

WISCONSIN COUNTY ADMINISTRATIVE STRUCTURE

2022 WCHA Professional Development Conference

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County Structure

- County authority comes from Wis. Stat. Chapter 59.
- Counties are a body corporate that can sue and be sued.
- Powers are limited by state statute.
- Home Rule: Wis. Stat. § 59.03(1) - Every county may exercise any organizational or administrative power, subject only to the constitution and to any enactment of the legislature which is of statewide concern and which uniformly affects every county.
- Counties are governed by a board of supervisors.

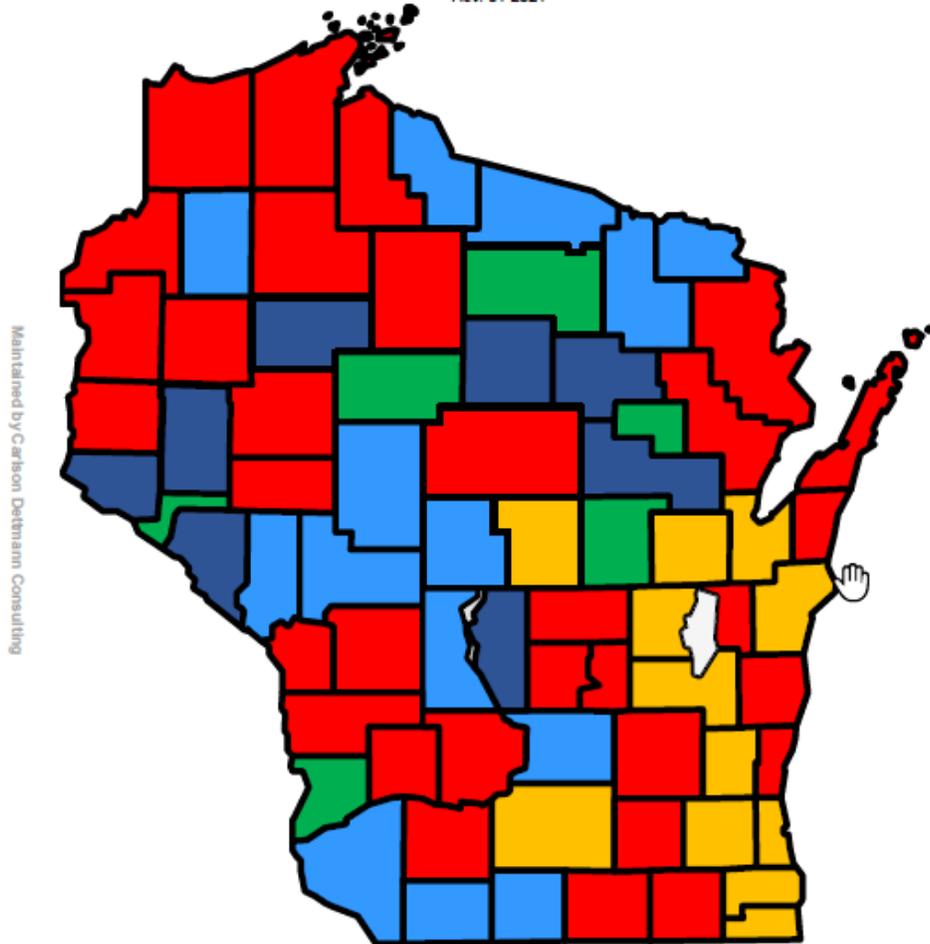
Forms of County Government Leadership in Wisconsin

Three types:

- County Executive (12 counties)
(newest Washington County)
- County Administrator (26 counties)
- County Administrative Coordinator (34 counties)

County Form of Government

Rev. 01-2021



Maintained by Carlson Detmann Consulting



Full Time Dedicated Positions: 52 Counties

12 Elected County Executives (CE)

33 Appointed County Administrators (CA)

7 Appointed Administrative Coordinators (AC)

Dual Role Positions: 20 Counties

10 AC/County Clerks

4 AC/Board Chairs

3 AC/Human Resources

1 AC/Finance Director

1 AC/Human Services

1 AC/Highway Commissioner

County
Executive – Wis.
Stat. § 59.17

Appoints and supervises department heads subject to county board confirmation.

Appoints members to county boards and commissions.

Submits an annual budget to the county board.

Has veto authority.

County
Administrator –
Wis. Stat. § 59.18

- Chief administrator of the county.
- Responsible for coordinating all administrative and management functions not vested by law with other officers.
- Appoints and supervises county department heads/administrators.
- Appoints members to boards and commissions, with county board confirmation.
- Coordinates, prepares and submits annual budget.

