



REQUEST FOR BOARD ACTION

ITEM NO. 11

DATE OF MEETING: May 6, 2013

REQUESTED BY: Chairman George Brown

SHORT TITLE: Resolution by the Pender County Board of Commissioners Exercising its Powers to Assume Control of the Activities of a Consolidated Human Services Board.

BACKGROUND: The Board has had several discussions concerning consolidation of Health and Human Services in Pender County. At the direction of the Board, the Board, met on November 20, 2012 with members of the UNC School of Government to discuss possible strategies going forward. Also in attendance were the County Manager, Finance Officer, Health Director, DSS Director and other staff. UNC School of Government Officials held a more detailed workshop with the Board on January 7, 2013. The resolution is patterned after the one approved by Brunswick County.

SPECIFIC ACTION REQUESTED: To consider the attached resolution authorizing the Board of Commissioners to exercise its powers to assume control of the activities of a Consolidated Human Services Board.

COUNTY MANAGER'S RECOMMENDATION

Respectfully deferred to the Board of Commissioners.


Initial

RESOLUTION

NOW, THEREFORE BE IT RESOLVED by the Pender County Board of Commissioners that:

the attached resolution authorizing the Board of Commissioners to exercise its powers to assume control of the activities of a Consolidated Human Services Board is hereby approved. The Chairman/ County Manager is authorized to execute any/all documents necessary to implement this resolution.

AMENDMENTS:

MOVED _____ SECONDED _____

APPROVED _____ DENIED _____ UNANIMOUS _____

YEA VOTES: Brown ___ McCoy ___ Tate ___ Ward ___ Williams ___

George R. Brown, Chairman 5/6/13
Date

ATTEST 5/6/13
Date



**RESOLUTION BY THE PENDER COUNTY BOARD OF COMMISSIONERS
EXERCISING ITS AUTHORITY TO CREATE A CONSOLIDATED HUMAN SERVICES AGENCY AND
ASSUME THE POWERS AND DUTIES OF THE CONSOLIDATED HUMAN SERVICES BOARD**

WHEREAS, a major legislative goal of the North Carolina Association of County Commissioners has been to obtain legislation that would give all counties in North Carolina the flexibility to organize human services in such a way as to promote efficiency and effectiveness in their administration by removing the population threshold of 425,000 which rendered only three counties in the state eligible; and

WHEREAS, during the legislative session of 2012 the North Carolina General Assembly adopted House Bill 438 which amended G.S. 153A-77 and G.S. 153A-76 which gives all county board of commissioners the option to exercise its authority or jurisdiction over certain boards, commissions and agencies, including the Board of Health and the Social Services Board; and

WHEREAS, before the Board of Commissioners may exercise the power and authority contained in G.S. 153A-77 to assume the power, responsibilities and duties of the consolidated human services board, it must hold a public hearing pursuant to 30 days notice given in a newspaper of general circulation. The required public hearing date shall be set by approval of this resolution (as required by the above referenced North Carolina General Statute) for the Board of Commissioners Regular Monthly Meeting Date on June 17, 2013 at 4:00 p.m. in the Board of Commissioners Meeting Room at: 805 South Walker Street, Burgaw, NC 28425.

WHEREAS, if approved on June 17, 2013, the county will withdraw all affected Health and Human Services employees of the new consolidated human services agency from the State Personnel Act and move all affected Health and Human Services employees under the county's personnel system immediately.

NOW THEREFORE, BE IT RESOLVED by the Pender County Board of Commissioners that pursuant to G.S. 153A-77 notice is duly given to hold a public hearing on June 17, 2013 with the option to vote immediately thereafter to:

1. Create a consolidated county human services agency having the authority to carry out the functions of the local health department and the county department of social services; and
2. Create a consolidated human services board having the powers conferred by subsection (c) of G.S. 153A-77, and further assumes all power, responsibilities and duties of said consolidated human services board pursuant to G.S. 153-77(a) upon notice duly given of a public hearing to be conducted this day; and
3. Create an advisory committee consistent with the membership described in 130A-35.

This 6th day of May, 2013.

George R. Brown, Chairman

ATTEST:

Mickey N. Duvall, Clerk to the Board

I wanted to offer one additional comment about next steps. I failed to explain the role of the board of commissioners in hiring the CHS director. The manager is responsible for selecting the director but he must have the advice and consent of the board before appointing or dismissing the CHS director. Therefore, the logical order of events should be:

- First - establish the CHS agency.
- Second - the board of commissioners to assumes the powers and duties of the CHS board (becomes governing board for agency).
- Third - the county manager selects a candidate for CHS director and seeks the advice and consent of the board of commissioners.
- Fourth - appoint the CHS director.

In other words, it does not make sense to appoint the director before the agency has been created and the governing board is in place because the governing board must consent to the appointment. These four steps may take place in the same meeting but the order of events matters under the law.

Thanks to Jill Moore for reminding me of this important issue!

Please let us know if you have any further questions.

