

**SEPTEMBER 7, 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.

<b>Time</b>	<b>Agenda Item/Material</b>	<b>Presenter</b>	<b>Proposed Actions</b>
10 AM	<b>1 Open Meeting</b> List of Members – on Web site	Chair, Rose Bowman	
	<b>2 Approval of August 24 Meeting Notes</b> Draft Meeting Notes – agenda packet (AP) pg. 3	Chair, Rose Bowman	Approval of Meeting Notes
	<b>3 Committee Organizational Issues</b>		
10:05	a October Extended Meeting Times – AP pg. 14	Marsha Fraser, Facilitator	Confirm
	<b>4 Study Components for Committee Feedback</b>		
10:10	a Reminder of Charge and Ground Rules for Discussion	Marsha Fraser, Facilitator	
10:15	b County Fiscal Health <ul style="list-style-type: none"> <li>• Agenda Memo – AP pg. 15</li> <li>• Full Report – on Web site</li> </ul>	Anne Pflug Legislative Project Manager	Approval of themes from previous discussions for inclusion in Legislative Report
11:00	<b>BREAK</b>		
11:10	c Draft Short List of Governance Alternatives <ul style="list-style-type: none"> <li>• Agenda Memo – AP pg. 22</li> <li>• MRSC document –on Web site</li> <li>• Legal Memo from Hugh Spitzer, Special Asst Attorney General – AP pg. 29</li> </ul>	Anne Pflug Legislative Project Manager	Discussion and approval of selection criteria; evaluation questions and short list of governance alternatives.
NOON	<b>LUNCH (during discussion)</b>		
1:00	<b>BREAK (continued discussion of 4(b) after break)</b>		
	<b>5 Project Status</b>		
1:30	a Project Components Update – AP pg. 38 <ul style="list-style-type: none"> <li>• Case Studies</li> <li>• Survey</li> <li>• System Mapping</li> </ul>	Anne Pflug	For Information
2 PM	<b>6 Adjourn</b>		

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

<b>Agenda Topic:</b> Approval of August 24, 2007 Meeting Notes	
<b>Agenda Item: 2</b>	<b>Staff Contact:</b> CTED Project Manager -- Anne Pflug <a href="mailto:annep@cted.wa.gov">annep@cted.wa.gov</a> 509-925-2608
<b>Study Question(s) Being Addressed:</b> NA	<b>Attachments:</b> Meeting Notes

**Requested Action:**

Approval of Meeting Notes with any desired changes.

**Background:**

NA

**Discussion:**

NA

**Recommendations:**

Approval of meeting notes for August 24, 2007

**County Financial Health and Governance Alternatives Study  
Advisory Committee Meeting Notes  
Summit Lodge, Snoqualmie Pass  
August 24, 2007**

Committee members attending the meeting: Lewis County Treasurer Rose Bowman (Chair), Snohomish County Sheriff Rick Bart, Cowlitz County Public Works Director Ken Stone, King County Office of Management and Budget Director Bob Cowan, Ferry County Commissioner Mike Blankenship, Island County Auditor Suzanne Sinclair, Chelan County Commissioner Buell Hawkins, Skamania County Prosecuting Attorney Peter Banks, and Walla Walla County Treasurer Gordon Heimbigner,

Others attending: Rich Yukubousky, Byron Katsuyama, Debbie Wilke, Bill Vogler, Eric Johnson, Todd Mielke, Mike Burgess, and Martha Lou Wheatley-Billeter.

Facilitator: Marsha Fraser  
Staff: Anne Pflug and Darleen Muhly.

**Welcome and introductions**

Chair Rose Bowman welcomed the group, and everyone introduced themselves.

**Approval of July 27 Meeting Notes**

The following corrections were made to the meeting notes:

- In Charge of Advisory Committee section, include, “Scott Merriman stated that asking the Legislature to appropriately fund unfunded mandates is a no-go with the legislature.”
- In Background Materials section, include, “State paying all costs with jail prisoners is a possible solution.”

Commissioner Buell Hawkins moved to approve the meeting notes with corrections. The motion was approved.

**Draft Ground Rules**

The committee discussed the draft ground rules. There was a concern about the ground rule related to communication with the press and Legislators. Because press can attend commission meetings, where the work of this committee may be discussed, there is a concern regarding the rule on communicating with the press. It is clarified that general discussions are okay but not discussions of the recommendations prior to their completion. The committee also discussed guidelines for communicating with the people they represent. It is suggested that WSAC post meeting notes once approved on their Website. Commissioner Mike Blankenship moved that the ground rules be adopted. Director Bob Cowan seconded the motion. The motion was approved.

### **Adding a County Union Representative to Advisory Committee**

Anne Pflug discussed the question raised at the last meeting regarding adding a county union representative to the advisory committee. There are two major unions that represent county employees, the Teamsters and ASCME, but these two do not represent the majority of employees. Most employees are represented by many smaller unions or independent guilds, and there is not one union representative who can speak for all of these.

The committee discussed the three options outlined in the agenda memo regarding union representation.

Rather than add a union representative to the committee, the group agreed to the following guidelines for union and other stakeholder participation:

- If requested, documents will be provided after approval
- Information regarding the meetings will be published on association Websites
- Union representatives and other stakeholders are welcome to attend these open public meetings, but may not necessarily have an opportunity to participate in debate.

Sheriff Rick Bart motioned that no specific be taken action to include a union representative on the committee. Prosecuting Attorney Peter Banks seconded the motion. The motion was approved.

Commissioner Hawkins motioned that the meetings be treated like open public meetings, and the public be allowed to attend but not necessarily speak. Director Cowan seconded the motion. The motion was approved.

### **Meeting Dates and Locations**

The committee reviewed the dates and times for the next four to five meetings.

It was suggested that the meeting time be extended if necessary. At the October 12 and 19 meetings, the committee will have the option to extend those meetings until 5:00pm if necessary.

If necessary, committee members may participate by phone, but this should only be used if they absolutely cannot attend. If a committee member needs to call in, they should contact Darleen Muhly at (360) 725-5030 in advance so that this can be accommodated.

### **Fiscal Health Document**

The committee discussed the fiscal health document with particular focus on the map displaying distressed counties in blue. Anne requested input, feedback, or additional points of view.

To guide the committee she provided the following discussion questions:

- Are the indicators used in the *Washington State Local Government Fiscal Health* document?
- 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 of "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?

