

Spring 2003

Municipal Research News

Municipal Research and Services Center of Washington

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Military Leave for Active Duty

Job Rights & Benefits for Public Employees and Officers

During this time of heightened national security, noncareer uniformed service members are being called to active duty. Because a large number of county, city, and town employees and officials will need to be absent from civilian employment to serve in this country's uniformed services, municipal employers must be aware of the state and federal laws that protect service member rights and benefits while they are actively serving our country.

This article focuses on military leave for active duty and does not attempt to address issues regarding annual military leave. For information on that topic see "Job Rights and Military Leave for Reservists and Members of the National Guard," MRSC *Focus*, November, 2001, located on the MRSC Web site at <http://www.mrsc.org/focuspub/Nov01jobrights.aspx>.

The primary source of protection for employees called to active duty is found in the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). USERRA applies to all employers in the public and private sectors, including federal employers. This law protects service member rights and benefits by clarifying the cumulative length of time that an individual may be absent from work for uniformed services duty and retain reemployment rights. In most cases, employees are guaranteed up to five years of military leave and reemployment in the jobs they would have held if employment hadn't been interrupted for military duty.

▼Which employees have rights under USERRA?

The regulations apply to employees who perform duty, voluntarily or involuntarily, in the "uniformed services" (Army, Navy, Air Force, Marines, Coast Guard, and the National Guard) and the commissioned corps of the Public Health Service, including reserve forces of each of these services.

The covered employees include all whose employment is other than temporary. Employers should be aware that courts have construed the word "temporary" very narrowly. One commentator has indicated that "other than temporary" might be limited to seasonal employees and those employed by contract for a specified term.

▼Must an employer grant leave to an employee who is called or volunteers for active duty?

Yes. An employer is required to grant a military leave of absence to a reservist who is called to or volunteers for active duty. The same rights apply whether the reservist is called or volunteers.

▼Is prior notice to the employer required for a leave of absence for military duty?

Yes. Unless precluded by military necessity, advance notice must be provided, either verbally or in writing, from the employee or an appropriate military officer. While timeliness of notification is not spelled out in detail under USERRA, employees who participate in the National Guard or Reserve should provide their

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Web Site Index

For complete information on these topics, go to www.mrsc.org.

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- ▼Special purpose districts: types and functions
- ▼Web sitings: Indian gaming

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employers as much advance notice as possible. Failure to provide notice could result in a denial of the protection of USERRA.

▼When may an employer require an employee to provide documentation of military service?

After periods of military leave of absence exceeding 30 days, the employer has the right to request such documentation, which can be used to establish the employee's basic eligibility for protection under USERRA.

▼Must an employee be paid during active military duty?

Under USERRA, paid military leave is not required. However, Washington State law, RCW 38.40.060, does require public employers to give employees their normal pay for 15 days of annual military leave to prepare to report to active duty. This leave is in addition to any sick leave or vacation leave to which an employee may be entitled.

▼May a local government pay the salary differential (between military pay and regular employee pay) for employees on military leave?

This can probably be done if the local government has such a policy in place before the employee is called up for military duty. Absent such a policy, paying the difference between military salary and normal salary would likely violate article 2, section 25 of the state constitution that states in relevant part:

The legislature shall never grant any extra compensation to any public officer, agent, employee, servant, or contractor, after the services shall have been rendered, or the contract entered into, nor shall the compensation of any public officer be increased or diminished during his term of office.

Although this provision refers to granting of extra compensation by the legislature, it has been interpreted by the courts to also apply to local government legislative bodies. See AGO 63-64 No. 97, at 2, and cases cited therein.

▼May an employer hire a replacement while the reservist is on active duty?

Yes, the employer may hire a replacement while the regular employee is on military leave.

▼May an employee be forced to use accrued vacation for a military leave of absence?

No, but the employee *may* use such leave, at his or her option.

▼Is the employee entitled to health benefits or other fringe benefits while on military leave?

If an employee was provided health benefits before being called into service, USERRA provides for COBRA-like benefit continuation while absent from work, even if the employer is not covered by COBRA. If an employee's health plan coverage would terminate because of an absence due to uniformed service, he or she may elect to continue the health plan coverage for up to 18 months after the absence begins or the period of service, whichever is shorter. The employee cannot be required to pay more than 102 percent of the full premium for the coverage. If the uniformed service is for 30 or fewer days, the employee cannot be required to pay more than the normal employee share of any premium.

