

BEFORE THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDER NO: 12-08-01-09

IN THE MATTER OF REFERRING TO
ELECTION THREE AMENDMENTS TO
THE LANE COUNTY HOME RULE
CHARTER AND DIRECTING THAT THE
MEASURES BE PLACED IN THE
VOTERS' PAMPHLET

WHEREAS, the Board of Lane County Commissioners has determined that it is in the public interest and benefit to offer the voters the option to approve amendments to the Lane County Charter that would make housekeeping revisions to various sections (Exhibit A); and

WHEREAS, the Board has determined that it is also in the public interest and benefit to offer the voters the option to approve an amendment to the Lane County Charter that would repeal the provisions of section 8 on Intergovernmental Cooperation and the Transfer of Functions to rely on state law and renumber the remaining sections (Exhibit B); and

WHEREAS, the Board has determined that it is also in the public interest and benefit to offer the voters the option to approve an amendment to the Lane County Charter that would repeal sections 31 and 32 on Continuation of Terms of County Commissioners and Elective Administrative Officers, move commissioner election dates to section 11 and renumber the remaining sections (Exhibit C); and

WHEREAS, the Board believes it is in the public interest to provide for wide dissemination and discussion of the issues regarding these measures through inclusion in the voters' pamphlet.

NOW, THEREFORE IT IS HEREBY ORDERED, that the measures and explanatory statements be submitted to the voters on the November 6, 2012, ballot, as shown in Exhibits A, B, and C attached hereto and incorporated herein by reference; and it is further


ORDERED, that a copy of this Board Order be presented to the County Clerk of Lane County and shall constitute our certification that these measures and explanatory statements be placed on the November 6, 2012 ballot; and it is further

ORDERED, that the measures and explanatory statements identified as Exhibits A, B & C be placed in the County's voters' pamphlet or the State's voters' pamphlet if available, availability to be determined by the County Clerk; and it is further

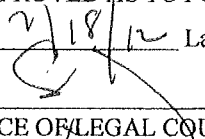
ORDERED, that \$12,400 is hereby authorized to be spent for the purposes of placing these measures in the voters' pamphlet; and it is further

ORDERED, that the County Clerk provide notice for and conduct the election in the manner provided by law, including ORS Chapter 250.

ADOPTED this 1st day of August, 2012.



Sid Leiken, Chair, Lane County Board of Commissioners

APPROVED AS TO FORM
Date 2/18/12 Lane County


OFFICE OF LEGAL COUNSEL

Memorandum Date: August 1, 2012

Order Date:

TO: Board of County Commissioners

DEPARTMENT: Lane County Office of Legal Counsel

PRESENTED BY: Stephen E. Dingle, Senior Assistant County Counsel

AGENDA ITEM TITLE: IN THE MATTER OF REFERRING TO ELECTION THREE AMENDMENTS TO THE LANE COUNTY HOME RULE CHARTER AND DIRECTING THAT THE MEASURES BE PLACED IN THE VOTERS' PAMPHLET

ORDER NO.: 12-____-____-____

I. MOTION: None needed – only direction to staff on the proposed amendments.

II. ISSUE OR PROBLEM: At its August 16, 2011 meeting, the Board asked that staff return with three sets of potential charter amendments for public hearing before deciding on whether to refer any of the amendments to the voters. Based on public testimony and the deliberations of the Board, one or more of the potential Charter amendments may be prepared for referral to the voters.

III. DISCUSSION:

General Background. On July 27 and August 16, 2011, the Board received the report of the Lane County Charter Review Committee ("CRC"), discussed its recommendations, and directed that staff prepare three general amendments corresponding with what the CRC recommended for placement before the voters. Those three areas included the following issues identified by the CRC:

Issue 1: Various Housekeeping Amendments;

Issue 3: Repeal of Section 8, Intergovernmental Cooperation and Transfer of Functions to rely on state law; and

Issue 16: Repeal of Sections 31 and 32, Continuation of Terms of County Commissioners and Elective Administrative Officers, and Add Commissioner Election Dates to Section 11.

CRC ISSUE 1 – Make Housekeeping Revisions to Various Sections.

Background/Analysis. Several sections of the Charter were identified by the CRC as having some type of grammar, terminology, outdated or otherwise missing language or provisions that could be included in a series of housekeeping amendments to Sections 5, 6, 9, 11, 18, 19, 20, 22, 28 and 33. Most of them are relatively minor and could be included in a single set of amendments. One of the proposed amendments would correct the reference to the sequence of elections to commissioner positions and that change could be rendered obsolete if a ballot measure with the CRC Issue 16 is referred to and approved by the voters.

Alternatives/Options. One alternative is to direct Counsel to prepare the necessary ballot title to place an amendment on the ballot which would make the housekeeping amendments or additions as recommended by the CRC. Because of the number of pages affected that would have to be included, the cost to put this in the voters' pamphlet could be around \$10,000. We can look at ways to reduce the number of pages by not including the complete text of provisions where the only change is one of repagination, however, even doing that could cost around \$3,000.

Another alternative is to conclude that these changes, although they might make the Charter "neat and tidy," could be viewed by voters as rather unnecessary. The provisions have been in place for a number of years without significant problems, so the Board may decide that this issue is not so burning as to warrant the expense or risk of voter frustration.

A third alternative is to place the measure on the ballot, but not include it in the voters' pamphlet, due to the cost.

CRC ISSUE 3 – Repeal of Section 8 – Intergovernmental Cooperation and Transfer of Functions; renumber remaining sections.