Aimee Wall, UNC School of Government

Thanks for the update on your county's plan for moving forward. As I understand it, the chair of your board of county commissioners would like the full board to vote on the following: (1) creation of a new consolidated human services agency that will include both DSS and public health and (2) have the board of county commissioners serve as the governing board (NOT a consolidated human services board). You asked for my help in thinking through some of steps that you should consider as you move ahead.

1. **Public hearing:** If the board of county commissioners plans to serve as the governing board for the new CHSA, it must hold a public hearing. The law requires "30 days' notice of said public hearing given in a newspaper having general circulation in said county.." GS 153A-77(a). The hearing requirement is triggered by the board of commissioners assuming the powers and duties of another board – and this gets a little confusing so bear with me. The board of county commissioners is holding the hearing to consider assuming the powers and duties of a consolidated human services board. That board doesn't actually exist in your county so what you are basically telling the public is this: (1) we are considering abolishing the DSS board and the local board of health, (2) we are considering creating a new consolidated human services agency, (3) we are considering having the board of county commissioners serve as the governing board ("consolidated human services board") for this new agency RATHER than have an appointed board as the governing board. You asked some complicated questions about timing for the meeting and hearing notices and I suggested that you contact Frayda Bluestein – her number is 919 966 4203 and her email is Bluestein@sog.unc.edu. Let me know if you need further help with those questions and I can work on it next week if necessary.
2. **SPA:** If the board of commissioners plans to withdraw the employees from the State Personnel Act, you should do a careful review of your HR policies/ordinance to ensure that they satisfy the federal merit personnel standards. (5 CFR Subpart F). Note that the default in the law is that once the county consolidates, the employees are automatically OUT of the SPA unless the commissioners make an affirmative decision to keep them in. Your HR Director could contact those counties that have opted out of SPA to discuss how they made the transition. Those counties are: Mecklenburg, Yadkin, Montgomery, Bladen, Brunswick, Wake, Edgecombe. Gaston and Rockingham are also planning to make this change in the next couple of months are probably also reviewing HR policies at the moment. You indicated that the commissioners want to move quickly on the consolidation. If they want to pull the employees out of the SPA but you discover that you need to make some HR changes, you could do this in stages. Consolidate first, HR changes later, then opt out of the SPA.
3. **Public health advisory committee:** If the board of commissioners will be serving as the governing board for the CHSA, it must appoint a public health advisory committee. The membership on the committee must, at a minimum, meet the requirements in G.S. 130A-35. It may include more members – for example, if your CHSA will include DSS, this committee could have a broader scope and include people with social services expertise or interests. The commissioners also have the option of appointing a separate advisory committee for social services (but that is not required by law). The law does not say whether the advisory committee needs to be in place BEFORE the local board of health is abolished and the consolidation takes place. We've seen counties do it both ways – before and after. Most have gone to their current boards of health and asked them if they would be willing to serve on the new advisory committee.
4. **Decide on agency leadership:** Who will be the head of the agency? The consolidated human services director will be assuming all of the powers and duties of the DSS and health directors. The CHS director may then choose to delegate some responsibilities to others in the new agency. If the CHS director does not meet the minimum education and experience requirements required of a health director (see GS 130A-40), the CHS director must appoint someone in the agency who does satisfy those requirements.
5. **Decide on agency organization:** It would be useful to have an organizational chart in place before the consolidation and to talk with the employees in advance about what the changes will mean for them and for their work.

6. Board planning: Talk with the DSS board and local board of health about work they are currently doing and plan to do in the coming year. The board of commissioners will want good information about ongoing issues or interests in the agencies. Once they assume the powers and duties of those boards, they will need to think about how to approach that work in the coming years but it will be good to have a solid understanding of where they are starting from..
7. Take action: The commissioners will want to adopt a resolution that explains the changes they intend to make. I would suggest making the resolution as clear as possible – some have been a little difficult to understand. Per your request, I'm attaching copies of the resolutions I have on file but I would caution you that I do not think these are models to follow. Some counties have asked if they are allowed to take action to create a CHSA immediately following the public hearing (at the same meeting). I think technically the answer is yes but that approach may not come across very well to the public. When I attended the hearing in Brunswick, it seemed that that many of the commenters addressed that issue..

I am copying my colleague, Jill Moore, on this message in case she has other suggestions or insights to add to the list.

I'm out of the office now and for the rest of the afternoon but will be in next week.

