

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR MULTNOMAH COUNTY, OREGON
ORDINANCE NO. 179

An ordinance providing for a retirement system for Multnomah County employees; and repealing Ordinance No. 78 as amended to date.

Multnomah County ordains as follows:

Multnomah County adopts this Restatement of its retirement plan for the benefit of eligible employees pursuant to 7.50 of the County Charter.

ARTICLE I

Definitions; Relevant Dates; Plan Year

1.01 Definitions

The following terms are defined for purposes of this Ordinance at the places shown:

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1.02 Application Date; Prior Provisions

1.02-1 This Ordinance shall apply as of January 1, 1979.

1.02-2 Ordinance 78 shall not apply after December 31, 1978.

1.03 Transitional Provisions

1.03-1 The rights of persons with service before January 1, 1979 and not on or after shall be governed entirely by Ordinance 78 except as follows:

(a) The provisions for minimum benefits in 4.02-2(b) and 4.03-1(c) shall apply to all benefits paid after 1978.

(b) The provisions of 6.04-6 shall apply to prevent forfeiture of participant contributions.

1.03-2 If a person is not in service on January 1, 1979 and has service both before and after that date, the following shall apply:

(a) Ordinance 78 shall determine eligibility before January 1, 1979.

(b) This ordinance shall determine eligibility to participate when service resumes, including the right to count service before January 1, 1979.

(c) This ordinance shall determine the vesting and benefits attributable to service before and after the effective date.

1.03-3 If a person is in service on January 1, 1979, the following shall apply:

(a) Ordinance 78 shall determine eligibility before January 1, 1979.

(b) This ordinance shall determine eligibility to participate as of January 1, 1979.

(c) This ordinance shall determine the vesting and benefits attributable to service before and after January 1, 1979.

1.03-4 The Retirement Board as constituted on January 1, 1979 shall continue to function until the new board is selected as follows:

(a) The terms of existing public and participant members shall be adjusted to conform with 7.01-1(c) without reducing existing terms. The existing public and participant members shall continue until the expiration of their adjusted terms.

(b) The Board of County Commissioners shall choose the commissioner member and shall fix the initial staggered terms for and choose the additional public members.

(c) The Retirement Board shall establish procedures for election of participant members.

1.04 Plan Year

The plan year shall be a fiscal year ending
June 30.

ARTICLE II

Eligibility and Service

2.01 Conditions of Eligibility

2.01-1 Each person shall participate who:

(a) Was a participant on December 31,
1978 pursuant to Ordinance 78; or

(b) Was not a participant, was scheduled
full time in qualified county service on and
before December 31, 1977 and was under age 55
on January 1, 1978; or

(c) Was under age 55 when first
scheduled full time in qualified county
service after January 1, 1978 and before
January 1, 1979; or

(d) Was under age 60 when first scheduled
full time in qualified county service after
December 31, 1978; or

(e) Was not a participant, was scheduled
full time in qualified county service on and
before December 31, 1978, and was under age 60
on January 1, 1979; or

(f) Was over age 50 when hired,
continuously contributed to the

plan, has not withdrawn contributions,
and is in service on January 1, 1979.

2.01-2 Persons who are eligible under 2.01-1(b) to
2.01-1(f) shall start participation as follows:

(a) Persons covered by 2.01-1(c) and
2.01-1(f), as of the date of commencement
of continuous participant contributions.

(b) Persons covered by 2.01-1(b), as of
January 1, 1978.

(c) Persons covered by 2.01-1(d) and
2.01-1(e), as of the later of January 1,
1979 or the start of scheduled full time
qualified county service.

2.01-3 Persons who are participants on or after
January 1, 1979 shall remain participants while they continue
in qualified county service thereafter even though no longer
scheduled full time.

2.01-4 "Full time" shall have the meaning stated
from time to time in relevant collective bargaining agreements
for non-exempt employees, and in prevailing County policy for
exempt employees, but in any event includes only budgeted
positions filled for an unlimited duration.

2.01-5 "Participant" means

(a) An employee who became a partici-
pant in the plan whose employment has not
terminated.

(b) A former employee with more vesting service years than break in service years.

(c) A former employee who terminated after full vesting and is not receiving benefits under this plan.

(d) A former employee who is receiving benefits under this plan.

2.01-6 The Retirement Board shall furnish each participant with information about the plan and benefits under it. Participation is mandatory.

2.02 Service

2.02-1 "County Service" means work performed by the following persons:

(a) Nonelected employees of the county including those paid only in part by the county;

(b) Elected officials of the county including those paid only in part by the county;

(c) Persons who are employed by another governmental agency after transfer from the county if the county has agreed to their participation and the other agency has agreed to bear the cost.

2.02-2 "Qualified county service" means all county service except service in a job category covered by:

(a) The sworn law enforcement officers' retirement fund; or

(b) Any other separate retirement fund maintained by the county or another governmental agency.

2.02-3 "Hours of service" means the following:

(a) Hours including overtime directly or indirectly paid for, whether or not worked;

(b) Regularly scheduled hours during service leave of absence under 2.03-2;

(c) Hours covered by a back pay award or agreement unless already counted; and

(d) Hours paid for at or after termination of employment for unused vacation.

