



UPDATE ON MULTNOMAH COUNTY GOVERNMENT

Leagues of Women Voters of Portland and East Multnomah County
February 2004

Charge

In May 2002, the Leagues of Women Voters (LWV) of Portland and East Multnomah County (EMCO) approved a proposed study entitled "Multnomah County Government" to be conducted jointly by both organizations. The scope was to include an update of the 1983 County Government study with consensus leading to a revised position. The Outlook for Work stated that the study team was to:

- Edit out inapplicable and accomplished items
- Interview county government officials
- Rewrite position so that it reflects current reality.

No time frame was established for completing the study.

Process

A study committee with members from Portland and EMCO started work in January 2003. The committee decided that its work should coincide, if possible, with the Charter Review Committee due to be appointed in the summer of 2003, so that the Leagues would be able to respond to Committee proposals. The committee also agreed to limit the scope of the study to the governmental structures addressed by the LWV position.

The study committee reviewed the current Multnomah County Charter to identify which sections corresponded to the LWV position. Based on material provided by the county, the committee traced the history of those sections to assess the relevance of the LWV position. We also interviewed county officials and other observers to collect additional information. Finally, we reviewed the 1983 LWV study, Multnomah County Charter Update, which is the basis for the current LWV position.

The committee prepared two pieces of information – (1) this background document which provides some factual information about the county and its governmental structures; and (2) a chart outlining the LWV position, the current status of the corresponding part of the county Charter, and suggestions for updating the LWV position. Current LWV positions appear in italics in both documents. The chart "Overview of LWV Position on Multnomah County Government" is designed as a discussion guide focusing on the key areas where change may be needed.

Current LWV Position

County Government (1983, 1978, 1976, 1964, 1958)

In the interest of providing economical and efficient county government that is responsive to the people, the Leagues of Women Voters of Portland and East Multnomah County support home rule for Multnomah County.

The Leagues of Women Voters of Portland and East Multnomah County also support:

- (a) *Separation of administrative and legislative functions;*
- (b) *Salaries of elected officials based on recommendations by outside professional consultants with final approval by the Board of County Commissioners;*
- (c) *Paid lobbyist to represent Multnomah County's interests;*
- (d) *Election of Multnomah County Commissioners;*
- (e) *Appointment of Sheriff, Assessor, and County Clerk;*
- (f) *Abolishment of the District Court Clerk position;*
- (g) *Election of County Commissioners from single-member districts;*
- (h) *Freedom for an elected official to run for another office without having to resign from his/her current office;*
- (i) *Filling of vacancies on the board of County Commissioners by appointment, with appointees free to run for re-election;*
- (j) *Clearance of initiative petitions by their sponsors with an officer similar to legislative counsel to ensure correct wording and legal application.*

Note: The alphabetic references are added to assist in matching position statements, with the corresponding background information, and with the chart.

Introduction to Multnomah County



Multnomah County is located in northwestern Oregon at the confluence of the Columbia and Willamette rivers. The County covers 435 square miles (the smallest in Oregon), most of which lies in the Willamette Valley, between the Tualatin mountains west of the Willamette River and the Cascade mountains in the east. It is the most populous county in the state with a population of 665,810 (20% of the state, based on the

2001 census). The cities of Portland, with population of 539,440 (2002 estimate) and Gresham, with a population of 94,700 (2002 estimate) are the largest incorporated cities located in the County. Wood Village, Troutdale, Fairview and Maywood Park are the other cities located in the county.

The County was incorporated in 1854 and is governed according to its Home Rule Charter, which became effective in January 1967. The County's charter has had many subsequent amendments. The County is governed by a Board of County Commissioners, consisting of four non-partisan members elected from designated districts within the County, and the Chair of the Board, elected at large. The Board of County Commissioners conducts all legislative business of the County in formal weekly Board meetings. It also holds informal meetings at other times for the purpose of hearing informational briefings from staff, departments, or outside agencies. The Board also holds other hearings as required by State law or County Charter.¹

History of Multnomah County Home Rule Charter

"Oregon counties were created on January 26, 1843. The first Oregon organic law provided for 'not less than three, nor more than five, districts, subject to be extended to a greater number when an increase in population shall require it.' The four original counties, Clackamas, Yamhill, Tuality (Washington), and Champoege (Marion), performed the administrative functions of the provisional government (1843-1848). They tried court cases, enforced laws, conducted elections, assessed and collected taxes, and recorded documents. Under the territorial government (1848-1859), the county school commissioner and county surveyor functions were added. Most county offices were established before Oregon became a state in 1859.