Administrative
Coordinator –
Wis. Stat. § 59.19

- “The administrative coordinator shall be responsible for coordinating all administrative and management functions of the county government not otherwise vested by law in boards or commissions, or in other elected officers.”
- Similar to county administrator but does not have appointment authority and coordinates rather than supervises.
- Some counties meet the requirement by appointing an elected official.

County Board Supervisors

Supervisors serve primarily a *legislative* function.

The *legislative* function is largely limited to policy making, law making, budgetary approval and cooperative decision making.

No operational control resides with individual supervisors.

Involve, represent and be accountable to the public.

Determine services to be provided.

Adopt budget – levy taxes.

Regulate within statutory authority.

In other words, ENACT POLICY.

Home Rule Authority

- **Sec. 59.03(1) - Every county may exercise any organizational or administrative power, subject only to the constitution and to any enactment of the legislature which is of statewide concern and which uniformly affects every county.**



County Highway
Departments – General
Statutory Authority and
Obligations

General Statutory Authority and Obligations

- **Wisconsin Statute Chapter 83 – County Highways**
- **Wis. Stat. § 83.01(7) – County Highway Commissioner’s Duties**
- **Wis. Stat. § 83.015(2) – County Highway Committee’s Duties.**

Highway
Commissioner
and Highway
Committee
Authority
Wis. Stat. §
83.015(2)

- In any county with a highway commissioner appointed by a county executive or a county administrator, the county highway committee is only a policy-making body determining the broad outlines and principles governing administration.
- In that case, the county highway commissioner has the administrative powers and duties prescribed for the county highway committee by statute.

Highway Commissioner and Highway Committee Authority Wis. Stat. § 83.015(2)

- In any county with a highway commissioner that is not appointed by a county executive or a county administrator, but rather is elected by the county board, the county highway commissioner reports to the county highway committee.
- In that case, the county highway commissioner does not have the administrative powers and duties prescribed for the county highway committee by statute. The county highway committee maintains those powers and duties. These powers include contracting and to “make the necessary arrangements for the proper prosecution of construction and maintenance of highways provided for by the county board.”

Highway Commissioner and Highway Committee Duties:

Highway Commissioner: Wis. Stat. § 83.01(7) (a) requires the highway commissioner to “have charge, under the direction of the county highway committee, of the construction of highways built with county aid and the maintenance of all highways maintained by the county.

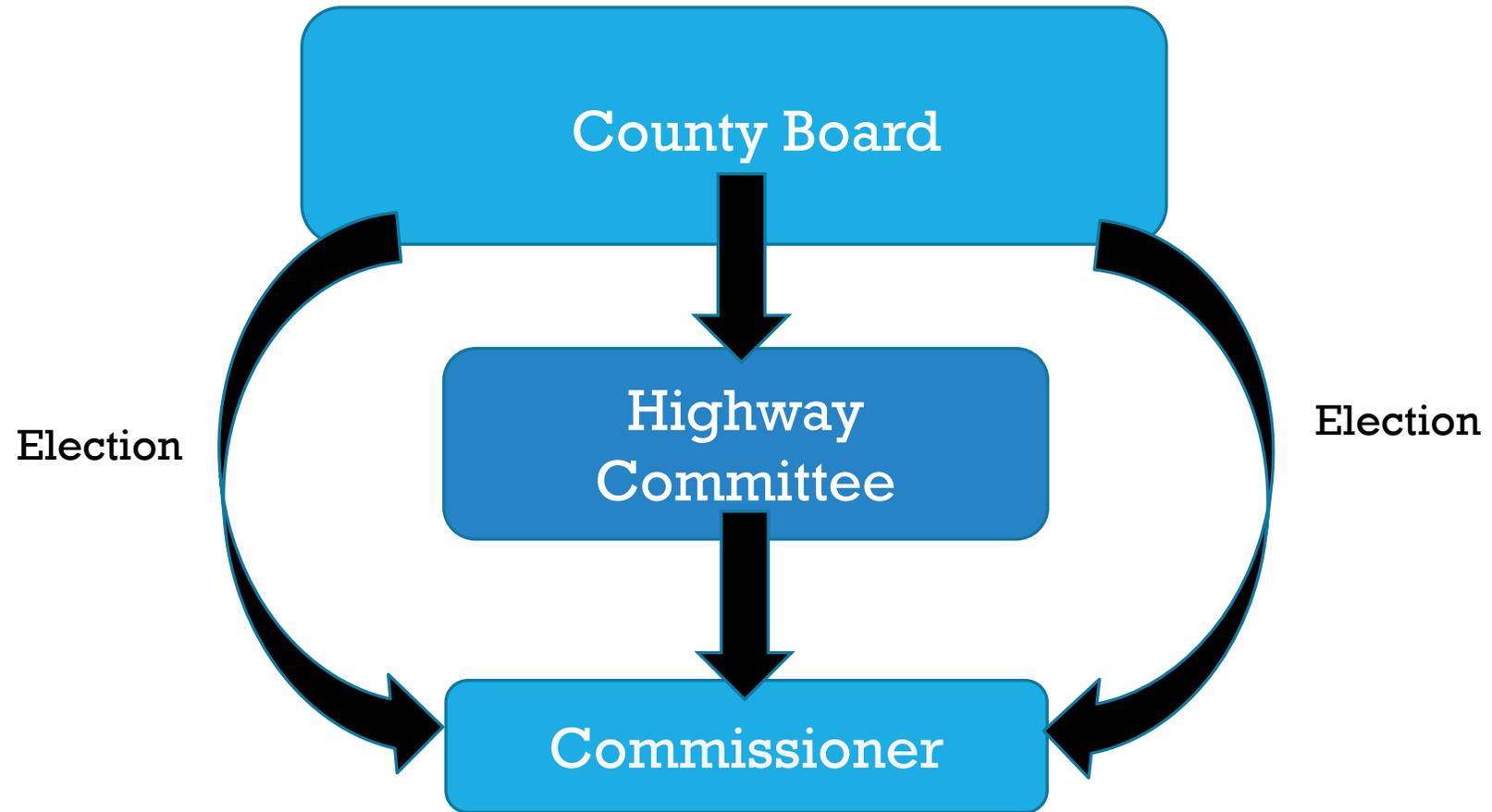
Highway Committee: Wis. Stat. § 83.015(2) requires highway committee to make necessary arrangements for the proper prosecution of the construction and maintenance of highways provided for by the county board (assuming the highway commissioner is not appointed by the county executive or county administrator).

