

CHAPTER 11-11

BOARD OF COUNTY COMMISSIONERS

11-11-01. Number of county commissioners. Each organized county shall have a board of county commissioners which shall consist of not less than three nor more than five members.

11-11-02. Commissioner must be resident of district - Exceptions. Each county commissioner shall be chosen by the qualified electors of the district of which the commissioner is a resident, except as otherwise provided in section 11-07-03.

11-11-03. Term of office of commissioners. A county commissioner shall hold office for the term of four years except as otherwise provided in this title.

11-11-03.1. Commissioners' service on other boards - Term. Except as otherwise provided in this section, a member of a board of county commissioners who is appointed to serve on another board by the board of county commissioners or who is a member of another board because of the individual's status as a member of the board of county commissioners may serve on the other board only so long as the individual is a member of the board of county commissioners. After the individual is no longer a member of the board of county commissioners, the board of county commissioners may reappoint the individual to serve on the other board unless membership on the board of county commissioners is a requirement of membership.

11-11-04. Specific provisions to be contained in bond of county commissioners. The bond of a member of the board of county commissioners shall be conditioned for the faithful performance and discharge, according to law, of the official duties of the office and the rendition of a true, accurate, and full account of all business transactions, powers, and trusts of every kind and nature that shall come before the member or into the member's hands as such officer. The bond shall cover all the business of the county done by the member and shall protect the county against all the member's acts of omission as well as of commission, including all errors caused by carelessness or inattention in office.

11-11-05. Meetings of board - Time and place. The board of county commissioners shall meet and hold regular meetings for the transaction of business at a time and place to be designated by the commission on a date certain established by resolution or ordinance of the commission. The county auditor shall have power to call special meetings when the interests of the county demand it. The chairman of the board, or a majority of the members thereof, may call special meetings that must be noticed in accordance with section 44-04-20.

11-11-06. Sessions of board to be public - County matters heard at session only. The meetings of the board of county commissioners shall be open to the public. All matters pertaining to the affairs of the county shall be considered by the board in session only, but it may continue any business from a regular session to a day between regular sessions.

11-11-07. Quorum - Tie vote defers decision. A majority of the members elected or appointed to the board of county commissioners shall constitute a quorum for the transaction of its business. When the board is equally divided on any question, it shall defer its decision thereon until its next meeting, at which time the matter shall be decided by a majority of the members of the board.

11-11-08. Chairman - Election - Duties. At the first meeting of the board of county commissioners each year, the members of the board shall elect one of their number chairman, who shall act as chairman of such board during the year in which the chairman is elected or until the chairman's successor is elected, and in case of a vacancy from any cause whatever, the board shall elect another chairman. The chairman shall preside at the meetings of the board. All orders made by the board shall be signed by the chairman and attested by the county auditor as

clerk of the board, except that claim vouchers or other orders directed to the auditor as authorization for the issuance of warrants shall not be attested by the auditor.

11-11-09. County seal. The board of county commissioners shall procure and keep a seal with such emblems and devices as it may think proper, which shall be the seal of the county, and no other seal shall be used by the county auditor. The impression of the seal shall be sufficient sealing in all cases when sealing is required.

11-11-10. Power of board to preserve order - Fines - Collection. The board of county commissioners has power to preserve order when sitting as a board and may punish contempts by fines of not more than five dollars or by imprisonment in the county jail for not more than twenty-four hours. The board may enforce obedience to its orders by attachment or other compulsory process, and when fines are assessed by it, they may be collected before any district judge having jurisdiction, and, within ten days after they are collected, must be paid into the treasury of the county to be added to the state school fund.

11-11-11. General duties of board of county commissioners. The board of county commissioners:

1. Shall superintend the fiscal affairs of the county.
2. Shall supervise the conduct of the respective county officers.
3. May cause to be audited and verified the accounts of all officers having the custody, management, collection, or disbursement of any moneys belonging to the county or received in their official capacity.
4. Before March fifteenth of each year, shall have the county auditor prepare general purpose financial statements in accordance with generally accepted accounting principles. Public notice that financial statements have been prepared and are available for inspection must be published in the official newspaper.

11-11-12. Board of county commissioners to provide courts with supplies and attendants. Repealed by S.L. 1991, ch. 326, § 203.

11-11-13. Board to ascertain amount of satisfaction of tax lien money. The board of county commissioners, at the first meeting of the board each year, shall examine the county treasurer's satisfaction of tax lien book and stub receipts and ascertain the amount of satisfaction of tax lien money in the treasury, and shall require the treasurer to account for the same.