2.02-4 "Vesting service" which determines vesting, breaks in service and eligibility for early retirement and for disability retirement, is measured in years as follows:

(a) A "vesting service year" means a calendar year in which a person has qualified county service of 1,000 or more hours of service while a participant.

(b) All vesting service years that are not disregarded because of a break in service year under 2.04 shall count toward vesting except as provided in 2.04-2.

(c) Persons while covered by the 1975-79 collective bargaining agreement with corrections officers shall receive two-thirds of a vesting service year for each calendar year in which they have 1000 or more hours of service.

2.02-5 "Benefit service hours" (BSH) means all hours of qualified county service while a participant, except for overtime hours and hours under 4.08-1, determined as follows:

(a) From January 1, 1979, benefit service hours shall be hours of service as defined in 2.02-3 excluding overtime hours.

(b) For qualified county service before 1979, benefit service hours shall be based on regularly scheduled hours calculated pursuant to board rule.

2.02-6 The plan shall be construed to resolve any plan ambiguities in favor of crediting persons with service.

2.03 Leaves of Absence

2.03-1 A person on leave of absence shall be treated as follows:

(a) The person shall not be treated as having terminated employment.

(b) During service leave of absence under 2.03-2 service shall accrue for regularly scheduled hours.

(c) During non-service leave of absence under 2.03-3 no service shall accrue.

2.03-2 "Service leave of absence" means the following:

(a) Paid leave of absence authorized by the county, if the person returns within the time prescribed and otherwise fulfills all conditions imposed by the county.

(b) Paid leave of absence because of illness or accident, including disability compensable under the workers' compensation law not resulting in retirement, if the person returns promptly after recovery as determined by the county and within any time limit fixed by the county.

(c) Periods of military service if the person returns with employment rights protected by law or county ordinance.

2.03-3 "Non-service leave of absence" means any unpaid leave not covered by 2.03-2.

2.03-4 In authorizing leaves of absence, the county shall treat all employees similarly situated alike as much as possible.

2.03-5 If a person on unpaid service leave of absence fails to meet the conditions of the leave or fails to return to work when required, accrual of service shall stop as follows:

(a) If the failure is because of death or disability under 5.02 - as of the date of such occurrence.

(b) In all other cases - as of the date the leave of absence began.

2.04 Break in Service

2.04-1 A "break in service" occurs when a participant has a break in service year. A "break in service year" means a calendar year in which a person who has terminated employment has less than 500 hours of service.

2.04-2 If a break in service occurs and the person has later qualified county service, service before the break in service will not be counted unless:

(a) The person was vested before the break; or

(b) The number of vesting service years before the break is greater than the number of consecutive break in service years.

2.04-3 If a person has a break in service, has later qualified county service and service before the break

is counted, the person shall resume accrual of vesting service and benefit service immediately upon rehire.

2.04-4 If service before the break is not counted, the person shall be treated as newly hired and shall participate only if eligible under 2.01.

ARTICLE III

Funding

3.01 Funding Policy

The Retirement Board shall establish a funding policy in consultation with the plan actuary and be responsible for management of assets in the fund. The funding policy shall show the relationship between contributions and current and projected benefit accruals.

3.02 Contributions

3.02-1 Each participant shall contribute 3 percent of pay to the plan by payroll deduction or by direct payment if not deducted by the employer.

3.02-2 Each employer shall contribute monthly 6.4 percent of pay of all participating employees and may contribute additional amounts at any time.

3.02-3 "Pay" means worker's compensation under 2.03-2(b) and all pay reportable on Internal Revenue Service form W-2 except pay for overtime hours, and termination pay for unused sick leave. Pay for all county service shall be included whether paid by the county or another governmental agency under 2.02-1(c).

3.03 Reports to Retirement Board

The county shall furnish the Retirement Board on request any information reasonably necessary for plan administration.

3.04 Retirement Fund

Contributions shall be paid to the retirement fund and held and distributed to provide benefits under this plan as directed by the Retirement Board. All benefits shall be paid solely from the retirement fund.

ARTICLE IV

Benefits on Retirement

4.01 Retirement Dates

4.01-1 "Retirement" occurs when a former employee who is vested under 6.01 reaches the first benefit month under 4.03-2(b), 4.05-3, 5.02-3 or 6.03-1.

4.01-2 Retirement is "normal" if the first benefit month is the month after the participant reaches age 65.

4.01-3 Retirement is "deferred" if the first benefit month is later than the month in which the participant reaches age 65.

4.01-4 Retirement is "early" if the first benefit month is after age 55 and before age 65.

4.02 Normal Retirement Basic Benefit

4.02-1 A participant must be vested under 6.01 to receive a retirement benefit.

4.02-2 The "basic benefit" on normal retirement for those entitled to it under 4.02-1 is a monthly pension for life equal to the greater of the following:

(a) Benefit service hours (BSH)
times highest average pay rate (HAPR)
times 1.5 percent, divided by 12, illustrated as follows:

$$\frac{\text{BSH} \times \text{HAPR} \times 1.5\%}{12}$$

(b) If the participant is not covered by 6.04-5(e) and has at least 15 vesting service years (without application of the 2/3 factor in 2.02-4(c)), \$200.