Highway Commissioner and Highway Committee Duties

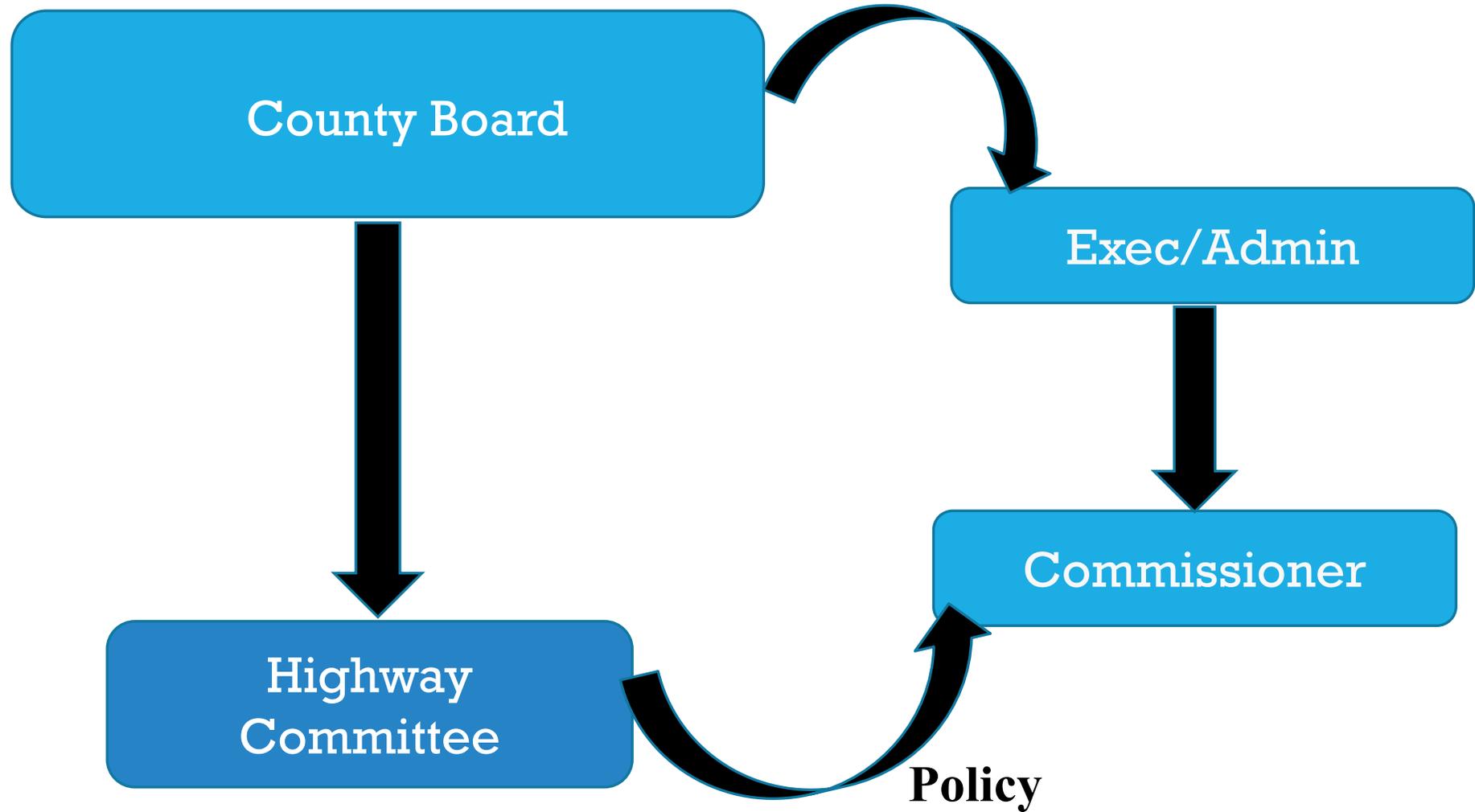
Wis. Stat. § 83.015(2): The highway committee's power to "make the necessary arrangements for the proper prosecution of construction and maintenance of highways" is qualified by "provided for by the county board." What does this mean?

