



The John C. Stennis Institute of Government

*At Mississippi State University*

Document Id 2010-60-5

## **Policy Matters: Considering City-County Consolidation in Mississippi**

02/08/2010

by Lydia Quarles, JD, Senior Policy Analyst

When economic times get tough, often governmental entities begin to think about the benefits of consolidation. Memphis, for example, which has considered consolidation with Shelby County off and on for decades, began re-considering it again in 2008. Consolidation had worked successfully for Nashville-Davidson County, the second largest populous area in the state and the state capitol. (Hardy, 2009).

The idea to consolidate local governments in the U.S. did not get its genesis 50 years ago, but interest – in earnest – began around 1960. Since that time, scholars estimate that there was been a net decrease of approximately 32,000 units of local government. (Hardy, 2009).

It is not as dramatic as it seems. Public school districts, the aim of Governor Barbour’s current consolidation wishes, have declined 79%, mostly as a result of consolidation. (Hardy, 2009). These consolidations account for a significant number of the 32,000 governmental units which are no longer in existence.

During this period of time, general purpose governments **and** primarily municipalities increased by about 2,500. (Hardy, 2009) So it is safe to say that there is no “trend” toward consolidation, more a suburban sprawl resulting in disbursement of population and, ultimately, local control of government. (Hack, 2004)

In 1805 New Orleans and the New Orleans Parish became the first city-county government. In the period of the 60s and early 70s, several significant city-county consolidations occurred including:

- Chesapeake-South Norfolk-Norfolk County, Virginia (1962);
- Virginia Beach-Princess Anne County, Virginia (1962);
- Nashville-Davidson County, Tennessee (1962);
- Jacksonville-Duval County, Florida (1967);
- Juneau-Greater Juneau County, Alaska (1969);
- Carson City-Ormsby County, Nevada (1969);
- Indianapolis-Marion County, Indiana (1969).

In the 1970s, only seven (7) city-county consolidations occurred; in the 1980s, only two (2). In the 1990s, four (4) occurred, three of them in the South (Athens-Clarke County, Georgia; Lafayette-Lafayette Parish, Louisiana; Augusta-Richmond County, Georgia). Very few consolidations **have** occurred in the 21<sup>st</sup> century, although a notable exception was the consolidation of Louisville-Jefferson County, Kentucky, which occurred in 2003. Pat Hardy, in his article “The Consolidation of City and County Governments” suggests that of communities attempting consolidation, there is about a 15% success rate. In other words, it is extremely unusual for the majority of a community to favor the idea of consolidation, **despite** promises of revenue savings and lower tax rates. (Hardy, 2009)

Generally, officials begin to consider consolidation in economic hard times, the theory being that consolidation would produce economies of scale. However, the literature seems to suggest that economies of scale occur in some consolidations, but not in others. Chris Pineda of the Government Innovators Network has taken a look at relevant literature and makes some observations:

- Services that are labor intensive and must be replicated do not always achieve economies of scale. Specifically Pineda focuses on labor intensive provision of police protection,

fire protection, public works, parks and recreational services. These services probably cannot be duplicated and/or replicated with the currently employed personnel, because those who received the best services pre-consolidation will expect that level of services to continue. Those who received the poorest quality of services pre-consolidation anticipate enhanced services and, **therefore**, demand them. The “averaging up” of services will come with increased costs.

- Consolidated governments remove the bureaucrats and politicians from the electorate. Studies show that as bureaucrats and politicians are removed or become “out of touch” with the electorate, there is no incentive for cost cutting or decreased spending.
- Personnel related costs often cause expenditure increases, which were not anticipated, due to the two pre-consolidation, parallel but differing systems. Wage and benefits will normally have to be equalized to the level of the higher paid employee. Likewise, there may be job security issues. And even if there is no job security issue *per se*, politicians “hate” to fire government employees and will go to lengths (including the sabotage of cost savings) to maintain employees.
- There *will be* one-time start-up costs, and they will not be insignificant. Examples are: merging and upgrading hardware and software and uniting systems; legal fees for consolidation efforts; various elections that consolidation may require; consulting fees to resolve conflicting rules, regulations and policies; mapping fees; and overtime that will undoubtedly result during the transition period.

