are authorized to make contracts and to establish a county home, but when the expenditure proposed is in excess of \$15,000, approval by the voters of the county is required. [Sec. 253.1] However, Chapter 345 (discussed in Chapter 4 supra) governing the submission of questions to voters regarding the construction, reconstruction, remodeling, or relocation of county buildings or facilities

[2] The veteran affairs commission is authorized to furnish suitable metal markers to be placed on the graves of deceased veterans. The maximum amount that can be expended for each marker is \$15. [Sec. 250.16]

provides certain exceptions to the requirement of submission of the question to voters which should be reviewed.

The county care facility must receive a license to operate issued by the state of Iowa. To be a licensed health care facility, the institution must meet the requirements enumerated in Chapter 135C of the Code. The care facility may be licensed as either residential or intermediate depending upon whether nursing services will be provided. [Sec. 135C.1] Different licenses may be obtained for separate parts of the facility if they may be operated as distinct parts. [Sec. 135C.6(2)] Health department regulations have also been established to further define how the facilities are to be operated and the physical standards necessary for a licensed institution. [Chs. 56-64, 470 I.A.C. (see below)]

When a county provides care for the mentally ill and mentally retarded in county care facilities, the county must abide by the standards set forth by the state mental health and mental retardation commission. [Sec. 225C.6]

A financial report of the county care facility or farm is required to be published by the board of supervisors in the official county newspapers during July of each year. The report must include: (1) a statement of the receipts and their sources, (2) total expenditures, (3) value of the property as of July 1, and (4) a comparison with the inventory of the preceding year. [Sec. 253.3] Revenue obtained from the labor of persons living in the care facility and the money obtained from the county farm must be appropriated to the use of the county care facility as the board of supervisors may direct. [Sec. 253.5]

Admission and Discharge

No person shall be admitted into a county care facility as a resident, without an order of the board of supervisors, which shall be issued only after a preadmission physical examination by a physician. If the need for admission is immediate and no physician is readily available, the board may order admission pending examination. The examination by a physician must take place within three days after admission if the person is admitted pending the preadmission examination. [Sec. 253.6]

Administrator

An administrator for the county care facility may be appointed by the board of supervisors. This appointee may be governed by rules and regulations established by the supervisors or a county home committee established to administer the county home. The administrator serves at the pleasure of the board, receives compensation as determined by the board, and must give such security for his/her faithful

performance as may be required by the board. [Secs. 331.321(1)(ac); (4)]

The board should specifically describe the duties and responsibilities of the administrator and closely supervise his/her activities because the county may ultimately be liable for any illegal or tortious actions by the administrator.

Visitation and Inspection

Once each month some member of the board must visit the county care facility. The purpose of this visit is to examine carefully the condition of the residents, their food, clothes, general treatment, and the labor they are required to perform, and to inspect the administrator's books and accounts. The visiting supervisor has power to look into any other matters pertaining to the county care facility or its residents and is required to report the findings to the full board. [Sec. 253.8]

Health Department Regulations

The state department of health is required to establish policies and procedures regarding the treatment, care, and rights of residents of county care facilities. The department must adopt the federal resident's bill of rights as part of their rules and must also adopt rules concerning the transfer of residents to other rooms within the facility, the involuntary discharge or transfer of residents from the facility, the required holding of a bed for a resident upon payment of a prescribed charge for the bed, and the process of complaint resolution involving care review committees. [Sec. 135C.14(8); 42 C.F.R. 442.311 contains the federal resident's bill of rights.] The Iowa adoption of these rules may be found in 470 Iowa Administrative Code Chapters 56 through 64.

Joint Care by Two or More Counties

In the interest of efficiency and economy, counties may agree in the manner provided for in Chapter 28E to jointly operate county care facilities. [Secs. 331.301; 331.304(1)]

Privatization of County Care Facilities

Because of federal statutory restrictions, residents of county care facilities (CCF) that have over fifteen beds are not eligible for supplemental security income (SSI) even though they meet all other eligibility requirements. Under Iowa law persons on SSI are also entitled to receive medicaid (Title XIX) and state supplemental assistance (SSA). These federal and state programs help cover costs of services to mentally retarded, developmentally disabled, and chronically mentally ill persons who are the majority of the

CCF's clients. These residents of CCF's would be eligible for SSI if they lived in a private facility greater than fifteen beds instead of in a publicly owned facility greater than fifteen beds like the CCF. Because of these financial factors some counties have recently leased out their CCF's to private parties or corporations in order to save county funds.

Programs for Senior Citizens

The board of supervisors may appropriate money from the general fund for programs that benefit senior citizens. Although the board may determine the type and the scope of the program, some suggested programs include senior citizen centers, mobile meals, and counseling programs.

Juvenile Homes

County boards of supervisors may either singly or in conjunction with one or more counties provide and maintain juvenile detention and juvenile shelter care homes. [Secs. 232.142(1); 331.304(1)]

General county purpose bonds may be issued, consistent with the provisions of Sections 331.441 to 331.449, for the purpose of providing and maintaining a county or multi-county juvenile home. Expenses for providing and maintaining a home will be paid by the county or counties participating in a manner to be determined by the board or boards of supervisors of participating counties. [Sec. 232.142(2)]

The board may request the area education agency to furnish curriculum, teaching staff, books, supplies, and other materials and equipment for the instruction of school-age children detained in the juvenile home. [Sec. 232.142(3)]

Juvenile homes are to be approved annually by the state director of the division of social services of the department of human services. Those county or multi-county homes which are approved by the state are eligible to receive aid from the state. [Sec. 232.142(4)-(6)]

The commissioner of human services may reimburse counties for up to 50 percent of the costs of juvenile homes. However, the legislature has never appropriated more than enough money to reimburse counties for more than one-half of one percent of the costs of juvenile homes. [Sec. 232.142(4)-(6)]

Commitments

Except as otherwise provided, the procedure for the commitment of children to the state training school or the state juvenile home is governed by Chapter 232 on Juvenile Justice.

The county may be charged with several various expenses in the operation of the juvenile justice system within that county. Among these expenses are the following:

1. The fees and mileage of witnesses and the expenses and mileage of officers serving notices and subpoenas.
2. The expenses of transporting a child to a place designated by a child placing agency for the care of a child if the court transfers legal custody to a child placing agency.
3. The expense of transporting a child to or from a place designated by the court.
4. Reasonable compensation for an attorney appointed by the court to serve as counsel or guardian ad litem.
5. The expense of treatment or care when so ordered by the court.

The share of the costs paid by the county is figured by using the base cost of juvenile justice expenses paid by the county in and adjusting it by the consumer price index. The formula is set forth in Section 232.141(4). [Sec. 232.141(1)-(4)]

Public Housing

Counties are authorized to participate in programs to provide low rent housing for low income persons. This includes the power to lease, construct, purchase, or acquire real and personal property. [Secs. 403A.2(1)-(2); 403A.3]

A county may not proceed with a housing project until a study or a report on available housing within the county has been made public. This report must contain recommendations for a housing project, and these recommendations must receive the majority approval of the board of supervisors. [Sec. 403A.5] Furthermore, a public hearing on the proposed project must be held. Notice of the hearing has to be published at least once in a newspaper of general circulation within the county not later than fifteen days prior to the date set for the hearing. At this hearing the public must be informed of the name of the proposed project, its location, the number of living units proposed, and the approximate cost. [Sec. 403A.28]

If a county decides to proceed with the proposed project, the board of supervisors itself may exercise the

duties indicated by Chapter 403A or, at its discretion, may delegate them to a board or commission, or a county officer of the board's choosing. [Sec. 403A.5] These duties include a wide range of activities in planning, administering, and financing the housing projects.

The board of supervisors may borrow money or accept contributions, grants, or other financial assistance from the federal government for the project. [Sec. 403A.4] Bonds may be issued to carry out the purposes of the program, and refunding bonds may be issued for the purposes of paying or retiring bonds previously issued. [Sec. 403A.12]

Although the operation of the housing project must be nonprofitable (and rents must be so set), at least 10 percent of all rents and supplemental rental aid are required to be paid annually as taxes to the office of the county treasurer. However, this provision on taxes does not apply to the use of existing structures which are leased from private owners. [Secs. 403A.6; .27]

Any two or more counties or cities may join or cooperate with one another for the purposes of financing, planning, undertaking, constructing, or operating a housing project. [Sec. 403A.9]

Handicap Access to County Programs, Activities, and Employment

Section 504 of the Federal Rehabilitation Act of 1973 (now encoded as 29 U.S.C.A. Sec. 794) requires that recipients of federal funds provide equal opportunity and access in programs, activities, and employment to mentally and physically handicapped persons. Every county is affected because recipients of General Revenue Sharing Funds are included. This section requires the county to provide equally effective participation, not just equal treatment and opportunity. Therefore, some adjustments and accommodations may be necessary to achieve equal opportunity because mere equal treatment in the federally assisted program or activity may prove discriminatory.

By October 17, 1984, counties should have conducted self-evaluations of their programs and employment policies and practices, completed nonstructural changes, and developed a transition plan. The self-evaluations are to be kept on file, and it will be up to whoever audits the county to report compliance. Information provided by the self-evaluations was to assist counties in developing the transition plan that identifies the structural changes that need to be made. Structural changes are to be completed by October 17, 1986. For more information regarding the county's responsibilities, you may contact the Iowa State Association of Counties in Des Moines.

Chapter 8

HEALTH

The state department of health is responsible for directing public health programs throughout the state as a whole, but many health protection services are carried out at the county level. The board of supervisors has extensive and diversified duties in regard to the establishment and financing of programs, and the appointment of certain personnel.

County Board of Health

The county board of supervisors must appoint a county board of health. [Sec. 331.321(1)(d)] The health board consists of five members, one of whom must be a doctor of medicine and surgery or an osteopathic physician and surgeon. [Secs. 137.3-.4] The members serve without compensation and are not eligible for payment of mileage and other proper expenditures for travel in the performance of their duties although funds may be expended for the purposes of carrying out the duties of the board. [1978 O.A.G. July 16, 1978]

The board of supervisors may appropriate from the county general fund monies for the purpose of providing local health services. [Sec. 331.427(2)(e)]

Involved county boards of health are disbanded upon approval of a district board of health. [Sec. 137.13] District health boards are established upon approval of a request from local boards of health. [Sec. 137.10] Such a district must conform to the district health department plan as established by the state department of health. [Secs. 137.8-.11]

The membership of the district board of health may not exceed eleven members of whom at least one, but not more than three, must qualify as a doctor of medicine and surgery or osteopathic physician and surgeon in Iowa. [Sec. 137.10(1)] The members also serve without compensation but are reimbursed for necessary expenditures in accordance with rules and regulations established by the state board. [Sec. 137.12]

County Public Hospitals

The General Assembly has made provisions for counties to establish public hospitals. These are not in any sense hos-

pitals exclusively for indigent patients, but are authorized in realization of the need to provide adequate facilities for all persons regardless of their economic status. [Sec. 347.16] The board's power to establish a county hospital is subject to the licensing requirements of Chapter 135B. [Sec. 331.382(4)]

The board pursuant to Section 331.361(5)(c) must, upon petition of eligible electors, proceed to establish a county public hospital. This authorization coupled with Section 331.382(1) [Powers relating to Services] and Section 331.301 [General Home Rule Authority] would permit the board to abandon an existing hospital and establish a new one. The petition would require the signatures of 10 percent of the votes cast by eligible electors in the county for the office of president of the United States or governor at the preceding election. [Sec. 331.306]

The board may use general obligation bonds to fund site acquisition, the construction, equipping, and maintenance of a county public hospital (or an addition thereto). The use of general obligation bonds is subject to the levy limits of Section 347.7. [Sec. 331.441(2)(c)(7)] Since these bonds are classified as general county purpose bonds, the board must call for a special election to vote on the question of issuing the bonds. [Secs. 331.441(2)(c); 331.442(1)-(2)][1] The proposition must be approved by 60 percent of the total vote cast in the election and if approved the board may proceed with the issuance of the bonds not to exceed the amount specified in the proposition. [Sec. 331.442(2); (4)]

The form of general obligation bonds is governed by Section 331.446 but must under Section 76.1 be payable within twenty years from the date of issuance. The bond may be designated on its face as to the purpose for which it was issued.

Board of Trustees

The first board of trustees to manage the county hospital must be appointed by the board of supervisors. Not more than four trustees may live in the city or town in which the hospital is located. The provision applies only to original appointments. Filling of vacancies in the membership is performed by the remaining members of the board of trustees; but, if fewer than four trustees remain on the board, the vacancies are filled by the board of supervisors. [Secs. 347.9-.10] A new board of trustees is elected at the next general election after appointment of the original board of trustees. [Sec. 347.9] The nomination of prospective

[1] See Section 331.442(5) for circumstances in which the need for an election may be dispensed with.

trustees is to be made by petition in accordance with Chapters 44 and 45 of the Code. Petition forms are to be furnished by the county auditor and must be signed by qualified electors equal in number to 2 percent of the votes cast for the office of president of the United States or governor at the last general election. [Sec. 45.1] The petition must be filed with the county auditor at least fifty-five days before the general election. [Sec. 44.4]

Additions to County Hospitals

As an alternative to the issuance of general county purpose bonds to fund expansion of county hospitals organized under Chapter 347, the board of supervisors may issue revenue bonds payable solely from the revenues derived from the operation of the hospital. Upon recommendation of the board of hospital trustees, the board of supervisors may adopt a resolution authorizing the issuance of the bonds. Notice of the resolution must be published at least once each week for two consecutive weeks in a newspaper of general circulation. Unless petitioned--by electors equal in number to 20 percent of the total number of votes cast for governor at the last general election--within thirty days of the first publication, the board may issue the bonds. If so petitioned, the board must either repeal the bond resolution or submit the proposition to the voters. Sixty percent of the voters must approve the proposition before the bonds may be issued. Bonds issued under this statutory authority must mature within thirty years from the date of issuance. [Secs. 331.442(2)-(4), .461(1)(d), .462 et seq.]

