

# MANDATED AND DISCRETIONARY FUNCTIONS OF KENT COUNTY GOVERNMENT

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# MANDATED AND DISCRETIONARY FUNCTIONS OF KENT COUNTY GOVERNMENT 2017 UPDATE

## INTRODUCTION

### EXECUTIVE SUMMARY

Kent County provides a wide range of services to its residents and performs a variety of functions. Like all counties in Michigan, the County is enabled to carry out these tasks by the State – either by the Constitution or through statute. In some cases, the language authorizing the action is permissive - it merely allows the County to do something if the County Board of Commissioners elects to do so. In other cases, the language is stricter, actually requiring or *mandating* the County to perform or fund a certain activity. Occasionally, there is an element of delegation: a state department is authorized to perform a function, which it delegates, through contract or administrative rule, to the County.

In late 1998, the Board of Commissioners requested a compilation of what County activities were mandated, and what activities were not. Since the original study, periodic updates have been provided to reflect changes in County services and activities.

### METHODOLOGY

Performance measurement information submitted by the departments was used as basis for the initial list of departmental activities with supplemental information developed in a collaborative effort between department directors and the Administrator's Office. Departments were asked to categorize activities into programs. Rather than list every task performed by the department, effort was made to identify programs and significant program components that existed as, or could be broken into, distinct funding units or activities.

Departments were asked to assign each function to one of five descriptive categories (described below) and, if possible, to provide supporting documentation.

1. County functions performed because they are mandated by federal or state constitutions, statutes or court orders.
2. County functions performed because they are authorized by or emanate from contracts, grants or other binding agreements entered into by the Board of Commissioners.
3. County functions performed because they are authorized by one or more resolutions of the Board of Commissioners.
4. County functions neither mandated nor authorized by contract or resolution, but performed because they are necessary for the performance of a mandated or authorized function by a County unit.
5. County functions which do not meet any of the above criteria or are discretionary programs of a department.

Administrative staff then reviewed the information, meeting with the department and/or performing additional research to complete the report and to ensure consistency across departments.

## MANDATED AND NECESSARY SERVICES

For an activity to be considered *mandated* or *necessary*, it had to be conducted in some form in every county in Michigan. The mandate need not be to a specific department, but to the County in general (e.g. the County is required to have a medical examiner; because the function is conducted by the Health Department, the mandate is listed in that section of the report). Also, if the Constitution, state or federal law, or a court ruling said the service *shall* be provided, no consideration was given to what *level* of service must be provided. The level of service is set by the Board of Commissioners when it appropriates funds for the activity. The ability of the Board of Commissioners to exercise discretion in the amount of funds it appropriates, however, was considered distinct from the ability to exercise discretion over whether or not the service is to be provided.

Admittedly, this is a fine distinction: Can the Board of Commissioners set a funding level at zero and thereby nullify the mandate? Generally, nullification of a mandate by non-funding will be subject to dispute. For example, the courts and the Attorney General have said that language stating a county board of commissioners “*shall* levy a tax not to exceed...” is a mandate to levy the tax; a levy of zero was not acceptable to the court. Beyond that, the Court of Appeals has granted boards the discretion to set funding levels in accordance with a “serviceability” standard that requires only the minimum budgetary appropriation at which a statutorily mandated function can be fulfilled, and also grants the board broad latitude in setting the “serviceability” standard.

As a result, this study did not consider a “serviceability standard,” in defining the mandates, but considered a *mandate* to exist whenever the governing authority included the words such as *shall*, *must*, *is required*, or similar language.

The definition of *necessary* used was also quite narrow; the service was only considered necessary if the County, due to its size or its obligation to provide mandated services or a Board-authorized function, could not reasonably operate without it. This is not meant to imply that the function does not contribute to a good, efficient, well-run operation, or even cost savings. In preparing the report, staff attempted to limit subjectivity as much as possible. The study makes no judgment of the necessity or value of the service to the citizens, or its impact on the quality of life of County residents. Activities were evaluated for necessity solely on whether they were considered an administrative requirement for a mandated or authorized County government function.

Activities performed pursuant to a Board resolution or Board-approved contract were relatively easy to identify; however, a function was not considered Board authorized if it was added through the budget process without a separate resolution. Similarly, Board approval of staffing for a program was not automatically considered to be Board approval of the program. The language of the resolution, the specificity of the tasks listed, and any limiting or restricting clauses were considered. It should be noted, however, that even those activities without formal Board authorization have been approved for funding by the Board of Commissioners through the budget process.

In some cases, multiple resolutions could be cited for a single activity over many years (i.e. Board appointments to other boards and communications). In such instances, only the most recent relevant resolutions have been noted.

Finally, the list also includes programs that are provided with County funding, even if they are not performed by County staff (i.e. contracted services), since the method of service delivery was considered immaterial to whether or not it was mandated.