Background/Analysis. Section 8 of the Charter provides that the Board may arrange by contract for functions of the county to be performed in cooperation with other units of local government, including other counties, for the transfer of county functions to local governments in the county, and for the assumption of other local government functions by the county if the assumed function is a matter of county concern. All of these may be arranged on such terms as the Board deems to be in the best interest of the county. The CRC made the recommendation to repeal Section 8 as unnecessary and duplicative of state law, specifically ORS 190.003 through 190.265.

Alternatives/Options. One alternative is to direct Counsel to prepare the necessary ballot title to place an amendment on the ballot which provides for the repeal of Section 8 and directs renumbering of the remaining sections. To place this amendment in the voters' pamphlet would cost about \$900.

A second alternative is to decide that leaving Section 8 in the Charter does no harm and repeal does not warrant spending the County's resources to propose this change.

Another alternative is to place the measure on the ballot, but not include it in the voters' pamphlet, due to the cost.

CRC ISSUE 16 – Repeal of Sections 31 and 32 – Continuation of Terms of Commissioners and Elective Administrative Officers; Add Commissioner Election Dates to Section 11; and renumber remaining sections.

Background/Analysis. Sections 31 and 32 of the Charter provide for the continuation of the terms of Commissioners and Elective or Administrative Offices, such as the Sheriff, Assessor, County Clerk, County Treasurer, County Surveyor and Constable; establishes election dates for commissioners and assigns responsibilities of the County Clerk, County Treasurer, County Surveyor and Constable. Section 31(1) and all of Section 32 date back to the original Charter approved by the voters in 1962. Section 31 provides for the continuation of the terms of County Commissioners at the time the Charter took effect, as well as the order in which the Commissioner positions would be filled when the Board went from a 3 to a 5 member Board in 1976. Section 32 provides for the continuation of terms for the elected and appointed officers in place at that time and continues the allocation of responsibilities for the County Clerk, County Treasurer, County Surveyor and Constable. The CRC recommended repeal of both sections and the addition of specific language to Section 11 that would define the election dates for commissioners by reference to the November general election of presidential or non-presidential election years.

Alternatives/Options. One alternative is to direct Counsel to prepare the necessary ballot title to place an amendment on the ballot which repeals Sections 31 and 32 and adds language to Section 11 that fixes the commissioner election dates. This amendment would cost about \$1,500.

A second alternative is to decide that leaving Sections 31 and 32 in the Charter does no harm and that repeal or updating the references to election dates for commissioners does not warrant spending the County's resources to propose this change.

A third alternative is to place the measure on the ballot, but not include it in the voters' pamphlet, due to the cost.

On May 9, 2012 the Board ordered the Lane County Charter Committee to write an Explanatory Statement regarding each of the proposed changes to the Lane County Charter for the Voters' Pamphlet. (Order No.: 12-05-09-01.) The potential ballot titles and explanatory statements are attached hereto.

IV. RECOMMENDATIONS: There have been no significant problems identified in the Charter or in the way in which it guides County government to date, outside of the Charter Review Committee effort. Leaving the provisions untouched would not seem to affect the flexibility or discretion of the Board in addressing change as the county moves forward.

One side of the argument invites a "neat and tidy" Charter. The other side suggests that voters should only be asked to cast ballots on significant and critical matters. Asking them to vote on

these matters may risk criticism that the County government is not paying attention to the important matters that are of greater need.

V. IMPLEMENTATION/FOLLOW-UP: If the Board chooses to proceed with any of the proposed Charter Amendments, the Order currently in front of the Board directing the measure(s) to be placed on the ballot should be passed. In the alternative, if the Board chooses to proceed with only one or two of the proposed Charter Amendments, staff will prepare an Order indicating those directives.

If the Board does give direction to proceed to prepare ballot titles for any of the proposed Charter Amendments, staff also needs direction as to whether the Board wishes to have the measure(s) included in the voters' pamphlet.

VI. ATTACHMENTS:

Exhibit A: Ballot Title and Explanatory Statement for Issue 1: "Housekeeping Amendments to Lane County Charter"

Exhibit B: Ballot Title and Explanatory Statement for Issue 3: "Repeal of §8 of Lane County Charter"

Exhibit C: Ballot Title and Explanatory Statement for Issue 16: "Repeal §§31-32 and Amend §11 of Lane County Charter"

Ballot Title

CAPTION: HOUSEKEEPING AMENDMENTS TO LANE COUNTY CHARTER

QUESTION: Shall Lane County amend the Lane County Charter to update sections and make housekeeping changes?

SUMMARY: The proposed changes will revise several sections of the Charter that were identified by the Charter Review Committee as having some grammar, terminology, outdated or otherwise missing language or provisions that could be included in a series of housekeeping amendments to §§5, 6, 9, 11, 18, 19, 20, 22, 28 & 33. Most of them are minor. One of the proposed amendments would correct the reference to the sequence of elections to commissioner positions included in §11.

words = 98

CAPTION: HOUSEKEEPING AMENDMENTS TO LANE COUNTY CHARTER

QUESTION: Shall Lane County amend the Lane County Charter to update sections and make housekeeping changes?

