

10/11/89

PUBLIC MEETING NOTICE  
Wednesday, October 11, 1989  
7:00 p.m.  
The Portland Building  
Hearing Room A  
1120 SW 5th Avenue  
Portland, Oregon 97204

AGENDA

1. Invited Testimony
  - Gladys McCoy, County Chair
  - Pauline Anderson, Multnomah County Commissioner
  - Gretchen Kafoury, Multnomah County Commissioner
2. Public Testimony
3. Committee Business
  - Approval of 9/27/89 Minutes
  - Report from Budget Subcommittee Chair
  - Administrator's Report
  - Other Business

TENTATIVE FUTURE MEETINGS

October 25: Other County Elected Officials  
November 8: Commissioners Rick Bauman and Sharron Kelley,  
Former County Executive Don Clark and  
Dave Warren, Budget Manager.



# MULTNOMAH COUNTY OREGON

CHARTER REVIEW COMMITTEE

1120 S.W. 5th Avenue  
Suite 1500  
Portland, OR 97204

## MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE Minutes of October 11, 1989

Pursuant to notice by press release to newspapers of local circulation throughout Multnomah County and on the mailing list of the Committee, a public meeting of the Multnomah County Charter Review Committee was held at The Portland Building, Hearing Room A, 1120 SW 5th Avenue, Portland, Oregon. The meeting convened at 7:02 p.m.

### MEMBERS PRESENT:

Ann Porter, Chair  
Mark Johnson, Vice-Chair  
Lana Butterfield  
Florence Bancroft  
David Chambers  
Nicholas Teeny  
Liberty Lane  
Marcia Pry  
Monica Little  
Bruce McCain  
La Velle Vanden Berg  
Paul Norr  
Casey Short

### INVITED TESTIMONY:

Gladys McCoy, Commissioner  
Pauline Anderson, Commissioner  
Gretchen Kafoury, Commissioner

### STAFF:

Bill Rapp, Administrator  
Shirley Winter, Secretary

The agenda included testimony from three Multnomah County Commissioners:

Gladys McCoy, County Chair, Pauline Anderson and Gretchen Kafoury, County Commissioners.

### PRESENTATION BY COUNTY CHAIR GLADYS MCCOY:

Gladys McCoy presented five recommendations that she feels are important for the committee to consider:

1. County Structure: (Elected Chair) - The current County structure should be left alone long enough to determine the effectiveness of the structure. A county-wide elected Chair with both legislative and executive responsibilities has only been in effect for less than three years. She feels the current structure is effective as it is.

(Commissioners) - Five full-time Commissioners are necessary to fulfill the workload the justice and human services require due to the increase in population.



2. Lobbyist: Multnomah County must not be prohibited from having a full-time advocate at the state and federal levels for its citizens' concerns.
3. Salaries: Repeal the current compensation procedure and recommend one that allows the charter-mandated Salary Commission to establish the salaries as outlined by new state law (SB 1029).
4. Sheriff: The Sheriff should be a part of the Justice Services Department, be an appointed officer and be accountable to the Board of Commissioners. The County needs to have a comprehensive and coordinated criminal justice system. The sheriff, as an elected officer, now has sole administration of all county jails and correctional institutions.
5. Charter Revisions: If there are a number of recommended changes to the current charter, they should be presented to the voters in a ballot measure as a revised charter. This would be more effective instead of adding many amendments. Also, the charter should be reviewed after an 8 to 10 year period. This would give it enough time to see if the Charter works.

In response to a question by Bill Rapp relating to whether elected commissioners at-large would reduce the need for an elected chair, Commissioner McCoy stated that a county-wide elected chair is still necessary.

PRESENTATION BY COMMISSIONER PAULINE ANDERSON:

Commissioner Anderson made the following points:

1. Multnomah County needs a county manager.
2. Multnomah County should have five county officers elected by district. She does not feel that commissioners need to be elected county wide. The current workload requires at least five commissioners.
3. A provision providing for a cost of living increase is a possibility.
4. Eight to ten years is a reasonable length of time between charter reviews.
5. The county needs a lobbyist with full authority to lobby.
6. The two term limit on elected officials is satisfactory.
7. The sheriff should be appointed and accountable to a criminal justice system and not to voters only.



8. A chair should be selected on a rotating basis.
9. The current provision relating to prohibiting sitting elected officials running for another elected office is satisfactory.

In response to a question by Bill Rapp regarding the elected auditor, Commissioner Anderson responded that the Auditor should be an appointed position but should, on the other hand, be independent and not be accountable to the board of commissioners.

#### PRESENTATION BY COMMISSIONER GRETCHEN KAFOURY:

1. "Any system can work depending on who runs it", but she feels that we should at least seriously look toward having a professional manager. She feels very strongly that we need a professional manager to attend to County business. The county-wide chair could only be an administrator but not a manager.
2. She is not overly concerned about the issue of an appointed sheriff.
3. She questions the restriction of terms for county commissioners and notes that there are no similar restrictions to any other elected office in the state.
4. The county manager should be accountable to the chair but would be appointed by all commissioners.
5. Having a county manager that would separate the legislative and executive functions of the county government makes sense. A situation similar to current county operations would be to have the governor present the budget and also preside over the legislature.

She also noted that there should be no limit to the appointed county manager's length of term.

#### COMMITTEE BUSINESS:

Ann Porter asked if there were any additions to the September 27th meeting minutes.

Bill Rapp added the name of Judy Phelan, from the District Attorney's Office, to the list of people attending that meeting.

The minutes were approved and amended.

#### Report from the Budget Subcommittee Chair:

Casey Short presented the revised committee budget. Short reported on the changes from the initial report. Discussion ensued regarding the period of the budget.

Ann Porter moved to approve the revised budget.

The motion was seconded by Marcia Pry.

The motion passed unanimously.

Administrator's Report:

1. Bill Rapp reported on the selection of legal counsel. He spoke with Dick Roberts of the law firm of Lindsay, Hart et al who agreed to represent the committee under basically the same terms as the terms agreed upon in 1983-84.

Roberts agreed to represent the committee at an hourly rate of \$50.00 per hour with a maximum of \$3,000.00 to be paid. A discussion ensued regarding the maximum amount to be paid.

Paul Norr asked who would be responsible for asking legal counsel for legal opinions. Would the whole committee have to authorize opinions or merely the chair? A discussion ensued regarding this question.

Lana Butterfield moved that the committee channel legal requests either through the chair and the administrator or the entire committee.

The motion was seconded by Mark Johnson.

The motion passed unanimously.

It was then moved by Ann Porter that we enter into contract with Dick Roberts of the law firm of Lindsay, Hart et al.

The motion passed unanimously.

2. The Administrator presented his preliminary work plan to the committee. He noted that it is based on presenting a committee report to the board for the general election ballot, that it is a flexible document and is patterned after the similar work plan used in 1983-84.

A lengthy discussion ensued as to whether the committee should attempt to put some issues on the primary ballot.

Mark Johnson proposed to appoint a subcommittee to report to the entire committee on possible issues for the primary ballot.

Casey Short agreed that the committee needs alternatives: Do we want to put an entire new charter before the voters or should we amend the charter in pieces?

Paul Norr agreed that the committee needs to make conscious choices regarding when to put issues before the voters.



La Velle Vanden Berg stated that the committee needs as much information as possible in order to make a reasoned decision.

Bill Rapp noted that he felt that the committee needed as much information as possible before choosing issues to put before the voters or even work on. He stated that there are many other possible issues that the committee is not yet aware of.

Florence Bancroft disagreed with the need for a subcommittee to look at issues. She felt that the entire committee should make specific decisions on issues.

Mark Johnson moved to create a subcommittee to report back to the full committee on the committee's options relating to when to put issues before the voters.

The motion was seconded.

The motion failed 5-8. Voting "no" were Lana Butterfield, Florence Bancroft, Nicholas Teeny, Ann Porter, Liberty Lane, Monica Little, Bruce McCain and La Velle Vanden Berg.

La Velle Vanden Berg made a second motion to instruct the administrator to create a detailed timeline to prepare issues for the primary ballot. He is to report back at the next meeting.

The motion was seconded by Monica Little.

The motion passed unanimously.

The meeting adjourned at 9:25 p.m.

