

**AUGUST 24, 2007 AGENDA
COUNTY FISCAL HEALTH AND GOVERNANCE ALTERNATIVES
ADVISORY COMMITTEE**

Location: Summit Lodge (some signs say Summit Inn) at Snoqualmie Pass, Phone 425-434-6300

- **From Seattle/Metro Area, take I-90 Eastbound to Exit 52. Turn right at ramp.**
- **From Ellensburg/Spokane, take I-90 Westbound to Exit 53. Turn left at ramp. Turn right at stop sign.**

| Time | Agenda Item/Material | Presenter | Proposed Actions |
|-------------|--|---|---|
| 10 AM | 1 Introductions List of Members – on Web site | Chair, Rose Bowman | Introductions |
| | 2 Approval of July 27 Meeting Notes Draft Meeting Notes – agenda packet (AP) pg. 3 | Chair, Rose Bowman | Approval of Meeting Notes |
| | 3 Committee Organizational Decisions | | |
| 10:15 | a Draft Ground Rules Agenda Memo – AP pg. 7 | Chair, Rose Bowman | Approval of Ground Rules |
| 10:45 | b Adding a County Union Representative to Advisory Comm. Agenda Memo – AP pg. 10 | Anne Pflug Legislative Project Manager | Decision |
| 11:00 | c Meeting Dates and Locations– AP pg. 11 | Marsha Fraser, Facilitator | Confirm |
| | 4 Study Components for Committee Feedback | | |
| 11:10 | a Washington State Local Government Fiscal Health, 2006, OFM and CTED <ul style="list-style-type: none"> • Agenda Memo – AP pg. 12 • Full Report – on Web site | Anne Pflug Legislative Project Manager | Feedback from the Advisory Committee for Inclusion in the Report to the Legislature – See agenda memo for potential discussion questions. |
| NOON | b Draft Long List of Governance Alternatives <ul style="list-style-type: none"> • Agenda Memo – AP pg. 17 • MRSC document –on Web site • Legal Memo from Hugh Spitzer, Special Asst Attorney General – AP pg. 21 • State of Minnesota County Structure - on Web site | Rich Yukubousky Executive Director Municipal Research and Services Center | Feedback from the Advisory Committee for Inclusion in the Report to the Legislature – See agenda memo for potential discussion questions. |
| NOON | LUNCH (during discussion) | | |
| | 5 Project Status | | |
| 1:45 | a Overview of Survey Agenda Memo – AP pg. 30 Survey Instrument – AP pg. 31 | Anne Pflug | For Information |
| 1:50 | b Project Components Update Key Dates Summary – AP pg. 42 | Anne Pflug | For Information |
| 2 PM | 6 Adjourn | | |

All documents on Web site are posted at <http://www.cted.wa.gov/site/1044/default.aspx>

County Financial Health and Governance Alternatives Study Advisory Committee

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| Agenda Topic: Approval of July 27, 2007 Meeting Notes | |
| Agenda Item: 2 | Staff Contact: CTED Project Manager -- Anne Pflug annep@cted.wa.gov 509-925-2608 |
| Study Question(s) Being Addressed: NA | Attachments: Meeting Notes |

Requested Action:

Approval of Meeting Notes with any desired changes.

Background:

NA

Discussion:

NA

Recommendations:

Approval of meeting notes for July 27, 2007

Advisory Committee Meeting
July 27, 2007
Meeting Notes

Committee members attending the meeting: Professor Terry Novak, Chelan County Commissioner Buell Hawkins, Skamania County Prosecuting Attorney Peter Banks, King County Office of Management and Budget Director Bob Cowan, Cowlitz County Public Works Director Ken Stone, Lewis County Treasurer Rose Bowman, Walla Walla County Treasurer Gordon Heimbigner, Tri-City Development Council Director Carl Adrian, Island County Auditor Suzanne Sinclair, and Mason County Commissioner Tim Sheldon.

WACO, WSAC and CTED staff attending: Debbie Wilke, Christina Bridston, Julie Murray, Eric Johnson, Anne Pflug, Marijo Olson and Heather Ballash.

Facilitator: Marsha Fraser

Charge of the Advisory Committee

Scott Merriman, OFM Director of Legislative Affairs, discussed the charge of the committee. Mr. Merriman noted that most counties had already implemented cost efficiencies and service effectiveness initiatives and that the focus of this study will be on the next level of more difficult changes to county service provision. He encouraged the committee to “take their hats off at the door” and explore the difficult issues.

Welcome and introductions

Marijo Olson, Interim Assistant Director for CTED Local Government Division, welcomed and thanked the committee members on behalf of CTED for their willingness to participate.

Scope of the study

Anne Pflug, CTED project manager for the study, took the committee through the scope of the legislative study. She noted that the committee will be getting working documents for their feedback as we move forward on the study. This will probably require more homework than they are used to having to do in a committee.

It was noted that the composition of land ownership in counties should be included. In rural counties, much of the land is in public ownership.

The project Working Group made up of WSAC, WACO and CTED staff developed the scope of the project in consultation with legislators. The study may have to include recommendations for more work on some items not in the scope due to time constraints. Although there is no time to develop a lot of new information for some segments of the report, lots of work has already been done in existing studies.

Component I: Background

The 1988 Local Governance Commission Report will be updated by the Municipal Research Services Center (MRSC).

Component II: Fiscal Health

OFM did a study of the fiscal health of counties with CTED last year. It will not be redone, but will be used as base for adding information as appropriate.

Component III: Survey

WSU survey will go out to 750 elected and appointed officials next week. They will be able to respond on the web, in a phone interview, or on hard copy by hand. They were provided information and a flyer at the summer conferences. An initial email will go out to all of them with a copy of the survey.

There was some concern that the survey focuses more on opinion than facts. The purpose of the survey is to solicit opinion with some facts. Other components of the study will provide more facts. The survey is intended to provide information on what has been done in the counties already and what could be done.

Component IV: Service Systems

Mapping of service systems – business processes.

Component V: Case Studies

Case studies will be developed using examples where a county could save money or be more effective. There was a question about whether there is any provision for considering intangible benefits or impacts of a change in government structure. E.g. combining functions might compromise the security of citizens. The intangible benefits or impacts can be addressed in the discussion of the governance alternatives. It will be an important topic to address in this group. Douglas County example – may be co-located, but not operationally aligned. Consultant will look at it and look at theoretical integration.

Component VI: Stakeholder Involvement

The Advisory Committee and briefing and consultation with legislators are key pieces.

Development of alternatives:

- MRSC is taking the first cut based on the NACO report. They will distill the alternatives discussed in the NACO report into a shorter list. The committee will be provided the short and long list to consider.
- Hugh Spitzer – providing legal advice on the options.

It was asked whether the committee will be considering a different process for creating charter counties. As the legislature asked us to look at non-charter counties, we are trying to look at non-freeholder options – charter options without going through freeholder process. The survey will ask about charter experiences that failed. The study should also look at counties who did go charter to see if there were cost efficiencies.

The study will be looking at potential constitutional amendment options and non-constitutional options.

Background materials

The NACO survey and Local Government history documents will be posted on the CTED web page for people to access.

The Ferry County study looked at how much of the tax base is in public ownership. The decommissioning of roads in Ferry County included grinding up roads rather than fixing potholes. The big cost for counties is mandatory arbitration with the unions. The study needs to also look at outsourcing of functions, and court settlements. Looking at outsourcing for small counties would be very interesting, but will be hard to quantify. The study should look at prevailing wages on construction projects. The committee members should all agree to a no sacred cow policy. Growth Management Act (GMA) issues were very big for Ferry County. The legislature passed a bill to let them out of planning under the GMA and the Governor vetoed it. What about study of GMA impacts? That could be a whole separate study.

Study components for committee feedback at the next meeting

The *Washington State Local Government Fiscal Stress Analysis*, December 2006, had a different focus than this study. However, it can be helpful. The analysis came up with 10 fiscal distress indicators and applied them to all Washington counties and cities. They were the best they could come up with for predictive indicators for Washington.

Homework assignment for next meeting: This will be the background on fiscal distress for the study. Committee members are being asked to provide input at the next meeting. Comments are needed on the indicators, county lists, factors to be noted that contribute to stress/fiscal health, etc.

Preliminary discussion of the indicators:

These are indicators from fiscal or statistical reports – leaves out issues that required a county to take an action to address it – e.g. King County fiscal issue that resulted in staff layoffs and closed parks or gave them to cities. A county may look numerically fine, but may have been fiscally distressed and had to make decisions in service provision, etc. that don't show up in the fiscal indicators. It may be hard to get that data, but the committee must address this. That information should be included in the survey.

The committee should also look at external factors that county actions may not be able to resolve. The monster may be a management rather than fiscal problem for a county. We may be able to get at that with an end of budget number. How do you transform that into something we can measure?

