

Township Governance in Iowa

ISSUE

This **Issue Review** provides an overview of township governance in Iowa, including township structure, the roles of trustees and clerks, the relationship between counties and townships, and statewide statistics on township revenue and expenditures for the past 10 years.

AFFECTED AGENCIES

Local Government Entities
Department of Management

CODE AUTHORITY

Iowa Code chapters [359](#), [359A](#), and [360](#)

DEFINITION OF TOWNSHIPS

A township is a division of local government in the United States. The term may also be used to refer to a geographic subdivision of a county. For purposes of this **Issue Review**, the term “township” will be used to refer to both the geographic area and the local government.

Townships in Iowa are classified as administrative subdivisions of the counties. For that reason, the U.S. Census Bureau does not count Iowa’s townships as separate governments and does not list Iowa among the states that have a civil township form of government.¹

Today, there are 1,586 townships in Iowa. Many townships are instrumental in providing fire protection, emergency medical services, and other services to unincorporated areas.

HISTORY OF TOWNSHIPS IN IOWA

In the United States, the township form of local government originated in New England in the 17th Century, and it remains in nearly its original form in many parts of that region. As local government expanded westward and counties were established, township structure took one of two forms. In one form, the county was subordinate to the township. In the second form, the roles were reversed and the township was subordinate to the county.

In the midwest, townships were originally created in a grid pattern where each township was a six-by-six-mile square or “six square miles.”

The first townships were established in pre-statehood Iowa in September 1834, when Iowa was part of the Territory of Michigan. In that year, Julien Township was established in Dubuque

¹ U.S. Census Bureau, Census of Governments, [2012 Individual State Descriptions](#).

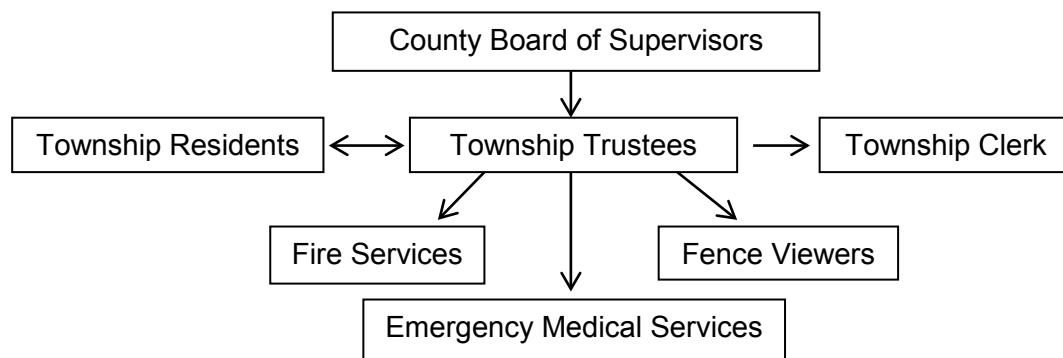
County, and Flint Hill Township was established in Des Moines County. The county and township boundaries were identical, with the intention that they were to be governed by a single board. These were the first townships west of the Mississippi River.²

Laws regarding local government changed as Iowa became part of the new Territory of Wisconsin in 1836, then became the Territory of Iowa in 1838, and finally became the State of Iowa in 1846. Existing counties were subdivided, new counties created, and township boundaries changed. The first Iowa Territorial Governor, Robert Lucas, pushed the General Assembly to pursue the organization of townships and define their duties, noting the need for those entities to establish schools and public roads. Legislation for that purpose was signed into law in January 1840, allowing county commissioners to divide or alter township boundaries as long as no township was reduced below the size of six square miles. Townships quickly spread to provide local governance as small population centers developed throughout the Iowa countryside.

The duties of township government in the 1800s included serving as public health districts to collect taxes for the cost of enforcing public health laws; levying taxes to pay for railroad and public hall construction, bridge building, support of free public libraries, and development of a system of roads; and conducting public elections. Township trustees were responsible for handling drainage disputes and conflicts over the placement of fences, as well as investigating fires and reporting to the State Fire Marshal. The trustees were also responsible for overseeing the sale of public school lands and, for a while, played a role in the creation of school districts and school boards.