Explanatory Statement

- Section 5: Changes second word “or” to “and” because authority over matters of county concern are granted or allowed by both federal and state law.
- Section 6, second sentence: Change first word “and” to “or” because limits to liberal construction are imposed by either the Charter or federal and state law.
- Section 9: Change “Public Improvements” to “Local Improvements” throughout the section. “Local Improvements” is the term most local governments use to describe improvements such as streets, sewer and other facilities the cost of which is partly or wholly assessed to benefited property. The term “Public Improvements” might be misinterpreted to apply to county buildings, arterial road and other facilities that benefit the general public.
- Section 11, paragraph (3)(a): Change “Section 32” to “Section 28” to correct an incorrect reference.
- Section 18, paragraph (1): Adds the ordaining clause “The people of Lane County ordain as follows” to provide an ordaining clause specifically for voter initiated and adopted ordinances.
- Sections 19 and 22: Change “Departments” to “Functions” in both section titles to be consistent with an earlier amendment to terminology within both sections.
- Section 20, paragraph (2): Change “Departments” to “Functions” for the same reason.
- Section 28, paragraph (3): Delete “desire to vote” because with vote by mail there is no way to determine a voters desire and distribution of ballots is governed by state election law.
- Section 33, paragraph (2): Delete “as at present” because that language was needed during implementation of the original Charter but no longer is necessary.

words = 259

CHAPTER II

POWERS

Section 5. GENERAL GRANT OF POWERS. Except as this charter provides to the contrary, the county shall have authority over matters of county concern to the full extent granted or allowed by the law of the United States and of the state of Oregon, as fully as if each power comprised in that general authority were specifically granted by this charter, including power to levy and collect taxes, to create and incur indebtedness, and to exercise any and all other powers conferred upon counties and their governing bodies by the statutes of the state.

Section 6. CONSTRUCTION OF POWERS. In this charter no mention of a particular power or enumeration of similar powers shall be construed to be exclusive or to restrict the authority that the county would have if the particular power were not mentioned or the similar powers not enumerated. The charter shall be liberally construed, to the end that, within the limits imposed by the charter or by the law of the United States and of the state, the county have all powers necessary or convenient for the conduct of its affairs, including all powers that counties may assume under the statutes of the state and under the provisions of the state constitution concerning county home rule. The powers shall be construed to be continuing powers.

Section 7. LOCAL SERVICES.

- (1) The board of county commissioners,
 - (a) upon the petition of 25 per cent of the legal voters of any area in the county or of 100 legal voters in the area, whichever number is the lesser, and
 - (b) upon the approval of a majority of the voters in the area, may establish the area as a local service district for the purpose of providing a county service of special benefit to persons and property in the area. The board shall prescribe by ordinance one or more methods for establishing such a district and for enlarging such a district already established. The ordinance shall prescribe one or more procedures by which legal voters in the territory proposed to be included in the district are afforded notice and hearing of establishment and enlargement of the district.
- (2) The board shall fix the boundaries of each such district on the basis of the territorial extent of the special benefit derived from the service.
- (3) The board shall be the governing body of the district.
- (4) A county service of special benefit to persons and property in an area established as a local service district pursuant to this section may be financed only by taxes, assessments, and charges specially levied in the area and by funds specially allocated by the state or the United States for one or more purposes of the district.
- (5) Legislative action that the board takes as governing body of a local service district shall be subject to the referendum upon petition of 10 per cent of the legal voters of the district. The board shall prescribe by ordinance one or more methods for exercising this power of referendum.

Section 8. INTERGOVERNMENTAL COOPERATION AND TRANSFER OF FUNCTIONS. The board of county commissioners may, on such terms as it deems to be in the best interests of the county, arrange by contract

- (1) for one or more functions of the county to be performed in cooperation with one or more units of local government in the county or one or more other counties or both,
- (2) for one or more functions of the county to be transferred to and performed by one or more units of local government in the county and
- (3) for the county to assume one or more functions of one or more units of local government in the county, provided any function thus assumed is a matter of county concern.

Section 9. LOCALIMPROVEMENTS.

- (1) Subject to the requirements of the other paragraphs of this section, the procedure for making, altering, vacating, or abandoning a improvement of the county shall be governed
 - (a) by the general ordinances of the county, or,
 - (b) to the extent not so governed, by the applicable general laws of the state.
- (2) To the extent that the board of county commissioners finds that a local improvement specially benefits property in the vicinity of the improvement, the cost of the improvement shall be defrayed by special assessments levied on the property, and to the extent that the board finds that a local improvement is of benefit to the county generally, the cost of the improvement may be defrayed by revenue derived from other sources.
- (3) An order for action regarding a local improvement of the county shall indicate
 - (a) the extent to which the cost of the action is to be defrayed by special assessments on property to be specially benefited by the action and
 - (b) the extent to which the cost of the action is to be defrayed by revenues of the county derived from other sources.
- (4) Action by the board of county commissioners on a proposed localimprovement to be financed in whole or in part by county revenues not derived from special assessments shall be subject to the referendum in the same manner as ordinances of the board.
- (5) Action by the board of county commissioners on a proposed localimprovement to be financed in whole or in part by special assessments shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed for the improvement, provided written notice of the remonstrance is delivered to the board within 15 days after the action is ordered. After the suspension the board may proceed with the action. The word "owner" shall mean the record holder of legal title, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser shall be regarded as the owner.
- (6) The procedure for levying, collecting, and enforcing the payment of special assessments to be levied against real property on account of localimprovements or other services shall be governed by general ordinance.

Section 10. WHERE POWERS VESTED. Except as this charter provides to the contrary, and subject to the initiative and referendum powers residing in the people of the county, all powers of the county, both legislative and administrative, shall be vested in the board of county commissioners. The administrative power of the board shall be exercisable by it or by persons under its authority.

