

CHAPTER 50-01.2 COUNTY SOCIAL SERVICE BOARDS

50-01.2-00.1. Definitions. In this chapter, unless the context otherwise requires:

1. "Department" means the department of human services.
2. "Local expenses of administration" includes costs for personnel, space, equipment, computer software, materials, travel, utilities, and related costs, and the indirect costs properly allocated to those costs. The term does not include initial acquisition of computers and related hardware approved by the department for the temporary assistance for needy families program, custom computer programs, custom software development, computer operations undertaken at the direction of the department, and computer processing costs to the extent those costs exceed, in any calendar year, that county's costs of operation of the technical eligibility computer system in calendar year 1995 increased by the increase in the consumer price index for all urban consumers (all items, United States city average) after January 1, 1996, or, unless agreed to by the county social service board, any costs related to pilot programs before the programs are implemented on a statewide basis.
3. "Locally administered economic assistance programs" means those primary economic assistance programs that need to be accessible to all citizens of the state through a county social service office and include:
 - a. Temporary assistance for needy families;
 - b. Employment and training programs;
 - c. Child care assistance programs;
 - d. Medical assistance, including early periodic screening, diagnosis, and treatment;
 - e. Food stamp programs, including employment and training programs;
 - f. Refugee assistance programs;
 - g. Basic care services;
 - h. Energy assistance programs; and
 - i. Information and referral.

50-01.2-01. County social service board - Members - Qualifications. Each board of county commissioners shall establish a county social service board consisting of five, seven, or nine members of which one or more must be members of the board of county commissioners. The board of county commissioners shall appoint the members of the county social service board based upon fitness to serve as members by reason of character, experience, and training without regard to political affiliation. The board must include members of each sex.

50-01.2-02. Members of county social service board - Term of office - Oath - Compensation. The members of the county social service board serve a term of three years or until their successors have duly qualified. Terms of office must be arranged so the term of office of one member expires in one year, the term of one-half the remaining members the next year, and the term of the remaining members the third year. Each member of the board qualifies by taking the oath provided for civil officers. The oath must be filed with the county auditor. The members of the county social service board are entitled to receive, in addition to any salaries they receive from any other source, from the state or county or any municipality, a sum not to

exceed forty-five dollars per day for time actually spent in transacting the business of the board. The county shall reimburse members for expenses actually incurred in the performance of their official duties and for mileage at the legal rate for necessary travel.

50-01.2-03. Duties of county social service board. The county social service board of each county in this state shall:

1. Supervise and direct all human service activities conducted by the county including county general assistance or other public assistance.
2. Supervise and administer, under the direction and supervision of the department of human services, human services in the county which are financed in whole or in part with funds allocated or distributed by the department of human services.
3. Aid and assist in every reasonable way to efficiently coordinate and conduct human service activities within the county by private as well as public organizations.
4. Subject to subsection 17 of section 50-06-05.1, administer the food stamp program in the county under the direction and supervision of the department of human services in conformity with the Food Stamp Act of 1964, as amended, and enter into an agreement for administering the food stamp program with the department of human services.
5. Subject to subsection 19 of section 50-06-05.1, administer the energy assistance program in the county under the direction and supervision of the department of human services and to enter into an agreement for administering the energy assistance program with the department of human services.
6. Charge and collect fees and expenses for services provided by its staff in accordance with policies and fee schedules adopted by the department of human services.
7. Supervise and administer designated child welfare services under the direction and supervision of the department of human services. Through established procedures the department of human services may release the county social service board of this duty or the county social service board may request to be released from this duty by the department of human services. If a county is released from the county's duty to supervise and administer designated child welfare services under this subsection, the county retains its financial responsibility for providing those services unless otherwise negotiated and approved by the department.

50-01.2-03.1. Board may contract. In addition to actions a county social service board may take under chapter 54-40, a board may contract with another county social service board, the receiver of a county social service board appointed under section 50-01.2-06, the department, or any other public or private person to discharge any of its duties or exercise any of its powers to administer economic assistance programs.

50-01.2-03.2. (Effective through June 30, 2010) County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:
 - a. Locally administered economic assistance programs;
 - b. Replacement programs with substantially similar goals, benefits, or objectives; and

- c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.
2. On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:
 - a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;
 - b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;
 - c. Totalling the amounts determined under subdivision b for all counties entitled to a distribution;
 - d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and
 - e. Multiplying that decimal fraction times one-half of the biennial appropriation.
3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which more than twenty percent of the caseload for these programs consists of people who reside on a federally recognized Indian reservation or property tax-exempt tribal trust lands. The reimbursement must be such that:
 - a. An affected county's expenses for locally administered economic assistance programs in excess of the statewide average of such costs, expressed in mills, for all other counties will be reimbursed at one hundred percent;
 - b. Each calendar year the affected counties will receive quarterly allocations based on the actual county expenses for the state fiscal year ending the previous June thirtieth and the most recent taxable valuations published pursuant to section 57-13-07 available on that date; and
 - c. The reimbursement will be calculated for each county and reported to the county social service board prior to August first of the year preceding the allocation.

(Effective after June 30, 2010) County duties - Financing in exceptional circumstances.

