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# BOARD MANAGEMENT & DEVELOPMENT – HOW TO ACHIEVE SUCCESSFUL OUTCOMES?

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# INTRODUCTION

Section One

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# NONPROFIT DISCLAIMER



- The contents of this presentation will refer to Councils of Government (COGs) that are formed under the **Intergovernmental Cooperation Act**.
- Therefore, any councils of government who formed as a **nonprofit** are advised to seek additional information to ensure this presentation's content applies correctly and appropriately.

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# MISSIONS OF COGS



- To produce local government services on a regional basis;
  - To coordinate planning and regulatory activities;
  - To provide a neutral forum to discuss or learn about issues of common concern;
  - To articulate common positions on major issues; and
  - To spread the costs of local programs or equipment among a number of users.
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# WHAT ARE THE BENEFITS OF INTERGOVERNMENTAL COOPERATION?

1. Interdependence;
  - What we do affects others, and what others do affects us.
  - Factors that influence interdependence:
    1. Economic;
    2. Geography;
    3. Social groupings; and
    4. Governmental interdependence.
2. Efficiency; and
3. Effectiveness.
  - Cooperation is the future of local government!



# BOARD ARRANGEMENT OPTIONS

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- The municipalities who join a COG will have one or more representatives (or delegates) with voting rights.
    - Typically, the representatives are elected officials from the municipality.
  - Arrangement options include:
    1. One representative per municipality with each having one vote;
    2. One representative and an alternative from each municipality with one vote to be cast for the municipality;
    3. One representative and an alternative from each municipality with a vote for each (2 votes per municipality);
    4. All members of each municipal governing body represent the municipality with one vote for the municipality;
    5. Representatives based on other criteria; and
    6. Consider having an odd number to avoid deadlocks.
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# THE ROLE OF THE BOARD IN A COUNCIL OF GOVERNMENT

To the *Victor* Go the Spoils ... Not So Fast!

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## SCENARIO #1

- “I can’t wait to get into office and clean house. My suggestions for board members can do a much better job than these bozos.”

# EMPLOYMENT AGREEMENT

This Agreement made and entered into this \_\_\_\_\_ by and \_\_\_\_\_ hereinafter referred to as "employ" \_\_\_\_\_ hereinafter referred to as "em" \_\_\_\_\_ parties recite that: \_\_\_\_\_ employer is engaged in \_\_\_\_\_

\_\_\_\_\_ employee is willing to be employed by \_\_\_\_\_ terms and conditions hereinafter set \_\_\_\_\_ on set forth above, and in considera \_\_\_\_\_ es hereto, employer and employee co \_\_\_\_\_

**TO EMPLOY AND BE EMPLOYED**  
\_\_\_\_\_ employs employee as \_\_\_\_\_ hereby accepts and agrees to such emp \_\_\_\_\_

**EMPLOYEE'S DUTIES**  
\_\_\_\_\_ ion and pursuant to the order \_\_\_\_\_ ties as are customer \_\_\_\_\_ of the same \_\_\_\_\_

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## SCENARIO #1

- **Consider:**
  - First Amendment;
  - Employment Contracts;
  - Collective Bargaining Agreements;
  - Evaluate Employee Performance for Yourself; and
  - Terminating Political Appointments.

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## SCENARIO #2

- “I’m the Executive Director of this COG, so what I say goes.”

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## SCENARIO #2

- **Consider:**
  - Bylaws of the Entity;
  - Existing Ordinances, and Resolutions; and
  - Existing Contracts, especially Collective Bargaining Agreements.



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## SCENARIO #3

- “Councils of Governments should take some lessons from the private sector and operate more like a business.”



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## SCENARIO #3

- **Consider:**
    - Professional Boards beget progressional management;
    - Funnel employee concerns through Administration;
    - Discuss with Board when and how the Board wants to be informed of developing issues;
    - Treat all personnel information confidentially; and
    - Small COGs can be more difficult to manage.
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## SCENARIO #4

- “I know most everyone in the participating municipalities, so hiring should be easy.”

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## SCENARIO #4

- **Consider:**
  - Federal and State anti-discrimination laws;
  - Operate like a business (i.e., hire the most qualified);
  - Veteran's Preference Act; and
  - Interviewing.