Regards,
Aimee

Local Human Services Organization and Governance

Pender County

January 2013



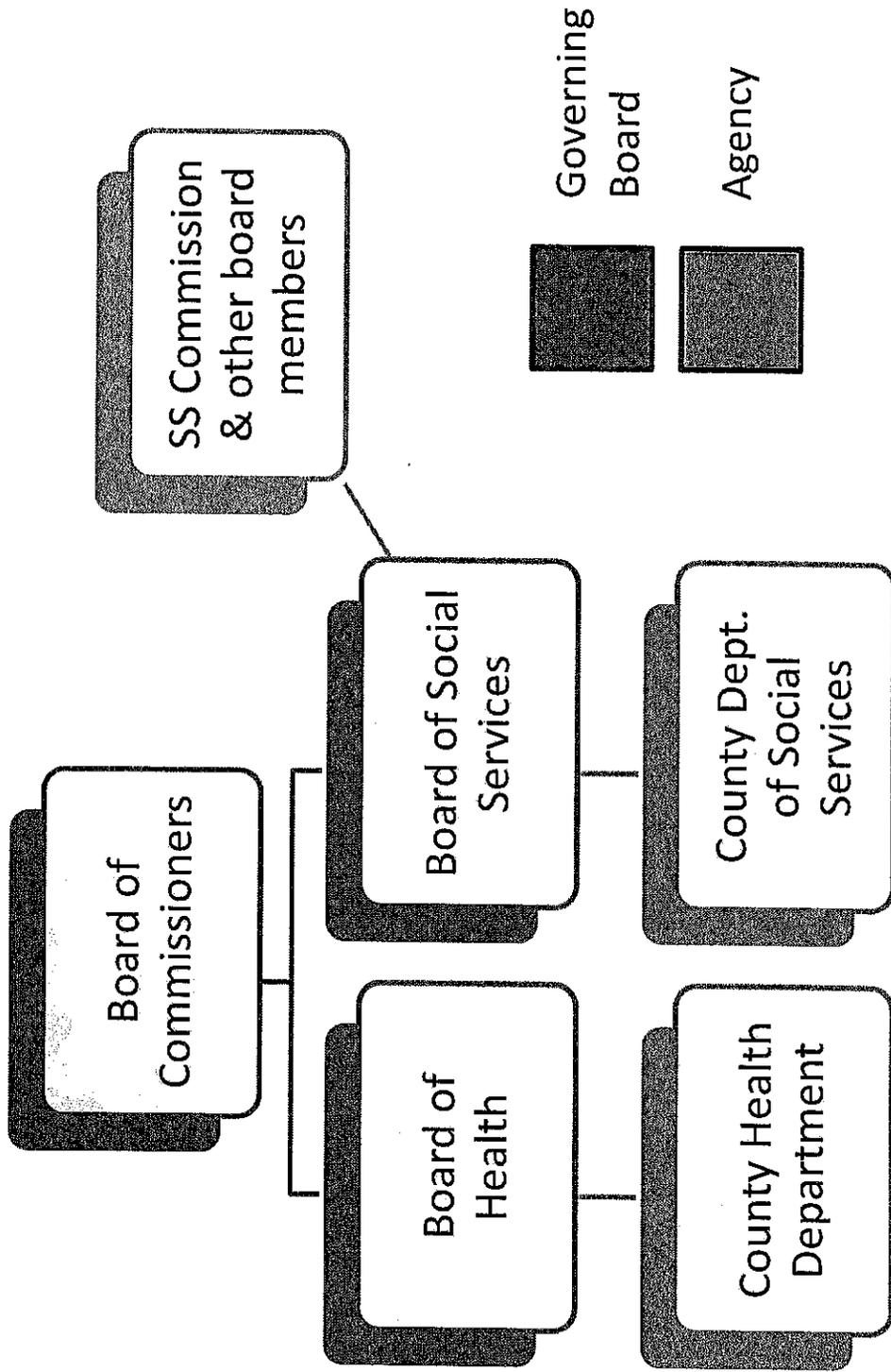
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County Options

- Stay the same
- Options for local agencies under “old” laws
- Options under new legislation:
 1. Board of county commissioners (BOCC) may assume powers and duties of governing boards
 2. BOCC may create consolidated human services agency and appoint CHS board to govern
 3. BOCC may create CHSA and directly serve as governing board