11-11-14. Powers of board of county commissioners. The board of county commissioners shall have the following powers:

1. To institute and prosecute civil actions for and on behalf of the county and in its name.
2. To make all orders respecting property of the county.
3. To levy a tax not exceeding the amount authorized by law.
4. To control the finances, to contract debts and borrow money, to make payments of debts and expenses, to establish charges for any county or other services, and to control the property of the county.
5. To construct and repair bridges and to open, lay out, vacate, and change highways in the cases provided by law. But the board may not contract for the construction of bridges costing more than one hundred dollars without first complying with the provisions of chapter 24-08.

6. To establish election precincts in the county in areas outside the boundaries of incorporated cities except as provided in chapter 16.1-04.
7. To equalize the assessments of the county in the manner provided by law.
8. To furnish to the county officers the necessary telephone, postage, telephone and telegraph tolls, and all other things necessary and incidental to the performance of the duties of their respective offices to be paid out of the county treasury.
9. To furnish a fireproof safe in which to keep all the books, records, vouchers, and papers pertaining to the business of the board.
10. To dispose of property of the county in the manner provided in chapter 11-27.
11. To purchase lands in lieu of those sold.
12. To grant to any person the right of way for the erection of telephone lines, electric light systems, water or wastewater systems, or gas or oil pipeline systems over, under, or upon public grounds, county streets, roads, or highways.
13. To establish a garbage and trash collection system encompassing all or any part of the territory of the county. The words "garbage and trash collection system" include the operation and maintenance of one or more sanitary landfill sites, or other types of processing sites for the disposal of trash and garbage. The board may operate such system in cooperation with any one or more political subdivisions of this or any other state in accordance with chapter 54-40. The board may borrow money by issuing certificates of indebtedness, repayable from fees or special assessments, or both, which may be charged to the proper parcels of land or to persons receiving the direct benefits of the garbage and trash collection system, or repayable in such other manner as may be provided by law, in order to purchase the initial equipment and land necessary for operation of the system. If the board resolves to establish such a system, the expenses of establishing, operating, and maintaining it may be financed by fees charged to persons receiving direct benefits or by special assessment against the parcels of land properly charged therewith, or by both such fees and assessments. The assessment may be made, published, altered, appealed from, and confirmed under the procedures set forth in chapter 11-28.1.
14. To maintain, in its discretion, all public roads and private highways and roads that are being used as part of regularly scheduled public schoolbus routes.
15. To expend county funds for the purpose of participating in an organization of county governments pursuant to section 11-10-24. This subsection does not authorize a mill levy, and the limitations embodied in section 57-15-06 apply to expenditures under this subsection, which expenditures shall be from the county general fund.
16. To expend county funds to finance in part or entirely for county employees a group insurance program for hospital benefits, medical benefits or life insurance, and a group retirement program through either the state retirement program or a private company.
17. To do and perform any other duties prescribed by law.
18. To loan or grant money to and secure a mortgage from individuals, associations, corporations, or limited liability companies and to purchase ownership shares in corporations, limited liability companies, or other business associations as provided through the procedures established by the state's community development block grant program established pursuant to the Housing and Community Development Act of 1974 [Pub. L. 93-383; 88 Stat. 633; 42 U.S.C. 5301 et seq.]. This power applies to all community development block grant transactions of the board of

county commissioners, including any transactions prior to July 1, 1987. The county is not lending its funds or extending its credit to any individual, association, or organization under this subsection and no general liability on the part of the county is incurred.

19. To license, tax, and regulate pawnbrokers outside of municipalities.
20. To acquire by lease, purchase, gift, condemnation, or other lawful means and to hold in its name for use and control as provided by law, both real and personal property and easements and rights of way within the county for all purposes authorized by law or necessary to the exercise of any power granted.
21. To participate and enact or adopt ordinances and resolutions necessary for participation in the nation's historic preservation program as a certified local government, as provided for under 36 CFR 61.6.
22. To regulate the confinement and control of dogs, cats, and other household pets, provided the regulations do not conflict with rules adopted by the state board of animal health.

11-11-15. Board may obtain copies of field notes and plats made by United States government. The board of county commissioners may procure for its county certified copies of the field notes and plats of the original surveys by the United States of the lands within its county and may cause a map of the county to be constructed therefrom on a scale of not less than one inch [2.54 centimeters] to a mile [1.61 kilometers] laid off in congressional townships and sections. When obtained, such notes and plats shall be bound substantially in book form, and together with the map of the county, shall be deposited in the office of the county auditor and kept open for the benefit of the public.

