

**BOARD OF SUPERVISORS
BUSINESS MEETING
INFORMATION ITEM**

SUBJECT: Form of Government Overview

ELECTION DISTRICT: Countywide

STAFF CONTACTS: Charles Yudd, Deputy County Administrator
David Street, County Administration

PURPOSE: To provide the Board of Supervisors (“Board”) with a summary of staff’s research on forms of government available to Loudoun County, the process by which the County could change its form of government, and a preliminary analysis of what organizational and fiscal impacts could occur from such a change.

BACKGROUND: At its Business Meeting on July 21, 2020, the Board directed staff (6-3; Supervisors Buffington, Kershner, and Umstattd opposed) to study changing Loudoun County’s form of government, develop a list of governing and law enforcement options for Board of Supervisors’ consideration, specifically including the establishment of a Loudoun County Police Department in all options, and submit a report to the Board not later than the second Board Business Meeting in April 2021.¹

While staff was examining potential operating issues associated with a change to the form of government, staff simultaneously sought consultant services to make professional and impartial recommendations associated with the governance and delivery of law enforcement services in the County, pursuant to the July 21, 2020, Board direction. The procurement process was limited to seeking qualified firms to study the possible establishment of a police department. After extensive procurement efforts, and evaluation of multiple proposals by a Proposal Analysis Group (“PAG”) consisting of the Board Chair, the Sheriff, and the Deputy County Administrator, the PAG unanimously selected the International Association of Chiefs of Police (“IACP”), as a vendor best qualified to provide the requested study. A thorough effort is expected to be conducted by IACP over the next 7-10 months with a preliminary report issued to the County in November 2021 and a final report presented to the Board in February 2022. It is anticipated that should the Board further pursue either a form of government option that includes a police department, or a referendum question to establish a police department under the current traditional form of government, that the results of the consultant study will help inform that process. Staff will provide status updates to the Board as IACP moves forward with their work program.

¹ [July 21, 2020 Business Meeting Item 5 Options for Changing Form of Government and Establishing a Police Department.](#)

Loudoun County operates under the traditional form of government, which provides for an elected Board of Supervisors, a County Administrator appointed by the Board at its discretion, and the election of all five constitutional officers required by the Constitution of Virginia. The traditional form of government was established under the Reconstruction Constitution of 1870 and is the form most widely in use by counties in the Commonwealth. Under the traditional form, the Board has the powers and responsibilities conferred by general law. In addition to the traditional form, the Code of Virginia (“Virginia Code” or “Code”) establishes six optional forms or organizations of government for counties, each with distinguishing characteristics: the county board form, the county executive form, the county manager form, the county manager plan, the urban county executive form, and a County Charter. Unless otherwise noted, code references contained herein are to the Virginia Code. The key attributes of each form are summarized, with references to the Code, in the table provided as Attachment 1 and are generally described in Section III. Observations regarding potential organizational impacts of each form with respect to Loudoun County is provided in Section V.

Section I: The Traditional Form of Government

The traditional form of government is the form of government provided for counties in general law and is the predominate form of county government in use in Virginia; 83 of the Commonwealth’s 95 counties use the traditional form of government. Unlike the optional forms of government, there is not a single chapter in the Code that governs how the form is implemented; authority and provisions for government are interspersed throughout the Code. Under the traditional form, residents elect five constitutional officers and the Board may appoint a County Administrator and County Attorney. In the traditional form of government, the Board is responsible for the legislative and administrative affairs of the County.² Counties operating under the traditional form of government are subject to general law. Counties operating under optional forms have specific chapters and provisions in the Virginia Code that allows or requires alternative means of service delivery and administration or provides other authority that may differ from general law. Unless otherwise specified in the Code, general law applies to counties operating under optional forms of government. This accounts for the divergence that may be observed between an optional form of government as provided for in Code and how the form is implemented in a given county.

Before describing the optional forms of government in greater detail, it is worth noting that, over time, Loudoun County has sought modification to how it implements the traditional form to meet the needs of the day. Some of these changes come in the form of local options that the Board may undertake as provided in Virginia Code, some require a referendum or voter approval processes, while others require enabling legislation or an act of the General Assembly. Attachment 1 contains further examples of how Loudoun implements the traditional form of government.

Virginia Code provides for the at-large election of the presiding officer of the Board, subject to approval by voter referendum. In 1990, a referendum was held on the question of establishing a chair at-large in Loudoun County rather than selecting the chair from among the Board’s

² [Virginia Government in Brief 2018-2022](#)

membership. The referendum passed and the results of the referendum were implemented in May 1991 with the decennial establishment of eight single-member election districts and a chair-at-large, expanding the County's Board of Supervisors from eight to nine members. Later in the 1990s, voter approval was sought to have the Loudoun County School Board elected by residents. An election was held on November 8, 1994 and the measure passed, creating eight single-member districts and an at-large seat.

In 2011 and 2014, the Board reorganized the Family Services Advisory Board ("FSAB") and Community Services Board ("CSB"), respectively.^{3,4} In each case, these boards held administrative responsibilities for local policy decisions, oversight of service provision, and in the case of the FSAB, the appointment of the social services director. In both cases, the Board dissolved the administrative board and created an advisory body. Staff reports from that time cited the time-sensitive nature of social service provision, clarification of oversight, and the potential efficiencies gained by vesting authority of these boards in the County Administrator.^{5,6} In both instances, the memberships of these two bodies unanimously recommended to the Board that the administrative nature of the body be changed.

On October 13, 2020, the Finance/Government Operations and Economic Development Committee ("FGOEDC") was presented with an information item on the subject of library governance.⁷ Currently, Loudoun County Public Libraries ("LCPL") is governed by the Library Board of Trustees ("LBOT") as is provided for in § [42.1-35](#), which vests the LBOT with the management and control of the library system. Section [42.1-36](#) provides for an exception to library governance by LBOT for those with a county manager, county executive, urban county manager, or urban county executive form of government, any county that has adopted a Charter, as well as the counties of Caroline, Chesterfield, and Shenandoah. Should the Board wish to assume direct responsibility for the library system, the Board could seek an amendment to § [42.1-36](#) to add Loudoun County to the list of exempted counties. Attachment 1 provides organizational information for library boards for optional forms of government.