Pender County



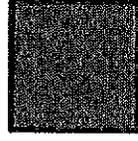
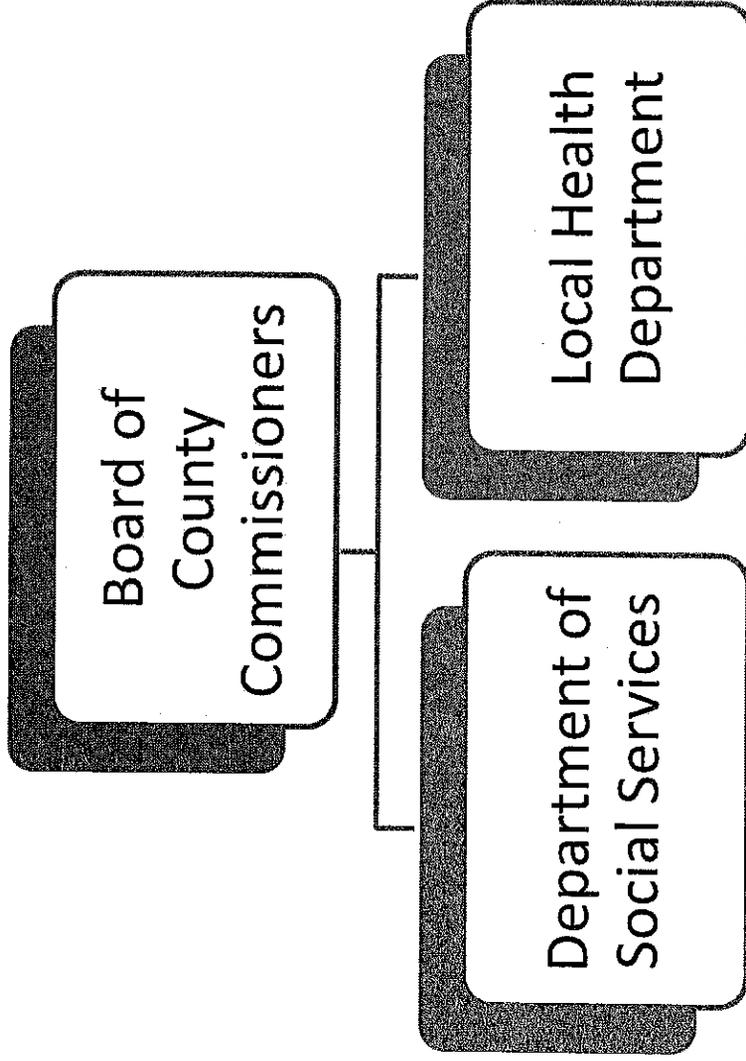
Commissioner Options Under New Legislation (House Bill 438)

1. Directly assume the powers and duties of one or more local boards. Agencies stay the same.
2. Create a consolidated human services agency (CHSA) and appoint a consolidated human services board.
3. Create a CHSA and directly assume the powers and duties of its board.

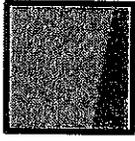
New Options

- 1. Directly assume the powers and duties of one or more local boards. Agencies stay the same.**
- 2. Create a consolidated human services agency (CHSA) and appoint a consolidated human services board.**
- 3. Create a CHSA and directly assume the powers and duties of its board.**

Option One



Governing Board



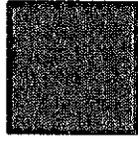
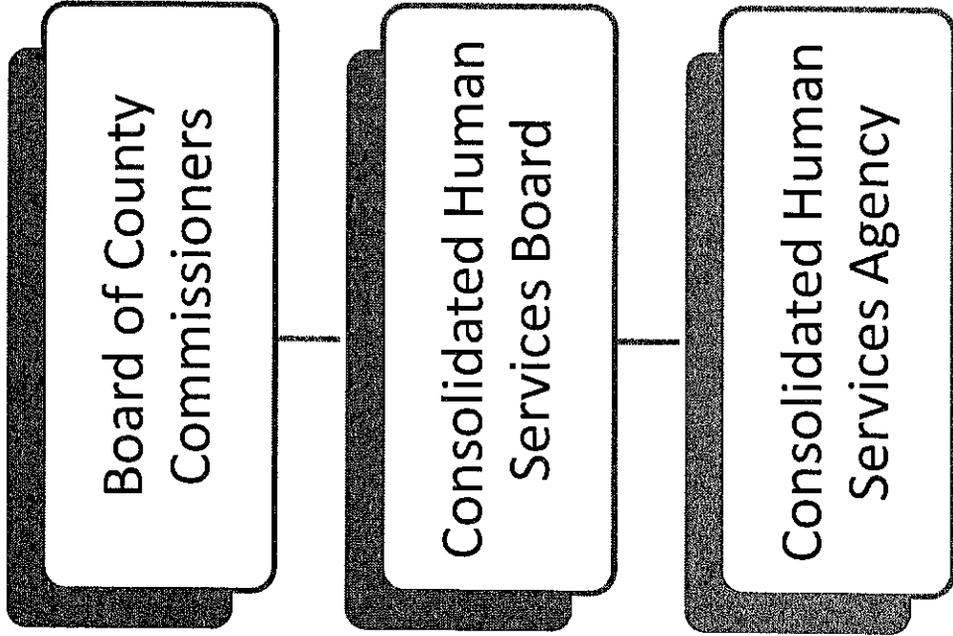
Agency

- Governing board hires agency directors
- Must appoint a public health advisory committee
- Employees subject to SPA

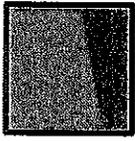
New Options

1. Directly assume the powers and duties of one or more local boards. Agencies stay the same.
2. **Create a consolidated human services agency (CHSA) and appoint a consolidated human services board.**
3. Create a CHSA and directly assume the powers and duties of its board.