11-11-16. Board has power to erect, repair, and maintain buildings from current revenue. The board of county commissioners may provide for the purchase, erection, repair, and maintenance of the courthouse, hospitals, jails, and other necessary buildings within and for the county. It may purchase the sites for such county buildings if necessary and may make contracts on behalf of the county for the building, repairing, and maintaining thereof if the expenditures therefor are not greater than can be paid out of the revenue of the county for the current year. The board shall have the entire supervision of the construction of such buildings.

11-11-17. Board of county commissioners may supervise the building or repairing of roads, bridges, and property of the county - Compensation. Whenever the board of county commissioners of any county is required by law to lay out, oversee, and supervise the building or repairing of roads and bridges, including the appointment of a district overseer of highways' duties in unorganized territory, or the building or repairing of any property owned by the county, the board may appoint or designate one or more members of the board personally to lay out, oversee, or supervise the building or repairing of any such roads, bridges, or property. Each commissioner is entitled to receive as compensation for services the sum of five dollars per day and the mileage provided by law for members of the board of county commissioners.

11-11-18. Board to submit extraordinary outlay to vote. The board of county commissioners shall submit to the electors of the county at any regular or special election any proposal for an extraordinary outlay of money by the county when the proposed expenditure is greater in amount than can be provided for by the annual tax levies. If the board considers the courthouse, jail, or other public buildings of the county inadequate for the needs of the county or deems it necessary to build a county hospital, and if it is thought that it is not for the best interests of the county to issue bonds to aid in the construction of such buildings or that the construction of such buildings by any other procedure is not for the best interests of the county, it shall submit to the electors of the county, at any regular or special election, the proposal for the construction of a courthouse, jail, or other public building by establishing a building fund to aid in the construction thereof. The requirements of this section shall not apply to lease-purchase agreements authorized by section 24-05-04.

11-11-19. When commissioners may purchase land without election. If, in the opinion of a majority of the members of the board of county commissioners, acquisition of land is, or may become, necessary for the courthouse or the jail, or for the purpose of beautifying county buildings, or to prevent the erection of other buildings so near to the courthouse and jail that the transaction of public business will be inconvenienced, the board, by a majority vote of its members, may purchase such land without submitting the question to a vote of the electors of the county. The money required for the purchase of the additional land shall be raised in the manner in which money is raised for general county purposes.

11-11-20. Notice of election on question of extraordinary expenditure. Notice of the election on the proposal to make an extraordinary expenditure of county funds shall be published in the official newspaper of the county for four successive weeks. The notice shall set forth the whole question to be submitted, including the amount of money to be raised, the amount of the tax desired to be levied, or the rate per annum and the years in which the tax is to be levied, the precise purpose for which the money is to be expended, the time when the question will be voted upon, and the form in which the question will be submitted. If the county does not have an official newspaper, the publication shall be made by posting the notice in at least one of the most public places in each election precinct in the county. A copy of the question shall be posted at each voting place during the day of election.

11-11-21. Proposition to tax must accompany question submitted. When the question of extraordinary expenditure submitted to the electors of the county involves the establishment of a building fund for the construction of buildings or the borrowing or expenditure of money, the question must be accompanied by a proposition to levy a tax to provide for the payment thereof in addition to the usual taxes required to be levied. A vote adopting the proposition shall not be valid unless it adopts the amount of tax to be levied to meet the appropriation or liability incurred.

11-11-22. Vote necessary - How tax levied and collected. If a majority of the votes cast on the question of making an extraordinary expenditure of county funds authorizes the tax, the board of county commissioners shall authorize it to be levied and collected in the same manner and at the same time as the general tax is collected. A new assessment shall not be made for a special tax.

11-11-23. Record of vote - Board cannot rescind. The board of county commissioners, upon being satisfied that the requirements of this chapter have been substantially complied with and that a majority of the votes cast are in favor of the proposition submitted, shall cause such proposition and a record of the vote to be entered at large upon the book containing a record of its proceedings. Propositions thus acted upon cannot be rescinded by the board.