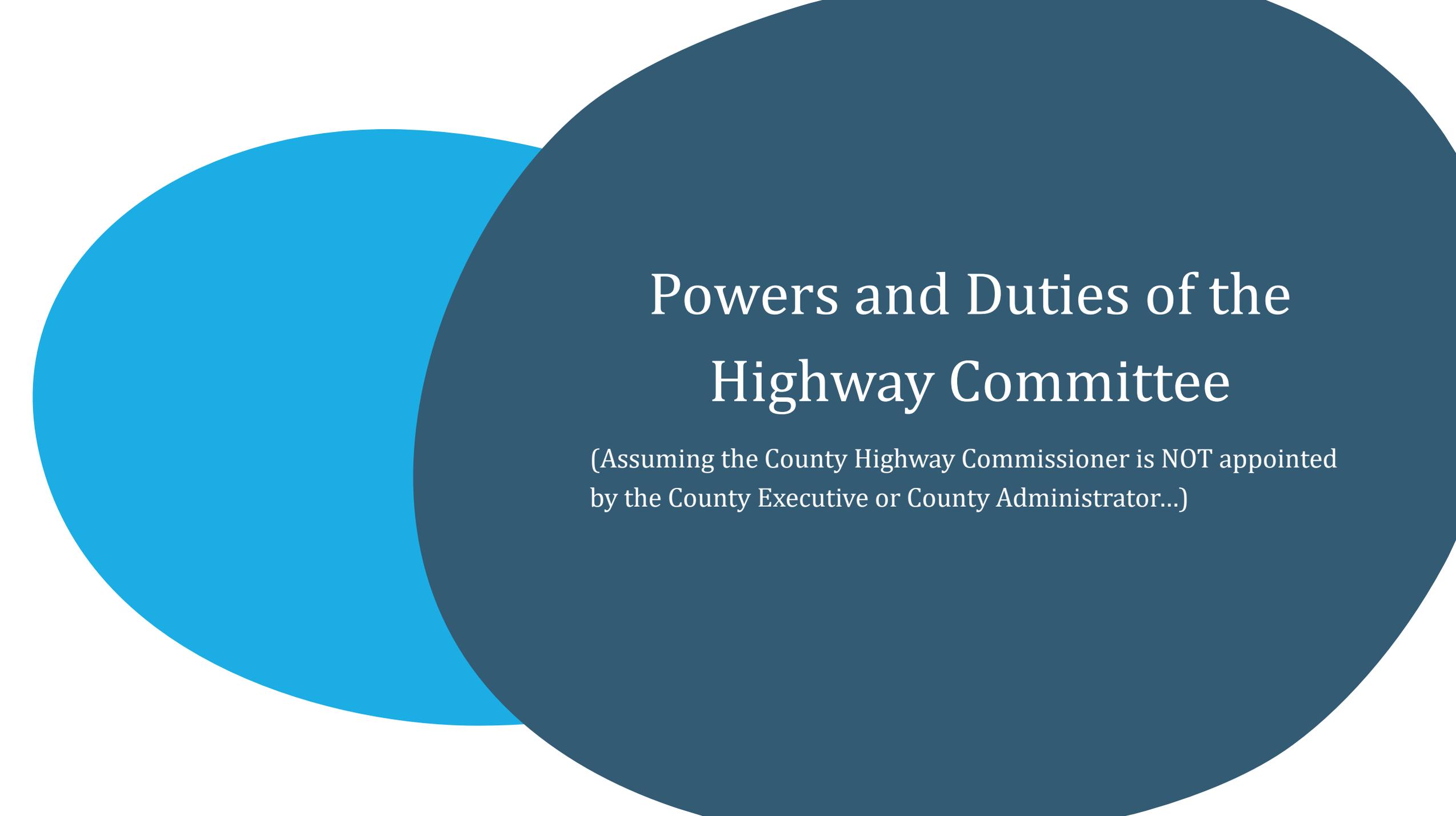
- The county board maintains decision making power over budget matters and specific highway project funding. See also Wis. Stat. § 83.03; Wis. Stat. § 65.90(1) and (3)(b).
- The county board may assign other duties to the highway commissioner and highway committee, in addition to the construction and maintenance duties already statutorily delegated to the highway commissioner or highway committee.