Option Two



Governing Board



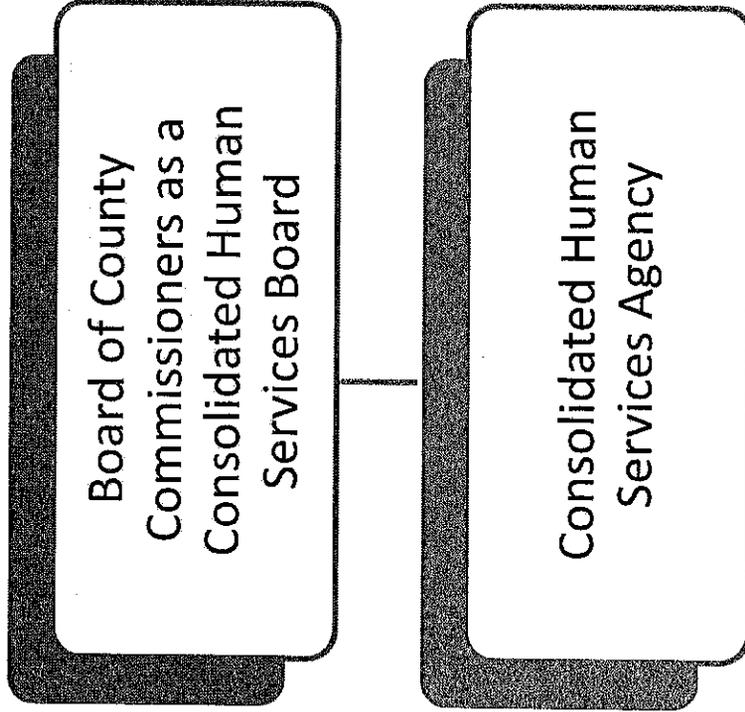
Agency

- Manager hires CHS director with advice and consent of governing board
- CHS director appoints person with health director qualifications
- SPA optional

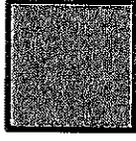
New Options

1. Directly assume the powers and duties of one or more local boards. Agencies stay the same.
2. Create a consolidated human services agency (CHSA) and appoint a consolidated human services board.
3. **Create a CHSA and directly assume the powers and duties of its board.**

Option Three



Governing Board



Agency

- Manager hires CHS director with advice and consent of governing board
- CHS director appoints person with health director qualifications
- Must appoint a public health advisory committee
- SPA optional

	Option One	Option Two	Option Three
Governing board hires agency director	X		
Manager hires agency director with advice and consent of board		X	X
SPA optional		X	X
Must appoint public health advisory committee	X		X
Must appoint person with health director qualifications		X	X

Decision Points

Organization: Agency

- Public health department
- Social services department
- Consolidated human services agency (CHSA)

Governance: Board

- Board of commissioners appoints board
- Board of commissioners serves as board

Personnel (CHSA only)