On return from service, health insurance coverage must be reinstated without any waiting period or exclusions for preexisting conditions, other than waiting periods or exclusions that would have applied even if there had been no absence for uniformed service. This rule does not apply to the coverage of any illness or injury determined by the Secretary of Veterans' Affairs to have been incurred in, or aggravated during, performance of service in the uniformed service.

▼Does an employee accrue vacation leave while on active duty?

Most government employers provide vacation leaves to their employees. And most – if not all – vacation policies tie accruals, that is, the actual accumulation of vacation hours, to their employees' seniority. For example, a person returning from three years of service may have passed a time benchmark where that person is entitled to build vacation at an increased rate (e.g.,

from one week a year to two weeks per year), but that person would not return to find three years back vacation waiting.

If an employer allows accrual of vacation for employees who are on furlough or leave of absence, then a person of similar seniority, status, and pay who is absent for uniformed service is entitled to the same benefit, because USERRA treats the individual as being on furlough or leave of absence while performing uniformed service.

▼Is an employee's pension plan interrupted during military leave?

USERRA requires that returning employees who meet the law's eligibility criteria must be treated as if they had been continuously employed for pension purposes, regardless of the type of pension plan the employer has adopted. This applies to vesting (determining when the employee qualifies for a pension) and also benefit computation (determining the amount of the employee's monthly pension check). Absence for service is not considered a break in employment for pension purposes. Also, an employee who would have become eligible to participate in a pension plan during that individual's time in the service should be placed in the plan retroactive to the date of initial eligibility. If the employer contribution is contingent on the employee's contribution, then the employee must make his or her contribution before the employer is obligated to make its contribution.

▼Does the employee continue to accrue service credit under PERS or LEOFF for the time he or she is on active service?

Maybe. Depending upon the plan and the time of service, the employee may accrue service credit while on active military duty. Specific information should be sought from the state Department of Retirement Systems. (See <http://www.wa.gov/DRS/drs.html>.)

▼Must the employer continue to pay contributions to the LEOFF and PERS retirement plans during the time the employee is on active duty?

A qualified "no." While the employee is actually on active duty, there is no requirement that contributions be made. However,

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upon the employee's return, the employee may purchase service credit for the time he or she was on duty. If the employee pays for the credit (payment of interest is not required), the employer must pay its share, with interest. Different rules may apply depending upon the retirement plan involved and the dates of the employee's service. The state Department of Retirement Systems should be contacted for specific information. (See <http://www.wa.gov/DRS/drs.html>.)

▼What conditions must be met by a returning reservist in order to qualify for reinstatement?

A person who leaves a civilian job to enter active duty is entitled to return to his or her civilian job after discharge or release from active duty. However, there are five basic eligibility requirements under federal law:

- The person must have been released from service under honorable conditions and must furnish proof of that release;
- The person must have held a civilian job "other than temporary" at the time he or she entered active duty;
- The employee must have left the civilian job for the purpose of going into active duty, and must have given notice to his or her employer to that effect;
- The employee must apply in writing within 90 days of separation or release from training or service (lesser periods apply when the period of service is 180 days or less); and
- The period of service must not exceed five years.

▼Must the employer reinstate the returning reservist to his or her prior position?

The employer must offer the returning employee "an escalator position," which might be the job he or she would have had if employment had not been interrupted by military service, or a position of like status, seniority, and pay. If the employee is not qualified for his or her previous position because of an injury sustained during military service, he or she is entitled to reemployment in any other position for which he or she is qualified, if that posi-

tion provides similar seniority, status, and pay of his or her previous employment.

This "escalator" position refers to the concept that the returning employee does not step back on the "seniority escalator" at the point he or she stepped off to enter into military service. Instead, the employee steps back on the escalator at the spot he or she *would have been* had he or she been continuously employed during military service. The employee thus benefits from any cost of living and/or step increases granted to similarly situated employees during the time he or she was gone.

On the other hand, an employee who would have been laid off or discharged but for the



fact that he or she was on a military leave of absence may not be entitled to reinstatement upon return. The employer has the burden, in such instances, to prove that circumstances have so changed as to make it impossible or unreasonable to reemploy the person, the employee is no longer qualified for the position and reemployment would impose an undue hardship, or the employment the employee left was "temporary," with no reasonable expectation that it would continue indefinitely.

