



SNOHOMISH COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

ORDINANCE NO. 02- 085

**RELATING TO DEFERRED COMPENSATION FOR EMPLOYEES;
AMENDING SNOHOMISH COUNTY CODE CHAPTER 3.34**

WHEREAS, Snohomish County has agreed to offer matching contributions for Snohomish County employees' IRS Code Section 457 Deferred Compensation Plans wherever such a benefit has been negotiated in collective bargaining agreements; and

WHEREAS, Snohomish County offers non-represented employees comparable benefits to those of represented employees and therefore non-represented employees would also be eligible for deferred compensation matching contributions; and

WHEREAS, Snohomish County's Deferred Compensation Plan documents have been amended for IRS Code Section 457 changes and the addition of the 457 Plan Employer Matching Contribution;

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Snohomish County Code, Section 3.34.020, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.020 Definitions.

As used in this chapter, the following terms shall have the meanings set forth below:

- (1) "County" means Snohomish county, state of Washington.
- (2) "Plan" means the ~~((voluntary salary deferral))~~ Snohomish County Deferred Compensation P((p))lan described and established in this chapter.
- (3) "Participant" means an employee who meets the eligibility requirements of SCC 3.34.040 and applies for participation in accordance with the provisions of SCC 3.34.050

(4) (~~"Terminated participant" means a participant who has terminated employment with Snohomish county who retains an account balance in any one or all of the investment funds offered within the plan.~~) "Beneficiary" means the person or entity designated by the participant to receive the participant's unpaid benefit under the plan and the terms of the investment(s) in the event of the participant's death.

(5) "Separation from service" means the employee has resigned, been laid off or terminated. If there is a reasonable anticipation or reasonable cause to believe the employee will be returned to work for the county within two months, the cessation from work will not be a separation from service.

(6) "Compensation" means all payments made by the employer to an employee as remuneration for services rendered to the employer, including salaries and fees.

(7) "Normal retirement age" means any age of which a participant has the right to retire under any one of the state of Washington retirement systems' pension plans and to receive immediate retirement benefits without actuarial or similar reduction because of retirement before some later age in the state retirement basic pension plan (, but in no event later than age 70 1/2. In the case of a participant who continues to work beyond the ages specified in this sub-section, the normal retirement age shall be that date or age designated by the participant, but such date or age shall not be later than the date or age at which the participant separates from service with the county)).

(8) "Employee" means any person who is employed by and receives any type of compensation from the employer for services rendered to the employer, specifically including salaried employees of the employer. An individual who is not treated by the employer as an employee for payroll tax purposes during the period that he or she performs services for the employer, will not be treated as an employee for such period.

(9) "Employer" means Snohomish County, or any of its agencies or departments for which services are performed by a participant.

(10) "Investment" means the investment funds or products authorized by the committee for the investment of participant accounts.

~~((7))~~ (11) "Committee" means the deferred compensation ((plan)) committee.

Section 2. Snohomish County Code, Section 3.34.030, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.030 Administration.

(1) The deferred compensation plan authorized by this chapter shall be administered by the deferred compensation committee which shall consist of the director of the department of finance, the director of the department of ~~((personnel))~~ human resources and the county prosecuting attorney or his designee.

(2) The committee shall have the power and authority to adopt rules and regulations for the administration of the plan consistent with this chapter.

(3) The committee is authorized to contract with any person to provide any services for the administration of the plan including but not limited to processing of employee participation agreements, maintenance of participants' records and selection of investment media pursuant to the requirements and procedures of chapter 3.04 SCC.

(4) The committee members, if otherwise eligible, shall be eligible to participate in the plan PROVIDED that they shall not be entitled to make decisions solely with respect to their own participation. ~~((The county council shall determine the following for committee members:~~

~~(a) Open enrollment periods which shall be held at least once per year.~~

~~(b) Requests to modify agreements and to withdraw funds subject to the guidelines contained in subsection (5)(b) of this section.))~~

(5) The duties of the committee shall include the following:

(a) To determine the appropriate open ~~((enrollment))~~ change periods, which shall be held at least ~~((once))~~ twice per year.

(b) To rule on employee requests to modify agreements and to withdraw funds with ~~((the following considerations as guidelines:))~~ consideration given to IRS Code Section 457 restrictions and treasury regulations, administrative costs to the county or its agents, and impact on the overall status of the plan, financial and otherwise.

~~(i) IRS Code Section 457 and treasury regulations which limit and restrict withdrawals.~~

~~(ii) Administrative costs to the county or its agents.~~

~~(iii) Impact on the overall status of the plan, financial and otherwise.~~

(6) The county council shall rule for committee members on any requests to modify agreements and requests to withdraw funds, subject to the guidelines contained in subsection (5)(b) of this section.

(7) The committee shall, on a periodic basis, compare the plan being offered to county employees with those available from other agents or companies, and make plan modifications or changes when appropriate.

Section 3. Snohomish County Code, Section 3.34.040, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.040 Eligibility to participate.

Every permanent full time and permanent part time employee of the county who is a bona fide resident of the state of Washington is eligible for participation in this plan. A participant shall remain a participant until the participant's benefit has been completely distributed from the Plan. Eligibility to defer ~~((salary))~~ compensation, however, shall terminate upon separation from service. All compensation paid under this plan shall be paid pursuant to SCC 3.34.100.

Section 4. Snohomish County Code, Section 3.34.050, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.050 Participation.

