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# Self-Organized Counties

## Fact Sheet No. 8

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### Local Government Education Program

February 1997

#### What self-organizing is:

Self-organization is a process used by county boards that provides the board with alternatives to some of the specific procedures otherwise mandated in Chapter 59, Wisconsin Statutes. A county that has undertaken self-organization has given itself somewhat more flexibility in the manner in which its board of supervisors may operate.

This narrow power to control several elements of county board functioning is found in §59.10(1). It was given to counties during the 1970s, when the legislature decided that counties needed some flexibility in these matters. Later, the legislature also provided a little elbow room for county boards in the area of organizing their administrative departments. This latter authority is called administrative home rule. It is found primarily in §§59.03 and 59.04.

Counties are completely subject to state law; they have no constitutional home rule authority as do cities and villages. The statutes have historically dictated almost all elements of substance, policy, and procedure for counties. Chapter 59, the basic law under which counties operate, contains more than 150 optional powers which counties may invoke by action of the county board. These grants are necessary because of the lack of home rule.

#### What it does for a county:

A county which has undergone self-organization may adopt its own policies regarding:

- Use of staggered terms for the supervisors, electing half of them each year rather than electing them all each even-numbered year. [§59.10(1)(b)] Without self-organization, all supervisors are to be elected on the first Tuesday in April in even-numbered years and take office of the third Tuesday in April of that year (except in 1996, when the desire for an early presidential preference primary led the legislature to move the spring general election to mid-March). Self-organization allows the use of staggered terms. [§59.10(3)(d)]
- Compensation of supervisors for attendance at board meetings and paying mileage. [§59.10(1)(c)] Non-self-organized boards already have several options. Self-organization would allow the board to be as creative as it wished, except that compensation would have to be set by the statutorily required date and the board could not give a mid-term compensation increase for itself. For the statutes that control board compensation in the absence of self-organization,

see Note below.

- Filling vacancies in the office of county supervisor. [§59.10(1)(d)] A county may adopt its own procedures. Without self-organization, vacancies are filled by the board chairperson for the unexpired term, with the approval of the board. [§59.10(3)(e)]

## How self-organization is accomplished:

This is a very simple procedure.

- A majority of the whole board adopts an ordinance invoking the authority of the authorizing statute, §59.10(1). A certified copy of the adopted ordinance is filed by the county clerk with the Wisconsin Secretary of State.
- The county board adopts the policies it desires regarding possible staggered terms, compensation for board members, and the method for filling vacancies on the county board.

## How self-organization relates to administrative home rule:

Sections 59.03 and 59.04 of Chapter 59 provide for administrative home rule. This legislation grants counties flexibility in administrative and organizational matters — such as grouping functions into departments and establishing committees to supervise those departments.

The statutory language in the administrative home rule sections is more general than it is in the self-organization section, but administrative home rule has a broad and not clearly defined limit attached to it. Administrative home rule does not apply in areas where the legislature has enacted a statute of “statewide concern.” This is the same language that has been interpreted by the courts and attorney general to restrict municipal home rule considerably. Statewide concern has been interpreted several times similarly to restrict the latitude of counties in administrative home rule.

## Summary

County boards are granted clear authority to change the way they do business in very specific areas of board functioning if they undertake self-organization. In contrast, county boards are given broadly stated, but vague, authority in administrative and organizational matters in §§59.03 and 59.04. This last authority, however, is subject to challenge in the event that the legislature might have enacted another statute considered to be of “statewide concern” in an area where a county board wanted to exercise administrative home rule.

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**Note:** In the *absence* of self-organization, the controlling statutes regarding compensation of county board members are these as quoted:

§59.10(3)(f) **Compensation.** Each supervisor shall be paid a per diem by the county for each day he or she attends a meeting of the board. Any board may, at its annual meeting, by a two-thirds vote of all the members, fix the compensation of the board members to be next elected. Any board may also provide additional compensation for the chairperson.

§59.10(3)(g) **Mileage.** Each supervisor shall, for each day that he or she attends a meeting of the board, receive mileage for each mile traveled in going to and returning from the meetings by the most usual traveled route at the rate established by the board pursuant to §59.22 as the standard mileage allowance for all county employees and officers.

§59.10(3)(h) **Limitation on compensation.** Except for services as a member of a committee as provided in §59.13, no supervisor shall be paid for more days' attendance on the board in any year than is set out in this schedule: In counties having a population of less than 25,000, 20 days; at least 25,000 but less than 100,000, 25 days; at least 100,000 but less than 500,000, 30 days.

§59.10(3)(l) **Alternative compensation.** As an alternative method of compensation, in counties having a population of less than 500,000, including those containing only one town, the board may at its annual meeting, by a two-thirds vote of the members entitled to a seat, fix the compensation of the supervisors to be next elected at an annual salary for all services for the county including all committee services, except the per diem allowance for services in acquiring rights of way set forth in §84.09(4). The board may, in like manner, allow additional salary for the members of the highway committee and for the chairperson of the board. In addition to the salary, the supervisors shall receive mileage as provided in par.(g) for each day's attendance at board meetings or for attendance at not to exceed 2 committee meetings in any one day.

§59.10(3)(j) **Supplementary compensation.** The board, in establishing an annual salary, may enact an ordinance for a per diem for all committee meetings attended in excess of 40 committee and board meetings.