The township officers established in statute in the 1800s in Iowa reflect the varied nature of the responsibilities designated to townships. The officers included the Clerk, the Assessor, the Collector, the Treasurer, the Justice of the Peace and the Constable, the Fence Viewer, and the Road Supervisor. The township trustees were also designated Overseers of the Poor.

CURRENT STRUCTURE OF TOWNSHIP GOVERNANCE



County Board of Supervisors

The county board of supervisors (or county board) has a central role in the formation and governance of a township. The county board and the township residents are dependent on each other in their governing roles.

²Clarence Ray Aurner, A History of Township Government in Iowa, Ph.D. (Doctor of Philosophy) thesis, State University of Iowa, 1912, available at <http://ir.uiowa.edu/etd/3570>.

The county board is the only governing body with the power to divide the county into townships and determine the boundaries for both new and existing townships. Under Iowa Code section [359.5](#), if a township has a city with a population greater than 1,500 within its limits, township residents who live outside those city limits may petition to divide the township. If a majority of those residents sign the petition, the township is divided by the board. If residents of the township want to restore a former township that has been divided, the petition must be signed by a majority of residents from both of the townships. The county board has the duty to hold record of the boundaries of each township and any alterations the board makes to those boundaries.

The board also has the ability to change the name of the township. After an initial petition by the residents, a public hearing, and an appearance of approval by the majority of the residents, the township name may be changed at the next board meeting.

The compensation levels of township trustees and clerks are set by the county board. Iowa Code section [359.46](#) regulates the manner of compensation, and the board sets the hourly rate. There are few instances in which the trustee or the clerk is not paid by the county.

Lastly, the county board of supervisors controls the election process for the board of trustees. The county board calls the first election and determines the location. The order for election is issued by the county commissioner and must include the time, place, and officer to be elected, as well as any other business to be transacted.

Township Trustee

Under Iowa Code section [359.11](#), the number of trustees in a township depends on the taxable valuation of property within the township. If the township has a property tax valuation of \$250 million or more, then five registered voters may serve as trustees. Otherwise, the township has three trustees. A simple majority of the trustees serve for a term of two years and the others serve for a term of four years.

Township trustees are obligated to hold meetings no less than two times per year. The open meetings law requirements of Iowa Code chapter [21](#) apply to township trustee meetings. Under Iowa Code section [21.3](#), governmental meetings must be conducted in open session with prior public notice. A “meeting” occurs whenever there is a gathering of a majority of the members of the governmental body and there is deliberation or action on a matter within the scope of the body’s policy-making duties.³ Recently, this definition was expanded by the Iowa Supreme Court in its holding in *Hutchison v. Shull*. The Court stated in its holding that the definition of “meeting” includes when a majority of members or members’ proxies gathers in person or electronically. Consequently, township trustee boards with only three members may have a majority with only one trustee and an agent/proxy of another member, and will need to provide public notice since that will be considered a governmental meeting.

Condemnation. Under Iowa Code section [359.28](#), township trustees have the authority to use moneys from the general or a specific fund for the purpose of condemning land for township use. This includes the ability to enter upon and take any lands within the territorial limits of the township. This authority only extends to using the lands for cemeteries, community centers, or juvenile playgrounds.

Accepting Gifts to the Township. The township trustees are authorized to receive property given to the township in the form of a gift, devise, or bequest. These moneys or property given to the township may be used for the purpose of establishing and maintaining libraries, township

³ Iowa Code §[21.2](#).

halls, cemeteries, or for any other “public purpose.” The gift, devise, or bequest is effective only when it has been accepted by resolution of the board of trustees.

Levying Taxes. The township trustees are authorized to levy several different taxes, including but not limited to the taxes listed below.

- **Cemetery and Park Tax** (Iowa Code section [359.30](#))
 - Provides funding for lands condemned or purchased by the township, necessary improvements, and maintenance of public parks acquired by gift, devise, or bequest.
 - Provides funding for improvements and maintenance for any cemetery not owned by the township and having a “general public use.”
 - Provides maintenance and support of cemeteries in adjoining counties, townships, and cities, as long as they serve residents of the township.
- **Township Hall Tax** (Iowa Code section [360.2](#))
 - Requires approval by township resident vote.
 - Provides funding for the construction or purchase of the township hall.
 - Trustees must certify approval to the county board of supervisors before levying.
 - The tax may not exceed the rate voted on by the township residents and the specific code requirements of Iowa Code section [360.2](#).
 - Trustees may also levy an additional tax for repairs, necessary furniture, and maintenance of the township hall.