Anne asked what other things should be considered. The discussion included the following:

- There needs to be a description of county budget and what portion goes to various things. When discussing efficiencies, it is good to know what percentage of the budget this affects.
- One factor to consider is how public land is being utilized, for example, non-producing federal forest land. Federal and state timber is very important when you look at list of distressed counties. Discuss trends and details of components.
- Look at layoffs and elimination of programs.
- 5 percent is really lean.
- Look at impact of property levy cap. Better indicator is staffing level.
- Should indicators have weights and disclosures?
- Are we penalizing counties who took proactive steps to be blue? Would we reward counties who could have taken steps to reduce expenditures but did not do so?
- Define closely what cash balance is. Make sure that all funds are added up.
- All counties are distressed. It is just a matter of degree. The state needs to reduce what counties do or increase funds to pay for it.
- The biggest cost is criminal justice and in particular housing prisoners. With criminal justice, counties are more influenced by outside influences such as methamphetamine and drunk drivers. .08 cost counties \$1,000s. We get laws but no money. Most prisoners in jail are in at a state offense. We can go back and look at the fiscal expense before and after the policy change and see fiscal expense of policy change.
- Important to show the type of debt. Not all debt is equal.
- Challenge is current expense fund. Enterprise versus current expense. Look at fundamental functions such as current expense. Look at fee structure - using fees versus current expense to fund.
- Fundamental question in the report is "What can legislature do to address your concerns?" Let's talk about what legislature can control that we have no control over. Focus on policy change.
- The legislature needs to know what it is mandating that is burying counties.

- Additional revenue – how do we share it? These factors should not be the only factors in distributing money.
- Millions have been spent in growth management that has done nothing for our citizens.
- Don't see benefit of consolidation of offices, but do see benefit of regionalization.
- Even if I eliminated the title, I would still need the warm body.
- We can't measure consolidation in dollars.
- There is a lack of understanding in the legislature regarding what counties are doing regarding efforts such as regionalization. Discussed the WACO think tank document (attached) regarding restructuring.
- What is causing financial distress?
- Counties are agents of state. The legislature hands down mandates. Counties survive on a two-legged stool. Cities that don't have mandates have a four-legged stool. Counties don't have authority for B&O or utilities tax.
- This report needs to not define fiscal distress but what causes fiscal distress.
- County governance and fiscal are separate. Suggest that there be incentives, not penalties, for regionalization.

In answer to a question by the Committee, Anne stated that there is no way to predict whether the legislature would use the distressed county designations as a method of determining which counties got additional state funding. She also noted that during the course of the study weighting indicators was tested to see if this affected the outcome, but it really didn't.

Marsha recorded the committee's suggestions of what themes to capture in a report summarizing feedback from the Committee for the next meeting. The following items were identified:

- Shades of blue
- Revenue elasticity
- Two-legged versus four legged stool – mandates
- Needed tools for revenue elasticity
- Intangibles about how decisions are made to get to this indicator point-in-time – impacts
- “Apples to apples”
- Legislature needs to recognize that no one factor is the indicator (e.g. GMA)
- Constraints that Legislature has imposed that prevent us from being more efficient/ particular issues (e.g. methamphetamine)
- Ways in which counties have to conduct their business.
- Incentives for efficiency

### **Draft Long List of Governance Alternatives**

CTED contracted with Municipal Research and Services Center of Washington (MSRC) to research what county alternative governance options were available nationally and under the Washington constitution. Anne Pflug suggested that the committee think of these alternatives as a continuum with one or more potentially addressed on the short list at each point on the continuum.

Rich Yukubousky, executive director for the Municipal Research and Services Center of Washington (MSRC) discussed the *County Alternative Governance* report prepared for the study.

Other forms not addressed in the report were discussed such as judges serving as a commissioner in small counties and boards of supervisors with supervisors elected by municipal entities and others elected at large for unincorporated areas. The committee also discussed efficiency versus accountability. To have checks and balances, we have to give up some efficiency. Voters don't want that.

The following options were discussed:

- Advocate for more than three commissioners. Let people decide if they want five or seven commissioners and whether they want elected executive without going through the freeholder process. Advantage would be elimination of long drawn out freeholder process. People don't understand it.
- Commissioners propose changes instead of freeholders.
- Desire for flexibility to be written into law. Focus on issue of flexibility without setting up formidable hurdles such as freeholder process.
- There is a greater desire on part of legislature to reach in and manage what is going on. More forms of governance would force the legislature to pull back and focus on policy.
- Number of options should be limited.
- Place on advisory ballot first, then have commission propose changes.
- Flexibility to regionalize such as cross-deputizing – crossing jurisdictions.
- Strengthening commissioner authority.

Rose Bowman handed out a report (attached) from WACO resulting from their “Think Tank” process on the Legislative Study.

As directed by the committee, Anne Pflug will propose a short list of alternatives based on the discussion at the committee's next meeting. Anne clarified that this draft will serve as a vehicle for discussion and not as her own recommendations.

## **Overview of Survey**

Last week the county governance survey went out to 750 county officials.

There was some discussion regarding the need to include county extension agents in the survey. It was noted that the survey results can be described by classification of respondent. If desired, responses from a certain job class can be factored out.

Some survey respondents felt that they could not give complete answers. For example, the fiscal health question, directed you to one of two sets of questions depending on how you answered it. Also some questions did not fit charter counties. It was noted that the answers to these questions also provided an “other” response option. A letter containing feedback and concerns about the survey containing leading questions from the Clark County Treasurer was handed out to the Committee.

These issues were primarily because of time constraints. Because of the 15 minute limit on the telephone survey, the web and paper surveys also had to be limited.

### **Case Study Update**

The case studies will be delayed by a few weeks because the first case study consultant had to be let go. CTED has since contracted with Berk and Associates. Yesterday Anne sent an email introducing the consultant to the counties participating in the case studies.

The counties participating in Case Study 1 include Adams, Clark, Douglas, Pierce, and Spokane. The counties included in Case Study 2 include Adams, Klickitat, Skamania, and Whatcom. The areas covered in Case Study 3 include interlocal agreements in the areas of Law Enforcement, Regional Jail services, Unincorporated Urban Growth Area services, Information Technology, Public Health and Economic Development.

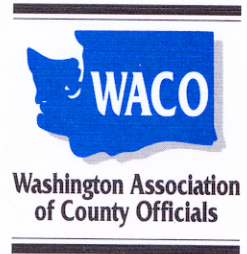
### **Next Meeting**

The next meeting is Friday, September 7, 2007 at the Summit Inn. Commissioner Hawkins will participate via conference call.