REPORT ID: MOBLA104  
 RUN DATE: 10/07/89  
 RUN TIME: 08:25:55

\*\* MULTNOMAH COUNTY \*\*  
 DETAIL LISTING OF OBLIGATIONS VS. BUDGET  
 FOR BUDGET FISCAL YEAR 1990  
 AS OF 09/30/89

PAGE NO: 325

FUND: 100 GENERAL  
 ORGANIZATION: 9305 CHARTER COMMISSION

ORG MGR: BUDGET

AGENCY: 050 NON DEPT  
 ACTIVITY:

OBJECT CODE-DESCRIPTION	CURRENT PERIOD			FISCAL YEAR-TO-DATE			CURRENT BUDGETED AMOUNT	UNOBLIGATED BUDGET BALANCE
	ENCUMBRANCES	EXPENDITURES	TOTAL OBLIGATIONS	OUTSTANDING ENCUMBRANCES	EXPENDITURES	TOTAL OBLIGATIONS		
5200 TEMPORARY	0.00	550.80	550.80	0.00	550.80	550.80		550.80-
5500 FRINGE BNFTS	0.00	41.37	41.37	0.00	41.37	41.37		41.37-
5550 INS BENEFITS	0.00	16.08	16.08	0.00	16.08	16.08		16.08-
SUB TOTAL	0.00	608.25	608.25	0.00	608.25	608.25		608.25-
6110 PROF SVCS	0.00	92.50	92.50	0.00	92.50	92.50	43,000	42,907.50
6230 SUPPLIES	0.00	56.51	56.51	0.00	56.51	56.51		56.51-
SUB TOTAL	0.00	149.01	149.01	0.00	149.01	149.01	43,000	42,850.99
TOT APPR UNIT	0.00	757.26	757.26	0.00	757.26	757.26	43,000	42,242.74
TOT ACTIVITY	0.00	757.26	757.26	0.00	757.26	757.26	43,000	42,242.74
TOTAL ORGN 9305	0.00	757.26	757.26	0.00	757.26	757.26	43,000	42,242.74





# GLADYS McCOY, Multnomah County Chair

Room 134, County Courthouse  
1021 S.W. Fourth Avenue  
Portland, Oregon 97204  
(503) 248-3308

## RECOMMENDATIONS TO THE CHARTER REVIEW COMMITTEE

October 11, 1989

### 1) County Structure

#### a. Elected Chair

The current County structure should be left alone long enough to determine the effectiveness of the structure. A county-wide elected Chair with both legislative and executive responsibilities has only been in effect for less than 3 years.

#### b. Commissioners

The need for justice and human services to be provided as a continuum of service to the County's citizens has become increasingly apparent over the past few years. Next year's Census will reflect a significant increase in our community's population. For these reasons, we need to continue a full time, 5-member Commission, 4 elected by district, to address the concerns of their constituents (with the Chair elected county-wide).

### 2) Lobbyist

Multnomah County must not be prohibited from having a full-time advocate at the state and federal levels for its citizens' concerns. It's absurd that the county with the most citizens in Oregon is the only one which cannot hire such an advocate.

### 3) Salaries

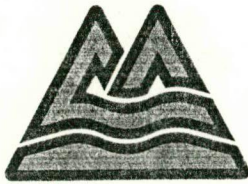
Repeal the current compensation procedure and recommend one that allows the Charter-mandated Salary Commission to establish the salaries as outlined by new state law, (SB 1029).

### 4) Sheriff

The County needs to have a comprehensive and coordinated criminal justice system. It can not do so if the Sheriff continues to have "(S)ole administration of all county jails and correctional institutions..."

### 5) Charter Revisions

If there are a number of recommended changes to the Charter, they should be presented as one ballot issue to the voters as a revised Charter. If you determine that the current Charter language doesn't give you that ability, then at least provide for future Charter revisions.



# MULTNOMAH COUNTY OREGON

CHARTER REVIEW COMMITTEE

1120 S.W. 5th Avenue  
Suite 1500  
Portland, OR 97204

## ESTIMATED BUDGET

### MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE

Payroll - FT	25,000	
Payroll - PT	8,320	
- Workers Comp. 2.5%	<u>780</u>	
Sub Total		34,100
Printing		600
Postage		500
Supplies		1,000
Computer Rental		850
Legal Services		3,000
Recorder		100
Answering Machine		60
Phone Services		1,100
Ad		<u>90</u>
Sub Total		41,400
Unappropriated		<u>1,600</u>
Total Committee Budget		<u><u>43,000</u></u>

EstBudg.1089



# Primary Ballot

Aug.      Sept      Oct.      Nov      Dec      Jan      Feb 9.

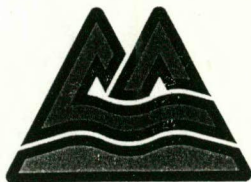
Administration

Issue Selection

Hearings/Work Sessions

Legal  
Drafting

Legal  
Deadline



## MULTNOMAH COUNTY OREGON

CHARTER REVIEW COMMITTEE

1120 S.W. 5th Avenue  
Suite 1500  
Portland, OR 97204

October 10, 1989

Commissioner Gretchen Kafoury  
Multnomah County Courthouse  
1021 S.W. Fourth Avenue, Room 605  
Portland, OR 97204

Dear Commissioner Kafoury:

Thank you for agreeing to testify before the Multnomah County Charter Review Committee at its October 11th meeting. The meeting will commence at 7:00 p.m. in Hearing Room A on the second floor of the Portland Building.

The Committee would appreciate a presentation of up to 20 minutes on your experience as County Commissioner, your impressions of County government, your suggestions as to issues the Committee should direct its attention to and any specific recommendations you have regarding changes in the County Charter. If you have a prepared statement, 20 copies would be greatly appreciated.

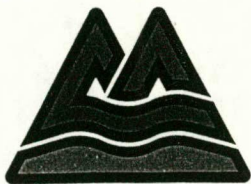
Thank you for your willingness to participate in the Committee's review of the current charter. I look forward to seeing you on Wednesday.

Sincerely,

William C. Rapp  
Administrator

WCR:saw





## MULTNOMAH COUNTY OREGON

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CHARTER REVIEW COMMITTEE

1120 S.W. 5th Avenue  
Suite 1500  
Portland, OR 97204

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October 10, 1989

Commissioner Pauline Anderson  
Multnomah County Courthouse  
1021 S.W. Fourth Avenue, Room 605  
Portland, OR 97204

Dear Commissioner Anderson:

Thank you for agreeing to testify before the Multnomah County Charter Review Committee at its October 11th meeting. The meeting will commence at 7:00 p.m. in Hearing Room A on the second floor of the Portland Building.

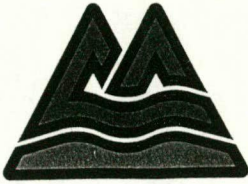
The Committee would appreciate a presentation of up to 20 minutes on your experience as County Commissioner, your impressions of County government, your suggestions as to issues the Committee should direct its attention to and any specific recommendations you have regarding changes in the County Charter. If you have a prepared statement, 20 copies would be greatly appreciated.

Thank you for your willingness to participate in the Committee's review of the current charter. I look forward to seeing you on Wednesday.

Sincerely,

William C. Rapp  
Administrator

WCR:saw



## MULTNOMAH COUNTY OREGON

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CHARTER REVIEW COMMITTEE

1120 S.W. 5th Avenue  
Suite 1500  
Portland, OR 97204

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October 10, 1989

Gladys McCoy, Chair  
Multnomah County Board of Commissioners  
1021 S.W. Fourth Avenue, Room 134  
Portland, OR 97204

Dear Ms. McCoy:

Thank you for agreeing to testify before the Multnomah County Charter Review Committee at its October 11th meeting. The meeting will commence at 7:00 p.m. in Hearing Room A on the second floor of the Portland Building.

The Committee would appreciate a presentation of up to 20 minutes on your experience as County Chair, your impressions of County government, your suggestions as to issues the Committee should direct its attention to and any specific recommendations you have regarding changes in the County Charter. If you have a prepared statement, 20 copies would be greatly appreciated.

Thank you for your willingness to participate in the Committee's review of the current charter. I look forward to seeing you on Wednesday.

Sincerely,

William C. Rapp  
Administrator

WCR:saw



TO: Committee Members  
FROM: Bill Rapp  
DATE: October 6, 1989  
RE: Enclosed Materials

Enclosed you will find the following materials:

1. Agenda for the October 11, 1989 meeting.
2. Minutes of the September 27, 1989 meeting.
3. Background material, including information on county home rule, relevant Oregon Constitution and statutory provisions and information provided by Professor Etter.

We look forward to seeing you on Wednesday, October 11, at 7:00 p.m. in Hearing Room "A" of the Portland Building.

County Chair Gladys McCoy and Multnomah County Commissioners Pauline Anderson and Gretchen Kafoury will be testifying before the Committee. The next few months will be primarily an information gathering period; debate and discussion will come later.



