

Creating Entities

Deciding what is the best entity to create,
and how to get it organized

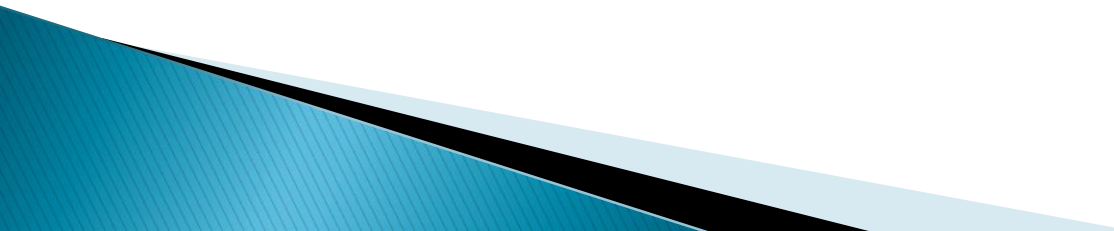
County Created Entities

- ▶ Local Districts (Title 17B)
- ▶ Community Reinvestment Agency (Title 17C)
- ▶ Special Service District (Title 17D)
- ▶ Interlocal Agency (Title 11, Chapter 13)
 Create Separate Legal Entities
- ▶ Interlocal Cooperative Agreement
- ▶ Mutual Aid Agreement
 Do not create Separate Legal Entities
- ▶ And RDA's, EDA's...

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Special Service Districts

- ▶ Legitimate districts are enumerated in statute
 - ▶ Statute lays out purpose, board makeup, and special limitations by district type.
 - ▶ Usually used when just a portion of the county requires a service, or a service is required beyond county boundaries.
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SSD Services

- ▶ Water
- ▶ Sewerage
- ▶ Drainage
- ▶ Flood Control
- ▶ Garbage Collection/Disposal
- ▶ Health Care
- ▶ Transportation
- ▶ Recreation
- ▶ Fire Protection
- ▶ Correction or Rehabilitation
- ▶ Street Lighting
- ▶ Consolidated 911
- ▶ Animal Control/Shelter
- ▶ Mineral Lease Fund Use
- ▶ Earthquake/Landslide Abatement
- ▶ Energy Efficiency
- ▶ Cemetery

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Interlocal Act

An Interlocal can provide any service the public agency is authorized to provide.

The Act allows for the creation of two different types of Interlocals

- ▶ An interlocal that creates a separate legal entity (Interlocal Agency); and
- ▶ An interlocal that does not create a separate legal entity (Cooperative Interlocal)



Interlocal Agency

- ▶ Between two or more public agencies
- ▶ Creates a separate legal entity
 - Board
 - Employees
 - Accounts
 - Compliance requirements



Interlocal Cooperative Agreement

- ▶ Between two or more public agencies
- ▶ Need not be contiguous
- ▶ Does not create a separate legal entity
 - No board
 - No separate accounts
 - No separate compliance requirements
- ▶ One entity is the administrator of the cooperative effort or service
- ▶ If you don't want to contract for service



MOU Agreements

- ▶ No statutory scheme for using an MOU, but they are used very often.
- ▶ Should not use a MOU to create a separate entity.

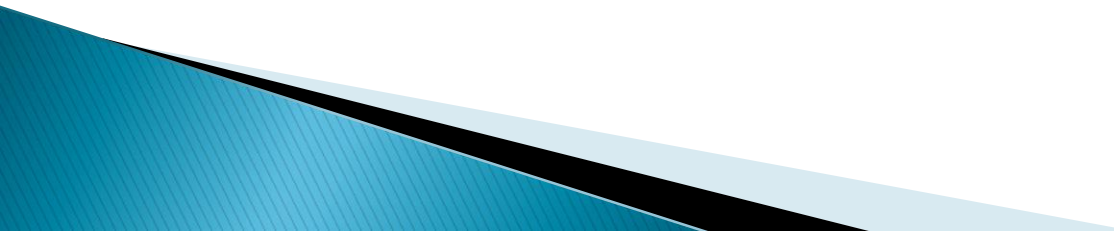


Which is best to use?

- ▶ If an area within county that needs service different than rest of county, SSD, if that service can be provided under one of the SSD types listed in statute.
- ▶ If you are crossing county lines, or will have cities or other public agencies involved in the agency, and you want the agency to have its own governing body and policies, use Interlocal agency.



New Entity Not the Goal

- ▶ If you want multiple agencies involved, but don't want to create something new, with its own board, policies... use Interlocal Cooperative Agreement.
 - ▶ Try not to use MOU. Statute allows for SSD, Interlocal Agreement and contracts, but does not reference MOU. While courts recognize MOUs, they question why this form was used. Leaves questions on compliance requirements.
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The Red Tape

- File for “Creation” with Lt. governors office or
- File Articles of Incorporation with Department of Commerce
- File tax exempt status with IRS
- File with Labor Commission
- File with Workforce Services
- File with Division of Consumer Protection (if soliciting any funds or grants)
- Secure Workers compensation (if employees or volunteers)
- Secure Liability Insurance (if separate legal entity)
- Report to State Auditors Office – annual reports



New Entity Responsibilities

- ▶ Board (appointments annually)
- ▶ Accounts (proper procedures and auditing)
- ▶ Policies (personnel, purchasing, expenses)
- ▶ Open Public Meetings Act
- ▶ GRAMA
- ▶ State Auditor's Little Handbook is a great resource.