11-11-24. Limitation on tax levy for extraordinary expenditure. The rate of tax levied by the board of county commissioners for an extraordinary outlay of money may not exceed the limitation in section 57-15-06.8. When the object is to establish a building fund to aid in the erection of public buildings, the rate must be such as to raise the fund within six years, and the total sum to be so raised, including the then existing indebtedness of the county, may not exceed five percent of its assessed valuation. A special tax levied under this chapter, after becoming delinquent, shall draw the same rate of interest as ordinary taxes.

11-11-25. Money applied only to expenditure for which raised. Money raised by the board of county commissioners for an extraordinary expenditure is appropriated specifically and constitutes a fund distinct from all other funds in the hands of the county treasurer until the obligations assumed are discharged.

11-11-25.1. Disposition of unexpended and unencumbered county taxes levied for a specific purpose. If any county shall levy a tax for a specific purpose and the moneys collected are not expended or encumbered within two years after their collection, the board of county commissioners may deposit such taxes in the county general fund or authorize their

expenditure by any political subdivision having authority to carry out the purpose for which the taxes were originally levied.

11-11-26. When board shall advertise for bids. Except as provided in chapter 48-01.2, when the amount to be paid during the current year for the erection of county buildings or for election ballots and supplies exceeds ten thousand dollars, the board of county commissioners shall cause an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in such other newspapers as it shall deem advisable. The first publication shall be made at least fifteen days before the day set for the opening of the bids. For the purchase of fuel when the amount exceeds four thousand dollars, the board of county commissioners shall seek bids either by telephone solicitation from at least two suppliers, or by an advertisement for bids to be published at least once each week for two successive weeks in the official newspaper of the county and in other newspapers as the board deems advisable.

11-11-27. Contents of advertisement - When bids may be opened - Lowest bidder accepted. The advertisement shall state what supplies are required or where the plans and specifications may be examined, the time allowed for the completion of the examination, and when the bids will be opened and passed upon by the board of county commissioners. The bids may be opened and passed upon at a regular or adjourned session of the board, or at a meeting called by the county auditor as provided in section 11-11-05. The bid of the lowest responsible bidder shall be accepted, but the board shall have power to reject any or all bids.

11-11-28. Bid must be accompanied by a bond - When certified or cashier's check allowed. A bid shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guarantee that the bidder will enter into the contract if it is awarded to the bidder and that the bidder will furnish the necessary bond. When the bid is ten thousand dollars or less, the bidder may in lieu of such bond accompany the bid with a separate envelope containing a certified or cashier's check equal to five percent of the full amount of the bid made payable to the board with authority and direction to the board that if the bidder is successful in obtaining the award and fails to enter into the contract, the board may endorse, deposit, and receive the face amount of the certified or cashier's check as liquidated damages.

11-11-29. Contract - Form - Contents - Majority vote necessary - When payment made. A contract shall be entered into under the provisions of this chapter only after it has been approved by the vote of a majority of the members of the board of county commissioners. The contract shall be made in writing and may be signed on behalf of the board by the chairman thereof and the county seal affixed thereto. The contract shall provide that not more than seventy percent of the contract price shall be paid until the contract is executed and completed to the satisfaction and acceptance of the board of county commissioners, its architect, or authorized superintendent. Payment to the extent of seventy percent of the contract price may be made from time to time during the process of construction or as supplies are furnished, and may be divided into such installments as the board may agree upon.

11-11-30. When contracts for furnishing election supplies let. Contracts for the furnishing of election ballots and supplies shall be let by the board of county commissioners at its first regular meeting in April of each year to run for a period of one year.

11-11-31. Construction of public buildings - Bond of contractor. Repealed by S.L. 1995, ch. 443, § 29.

11-11-32. Commissioners may employ architect - Compensation. Repealed by S.L. 1979, ch. 163, § 1.

11-11-33. Special funds may be transferred. Whenever there remains in the treasury of a county an unexpended balance of a special fund and all claims against the fund have been paid, and the purpose for which it was created has been subserved fully, and there remains no

further use for the balance for the purpose for which the fund was created, the board of county commissioners may transfer the balance to any other fund of the county or to the subdivision to which the balance belongs.

11-11-34. Auditing building accounts of board of county commissioners. The county auditor, county treasurer, and some qualified elector and freeholder of the county appointed by the board of county commissioners from outside of its own number shall act as a board of auditors to audit accounts of the board of county commissioners in connection with the erection of county buildings. The members of such board of auditors shall receive for their services the sum of three dollars each for every day actually and necessarily employed in such capacity, to be paid upon the warrant of such board of county commissioners.

