




# The WIOA Governance Models

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# The Players

- **CLEO:** The **chief Local elected official(s)** of the governmental units that comprise the workforce development area
  - More than one unit of government by agreement form
    - Council
    - Consortium
    - A not for Profit
- **WDB:** The **Workforce Development Board** – appointed by the elected official(s). Members serve at their pleasure
- The **CLEOs** and **WDB** are responsible for oversight, resource investment , strategic direction

# Responsibilities of the Local Elected Officials

- Request local area designation
  - Identify the chief local elected official
  - Enter into agreements with each other in multi-jurisdictional areas
  - Serve as the grant recipient or designate a sub-grant recipient
  - Appoint the members of the local workforce board
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# Responsibilities of the Local Elected Officials

- Select a fiscal agent
- Create local board by-laws
- Give voting privileges to non mandatory board members



# Fiscal Agent


- Can be County, the LWDB or 3<sup>rd</sup> party. They
  - Receive funds
  - Assure expenditures and accounting meet federal regulations
  - Respond to financial audits
  - Maintain accounting records
  - Prepare financial reports
  - Handle procurement
  - Monitor
- 3<sup>rd</sup> Party Fiscal Agent
  - Cannot act without direction from the local board/elected
  - They are not decision makers

# Responsibilities of the Local Elected Officials

- ▶ Identify who will disburse grant funds
- ▶ Liable for the funds
- ▶ Consult with the governor on the reorganization or decertification of the local board



# Joint Responsibilities of Local Elected Officials and LWDB

- Enter into an agreement regarding their roles and responsibilities - Required in FL
  - Negotiate the performance measures
  - Regional planning
  - Set policy for the local area
  - Work with the Governor in a disaster
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# Joint Responsibilities of Local Elected Officials and LWDB

- Develop the local 4 Year Plan
- Develop 2 year Plan modifications







# Joint Responsibilities of Local Elected Officials and LWDB

- Responsible for Oversight
    - Youth programs
    - Adult and dislocated worker activities
    - The local One Stop system
    - Use and management of WIOA formula funds
    - Use and management of discretionary grants
    - Use and management (investment) of funds / resources to maximize federal performance
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# Joint Responsibilities of Local Elected Officials and LWDB

- ▶ Select and terminate the One-Stop operator
  - ▶ Agree to allowing the board to serve as the one-stop operator
  - ▶ Agree to the board / governmental unit delivering WIOA Adult/Dislocated Worker services
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# Joint Responsibilities of Local Elected Officials and LWDB

- Develop the local board budget
    - This a misnomer
    - The board budget – is really the budget for the administrative entity
    - It cannot and should not be developed in isolation of legislative required expenditures
  - Decide on use of non-federal funds
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# Joint Responsibilities of Local Elected Officials and LWDB

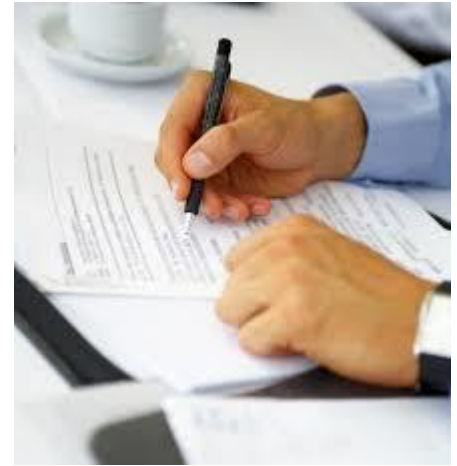
- Develop and enter into an MOU with the One Stop partners
  - Approve optional One Stop partners
  - Negotiate infrastructure costs
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# Local Boards


- Elect their chair – some areas include input from their chief elected official
- Appoint their committee members
  - Certain committees require non-board members
- Direct the activities of their standing committees
- Chair their committees

# Local Boards

- Analyze economic conditions
- Analyzing labor market information
- Research, and analyze data collection, needed by the local workforce system