4.02-3 "Highest average pay rate" (HAPR) means the average of the hourly pay rate for the participant on the four consecutive pay determination dates that produce the highest average.

4.02-4 "Pay determination date" means January 1. If a participant on a relevant pay determination date is not receiving pay or is receiving reduced pay because of illness or disability, the last preceding regular pay rate before that date shall be used.

4.03 Early Retirement Basic Benefit

4.03-1 On early retirement the basic benefit shall be that for normal retirement adjusted as follows:

(a) No adjustment shall be made if retirement is after age 62 and 20,800 hours of benefit service.

(b) In all other cases, the benefit shall be actuarially reduced under 4.07 to the first benefit month from a reference age determined as follows:

<u>Benefit Service Hours at First Benefit Month</u>	<u>Reference Age</u>
Less than 20,800	65
20,800 or more	62

(c) The adjustment shall apply to the minimum benefit under 4.02-2(b) as well as the formula benefit under 4.02-2(a).

4.03-2 Early retirement benefits shall be paid as follows:

(a) The participant or beneficiary must apply under 4.05 and the benefit shall be in a form determined under 4.06.

(b) The first benefit month shall be the month specified by the participant in the application under 4.05 but not later than the month after reaching age 65.

(c) If the participant dies before the first benefit month, benefits shall be limited to the death benefit under 5.01.

4.04 Deferred Retirement Basic Benefit

On deferred retirement the basic benefit shall be determined as for normal retirement based on benefit service hours to actual retirement.

4.05 Application for Benefits; Time of Payment

4.05-1 A participant, spouse or beneficiary eligible for benefits must apply in writing under 7.06 on a form prescribed by the Retirement Board. The board may start benefits in a proper case without an application being filed.

4.05-2 "Benefit month" means a month for which benefits are to be paid. Payment for a benefit month may be made anytime during the month.

4.05-3 The first benefit month for normal retirement shall be the month after the participant reaches age 65. The first benefit month for deferred retirement shall be the month after termination of employment. The first benefit month for early retirement shall be determined in accordance with 4.03-2(b). Payment of benefits may be started later than the first benefit month if application for benefits is not received at least 30 days before the start of the first benefit month. In that event payment shall be started within 60 days after the application is received. Back installments shall be paid in a lump sum.

4.06 Form of Retirement Benefit

4.06-1 The basic benefit on normal, early or deferred retirement is based on equal monthly payments starting with the first benefit month and ending with the payment for the month in which the participant dies.

4.06-2 A participant shall elect the actual form of distribution from those in 4.06-3 as follows:

(a) Regardless of form, the value of the benefit shall be the actuarial equivalent of the basic benefit.

(b) The election shall be made and any contingent annuitant named in the application under 4.05. If the contingent annuitant is other than a spouse to whom the participant was married at least a year before the first benefit month, the Retirement Board may reject the election unless:

(1) The election is made at least two years before retirement; or

(2) The participant furnishes such evidence of the participant's good health as the board may require.

(c) If the contingent annuitant dies before the participant's first benefit month under 4.05-3 or 6.03 the election shall be void.

(d) If a participant has been married for one year or more at the start of the first benefit month under 4.03-2(b), 4.05-3, 5.02-3 or 6.03 and no valid election is in effect, the benefit shall be paid in the form stated in 4.06-3(c) with the spouse as contingent annuitant.

(e) If (d) does not apply, the form in the absence of an election shall be that stated in 4.06-3(a).

4.06-3 Subject to 4.07 the forms of benefit shall be the following:

(a) Straight life annuity.

(b) Contingent annuity with full payments continued to the contingent annuitant.

(c) Contingent annuity with one-half payments continued to the contingent annuitant.

(d) Joint and survivor annuity with one half payments continued to the survivor.

4.06-4 The board shall have the benefit paid directly from the retirement fund or purchase a single premium annuity in a form and from an insurance company approved by the board. The annuity shall be in a form that cannot be transferred or surrendered for cash.

4.06-5 No form of benefit may be selected that would provide installments below the lesser of

(a) An actuarially equivalent 100 percent contingent annuity with the participant's spouse as contingent annuitant; or

(b) 55 percent of an actuarially equivalent single life annuity for the participant.

4.07 Actuarial Equivalency

"Actuarial equivalency" and other actuarial valuations and adjustments shall be determined by the enrolled actuary retained for the plan. Determinations shall be based on generally accepted actuarial principles consistently applied. The board shall publish periodically the equivalencies currently being used for early retirement, early payment of vested benefits under 6.03 and optional forms of benefit.

4.08 Re-employment After Retirement

4.08-1 If a participant who elected normal or deferred retirement resumes qualified county service at least

one year after retirement, payment of retirement benefits shall continue unchanged, and no additional benefit service hours shall accrue.

4.08-2 If a participant who elected early retirement resumes qualified county service, or if a participant who elected normal or deferred retirement resumes qualified county service within one year after retirement, payment of benefits shall be suspended and accrual of service shall resume during re-employment.