Don't ask counties to live within their means as we do with poor people, maybe every county needs the resources to provide for basic needs. Financial distress feels the same to rich and poor. The committee needs to consider basic county services they are required to provide v. other services (e.g. pools). It needs to look at whether the required services are stressing counties –

what is required v. what is acceptable. Agreed, but for all counties criminal justice expenses are at least 70% of their budget. For smaller services, how much in savings can you achieve? From a small county prospective, they are one lawsuit away from disaster or homicide/capital murder case.

There is nobody here from the labor unions. Will the Governor's office cover that with the recommendations? Recommendations without labor input could go nowhere. That is a good point to think about – staff will come back with a proposed approach to the committee.

Next meetings

Fridays are better for people. 10:00 to 2:00 for all meetings. Snoqualmie Pass Summit Inn is the first choice. Back up in Cle Elum or Ellensburg.

August 24 – Snoqualmie, Terry will call in
September 7 - Snoqualmie
September 26 - Olympia
October 12 – Snoqualmie
October 19 – Snoqualmie
October 26 (backup) – Snoqualmie

Selection of the Chair

Roles and responsibilities

- Planning meetings
- Ground rules development
- Possible speaking on the report

Rose Bowman was nominated and the committee unanimously agreed that she would be the Chair.

Anne is lead for information and process if committee members need to contact her. Committee members are encouraged to give her any input on how to make the process easier for the members to participate.

Chelan County financial review process – Commissioner Hawkins will provide information to Anne on their process.

Meeting adjourned

County Financial Health and Governance Alternatives Study Advisory Committee

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| <u>Agenda Topic:</u> Draft Ground Rules | |
| <u>Agenda Item:</u> 3(a) | <u>Staff Contact:</u> Marsha Fraser |
| <u>Study Question(s) Being Addressed:</u> NA | <u>Attachments:</u> Draft Ground Rules |

Requested Action:

Adoption of Ground Rules after appropriate changes.

Background:

Discussion:

Draft ground rules are presented for your discussion and agreement. Ground rules tailored specifically to this advisory committee which may need discussion and a clear common understanding are related to decision making, communication and representation.

Recommendations:

Adoption of Ground Rules after desired changes.

COUNTY FISCAL HEALTH AND GOVERNANCE ALTERNATIVES ADVISORY COMMITTEE

Background and Charge

The Department of Community, Trade and Economic Development (CTED) has been directed by the 2007 Legislature to examine the fiscal health of counties. The CTED study may contain options and actions for consideration by the governor and the legislature, but at a minimum must recommend the changes to constitutional and statutory law necessary to provide non-charter counties with the legal authority required to implement changes in governmental structures and functions needed to promote optimum financial efficiency and improved services.

To ensure critical information and viewpoints from stakeholders are included, CTED is convening an advisory committee. The committee will assist CTED in considering options and actions, including the pros and cons of each option, and provide feedback to inform the recommendations and legislature. The advisory committee consists of eleven county elected and appointed officials nominated by the Washington State Association of Counties and the Washington Association of County Officials. The committee also includes one representative from academia and one representative from the business community selected by CTED.

Draft Ground Rules

- **Decision-making:** Use consensus decision-making to make sure everyone is heard. The Advisory Committee (the Committee) will seek consensus. Consensus does not require that everyone agree, but that all can “live with and agree to support the decision.” If the Committee cannot reach consensus, then the Committee will make a decision to either “table the decision” for the time, document the minority opinion, or take a vote. Each situation will be handled individually.
- **Meeting preparation:** All group members will read the background materials prior to the meeting and come prepared to discuss the agenda items.
- **Questions:** Questions that will be useful in meeting discussions will be “framed” in advance and sent out to all group members to use to prepare.
- **Meeting times:** Start the meetings on time and stick to the agenda. If there is a need to modify the agenda during the meeting, the Committee members will determine the change.

- **Full participation:** Make sure that each Committee member has time to be heard in the meetings and that each member participates.
- **Communicate honestly and respectfully.** Listen actively, seek to understand other points of view, ask questions to clarify, respect other’s ideas, limit side conversations, avoid interruptions, and turn off cell phones.
- **Conflict resolution:** Clarify the issue, use systematic problem-solving to better understand people’s needs, seek agreement on general before specific, and use collaboration to find a “win-win” resolution.
- **Focus on the big picture:** Committee members are encouraged to come to the discussion with a view of the big picture – to bring their personal and professional expertise to the table to consider the pros and cons of possible organizational change.
- **Representation:** The purpose of the advisory group is to provide input on issues and ideas related to improving county fiscal health and county organizational structure. Although the advisory group is a cross-section of county officials, members do not “represent” any particular function or office within county government on the advisory committee. Rather, using the experience and knowledge each has gained from their positions in county government; members are working collectively to improve the condition of counties as a whole.
- **Be willing to take risks and try new ideas.**
- **Share responsibility for meeting management:** Committee members will share responsibility in helping the Committee support the use of the ground rules.
- **Communication with legislators and/or the press.** Committee members agree to refrain from communicating with legislators and/or the media prior to the recommendations being finalized. Questions about the process and development of recommendations from legislators and the media may be directed to Rose Bowman, the committee chair, or Anne Pflug, the project manager.
- **Consultation and communication with other members of the county family.** Committee members are responsible for (1) reporting on the status of the project to the organization they represent and communicating to the advisory group on behalf of that organization, (2) consulting and communicating with the county family, and (3) presenting important viewpoints throughout the process.
- **Have fun!**

County Financial Health and Governance Alternatives Study Advisory Committee

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| Agenda Topic: County Union Representation on Advisory Committee | |
| Agenda Item: 3(b) | Staff Contact: CTED Project Manager -- Anne Pflug annep@cted.wa.gov 509-925-2608 |
| Study Question(s) Being Addressed: Stakeholder Involvement | Attachments: None |

Requested Action:

Determine whether to add a county union representative to the Advisory Committee.

Background:

At the Advisory Committee’s first meeting a question was raised about adding a county union representative to the Advisory Committee due to the union’s significant role in county government and potentially in the Legislative process.

After asking around it became apparent that statewide there is no single umbrella group that would be able to represent and communicate with county unions. The largest two unions are Teamsters and AFSCME. Independent Guilds generally represent most Sheriffs offices as well as corrections departments. In addition there are units of OPEIU, UFCW, WSNA, IFPTE Local No. 17 and SEIU, among others.

Discussion:

The staff working group (WSAC, WACO and CTED staff) discussed the options that might be available to the Advisory Committee. The following are some of the suggestions:

- 1) Pick a representative from one of the unions mentioned above, probably from their state business office.
- 2) Recommend that briefings with the unions occur after the study recommendations are forwarded to the Legislature and Governor due to the short study time frame. There may be additional stakeholders that should be involved depending on the content of the recommendations as well.
- 3) Work with stakeholders to identify concerns or issues prior to the beginning of the Legislative session including the unions.

Recommendations:

Discuss the options above and provide direction.

**AGENDA ITEM 3(C)
COUNTY FISCAL HEALTH AND GOVERNANCE ALTERNATIVES
ADVISORY COMMITTEE
MEETING DATES**

| Meeting Date | Time | Location | Potential Topics |
|---|-------------|---|--|
| Friday, August 24 | 10AM to 2PM | Summit Inn, Snoqualmie Pass | Feedback on County Fiscal Health Study; Long List of Governance Alternatives; Ground Rules; Overview of Survey |
| Friday, September 7 | 10AM to 2PM | Summit Inn, Snoqualmie Pass | Feedback on System Mapping; Short List of Governance Alternatives |
| Wednesday, September 26 | 10AM to 2PM | County Association Building, Olympia | Feedback on Draft Survey results; System Mapping? |
| Friday, October 12 | 10AM to 2PM | Department of Transportation Meeting Room Bullfrog Road DOT Maintenance Bldg – Exit 80 I-90 | Feedback on Draft Case Study Results and Background Document |
| Friday, October 19 | 10AM to 2PM | Department of Transportation Meeting Room Bullfrog Road DOT Maintenance Bldg – Exit 80 I-90 | Feedback on Study Recommendations |
| Friday, October 26 (BACK UP MEETING DATE) | 10AM to 2PM | Summit Inn, Snoqualmie Pass | |

**County Financial Health and Governance Alternatives Study
 Advisory Committee**

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| Agenda Topic: Feedback on <i>Washington State Local Government Fiscal Health</i> document. | |
| Agenda Item: 4(A) | Staff Contact: CTED Project Manager -- Anne Pflug annep@cted.wa.gov 509-925-2608 |
| Study Question(s) Being Addressed: <ul style="list-style-type: none"> ▪ What factors contribute to county fiscal health? ▪ Which Washington counties are the most fiscally distressed? | Attachments: <ul style="list-style-type: none"> • Ranking of Counties by fiscal health score (Attachment A) • <i>Washington State Local Government Fiscal Health</i> See web page at http://www.cted.wa.gov/site/1044/default.aspx for a link to the document |

Requested Action:

Feedback from the Advisory Committee on the *Washington State Local Government Fiscal Health* document and other issues relevant to the Legislative study questions:

- What factors contribute to county fiscal health?
- Which Washington counties are the most fiscally distressed?