OR Bluebook '89-'90



Lane Co. school, 1912. Photo courtesy of the University of Oregon.

## COUNTY GOVERNMENT AND HOME RULE

For further information contact individual counties

The word county is from the French word "conte", meaning the domain of a count. However, the American county, defined by Webster as "the largest territorial division for local government within a state . . ." is based on the Anglo-Saxon county of England dating back to about the time of the Norman Conquest. Counties were brought to America by the colonists and were later established in the central and western parts of this country by the pioneers as they moved westward.

Early county governments in Oregon were very limited in the services they provided. Their primary responsibilities were forest and farm-to-market roads, law enforcement, courts, care for the needy and tax collections.

In response to demands of a growing population and a more complex society, today's counties provide a wide range of additional important public services including: public health, mental health, community corrections, juvenile services, criminal prosecution, hospitals, nursing homes, airports, parks, libraries, land use planning, building regulations, refuse disposal, elections, air pollution control, veterans services, economic development, urban renewal, public housing, vector control, county fairs, museums, dog control, civil defense, senior services, and many others.

Until recently, counties functioned almost exclusively as agents of the state government. Their every activity had to be either authorized or mandated by state law. However, a 1958 constitutional amendment authorized counties to adopt "home rule" charters and a 1973 state law granted all counties power to exercise broad "home rule" authority. As a result, the national Advisory Commission on Intergovernmental Relations has identified county government in Oregon as having the highest degree of local discretionary authority of any state in the nation.

Seven counties have adopted "home rule" charters, wherein voters have the power to adopt and amend their own county government organization. Lane and Washington were the first to adopt "home rule" in 1962, followed by Hood River (1964), Multnomah (1967), Benton (1972), Jackson (1978), and Josephine (1980).

Twenty-three of Oregon's 36 counties, including the seven with charters, operate under a "board of commissioners" with from three to five elected members. The remaining 13 less populated counties are governed by a "county court" consisting of a county judge and two commissioners.

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## Local Governments CLZ

### ~~§1.4/Nature and Kinds of Local Government~~

~~A second amendment provides that the initiative and referendum powers reserved to the people are extended to the qualified voters of each municipality and district as to all local, special and municipal legislation of every character. OR CONST art IV, §1(5).~~

~~Over the years, cities have used their home rule powers to design charter provisions and ordinances to fit the size, location and other characteristics of their communities. These powers have been applied to fit local needs and desires concerning municipal legislation and the governmental structures of cities. From time to time, the exercise of home rule powers by cities and the exercise of state legislative prerogatives have come into conflict and an extensive case law has emerged concerning home rule issues. See Chapter 3, *infra*.~~

~~Unlike many other states, Oregon does not have an extensive statutory classification system for cities based on size. In states with distinct classes of cities, laws are often designed to fit the size, scope of activities, finances and other characteristics of each classification of cities. 1 E. MCQUILLIN, MUNICIPAL CORPORATIONS §2.33, at 180 (3d ed 1971). Most Oregon laws affecting cities apply to all cities without regard to size or other characteristics.~~

### C. (§1.4) County Home Rule Amendment of 1958

An amendment to the Oregon Constitution in 1958 provided for the adoption by the voters of a county of a charter prescribing the organization of the county government and for the election or appointment, qualifications, tenure, compensation, powers and duties of county officers. This provision also requires that the county officers exercise all the powers and perform all the duties required of county officers, either in the constitution or the laws of the state. OR CONST art VI, §10. See ORS 203.710-203.810.

Counties that do not have home rule charters have a number of elected officers who head their own departments, and the county governing body has less control or responsibility for the operations of the officers and their departments. ORS 204.005, 204.601(2). With the adoption of a "home rule" charter, county government can be reorganized by replacing elected officers who perform technical or administrative functions with appointed officials and centralize both administrative and policy development responsibilities within the governing body or other agencies. See OR CONST art VI, §10.

## **Nature and Kinds of Local Government/§ 1.26**

situated within the boundaries of cities. Also, some of the regulatory powers of counties do not apply within cities. ORS 203.040.

Counties and special districts operate within the same territory, but they have few overlapping services or jurisdictional conflicts. Although counties play a part in the formation and dissolution of many types of special districts, there is little county control over the operation of most districts after they are formed. One exception to this is a county service district formed under ORS Chapter 451, which has the same governing body as the county. ORS 451.485.

### **2. (§ 1.25) Counties with Home Rule Charters**

The home rule amendment to the Oregon Constitution was designed to give counties the option of adopting home rule charters under which they would be able to design the organization of county government and control the selection of officers. Article VI, §10, of the Oregon Constitution provides that a county charter may provide for the exercise of authority over matters of county concern and shall prescribe the organization of the county government and the number, election or appointment, qualifications, tenure, compensation, powers and duties of county officers. It also provides that such officers must exercise all the powers prescribed by the constitution and laws of the state which are granted to or imposed upon county officers.

Since the amendment's enactment in 1958, seven counties have enacted home rule charters: Lane, in May 1962; Washington, in November 1962; Hood River, in May 1964; Multnomah, in May 1966; Benton, in November 1972; Jackson, in November 1978; and Josephine in January 1981.

For a brief description of the usual differences in organization between home rule and non-home rule counties, see §1.41, *infra*.

### **C. Special Districts**

#### **1. (§ 1.26) In General**

The most numerous of local governmental units in Oregon are the special districts. More than 30 different types of special districts are listed in ORS Chapter 198. According to the U.S. Bureau of Census, as of January 1977, there were 1,172 special districts in Oregon, which included 375 school districts. In comparison, there were only 36 counties and 239 cities in Oregon. 1977 CENSUS OF GOVERNMENTS, *Government Organization* 467 (1978).



## Nature and Kinds of Local Government/§ 1.41

### C. (§ 1.39) Commission

Under the commission form of government, the mayor and commissioners of the city are elected by the people. They become full-time officials of the city, and act in both legislative and executive capacities. When meeting as a council or commission, they perform their legislative functions. When acting individually as department heads, they perform administrative functions. C. RHYNE, THE LAW OF LOCAL GOVERNMENT OPERATIONS § 1.6, at 8 (1980).

CAVEAT: The fact that the members of the governing body of a city are called "commissioners" does not necessarily mean that the city has a commission form of government. Charters of some mayor-council or council-manager cities call members of the governing body "commissioners."

### D. (§ 1.40) Variations in City Government

There is almost no limit to the variations that may exist in the organization and structure of home rule cities. A city government might be organized to have characteristics of two or three forms of governmental organizations previously discussed, or it might have characteristics unlike any of them. For example, in the mayor-council form of government the mayor might have the powers and functions of a city manager in addition to other duties. Also, there could be a mayor-council form of government in which the mayor is a member of the council and has no additional powers. In the council-manager form of government there may be varying degrees of control by the council over the acts and conduct of the city manager in the exercise of administrative functions.

## VI. (§ 1.41) ORGANIZATION OF COUNTY GOVERNMENT

The organization of county governments which do not have home rule charters is provided in ORS Chapter 203. The governing body, referred to as either the board of county commissioners or the county court, is an elective body whose members serve four-year terms and who run for numbered positions. ORS 204.010-204.017. In addition to the board of county commissioners, the law requires that there be elected county officers consisting of a sheriff, clerk, treasurer, assessor and surveyor, who also serve four-year terms. ORS 204.005, 204.010. Although the board of county commissioners establishes the budgets for each department headed by an elected officer and sets the number of deputies to serve in such departments, the actual operation

#### **§1.41/Nature and Kinds of Local Government**

of the department, including the hiring and dismissal of employees of such departments, is under the control of the elected department heads. ORS 204.601, 294.435.