CHAPTER III
BOARD OF COUNTY COMMISSIONERS

Section 11. MEMBERSHIP, ELECTION AND TENURE

- (1) The board of commissioners shall consist of five county commissioners.
- (2) Except as this charter provides to the contrary, each commissioner shall be elected by district for a four-year term.
- (3) The board of county commissioners shall be elected as follows.
 - (a) At the November general election the commissioners shall be elected as provided for in Section 31 of this charter.
 - (b) At the election the candidate for each position who receives the highest number of votes cast shall be entitled to a certificate of election to office.
 - (c) The following election districts shall be established from which the commissioners shall be elected:
 - (i) The West Lane County District, generally comprised of western Lane County outside the metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 1.
 - (ii) The Springfield District, generally comprised of the Springfield metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 2.
 - (iii) The South Eugene District, generally comprised of the southern Eugene metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 3.
 - (iv) The North Eugene District, generally comprised of the northern Eugene metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 4.
 - (v) The East Lane County District, generally comprised of eastern Lane County outside the metropolitan area. Except as otherwise provided in this charter, the commissioner elected from this district shall fill Position No. 5.
 - (d) In accordance with Federal, State, or County census figures, the boundaries of the five districts shall be drawn by the board of commissioners so as not to deny any person equal protection of the law. The board of commissioners shall, not less than every 10 years, initiate review of the population densities of each district and modify boundaries when necessary. No boundary creation, position designation or boundary change shall disqualify a commissioner from completing the term of office to which that commissioner was elected or appointed.
 - (e) The board of commissioners shall adopt by ordinance the district boundaries as required by subsection (d) above. District boundaries shall be finally adopted at least six months prior to any election for which they are to be effective.

Section 12. FULL-TIME RESPONSIBILITY OF COMMISSIONERS. While serving as a member of the board of county commissioners, a county commissioner shall devote full time to the office.

Section 13. QUORUM. Three commissioners of the board of county commissioners shall constitute a quorum for the board's business.

Section 14. MEETINGS.

- (1) The board of county commissioners shall adopt rules for the government of its members and meetings.
- (2) The rules shall prescribe one or more modes of compelling the attendance of commissioners at board meetings.
- (3) The board shall meet regularly and publicly in the county at least twice each month at times and places designated in the rules governing the meetings of the board.
- (4)
 - (a) The chair of the board may, by giving notice thereof to all members of the board then in the county, and
 - (b) three members of the board may, by giving notice thereof to the other two commissioners provided they are in the county, call a special meeting of the board. Notice of any special meeting shall be consistent with state law.
- (5) No action by the board may have legal effect unless the motion for the action and the vote by which the motion is approved or rejected take place at proceedings open to the public.

Section 15. BOARD CHAIR.

- (1) At its first regular meeting each year the board of county commissioners shall designate one of its members chair of the board for the year.
- (2) The chair shall
 - (a) Preside over the meetings of the board,
 - (b) Have a vote on all questions before it, and
 - (c) Have authority to
 - (i) preserve order at board meetings,
 - (ii) enforce the rules of the board, and
 - (iii) determine the order of board business under the rules of the board.
- (3) At the time the chair is designated in paragraph (1) above, the board shall also designate a vice chair, who shall have identical authority as the chair, in calling and conducting meetings when the chair is absent from the county.

Section 16. RECORD OF PROCEEDINGS. The board of county commissioners shall cause a public record of its proceedings to be kept. Upon the request of a member of the board that the individual votes on a question before the board be recorded in the record, the votes shall be so recorded. The final votes on all ordinances before the board shall be so recorded.

Section 17. VOTE NECESSARY FOR BOARD ACTION. Except as this charter provides to the contrary, the concurrence of three members of the board of county commissioners shall be necessary to decide any question before the board.

Section 18. ORDINANCES.

- (1) The enacting clause of an ordinance enacted by the board of county commissioners and not referred to the voters shall read, "The board of county commissioners of Lane County ordains as follows:". The enacting clause for ordinances initiated and adopted by the voters of the county shall read: "The People of Lane County ordain as follows:".
- (2) Except as this section provides to the contrary, before an ordinance is enacted, it shall be fully and distinctly read in regular meeting of the board on two different days at least 13 days apart. The board may direct that either or both of the readings be by title only
 - (a) If a copy of the ordinance is provided for each member of the board when the ordinance is introduced and
 - (b) If, throughout the business hours after the ordinance is introduced and before it is enacted, a copy of it is available for public inspection in the office of the board.

An ordinance enacted after being read by title only may have no legal effect if any section incorporating a substantial change in the ordinance as introduced is not read fully and distinctly in regular meeting of the board at least 13 days prior to the adoption of the ordinance.
- (3) Upon enactment of an ordinance by the board
 - (a) The chair of the board and
 - (b) The person who serves as recording secretary of the board at the session at which the board finally approves the ordinance shall sign the ordinance and indicate the date of its enactment.
- (4) An ordinance enacted by the board of county commissioners in the exercise of its police power and for the purpose of meeting an emergency may take effect immediately upon being so enacted. An ordinance approved by the voters shall take effect immediately upon being so approved. An ordinance of any other character shall take effect on the 30th day after being enacted.

CHAPTER IV
ADMINISTRATION

Section 19. ADMINISTRATIVE FUNCTIONS.

- (1) For purposes of carrying out the policies of the county and administering its affairs, the County shall perform administrative functions which shall be within the limitations of this charter:
 - (a) finance and auditing functions, which shall include the functions of the county treasurer under state law and the functions of the county clerk under state law;
 - (b) records and elections functions, which shall include the functions of the county clerk under state law regarding elections, recording, filing, and the courts;
 - (c) health and sanitation functions, which shall include the requirements prescribed by state law for the county health officer, the county sanitarian, and the county board of health;
 - (d) public works functions, which shall include the functions of the county surveyor and county engineer under state law and all road and highway functions of the county;
 - (e) public safety functions, which shall include the functions of the constable and the sheriff under state law, except the functions of the sheriff regarding the collection of taxes;
 - (f) assessment and taxation functions, which shall include the functions of the assessor under state law and the functions of the sheriff under state law that pertain to the collection of taxes;
 - (g) general administration functions, which shall include whatever functions the board of county commissioners prescribes for it; and
 - (h) youth services (juvenile) functions which shall include all functions required under state law for juvenile delinquency and dependency cases.