Background:

In 2006 the State Office of Financial Management (OFM) requested that CTED develop a study that addressed local government fiscal health. The study was completed late last year using a ten indicator method of “scoring” the fiscal health of all Washington counties and cities. Rather than completing an independent analysis for the County Financial Health and Governance Alternatives legislative study, this study is proposed to be an appendix to the County Financial Health and Governance Alternatives report to the Legislature and Governor.

The ten fiscal indicators used in the study are:

- Indicator 1: General Fund Revenue Per Capita
- Indicator 2: Revenue Elasticity
- Indicator 3: Cash Balance
- Indicator 4: Proportion of Expenditures Used for Debt and Capital Improvement
- Indicator 5: Proportion of Revenue that is Restricted for Specific Uses
- Indicator 6: Property Tax Burden
- Indicator 7: General Fund Operating Gaps
- Indicator 8: Economic Condition
- Indicator 9: Tax Base Condition
- Indicator 10: Service Demand

These indicators were used to “score” the fiscal condition of all Washington Counties using data from the decade 1994 to 2004 as reported in 2005/06. The ranking of Washington Counties by fiscal health score is attached as Attachment A.

Discussion:

The body of the County Financial Health and Governance Alternatives report would include a summary of the *Washington State Local Government Fiscal Health* study along with narrative that addresses the

study questions of: What factors contribute to county fiscal health? and Which Washington counties are the most fiscally distressed?

The advisory committee discussed factors at their last meeting which may not be captured by the ten statistical indicators. Below are some suggested factors that can be expanded or modified by the Advisory Committee that came out of the discussion last meeting and/or from other sources --

County fiscal distress/health may result from one or more of the following:

- Inadequate tax base to meet basic service requirements
- Policy and/or management decisions that over obligate resources (eg labor agreements, underpricing of services, over extended level of service obligations, over extended discretionary service obligations, over budget capital projects, accumulated debt, poor budget or cash management practices etc)
- Implications of land ownership by the federal or state government
- Implications of land use patterns within a county
- Shifts or major changes in revenue (eg property tax limitations, repeal of MVET, downturn in sales tax revenue, annexation or city incorporations, radical changes in community economic conditions etc)
- Legacy financial obligations (health or retirement benefits, environmental clean up, law suit settlements, delayed technology or capital infrastructure replacement etc)
- Significant change in policies that drive county service delivery or enforcement systems or levels of service (eg Growth Management Act, criminal sentencing policy, transportation capacity requirements, storm-water quality standards, etc)
- Significant changes in demand for high cost mandated services (eg criminal justice, human services, transportation, land use/environmental regulation, waste disposal, etc)
- Inefficient or ineffective operating practices
- Economic vitality and diversification

There are some drivers of fiscal health that may not be affected by governmental structure. For example, even if new authority allowed Ferry County to make organizational or structural changes that reduced costs by 20%, its tax base will still not be adequate to meet its basic service requirements by a significant margin.

Recommendations:

The advisory committee may wish to address all or any of the following potential discussion questions in providing feedback:

- Are the indicators used in the *Washington State Local Government Fiscal Health* document appropriate?
- Are there other factors that should be considered in defining the counties fiscal health?
- Is the scoring of distressed counties sufficient to answer the question “which counties are distressed” ?
- Are there other points that need to be made to the legislature either about fiscal health or the intersection between fiscal health and governance structure?

Attachment A

Counties Sorted by Stress Score

| County | Indicator 1 | Indicator 2 | Indicator 3 Cash Balance | Indicator 3 Diverted Road Tax | Indicator 4 | Indicator 5 | Indicator 6 | Indicator 7 | Indicator 8 Population | Indicator 8 Unincorporated Population | Indicator 8 Personal Income | Indicator 8 Employment Growth | Indicator 9 Assessed Value | Indicator 9 Sales Tax | Indicator 10 Population Density | Indicator 10 Assessed Value Per Sq Mile | Indicator 10 DSHS Clients | Indicator 10 Dropout Rate | Total Stress | Receives SB 6050 Assistance |
|--------------|-------------|-------------|-----------------------------|----------------------------------|-------------|-------------|-------------|-------------|---------------------------|---|--------------------------------|-------------------------------------|-------------------------------|--------------------------|------------------------------------|---|------------------------------|------------------------------|--------------|--------------------------------|
| Skagit | | | | | | | | | | | | | | | | | | | 0 | |
| Whatcom | | | | | | | | | | | | | | | | | | | 0 | |
| Benton | | | | | | | | | | | | 1 | | | | | | | 1 | |
| Island | 1 | | | | | | | | | | | | | | | | | | 1 | 1 |
| Pierce | | | | | | | | | | 1 | | | | | | | | | 1 | |
| Thurston | 1 | | | | | | | | | | | | | | | | | | 1 | |
| Chelan | | | | | | | | | | | | | | | 1 | | | 1 | 2 | |
| Clallam | | | | | | | | 1 | | | | | | | 1 | | | | 2 | |
| Cowlitz | | | | 1 | | | | 1 | | | | | | | | | | | 2 | |
| Grays Harbor | | | | | | | | 1 | | | | | | | 1 | | | | 2 | 1 |
| King | | | | | | 1 | | | | 1 | | | | | | | | | 2 | |
| Mason | 1 | | | 1 | | | | | | | | | | | | | | | 2 | 1 |
| Jefferson | | | | 1 | | | | 1 | | | | | | | 1 | | | | 3 | |
| Lewis | | | 1 | | | | | 1 | | | | | | | 1 | | | | 3 | |
| Snohomish | 1 | | | | 1 | | | 1 | | | | | | | | | | | 3 | |

WASHINGTON STATE

DEPARTMENT OF COMMUNITY, TRADE & ECONOMIC DEVELOPMENT

| County | Indicator 1 | Indicator 2 | Indicator 3 Cash Balance | Indicator 3 Diverted Road Tax | Indicator 4 | Indicator 5 | Indicator 6 | Indicator 7 | Indicator 8 Population | Indicator 8 Unincorporated Population | Indicator 8 Personal Income | Indicator 8 Employment Growth | Indicator 9 Assessed Value | Indicator 9 Sales Tax | Indicator 10 Population Density | Indicator 10 Assessed Value Per Sq Mile | Indicator 10 DSHS Clients | Indicator 10 Dropout Rate | Total Stress | Receives SB 6050 Assistance |
|--------------|-------------|-------------|-----------------------------|----------------------------------|-------------|-------------|-------------|-------------|---------------------------|---|--------------------------------|-------------------------------------|-------------------------------|--------------------------|------------------------------------|---|------------------------------|------------------------------|--------------|--------------------------------|
| Spokane | | | | | | | | 1 | | 1 | | | 1 | | | | | | 3 | |
| Grant | | | | | | 1 | | 1 | | | | | 1 | | 1 | | | | 4 | 1 |
| Kittitas | | | | | | | | 1 | | | | 1 | | | 1 | | | 1 | 4 | |
| Klickitat | | | | | | | | | | | | 1 | | 1 | 1 | 1 | | | 4 | 1 |
| Pacific | 1 | 1 | | | | | | | | | | 1 | | | 1 | | | | 4 | 1 |
| San Juan | | | | 1 | | 1 | | 1 | | | | 1 | | | | | | | 4 | |
| Skamania | | 1 | | | | | | | | | | | | 1 | 1 | 1 | | | 4 | 1 |
| Walla Walla | | | | | | 1 | | | | 1 | | 1 | | | 1 | | | | 4 | 1 |
| Adams | | | | | | 1 | | 1 | | | | 1 | | | 1 | 1 | | | 5 | 1 |
| Kitsap | 1 | | 1 | 1 | 1 | | | 1 | | | | | | | | | | | 5 | |
| Pend Oreille | | 1 | | | | | | 1 | | | | | | 1 | 1 | 1 | | | 5 | 1 |
| Clark | 1 | | | 1 | 1 | 1 | | 1 | | 1 | | | | | | | | | 6 | |
| Douglas | 1 | | | | | 1 | | 1 | | 1 | | | | | 1 | 1 | | | 6 | 1 |
| Asotin | 1 | | | | 1 | | | 1 | | | | 1 | 1 | 1 | 1 | | | | 7 | 1 |
| Franklin | | 1 | 1 | | 1 | | | | | 1 | 1 | | 1 | | | | | 1 | 7 | |
| Garfield | | 1 | | | 1 | 1 | 1 | | | | | 1 | | | 1 | 1 | | | 7 | 1 |
| Whitman | | 1 | | | | | 1 | | | 1 | 1 | | 1 | | 1 | 1 | | | 7 | |
| Yakima | 1 | | | | 1 | 1 | | | | 1 | | | 1 | | | | 1 | 1 | 7 | 1 |
| Lincoln | | | 1 | 1 | | 1 | | 1 | | | | 1 | | | 1 | 1 | | 1 | 8 | 1 |
| Okanogan | 1 | 1 | 1 | | | | | 1 | | | | | 1 | 1 | 1 | 1 | | | 8 | 1 |