In 2021, the County gained General Assembly authorization to enter into a contract with the Virginia Department of Health for the local administration of local health services. Currently, the local department of health is operated as a joint venture between the state and local government. The purpose of this request was to provide necessary enabling authority to allow the local

³ § [63.2-305](#) provides the governing body the option to appoint a local government official to act as the local social services board.

⁴ § [37.2-500](#) provides for how CSBs operate and what services are to be provided; the governing body, in consultation with the CSB, "shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board."

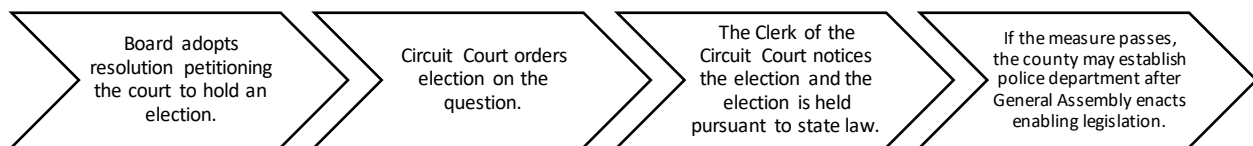
⁵ [January 31, 2011 Board of Supervisors Action Item 6 Proposed Change to the Loudoun County Department of Family Services Board from Administrative to Advisory](#)

⁶ [September 3, 2014 Board Business Meeting Item Ordinance to Change Designation of the of the Loudoun County Community Services Board from "Administrative Policy" to "Policy Advisory" Board](#) and [November 12, 2014 Public Hearing Staff Report 5 Ordinance to Change the Designation of the Loudoun County Community Services Board from "Administrative Policy" to "Policy Advisory" Board](#)

⁷ [October 13, 2020 FGOEDC Item 3 Library Governance](#)

governing body to operate the local health department, pursuant to the terms of a contract, with local appropriations and any state funds made available. Local administration will specifically allow the County to address efficiency and parity issues with health department employees, and limit duplication of efforts.

Virginia Code prescribes a process for counties using the traditional form of government to establish a local police department following a petition to the court and voter referendum. § [15.2-1702](#) requires that the establishment of a county police force be approved by the voters and that appropriate authorizing legislation be enacted by the General Assembly. If the Board wished to establish a county police department, the Board would petition the court, by resolution, asking that a referendum be held on the question, “Shall a police force be established in the county and the sheriff’s office be relieved of primary law-enforcement responsibilities?” The court would order the election and the election would be held pursuant to law. If the measure passes, the county would then proceed to establish a police force following the enactment of authorizing legislation by the General Assembly. This process, generally, is visualized below:



Section II: Prior Evaluations of Loudoun County’s Form of Government

The Board has evaluated the County’s administrative structure, in whole or in part, several times in recent decades. The two most prominent and comprehensive efforts are the 2012 Government Reform Commission and the 1990 Blue Ribbon Committee on County Government.

2012 Government Reform Commission: At its January 3, 2012 Business Meeting, the Board created the Government Reform Commission (“GRC”).⁸ The GRC’s adopted mission statement was to “conduct an objective review of Loudoun County government functions, taking into account citizen input and best practices from other locales, in order to make recommendations regarding structure, process and efficiency that would enhance the quality of local government in a cost-effective manner.” Of specific relevance to this initiative, the GRC examined certain elements of the county’s administrative function, including the appropriate housing of the assessment function, how public safety/law enforcement functions are provided, and how other services might be consolidated, modified, or improved.⁹

The GRC issued a number of recommendations that were adopted in whole or in part by the Board. Recommendations relative to the Board’s current consideration of form of government include those regarding law enforcement services and those regarding the real estate assessment function. The GRC issued a memorandum dated November 1, 2012 which “strongly recommends that the

⁸ [January 3, 2012 Business Meeting Board Member Initiative: Loudoun County Government Reform Commission](#)

⁹ A comprehensive archive of the GRC’s work is available [online](#).

Loudoun County Board of Supervisors maintain the current structure of a Sheriff's Office without adding a Police Department." One of the reasons provided by the GRC for this recommendation was the potential to duplicate administrative services for a Sheriff's Office and Police Department, thereby increasing the cost of the provision of law enforcement services in the County. An additional reason cited by the GRC was the effect of politics on a potential police department, "while some may view the position of Sheriff as political (or politicized) because it is an elected constitutional office, this may serve to provide a benefit in the rapid change and growth of Loudoun County and its attendant pendulum politics, in that the voters always have the recourse of removal if they consider it warranted. An appointed Police Chief could be viewed as equally political, in that he/she is (or could be) perceived to be beholden to those who appoint him/her." The GRC questioned the reporting relationship for a potential police chief and noted that, should a police department be established, Loudoun "would be the largest and most populous county in the state to have that system of law enforcement, while still operating under the Traditional Form of County Government."¹⁰

Similarly, the GRC considered the duties of constitutional officers and found that the real property assessment function should revert to the Commission of the Revenue. The reasoning behind this recommendation was one of a balance of power – the GRC noted that the Board had direct control over both the tax rate and property valuations (through the County Assessor). Further, the GRC noted that moving the assessment function to the Commissioner of the Revenue would provide more direct accountability to tax-paying residents, thereby increasing the quality and efficacy of the assessment function. The GRC made a number of observations about the comparative importance of the function and the prominence of an elected office, consolidation of administrative services, record keeping, and public interface.¹¹ The GRC made its final presentation to the Board and was dissolved in June 2013.

1990 Blue Ribbon Committee on County Government: On February 27, 1990, the Board of Supervisors formed the Blue Ribbon Committee ("BRC") comprised of members of the League of Women Voters, the local Bar Association, the local academic community, the Democratic and Republican parties, and the general public. The BRC was to review the current organizational form of government in Loudoun County. After the review, the BRC developed a report, "No Longer Can We Byde Our Time," dated September 4, 1990 in which the BRC provided 15 recommendations on the structure of the County's government to the Board. Many of the recommendations enumerated in this report inform how the County government operates today, including the recommendation to establish the Chair At-large, provide the Chair with powers to set meeting agendas, appoint committee members, and to provide an annual state of the county address. Additional recommendations of the BRC included establishment of a Board Strategic Plan, establishment of staff (legislative) aides, confirmation of single-member districts, and recommendations specific to constitutional offices and optional forms of government.

