

**Organization and Governance of Local Human Services Agencies**  
**Summary of S.L. 2012-126 (H 438)**

Highlights for DSS Attorneys<sup>1</sup>

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During the 2011 and 2012 legislative sessions, the North Carolina General Assembly considered several bills that could alter the way county human services agencies are organized or governed. One of those bills was ultimately enacted—S.L. 2012-126 (H 438) became law on June 29, 2012. The new legislation extends to all counties some options that previously were available only to counties with populations exceeding 425,000. The options are:

- Assume direct control of certain local boards by adopting a resolution abolishing the board(s) and transferring their powers and duties to the board of county commissioners;
- Create a consolidated human services agency (CHSA) governed by a consolidated human services board appointed by the county commissioners; or
- Create a CHSA governed directly by the county commissioners.

Detailed questions and answers about the laws related to CHSAs *before* this legislative change are available online at <http://www.ncphagencies.unc.edu> (under Additional Legal Q&A) or <http://www.sog.unc.edu/node/2340>.

***Assuming direct control of local human services boards***

- Any board of county commissioners may assume the powers and duties of the local board of health, the social services board, or any other commission, board, or agency appointed by the county commissioners or acting under and pursuant to the commissioners' authority—with a few exceptions.
- If the county commissioners assume the powers and duties of the local board of health, the new law requires them to appoint an advisory committee for public health. County commissioners may appoint other advisory committees, but the health advisory committee is the only one that is *required*.
- A board of county commissioners that wishes to exercise its authority to assume direct control of a county human services board must adopt a resolution “assuming and conferring upon the board of county commissioners all powers, responsibilities, and duties” of the human services board. Before adopting the resolution, the board of commissioners must hold a public hearing and provide at least 30 days' notice of the public hearing.<sup>2</sup>

***Creating a consolidated human services agency and determining how it is governed.***

- *Creating a CHSA:* The new law extends the authority to create a consolidated human services agency (CHSA) to any county with a county manager.<sup>3</sup> A CHSA combines some or all of a county's

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<sup>1</sup> This summary is an adaptation of materials prepared by Jill Moore, UNC School of Government.

<sup>2</sup> G.S. 153A-77(a).

<sup>3</sup> This option not available in Tyrell County because it does not have a county manager.

human services functions into a single agency. Under prior law, it appeared that a CHSA was *required* to include three agencies: social services, public health, *and* mental health, developmental disabilities and substance abuse services (MHDDSAS). The new law 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.” It specifies that the CHSA may include public health, social services, *or* MHDDSAS, but it no longer must have all three, and it is likely most counties will not be able to include MHDDSAS in a CHSA.<sup>4</sup> Counties may also assign other county human services functions to the CHSA.<sup>5</sup>

- *Governance of a CHSA:* A CHSA is governed by a consolidated human services board, which is appointed by the county commissioners. The board has particular membership requirements and is assigned specific powers and duties.<sup>6</sup> The new legislation still provides for this structure, but it also permits county commissioners to abolish the consolidated human services board and assume its powers and duties.<sup>7</sup> Therefore, under this new legislation a county may create a CHSA governed by a consolidated human services board, or it may create a CHSA governed directly by the county commissioners. If it chooses the latter option, it must also appoint an advisory committee on public health as prescribed by the new law.
- *Employees.* Previously, the CHSA law provided that CHSA employees were subject to county personnel policies and ordinances only, rather than the State Personnel Act (SPA). The new law allows county commissioners to choose whether to remove CHSA employees from the SPA. It also reiterates a requirement in federal law that the CHSA must comply with federal requirements related to merit personnel systems. The new law also requires the director of a CHSA to appoint an individual that meets the statutory minimum education and experience qualifications for a local health director.<sup>8</sup> The county manager must approve the appointment. This new provision does not specify a role for the appointee, so it appears that the powers and duties of a local health director remain with the CHSA director. However, the CHSA director could delegate those duties to the appointee.<sup>9</sup>

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<sup>4</sup> Other changes to the law appear to exclude MHDDSAS from CHSAs.

<sup>5</sup> The law does not specify which other functions may be included, nor does it give an illustrative list. It appears that any county human services activity could be included. The term “human services” is not defined in the law. The types of activities that are carried out by North Carolina’s state human services agency include social services, public health, MHDDSAS, medical assistance (Medicaid), aging services, services for the blind and deaf, child development, health services regulation, and rural health and community care.

<sup>6</sup> G.S. 153A-77(c) & (d). The legislation included amendments to the board composition requirements and duties that reflect the expectation that a CHSA would not include MHDDSAS (with the exception of Mecklenburg County).

<sup>7</sup> G.S. 153A-77(a). Before abolishing the CHSA board, the county must give at least 30 days’ notice of a public hearing and hold the public hearing. *Id.*

<sup>8</sup> G.S. 130A-40(a).

<sup>9</sup> See G.S. 130A-43(c) (giving a CHSA director most of the powers and duties of a local health director); 130A-6 (allowing an official with authority granted by Chapter 130A to delegate that authority to another person).