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SNOHOMISH COUNTY
EXECUTIVE OFFICE

COUNTY COUNCIL
SNOHOMISH COUNTY, WASHINGTON

MAR 31 1988

WDT: GWI RCK:
JAM KLB4/5 WBD:

ORDINANCE NO. 88- 012
RELATING TO
RISK MANAGEMENT

BE IT ORDAINED:

Section 1. Snohomish County Code Sections 2.90.030, 2.90.040 and 2.90.120, adopted by Ordinance 84-062 on May 30, 1984, are hereby repealed.

Section 2. Snohomish County Code Section 2.90.010, adopted by Ordinance 84-062 on May 30, 1984, is amended to read:

2.90.010 Purpose. The purpose of this ordinance is to establish risk management procedures for the county. (~~(;--the executive;--the prosecuting attorney;--the director of finance;--and personnel department regarding the purchase of insurance;--employee and citizenry safety and the processing and disposition of claims for alleged tortious conduct against the county;--)~~)

Section 3. Snohomish County Code Section 2.90.020, adopted by Ordinance 84.062 on May 30, 1984, is amended to read:

2.90.020 Definitions. As used in this chapter, the following words and terms shall have the meanings set forth herein:

(1) "Claim" means any claim for, at least in part, monetary damages based on alleged tortious conduct of the county, or agents or employees of the county, within the agents' or employees' scope of employment;

(2) "Council" means the Snohomish county council;

(3) "Executive" means the Snohomish county executive or his/her designee;

(4) "Insurance fund" means that fund provided for in Title 4, SCC;

(5) "Lawsuit" means any lawsuit naming the county or an agent or employee of the county acting within his or her scope of employment, as defendant or third party defendant, which lawsuit alleges a tortious cause of action and seeks, at least in part, money damages;

(6) "Prosecuting attorney" means the prosecuting attorney of Snohomish county and such deputies as he or she shall delegate to perform functions referred to herein;

(7) "Risk management" shall mean a coordinated and continuous management process to identify and analyze potential loss exposures, to apply, where possible, reasonable and effective processes to transfer or reduce the risk of loss so as

to preserve the assets of Snohomish county. Risk management shall include insurance purchase and management of insurance policies for the county, the determining and setting of adequate reserves in the county insurance fund, claims management, providing legal defense to the county, and loss prevention;

(8) "Director of budget and finance" means the director of the department of budget and finance or his/her designees;

~~((9) -- "Safety officer and Worker's Compensation Administrator" means the county officer responsible for implementing and carrying out all federal, state and county loss control and safety programs, or his/her designees.))~~

(9) "Director of personnel" means the director of the department of personnel or his/her designees;

(10) "Workers' compensation claim" means a claim filed under the provisions of Title 51 RCW.

(11) "Designated insurance broker" means an insurance broker who is under contract to provide assistance to the risk management committee.

NEW SECTION. Section 4. A new section 2.90.025 is added to Chapter 2.90 of the Snohomish County Code:

2.90.025 Risk Management Committee Created.

(1) There is hereby created a Snohomish county risk management committee composed of the following:

- (a) Director of personnel or designee
- (b) Director of budget and finance or designee
- (c) Prosecuting attorney or designee
- (d) Executive or designee who shall serve as chairman
- (e) Member designated by county council or designee.

(2) The risk management committee is charged with the function of overseeing the county's risk management activities to the end that catastrophic losses are avoided where reasonably possible and lesser losses are minimized either through use of insurance or self-insurance of risks. Upon request of the executive, the committee shall examine insurance requirements that may be generated by agreements of all kinds entered into by the county and report thereon to the executive. The committee shall recommend the amount to be reserved in the insurance fund.

(3) The executive with approval of the committee may contract with an insurance broker to assist in the performance of the committee's responsibilities under this ordinance. The designated insurance broker shall provide recommendations concerning the purchase and administration of liability and casualty insurance and such other insurance policies and bonds, bonded self-insurance programs, and related services. The designated insurance broker shall analyze and make recommendations as to the types and amounts of insurance coverage

most beneficial to the county, the design of insurance programs, the amount of reserves to be established and the appropriate retention levels.

(4) The committee may authorize the executive to enter into a contract for services relative to the adjustment of workers' compensation claims.