| County | Indicator 1 | Indicator 2 | Indicator 3 Cash Balance | Indicator 3 Diverted Road Tax | Indicator 4 | Indicator 5 | Indicator 6 | Indicator 7 | Indicator 8 Population | Indicator 8 Unincorporated Population | Indicator 8 Personal Income | Indicator 8 Employment Growth | Indicator 9 Assessed Value | Indicator 9 Sales Tax | Indicator 10 Population Density | Indicator 10 Assessed Value Per Sq Mile | Indicator 10 DSHS Clients | Indicator 10 Dropout Rate | Total Stress | Receives SB 6050 Assistance |
|-----------|-------------|-------------|-----------------------------|----------------------------------|-------------|-------------|-------------|-------------|---------------------------|---|--------------------------------|-------------------------------------|-------------------------------|--------------------------|------------------------------------|---|------------------------------|------------------------------|--------------|--------------------------------|
| Wahkiakum | | 1 | 1 | | | 1 | | 1 | | | | | | 1 | 1 | 1 | | 1 | 8 | 1 |
| Columbia | | | | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | | | 1 | 1 | | | 9 | 1 |
| Stevens | 1 | 1 | | | | | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | | | 9 | 1 |
| Ferry | 1 | | | 1 | | 1 | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | 11 | 1 |
| State | 13 | 9 | 6 | 9 | 8 | 13 | 2 | 22 | 1 | 10 | 4 | 13 | 9 | 8 | 23 | 13 | 1 | 7 | | 20 |

County Financial Health and Governance Alternatives Study Advisory Committee

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| Agenda Topic: Long List of County Governance Alternatives | |
| Agenda Item: 4(b) | Staff Contact: CTED Project Manager -- Anne Pflug annep@cted.wa.gov 509-925-2608 |
| Study Question(s) Being Addressed: 3) What potential efficiencies, cost savings and/or improved level of service opportunities may be gained “by authorizing non-charter counties greater flexibility in altering their forms of governance, including consolidating or merging constitutional or statutory functions or structures” within or among counties? 4) What changes to constitutional or statutory law would provide counties with the legal authority necessary to implement changes in governmental structures or functions needed to optimize efficiency and/or improve service? | Attachments: 1) MRSC Document on County Governance Alternatives (See website for document) 2) Hugh Spitzer Memo regarding Legal Questions for Study (Attachment B) 3) Assoc of Minnesota Counties, County Government Structure (See website for document) |

Requested Action:

Discussion of specific questions outlined under recommendations below. At the September 7 meeting the Advisory Committee will be consulted on which options should be on the short list of legislative alternatives.

Background:

CTED contracted with Municipal Research and Services Center (MRSC) to research and provide information for the Legislative Study on what county governance options were available nationally and under the Washington Constitution that might assist Washington counties to be more cost efficient or effective. In addition, the study’s Special Assistant Attorney General, Hugh Spitzer, was asked to provide legal guidance related to existing Washington constitutional and statutory options. The legal memo is attached to this agenda memo as Attachment B.

Discussion:

The MRSC county governance options study describes a number of governance options that are not currently available to Counties in Washington. These options range on a continuum from statutory changes to strengthen the existing Commission form of government to Constitutional amendments that would provide for non-charter county structural home rule. Attachment A provides a numbered executive summary of the governance options described in the MRSC document.

Since this is such a key topic for the Advisory Committee, we are recommending that you discuss it in two segments. On August 24 the governance options will be presented and a discussion about additions or deletions to the options and pros/cons statements would be the focus. On September 7 information from contacts with other states about the pros and cons of the options and a discussion of what options should be on the “short list” for legislative consideration would be held.

Recommendations:

At the August 24 meeting we are recommending that the Advisory Committee discuss the following:



- 1) Are there other county governance options that do not appear in the MRSC study that should be considered? (See Attachment A for Executive Summary)
- 2) Are there key stakeholders not represented by the Advisory Committee that would have significant reactions and/or opinions related to some of the options? What do you think their concerns or reactions would be? Should these be listed as part of the pros/cons statements?
- 3) Are there other pros or cons that are missing from the pros/cons statements or should be expressed in a different way? The general pros/cons of "home rule" may be helpful for example.

At the September 7 meeting we are recommending that the Advisory Committee discuss the following:

- 4) Is there information from other state's experience that should be used to modify the pro/cons statements?
- 5) What county governance options should be selected for further analysis and development of legislative alternatives (the short list)?

ATTACHMENT A
Executive Summary – Long List of County Governance Alternatives

| # | Governance Alternative Name | Page # Reference | Page # Pros/Cons |
|---|---|------------------|------------------|
| A. Strengthen the existing Commission form of government | | | |
| 1 | Strengthen the Executive powers of the Commission by specifying additional executive functions | 20 | 9 |
| 2 | Consolidate all current statutory appointed officer functions into the Commission who could then delegate to Commission determined officers | 23 | 9 |
| 3 | Commission/Appointed Manager | 8 | 11 |
| 4 | Commission/Appointed Administrator | 8 | 11 |
| 5 | Commission/Appointed Administrative Assistant | 8 | 11 |
| B. Legislative reform of county structure by statute | | | |
| 6 | Classify counties by population and combine duties of two or more officers | 21/24 | 9/16 |
| 7 | Combine duties and reduce the number of officers for all counties | 21/24 | 9/16 |
| 8 | Assignment of county duties to multi-county regions or districts (following the Intermediate School District model) | 25 | 9/16 |
| 9 | Pooling of staff among county officers within a single county | 24 | 9/16 |
| 10 | Pooling of staff for specific county functions across counties | 24 | 9/16 |
| 11 | Provide fiscal incentives for counties to institute specific reforms | 26 | |
| C. Constitutional amendments increasing County Home Rule Authority | | | |
| 12 | Add a provision to create a voter approved Charter County through Commission or voter petition initiated appointment of a “County Governance Commission” that would propose the charter | 18 | |
| 13 | Add a provision that would authorize a voter approved Non-Charter Commission/Elected Executive Optional Form | 19 | 13 |
| 14 | Add a provision that would authorize voter approved Non-Charter Commission/Manager Optional Form | 19 | 11 |
| 15 | Reduce the number of constitutional elected county ‘row offices’ | 21/24 | 9/16 |
| 16 | Remove the “uniformity” requirement in the state Constitution so that the Legislature could provide local options for county | 8/21 | |

| | | | |
|----|--|-------|------|
| | structure which could include multi-county functions | | |
| 17 | Provide for the consolidation of functions among counties with one jointly elected officer | 21/24 | 9/16 |

Common Governance Alternatives potential features with independent pros and cons

- Partisan or Non-Partisan Elected Offices (see pg 15)
- District or At-Large Election of Commissioners
- Executive, Commission/Council or Legislative Confirmation Appointment Authority
- Increasing the size of the Commission (see pg 15)
- Providing for part-time Commissioners

**ATTACHMENT B
LEGAL MEMO**

To: Anne Pflug, Local Government Project Manager,
Department of Community, Trade and Economic Development
From: Hugh D. Spitzer, Foster Pepper PLLC
Date: July 27, 2007
Subject: Questions for County Legislative Study

This memorandum discusses the questions that you posed in your July 16, 2007, email regarding the Legislature's ability to shape county government and to authorize county commissioners and other officers to exercise various powers. This memo answers each of the questions in turn. Not surprisingly, our conclusions are in most respects similar to the initial responses you received from legal staff at the Municipal Research and Services Center. But the most important observation we make is that, within certain constitutional constraints, the Legislature has substantial power to shape county government by statute, to identify certain county offices, and to control the powers exercised by each county officer. Please note that this memo focuses solely on non-home-rule counties.

Question 1. Article XI, section 5 allows the legislature to, by general laws, classify the counties by population and provide in certain classes county officers that shall exercise the powers and perform the duties of two or more officers. To what extent may the authority to "combine" offices be exercised without requiring a constitutional amendment? For example, could all of the offices except for the county commissioners be consolidated into a few positions? If there is consolidation, must the remaining office/offices be filled by election or could it/they be filled by appointment?

Article XI, section 5, provides, in part:

The legislature, by general and uniform laws, shall provide for the election in the several counties of boards of county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys and other county, township or precinct and district officers, as public convenience may require, and shall prescribe their duties, and fix their terms of office: Provided, That the legislature may, by general laws, classify the counties by population and provide for the election in certain classes of counties certain officers who shall exercise the powers and perform the duties of two or more officers. It shall regulate the compensation of all such officers, in proportion to their duties, and for that purpose may classify the counties by population....