Counties with home rule charters adopted by the voters may have a different organization of county officials and may appoint rather than elect officers. OR CONST art VI, §10. They may centralize control of administrative matters so that all departments are administered by the governing body, or they may have a manager form of government. By both constitutional provision and statute, home rule counties must have officers designated to carry out the same functions required by law for the designated officers of counties without home rule. OR CONST art VI, §10; ORS 203.710(1). Therefore, statutes are controlling as to the functions and duties to be carried out by county officials, but the selection, designation and organization of county officials may be changed by home rule charter.



who shall severally hold their offices for the term of four years; but no person shall be eligible to either of said offices more than Eight in any period of Twelve years.—

### Section 2. Duties of Secretary of State.

The Secretary of State shall keep a fair record of the official acts of the Legislative Assembly, and Executive Department of the State; and shall when required lay the same, and all matters relative thereto before either branch of the Legislative Assembly. He shall be by virtue of his office, Auditor of public Accounts, and shall perform such other duties as shall be assigned him by law.—

**Section 3. Seal of state.** There shall be a seal of State, kept by the Secretary of State for official purposes, which shall be called "The seal of the State of Oregon".—

**Section 4. Powers and duties of Treasurer.** The powers, and duties of the Treasurer of State shall be such as may be prescribed by law.—

**Section 5. Offices and records of executive officers.** The Governor, Secretary of State, and Treasurer of State shall severally keep the public records, books and papers at the seat of government in any manner relating to their respective offices. [Amendment proposed by S.J.R. 13, 1985, and adopted by people Nov. 4, 1986]

**Section 6. County officers.** There shall be elected in each county by the qualified electors thereof at the time of holding general elections, a county clerk, treasurer and sheriff who shall severally hold their offices for the term of four years. [Constitution of 1859; Amendment proposed by initiative petition filed June 9, 1920, and adopted by people Nov. 2, 1920; Amendment proposed by H.J.R. No. 7, 1955, and adopted by people Nov. 6, 1956]

**Section 7. Other officers.** Such other county, township, precinct, and City officers as may be necessary, shall be elected, or appointed in such manner as may be prescribed by law.—

**Section 8. County officers' qualifications; location of offices of county and city officers; duties of such officers.** Every county officer shall be an elector of the county, and the county assessor, county sheriff, county coroner and county surveyor shall possess such other qualifications as may be prescribed by law. All county and city officers shall keep their respective offices at such places therein, and perform such duties, as may be prescribed by law. [Constitution of 1859; Amendment proposed by H.J.R. No. 7, 1955, and adopted by people Nov. 6, 1956; Amendment proposed by H.J.R. No. 42, 1971, and adopted by people Nov. 7, 1972; Amendment proposed by H.J.R. No. 22, 1973, and adopted by people Nov. 5, 1974]

**Section 9. Vacancies in county, township, precinct and city offices.** Vacancies in County, Township, precinct and City offices shall be filled in such manner as may be prescribed by law.—

**Section 9a. County manager form of government.** [Created through H.J.R. No. 3, 1943, adopted by people Nov. 7, 1944; Repeal proposed by H.J.R. No. 22, 1957, and adopted by people Nov. 4, 1958]

**Section 10. County home rule under county charter.** The Legislative Assembly shall provide by law a method whereby the legal voters of any county, by majority vote of such voters voting thereon at any legally called election, may adopt, amend, revise or repeal a county charter. A county charter may provide for the exercise by the county of authority over matters of county concern. Local improvements shall be financed only by taxes, assessments or charges imposed on benefited property, unless otherwise provided by law or charter. A county charter shall prescribe the organization of the county government and shall provide directly, or by its authority, for the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the county deems necessary. Such officers shall among them exercise all the powers and perform all the duties, as distributed by the county charter or by its authority, now or hereafter, by the Constitution or laws of this state, granted to or imposed upon any county officer. Except as expressly provided by general law, a county charter shall not affect the selection, tenure, compensation, powers or duties prescribed by law for judges in their judicial capacity, for justices of the peace or for district attorneys. The initiative and referendum powers reserved to the people by this Constitution hereby are further reserved to the legal voters of every county relative to the adoption, amendment, revision or repeal of a county charter and to legislation passed by counties which have adopted such a charter; and no county shall require that referendum petitions be filed less than 90 days after the provisions of the charter or the legislation proposed for referral is adopted by the county governing body. To be circulated, referendum or initiative petitions shall set forth in full the charter or legislative provisions proposed for adoption or referral. Referendum petitions shall not be required to include a ballot title to be circulated. In a county a number of signatures of qualified voters equal to but not greater than four percent of the total number of all votes cast in the county for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition shall be required for a petition to order a





referendum on county legislation or a part thereof. A number of signatures equal to but not greater than six percent of the total number of votes cast in the county for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition shall be required for a petition to propose an initiative ordinance. A number of signatures equal to but not greater than eight percent of the total number of votes cast in the county for all candidates for Governor at the election at which a Governor was elected for a term of four years next preceding the filing of the petition shall be required for a petition to propose a charter amendment. [Created through H.J.R. No. 22, 1957, adopted by people Nov. 4, 1958; Amendment proposed by S.J.R. No. 48, 1959, and adopted by people Nov. 8, 1960; Amendment proposed by H.J.R. No. 21, 1977, and adopted by people May 23, 1978]

## ARTICLE VII (Amended) JUDICIAL DEPARTMENT

- Sec. 1. Courts; election of judges; term of office; compensation
- 1a. Retirement of judges; recall to temporary active service
  2. Amendment's effect on courts, jurisdiction and judicial system; Supreme Court's original jurisdiction
  - 2a. Temporary appointment and assignment of judges
  - 2b. Inferior courts may be affected in certain respects by special or local laws
  3. Jury trial; re-examination of issues by appellate court; record on appeal to Supreme Court; affirmation notwithstanding error; determination of case by Supreme Court
  4. Supreme Court; terms; statements of decisions of court
  5. Juries; indictment; information
  6. Incompetency or malfeasance of public officer
  7. Oath of office of Judges of Supreme Court
  8. Removal, suspension or censure of judges
  9. Juries of less than 12 jurors

**Section 1. Courts; election of judges; term of office; compensation.** The judicial power of the state shall be vested in one supreme court and in such other courts as may from time to time be created by law. The judges of the supreme and other courts shall be elected by the legal voters of the state or of their respective districts for a term of six years, and shall receive such compensation as may be provided by law, which compensation shall not be diminished during the term for which they are elected. [Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

**Section 1a. Retirement of judges; recall to temporary active service.** Notwithstanding

the provisions of section 1, Article VII (Amended) of this Constitution, a judge of any court shall retire from judicial office at the end of the calendar year in which he attains the age of 75 years. The Legislative Assembly or the people may by law:

(1) Fix a lesser age for mandatory retirement not earlier than the end of the calendar year in which the judge attains the age of 70 years;

(2) Provide for recalling retired judges to temporary active service on the court from which they are retired; and

(3) Authorize or require the retirement of judges for physical or mental disability or any other cause rendering judges incapable of performing their judicial duties.

This section shall not affect the term to which any judge shall have been elected or appointed prior to or at the time of approval and ratification of this section. [Created through S.J.R. No. 3, 1959, adopted by people Nov. 8, 1960]

**Section 2. Amendment's effect on courts, jurisdiction and judicial system; Supreme Court's original jurisdiction.** The courts, jurisdiction, and judicial system of Oregon, except so far as expressly changed by this amendment, shall remain as at present constituted until otherwise provided by law. But the supreme court may, in its own discretion, take original jurisdiction in mandamus, quo warranto and habeas corpus proceedings. [Created through initiative petition filed July 7, 1910, adopted by people Nov. 8, 1910]

**Section 2a. Temporary appointment and assignment of judges.** The Legislative Assembly or the people may by law empower the Supreme Court to:

(1) Appoint retired judges of the Supreme Court or judges of courts inferior to the Supreme Court as temporary members of the Supreme Court.

(2) Appoint members of the bar as judges pro tempore of courts inferior to the Supreme Court.

(3) Assign judges of courts inferior to the Supreme Court to serve temporarily outside the district for which they were elected.

A judge or member of the bar so appointed or assigned shall while serving have all the judicial powers and duties of a regularly elected judge of the court to which he is assigned or appointed. [Created through S.J.R. No. 30, 1957, adopted by people Nov. 4, 1958]

**Section 2b. Inferior courts may be affected in certain respects by special or**



(4) The person serving as county judge on the date the office is abolished shall serve as chairman of the board of county commissioners until the expiration of the term of office of that person and shall have the same powers and duties and be subject to the same provisions of law as the other county commissioners.

**203.240 Organization, powers and duties of board.** (1) A board of county commissioners shall:

(a) Have the powers and duties and be otherwise subject to the laws applicable to county courts sitting for the transaction of county business.

(b) Unless provided otherwise by county charter or ordinance, consist of three county commissioners. A majority of the board is required to transact county business.

(c) Except as otherwise provided in ORS 203.230 (4), appoint a chairperson from among their number who shall serve until the first Monday in January next following appointment. If two members of the board cannot agree on the appointment of a chairperson, the member of the board who is longest in length of service shall act as chairperson.