(Kansas Association of Counties Research Report, 2003)

The Municipal Research and Services Center, located in Seattle, tends to agree that city-county consolidation does not necessarily promote economies of scale. It contends that there is a growing body of evidence which suggests that smaller and more flexible governments actually operate more efficiently and effectively (considering both services and costs) than larger governments. In support of this contention, it notes the following:

- Case studies on consolidations between 1970 and 2005 have failed to find significant economies of scale for most municipal services.

- Case studies from this same period have consistently demonstrated that costs appear to rise for the following reasons: the labor intensity of replicating the highest quality services in all neighborhoods; the “averaging up” of standards, facilities, equipment, salaries and benefits.
- The Federal Advisory Commission on Intergovernmental Relations concluded that per capita costs from consolidation generally fall with populations up to 25,000, but remain constant for those populations from 25,000 to 250,000 and thereafter rise significantly.

(Katsuyama, 2007)

The Municipal Research Center has suggested that cities and counties considering consolidation also consider the benefits of the following initiatives, in lieu of consolidation:

- Private contracting, which may result in lower cost if competition keeps prices low, and which may also allow the government to avoid high capital investments because the contracting entity provides the equipment.
- Mutual aid agreements for collaborative support on an “as needed” or “emergency” basis, while maintaining departmental control.
- Shared facilities and equipment via inter-local agreement.
- Exchange of services (e.g., one municipality could sweep streets in both conveniently located municipalities, while the other municipality operates the mosquito-spraying initiatives.)

(Sullivan, 2009)

Byron Katsuyama, (2007) a Policy Consultant with the Municipal Research and Services Center concludes that “voters seem to know instinctively what political scientist and economists are telling us about the benefits of smaller and more flexible government.” This conclusion is borne out in the voter results described above.

In 2004, Allegheny County and the City of Pittsburgh sought the assistance of the H. John Heinz III School of Public Policy and Management at Carnegie Mellon University to consider the issue of consolidation of the two entities. The resulting report, captioned “A Starting Point: A Strategy for City-County Service Consolidation (City of Pittsburgh and Allegheny County),

provides a well written examination of initial objectives for consideration when thinking of the possibility of city-county consolidation. **The governmental units considering consolidation might:**

- **Obtain an Attorney General’s opinion or other legal opinion confirming legal viability**
- **Explore outcomes carefully**
- **Obtain technical or consulting assistance if necessary.**

In Mississippi, a community considering consolidation of services is one thing; city-county governmental consolidation *en masse* is another. The Institute believes that there is certainly a question of legal authority for a Mississippi city and county to consolidate into one government unit. However, there are some ways that currently exist in Mississippi law which might result in consolidation of services and cost savings, as indicated by Pineda. These options will be discussed in the following paragraphs:

Home rule is a feature of Mississippi law. The home rule statute for counties is Miss. Code Ann. § 19-3-40 (1) (1972) (as amended) which states, in pertinent part: “The board of supervisors of any county shall have the power to adopt any orders, resolutions or ordinances with respect to county affairs, property and finances, for which no specific provision has been made by general law and which are not inconsistent with the Mississippi Constitution, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi....Such orders, resolutions or ordinances shall apply countywide except when the governing authorities of any municipality situated within a county adopt any order, resolution or ordinance governing the same general subject matter. In such case the municipal order, resolution, or ordinance shall govern within the corporate limits of the municipality.”

Section 2 specifically lists items that a board of supervisors of a county cannot do under home rule, including:

- a. Levy taxes other than those authorized by statute or increase the levy of any authorized tax beyond statutorily established limits;

- b. Issue bonds of any kind;
- c. Change the requirements, practices or procedures for county elections or establish any new elective office;
- d. Use any public funds, equipment, supplies or materials for any private purpose;
- e. Regulate common carrier railroads;
- f. Grant any donation, or
- g. Without prior legislative approval, regulate, directly or indirectly, the amount of rent charged for leasing private residential property in which the county does not have a property interest, unless such actions are specifically authorized by another statute or law of the State of Mississippi.