Counties *Without* an Executive or Administrator



Counties *With* an Executive or Administrator





Powers and Duties of the Highway Committee

(Assuming the County Highway Commissioner is NOT appointed
by the County Executive or County Administrator...)

Statutory Authority and Obligations:
Duties of the County Highway Committee (Assuming the County Highway
Commissioner is NOT appointed by the County Executive or County
Administrator...)

Wis. Stat. § 83.015(2): *County Highway Committees—Powers and Duties*

- *Purchase and sell road machinery as authorized by the county board.*
- *Determine whether county aid construction shall be let by contract or shall be done by day labor.*
- *Enter into contracts on behalf of the county.*
- *Enter private lands with their employees to remove weeds and brush and erect or remove fences that are necessary to keep highways open for travel during the winter.*

Statutory Authority and Obligations:
Duties of the County Highway Committee (Assuming the County Highway
Commissioner is NOT appointed by the County Executive or County
Administrator...)

County Highway Committees—Powers and Duties (con't.)

- Direct the expenditure of highway maintenance funds received from the state or provided by county tax.
- Audit all payrolls and material claims and vouchers resulting from the construction of highways.
- Perform other duties imposed by law or by the county board.
- Meet from time to time at the county seat to audit all payrolls and material claims and vouchers resulting from the construction of highways.
- Perform such duties imposed by law or the county board.

County Highway Committees - Powers and Duties: Road Supplies

Road Supplies:

- The county highway committee is authorized to sell road building and maintenance supplies on an open account to any city, village, town or school district within the county; and any such city, village, town or school district is authorized to purchase such supplies.
- The attorney general has found that it is permissible for a county highway department to sell road sand or salt to municipalities either for their own use or for resale if, in good faith, county officials believe that the purchaser does not intend to resell the sand or salt for a private purpose.
- Generally, a county may not sell road maintenance supplies to a private party that intends to resell the supplies on the private market. *See OAG 2-01.*

County Highway
Committees - Powers
and Duties:
Acquisition of Land
for Highway Purposes

The county highway committee may acquire any lands or interest therein needed to carry out the provisions of Wis. Stat. Ch. 83. Wis. Stat. § 83.07.

Whenever the county highway committee is unable to acquire the same by purchase at a reasonable price such property may be acquired by condemnation under Wis. Stat. Ch. 32 (eminent domain).

County Highway
Committees - Powers
and Duties:
Acquisition of Land
for Highway Purposes

The county highway committee may acquire by gift, devise, purchase or condemnation any lands or interest in lands for the improvement, maintenance, relocation or change of:

any county aid or other highway; or

any street or bridge on a county aid or other highway; or

any street that the county is empowered to improve or aid in improving or to maintain.

See Wis. Stat. § 83.08(1)(a).