Section 20. ELECTIVE ADMINISTRATIVE OFFICERS.

- (1) The elective administrative officers of the county shall include, in addition to the county commissioners, the sheriff and the assessor.
- (2) The sheriff shall have charge of the function of public safety, and the assessor shall have charge of the function of assessment and taxation. The terms of office for sheriff and assessor shall be four years.

Section 21. APPOINTIVE ADMINISTRATIVE OFFICERS AND EMPLOYEES. Except as this charter provides to the contrary,

- (1) each administrative function of the county shall include whatever offices and positions the board of county commissioners or their designee establishes in that department;
- (2) all administrative officers and employees of the county other than elective administrative officers shall be appointed by the board or pursuant to its authority;
- (3) the functions of administrative officers and employees of the county shall be whatever functions the board of county commissioners or their designee prescribes for them.

CHAPTER V

PERSONNEL

Section 23. QUALIFICATIONS.

- (1) To qualify for an elective office of the county, a person
 - (a) shall be a legal voter of the state,
 - (b) shall be a resident of the county, and
 - (c) shall have resided in the county two years immediately preceding the beginning of the term of office.
 - (d) shall meet any other qualifications required by the State for such positions.
- (2) To qualify for an appointive office or position of the county a person shall have whatever qualifications the board of county commissioners prescribes for the office or position.
- (3) To qualify for the position of county commissioner, a person shall reside within the district from which said person is elected or appointed and shall have so resided for a period of not less than two months prior to appointment or any primary or general election in which said person is a candidate. A district boundary change shall not disqualify a commissioner until that commissioner's term of office has expired.

Section 24. VACANCIES IN OFFICE. An office shall be deemed vacant

- (1) Upon the incumbent's
 - (a) death,
 - (b) adjudicated incompetence, mental illness or insanity,
 - (c) conviction of a felony, or unlawful destruction of public records, or of other criminal offense pertaining to the office,
 - (d) resignation,
 - (e) recall from office, or
 - (f) ceasing to possess the qualifications for the office;
- (2) Upon the failure of the person elected or appointed to the office to qualify therefor within 10 days after the time for the term of office to begin, or
- (3) with reference to a county commissioner,
 - (a) upon absence from the county for 30 days without the consent of the other commissioners or upon absence from meetings of the board of county commissioners for 60 days without a like consent and
 - (b) upon a declaration by the board of the vacancy.

Section 25. FILLING OF VACANCIES.

- (1) A vacancy in an elective office of the county shall be filled in the manner prescribed by state law.
- (2) A vacancy in an appointive office of the county shall be filled by the board of county commissioners or pursuant to its authority.
- (3) During
 - (a) the temporary disability of an elective officer or
 - (b) the absence from the county temporarily for any reason the office may be filled pro tem by the board of county commissioners.

Section 26. COMPENSATION FOR SERVICES. The compensation for the services of a county officer or employee shall be whatever amount the board of county commissioners fixes, but no increase in the compensation of a member of the board may take effect prior to the first odd-numbered year after the first general election after the increase is authorized.

Section 27. MERIT SYSTEM.

- (1) Each office and position in the government of the county shall be included in the classified or unclassified service of the county.
- (2) The unclassified service of the county shall include the offices and positions of
 - (a) elective officers of the county,
 - (b) the heads of county departments,
 - (c) members of county boards and commissions,
 - (d) persons employed by the county
 - (i) for special or temporary purposes and
 - (ii) for not longer than three months during any fiscal year,
 - (e) persons employed by the county to render professional, scientific, technical or expert services of occasional or exceptional character,
 - (f) persons employed jointly by the county and some other governmental agency,
 - (g) unskilled workers employed by the county less than half time,
 - (h) part-time employees of the county paid by the hour or day,
 - (i) persons employed by the county as independent contractors for temporary or part-time service, and
 - (j) uncompensated volunteers.
- (3) The classified service of the county shall include all offices and positions in the government of the county not included in the unclassified service.
- (4) The board of county commissioners shall maintain a system of personnel administration, including appeal procedures,
 - (a) in which
 - (i) the appointment of persons to
 - (ii) the promotion, transfer, demotion, and suspension of persons in, and
 - (iii) the dismissal of persons from the classified service shall be effected solely on the basis of merit and fitness, and
 - (b) in which each person in that service shall receive equitable compensation fixed on the basis of
 - (i) competence in the position with the county,
 - (ii) record of service there and elsewhere,
 - (iii) the range of compensation paid others by public and private employers for comparable service
 - (iv) the county's financial condition and policies, and
 - (v) other factors relevant to the determination of what is fair compensation for the individual.

CHAPTER VI

ELECTIONS

Section 28. NOMINATION AND ELECTION OF COUNTY OFFICERS. Except as this charter provides to the contrary, the manner of nominating and electing candidates for elective county offices shall be the manner now or hereafter prescribed by the laws of the state for the conduct of nonpartisan nominations and elections.

- (1) No petition, declaration, primary or general ballot for an elective county office shall make reference to any political party ballot or to a political party affiliation or designation.
- (2) When there is only one person as a candidate for nomination to an elective county office, (except sheriff or to fill a vacancy) that person's name shall not be placed upon the primary ballot but only on the November general election ballot.
- (3) A primary or general ballot, as the case may be, shall be delivered to each registered elector-, regardless of party affiliation.
- (4) When a candidate for nomination for an elective county office receives a majority of all votes cast at the primary election, that person's name alone shall appear on the ballot for the general election.
- (5) If no candidate at the primary election receives a majority of all votes cast, the two candidates receiving the highest number of votes shall be placed on the general election ballot.