4.08-3 If less than 500 benefit service hours are earned during re-employment, upon termination of re-employment benefits shall resume in the form and amount previously paid without regard to such re-employment and the payments that were suspended shall be paid without interest.

4.08-4 If 500 or more benefit service hours are earned during re-employment, upon termination of re-employment benefits shall resume in the form previously paid with the monthly benefit amount recalculated as follows:

(a) The new benefit level shall be calculated as though no prior benefits had been paid.

(b) Benefits shall initially be paid at the old benefit level that was paid before the rehire and suspension.

(c) The difference between the new benefit and the old benefit shall be

retained while benefits are being paid at the old level.

(d) When the amount retained under 4.08-4(c) equals the total amount paid before the rehire and suspension, the benefits shall be raised to the new benefit level. Benefits for one month may be between the new and old levels if necessary.

ARTICLE V

Benefits on Death or Disability

5.01 Death Benefit

If a participant dies before retirement a death benefit shall be paid equal to the participant's total contributions without interest.

5.02 Disability Retirement Benefits

5.02-1 A participant who becomes disabled after 15 vesting service years (without applying the 2/3 factor in 2.02-4(c)) while employed or on leave of absence under 2.03 shall be entitled to benefits as though the participant were 65 except as provided below.

5.02-2 A "disabled participant" is an employee who as a result of illness or injury suffers from a disability. A "disability" is a condition of mind or body that permanently prevents employment in county service. The Retirement Board

shall determine the existence and starting date of disability and may rely on advice from one or more medical examiners satisfactory to it in making the determination.

5.02-3 The first benefit month for a disabled participant shall be the first month after sick pay or short term disability pay ends or after the starting date of disability, whichever is later. Benefits shall be determined in the same way as on normal retirement of any participant.

5.02-4 The Retirement Board may have a disabled participant re-examined up to two times in any 12 month period at the plan's expense by a medical examiner of the board's choice. If the board determines that the disability has ended, benefits shall stop after the month of determination. If the participant refuses to be examined the board may stop benefits.

5.02-5 If a disabled participant becomes entitled to worker's compensation benefits for disability the benefit shall be reduced until age 62 as follows:

(a) Each monthly benefit shall be reduced by the amount of any worker's compensation installment payment for that month. Overpayments because of delay in a worker's compensation award or failure to offset properly shall be recovered from future payments.

(b) The total benefit shall be reduced actuarially by any lump sum worker's compensation award.

5.02-6 Until age 62 the maximum disability benefit in any month shall be fixed so that the participant's total compensation does not exceed 70% of the amount then being paid by the county for full time work equivalent to the participant's last county service. Overpayments shall be recovered from future payments.

5.02-7 "Total compensation" under 5.02-6 means the sum of:

- (a) Benefits under this plan.
- (b) Social Security benefits.
- (c) Worker's compensation benefits.
- (d) Any other benefit funded by the county.
- (e) Compensation for services through self employment or for an employer.

5.02-8 The Retirement Board may require a participant receiving a disability benefit to submit to the board from time to time a sworn statement of total compensation.

5.03 Designation of Beneficiary

5.03-1 Each participant shall file a designation of beneficiaries with the Retirement Board and may change it from time to time. The designated beneficiary or other

recipient described below shall receive any residual benefit after death of a participant if no other person is entitled to it as a contingent annuitant or spouse or in any other capacity.

5.03-2 If a beneficiary dies after the death of a participant but before full distribution to the beneficiary, the balance shall be paid to the estate of the deceased beneficiary.

5.03-3 If no beneficiary has been named or no named beneficiary is living when the participant dies, the benefit shall be paid in the following order of priority:

- (a) To the participant's surviving spouse; or
- (b) To the participant's surviving children in equal shares; or
- (c) To the participant's estate.

ARTICLE VI

Benefits After Termination Before Retirement

6.01 Vesting of Benefits

6.01-1 "Vested" means having earned an irrevocable right to receive benefits after retirement. To be vested, a participant must have 10 vesting service years.

6.01-2 A participant's rights to withdraw participant contributions are covered by 6.04.

6.02 Accrued Benefit

The "accrued benefit" shall be the normal retirement basic benefit under 4.02 based on benefit service hours before termination.

6.03 Payment of Benefits

6.03-1 After termination of employment before age 55 vested benefits shall be paid as follows:

(a) The first benefit month shall be the month after the participant reaches age 65 unless 6.03-1(b) applies.

(b) A participant may elect to start at any time after age 55 benefits actuarially reduced under 4.07 to the first benefit month from a reference age determined as follows:

<u>Benefit Service Hours at First Benefit Month</u>	<u>Reference Age</u>
Less than 20,800	65
20,800 or more	62

(c) If a terminated participant dies before the first benefit month a death benefit shall be paid under 5.01.

6.03-2 A vested terminated participant entitled to benefits must apply for benefits and elect a distribution option not less than 30 days nor more than 30 months before the first benefit month. If application is filed late, 4.05-3

shall apply. The form of benefit shall be determined under 4.06.