**Meeting adjourned at 2:05pm.**

## Attachment A

### **WACO Think Tank** **July 25, 2007** **Summary of Discussion**



### **ALTERNATIVE FORMS OF GOVERNANCE**

The “Think Tank” members’ consensus is that the current charter/freeholder process provides ample opportunity for counties to present options to the citizens there and to restructure their own local government if it is the will of the voters. They did not endorse charter government or any change to the current statutory process, but they did recommend the following considerations if the legislature wishes to simplify the charter process:

**Amend current statutes** by changing the population thresholds or expanding provisions  
RCW 36.32.055 allows for a five member commission in counties with over 300,000 residents

RCW 36.316.032 allows for auditor/clerk combination in counties less than 5000 residents.

**Provide simple charter** –by allowing charter proposals directly on the ballot for consideration of the voters without the freeholder process to –

- 1) Change to a council/executive form of government
- 2) Allow a county manager either elected or appointed

### **Benefit of Elected Officials**

Locally elected officials are in a unique position due to their work experience to offer insightful knowledge to the legislature on the application and impact of laws and any changes that need to be made to them. By virtue of election, the electorate has expressed its confidence, willingness to place its trust, and rely on the experience and expertise in those elected officials. Locally elected officials have the ability to identify needs firsthand and the ability to solve problems and present solutions in a timely and expedient manner. They serve on the “front line” daily and are the conduit between the legislature and the public. In response to recent legislative proposals that suggest there is efficiency or cost savings to be achieved by consolidating county offices or eliminating elected positions, the following thoughts in regard to the benefit to the public that comes with their ability to elect their county leaders are offered:

Elected officials are directly responsible to the electorate.

Voters have direct access to county offices

Allows for more citizen participation

Election to public office is “more than a job!”

Elimination of the official does not eliminate the duty.  
Election provides an inherent separation of powers  
Prevents control over others from top positions  
Independence diversifies power and creates a “watch-dog” system  
Elections inform the public of issues and functions of government  
Elected offices provide checks & balances/accountability and transparency in government  
Elected officials have the ability to speak and inform the public with an independent voice which facilitates the flow of information to press and public  
In the majority of the 39 counties, elected officials perform the duties required in the office as well as act as the administrator.  
Traditionally, elected officials are compensated as less than an appointed department head  
Recent charter reviews in King, Pierce, Clallam, and San Juan counties have increased or restored elected offices.  
Because of the oath of office, elected officials are dedicated to service to the public and adherence to the laws of the state.

### **Recommendations for Efficiencies**

Establish regional jails to care for prisoners with extraordinary medical problems or needs  
State payment of medical costs for state prisoners in jails  
Maintain commissioner form of county government  
Offer study sessions on local government for legislators  
Include counties in orientations to the legislature  
Remove restrictions on use of funds (e.g., REET) and collection of funds by county government  
Examine county fee structures  
Put in statute court decision that says if public information is available on the internet, it is not necessary for an office to provide it in another manner.  
Restore sales tax equalization  
State payment for the state’s share of even-year election costs, housing state prisoners in county jails  
State payment of Payment in Lieu of Taxes (PILT) on all state-held property  
Document mandates from state and track in relation to the amount of state funding provided for requirement.  
Compare state mandate to the percentage of fees retained (and not sent to the state) for the service/function  
Communication between and among state information systems and with county offices  
Fund local infrastructure so cities and counties can interact with the Justice Information Network (JIN)  
Provide online access to citizens for services  
Reduce the number of special elections  
Reinstate criminal justice funding  
Make the state share the costs to county assessors to convert the entire state to annual valuation of real property by 2012 including GIS systems, conversions, etc.  
State/county partnership in provision of full-blown pictometry (360 degree ortho photos with elevations) with add-on for new construction to significantly assist in the annual valuation cycle  
Change the separate date requirements for revaluation and new construction for assessors to facilitate single mailing to taxpayers

Determine the costs incurred in changing from code to a charter county  
State to do a cost/benefit analysis of the impacts of recent county charters or reviews  
Set and stratify county salaries by the State Salary Commission  
Expand video conferencing for the legislative session, so counties and the public can testify with minimum travel  
Merge the administration of designated forest land with open space timber for efficiency of administration.  
Expand state funding of Superior Court

### **Shared Services – Past**

Judicial Districts

Jails

Juvenile Facilities

--These joint efforts have been abandoned in some areas due to increased demands that outgrew the capacity of the shared service.

### **Shared Services – Current**

Jails – Chelan/Douglas, Island/San Juan

Juvenile Facilities – Martin Hall Consortium, Benton/Franklin, Jefferson/Kitsap

Judicial Districts – Asotin/Columbia/Garfield, Stevens/Ferry/Pend Oreille, Benton/Franklin, Klickitat/Skamania

Court Software – Judicial Information Systems in all Courts

Forensic Pathology Services – Clark/Skamania/Wahkiakum, Spokane and surrounding counties, Snohomish and surrounding counties

Law enforcement services – most counties contract with small cities for police services

Senate Bill 6239 Meth Counties – thirteen counties in three regions share law enforcement and prosecution services for meth investigation and prosecution

Drug Task Forces – larger counties share resources for drug investigation and prosecution

Juror summonses – district and superior courts in a county

Health Department/Districts – Clark/Skamania, Ferry/Stevens/Pend Oreille, etc.

EMS – county/city

E-911 and dispatch where possible

Fire services – city/county

Swat teams – regional

Websites – SE counties

Web portal services for financial reporting – Clark County/all taxing districts

Records Management Services - Snohomish, Lewis

Geographic Information Systems (GIS) - Chelan/Douglas, Yakima and others, county/city

Personnel management in counties

Personnel among counties – Garfield/Columbia County Engineer

Mental Health Services

Homeland Security

Shredding/recycling – Chelan County

Recycling – Clark County/Vancouver/DOT/Battle Ground/Camas

Car and van pools

Purchasing  
Solid Waste  
Wastewater Treatment - Clark County Regional /Battle Ground  
Safety Training  
Mutual Aid Agreements  
Death Investigations in state prisons, incorporated cities, deaths in the military facilities and on ships  
Fire Investigations – Franklin County/cities  
Insurance Fund  
Risk Pool  
Counties’ Retro Pool for labor and industries claims  
Economic development – regional, county/city  
Tourism – regional, county/city  
Elections/voter registration – county/city/state/federal  
Facilities – county/city  
Planning  
Permitting  
Search and Rescue  
Airport Management/Security  
Jail space – state prisoners/federal prisoners  
Jails/law enforcement – county/tribal  
Investment management  
Warrants and payroll - County-wide  
Prosecutor/coroner position in counties less than 40,000

**Additional multi-county projects:**

The Northwest Regional Council is a consortium of Island, San Juan, Skagit and Whatcom Counties that works together to deliver services in the area of aging, medical assistance transportation, long-term care ombudsman, Northwest Learns, juvenile justice planning, law and justice planning, and the boundary review commission.

