THE COUNTY BOARD OF SOCIAL SERVICES
(PART I): INTRODUCTION AND OVERVIEW

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For more than eighty years, county boards of social services have played an important role in the governance and administration of social services programs in North Carolina. This is the first in a series of Social Services Bulletins that will describe the structure and role of county social services boards in North Carolina. This Social Services Bulletin
1. provides an overview of county social services boards in North Carolina;
2. summarizes the history of county social services boards;
3. discusses the legal status of county social services boards;
4. describes the size, composition, and structure of social services boards and the compensation of social services board members;
5. describes two alternative models of social services governance used by North Carolina’s two largest counties (Mecklenburg and Wake); and
6. provides some information about the North Carolina Association of County Boards of Social Services.

Subsequent Social Services Bulletins will examine:
- the qualifications for appointment to the county social services board and factors that may disqualify a person from serving on the board of social services;
- the appointment, terms, term limits, and removal of social services board members;
- the social services board’s role, powers, and duties;
- the social services board’s relationship with the county social services director;
- the procedures that social services boards must follow in conducting their meetings and carrying out their responsibilities;
- how social services board members can work together effectively; and
- when the county social services board and its members may be held legally liable in connection with the board’s work.

County Social Services Boards: An Overview

Ninety-eight of North Carolina’s one hundred counties have county boards of social services.

In most counties, the board of social services consists of five members: two members appointed by the state Social Services Commission; two members appointed by the board of county commissioners; and one member appointed by a majority of the other county social services board members. Social services board members serve staggered three-year terms.
The county social services board is responsible for:

- appointing the county director of social services;
- determining the director’s salary (subject to approval by the board of county commissioners);
- evaluating the director’s performance;
- disciplining or dismissing the director if the director engages in unacceptable personal conduct or the director’s job performance is unsatisfactory;
- assisting the director in preparing a proposed social services budget and transmitting the proposed social services budget to the board of county commissioners; and
- establishing local policies for public assistance and social services programs.  

**County Social Services Boards: A Brief History (1917 to the Present)**

County social services boards were first established around 1917 following the General Assembly’s enactment of a statute creating North Carolina’s first statewide system of public welfare and social services. 1 Under the 1917 public welfare law, the board of county commissioners in each North Carolina county was authorized (but not required) to appoint a three-member county “board of charities and public welfare.” 11 In 1919, the public welfare law was amended to require the appointment of a county board of charities and public welfare for each county. 12

These county boards of charities and public welfare were the direct ancestors of today’s county boards of social services. From 1917 until 1941, county boards of social services were called county boards of charities and public welfare. In 1941 the name of these boards was changed to county welfare boards. 13 In 1969 the General Assembly changed the name of county welfare boards to county boards of social services. 14

Under the 1917 law, all three members of the county board of charities and public welfare were appointed by the board of county commissioners with the advice and consent of the state Board of Charities and Public Welfare (now, the state Social Services Commission). 15 In 1919, the General Assembly amended the state’s public welfare law to require that all three members of county boards of charities and public welfare be appointed directly by the state Board of Charities and Public Welfare. 16 Thus, from 1919 until 1937, boards of county commissioners had no direct voice in the appointment of county social services boards. In 1937, the law was amended again to provide that one member of the county board of charities and public welfare would be appointed by the board of county commissioners, one member would be appointed by the state Board of Charities and Public Welfare; and the third member would be selected by the other two members of the county welfare board. 17

During the period 1917 to 1963, county social services boards generally were comprised of three members. 18 In 1963, North Carolina’s social services law was amended to allow boards of county commissioners to increase the size of their county’s welfare board from three to five members (two members appointed by the board of county commissioners, two members appointed by the state’s Social Services Commission, and one member selected by the other four county welfare board members). 19 Today, almost all North Carolina counties have five-member social services boards; only a few counties still have three-member boards.