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## SCENARIO #5

- “I ran on a platform that the Council of Government is overstaffed. Our residents need to see that we are serious about getting rid of the dead wood sooner rather than later.”
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## SCENARIO #5

- **Consider:**
  - Avoid paying big back wage awards due to haste and procedural errors, rather than lack of cause;
  - Know your limitations and your Collective Bargaining Agreements;
  - Protect your role and your employee's due process rights; and
  - An actual vote to discharge must be made in public, but the reasons and debate should not. Once a decision on a personnel matter has been made, no public comment should be made.

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## SCENARIO #6

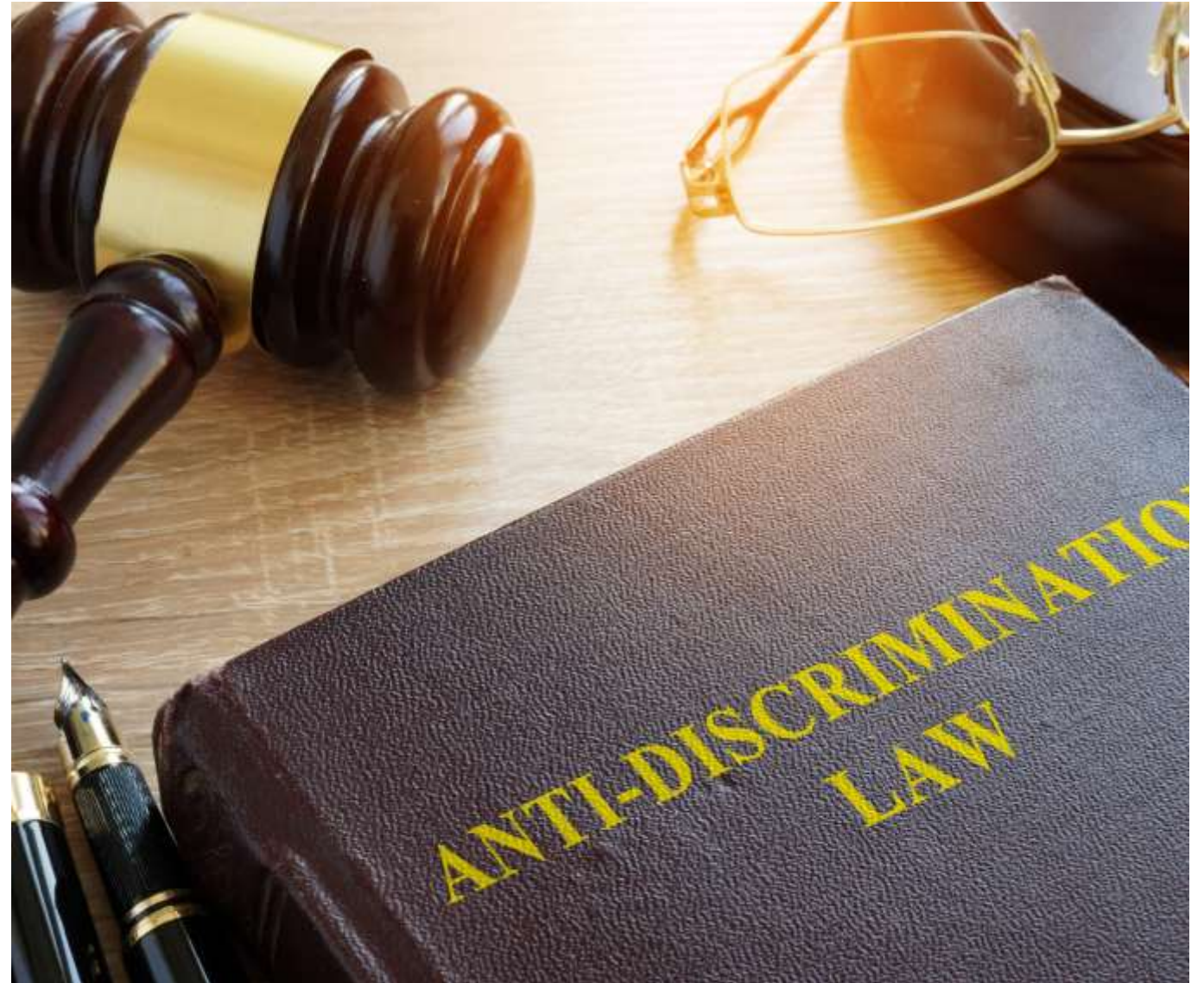
- “Since I am an elected/appointed official and not an employee, at least these silly personnel policies don’t apply to me.”