Acquisition of Land for Other Purposes

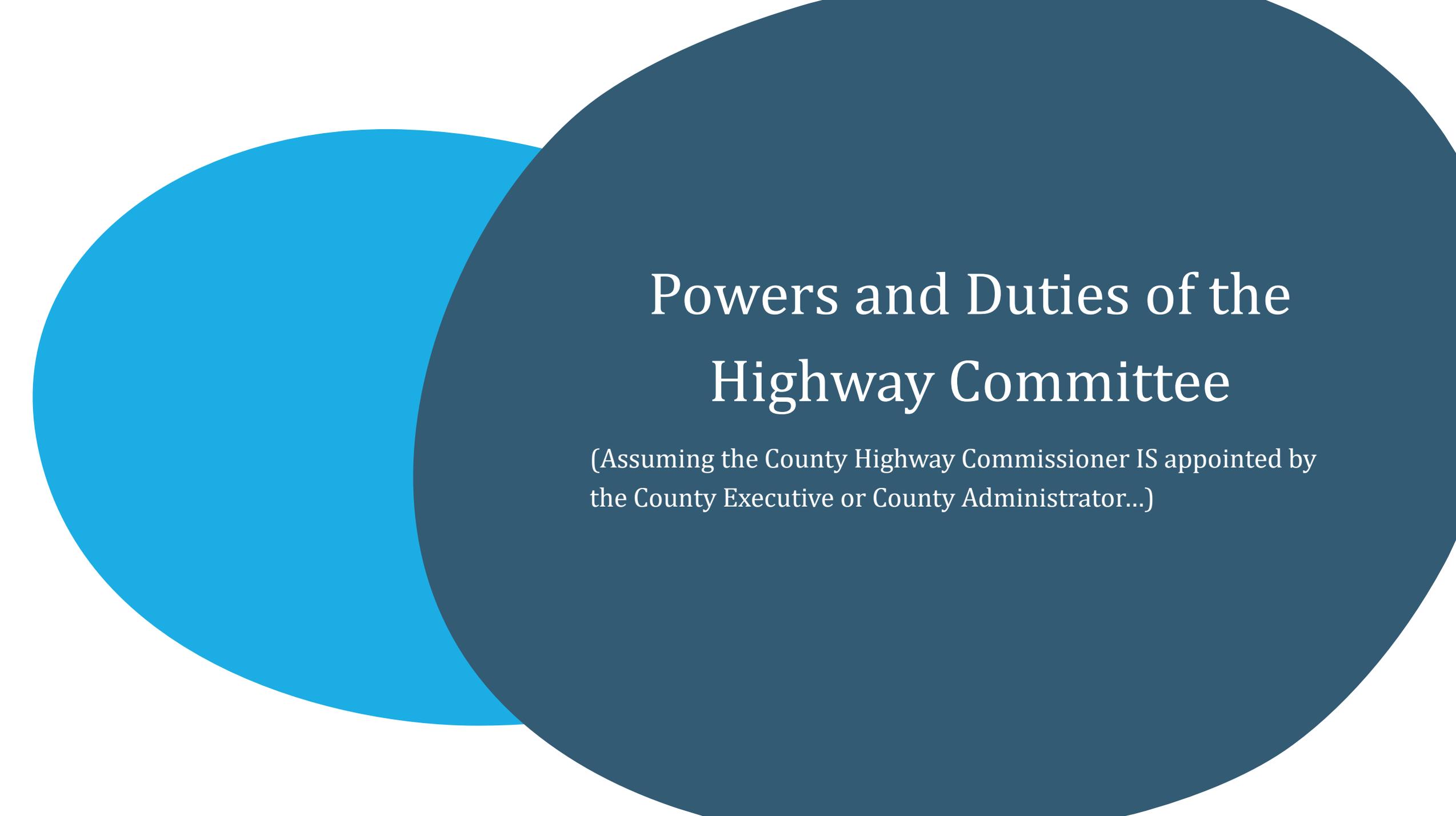
- *Whenever the county highway committee considers it necessary to acquire any lands or interests in land for any purpose (including for quarries, gravel pits, drainage across land or to beautify highways), it shall so order. See Wis. Stat. § 83.07 and Wis. Stat. § 83.08; see also Wis. Stat. § 32.05(1)(a) and Wis. Stat. § 83.18 (entry upon land).*
 - *The order or a separate map or plat must show the old and the new locations and the lands or interests required.*
 - *The committee must file a copy of the order and map with the county clerk or may file or record a plat with the register of deeds in accordance with § 84.095.*
 - *The committee must attempt to acquire the lands or interest in lands at a price considered reasonable by the committee.*
 - *The instrument of conveyance must name the county as grantee and must be filed with the county clerk and recorded with the register of deeds.*
 - *The cost of land and rights acquired shall be paid out of available improvement or maintenance funds.*

Statutory Authority and Obligations

County Highway Commissioners—Powers and Duties if NOT Appointed by a County Executive or County Administrator

So what does a County Highway Commissioner do if not appointed?

- *The county highway commissioner has charge, under the direction of the county highway committee, of the construction of highways built with county aid and the maintenance of all highways maintained by the county.*
- *The county highway commissioner shall perform all duties required by the county board and by the county highway committee and shall do or cause to be done all necessary engineering and make all necessary examinations for the establishment, construction, improvement and maintenance of highways.*
- *The county highway commissioner shall have charge of all road machinery and tools.*
- *And all the other duties set forth in Wis. Stat. § 83.01(7)...*



Powers and Duties of the Highway Committee

(Assuming the County Highway Commissioner IS appointed by
the County Executive or County Administrator...)