In 1973, the General Assembly enacted a statute authorizing the board of county commissioners in counties with populations in excess of 325,000 (at that time, only Mecklenburg County) to assume and exercise the powers and duties of the county board of social services (and of the county public health board and the county mental health board). 20 This statute (G.S. 153A-77) now applies to counties with populations that exceed 425,000 (Mecklenburg, Wake, and Guilford counties). 21 In 1995, the General Assembly considered, but did not enact, legislation that would have made G.S. 153A-77 applicable to all North Carolina counties regardless of population. 22 In 1996, the General Assembly amended G.S. 153A-77 to allow the governance of social services programs in counties with populations of more than 425,000 (a) through the county board of social services, (b) through the board of county commissioners, or (c) through a consolidated county human services board. 23

Until the 1960s, county social services boards (and boards of county commissioners) exercised a significant amount of responsibility with respect to administering, financing, and establishing policies for North Carolina’s public assistance and social services programs. For example, until 1953, the county welfare board had the exclusive authority to approve or deny all applications for old age assistance and aid to dependent children (subject to eligibility requirements established by state law) and to determine the amount of assistance provided to elderly persons and children under these programs (subject to maximum payment amounts established by state law and subject to review by the board of county commissioners). 24
The amount of authority and discretion exercised by county social services boards before the 1960s reflects the fact that during this period (a) county social services departments administered fewer public assistance and social services programs administered than they do today; (b) fewer people received public assistance and social services than today; (c) the number of staff employed by county social services departments was far smaller than today; and (d) the state and federal governments exercised far less control and supervision with respect to social services programs than they do today.

Since the 1960s, the number, scope, size, and complexity of public assistance and social services programs have grown dramatically; the size and professionalism of county social services staffs have increased; and the responsibility and authority of the federal and state governments with respect to social services programs have grown relative to that of counties. As a result, responsibility and authority with respect to many aspects of social services programs have shifted more or less steadily over time from the county board of social services to the county director of social services, to state social services agencies, and to the federal government.

Legal Status

State law requires each of North Carolina’s one hundred counties to have a county board of social services (or, in counties with populations that exceed 425,000, a consolidated human services board or a board of county commissioners that exercises the powers and duties of the county social services board). The General Assembly, therefore, may, by enacting, repealing, or amending state law, abolish county social services boards, expand the powers and duties of county social services boards, restrict the authority of county social services boards, change the manner of appointment, terms, and qualifications of social services board members, or change the size, composition, or structure of county social services boards.

Although the state’s social services laws generally apply uniformly to all North Carolina counties, the General Assembly may enact, if it chooses to do so, special or local legislation regarding the governance, administration, or funding of social services programs in a particular county.

County boards of social services are not political subdivisions, departments, agencies, or units of state government, despite the fact that (a) they are established by state law, (b) they and the county social services department, director, and employees are subject to state law and regulations, (c) the county social services department receives significant amounts of state funding, and (d) the county social services department, director, and employees sometimes act as the “agents” of the state Department of Health and Human Services.

Instead, county social services boards (and county social services departments) are units of local government. As such, county social services boards are subject to a number of state laws that apply to local government boards. North Carolina’s Public Records Law and Open Meetings Law are two examples of state laws that apply to county social services boards because of their legal status as local government bodies.

County social services boards, however, are not completely independent or autonomous units of local government. For example, because county boards and departments of social services are not “units of local government” or “public authorities” under North Carolina’s Local Government Budget and Fiscal Control Act (LGBFCA), they do not have independent authority and responsibility for their own budgeting, disbursing, or accounting. Instead, under the LGBFCA the budgeting, disbursing, and accounting systems for county social services departments are part of the county’s budgeting, disbursing, and accounting systems. Similarly, the county social services director is a county official and employees of the county social services department are, strictly speaking, county employees (even though they are subject to the State Personnel Act), rather than employees of the county board or department of social services.

County social services boards, therefore, are county boards and are part of county government. This does not mean, however, that the board of county commissioners has the same authority over the county social services board, director, and department as it has with respect to other county boards, commissions, agencies, departments, or employees. For example, although state law (G.S. 153A-76) gives the board of county commissioners broad legal authority to “create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government,” the commissioners’ authority under G.S. 153A-76 does not extend to the abolition of any county board, department, or agency that is “established or required by [state] law.” Because state
law (G.S. 108A-1) expressly requires that every North Carolina county have a county social services board (or a consolidated human services board or board of county commissioners that exercises the social services board’s authority), the board of county commissioners may not abolish the county’s social services board under G.S. 153A-76 or alter the social services board’s authority under state law.  