- County personnel policies (federal merit requirements)
- State Personnel Act

1

Board of County Commissioners

Department of Social Services

Local Health Department

2

Board of County Commissioners

Consolidated Human Services Board

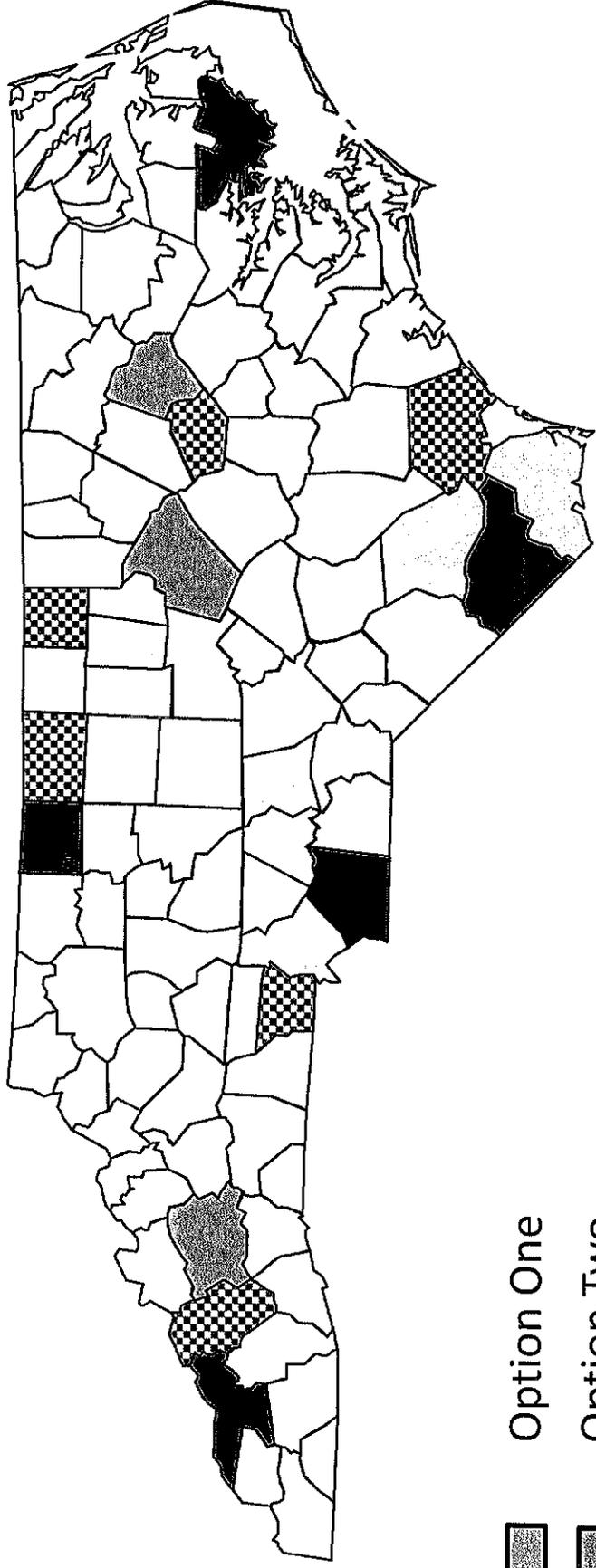
Consolidated Human Services Agency

3

Board of County Commissioners as a Consolidated Human Services Board

Consolidated Human Services Agency

CHSA Status and Potential Changes

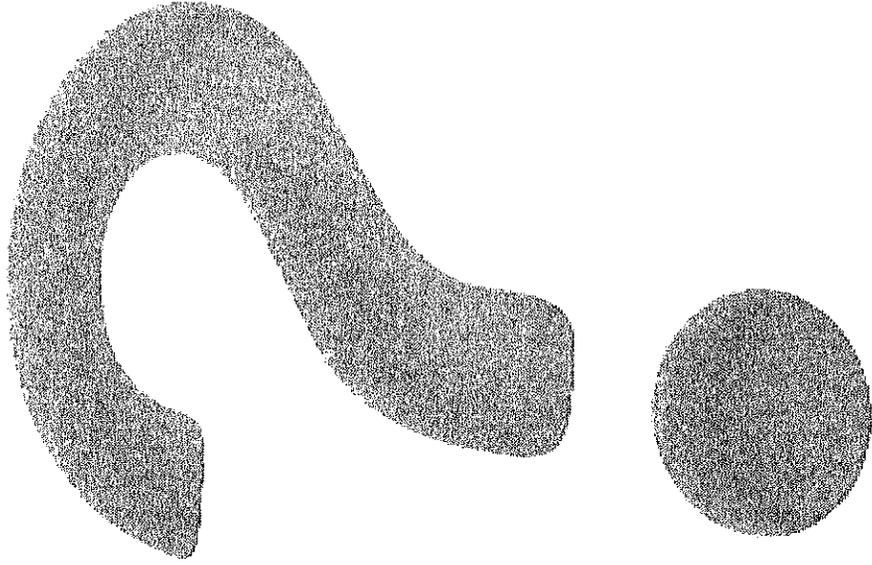


- Option One
- Option Two
- Option Three
- County considering change
- County considering change; SOG Facilitated Discussion

Summary: County Options

- Authority under new legislation:
 1. Board of county commissioners (BOCC) may assume powers and duties of governing boards
 2. BOCC may create consolidated human services agency and appoint CHS board to govern
 3. BOCC may create CHSA and directly serve as governing board
- Options for local public health and social services agencies under other laws
- Option of staying the same

Questions?



FREQUENTLY ASKED QUESTIONS

The Human Resources Issues Involved In Consolidating Human Services

1. Q: Is there an option that allows the governing board to exempt some positions from coverage under the State Personnel Act (such as the department director/s) while leaving all other employees covered?

A: There is no option that allows county managers to appoint the public health and social services directors while keeping everything else the same.

2. Q: Is it possible to consolidate human service agencies AND have the employees of the new CHS agency remain under the coverage of the State Personnel Act?

A: Yes. In Option One, when the county commissioners take over the functions of the DSS and/or DPH boards, all employees remain subject to the State Personnel Act. In Option 3, the county commissioners may choose to have all the employees of the consolidated human services agency remain subject to the State Personnel Act.

3. Q: Will SS & PH employees who have already achieved protected status through length of service keep that protected status in a consolidated human services agency?

A: There isn't a definitive answer now, but since there is no language in the statute about "grandfathering" a reasonable assumption is that if a consolidated human services agency not covered by the State Personnel Act is created, then the protected status held by some county employees will be gone.

4. Q: What services does the county now get from the Office of State Personnel and the State Personnel Commission free of charge?

A: The Office of State Personnel provides the following services without charge to county departments subject to the State Personnel Act:

1. Review of selected applicants to ensure that selected applicants meet minimum qualification standards of State classification system?
2. Review of new/revised position management descriptions to determine class/level of position.
3. Technical advice/assistance on employee relations issues.
4. Review of pay plans in order to recommend approval by the SPC.

5. Q: What services does the county now get from the State Personnel Commission free of charge?

A: The State Personnel Commission provides the following services without charge to county departments subject to the State Personnel Act:

1. Reviews and approves local government pay plans to insure that relationships are maintained among classes, at a level the county is able to afford.

6. Q: What agency determines if a county's personnel policies are in compliance with the merit system of personnel administration?