(2) When a county has established a board of county commissioners any reference in the statutes to the county court of that county shall be considered a reference to the board of county commissioners of the county. [1961 c.571 §2; 1971 c.88 §7; 1981 c.140 §4; 1985 c.756 §2]

203.310 [Repealed by 1959 c.527 §11]

203.320 [Repealed by 1959 c.527 §11]

203.330 [Repealed by 1959 c.527 §11]

203.340 [Repealed by 1959 c.527 §11]

203.350 [Repealed by 1959 c.527 §11]

203.360 [Repealed by 1959 c.527 §11]

203.370 [Repealed by 1959 c.527 §11]

203.380 [Repealed by 1959 c.527 §11]

203.390 [Repealed by 1959 c.527 §11]

203.400 [Repealed by 1959 c.527 §11]

203.410 [Repealed by 1959 c.527 §11]

203.420 [Repealed by 1959 c.527 §11]

203.430 [Repealed by 1959 c.527 §11]

203.440 [Repealed by 1959 c.527 §11]

203.450 [Repealed by 1959 c.527 §11]

203.460 [Repealed by 1959 c.527 §11]

203.470 [Repealed by 1959 c.527 §11]

203.480 [Repealed by 1959 c.527 §11]

203.490 [Repealed by 1959 c.527 §11]

203.500 [Repealed by 1959 c.527 §11]

203.510 [Repealed by 1959 c.527 §11]

203.520 [Repealed by 1959 c.527 §11]

203.530 [Repealed by 1959 c.527 §11]

203.540 [Repealed by 1959 c.527 §11]

203.550 [Repealed by 1959 c.527 §11]

## COUNTY HOME RULE

**203.710 Performance of functions by officers designated by county law; definition.** (1) The designation of county officers to perform functions under ORS 203.710 to 203.770 extends to those officers who, under a county charter or legislation enacted pursuant thereto, may be designated to perform the same functions.

(2) References to the county court in ORS 203.710 to 203.770 include the board of county commissioners.

(3) As used in ORS 203.710 to 203.770, unless the context requires otherwise, "legally called election" means any primary or general election held throughout the county. [1959 c.527 §1; 1961 c.339 §1]

**203.720 Electors of county may adopt, amend, revise or repeal county charter; certain provisions, deemed matters of county concern, to prevail over state law.** The electors of any county, by majority vote of such electors voting thereon at any legally called election, may adopt, amend, revise or repeal a county charter. The charter, or legislation passed by the county pursuant thereto, shall provide a method whereby the electors of the county, by majority vote of such electors voting thereon at any legally called election, may amend, revise or repeal the charter. The county charter and legislative provisions relating to the amendment, revision or repeal of the charter are deemed to be matters of county concern and shall prevail over any conflicting provisions of ORS 203.710 to 203.770 and other state statutes unless otherwise specifically provided by conflicting state statutes first effective after January 1, 1961. [1959 c.527 §2]

**203.725 County charter amendment; single subject; separate submission to electors.** (1) A proposed amendment to a county charter, whether proposed by the county governing body or by the people of the county in the exercise of the initiative power, shall embrace but one subject and matters properly connected therewith.

(2) When two or more amendments to a county charter are submitted to the electors of the county for their approval or rejection at the same election, they shall be so submitted that each amendment shall be voted on separately.





(3) Notwithstanding any county charter or legislation enacted thereunder, this section shall apply to every amendment of a county charter and shall take precedence and prevail over any conflicting provisions in a county charter or in legislation enacted thereunder. [1983 c.240 §2]

**203.730 Charter committee appointed after filing of resolution or petition; sufficiency of petition; notice to persons entitled to make appointments to committee.** (1) A county charter may be proposed by a committee appointed after the filing with the county clerk of:

(a) A resolution requesting appointment of the committee, adopted by a majority of the county court; or

(b) A petition requesting appointment of the committee, signed by such number of electors of the county as is equal to at least five percent of the whole number of votes cast within the county for that position of judge of the Supreme Court for which the greatest number of votes was cast within the county at the last preceding election for judge of the Supreme Court. The petition shall be substantially in such form as the county clerk may prescribe.

(2) The county clerk, not later than the fifth day after the filing of the resolution of the county court, shall give written notice thereof to those persons entitled to participate in the appointment of a member of the committee.

(3) Upon the filing with the county clerk of a petition requesting the appointment of a committee, the county clerk, not later than the 15th day after the filing of the petition, shall verify the signatures and certify to the county court the findings as to the sufficiency of such petition. If the petition is found to be sufficient, the county clerk immediately shall give written notice thereof to those persons entitled to participate in the appointment of a member of the committee. [1959 c.527 §§3, 4; 1973 c.255 §1; 1979 c.190 §403]

**203.740 Charter committee and members; appointment, qualifications, vacancies, terms, organization, meetings.** (1) Within 60 days after the county clerk finds that a petition for the appointment of a committee is sufficient, or within 60 days after the county court has filed with the county clerk its resolution requesting that a committee be appointed, a committee shall be appointed as provided in this section. Only one committee is to be in existence at any given period of time.

(2)(a) In all counties, (i) a majority of the county court is entitled to appoint four members of the committee; (ii) a majority of the State

Senators and State Representatives then representing the county is entitled to appoint four additional members; and (iii) a majority, consisting of at least five, of those persons appointed under (i) and (ii) of this paragraph is entitled to appoint one additional member.

(b) If, within 45 days after the terms of committee members begin to run as provided in subsection (4) of this section, an appointing authority has not made the appointment or appointments it is entitled to make, the county clerk shall call a meeting of those persons constituting the appointing authority by giving written notice to each of them, specifying the purpose of the meeting and the time and place thereof. The time of the meeting shall be set within 15 days of the expiration of the 45-day period.

(3) All members of the committee must be electors of the county; and no member shall be engaged, directly or indirectly, in any business with the county which is inconsistent with the conscientious performance of duties as a member of the committee. An initial appointment, or an appointment to fill a vacancy, is made by delivering to the county clerk written notice of the name and address of the person appointed, signed by the person duly authorized to act for the appointing authority. No member of an appointive authority may serve as a member of such committee. If an appointing authority fails to make such an initial appointment within 60 days after the terms of committee members begin to run as provided in subsection (4) of this section, the county court shall make the appointment within 10 days after the expiration of the 60-day period.

(4) The terms of committee members run either from the date the county court receives the certification from the county clerk that the petition requesting the appointment of the committee is sufficient or from the date the county court files its resolution requesting appointment of the committee, as the case may be. The terms expire on the day of the election at which the committee's proposed charter is voted upon or within two years from the date the terms began, whichever is the sooner, unless, in the case where a proposed charter is not submitted at an election held within such two-year period, the county court by resolution filed with the county clerk before the expiration of the terms extends them until the day of the election on the proposed charter or for another two years, whichever is the sooner. Any vacancy occurring on the committee, in a position for which an initial appointment has been made, shall be filled by appointment for the unexpired term by the appointing authority which was entitled to make the initial appoint-



ment of the member whose position is vacant or, if such appointing authority fails to make the appointment within 10 days after the vacancy occurs, by the county court.

(5) Not later than 80 days after the terms of committee members begin to run as provided in subsection (4) of this section, the members of the committee shall meet and organize. A majority of the committee constitutes a quorum for the transaction of business. The committee may adopt such rules as it deems necessary for its operation. However, the committee may not prohibit the public from attending any of its meetings. [1959 c.527 §5; 1979 c.748 §2]

**203.750 County funds for charter committee; committee staff; county officials to cooperate.** (1) Notwithstanding ORS 294.305 to 294.520, 294.555 and 294.565, if the county court is notified of the sufficiency of a petition requesting the appointment of a committee, or if it files its resolution requesting the appointment of a committee, the county, acting through the county court, shall cause to be made available from funds of the county an amount equal at least to one cent per elector of the county or \$500, whichever amount is greater, for the purpose of paying the expenses of the committee in the preparation of the charter. Members of the committee shall serve without pay. The committee, within the limit of funds available to it, may employ such persons, or contract for their services, as it may deem necessary to aid it in the performance of its functions. Persons employed by the committee are exempt from civil service. The county, acting through the county court, shall cause to be furnished free of charge to the committee adequate office space and, notwithstanding ORS 294.305 to 294.520, 294.555 and 294.565, may cause money, in addition to the required minimum amount, to be appropriated for the committee. The committee shall submit to the county court a budget covering estimates of its expenditures. With respect to expenditures in excess of the minimum amount of money required to be made available, the budget as approved or revised and approved by the county court shall represent the authorized limits of the committee's expenditures. Any balance remaining unexpended shall be transferred to the general fund of the county unless other provisions were made at the time of the appropriation to the committee. The county treasurer is authorized to disburse funds of the committee on its order.