In addition to the taxes listed above, trustees may levy a tax to provide funding for emergency services.

Cemeteries. Trustees may maintain the control of, appoint trustees for, or sell the township cemetery. The party in control of the cemetery has the power to sell lots, set rules, and provide for the cemetery’s maintenance by establishing a perpetual upkeep fund with the proceeds from the sale of lots. In addition, the trustee or designated party has the ability to make improvements to the grounds and erect proper buildings for cemetery use. It is the duty of the controlling party to appoint as many day and night watchpersons as necessary for the cemetery grounds.

Additional trustee duties include:

- Serving as fence viewer (see the section on Resolving Fence Issues).
- Certifying the township budget at board meetings.
- Disposal of township property.
- Monitoring township hall construction.

Township Clerk

The township clerk may serve for a term of four years. The clerk has a duty to keep record of all proceedings and orders of the trustees, all acts done by the clerk, township records and documents, resolutions, board proceedings, records relating to issuance of public bonds, real property transaction documents, and cemetery plats. Iowa Code section [359.20](#) sets out the recordkeeping requirements for the township clerk.

The clerk is responsible for the receipt, collection, and disbursement of all funds belonging to the township. In addition, the clerk must prepare an annual statement showing all receipts of moneys and disbursements in the clerk's office for each separate tax levy authorized by law for the preceding fiscal year, the current public debt of the township, and the balance as of June 30 of all separate reserve accounts held by the township.

The clerk is also considered the "custodian" of the town hall. The clerk has the same powers and duties as a constable of the township, which is to maintain order within and about the premises, protect the property, and enforce orders of the township trustees.

Legal Counsel

The county attorney is required to act as legal counsel for any township within the county if the county has a population of less than 25,000, unless the interests of the county and the trustees are in conflict; i.e., the trustees initiated litigation or are parties to litigation in connection with the performance of their duties. Under Iowa Code section [331.756](#), county attorneys are required to give advice or a written opinion when requested, without compensation, to township officers upon matters in which the township may have an interest.

Outside counsel must be hired by the trustees if the township matter in the litigation is not covered by Iowa Code section [359.18](#) and still involves the right or duty of township trustees. In this case, the trustees become parties to litigation. In order to hire the attorney, the trustees may levy the necessary tax to pay for the service and defray costs of the litigation.

Role of Neighboring Cities

City councils have a limited relationship with townships. City councils and trustees may work together on joint cemetery boards for the common purpose of improving and maintaining a township cemetery. In addition, if a city is comprised of one or more townships and the boundaries coincide, the offices of the township clerk and trustees are abolished. Instead, the duties of those offices are performed by the city clerk and city council. The city takes possession of the township moneys and assets, and the city assumes all liabilities of the township. The township moneys must still be disbursed for its original purpose.

EMERGENCY SERVICES

The township trustees are required to provide fire protection to the township residents, but the provision of emergency medical services (EMS) is optional. If the township is located within a county with a population of 300,000 (currently, Polk County is the only Iowa county that meets this criteria) or more, the trustees have the option of establishing and maintaining an emergency warning system within the township. Currently, Polk County is the only Iowa county that meets the population requirement. Within Polk County, the Saylor and Delaware townships have both exercised this option and maintain emergency warning systems. Under Iowa Code section [359.42](#), trustees may purchase, own, rent, or maintain fire protection service or EMS apparatus or equipment and provide housing for the equipment. In addition, trustees may contract with a public or private agency under an Iowa Code chapter [28E](#) agreement for the purpose of providing any of these services.

For funding purposes, the township trustees are authorized to implement several different taxes and anticipatory bonds:

- **Annual tax levy** – To provide funding for the exercise of the emergency services powers and duties specified in Iowa Code section [359.42](#).

- **Supplemental tax levy** – To provide funding for emergency services if the annual levy is insufficient.
- **Bonds** – The township trustees may anticipate the collection of taxes and direct the county board of supervisors to issue bonds. The bonds are payable only from tax levies on property subject to the emergency services levy.
- **Reserve account** – The trustees may credit the account annually in an amount not to exceed 30 cents per \$1,000 of the assessed value of the taxable property in the township. The funds may be used for the purchase or replacement of supplies and equipment required to carry out emergency services.