Municipal Hospitals Becoming County Hospitals

A hospital organized and existing as a city hospital may become a county hospital if approved by the electors of both the city and the county. The proposition of whether a city hospital should become a county hospital must be placed on the election ballot for voter approval when the board of supervisors receives a petition signed by qualified voters of the county equal in number to 5 percent of the votes cast for governor at the last general election requesting it. In determining whether the proposition has carried, the votes of the residents of the city in which the hospital is located must be analyzed twice: once to see if the proposition carried in the city, and once to ascertain if the proposition carried on a county-wide basis. [Secs. 331.381(13); 347.23]

Health Care Facilities

Any health care facility as defined by Chapter 135C may be operated in conjunction with a county hospital. This may be erected and maintained by proceedings authorized in Chapter 347 for hospital buildings and additions. [Sec. 347.26]

County Hospitals Financed from Revenues

In addition to the above method of acquiring a county public hospital, counties having populations of less than 150,000 may establish public hospitals supported solely from revenue obtained from operation of the hospital. Administration and management of such a hospital is vested in a five-member board of hospital trustees. The original hospital board is appointed by the board of supervisors for a term of office to last until the vacancies are filled at the next succeeding election. Not more than two members of the board of trustees may be residents of the same township. The trustees serve without compensation although they may be reimbursed for expenses incurred in the performance of their duties. [Sec. 347A.1]

To establish a hospital of this nature, the board of supervisors must pass a resolution providing for the issuance of negotiable interest-bearing revenue bonds with maturing dates not exceeding thirty years from the date of issuance. [Secs. 331.464(1); 331.461(1)(e)] The bonds may bear interest at rates not exceeding that permitted by Chapter 74A. [Sec. 331.464(3)] Notice of the resolution authorizing such revenue bonds must be published in at least one newspaper of general circulation at least once each week for two consecutive weeks. If, within thirty days of the first publication of the notice, a petition is filed with the county auditor containing signatures equal in number to at least 20 percent of the number of persons voting for governor in the last election, the proposition to issue the bonds is subject to the election requirements for county general purpose bonds. An affirmative vote of 60 percent of those voting is required to carry the proposition. If no petition is filed, the board of supervisors may proceed with establishing the hospital and issuing bonds. [Secs. 331.461(1)(d)-(e)]

The bonds are sold in the manner and upon the terms provided in the resolution of the board of supervisors authorizing the bonds. It should be noted that this same resolution of the board may contain provisions deemed desirable by the board of supervisors regarding the use and application of the bond proceeds, the operation of the hospital, and the custody and use of the hospital's revenues. [Sec. 331.464(2)-(3)]

Each revenue bond should show upon its face that it does not represent an indebtedness of the county and that it is payable solely from the hospital's revenues. [Sec. 331.467(2)]

Enlargement and Improvement

General obligation bonds can be issued to pay for the cost of enlarging and improving hospitals established under

Chapter 347A as an essential county purpose. The principal amount of these bonds must not be more than 2 percent of the assessed value of the taxable property in the county shown by the latest state and county tax lists. If under Section 331.441(2)(b)(8) an election is required to approve the issuance of the bonds, an affirmative vote of 60 percent of those voting is required to carry the proposition. [Sec. 331.442(4)] Notice of the proposed bond issue must be published in at least one newspaper of general circulation at least once each week for two consecutive weeks. If, within twenty days of the first publication of the notice, a petition is filed with the county auditor containing signatures equal in number to at least 20 percent of the number of persons voting in the preceding election for governor, the proposition to issue the bonds must be submitted to the county's electorate. [Secs. 331.441(2)(b)(8)]

If no petition is filed during the twenty-day period or when voter approval is received, the board may proceed with the enlargement and improvement of the hospital and the issuance of the bonds. [Secs. 331.441(2)(b)(8); 331.442(4)] The board may only issue general obligation bonds pursuant to a resolution, adopted at a regular or special meeting, by a majority of the total number of supervisors. [Sec. 331.445] The form of the bonds is governed by Section 331.446. The final maturity date of the bonds is governed by Section 76.1 and may not exceed twenty years from the date of issuance.

Memorial Hospitals

A county may erect a hospital as a memorial building. If a memorial building is erected under the provisions of Code Chapter 37, which is to be used as a hospital, additions and health care facilities may be erected in conjunction with the hospital under the procedure outlined in Chapter 347 dealing with county public hospitals. The commissioners in charge of erection and management of the memorial perform the same functions as the hospital trustees under Chapter 347. [Sec. 37.27]

Community Health Centers

In accordance with the provisions of Code Chapter 346A, boards of supervisors in counties are empowered to operate, control, maintain, and manage health centers. [Chapter 346A]

Community Mental Health Centers

The board of supervisors in a county or in affiliated counties may, with the approval of the state division of

mental health, mental retardation, and developmental disabilities, establish a community mental health center. The method of organizing such a center is outlined in Chapter 230A of the Code. Each of the counties involved may make a single nonrecurring expenditure in an amount determined by the board.[2] The board or boards may continue to support the center financially. [Sec. 230A.1]

Ambulance Service

The board of supervisors is empowered, either through ownership or contract, to provide for ambulance service in the county. [Sec. 331.301] If beneficial, the county may be divided into service areas. Each service area may operate under a different contract. [1968 O.A.G. 342] If any city within the county presently provides ambulance service, the board must coordinate its services with those offered by the city. [Sec. 331.301] The board may, if it chooses, enter into an agreement with a city to jointly provide ambulance service. [1970 O.A.G. 349]

The board may charge fees to help defray the costs of providing the service. However, these fees must be related to the cost of the service and financial ability of the user. [Sec. 331.301] Deficits are paid from the general fund of the county. [1970 O.A.G. 349]

If ambulance service is not otherwise provided, the board of trustees of a county hospital may arrange for ambulance service. [Sec. 347.14(13)]

Miscellaneous Health Duties

Public Health Nurses

Any local board of health, area education agency board, or the school board of any school district may employ public health nurses at periods each year and in numbers as deemed advisable. The council of any city, or the school board of any school district, or any of them acting in cooperation, may contract with any nonprofit nurses' association for public health nursing service. The compensation and expenses shall be paid out of the general fund of the political subdivision employing nurses. The county's share of the costs come from the county's general fund. Duties of the public health nurse must relate, in general, to the promotion and

[2] This provision does not apply to counties which expended funds to establish such a center under the authority of Section 230.20 [Codes 1966, 1970] or Section 230.24 [Code 1973].

conservation of public health; a more detailed definition of their duties is made by the employing authority. [Secs. 143.1-.3; 331.427(2)(e)]

The state department of health is given the power to administer a statewide public health nursing program. The department may grant state funds to local boards of health and boards of supervisors and establish guidelines for local authorities to receive the funding. [Sec. 135.11(17)] The procedures for local boards of health to apply for a share of the funds which the department has to distribute are set out in 470 Iowa Administrative Code, Chapter 79. This chapter also contains the requirements for use of the funds. [470 I.A.C. 79.4] The amount available for allocation and further guidelines concerning the funds may be found in the legislature's annual appropriations bill.

Homemaker-Home Health Aides

The department of health is also given the power to administer a statewide homemaker-home health aide program. Funds may be granted by the department to the local boards of health and boards of supervisors for this purpose. [Sec. 135.11(17)] The department has established requirements for eligibility to receive the funds and various program guidelines. [470 I.A.C. Ch. 80] Each year when the legislature appropriates money to the department for this purpose, it provides further guidelines on how the money may be used and distributed. This act also defines homemaker-home health aide services and chore services. The main purpose of the program is to provide services to the elderly, low-income persons, and those in need of protective services in an attempt to prevent and reduce inappropriate institutionalization of these people.

Hospitalization and Education of the Mentally Retarded

The state of Iowa maintains two hospital-schools for the mentally retarded--one located in Glenwood and one located in Woodward. Each county is placed in one of two districts; all admissions or commitments from a county are to be made to the hospital-school located in the district in which the county is placed. [Sec. 222.6]

Admission procedures to the hospital-schools involves the board of supervisors. Voluntary admission either as an inpatient or outpatient is first addressed to the board of supervisors. After determining the legal settlement of the person seeking admission, the board is required to apply to the superintendent of the hospital-school in the district for admission of such person. The board of supervisors is responsible for making a full investigation into the financial circumstances of the person sought to be voluntarily admitted or those persons responsible for his/her support under Chapter 222.78 to determine whether or not any of them

are able to pay the expenses arising out of voluntary admission to a hospital-school or special treatment center. If the board finds that they are unable to pay the expenses, the expenses are to be paid by the county. [Sec. 222.13] If the hospital-school is unable to receive the patient or has no appropriate program the board must arrange for the care of such individual. The person may be placed in any public or private facility within or without the state which offers appropriate services and is approved by the commissioner of the department of human services. [Secs. 222.13-.14]

All the necessary legal expenses of admission and commitment for treatment, training, instruction, care, habitation, support, and transportation of patients in any facility for the mentally retarded is paid by the county in which the patient has a legal settlement. [Sec. 222.60] The board of supervisors or the court determines the legal settlement of the patient. [Sec. 222.61]

The county may seek reimbursement for expenses incurred from anyone who is legally bound to support the person who was admitted or committed. [Sec. 222.78]

Mentally Retarded "Bill of Rights"

In 1985, the legislature enacted several new sections to Chapter 225C of the Code designated as "the bill of rights of persons with mental retardation, developmental disabilities or chronic mental illness." [Acts 71st G.A. Ch. 249 (1985)] The purposes of these sections are to promote the human dignity and protection of the constitutional and statutory rights of such persons, to encourage the development of the ability and potential of such persons, and to ensure that the recipients of services shall not be deprived of basic rights because of the receipt of services. [Sec. 225C.27]

In a section that becomes effective July 1, 1987, these rights are defined to include, but not limited to, the right to comprehensive evaluation and diagnosis; individual treatment and program plan; individual services; periodic review of treatment and program; participation in formulation of the plan; least-restrictive environment and age-appropriate services; vocational training and employment options; wage protection; insurance protection; and due process. [Sec. 225C.28] Section 9 of the 1985 act provides that these procedures are to become effective "providing that legislation is enacted by the general assembly before July 1, 1987, which provides a fair and equitable funding formula for the implementation" of these procedures.

Mental Health, Mental Retardation, and Developmental Disabilities

Each year every county is entitled to receive a specific share of the general allocation portion of the state community mental health and mental retardation services fund. [Sec. 225C.8] Each county's share is computed by using a formula found in Section 225C.9 of the Code, which takes into consideration the individual counties as separate entities and the distribution of population across the state. To receive money from the state fund, the county must show a history of support for state institutional and community-based services for mentally ill and mentally retarded persons. The county must show past levies and expenditures for mental health and mental retardation services. [Secs. 225C.9-10]

The county must submit an application to the division of mental health, mental retardation, and developmental disabilities of the state department of human services by October 15 of each year to receive funds for the succeeding fiscal year. [Sec. 225C.10(1)(b)] The application may be filed by the county individually or jointly with one or more additional counties. [Sec. 225C.10(2)]

The money from the general allocation is distributed to the counties on a quarterly basis and the counties must in turn submit quarterly financial and county plan status reports to the director. [Sec. 225C.10(3)]

The special allocation portion of the state community mental health and mental retardation services fund is disbursed by the director of the division of mental health, mental retardation, and developmental disabilities as grants-in-aid to counties or combinations of counties to provide new or expanded services. These grants are designed to promote projects that emphasize deinstitutionalization and provide greater services to areas of the state which have no accessible comprehensive mental health or mental retardation services or are seriously underserved. [Sec. 225C.11]

The county and the board of supervisors are also greatly involved in the diagnostic evaluation and admittance of patients to a state mental health institute. For further information on the county's role in mental health care see Chapter 225C.

County Mental Health and Mental Retardation Coordinating Board

Each county board of supervisors, alone or in conjunction with one or more other county boards, must either appoint a county (or joint county) mental health and mental retardation coordinating board or serve themselves as the

coordinating board. If they serve as the coordinating board, the supervisors must appoint an advisory board to advise them on this duty. The coordinating board must perform the following functions:

1. Develop a plan for the provision of mental health and mental retardation services for the county/counties consistent with the state mental health and mental retardation plans.
2. Distribute no more than 60 percent of the county's/counties' share of the general allocation of the state community mental health and mental retardation services funds for either mental health or mental retardation services.
3. Prepare an annual fiscal accounting of the use of state monies appropriated through the state community mental health and mental retardation services fund for use in the respective counties.
4. Nominate potential recipients of grant money made available from or through the director for development of mental health or mental retardation services. [Sec. 225C.18]

Contagious and Infectious Diseases

While the main responsibility for administering Chapter 139 of the Code (Contagious and Infectious Diseases) rests with the local board of health, the supervisors are called upon to approve and pay claims for supplies and services. The board of supervisors, however, is not bound by the bill certified by the local board of health, but is required to allow only claims in those amounts deemed reasonable by the board. Therefore, the board has power to reduce any claim to what it considers a reasonable sum for the supplies or services rendered. [Secs. 139.26-.29] If a person receives support and supplies from a county and it is later discovered that he/she is a legal resident of another county, the board of supervisors of his/her county must reimburse the county which originally paid for his/her support and supplies. [Sec. 139.30]

Support of the Mentally Ill

The county board of supervisors may expend monies from the general fund for the support and care of mentally ill persons. This care may be administered through a state hospital or a community mental health center. If a county does not have such community care facilities available, it may contract with another county for such services. [Sec. 331.301] The costs of state hospital care for the mentally ill are chargeable to the county of legal settlement, and

the county must pay these expenses. [Secs. 230.1; 331.427(2)(1)]

Persons legally liable for the support of a mentally ill person (including spouse or parents of mentally ill persons under eighteen years of age) are responsible for the expense of maintaining and caring for that person in the community mental health center or other facility. The county auditor, subject to the direction of the board of supervisors, is charged with the duty of enforcing the obligation against the persons liable for the patient's support. [Sec. 230.15] However, the board of supervisors, acting in the best interest of the county, may compromise any such claim. [Sec. 230.17] The board, having the duty to collect such claims, must direct the county attorney to proceed with the collection of the claims. [Sec. 230.27]

The basic procedures for the voluntary or involuntary hospitalization of mentally ill persons are provided in Chapter 229. Essentially, proceedings for an involuntary hospitalization may be started by any interested person who files a verified application with the clerk of the district court of the county where the respondent is presently located or of which he/she is a resident. [Sec. 229.6] The application is reviewed by a district court judge who may set a time for hearing on the application after notice to the respondent, [Sec. 229.7] and order an examination, by one or more licensed physicians, of the respondent prior to hearing. A written report on the examination must be submitted to the court. [Secs. 229.8; .10]

If immediate custody is ordered by the judge, prior to notice and hearing, the sheriff may detain the respondent for no more than five days after the date of the order. [Sec. 229.11] Detention may be ordered for the period until hearing and no longer with custody of the respondent to be with relatives or friends, if possible. [Sec. 229.11] If custody by relatives and friends is impossible then in a suitable hospital or finally in a suitable public or private facility. [Sec. 229.11]

A person confined in a state hospital for the mentally ill must be transferred to the county care facility upon the request of the superintendent of the state hospital[3] in which the patient is confined so that the patient can receive proper treatment in the county care facility. The board of supervisors of the patient's home county, however, must approve the transfer before it may be effected. [Sec. 227.11]

[3] The transfer must be in compliance with Section 229.14(4). The chief medical officer must recommend alternative placement and the court must so order the placement be done.