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The “general and uniform laws” language in both section 4 and section 5 of Article XI reflects the strong opposition, in the late 19th century American west, to the practice of legislatures chartering individual local governments. W. Lair Hill, who authored an annotated model constitution that was provided to every delegate at Washington’s 1889 constitutional convention, wrote that such charters “are the footballs of...lobbyists, who are sure to besiege the legislature when there is opportunity for plunder. The plan of regulating these municipal governments by general laws only...has proved an efficacious remedy for the evils above mentioned...”¹ Because of the drafters’ antipathy to “special laws” for individual local governments, several sections of Article XI require that counties, cities and other municipal corporations be created and governed by “general laws.”²

A typical (and early) case involving the application of the “general laws” provision was *State ex rel. Hunt v. Tausick*, 64 Wash. 69 (1911), in which a new statute on the organization of cities was challenged on the grounds that it was meant to apply solely to Walla Walla. But the State Supreme Court held that that statute was “general in its terms and applicable to all cities...having a population of 2,5000 and less than 20,000.” 64 Wash. at 75. The court took judicial notice of the fact that many cities existed within that range of population and that if “they so elect, all of them under the act may avail themselves of the privileges it grants. The court also noted that the act did not “select any particular city or special territory to which it shall exclusively apply.” *Id.*

The “general laws” requirement applies to counties under Art. XI, §5, so that the legislature may not enact special legislation applicable to a specific county or group of counties. But it is important to emphasize that the general laws requirement is different from the uniform laws requirement, and each is applied separately. Legislation relating to Washington cities is constrained only by the “general laws” prohibition on special legislation. Statutes may not be made applicable to a specific city. Under Art. XI, §10, the Legislature may freely create various classes of cities and prescribe their powers and how they are governed, based on the class of city—so long as that is all set forth in general legislation. City government does not have to be uniform within a class. In fact, cities are provided many structural options within classes, such as code cities’ choice of organizing according to the mayor-council, council-manager, or commission form of government.³

¹ W. Lair Hill, Proposed Constitution for the State of Washington (Portland Oregonian, July 4, 1889).

² See, e.g., Art. XI, §10, which provides in part: “Corporations for municipal purposes shall not be creted by special laws; but the legislature, by general laws, shall provide for the incorporation, organization and classification in proportion to population, of cities and towns...” See also, the ban, in Art. XII, §1, on creating private corporations by special laws, and the broader prohibition on special legislation in Art. II, §28.

³ RCW 35A.01.070(5) and RCW 35A.02.130.

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Under Article XI, §§ 4 and 5, counties are different from cities because their organization and powers are subject not only to the general laws requirement (i.e., no special laws applicable to just one named county) but are also subject to a uniform laws requirement (i.e., the system of county government must be the same from county to county except to the extent that the constitution expressly allows deviation). The classic case on this issue is *State ex rel. Maulsby v. Fleming*, 88 Wash. 583 (1915). In that instance, the Legislature had abolished the office of county coroner in all counties other than first class counties. In small and medium sized counties the coroner's duties were to be transferred to the prosecutor. The State Supreme Court held that although Art. XI, §5, as then written, allowed the classification of counties for the purpose of the compensation level of officers, in other respects the system of county government must be the same statewide. The opinion stated: "It seems too plain to admit of serious dispute that a system of county government which permits certain officers in one county which are not permitted in another county is not a uniform system." 88 Wash. at 584. The court also held: "In order that the system may be the same, the officers must be the same; and their duties must be the same; otherwise the system is different." 88 Wash. at 585.

The *Maulsby* case resulted in the 1924 adoption of Amendment 12. That amendment adjusted Art. XI, §5 by adding the following proviso: "The legislature may, by general laws, classify the counties by population and provide for the election in certain classes of counties certain officers who shall exercise the powers and perform the duties of two or more officers." After enactment of Amendment 12, the Legislature was free to merge coroners into prosecutors in certain classes of counties, or to combine treasurers and auditors, or treasurers and assessors—so long as the system was according to general law and was uniform within each class of county.

Another case worthy of note is *State ex rel. Scofield v. Easterday*, 182 Wash. 209 (1935). The issue in *Scofield* was whether the Legislature could remove the management and control of county highways from the board of county commissioners and transfer that responsibility to the county engineer. The State Supreme Court held that Article XI, §5 permitted the transfer of powers because it granted the Legislature with the power "to prescribe the duties of the county officers." Although *Scofield* confirmed the Legislature's strong authority to prescribe county officers and the powers to be exercised by those officers, in other respects *Maulsby's* language regarding uniformity government for the several counties still carries weight. For example, in AGO 1987 No. 11, the Attorney General concluded that there was a reasonable possibility that the courts would reject legislation allowing larger counties to opt for five-member county commissions. The Attorney General concluded that the legislation might result in an unconstitutional "'crazy quilt' system of county government."⁴

⁴ See also Wash. AGLO 1979 No. 8, an earlier opinion that dealt with a similar proposal for different sizes of county commissions.

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In response to your specific questions on this matter, Article XI, §§ 4 and 5 enable the legislature to provide for various county officers in addition to commissioners, sheriffs, county clerks, treasurers and prosecuting attorneys. Those specified offices must exist, but all other county offices are optional. Next, the Legislature may allocate duties to the various offices, and may classify counties by population for the purpose of specifying the merger of certain duties into a single office, and for setting compensation scales.⁵ As a hypothetical example, the Legislature could by statute establish the following uniform county offices for non-charter counties:

- Five Commissioners
- County Administrator
- Sheriff
- County Clerk
- Treasurer
- Prosecuting Attorney
- Medical Examiner
- Elections Director
- Registrar
- Assessor

Also by way of example, the Legislature could classify non-charter counties into three population classes: above 100,000 (Class I), 15,000 to 100,000 (Class II), and below 15,000 (Class III). The Legislature could then provide, by statute, as follows: Class I counties would have all 14 offices performed by separate individuals (i.e., 14 officers); in Class II counties the responsibilities of the Assessor and Treasurer would be combined and the Elections Director and Registrar would be combined (resulting in 12 officers); in Class III counties the responsibilities of the Assessor and Treasurer would be combined, the Elections Director and Registrar would be combined, the Prosecuting Attorney and Medical Examiner would be combined, only three commissioners would exercise the powers and duties of five Commissioner positions, and the County Administrator's duties would be transferred to the three Commissioners (resulting in 8 officers). This would provide for "uniform" county government, with the classification of counties and the merger of duties consistent with Article XI, §5. Of course, county offices could be reassigned in many other ways, so long as the classification of counties and the permissible merger of duties were both prescribed by statute.

Several constraints would remain: First, as suggested above, it is probable (although not certain) that the five offices named in Article XI, §5 cannot be abolished by statute; unless 5 Amendment 57 in 1972 allowed the Legislature to delegate, to the county commissioners or county councils, the authority to set the salaries of the other county officers as well as their own. That power would be subject to Article XI, §8, which together with XXXI, §1 prohibits an elected officials from increasing his or her own salary before reelection. But county legislative authorities may adjust the salaries of other county official, and that power can strengthen the hand of the county legislative authority in the budget purposes.

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Article XI, §5 is amended, every non-charter county will need to have commissioners, a sheriff, a county clerk, a treasurer and a prosecuting attorney. Second, all officers must be elected, because Article XI, §5 expressly states that the Legislature “shall provide for the election in the several counties” of the specified officers and any others the Legislature deems appropriate; Article XI, §5 further states that the Legislature may provide for the “election in certain classes of counties” of officers who may exercise the powers and duties of two or more officers. Third, powers must follow the specific office; although Article XI, §5 provides that offices may be merged so that certain officers would “exercise the powers and perform the duties of two or more officers,” the courts might hold that the statutorily-assigned powers and duties of an officer may not be split between two other officers. The courts would probably not allow, for example, one officer’s duties to be split between two identified officers in Class II counties and split between two different officers in Class III counties. Finally, the specified offices and allocation of responsibilities should be uniform among counties of the same class, and classes must be based only on population. If a statute provides that the commissioners’ responsibilities are undertaken by five individuals in Class I and Class II counties, and shared by three individuals in Class III counties, there cannot an “option” system under which, for example, voters in Class II counties are permitted to choose whether to have three or five commissioners.⁶

Question 1A. Could the legislature authorize consolidation of offices between counties having the same classification? For example, could the auditor of county X have his or her duties consolidated with the duties of the auditor in county Y, allowing the same officer to perform the duties for both counties?

Under Washington’s constitution, counties are difficult to create and difficult to merge or eliminate. Article XI, §1 recognized all of the “several counties of the Territory...existing at the time of the adopting of this Constitution” and just five new counties were added by legislative action through 1911, when Pend Oreille County was created.⁷ Article XI, §3 made it relatively difficult to create new counties without legislative support. See, e.g., *Freedom County v. Snohomish County*, 95 Wash. App. 839 (1999) rev. den. 139 Wn.2d 1022 (2000). “The several counties” and their officers seem to be firmly entrenched in the current constitution. There appears to be no firm basis for the Legislature to consolidate responsibilities of county officers between counties. The Washington Supreme Court in 1896 upheld the Legislature’s consolidation of superior courts across county lines, but the constitutional provision 6 AGO 1987 No. 11 correctly concluded: [Two legislative proposals] contain the flaw of leaving the determination of how many commissioners the county will have up to the voters within the county....While Engrossed Substitute Senate Bill 5020 purports to classify counties by population for the purpose of setting the number of commissioners, the involvement of voters can lead to nonuniformity among counties of the same class.”