11-11-35. Board to keep records of proceedings. The board of county commissioners shall keep a book in which all orders and decisions made by it shall be recorded. Such book shall be known as "a record of the proceedings of the board of county commissioners". All orders and vouchers for the allowance and payment of moneys from the county treasury shall state on what account and to whom the allowance is made. The same shall be dated and numbered with the number of the warrant issued in payment thereof. Approval of orders and vouchers shall be recorded in the record of the proceedings and this shall be sufficient to indicate approval without requiring a majority of the board to sign or initial the orders and vouchers.

11-11-36. Order of business. The board of county commissioners shall conduct the business of its meetings under the following order of business:

1. Meeting called to order by chairman of the board.
2. Roll call of members.
3. Reading of minutes of previous meeting, corrections to be made, if any, and approval.
4. Signing of minutes of previous meeting by the chairman of the board and attesting of the same by the county auditor.
5. Auditing and disposition of claims against the county either by approval or rejection.
6. Such other business as may properly come before the board.

11-11-37. Proceedings of board of county commissioners to be published in official newspaper - When published. The board of county commissioners shall supply to the official newspaper of the county a full and complete report of its official proceedings at each regular and special meeting no later than seven days after the meeting at which the report is read and approved. The publisher of the official newspaper shall publish the report in the issue of the paper next succeeding the time of its reception and shall file with the county auditor an affidavit of publication executed in the proper form.

11-11-38. Proceedings of county commissioners - Copies received as evidence. Copies of the proceedings of the board of county commissioners, duly certified and attested by the county auditor under seal, shall be received as evidence in all courts of this state.

11-11-39. Appeal from decision of board by aggrieved person - Bond - Costs and fees payable. An appeal may be taken to the district court from any decision of the board of county commissioners by any aggrieved person. The appellant shall file an undertaking in such reasonable sum and with such sureties as may be approved by the county auditor, conditioned that the appellant will prosecute the appeal without delay and will pay all costs adjudged against the appellant in the district court. The undertaking shall be payable to the county. The district court may at its discretion award costs and reasonable attorney's fees to appellants when three or more aggrieved persons have joined in an appeal from a decision of the board of county commissioners and the court rules in favor of the appellants.

11-11-40. Appeal from decision of board by county by state's attorney on demand.
Repealed by S.L. 1975, ch. 94, § 1.

11-11-41. Notice. If the decision from which an appeal is taken relates to tax refunds, tax abatements, or other matters relating to taxation, in addition to the notice of appeal required by section 28-34-01, a notice of appeal also must be served by registered mail upon the state tax commissioner.

11-11-42. When appeal filed - When tried. An appeal from a decision of a board of county commissioners shall be filed on or before the first day of the term of the district court following the taking of the appeal, and the cause shall stand for trial at such term.

11-11-43. Appeals docketed - Procedure. All appeals taken from decisions of a board of county commissioners must be docketed as other causes pending in the district court. Section 28-34-01 governs all appeals taken under sections 11-11-39 through 11-11-43.

11-11-44. District court may enter final judgment on appeal - Enforcement. The district court may enter a final judgment on an appeal from a decision of a board of county commissioners and cause the judgment to be executed, or it may send the judgment to the board with an order showing how to proceed. The court may require the board to comply with its order by mandamus or by attachment for contempt.

11-11-45. Judgments against counties - Power of board of county commissioners. When a judgment is obtained against a county, the board of county commissioners, at any time after the expiration of six months from the rendition thereof, may assess and collect, within the tax levy limitation prescribed by this code, a sufficient amount of revenue to pay off and discharge the judgment.

11-11-46. Payment of judgment obtained by state or an agency thereof against county - Duty of county commissioners and auditor. When a final judgment is obtained against a county by the state, or by any agency, bureau, department, or officer thereof, and a certified copy of the judgment has been filed with the county auditor, the board of county commissioners, at the meeting at which it levies taxes for general county purposes, shall levy an irrepealable tax upon all of the taxable property in the county in an amount sufficient to pay and discharge the judgment. When the county auditor annually extends the taxes for general county purposes, the auditor shall also extend sufficient mills upon the tax list against all of the taxable property in the county to pay the judgment in full in annual installments over a period not exceeding eight years. Levies made under this section, however, shall not exceed the limitation in subsection 7 of section 57-15-06.7.