Section 5. Snohomish County Code Section 2.90.030, adopted by Ordinance 84-062 on May 30, 1984, is repealed and re-enacted to read:

2.90.030 Duties of the Executive. The executive shall be responsible for the following:

- (1) Serve as chairman of the risk management committee.
- (2) Serve as risk management coordinator for the county.
- (3) With the advice of the prosecuting attorney, determine insurance requirements within county contracts and leases.
- (4) Purchase of appropriate insurance as available on reasonable terms to reduce the county's risk of loss.
- (5) Management of the county's liability insurance program.

NEW SECTION. Section 6. A new section 2.90.035 is added to Chapter 2.90 of the Snohomish County Code as follows:

2.90.035 Duties of the Director of Personnel. The director of personnel shall be responsible for the following:

- (1) Advising all county departments, divisions, and other agencies regarding programs and precautions for safety as established by the executive to reduce hazard to the employees and public that may exist in county facilities and operations.
- (2) Maintaining histories of all workers' compensation claims, loss histories, and investigations of workers' compensation claims and incident reports.
- (3) Reporting to the committee, on or before February 15 of each year, the total number and amount of all workers' compensation claims filed against the county and the number and amounts of all workers' compensation claims paid by the county during the preceding calendar year.

NEW SECTION. Section 7. A new section 2.90.045 is added to Chapter 2.90 of the Snohomish County Code to read as follows:

2.90.045 Duties of the Prosecuting Attorney. The prosecuting attorney shall:

- (1) Advise and recommend to the Snohomish county departments and the county executive appropriate contractual clauses providing for indemnity, hold harmless and insurance.

(2) Review contractual provisions relating to indemnity and hold harmless requirements as part of a coordinated process prior to finalizations of all said contracts.

(3) Develop claims administration procedures to be followed by county officials and employees. The prosecuting attorney shall develop procedures to insure the full investigation, processing, adjusting and disposal of claims and lawsuits.

(4) Make tenders of potentially insured claims to insurance carriers.

(5) Maintain histories of all casualty and property claims, insured or funded self-insurance, loss histories, and investigations of such claims and incident reports.

(6) Report to the committee, on or before February 15 of each year, the total number and amount of all claims filed against the county and the number and amounts of all claims paid by the county during the preceding calendar year.

(7) Defend all lawsuits against the county and county elected officials, officers, employees, agents and volunteers as authorized by this chapter, except where other counsel is provided by insurance coverage or appointed pursuant to RCW 36.32.200. The prosecuting attorney may appear as co-counsel with insurance provided or county retained counsel, where appropriate.

(8) Provide legal advice to other county officials regarding the disposition of all claims against the county.

(9) Prepare and disseminate such guidelines as are necessary to inform county employees of their responsibilities in relation to accident reporting and risk management policy.

(10) Investigate, as the prosecutor deems appropriate, any incidents, or conditions, prior to a claim being filed, for the purpose of possible litigation and/or preventing future incidents.

(11) Prosecute claims for contribution and claims arising from damage to county property or other losses suffered by the county due to negligence of some other party.

(12) Recommend means of reducing potential liability to appropriate county officials.

Section 8. Snohomish County Code Section 2.90.050, adopted by Ordinance 84-062 on May 30, 1984, is amended to read:

2.90.050 Claims Handling Procedures.

(1) Service and Filing. In accordance with ((state law)) RCW 4.28.020(1), claims against the county shall be filed with the clerk of the council and summons and complaint served upon the auditor.

(2) Transmittal. The clerk of the council shall transmit copies of the claims to the prosecuting attorney within three days of filing. The auditor shall immediately forward copies of

all summons⁽⁺⁾es and complaints to the prosecuting attorney, and clerk of the council.

(3) Service on Office or Employee. Any county official or employee other than the auditor or deputy auditor who is served with a summons and/or complaint in a lawsuit against the county or a county elected official, officer, employee, agent or volunteer, allegedly arising out of acts or omissions performed within the scope of employment for the county, shall immediately deliver such process to the prosecuting attorney and the clerk of the council.

Section 9. Snohomish County Code Section 2.90.060, adopted by Ordinance 84-062 on May 30, 1984, is amended to read:

2.90.060 Claims Disposal Procedure.

(1) The prosecuting attorney may settle claims of five thousand dollars or less without prior notification to any county official.

~~((1+))~~ (2) The prosecuting attorney shall have the authority to settle or dispose of claims or lawsuits of over five thousand dollars but less than ten ~~((five))~~ thousand dollars ~~((or-less))~~, after notification to the ~~((director-of-finance))~~ executive.