Clark County Public Works has interlocal agreements with cities, counties and other agencies under a project called GEM that does the following: Provides equipment and services and performs work for each other with no administrative fees; signing and striping of roads is done through reimbursable contracts; has regional training center for safety training; vehicle repair, pothole repair, vector cleaning chip sealing, etc. through interlocal agreements. Clark County also shares the Whatley Recycling Facility for decant and street sweeping processing and the Salmon Creek Wastewater Treatment Plant with other partners.

The Clark County IT Department through contract with the city of Vancouver provides computer services, 911 center and fire districts.

The Clark County Treasurer has an agreement with the Clark County Public Utilities for a joint remittance processing center where they process property tax, assessments, fees, and water, sewer and electric utility payments. They serve the cities of Vancouver, Camas, and Tigard, Clark Regional Wastewater District, Cowlitz PUD, Clark Public Utilities, Tualatin Water

District, and the Eugene Water and Electric District and are bringing on the city of Longview. The County Treasurer has also joined with the Auditor and Assessor to provide a point of sale system that can be used by county departments and taxing districts. The treasurer has the only financial web portal service that provides financial reporting information to taxing districts.

### **Recommended Future Shared Services**

Road maintenance agreements with the State  
Consolidation of city/county services  
Shared information technology and shared software (county to county and statewide)  
Statewide information technology  
Pooled legal defense resources for large-scale tax appeals  
Industrial appraisals to be done by the state  
Shared geographic information systems  
Purchasing  
Revolving Account for major purchases  
Personnel  
Human resources  
Facilities  
Expansion of current shared services and partnerships  
Shared records management departments for preserving and archiving records



# WASHINGTON STATE

DEPARTMENT OF COMMUNITY, TRADE & ECONOMIC DEVELOPMENT

## AGENDA ITEM 3(A) 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	Discussion of Governance Alternatives Legislative Recommendations, 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	

\* May be extended past 2PM to complete committee business.

## County Financial Health and Governance Alternatives Study Advisory Committee

<b>Agenda Topic:</b> County Financial Health	
<b>Agenda Item:</b> 4(b)	<b>Staff Contact:</b> CTED Project Manager -- Anne Pflug <a href="mailto:annep@cted.wa.gov">annep@cted.wa.gov</a> 509-925-2608
<b>Study Question(s) Being Addressed:</b>	<b>Attachments:</b> <ul style="list-style-type: none"> <li>• Analysis of suggested indicator -- county employees per unit of population and land area, Attachment A</li> <li>• Draft Criminal Justice System Drivers Graphic, Attachment B</li> <li>• Draft Revenue “Stools” Graphic, Attachment C</li> </ul>

**Requested Action:**

Confirmation of county financial health major themes summary.

**Background:**

At your August 24 and July 27 meetings the Advisory Committee had far reaching discussions related to county financial health. Several themes and ideas emerged from that discussion. The Committee requested that a summary of the major themes be prepared for your September 7 meeting to be confirmed by the group.

**Discussion:**

The Advisory Committee’s discussion fell into roughly four categories:

1. Major themes
2. Points that should be made in the report about county fiscal health,
3. Factors that should be considered by the legislature in assessing a county’s fiscal condition that are difficult to capture with statistical measures,
4. Comments about or additional fiscal health indicators

Each of these discussion categories is summarized below.

**Major themes**

- All Washington counties have fiscal issues, each county is just a different shade of “blue” (referring to the map in the OFM fiscal health study).
- Revenue elasticity is an important tool for counties to keep pace with service requirements and labor costs. The counties revenue base has become increasing inelastic over the last decade creating fiscal distress. Counties need to reverse this trend in order to meet their responsibilities as an agent of the state.
- Counties general fund is financed primarily by two major revenues – property and sales taxes creating a “two-legged stool” that bears the weight of basic service requirements. The state operates on a more stable and flexible “four legged stool” and the cities a “three legged stool” (see Attachment C for draft graphic). Over the last decade significant changes have occurred which make the counties “two legged stool” less stable – a boundary has been crossed for many counties which results in external forces controlling both the majority of revenue and the service demand drivers. These forces are working in opposition, decreasing revenue bases and growth while increasing demand at the same time. This conflict needs to be addressed by reducing county responsibilities or increasing elastic revenue (the state being responsible for all state felony detention was given as an example).



- “Apples to apples” comparisons need to be made in the fiscal indicators to make sure they are accurately reflecting relative county positions.
- There are a number of state policies that drive service delivery costs at the county level including criminal sentencing policy (effects court and jail costs); tax exemption policy (effects administrative costs and revenue base); etc. These demand drivers are in conflict with policy changes that reduce revenue, effect tax bases or limit revenue uses. (See Attachment B for draft graphic)
- Constraints imposed by the state on “how” a county conducts its service delivery often prevents counties from operating in a more efficient manner both regionally or within their own county (e.g. meth). Business can be more efficient because it has greater control over “how” their product is made or the processes they use.
- The Legislature needs to recognize that no one factor is an indicator of fiscal health or stress. Counties face very different circumstances and a multitude of factors and complexity of issues are present in each jurisdiction. (e.g. GMA)
- There are presently few state financial incentives for efficiency and this is one strategy that may help. Incentives coupled with removing proscriptive instructions for “how” a service is to be delivered would increase efficiency.
- Look at what counties have that they can manage their way through and what is controlled by others and counties can not manage their way through without help. Talk about counties being “an agent of the state” and “acting as the state” in a number of service areas including criminal justice, tax collection and elections. These areas are examples where the counties do not have the “tools” to address financing and/or service delivery efficiencies by themselves.

**Points that should be made in the report about county fiscal health**

- Include a description of what revenue is available to support general fund services and discuss the trends that affect each revenue source. Examples mentioned include in-lieu of property tax payments for timber land and tax base changes that non-producing forest land has caused, annexation’s impact on sales taxes, constraints on land use decisions that could diversify revenue under GMA, 1% limit, etc
- The report should emphasize the current expense or general fund which is where most counties feel the most stress.
- The Assessor, Treasurer, Clerk and Auditors proportion of the county general fund budget is small compared to other costs such as criminal justice. Consolidating one or more of these offices will have relatively little financial impact as a result.
- The state adds process requirements, planning programs and other procedures that cost money to implement and in effect increase county overhead. These costs do not contribute to the efficiency or effectiveness of service delivery.
- Where population centers are aligned regionalization will likely have the “biggest bang for the buck”. Regional or statewide software was also mentioned as having great potential for adding efficiency.
- Efficiency can not always be measured in dollars and cents.
- Material from the WACO “think tank” document outlining efficiency actions that have already been taken by counties and the large number of joint service agreements should be included to better educate Legislators about what counties are doing.