# Local Boards

- ▶ Adopt strategies to engage employers and develop employer linkages
  - ▶ Serve as a convener for employers, economic development, and education
    - ▶ To identify the skills' needs of the local workforce
    - ▶ To ensure workforce activities meet employer needs
    - ▶ To support economic growth
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# Local Boards

- Convene stakeholders in the workforce system
  - As part of the local plan process
  - To identify non-federal resources
- Lead efforts to develop career pathways
- Share promising practices



# Local Boards

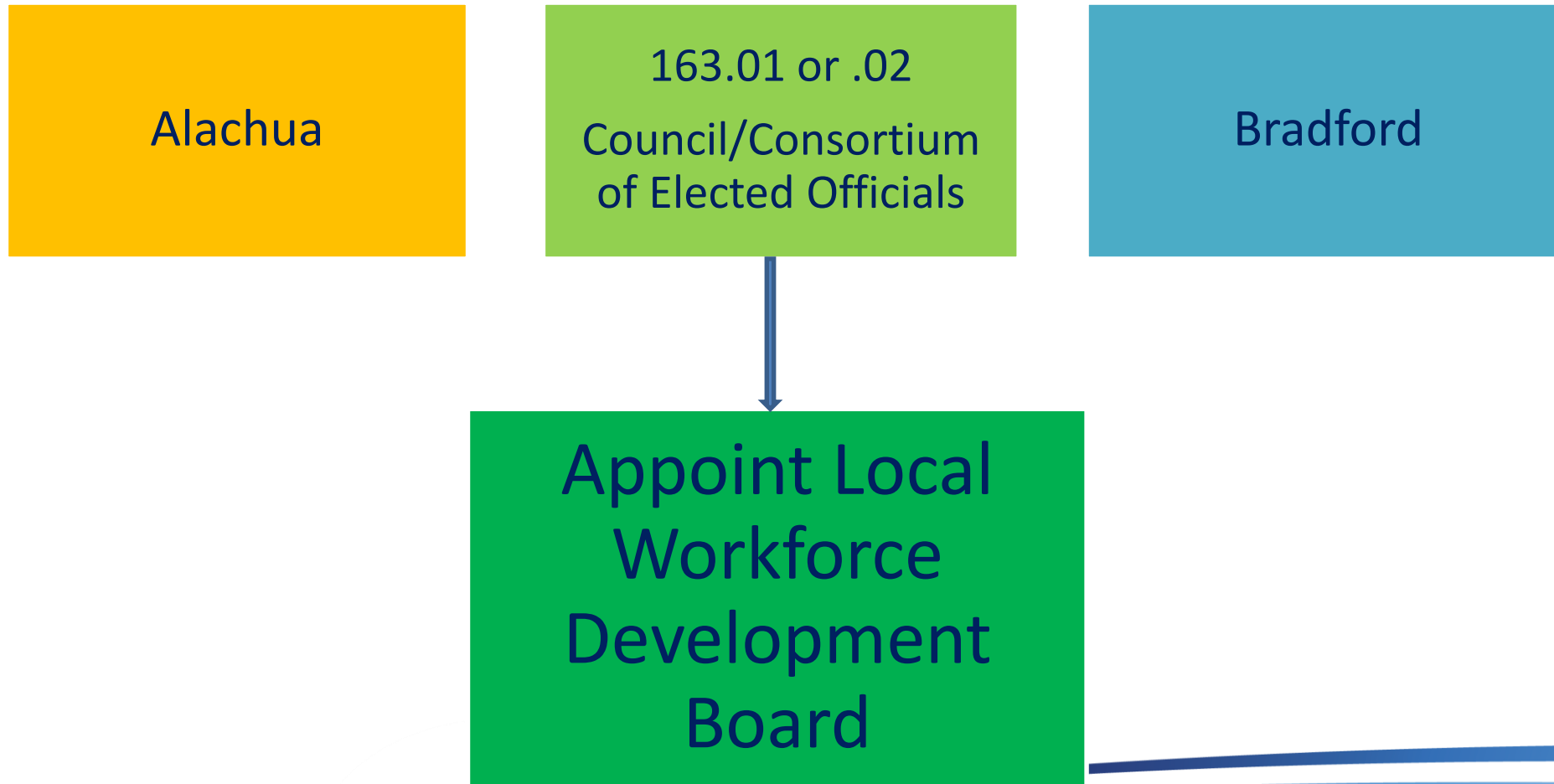
- Decide to devote resources
  - To assure one-stop accessibility
  - To upgrade one-stop technology
  - To upgrade services technology
- Leverage local resources to increase capacity