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## SCENARIO #6

- **Consider:**

- Anti-discrimination laws and regulations;
- Anti-harassment laws and regulations; and
- Use of computers – both Sunshine Act and Right-to-Know law implications.



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# ANSWERING YOUR QUESTIONS

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# QUESTION ONE

“Can you hold elected officials/board members accountable through a Code of Conduct or Personnel Policy manual?”

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# PERSONNEL POLICY MANUAL



- Establishing policies/guidelines for the elected officials to follow, as well as training on these policies, can prevent liability and provide defenses to litigation.
- Your policies regarding elected official/board member conduct should cover the following:
  - Employment policies;
  - Working conditions and conduct;
  - Electronic communications/usage of technology;
  - Compliance with Federal and State law; and
  - Anti-Fraternization/Sexual Harassment/Ethics.

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# QUESTION TWO

“What are strategies to achieve quorum? Does virtual attendance meet quorum thresholds?”

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# STRATEGIES TO ACHIEVE QUORUM



- Confirm meeting logistics.
  - Confirm attendance and determine whether the board members will be present or if they require an alternative representative.
  - Set a deadline for board members to respond.
  - Use a voting system that encourages participation, such as:
    - Majority rule; or
    - Ranked preferential.
  - Hold the board meeting in a convenient location.
  - Consider remote attendance.
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# QUESTION THREE

“When should the board consider by-law amendments?”

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# BYLAW DEVELOPMENT - AMENDMENTS

- This can be addressed to your COG's specifications within its bylaws.
  - Bylaws are valuable in that they:
    1. Help operations run as seamlessly as possible;
    2. Provide answers to issues that may arise;
    3. Help save time; and
    4. Define the organizational boundaries of the COG.
  - Since Act 177 has no specific requirements for COGs, other than those spelled out in Sections 5 and 7 for all intergovernmental programs:
    - The organization, form, and procedures of a COG are determined by the participating municipalities.
  - Consider the mission of the COG.
  - Decide who will assist in the development.
  - Allow for drafts.
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# SAMPLE BYLAW ORGANIZATION

- Example of a COG's bylaws' organization:
    1. Name and Description
    2. Membership
    3. Board of Directors
    4. Election of Officers
    5. Duties of Officers
    6. Meetings of the Directors
    7. Meetings of the General Membership
    8. Purpose
    9. Miscellaneous
    10. Dissolution
    11. Amendments
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# BYLAW AMENDMENT



- No “one-size-fits-all” answer to when bylaws should be amended.
- Evaluate the status of the COG and the success of completing its goals.
- Delineate in bylaws as to who can propose an amendment and when said person can propose an amendment.
- Amendments become included into bylaws once voted in by all members.
- State within bylaws what quorum must be met, such as:
  - 2/3 majority of the Board; or
  - Majority.

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# QUESTION FOUR

*“Are COGs Required to Follow the Sunshine Act?”*

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# THE SUNSHINE ACT

- All deliberations of elected officials must be done at a public meeting and at a time and place advertised in advance.
- Public notice must be given. This includes:
  - Giving notice once in a newspaper of general circulation within the region;
  - Giving notice by posting a copy of where the meeting is to be held;
  - Public notices of the first regular meeting of each calendar year must be given not less than three days in advance of the meeting and must include a schedule of the remaining regular meetings for the calendar year; and
  - Compliance with the Americans with Disabilities Act.
- A COG's board can have executive sessions, but only under certain circumstances:
  - Personnel matters;
  - Collective bargaining issues;
  - Real estate issues;
  - Litigation matters; and
  - Other confidential business that, if discussed in public, would violate a privilege, disclose confidential information protected by law or that relates to emergency preparedness.



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# QUESTION FIVE

“Are Executive Director professional agreements allowable and enforceable?”

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# EXECUTIVE DIRECTOR PROFESSIONAL AGREEMENTS

- Executive Director professional agreements are allowable and enforceable.
  - While there is no “one-size-fits all” approach, an agreement could include, but is not limited to:
    1. Term;
    2. Duties;
    3. Compensation;
    4. Leave;
    5. Insurance; and
    6. Termination.
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QUESTIONS?