



STATE OF OREGON
LEGISLATIVE COUNSEL COMMITTEE

January 16, 2009

Representative Arnie Roblan
900 Court Street NE H272
Salem OR 97301

Re: State Mandated County Services

Dear Representative Roblan:

We are writing in response to your inquiry about state mandated county services. You specifically requested a summary of the duties that a county must perform and the services that a county must provide under Oregon law. We have attached summaries of the statutory provisions that mandate these duties and services. We also have included summaries of provisions that do not mandate any particular service, but that still regulate certain county activities. We summarized these latter provisions because they regulate services that counties generally perform; as a result, these provisions substantially affect counties' responsibilities. For ease of reference, we also have included a bulleted list of these mandated duties and services.

We hope this research is helpful to you.

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Very truly yours,

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COUNTY DUTIES AND SERVICES REQUIRED BY OREGON LAW

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SUMMARIES

I. Duties and Services Relating to County Officials

Establishment of County Officials

A county's electorate *must* elect a sheriff, a county clerk, a county assessor, a county treasurer, a county surveyor and the appropriate number of county commissioners. ORS 204.005. The county's governing body *must* determine a compensatory amount for these officers, and the county *must* compensate them. ORS 204.116. Additionally, the county's governing body *may* hire other county employees. ORS 204.601. If a county hires additional employees, it *must* determine a compensatory amount for those employees and it *must* compensate them. ORS 204.601.

County Clerks

A county clerk *must* keep and maintain the county's records, including the County Clerk Lien Record. ORS 205.110 (1), 205.130 (3)(c). In these records, a county clerk *must* file deeds,

mortgages and all other documents that affect the title of a piece of property. ORS 205.130. A county clerk also *must* file certified copies of death certificates. ORS 205.130 (2)(c). Finally, a county clerk *must* conduct elections. ORS 246.200. To do so, a county clerk *must*:

- (1) *Register* all individuals who properly submit a voter registration card;
- (2) *Maintain* the voter register;
- (3) *Deliver* and safeguard absentee ballots;
- (4) *Publish* and distribute voter pamphlets; and
- (5) *Process* all voter ballots. ORS chapters 247, 253, 254.

A county *must* pay for the clerk's election-related expenses. ORS 246.250 (2).

The county clerk's office *must* be open from 9 a.m. to 4 p.m. on nonholiday weekdays, except on election days, when the office must be open from 7 a.m. to 8 p.m. ORS 205.242 (1), 246.270. That said, if a county is experiencing a fiscal emergency, its governing body *may* shorten the office's hours of operation. ORS 205.242 (2).

County clerks also have duties relating to the operation of county boards of property tax appeals. ORS chapter 309. Those duties are more thoroughly described in part IV.

Sheriffs

A sheriff *must* arrest and imprison violators of the law. ORS 206.010 (1). To facilitate the fulfillment of these duties, a county *must* provide its sheriff with an office in the building that serves as the county court. ORS 206.180. Additionally, a sheriff *must*:

- (1) *Maintain* order in the sheriff's county;
- (2) *Execute and process* court orders and warrants;
- (3) *Obey* the orders of any court that has jurisdiction over the county (for instance, a court may order a sheriff to take personal property into the sheriff's custody when that property is subject to a lien); and
- (4) *Keep a record* of all fees. ORS 206.010, 206.020, 206.030.

Sheriffs also have duties relating to the operation of county prisons and the disposition of county lands. ORS chapters 169, 275. Those duties are more thoroughly described in part II.

County Treasurers

A county treasurer *must* receive moneys paid to the county and disburse payments made by the county. ORS 208.010. The treasurer *must* keep a record of these payments and disbursements and *must* separate the record into distinct accounts. ORS 208.070. The treasurer also *must* file a monthly financial statement at the county court and *must* annually settle any debt owed by the county to the county court. ORS 208.090, 208.140.