Section 29. RECALL. An elective officer of the county may be recalled in the manner, and with the effect, now or hereafter prescribed by the constitution and laws of the state.

Section 30. ELECTIONS ON COUNTY PROPOSITIONS. Except as

- (1) This charter or
- (2) Legislation enacted pursuant to it provides to the contrary, the manner of conducting an election on a proposition concerning the county shall be the manner prescribed by the laws of the state for an election in the county on the proposition.

CHAPTER VII
MISCELLANEOUS PROVISIONS

Section 31. CONTINUATION OF TERMS OF COUNTY COMMISSIONERS.

- (1) The county commissioners who are in office at the time this charter takes effect may continue in their respective offices for the terms to which they have been elected.
- (2) At the general November election in 1978, commissioner Position Nos. 1, 2, and 5 shall be voted upon by the voters of the respective districts and filled for a four-year term.
- (3) At the general election in 1980, commissioner Position Nos. 3 and 4 shall be voted upon by the voters of the respective districts and filled for a four-year term.
- (4) At the general November election in 1982, and at every second year thereafter, the commissioners positions which have expired shall be voted upon by their respective districts for a four-year term.

Section 32. CONTINUATION OF TERMS OF ELECTIVE ADMINISTRATIVE OFFICES.

- (1) The terms of office of the sheriff and the assessor who are in office on the effective date of this charter shall be the terms for which these officers have been elected.
- (2) The terms of office of the county clerk, county treasurer, county surveyor, and constable
 - (a) who are in office on the effective date of this charter or
 - (b) who are appointed to fill vacancies that occur
 - (i) after adoption of the charter and
 - (ii) before the effective date of the charter shall continue for such times as the board of county commissioners determines.
- (3) Until the board of county commissioners provides to the contrary,
 - (a) the county clerk shall be the head of the department of records and elections,
 - (b) the county treasurer shall be the head of the department of finance and auditing,
 - (c) the county surveyor shall continue to perform the duties of county surveyor as prescribed by state law, and
 - (d) the constable shall be continued as an employee in the department of public safety.

Section 33. EXISTING LEGISLATION CONTINUED. All legislation of the county

- (1) Consistent with this charter and
- (2) In force when it takes effect shall remain in effect until amended or repealed.

Section 34. EFFECTIVE DATE. This charter shall take effect January 3, 1963, the charter amendment of November 2, 1976, shall take effect on January 1, 1977, the charter amendment of May 18, 1982, shall take effect on May 18, 1982, the charter amendment of November 6, 1984, setting a general fund spending limitation shall take effect for the fiscal year commencing July 1, 1985, and the remaining charter amendments of November 6, 1984, shall take effect on November 23, 1984.

Section 35. SPENDING LIMITATION. A limit on the total amount of general fund general operation spending by the county in any fiscal year is established.

- (1) Spending limitation. The annual county expenditures from discretionary revenues for general fund general operations shall not exceed \$24,250,000 except as it increases by the sum of the annual percentage changes in the cost-of-living and population, as provided in subsection 2 below.
- (2) On or about January 1 of each fiscal year, the 12 month percent change in the cost-of-living index shall be added to the 12 month percent change in total Lane County population. The sum of these two percent change figures shall thus determine the allowable growth factor that shall annually be applied to the prior year's general fund general operating spending limit, or to the reserve funds as described in subsection 3 below, to determine the maximum allowable amount of such limit or funds for the following year.
- (3) Reserve funds. General fund discretionary revenues exceeding the limitation set forth in subsection 1 above shall be distributed to various funds in amounts as directed by the board of county commissioners after review by the budget committee. These funds shall include:
 - (a) A revenue stabilization fund. The revenue stabilization fund shall not exceed \$10,000,000 except as it increases by the sum of the annual percentage changes in the cost-of-living and population, as provided in subsection 2 above. Transfers from the revenue stabilization fund to the general fund in any fiscal year shall not exceed 50% of the revenue stabilization fund's balance at June 30th of the prior fiscal year, except that if transfers have been made for two consecutive years, the entire remaining amount may be transferred during the third year if transfers are required.
 - (b) An employee benefits liability fund. The employee benefits liability fund shall not exceed the value of accrued employee vacation and sick leave as recorded in the general purpose financial statements and auditor's report for the prior fiscal year.
 - (c) A capital improvement fund. The capital improvement fund shall not exceed \$1,000,000 except as it increases by the sum of the annual percentage changes in the cost-of-living and population, as provided in subsection 2 above. This limit does not preclude establishment of a separate fund for construction of a new county facility.
 - (d) A self-insurance fund. The self-insurance fund shall not exceed the value of all outstanding claims liabilities as recorded in the general purpose financial statements and auditor's report for the prior fiscal year. Income earned on these funds shall accrue to the funds.
- (4) Excess revenues. For any fiscal year, the excess revenues over expenditures, except as provided in subsection 3 above, shall be used for a reduction or rebate in real property taxes.
- (5) Emergency. The limitation imposed by subsection 1 above may be exceeded only upon the declaration of an emergency and approval by the board of county commissioners. The board shall set forth the amount of the cost of the emergency and the method by which it shall be defrayed. Funds from the revenue stabilization fund shall be available for the emergency. The limitation imposed by subsection 1 above may be exceeded only for the year in which the emergency is declared. In no event shall such emergency expenditures be