6.04 Participant Contributions

6.04-1 A participant who terminates employment before having a vested interest under 6.01 shall be paid the participant's contributions as soon as practicable.

6.04-2 A participant who terminates employment before retirement date with a vested interest under 6.01 and has not been rehired may, at any time within two years after termination of employment, elect to be paid the participant's contributions.

6.04-3 If a participant receives a payment under 6.04-1 or 6.04-2, no other pension benefit shall be paid under this plan for service before the date of payment unless 6.04-4 applies.

6.04-4 A participant who receives a payment under this Section may repay under 6.04-5 if the participant resumes qualified county service and:

(a) The participant has not had a break in service; or

(b) The participant has had a break in service and pre-break service is counted under 2.04-2.

6.04-5 A participant who meets the requirements of 6.04-4 may repay as follows:

(a) In order to repay the participant must elect to do so in writing within 30 days after receiving notice of the requirement from the Retirement Board.

(b) Repayment must be made in full within one year after the election to repay.

(c) The amount repaid shall be the amount paid out plus interest compounded annually from the date of distribution until repayment. The interest rate shall be set by the Retirement Board from time to time. The interest paid shall not be treated as a participant contribution for purposes of later withdrawal or payment of minimum death benefits.

(d) If repayment is made, vesting and benefit service before the break will be counted in the determination of benefits.

(e) If repayment is not made, pre-break service will still be counted for vesting service under 2.04-2 but not for benefit service.

6.04-6 Participant contributions shall not be forfeited before retirement. After the start of the first benefit month, however, benefits will end with the last payment due under the selected benefit option whether or not the total payments are less than the total participant contributions.

6.05 Forfeiture of Nonvested Retirement Benefits

A participant who has a break in service before being fully vested under 6.01 and does not become vested because of later service shall forfeit all accrued benefits except for participant contributions. The forfeited benefits shall be taken into consideration in the funding policy under 3.01.

ARTICLE VII

Plan Administration

7.01 Retirement Board

7.01-1 The plan shall be administered by a Retirement Board (the board) of seven persons selected as follows pursuant to procedures established by the Board:

(a) The Board of County Commissioners shall select:

(1) One member from among the commissioners, who shall serve at the pleasure of the commissioners, and

(2) Three members from the general public who shall serve staggered three-year terms and be eligible for successive terms.

(b) The Board of County Commissioners may designate one or more alternates to replace the regular member at any meeting the regular member is unable to attend. The alternate shall have full voting rights.

(c) Participants who receive pay or pension checks shall elect from among themselves three members. Not more than one of the members shall be retired. The members shall serve staggered three-year terms and be eligible for successive terms. Participant member elections shall be carried out under rules and procedures established by the board.

(d) Members' three year terms shall start and end on the following dates except that no term shall end until a qualified successor is designated:

(1) Public members -
Start May 1
End April 30

- (2) Participant members -
Start November 1
End October 31

7.01-2 A vacancy shall occur when a member:

- (a) Dies or resigns;
- (b) Ceases to have the status required for the member's original selection; or
- (c) Is removed by the body that selected the member.

7.01-3 A vacancy shall be filled for the balance of the unexpired term as follows:

- (a) If the prior member was chosen by the Board of County Commissioners, it shall select a successor.

- (b) If the prior member was elected by the participants the successor shall be elected by the participants at the next regular election or at a special election held by the board for that purpose.

- (c) Until a vacancy is filled, the remaining members shall have authority to act.

7.01-4 The board shall have a chairman and vice chairman chosen from among its members and a secretary who need not be a member. Minutes shall be kept of all proceedings. The board may act by a majority vote of those present at a

meeting at which there is a quorum. A majority of its members shall constitute a quorum. After a quorum exists the members present may continue to act even though members withdraw and leave less than a quorum.

7.01-5 Persons dealing with the board shall on request be given the names and specimen signatures of the members and the officers. Such persons shall accept and rely on the names and signatures until notified of a change.

7.01-6 Documents may be signed for the board by the chairman, the vice chairman, or other persons designated by the board.

7.02 Administrative Powers and Duties

7.02-1 The Retirement Board shall administer the plan. The board shall have exclusive authority to interpret the plan and decide any questions about the rights of participants and their beneficiaries.

7.02-2 The board may delegate all or part of its administrative duties to one or more agents, including the county, and may retain advisors to assist it. The board may consult with and rely upon the advice of counsel who may be the County Counsel or his designee. The board shall retain an enrolled actuary for the plan.

7.02-3 The board may establish rules and procedures for the conduct of its business consistent with plan provisions.

7.02-4 The Board of County Commissioners shall have no administrative or investment authority or function

under the plan and no commissioner shall be a plan fiduciary because of such position. The Board of County Commissioners shall have the plan audited annually.

7.03 Records and Accounting

7.03-1 The Retirement Board shall keep or have the county keep records of all relevant data about the rights of all persons under the plan. The board shall determine the time, manner, amount and recipient of payment of benefits and the service of any employee and determine proper distributions. Any person having an interest under the plan may consult the board through the administrative secretary at any reasonable time.