**Factors that should be considered by the legislature in assessing a county’s fiscal condition that are difficult to capture with statistical measures**

- 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 or land use limitations 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 polices 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
- The differential impact of sales and property tax exemptions on local governments influences fiscal stress and/or revenue elasticity.

**Additional fiscal health indicators or comments about the indicators**

- How can extensive county layoffs and budget cuts be factored into the indicators in the OFM report?
- Shouldn't there be a weighting of factors?
- Counties that made significant cuts and therefore showed non-stressed financial results were worried that they would be penalized by not receiving state aid. Should there not be a factor that recognizes this effort?
- Include a factor like staffing level verses population or land area to help measure current level of efficiency.
- Make sure "apples to apples" comparisons are being made in the financial indicators especially cash balances (where there may be reserve funds), capital debt and comparisons that include special revenue funds (that are self supporting). "Apples to apples" comparisons need to be made in the fiscal indicators to make sure they are accurately reflecting relative county positions.
- The indicators need to control for the differing levels of service that are being provided by counties. Some counties provide discretionary services and some can not. How can we measure when or how much funding is adequate to perform basic services?
- Don't distribute additional state funding based on the designation of "distressed counties" in the OFM report.
- Many counties have made major budget cuts to keep their financial indicators out of the "stress zone", these counties are no less distressed than those with financial indicators inside the zone.

**Recommendations:**

1. Review the major themes summarized above and approve with appropriate changes.
2. Provide feedback on draft graphics, analysis of the proposed additional indicator or other points to be made in the Legislative Report.

## ATTACHMENT A ANALYSIS OF COUNTY EMPLOYEES PER SERVICE POPULATION AND LAND AREA AS AN INDICATOR OF SUCCESS

COUNTY	BASE INFORMATION					AVERAGE OF EE PER 100 SQUARE MILES AND EE PER POP					
	POP	UNINCORP POP	FULL TIME EES	LAND AREA IN SQUARE MILES	STRESS POINTS	EE AVE POP AND LAND	Bottom Quartile	Below State Ave	EE AVE UNINCORP AND LAND	Bottom Quartile	Below State Ave
Adams	17,300	8,435	165	1,925.0	5	9.05			14.07		
Asotin	21,100	12,660	133	635.3	7	13.62			15.72		
Benton	160,600	36,195	637	1,703.1	1	20.68			27.50		
Chelan	70,100	30,145	415	2,921.4	2	10.06			13.99		
Clallam	67,800	40,635	360	1,739.5	2	13.00			14.78		
Clark	403,500	196,090	1592	628.2	6	128.68			130.77		
Columbia	4,100	1,250	64	868.8	9	11.49			29.28		
Cowlitz	96,800	40,590	534	1,138.6	2	26.21			30.03		
Douglas	35,700	19,665	210	1,820.5	6	8.71			11.11		
Ferry	7,500	6,510	111	2,204.0	11	9.92			11.04		
Franklin	64,200	12,730	257	1,242.4	7	12.34			20.44		
Garfield	2,400	875	49	710.5	7	13.66			31.45		
Grant	80,600	38,455	529	2,881.1	4	13.15			16.74		
Grays Harbor	70,400	27,620	365	1,916.9	2	12.11			16.13		
Island	77,200	52,035	400	208.4	1	98.54			99.80		
Jefferson	28,200	19,380	280	1,814.2	3	12.68			14.94		
King	1,835,300	367,070	12094	2,126.0	2	287.72			300.90		
Kitsap	243,400	169,090	1161	396.0	5	148.99			150.03		
Kittitas	37,400	15,780	289	2,297.2	4	10.15			15.45		
Klickitat	19,800	13,160	235	1,872.4	4	12.21			15.20		
Lewis	72,900	44,117	560	2,407.6	3	15.47			17.98		
Lincoln	10,200	4,540	160	2,311.2	8	11.30			21.08		
Mason	53,100	44,295	376	961.1	2	23.10			23.81		
Okanogan	39,800	23,949	314	5,268.1	8	6.92			9.54		
Pacific	21,500	14,255	149	933.0	4	11.45			13.21		
Pend Oreille	12,300	9,300	150	1,400.3	5	11.45			13.42		
Pierce	773,500	355,089	3023	1,678.9	1	91.98			94.29		
San Juan	15,700	13,490	181	174.9	4	57.50			58.45		
Skagit	113,100	47,886	660	1,735.1	0	21.94			25.91		
Skamania	10,600	8,457	170	1,656.4	4	13.15			15.18		
Snohomish	671,800	316,365	2638	2,089.1	3	65.10			67.31		
Spokane	443,800	123,411	1971	1,763.6	3	58.10			63.86		
Stevens	42,100	32,482	280	2,478.3	9	8.97			9.96		
Thurston	231,100	131,805	1072	727.0	1	76.04			77.79		
Wahkiakum	3,900	3,345	97	264.2	8	30.79			32.85		
Walla Walla	57,900	16,925	326	1,270.5	4	15.64			22.46		
Whatcom	184,300	81,066	852	2,119.5	0	22.41			25.35		
Whitman	42,800	6,303	194	2,159.4	7	6.76			19.88		
Yakima	231,800	88,264	1123	4,296.2	7	15.49			19.43		
State	6,375,600	2,473,714	34176	66,544.1		28.36			32.59		
Bottom Quartile						17.64			21.07		

Data Sources:  
 Population, 2006 Office of Financial Management  
 Number of Employees, AWC 2006 Compensation Survey  
 Land Area, 2000 Office of Financial Management