¹⁰ [Government Reform Commission Recommendations Regarding Sheriff's Office, November 1, 2012](#)

¹¹ [Government Reform Commission Recommendations on the County Assessment Function, August 31, 2012](#)

Regarding constitutional officers, the recommendation from the BRC was, “For the time being, the county should retain the offices of treasurer, commission of the revenue, sheriff, clerk of the circuit court, and commonwealth’s attorney and should continue to fill those offices by popular election.” The BRC contextualizes this recommendation by noting that, “The day may come, however, when the efficient management of a metropolitan county makes it inadvisable to adhere to the present arrangement.”

With respect to optional forms of government, the BRC recommended that “At this time, Loudoun County should not adopt any of the optional or special forms of county government that are now (or may soon become) available to it under Virginia law.” The BRC noted that: 1) the committee saw no need to modify the county’s structure with regard to constitutional officers, 2) that Loudoun’s County Administrator functions similarly to that in other forms, 3) the Board retains control of the County while having leeway to delegate to the County Administrator or not, 4) there were no apparent benefits to optional forms for the County at the time, 5) only one form would create an independently elected Chair (a primary focus of the BRC) but that form eliminates two constitutional officers and 6) no optional form addressed the major issues of the day. Similarly, the BRC recommended against seeking a charter from the General Assembly, however noted that a charter may offer advantages over the traditional form with respect to fashioning a governmental structure for Loudoun. That said, the BRC also acknowledged that getting a charter approved by the General Assembly could be a difficult proposition and it was unclear if a charter, or other form, would offer significant enough differences to current operations to justify the effort.¹²

Section III: Optional Forms of Government

Virginia Code provides for optional forms of government that counties may use in place of the traditional form. Some optional forms have specific requirements which must be met before a county can qualify to transition to that form; the urban county executive form requires a population of at least 90,000 and the county manager plan requires a population density of at least 500 persons per square mile. Loudoun County qualifies for all optional forms; Loudoun’s 2020 forecast population is 423,046 and those forecasts place Loudoun’s population density at 813.55 persons per square mile.¹³ The following provides a summary of the general and distinguishing characteristics of each form or organization and is provided in greater detail in Attachment 1.

1. *The County Board Form:* The county board form is similar to the traditional form except that the board is required to appoint a county administrator; the traditional form provides the option, but not the requirement, to appoint a county administrator. The size of the Board is not defined; however, one member is elected at-large and the balance are elected by single-member magisterial or election district. The chairman is elected from the Board’s membership. The Board serves as the policy determining body of the county. This form retains all five constitutional officers and does not require the creation of a police department. While there is some difference with respect to statutory authority of the County

¹² “[No Longer Can We Byde Our Time](#),” Report of the Blue Ribbon Committee September 4, 1990

¹³ Department of Finance and Budget, Metropolitan Washington Council of Governments Round 9.2 Cooperative Forecast.

Administrator and the composition of the governing body, the county board form has similarities to how Loudoun currently operates. That said, staff notes that the form places limits on the compensation for Board members; § [15.2-404](#) provides that the board chair shall receive compensation of not more than \$3,000 per year and that each other board member shall receive no more than \$2,700 per year. This form is used today in the Counties of Scott, Carroll, Grayson, and Russell.

If the Board wished to change to the county board form, the Circuit Court must be petitioned by Board resolution or 10 percent of voters of the county; the court must order the election; an election must be held; and the question must pass for the change in form to take effect. Should the Board desire to change to the county board form and establish a police department, a separate ballot question would be required in addition to the question on the change of form because the Code does not require a police department as part of the form. This process is described in greater detail in Section IV and Attachment 2.

- The County Executive Form:* A county using the county executive form is governed by a three-to-nine-member “Board of County Supervisors” who serve as the policy determining body of the county. All members may be elected at-large or by magisterial/election district and if members are elected by district, a chairman may be elected at-large following a referendum. This form retains three constitutional officers: Sheriff, Clerk of the Circuit Court, and Commonwealth’s Attorney. The duties of the Treasurer are performed by the County’s Director of Finance. The duties of the Commissioner of the Revenue are performed by the Director of Finance or an appointed County Assessor, should the Board choose to create a Department of Assessments rather than consolidate functions under the Director of Finance. The county executive form requires the creation of a Department of Law Enforcement, which consists of police officers appointed by the Board unless the Board authorizes a department head to so appoint. This form is currently used by Albemarle and Prince William counties.

If the Board wished to change to the county executive form, a petition must be filed in the Circuit Court, within 90 days of the first signature, by 20 percent of voters who voted in the last presidential election; the court must order the election; an election must be held and the questions of form of government and the abolition of the office of Treasurer and Commissioner of the Revenue must pass for the change in form to take effect. This process is described in greater detail in Section IV and Attachment 2.

- The County Manager Form:* A county using the county manager form is governed by a three-to-nine-member Board of Supervisors who serve as the policy determining body of the county. All members are elected at-large or by magisterial/election district with one member elected at-large, as determined by the referendum establishing the use of the form. The chairman is elected from among the Board’s membership. Like the county executive form, this form retains only three constitutional officers: Sheriff, Clerk of the Circuit Court, and Commonwealth’s Attorney. The duties of the Treasurer are performed by the County’s Director of Finance. The duties of the Commissioner of the Revenue are performed by the

Director of Finance or an appointed County Assessor, should the Board choose to create a Department of Assessments rather than consolidate functions under the Director of Finance. This form does not require the creation of a police department. Under this form of government, the county is responsible for construction and maintenance of county roads and bridges. More information on this responsibility is included in Section V of this item. Other departments which are authorized but not required include public safety, public utilities, and any other “deemed necessary.” This form is used only by Henrico County.

If the Board wished to change to the county manager form, a petition must be filed in the Circuit Court, within 90 days of the first signature, by 20 percent of voters who voted in the last presidential election; the court must order the election; an election must be held and the questions of form of government and the abolition of the office of Treasurer and Commissioner of the Revenue must pass for the change in form to take effect. Should the Board desire to change to the county manager form and also establish a police department, a third ballot question would be required because the Code does not require a police department as part of the form. This process is described in greater detail in Section IV and Attachment 2.