# The Administrative Entity

- The staff that carries out the policies of the Board and Elected Officials
- Responsible for preparing the Agenda, noticing meetings & maintaining the minutes for the Board and its committees
- Responding to the state
- Drafting the 4 Year Plan pursuant to WDB/Elected Official Vision, Mission, Goals
- Carrying out oversight on behalf of the Board and Electeds
- When also the fiscal agent – carry out fiscal responsibilities

# The Governance Choices

# Governance Decision # 1



# Question 1: How Will the Counties Organize?

- ❖ Where there is more than 1 Unit of local government, as here, then two general options:
  - ❖ **FS 163.01 Interlocal Agreement**
  - and
  - ❖ **FS 163.02 Council of Local Elected Officials**

# Question 1: How Will the Counties Organize?

## ❖ FS 163.01 Interlocal agreement

- ❖ May create a separate administrative entity with sovereign immunity same as governmental units, or
- ❖ May house the administrative entity in either of the governmental units, or
- ❖ May designate another legal entity such as the Workforce Board
- ❖ Administrative entity has broad powers except police and taxing powers

# By Inter-local Agreement - Per FS 163.01

- ❖ Great flexibility in creation or selection of entity to carry out its functions
- ❖ Can create a separate administrative entity to serve as the administrative entity for the board and the elected officials
- ❖ Can select one of the governmental units to house the staff that serves as the administrative entity
- ❖ Can select the board to be the administrative entity
- ❖ Broad powers

# By Formation of a Council

- ❖ **FS 163.02 Governmental units form a Council of Local Elected Officials by Resolution**
  - ❖ Council must be organized as a not for profit corporation
  - ❖ The Elected Chief Executive of each member government is the representative on the Council
  - ❖ Powers are sufficient to execute responsibilities under WIOA



# By Formation of a Council

- ❖ May employ staff
- ❖ Statutes do not provide for the creation of a separate administrative entity
- ❖ No provision for outside entity to serve as staff to the Council - WDB staff may not be able to serve as staff to the Council
- ❖ Either of the governmental units can provide staff support
- ❖ The staff of the Council could serve as the administrative entity for the electeds and the WDB
- ❖ The WDB can serve as the administrative entity and hire its own staff.

# Considerations

- ❖ Generally not good for there to be 2 separate staffs, 1 for the elected officials and 1 for the WDB
  - ❖ 2 Kings in 1 Kingdom Syndrome – civil war
  - ❖ Separate staffs – expensive
- ❖ Recommendation
  - ❖ Terminate existing interlocal agreement which does not clearly specify the powers and authorities of the local governmental units as required by WIOA
  - ❖ Enter into an interlocal agreement under FS 163.01 as it has the most flexibility to select a governance structure

# Governance Decision #2

Dual  
Consortium

Agreement

WDB

Describes who  
will do what

## Question 2: How to Organize the LWDB

- To incorporate or not to incorporate, that is the question

# To Incorporate or Not to Incorporate?

## That is the Question

- Current status of LWDB 9
  - Not incorporated
  - Executes it's role as an Advisory Board.
  - As an advisory board it can employ staff but difficult to provide benefits.
  - In WIOA World – Advisory Board staff usually works for the County or City.
  - If an interlocal agreement is entered into counties can create separate administrative entity to serve the board and elected officials.