1. Each county social service board shall administer, under the direction and supervision of the department:
 - a. Locally administered economic assistance programs;
 - b. Replacement programs with substantially similar goals, benefits, or objectives; and

- c. When necessary, experimental, pilot, or transitional programs with substantially similar goals, benefits, or objectives.
2. On or before February twenty-eighth of each year, each county shall report to the department the total amount of county funds expended in the previous year to meet the cost of providing human services required under this title and the number of mills that must have been levied by that county in the prior year to raise that total amount. Upon receipt of reports from all counties, the department shall determine the statewide average of the mill levies and identify each county that levied ten mills more than that average. Each identified county is entitled to a share of funds appropriated for distribution under this subsection. Each identified county's share is determined by:
 - a. Reducing its mill levy necessary to meet the costs of providing human services required under this title by the statewide average mill levy determined under this subsection plus ten mills;
 - b. Determining the amount that could have been raised in that county and year through a mill levy in the amount calculated under subdivision a;
 - c. Totaling the amounts determined under subdivision b for all counties entitled to a distribution;
 - d. Calculating a decimal fraction equal to each identified county's proportionate share of the total determined under subdivision c; and
 - e. Multiplying that decimal fraction times one-half of the biennial appropriation.
3. Notwithstanding any other provisions of law, the department shall reimburse county social service boards for expenses of locally administered economic assistance programs in counties in which the percentage of that county's average total supplemental nutrition assistance program caseload for the previous fiscal year which reside on federally recognized Indian reservation lands is ten percent or more. The reimbursement must be such that:
 - a. An affected county's actual direct costs and indirect costs allocated based on a percentage of each county's direct economic assistance and social services costs for locally administered economic assistance programs will be reimbursed at the percentage of that county's average total supplemental nutrition assistance program caseload for the previous state fiscal year which reside on federally recognized Indian reservation land not to exceed ninety percent;
 - b. The affected counties will receive quarterly payments based on the actual county direct and indirect costs, as provided in subdivision a, for the previous state fiscal year;
 - c. At the end of each fiscal year the actual quarterly payments paid must be reconciled to the current year of calculation of actual direct and indirect costs as provided in subdivision a and supplemental nutrition assistance program caseload and counties must be compensated accordingly in the first quarter of the new fiscal year; and
 - d. The reimbursement will be calculated for each county and reported to the county social service board prior to September first.

50-01.2-04. Removal of members of the board. The board of county commissioners may adopt a resolution to remove a member of the county social service board without cause.

50-01.2-05. Actions and proceedings - Duty of state's attorney. Any suit or other proceeding arising out of the administration of the laws pertaining to the support of persons eligible for county general assistance must be brought by or against the county in its corporate name. The state's attorney shall institute and conduct or defend any and all actions or proceedings that may be instituted under chapter 50-01.

50-01.2-06. Standards of administration - Action upon failure to administer - Peer review committee - Appeal.

1. The department shall adopt standards for administration for locally administered economic assistance programs and shall provide training for the implementation of those standards. Each county social service board shall provide for administration of locally administered economic assistance programs that meet those standards.
2. If a county social service board fails to provide for administration of locally administered economic assistance programs that meet the standards adopted under subsection 1, the department may take any of the following actions:
 - a. Provide training to the persons responsible for administration.
 - b. Require the county social service board to prepare and implement a corrective action plan.
 - c. Appoint a receiver to act in place of the county social service board.
3. At least thirty days before taking any action under subsection 2, the department shall provide notice of its proposed action to the county social service board and the board of county commissioners of the affected county. The notice must describe the proposed action and the reasons therefor.
4. If the county disputes a notice of proposed action, the board of county commissioners, before the effective date of the action, shall:
 - a. Request reconsideration by the department;
 - b. Propose an alternative action under subsection 2;
 - c. Request a peer review; or
 - d. Make any combination of these responses.
5. If the county's response includes a request for reconsideration or proposed alternative action under subsection 2, the department promptly shall consider that request or proposal and notify the county of its determination.
6. If the county's response includes a request for a peer review, the board of county commissioners shall name two members of a peer review committee, the department shall name two members of the peer review committee, and those four committee members shall name a fifth member of the peer review committee. At least one member of the peer review committee must be a member of a board of county commissioners and at least two members of the peer review committee must be county social service board directors or former county social service board directors. No member of the peer review committee may hold or have held office as county social service board director, or as a member of the county social service board or board of county commissioners, or be a resident of the county requesting the peer review.
7. A peer review must be based upon written submissions made by the department and the county requesting the peer review. The county submission must be made

within fifteen days after the county requests peer review, and the department's submission must be made within fifteen days after receipt of a copy of the county's submission. The peer review committee may direct written questions to the parties, and the parties shall respond in writing within fifteen days.

8. A committee member designated by the department shall chair the peer review committee. The committee shall meet at the call of the presiding officer and may meet by teleconference. Any committee action must be by motion. A decision on the county's request must be made within sixty days after receipt of the county's request, and subject to subsection 9, is binding on both parties.
9. The decision of the peer review committee is a final administrative decision. That decision may be appealed to the district court, and for that purpose, the decision must be treated as a decision on a request for rehearing made pursuant to section 28-32-40. Appeal to the district court must be taken in the manner required by section 28-32-42. The department shall submit a record consisting of:
 - a. Submissions made, and questions asked and answered, under subsection 7; and
 - b. The motion and vote upon which the peer review committee acted to decide the matter.
10. A timely dispute of a notice to appoint a receiver under subsection 2 stays that action until thirty days after issuance of a decision by a peer review committee.
11. A timely appeal of a decision by a peer review committee stays that decision until determination of that appeal.
12. A receiver appointed under this section may take any action that may lawfully be taken by the county social service board and may draw upon the human services fund.
13. Members of a peer review committee are entitled to receive compensation by the department in the amount of sixty-two dollars and fifty cents per day. The county requesting the review shall reimburse the department for one-half of that cost.