The home rule statute for municipalities is Miss. Code Ann. § 21-17-5 (1972) (as amended), which states, in pertinent part, the following in sub-section (1): “The governing authorities of every municipality of this state shall have the care, management and control of the municipal affairs and its property and finances. In addition to those powers granted by specific provisions of general law, the governing authorities of municipalities shall have the power to adopt any orders, resolutions or ordinances with respect to such municipal affairs, properties and finances which are not inconsistent with the Mississippi Constitution of 1890, the Mississippi Code of 1972, or any other statute or law of the State of Mississippi....”

Sub-section 2 of this statute places similar prohibitions on municipal governments that are placed on the county government by statute, including the prohibition against:

- the levy of unauthorized taxes,
- issuance of bonds,
- alteration of municipal election procedures or establishment of municipal office,
- alteration of the procedure of annexation of territory,
- alteration of the structure of municipal government,
- permitting the sale, manufacture, distribution, possession or transportation of alcoholic beverages,

- grant any donation;
- approve or regulate the lease rate for a private residence, without legislative approval.

The concept of home rule is that a governmental entity has the authority to act in any way not otherwise regulated or outlawed. However, in Mississippi, home rule has never been broadly sanctioned. In fact, journal articles addressing the subject seem to indicate that Attorneys General prior to the current office holder (General Jim Hood) have rather rigidly limited governmental authority for home rule. A cursory review of General Hood's official opinions suggests consistency with prior Attorneys General without such frugality in the grant of home rule authority.

One might quickly conclude that since consolidation is not outlawed, then it is authorized. That is a conclusion that may or may not be a safe one to make, hence the suggestion for an Attorney General's opinion or other appropriate legal opinion before undertaking any serious consideration of consolidation. To that end, existing opinions raise a number of legal issues which should be contemplated:

Opinion No. 96-0519, 1996 WL 562729: In response to an inquiry from the Villages of Kossuth and Farmington, Mississippi, asking for an opinion on the validity of consolidating city services and/or allowing the county to provide city services with supplemental taxation to support the county services generated on behalf of the city. The Attorney General opined that § 21-17-5-(2) (g) prohibits a municipality from making a donation in services or funds to a county without specific statutory authority to consolidate the services (e.g., an inter-local agreement).

For example, various statutes provide authority for specific types of inter-local agreement including county collection of ad valorem taxes due to a municipality (§ 27-41-2); donation by municipality to municipal school district (§ 21-19-49, 21-37-4); joint city and county construction and maintenance of jail facilities (§17-5-1), etc. However, for example, a municipality has a statutory duty to maintain a police force, rather than simply relying on the Sheriff of the county and his deputies. A municipality has a statutory duty to have a municipal court, while a county has a statutory obligation to have a justice court system. So while there is

clear authority for inter-local agreements to support consolidation of services, there is no distinct authority for a city-wide and county-wide consolidation.

The Kossuth-Farmington opinion is supported by an Attorney General's opinion dated September 21, 1989, which is reported at 1989 WL 503396 as well as an Attorney General's opinion dated March 14, 1991, which is reported at 1991 WL 503396, which authorizes two cities in municipality to consolidate via through the process of annexation (§ 21-1-43). Under this theory, a city might well achieve consolidation with a county by extending its boundaries to the county lines, if it could prevail in such a proceeding for an extension of boundaries, which is, frankly, questionable.

When considering governments that might consolidate in Mississippi, if authority existed, there are literally hundreds. (United States Bureau of Census) In addition to city and county government, and the 152 separate school districts (city and county) in the state, and the various districts made up of community college districts and A & M high schools, there are literally dozens of special governmental districts authorized by statute. The following particular districts are statutorily recognized as governmental districts in Mississippi, including, but not limited to:

- air ambulance service districts
- cooperative service districts
- drainage districts
- emergency medical services districts
- flood control districts
- gas districts
- housing authorities
- joint electric power agencies
- joint water management districts
- lighting districts
- master water management districts
- coast transportation authorities
- railroad authorities
- regional water districts
- port commissions
- public improvement districts
- regional airport authorities
- regional library systems
- regional waste management systems
- tourism commissions
- shoreline and beach preservation districts
- soil and water conservation districts

- utility districts
- fire protection districts
- water, sewer and garbage disposal districts

Authorities estimate that there are about 450 governmental units, besides cities, counties and school districts, in Mississippi. This certainly suggests that, if indeed consolidation is a savings vehicle for economies of scale in population masses of 10,000 or less, Mississippi might have some opportunities for government savings. The question then becomes, is government savings worth being more estranged from your personal representatives in these districts?

