

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 1024

Amending MCC Sections 7.101, 7.104 and 7.201 Relating to Board Authority Over Risk Management Fund and County Litigation

(Stricken language is ~~noted~~; double underlined language is new.)

Multnomah County Ordains as follows:

Section 1. MCC Section 7.101 is amended as follows:

§ 7.101 Risk Management Fund.

(A) *General provisions.* The county has a risk management fund (fund) created by the ~~h~~Board separate from the general fund. The fund was created to account for expenditures and reserves associated with the protection of the county's assets, employees, programs and operations. The fund will account for the financing administration of the workers' compensation, general liability, auto liability, property, employee medical/dental benefits, legal services, life insurance, long-term disability, retiree insurance, unemployment and insured and self-insured programs provided for in the county's budget.

(B) *Disbursements.* The following expenditures may be charged to the fund accounts:

- (1) Insurance premiums for county operations;
- (2) Costs and expenses related to administration, investigation, adjustment and litigation of all insured and uninsured claims, and loss arising from the county's operations;
- (3) All costs for repairing and replacing personal property, money, and improvements to real property owned or leased by the county to the extent the county has contractually assumed risk of loss, where such property losses are within the coverage and retention level of insurance coverage carried by the county.
- (4) Assessments, licenses, fees, and bonds related to programs funded under division (A) of this section, required by state law.
- (5) Employee workers' compensation claim expenditures in accordance with applicable statutes.
- (6) County risk management and legal services expenses.
- (7) Loss prevention programs and projects may be funded by the fund if they:
 - (a) Are clearly targeted toward loss control;
 - (b) Reduce the costs of loss immediately;

Reduce the administrative costs of the risk management program;
or

Are mandated by state or federal law and affect more than one
department.

Capital projects are excluded unless specifically approved by the Board.

(8) County unemployment obligations and related administrative
expenditures.

(9) Employee medical/dental health care claims and insurance claims, health
promotion programs, and related administrative expenditures.

(10) Any other insurance or self-insurance related expenditures as deemed
appropriate by the ~~Chair~~ Board within standard budgetary procedures.

(11) Cost and expenses related to any legal action, matter or proceeding in any
court or tribunal when authorized by the ~~Chair, Board, Sheriff or Auditor~~ or delegated by Board
resolution.

(C) *Fund reporting.* A report shall be provided annually to the Chair and Board on the
financial status of the fund accounts.

(D) *Fund equity and cash balance.*

(1) The fund (equity and cash) balance shall be maintained at a level to pay all
claims, premiums, disbursements, reserves and incurred but not reported (IBNR) claims.
Amounts shall not be transferred from the fund unless a program defined by division (A) of this
section is discontinued without further financial obligation or it is determined by a qualified
independent actuary that the funding level may be adjusted.

(2) | In order to obtain an exemption from the security deposit requirement
under ORS 656.407, the worker's compensation reserves established by the actuarial evaluation
performed under division (E) of this section are dedicated for payments of compensation and
amounts due the state Director of the Department of Insurance and Finance. The Director of the
Department of Insurance shall have first lien and priority rights to the full amount of the worker's
compensation funds required to pay the present discounted value of all present and future claims
under ORS, Ch. 656.

(E) An actuarial evaluation shall be performed by a qualified independent actuary on
the worker's compensation retiree insurance and liability sections of the insurance fund at least
once every three years.

Section 2. MCC Section 7.104 is amended as follows:

§ 7.104 Authority.

Authority for settlement of general liability claims and litigation against the county or its employees shall rest with the ~~Chair or the Chair's designee, Board~~ and may be delegated by Board resolution, except that claims arising out of the Sheriff's office shall be settled upon the authority of the Sheriff or the Sheriff's designee except as limited by Sections 6.10 and 6.50 of the Multnomah County Charter.

Section 3. MCC 7.201 is amended as follows:

§ 7.201 Duties.

The County Attorney shall:

(A) Provide legal advice and counsel to the Board and its various advisory boards, commissions and committees;

(B) Provide legal advice and counsel to the Chair and all county departments and offices;

Provide legal advice and counsel to the Sheriff and Auditor;

(D) Prepare ordinances and other legal documents when requested by a member of the Board, Chair, Sheriff, Auditor or department director;

(E) Review and approve as to form all written contracts, ordinances, resolutions, Board orders, Chair executive rules, bonds and other legal documents;

(F) Control and supervise all civil actions and legal proceedings in which the county is a party or has a legal interest;

(G) Represent and defend the county and its elected officials, boards, commissions, committees, department directors and employees and other persons entitled to representation under the state Tort Claims Act in all appropriate legal matters, unless the county has an insurance policy or indemnification agreement which provides such representation and defense;

(H) Initiate, defend, appear or appeal any legal action, matter or proceeding in any court or tribunal when requested by the Board, ~~Chair, Sheriff or Auditor~~ or as delegated by Board resolution except as limited by Sections 6.10 and 6.50 of the Multnomah County Charter;

(I) Submit formal annual report to the Board concerning the status of all legal actions in which the county is a party, and at the request of any elected official report on the status of any legal matter;

(J) Prepare formal written opinions deemed necessary by the County Attorney regarding significant interpretations of federal and state law, the Charter and ordinances and other documents. Formal opinions may be requested by any county elected official or department

director. Formal opinions shall be official guidance to the county unless superseded by court or administrative decisions, or subsequent legislation or administrative rules;

(K) Maintain custody of records including the office pleadings and other documents of all legal actions, and all County Attorney formal written opinions;

(L) Codify county ordinances as provided by Chapter 1 of this code of ordinances; and

(M) Employ outside legal counsel on behalf of the county when the County Attorney deems it necessary or appropriate to do so. A majority of the entire Board may also employ outside legal counsel for a specific county matter, and a majority of the entire Board may authorize a Board member, Sheriff, District Attorney or Auditor to retain outside legal counsel to advise the elected county official on a specific county matter. The Board shall specify the amount of the elected official's budget that may be appropriated for this purpose. With these exceptions no county elected official, board, commission, committee, department director or employee shall employ or be represented by counsel other than the County Attorney.

Section 4. This ordinance is effective January 18, 2004.

FIRST READING: December 4, 2003

SECOND READING: December 11, 2003

THIRD READING AND ADOPTION: December 18, 2003



BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON

Diane M. Linn
Diane M. Linn, Chair

REVIEWED:

AGNES SOWLE, COUNTY ATTORNEY
FOR MULTNOMAH COUNTY, OREGON

By *Agnes Sowle*
Agnes Sowle, County Attorney