A: There is no single federal agency with oversight of merit-based personnel systems. There is not any agency that certifies that a public employer has a merit system of personnel administration.

7. Q: How can a county confirm that its policies are compliant with federal merit personnel standards?

A: Since there is not one agency with oversight of public merit systems of personnel administration (see Question #6), there is not an independent verification that a county's personnel system is merit-based.

8. Q: What policies of the State Personnel Commission now cover Social Services and Public Health department employees?

A: Currently, the State Personnel Commission has the following policies that cover county employees in departments of Social Services and Public Health:

1. Nepotism
2. Conflict of interest
3. Position classification/some aspects of salary administration
4. Minimum qualifications for various job classifications
5. Recruitment/Selection/Posting of vacancies
6. Types of appointment/Promotion/Demotion
7. Reduction in force
8. Discipline and dismissal
9. Grievance procedure

9. Q: What county policies now cover Social Services and Public Health department employees?

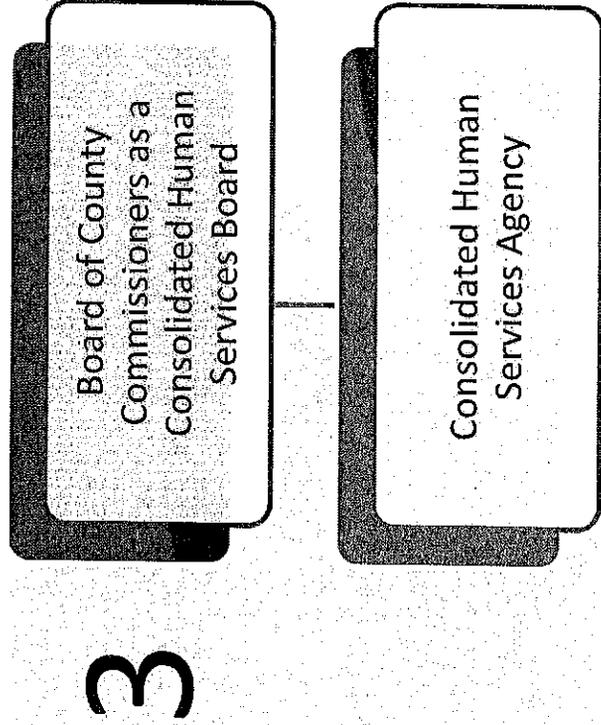
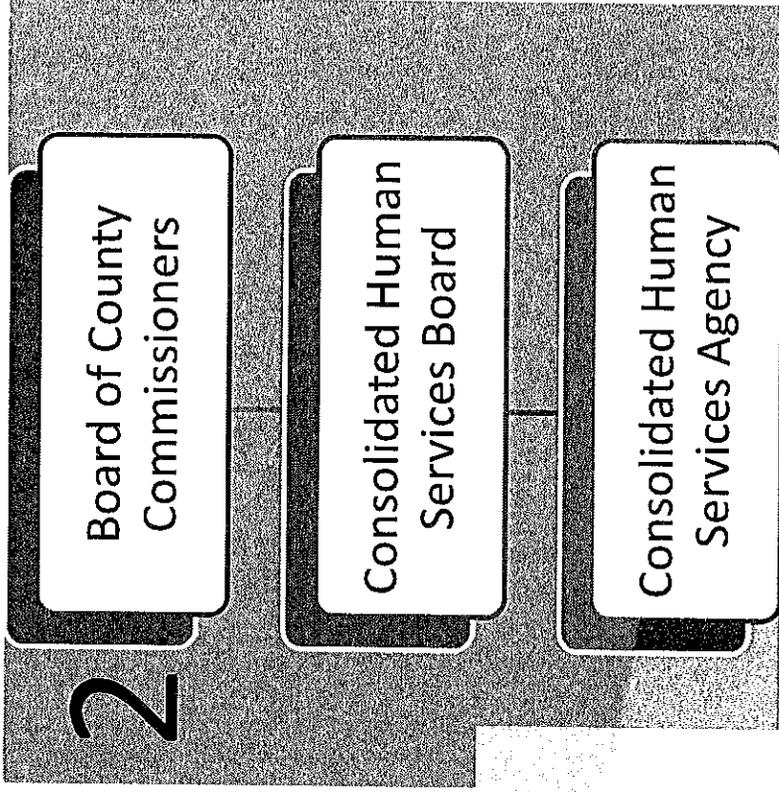
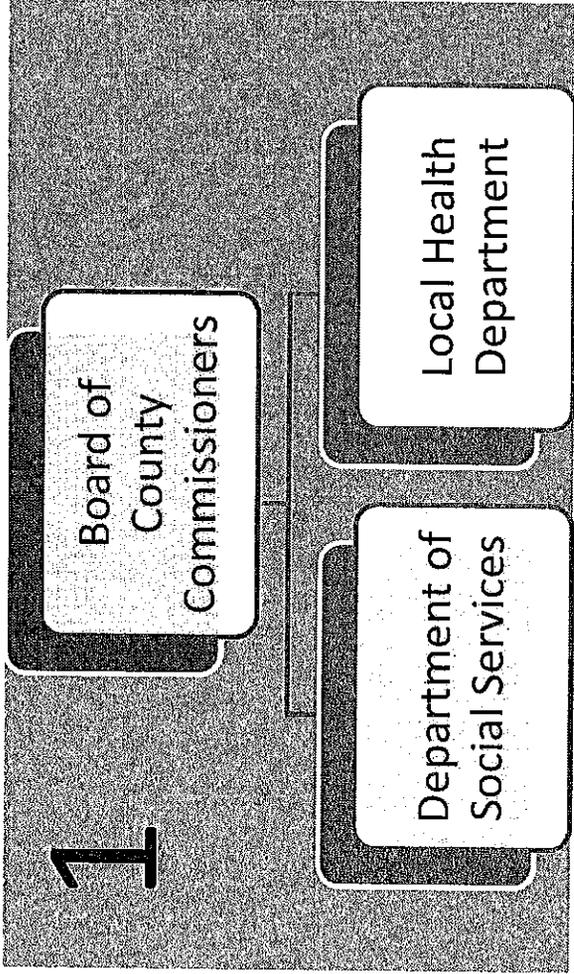
A: Generally, any county policy not covered in Question #8 covers Social Services and Public Health department employees.