Statutory Authority and Obligations

County Highway Commissioners

- In counties with a county executive or county administrator, the county executive or county administrator appoints and supervises the county highway commissioner, not the county highway committee.
 - The appointment is subject to confirmation by the county board unless the board, by ordinance, elects to waive confirmation or unless the appointment is made under a civil service system competitive examination procedure.
- The county board must provide the commissioner with suitable offices and such assistants as are necessary for the proper performance of the commissioner's duties.

Statutory Authority and Obligations County Highway Commissioners—Powers and Duties

Wis. Stat. § 83.01(7):

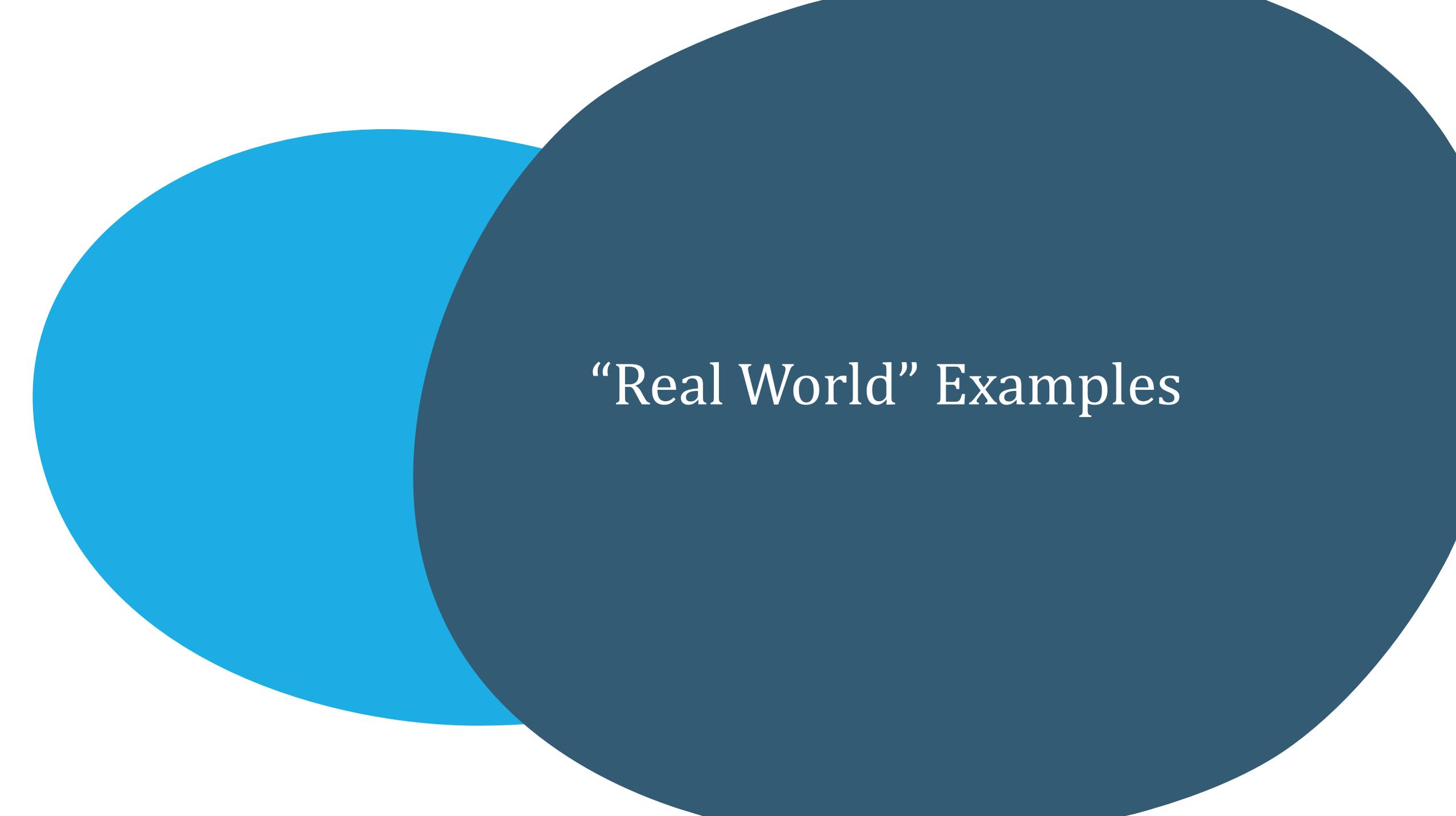
- The county highway commissioner has charge, *under the direction of the county highway committee (unless the commissioner was appointed by a county executive or county administrator)*, of the construction of highways built with county aid and the maintenance of all highways maintained by the county. Key: the county highway commissioner is NOT under the direction of the county highway committee if appointed. *See Wis. Stat. § 83.01(7)(a).*
- The county highway commissioner shall perform all duties *required by the county board and by the county highway committee (unless the commissioner was appointed by a county executive or county administrator)*, and shall do or cause to be done all necessary engineering and make all necessary examinations for the establishment, construction, improvement and maintenance of highways. Key: the county highway commissioner is NOT under the direction of the county highway committee if appointed. *See Wis. Stat. § 83.01(7)(b).*