~~((2+))~~ (3) It shall be the duty of the prosecuting attorney to recommend to the ~~((director-of-finance))~~ executive the settlement and disposal of claims of over ~~((five))~~ ten thousand dollars but less than ~~((ten))~~ twenty-five thousand dollars. The ~~((director-of-finance))~~ executive shall have authority to settle or dispose of claims of this amount with the concurrence of the prosecuting attorney.

~~((3+))~~ (4) The prosecuting attorney ~~((and-director-of-finance))~~ shall make recommendations to the executive as to proposed settlements or disposal of claims in excess of ~~((ten))~~ twenty-five thousand dollars. The county council ~~((shall-have-authority-to))~~ may settle or dispose of claims in excess of ~~((ten))~~ fifty thousand dollars upon the recommendation of the executive.

~~((4+))~~ (5) Prior to settling or disposing of any claim or lawsuit in excess of five thousand dollars, the prosecuting attorney shall notify the official, or other county department head, involved in the litigation of settlement negotiations authorized and the maximum amount of settlement.

~~((5)--Subsequent-to-settling-or-disposing-of-any-claim-or-lawsuit,-the-prosecuting-attorney-shall-notify-in-writing-the-official,-or-other-county-department-head-and-the-executive-as-to-the-basis-of-liability,-steps-to-prevent-or-remedy-similar-potential-liability-producing-situations.--This-notification-shall-be-a-confidential-communication-and-shall-not-be-divulged-by-any-county-official-or-employee--))~~

Section 10. Snohomish County Code Section 2.90.070, adopted by Ordinance 84-062 on May 30, 1984, is amended to read as follows:

2.90.070 Small Claims Collections.

(1) County officials, department heads, or their designees, shall have the authority after notifying the prosecuting attorney to pursue, collect and/or defend monetary claims within the jurisdiction of small claims court or brought in small claims court pursuant to chapter 12.40 RCW.

(2) County officials, department heads, or their designees, shall be responsible for defending the county in small claims actions alleging tortious conduct on behalf of the county, agent of the county or employee of the county acting within the scope of employment. Notice of claim shall be provided to the prosecuting attorney pursuant to subsection (5) below.

(3) The prosecuting attorney may, at his/her sole discretion, pursue, collect, or defend the monetary claims in small claims court.

(4) County officials, department heads, or their designees, are authorized, upon being awarded a judgment in favor of the county in small claims court, to employ a collection agency for services to collect and/or execute on said judgment.

(5) Each county official, department head, or their designee, shall be responsible for maintaining records of each and every claim pursued, collected or defended by them. These records shall include detailed information as to the nature and amount of the claim, the official or department head responsible for its collection or defense, the individual who appeared in court on behalf of the county, and the disposition of the action. A copy of those records shall be sent to the prosecuting attorney.

Section 11. Snohomish County Code Section 2.90.080, adopted by Ordinance 84-062 on May 30, 1984, is amended to read:

2.90.080 Duties of County Officers and Employees.

(1) Cooperation. All county officials and (~~other-county departments~~) employees shall report to and cooperate fully with the prosecuting attorney in all accident matters including investigation involving disposition, (~~of-claims-and-the~~) settlement and defense of (~~claims~~) lawsuits (~~or~~) and settlement or (~~disposal~~) disposition of claims or investigation of any incident or condition. All county officials and employees shall follow all claims and/or risk management

procedures as established by the prosecuting attorney or ~~((director-of-finance))~~ executive. All officials and department heads shall provide such information as requested and otherwise assist the prosecuting attorney in the defense of ~~((claims))~~ lawsuits. When deemed necessary by the prosecuting attorney such assistance may include but is not limited to the providing of testimony and exhibits for use in litigation.

(2) Forbidden Acts. Except when authorized, no county official, agent or employee, acting individually or collectively, may:

(a) Negotiate or otherwise effect the settlement of a claim or ~~((claims))~~ lawsuit against the county;

(b) Make an admission of liability involving a claim or ~~((claims))~~ lawsuit against the county, its elected and appointed officials;

~~((c)--Discuss-with-persons-who-are-not-county employees-incidents-which-could-reasonably-lead-to-claims-or-claims-lawsuits-against-the-county;))~~

~~((d)--Make-statements,-written-or-oral,-with-regard to-another-employee,-county-premises-or-operations-that-would-impute-liability-or-negligence-to-the-county-in-any-instant-cases-or-the-future;))~~