(1) An eligible employee may become a participant by executing ~~((with the county a voluntary salary deferral agreement as required by the plan shall set forth the employee's amount of deferred salary))~~ a participation agreement and filing such participation agreement with the committee or its designee during an open change period. Such deferred amount shall hereinafter be referred to as "deferred ~~((salary))~~ compensation" and shall only be paid to the employee (or his or her designated beneficiary in case of death) at retirement, separation from service, death or upon the proven occurrence of an unforeseeable emergency as defined in IRS Code Section 457 and the regulations promulgated by the internal revenue service.

(2) The ~~((voluntary salary deferral))~~ participation agreement may only be entered into during an open ~~((enrollment))~~ change period. Other changes in the agreement may be allowed only as provided in the plan.

Section 5. Snohomish County Code, Section 3.34.060, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.060 Deferral limitations/maximums.

The annual maximum amount of ~~((salary))~~compensation which may be deferred and the allowance of catch up contributions shall be determined by the plan document, in accordance with provisions of the Internal Revenue Code.

New Section. Section 6. A new section 3.34.065 is added to Chapter 3.34 of the Snohomish County Code to read:

3.34.065 Employer matching contributions

A matching contribution will be made by the county on behalf of eligible participants during each pay period. Eligibility and the amount of the matching contribution are defined by the plan document, subject to amendments adopted by the committee.

Section 7. Snohomish County Code, Section 3.34.070, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.070 ~~((Allocation of deferred salary))~~ Participant Accounts

A separate bookkeeping account shall be maintained for each participant in the plan, to ~~((which shall be credited during the year, at such times as shall be prescribed by the county, an amount equal to the participant's deferred salary with respect to that year. Such account shall be known as the participant's deferred salary account. The participant's deferred salary account shall be credited or debited from time to time to reflect gains or losses which would have been realized had the amounts credited to his or her individual deferred salary account been combined with the individual deferred salary accounts of other participants of the plan and actually invested in securities selected from time to time by the county and the participant))~~ reflect each participant's interest under the plan. All contributions made to the plan on a participant's behalf shall be recorded in the participant's account, which shall be adjusted for investment interest income or loss and allocable fees, expenses and charges.

Section 8. Snohomish County Code, Section 3.34.090, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.090 ~~((Payment))~~ Distribution of benefits.

(1) Eligibility for and payment of benefits shall be governed by the provisions of the plan and shall be consistent with the applicable provisions of the

Internal Revenue Code, the terms of the plan documents, and the terms of the investments.

(2) A participant's benefit under the plan shall be distributed (or commence to be distributed) to the participant at such time as the participant may elect in accordance with and subject to such rules as the committee or the investment(s) may establish; provided, however, that except for unforeseeable emergency withdrawals permitted under the plan, distributions from the plan may not be made to the participant earlier than (a) the calendar year in which the participant attains age 70½, or (b) the participant's severance from employment with the employer.

(3) Benefits shall be paid in accordance with the payment option elected by the participant, as provided by the terms of the Investment(s). If a participant dies before the benefits to which the participant is entitled to under the plan have been exhausted, the remainder of such benefits will be paid to the participant's beneficiary in accordance with the terms of the investment(s) and the plan documents.

(4) A participant may elect a direct rollover distribution to an eligible retirement plan, in a manner prescribed by the committee, in accordance with the terms of the investment(s), the IRS Code, and the plan documents.

(5) As defined by the plan documents, and approved by the committee, a participant or beneficiary may request a distribution from the plan due to an unforeseeable emergency, subject to the terms specified by the investment(s) in accordance with IRS Code.

Section 9. Snohomish County Code, Section 3.34.100, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.100 Responsibilities of the county.

(1) The county may not warrant any tax benefits or advantages under the plan.

(2) The county shall be exonerated and held free from any liability of any kind hereunder if decisions or actions taken by the county are in good faith.

(3) Nothing in this chapter shall in any way affect the rights of the county or the employees to terminate the employment relationship between them (~~nor shall it create a trust fund for the employee or otherwise make him or her equitable owner of any assets the county may invest to meet its obligations under the plan~~)).

(4) A trust, custodial account, or annuity contract will be established, in accordance with IRS Code and the terms of the plan document, for all amounts

deferred under the plan, all property purchased, and rights purchased with such amounts, and all income attributable to such amounts, property or rights, to be held for the exclusive benefit of the participants and their beneficiaries.

Section 10. Snohomish County Code, Section 3.34.110, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.110 Rights of participants.

Each employee, upon having elected to become a participant, shall be deemed to have assented to the terms and conditions of the plan. The participant may not sell, assign or hypothecate any part of his or her account under the plan. Nor shall his or her contractual rights be subject to attachment by any creditor. Each participant shall at all reasonable times be allowed to examine his or her particular deferred ((salary)) compensation account to determine its status and condition, and the county shall submit to the participant periodic reports of the progress of his or her particular account.

Section 11. Snohomish County Code, Section 3.34.120, adopted by Ordinance 84-120 on October 10, 1984, is amended to read:

3.34.120 Termination or amendment.

The county may terminate the plan at any time. Upon termination, the plan shall continue in operation but without any further crediting of deferred ((salary)) compensation. The county may amend the plan at any time, PROVIDED That no such amendment shall with respect to any participant reduce such benefits provided hereunder as are derived from deferred ((salary)) compensation credited to him or her prior to the effective date of any such amendment.

Section 12. This ordinance shall take effect January 1, 2003.

PASSED this 18th day of December, 2002

ATTEST:

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Barbara Sitousti
Clerk of the Council, *Asst.*

[Signature]
Chairperson

- APPROVED
- EMERGENCY
- VETOED

DATE: 12/29/02
[Signature]
County Executive

ATTEST:

Pamela L. Sandoz

Approved as to form only:

[Signature] 10/14/02
Deputy Prosecuting Attorney

PUBLISH _____ AND _____

D-20