⁷ Steve Lundin, *The Closest Governments to the People: A Complete Reference Guide to Local Government in Washington State* 32 (2007).

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involved was worded quite differently than Art. XI, §5.8 While the language of the relevant Article IV judiciary provision was less than clear, that section of the constitution did contemplate multi-county courts.

If the Legislature desired to encourage the consolidation of services across county lines without amending the State Constitution, this might be accomplished in several ways. First, the State could provide grants and staff support to encourage county officers voluntarily to combine staff resources with their counterparts in adjoining counties. For example, grants could be made available to assessors to encourage them to pool their personnel and records. Each county would continue to have its own assessor and assessor's budget, but most operating costs would be shared with other jurisdictions.

Another approach would be for the Legislature to require that certain county officers pool their staff and operations. For example, in counties that share a superior court (e.g. Benton-Franklin Superior Court) the Legislature could require that there be a single staff of assistant prosecuting attorneys. In the Benton-Franklin example, there would continue to be two separately elected prosecutors, but they would have to work together in supervising a common staff. Prosecutorial decisions would ultimately be made by each prosecutor for his/her county. A third approach would be for the Legislature to strip certain responsibilities from the elected officers and vest them in new multi-county agencies. For offices that are not specified in Article XI, §5, the Legislature could assign them to new regional entities without limitation. For example, the Legislature could provide that Class II and Class III counties would have no assessors, coroners or auditors, and that assessment, medical examiner and election operations be vested in new multi-county agencies. (In that example, the auditor's document registration functions might be transferred to the county treasurer.) There is an historical basis for this type of rearrangement of powers traditionally held by a county officer. From territorial days until 1969, state law provided for an elected county superintendent of schools in each county. The role of counties in overseeing school district activities was gradually decreased, and in 1969 the county superintendents were replaced with regional entities called intermediate school districts, now "educational service districts."⁹ (Washington currently has nine multi-county educational service districts that provide their component districts with educational, fiscal, information technology, human resources and social services.) For offices that are listed in Article XI, §5, the Legislature could provide the continued county-by-county election of those posts, but strip many functions and reassign them to multi-county regional entities, or require pooled operations as described in the previous paragraph. Under Article XI, §5, the Legislature has full authority to "prescribe [the] duties" of county officers.

⁸ State v. Rusk, 15 Wash. 403 (1896).

⁹ Lundin, *Closest Governments* 377. Educational service districts are created under Chap. 28A.310 RCW.

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Question 2. Article XI, section 4 of the constitution provides for the establishment of county government "which shall be uniform throughout the state." If certain offices could be consolidated, either within a single county or with the offices of neighboring counties, would there be a violation of the constitutional uniformity requirement?

There would be no violation of the uniformity requirement so long as the list of county officers, the responsibilities of each officer, and the transfer of responsibilities among offices or the transfer of powers to regional entities, was consistent statewide among all counties within the same population class.

Question 3. Would the Inter-local Cooperation Act, chapter 39.34 RCW, which allows local governments to contract with one another, permit one county to contract with another to have the duties of one office (elected or appointed) be performed by the equivalent officer of the other county; for example, could the treasurer of county A provide treasurer-related services with county B, if there was an inter-local agreement entered into by the two counties? Who may enter into the contract: the Commissioners, the separately elected officials or both to make it valid?

RCW 39.34 provides that any public agency, including a county, may exercise any of its powers jointly with any other public agency. Consequently, Counties A, B and C could agree that County A's treasurer would be responsible for handling the daily investments of the funds of all three counties.¹⁰ However, each county's treasurer would still be legally responsible for that county's investments, and it would be prudent (perhaps legally necessary) to involve all three treasurers in a joint board or other body overseeing County A's treasurer as she carries out her tasks for the three entities. Furthermore, in light of the discussion in the answer to Question 4, below, it would be prudent (perhaps legally necessary) to have each county treasurer to agree to and countersign the three-county interlocal agreement. RCW 36.29.020 makes the county treasurer the custodian of county funds and expressly charges the treasurer with investment responsibilities. County commissioners probably lack authority to order their county treasurer to use the investment services of an another county's treasurer. However, as noted in the discussion under Question 3, above, the Legislature might be able to strip all county treasurers, within a class of counties, of investment responsibilities, and require pooled investment practices among counties. This short discussion has focused on county treasurers and investments, but the principles would be applicable to other officers and duties.

One other issue that should be considered is whether a county officer, such as a treasurer, has the authority to contract for services from a corresponding officer in another county, without the approval of the county commissioners. ¹⁰ Such interlocal contracts for joint services are fairly common. For example, under a single interlocal agreement, remittance processing (i.e., tax and other payments) are collectively handled at one location in Vancouver for Clark County, Clark Public Utilities, Clark Regional Wastewater District, the City of Vancouver, the City of Camas, the City of Longview, the Tualatin Valley Water District and the Eugene Water and Electric Board.

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Under RCW 36.32.120, the “legislative authority of the several counties” have certain specified powers, including “the care of the county property and the management of the county funds and business...” County legislative authorities must approve the budgets of each county office under Chap. 36.40 RCW, and commissioners normally approve contracts their counties enter into. Because of the budget and finance implications of an arrangement among treasurers to pool services, it would be prudent (perhaps legally required) for such an interlocal agreement to be approved by the legislative authority as well as the treasurers themselves.

Question 4. Are the separately-elected officials of a non-charter county required to comply with or follow the county-wide policies adopted by the county commissioners? For example, would a policy adopted by the county commissioners that county offices use the county fleet or purchase supplies through the county purchasing agent apply to the other independently elected county officials?

It is a longstanding principle in Washington “that a board of county commissioners can exercise no powers which are no in express terms or by fair implication conferred upon it by law.” *Martin v. Whitman County*, 1 Wash. 533 (1889). Although county legislative authorities are granted a number of powers and duties in RCW 36.32.120, that list is not very long. Other statutes expressly grant additional powers to county commissioners, such as the control of all county agency budgets in Chap. 36.40, the authority to issue bonds under Chap. 36.67 RCW, and the control of road and bridge construction under Chaps. 36.75 RCW and 36.7 RCW. County legislative authorities also have a key role in the development of growth management policies under Chap. 36.70A RCW. But before county commissioners may enact and enforce “countywide policies” and require that those policies be followed by other independently-elected county officials, it is necessary to identify specific statutory authority that vests the commissioners with the power to develop those specific policies relating that the specific subject matter concerned.

The classic case on this subject is *State ex rel. Taylor v. King County*, 2 Wn.2d 575 (1940), which involved an attempt by the King County Board of Commissioners to create a division of purchases and to require all county departments—including those headed by independently elected officials—to make purchases through that central division. The State Supreme Court held that absent clear legislative intent to the contrary, each independently elected officer had the right to purchase their own supplies. 2 Wn.2d at 588. The opinion stated: Counties are but arms or agencies of the state organized to carry out or perform some functions of state government. They, as instrumentalities of the state, have no powers except those expressly conferred by the constitution and state laws, or those which are reasonably or necessarily implied from the granted powers. 2 Wn.2d at 579. The court noted: “Our statutes do not in express terms designate any officer whose duty it is to purchase supplies for the offices of clerk, auditor or treasurer.” *Id.* The opinion then proceeded to carefully analyze the specific powers that the Legislature had granted

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county commissioners, but found not authority for commissioners to supervise all purchases under the law then in effect. The court ruled: Those cases lay down the rule that the county commissioners have a supervisory power over the affairs of the county, that they are the business agents of the county, have the care and management of the county funds and business, and have the power to properly exercise those rights and duties. In none of those cases, however, do we find a holding that the county commissioners have the power to purchase or to supervise the purchases of supplies for other county offices. 2 Wn.2d at 582. Taylor is still good law. It suggests that whenever county commissioners desire to establish a program or outline policies that will control how other independently-elected county officials must act, the commissioners must first identify specific statutory authority granting them that power with respect to the specific type of program or policy.

Question 4(a). If the answer to this question is "yes," would the requirement to follow county policy also apply to the county judicial offices?

Because of the State Supreme Court's historic protection of the judiciary as an independent branch, it is even more difficult for county commissioners to impose policies or practices on the superior courts and district courts. See, generally, *In re Juvenile Director*, 87 Wn.2d 232 (1976), which upheld a county commission's budget authority over the county courts, but suggested that the commissioners' authority could not be exercised in such a way that would harm the courts' ability to operate.