4. *The County Manager Plan:* A county using the county manager plan is governed by a five-member Board of Supervisors that possesses general power of management and shall also have the powers conferred by general law on city councils. All members are elected at-large and may be elected by rank-choice/instant runoff voting.¹⁴ The chair is selected from among the Board’s membership. In this form, all five constitutional officers are retained, and this form does not require the creation of a police department. This form does not transfer any of the responsibilities from the Treasurer or Commissioner of the Revenue to the Director of Finance upon adoption. The county manager plan has several departments which are authorized but not required, including a civil service commission and commission on human rights. This form is used only by Arlington County.

If the Board wished to change to the county manager plan, the Circuit Court must be petitioned by Board resolution or 10 percent of voters of the county; the court must order the election; an election must be held and the question must pass for the change in form to take effect. Should the Board desire to change to the county manager plan and establish a police department, a separate ballot question would be required in addition to the question on the change of form because the Code does not require a police department as part of the form. This process is described in greater detail in Section IV and Attachment 2.

¹⁴ Within in the context of Virginia Code § [15.2-705.1](#), instant runoff voting means a method of casting and tabulating votes in which (i) voters rank candidates in order of preference, (ii) tabulation proceeds in rounds such that in each round either a candidate or candidates are elected or the last-place candidate is defeated, (iii) votes for voters' next-ranked candidates are transferred from elected or defeated candidates, and (iv) tabulation ends when the number of candidates elected equals the number of offices to be filled.

5. *The Urban County Executive Form:* A county using the urban county executive form is governed by a five-to-eleven-member Board of Supervisors, elected by district, that serves as the policy determining body of the county. The Board chairman is elected at-large. This form retains three constitutional officers: Sheriff, Clerk of the Circuit Court, and Commonwealth’s Attorney. The duties of the Treasurer are performed by the County’s Director of Finance. The duties of the Commissioner of the Revenue are performed by the Director of Finance or an appointed assessor, should the Board choose to create a Department of Assessments rather than consolidate functions under the Director of Finance. The urban county executive form requires the creation of a department of law enforcement. This form is used only by Fairfax County.

If the Board wished to change to the urban county executive form, a petition must be filed in the Circuit Court, within 90 days of the first signature, by 20 percent of voters who voted in the last presidential election; the court must order the election; an election must be held and the questions of form of government and the abolition of the office of Treasurer and Commissioner of the Revenue must pass for the change in form to take effect. This process is described in greater detail in Section IV and Attachment 2.

6. *The Charter County:* As previously reported to the Board, counties with charters have minor variations from the traditional or county board forms. A charter must be approved by a two-thirds vote of each house of the General Assembly and the Governor. Any changes to a charter must be approved by the same process. The table provided as Attachment 1 does not reference the Charter county because the characteristics of that governmental organization are dependent upon the approved charter. Currently the counties of Roanoke, Chesterfield and James City operate under charters.

Form Change Requirements Summary				
	Circuit Court Petition Requirement	Police Department Required?	Constitutional Offices Abolished	Referenda Questions Required
County Board Form	Board or 10 percent of voters	No	None	<ul style="list-style-type: none"> • Question on form
County Executive Form	20 percent of voters	Yes	Treasurer and Commissioner of Revenue	<ul style="list-style-type: none"> • Question on form • Question on constitutional offices
County Manager Form	20 percent of voters	No	Treasurer and Commissioner of Revenue	<ul style="list-style-type: none"> • Question on form • Question on constitutional offices
County Manager Plan	Board or 10 percent of voters	No	None	<ul style="list-style-type: none"> • Question on form
Urban County Executive	20 percent of voters	Yes	Treasurer and Commissioner of Revenue	<ul style="list-style-type: none"> • Question on form • Question on constitutional offices

Section IV: Changing Forms

A county may adopt one of the optional forms of government provided for in Chapters 4 (county board), 5 (county executive), 6 (county manager), 7 (county manager plan) and 8 (urban county executive) of Title 15.2 only after approval by voter referendum as required by §§ [15.2-300](#) and [301](#). The steps which must be taken to change a county's form of government are described below; hyperlinks to applicable Code sections are included for ease of reference. Attachment 2 provides a graphic representation of this process.

Generally, a referendum to change a county's form of government can be initiated by filing with the Circuit Court either 1) a petition signed by at least ten percent of the voters of the county, asking that a referendum be held on the question of adopting one of the forms of government or 2) a resolution passed by the board of supervisors asking for a referendum (§ [15.2-301](#)).

When the change to the form of government would result in the abolition of a constitutional office (for example with adoption of the county executive, county manager or urban county executive forms), only voter petitions may be used to request a referendum. The petitions would request that a referendum be held to authorize a request for a special act by the General Assembly to abolish the named office(s) and must be signed by qualified voters of the county "equal in number to 20 percent of the total vote cast in the county for presidential elections in the last preceding presidential election." The petitions must be filed with the court within 90 days of the first signature in the petitions, and they must show the date each signature was affixed (§ [24.2-685](#)). In the 2020 presidential election, 225,625 ballots were cast in Loudoun County, which means that the petition to change to a form of government that abolishes the offices of the Treasurer and Commissioner of the Revenue must be signed by 45,125 voters.¹⁵

Notwithstanding any other provisions of law, § [24.2-684](#) governs referenda and requires that the question to appear on the ballot be in plain English as that term is defined in § [24.2-687](#).

Upon the filing of a valid petition requesting a change in a County's form of government that would abolish a constitutional office, the court shall order the election and in that order state the question to be placed on the ballot as follows: "Shall the County of _____ be authorized to change its form of government to one which would eliminate the elected office(s) of _____?" The court shall order the referendum to be held at the next general election for members of the governing body of the county held at least 81 days after the date of the order (§ [24.2-686](#)).¹⁶

If a referendum is conducted pursuant to § [24.2-685](#) with respect to the abolition of a particular office, no other referendum seeking to abolish the same office shall be held in the same county for a period of eight years. No special act authorizing the abolition of any such office shall be considered by the General Assembly without court certification that a referendum has been

¹⁵ Election results for the 2020 presidential election are available [online](#).