(2) The committee may conduct interviews and make investigations which to it seem necessary in order to draft a charter; and, to the fullest extent practicable, county officials and employees

shall cooperate with the committee and provide it with information, advice and assistance. [1959 c.527 §6]

**203.760 Submission of proposed charter, after public hearing, to electors; approval of conflicting charters.** (1) The committee shall submit its proposed charter to the county clerk not later than the 90th day before the election at which the proposed charter is to be voted upon. Before the proposed charter is submitted to the county clerk, the committee shall conduct at least one public hearing thereon. After the proposed charter is submitted to the county clerk, the county clerk shall submit the proposed charter to the district attorney for a ballot title as provided in ORS 250.185 (2). The ballot title is subject to judicial review as provided in ORS 250.195.

(2) The charter proposed by the committee shall take effect on the day fixed therein if approved by majority vote of the electors of the county voting thereon.

(3) If two or more conflicting county charters are approved at the same election, the one receiving the greatest number of affirmative votes shall be adopted. [1959 c.527 §7; 1979 c.190 §404; 1981 c.173 §6]

**203.770 Copies of charters and amendments, revisions and repeals thereof; location and judicial notice of.** (1) Duplicate certificates shall be made, setting forth the county charter adopted and a statement of its ratification, signed by the officers or members of the body canvassing election returns. One of such certified copies shall be deposited in the office of the Secretary of State, the other shall be kept as a permanent record of the county. All courts shall take judicial notice of either copy.

(2) This section shall also apply to any amendment, revision or repeal of the county charter. [1959 c.527 §8]

**203.780** [1959 c.527 §9; 1963 c.290 §1; 1975 c.766 §2b; repealed by 1979 c.190 §431]

**203.790** [1959 c.527 §10; repealed by 1979 c.190 §431]

**203.810 Offenses under county law; jurisdiction; prosecutions.** (1) As used in this section:

(a) "County law" means a county charter adopted pursuant to ORS 203.710 to 203.770 and legislation passed by a charter county or any ordinance enacted by a general law county.

(b) "County offense" means any crime or offense defined or made punishable by county law.

(2) Except as may be provided otherwise by county law:



(a) The justice courts, district court, if any, and circuit court for a county have jurisdiction of county offenses to the same extent as such courts have jurisdiction of crimes or offenses defined or made punishable by state law, as determined by the maximum punishment which may be imposed therefor.

(b) The district attorney shall prosecute county offenses unless the county governing body elects to have the prosecution of such offenses conducted by a county counsel appointed pursuant to ORS 203.145.

(c) The practice and procedure as to the prosecution, trial and punishment of county offenses shall be the same as in the case of similar crimes or offenses defined or made punishable by state law.

(3) Except as may be provided otherwise by county law and subject to limitations on its civil

jurisdiction under state law, the justice court, district court and circuit court for a county have jurisdiction of a civil proceeding maintained by a county under ORS 30.310 or 30.315, including a proceeding to abate or enjoin any act or condition that is declared to be a nuisance by an ordinance of the county.

(4) If fines, costs or bail are not paid by a defendant within 60 days after payment is ordered by a court, the defendant is personally liable to the county for the amount of the unpaid fines, costs or bail. The county may file and docket the order for payment with the clerk of the circuit court in the same manner as for a judgment of the district court. The order for payment may thereafter be enforced as a judgment of the circuit court. [1961 c.724 §33; 1963 c.611 §1; 1977 c.622 §1; 1981 c.75 §1; 1985 c.626 §2]

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items dishonored or which created overdrafts, dollar volume of dishonored items and items which when paid created overdrafts, a statement explaining any credit arrangement between the financial institution and the customer to pay overdrafts, dates and amounts of deposits and debits to a customer's account, the account balance on such dates, a copy of the customer's signature card and the dates the account opened or closed. [1977 c.517 §§ (2), (3)]

**192.590 Civil liability for violation of ORS 192.550 to 192.595; status of evidence obtained in violation.** (1) Any customer who suffers any ascertainable loss as a result of a wilful violation of ORS 192.550 to 192.595 by any person, may bring an individual action in an appropriate court to recover actual damages or \$1,000, whichever is greater.

(2) Any customer who suffers any ascertainable loss as a result of a negligent violation of ORS 192.550 to 192.595 by any person, may bring an individual action in an appropriate court to recover actual damages.

(3) In any successful action to enforce civil liability for violation of the provisions of ORS 192.550 to 192.595, the customer may recover the cost of the action, together with reasonable attorney fees at trial and on appeal as determined by the court.

(4) An action to enforce any provision of ORS 192.550 to 192.595 must be commenced within two years after the date on which the violation occurred.

(5) Evidence obtained in violation of ORS 192.550 to 192.595 is inadmissible in any proceeding. [1977 c.517 §9; 1981 c.897 §41]

**192.595 Severability.** If any provision of ORS 192.550 to 192.595 or the application thereof to any person or circumstance is held invalid for any reason, such invalidity shall not affect any other provision or application of ORS 192.550 to 192.595 which can remain in effect without the invalid provision or application, and to this end the provisions of ORS 192.550 to 192.595 are severable. [1977 c.517 §10]

## PUBLIC MEETINGS

**192.610 Definitions for ORS 192.610 to 192.690.** As used in ORS 192.610 to 192.690:

(1) "Decision" means any determination, action, vote or final disposition upon a motion, proposal, resolution, order, ordinance or measure on which a vote of a governing body is required, at any meeting at which a quorum is present.

(2) "Executive session" means any meeting or part of a meeting of a governing body which is closed to certain persons for deliberation on certain matters.

(3) "Governing body" means the members of any public body which consists of two or more members, with the authority to make decisions for or recommendations to a public body on policy or administration.

(4) "Public body" means the state, any regional council, county, city or district, or any municipal or public corporation, or any board, department, commission, council, bureau, committee or subcommittee or advisory group or any other agency thereof.

(5) "Meeting" means the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter. "Meeting" does not include any onsite inspection of any project or program. "Meeting" also does not include the attendance of members of a governing body at any national, regional or state association to which the public body or the members belong. [1973 c.172 §2; 1979 c.644 §1]

**192.620 Policy.** The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly. [1973 c.172 §1]

**192.630 Meetings of governing body to be open to public; location of meetings.** (1) All meetings of the governing body of a public body shall be open to the public and all persons shall be permitted to attend any meeting except as otherwise provided by ORS 192.610 to 192.690.

(2) No quorum of a governing body shall meet in private for the purpose of deciding on or deliberating toward a decision on any matter except as otherwise provided by ORS 192.610 to 192.690.

(3) A governing body shall not hold a meeting at any place where discrimination on the basis of race, creed, color, sex, age or national origin is practiced. However, the fact that organizations with restricted membership hold meetings at the place shall not restrict its use by a public body if use of the place by a restricted membership organization is not the primary purpose of the place or its predominate use.

(4) Meetings of the governing body of a public body shall be held within the geographic boundaries over which the public body has juris-



diction, or at the administrative headquarters of the public body or at the other nearest practical location. Training sessions may be held outside the jurisdiction so long as no deliberations toward a decision are involved. A joint meeting of two or more governing bodies shall be held within the geographic boundaries over which one of the participating public bodies has jurisdiction or at the nearest practical location. Meetings may be held in locations other than those described in this subsection in the event of an actual emergency necessitating immediate action. This subsection does not apply to the Oregon State Bar until December 31, 1980. [1973 c.172 §3; 1979 c.644 §2]

**192.640 Public notice required; special notice for executive sessions, special or emergency meetings.** (1) The governing body of a public body shall provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.

(2) If an executive session only will be held, the notice shall be given to the members of the governing body, to the general public and to news media which have requested notice, stating the specific provision of law authorizing the executive session.

(3) No special meeting shall be held without at least 24 hours' notice to the members of the governing body, the news media which have requested notice and the general public. In case of an actual emergency, a meeting may be held upon such notice as is appropriate to the circumstances, but the minutes for such a meeting shall describe the emergency justifying less than 24 hours' notice. [1973 c.172 §4; 1979 c.644 §3; 1981 c.182 §1]

**192.650 Written minutes required; content; content of minutes for executive sessions.** (1) The governing body of a public body shall provide for the taking of written minutes of all its meetings. Neither a full transcript nor a recording of the meeting is required, except as otherwise provided by law, but the written minutes must give a true reflection of the matters discussed at the meeting and the views of the participants. All minutes shall be available to the public within a reasonable time after the meeting, and shall include at least the following information:

(a) All members of the governing body present;

(b) All motions, proposals, resolutions, orders, ordinances and measures proposed and their disposition;

(c) The results of all votes and, except for public bodies consisting of more than 25 members unless requested by a member of that body, the vote of each member by name;

(d) The substance of any discussion on any matter; and

(e) Subject to ORS 192.410 to 192.505 relating to public records, a reference to any document discussed at the meeting but such reference shall not affect the status of the document under ORS 192.410 to 192.505.