Chemical Substance Abuse

While the state pays 100 percent of the costs of substance abuse treatment at licensed treatment centers, detoxification is not considered to be within the definition of substance abuse treatment. Therefore, the state is not responsible for detoxification costs. Also, the state pays only 75 percent of substance abuse treatment costs at the mental health institutions, thereby obligating the county for 25 percent of those costs. [Ch. 125, as amended by H.F. 244, 71st G.A. (1986)]

Waste Disposal Projects Generally

A county may plan, establish, own, improve, maintain, and finance works and facilities useful for (1) collection, treatment, and disposal of sewage and industrial waste in a sanitary manner [Sec. 331.461]; (2) collection and disposal of solid waste [Sec. 455B.302]; (3) controlling floods and erosion [Chapter 467B]; and (4) water services [Chapters 357 and 357A] in much the same manner as a city may exercise such powers.

In exercising these powers, the board of supervisors shall be considered the governing body acting by resolution.

Solid Waste Disposal Projects

By July of 1975, every county was required, singly or jointly with other units of government, to provide for the establishment and operation of a solid waste disposal project. The facilities for the final disposal of solid waste may be owned and operated by the county, or leases and contracts may be executed with public and private agencies. Any such agreement with a private agency must provide for the posting of a sufficient surety bond by the agency for the faithful performance of the agreement. [Sec. 455B.302]

The solid waste disposal project must comply with the rules and regulations established by the state. Permits are issued to existing disposal projects which comply and to planned projects whose plans comply. [Sec. 455B.305]

In 1986 legislation was enacted to require all operators of sanitary landfills to adopt plans for bringing the facilities into compliance with state standards. A timetable was adopted under which permits will not be issued or renewed unless plans have been approved and steps toward their implementation have been taken. Beginning July 1, 1988, permits will not be issued unless plans have been filed; beginning July 1, 1994, requests for permits or renewals must show that steps are being taken to begin implementing the plan, and beginning July 1, 1997, the applicant must show that alternate plans for methods of dis-

posal other than a sanitary landfill have been implemented. [H.F. 2397, 71st G.A. 1986] State funds are available to assist in the planning and implementation processes.

The board of supervisors is authorized to issue general obligation bonds to finance the acquisition, improvement, or repair of solid waste disposal projects. [Sec. 331.441(2)(b)(4)] The bonds are payable in not more than twenty years and cannot bear an interest rate in excess of that established by Chapter 74A. [Sec. 76.1; 331.446]

Sewage and Waste Disposal Projects Financed by Revenues

Counties are empowered to acquire, construct, maintain, and operate facilities for the disposal of sewage and waste products. These facilities may be located either within or without the boundaries of the county. [Sec. 331.461(1)(b)] Any construction, installation, or modification of a waste disposal project which is or may discharge wastes into the waters of the state requires a written permit from the executive director of the state department of water, air and waste management before the project may be undertaken. [Sec. 455B.183]

The financing of the sanitation facilities may be accomplished through the issuance of revenue bonds. However, before the bonds are issued, the board of supervisors must adopt a resolution pledging the net earnings of the project to the payment of the principal and interest. The bonds may not bear an interest rate exceeding that permitted by Chapter 74A. The net earnings must be set aside in a sinking fund for the repayment of the bonds. [Sec. 331.464]

Every property owner who uses or is served by the facilities is required to pay a fee. Such fees, if not paid, constitute a lien on the property and are collected in the same manner as taxes. These fees must be set by the board of supervisors at a rate sufficient to pay the operating expenses, maintenance, and the principal and interest on the bonds. [Sec. 331.301]

A county may purchase and acquire an interest in any sanitation facilities which are owned by a city or a sanitation district and are to be used jointly. [Sec. 331.461(1)(b)]

Air Pollution Control

The board of supervisors of any county may, singly, or jointly with any other governmental unit, establish an air pollution control program. [Sec. 331.382(9)] However, before the program may become operational, a certificate of acceptance must be obtained from the commission of the department of water, air, and waste management. The jurisdiction of the county may include incorporated areas within

the county until such time as an approved program is adopted by those units. [Sec. 455B.144] If, however, the program set up by the board fails at any time to meet the standards established by the commission, the commission may administer the regulatory provisions of the county program until such time as the deficiencies are corrected. [Sec. 455B.145]

Chapter 9

AGRICULTURE AND CONSERVATION

The board of supervisors performs a variety of duties designed to aid agriculture and conservation. An important function--supervision of drainage activities--is discussed in a separate chapter because of the broadness of the subject. It will be noted that much of the board's duties in relation to agriculture and conservation consists in creating and supervising other agencies designed to perform the actual work.

Aids to Agriculture

County Limestone Quarries

In counties in which there are no privately owned limestone quarries or in which private quarries cannot furnish the needed limestone to farmers in an amount and at the same price and terms as the county would be able to do, the board of supervisors has the power to establish or lease county limestone quarries for agricultural purposes. [Sec. 331.382(1)(d)] Before the acquisition of a county quarry, however, the board must determine, by investigation, that through county ownership lime can be obtained at a lower cost than by any other means. [Sec. 202.1]

Lime which is obtained from a county quarry or which has been purchased by the county may be resold to farmers within the county. To permit this, however, farm owners in the county must petition the county board of supervisors to sell at least 5,000 tons of lime, or if less than that quantity is requested, at least 50 of the county's farm owners must sign the request. [Sec. 202.3]

The board of supervisors may sell the limestone to farmers in the county for cash, or by a special assessment tax levy. If payment is by a special assessment tax levy, the levy may be for no more than five years. [Sec. 202.4]

To finance the provisions of Chapter 202 of the Code, the board of supervisors has the authority to issue anticipatory warrants; the interest rate may not exceed that permitted by Chapter 74A. These anticipatory warrants are not considered a general obligation of the county and are secured only by a special assessment tax levy. [Sec. 202.6]

Weed Eradication

Although the appointment of a county weed commissioner is mandatory, the commissioner serves at the pleasure of the board. The person selected as commissioner may be employed otherwise by the county and should be familiar with the control and elimination of the various types of weeds. After appointment, the commissioner may appoint, with the board's approval, such deputies as are necessary. Compensation for the weed commissioner and the deputies is set by the board of supervisors. [Secs. 317.3; 331.321(1)(1)]

The weed commissioner has supervision of the control and destruction of noxious weeds in the county; [1] however, the ultimate responsibility for enforcement of the noxious weeds provisions of Chapter 317 is vested in the board of supervisors. [Secs. 317.4; .9] Therefore, the board must prescribe a weed control program annually by resolution, fixing dates by which specified noxious weeds must be destroyed by land owners. [Sec. 317.13] The program must be published once in the official newspaper of the county. [Sec. 317.14] A substantial failure to comply with orders to destroy weeds by a certain date can result in a fine of \$10 a day for ten days. After that, the weed commissioner can destroy the weeds and all costs and fines can be assessed against the property owner.

Although the destruction of weeds is a governmental function of the county, the county may be liable for damage to trees, shrubs, and growing crops on private property resulting from the destruction of weeds by use of accepted solutions applied in the form of spray. Because county liability or acts like this is in such a state of flux today, the county board should check with its county attorney about this type of spraying.

A plan for eradicating severe infestations of multiflora roses on agricultural land in the county may be developed by the board of supervisors in conjunction with the county weed commissioner and the county soil conservation district commissioners. The plan must be based on partial reimbursement of landowners' costs for herbicide. Reimbursements must come from state and county funds; however, the state's share cannot exceed one-fourth the costs of each claim.

The county plan and individual claims for reimbursement

[1] This includes noxious weeds growing in cities and towns, along streets and highways, and in abandoned cemeteries. The weed commissioner also has authority to enter upon "any land in the county at any time" for the performance of official duties. [Sec. 317.4]

must be approved by the state secretary of agriculture.
[H.F. 2484, Sec. 502, 71st G.A. (1986)]

Participation in Flood and Erosion Control and Watershed Improvements

A board of supervisors may decide to have its county take part in any flood or soil erosion project, or watershed improvement, within its county in cooperation with other governmental agencies. The board may construct, operate, and maintain the project on lands under its jurisdiction if the project is dedicated to county use. The board of supervisors also is authorized to furnish financial and other assistance in connection with the project or improvement. [Sec. 467B.1] The county may assume such proportion of the cost of the project as deemed appropriate, and may assume the cost of maintenance on lands under its control that is not covered by federal aid or grant. [Sec. 467B.2] In all cases it is assumed that the soil conservation district or the federal government will direct the work and that the county will meet only those obligations necessary to obtain federal aid and will make commitments for the care and maintenance of the project or improvement after its completion. [Sec. 467B.10]

If the structure of levee needed for the project or improvement is built on a county road, the cost, in whole or in part, must be considered as part of the cost of road construction and charged to the road funds of the county. [Sec. 467B.4] Twenty-five percent of the payments from the federal government must be deposited in the secondary road fund. The board determines which roads are principally affected and the amounts to be expended from the federal payments on such roads. [Sec. 467B.13]

If a project or improvement has been completed on private lands under an easement granted to the county, only the cost of maintenance may be assumed by the board of supervisors. Such a project or improvement, built on private lands with federal aid but dedicated to the use of the county, must be maintained the same as county-owned property. [Sec. 467B.7]

Soil Conservation in Mining Areas

Likewise, the board may establish districts for soil conservation and flood control within the county. The board is authorized to require anyone removing surface soil for the purpose of obtaining coal to replace the surface soil as nearly as practicable to its original position. This authority, however, applies only to soil removed after July 7, 1949. [Sec. 467C.2] All districts so established are subject to approval by the commission of any soil conservation district established under Chapter 467A and the state

conservation commission and the department of water, air, and waste management. [Sec. 467C.5]

County and District Fairs

A county or district fair or agricultural society incorporated for the purpose of holding a bona fide exhibition of agricultural products, livestock, and farm implements may be entitled to county financial aid. The county board of supervisors is given power to levy and expend a tax under Section 331.427(2)(f) for fairground purposes such as for buying or improving fairgrounds, for aiding 4-H club work, and for payment of agricultural and livestock premiums in connection with the fair. However, the tax may be levied only on the condition that the society owns in fee, or leases, at least ten acres of land for fair purposes plus buildings and improvements on this land of a value of at least \$8,000. [Secs. 174.1, .13, .14] Moreover, the board must proceed upon a petition [see Section 331.306 for petition requirements] to establish an official county fair and pay tax funds to it. [Sec. 331.303(5)]

Title to land purchased or received for fairground purposes must be taken in the name of the county. The land is, however, to be placed under the control and management of an incorporated county (or district) fair society. [Sec. 174.15]

The society may then act as agent for the county in the erection of buildings or improvements constructed on the grounds. Title to new buildings or improvements must be taken in the name of the county, but the county is not liable for the improvements or expenditures for them. [Sec. 174.15]

The board may acquire or receive land for fairground purposes under its general home rule authority. [Sec. 331.301] However, the disposition of any interest in real property by sale, exchange, gift, or lease of a term of three or more years is governed by Section 331.361(2)-(3).

However, this right of the society to control the real estate may be ended by the board of supervisors whenever well-conducted agricultural fairs are not held annually on the grounds by the fair society. [Sec. 174.16]

Weather Modification Board

When petitioned by at least 100 owners and tenants of agricultural land located in the county, the board of supervisors must establish and appoint a weather modification board. [Sec. 331.321(1)(v)] The board consists of five members appointed for three-year terms; however, two members of the initial board are appointed for two-year terms.

Vacancies on the board are filled by appointment for the remainder of the unexpired term. [Sec. 361.2]

The weather modification board may request the board of supervisors to conduct a referendum authorizing a tax levy not to exceed two cents per acre on all agricultural land in the county for administrative purposes. A majority of all the owners and tenants of agricultural land who vote must approve the tax. [Sec. 361.3(4)]

If petitioned by at least 100 owners and tenants of agricultural land, the question of cancelling the tax must be submitted to the voters. Procedures for notice and conducting the election are similar to those for creating the levy. [Sec. 361.7]

Miscellaneous Agricultural Aids

Appropriations of not more than \$300 in any one year may be made by the county board of supervisors for the growing of experimental crops on county-owned lands. [Sec. 332.3(14)] An annual appropriation not in excess of \$200 also is authorized for the purpose of eradicating bee diseases. This appropriation is used to pay all the expenses except salaries of the state apiarist and his/her assistants for the performance of their work in the county. Obviously, the work of eradicating diseases among bees is done under the supervision of the state apiarist. [Sec. 160.15] A county may also be required to levy a tax for the state brucellosis and tuberculosis eradication fund. The state secretary of agriculture is required to make this levy request, if needed, by January 20.