The social services board’s legal status as a unit of county government, however, is not entirely clear. State law expressly provides that North Carolina counties are bodies “politic and corporate” with the power to sue and be sued, to contract, and to hold property. By contrast, the state laws governing county social services boards do not describe the county social services board as a “municipal or public corporation” or a “body corporate and politic.” Nor does state law expressly provide that a county social services board has the legal authority to sue and be sued or the legal right to contract and hold property in its own name. To the contrary, functional boards and commissions that serve a single city or county generally are considered to be a part of the city or county government rather than independent municipal corporations. And state law provides that, except as otherwise provided by law, all powers, duties, and rights of counties as public corporations “shall be exercised by the board of commissioners,” not other county officials or constituent boards, departments, or agencies of the county.

Courts, therefore, have held in several cases that county departments of social services, county health departments, county health boards, and boards of county commissioners are part of the county, not separate public corporations, and therefore do not have the legal capacity to sue or be sued in their own name. 

It can be argued, therefore, that the county board of social services may not sue or be sued in its own capacity as the county board of social services and that lawsuits involving the county social services board instead must be brought by or against the county. Likewise, the county, rather than the county board of social services, is probably the proper party, as a matter of law, in the case of contracts involving the county social services board.

The legal status of individual social services board members, on the other hand, is clearer. Individual members of the county social services board are public officials (and more specifically, county officials, rather than state government officials).

As public officials, members of the county social services board must take the oath of office prescribed for public officials and are subject to other state laws governing the conduct of local government officials.

Social services board members also may sue and be sued “in their official capacities” as public officials. Lawsuits by or against individual social services board members in their official capacity as social services board members, however, are in essence lawsuits by or against the county, not lawsuits by or against social services board members as individuals. And because social services board members are public officials, they may not be held individually liable under state law in civil lawsuits involving their responsibilities and functions as social services board members unless they have acted with malice, for corrupt reasons, or outside the scope of their official duties.

Size

Under North Carolina law, a county social services board may consist of either three or five members, as determined by the board of county commissioners.

If a county has a three-member board of social services, the board of county commissioners may increase the size of the social services board from three to five members. In order to do so, the county commissioners must adopt, by majority vote of the commissioners present at an official meeting, a resolution increasing the size of the social services board from three to five members and immediately report their action in writing to the state Department of Health and Human Services (DHHS).

If the board of county commissioners expands the size of the social services board from three to five members, the commissioners appoint one additional social services board member for a term that expires at the same time as the term of the incumbent social services board member who was appointed by the state Social Services Commission, and the state Social Services Commission appoints an additional social services board member for a term that expires at the same time as the term of the incumbent social services board member who was appointed by the board of county commissioners. The commissioners’ action expanding the size of the social services board is effective when both of the additional social services board members have been appointed.

State law also allows the board of county commissioners to decrease the size of the county social services board from five to three members. To do so, the board of county commissioners must adopt, by majority vote, a resolution decreasing the size of the social services board and send written notification of its action to the state DHHS. A resolution decreasing the size of the social services board from five to three members becomes effective on the first day of July.
following adoption of the resolution.\textsuperscript{54} On that date, the following two seats on the county social services board cease to exist:

- the seat held by the social services board member appointed by the state Social Services Commission for a term expiring on June 30, 2001 (or triennially thereafter);
- the seat held by the social services board member appointed by the board of county commissioners for a term expiring June 30, 2002 (or triennially thereafter).

The action of the board of county commissioners to increase or decrease the size of the social services board is not subject to review or approval by DHHS, the state Social Services Commission, the county social services board, or the county social services director.

As noted above, before 1963, almost all county social services boards consisted of three members. Today, almost all North Carolina counties have five-member boards of social services and only a few counties have three-member boards.

\section*{Composition and Organization}

State laws governing local public health, mental health, and human services boards specify the composition of those boards in great detail. For example, G.S. 122C-118 requires that a multi-county area mental health board include a county commissioner from each county in the area, an attorney, a person with financial expertise, a physician, a psychologist, social worker, or nurse, and persons who represent the interests of persons with mental illnesses, developmental disabilities, and alcoholism or substance abuse. Similarly, G.S. 130A-35 requires that the composition of each local public health board “reasonably reflect the population makeup of the county” and include a physician, a dentist, an optometrist, a veterinarian, a registered nurse, a pharmacist, a professional engineer, a county commissioner, and three representatives of the general public.