# ...Or Not to Incorporate

- Many successful boards do not incorporate
- Often the staff is imbedded in County or City Government – so the corporate structure is not necessary
- As an Advisory Board, the WDB is covered by the governmental unit's insurance policies
- Many states have statutes that cover volunteer boards FS 768.1355 and limit liability of the members.
- Can still execute their responsibilities

## ... Or Not to Incorporate

- Members are joined for a common, nonprofit purpose.
- Not automatically tax exempt but can file for exempt status with the IRS – however loses flexibility
- Not always formed for charitable purposes
- They can draft formation agreements like articles & by-laws
- Not required to hold annual meetings and filings like corporations
- Florida Sunshine and Public Records laws/WIOA requirements apply

# ...Or Not to Incorporate

- Usually formed
  - To handle small operations
  - Where there are a limited number of transactions
  - Where donations will be fairly limited
- Workforce Boards
  - Are not always the fiscal agent
  - Where the Board is not the fiscal agent they will have limited or no transactions
  - Most often do not solicit funds although WIOA allows fund raising



# Unincorporated Boards

- Usually not eligible to apply for grants
- Unlikely to employ staff
- Would not serve as the fiscal agent
  - Would find it difficult to purchase insurance
- Wont be subject to the complicated record keeping required of 501 (c)(3) entities

# To Incorporate...

- ❖ Just because the WDB incorporates
  - ❖ It does not have to be the fiscal agent – designation of the fiscal agent is a CLEO “only” decision
  - ❖ It does not have to employ staff
  - ❖ Can decide with the CLEO’s how much responsibility it will assume
  - ❖ Even though WIOA allows boards to employ staff, in WIOA World the board cannot set its budget without CLEO approval – this can dictate staff composition
- ❖ As an entity there are advantages to incorporation

# To Incorporate!

- ❖ WIOA allows local boards to incorporate
- ❖ Corporations are separate legal entities from the organizers
- ❖ The corporate shell
  - ❖ Protects members from personal liability
  - ❖ Protects employees from corporate debts or lawsuits.
  - ❖ Florida statutes protect not for profit board members
- ❖ Creditors can go after corporate assets, not personal assets of Board members, employees or volunteers

# To Incorporate!

- 501 (c)(3) corporations
  - Eligible for federal, state and local tax exemptions
  - Eligible for many business discounts
  - Can accept donations which are tax-deductible.
  - Many foundations and government agencies limit grants to public charities - easier for Corps
  - Continues to exist beyond the lifetime or involvement of the original incorporators

# Disadvantages

- The nonprofit corporation takes time, effort, and money to sustain
- Nonprofit corporations must keep detailed records and submit annual filings to the state and IRS
- In WIOA World, 501(c)(3) corporations serving as the Fiscal Agent have additional record keeping requirements
- Incorporators like to shape and control their creations, but personal control is limited.
- Nonprofit corporations are subject to laws and regulations, including its own articles of incorporation and bylaws.

# Disadvantages

- Nonprofit corporations are:
  - Dedicated to the public interest.
  - Its finances are open to public inspection.
  - The public may obtain copies of a nonprofit organization's state and Federal filings.
  - The public can have access to information about salaries and other expenditures.
- In WIOA World, the corporate shell does not protect the WDB from complying with Florida Sunshine and Public Records Acts

# Considerations

- A WDB can incorporate to take advantage of:
  - Protection from personal liability
  - Ability to accept donations
  - Apply for grants
- Still do not have to:
  - Serve as the Fiscal Agent
  - Employ Staff

# To Incorporate or Not to Incorporate, that is the Question!

- Recommendation: Incorporate the LWDB as a 501(c)(3)
  - Incorporation provides the greatest flexibility with respect to governance options
  - Incorporation in and of itself does not determine the governance model
  - It is an allowable WIOA cost



# Staffing Option 1.a.: County Staff as AE, Fiscal Agent and Service Provider

- One of the Counties serves as the fiscal agent
  - Employs the staff that serves as the administrative entity for the Elected Officials and the WDB
  - Manage the one-stop system and is the WIOA Title I Adult/Dislocated Worker Service Provider

# Pros

- Generally very secure fiscal environment
- Familiar with procurement and other compliance requirements
- Familiar with Sunshine and Public Records Acts Requirements
- Grants run through the governmental unit and pay their fair share
- Can take advantage of County services i.e. employee benefits, Human Resources
- Can more easily integrate with County Social Services

# Cons

- Bureaucracy is not agile - On the Job Training, Participant payments can be delayed
- Takes work to make sure WDB is invested in the system
- Investments in Board initiatives may be limited because grants are supporting a government department or division
- Hard to shake off “governmental” perception in the community
- Adds to County Government may impact seniority, bumping, collective bargaining etc.