(2) Minutes of executive sessions shall be kept in accordance with subsection (1) of this section. However, the minutes of a hearing held under ORS 332.061 shall contain only the material not excluded under ORS 332.061 (2). Instead of written minutes, a record of any executive session may be kept in the form of a sound tape recording which need not be transcribed unless otherwise provided by law. Material the disclosure of which is inconsistent with the purpose for which a meeting under ORS 192.660 is authorized to be held may be excluded from disclosure. However, excluded materials are authorized to be examined privately by a court in any legal action and the court shall determine their admissibility. [1973 c.172 §5; 1975 c.664 §1; 1979 c.644 §4]

**192.660 Executive sessions permitted on certain matters; procedures; news media representatives' attendance; limits.**

(1) Nothing contained in ORS 192.610 to 192.690 shall be construed to prevent the governing body of a public body from holding executive session during a regular, special or emergency meeting, after the presiding officer has identified the authorization under ORS 192.610 to 192.690 for the holding of such executive session. Executive session may be held:

(a) To consider the employment of a public officer, employee, staff member or individual agent. The exception contained in this paragraph does not apply to:

(A) The filling of a vacancy in an elective office.

(B) The filling of a vacancy on any public committee, commission or other advisory group.

(C) The consideration of general employment policies.

(D) The employment of the chief executive officer, other public officers, employees and staff



members of any public body unless the vacancy in that office has been advertised, regularized procedures for hiring have been adopted by the public body and there has been opportunity for public input into the employment of such an officer. However, the standards, criteria and policy directives to be used in hiring chief executive officers shall be adopted by the governing body in meetings open to the public in which there has been opportunity for public comment.

(b) To consider the dismissal or disciplining of, or to hear complaints or charges brought against, a public officer, employee, staff member or individual agent, unless such public officer, employee, staff member or individual agent requests an open hearing.

(c) To consider matters pertaining to the function of the medical staff of a public hospital licensed pursuant to ORS 441.015 to 441.063, 441.085, 441.087, 441.990 (3), 442.320 and 442.340 including, but not limited to, all clinical committees, executive, credentials, utilization review, peer review committees and all other matters relating to medical competency in the hospital.

(d) To conduct deliberations with persons designated by the governing body to carry on labor negotiations.

(e) To conduct deliberations with persons designated by the governing body to negotiate real property transactions.

(f) To consider records that are exempt by law from public inspection.

(g) To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations.

(h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

(i) To review and evaluate, pursuant to standards, criteria and policy directives adopted by the governing body, the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member unless the person whose performance is being reviewed and evaluated requests an open hearing. The standards, criteria and policy directives to be used in evaluating chief executive officers shall be adopted by the governing body in meetings open to the public in which there has been opportunity for public comment. An executive session for purposes of evaluating a chief executive officer or other officer, employee or staff

member shall not include a general evaluation of an agency goal, objective or operation or any directive to personnel concerning agency goals, objectives, operations or programs.

(j) To carry on negotiations under ORS chapter 293 with private persons or businesses regarding proposed acquisition, exchange or liquidation of public investments.

(2) Labor negotiations may be conducted in executive session if either side of the negotiators requests closed meetings. Notwithstanding ORS 192.640, subsequent sessions of the negotiations may continue without further public notice.

(3) Representatives of the news media shall be allowed to attend executive sessions other than those held under paragraph (d) of subsection (1) of this section relating to labor negotiations or executive session held pursuant to ORS 332.061 (2) but the governing body may require that specified information subject of the executive session be undisclosed.

(4) No executive session may be held for the purpose of taking any final action or making any final decision. [1973 c.172 §6; 1975 c.664 §2; 1979 c.644 §5; 1981 c.302 §1; 1983 c.453 §1; 1985 c.657 §2]

**192.670 Meetings by means of telephonic or electronic communication.** (1) Any meeting, including an executive session, of a governing body of a public body which is held through the use of telephone or other electronic communication shall be conducted in accordance with ORS 192.610 to 192.690.

(2) When telephone or other electronic means of communication is used and the meeting is not an executive session, the governing body of the public body shall make available to the public at least one place where the public can listen to the communication at the time it occurs by means of speakers or other devices. The place provided may be a place where no member of the governing body of the public body is present. [1973 c.172 §7; 1979 c.361 §1]

**192.680 Enforcement of ORS 192.610 to 192.690; effect of violation on validity of decision of governing body; liability of members.** (1) Any person affected by a decision of a governing body of a public body may commence a suit in the circuit court for the county in which the governing body ordinarily meets, for the purpose of requiring compliance with, or the prevention of violations of ORS 192.610 to 192.690, by members of the governing body, or to determine the applicability of ORS 192.610 to 192.690 to matters or decisions of the governing body. The court may order such equitable relief as



it deems appropriate in the circumstances. A decision shall not be voided if other equitable relief is available. The court may order payment to a successful plaintiff in a suit brought under this section of reasonable attorney fees at trial and on appeal, by the governing body, or public body of which it is a part or to which it reports.

(2) If the court makes a finding that a violation of ORS 192.610 to 192.690 has occurred under subsection (1) of this section and that the violation is the result of wilful misconduct by any member or members of the governing body, that member or members shall be jointly and severally liable to the governing body or the public body of which it is a part for the amount paid by the body under subsection (1) of this section.

(3) The provisions of this section shall be the exclusive remedy for an alleged violation of ORS 192.610 to 192.690. [1973 c.172 §8; 1975 c.664 §3; 1979 c.644 §6; 1981 c.897 §42; 1983 c.453 §2]

**192.690 Exceptions to ORS 192.610 to 192.690.** (1) ORS 192.610 to 192.690 shall not apply to the deliberations of the State Board of Parole, the State Banking Board, the Psychiatric Security Review Board, of state agencies conducting hearings on contested cases in accordance with the provisions of ORS 183.310 to 183.550, the review by the Workers' Compensation Board of similar hearings on contested cases, meetings of the state lawyers assistance committees, the local lawyers assistance committees in accordance with the provisions of ORS 9.545 and the peer review committees in accordance with the provisions of ORS 441.055 or to any judicial proceeding.

(2) Because of the grave risk to public health and safety that would be posed by misappropriation or misapplication of information considered during such review and approval, ORS 192.610 to 192.690 shall not apply to review and approval of security programs by the Energy Facility Siting Council pursuant to ORS 469.530 (3): [1973 c.172 §9; 1975 c.606 §41b; 1977 c.380 §19; 1981 c.354 §3; 1983 c.617 §4; 1987 c.850 §3]

**192.695 Prima facie evidence of violation required of plaintiff.** In any suit commenced under ORS 192.680 (1), the plaintiff shall be required to present prima facie evidence of a violation of ORS 192.610 to 192.690 before the governing body shall be required to prove that its acts in deliberating toward a decision complied with the law. When a plaintiff presents prima facie evidence of a violation of the open meetings law, the burden to prove that the provisions of ORS 192.610 to 192.690 were complied with shall be on the governing body. [1981 c.892 §97d]

**Note:** 192.695 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS 192.610 to 192.990 by legislative action. See Preface to Oregon Revised Statutes for further explanation.

**192.710 Smoking in public meetings prohibited.** (1) No person shall smoke or carry any lighted smoking instrument in a room where a public meeting is being held or is to continue after a recess. For purposes of this subsection, a public meeting is being held from the time the agenda or meeting notice indicates the meeting is to commence regardless of the time it actually commences.

(2) As used in this section:

(a) "Public meeting" means any regular or special public meeting or hearing of a public body to exercise or advise in the exercise of any power of government in buildings or rooms rented, leased or owned by the State of Oregon or by any county, city or other political subdivision in the state regardless of whether a quorum is present or is required.

(b) "Public body" means the state or any department, agency, board or commission of the state or any county, city or other political subdivision in the state.

(c) "Smoking instrument" means any cigar, cigarette, pipe or other smoking equipment. [1973 c.168 §1; 1979 c.262 §1]

## FINANCIAL INSTITUTION RECORD DISCLOSURES

**192.800 Definitions.** (1) "Customer" means any person who or which is transacting or has transacted business with a financial institution, or who or which is using or has used the services of such an institution, or for whom or which a financial institution has acted or is acting as a fiduciary.

(2) "Financial institution" means any state or national bank, state or federal savings and loan association, federal savings bank, state or federal credit union, trust company or mutual savings bank.