7.03-2 The Retirement Board shall keep complete records of the fund assets open to public inspection at all reasonable times. The board shall furnish the county with a complete statement of account within 120 days after the end of each plan year showing assets and liabilities and income and expenses for the year. The account shall be settled as follows:

(a) The county may object to an accounting within 60 days after it is furnished and require that it be settled by audit by a qualified independent certified public accountant. The auditor shall be chosen by the board from a list

of at least five such accountants furnished by the county at the time the audit is requested.

(b) Either the county or the board may require that the account be settled by a court of competent jurisdiction in lieu of or in conjunction with the audit.

(c) If no objections to an accounting are filed within the time provided, the account shall be settled for the period covered by it.

(d) When an account is settled, it shall be final and binding on all parties including all participants and persons claiming through them.

7.03-3 The custodian shall report to the Retirement Board and any investment managers at regular intervals set by the board. The reports shall cover the following:

(a) Transactions for the period shown as of the settlement date.

(b) The cost and market value of fund assets as of a valuation date fixed by the board.

(c) Such other data as the board may require.

7.03-4 Each investment manager shall reconcile the custodian reports with its records of assets assigned to it for investment and report any differences to the custodian and the Retirement Board by the end of the following month. Investment managers shall make such other reports as the board may require.

7.04 Administrative Secretary

The Retirement Board shall appoint an administrative secretary of the plan who may also perform the functions of the secretary of the board. The administrative secretary shall have the ministerial duties and powers specified by the board and may act in behalf of the board to implement policy within guidelines and limitations established by the board. The administrative secretary shall coordinate board functions and carry out day-to-day administration.

7.05 Custodian

The Retirement Board shall employ a bank or other suitable institution to serve as custodian for all or part of the retirement fund. The custodian shall have exclusive responsibility for the custody of all assets entrusted to its care and for carrying out the investment directions of the investment manager or the board. The custodian shall be responsible for investment of assets to the extent provided in 8.04-1.

7.06 Claims Procedure

7.06-1 Any person claiming a benefit, requesting an interpretation or ruling under the plan, or requesting

information under the plan shall present the claim or request in writing to the administrative secretary who shall respond in writing as soon as practicable.

7.06-2 If the claim or request is denied, the written notice of denial shall state:

(a) The reasons for denial, with specific reference to the plan provisions on which the denial is based.

(b) A description of any additional material or information required and an explanation of why it is necessary.

(c) An explanation of the plan's claim review procedure.

7.06-3 Any person whose claim or request is denied or who has not received a response within 30 days may request review by notice in writing to the administrative secretary. The original decision shall be reviewed by the Retirement Board who may, but shall not be required to, grant the claimant a hearing. On review, whether or not there is a hearing, the claimant may have representation, examine pertinent documents and submit issues and comments in writing.

7.06-4 Board review shall be made whenever practicable within 60 days of receipt of notice of request for review. The decision on review shall be made within 60 days after hearing, or after board review of pertinent documents

and memoranda if no hearing is held. The decision shall be in writing and shall state the reasons and the relevant plan provisions.

7.07 Distributions; Conflicting Claims

7.07-1 The county may pay benefits for a participant or beneficiary in one or more of the following ways as directed by the Retirement Board:

- (a) To the participant or beneficiary;
- (b) To a spouse or parent or to a child of legal age;
- (c) To one having actual custody of the person;
- (d) To a legal guardian; or
- (e) To one furnishing maintenance, support or hospitalization.

7.07-2 A receipt from the recipient or canceled check shall be a sufficient voucher for the county. Neither the county nor the Retirement Board need obtain from the recipient an accounting of the use of the amount paid.

7.07-3 If a dispute arises over a distribution, the Retirement Board may withhold payment until the dispute is determined by a court of competent jurisdiction or settled by the parties.

7.08 Expenses

7.08-1 Members of the Retirement Board shall not be compensated for services. The members shall be reimbursed for all reasonable expenses approved by the board.

7.08-2 The custodian shall be reimbursed for all expenses. The custodian and any investment manager shall be paid a reasonable fee approved from time to time by the Retirement Board.

7.08-3 All actuarial fees and expenses shall be paid by the county. All other expenses and fees shall be paid from the retirement fund, except those that the county voluntarily pays at the election of the County Commissioners. Administrative expenses charged to the retirement fund in any plan year shall not exceed 3 percent of the market value of the retirement fund under the following rules:

(a) The fund value shall be taken at the start of each year.

(b) An amount over 3 percent may be carried back then forward for up to three years to satisfy the limitation.

(c) Fees for investment managers and other investment expenses shall be outside the 3 percent limit.

7.09 Indemnity and Bonding

7.09-1 The county shall indemnify and defend any Retirement Board member and any other plan fiduciary who is an employee of the county from any claim or liability that:

(a) Arises from any action or inaction in administration of this plan absent willful misconduct or bad faith; and

(b) Is not covered by insurance.

7.09-2 The county shall indemnify and defend the administrative secretary and the custodian from any claim or liability arising from any action or inaction based on information or direction from the Retirement Board absent willful misconduct or bad faith.