Treasurers also have duties relating to the bookkeeping of road work expenditures. ORS chapter 368. Those duties are more thoroughly described in part V.

County Surveyors

A county surveyor *must* conduct surveys of county land when a court orders the county surveyor to do so. ORS 209.030. A county surveyor also *must* approve plats of subdivisions and

partitions and number those plats. ORS 92.050 (4)(a) and (b). Additionally, a county surveyor *must*:

- (1) *Keep a record* of all surveys conducted by the county and its officers;
- (2) *Establish or reestablish* all public land survey corners;
- (3) *Maintain* those survey corners; and
- (4) *Keep a record* of those survey corners. ORS 209.070.

A county's governing body *must* determine a compensatory amount for the county surveyor, and the county *must* compensate the surveyor. ORS 209.080. The county also *must* pay for the surveyor's materials and other job-related expenses. ORS 209.230.

District Attorneys

A district attorney *must* prosecute violators of the law. ORS 8.650. That process includes the initiation of indictment proceedings. ORS 8.660. Additionally, a district attorney *must*:

- (1) *Administer* laws on public assistance and support enforcement;
- (2) *Collect* state penalties and forfeitures;
- (3) *Assist* the juvenile court; and
- (4) *Advise and represent* county officers and employees; *unless* the county's governing body appoints legal counsel to handle those duties. ORS 8.675 to 8.690, 203.145.

Although the state has the responsibility of paying a district attorney's salary, a county *may* supplement that salary. ORS 8.830, 8.852. A county *must* determine the number and compensation of deputy district attorneys, and the county *must* pay those attorneys with county funds. ORS 8.760.

Medical Examiners

A county's governing body *must* appoint a medical examiner to investigate questionable deaths. ORS 146.065 (1). A county *must* pay for the medical examiner's expenses, including equipment, maintenance costs, investigation costs and compensation. ORS 146.075 (2) and (4). Additionally, a county *must* pay for the burial of any unclaimed bodies. ORS 146.075 (5). ORS chapter 146 also sets forth the procedure for investigating deaths. Medical examiners and sheriffs *must* follow these procedures.

County Accountants

A county is not required to employ a county accountant. ORS 210.100. However, if a county chooses to employ a county accountant, the county accountant *must* comply with the regulations in ORS chapter 210.

Other County Officials

Additionally, counties *must* have a county assessor, a budget officer and budget committee, a county board of property tax appeals, an executive emergency management officer, a civil service commission and a land use planning director. ORS chapters 215, 241, 294, 308, 309, 401. The duties of those officials are more thoroughly described below.

II. Duties and Services Relating to Courts and Prisons

Circuit Courts

A county *must* provide its circuit courts with courtrooms, offices and jury rooms, and it *must* pay for the maintenance and utility costs of those facilities. ORS 1.185 (1)(a). Although the state pays for these courts' supplies and materials, a county *must* pay for a court's other expenses. ORS 1.185 (1)(b) and (2).

Justice Courts

A county is not required to establish a justice court. ORS 51.020. However, if a county establishes a justice court, it *must* provide that court's justice of the peace with equipment, supplies, books, records and statutory materials. ORS 51.140. The county *may* provide the justice of the peace with a courtroom and clerical assistance. ORS 51.140 (1). ORS chapter 51 also sets forth basic guidelines for regulating justice courts. If a county chooses to establish a justice court, it *must* comply with the regulations in ORS chapter 51.

County Courts

A county is not required to operate a county court. It may, instead, establish a board of county commissioners according to the procedures set forth in ORS chapter 203. However, if a county chooses to operate a county court, it *must* comply with the regulations in ORS chapter 5.

Juvenile Courts

A county *must* establish a county juvenile department and appoint one or more counselors to the juvenile department. ORS 419A.010 (1)(a). The juvenile department *must* conduct investigations, represent the interests of the child, ward, youth or youth offender and furnish information to and for the courts. The juvenile department *must* take charge of the child, ward, youth or youth offender before and after court hearings. ORS 419A.012. The juvenile department also *must* report annually to the Oregon Criminal Justice Commission. ORS 419A.014.