By contrast, the state laws governing county social services boards say little about the composition of these boards. Under G.S. 108A-3, a county social services board must be composed of three (or five) persons who are bona fide residents of the county from which they are appointed to serve.\textsuperscript{56} There is no requirement that a county commissioner serve on the county social services board.\textsuperscript{57} In many counties, however, at least one of the social services board members appointed by the board of county commissioners is also a county commissioner.

G.S. 108A-7 requires the county social services board, at its July meeting, to elect one of its members as the board chair. The social services board chair serves a term of one year (or until a new chair is elected),\textsuperscript{58} presides at social services board meetings, may call additional meetings of the board,\textsuperscript{59} and appoints one social services board member to serve on the county’s child protection or child fatality prevention team.\textsuperscript{60}

The county social services director is the board’s executive officer and acts as the board’s secretary.\textsuperscript{61} The social services director, however, is not a member of the county social services board and therefore may not vote as a board member at meetings of the social services board.

\section*{Compensation}

State law (G.S. 108A-8) provides that county social services board members are entitled to receive:

- a “per diem” payment for the time they spend with respect to their duties as social services board members;
- reimbursement for “subsistence and travel” expenses incurred as a result of their service as county social services board members.

The board of county commissioners is responsible for determining the amount of the per diem payment for social services board members and county policies governing reimbursement for subsistence and travel.\textsuperscript{62}

\section*{Mecklenburg County}

As noted above, the General Assembly enacted legislation in 1973 allowing the board of county commissioners of Mecklenburg County to exercise the powers and duties of the county’s boards of social services, public health, and mental health.\textsuperscript{63}

In 1984, acting under the authority granted by G.S. 153A-77(a), the Mecklenburg County Board of Commissioners adopted a resolution assuming the powers and duties of the county social services board. Since that time, Mecklenburg County has not had a separate county social services board appointed pursuant to G.S. Ch. 108A.\textsuperscript{64} Instead, the board of county commissioners has been responsible for appointing the county social services director and exercising all of the other powers and duties that in other counties are exercised by the board of social services.

It is important to note, however, that G.S. 153A-77(a) does not authorize the board of county commissioners—
• to assume or exercise the statutory authority or responsibilities of the county social services director;
• to abolish, subdivide, consolidate, or reorganize the county social services department; or
• to assign the social services director’s or department’s statutorily-mandated responsibilities or authority to other county agencies.

Wake County

In Wake County, social services governance has been exercised since 1996 by a consolidated county human services board and the county manager under G.S. 153A-77(b). Wake County’s consolidated human services board exercises all of the powers and duties formerly exercised by the county social services board (and the powers and duties formerly exercised by the county’s public health and mental health boards) except the power to appoint and dismiss the county social services director. Instead, Wake County’s director of human services (who supervises the county’s consolidated human services agency) is appointed (and may be dismissed) by the county manager, with the advice and consent of the county’s human services board.

Members of Wake County’s consolidated county human services board are appointed by the board of county commissioners (upon nomination by the human services board) and may serve a maximum of two consecutive four-year terms. The human services board may not exceed twenty-five members and must include a county commissioner, a psychiatrist, another licensed physician, a social worker, a psychologist, a registered nurse, consumers of human services (or public advocates for or family members of human services clients), and persons representing other specified interests or professions.

N.C. Association of County Boards of Social Services

The North Carolina Association of County Boards of Social Services is a voluntary, private, nonprofit association of county social services boards, members of county social services boards, former social services board members, and other persons interested in local social services governance in North Carolina. The association’s purposes, as set forth in its by-laws, are:

1. to serve as an advocate for the interests of county boards of social services, county departments of social services, employees of county departments of social services, and the clients of county departments of social services at the county, state, and federal levels of government;
2. to plan, develop, and provide education and training programs for members of county boards of social services;
3. to provide information to members of county boards of social services regarding issues affecting the administration and financing of public assistance and social services programs, and to provide a forum for the exchange of information and ideas among county boards of social services;
4. to increase public understanding, acceptance, and support of public assistance and social services programs in North Carolina; and
5. to promote closer working relationships between county boards of social services and county boards of commissioners, the state Social Services Commission, the state Department of Health and Human Services, and other public and private human services agencies and associations.