USERRA specifies that returning employees must be "promptly reemployed." What is prompt will depend on individual circumstances. Reinstatement after three years on active duty might require several weeks of notice to a replacement employee who might have to vacate the position.

▼What if the returning employee is disabled and would not be able to perform his or her prior job?

If the returning employee is unable to perform the duties of his or her prior job

because of a military-connected disability, the employer must make reasonable efforts to accommodate the disability so that the person can perform in the position. If, despite reasonable accommodation efforts, the person is still not qualified for the position, he or she must be reemployed in a position of equivalent seniority, status, and pay (the "alternate position"), as long as the employee is qualified to perform the duties of that position or could become qualified with reasonable efforts by the employer. If, however, the returning employee is unable to become qualified for the original or alternate position, the person must be employed in a position that, consistent with the circumstances of the person's case, most nearly approximates the alternate or original position in terms of seniority, status, and pay.

▼Is a returning veteran granted any additional rights of employment upon his or her return?

Yes. If the tour of duty was for more than six months, the returning employee may not be discharged within one year of his or her return, unless the discharge is for cause. If the period of duty was for less than six months, the employee cannot be discharged within six months of return, except for cause.

▼What are the penalties for noncompliance?

A veteran or reservist who is wrongfully denied his or her job may be granted reinstatement with back pay and benefits, plus attorney's fees and costs. Damages of back pay and benefits can be doubled, if the violation was willful.

▼What happens if an elected official is called to active duty?

Obviously, if an elected official is a member of a legislative body, he or she will be required to miss a number of meetings while on active duty. According to state law, RCW 73.16.041, a legislative body is required to grant an extended leave of absence for the elected official, and may appoint a "temporary successor" to the position vacated. Accordingly, the elected official does not forfeit his or her office, as might otherwise occur if there are unexcused absences. The temporary position may not extend beyond the expiration of the term of the officer who is away on active military service.

▼Are elected officials entitled to 15 days of paid leave under RCW 38.40.060?

This is an open question. A reasonable argument can be made that the statute does not apply to elected officials since they are not “employed” by their governmental entity, and the statute grants the leave of absence “from such employment.” The statute discusses the effect of military leave on the benefits and attributes of employment (vacation and sick leave, efficiency rating, etc.) that have no application to elected officials. Additionally, the statute applies to “work days” or “working days,” which have no application to elected officials since they have no specific work days. The practical problems of trying to apply this statute to elected officials, whether paid on a per meeting or a salary basis, are enormous. Without legal authority, however, there is no certainty on this question.

If the statute does not apply, elected officials who leave for military service should continue to receive their pay, unless they are paid on a per meeting basis, until a temporary successor under RCW 73.16.041 is appointed. The temporary successor should then receive the pay that attaches to the position until the elected official returns from military service (assuming that he or she returns before the end of the term of office).

▼May a local government pay an elected official, who is paid per meeting attended, for meetings missed while on active duty?

Yes, as long as this pay policy was either already in place prior to the current term or does not apply during the current term of the elected official. Paying for meetings missed due to military service would be considered extra compensation; it would not be considered a gift of public funds. As extra compensation, it could not be applied to the current term of the elected official.

If you have additional questions concerning military leave for employees and officials, feel free to contact your city or town attorney, your prosecuting attorney, or one of the MRSC staff attorneys.■

Pam James
Legal Consultant
Municipal Research and Services Center

Information Pooling Send Your Documents

Municipal Research and Services Center (MRSC) is known for its library of sample ordinances and other documents available for use by cities and counties in the state of Washington. In a period of cutbacks and costs savings, this library becomes even more important to cities and counties. All cities and towns are directed by statute to send copies of ordinances to MRSC to provide a pool of information to share. We have asked counties to voluntarily comply. To help streamline procedures and cut some costs, we are providing some general guidelines regarding the type of information we are seeking and ways in which it may be transmitted.

Background. In 1995, the legislature recognized MRSC’s role in collecting and distributing municipal ordinances by formalizing the concept of ordinance pooling in RCW 35.21.185. Each municipal clerk is directed to provide a copy of its regulatory ordinances and “such other ordinances or kinds of ordinances as may be described in a list or lists promulgated by the municipal research council or its designee from time to time.” There is not a similar provision for counties, but voluntary cooperation in building the county document collection makes it possible to provide counties with the same service.