For collection purposes, the trustees may divide the township into separate tax districts. Under Iowa Code section [359.43](#)(3), the trustees may levy a different tax rate in each district, which cannot exceed the tax levy limitations for that township.

TOWNSHIP HALLS

The construction or acquisition of a township hall is dependent on approval by the township residents. The trustees must first receive a petition signed by the majority of township residents and then submit a request for an election to the county commissioner of elections. Once requested, the county commissioner conducts the election and submits the question to the township voters in the form of a proposition required by Iowa Code section [360.1](#). The commissioner then certifies the result to the trustees.

Once approved, the township trustees are required to select a township hall location that accommodates the greatest number of resident taxpayers. The trustees must also accept the offer from the lowest responsible bidder for any construction and monitor the progress. The township clerk acts as custodian of the hall and must execute a bond before drawing any of the township hall tax from the treasury of the county. The trustees are also required by Iowa Code section [360.8](#) to make repairs, furnish, and provide maintenance as necessary through the levy of an additional tax. Iowa Code section 360.8 also sets out restrictions for the repair tax rate, depending on the age and construction of the building.

During the 2016 Legislative Session, the procedure for the transfer of excess township hall funds was modified by [HF 2180](#) (Township Halls, Transfer of Funds). Under the new law, the trustees may order excess funds raised for the purpose of building or purchasing a township hall to be transferred to the general fund of a school district or districts in which the funds were raised. Previously, a petition signed by a majority of registered voters of the township was required before the trustees could transfer the funds.

When real estate owned and used by the township for township purposes is no longer needed, there are several possibilities for the disposal of the property:

- **Real estate located outside a city** – The property reverts to the present owner of the tract it was taken from, and the owner pays the value of land to the township clerk. If there is a disagreement on the value, the trustees pick three disinterested parties to appraise the land. If the owner fails to pay within 20 days after the appraisal has been filed with the township clerk, the trustees may sell the land to a person at appraised value or in a public auction for the best bid.
- **Real estate located inside a city** – The property may be sold by the trustees at public auction for the best bid.

- **Real estate jointly owned with a city** – The land may be sold only if both parties agree. The proceeds of the sale are divided between the city and the township based on their respective contributions to the acquisition and maintenance of the property.

In addition, the trustees may sell, lease, exchange, give, or grant and accept any interest in real property with or from any county, municipal corporation, or school district as long as the property is within the jurisdiction of both parties.

RESOLVING FENCE ISSUES

The township trustees act as fence viewers. Fence viewers issue written orders on all controversies involving whether a fence has been lawfully built and meets all requirements set by Iowa Code chapter [359A](#). When landowners disagree, the complaining landowner submits a formal request to the fence viewer to resolve the dispute. The fence viewer must give five days' written notice to both parties indicating the time and place of the hearing. The issued written order typically assigns responsibility for construction and maintenance, as well as the obligations, rights, and duties of the respective parties. The order also mandates the time frame for the fence to be completed and final payment to be made. An order made by the fence viewers, when recorded in the office of the recorder of deeds, binds the current and future landowners.

If the order is not completed within the required time, the complaining landowner must deposit moneys sufficient to cover costs, and the complaining landowner is reimbursed once the cost is assessed against the party in default. If the owner does not take action, the township builds the fence and the cost is assessed against the owner in the form of county taxes. These orders may be appealed to the District Court if filed within 20 days after the rendition of an order.

If a fence dispute involves two townships, there is representation from both townships in the matter. The clerk of the township of the petitioner must select two trustees from that township to act as fence viewers in the dispute, and the clerk of the other township must select one trustee. All orders determined by the townships must be recorded in both townships.

TOWNSHIP BUDGETS

Townships are required to adopt a budget and certify taxes for at least the following fiscal year, including the following information:

- Estimated expenditures from each fund.
- Estimated income from sources other than property taxation.
- Estimated amount to be raised by taxation and the tax rate.