Statutory Authority and Obligations: Duties of the County Highway Commissioner (con't.)

- Complete, or cause to be completed, all necessary engineering and make all necessary examinations for the establishment, construction, improvement and maintenance of highways. See Wis. Stat. § 83.01(7)(b).
- Keep all county road machinery and tools properly maintained, repaired and stored, and make an annual report to the county board showing a full inventory of such machinery and tools. See Wis. Stat. § 83.01(7)(c).

Statutory Authority and Obligations: Duties of the County Highway Commissioner (con't.)

- Make an annual report to WisDOT and to the county board. The report must include an itemized statement of all expenditures made from the county road and bridge fund during each annual period and estimate the amount of funds needed to properly maintain the county trunk highways in that county for the succeeding year. In addition, the report should include any other recommendations as the county highway commissioner deems necessary. See Wis. Stat. § 83.01(7)(d).
- Issue removal orders in the event of an encroachment on any county trunk highway or state trunk highway. See Wis. Stat. § 83.01(7)(f); see also *Affeldt v. Green Lake County*, 2011 WI 56, 335 Wis.2d 104, 116-117, 808 N.W. 2d 56 (recognizing that the county highway commissioner is granted authority by the state to remove any encroachment on a county trunk highway).
- Compile and maintain a record of the laying out, alteration, or discontinuance of all highways in the county outside the limits of cities and villages, consistent with the form prescribed by WisDOT. See Wis. Stat. § 83.01(7)(g).



“Real World” Examples

Example 1

(Assuming the County Highway Commissioner IS NOT appointed by the County Executive or County Administrator):

The County Highway Committee recommends, and the full County Board approves, a budget for the County Highway Department that includes line items for maintenance, equipment purchases, improvements, etc. Should the County Highway Committee also specify the specific makes and models of equipment the County Highway Commissioner must purchase and/or specify the terms of the bid for the equipment?

Example 1 - Answer

(Assuming the County Highway Commissioner IS NOT appointed by the County Executive or County Administrator):

Probably not – the County Highway Committee should not specify the makes and models of equipment the County Highway Commissioner must purchase and/or specify the terms of the bid for the equipment because the County Highway Commissioner has charge of all county road machinery and tools regardless of whether the County Highway Commissioner is appointed.

(Irrelevant Whether the County Highway Commissioner is appointed by the County Executive or County Administrator!)

Example 2

(Irrelevant Whether the County Highway Commissioner is appointed by the County Executive or County Administrator):

The County Highway Commissioner needs to replace all of the tires on four trucks. Should the County Highway Commissioner bring the request and/or the invoice to the County Highway Committee for approval? Should the County Highway Committee ask the County Highway Commissioner to bring other information of this type to them for approval as well?

Example 2 - Answer

(Irrelevant Whether the County Highway Commissioner is appointed by the County Executive or County Administrator):

No, the County Highway Commissioner does not have to bring the request and/or the invoice to the County Highway Committee for approval (but she can if she wishes). The County Highway Commissioner must make an annual report to the County Highway Committee, but she does not need to bring other information of this type to them for approval as long as it is within budget.

Example 3

(Assuming the County Highway Commissioner IS appointed by the County Executive or County Administrator):

The County Highway Department has two vacancies: the Patrol Superintendent and the County Highway Commissioner. Should the County Highway Committee participate in the interviewing/hiring process for the Patrol Superintendent? The Highway Commissioner?

Example 3 - Answer

(Assuming the County Highway Commissioner IS appointed by the County Executive or County Administrator):

Patrol Superintendent Position: The County Highway Committee is not required to participate in the hiring.

The County Highway Commissioner Position: The County Highway Committee does not elect or hire the County Highway Commissioner if there is a County Executive or County Administrator. However, the County Executive or County Administrator would likely involve the County Highway Committee in the hiring process.



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QUESTIONS |