Prisons

A county *must* have a correctional facility, *unless* an incorporated city within the county's boundaries contracts with the county to carry out that duty. ORS 169.030 (1) and (3). The county *must* use fireproof materials to build the facility, and it *must* build a sufficient number of suitably located fire exits. ORS 169.030. The county also *must* provide for the care of its prisoners. ORS 169.220.

Sheriffs are responsible for every prisoner in their county's correctional facility. ORS 169.320. ORS chapter 169 delineates the proper treatment of prisoners. ORS 169.105 to 169.220. To properly execute a sheriff's duties, a sheriff *must* comply with these regulations.

Community Corrections

A county *must* take responsibility for felony offenders sentenced to 12 months or less. ORS 423.475. The county also *must* assume responsibility for community-based supervision,

sanctions and services for felony offenders who are on parole, probation, post-prison supervision or conditional-release. ORS 423.478 (2).

III. Duties and Services Relating to Land Use

Planning and Zoning

A county *must* exercise its planning and zoning responsibilities. ORS 197.175 (1). To do so, a county's governing body *must* designate a land use planning director, and that director *must* administer a county's land use plan. ORS 215.042. That plan *must* be comprehensive in scope, and a county *must* maintain copies of the plan for public reference. ORS 215.050. Other than those mandates, a county has great discretion in conceiving and administering its land use plan. A county even *may* create more than one planning commission. ORS 215.020.

In many instances, a county *must* conduct a land use hearing to exercise its responsibility. Land use hearings *must* be conducted by a hearings officer, a planning commission or the county's governing body. ORS 215.406.

Coordination with Cities

A county *must* enter into an urban service agreement with any city that has a population of more than 2,500 persons. ORS 195.065 (1). The county *must* abide by the terms of that agreement. Additionally, a county *must* convoke all cities and special districts that declare an interest in providing a service. ORS 195.065 (2)(a).

Coordination with Department of State Lands

County officials *must* provide the Department of State Lands with any information or assistance that the department needs to perform its duties. ORS 273.155.

Disposition of County Lands

A county is not required to retain a particular amount of land; however, a county *must* retain land that is being used for county purposes. ORS 275.030 (1). Further, a county *must* adhere to certain procedures when it sells land. For example, if a county acquires land by foreclosure because the previous owner did not pay property taxes, the county sheriff *must* publish notice of the sale and *must* conduct the sale between 10 a.m. and 4 p.m. ORS 275.030 (2), 275.120, 275.140. When a county sells other types of property, it *may* choose the procedures to which it will adhere. ORS 275.030 (1), 275.225.

Historical Properties

Historical properties may be either publicly or privately owned. If a county owns a piece of historical property, the county's governing body *must* institute a policy to preserve that property. ORS 358.653 (1). To institute its policy, the governing body *must* consult with the State Historic Preservation Officer. ORS 358.653 (1). If a private land owner owns a piece of historical property, the county assessor *must* assess that property's value according to the provisions in ORS chapter 358. ORS 358.505 to 358.565. Finally, ORS chapter 358 *does not require* a county to establish a historical fund; however, if a county chooses to establish a historical fund, it *must* comply with the regulations in ORS chapter 358. ORS 358.171.

IV. Fiscal Duties and Services

Budgeting

A county's governing body *must* adopt a budget. To do so, the county's governing body *must* appoint a budget officer and a budget committee. ORS 294.331, 294.336. The county's governing body also *must* estimate the county's expenditures, revenue and resources, and the county *must* publish those estimates in a financial summary. ORS 294.352 to 294.386. On the basis of that summary, the budget committee *must* adopt a budget and publish a document that explains the rationale for the budget. ORS 294.391 to 294.435.