What to Send. Ordinances and resolutions that provide for new rules and regulations, policies, fee changes, and other subjects that you think would be of interest to other local governments. If possible, omit items that relate to individual actions, such as street vacations, rezones, house-keeping type amendments, budget amendments, routine LIDs and annexations. See the list below of items we would like to receive. As a reminder, if the document has exhibits or attachments, please include them.

Sending Electronically. We prefer to receive documents electronically, attached to an e-mail message or on disk. This saves you the costs of photocopying and postage. Most documents are indexed and

posted on our Web site as sample documents. If you have concerns about maintaining the integrity of an official document sent in word processing format, we label the documents “Not an official Copy” before posting them to our Web site. To send documents electronically, simply attach the files to an e-mail message and send to mrsc@mrsc.org. If electronic documents are not available, then send paper copies by regular mail to MRSC Library, 2601 4th Ave, Suite 800, Seattle WA 98121-1280.

MRSC Library would like to receive new policies, procedures, general rules and regulations in the following areas:

- Boards and commissions
- Building regulations
- Departments and positions
- Economic development
- Finance
- Health and sanitation
- Interlocal contracting
- Land use and planning
- Licensing and permitting
- Parks and recreation
- Personnel, job descriptions
- Property management
- Public safety - fire services, police services, emergency management, courts, criminal justice
- Public ways - streets, sidewalks
- Traffic, parking, and transportation
- Utilities
- Youth programs

Send Your Budgets, Too. In addition to ordinances and resolutions, MRSC needs a copy of each city, town, and county budget. Budgets that MRSC has received are listed at <http://www.mrsc.org/library/budglist.aspx>.

Acknowledgements. We greatly appreciate the cooperation and courtesy extended to MRSC staff. Keeping the information resources current and comprehensive is an ongoing task. Many thanks to those cities and counties who have contributed to our document sharing program.■

Architectural & Engineering Consultants Selection, Care and Feeding

Selection of professional consultants (architects, landscape architects, engineers, and land surveyors – “A&E for short”) always seems to be more difficult than it should be. There’s this pesky state law (Chapter 39.80 RCW) that requires a strange thing called quality-based selection (QBS). A city or county can’t just bid these contracts the way they do construction contracts and get the lowest bidder. Nor can they simply hire an A&E consultant without complying with one of the two statutory means of notifying prospective consultants. In addition, all agencies ask themselves at one time or another, “Do we really need those blinkety-blank consultant rosters?” and, “Do we really need these ‘dog and pony show interviews’ that consultants hate as much as we do?” Many agencies also assume that once they have a contract with an A&E firm, they can just coast until the firm delivers its report or contract documents.

This article is intended as an introduction to A&E consultant selection, contract negotiation, and contract management, and to identify additional training and Web site resources that are available.

What do the statutes say?

Chapter 39.80 RCW requires selection of professional architecture, engineering, surveying, and landscape architecture services on the basis of qualifications of the firm or individual.

- AGO 1988 No. 4 notes:
A public agency may not, in procuring architectural or engineering services, consider proposed price or cost in determining which firm is most highly qualified to provide services. When a public agency selects a firm to perform architectural or engineering services, price and cost may be considered only after the most qualified firm has been selected, at which time the law provides for negotiation of a “fair and reasonable” price.

RCW 39.80.030 requires advance publication of an agency’s requirement for professional services.

- Two methods of compliance are noted:
- an announcement for each project, OR
- a general announcement of projected requirements for any category or type of professional services (normally referred to as a “consultant roster”).

(NOTE: Funding agencies, notably federal agencies and some state agencies that administer federal funds, may have additional requirements. For example, the WSDOT Local Agency Guidelines, Chapter 31, state that non Certification Acceptance (CA) agencies must submit proposed consultant agreements to the Regional Local Programs Engineer for approval prior to execution.)

Goals of consultant selection procedures:

- To obtain the best professional services at a reasonable cost;
- To establish an open, documented procedure for selection of professional services;
- To avoid potential conflicts of interest or the appearance of favoritism in the selection; and
- To permit, as much as practical, all qualified professionals to have an opportunity to be considered.

Selection procedures

Depending on the projected cost and perceived complexity of a project, an agency may use either a formal or informal selection process when contracting for professional A&E services. The statutes do not set a dollar limit above which a formal selection process is required, so each agency is free to adopt its own policies. Informal selection implies that for smaller, less complex projects the agency may request proposals from qualified firms listed on its consultant roster, or the agency may simply choose a qualified firm directly from the roster.