## ATTACHMENT A (continued)

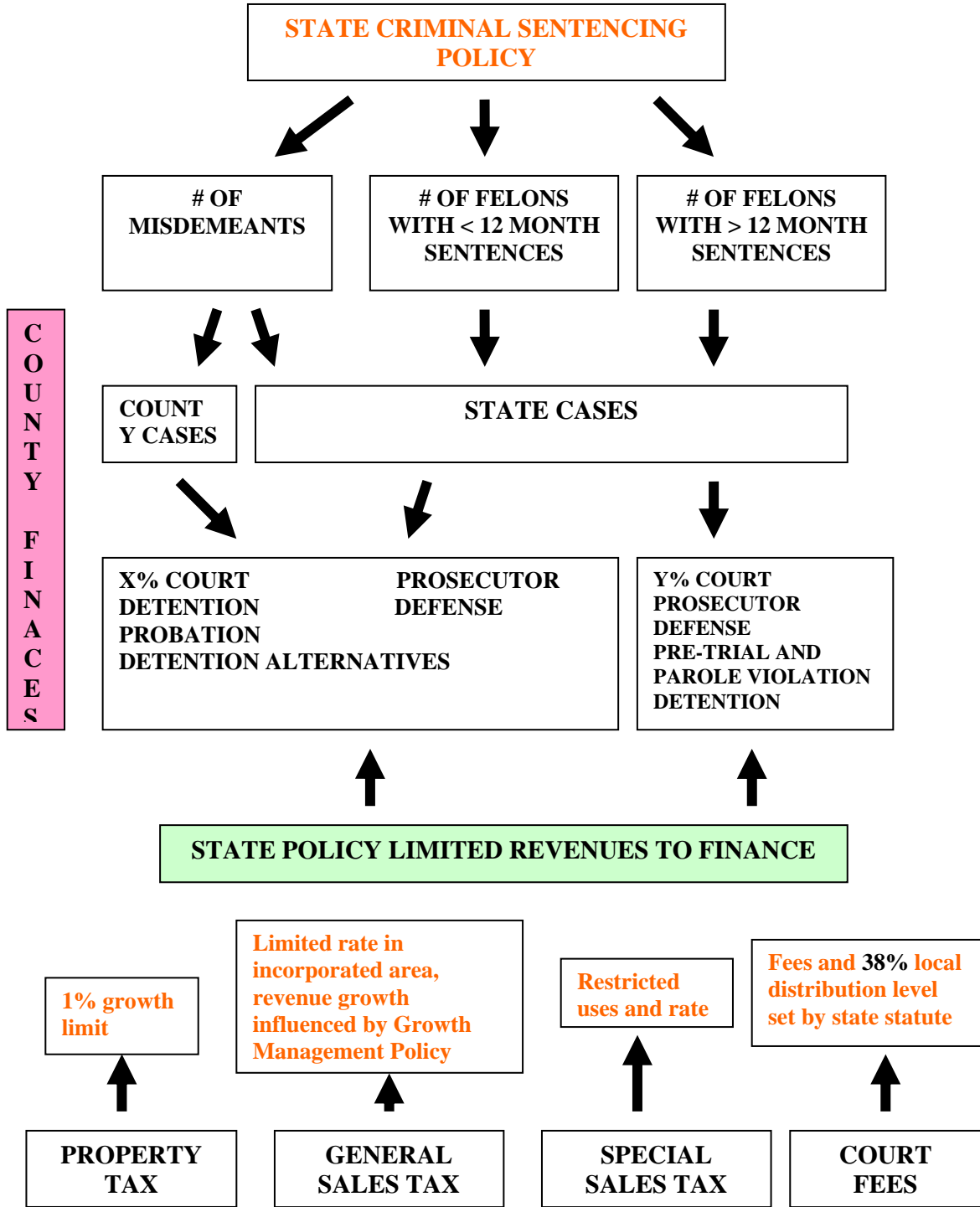
COUNTY	REFERENCE DATA								
	EE PER 1,000 POP	Bottom Quartile	Below State Ave	EE PER 1,000 UNINCORP POP	Bottom Quartile	Below State Ave	EE PER 100 SQ MILES	Bottom Quartile	Below State Ave
Adams	9.54			19.56			8.57		
Asotin	6.30			10.51			20.93		
Benton	3.97			17.60			37.40		
Chelan	5.92			13.77			14.21		
Clallam	5.31			8.86			20.70		
Clark	3.95			8.12			253.41		
Columbia	15.61			51.20			7.37		
Cowlitz	5.52			13.16			46.90		
Douglas	5.88			10.68			11.54		
Ferry	14.80			17.05			5.04		
Franklin	4.00			20.19			20.69		
Garfield	20.42			56.00			6.90		
Grant	6.56			13.76			19.73		
Grays Harbor	5.18			13.22			19.04		
Island	5.18			7.69			191.91		
Jefferson	9.93			14.45			15.43		
King	6.59			32.95			568.85		
Kitsap	4.77			6.87			293.20		
Kittitas	7.73			18.31			12.58		
Klickitat	11.87			17.86			12.55		
Lewis	7.68			12.69			23.26		
Lincoln	15.69			35.24			6.92		
Mason	7.08			8.49			39.12		
Okanogan	7.89			13.11			5.96		
Pacific	6.93			10.45			15.97		
Pend Oreille	12.20			16.13			10.71		
Pierce	3.91			8.51			180.06		
San Juan	11.53			13.42			103.47		
Skagit	5.84			13.78			38.04		
Skamania	16.04			20.10			10.26		
Snohomish	3.93			8.34			126.28		
Spokane	4.44			15.97			111.76		
Stevens	6.65			8.62			11.30		
Thurston	4.64			8.13			147.45		
Wahkiakum	24.87			29.00			36.71		
Walla Walla	5.63			19.26			25.66		
Whatcom	4.62			10.51			40.20		
Whitman	4.53			30.78			8.98		
Yakima	4.84			12.72			26.14		
State	5.36			13.82			51.36		
Bottom Quartile	4.64			10.35			28.20		

Data Sources:

Population, 2006 Office of Financial Management  
 Number of Employees, AWC 2006 Compensation Survey  
 Land Area, 2000 Office of Financial Management

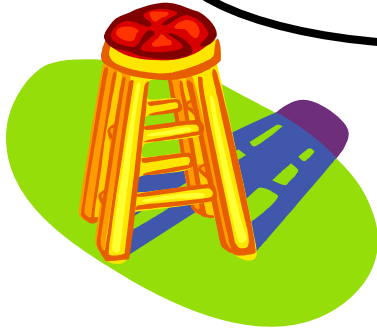
**ATTACHMENT B**

**CRIMINAL JUSTICE SERVICE SYSTEM DRIVERS**



**Attachment C**  
**WASHINGTON STATE GENERAL GOVERNMENT**  
**REVENUE COMPARISON**

**STATE**



**FOUR “LEGS”**  
37% Sales and Use Taxes  
32% Federal Distributions  
14% Business and Utility Taxes  
8% Property Taxes

**COUNTY**



**TWO “LEGS”**  
44% Property Tax  
20% Sales and Use Tax  
12% Licenses, Permits and Fees

**CITY**



**THREE “LEGS”**  
27% Property Tax  
26% Sales and Use Tax  
25% Business/Utility Taxes

## County Financial Health and Governance Alternatives Study Advisory Committee

<b>Agenda Topic:</b> Short List of Governance Alternatives	
<b>Agenda Item:</b> 4(b)	<b>Staff Contact:</b> CTED Project Manager -- Anne Pflug <a href="mailto:annep@cted.wa.gov">annep@cted.wa.gov</a> 509-925-2608
<b>Study Question(s) Being Addressed:</b> 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?	<b>Attachments:</b> A) Long List of Governance Alternatives B) Potential Selection Criteria Applied to Long List C) Hugh Spitzer Memo regarding Legal Questions for Study  <b>Reference Documents:</b> 1) MRSC Document on County Governance Alternatives (See website for document)

**Requested Action:**

Discuss the selection criteria that should be applied in paring down the existing alternatives list from twenty to approximately six; discuss questions that should be addressed in the evaluation of the remaining six and make a decision on governance alternatives to be included on the shorter list. The alternatives on the short list will be evaluated more extensively and brought back to the Advisory Committee for discussion prior to recommending the governance alternatives that would be presented as legislative options. As directed by the budget proviso for this study, potential implementing legislation will be drafted for the alternatives presented as legislative options.