Iowa Code section [359.49](#) requires the board of trustees to schedule a public meeting on the budget to receive public comment. The county auditor must post the proposed budget for public review no less than 10 days and no more than 20 days before the meeting. After the meeting, the board of trustees must adopt the budget by resolution, and the clerk must certify the tax levy for the next fiscal year to the county auditor and the county board of supervisors by March 15. The levy may be less than, but not more than, the amount estimated in the proposed budget presented to the public.

The Iowa Department of Management (DOM) maintains records of certified township tax rates on its [website](#). The DOM also collects adopted budgets and annual financial reports that are available upon request. The following information is derived from data provided by the DOM.

In FY 2007, 1,599 townships submitted budgets. In FY 2017, there were 1,586 township budgets submitted. These numbers exclude additional fire/EMS districts established within townships.

Townships derive nearly all revenue from a series of property tax levies. Other (non-levy) receipts contribute 0.09% of total revenue on average. The two largest sources of revenue are property tax levies for fire protection and EMS and for township-owned cemeteries and parks.

In FY 2017, townships collected 0.63% of all property tax dollars levied in Iowa. Since FY 1984, when townships first began levying property taxes, the percentage has ranged between 0.58% and 0.68% annually.

Between FY 2007 and FY 2017, township-budgeted revenue grew by 53.42%, to a statewide total of \$37,140,378. **Table 1** compares FY 2007 and FY 2017 budgeted revenue by source. Sources include eight possible tax levies and a category for other non-tax revenue.

Attachment A consists of two maps that show tax rates by township and fire/EMS tax rates by township for FY 2017.

Table 1

	FY 2007		FY 2017		Percentage Change FY 2017 v. FY 2007
	Statewide	Percentage of	Statewide	Percentage of	
	Expenditure	Total Expenditures	Expenditure	Total Expenditures	
Owned Cemetery/Park	\$ 5,351,594	22.76%	\$ 8,115,890	22.88%	51.65%
Non-Owned Cemetery	443,496	1.89%	577,937	1.63%	30.31%
Township Hall	28,704	0.12%	31,886	0.09%	11.09%
Township Hall Repairs	288,159	1.23%	367,637	1.04%	27.58%
Library	23,760	0.10%	29,689	0.08%	24.95%
Litigation	29,401	0.13%	26,966	0.08%	-8.28%
Tort Liability	107,263	0.46%	123,521	0.35%	15.16%
Fire & EMS	17,221,361	73.25%	26,146,924	73.71%	51.83%
Other	18,033	0.08%	51,549	0.15%	185.86%
Total	\$ 23,511,770		\$ 35,471,999		50.87%

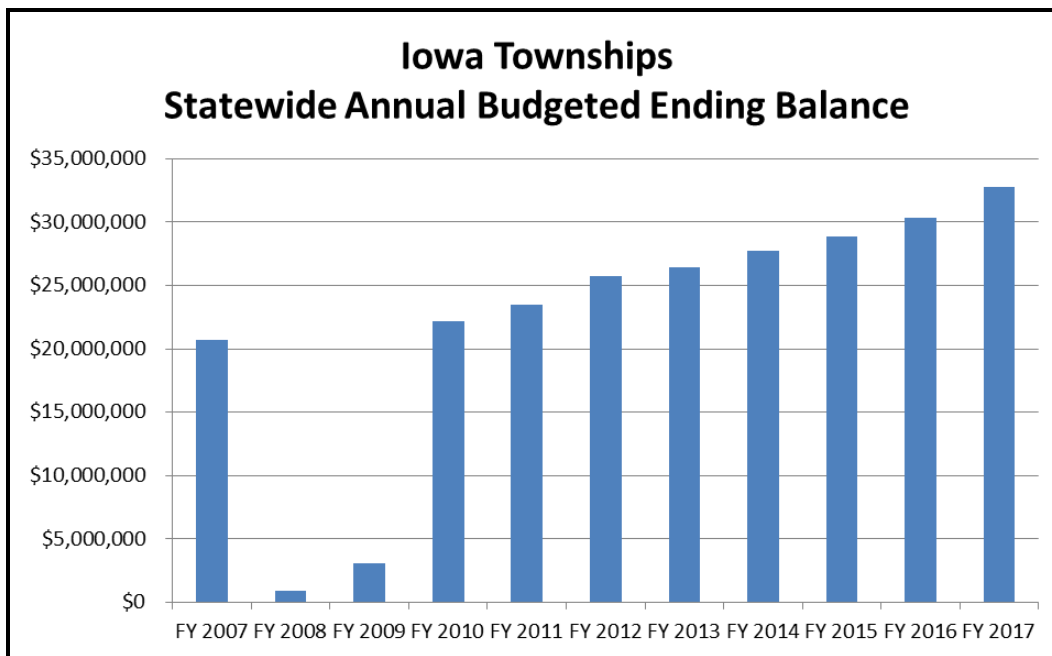
Expenditures follow a pattern very similar to revenue, as each expenditure category is tied to a specific revenue source. Between FY 2007 and FY 2017, budgeted expenditures grew 50.87%, to a statewide total of \$35,471,999. **Table 2** compares FY 2007 and FY 2017 budgeted expenditures by revenue source.