"By 1850 there were ten counties. Two of those counties (Clark and Lewis) became part of the Washington Territory in 1853 when Congress detached it from the Oregon Territory. Multnomah County was established by the Territorial Legislature on December 22, 1854. The western part of the new county came from Washington County and the area east of the Willamette River came from Clackamas County. Multnomah was the 16th of the 36 Oregon counties. The last county created was Deschutes on December 13, 1916.

"Originally, the organization, functions and powers of counties were prescribed in detail by the state constitution and state statutes. State voters amended the Oregon Constitution in 1958 to permit county voters to adopt, amend, revise or repeal charters for county

government. Nine counties have home rule charters: Lane (1962), Washington (1962), Hood River (1964), Multnomah (1967), Benton (1972), Jackson (1978), Josephine (1980), Clatsop (1988), and Umatilla (1993). Each charter provides the organization and, to some extent, the functions and powers of county government.

"In 1973 the legislature created 'statutory home rule.' ORS 203.035 grants all counties legislative authority over matters of county concern, whether or not they have a home rule charter. Twenty-four counties, including the nine with charters, now have a board of commissioners with three to five elected members. The other 12 less populated counties continue to be governed by a county court with a county judge and two commissioners."²

Home Rule is a significant authority for a county. It can be considered parallel to the concept of states' rights at the Federal level. A state, or a county, may be responsible for every function it chooses, except those reserved to the higher level of government. The state may also set certain standards that the county must meet. For example, Oregon statute requires a Civil Service system, but Multnomah County has adopted its own independent system. The state also sets expectations for ethics and standards of conduct, which are then applied at the county level.³

Original Multnomah County Charter

In 1964 the Multnomah County Board of Commissioners appointed an eleven member Home Rule Charter Committee. County voters adopted the Charter on May 24, 1966. An initiative petition to repeal the Charter was approved by voters at the November 1966 election. Voters apparently saw the Home Rule Charter as a mixture of bigger, more expensive government and less direct democracy. The Multnomah County Circuit Court invalidated the repeal measure election for lack of sufficient certified signatures.⁴

The Multnomah County Home Rule Charter took effect January 1, 1967. It had 56 sections. The Charter increased the county governing board body from three to five full-time commissioners, including a chairman. Each member was nominated and elected by position from the county at large, to serve four year staggered terms. The Board fixed the compensation of all county officers. The Board filled vacancies in county elective offices, with appointees to serve until the next election. The Board chairman was the chief executive who appointed and discharged administrative officers. The Board approved appointment of department heads.⁵

Legal Authority

“Originally, state statutes prescribed in detail the organization, functions and powers of counties. Like other counties, Multnomah County operated as an agency of the state. Today, the county continues to perform administrative functions under state statutes. Some of the chapters [of the County Charter] relate to original functions such as correctional facilities (ORS 169), elections (ORS 254), property assessment (ORS 308) and property tax collection (ORS 311). Other chapters add functions in areas such as: abuse of elderly and incapacitated (ORS 124), senior and disability services (ORS 410), medical assistance (ORS 414), juvenile code (ORS 419), community corrections (ORS 423), mentally ill and sexually dangerous (ORS 426), alcohol and drug abuse (ORS 430), public health (ORS 431), disease control (ORS 433), adult foster homes (ORS 443), and food service facilities (ORS 624).”⁶

Since 1977, the Charter has called for the establishment of periodic Charter Review Committees, consisting of members from senatorial districts within and overlapping the County. The current Charter states that the Committee shall be appointed by August 30, 2003, and every six years thereafter. The Committee assignment is to develop recommendations for the consideration of the County voters at least “95 days prior to the primary or general election or both of 2004 and every six years thereafter.”⁷

History of the County Presiding Officer Section (a) of LWV Position

As stated above, the Charter originally established a commission with five members, one of whom served as chairman. Between 1978 and 1984, the Commission Chair was replaced by an Executive Director, who was elected county-wide. The County Executive had no vote on the Board of Commissioners, but could veto ordinances approved by the Board. The County Executive had sole responsibility to manage all county departments, except those of the auditor, the courts, the district attorney, and the staff of the commissioners. The position was intended to provide professional administration for the county.

In 1984, based on recommendations from a Charter Review Committee, the County Executive was replaced by a Board Chair, elected at large. The Board Chair became the presiding officer with a vote on all matters and was also given executive authority over county departments.⁸

County Clerks Section (e) of LWV Position

In 1982, voters amended the county charter to create the new position of “county clerk,” which had not existed under the original home rule charter. The position of the “registrar of elections” was determined to be the office most like the new position. The 1984 Charter Review Committee recommended that the position be eliminated and the voters approved the change.⁹

According to state law, county clerks have major responsibilities for the election process in Oregon. “While the Secretary of State is the chief election officer of the state . . . it is the county clerks who conduct elections. This includes establishing precincts and polling places, preparing ballots and sample ballots, and receiving and processing votes. [They are also] responsible for voter registration within their counties.