# Staffing Option 1.b.: County Staff as AE and Fiscal Agent – No Services

- One of the Counties serves as the fiscal agent
  - Employs the staff that acts as the administrative entity for the Elected Officials and the WDB
  - Will procure a Sub-Grant Recipient to manage the one-stop and deliver WIOA Title I Adult & Dislocated Worker Career Services

# Considerations

- In Option # 1b the Council of Elected Officials and WDB select the service provider that will be delivering services
  - Can be a private for profit corporation
  - Can be a not for profit or community based organization
  - Can be another government entity
  - And many other options
  - Can build flexibility and facility into the service provider agreement
  - Takes the system - NOT ADMINISTRATIVE ENTITY – out of the bureaucracy

# Staffing Option 1.c.: County Staff as AE, Some Services, not Fiscal Agent

- Select a third party fiscal agent – not the WDB or County
- One of the Counties would:
  - employ the staff that serves as the administrative entity for the Elected Officials and the WDB
  - Will be the WIOA Title I Adult/Dislocated Workforce Service Provider
    - Or
  - Will procure a service provider

# Considerations

- By assigning the fiscal responsibilities to an independent 3<sup>rd</sup> party [i.e. – Audit/Accounting Firm]
  - Purchase payment flexibility not usually in found in government
  - Can select entity with experience and safeguards to handle fiscal transactions and reporting
  - Leaves the Elected Officials and WDB to make all decisions

# Staffing Option 2:

## An AE created by Inter-local Agreement

- Create a separate §163.01, F.S. administrative entity
  - Will employ the staff that acts as the administrative entity for the Elected Officials and the WDB
  - Will be the fiscal agent
  - Will be the WIOA Title I Adult/Dislocated Workforce Service Provider
- or
- Will procure a service provider

# Pros

- The entity has same sovereign immunity as Counties
- Independent of the bureaucracy
- Has great powers under FS 163.01
- Enter into contracts
- Own Property
- Accept grants, or donations
- Same powers of governments except tax or police
- Elected and LWDB can jointly select (hire) administrative entity leadership
- Ownership of the system appears more evenly divided
- Can participate in county HR benefits

# Cons

- Administrative entity still has indicia of government
- Creating a new entity – start from scratch
- Decide on the structure



# Staffing Option 3.a.:

## The WDB hires W-2 Employees

- The WDB will serve as the
  - Fiscal Agent
  - Will employ the staff that acts as the administrative entity for the Elected Officials and the WDB
  - Will be the WIOA Title I Adult/Dislocated Workforce Service Provider or will procure the provider

# Pros

- Independent of the bureaucracy
- Will not increase # of County employees
- Flexible/Nimble in its movements
- Bring strategic big picture perspective to decisions
- Can call meetings easily to respond to immediate turns in the economy and adjust strategies
- Easier to attract members
- Members feel more invested when they have more control
- Direct oversight over services

# Cons

- Responsible for compliance – government compliance very different than private sector
- Still must have elected official agreement on major aspects of WIOA
- Challenge to keep Elected Officials informed and involved - don't always see the connection to workforce system agenda – with no oversight boards have gone astray
- Can be expensive to operate as must build an organization from scratch
- Does not have resources of a governmental unit to assist with fiscal,
- Information technology, marketing

# Staffing Option 3 +: Many Permutations

- As with Governance models 1 and 2 the fiscal agent does not have to be the Board even if the Board is the grant recipient
- There are choices with respect to the entity selected to deliver services and manage the one-stop system.
- This comparison does not address issues like the one-stop operator, youth services, TANF and coordination of Wagner Peyser (Job Service)

# Questions

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