¹⁶ While not explicitly stated, this provision is specific to the Commissioner of the Revenue and Treasurer. Staff is not aware of instances where the question would apply to other constitutional officers.

conducted pursuant to this section and that a majority of the qualified voters voting thereon have approved the request for a special act § [24.2-685](#).

Notice of the election shall be published in a newspaper having a general circulation in the county once a week for three consecutive weeks and shall be posted at the door of the county courthouse. The election must be conducted in accordance with the provisions of § [24.2-684.1](#). In addition to the certifications required by such section, the secretary of the appropriate electoral board must certify the results to the Commission on Local Government (§ [15.2-301](#)). As referenced above, prior to adopting an optional form of government provided for in Chapter 5 (county executive), Chapter 6 (county manager), or Chapter 8 (urban county executive), a county is required to comply with the referendum requirements of §§ [24.2-685](#) and [24.2-686](#).

If the referendum is approved by the voters, the new form of government becomes effective on January 1 following the election of members of the governing body (§ [15.2-302](#)), who are to be elected at the next succeeding November general election and whose terms will commence on January 1 following the election (§ [15.2-303](#)). If a referendum were approved in November 2022, an election for Board members would occur in November 2023, and the form of government would be effective on January 1, 2024.

Section V: Issues

The primary issue for the Board's consideration is related to the organizational impacts that a change in form of government would create. Staff notes that the information provided herein is preliminary and, should the Board desire to change its form of government, any resultant impact would be determined after further staff evaluation and direction from the Board regarding service levels. As with any department, the Board would identify service levels for new or newly transferred functions. This evaluation and identified service levels would result in recommendations for staffing levels and associated needs – whether office-related, administrative, or other considerations – for a smooth transfer of responsibilities. These recommendations likely would have some fiscal impact to the County, which would be determined during the evaluation and recommendation process and after the Board's desired form is identified.

Staff notes that the Virginia Code has certain provisions, exceptions, and stipulations to general law based on form of government, embedded in a variety of sections in addition to those summarized in Section III and Attachment 1. For example, § [15.2-914](#) provides that any county that has adopted the urban county executive form of government, a city adjacent to a county that has adopted that form, or a city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. These types of provisions would be catalogued and the impacts to the County's organization examined, dependent on form, should the Board desire to change the County's form of government.

Due to its customizable nature, establishing a County Charter would likely result in an organizational impact to the County, however, that impact would need to be evaluated during the

development of a charter and would be based on the decisions of the Board for the provisions to be included in the charter.

Constitutional Officers

For the county executive, county manager, and urban county executive forms, a major component of the organizational impact ties to the transfer of responsibilities from constitutional officers to County departments, as the responsibilities of the Treasurer would be transferred to a County Director of Finance, and the responsibilities of the Commissioner of the Revenue would be transferred to the Director of Finance or to a newly created County Department of Assessments.¹⁷ The primary issues for the Board's consideration here is the Board's preference of having tax assessments, collection of taxes, license fees and revenues, custody of public funds including banking and investments, and disbursement of County funds administered by elected officials or not.¹⁸ Pending a discussion regarding service levels, staff does not anticipate that the programs and activity structure currently administered by the Commissioner of the Revenue and Treasurer would change significantly if transferred to the Department of Finance and Budget due to a change in form of government. Staff estimates that some level of funding from the State Compensation Board ("Comp Board") for responsibilities that traditionally fall to the Treasurer and Commissioner of the Revenue could be expected to continue under an optional form of government that abolishes the Commissioner of the Revenue and the Treasurer. Staff anticipates that the allocation basis would be slightly different but based on allocations to other jurisdictions which do not have a Treasurer and Commissioner of the Revenue, staff expects the potential revenue loss to be minimal.

Department of Social Services and Role of Social Services Board

The county executive, urban county executive, and county manager forms of government require the creation of a department of social services. In the county executive and urban county executive forms, the director of social services, "shall be chosen from a list of eligibles furnished by the Commissioner of Social Services (§§ [15.2-527](#) and [15.2-835](#)).” The county manager form does not appear to require selection of the director of social services from a “list of eligibles” as found in the county executive and urban county executive forms (§ [15.2-626](#)). Under these three forms, the director of social services exercises the power of the local social services board and the board is advisory to the director of social services. Excluding the requirement for the selection of the director of social services from a “list of eligibles” found in the county executive and urban county executive forms, the arrangements for the department of social services are substantially similar to how Loudoun's Department of Family Services operates following the 2011 reform of the FSAB.

Public Works, Road Maintenance and Construction

The county manager form of government requires the creation of a department of public works, which would oversee construction and maintenance of county roads and bridges, county

¹⁷ Loudoun County has had an assessor's office in the past. The real estate assessment function was transferred to the Commissioner of the Revenue in 2012.

¹⁸ Additional details regarding the budget, programs, and activities for the [Treasurer](#) and [Commissioner of Revenue](#), can be found in the FY 2022 Proposed Budget.

stormwater systems, and other public works (§ [15.2-625](#)) while the county manager plan of government vests general supervision and charge of construction and maintenance of the public roads, bridges and landings of the county in the county manager (§ [15.2-710](#)). In Loudoun, road maintenance is generally the responsibility of the Virginia Department of Transportation (“VDOT”). VDOT retains maintenance responsibility for some specifically designated roadways in Henrico and Arlington Counties.^{19,20} Road maintenance represents a significant change from the County’s existing service provision and staff would need to evaluate available funding sources for such a service. For example, Henrico staff reports that their county supports road construction and maintenance through a combination of local, state, federal, and regional funding. Henrico regularly advocates to the state for funding to construct and maintain transportation facilities and receives a rate from the state per lane mile maintained for secondary roads. The Central Virginia Transportation Authority supports transportation, mobility, and transit derived from a small increase to gas and sales tax for nine localities.

Constructing and maintaining road and other infrastructure represents an increase in service levels that will require investigation into both expenditure and revenue outlooks. Staff would need to understand what the anticipated expenditure costs associated with maintenance of Loudoun’s secondary roads and other transit and transportation needs. Staff would then evaluate these anticipated expenditures against anticipated or forecast revenues for maintaining secondary roads from the state and any other funding sources. Should the Board wish to pursue the county manager plan or county manager form of government, staff would pursue further discussions with other counties that have assumed roadway maintenance responsibility about the exact nature of their revenues and the work involved in receiving them, including staffing needs for this purpose, so that the Board could be presented with as complete a fiscal impact estimate as possible. Regardless of the exact nature of this change, adding a new and potentially costly service would result in major organizational shifts and a sizeable fiscal impact.

