
Coates' Canons Blog: An Update on Recent Changes for Local Human Services Agencies

By Aimee Wall

Article: <https://canons.sog.unc.edu/an-update-on-recent-changes-for-local-human-services-agencies/>

This entry was posted on April 23, 2013 and is filed under Agency Administration, Agency Administration, Agency Administration, Board Structure & Procedures, Boards Of Public Health, Boards Of Social Services, Boards Of Social Services, Public Health, Social Services

In the wake of new legislation enacted in June 2012, several counties have decided to make changes to how they organize and govern their local human services agencies. Last September, I wrote about this issue and identified three counties that had already made some changes (Montgomery, Buncombe, and Brunswick). Since that time, five more have made changes and I believe several more transitions are in the works for the coming fiscal year. I thought I would use this opportunity to offer a quick status update and also identify some of special process considerations that are tied to the revised human services law.

Status Update

Throughout the fall and winter, School of Government colleagues and I met with several counties around the state to discuss all of the options available for organizing and governing local human services agencies, including the three new options available pursuant to the 2012 legislation (H 438) amending G.S. 153A-76 and G.S. 153A-77. For ease of discussion, we summarized the new options as follows:

Option One

- **Organization:** Under this option, the Board of County Commissioners (BOCC) does not change the overall organization of the agency or agencies involved.
- **Governance:** The BOCC directly assumes the powers and duties of one or more of the governing boards responsible for overseeing a local human services agency (i.e., local board of health and/or county board of social services).
- **Counties electing:** One county (Columbus) has elected this option. The BOCC abolished the county board of social services and assumed its powers and duties.

Option Two

- **Organization:** The BOCC creates a new agency called a consolidated human services agency (CHSA) by combining two or more county human services agencies. The term "human services" is undefined in the law. Most of the discussion has focused on local health departments and departments of social services, but other departments and agencies may also be involved (such as local agencies focused on veterans, aging populations, or transportation). Note that local management entities (LMEs) involved with mental health, substance abuse, and developmental disabilities services may not be included in these new CHSAs (with the exception of the CHSA serving Mecklenburg county).
- **Governance:** The BOCC appoints a new consolidated human services board that serves as the CHSA's governing board.
- **Counties electing:** Four counties have elected this option (Buncombe, Edgecombe, Union, and Wake). Wake elected this option many years ago when the option was available only to counties with large populations.

Option Three

- **Organization:** The BOCC creates a new agency called a consolidated human services agency (CHSA) by combining two or more human services agencies.
- **Governance:** The BOCC becomes the governing board when it directly assumes the powers and duties of the

consolidated human services board.

- **Counties electing:** Five counties have elected this option (Bladen, Brunswick, Mecklenburg, Montgomery, and Yadkin). Mecklenburg adopted Option One many years ago but transitioned to Option Three in 2008.

There are lots of nuances, exceptions and additional requirements related to each of these three options but I will not be able to dig into those details now. In the coming months, we will be posting updated legal research and data online so please stay tuned. At this point, I simply wanted to use the description of these three new options to help explain the actions that counties have taken to date and to help with the process discussion below.

Process Considerations

Before a county elects one of the new options described above, there are some fairly legalistic process issues it should take into consideration. Please note that the list of considerations below is by no means exhaustive. These are just a few of the “hot topics” that have come up over the last few months.

- **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 – which could be a local board of health, a county board of social services, or a consolidated human services board.
- **State Personnel Act:** As a general rule, employees of county departments of social services and local health departments are county employees but are subject to the State Personnel Act (SPA). When a county creates a new consolidated human services agency by electing either Option Two or Option Three, the employees of the new agency are removed from SPA coverage and placed under county personnel policies, *unless* the BOCC affirmatively elects to keep them under the SPA. If the employees are not kept under the SPA, the county personnel policies must comply with the federal merit personnel standards. (5 CFR Subpart F). Therefore, prior to taking an action that removes employees from the SPA, a county should conduct a careful review of its policies and make any changes that are necessary to comply with those standards.
- **Advisory committees:** If a BOCC decides to assume the powers and duties of either a local board of health or a consolidated human services board, it must appoint an advisory committee for public health. The committee membership must, at a minimum, meet the requirements for a county board of health found in G.S. 130A-35. It may include more members – for example, if a CHSA will include DSS, this advisory committee could have a broader scope and include people with social services expertise or interests. The BOCC also has the option of appointing a separate advisory committee for social services or other issues, but that is not required by law (see G.S. 153A-77(a)). The law does not specify whether the public health advisory committee needs to be appointed before the BOCC assumes the powers and duties of the local board of health or consolidated human services board.
- **Agency leadership:** If a BOCC is considering establishing a new CHSA, the county manager will have the authority to appoint the agency director but may do so only with the advice and consent of the governing board (which is the consolidated human services board under Option Two or the BOCC under Option Three). Because of the advice and consent requirement, there is a logical sequence that should be followed for appointing the director:
 1. Establish the CHSA.
 2. Either appoint a consolidated human services board or have the BOCC assume the powers and duties of the agency governing board.
 3. The county manager identifies a candidate for consolidated human services director and seeks the advice and consent of the agency governing board.
 4. If the agency governing board consents to the appointment, the county manager appoints the consolidated human services 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.



-
- **Appointing the initial consolidated human services board:** If a BOCC elects Option Two, it will need to appoint a new consolidated human services board. The law includes quite a few details about board composition, terms and term limits, and powers and duties. G.S. 153A-77(c). It also includes a specific process for appointing the *initial* board. The BOCC must first create a nominating committee that includes members of the current board of health and social services board, as well as (somewhat surprisingly) the board responsible for managing mental health, developmental disabilities, and substance abuse services in the county. The nominating committee then recommends members for the new consolidated human services board and the BOCC makes appointments based upon those recommendations. After the initial board is in place, the BOCC will fill vacancies based upon nominees presented by the members of the consolidated human services board.

As I mentioned earlier, this is not a comprehensive look at all of the factors or issues a county will need to consider before moving forward with any change. These are simply some of the quirky process steps associated with this area of the law. Please feel free to share other process tips in the comments field below.

The local human services landscape is evolving rapidly these days. We are doing our best to keep track of changes as they are happening so please let me or Jill Moore know if your county is considering or has made a change pursuant to this new legislation.

Links

- canons.sog.unc.edu/?p=6853
- www.ncleg.net/Sessions/2011/Bills/House/HTML/H438v5.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-76.html
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_153A/GS_153A-77.html
- www.ncphagencies.unc.edu
- www.gpo.gov/fdsys/pkg/CFR-2012-title5-vol2/xml/CFR-2012-title5-vol2-part900-subpartF.xml
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_130A/GS_130A-35.html
- www.sog.unc.edu/about/faculty-and-staff/aimee-n-wall
- www.sog.unc.edu/about/faculty-and-staff/jill-d-moore