11-11-47. Tax is paid into judgment payment fund. All taxes collected from levies made pursuant to section 11-11-46 shall be paid into a special fund to be established by the county treasurer to be known as the judgment payment fund and shall be used and disbursed only for the purpose of paying the judgment or judgments for the payment of which the levy was made. Whenever there is money in the fund, the county auditor shall draw the county auditor's warrant for the amount in the fund in favor of the judgment creditor or creditors or assigns, upon a pro rata basis, until the judgment or judgments are paid in full. Any balance remaining in the fund after the judgment or judgments shall have been paid in full shall be transferred to the county general fund upon resolution of the board of county commissioners.

11-11-48. Property in county not subject to seizure for judgment. The property of a county and of persons owning property situated or liable to taxation therein shall not be subject to the lien of a judgment against the county nor to seizure or sale upon execution or other process of any court issued in connection with any such judgment.

11-11-49. Board may offer reward. The board of county commissioners may offer a reward for the apprehension and conviction of each individual violating any of the provisions of chapters 12.1-21 and 12.1-23.

11-11-50. Former members of armed services' room in courthouses. The board of county commissioners shall equip and maintain adequate rooms in the courthouse for the exclusive use of former members of the armed services who served in any war in which the United States has been engaged if the county seat has a population of over ten thousand inhabitants and a memorial building has not been erected in such municipality.

11-11-51. Petitions to board of county commissioners - Qualifications of signers. The signers of any petition presented to the board of county commissioners praying for the expenditure of county funds shall be qualified electors of the district affected by the petition.

11-11-52. Board may provide room for historical society. The board of county commissioners of any county, or the governing body of any municipal corporation, or the board of any public library in the state is hereby authorized and empowered to furnish a room or rooms in the county courthouse, in a municipal building, or in a public library building, as the case may be, for the use of the historical society of such county, and to furnish light and heat therefor.

11-11-53. Appropriation for historical works - Authorization of tax levy - Approval of state historical society and attorney general.

1. The board of county commissioners of any county may appropriate out of the general fund of the county a sum, not exceeding five thousand dollars annually, to be paid to the historical society of the county and used for the promotion of historical work within the borders of the county, including the collection, preservation, and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on historical work in the county.
2. The board of county commissioners may levy a tax, not exceeding the limitation in subsection 8 of section 57-15-06.7, for the promotion of historical works within the borders of the county and in general defray the expense of carrying on historical work in the county, including the maintenance of any historical room or building, and furthering the work of the historical society of the county. The levy is in addition to any moneys appropriated from the general fund of the county for historical work as provided in subsection 1. The board of county commissioners may, by resolution, submit the question of an additional tax levy to the qualified electors of the county at the next countywide general, primary, or special election. If sixty percent of the qualified electors voting on the question approve, a tax must be levied not exceeding the limitation in subsection 8 of section 57-15-06.7, which tax may be expended as provided in this section.
3. The appropriation and levy authorized by this section may not be used to defray any expenses of a county historical society until it is incorporated under the laws of this state as a nonprofit corporation, is affiliated with and has its articles of incorporation and bylaws approved by the state historical society and the attorney general, and has contracted with the board of county commissioners in regard to the manner in which the funds received will be expended and the services to be provided. Historical societies that qualified for county funds under subsection 1 before July 1, 1965, are not required to have articles of incorporation and bylaws approved by the attorney general to receive funds under subsection 1.

11-11-53.1. Donation of historical artifacts. Any historical object or artifact given, donated, or otherwise acquired by a county historical society shall revert to the state historical society if such local society should cease to function, exist, or no longer operate, unless the donor of such object or artifact should attach other conditions to the gift or artifact. If the county historical society should terminate its operations or should find that it no longer needs a historical object or an artifact, such society may give or trade such object or artifact to any other county historical society.

11-11-54. Nonprofit fair corporations - Receipt of real or personal property for fair purposes. The board of county commissioners of any county in this state which has received a gift real or personal property to be used for fair purposes is hereby authorized to transfer such property, or if the property is sold by the board of county commissioners, then to transfer the proceeds therefrom, to any nonprofit corporation in such county organized for the purpose of conducting an annual county fair. The nonprofit fair corporation upon receipt of such real or personal property shall agree to sponsor and conduct in the county an annual county fair for such number of years as may be agreed upon by the corporation and board of county commissioners.

11-11-55. County may agree to make improvements on private roads - Costs of improvements to constitute lien on real estate. The board of county commissioners shall have the power to enter into agreements with private landowners for the purpose of making improvements on private roads. The board shall charge the landowner for the improvements made pursuant to such agreement, and such charges shall constitute a lien upon the real estate of the landowner in the same manner as personal property taxes are made a lien upon real estate as provided in chapter 57-22.