The county board form of government and the county manager plan of government, roadway responsibilities aside, would likely not materially change the County’s organizational structure as currently constituted. In both forms, all constitutional officers are retained and the creation of a police department is optional, as is currently the case for the traditional form that Loudoun utilizes. In either form, staff anticipates that a minimum number of duties would be transferred between departments, however staff would evaluate services provided by each department to ensure that the statutory requirements of the form are met. The county manager plan includes several departments which are authorized but not required, including a civil service commission and a commission on human rights. Regardless of form, any additional departments would be at the discretion of the Board and would result in an organizational and fiscal impact. Staff will provide further information and analysis should the Board direct staff to conduct further research into these forms.

¹⁹ Arlington County maintains 376 miles of roadway. VDOT maintains (excluding signals) specific Interstates, U.S. Routes, and State Routes. There are also a number of roadways in Arlington County that are maintained by the Federal Government. A list of State and Federal roadways can be found [online](#).

²⁰ Henrico County [Road Maintenance Overview](#) and [Map of Henrico County vs. VDOT Roads](#)

FISCAL IMPACT: Changing Loudoun County's form of government would likely generate fiscal impacts related to reorganizing the County's departments and lines of service, depending on which form is selected and service levels established by the Board.

The five constitutional offices are eligible for reimbursements from the Comp Board, although staff notes that any revenue impact driven by transfer of responsibilities from the Commissioner of the Revenue and Treasurer to the Department of Finance and Budget and/or a Department of Assessments is not likely to be significant.

As part of the IACP study, a comparative budget analysis of the impacts of forming and operating a Police Department will be prepared. This shall include a comprehensive analysis of all cost factors, to include organizational, structural, and financial aspects regarding the cost of establishing a police department. Issues for consideration and analysis include budget impacts due to reduced revenue from the State Compensation Board which is anticipated to be partially offset by new funding from the Commonwealth for police departments. The analysis of budget impacts will separate one-time and recurring expenditures and be provided in a present value format using the County's FY 2022 Adopted Budget as a basis for revenues and expenditures. This analysis will be included in the final report presented to the Board in early 2022.

With the added responsibility of maintenance of county roads and bridges provided for under some optional forms of government, the County could expect to receive highway maintenance funding to support road maintenance, typically allocated based on lane miles. Staff is unable to determine at this time if highway maintenance funding would be sufficient to offset the County's potential costs.

Should the Board wish to implement a change in form of government by January 1, 2024, staff recommends that the Board consider phasing any needed resources for FY 2023. Should new departments be created, or major organizational changes occur, and more staff be required, additional managerial staff will be needed to begin to work toward an FY 2024 implementation time frame. These positions would begin establishing needed departments and/or divisions. Should the Board wish to proceed with any of the optional forms/organizations of government, staff recommends the Board direct staff to further evaluate a form or short list of the forms described herein. This evaluation and its resulting analysis and recommendations would then coincide with the FY 2023 budget development process.

Next Steps: Should the Board wish to further pursue a change in form of government, staff requests that the Board identify the form so that staff may fully evaluate the change process specific to that form and provide the Board with specific action steps that must be undertaken to accomplish the desired change in form. With respect to a potential change in form, Section III generally describes the petition and approval process for each. Should the Board wish to proceed with the referendum question for formation of a police department, staff would recommend that Board consider further action after presentation of the consultant study referred to earlier in this Information Item.

ATTACHMENTS:

1. Forms of Government Matrix
2. Change in Form of Government Process Overview

	Traditional Form	County Board Form	County Executive Form	County Manager Form	County Manager Plan	Urban County Executive Form
Code Chapter & Statutory Authority	15.2 Chapter 12 ; 15.2 Chapter 14 ; 15.2 Chapter 15 ; and others, depending.	15.2 Chapter 4	15.2 Chapter 5	15.2 Chapter 6	15.2 Chapter 7	15.2 Chapter 8
Eligibility	Traditional: Any county not having adopted an alternative form or operating under a charter. ^{1,2} Loudoun: Currently in use.	Yes; any county may adopt. 15.2-401	Yes; any county may adopt. 15.2-501	Yes; any county may adopt. 15.2-601	Yes; any county with a population density of at least 500 persons per square mile. ³ 15.2-701	Yes; any county with a population of more than 90,000. ⁴ 15.2-801
Counties Using Form	Numerous	Scott, Carroll, Grayson, Russell	Prince William, Albemarle	Henrico	Arlington	Fairfax
Method of Adoption	N/A – Current form	Referendum; can be held once in three-year period. Requires voter petition (10%) or Board resolution to initiate 15.2-301 .	Referendum. Requires voter petition (20%) to initiate. Referendum to abolish a constitutional office cannot be held for eight years 24.2-685 . Referendum on change in form can be held once in three years 15.2-306 .	Referendum. Requires voter petition (20%) to initiate. Referendum to abolish a constitutional office cannot be held for eight years 24.2-685 . Referendum on change in form can be held once in three years 15.2-306 .	Referendum; can be held once in three-year period. Requires voter petition (10%) or Board resolution to initiate 15.2-301 .	Referendum. Requires voter petition (20%) to initiate. Referendum to abolish a constitutional office cannot be held for eight years 24.2-685 . Referendum on change in form can be held once in three years 15.2-306 .

¹ To the extent practical, Loudoun specific provisions are included in this column.

² [James City County](#) (current charter 1993, amended 2019), [Chesterfield County](#) (incorporated and originally chartered 1944, current charter 1987), and [Roanoke County](#) (formed 1838, incorporated and current charter 1986, amended 2003) all operate under [charters](#).

³ Forecasts place Loudoun County’s population density at approximately 813.55 persons per square mile.

⁴ Loudoun’s 2020 forecast population is 423,046; Department of Finance and Budget, Metropolitan Washington Council of Governments Round 9.2 Cooperative Forecast.