- included in the computation of the limitation imposed by subsection 1 above for any other year.
- (6) Mandated and shifted costs. Where costs are transferred from one unit of government to another unit of government or are imposed on the county, either by law or court order, the limitation imposed by subsection 1 above shall be adjusted accordingly.
 - (7) Severability. If any expenditure category or revenue source shall by law or court order be exempted from this section, the expenditure limitation imposed by subsection 1 above shall be adjusted accordingly and all remaining provisions shall remain in full force and effect.
 - (8) Implementation. The board of county commissioners shall adopt orders consistent with and as may be necessary to implement and enforce the provisions of this section. This section shall take effect for the fiscal year commencing July 1, 1985.
 - (9) Definitions.
 - (a) "Cost-of-living" means the 12 month percent change in the consumer price index for all urban consumers, U.S. city average occurring between July 1 and June 30, as computed by the Department of Commerce, or any successor agency.
 - (b) "Population" means the 12 month percent change in the number of people residing in the county occurring between July 1 and June 30, as computed by Portland State University, Center for Population Research and Census, or any successor agency.
 - (c) "Discretionary revenues" means revenues available for any county services and not otherwise restricted or dedicated by law to specific purposes.

Section 36. EAST ALTON BAKER PARK.

- (1) Findings. The people find that East Alton Baker Park, which contains open public land in a relatively natural state and is easily accessible by county residents, should continue to be a place where diverse passive recreational activities can occur and no single use dominates others.
- (2) Definitions. As used in this section:
 - (a) "East Alton Baker Park" means that area of land within Alton Baker Park that is owned by Lane County. It comprises the approximately 237 acres east of the City of Eugene Equipment yard and Bike Path to the eastern border of Alton Baker Park.
 - (b) "Board" means the Board of Lane County Commissioners.
 - (c) "Golf Course" means any facility of any type that uses any portion of land for the purpose of activity of golf.
 - (d) "Passive recreation" means those pastimes, diversions, or forms of exercise in which the relaxation and/or enjoyment experienced by the participant is dependent on the natural landscape in which the activity occurs. Examples include, but are not limited to hiking, boating, jogging, biking, plant study, picnicking, kite flying, frisbee throwing, bird watching, nature photography, swimming, nature classes, model boating, wheelchair racing, fishing, dog walking, feeding of water fowl, sun bathing and those group activities deemed appropriate.
- (3) Conditions for the Development of East Alton Baker Park.
 - (a) The Board shall not sell, alienate, lease or in any other way convey any real or personal property interest in East Alton Baker Park to any private

or public entity for the purpose of developing a golf course.

- (b) The Board shall not expend any funds to study, promote, develop, construct, approve or in any way aid any private or public development of a golf course in East Alton Baker Park.
 - (c) By March 1, 1993, the Board shall appoint a Citizens Planning Committee, (CPC), composed of fifteen (15) individuals who have demonstrated an interest in maintaining and enhancing the passive recreational qualities of East Alton Baker Park. At least 45 days prior to making appointments to the CPC, the Board shall advertise and provide applications for the CPC positions to park user groups, community organizations, and any concerned citizens who have submitted letters or testimony regarding Alton Baker Park. The CPC members shall be chosen from the applications the Board receives.

The CPC shall initiate a public hearing process to determine the appropriate mix of passive recreational uses of East Alton Baker Park. The CPC shall then develop and adopt a final Plan for East Alton Baker Park, (EABP) which is consistent with this Act and with the general and specific criteria for the area set forth in the Alton Baker Park Master Plan. In the EABP Plan, the watercourses, bike paths and running trails that existed in East Alton Baker Park on September 1, 1991 shall be maintained or improved and shall not be reduced in size or altered in configuration. Following the adoption of the EABP Plan, the CPC shall continue to meet as needed to monitor its implementation.
 - (d) Any user fees charged for the use of East Alton Baker Park shall be used solely for Alton Baker Park consistent with the Alton Baker Park Master Plan.
 - (e) Ownership of East Alton Baker Park shall not be transferred until the plan described in subsection 3, paragraph (c) is adopted. If ownership of East Alton Baker Park is transferred to a public or private entity, the transfer shall include appropriate conditions or covenants to insure consistency with this section and the goals set forth in the Alton Baker Park Master Plan.
- (4) Effective Date. The effective date of this section shall be March 3, 1993.
 - (5) Severance Clause. If any subsection, portion, clause or phrase of this section is for any reason held to be invalid or unconstitutional, the remaining subsections, portions, clauses and phrases shall be unaffected and shall remain in full force and effect, and to this end the provisions of this section are severable.

Section 37. INCOME TAX CAP.

- (1) Rate Limitation. Any Lane County income tax is limited to a tax rate not exceeding two percent (2.0%) of net income unless approved by an affirmative vote of the residents of Lane County.
- (2) Dedication for Public Safety. The revenue from any Lane County income tax, less costs of collection and administration, shall be dedicated for public safety purposes. Public safety purposes are defined for any income tax as those programs designed to protect citizens from the effects of, or to reduce, criminal activity. They include preventive and reactive public safety services, such as adult and youth corrections, crime prevention, prosecution, detention, supervision, mental health services, alcohol and drug treatment, victim services, drug court, interagency narcotics enforcement, patrol, investigation and arrest,

- and related support services. They also include the programs and services provided by the departments of the Sheriff, District Attorney and Youth Services:
- (3) Special Dedicated Fund, Audit and Reserves.
- (a) The County shall create and maintain a Public Safety Dedicated Fund. All revenue collected from any Lane County income tax shall be credited to the Public Safety Dedicated Fund, after payment of expenses of collection and administration. Interest earned on the Fund shall be credited to it.
 - (b) Performance audits shall be conducted on a regular basis to validate the appropriate use of the income tax revenues for the defined public safety purposes. The cost of these audits shall be treated as a cost of administration.
 - (c) Beginning not later than two years after enactment of any income tax, the County shall provide for adequate reserves within the Fund of at least 10% of annual income tax revenues to provide a cushion against unforeseen events and economic downturns. The County shall also establish policies for use of the reserves during such events or downturns and for replenishing them within a reasonable period.