11-11-55.1. Petition or resolution for improvements - Levy of special assessments. The board of county commissioners of any county, by resolution or upon receipt of a petition of sixty percent of the landowners in a defined area, outside of the limits of any incorporated city, may install the petitioned improvements as benefit the defined area, provide for the financing of the improvements, and levy special assessments for the payment of all or part of the improvements within the defined area. In providing for the improvements, the county shall have the authority granted to municipalities in chapters 40-22, 40-23, 40-23.1, 40-24, 40-25, 40-26, 40-27, and 40-28, and the county shall comply with the provisions of those chapters in making the improvements. Whenever action is required of city officials in those chapters, the comparable county officials shall take the action.

11-11-56. Comprehensive health planning by counties and county funding of areawide comprehensive health planning. Any county may engage in comprehensive health planning and may appropriate funds to an areawide comprehensive health planning organization organized and approved under provisions of the state plan for comprehensive health planning, whether such organization be a public agency or private corporation.

11-11-57. Counties may cooperate in predatory animal and injurious rodent control. Boards of county commissioners may perform, within their respective counties, predatory animal, destructive bird, and injurious rodent control as defined in section 4-01-17.1, and may enter into cooperative agreements with the agriculture commissioner and the United States department of agriculture for this purpose.

11-11-57.1. Funds available for predatory control. In order to perform bird and animal control, boards of county commissioners are authorized to make necessary expenditures from county special funds available for this purpose or from the county general or contingent funds.

11-11-58. Programs and activities for senior citizens - Expenditure of funds. The board of county commissioners is authorized to establish or maintain programs and activities for senior citizens, including the expansion of existing senior citizen centers which will provide recreational and other leisure-time activities, informational, health, welfare, counseling, and referral services for senior citizens, and assist such persons in providing volunteer community or civic services. The board is authorized to expend funds received from state, federal, or private sources for the public purposes provided for in this section. No expenditure authorized by this section shall be made to defray any expenses or any organization or agency until such organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board in regard to the manner in which such funds will be expended and the services to be provided. An organization or agency and its program which receives such funds shall be reviewed or approved annually by the board to determine its eligibility to receive funds under the provisions of this section.

11-11-59. Creation of booster station by election. When a petition signed by not less than twenty percent of the qualified electors of the county, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, requesting an election upon the question of establishing a television booster station, ultrahigh frequency, hereinafter referred to as an ultrahigh frequency booster station, is presented to the board of county commissioners, the board of county commissioners shall submit the question to the qualified electors of the county at the next countywide election. Upon approval by sixty percent of the votes cast, the board of county commissioners shall establish an ultrahigh frequency booster station, within the limits of the county, at a site to be named and established by the board of county commissioners.

11-11-60. Booster station tax levy authorized. The board of county commissioners of any county in the state in which an ultrahigh frequency booster station has been voted on and approved by the people as provided for in section 11-11-59 may levy the amount necessary for such purpose, which levy shall not exceed the limitation in subsection 9 of section 57-15-06.7.

11-11-61. Booster station levy exemptions - Townships not served. When a petition signed by not less than twenty percent of the qualified electors of a township, not served by the ultrahigh frequency booster station, as determined by the vote cast for the office of governor at the last preceding gubernatorial election, is presented to the board of county commissioners requesting an exemption from the provisions of section 11-11-60, the board of county commissioners shall submit the question to the board of township supervisors who shall submit the question to the electors of the township at the next township election. Upon certification of the board of township supervisors to the board of county commissioners of approval by a majority of the votes cast, the board of county commissioners shall exempt the township from the tax levy as provided in section 11-11-60.

11-11-62. County restriction of adult establishments - Definitions.

1. As used in this section, unless the context otherwise requires:
 - a. "Adult bookstore" means a bookstore having as a preponderance of its publications, books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this subsection.
 - b. "Adult establishment" means either an adult bookstore, an adult motion picture theater, an adult mini-motion picture theater, or a massage business, all as defined in this subsection.
 - c. "Adult mini-motion picture theater" means an enclosed building with a capacity for less than fifty persons used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this subsection, for observation by patrons of the theater.
 - d. "Adult motion picture theater" means an enclosed building with a capacity of fifty or more persons used for presenting motion pictures, a preponderance of which are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined in this subsection, for observation by patrons of the theater.
 - e. "Massage" means the manipulation of body muscle or tissue by rubbing, stroking, kneading, or tapping, by hand or mechanical device.
 - f. "Massage business" means any establishment or business wherein massage is practiced, including establishments commonly known as health clubs, physical culture studios, massage studios, or massage parlors.