County Conservation Board

All but one of the 99 counties has a conservation board. The board of supervisors is required to appoint five bona fide residents of the county to serve as the members of the conservation board. [Sec. 331.321(1)(c)] The term of office is five years so that on each succeeding year a new member shall be appointed to the board. The board of supervisors must select the members of the conservation board from residents of the county who have demonstrated interest in conservation matters. The members are not entitled to compensation except that they may be paid for actual and necessary expenses incurred in performance of their official duties. [Sec. 111A.2]

The board of supervisors may remove members of the conservation board for cause, but each removal must be by written order. [Sec. 111A.2]

It is the duty of the board of supervisors to provide a

suitable office for the conservation board's meetings and for safekeeping its records. [Secs. 111A.3; 331.322(4)]

The board of supervisors is entitled to receive an annual report from the county conservation board concerning its transactions and operations for the preceding year. [Sec. 111A.3]

Authority is vested in the board of supervisors to give to the conservation board any county land or building not devoted to another inconsistent use if the conservation board requests the land or building for use as parks, recreation facilities, wildlife refuges, or other similar uses. [Sec. 111A.4(2)] Subject to certain restrictions, land may be taken by eminent domain for the purpose of carrying out plans for the acquisition of land advanced by the county conservation board and approved by the state conservation commission. [Sec. 471.4] Also, the board of supervisors at its discretion, may make available to the conservation board county-owned equipment, county-employed operators, and county-owned materials. The board may also be reimbursed to the credit of the proper fund from county conservation funds for the actual expense of operation, such operators, etc. made available for the use of the county conservation board. [Sec. 111A.7]

Upon request of the board of supervisors, the state executive council may deed lands under its jurisdiction to the county for park purposes. A majority recommendation of the state conservation commission is required for approval of this action. [Sec. 111.32]

There is no cost to the county for this park land, but when it is no longer used for park purposes it reverts to the state and the county is responsible for restoring the land to a condition approximately the same as when it was received. The county must do this within one year after the land has been reverted. The state may require that the county file a notice of intention every three years. [Sec. 111.32]

In order to pay for the expenses incurred by the conservation board in the performance of its duties and the exercise of its powers, the board of supervisors may appropriate money from the county general fund. When the conservation board requests, the board of supervisors must establish a reserve for land acquisition and capital improvements only. Once money is put in this reserve, it can be used only for land acquisition and capital improvements. [Secs. 331.427(2)(d), 111A.6]

Swimming Pools and Golf Courses

Counties are permitted to acquire, construct, maintain,

and operate swimming pools and golf courses. The financing of the facilities may be accomplished through the issuance of revenue bonds. [Sec. 331.461(1)(c)] However, before the bonds are issued, the board of supervisors must adopt a resolution pledging the net earnings of the facilities to the payment of the principal and interest. The bonds may not bear an interest rate not exceeding that permitted by Chapter 74A. [Sec. 331.464]

The board of supervisors is authorized to establish reasonable fees for the use of the swimming and golfing facilities. [Sec. 331.465]

Chapter 10

PLANNING, ZONING, AND PUBLIC SAFETY

Certain responsibilities for zoning of county lands, installation of a police radio broadcasting system, and establishment of fire districts are within the purview of the county board of supervisors.

Joint Planning Commission

A county may cooperate with other governmental bodies in the creation of a joint planning commission. The commission may be designated as a regional or metropolitan planning commission. Once created, the commission is separate and apart from any of the governmental units which created it. [Sec. 473A.1]

Although the commission is an entity, its members are appointed by the governing bodies of the area served. The commission must consist of at least five members; a majority of the members may be citizens who hold no other public office or position. Citizen members are appointed for overlapping terms of not less than three nor more than five years. Salaries of the commissioners, if any are paid, are determined by the participating units of government. [Sec. 473.2]

The board of supervisors may appropriate funds to the commission to pay the county's share of the expenses. Furthermore, the board may furnish staff, services, and property to assist the planning commission. [Sec. 473A.3]

County Zoning

With certain exceptions, the board has zoning powers similar to those granted to cities. [Sec. 331.304(6)]

Scope of the Zoning Power

Any county in Iowa may adopt zoning regulations at the choice of the county board of supervisors. [Sec. 358A.1] However, no zoning regulation may be applied to any area lying within the corporate limits of any city [Sec. 358A.3], nor may such a regulation be applied to any land or building that is used for agricultural purposes as a primary means of obtaining a livelihood. [Sec. 358A.2] Counties, by ordinance, may create agricultural land preservation areas though. No land shall be included in such an area without

the consent of the owner and the minimum size of an agricultural preservation area must be at least 500 acres unless the proposed area is adjacent to land already subject to a similar ordinance. Agricultural land preservation areas may be established in addition to the county's other zoning ordinances. [Secs. 93A.6; 358A.27]

The zoning power vested in the board of supervisors includes the power to regulate and restrict the dimensions of structures, the number of them, the percentage of a lot that may be occupied by a structure, the size of yards and other open spaces, and the density of population in an area. [Sec. 358A.3]

The board may prescribe and charge a reasonable building permit fee. Upon receipt of an application containing all required information that the building will comply with all applicable regulations and upon payment of the required permit fee, the board must issue a permit within a reasonable period of time as set by the zoning ordinance. [Secs. 331.301; 331.302]

Further, the board may regulate the use of land by requiring that certain areas be confined to residential, trade, or industrial uses. [Sec. 358A.3]

Exercise of the Zoning Power

The county may be divided into such districts as the board may deem best suited for effective regulation and within each district different regulations regarding the use of property and structural requirements may be applied, but all regulations within any particular district must be uniform for each kind of building.[1] [Sec. 358A.4]

It is requisite, however, that each regulation be made in accordance with a comprehensive zoning plan adopted by the board of supervisors after a public hearing, as explained below. A comprehensive plan has been defined as a "general regulation or ordinance stating the policy to obtain a uniform result according to the present and potential uses of property within a district considering the individual parcel's relationship to the community as a whole." [1972 O.A.G. 518] The purpose of the regulations must be: (1) to lessen street or highway congestion; (2) to secure protection from fire, flood, panic, and other dangers; (3) to protect health and general welfare; (4) to prevent overcrowding any area; (5) to provide adequate light and air; (6) to facilitate the task of providing adequate

[1] The board may divide a portion of the county into zoning districts without so dividing the entire county. [1968 O.A.G. 254]

transport, education, water, sewage, and similar resources; (7) to avoid undue concentration of population; (8) to promote conservation of energy resources; (9) to promote reasonable access to solar energy; (10) to preserve the availability of agricultural land; (11) to consider the protection of the soil from wind and water erosion; and (12) encourage efficient urban development patterns. [Sec. 358A.5]

Upon deciding to adopt county zoning regulations, the board must appoint a county zoning commission, a majority of whose members must reside within the county, but outside the corporate limits of any city. [Secs. 358A.8; 331.321(1)(t)] The duty of this body is to recommend boundaries and appropriate regulations for the districts. The zoning commission must prepare a preliminary report and hold public hearings before submitting its final report to the board of supervisors. [Sec. 358A.8] Upon receipt of the final report, the board prepares regulations and proposed boundaries for the districts. These regulations cannot become effective until public hearings concerning them have been completed. The hearings may be held only after fifteen days' notice of the time and place of the hearings has been published in a newspaper having general circulation in the county. [Sec. 358A.6][2]

The regulations, restrictions, and boundaries may be amended, modified, or repealed. Apparently the zoning commission must act on any change before the board considers it. However, if a protest against any such change is filed by the owners of 20 percent or more of the area included in the proposed change or of the immediately adjacent area within 500 feet of the boundaries, the change will not be effective unless approved by the vote of at least 60 percent of the members of the board of supervisors. The provisions for notice and public hearings apply to any alteration or repeal of the district boundaries or regulations. [Sec. 358A.7]

The county zoning commission, with the approval of the board of supervisors, may contract with professional consultants, regional planning commission, the Iowa development commission, or the federal government, for local planning assistance. [Sec. 358A.8]

In order to enforce the adopted regulations, the board of supervisors must appoint an administrative officer who may be a public officer in the county, city, or other lesser

[2] The proposed ordinance, change, or amendment must be published, either in full or in sufficient detail to inform objectors they have something about which to object. [1960 O.A.G. 64]

unit of government in the county. The administrative officer's salary is left to the board's discretion. [Sec. 358A.9][3]

The board of supervisors also must appoint a board of adjustment [Sec. 331.321(1)(t)] consisting of five members, a majority of whom shall reside within the county but outside the corporate limits of any city, and whose initial terms shall range from one to five years. Thereafter, as the terms of the initial members expire, a new member shall be appointed each year by the board of supervisors for a five-year term. These members can be removed for cause by the board of supervisors if written charges are filed and a public hearing is held. [Secs. 358A.10-.11] The board of supervisors, at the time the board of adjustment is created, should adopt an ordinance or regulations permitting the board of adjustment, acting at the request of aggrieved property owners, to make special exceptions to regulations in individual hardship cases. The board of adjustment may grant variances and special exceptions (usually for conditional or special uses) to the zoning regulations and may interpret the ordinance. The board is a quasi-judicial body, and its decision is final unless taken to court. [Sec. 358A.10]

If dwellings within the county but outside the corporate limits of any city or town have private water supplies, or pressure systems, or only sanitary house drains, the board of supervisors, by passing regulations, may require that these improvements meet the state department of health's recommended minimum requirements of the state plumbing code. [Sec. 331.301; 331.302(11)]

Building Codes

The board of supervisors may adopt a building code. [Sec. 331.304(3)] However, before such a code is enforceable, the board is required to arrange for a public hearing. Notice of the hearing must be published in a paper of general circulation not less than four days nor more than twenty days prior to the date the hearing is to be held. [Secs. 331.302; 331.305 but cf. Sec. 103A.12]

A building code adopted by the board of supervisors has limited jurisdiction. The code is not applicable to any structures located within the limits of any city. Furthermore, all farm houses and buildings which are primarily adapted for agricultural use are exempt from the provisions of the code. [Sec. 331.304(3)]

[3] The county auditor may not serve as the administrative officer and receive additional compensation for these duties. [1968 O.A.G. 306]

Jails

The board of supervisors is required to provide safe and suitable jails for the county. [Sec. 331.381(17)] However, the development of minimum standards for the regulation of jails and alternative jails is the responsibility of the department of corrections. The department is to consult the Iowa state sheriffs' association and the Iowa board of supervisors association in the development of these standards. [Sec. 536.36] Before these standards are implemented, after their adoption as administrative rules pursuant to Chapter 17A, a needs assessment of individual county must be completed by the Iowa crime commission. [Sec. 356.37] Such standards have been developed by the department and may be found in 260 Iowa Administrative Code, Chapters 50 and 51.

The responsibility for compliance with the state standards lies, ultimately, with the state department of corrections. The department may order boards of supervisors to comply with the standards within a designated period of time, or may even prohibit prisoners from being confined in a substandard jail. If the board of supervisors should fail to comply, the department may schedule a hearing on the violation. Upon written notice to the department, the board is entitled to appear at the hearing and present evidence. If the board should still fail to comply with the decision of the hearing, the state attorney general may institute proceedings to keep the county from housing prisoners in the jail. [Sec. 356.43] The costs of confining prisoners in jails other than the county jail must still be paid by the county. [Sec. 356.43]

The board may adopt rules relating to the labor of prisoners in the county jail in accordance with Sections 356.16 to 356.19, and may establish the cost of board and provide transportation of certain prisoners in accordance with Section 356.30. [Sec. 331.303(7)] The sheriff, however, has authority to formulate rules for conduct and behavior of county jail prisoners. [Sec. 356.44]

Minimum Security Facilities

In lieu of or in addition to providing for a county jail as required by law, the board of supervisors may, by majority vote, establish and maintain a county detention facility. The facility, or services of a facility, may be acquired either by purchase, lease, or contract. If the board contracts with a nonprofit agency for the establishment and maintenance of such a facility, the contract must state the charge per person to be paid by the county as well as a number of other provisions relating to the operation of the facility. A contract may not be entered into for a period exceeding two years. A copy of the contract must be

filed with each judicial officer of the district which includes that county. [Secs. 356A.1-.2]

All rules and regulations for the operation of the facility are established by the board of supervisors, and the board and the agency with which they have contracted with have jurisdiction over such facility and its inmates. The sheriff does not have charge or custody of them. [Sec. 356A.1]

Police Radio System

The state commissioner of public safety is authorized to establish a special radio broadcasting system to assist peace officers of the state in law enforcement. [Sec. 693.1] After he/she has established radio broadcasting facilities in a county, he/she must notify the board of supervisors; it is their duty to install in the sheriff's office a locked-in radio receiving set as prescribed by the commissioner. [Secs. 693.3-.4; 331.322(13)] A similar set also must be installed in at least one motor vehicle used by the sheriff; additional sets also may be installed.

The board of supervisors has the discretionary authority to obtain any additional radio, electronic, and telecommunications systems it deems necessary for the efficient operation of law enforcement agencies. Counties may obtain and operate this equipment jointly with a city, town, or other county if that would be more economical or efficient. [Secs. 331.301, .304(1)]

Disaster Services -- Public Disorders

Chapter 29C creates a comprehensive plan relating to disaster services and public disorders. It specifies the powers and duties of the governor, creates an office of disaster services, and establishes joint county-municipal disaster services and emergency planning administrations.

The county board of supervisors and city councils are required to form a joint county-municipal disaster service and emergency planning administration composed of a member of the county board of supervisors, the mayor or his/her representative from each of the cities in the county, and the sheriff of the county. The joint administration appoints a coordinator who is responsible for the administration and coordination of all disaster services and emergency planning matters throughout the county. Each county and city may appropriate money to establish a joint county-municipal disaster services fund. [Secs. 29C.9(1); 331.381(2)]

By November 15th of each year the joint administration

and the coordinator must prepare a budget for the ensuing fiscal year. [Sec. 29C.9(2)]

Chapter 11

LIBRARIES AND ELECTIONS

The board of supervisors has certain duties to provide library services for residents in the county. It also has some important pre-election and post-election responsibilities.

Libraries

Library services can be provided by the county by contract with a city library, or a library district can be formed. A member of a board of supervisors also needs to be aware of the functions of the regional library system and the board's responsibility for a law library in the court house.