The most civilized way to consider city-county consolidation would be to approach the legislature for appropriate legislation. Conceivably, this could occur through a private act, but better judgment would mandate an avenue for creation of a “metropolitan government” statute. One of the most workable and successful pieces of legislation for this purpose is that created by the General Assembly of our neighbor to the north, Tennessee, in 1957. As a result of this legislation, at least 5 city-county units have consolidated, including Nashville-Davidson County, and several less populous units. In 2008 and 2009, the Memphis-Shelby County area contemplated consolidation, and it is likely to arise for consideration in 2010.

Appropriate sections of the Tennessee Code Annotated (§ 7-2-101, *et seq*) should be considered as a model act that has worked well in populous areas as well as rural areas quite akin to Mississippi.

*[The Institute received an inquiry from one of Mississippi’s cities relative to the issue of city-county consolidation, hence this brief. The Institute can provide technical assistance with the consideration of issues to focus on when cities, counties and/or other governing entities consider consolidation of services.]*

## Works Cited

- Boyd, D. (March 2008). Layering of local governments and city-county merger [Electronic version]. Retrieved January 10, 2010, from [http://www.nyslocalgov.org/pdf/Layering\\_Local\\_Govts\\_CityCounty\\_Mergers.pdf](http://www.nyslocalgov.org/pdf/Layering_Local_Govts_CityCounty_Mergers.pdf).
- Campbell, R. W. & Selden, S. C. (March 2003). Does city-county consolidation save money? The unification of Athens-Clark County suggests it might. *Public Policy Research Series of the Carl Vinson Institute of Government*, Vol. I, #2.
- Consolidated Services: Would they save money? (2009, March 25). *American City and County*. Retrieved January 10, 2010, from <http://www.AmericanCity&County.org>.
- Feiock, R. C. & Carr, J. B. (1997). A reassessment of city/county consolidation: Economic development impacts [Electronic version]. *State and Local Government Review*, Fall, 1997.
- Hack, B., Lackner, & Lantinen, J. (2004) A starting point: A strategy for city-county service consolidation from the H. John Heinz III School of Public Policy and Management [Electronic version]. Retrieved January 10, 2010, from [www.county.allegheny.pa.us/Council/StartingPointReport.pdf](http://www.county.allegheny.pa.us/Council/StartingPointReport.pdf).
- Hardy, P. (revised 2009). The consolidation of city and county government: A look at the history and outcome-based research of these efforts [Electronic version]. Retrieved January 10, 2010, from [http://www.consolidation\\_research\\_and\\_history\\_paper.doc](http://www.consolidation_research_and_history_paper.doc).
- Kansas Association of Counties Research Report (July 2003). City-county consolidation – an idea whose time has come? [Electronic version]. Retrieved January 10, 2010, from <http://www.kansascounties.org/DocumentView.aspx?DID=45>.
- Katsuyama, B. (2007) Forms of county government in Washington state – continuity and change [Electronic version]. *Municipal Research and Services Center of Washington*. Retrieved January 10, 2010, from <http://www.mrsc.org/Publications/mrnews/articles/formscountygovernmentdec07.aspx>
- Miss. Code Ann. § 17-5-1 (1972) (as amended).
- Miss. Code Ann § 21-1-43 (1972) (as amended).
- Miss. Code Ann. § 21-17-5 (1972) (as amended).
- Miss. Code Ann. § 21-19-49 (1972) (as amended).
- Miss. Code Ann. § 21-37-49 (1972) (as amended).
- State of Mississippi Attorney General Opinion 1989 WL 503396 (1989).
- State of Mississippi Attorney General Opinion 1991 WL 550399 (1991).
- State of Mississippi Attorney General Opinion 1996 WL 562729 (1996).