- g. "Sexually oriented devices" means without limitation any artificial or simulated specified anatomical area or any other device or paraphernalia that is designed in whole or in part for specified sexual activities.
 - h. "Specified anatomical areas" means:
 - (1) Less than completely and opaquely covered human genitals and pubic regions, buttocks, or female breasts below a point immediately above the top of the areola.
 - (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.
 - i. "Specified sexual activities" means:
 - (1) Human genitals in a state of sexual stimulation or arousal;
 - (2) Acts of human masturbation, sexual intercourse, or sodomy; or
 - (3) Fondling or other erotic touchings of human genitals and pubic regions, buttocks, or female breasts.
2. The board of county commissioners of any county may, upon proper resolution, provide that:
- a. No building, premises, structure, or other facility that contains any adult establishment, as defined in subsection 1, shall contain any other kind of adult establishment.
 - b. No building, premises, structure, or other facility in which sexually oriented devices, as defined in subsection 1, are sold, distributed, exhibited, or contained shall contain any adult establishment, as defined in subsection 1.

11-11-63. Spouse abuse programs - Expenditure of funds. The board of county commissioners may establish or maintain spouse abuse programs. For the purposes of this section, a spouse abuse program is a program that provides emergency housing for victims of domestic violence and their dependents, plus some or all of these additional services: counseling, advocacy, community education on domestic violence, support groups, twenty-four-hour crisis lines, or referral to other sources for services not provided by the spouse abuse program. The board of county commissioners may expend funds received from governmental or nongovernmental sources for the purpose of providing spouse abuse programs and providing grants to private organizations or agencies who provide such programs. No expenditure authorized by this section may be made to defray any expense of an organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board in regard to the manner in which such funds will be expended and the services will be provided. An organization or agency and its program which receives these funds must be reviewed for approval annually by the board of county commissioners to determine its continued eligibility to receive funds under this section.

11-11-64. Bond guarantee fund - Purpose - Limitations. The board of county commissioners of any county having a population of not more than two thousand may establish a bond guarantee fund as provided in this section. The bond guarantee fund may be used to guarantee the indebtedness of nonprofit corporations organized for the purpose of constructing and operating nursing homes and related health care facilities located in this state. The nursing home or related health care facilities need not be located within the boundaries of the county establishing the bond guarantee fund. The board of county commissioners shall establish the terms and conditions of any agreements entered under this section. The funds used to guarantee a project under this section must be deposited in a federally insured account in such amounts as are determined necessary to guarantee the indebtedness of the nonprofit corporation

incurred for the purposes authorized under this section. Nothing in this section is to be construed as creating an indebtedness of the county or the state or as incurring any liability on the county or the state, except the liability payable solely from the assets of the bond guarantee fund.

11-11-65. Programs and activities for handicapped persons - Expenditure of funds.

The board of county commissioners may establish or maintain programs and activities for handicapped persons, including recreational and other leisure-time activities and informational, health, welfare, transportation, counseling, and referral services. The board may expend funds received from state, federal, or private sources for the public purposes provided for in this section. No expenditure may be made to defray any expenses of any organization or agency until the organization or agency is incorporated under the laws of this state as a nonprofit corporation and has contracted with the board in regard to the manner in which the funds will be expended and the services will be provided. An organization or agency that receives the funds must be reviewed or approved annually by the board to determine its eligibility to receive funds under this section.

11-11-66. Board may establish centennial coordinating committee. Repealed by omission from this code.

11-11-67. Programs and activities of nonprofit organizations that assist the arts - Expenditure of funds. The board of county commissioners may establish or maintain programs and activities for the benefit of nonprofit organizations that assist the arts, including the expansion of existing programs. A board of county commissioners may expend funds received from county, state, federal, or private sources for the public purposes provided for in this section. A board of county commissioners may not make an expenditure under this section to defray expenses or to assist an organization unless that organization is incorporated as a nonprofit corporation and has contracted with the board of county commissioners with respect to the manner in which the funds will be expended and services provided. The board of county commissioners shall review annually an organization that receives funds under this section to determine the organization's eligibility to receive public funds. As used in this section, "nonprofit organizations that assist the arts" means organizations recognized by the council on the arts.