The association publishes a newsletter for members, helps plan state-wide education and training programs and conferences for county social services board members, and participates in several state-wide human services coalitions and advocacy groups. The association is governed by a board of directors consisting of a president, secretary, treasurer, and regional directors elected by the association’s members. The association’s annual business meeting generally is held each fall in conjunction with the annual Social Services Institute sponsored by the North Carolina Association of County Directors of Social Services.

The Institute of Government and County Social Services Boards

The Institute of Government serves North Carolina’s county boards of social services by providing training and education programs for county social services board members, providing technical assistance and consulting services for county social services boards, and publishing books, articles, bulletins, and other materials about social services and social services boards.

The Institute offers a one-day training program for social services board members each fall at several locations across the state. All newly-appointed county social services board members are strongly encouraged to attend the training, which provides an overview of the social services programs administered...
by county departments of social services; the social services board (appointment, qualifications, terms, etc.); the board’s role, powers, and responsibilities; the roles and responsibilities of the county commissioners, the county social services director, and state and federal agencies with respect to social services; the board’s relationship with the social services director; social services board meetings; working together on the board; and other related subjects.

A recent Institute publication, Serving on the County Board of Social Services, is written especially for persons who are considering whether to share their time, energy, and skills by seeking or accepting an appointment to the county social services board and to provide them with information about their role and responsibilities as social services board members. ²

Notes

* Mr. Saxon is a professor of public law and government at the Institute of Government, UNC-CH. His areas of responsibility include social services, child support, and elder law.

This series of Social Services Bulletins regarding the county board of social services will replace the loose-leaf Handbook for Social Services Board Members that was produced by the Institute and the state Department of Health and Human Services in 1992. The bulletins will also update and supplement parts of the Institute’s Guidebook to Social Services in North Carolina (4th edition, 1989). Although this bulletin is written primarily for county social services board members, it also may be of interest or use to county commissioners, county managers, county social services directors, and others who are interested in the subject of social services.

² The appointment of county social services board members has been discussed previously in John L. Saxon, Appointment of County Social Services Board Members, Social Services Bulletin No. 25 (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1997).

³ The term of county commissioners who serve as “ex officio” members of county social services boards has been discussed previously in John L. Saxon, Stay or Go? County Commissioners on Social Services Boards, Popular Government (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill), 65 (Winter 2000): 27–31.

⁴ The removal of county social services board members has been discussed previously in John L. Saxon, Removal of Members of County Social Services Board from Office During Their Terms, Social Services Bulletin No. 17 (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1993).


⁶ North Carolina’s two largest counties, Mecklenburg and Wake, govern their county human services agencies through the board of county commissioners or through a consolidated human services board. These alternative models of social services governance are discussed in the text accompanying notes 63 through 70.

⁷ G.S. 108A-2, 108A-3. The board’s size is discussed in more detail in the text accompanying notes 49 through 55. The appointment of social services board members will be discussed in a subsequent Social Services Bulletin.


¹⁰ Before the enactment of the 1917 public welfare law, the state and counties provided limited assistance to orphans, children, families, the poor, and mentally ill, mentally retarded, deaf, blind, ill, or disabled persons through state-administered hospitals, institutions, and schools and county-administered poor houses and programs of “poor relief.” Mason, County Government in North Carolina, 696–97; Janet Mason and John Saxon, Social Services, Ch. 12 in Charles D. Liner (ed.), State and Local Government Relations in North Carolina: Their Evolution and Current Status, 2nd ed. (Chapel Hill, N.C.: Institute of Government, The University of North Carolina at Chapel Hill, 1995), 200–01. See also Roy M. Brown, Public Poor Relief in North Carolina (Chapel Hill, N.C.: The University of North Carolina Press, 1928).

¹¹ N.C. Public Laws (1917), Ch. 170 [Rev. (1905) §§3915, 3921].