**Background:**

At the August 24 meeting, the Advisory Committee heard a presentation of research on county governance alternatives from the Municipal Research and Services Center (MRSC). The Committee then discussed additional alternatives and the pros and cons of various governance changes. The additional options were added to the long list (see Attachment A) to create a total of twenty options.

**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, with additions from the Advisory Committee discussion August 24.

Information on pros and cons of various alternatives identified by other states is being compiled by the Washington State Association of Counties staff and will be presented with the other evaluation information for the pared down list of governance alternatives.

**Short List Selection Criteria:**

The Advisory Committee had an extensive discussion of the governance alternatives during its August 24 meeting. The Committee asked staff to prepare a draft short list of governance alternatives that the committee could use as a vehicle for discussion. Using the Committee’s discussion, the staff has

developed a draft list of selection criteria that could be used to evaluate the long list of governance alternatives and inform the selection of a short list for further evaluation. The suggested criteria are:

- Increases county flexibility to determine "how" services are delivered
- Maintains independence of independently elected officials
- Supports potential efficiency or effectiveness improvement

These three criteria were used to evaluate the long list of governance alternatives. There may be some merit in discussing the number of alternatives presented in the shorter list that modify the commission form without impacting other independently elected officials, compared to the number of alternatives proposed that potentially modify the number of other independently elected officials.

### **Draft Short List:**

After applying the criteria described above a short list of alternatives floated to the top. In order to shorten the list those alternatives that seemed to provide the greatest long term flexibility were selected from among those that meet the most criteria. The results of that tentative screening are shown on Attachment B. Below is the resulting draft list:

#### **Strengthen the existing Commission form --**

1. Strengthen the executive powers of the Commission by specifying additional executive functions including authorizing multi-county or regional service delivery.
2. Consolidate all current statutory appointed officer functions into the Commission who could then delegate to Commission determined officers.

#### **Legislative reform of county structure by statute --**

6. Classify counties by population and combine duties of two or more officers, including a five member County Commission for larger counties.
11. Provide fiscal incentives for counties to institute specific reforms.

#### **Constitutional amendment increasing county home rule authority --**

12. Add a provision that would authorize a non-freeholder, voter approved Non-Charter Five Member Commission/Elected Executive Optional Form (Optional Code County).
17. Add a provision that would authorize a non-freeholder voter approved non-charter five member Commission/Manager optional form (Optional Code County).
19. Remove the "uniformity" requirement in the state constitution so that the legislature could provide local options for county structure which could include multi-county functions.

### **Evaluation Questions:**

To the extent possible each of the approximately six alternatives on the shorter list would be evaluated in greater detail prior to selecting options to be presented to the Legislature. Among other things, the issues of flexibility, the impact on efficiency and effectiveness and the independence of separately elected county officials would be explored in more detail. The Advisory Committee may have some specific questions they would like to see addressed. Some potential questions, as an aid to discussion include:

- Did the governance option work in other states? What can we learn from them?
- What changes have Washington counties made to their charters since they were adopted? What can we learn from them?
- What need is met by each proposed governance alternative?
- What are the benefits to the public of each alternative?
- What is the impact of the alternative on the authority of the legislative body and the independence other elected officials?
- What is the Impact on appointed department heads?
- What would be the cost to implement?

### **Recommendations:**

Advisory Committee discussion and decision on the following questions:



- 1) Are the criteria used to select the shorter list of options the right criteria? If not, what selection criteria should be applied to select governance alternatives for the short list?
- 2) Are there specific questions that the Advisory Committee would like to see addressed as part of the evaluation of the shorter list of alternatives in order to assist you in evaluating which alternatives should be selected as legislative options?
- 3) Based on agreed criteria, what county governance options should be selected for further analysis (the shorter list)?

**ATTACHMENT A**  
Executive Summary – Long List of County Governance Alternatives

#	Governance Alternative Name	Page # Reference	Page # Pros/Cons
<b>A. Strengthen the existing Commission form of government</b>			
1	Strengthen the Executive powers of the Commission by specifying additional executive functions including authorizing multi-county or regional service delivery	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>B. Legislative reform of county structure by statute</b>			
6	Classify counties by population and combine duties of two or more officers, including a five member County Commission for larger counties.	21/24 and Advisory Comm.	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	
<b>C. Constitutional amendments increasing County Home Rule Authority</b>			
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	<b>Add a provision to create a voter approved Charter County through a Commission or voter petition initiated appointment of a “County Governance Commission” that would propose a charter that could modify only state statutory governance provisions.</b>	Advisory Comm.	
14	Add a provision that would provide for commissioners to be elected from municipalities.	Advisory Comm.	

15	Add a provision to create a non-freeholder Charter County through Commission action after an advisory ballot.	Advisory Comm.	
16	Add a provision that would authorize a non-freeholder, voter approved Non-Charter Five Member Commission/Elected Executive Optional Form (Optional Code County).	19 and Advisory Comm.	13
17	Add a provision that would authorize a non-freeholder voter approved Non-Charter Five Member Commission/Manager Optional Form (Optional Code County)	19 and Advisory Comm.	11
18	Reduce the number of constitutional elected county 'row offices'	21/24	9/16
19	Remove the "uniformity" requirement in the state Constitution so that the Legislature could provide local options for county structure which could include multi-county functions	8/21	
20	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  
Screening of Governance Alternatives Using Draft Criteria