Section 38 CHARTER REVIEW COMMITTEE Every ten years, beginning in 2011, the Board of County Commissioners shall convene a Charter Review Committee to review the existing charter and make recommendations to the Board of County Commissioners regarding suggested changes to the Charter.

- (1) Membership. Each member of the Board of County Commissioners shall appoint a member to the Charter Review Committee by July 1, 2010. The appointees to the Charter Review committee shall nominate additional persons to fill two at-large positions. At-large appointees shall be appointed by the Board of Commissioners as a whole. The members of the Committee shall serve at the will of the appointing Commissioner(s), but for no longer than two (2) years from the date of appointment, or until the assigned tasks have been accomplished. Subsequent Charter Review Committees will be appointed in the same manner every 10 years.
- (2) Timeframe. Members shall immediately begin meeting to review the current Charter, and shall report back to the Board of County Commissioners with recommendations for any suggested changes no later than July 1, 2011 and every ten (10) years thereafter.

Ballot Title

CAPTION: REPEAL OF §8 OF LANE COUNTY CHARTER

QUESTION: Shall Lane County repeal §8 of the Lane County Charter to rely on state law?

SUMMARY: The proposed change will repeal §8 of the Charter which provides that the Board may arrange by contract for functions of the county to be performed in cooperation with other units of local government, including other counties, for the transfer of county functions to local governments in the county and for the assumption of other local government functions by the county if the assumed function is a matter of county concern. All of these may be arranged on such terms as the Board deems to be in the best interest of the county. The Charter Review Committee made the recommendation to repeal §8 as unnecessary and duplicative of state law, specifically ORS 190.003-190.265.

words = 135

CAPTION: REPEAL OF §8 OF LANE COUNTY CHARTER

QUESTION: Shall Lane County repeal §8 of the Lane County Charter to rely on state law?

Explanatory Statement

Section 8 authorizes the County to perform functions in cooperation with other local governments and to transfer County functions to and assume functions of other local governments. Since these actions by definition involve entering agreements with other governmental entities and county home rule established in the Charter applies only to Lane County, state statutes are needed to provide this authority for all parties to any agreement. ORS 190.003 – 190.265 provides ample statutory authority for Lane County to enter such agreements and Section 8 of the Charter is not necessary. Section 8 could be retained since it does no harm; however, it is meaningless because the County must in any event rely on ORS 190.003 – 190.265 to authorize its intergovernmental dealings.

words = 120

Section 8. PUBLIC IMPROVEMENTS.

- (1) Subject to the requirements of the other paragraphs of this section, the procedure for making, altering, vacating, or abandoning a public improvement of the county shall be governed
 - (a) by the general ordinances of the county, or,
 - (b) to the extent not so governed, by the applicable general laws of the state.
- (2) To the extent that the board of county commissioners finds that a public improvement specially benefits property in the vicinity of the improvement, the cost of the improvement shall be defrayed by special assessments levied on the property, and to the extent that the board finds that a public improvement is of benefit to the county generally, the cost of the improvement may be defrayed by revenue derived from other sources.
- (3) An order for action regarding a public improvement of the county shall indicate
 - (a) the extent to which the cost of the action is to be defrayed by special assessments on property to be specially benefited by the action and
 - (b) the extent to which the cost of the action is to be defrayed by revenues of the county derived from other sources.
- (4) Action by the board of county commissioners on a proposed public improvement to be financed in whole or in part by county revenues not derived from special assessments shall be subject to the referendum in the same manner as ordinances of the board.
- (5) Action by the board of county commissioners on a proposed public improvement to be financed in whole or in part by special assessments shall be suspended for six months upon a remonstrance thereto by the owners of two-thirds of the land to be specially assessed for the improvement, provided written notice of the remonstrance is delivered to the board within 15 days after the action is ordered. After the suspension the board may proceed with the action. The word "owner" shall mean the record holder of legal title, except that if there is a purchaser of the land according to a recorded land sale contract, the purchaser shall be regarded as the owner.
- (6) The procedure for levying, collecting, and enforcing the payment of special assessments to be levied against real property on account of public improvements or other services shall be governed by general ordinance.

Section 9. WHERE POWERS VESTED. Except as this charter provides to the contrary, and subject to the initiative and referendum powers residing in the people of the county, all powers of the county, both legislative and administrative, shall be vested in the board of county commissioners. The administrative power of the board shall be exercisable by it or by persons under its authority.

Ballot Title for Repeal of §§31 and 32 and amend §11

Ballot Title

CAPTION: REPEAL §§31-32 and AMEND §11 OF LANE COUNTY CHARTER

QUESTION: Shall Lane County repeal §§31-32 and amend §11 of Lane County Charter to consolidate commissioner election dates?

SUMMARY: The proposed change will repeal §§31 and 32 of the Charter which provide for the continuation of the terms of Commissioners and Elective or Administrative Offices, such as the Sheriff, Assessor, County Clerk, County Treasurer, County Surveyor and Constable; establish election dates for commissioners and assign responsibilities of the County Clerk, County Treasurer, County Surveyor and Constable. §31 provides for the continuation of the terms of County Commissioners, as well as the order in which the Commissioner positions would be filled when the Board went from a 3 to 5 member Board in 1976. §32 provides for the continuation of terms for the elected and appointed officers in place at that time and continues the allocation of responsibilities for the County Clerk, County Treasurer, County Surveyor and Constable. The Charter Review Committee recommended repeal of both sections and the addition of specific language to §11 that would define the election dates for commissioners by reference to the November general election of presidential or non-presidential election years.

words = 192