10. Q: If an employee leaves the consolidated human services agency in our county, and goes to work in a non-consolidated county agency (subject to the State Personnel Act), would the employee be able to transfer accumulated vacation and sick leave?

A: That depends on the personnel policies of the county that the employee is going to work in. Based on information from the Office of State Personnel, local government agencies that are subject to the State Personnel Act (such as Social Services and Public Health) are not subject to the leave rules and regulations of the State Personnel Commission. The leave transfer policies for local government fall under their county commissioners' jurisdiction and can be different from one county to another. The Office of State Personnel/State Personnel Commission has no jurisdiction on the transfer of leave between counties.

11. Q: Is it possible to answer with certainty all the questions that may arise *before* a decision is made on consolidating human services agencies?

A: No. There are answers to many of the questions about the personnel issues involved in consolidating human services departments. However, some questions may only be answered through a court decision.



	Option One	Option Two	Option Three
Governing board hires agency director	X		
Manager hires agency director with advice and consent of board		X	X
SPA optional		X	X
Must appoint public health advisory committee	X		X
Must appoint person with health director qualifications		X	X

Personnel Aspects

Drake Maynard



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The State Personnel Act – The Office of State Personnel

- Who's Covered
- What Applies
- What Doesn't Apply
- OSP Services
- Current OSP Staffing

Who's Covered?

- All employees of the departments of Social Services and Public Health, including the directors of the departments

State Personnel Act – What Applies

Policies of the State Personnel Commission on:

1. Classification – including minimum qualifications
2. Recruitment/Selection
3. Pay Relationships
4. Reduction in Force
5. Discipline and Dismissal
6. Grievance rights, contested case hearing at OAH

NOTE: SPC does not prescribe salary administration policies or practices.

State Personnel Act – What Doesn't Apply

- Priority for persons separated in a RIF
- Privacy of employee records – GS 153A-98 controls for county employees

OSP Services

1. Review of selected applicants to ensure that selected applicants meet minimum qualification standards of State classification system.
2. Review of new/revised position management descriptions to determine class/level of position.
3. Technical advice/assistance on employee relations issues.
4. Review of pay plans to recommend approval by the SPC.

Current OSP Staffing for Local Government Services

- 1.5 professional level FTE's
- .5 FTE transitioning to another staff member with extensive classification experience but relatively little ER experience

SPC Services

The Commission reviews and approves local government pay plans to insure that relationships are maintained among classes.

NOTE: SPC does NOT specify particular salary levels – the county sets pay levels at a level the county is able to afford.

Getting Out/Staying In

- Getting Out/Staying In
- Substantial Equivalency
- Moving out
- Moving in

Getting Out/Staying In

- If out from under Ch. 126, county policies and ordinances prevail.
 - Except – Substantially Equivalent.
- Remaining under Ch. 126, policies of SPC and oversight/approval of OSP continues

Substantial Equivalency

- Under State Personnel Act, counties may petition SPC for Substantial Equivalency status
- Substantial Equivalency status allows counties to substitute their policies and procedures for Personnel Commission policies and procedures

Where S/E Is Possible

Possible in these areas:

1. Recruitment/Selection
2. Classification/Compensation
3. Training
4. EEO
5. Political activity
6. Discipline/Dismissal/Grievances

Federal Merit Personnel Standards

- Recruiting, selecting, and advancing employees based on merit
- Correcting inadequate performance
- Assuring fair treatment of applicants and employees
- Equitable and adequate compensation
- Assuring employees are protected against
- Training employees
- coercion for partisan political purposes
- Retaining/separating employees on the basis of performance

5 CFR § 900.603

Questions?