7.09-3 The plan fiduciaries shall be bonded in reasonable amounts for the protection of the retirement fund.

ARTICLE VIII

Investment of Retirement Fund

8.01 Investment Standards

8.01-1 The retirement fund shall be invested only in the following securities subject to 8.01-2. An investment shall not be made by an investment manager if as a result the amount of the fund under the manager's control that is

invested in the securities of one issuer would exceed any of the following limits:

(a) 100% - securities issued or guaranteed by the United States or one of its agencies.

(b) 5% - publicly traded corporate debt securities rated A or better by any two of Standard and Poor's, Moody's and Fitch's.

(c) 20% - commercial paper rated as follows or better:

(1) Issued by an Oregon corporation with its principal place of business in Oregon and specifically approved by the Retirement Board - Standard and Poor's A2, Moody's P2.

(2) All others - Standard and Poor's A1 and Moody's P1.

(d) 20% - certificates of deposit, bankers acceptances, repurchase agreements and savings accounts of the custodian or other financial institution approved by the Retirement Board within one year before the investment.

(e) 100% - investments made through the local government investment pool administered by the state or the short term diversified investment fund administered by the custodian.

(f) 5% - readily marketable common or preferred shares or securities convertible into such shares of any corporation incorporated in the United States or issuing American Depositary Receipts. This shall include writing and repurchasing covered call options on such securities.

(g) 10% - readily marketable or redeemable interests in a real estate, mortgage or private placement fund or open end commingled separate account. (This does not permit direct investments in real estate, mortgages or privately placed securities.)

8.01-2 No more than 50 percent of the retirement fund shall be invested in securities described in 8.01-1(f).

8.01-3 The limits in 8.01-1 and 8.01-2 shall apply only to acquisitions, not continued holding of investments. The limits shall be based on the market value at the

last valuation date plus later additions. If an investment falls in two categories (such as a certificate of deposit guaranteed by the Federal Deposit Insurance Corporation) the higher limit shall apply. The limits shall apply separately to each investment manager.

8.01-4 No investment shall be made in tax exempt obligations of state or local governments or municipalities.

8.02 Deposit with Insurance Company

The Retirement Board may deposit all or part of the fund for investment with one or more insurance companies under a group annuity, deposit administration or similar contract. The insurance company shall, subject to the contract, have exclusive responsibility for and control over all assets deposited with it without regard to the limits in 8.01.

8.03 Investment Managers

8.03-1 The Retirement Board may appoint and remove one or more investment managers for all or part of the fund assets. Subject to 8.03-2 and 8.03-4 any such manager shall have exclusive responsibility for and control over the investment of the assets for which responsibility is allocated to the manager by the board.

8.03-2 The Retirement Board may, as to any investment manager, reserve any or all of the following rights:

- (a) To fix investment objectives and guidelines.

(b) To fix criteria to measure the manager's performance.

(c) To require consultation by the investment manager at regular intervals or with respect to certain kinds of transactions.

8.03-3 The manager shall act in a fiduciary capacity and the custodian shall act only as an administrative agent in carrying out directed investment transactions. The custodian shall have no duty to investigate any directed transaction and shall not be responsible for the investment decision. If a directed transaction violates the duty to diversify, to maintain liquidity or to meet any other investment standard under this plan or applicable law, the entire responsibility and liability, if any, shall rest upon the investment manager giving the direction.

8.03-4 Unless the Retirement Board directs otherwise, the custodian shall have authority to do the following even though assets are being managed by an investment manager:

- (a) Dispose of fractional shares;
- (b) Rollover treasury obligations, commercial paper and similar investments;
and
- (c) Keep cash invested in highly liquid low risk interest bearing deposits and securities.

(d) Invest through the local government pool maintained by the state.

8.03-5 "Investment manager" means a person or entity qualified as an investment manager under the Employee Retirement Income Security Act of 1974. Each manager shall verify to the Retirement Board in writing that the manager:

(a) Is a registered investment advisor under the Investment Advisor's Act, a bank as defined in that Act or a qualified insurance company;

(b) Is bonded for the protection of the fund in conformance with applicable law; and

(c) Acknowledges that the manager is a fiduciary with respect to this fund.

8.03-6 The Retirement Board shall notify the custodian of the appointment, removal or resignation of any investment manager. The custodian may rely upon the continued authority of an appointed manager until notified of resignation or removal. Each investment manager shall, on request, give the board and the custodian the names and specimen signatures of persons authorized to act for the manager.

8.04 Investment of Unallocated Assets

8.04-1 The custodian shall be an investment manager and have responsibility for and control over the

investment of assets in its custody subject to direction from any other investment manager.

8.04-2 The Retirement Board may withhold or withdraw assets from the custodian's control pursuant to 8.02 or to pay benefits and expenses.

8.05 Investment Powers of Retirement Board

8.05-1 The Retirement Board shall have all necessary powers to discharge its duties under this plan, including without limitation the power to authorize the custodian, an insurance company or an investment manager to do the following:

(a) Hold all assets and retain and exercise all incidents of ownership, subject to the terms of this plan, either directly or through nominees, with or without disclosing the retirement fund.