**0 = Neutral Impact; + = Positive Impact; - = Negative Impact**

#	Governance Alternative Name	Increases County Flexibility	Supports Efficiency and Effectiveness	Impact on Independence of Row Officers
<b>A. Strengthen the existing Commission form of government</b>				
1	Strengthen the Executive powers of the Commission by specifying additional executive functions including authorizing multi-county or regional service delivery	+	+	-
2	Consolidate all current statutory appointed officer functions into the Commission who could then delegate to Commission determined officers	+	+	-
3	Commission/Appointed Manager	<b>0</b>	+	-
4	Commission/Appointed Administrator	<b>0</b>	+	-
5	Commission/Appointed Administrative Assistant	<b>0</b>	+	<b>0</b>
<b>B. Legislative reform of county structure by statute</b>				
6	Classify counties by population and combine duties of two or more officers, including a five member County Commission for larger counties.	+	+	-
7	Combine duties and reduce the number of officers for all counties.	+	+	-
8	Assignment of county duties to multi-county regions or districts (following the Intermediate School District model)	-	+	-
9	Pooling of staff among county officers within a single county	-	+	-
10	Pooling of staff for specific county functions across counties	-	+	-
11	Provide fiscal incentives for counties to institute specific reforms	+	+	-

<b>C. Constitutional amendments increasing County Home Rule Authority</b>				
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.	+	+	<b>0</b>
13	Add a provision to create a voter approved Charter County through a Commission or voter petition initiated appointment of a “County Governance Commission” that would propose a charter that could modify only state statutory governance provisions.	+	+	<b>0</b>
14	Add a provision that would provide for commissioners to be elected from municipalities.	<b>0</b>	<b>0</b>	<b>0</b>
15	Add a provision to create a non-freeholder Charter County through Commission action after an advisory ballot.	+	+	-
16	Add a provision that would authorize a non-freeholder, voter approved Non-Charter Five Member Commission/Elected Executive Optional Form (Optional Code County).	+	+	- or <b>0</b>
17	Add a provision that would authorize a non-freeholder voter approved Non-Charter Five Member Commission/Manager Optional Form (Optional Code County)	+	+	- or <b>0</b>
18	Reduce the number of constitutional elected county ‘row offices’	+	+	-
19	Remove the “uniformity” requirement in the state Constitution so that the Legislature could provide local options for county structure which could include multi-county functions	+	+	- or <b>0</b>
20	Provide for the consolidation of functions among counties with one jointly elected officer	+	+	- or <b>0</b>

**ATTACHMENT C  
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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50828869.1

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...”<sup>1</sup> 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.”<sup>2</sup>

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.<sup>3</sup>

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

<sup>2</sup> 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.

<sup>3</sup> RCW 35A.01.070(5) and RCW 35A.02.130.

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50828869.1

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."<sup>4</sup>

<sup>4</sup> 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.<sup>5</sup> 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.<sup>6</sup>

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.<sup>7</sup> 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.”

<sup>7</sup> 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."<sup>9</sup> (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.

<sup>8</sup> State v. Rusk, 15 Wash. 403 (1896).

<sup>9</sup> 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.<sup>10</sup> 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. <sup>10</sup> 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

<b>Agenda Topic:</b> Project Component Status Update	
<b>Agenda Item:</b> 5(a)	<b>Staff Contact:</b> CTED Project Manager -- Anne Pflug <a href="mailto:annep@cted.wa.gov">annep@cted.wa.gov</a> 509-925-2608
<b>Study Question(s) Being Addressed:</b> All	<b>Attachments:</b>

**Requested Action:**

For information only.

**Background:**

The County Legislative Study has a number of components. Material from three of the components -- case studies, county official survey and service system mapping, have not yet come to the Advisory Committee. This agenda item is intended to update the Committee on the progress of these three components.

**Discussion:**

**Case Studies –**

The case studies are being completed by Berk and Associates. The results of the case studies are scheduled to be presented to the Advisory Committee in October. The consultants began the on-site interviews in the case study counties the week of August 27. There are three case studies:

- Case Study One evaluates the order of magnitude cost savings that might be achieved from the consolidation of the functions of Auditor, Assessor and Treasurer within a county. Using partial consolidation efforts in Clark, Douglas and Pierce Counties and comparator counties with no consolidation the consultants will be constructing a theoretical model of cost savings (if any). The case study counties are Clark, Douglas, Pierce, Spokane, and Adams.
- Case Study Two evaluates the order of magnitude cost savings that might be achieved from the consolidation of the functions of County Clerk, Superior Court Administration and Superior Court Judges between two counties. Using partial consolidation efforts in Skamania, Klickitat and Whatcom Counties and comparator counties with no consolidation the consultants will be constructing a theoretical model of cost savings (if any). The case study counties are Skamania, Klickitat joint judicial district, Whatcom County consolidated County Clerk and Court Administration and Adams County.
- Case Study Three evaluates what is working well; not so well; and what is getting in the way of effective interlocal service agreements among local governments. Preliminary interlocal service agreement areas and study counties for each area are –
  - Law Enforcement – Chelan County Sheriff service provision to Chelan County cities.
  - Regional Jail – Chelan and Douglas County Jail Agreement
  - Models for Joint Provision of Information Technology – e-Gov Alliance including Snohomish County, nine regional Educational Service Districts and the Washington Community College system Center for Information Services.
  - Growth Management – Clark, Kitsap, Douglas, Thurston and Skagit.
  - Public Health – One of three joint districts.
  - Economic Development -- Adams County and TriDec (Benton-Franklin)

**Survey –**

Seven hundred fifty county elected and appointed officials are being surveyed statewide. WSU's public policy survey group is conducting the survey on contract. Approximately 19 officials are being surveyed in each of the 39 counties including elected officials and department directors in the Executive, Legislative and Judicial branches.

Survey recipients may respond to the survey by mailing in the written questionnaire; participating on the web or participating through a phone interview. At the end of the first week of the five week survey 34% of the county officials had responded by filling out the web version. The target for web response was 20% at the end of five weeks. During the week of August 27, WSU began contacting county officials to schedule phone interviews. The overall target response rate for the survey is 50% at the end of five weeks.

Preliminary survey results may be available for the Advisory Committee at its last meeting in September.

**County Service System Mapping –**

This component of the study involves laying out, at a high level, the responsibilities/services of the state and counties in each of the major service systems (eg criminal justice, general government, human services, etc) and describing how they are financed and who determines the level of service. Information at a high level on the same service systems is being gathered from six comparator states: Indiana, Minnesota, Wisconsin, Maryland, Arizona and Colorado. States were selected that were similar in population, represented different regions of the country and had similar service responsibilities at the county level. States with similar population where counties only provided courts or emphasized human services and education for example were not selected.

The mapping component was designed jointly by WSAC, WACO and CTED staff. Data is being collected primarily by WSAC with contributions from others. Preliminary material from the mapping component is scheduled to come to the Advisory Committee at your September 26 meeting.

**Recommendations:**

This report is for information only.