(3) Employee Responsibility Concerning Accident Occurrence. Any officer or employee shall, in the event of an accident or occurrence which is likely to result in suit being brought against such officer or employee, or the county, notify their supervisor and, as soon thereafter as possible, give the prosecuting attorney written notice thereof, identifying the officer or employee involved and containing information with respect to the time, place and circumstances thereof, the names and addresses of the injured, and of any available witnesses, and shall immediately forward to the prosecuting attorney every demand, notice, summons or other process relating to said incident, and received by him or her or their representative, and shall cooperate with the prosecuting attorney or any attorney retained by the county or any claims representative retained by the county upon request, and shall further assist in making settlements, in the conduct of suits and enforcing any claim or any right of contribution of indemnity against any person or organization who may be liable to the county because of bodily injury, property damage or other loss arising from the accident, incident or occurrence; and any such officer or employee shall attend interviews, depositions, hearings and trials and assist in securing the attendance of witnesses upon request; ~~((and-any sueh))~~ no officer ~~((and))~~ or employee shall ~~((not))~~, except at his/her own cost, voluntarily make any payment, assume any obligation or incur any expense other than for first aid to others at the time of an accident.

NEW SECTION. Section 12. A new section SCC 2.90.085 is added to Chapter 2.90 of the Snohomish County Code.

2.90.085 Defense of County Employees, Officers and Volunteers.

(1) Whenever any action or proceeding is brought against any county employee, elected official, appointed officer, county board or commission member, agent or volunteer, who is not an independent contractor, arising from acts or omissions while performing or in good faith purporting to perform his or her official duties, the county shall, upon request, authorize defense of the action or proceeding at county expense in accordance with this section. Snohomish County shall defend, indemnify, and hold harmless said protected personnel, subject to conditions and limitations of this chapter and RCW 36.16.134, from all costs, judgments or other civil liabilities. This duty shall not apply to criminal, infraction or other non-civil proceedings or liabilities or where a lawsuit arises out of use of his or her personal vehicle by a county officer, employee, or volunteer.

(2) Whenever any person designated in paragraph (1) is named as a defendant in an action or proceeding arising out of acts or omissions while performing or in good faith purporting to perform his or her official duties, he or she shall immediately notify the prosecuting attorney and forward a copy of any pleading served on him or her. In addition, a request for representation must be submitted to the prosecuting attorney at this time, if representation by the county is desired.

(3) The prosecuting attorney or designee shall review the requests for representation and if it is determined that the individual requesting representation is a county officer, employee, agent or volunteer and that the action arises out of acts or omissions performed or in good faith purported to have been performed in the course of his or her official duties, the prosecuting attorney shall authorize representation at county expense.

(4) If the prosecuting attorney determines that the individual requesting representation is not entitled to such, the individual may appeal this decision to the county council. The council shall determine whether the individual is entitled to representation.

(5) Where a possible conflict exists between the county and a county official or employee otherwise entitled to

representation, the prosecuting attorney may decline to represent that person. In such cases, the county shall be responsible for payment of reasonable attorneys' fees and costs incurred in defense of the county official or employee. The prosecuting attorney shall make appropriate arrangements for the representation of the county official or employee.

Section 13. Snohomish County Code Section 2.90.100, adopted by Ordinance 84-062 on May 30, 1984, is amended to read:

2.90.100 Workers' Compensation Claims.

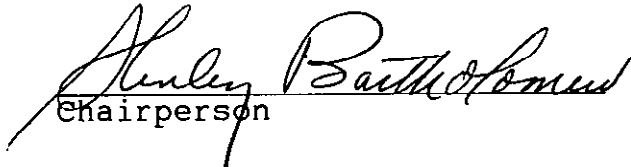
(1) Workers' compensation claims shall be reported and filed (~~with the SWCA~~) in the manner and on the forms prescribed by state law and regulations.

(2) Workers' compensation claims shall be processed and disposed of as required by state law.

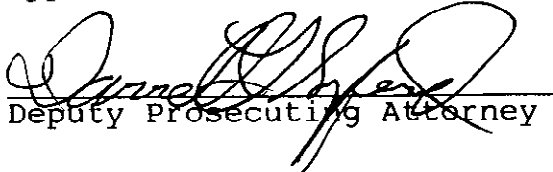
Section 14. Should any section, subsection, paragraph, sentence, clause or phrase of this ordinance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of such chapter or section.

PASSED this 30th day of March, 1988.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington


Chairperson

Approved as to Form:


Deputy Prosecuting Attorney

ATTEST:

Kathryn J. Morton
Clerk of the Council

(X) APPROVED

() VETOED

() EMERGENCY

DATE: 4/7/88

John Martinis
JOHN MARTINIS
~~Deputy Executive~~
County Executive

PUBLISHED _____ and _____