Sullivan, P. & Katsuyama, B (2009). Interlocal agreements – doing it jointly [Electronic version] *Municipal Research and Services Center of Washington*. Retrieved January 10, 2010, from <http://www.mrsc.org/Publications/mrnews/articles/interlocal6-00.aspx>

Tenn. Code Ann. § 7-3-101, *et seq.*

United States Bureau of Census

[http://factfinder.census.gov/servlet/ACSSAFFacts?\\_event=&geo\\_id=04000US28&\\_geoContext=01000US|04000US28&\\_street=&\\_county=&\\_cityTown=&\\_state=04000US28&\\_zip=&\\_lang=en&\\_sse=on&\\_ActiveGeoDiv=&\\_useEV=&\\_pctxt=fph&\\_pgsl=040&\\_submenuId=factsheet\\_1&\\_ds\\_name=null&\\_ci\\_nbr=null&\\_qr\\_name=null&\\_reg=null%3Anull&\\_keyword=&\\_industry=](http://factfinder.census.gov/servlet/ACSSAFFacts?_event=&geo_id=04000US28&_geoContext=01000US|04000US28&_street=&_county=&_cityTown=&_state=04000US28&_zip=&_lang=en&_sse=on&_ActiveGeoDiv=&_useEV=&_pctxt=fph&_pgsl=040&_submenuId=factsheet_1&_ds_name=null&_ci_nbr=null&_qr_name=null&_reg=null%3Anull&_keyword=&_industry=)

## About the Author

### LYDIA QUARLES, J.D., SENIOR POLICY ANALYST

Lydia Quarles is a Senior Policy Analyst at the John C. Stennis Institute of Government, Mississippi State University. She received her Juris Doctorate from Cumberland School of Law, Samford University, and her MA and BA from Mississippi University for Women, in 1972 and 1971 in political science and communication. After over a dozen years in the private practice of law in Alabama and Mississippi, she joined the Mississippi Workers' Compensation Commission as an Administrative Judge in 1993. Eight years later, in 2001, she was appointed Commissioner of the agency. In 2006, she resigned to join the Stennis Institute. Quarles remains active in bar work, and currently chairs the Women in the Profession Committee, a standing committee of the Mississippi Bar. She is a fellow of the Mississippi Bar Foundation, a recipient of the Mississippi Bar's Distinguished Service Award, and was recently honored by the American Bar Association for her lifetime contribution to Administrative Law and Regulatory Practice by receipt of the Mary C. Lawton Award which recognized her contributions to the Mississippi Workers' Compensation Commission in the areas of alternative dispute resolution and access for Hispanic labor. Quarles serves as a member of the Mississippi School for Math and Science Foundation Board and parliamentarian of Mississippi's First Alumnae Association. Quarles has been named one of Mississippi's 50 Leading Business Women by the Mississippi Business Journal; the Journal recognized her service to the State as a Commissioner as well as entrepreneurial skills developed in her property management business in Starkville, Spruill Property Management, LLC. Quarles, who is not a full-time employee of the Institute, also engages in the private practice of law and owns and directs a consulting business, WPF, LLC. She may be contacted at [lydia@wpf-adr.com](mailto:lydia@wpf-adr.com).

## About the Institute

---



Elected to the United States Senate in 1947 with the promise to “plow a straight furrow to the end of the row,” John C. Stennis recognized the need for an organization to assist governments with a wide range of issues and to better equip citizens to participate in the political process. In 1976, Senator Stennis set the mission parameters and ushered in the development of a policy research and assistance institute which was to bear his name as an acknowledgment of his service to the people of Mississippi.

## The John C. Stennis Institute of Government at Mississippi State University



**MISSISSIPPI STATE**  
UNIVERSITY™

Mississippi State University does not discriminate on the basis of race, color, religion, national origin, sex, age, disability, sexual orientation, group affiliation, or veteran status.

---