Board of Supervisors and Constitutional Officers

<p>Size of Board of Supervisors</p>	<p>Traditional: 3 to 11 members. 15.2-1400</p> <p>Loudoun: 9 members</p>	<p>Not specified.</p>	<p>3 to 9 members 15.2-502</p>	<p>3 to 9 members. 15.2-602</p>	<p>5 members elected at large. 15.2-702, 15.2-705</p>	<p>5 to 11 members. 15.2-802; 15.2-855</p>
<p>Electoral Arrangements for Board of Supervisors</p>	<p>Traditional: Members may be elected by single or multi-member district, at large, or any combination thereof. 24.2-304.1</p> <p>Loudoun: 8 single member districts Ch. 206, 1 chair elected at-large.</p>	<p>One member at large, one member from each magisterial district. 15.2-402</p>	<p>All members elected at large or by magisterial district. If members elected from districts, a chairman may be elected at large, if approved by referendum. 15.2-502, 15.2-503</p>	<p>All members elected at large or by magisterial district with one member elected at large, as determined by the referendum establishing this form of government. 15.2-603, 15.2-603</p>	<p>Board may be elected by rank choice/instant runoff voting.⁵ 15.2-705.1</p>	<p>Members elected by district. 15.2-802; 15.2-855</p>
<p>Selection of Board Chair</p>	<p>Traditional: Selected by the Board from among its membership unless elected by popular vote. 15.2-1422.</p> <p>Loudoun: Selected at large by popular vote.</p>	<p>Elected from Board membership. 15.2-402</p>	<p>Elected from Board membership or elected at large if approved by voter referendum. 15.2-503</p>	<p>Elected from Board membership.</p>	<p>Elected from Board membership. 15.2-702</p>	<p>Elected at large. 15.2-802</p>
<p>Constitutional Officers</p>	<p>Five: Sheriff Ch. 228, Commissioner of the Revenue Ch. 222, Clerk of the Circuit Court Ch. 226, Treasurer Ch. 224, Commonwealth's Attorney Ch. 220. 15.2-1600</p>	<p>Five: Sheriff, Commissioner of the Revenue, Clerk of the Circuit Court, Treasurer, Commonwealth's Attorney. 15.2-408</p>	<p>Three: Sheriff, Clerk of the Circuit Court, Commonwealth's Attorney. Powers of Commissioner of the Revenue and Treasurer held by Director of Finance. 15.2-519, 15.2-521, 15.2-522</p>	<p>Three: Sheriff, Clerk of the Circuit Court, Commonwealth's Attorney. Powers of Commissioner of the Revenue and Treasurer held by Director of Finance. 15.2-617, 15.2-619, 15.2-620</p>	<p>Five: Sheriff, Commissioner of the Revenue, Clerk of the Circuit Court, Treasurer, Commonwealth's Attorney. 15.2-715</p>	<p>Three: Sheriff, Clerk of the Circuit Court, Commonwealth's Attorney. Powers of Commissioner of the Revenue and Treasurer held by Director of Finance. 15.2-828; 15.2-829</p>

⁵ In Virginia Code, "instant runoff voting" means a method of casting and tabulating votes in which (i) voters rank candidates in order of preference, (ii) tabulation proceeds in rounds such that in each round either a candidate or candidates are elected or the last-place candidate is defeated, (iii) votes for voters' next-ranked candidates are transferred from elected or defeated candidates, and (iv) tabulation ends when the number of candidates elected equals the number of offices to be filled.

General Provisions for Other County Services

<p>Organization of Public Libraries⁶</p>	<p>Management and control for system vested in a board not less than 5 members or trustees. 42.1-35</p>	<p>Management and control for system vested in a board not less than 5 members or trustees. 42.1-35</p>	<p>Library Board not required. 42.1-36</p>	<p>Library Board not required. 42.1-36</p>	<p>Not specifically laid out in Chapter 7, but Board has authority to abolish boards, committees, and commissions. Arlington Department of Libraries established by the Arlington Board of Supervisors in 1937.</p>	<p>Library Board not required. 42.1-36</p>
<p>Composition and Selection of the School Board⁷</p>	<p>Traditional: Variable; 1. School Board Selection Commission 22.1-35 2. Appointment by the Governing Body 22.1-42 3. Elected 22.1-57.3 Loudoun: Nine members elected by district, one elected at large pursuant to 22.1-57.3. Recent legislation could provide for staggered terms. Chapter 166</p>	<p>School Board composed of not less than three nor more than six members chosen by the board of county supervisors to serve staggered four-year terms. 15.2-410</p>	<p>School Board composed of not less than three and not more than seven members. Members chosen by the Board of Supervisors. 15.2-531</p>	<p>Initially elected Board composed of five members. Board composed of not less than three nor more than nine members; however, there shall be at least one school board member elected from each of the county's magisterial or election districts. 15.2-627</p>	<p>Composed of between three and seven members appointed by the Board of Supervisors. 22.1-47</p>	<p>Board composed of not less than five nor more than twelve members. Members chosen by the Board of Supervisors to serve for a term of two years, except that as many as one half of the members of the first such board appointed may be appointed for lesser terms. The exact number of members shall be determined by the Board of Supervisors. 15.2-837</p>

⁶ Library boards are also not required in localities with charters if the charter does not provide for such a board. Library boards are also not required in the Counties of Caroline, Chesterfield, or Shenandoah pursuant to 42.1-36.

⁷ In some cases, a county operating under an optional form of government have undertaken local options, referenda, or sought General Assembly approval to operate with different provisions in certain circumstances. For example, the Fairfax County School Board is comprised of 12 members who, rather than being chosen by the Board, are elected by residents pursuant to [Title 22.1 Chapter 5 Article 7](#).