Formal selection procedures can include all these steps:

- Develop a Request for Qualifications (RFQ)
- Advertise for RFQs
- Evaluate RFQs received
- Select qualified firms for ‘Short List’
- Send Request for Proposals (RFP) to firms on ‘Short List’
- Interview firms who respond to the RFP
- Select most qualified finalist
- Identify scope of work, tasks, and milestones
- Estimate person-hours required for each task
- Select compensation method(s)
- Negotiate contract with finalist
- Write contract and secure necessary reviews and approvals
- Administer contract
- Verify quality of consultant deliverables
- Evaluate consultant’s performance

Care and feeding of your consultant

So, you’ve successfully negotiated the contract at a fair price to both the consultant and your agency, and the contracts are signed, sealed, and delivered, in triplicate no less. Now you can sit back and enjoy that double mocha. Nothing to do now but wait until the consultant brings his 50 sets of contract documents into your office in about 120 calendar days. Life is good.

Wake up and smell the mocha! Monitoring contract performance is more than simply reviewing the consultant’s monthly status reports and processing progress payments. Get involved! After all, it is your project the consultant is working on.

- Monthly status reports are essential, but verify yourself that the tasks/products are in fact completed to the degree shown in the reports. Visit the consultant’s office about as often as he comes to visit you. Get to know the designers and technicians working on the project almost as well as you will know the project manager.
- Practice partnering. Become an agency-consultant team. Develop

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ASK MRSC

Summaries of recent inquiries answered by MRSC consultants

Annexation • If a city boundary abuts but does not include a road, is the property on the other side of the road considered to be contiguous for purposes of a proposed annexation?

If a county road separates a city from territory it proposes to annex, the road must also be annexed or the territory will not be considered contiguous. Noncontiguous property cannot be legally annexed, except when it is annexed for municipal purposes. In a situation where the city boundary ends at a county road, the property across the road can be annexed as long as the road is included within the proposed annexation area.

Conflict of interest • May the mayor of a code city sign an ordinance to form an LID if he owns property within the LID area?

The threshold issue here is whether this situation presents a conflict of interest for the mayor if he or she participates in the decision regarding formation of the LID. In our opinion, this presents a clear conflict of interest under the common law doctrine as set out in *Smith v. Centralia*, 55 Wash. 573 (1909). Owning property within the area of an LID carries with it the obligation to pay the LID assessment. Conversely, owning property within the area of an LID can also be seen as a benefit in that the property owner benefits from the improvements. Either way, the mayor here, as a property owner within the area of the LID, will be specially affected by the LID in a financial way. Consequently, he or she should not participate in any way in the council consideration of and decision on the LID.

The next issue is whether the signing of the LID ordinance would improperly involve the mayor in the decision regarding the LID ordinance. Our opinion is that this would improperly involve the mayor in the decision on the ordinance, because the mayor in a code city has the discretion to either

sign an ordinance or veto it. Signing an ordinance is not merely a ministerial act by a code city mayor.

Consequently, the mayor has a legal disability that prevents him/her from signing the ordinance, and the mayor pro tem therefore has the authority to act (sign the ordinance or veto it) in place of the mayor.

EMS Levy • If an EMS levy fails at an election, may a city or county present another lower EMS levy at the next election?

Yes. There is no limitation on when a city or county may present to the voters an EMS levy after one has failed. The only statutory limitation is on submitting more than one EMS levy proposition to the voters at the same election. RCW 84.52.069(2).

Gambling Tax • May a city or county impose a gambling tax on pool tables as an amusement game?

No. Pool does not constitute an amusement game for purposes of the gambling tax. See the definition of amusement game in RCW 9.46.0201.

Parental Liability • Is there a statute making the parents of a juvenile responsible for damage their child has caused?

Yes, in certain circumstances. RCW 4.24.190 states:

The parent or parents of any minor under the age of eighteen years living with the parent or parents and who shall willfully or maliciously destroy or deface property, real or personal or mixed, or who shall willfully and maliciously inflict personal injury on another person, shall be liable to the owner of such property or to the person injured in a civil action at law for damages in an amount not to exceed

five thousand dollars. This section shall in no way limit the amount of recovery against the parent or parents for their own common law negligence.

Permitting Requirements • What are the rules regarding a local government's authority to exempt itself from permitting (building, land use, etc.) requirements?