Contract for Library Services

Several methods of providing library service in counties have been authorized by the General Assembly. [Sec. 331.381(15)] First, the board of supervisors, of its own volition, may enter into a contract with a city maintaining a library to provide for the library's use by residents of the county who reside outside cities. [Sec. 358B.18(1)] Alternatively, the question of providing library services to rural residents must be submitted to the voters who reside outside cities if a petition is presented to the board requesting such an election. The petition must contain the signatures of 25 percent of total vote cast by those qualified electors who reside outside cities, for the president of the United States or governor at the last general election. In addition the petition must be filed with the board at least forty days prior to the date of the election, whether primary or general, at which the question is to be submitted to the voters. If not submitted at least forty days prior to the election, the board is not mandated to submit library proposition to the voters at the next election, whether primary or general. If approved by a majority of those voting on the proposition, the board is required to appoint a board of library trustees, from the residents of the petitioning area, who will contract with libraries to provide the required services. [Sec. 331.321(1)(u)] Vacancies on the board of trustees are filled in the same manner as the original appointments. [Sec. 358B.18(5)(a)-(d)]

The financial obligations of the contract, whether entered into by the board of supervisors or the board of

library trustees, are paid from the county rural services fund. [Secs. 331.428; 358B.10]

Contracts may be terminated by mutual consent of the contracting parties. Contracts may also be terminated by a majority of the voters represented by either of the contracting parties. If petitioned in writing by at least 5 percent of the qualified voters who voted in the area for president or governor at the last general election, the proposition to terminate the contract must be submitted to the area residents. [Sec. 358B.18(2)(a)] The termination proposition may be submitted to the voters of the area seeking to terminate the contract at any election which covers this area. However, the petition calling for the termination election must be submitted to the board at least 40 days prior to the election date. [Sec. 358B.18(2)(b)]

County Library District

A third alternative for the provision of library services is the establishment of a county library district. Such a district may be composed of one county or two or more adjacent counties and may include any city partly within one of the counties. [Sec. 358B.2]

The board(s) of supervisors must submit the county library district proposition to the qualified electors within the county at any primary or general election upon receiving a petition from voters of the proposed library district.[1] The petition must: (1) designate the areas to be included in the library district; (2) be signed by eligible electors residing within the proposed library district; (3) contain signatures equal in number to at least 5 percent of those voting for president of the United States or governor, within the proposed district, at the last general election; and (4) be presented to the board at least forty days prior to any primary or general election to insure placement of the proposition on the ballot at such election.

If a majority of the voters, residing outside cities which maintain their own free libraries, approve the proposition, a library district is established. The votes cast by residents of each city operating its own free public library are counted separately. Only those cities approving by majority the proposition are included in the county library district. Thus, the boundaries of the established

[1] If the proposed district is currently receiving services under a contract with a city library, the petition must be signed by the governing body of the area served in addition to the prescribed number of resident signatures. [Sec. 358B.14]

district may not include all of the proposed territory. Once a district has been established, other areas may be incorporated by mutual agreement of the board of trustees and the governing bodies of the areas seeking admission.

Upon approval of the proposition, the board of supervisors must appoint a nine-, seven-, or five-member board of library trustees. Each member must be a qualified voter in the library district, and the membership should be apportioned among rural and urban areas of the district according to the population of these areas. [Sec. 358B.4] Initial appointments are made at the same time for varying terms so that every two years thereafter approximately one-third of the board is replaced by subsequent appointments for six-year terms. [Sec. 358B.5] The trustees serve without compensation. [Sec. 358B.7]

The county, the same as participating cities, is required to contribute to the maintenance of the county library an amount equal to the same proportion as the number of rural people is to the population of the whole county library district. Each year, the board of library trustees must estimate how much it will cost to maintain the county library and the amount that should be contributed by each participating unit in the library. A public hearing must be held on the estimate, following which each participating unit will receive a copy of the estimate and will be expected to make appropriations necessary to cover its share of the library expenses. The county's appropriations shall come from the county rural services fund. [Secs. 331.428; 358B.13]

Libraries - Trustees' Report

The library trustees are required to make a report to the board of supervisors at the close of each fiscal year. The report must contain statements of the condition of the library, the number of books added, the number circulated, the number not returned or lost, the amount of fines collected, and the amount of money expended in the maintenance of said library. [Sec. 358B.11]

Libraries - Regional Library System

A regional library system has been created in Iowa for the purpose of providing supportive library services to existing public libraries and to individuals with no other access to public library service and to encourage local financial support of public library service in those localities where it is inadequate or nonexistent. [Sec. 303B.1]

For purposes of financing regional library systems it appears that a uniform tax is to be levied in all cities and unincorporated areas within the state. Thus it will be the duty of the county board of supervisors to levy a tax to

insure that unincorporated areas contribute to the support of regional library systems.

A regional board shall have the authority to require as a condition for receiving services under Section 303B.6 that a governmental subdivision maintain any tax levy for library maintenance purposes that is in effect on July 1, 1973. Commencing July 1, 1977, each city within its corporate boundaries and each county within the unincorporated area of the county shall levy a tax of at least six and three-fourths cents per thousand dollars of assessed value on the taxable property or at least the monetary equivalent of six and three-fourths cents per thousand dollars of assessed value when all or a portion of the funds are obtained from a source other than taxation, for the purpose of providing financial support to the public library services within the respective jurisdictions. [Sec. 303B.9]

Libraries - County Law Library

If the board of supervisors deems it advisable, it may provide a suitable law library in the county courthouse for the use of the judges, county attorney, county officers and their deputies, and practicing attorneys. The library once established is to be supervised and controlled by the district court judge. [Secs. 331.301; 331.382(7)]

Elections

The board of supervisors has little to do with the actual conduct of elections, but does have important duties relating to canvassing election returns, determining precinct boundaries, and setting up election boards.

Primary Election Canvass

On the Monday following a primary election, the board of supervisors must meet and canvass the returns from each voting precinct of the county.[2] The results of the canvass must be compiled into abstracts showing the number of ballots cast by each political party for each office, the name of each person receiving votes, and the number of votes cast for each candidate for each office in each precinct. It should be noted that in the abstract, all numbers must be written out in words. [Sec. 43.49] Each member of the board must sign the abstracts and certify to their correctness; the abstracts are filed with the commissioner of elections. [Sec. 43.50] For all candidates for elective offices (or

[2] A quorum of the members of the county board of supervisors is all that is necessary to canvass election returns for a primary election. [1970 O.A.G. 481]

offices of a subdivision of the county) these abstracts are the final determination of the candidates for office in the general election. [Sec. 43.51] A certified list of the candidates nominated by each party is to be prepared and the party central committee is entitled to a certified list showing the candidates nominated by its own party as well as a list of those offices for which the party has no nominee. In addition, the names of the candidates for each office must be listed with the number of votes received by each candidate for each office. [Sec. 43.55]

If by one o'clock p.m. of the Friday following the board's canvass any candidate whose name appears on the official ballot in a precinct of the county has made a sworn written statement claiming fraud or error in counting or returning the votes cast in any precinct, the board, if satisfied that reasonable grounds exist for believing a different result would be obtained by a recount, may count the ballots cast in the precincts in question. [Secs. 43.56; .57] If the recount produces a result different from that returned by the election judges, the result of the recount shall be substituted for the original count and the recount becomes the final result with no opportunity for further contest provided. [Sec. 43.58]

A separate abstract of the canvass must be prepared for the following offices: United States senator, congressional representatives, all state offices, and senators and representatives in the Iowa General Assembly. These abstracts must be certified by the board and forwarded to the Iowa state commissioner of elections. [Sec. 43.60]

Upon completion of the canvass, the original returns are delivered to the county commissioner of elections. [Sec. 43.61] The proceedings of the board in conducting the canvass are published showing the names of the nominees, the office for which each is a candidate, and the offices for which no nomination was made by one or more of the political parties participating in the primary. [Sec. 43.62]

General Election Canvass

The board of supervisors, at nine o'clock on the Monday following the general election, must canvass the vote and prepare abstracts showing the number of ballots cast for each office, the name of each person receiving votes, and the number of votes cast for each candidate for each office.[3] [Sec. 50.24] Each abstract of the vote for such

[3] If this Monday is a holiday, Section 4.1(22) controls the date of the canvass. [Sec. 50.24] Under the provisions of Section 4.1(22), if the Monday following the general election is a holiday, the time to begin the canvass may be extended to include the next day.

officers who are elected solely by the county's voters (except: (1) district judges, (2) senators and representatives in the general assembly, and (3) offices of political subdivisions whose elections are conducted by the commissioner) must contain a declaration of whom the canvassers has found to be elected. Also, each abstract of votes for and against each public question submitted to the voters must contain a declaration of the result as determined by the canvassers. [Sec. 50.27]

A separate abstract must be prepared by the board for each of the following offices: president and vice-president of the United States, governor and lieutenant-governor, all state offices not otherwise listed in other abstracts, senators and representatives in the United States Congress, senators and representatives of the county to the General Assembly of Iowa by districts, and county officers. [Sec. 50.25]

If no one contests the election within six months, the commissioner of elections must destroy the ballots by burning them in the presence of two voters, one from each of the two leading political parties. These two voters are designated by the chairperson of the board of supervisors. [Sec. 50.13]

Determination of Voting Precincts

The Code states that election precincts shall be drawn by the county board of supervisors in all unincorporated portions of each county. Election precincts are to be drawn so that: (1) no precinct has a total population in excess of 3,500, as shown by the most recent federal decennial census; (2) each precinct is contained wholly within an existing legislative district, except: (a) when adherence to this requirement would force creation of a precinct which includes the places of residence of fewer than fifty qualified electors, or (b) when the general assembly by resolution designates a period after the federal decennial census is taken and before the next succeeding reapportionment of legislative districts, during which precincts may be drawn without regard to the boundaries of existing legislative districts. [Sec. 49.3]

Precincts thus established will be used for all elections, except where temporary merger of established precincts is specifically permitted by law for certain elections, and no political subdivision is permitted to maintain different sets of precincts for use in different elections. [Sec. 49.3]

In the absence of contrary action by the board of supervisors, each civil township that does not include any part of a city of over 2,000 population, and the portion of each civil township containing any such city which lies outside

the corporate limits of that city or cities, constitutes an election precinct. Where a civil township, as described above, is divided into two or more election precincts, the precincts must be drawn so that their total populations are reasonably equal on the basis of the most recent federal decennial census. Counties using alternative supervisor representation plans two or three, as described in Section 331.206 of the Code, shall be apportioned into single-member supervisor districts on the basis of population. In counties using representation plan three, the boundaries of supervisor districts follow the boundaries of election precincts. [Sec. 49.4]

Election precincts composed partially of unincorporated territory and partially of all or any part of a city may be established within a single county in any manner which is not contrary to Section 49.3 and is mutually satisfactory to the board of supervisors and the city council of the city involved. [Sec. 49.6]

After the establishment of precincts the board of supervisors must number or name the precincts and cause the boundaries of each to be recorded in the records of the board of supervisors. Once each week for three consecutive weeks, notice of the boundaries and numbers or names of the precincts must be published in a newspaper of general circulation in the county, with the last notice published within thirty days of the next general election. The precincts established continue until changed in the manner provided by law. However, for any election other than primary, general, or any special election held under Section 69.14, the county commissioner of elections may make changes as provided by Section 49.11 of the Code. [Sec. 49.11]

Changes in Precincts

Each county board of supervisors must make changes in precinct boundaries necessary to comply with Sections 49.3 and 49.4 between July 1 and November 15 of the year immediately following each year in which the federal decennial census is taken, unless the general assembly by joint resolution establishes different dates for compliance with these sections. Any or all of the publications required by Section 49.11 may be made after December 31 if necessary. Each county board shall notify the state commissioner and the commissioner whenever the boundaries of election precincts are changed and provide a map delineating the new boundary lines. If the board of supervisors fails to do so, the state commissioner shall make the necessary changes and assess the county for expenses incurred in doing so. [Sec. 49.7]

After the required changes in precinct boundaries have been made following each federal decennial census, the board of supervisors may not make any further changes until after

the next federal decennial census except: (1) When it is deemed necessary by the board of supervisors in any county because of a change in location of the boundaries, dissolution or establishment of any civil township, the boundaries of precincts actually affected may be changed as necessary to conform to the new township boundaries; (2) When the commissioner recommends and the board of supervisors finds that a change will effect substantial savings in election costs, precinct boundaries established by or pursuant to Section 49.4, and not changed under conditions mentioned above with regard to township boundaries, since the most recent federal decennial census, may be changed once during the period beginning January 1 of the second year following a year in which a federal decennial census is taken and ending June 30 of the year immediately following the year in which the next succeeding federal decennial census is taken. [Sec. 49.8]

Voting Machines and Electronic Voting Systems

The board of supervisors of any county may authorize, purchase, and order the use of either voting machines or an electronic voting system in any one or more voting precincts within the county until otherwise ordered by the board of supervisors. Voting machines and an electronic voting system may be used concurrently at different precincts within any county, but not at the same precinct. [Sec. 52.2; see page 23 for tax levy to purchase machines and systems.]

Board Approval of Registration Deputies and Clerks

The commissioners of registration have complete charge of registration of all eligible electors within their county, and appoint deputies and clerks as necessary. [Sec. 48.4]

The necessary deputies and clerks are to be chosen from the two political parties receiving the highest vote at the last general election. Deputies and clerks at the central registration office must be equally divided between the members of the two political parties. The appointments are subject to the approval of the county board of supervisors. [Sec. 48.4]

The board of supervisors may authorize the commissioner to appoint, for each primary and general election, five additional election judges and two additional clerks for any election precinct. These added officers serve as members of an "election counting board" that will start counting ballots before the polls have closed. [Sec. 51.1] This is in addition to the second election board permitted in precincts which have more than 1,000 electors.

Data Processing Bids for Election Purposes

The commissioner of elections (county auditor) shall

publish notice to bidders, including specifications regarding the goods or services to be purchased or a description of the nature and object of the services to be retained, in a newspaper of general circulation in the county not less than fifteen days before the final submission of bids. [Sec. 47.5(2)]

In the case of data processing services in connection with the administration of elections, a copy of bid specifications is to be filed with the registrar (senior administrator of data processing services in the department of general services). No later than the final date for submission of bids, the registrar must inform the commissioner of elections in writing whether the state data processing facilities are currently capable of furnishing the services the county proposes to purchase. The commissioner of elections may, with approval of the board of supervisors, reject all bids and enter into an arrangement with the registrar for services to be furnished by the state. The commissioner of elections, with approval of the board of supervisors, may accept an alternative bid as well. However, if the alternative bid exceeds that of the registrar, notice of such a decision must be published twice in a newspaper of general circulation in the county of its intent to accept such a bid as well as the difference between the two bids. The contract shall be no more than one year's duration. Each county choosing services other than those of the registrar's is required at the county's expense to provide the registrar with original and updated voter registration lists in a form and at times prescribed by rules promulgated by the registration commission. [Sec. 47.5(3)]

Chapter 12

COURT REORGANIZATION

In 1983, the legislature passed, to be codified as Chapter 602 of the Code, a major act revising the court system within the state and modifying the county's responsibilities regarding the administration of the district courts. Basically, the legislation calls for the clerk of the district court to be an employee of the district court and no longer an elected county official. Many of the functions of the court system that were previously the responsibility of the county are now under the control of the state. [Ch. 123, Acts 1983, 70th Iowa General Assembly] The purpose of this chapter of the manual is to set forth some of the provisions of the new act and how they affect the county's role in the court system.