The only time a method of service delivery was considered was in the evaluation of a service which has been centralized (e.g. Fleet Services). In these cases, the service as a centralized operation was evaluated. As an example, while it is necessary to maintain the vehicles owned by a county, it is not essential to the function of county government that a vehicle maintenance service be maintained, evidenced by the fact that many counties do not have this activity. Admittedly, certain costs of maintaining county vehicles must be borne somewhere, however, the decision to centralize the function to achieve cost savings or other efficiencies resulted in the creation of a discretionary cost center for the County, and thus requires it to be evaluated as a distinct unit.

Where a program is identified in multiple categories (e.g. a statute, a contract and also as discretionary), it represents an activity which has several components (e.g. training) and some components fall into each category.

Finally, readers of the document will note varying numbering schemes for Board action. When Board action was taken that did not include a resolution, the date of the action is indicated, followed by (A). Numbers separated by slashes (12/16/87) represent the date of a Board of Commissioners' meeting prior to 1988, when a resolution numbering system was instituted. Citations that are numbers separated by dashes (12-16-99-238) are resolution numbers.

## **SIGNIFICANT FUNCTIONS AND SHORT-TERM ACTIVITIES**

The County undertakes or commits to some activities that are not included in this report. These may include participation in the Network180 Substance Abuse Advisory Council and other community efforts on a short-term basis (for example, during 2000 County staff spent time supporting the Grand Rapids/Kent County Millennium Commission). If the activity did not meet the criteria of either being a significant County function, or of being funded by the County as a significant partner, then it was not included.

## **FUNDED AND UNFUNDED MANDATES**

In 2010, this study was updated to distinguish between functions and services that are funded and unfunded by the State or Federal Government. This additional information reflects the countless number of questions that have been received about the cost to provide mandated services. Although several entities have attempted to "cost-out" the costs of providing mandated services, there is no proven and consistent formula for determining the costs of providing specific mandated services.

The study now identifies if a function or service is *fully funded*, *partially funded*, or *unfunded*. In instances where a function or service is identified as being *unfunded* it means that the State or Federal Government, which requires that the County perform the service, does not provide *any* designated funding or does not enable the County to assess a fine or fee to fund the delivery of the mandated service. The following definitions were established to assist in determining if the function or service was funded or unfunded:

**Unfunded Mandate:** There is no funding enabled or provided by the State or Federal agency which requires that this function/service be performed.

**Fully Funded Mandate:** The County receives funding through either the State or Federal agency to cover the costs of providing this function/service. This may be through a designated reimbursement or through the County being enabled to assess fines or fees that are sufficient to *fully* cover the cost of providing the service.

**Partially Funded Mandate – Designated Funding (State/Feds):** The County receives some level of designated funding or reimbursement from the State or Federal agency that *partially* covers the cost to perform a specific service.

**Partially Funded Mandate - Fines/Fees:** The County is enabled by State or Federal agency to levy a fee or fine which *partially* covers the cost of providing the service.

There are a couple of “grey” areas that became apparent as we attempted to identify if a function or service is funded or unfunded. For example, the County receives statutory revenue sharing payments that are available for “county purposes.” In this case, we have not identified any functions or services as “funded” because these payments are not designated by the State for a specific program or service.

Another, “grey” area applies to the Court Equity Fund. This fund was established by the State legislature for the “operational expenses of trial court.” Although this is more specific than the example of revenue sharing, the court(s) perform many different programs and services as identified in this study. So, again, being that this revenue is not directly attributed to a specific program or service and that it is a general payment to support “operational expenses of the court” we have chosen to include a brief explanation here rather than designating it for a specific program or service of court operations. More notable, is the fact that the amount of funding received from the State through the Court Equity Fund is a small fraction of the cost to operate the court to meet the mandated services and to also provide the non-mandated necessary and discretionary functions which support operation of the court.

In short, the determining factor that was utilized to identify if a service or program is funded or unfunded is if the State or Federal agency, which requires that the County perform the service, provides designated funding or enables the County to assess a fine or user fee to fund the delivery of the mandated service.

### **Funding Sources for Non-Mandated Services**

In addition to identifying whether a mandated service was funded, unfunded, or partially funded, we also found it important to identify the funding sources of the non-mandated services. In many cases, the function or service may not be mandated but may be partially funded by a State or Federal grant or funded through a user fee in combination with County General Funds.

This additional information will prove to be useful in helping to identify the functions and services that are provided through a coordination of resources and/or leveraging of funds from external entities.

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*The County Administrator's Office is committed to keeping this document as current as possible. A master file complete with supporting documentation (i.e. copies of statutes and resolutions) is available in the Administrator's Office. The study is reviewed, updated biennially, and provided to the Board of Commissioners. The information contained within this report regarding funding sources is subject to change. Any changes made will be incorporated into the document as it is updated on a biennial basis.*