The general rule is a local government cannot exempt itself from any permit requirements that state law requires it to comply with. For example, RCW 19.27.060(2) provides that the state building code applies to buildings and structures owned by local governments. Where there is no state requirement, local governments are free to exempt themselves from permitting requirements imposed by that jurisdiction. For example, most cities and counties exempt themselves from street use or excavation permit requirements so they won't have to get a permit every time a pothole needs to be filled.

Planning Commission • Are there regulations governing the age of a voting member of a local planning commission?

There is no minimum age requirement for membership on the planning commission.

Planning Commission • Must members of a planning commission reside within the city limits?

There is no state statute that requires planning commission members be residents of the city. However, RCW 35.21.200 allows a city to establish by ordinance a residency requirement for appointive officials, which would include members of the planning commission.

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Street Lighting • What recent legislation authorizes cities operating their own electric utility to include street lighting as part of that service?

In the 2002 session, the legislature amended RCW 35.92.050 to include the phrase “including streetlights as an integral utility service incorporated within general rates.”

Zoning Map Change • Should a change in a comprehensive plan precede a zoning map change?

The comprehensive plan precedes the zoning map, because the zoning map is to be guided by and is to implement the comprehensive plan. A comprehensive plan amendment should occur first, or the two may occur concurrently. There is no language in the RCW or WAC that is specific to the timing of the adoption of the two. Since the development regulations are to be consistent with the comprehensive plan, it makes logical sense to make changes to the comprehensive plan before, or at the same time as, the development regulations.■

How to “Ask MRSC.” Assistance from MRSC may be obtained by **Phone** (206) 625-1300 or 1-800-933-6772 for long-distance calls; **Letter** 2601 4th Avenue, Suite 800, Seattle, WA, 98121-1280; **Fax** (206) 625-1220; or **E-mail** mrsc@mrsc.org. Telephone inquiry service is available from 8:00 a.m. to 5:00 p.m. If a consultant is not immediately available, you can record a detailed request on voice mail 24-hours a day, and a staff member will call back as soon as possible.

camaraderie, but always buy your own lunch.

- Be available, reasonably so, for consultant contacts. If you’re on vacation, provide backups. Return telephone calls promptly. Don’t assert your power by making them wait. The consultant contract is a team effort, after all.
- Provide any material that the city/county is to furnish sooner than expected under the contract. Review interim submittals as promptly as you can.
- If others in your agency or within your unit of local government must also review, try a joint review meeting for all concerned. If that doesn’t work, then be politely tenacious in getting their comments.
- Be the first to know about any performance problems or potential delays. Let the consultant know immediately that such problems or delays are unacceptable, if they are in fact the consultant’s fault. Be firm but fair.
- Public hearings and other information gathering meetings should be truly a joint effort between city/county staff and the consultant.
- Maximize use of the consultant’s presentation skills while leaving an overall impression that the agency itself is in full control of the project.
- Keep your supervisors and elected officials informed as to progress, or the lack thereof, and any contract issues that they may have to take action on well before the drop dead date for such actions.

- As much as is practical, arrange for timely payment of monthly progress payments.
- Celebrate completion of the contract with appropriate kudos.
- Evaluate the consultant’s performance.

Resources

- MRSC Website – “Design Using Consultants” at <http://www.mrsc.org/Subjects/PubWorks/construct/conman2.aspx>
- *Contracting for Professional Services in Washington State*, Municipal Research and Services Center of Washington, Information Bulletin No. 485, April 1994. [F 8.8000 C676 1994]
- *Selection and Use of Engineers, Architects and Professional Consultants: Guidelines for Public Agencies*, Second Edition, James L. Martin, American Public Works Association, 1997. [G 9.5100 S45 1997]
- MRSC, in collaboration with APWA and the Washington T2 Center, can provide training opportunities■

John Carpita
Public Works Consultant
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HEADS UP

Emerging information for local government

Proposal to Kansas Legislature

Official Publications on Web

A proposed Kansas bill would allow cities and counties, as a matter of local choice, to use an Internet Web site as the jurisdiction's official publication site. The purpose for this bill is to allow for more efficient government operations and to reduce government costs. A survey recently completed by the League of Kansas Municipalities suggested a savings of up to \$3,000,000 per year could be realized by cities and counties in Kansas if the Web was used as the official publication site. As the League director pointed out, this is not an inconsiderable amount of money. The continued requirement that cities and counties publish in newspapers, at this considerable expense, amounts to a mandate on the local property taxpayers.