County Expenses and Facilities Provided

Even though the form of the district court system is changing, there are still many things the county must continue to provide for the courts. These items are as follows:

1. The county must provide courtrooms, offices, and other physical facilities for the district court, judicial officers of the district court, the clerk of the district court, juvenile court officers, and other court employees.
2. The county must pay the expenses of the members of the county magistrate appointing commission.
3. The county must pay the compensation and expenses of jury commission and assistants.
4. The county must provide the district court bailiff and other law enforcement services upon request of a judicial officer of the district court.
5. The county must pay the costs incurred in connection with the administration of juvenile justice.
6. The county must pay the costs of its depositions and transcripts and the court fees and costs provided by law and criminal actions prosecuted by the county. The county must pay witness fees and mileage in trials of criminal actions prosecuted by the county under county ordinances.

7. The county must pay the costs and expenses incurred in connection with grand juries.

The clerk of the district court is required to deliver to the county auditor, by the fifteenth of each month, a statement which must indicate the amount in fees and expenses which is chargeable to the county for services provided by the clerk and the district court system. The statement will also notify the county of any amounts which have been collected by the clerk that are payable to the county as reimbursement for costs it has incurred in connection with a civil or criminal action. [Sec. 602.8109]

If the amount owed by the county is greater than the amount received by the clerk for services chargeable to the county, then the county must pay this difference to the clerk by the end of the month. If the amount owed by the county is less than the amount received by the clerk of the district court, the clerk must pay the difference to the county by the end of the month in which the statement is delivered. [Sec. 602.8109]

Transition Provisions

A specific schedule has been adopted for the state to assume the responsibility of administering and paying for the court system. The provisions of the schedule are as follows:

1. October 1, 1983--The state must assume the responsibility and cost of jury fees and mileage for petit jurors.
2. July 1, 1984--The state must assume the responsibility for and the costs of prosecution witness fees and mileage and other witness fees and mileage assessed against the prosecution in criminal action prosecuted under state law.
3. July 1, 1984 -Court reporters shall become court employees and the state shall assume the responsibility for and the costs of court reporters.
4. July 1, 1985--Juvenile probation officers will become court employees and the state will assume the responsibility for and the costs of these officers.
5. July 1, 1985--Bailiffs who perform services for the court, other than law enforcement services, will become court employees and will receive the title of court attendants. The responsibility for and the costs of these court attendants will be assumed by the state.

6. July 1, 1986--The clerks of the district courts will become court employees and the state will assume the responsibility for and the costs of the offices of the clerks.
7. July 1, 1987--The state will pay for indigent defense costs.

This schedule is from Section 602.1101 of the Code as amended by H.F. 2518, Sec. 15, 70th Iowa General Assembly, (1984)

In connection with the gradual transition, the clerk of the district court must establish and maintain a court revenue distribution account that contains all fees and other receipts that are required to be deposited in this account. As the progressive state assumption takes place, the distribution of the receipts within this account shifts to of the treasurer of the state from the county treasurer. (See table below.) [Sec. 602.8108]

FISCAL YEAR	PERCENT OF REVENUE TO EACH	
	County Treasurer	State Treasurer
July 1, 1983 to June 30, 1984	80	20
July 1, 1984 to June 30, 1985	60	40
July 1, 1985 to June 30, 1986	40	60
July 1, 1986 to June 30, 1987	20	80
After July 1, 1987	0	100

The Code also contains some special provisions concerning the new employer-employee relationships that arise as many previous jobs are converted to state positions. These special provisions cover compensation and benefits as state employees, life and health insurance (conversion from county to the state plan coverage), and eligibility for collective bargaining. [Secs. 602.11103, .11104, .11108]

Chapter 13

SPECIAL DISTRICTS

Drainage Districts[1]

Of all the types of special districts created by action of the county board of supervisors, the drainage district is probably the most unique. The board of supervisors itself may govern the special district as the board of drainage commissioners. The supervisors may have jurisdiction over a number of districts established in the county. Sometimes the board will act jointly with another county board of supervisors in managing the affairs of a drainage district. The board of supervisors even has the option of delegating all of its operational powers to an appointive board of drainage administrators. If the property owners in a drainage district so choose, they may deny jurisdiction to a countywide body, and, instead, create a local board of trustees to govern the district. No matter what form of government is eventually selected, the board of supervisors is the vehicle by which the district is created. [Secs. 331.382(8); 455.1]

Creation of a Drainage District

Two or more landowners can petition the board of supervisors to establish a drainage district. [Sec. 455.7] Accompanying the petition, (as defined in Section 455.9) the petitioners must file a bond sufficiently large to cover all the preliminary costs of establishing the district. [Secs. 455.10-.11] If the proposed district is eventually created the bond is returned, and the costs are assumed by the district.

After examination of the petition, the board must appoint a civil engineer to draw up a tentative plan. At the first meeting following the filing of the engineer's report, the board either adopts the tentative plan or calls for another plan to be submitted. [Secs. 455.18-.19] Within forty days of the date of acceptance of a plan, the board must set a date for a hearing on the proposed district. Persons affected by the proposed project must be notified of the hearing. [Secs. 455.20-.21]

If the board determines from the hearing that the

[1] Unless otherwise indicated, the use of the term "drainage district" includes levee district, drainage and levee district, and drainage district.

proposed plan for the district is beneficial to the public health, convenience, or welfare and the costs are not prohibitive, further proceedings are adjourned to another meeting. The auditor then appoints three appraisers to assess all damages that will result from the construction of the proposed project. Each claim for damages and compensation may be affirmed, increased, or decreased by the board of supervisors. Once all the claims have been filed, the board must consider the costs of the proposed improvement as shown by the engineer's report along with the amount of the damages to be awarded. If the total cost of the project is justifiable in relation to the benefits bestowed on the property, the board may locate and permanently establish the district. [Secs. 455.27-.33]

If the owners of land within a proposed district mutually agree that a drainage district should be established, the board of supervisors must establish the district. Such a district is presumed to be beneficial to the public health, welfare, and convenience. The agreement among the landowners must provide a description of the lands, the location and extent of the proposed improvements, the assessment of damages and benefits, and any other provisions deemed necessary by the board. The powers and duties of the board of supervisors are the same over such a district as any other district created in another manner. [Secs. 455.152-.155]

Mutual drains established pursuant to Chapter 465 may be converted into drainage districts upon adoption of a resolution by the board of supervisors. Although this may be done when desired by the board, two specific instances are set forth: failure to pay the costs or damages levied against any landowner and failure to undertake within a reasonable time a repair or reconstruction as ordered by the board. [Sec. 465.31]

If the proposed district is a highway drainage district, the board of supervisors may proceed to establish the district without a petition or bond. Such a district could include land adjacent to any public highway under the jurisdiction of the board. [Sec. 460.1] The determination of which lands are placed in the district is based upon the benefits accruing to the land as surveyed and reported by a competent civil engineer. [Secs. 460.5-.6]

In the event that any proposed drainage or levee district comprises land in more than one county, all action pursuant to the establishment of the district shall be conducted by the boards of supervisors of the respective counties acting as a joint board of supervisors. If, for a variety of reasons, the boards do not act in harmony, the petitioners may find redress in the courts. [Chapters 457 and 458]

A subdistrict within an established district can be created by following the same procedure as for creating the original district. However, only one owner needs to file a petition to initiate action. [Secs. 455.7; .70]

Forms of Government

Once a district is permanently established, the board of supervisors may govern the affairs of the district itself or appoint a board of county drainage administrators. The administrators are appointed for three-year staggered terms. Two of the three administrators must be agricultural landowners. They are chosen from districts which are of approximate equal territory. Compensation and expenses of the administrators are paid from the drainage fund of the district whose business they are conducting. [Secs. 455.219-.222]

If a drainage or levee district has completed and paid for the original construction undertaken, the responsibility for the operation of the district may be placed in a three-member board of trustees. [Sec. 462.1] The board of supervisors must first be petitioned by a majority of the persons, including corporations, who own land within the district. [Sec. 462.2] At the next meeting following the filing of the petition, the supervisors are required to call an election for the purpose of selecting three trustees. The election must be held within sixty days, but not less than forty days, from the date of that meeting. [Sec. 462.3]

If the district contains 3,000 acres or more, the board must divide the district into three election districts with substantially equal voting power and acreage. One trustee is to be elected from each of the districts; however, the qualified voters may vote for all three officers. [Sec. 462.5]

Notice of the election must be published for two consecutive weeks in an official newspaper of the county. The last publication may not be less than ten days preceding the election. [Sec. 462.8] Three judges and two clerks of the election are to be appointed by the board of supervisors from among the property owners who reside in the county. [Sec. 462.3]

The returns from the election are canvassed by the board of supervisors who must then inform the auditor of the results. This canvass is to be accomplished on the Monday following the election. [Sec. 462.18]

Upon election, the trustees assume all the powers previously conferred on the board of supervisors in relation to that drainage district. [Sec. 462.27] The only duty remaining for the board of supervisors is to levy the assessments which the trustees certify. [Sec. 462.28]

However, any district which is governed by a board of trustees may, by choice of the district, be placed back under the management of the supervisors. [Sec. 462.36]

Intercounty drainage districts may be governed in the same manner as districts located wholly within one county. If the district is under the boards of supervisors, actions are subject to joint approval of the boards. [Sec. 457.28] Until such time as the original construction has been completed, funds are collected and disbursed within the respective counties. [Sec. 457.16] The county having the largest acreage then becomes the depository of the drainage fund. [Sec. 457.30]

Subdistricts or districts with pumping stations which are later divided are governed to the same extent and in every way as the original district. [Secs. 455.71; 461.8]

Once a drainage or levee district has been established, it is the duty of the board of supervisors to proceed with the construction of the improvement and to classify and assess to the property owners the costs of construction and maintenance.

Construction and Repair

The board may proceed with construction of the improvement in accordance with the plan approved by the board at the public hearing. However, if the board feels it is necessary, an engineer may be appointed to make a permanent survey of the district. [Sec. 455.36] Modifications of the survey may be made at any time prior to the completion of the improvement, but in the event the modified or amended plan increases or decreases the estimated cost of the project by more than 25 percent, public hearings must be held. [Sec. 455.69] The board may also modify an accepted plan in order to cooperate with any agency of the federal government, but the 25 percent variance in estimated cost is still applicable. [Secs. 455.202; .206; .210]

A district may be divided into sections for the purpose of facilitating construction. Contracts may be let for work in the different sections; differing periods of time within which the work must be completed may be set. [Secs. 455.38; .41]

All work which is estimated to cost in excess of \$5,000 must be awarded through bids. [Sec. 455.40] However, in the event the original plan of construction has been modified after the project has commenced, but not finished, only those projects with an estimated cost of \$5,000 or more require bids. [Sec. 455.73]

Notification of the time and place of letting the work, the amount and type of work, beginning and completion dates,

and a statement of policy regarding deposits must be published once each week for two consecutive weeks in a newspaper in the county. If the estimated cost of the project exceeds \$15,000, the board may make additional publications for two weeks in some contractors' journal of general circulation. [Sec. 455.40]

Each bid must be submitted in writing and specify the portion of the work upon which the bid is made. It must be filed with the auditor and be accompanied by cash, a certified check, or a certified share draft from a credit union in an amount equal to 10 percent of the bid, but not to exceed \$10,000. However, if this limit on bid deposits would cause a denial of funds or services from the federal government which otherwise would be available, the limit may be suspended to the extent necessary to secure federal funds. [Sec. 455.42]

The work is to be let to the lowest responsible bidder; however, the board may reject any and all bids and readvertise for new bids. [Sec. 455.41] All contracts or agreements entered into must be in writing and signed by the chairman of the board of supervisors and contractor. The contract must specify the work to be done, the beginning and completion dates, the amount to be paid, and the times of payment, and whatever other provisions deemed appropriate. [Sec. 455.44] A performance bond in an amount not less than 75 percent of the contract price is required of each successful bidder. [Sec. 455.43]

The board of supervisors must appoint a competent engineer to supervise the work of construction. A bond is required of the engineer; the amount is set by the board. [Sec. 455.39]

If the estimated cost of a subsequent improvement^[2] does not exceed the greater of \$5,000 or 25 percent of the original cost and all subsequent improvements, the board of supervisors may on its own motion authorize the undertaking of such projects. Should the cost exceed this limitation, the board must proceed under the same procedures as if the project was an original improvement, i.e., notification to affected landowners and the holding of a hearing. [Sec. 445.135(4)(a)] If the estimated cost exceeds the greater of \$20,000 or 100 percent of all prior costs of improvements, including the original cost plus the costs of all subsequent improvements, another condition may exist: the board may be stopped from proceeding with any improvement if a majority

[2] An improvement is a project intended to expand, enlarge, or otherwise the capacity of any existing ditch, drain, or other facility above its original design capacity. [Sec. 455.135(4)]

of the landowners, owning 70 percent of all the land in the district, file a petition against the improvement at or before the time fixed for the hearing. This stoppage may be appealed to the courts. [Sec. 455.135(4)(b)]

The board is empowered to acquire additional land and right-of-way within or without the district to make necessary improvements and repairs. Any acquisition of additional right-of-way requires a hearing and notice of hearing in the same manner as an original acquisition. [Sec. 455.135(6)]

The board of supervisors has the duty of keeping any improvement in a drainage district in good repair. On its own motion, the board may order any repair work done; however, if the cost of the repair work exceeds the greater of \$10,000 or 75 percent of the cost of all prior improvements, a hearing must be conducted. In the event the estimated cost of the repairs is less than \$5,000, the board may use county labor and weed or road equipment. The cost incurred by the county must be refunded by the drainage district. [Secs. 455.135(1)-(2)]

In districts where it is necessary to secure a proper outlet, the board may establish and maintain pumping stations. At least one-third of the owners of land to be benefited must initiate the action by petitioning the board. [Secs. 461.1-.2]

If the board deems it necessary, additional pumping stations may be established, but such a resolution must be adopted prior to the completion of the improvement. The board is required to direct the engineer to study the advisability of establishing additional pumping stations if one-third of the landowners petition the board. [Sec. 461.3]

Assessment of Property

The board of supervisors must appoint three commissioners to classify land and assess benefits to the tracts of land affected by the drainage improvement. One of the commissioners must be a civil engineer and the other two are required to be resident freeholders of the county. Neither may be a resident of the district, have an interest in the district, nor have relatives living in the district. [Sec. 455.45] Compensation for the commissioners, as well as for appraisers, is set by the board. [Sec. 455.167]

The commissioners have the duty of assessing all the land in the district -- including highways and public lands. All the land is classified in tracts of 40 acres or less according to the legal or recognized subdivisions. Once the classification is completed, the commissioners are required to file their report with the county auditor. [Secs. 455.50-.51]

Although the commissioners' report is filed, the board of supervisors has the power to affirm or change the assessments at a hearing called for that purpose. [Secs. 455.52-.53] In case the assessment is increased, the board must notify the affected landowner. [Sec. 455.55] The classification of the land, as adopted at the hearing, is the basis for all future assessments. [Sec. 455.56] However, a reclassification of land is permitted if the same procedure is followed as for the original classification.[3] [Sec. 455.74] A reclassification of any kind can be prevented if a majority of the landowners owning 70 percent or more of the land in a levee district file their objections. [Sec. 455.197(3)]

In lieu of reclassifying the land according to benefits received, assessments may be based on the assessed valuation of all the property. This may be accomplished through either a hearing or an election called by the board.[4] If petitioned by the landowners, the board is required to call an election on the question. A majority of 60 percent of those voting is necessary for the proposition to carry. [Secs. 455.197(3); (6)] Either through an election or hearing, a third classification alternative is available. The assessment may be uniform as to all land in the district; each acre of land is assessed the same. This is determined by dividing the total amount to be assessed by the total acres in the district. [Sec. 455.197(7)]

Neither assessed valuation nor the uniform assessment alternatives may be applied to new improvements in a drainage district. These methods may be used, though, to assess all lands drained by mains and laterals for the maintenance, repair, and operation of drainage districts. [Sec. 455.197(8)]

A drainage district established in connection with a United States levee is somewhat of an exception. Lands in such a district are assessed on the basis of the assessed valuation of the property unless the board chooses to classify and assess according to benefits. [Sec. 466.4] For the purposes of maintaining the levy, the amount collected in any one year may not exceed \$3.37 1/2 per thousand dollars of assessed valuation. [Sec. 466.5]

[3] See Section 455.66 for some examples of reclassification which can be done by the board acting on its own.