(3) "Financial records" means any original written document, any copy thereof, or any information contained therein, held by or in the custody of a financial institution, when the document, copy or information is identifiable as pertaining to one or more customers of the financial institution.

(4) "Subpena" means a judicial subpoena or subpoena duces tecum. [1985 c.797 §1]

**192.805 Reimbursement required prior to disclosure; charges.** Before producing



FILE NOTES ON  
SELECTED CHANGES IN COUNTY GOVERNMENT ORGANIZATION  
EFFECTED UNDER OREGON COUNTY CHARTERS

Eight Oregon counties have adopted county charters: Lane and Washington in 1962, Hood River in 1964, Multnomah in 1966, Benton in 1972, Jackson in 1978, Josephine in 1980, and Clatsop in 1988. The major changes in county government organization effected under these charters are as follows:

Boards of County Commissioners

Lane: Originally retained three-member board, with partisan at large elections, and extended terms from four to six years. Later, the charter was amended to reduce the terms from six back to four years. The charter was amended further in 1977 to provide full-time nonpartisan five-member board elected by districts.

Washington: Originally provided for part-time five-member board, partisan election, with two members elected at large and three by district for four year terms. The charter was amended in 1978 to provide for full-time three-member board elected at large on a nonpartisan basis, but in 1980, the voters approved an amendment restoring a five-member board, with four part-time members elected from districts and one full-time member elected at large, all on a nonpartisan basis.

Hood River: Part-time five-member board, nonpartisan elections, four elected by district and one elected at large for four-year terms.

Multnomah: Originally provided for full-time five-member board, partisan election at large for four-year terms. Amended in 1978 to provide for election by district and nonpartisan basis. Further amended in 1984 (effective in 1987) to provide for chair elected at large and four members elected by district and to establish a two-term limit.

Benton, Jackson, and Josephine: Three-member board, partisan election at large for four-year terms. (No change from general law.)

Clatsop: Unpaid five-member board nominated by district and elected at large on nonpartisan basis for four-year terms.

### Central Executive

Lane: No charter provision, but position of general administrator has been established by order of the county commissioners.

Washington: Charter establishes appointive office of county administrative officer, with such duties as the Board may delegate.

Hood River: Charter establishes appointive office of county administrator.

Multnomah: Charter originally provided that the elected chair of the Board serve as chief executive and made this office responsible for administration of all county departments. Amendments enacted in 1978 separated the elective office of county executive from the Board. Further amendments in 1984 (effective in 1987) abolished the position of elected executive and again made the board chair responsible for administration.

Benton and Josephine: No charter provision for a central executive, but the Board has provided for an appointive administrative assistant to the Board.

Jackson: No charter provision for central executive, but the Board has established the position of county administrative officer.

Clatsop: Position of county manager established by charter.

### Elective Department Heads

Lane: Abolished elective offices of clerk, treasurer, surveyor, and constable. Retained sheriff and assessor as elective offices.

Washington: Abolished elective offices of assessor, clerk, treasurer, and surveyor. Retained sheriff as elective office. An amendment approved in May 1980 establishes a new elective office of county auditor.

Hood River: Abolished elective offices of assessor, clerk, treasurer, and surveyor. Retained sheriff as elective office.

Multnomah: Charter originally abolished elective offices of sheriff, assessor, clerk, treasurer, district court clerk, surveyor, and constable and retained auditor as elective office. Amendments approved in 1982 restored



elective offices of sheriff, assessor, clerk, and district court clerk. Further amendments approved in 1984 restored assessor, clerk, and district court clerk to appointive status, leaving the sheriff and auditor as the only elective department heads.

Benton: Abolished elective offices of clerk, treasurer, and surveyor. Retained sheriff and assessor as elective offices.

Jackson and Josephine: No change in elective offices under charter.

Clatsop: Abolished all elective offices, except county commissioner.

**Note:** All eight charters authorize the Board of County Commissioners to revise the county's departmental structure and to transfer functions among departments.

Revised June 1988  
PC#lgen:fncochs

PRELIMINARY WORK PLAN  
MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE

1989													1990
AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	

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COMMUNITY INVOLVEMENT PLAN

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ADMINISTRATION

COMMITTEE EDUCATION

STAFF REPORT

ISSUE-FOCUSED HEARINGS

DRAFT AMENDMENTS  
REVIEWED

FINAL AMENDMENTS REC'D

STAFF REPORT

LEGAL  
DEADLINE



PRELIMINARY WORK PLAN  
MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE

- AUG - AUG      Community Involvement Plan: A coordinated effort to involve the citizens of Multnomah County in the Committee's work throughout the Committee's duration. Outreach to citizens' groups, community leaders and media throughout the County. Committee members provide suggested lists of people and organizations to invite to participate in the process.
- AUG - SEP      Administration: Hire administrator, employ secretary, approve Committee rules, set-up office, retain legal counsel, begin budgeting process.
- OCT - JAN      Committee Education: Information provided to Committee members through written materials and oral testimony. Written sources include articles on home rule, relevant constitutional and statutory provisions and model charters. Those who testify include the general public and invited speakers such as the County Chair and Board of Commissioners, other County elected officials, former county elected officials, representatives of city and regional governments, state legislators and local government experts. Education will continue through Committee existence but emphasis will be in first months of Committee's work.
- FEB            Staff Report Presented and Issues Prioritized: A staff report summarizing testimony and issues is prepared. The Committee selects priorities for issue-focused hearings.
- FEB - MAR      Issue-Focused Hearings: Hearings on Committee's priority issues. Subcommittees make recommendations to the full Committee.
- APR - MAY      Draft Amendments Reviewed: Legal Counsel drafts ballot measures and charter amendments which are then subject to additional hearings and work sessions.
- JUNE           Final Drafts Received: Legal Counsel presents final drafts of ballot measures and charter amendments for review.
- JULY           Staff Report: Staff presents report setting forth Committee's findings, conclusions and recommendations.
- AUG 3           Legal Deadline for Staff Report.



# MULTNOMAH COUNTY OREGON

MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE

1120 S.W. Fifth Avenue  
Suite 1500  
Portland, Oregon 97204  
(503) 248-3525

## MEMBERS

Ann Porter, *Chair*  
Mark Johnson, *Vice-Chair*  
Florence Bancroft  
Lana Butterfield  
David J. Chambers  
Liberty Lane  
Monica Little  
Bruce McCain  
Paul Norr  
Marcia Pry  
Casey Short  
Nicholas Teeny  
LaVelle VandenBerg

November 3, 1989

Commissioner Pauline Anderson  
Multnomah County Courthouse  
1021 S.W. 4th Avenue, Room 605  
Portland, OR 97204

## STAFF

William C. Rapp  
*Administrator*  
Shirley Winter  
*Secretary*

Dear Commissioner Anderson:

Thank you very much for your presentation to the  
County Charter Review Committee on October 11th.

Your recommendations will receive serious considera-  
tion as we gather information about Multnomah County  
government.

Your time and effort on our behalf are appreciated.  
Please feel free to come to our meetings and/or call  
our office, 248-3525, at any time. Thank you again.

Sincerely,

Ann Porter, Chair  
Charter Review Committee

AP:saw





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Bruce McCain  
Paul Norr  
Marcia Pry  
Casey Short  
Nicholas Teeny  
LaVelle VandenBerg

November 3, 1989

Commissioner Gretchen Kafoury  
Multnomah County Courthouse  
1021 S.W. 4th Avenue, Room 605  
Portland, OR 97204

Dear Commissioner Kafoury:

### STAFF

William C. Rapp  
*Administrator*  
Shirley Winter  
*Secretary*

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County Charter Review Committee on October 11th.

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government.

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Please feel free to come to our meetings and/or call  
our office, 248-3525, at any time. Thank you again.

Sincerely,

Ann Porter, Chair  
Charter Review Committee

AP:saw



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Nicholas Teeny  
LaVelle VandenBerg

### STAFF

William C. Rapp  
*Administrator*  
Shirley Winter  
*Secretary*

November 3, 1989

Commissioner Gladys McCoy  
Multnomah County Courthouse  
1021 S.W. 4th Avenue, Room 134  
Portland, OR 97204

Dear Commissioner McCoy:

Thank you very much for your presentation to the  
County Charter Review Committee on October 11th.

Your recommendations will receive serious considera-  
tion as we gather information about Multnomah County  
government.

Your time and effort on our behalf are appreciated.  
Please feel free to come to our meetings and/or call  
our office, 248-3525, at any time. Thank you again.

Sincerely,

Ann Porter, Chair  
Charter Review Committee

AP:saw