[M]ost of the county clerks are elected for four year terms; but five of the home rule counties have chosen to have the head of their election division be an appointed staff position.” In Multnomah County, this position is now the Director of Elections, an appointed position.¹⁰

District Court Clerk Section (e) of LWV Position

The same 1982 charter amendment that created the new position of “county clerk,” also added the new position of “district court clerk.” The position of the “court administrator” was determined to be the office most like the new position. This position was also eliminated in the 1984 charter amendment process.

The State judicial system currently has two parts:

- The Oregon State Trial Court, led by judges elected by district, and
- The Oregon Tax Court, led by a Tax Court Judge, elected in a statewide election.

Each of Oregon’s 36 counties has a circuit court. Up until January 1998, Oregon had a third state trial court called the District Court, which had limited jurisdiction over smaller civil cases and lesser crimes. On January 15, 1998, the district courts merged into circuit courts.¹¹

League of Women Voters of Portland City Government Position (1991, 1965, 1963, 1961)

Section (g) of LWV Position



The League of Women Voters of Portland, Oregon, finds that the present commission form of city government is accountable, flexible and responsive to citizens.

There fore, we support the commission form of city government as it exists in Portland. We do not support a council-manager or weak-mayor form of government.

Under the commission form we support both increased long-range planning and regional cooperation.

We support the continuation of city-wide elections for the office of commissioners and mayor and no limit on the number of terms these elected officials may serve. We support the mayor's prerogative of appointing council members to be in charge of city bureaus for any length of time.¹²

Initiative Petitions

Section (j) of LWV Position

The County Charter requires the county to “exercise the initiative and referendum with reference to county propositions in the manner prescribed by state law.”¹³

In practice, this provision is accomplished by the Director of Elections and the County Attorney. The Director of Elections certifies that an initiative petition has been prepared and submitted through the approved process, and the County Attorney reviews the text of the petition for legality (i.e., whether the petition meets legal tests). For example, state law requires that any petition to change the county charter (equivalent to the state constitution) may address only a single topic. The recent petition to establish a new Public Utility District (PUD) for the County was required to comply with a state law from the 1930s that gave County Commissioners the responsibility for holding hearings on a proposed PUD, for determining the PUD boundaries, and for placing the measure on the county ballot.

The County Attorney may propose revised language for a petition to meet legal tests or improve clarity. The County Attorney also establishes the ballot title for the measure, which is supposed to be impartial, according to state law.

Challenges to a County determination regarding a petition may be addressed as an appeal to the state Circuit Court.¹⁴

Endnotes

1. Multnomah County Department of Support Services, “1997-98 City/County Consolidation Task Force.” Multnomah County web pages, www.co.multnomah.or.us, December 2003.
2. Office of Multnomah County Attorney, “Multnomah County Home Rule Charter (Amendments Approved November 3, 1998),” www.co.multnomah.or.us/counsel/Charter.html, April 2003. Oregon Secretary of State, Oregon Blue Book 2001 – 2002.
3. Personal interview with Agnes Sowle, Multnomah County Attorney, December 31, 2003.
4. Official Voters Pamphlet, Arguments in Opposition, General Election, November 8, 1966. Stuart et al v. Weldon et al, Hinkley et al, 421 P2nd 367, December 1966.
5. Office of Multnomah County Attorney, “Multnomah County Home Rule Charter (Amendments Approved November 3, 1998),” www.co.multnomah.or.us/counsel/Charter.html, April 2003.
6. Ibid.
7. Ibid., Section 12.0.
8. Leagues of Women Voters of Portland and East Multnomah County, “Multnomah County Charter Update,” March 1983, page 3. Office of Multnomah County Attorney, “Multnomah County Home Rule Charter (Amendments Approved November 3, 1998),” www.co.multnomah.or.us/counsel/Charter.html, April 2003, Section 11.30.
9. Ibid., page 4. Ibid.
10. League of Women Voters of Oregon, “Oregon Election Laws,” 1986, page 8.
11. Oregon Judicial Department, “An Introduction to the Courts of Oregon,” www.ojd.state.or.us/courts/courtsintro, January 3, 2004.
12. League of Women Voters of Portland, “Membership Handbook and Directory,” page 18.
13. Office of Multnomah County Attorney, “Multnomah County Home Rule Charter (Amendments Approved November 3, 1998),” www.co.multnomah.or.us/counsel/Charter.html, April 2003.
14. Personal interview with Agnes Sowle, Multnomah County Attorney, December 31, 2003.

Acknowledgements

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