[4] If objections are filed by landowners representing 60 percent of the total assessed value of land in the district, the board may not proceed with the classification of land by this alternative. [Sec. 455.197(3)]

Collection and Disbursement of Funds

Once the assessments have been completed, the levies should be made as a tax upon the property. The assessments are due and payable at the same time as other taxes. Penalties and enforcement procedures relating to the collection of assessments are similar to those for taxes. [Secs. 455.57; .62] Assessments against all secondary roads and other county-owned lands under the jurisdiction of the board may be collected from the county road funds. [Sec. 455.50]

If the amount of the assessment against a landowner exceeds \$100, he/she may choose one of two installment plans for paying the assessment. However, before such an option may be exercised, the landowner must waive any future action against the legality of the assessment. One option provides for a one-third payment at the time of filing the waiver agreement, one-third within twenty days of the completion of one-half the project, and one-third within twenty days of the completion of the project. Assessments can, also, be made in ten to twenty equal installments--the number is determined by the board.[5] If paid in equal installments, the board fixes a rate of interest not to exceed that permitted by Chapter 74A. Interest is not charged under the first option unless the payments are delinquent. [Sec. 455.64]

All assessments levied in the drainage district are kept in a separate account known as the drainage fund. Likewise, interest accruing from the investment of idle funds, income from the incidental use of drainage improvements, and any other moneys received by the district are placed in the fund. [Secs. 455.61; .138]

Moneys can be expended from the drainage fund only upon order of the board of supervisors. [Sec. 455.138] All claims must be itemized statements; the board must allow the payments if such amounts are verified as just and correct. Warrants may then be drawn on the treasurer by the auditor. [Sec. 455.169] As with other local units of government, the drainage district cannot permit expenditures which exceed its anticipated revenues. [Sec. 455.61]

Expenditures incurred prior to the establishment of a proposed district may be paid by the county. If the proposed district is in more than one county, each county may expend a proportion equal to the proportion of expenditures in that county as to the total expenditures. As soon as the district is created, the district must reimburse the county.

[5] If the work is done pursuant to Section 455.135, the board may provide for payments in less than ten installments. [Sec. 455.136]

In case the proposed district is not created, the county general fund is reimbursed from the bonds of the petitioners. [Sec. 455.164]

Until such time as the first assessments are collected from special assessments levied against property in the highway drainage district, the board of supervisors may advance that portion to be collected by special assessment. The road fund must later be reimbursed. In lieu of this method, the board may issue drainage warrants with an interest rate not to exceed that permitted by Chapter 74A. These warrants are payable out of the special assessment levied and collected. [Sec. 460.7]

Once the work on an improvement project is completed to the satisfaction of the supervising engineer, he/she is required to report to the board. The board must fix a date for consideration of the engineer's report and publish notice of the hearing once in a newspaper of general circulation. The publication must appear at least five days previous to the hearing. [Sec. 455.111]

All objections to the report and any claims outstanding are to be filed at this hearing. The board must not only judge the validity of the claims, but, also, whether the claims were caused by negligence on the part of the contractor. If the claims were caused by negligence, they are to be paid out of the remaining funds owed to the contractor. Other valid claims are paid from the drainage fund. If the work is acceptable and all the liens and claims are settled, the board may direct payment of the balance due to the contractor. [Secs. 455.112-.113]

When all the work has been completed, all costs paid, and all assessments collected, the board may choose to refund to each owner his/her proportionate share of any surplus in the drainage fund that is not needed as a sinking fund. If over one-half of all the assessments have been collected and it is evident to the board that a surplus will exist, the board may refund to each owner an amount not to exceed 50 percent of his/her proportionate share of the anticipated surplus. [Sec. 455.68]

Indebtedness

Warrants may be issued bearing interest at a rate not to exceed that permitted by Chapter 74A if the board of supervisors has, by resolution, provided for the payment of assessments in not more than twenty installments. The warrants must be numbered and state a maturity date. They may be sold for cash, but they must not be sold for less than face value and accrued interest. [Sec. 455.77]

The board, by resolution, may provide for the issuance of improvement certificates to be used in payment for work

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done for the district. [Sec. 455.77] The certificates designated a tract of land and its owner as liable for payment of the assessments necessary to redeem the certificates. Interest on the certificates cannot exceed that permitted by Chapter 74A. [Secs. 455.78-.79]

Drainage district bonds may be issued if it is determined that the cost of proposed improvements will create assessments greater than should be levied in a single year. The aggregate amount of the bonds that may be issued is equal to all of the assessments except those under \$100. [Sec. 455.81]

Before any bonds may be issued, the board must fix the amount of assessments to be levied each year sufficient to redeem the bonds within a twenty-year period. [Secs. 455.81; .83] A district court's confirmation of legality must be endorsed on the bonds. [Sec. 455.82] Notice of the issuance of the bonds is required to be published in an official newspaper of the county. Property owners may pay the total amount of the assessment against their property at that time if they so choose. [Sec. 455.91]

Each bond issued must have written upon it "Drainage Bond" and the name of the county and number of the district issuing the bond. The date the bond becomes mature must appear, also. In addition, the bond must state that the issuance is pursuant to a resolution of the board, and that the bonds are payable only from moneys collected on lands assessed for benefits within the district. [Sec. 455.82] The rate of interest on the bonds cannot exceed that permitted by Chapter 74A payable semi-annually. [Sec. 455.83]

If the amount of assessments in any year is insufficient to pay the principal and interest on maturing bonds, additional assessments may be made based on the same classification. [Sec. 455.87] The board may fund or refund its legal indebtedness in sums of \$1,000 or more. [Sec. 455.88]

Relationships Outside the Drainage District

If the board of supervisors becomes convinced that lands located outside the district are receiving benefits, the board may adopt a resolution of necessity for the annexation of the lands. Further proceedings are in accordance with the provisions for establishing an original district. If it is determined that the annexed lands should have been originally included in the district, the assessments levied on the annexed lands must be sufficient to equal the original assessments of the similarly classified land plus assessments on additional improvements. The assessments levied, if the lands have only been benefited by subsequent improvements, are equal to the proportionate share of the cost of those improvements which bestowed the benefits. [Secs. 455.128-.130]

A drainage district with pumping stations can only annex land upon approval. One-third of the owners of land in the proposed annexation area either must petition the board or give their written consent to be annexed. [Sec. 461.2]

The owners of land served by a mutual drain established pursuant to Chapter 465 may petition the board for incorporation into an established drainage district. Upon filing of the petition, the board must hold a hearing and notify all the owners of affected land. If the board approves by resolution, the lands are annexed. Upon approval, the mutual drain is automatically dissolved. [Sec. 465.35]

A new drainage district may be created which includes an old drainage district and any additional lands deemed necessary to properly drain the lands. The procedure which the board must follow is similar to the establishment of an original district. All outstanding indebtedness of the old district, though, is payable only from assessments against lands in the original district. [Sec. 455.133]

Outlets of a drainage district may be located in another county, another state, or mutually with another district. [Secs. 455.142; .156-.157] Improvements or repairs contemplated on a mutual outlet must first be subjected to a hearing. [Sec. 455.142] If one or more districts in different counties have common outlets, the boards of supervisors, acting jointly, may initiate proceedings for the establishment of an intercounty drainage district. Only those lands which will receive special benefits from improvements in the proposed new intercounty district are to be included. Proceedings are similar to establishing an original district. [Sec. 458.1-.2]

The board of supervisors may enter into written agreements with landowners, municipalities, or other drainage districts lying outside the drainage districts. However, the board must be assured that the facilities will not be overburdened nor will the service cause an additional cost to the district. [Sec. 455.200]

Relationships with Other Units of Government

The board of supervisors is permitted to enter into agreements with the federal government for the construction, repair, and maintenance of improvement projects in a drainage district. A portion of all the costs incurred may be paid from the funds of the district. Before such an agreement is valid, though, the board must follow procedures similar to those for undertaking a project alone. [Secs. 455.202-.217, Chapters 466; 467B]

Any activities of a drainage district which affect flood plain encroachment limits, regulations, or zoning ordinances must be submitted to the department of natural resources for

review and prior approval.[6] However, if the activity conforms to a general plan previously approved by the department of natural resources, approval is not necessary.

If the drainage of surface water constitutes the pollution of the waters of the state as defined by Sections 455B.31-.35, the board of supervisors needs to secure a permit from the department of natural resources before undertaking any new improvements.[7] [Secs. 455B.45-.46]

A drainage district is empowered to cooperate with other districts, such as soil conservation districts and soil conservation and flood control districts, to undertake any activities affecting soil conservation, flood control, or drainage. [Secs. 467A.9, 467B.3, 467C.3] If a drainage district should decide to include in its activities soil conservation or flood control, the board may upon petition establish a new district covering the old district and any additional lands deemed necessary. All districts created pursuant to Chapter 467C are subject to the approval of the state conservation commission and the department of water, air, and waste management. Any such district is organized, operated, and maintained according to the same provisions as drainage districts. [Secs. 467C.3-.6]

A drainage district may include the whole or any part of an incorporated city. [Sec. 459.1] In all cases in which notification of landowners is required, the notice must be given to the city clerk on behalf of the municipality. [Sec. 459.2]

If, at any time, 25 percent or more of the total drainage district acreage is located within a city, the board may, by resolution, transfer jurisdiction of the

[6] The Iowa natural resources council has no authority to disapprove a project for the repair of an existing drain unless it would unduly restrict the capacity of the floodway. [Board of Trustees of Farmers Drainage District v. Iowa Natural Resources Council, 247 Iowa 1244 (1956)] Any proposal of a drainage district which is rejected must provide for a statement specifically outlining the objections so plans may be corrected. [Johnson v. Monona-Harrison Drainage District, 246 Iowa 537 (1955)] The Iowa natural resources council's functions are now performed by the restructured department of water, air, and waste management.

[7] The duty of controlling or eliminating pollution of any waters, public, or private, applies to any ditch, drain, or water course. [1962 O.A.G. 241]

entire district to the city or town.[8] [Sec. 459.8] Upon receiving certification of the resolution, the city must assume control of the district on the date specified in the resolution. The date shall be between 30 days and 90 days following the adoption of the resolution. [Secs. 459.8-.10]

A drainage district may gain an easement to occupy and use state-owned land for lawful drainage purposes. However, the district must first obtain the permission from the state or the state agency controlling the land. [Sec. 455.218]

A project may be undertaken jointly with another state if the engineer responsible for drawing up a plan for a proposed district so recommends.[9] The agreement must provide a statement of the separate amounts which the property owners of each state are required to pay. No construction on the project can be undertaken until both states have approved the project and all the claims are settled and the benefits are assessed. Unless the construction in this state is independent of the construction in the other state, no bids are acceptable until the authorities in both states have jointly agreed to the acceptance of a bid for the construction of the whole project. All the work done in this state must be done under a separate and distinct contract, but the amount of the contract cannot exceed the amount of the benefits assessed in this state. Once the original construction has been completed, the board may enter into an agreement for the joint management, repair, and maintenance. [Secs. 467.1-.6]

Legal Advice

The board is permitted to employ legal council for advice and representation in any matter in which they are represented. All fees and expenses may be paid from the drainage fund, but claims must be itemized and verified. If two or more districts are represented by the attorneys, the fees and expenses shall be apportioned among the districts benefiting from the service. [Sec. 455.166]

Association Membership

Drainage districts may become members of the National Drainage Association and other associations for the

[8] This provision is not applicable unless at least a portion of the district's drains are constructed of sewer tile and the drains are needed or used by the city. [Sec. 459.8]

[9] The establishment of the district must follow the same procedures as would apply if the district were located wholly in the state. [Sec. 467.6]

protection and benefit of the district. Membership fees may be paid from the drainage fund. The annual dues for any district cannot exceed one-twentieth of 1 percent of the outstanding indebtedness of the district. [Sec. 455.187]

Dissolution of Drainage Districts

A majority of the landowners owning 60 percent of all land in a drainage district may initiate action to dissolve the district. However, in all cases, the district must be free from indebtedness before it may be dissolved. [Secs. 455.35; 456.1]

If the district has once functioned as a drainage district, the board must fix the date for a hearing on the petition. The hearing is required to be held within 40 days of the date the petition was filed. Each property owner in the district must be notified of the hearing. [Sec. 456.2]

Should the board of supervisors determine from the hearing that the necessity for maintaining the district no longer exists or that the benefits derived are not worthy of the cost, the board may order the district dissolved. [Sec. 456.3] All costs incurred are to be paid from the drainage fund; additional assessments are to be made if the fund is insufficient. Any excess remaining in the fund is to be prorated among the property owners according to the classification of land for the last assessment. If the district is not dissolved, the cost of the proceedings is paid by the petitioners. [Sec. 456.5]

If no contract has been let nor work done in the district within two years of the date of the establishment of the district or the end of any litigation, the board is not required to hold a hearing. The district is dissolved upon resolution of the board and payment of all bills outstanding. [Sec. 455.35]

Private Mutual Drains

An alternative method of providing for drainage is the establishment of private mutual drains. Upon petition, notification, and a hearing, the board may locate a levee, ditch, or drain if it is found to be beneficial for sanitary, agricultural, or mining purposes. The board must, in writing, set forth the extent of the improvement, provisions for repair, the amount of damages, and any other rules which may be needed. The record is filed with the county auditor. [Secs. 465.6-.8]

Any disputes arising among the participants in a private mutual drain may be resolved by the board of supervisors upon application. The application procedure is substantially the same as for originally establishing a mutual drain. [Secs. 465.18; .20; .21; .30; .34] All costs of

establishing the private mutual drain and resolving any conflicts are the liability of the applicants. [Sec. 465.13]

Other Special Districts

Although the board of supervisors has few duties and responsibilities for the operation of most special districts, a number of special districts are created through actions of the board. Since the procedures required for creating the special districts vary only slightly, the discussion will be general rather than specific for each type of district.