¹² N.C. Public Laws (1919), Ch. 46, §2 [Rev. (1905) §3915].

¹³ N.C. Public Laws (1941), Ch. 270, §2 [C.S. §5014].


¹⁵ N.C. Public Laws (1917), Ch. 170 [Rev. (1905) §3915].

¹⁶ N.C. Public Laws (1919), Ch. 46, §2 [Rev. (1905) §3915]. The 1919 statute also expanded the powers and duties of the county boards of charities and public welfare.
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17 N.C. Public Laws (1937), Ch. 319, §3 [C.S. §5014]. A 1941 statute provided that the third member of Wake County’s welfare board would be appointed by Raleigh’s city council. N.C. Public Laws (1941), Ch. 270, §2 [C.S. §5014].


19 N.C. Sess. Laws (1963), Ch. 247 [G.S. 108-11]. Between 1963 and 1969, the law did not apply to Cabarrus, Pender, Gaston, Columbus, Alexander, Chatham, Burke, Mitchell, or Watauga counties. In 1981 the General Assembly enacted a special local statute authorizing Mecklenburg County’s board of commissioners to expand the size of the county’s social services board, to determine the size of the expanded social services board, to determine the terms of social services board members, and to appoint all but two of the members of the county social services board. N.C. Sess. Laws (1981), Ch. 625.


21 The 1973 statute was subsequently codified as G.S. 153A-77 and was amended in 1985 to make it applicable to counties with populations of more than 400,000. The law was amended again in 1987 to make it applicable to counties with populations of more than 425,000. From 1973 until about 1991, Mecklenburg County was the only North Carolina county whose population exceeded the threshold established by G.S. 153A-77. From the early 1990s through 2000, Mecklenburg and Wake counties were the only counties whose populations exceeded the threshold established by G.S. 153A-77. G.S. 153A-77, however, probably applies now (that is, as of June, 2001) to Guilford County (with a population of 421,048 in the 2000 census), as well as to Mecklenburg and Wake counties.


23 The alternative social services governance models authorized by G.S. 153A-77 are discussed in more detail in the text accompanying notes 63 through 70.

24 N.C. Public Laws (1937), Ch. 288, §§15, 45 [G.S. 108-30, 108-59 (1952)]. The 1937 public assistance law also authorized the board of county commissioners to review the county welfare board’s actions with respect to applications for old age assistance and aid to dependent children. N.C. Public Laws (1937), Ch. 288, §§16, 46 [G.S. 108-31, 108-60 (1952)].


27 G.S. 108A-1. In Mecklenburg County, the board of county commissioners acts as the county board of social services. In Wake County, most of the powers and duties of a county social services board are exercised by the county’s consolidated human services board. The alternative social services governance models used in Mecklenburg and Wake counties are discussed in the text accompanying notes 63 through 70.

28 State law expressly allows the creation of multi-county boards of public health and multi-county area mental health authority boards. See G.S. 122C-115(c), 130A-36. State law also allows the social services boards of two or more counties to employ one person as the social services director for those counties or to establish a single social services department to serve two or more counties. See G.S. 108A-12(b), 160A-462. These statutes, however, only authorize multi-county social services directors or departments, not multi-county social services boards.

29 There is nothing in any of the federal laws or regulations governing federal-state social services programs that requires North Carolina or any other state to establish county social services boards. In fact, social services programs in most states are administered locally by state, not local, social services agencies, and by state, not local, social services employees.

30 See White v. Chowan Co. Bd. of Comm’rs, 90 N.C. 437 (1884) (state legislature may enlarge, abridge, or modify powers and duties of counties); Jones v. Comm’rs, 143 N.C. 59, 55 S.E. 427 (1906) (because counties are created by the state legislature, the legislature may divide, change, or even abolish counties).

31 The state’s Work First law, which gives so-called “electing” counties greater policy-making, administrative, and fiscal authority and flexibility with respect to the TANF program, is an exception to this rule. See G.S. 108A-27.3, 108A-27.4.