Table 2

	FY 2007		FY 2017		Percentage Change FY 2017 v. FY 2007
	Statewide	Percentage of	Statewide	Percentage of	
	Revenue	Total Revenues	Revenue	Total Revenues	
Owned Cemetery/Park	\$ 5,228,300	21.60%	\$ 7,928,767	21.35%	51.65%
Non-Owned Cemetery	405,832	1.68%	601,268	1.62%	48.16%
Township Hall	32,071	0.13%	24,302	0.07%	-24.22%
Township Hall Repairs	263,976	1.09%	372,281	1.00%	41.03%
Library	36,942	0.15%	53,640	0.14%	45.20%
Litigation	48,496	0.20%	26,094	0.07%	-46.19%
Tort Liability	89,511	0.37%	134,063	0.36%	49.77%
Fire & EMS	18,077,049	74.67%	27,965,855	75.30%	54.70%
Other	26,372	0.11%	34,108	0.09%	29.33%
Total	\$ 24,208,550		\$ 37,140,378		53.42%

Many townships carry a fund balance from year to year. **Chart 1** below shows the statewide annual budgeted ending fund balance for each year since FY 2007. The impact of the last economic recession is clearly evident in FY 2008 and FY 2009.

Chart 1



FINANCIAL OVERSIGHT

Because of the nature of township governance, the small populations involved, and the limited number of trustees and other township officials available to perform necessary functions, financial oversight can be an issue. Many townships are not required by law to arrange for an annual or otherwise regular audit of financial records. However, Iowa Code section [11.6\(3\)](#) requires an audit upon the application of 100 or more taxpayers or, in the case of a township that has fewer than 667 taxpayers, 15.00% of taxpayers. The township is required to pay for the audit from public township funds.