Action to create a district is initiated by a certain number, or percentage, of property owners in the proposed district through a petition to the board of supervisors. Usually, the petition must contain some pertinent facts relating to the purpose, need, and extent of the proposed district. The board, at its discretion, may require a bond of the petitioners.

Within a specified period of time, the board must hold a hearing to determine the merits of the merits of the proposed district. If the petition is allowed, the board, by resolution, creates the district.

A competent civil engineer must be appointed to examine the proposed improvements and draw up a tentative design. The design usually contains estimates of the total cost. Within the required time, the engineer's report must be filed with the board.

Another hearing is required to approve the engineer's design. The board may, however, make any modifications in the design that appear to be advisable. Once approved, the board must set a date for an election.

The greatest variance in procedure among the various types of special districts exists at the election stage. Some districts require voter approval of the improvement only; others require the approval of a tax. If approval of a tax is necessary, a 60 percent majority is usually required for the proposition to carry; otherwise, a bare majority is deemed adequate. Often, trustees are nominated at the same election. From among the five nominees receiving the highest number of votes, the board appoints three to serve on the board of trustees.

In most cases, the operation of the district is immediately turned over to the board of trustees. The board of supervisors' role is reduced to levying the taxes certified to it. However, in certain types of districts, the board may continue to govern until the original improvements have been completed.

Districts formed by this procedure, or a very similar procedure include benefited water districts [Chapter 357], benefited street lighting districts [Chapter 357C], benefited law enforcement districts [Chapter 357D], and sanitary districts [Chapter 358]. Rural water districts deviate slightly in that no election is necessary--the board may establish the district by resolution. [Chapter 357A] The role of the board of supervisors in the establishment of county hospitals is discussed in Chapter 8 of this manual.

Although library districts [Chapter 358B] and county conservation boards [Chapter 111A] resemble special districts, the board of supervisors has the power to review and alter their budget requests. Thus the board has significant influence in determining the year-by-year activities of both.

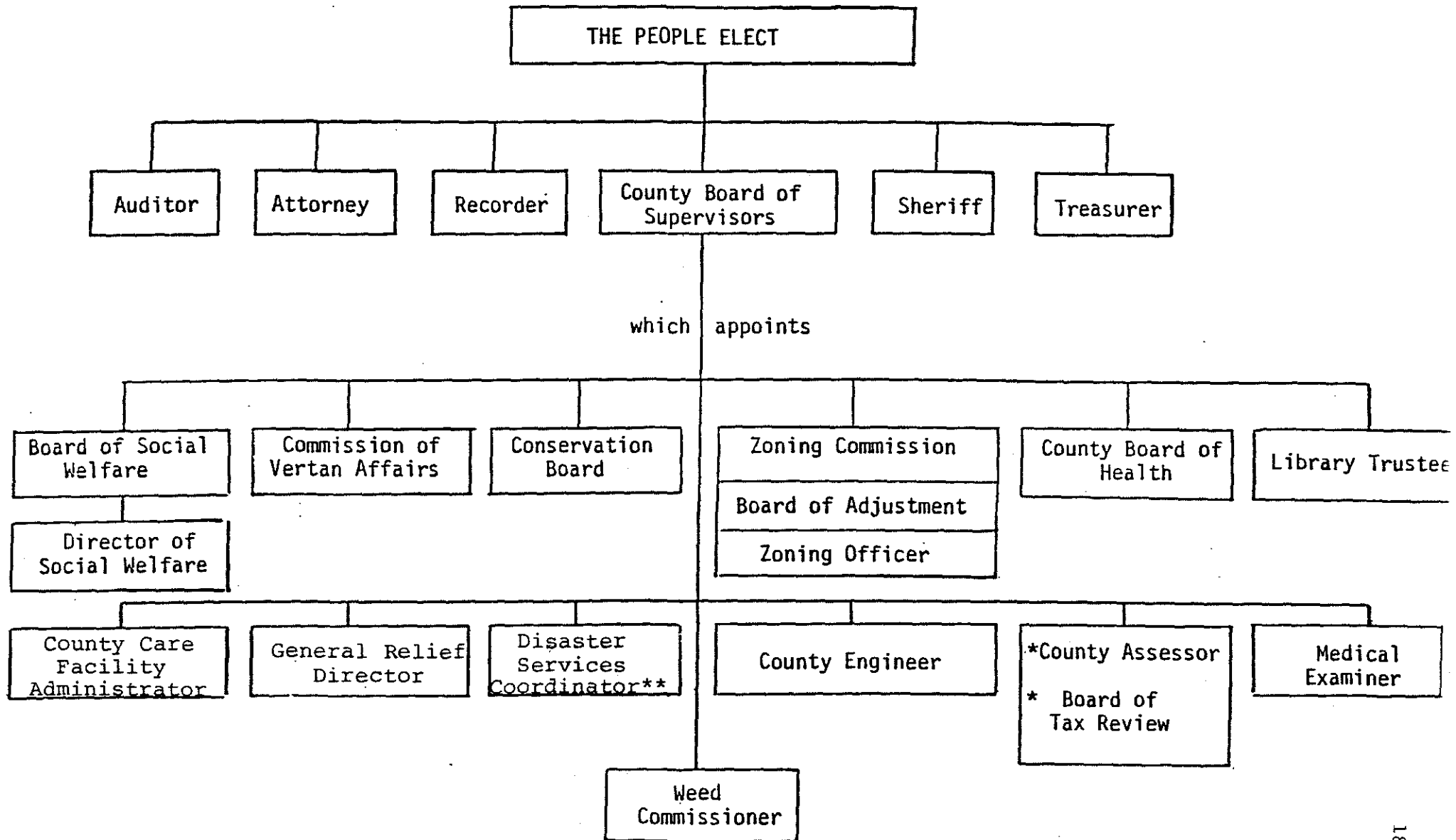
Service Districts

A service district may be established if the governing body of a benefited water district, rural water district, benefited fire district, sanitary district, or drainage and levy district has insufficient membership to perform the powers and duties of a governing body. The power to make public improvements may also be established upon petition of the number of property owners within a proposed district. Powers granted cities in Chapter 384 of the Code are also granted to these districts. Included but not restricted to are such undertakings as the installation of sidewalks, lighting, sewer, gas mains, and parking facilities.

If petitioned by 50 percent of the property owners within a proposed service district, the board of supervisors may establish such a district and exercise the powers granted to the districts listed above. [Sec. 331.382(8)]

APPENDIX I

ORGANIZATION OF COUNTY GOVERNMENT IN IOWA



*County board of supervisors appoints with school boards and mayors of the county.

*Appointed by County Administration.

APPENDIX II

CALENDAR OF DUTIES TO BE PERFORMED DURING EACH MONTH

On this date: These duties shall be performed: Code Section:

JANUARY

Second Secular Day	A regular meeting of the board of supervisors must be held.[1]	331.213
Second Secular Day	A board of supervisors must choose one of its members as chairperson.	331.211(1) (a)
Second Secular Day	The financial records must be examined and a settlement made with the county treasurer.	452.6
By Second Secular Day	Newly elected supervisors must qualify for office.	63.1
By 20th	Departmental budget estimates must be received by the board of supervisors from the auditor.	24.25(2)

FEBRUARY

By 20 days prior to March 15	The budget estimates approved by the board of supervisors must be filed with the county auditor.	24.9, .17
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MARCH

By 5th	A date for hearings on the proposed budget must be set. Budget estimates must be published.	24.9
By 15th	Budget hearings must be held. Taxes for the following year are certified.	24.9,.12 .17

APRIL

By 15th	The county road budget must be adopted and submitted to the department of transportation.	309.93
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JUNE

Monday following a primary election	A canvass of the vote must be conducted.	43.49
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APPENDIX II (continued)

By 30th	Departmental estimates of proposed expenditures for the following fiscal year must be submitted to the board including reasons for estimated increases in expenditures.	344.1
JULY		
Second Secular Day	The financial records must be examined and a settlement made with county treasurer.	452.6
By 31st	An appropriations resolution must be passed.	344.2
NOVEMBER		
Monday following a general election	A canvass of the vote must be conducted.	50.24

[1] Formerly mandated regular monthly meetings in April, June, September, and November are eliminated under the County Home Rule Act. Instead after the mandatory January organizational meeting all subsequent meetings of the board are held as scheduled by the board. [Sec. 331.213(1)]

Appendix III

REPORTS RECEIVED BY THE BOARD OF SUPERVISORS
ON FISCAL YEAR BASIS

On this date: These reports shall be received: Code Section:

JULY

During Month	The annual report of the county auditor must be filed. The board of supervisors must provide for publication of the report.	331.509
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During Month	The report of the county care facility must be filed.	253.3
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During Month	The report of the county library board must be filed.	358B.11
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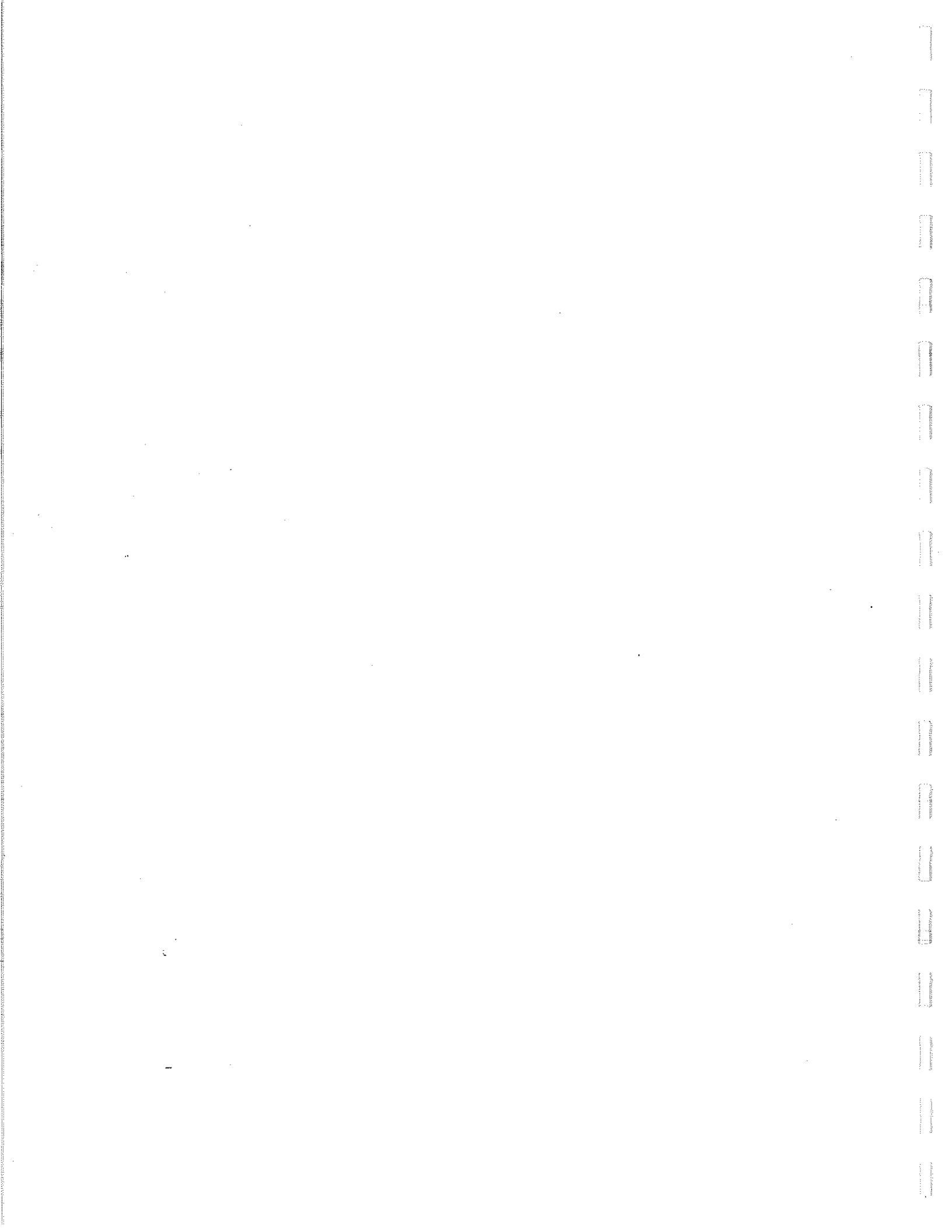
On First Monday	All officers required to collect and pay over fines must report to the board of supervisors. (This requirement is not limited to county officers alone.)	79.7
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NOVEMBER

By 1st	The report of the weed commissioner must be filed.	317.7
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QUARTERLY	All fees and charges collected by the auditor, treasurer, recorder, sheriff, and their deputies must be reported.	331.902(3)
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ON REQUEST	The board of supervisors may require any county officer to report to it on any subject connected with the duties of the office.	331.323(2) (c)
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STATE LIBRARY OF IOWA



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