We hope that this discussion is useful. Please feel free to call if we can provide you with additional analysis of these or related questions.

cc: Pat Mason
Heather Ballash
Alice Blado
Rich Yukubousky

County Financial Health and Governance Alternatives Study Advisory Committee

| | |
|--|--|
| Agenda Topic: Overview of County Official Survey | |
| Agenda Item: 5(a) | Staff Contact: CTED Project Manager -- Anne Pflug annep@cted.wa.gov 509-925-2608 |
| Study Question(s) Being Addressed: 1) What factors contribute to county fiscal health? 3) What potential efficiencies, cost savings and/or improved level of service opportunities may be gained “by authorizing non-charter counties greater flexibility in altering their forms of governance, including consolidating or merging constitutional or statutory functions or structures” within or among counties? 4) What changes to constitutional or statutory law would provide counties with the legal authority necessary to implement changes in governmental structures or functions needed to optimize efficiency and/or improve service? | Attachments: Mail version of the survey |

Requested Action:

None. For Information.

Background:

One of the Legislative Study components is a survey of 750 county government officials. The survey is designed to gather information and opinions about;

- Fiscal health of counties
- What counties have or are already doing to be more cost efficient or effective
- Opinions about what counties can do to further increase efficiency or effectiveness
- What counties are doing to deliver services jointly
- What governance structure change discussions have occurred over the last decade
- What governance structure changes would be the most useful in increasing efficiency or effectiveness

County officials in all 39 counties are being surveyed over a five week period beginning August 17. County officials may respond to the survey by mail, on the web or through a personal phone interview.

On average 19 officials are being surveyed in each county including County Commissioners or Council members, Presiding Judges, Sheriffs, Prosecuting Attorneys, Auditors, Assessors, Treasurers, Clerks, Superior Court Administrators, Public Works Directors or County Engineers, Planning Directors, Human Service and Health Department Directors, Extension Agents, Parks and Recreation Directors, Coroners and Medical Examiners, County Executives or Administrators and Budget or Finance Directors.

Discussion:

Information from the survey will be available to the Advisory Committee in late September or early October. Survey information can be used to provide information for three of the study questions and form provide valuable background for the Legislature.

Recommendations:

Information only.

2007 County Governance Survey

We need your help! The Social & Economic Sciences Research Center at Washington State University is conducting an important survey of Washington's elected and appointed county officials. Earlier this year, the 2007 legislature directed the Department of Community, Trade and Economic Development to conduct a study of county financial health and governance alternatives. *This request has emerged as a result of legislative debate over increases in state funding for counties.* The purpose of the survey is to collect data and measure your opinions related to county governance issues in the State of Washington.

The information you provide will be kept strictly confidential and all questions are voluntary. This study has been approved by Washington State University.

Please provide the following information in the spaces below. All the information you provide will be kept confidential!!

Access code (from email message):

_____ access code

Q1a. What is your name?

_____ name

Q1b. What is your title?

_____ title

Q1c. In which county (or counties) do you work?

_____ county

Q2. How long have you been in county government?

1. Less than 4 years;
2. Between 4 and 8 years
3. Between 8 and 16 years
4. More than 16 years

The next few questions are about the fiscal health of your county.

Q3. How would you describe the current fiscal health of your county?

1. Fiscally healthy
2. Moderately fiscally healthy **Answer Q4, then skip to Q6**
3. Somewhat fiscally healthy
4. Somewhat fiscally distressed
5. Moderately fiscally distressed **Skip to Q5**
6. Fiscally distressed

Q4. How much is each of these factors contributing to your county’s fiscal health?

A moderate

A lot amount Not at all



- a. An expanding local tax base.....1 2 3
- b. Increasing employment.....1 2 3
- c. New construction.....1 2 3
- d. Efficient delivery of County services1 2 3
- e. Proactive past budget actions.....1 2 3
- f. Availability of new revenue(s).....1 2 3
- g. Any other factors (please describe): _____..1 2 3

SKIP to Q6 SKIP to Q6

Q5. How much is each of these factors contributing to your county’s fiscal distress?

A moderate

A lot amount Not at all



- a. A shrinking local tax base.....1 2 3
- b. A decrease in county revenue(s).....1 2 3
- c. Declining employment.....1 2 3
- d. Increased demand for county services
(Sheriff, health or human services,
Roads, Courthouse, etc.)1 2 3
- e. Inefficient delivery of county services.....1 2 3
- f. Fiscal policies of the county.....1 2 3
- g. Detrimental past budget actions.....1 2 3
- h. Any other factors (please describe): _____1 2 3

Q6. Do you believe that your county’s current financial condition will get better, get worse, or stay about the same in the next five years?

- 1. Get better
- 2. Get worse
- 3. Stay about the same

Q7. In the past 5 years, has your county used its current expense or general fund reserves to cover current expenditures?

- 1. Yes
- 2. No
- 3. Don’t know

Q8. Are your current expense or general fund reserves currently increasing or decreasing?

- 1. Increasing
- 2. Decreasing
- 3. Staying about the same as prior years
- 4. Don't know

The next set of questions asks about ideas for increasing county government efficiency and effectiveness.

Q9. For each of the following options, please tell me how much it would increase the effectiveness and cost efficiency of your county government.

Moderate Not

A lot amount at all



- a. Creating regional or multi-county services such as jails, juvenile detention and mental health services.....1 2 3
- b. Creating regional or multi-county services such as purchasing, personnel, IT, etc.....1 2 3
- c. Establishing more shared services WITHIN your county between county departments such as purchasing, personnel, IT, records management, etc.....1 2 3
- d. Combining county business processes to cross county departments such as budget and financial management; general government citizen services; records management; etc.....1 2 3
- e. State policy or state funding changes such as changing state criminal sentencing policy; state payment for even-year election costs; or other, state-related responsibilities now funded by counties.....1 2 3
- f. Transitioning unincorporated urban growth areas to cities to provide services.....1 2 3
- g. Consolidation of county services with one or more cities in your county.....1 2 3
- h. Reallocating some county service delivery to the STATE to provide.....1 2 3
- i. Reallocating some county service delivery to CITIES to provide.....1 2 3
- j. Reallocating some county service delivery to SPECIAL DISTRICTS to provide.....1 2 3
- k. Changes to county employee labor laws or contracts.....1 2 3
- l. Some Other option (please describe) _____..1 2 3

Q10. In your view, which ONE of the following areas of county government service would increase the effectiveness and cost efficiency of your county government the most if it were modified? (Please circle one area.)

- a. Criminal justice
- b. Transportation
- c. Human Services
- d. General Government Services (Auditor, Assessor, Treasurer, Clerk, Commissioners, etc)
- e. Parks and Recreation
- f. Planning and Building
- g. Solid Waste
- h. Economic Development
- i. Management practices or processes
- j. Internal service provision (eg financial services, purchasing, risk management, personnel, IT)
- k. Tools for employees (software and computer hardware, vehicles, technical equipment, hand tools etc)
- l. Technology Infrastructure (cross department software or data integration, computer system reliability, web based services etc)
- m. Any other area (please describe) _____

Q11. In the last 3 years, what are the three main things your county *has already done* to increase the effectiveness and cost efficiency of your county government?

- 1. _____
- 2. _____
- 3. _____

The next set of questions is about how many county services are being delivered jointly among counties; shared by departments within your county; or delivered jointly with the state or other local governments.

Q12a. The first general service area is CRIMINAL JUSTICE (such as detention, court, law enforcement services, dispatch, prosecution of other jurisdiction's cases, public defense, etc.) **How many joint or contract services does your county have in criminal justice?**

_____ # of joint or contract services

Don't know

Q12b. The next general service area is TRANSPORTATION (such as transit, street maintenance, fleet sharing, capital project design or project management, shared maintenance facilities or sign shop, etc.) **How many joint or contract services does your county have in transportation?**

_____ # of joint or contract services

Don't know

Q12c. The next general service area is HUMAN SERVICES (such as joint health departments or districts, emergency medical services, mental health regional service networks, chemical dependency treatment services, services to special populations including seniors, veterans or persons with developmental disabilities, etc.) **How many joint or contract services does your county have in human services?**

_____ # of joint or contract services

Don't know

Q12d. The next general service area is GENERAL GOVERNMENT SERVICES (such as licensing, recording, purchasing or contracting, financial records, payroll, tax collection or billing, elections, treasury or investment services, risk management, human resource or personnel, information technology or GIS, web site maintenance, etc.) **How many joint or contract services does your county have in general government?**

_____ # of joint or contract services

Don't know

Q12e. The next general service area is NATURAL RESOURCES AND GROWTH MANAGEMENT (such as water resources, solid waste management, permitting and inspections, regional transportation planning, park or recreation management, community events, etc.) **How many joint or contract services does your county have in natural resources or growth management?**

_____ # of joint or contract services

Don't know

Q12f. Do you have ANY OTHER JOINT OR CONTRACT SERVICES that haven't been mentioned, (such as economic development, agricultural extension services, emergency management, etc.) How many joint or contract services does your county have?

_____ # of joint or contract services

Don't know

Q13. Of the joint or contract services used in your county which three in your view have been the most successful in increasing the effectiveness and cost efficiency of your county?

1.

2.

3.

Q14. Has your county ever terminated a joint service agreement with another entity?