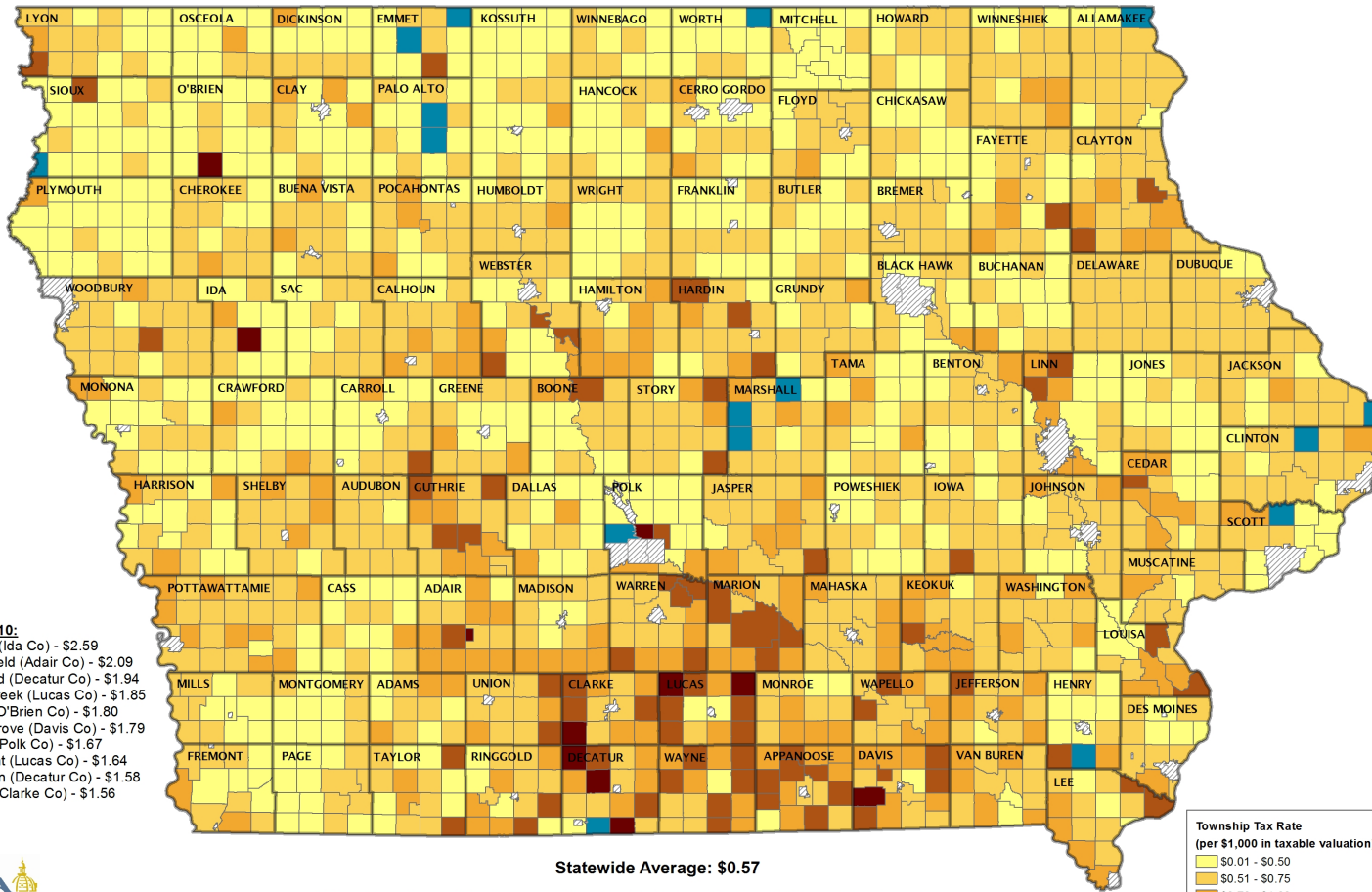
Audits of townships can be found on the Auditor of State's [website](#).

CONCLUSION

The roles and structures of township government vary across the nation. In Iowa, townships are subdivisions of counties and, to a certain extent, work in conjunction with the county board of supervisors. City government serves as the township board in instances where the township is located completely within the city boundaries. As a result, Iowans who live in cities may have little or no awareness or limited understanding of township government. But in many areas of the state, townships provide a variety of important functions and services.

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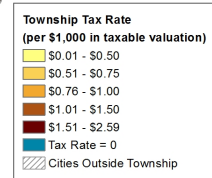
Property Tax Rate by Township FY 2017



- HIGHEST 10:**
1. Corwin (Ida Co) - \$2.59
 2. Greenfield (Adair Co) - \$2.09
 3. Richland (Decatur Co) - \$1.94
 4. Otter Creek (Lucas Co) - \$1.85
 5. Union (O'Brien Co) - \$1.80
 6. West Grove (Davis Co) - \$1.79
 7. Saylor (Polk Co) - \$1.67
 8. Pleasant (Lucas Co) - \$1.64
 9. Hamilton (Decatur Co) - \$1.58
 10. Doyle (Clarke Co) - \$1.56