Levying of Taxes

In July of each year, a county's governing body *must* determine the county's expenses. ORS 310.010. Once the county's governing body does so, it *must* levy property taxes to pay for those expenses. ORS 310.020. To levy a property tax, the governing body *must* follow certain procedures. ORS 310.055 to 310.110. The governing body also *must* follow specific procedures when it collects property taxes, imposes property tax liens and forecloses on those liens. ORS chapters 311, 312.

Property Assessment

A county assessor *must* annually assess the value of all taxable property within the county. ORS 308.210 (1). Additionally, a county assessor *must*:

- (1) *Keep a record* of the county assessor's assessments;
- (2) *Update* that record to reflect changes in property ownership;
- (3) *Write* an annual report about the county's appraisal program;
- (4) *Keep a record* of property appraisals; and
- (5) *Collect* sales data to catalog the difference between each piece of property's selling price and fair market value. ORS 308.050, 308.210 (1) and (2), 308.234, 309.200 to 309.400.

Appraisal Appeals

If a county appraisal reduces the value of a piece of property, and if the property owner properly submits an appeal of that appraisal, then the county's board of property tax appeals *must* hear the appeal. ORS 309.026 (2) and (3). The board *must* publish public notice of when it will convene. ORS 309.025. Further, the board *must* keep a record of the hearing. ORS 309.024 (1). Finally, the board *must* complete its duties by April 15. ORS 309.026 (1). To establish a county board of tax appeals, a county clerk *must* appoint board members. ORS 309.020. The county clerk also *must* serve as the clerk of the board. ORS 309.024 (2).

Auditing

A county's governing body *must* conduct an annual audit of the county's fiscal affairs. ORS 297.425 (1). The county *must* audit the fiscal affairs of circuit courts, justice courts, officers and employees of circuit and justice courts and all elected or appointed county officials. ORS 297.515. The county also *must* audit the cost account for county road work. ORS 297.525.

County School Fund

A county *must* create a county school fund. ORS 328.005. A county *must* apportion moneys among its school districts in proportion to the average daily membership in each district for the preceding year. ORS 328.015.

V. Duties and Services Relating to the Regulation of County Roads

A county *must* regulate county roads, local access roads and trails. ORS 368.016 (1), 368.021, 368.031. To do so, a county's governing body *may* adopt standards for maintaining and constructing roads. ORS 368.036. If a county's governing body does not do so, it *must* comply with the standards adopted by the Department of Transportation. ORS 368.036.

To finance road maintenance and construction, a county *may* seek assistance from the Department of Transportation. ORS 366.155 (1)(h). Otherwise, a county *may* finance road expenditures with a voter-approved tax levy, a local option tax or funds apportioned to the county by the state. ORS 368.705 (3), 368.720. The county treasurer *must* deposit these funds into a county road fund. ORS 368.705 (1). Further, a county official *must* keep a record of any moneys spent on road work. ORS 368.051.

Finally, a county's governing body *must* process a variety of properly submitted petitions that pertain to roads, including:

- (1) Petitions to acquire land for roads;
- (2) Petitions for road vacations;
- (3) Petitions to improve streets and roads in unincorporated areas;
- (4) Petitions to form highway lighting districts;
- (5) Petitions to construct a road that accesses a county road;
- (6) Petitions for a way of necessity; and
- (7) Petitions by logging businesses to improve a forest road. ORS 368.073 to 368.131, 368.326 to 368.366, 371.065 to 371.660, 374.307, 376.155, 376.305 to 376.390, ORS chapter 372.

VI. Duties and Services Relating to Other Regulatory Functions

Regulation of County Civil Servants

A county's governing body *must* appoint three individuals to a civil service commission. ORS 241.065. That commission *must* investigate and report on the county's adherence to the regulations of ORS chapter 241. ORS 241.120. Additionally, the commission *must* conduct hearings that investigate the legitimate grievances of county employees, such as those who were dismissed without cause. ORS 241.440. Finally, the commission *must* establish rules for hiring, classifying and promoting county employees. ORS 241.215 to 241.290.