1. Yes

2. No **Skip to Q16**

Q15. What were the reasons that the joint service agreement was terminated? (Circle all that apply.)

1. Changes in service demand that could not be accommodated

2. Service could be provided more efficiently or at a lower cost without joint service agreement

3. You could not reach agreement on reimbursement formula and/or amount

4. You could not reach agreement on decision making authority for service

5. You had a legal, timing or other structural impediment to reaching an agreement

6. The service delivery expectations were too different between the parties

7. Other (Please describe) _____

Q16. Does your county have any of the following countywide services in place to serve ALL county departments?

Don't
Yes No know



- a. Payroll.....1 2 3
- b. Benefit Programs1 2 3
- c. Risk Management1 2 3
- d. Employee Training1 2 3
- e. Purchasing1 2 3
- f. Information Technology (including web page & GIS services).....1 2 3
- g. Records Management1 2 3
- h. Financial services (financial records and reporting, grant management, etc).....1 2 3
- i. Personnel services (labor relations, recruiting, selection, etc)1 2 3
- j. Budgeting/Revenue Forecasting1 2 3

Q17. In the next 3 years, what are the three main things that could to be done to increase the effectiveness and cost efficiency of your county government, whether it is currently authorized by state law or not?

1. _____
2. _____
3. _____

The last set of questions is about any active discussions you or your county have engaged in about the potential modification of your county's governance structure in the last decade.

Q18a. Have you or your county had any active discussions about consolidation with one or more cities in your county?

1. Yes
2. No ☺ **Skip to Q18b**

Q18a1. Were either of the following a result of the discussion of consolidation with one or more cities in your county?

Don't
Yes No know



1. Consolidation negotiations with cities but no ballot proposal.....1 2 3
2. An unsuccessful County-City consolidation ballot proposal1 2 3

Q18b. Have you or your county had any active discussions about the proposal of a home rule charter?

- 1. Yes
- 2. No ☹ **Skip to Q18c**

Q18b1. Were any of the following a result of the proposal of a home rule charter?

Don't
Yes No know



- 1. Selection of freeholders.....1 2 3
- 2. A successful home rule charter election1 2 3
- 3. An unsuccessful home rule charter election(s)1 2 3
- 4. Fewer elected offices with adoption of charter1 2 3
- 5. Creation of more elected offices with adoption of charter1 2 3

Q18c. Have you or your county had any active discussions about the proposal of having a charter review?

- 1. Yes
- 2. No ☹ **Skip to Q18d**

Q18c1. Were any of the following a result of having a charter review?

Don't
Yes No know



- 1. Selection of freeholders.....1 2 3
- 2. A successful charter election1 2 3
- 3. An unsuccessful charter election(s)1 2 3
- 4. Fewer elected offices.....1 2 3
- 5. Creation of more elected offices.....1 2 3

Q18d. Have you or your county had any active discussions about creating the position of appointed county administrator.

- 1. Yes
- 2. No ☹ **Skip to Q18e**

Q18d1. Were any of the following a result of creating the position of appointed county administrator?

Don't
Yes No know



- 1. Creation of a county administrator position1 2 3
- 2. An unsuccessful effort to create the position of county administrator.....1 2 3
- 3. Creation of a county position with some of the responsibilities of a county administrator1 2 3

Q18e. Have you or your county had any active discussions about creating the position of elected county executive?

- 1. Yes
- 2. No ☹ **Skip to Q18f**

Q18e1. Were any of the following a result of creating the position of elected county executive?

Don't
Yes No know



- 1. Selection of freeholders.....1 2 3
- 2. A successful charter election1 2 3
- 3. An unsuccessful charter election(s)1 2 3

Q18f. Have you or your county had any active discussions about the proposal of consolidation or merger of functions under the direction of the Board of County Commissioners or County Executive?

- 1. Yes
- 2. No ☹ **Skip to Q18g**

Q18f1. Were any of the following a result of consolidation or merger of functions under the direction of the Board of County Commissioners or County Executive?

Don't
Yes No know



- 1. Selection of freeholders.....1 2 3
- 2. A successful charter election1 2 3
- 3. An unsuccessful charter election(s)1 2 3
- 4. Were there any other results? (Please specify) _____..1 2 3

Q18g. Have you or your county had any active discussions about consolidation or merger of functions under the direction of independent elected officials?

- 1. Yes
- 2. No ☹ **Skip to Q18h**

Q18g1. Did this result in successful or unsuccessful merger of function under the direction of independent elected officials?

- 1. Successful
- 2. Unsuccessful
- 3. Don't know

Q18h. Has your county had any other types of discussions of modifying your county's governance structure in the last decade?

- 1. Yes ☹ Please describe

- 2. No

Q19. Which of the following potential NON-FREEHOLDER governance alternatives could be useful to increase the effectiveness and cost efficiency in your county?

Very Moderately No use
useful useful useful



- a. "Structural Home Rule" which would allow a county to determine the number of elected or appointed officials themselves.....1 2 3
- b. An option for counties to merge some or all of the functions and positions of auditor, treasurer, assessor or clerk together or with other county departments.....1 2 3
- c. An option under the current Commission form of governance to appoint a county administrator or elect an executive.....1 2 3
- d. An option for more than one county to jointly elect and administer the positions and functions of any county department EXCEPT County Commissioners.....1 2 3
- e. An option for more than one county to jointly elect and administer the positions and functions of any county department INCLUDING County Commissioners.....1 2 3
- f. Other (Please describe) _____.....1 2 3

Q20. Which of the following should have appointing authority if new or merged functions or positions are created in a county governance alternative?

(Circle all that apply.)

- 1. County Commission
- 2. County Council
- 3. Elected Executive
- 4. Appointed Administrator
- 5. Some should be appointed by the Executive or Administrator and some by Commissioners or Council
- 6. Jointly appointed by the Executive and Commissioners or Council

Q21. Excluding the elected county legislative and judicial positions, why should county positions be elected as opposed to being appointed by the legislative branch or executive?

- 10 -

Please mail your completed questionnaire to:
Social & Economic Sciences Research Center
Washington State University
PO Box 641801
Pullman, WA 99164-1801

OR

Fax your completed questionnaire to:
509-335-4688

AGENDA ITEM 5(B)
Key Dates
County Fiscal Health and Legislative Alternatives Study

| Task | Key Dates | Status |
|---|------------------------|--|
| Project Administration | | On Time |
| Scope | 7-5-2007 | Complete |
| Budget and Employee assignments | 7-5-2007 | Complete |
| | | |
| Background Section | | On Time |
| Contract with MRSC | 6-13 | Complete |
| Word Formatted Doc to MRSC | 7-13 | Base document to MRSC, appendices to come |
| Draft Complete | Oct 8 | |
| Present to AC | September? | |
| Final Document | | |
| | | |
| Fiscal Health Analysis | | On Time |
| Present OFM Report to AC | 7-27 and August | August 24 |
| Evaluate Health Indicators | | |
| Draft material for Report | | |
| Present to AC | | |
| Final Draft for Report | | |
| | | |
| Alternatives | | On Time |
| Contracts – MRSC and Special Asst AG | 6-13 and 7-13 | Complete |
| Draft from MRSC | 8-10 | Complete |
| Long List Presentation to AC | August | August 24 |
| Short list to SAAG and HB | | |
| Short list to AC | September | September 7 |
| Draft Leg Language to SAAG | September | |
| Final Leg Language | October 1 | |
| | | |
| Survey | | On Time |
| Contract | 7-9-2007 | Complete |
| Questions | 7-10-2007 | Complete |
| Address/Phone Info | 7-10-2007 | Complete |
| Survey starts | 7-25 | August 17 for five weeks |
| Draft Report | 9-20 | |
| Presentation to AC | September? | Survey Language August 24 |
| Final Report | 10-1 | |
| | | |
| Case Studies | | Behind |
| Scope | 7-2-2007 | Complete |

| | | |
|--|------------------------------|-------------------------------|
| Solicitation | 7-6-2007 to 7-20 | Completed Twice |
| Contract | 8-1 | August 13 |
| Draft Report | 10-1 | |
| Present to AC | October | |
| Final Report | 10-15 | |
| Mapping | | Behind |
| Agree on Format | 7-5 | August 13 |
| First three data point complete | | In process |
| Finalize additional data needs | 7-20 | August 20 |
| Draft complete | 8-20 | |
| Present to AC | September | September 26? |
| Final Complete | September | |
| Stakeholders | | On Time |
| Key Legislators and OFM review scope | 6-15-2007 | Complete |
| Briefings of other Legislators | July-Aug | Under way |
| Progress Meeting with Legislators and OFM | September Leg Weekend | Request to Legislators |
| Final briefing of Legislators and OFM | December | |
| Info on study to WACO and WSAC members | June | Complete |
| AC Appointments | 7-6-2007 | Complete |
| AC Facilitator | | Complete |
| AC First Meeting | 7-27-2007 | Complete |
| AC Meeting Schedule | 7-27-2007 | Complete |