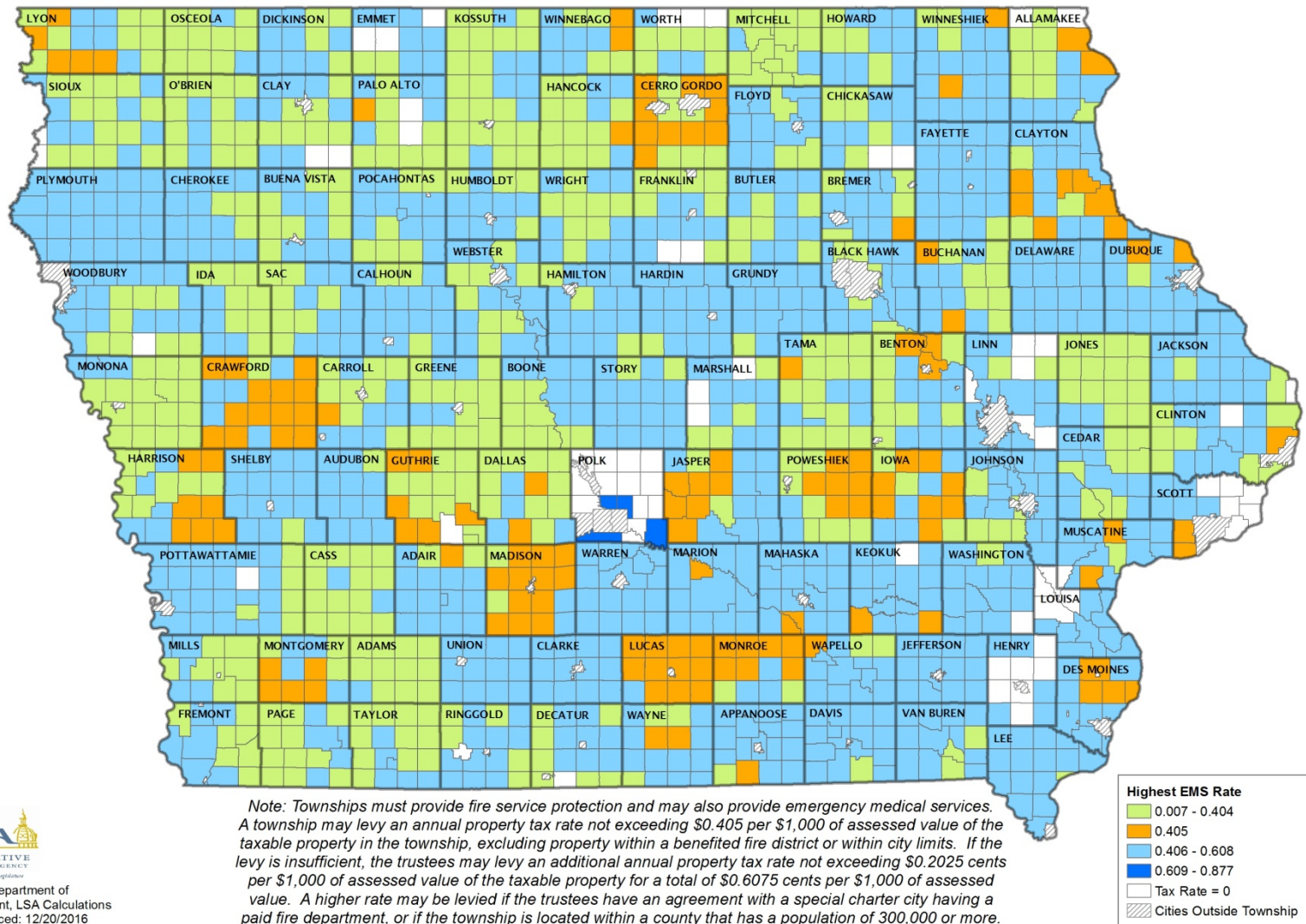
Statewide Average: \$0.57

Note: Some townships have multiple fire districts as taxing divisions. For those townships, the highest tax rate was applied to the entire township. The highest 10 ranking shows the actual rates by the fire district divisions. Rates are per \$1,000 in taxable property valuation.



Sources: Department of Management, LSA Calculations
Date produced: 10/25/2016

Property Tax Rate for Fire and Emergency Medical Services by Township - FY 2017



Note: Townships must provide fire service protection and may also provide emergency medical services. A township may levy an annual property tax rate not exceeding \$0.405 per \$1,000 of assessed value of the taxable property in the township, excluding property within a benefited fire district or within city limits. If the levy is insufficient, the trustees may levy an additional annual property tax rate not exceeding \$0.2025 cents per \$1,000 of assessed value of the taxable property for a total of \$0.6075 cents per \$1,000 of assessed value. A higher rate may be levied if the trustees have an agreement with a special charter city having a paid fire department, or if the township is located within a county that has a population of 300,000 or more.



Sources: Department of Management, LSA Calculations
Date produced: 12/20/2016