Regulation of Emergency Services

A county *must* establish an emergency management agency and appoint an executive officer to manage that agency. ORS 401.305 (1) and (2). The agency *must* coordinate with county personnel in planning and executing an emergency operations plan. ORS 401.305 (5)(a). The agency also *must* coordinate with the Office of Emergency Management to integrate federally required emergency preparedness practices. 401.305 (5)(c).

The sheriff of a county *must* adopt a search and rescue plan for the county. ORS 401.573 (1). That plan *must* comply with the Office of Emergency Management's search and rescue guidelines. ORS 401.573 (4). Also, county emergency personnel *must* participate in the state's 9-1-1 emergency reporting system. ORS 401.720 (2).

Finally, a county *must* develop a plan to provide for and coordinate ambulance services. As part of that plan, a county *must* establish one or more service areas. ORS 682.062 (1).

Regulation of Solid Waste Disposal

Local governments *must* take responsibility for the disposal of solid waste. ORS 459.017 (1)(b). Otherwise, a county is not required to perform any specific duty. To fulfill its responsibility, a county *may* operate its own disposal facility. To do so, it first *must* obtain a permit from the Department of Environmental Quality. ORS 459.205 (1). A county also *may* privatize the industry. To privatize the industry, a county *may* choose between issuing licenses to disposal companies or allocating franchises to those companies. ORS 459.085 (2). In either situation, a county *may* prescribe standards for waste disposal and establish an agency to ensure that those standards are met. ORS 459.085 (1)(a). Finally, if the Environmental Quality Commission orders a county-operated disposal site to implement a recycling program, the county *must* do so. ORS 459A.065. To achieve that goal, a county *may* allocate franchises to recycling companies. ORS 459A.085 (3).

Regulation of Other County Service Facilities

Service facilities include sewage plants, dikes, health care facilities, law enforcement facilities and a myriad of other facilities. ORS 451.010. A county is not required to establish any particular service facility; however, if the Director of Human Services determines that a county has a health hazard, the county *must* establish a service facility that combats the hazard. ORS 451.445 (1). To do so, a county's governing body *must* issue a construction order. *Id.* In that order, the governing body *must* explain how the county will finance the construction, operation and maintenance of the facility. ORS 451.485 (2) to (7). Within one year of issuing that order, the county *must* begin to construct or install the facility. ORS 451.445 (2).

Mental Health Services

A county *must* provide emergency psychiatric care, custody and treatment. The county *must* contribute to a state fund to pay for these services. If that fund is exhausted, a county *must* directly pay for these services. ORS 426.241.

Public Health Services

As the local public health authority, a county *must* manage local public health services *unless* the county relinquishes its health authority to the state or contracts with private businesses or an agency to carry out its health-related duties. ORS 431.375 (2). A county's electorate *may* approve the establishment of a county board of health. ORS 431.412. If a county establishes a board of health, it *must* appoint a qualified public health administrator. ORS 431.418.

Local health departments *must* make immunizations available at convenient times and places, and the departments cannot refuse service because of inability to pay. ORS 433.269. In

addition, the county public health administrator *must* investigate and take steps to control each report of a communicable disease. ORS 433.269.

Every county health department *must* offer family planning and birth control services within the limit of available funds. The county *may* collect fees to pay for these services. ORS 435.205.

Dog Control

A county *may* declare that the county is a dog control district. ORS 609.030. If a county has a dog control program, every dog owner *must* pay a licensing fee to the county. ORS 609.100.

Operation of Public Libraries

A county is not required to operate a public library. If a county chooses to operate a public library, it *must* comply with the regulations in ORS chapter 357. To establish a public library, a county *must* follow either the procedures for creating a special district in ORS 198.705 to 198.955 or the procedures for creating a library district in ORS 357.216 to 357.286. ORS 357.221.

Homeless Removal Policy

A county *must* develop a policy to remove homeless people who are camping on public property. ORS 203.077.