What You Wish Your Constituents Knew

March 31, 2025 by Julie Anderson

By Julie Anderson
Editor

In the State of Texas, county government is a unit of state government often referred to as "an arm of the state" or an administrative subdivision of the state. However, county government also acts as a unit of local government. Consequently, county governments in Texas perform two basic functions:

1. Carry out administrative and judicial responsibilities for the State of Texas.
2. Carry out local government responsibilities for county residents.

County governments can only take those actions specifically authorized by state law. Unlike cities, counties have no general ordinance making authority. In fact, counties are very restricted in their ordinance and land use authority, currently limited to matters including subdivision regulations, road and drainage construction, regulation of sexually oriented business, solid waste, certain floodplain development, airport zoning, public nuisance, and game rooms.

Equally important, Texas counties must do those actions required by state law.

As a unit of *state* government, *mandatory* county government responsibilities include:

- Set budget and appropriate tax rate to fund local government.
- Conduct elections.
- Process and maintain voter registration.
- Provide for public safety.
- Maintain and operate the court and jail system including provision for indigent legal defense and indigent parents in CPS cases.
- Provide medical care for indigent county citizens.
- Facilitate the issuance and recording of public documents.
- Process motor vehicle registration and title transfers.
- Collect and remit state motor vehicle taxes.
- Provide local support for state agencies such as the Texas Department of State Health Services, the Department of Public Safety, the Texas Parks & Wildlife Department, and the Texas Alcoholic Beverage Commission.

As part of their commitment to the local community, county government officials traditionally seek to provide more than mandatory services. County governments also provide funding for authorized *discretionary or optional* services, such as parks, community centers, libraries, senior centers, emergency medical and family services, and county fairs. Funds also may be used to support tax increment reinvestment zones, certain non-profits, and other special programs that enhance the quality of individual lives and the community as a whole.

County roads present an interesting twist. Maintaining and constructing county roads are county responsibilities as assigned by both the Texas Constitution and statutes; however, the funding level, decided by the Commissioners Court, is discretionary.

The Commissioners Court serves as the governing body in each of Texas' 254 counties. This administrative body was established by the Texas Constitution of 1876 and is comprised of a County Judge and four

County Commissioners, all elected officials. The major duties of the Commissioners Court involve overseeing the budgetary and policymaking functions of county government. As explained in Chapter 111 of the Local Government Code, Subchapters A, B, and C, the county budget officer may be the County Judge, the county auditor, or an appointee, depending on the population. During budget development, the Judge and the Commissioners consider the funding necessary for county offices to carry out their mandatory duties. The Commissioners Court must fund these responsibilities first before deciding which discretionary services to provide.

The budget must be balanced with revenues and will determine the tax rate. Counties are not allowed to adopt “deficit” budgets.

Who Pays for County Government?

The taxpayer funds the majority of county government via the property tax, or ad valorem tax, which is the largest revenue source for Texas counties. About half of Texas’ 254 counties also receive funding from a local county sales tax, which when adopted allowed them to lower their property tax rate.

The county cannot levy an ad valorem tax in excess of 80 cents per $100 of property value for the county’s general fund, permanent improvement fund, road and bridge fund, and jury fund, combined. On top of the 80 cents, the county is authorized to levy a special road and bridge tax not to exceed 15 cents, and a farm-to-market/flood control tax not to exceed 30 cents; however, these taxes are subject to voter approval and must be credited to separate funds. The 80-cent general ad valorem tax and the 15-cent special road and bridge tax are authorized by Article VIII, Section 9, Texas Constitution. The 30-cent farm-to-market/flood control tax is authorized by Article VIII, Section 1-a, Texas Constitution.

Counties are also authorized by several statutes to levy certain special purpose taxes. However, these taxes when combined with the general fund tax may not total more than 80 cents per $100 assessed valuation.

Property tax rates across the state are as varied as the counties themselves, with some counties approaching or reaching the maximum due to low property values.

In addition to the property tax and county sales tax, counties rely on fines and fees; intergovernmental revenue such as federal and state grants, contractual money, and statutory money from the State of Texas; miscellaneous revenues or transfers; and interest. However, the property tax is the most significant funding source for county government.

Sometimes, the State of Texas provides counties with a portion of the necessary funds to administer state-mandated services. However, this is not always the case. When the State of Texas requires a service or duty of a county but does not provide the necessary funding, this is called an "unfunded mandate," whereby the county must find the funding on its own. This may present a challenge to counties when working on the county budget and may impact the final property tax rate.

The property tax rate is determined after county properties are appraised.

<u>Who Conducts Property Appraisals?</u>

Property appraisals are conducted by appraisal districts, which are charged with identifying and listing the value of all property in the county for taxation. The appraisal district *<u>is not</u>* part of the city, county, or school district. Rather, the appraisal district is a political subdivision, subject to state regulations. While state law created "centralized" appraisal districts, many districts retained the word "county" in their title, sometimes creating the perception that appraisal districts are part of county government. Again, appraisal districts *<u>are not</u>* a part of county government.

After identifying, listing, and appraising all taxable property within the county, the appraisal district certifies the tax roll. When the roll is certified, it means the property value has been agreed to or challenges by the property owners have been resolved. ***The Commissioners Court is not involved in any portion of the appraisal process.***

How Does the County Set the Tax Rate?

The Commissioners Court approves the budget and sets the tax rate using the appraisal roll from the central appraisal district to help fund the county budget and service any county debt.

After receiving the appraisal roll, taxing units take the first step toward adopting a tax rate by calculating and publishing the no-new-revenue tax rate and the voter-approval tax rate, previously known as the effective tax rate and the rollback tax rate, respectively.

- The no-new-revenue tax rate is a calculated rate that would provide the taxing unit with about the same amount of revenue it received in the year before on properties taxed in both years. If property values rise, the no-new-revenue tax rate will go down and vice versa. The no-new-revenue tax rate is a starting place. Commissioners Courts review how much money they required the previous year and determine if they need more or less.

allowed an increase of 8 percent. Mandatory elections are now required to exceed the 3.5 percent rate. However, there are several exceptions explained in S.B. 2 that can increase the voter approval rate.
- A disaster declaration by the governor may reinstate a limited portion of the 8 percent cap for at least two years after the disaster declaration. However, there are restrictions and requirements for this exception.
- A county may increase its tax by $500,000 without an automatic election for this "de minimis" increase, but the voters can force an election by petition if it exceeds an 8 percent increase.
- Adjustments are allowed to the standard 3.5 percent cap for increased state inmate costs, indigent health care costs, county hospital costs (8 percent maximum), indigent defense costs (5 percent maximum), and unused increment rate.

Common Misperceptions

When it comes to appraisals and the tax rate, Commissioners Courts are often called upon to respond to some common misperceptions:

Incorrect: The county conducts appraisals.

Correct: Central appraisal districts, which are *not* part of county government, conduct appraisals.

Incorrect: Taxpayers should contact the Commissioners Court if they have problems with their appraisal values.

Correct: Taxpayers should contact their central appraisal district.

Incorrect: If the appraised value of my property goes down, then my taxes will automatically go down.

Correct: If the county adopts the calculated no-new-revenue tax rate, then the tax rate will be adjusted to bring in the same amount of money for the coming year that was on the tax roll in the last year. In this case, even though the appraised value went down, the tax rate would go up in order to bring in the same amount of revenue as the previous year.

Incorrect: An increase in appraisal values is an automatic windfall for counties and other taxing jurisdictions.

Correct: An increase in value is offset by an automatic lowering of the tax rate that the county must begin with, which is the no-new-revenue tax rate.

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