

# North Carolina Human Services Agencies: Options For Organization And Governance

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In 2012, the North Carolina General Assembly passed Session Law (“S.L.”) 2012-126, which provided counties with new options regarding organization and governance of their human services functions. Specifically, S.L. 2012-126, which amended G.S. 153A-76 and G.S. 153A-77:

1. Allowed any Board of County Commissioners (“BOCC”) in a county with a county manager appointed pursuant to G.S. 153A-81 to combine two or more human services functions into a single consolidated human services agency (“CHSA”); and
2. Allowed any BOCC to directly assume the powers and duties of one or more of the governing boards responsible for overseeing a local human services agency (i.e., the local board of health, county board of social services, or consolidated human services board).<sup>1</sup>

Prior to the enactment of S.L. 2012-126, only counties with a population of at least 425,000 could create a consolidated human services agency<sup>2</sup> or have the BOCC assume and exercise the powers and duties of a county social services board or a consolidated human services board.<sup>3</sup>

For more information on the process of creating a CHSA, please see “Considerations When Creating a Consolidated Human Services Agency.”

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This resource draws upon the work of the author’s colleagues, [Aimee Wall](#) and [Jill Moore](#), who have spent years providing guidance to North Carolina counties regarding the organization and governance options for human services agencies. The author is indebted to Wall and Moore for their legal analysis and insight on this topic.

1. Amendments to G.S. 153A-76 prohibit county commissioners from abolishing and assuming the powers and duties of any of the following: (i) An area mental health, developmental disabilities, and substance abuse services board (though a grandfather clause provides an exception for Mecklenburg county, at G.S. 153A-76(6)); (ii) a public health authority assigned the power, duties, and responsibilities to provide public health services as outlined in G.S. 130A-1.1.3; (iii) a public hospital authority authorized to provide public health services under S.L. 1997-502.4; or (iv) a public hospital as defined in G.S. 159-39(a).

2. Wake County and Mecklenburg County were the only counties that opted to create consolidated human services agencies prior to the enactment of S.L. 2012-126.

3. Mecklenburg County was the only county that elected this option prior to the enactment of S.L. 2012-126.

## Options For Human Services Agency Organization And Governance

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### A. Separate Agencies with Appointed Governing Boards

**Organization.** Human services agencies (such as a local health department and county department of social services) remain separate.

**Governance.** Local appointed governing boards oversee the county's local human services agencies (i.e. local board of health and county board of social services).

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### B. Separate Agencies with Partial or Full BOCC Governance

**Organization.** Human services agencies (such as a local health department and county department of social services) remain separate.

**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).<sup>a</sup>

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### C. CHSA with Appointed CHS Governing Board

**Organization.** The BOCC creates a new CHSA by combining two or more human services functions, departments, or agencies.

**Governance.** The BOCC appoints a new consolidated human services ("CHS") board that serves as the CHSA's governing board.

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### D. CHSA with BOCC Governance

**Organization.** The BOCC creates a new CHSA by combining two or more human services functions, departments, or agencies.

**Governance.** The BOCC becomes the CHSA's governing board when it directly assumes the powers and duties of the CHS board.

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a. In some counties, the BOCC governs all human services agencies, while in others, the BOCC has only assumed governance of one agency while leaving another under the control of an appointed governing board.

## Additional Decisions for North Carolina Counties Under S.L. 2012-126

**Personnel Decisions for CHSAs:** As a general rule, employees of county departments of social services and local health departments are county employees but are subject to the State Human Resources Act ("SHRA"). When a county creates a new CHSA by electing either Option C or Option D described above, the employees of the new agency are removed from SHRA coverage and become subject to county personnel policies, unless the BOCC affirmatively elects to keep them under the SHRA. If the employees are not kept under the SHRA, the county's personnel policies for CHSA employees must comply with the federal merit personnel standards.<sup>4</sup> For more information on the federal merit personnel standards and the personnel decisions involved when creating a CHSA, please see "[Personnel Decisions for North Carolina's Consolidated Human Services Agencies.](#)"

**Functions to Include in a CHSA:** G.S. 153A-77(b)(3) authorizes a county to create a CHSA to "carry out the functions of any combination of commissions, boards, or agencies appointed by the board of county commissioners or acting under and pursuant to the authority of the board of county commissioners." Counties can choose which human services functions to include in a CHSA. The term "human services" is undefined in the law. CHSAs may incorporate local health departments and/or departments of social services, but other departments and agencies may also be involved

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4. The federal merit personnel system standards are found at 5 CFR § 900.603.

(such as local departments focused on veterans, aging populations, or transportation).<sup>5</sup> There are, however, some limitations. A CHSA may *not* include:

1. A local management entity (“LME”) involved with mental health, developmental disabilities, and substance abuse services (with the exception of the CHSA serving Mecklenburg County);
2. A public health authority assigned the power, duties, and responsibilities to provide public health services as outlined in G.S. 130A-1.1;
3. A public hospital authority authorized to provide public health services under S.L. 1997-502; or
4. A public hospital as defined in G.S. 159-39(a).