Chief Administrative Officer						
Statutory Provisions for the Chief Administrative Officer	<p>Traditional: At the discretion of the Board 15.2-1540.</p> <p>Loudoun: Designated County Administrator Ch. 230</p>	<p>Required and designated County Administrator 15.2-406</p>	<p>Required and designated County Executive. 15.2-509</p>	<p>Required and designated County Manager. 15.2-609</p>	<p>Required and designated County Manager. 15.2-706</p>	<p>Required and designated Urban County Executive. 15.2-804</p>
Statorily Designated Role of the Chief Administrative Officer	<p>Traditional: Generally responsible for the administrative affairs of the Board and any duties assigned by the Board. 15.2-1541</p> <p>Loudoun: Any right, authority duty or obligation explicitly vested in any department, division, agency, or officer of the County by virtue of any ordinance, regulation, policy, or agreement. Ch. 230.01 Codified Ordinances, 15.2-1541</p>	<p>Insofar as the board requires, be responsible to the board for the proper administration of all affairs of the county which the board has authority to control. May be designated by resolution as Clerk of the Board. 15.2-407</p>	<p>Administrative head of the county; Responsible to the board for the proper administration of the affairs of the county which the board has authority to control. 15.2-516</p>	<p>Administrative head of the county. 15.2-609; Responsible to the Board for the proper administration of all affairs of the county that the board has authority to control. 15.2-612</p>	<p>Administrative and executive powers of the county. 15.2-706</p>	<p>Administrative head of the county. Responsible to the board for the proper administration of all county affairs which the board has authority to control. 15.2-811</p>

Employees, Budget, and Administrative Structure

<p>Appointments, Termination of Officers and Employees</p>	<p>Traditional: The Board retains authority but may establish a personnel system. 15.2-1401, 15.2-1500, 15.2-1506</p> <p>Loudoun: The Board has authority over the personnel system and is governed by the HR Handbook. The system is administered by the County Administrator or designee.</p>	<p>Board or designee. 15.2-404</p>	<p>Board with recommendation of the County Executive, or designee. 15.2-512</p>	<p>County Manager or designee. 15.2-612, 15.2-613</p>	<p>County Manager. 15.2-703, 15.2-706</p>	<p>The Board shall appoint, upon the recommendation of the urban county executive, all officers and employees in the administration service of the county, except as the board authorizes the urban county executive to appoint heads of a department or office and except as the board authorizes the heads of a department or office to appoint subordinates in such department or office. 15.2-807</p>
<p>Setting Salaries of Officers and Employees</p>	<p>Traditional: Board required to establish uniform pay plan. 15.2-1506</p> <p>Loudoun: Board establishes pay plan administered by the County Administrator or designee.</p>	<p>Board or designee. 15.2-404; Uniform compensation schedule required. 15.2-415</p>	<p>Board or designee. Uniform compensation schedule required. 15.2-514</p>	<p>County Manager with approval of Board. 15.2-614; Uniform compensation schedule required. 15.2-637</p>	<p>Not defined outside of Manager’s authority to hire/fire. Board may establish civic service commission. 15.2-721</p>	<p>Board or appointing officer. 15.2-808; Required to establish uniform compensation schedule. 15.2-845.</p>

Budget Preparation	Traditional: County Administrator, unless otherwise directed by the Board. 15.2-1541 Officers and department heads etc. required to prepare and submit funding requests. Governing body shall prepare and approve a budget for informative and fiscal planning purposes. 15.2-2503	County Administrator under direction of the Board. Board may direct Clerk to prepare the budget. 15.2-407	County Executive shall prepare and submit at least two weeks before the Board must prepare its proposed annual budget. 15.2-539	County Manager submits to the board each year a proposed annual budget, with his recommendations. 15.2-614 , 15.2-638	County Manager shall prepare and submit to the Board a tentative budget. 15.2-710	County Executive submits a proposed annual budget with recommendations. 15.2-811 ; 15.2-847 .
Departments Statutorily Required⁸	Traditional: None except those required for all counties. Loudoun: Title 8 of the Codified Ordinances address county departments, however several are only listed for cross referencing.	Extension and Continuing Education. 15.2-413	Finance 15.2-519 , social services 15.2-527 , law enforcement 15.2-528 , education 15.2-531 , health 15.2-534 , records 15.2-518	Finance 15.2-617 , public works 15.2-625 , social services 15.2-626 , education 15.2-627 , health 15.2-629 , 15.2-616	None except those required for all counties.	Finance 15.2-826 , Public Works 15.2-834 , Social Services 15.2-835 , Law Enforcement 15.2-836 , Education 15.2-837 , Records 15.2-838 , Health 15.2-839 . 15.2-823
Departments Statutorily Authorized	Many departments are authorized throughout Virginia Code.	None specifically provided for in 15.2 Chapter 4.	Assessments 15.2-535 , Public Works 15.2-526 and any other deemed necessary. 15.2-518	Assessments 15.2-630 , Extension and Continuing Education 15.2-631 , Public Safety 15.2-632 , County Attorney, 15.2-633 , public utilities 15.2-634 and any other deemed necessary. 15.2-616	Real Estate Assessments (by referendum) 15.2-716 , Civil Service Commission 15.2-721 , Commission on Human Rights 15.2-725 , Health.	Assessments 15.2-840 , Farm and Home Demonstration 15.2-841 , Public Safety 15.2-842 , Animal Protection Police Officer 15.2-836.1 , Public Utilities 15.2-843 , Commission on Human Rights. 15.2-823

⁸ All counties are required to have a school system, electoral board, planning commission, health department, social services department, and community services board.

<p>Modification of Administrative Structure</p>	<p>Board may create any departments needed to carry out the functions of government and may delegate authority to the County Administrator. 15.2-1500, 15.2-1501</p>	<p>Board may assign and/or reassign activities not assigned by the form of government. 15.2-405</p>	<p>Board may, upon recommendation of the County Executive, reorganize the administrative structure of the county. 15.2-518</p>	<p>Board may, upon recommendation of the County Manager, reorganize the administrative structure of the county. 15.2-616</p>	<p>The Board may abolish any board, commission, or office (excluding the school Board and school superintendent or constitutional office) and distribute those duties to the County Manager or other officer. 15.2-715</p>	<p>Board may, upon recommendation of the County Executive, reorganize the administrative structure of the county. 15.2-823</p>
<p>Specific Provisions Relative to Towns, Annexation, etc.</p>	<p>Generally, counties are subject to annexation by cities and towns except in specific circumstances. 15.2 Chapter 32 Article 1</p>	<p>No specific provisions.</p>	<p>No specific provisions.</p>	<p>No specific provisions.</p>	<p>No part of the county's territory may be annexed by a city unless the whole county is annexed. 15.2-748</p>	<p>No new city or town may be incorporated within county boundaries. 15.2-817; City bordering the county may petition to become part of the county on terms set by the Board. If approved by referendum, city will become part of the county. 15.2-818.</p>

Change in Form of Government Process Overview