(b) Deal in any way with any assets through a public or private transaction and receive all proceeds from the assets.

(c) As the holder of any securities in the fund, exercise any right or power to take any action that could be exercised or taken by a beneficial owner holding the security of record.

(d) Write covered call options on securities in the fund and deal in other

options directly related to an outstanding covered call option.

8.05-2 The Retirement Board's cost in any litigation relating to the fund shall be an administrative expense. The board may decline to start or respond to any legal action unless the county indemnifies it to its satisfaction from any expense not covered by the fund. The board may compromise claims on terms the board approves, which shall be binding on all parties.

ARTICLE IX

Amendment; Termination; Merger

9.01 Amendment

The county may amend this ordinance at any time. No amendment shall revest any of the retirement fund in the county or otherwise modify the plan so that it would not be for the exclusive benefit of eligible employees.

9.02 Termination

9.02-1 Subject to any applicable collective bargaining agreement the County may wholly or partially terminate the plan created by this ordinance at any time. In the event of any total or partial termination, the rights of all affected participants to the benefits then accrued and funded shall fully vest and be nonforfeitable. The county shall, if required by law, promptly notify the Pension Benefit Guaranty Corporation and request a ruling from the Internal Revenue

Service on the effect of termination on the qualification of the plan. The Retirement Board may decline to distribute the trust fund until any required notice of termination has been filed and appropriate rulings issued.

9.02-2 Upon termination the county may continue the retirement fund to pay benefits as they mature or liquidate it at any time and distribute the fund in the form of annuities as described in 4.06-4. In any event the available funds shall be allocated by the Retirement Board as provided below. The time and method of payment shall be determined by the board. Benefits already distributed in cash or by purchase and delivery of an annuity contract shall not be affected.

9.03 Allocation of Assets on Termination

9.03-1 Available funds shall be allocated in the order set out in 9.03-2. All benefits for each group shall be provided for ahead of any benefits for any members of the group having the next lower priority. If the funds are insufficient to cover all of the benefits for any group, the amount available shall be allocated among the members of the group in proportion to their interests.

9.03-2 The order of priority determined as of the day before termination shall be as follows:

- (a) Benefits that had been in pay status for three years or more or could

have been in pay status for three years if the participant had then retired and received the normal form of benefit. Allocation shall be based on the lowest benefit provided by plan provisions in effect within the last five years.

(b) Other benefits, if any, guaranteed under the Employee Retirement Income Security Act of 1974 disregarding sections 4022(b)(5) and (6) of that Act, including benefits not covered by 9.03-2(a) or (b) because of the exclusion of benefit increases within five years.

(c) All other vested, accrued benefits including benefits not covered by 9.03-2(a) or (b) because of the exclusion of benefit increases within five years and not covered by 9.03-2(b).

(d) All other accrued benefits.

9.04 Nonreversion

None of the assets of the fund shall be paid to or revested in the county or be used other than for the exclusive benefit of the participants and their beneficiaries except that the county may recover an actuarial surplus remaining after satisfaction of all pension liabilities under 9.03.

9.05 Merger

If this plan is merged or consolidated with or the assets or liabilities are transferred to any other plan or trust, the benefit that each participant would receive on termination of the plan shall be as much just afterwards as it was just before.

ARTICLE X

Miscellaneous Provisions

10.01 Information Furnished

10.01-1 The custodian may accept as correct and rely on any information furnished by the county or the Retirement Board.

10.01-2 The Retirement Board may require satisfactory proof of age or other data from a participant, spouse, joint or contingent annuitant or beneficiary. The board may adjust any retirement benefit if an error in relevant data is discovered.

10.02 Applicable Law

This plan shall be construed according to the laws of Oregon except as preempted by federal law.

10.03 Plan Binding on All Parties

This plan shall be binding upon the heirs, executors, administrators, successors and assigns of all present and future parties.

10.04 Not Contract of Employment

The plan shall not be a contract of employment between the county or other governmental agency and any employee. No employee or participant may object to amendment or termination of the plan. The plan shall not prevent the county or other governmental agency from discharging any employee at any time.

10.05 Notices

Any notice or direction under this plan shall be in writing and shall be effective when actually delivered or, if mailed, when deposited as registered or certified mail. Mail shall be directed to the address stated in any agreement covering custody or management of assets or to such other address as a party may specify by notice to the other parties.

10.06 Benefits Not Assignable

This plan is for the personal protection of the participants. No vested or unvested interest of any participant or beneficiary may be assigned, seized by legal process, transferred or subjected to the claims of creditors in any way.

10.07 Nondiscrimination

The county and the Retirement Board shall to the fullest extent possible treat all persons who may be similarly situated alike under this plan.

10.08 Repeal of Prior Ordinance

Ordinance No. 78 as amended to date is repealed.

10.09 Adoption


This ordinance being necessary for the health, safety and welfare of the people of Multnomah County, shall take effect January 1, 1979 pursuant to Section 5.50 of the Charter of Multnomah County.

Adopted December 28 , 1978 on its second reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS

By 

APPROVED AS TO FORM


John Leahy
County Counsel for
Multnomah County, Oregon