**Advisory Committees for Some Counties Electing BOCC Governance:** If a BOCC decides to assume the powers and duties of either a local board of health or a consolidated human services board (where the CHSA includes public health), it must appoint an advisory committee for public health.<sup>6</sup> The committee membership must, at a minimum, meet the requirements for a county board of health found in G.S. 130A-35.<sup>7</sup> It may also include more members. For example, if a CHSA will include a department of social services, 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.<sup>8</sup> 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.

## Other Organization and Personnel Options for Local Public Health and Social Services Agencies in North Carolina

**District Health Departments:** Counties can opt to create a district health department, which is a multi-county agency that provides local public health services for the residents of all counties in the district.<sup>9</sup> A district health department may be created upon agreement of the county commissioners and the boards of health of two or more counties.<sup>10</sup> A county may join an existing district health department upon a similar agreement entered by each affected county. A district health department is governed by a single board of health and administered by a single health director.

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5. To date, all CHSAs formed across the state have included departments of social services, though not all CHSAs have included local health departments. There is, however, no requirement that a CHSA incorporate a county’s department of social services.

6. The requirement for a health advisory committee applies only to counties that abolish their health boards after January 1, 2012. This amounts to an exception for Mecklenburg County, which abolished its boards (a county board of health, and subsequently a consolidated human services board) before that date.

7. Per G.S. 130A-35, a county board of health must include a physician, a dentist, an optometrist, a veterinarian, a registered nurse, a pharmacist, a county commissioner, a professional engineer, and three representatives of the general public.

8. See G.S. 153A-77(a).

9. There are currently six district health departments in North Carolina.

10. G.S. 130A-36.

**Public Health Authorities:** Counties can opt to create a public health authority (PHA) to provide public health services. A PHA may be organized as either a single county or a multi-county agency. It is a government entity that is independent of the county. To create a single county PHA, both the BOCC and the local board of health must adopt a joint resolution that it is in the interest of the public health and welfare to provide public health services to the community through a PHA.<sup>11</sup> To create a multi-county PHA or join an existing PHA, the boards of county commissioners and local boards of health in all participating counties must adopt a similar joint resolution. A PHA, whether single or multi-county, is governed by a PHA board and administered by a PHA director.

**Public Hospital Authority:** In Cabarrus<sup>12</sup> County, public health services are provided through a “public hospital authority.” Special legislation was enacted in 1997 that allowed for this unique arrangement.<sup>13</sup> This option for providing public health services is only available to Cabarrus County.

**Regional Departments of Social Services:** As of March 2019, North Carolina counties have authority to voluntarily join together to create regional departments of social services.<sup>14</sup> To date, no counties have opted to create a regional department of social services. If counties choose to create a regional department, the regional department would be a “public authority,” which is a separate legal entity from the counties involved.<sup>15</sup> For example, the regional department would have its own director, governing board, personnel, and budget. The regional department could include all social services programs or just a subset of such programs. For example, the regional department could focus exclusively on adult services (such as adult protective services and guardianship), economic services, child welfare, or child support enforcement. This authority is similar to the authority available to counties to establish district health departments under G.S. 130A-36.

**Shared Director for Social Services Agencies:** North Carolina law authorizes two or more county social services boards to employ one person to serve as the social services director of two or more participating counties.<sup>16</sup> Currently, no one serves as the social services director for two or more counties in North Carolina.

**“Substantially Equivalent” Personnel Systems:** Counties can remove social services and public health employees from certain aspects of SHRA coverage without creating a CHSA. This is accomplished by applying for and receiving a “substantially equivalent” exemption from the Office of State Human Resources (“OSHR”). The SHRA allows the State Human Resources Commission (acting through the OSHR) to determine whether particular elements of a county’s personnel management system are “substantially equivalent” to the SHRA.<sup>17</sup> Counties can petition for this designation in five aspects of personnel management: (i) Recruitment, Selection, and Advancement, (ii) Classification/Compensation; (iii) Training; (iv) Employee Relations; and

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11. G.S. 130A-45.02(a).

12. G.S. 130A-45.1; G.S. 130A-45.4.

13. S.L. 1997-502, Section 12.

14. G.S. 108A-15.7 *et seq.*

15. G.S. 159-7(b)(10)).

16. G.S. 108A-12(b).

17. G.S. § 126-11(a); 25 NCAC 11.2407.

(v) Political Activity. <sup>18</sup> If the county's petition is approved, the county employees that are subject to the SHRA (including public health and social services employees) become subject to the county personnel system and are exempted from the SHRA solely with respect to those approved aspects of personnel management.<sup>19</sup> A relatively small number of counties in North Carolina have had all or part of their personnel systems approved as "substantially equivalent."

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18. G.S. § 126-11(b).

19. G.S. § 126-11(b).