32 As noted above, the General Assembly has previously enacted special local legislation regarding the composition, appointment, or size of the county social services board in a particular county. This type of special local legislation does not violate Art. II, sec. 24 of the North Carolina Constitution.
in North Carolina

nically speaking, entities. The social services board, therefore, is not, tech-
tratively, and financially), the social services board, director,

social services director, and the county social services

health board, and county health department are not legal

district health department is a public authority as defined in

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

local political subdivision of the state); G.S. 130A-36(a) (a

a multi-county area mental health authority is a

S.E.2d 285 (1982).

(1997) (county social services department is not a depart-

See Craig v. Chatham County, ___ N.C.App. ___, ___

S.E.2d ___ (2001) (board of county commissioners, county

health board, and county health department are not legal

entities that can be sued in their own names and capacities;
lawsuits based on actions of these county departments and

boards must be brought against the county in its capacity as a

public corporation); Malloy v. Daniel, 58 N.C.App. 61, 293

S.E.2d 285 (1982) (county department of social services does

not have the legal capacity to bring a lawsuit in its own name

on behalf of the county). See also See Avery v. Burke

County, 660 F.2d 111 (4th Cir. 1981); Meares v. Brunswick


Piggott v. City of Wilmington, 50 N.C.App. 401, 273
S.E.2d 752 (1981) (defining the term “public official” under the
document of public official immunity from lawsuits).

See G.S. 128-5 (oath of office required for all state and

county officials); G.S. 128-1.1 (restrictions of dual office

holding); G.S. 14-234 (criminal penalties involving conflict

of interest by public officials). Oaths, dual office holding,
and conflicts of interest with respect to county social services

board members will be discussed in subsequent Social

Services Bulletins.

Anita R. Brown-Graham, A Practical Guide to the

Liability of North Carolina Cities and Counties (Chapel Hill,

N.C.: Institute of Government, The University of North Carolina

at Chapel Hill, 1999), 3-3 through 3-6 (discussing official
capacity lawsuits). Issues involving the potential legal liability

of the social services board and social services board members

will be examined in a subsequent Social Services Bulletin.

Brown-Graham, A Practical Guide to the Liability of

North Carolina Cities and Counties, 4-8 through 4-11. Issues

involving the potential legal liability of the social services board and

social services board members will be examined in a

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A Practical Guide to the Liability of North Carolina Cities

and Counties, 3-3. Issues involving the potential legal liability of

the social services board and social services board members will be examined in a

subsequent Social Services Bulletin.

See G.S. 128-5(a)(2)b., 126-9(a).

See G.S. 126-5(a)(2)b., 126-9(a).

See G.S. 108A-5(c). In 1998, Guilford County’s board of

commissioners reduced the size of the county’s social ser-

vices board from five to three members in order to remove
two social services board members who were “at odds with” the

county commissioners regarding the performance of the

county social services director and department. After the

removal of these two social services board members, the

county social services director resigned and the county

commissioners subsequently increased the board’s size from

three to five members.

The qualifications and appointment of county social

services board members will be discussed in more detail in

subsequent Social Services Bulletins.

The vast majority, but not all, of North Carolina’s county social services boards are members of the association. County social services boards, county social services board members, and others may become members of the association by submitting a membership application and paying an annual membership fee.

For additional information about the Institute’s annual training program for county social services board members please contact Debbie Christensen by phone (919-966-4331) or email (christens@ioiomail.iog.unc.edu).

Experienced social services board members, county social services directors, and county commissioners, county managers, county attorneys, or other public officials who are interested in learning more about social services also may attend the training program for social services board members. The Institute of Government also provides training programs, consulting services, and technical assistance for individual social services boards.

The state Department of Health and Human Services has distributed copies of *Serving on the County Social Services Board* to all county departments of social services. *Serving on the County Social Services Board* also is available in a PDF format on the Institute’s NCINFO web site [http://www.iog.unc.edu/pubs/electricversions/pdfs/socservbds.pdf]. The Institute of Government also recently assisted the state Department of Health and Human Services and the North Carolina Association of County Social Services Board Members in producing a short video-taped introduction to the county social services board which has been distributed by DHHS to county social services departments.
Social Services Bulletin is published on an occasional basis by the Institute of Government to address issues of special interest to county and state social services employees and officials. It is distributed to a variety of local and state social services and other human services officials. (Corrections to mailing lists should be sent to the editor.)

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