In order for local governments in Washington State to use the Web as an official publication site, a similar law would have to be passed by the Washington legislature.

Mosquito Control and West Nile Virus

Interlocal Cooperation

Early spring may mean early mosquitoes. The type of mosquitoes that can carry the West Nile Virus (WNV) have been identified in every Washington county. Human cases of the WNV are anticipated this spring. Upon the diagnosis of human cases, demands will be made on public officials to do something. Jurisdictions with mosquito districts may be able to deal with this issue a bit easier than other areas. Lacking a mosquito district, local governments need to consider stormwater drainage, roadside habitats, private property in the hands of owners who are non-compliant about habitat control, and possible referrals to private pest control

operators. This means interagency cooperation and the time to be meeting is now. MRSC has posted a Web page, with sample documents on creating Mosquito Control Districts. (See <http://www.mrsc.org/subjects/governance/spd/mosquito.aspx>.) "Court House Journal," February 14, 2003 WACO/WSAC

Community Health Planning by the Community

Health care consultant, Kathleen O'Connor, recently reported on a unique community health planning effort in Whatcom County. For the first time, members of the community were asked and offered ideas for creating a health-action plan that is "of the community, by the community and for the community." More than 200 people spent a full day discussing ways to develop a system of health care that will meet the needs of businesses, individuals, and families and, at the same time, sustain the economic health of the community. The session was funded by the St. Luke's Foundation and local businesses and nonprofit organizations, rather than outside special interest groups. By the end of the day, participants came up with some fresh ideas, including to create a local non-hospital tax district to finance services, to create a one percent tax on income or sales just for health care, to create a community vision and goal for health care, to let the community help in recruiting doctors, to make health care patient-centered and to let patients control their records, to create a standard billing/claims form, and to eliminate individual payment systems for specific programs. "Community comes together to take back health care," by Kathleen O'Connor, Seattle Times, December 30, 2002.

Costs of Community Services in Skagit Valley

An American Farmland Trust study on the "Cost of Community Services in Skagit Valley" demonstrates that protection of agriculture is crucial to the economic well-being of Skagit County. Crops produced in the Skagit Valley, including vegetable seeds, berries, potatoes, row crop vegetables, bulbs, and flowers contribute nearly \$200 million annually to the local economy. Skagit County's famous tulip festival attracts about one million visitors each spring, generating \$65 million in annual tourism revenues. Study findings indicate that farm, forest, and open land had a positive fiscal impact on Skagit County in 1997. For every dollar of revenue generated, farm, forest, and open land cost only 51 cents. In comparison, residential development overall did not pay for itself, requiring \$1.25 in services for every dollar of revenue generated. See http://www.farmland.org/pnw/Skagit_County_COCS.pdf

Public Involvement

Listing your Opportunities

Your Web site and newsletter can offer citizens opportunities for public involvement. Often these opportunities are not readily apparent to the casual viewer. Richland recently gathered together and published a list of its many sources of information and numerous opportunities for public involvement. Categories include interactive events/opportunities, written materials, broadcast programs, Internet, other source and contact information. A copy of this may be viewed at <http://www.mrsc.org/govdocs/r5newsfall02.aspx>. ▀

LIBRARY LISTINGS

New resource materials now available

New Acquisitions

This list contains new publications, ordinances, and other materials recently received by the MRSC library. We also prepare a more comprehensive list of new acquisitions each month which is posted on our Web site at www.mrsc.org/library/newacq.htm. If you would like to borrow one or more of these publications, please contact Amy Harper in our library at (206) 625-1300.

▼Construction

Establishing Building Permit Fees, by Michael W. Bouse, 1998

▼Environment

"Draft Environmental Impact Statement for the Brightwater Regional Wastewater Treatment System," King County Department of Natural Resources and Parks, Wastewater Treatment Division, 2002

"Tracking Developments on Streams and Wetlands" (computer file), Thurston Regional Planning Council, 2001

▼Finance

Technology Needs Assessments: Evaluating the Business Case for ERP and Financial Management Systems, by Rowan Miranda, 2002

An Elected Official's Guide to Fund Balance and Net Assets Using the GASB 34 Model, by Stephen J. Gauthier, 2002

Automated Budgeting Decision Support Systems, by Jack Manahan, 2002

Organization and Design of an Effective Budget Function, by R. Gregory Michel, 2002

Performance Measurement: Concepts and Techniques, by Cheryle Broom, 2000

The County Bidding Book for Washington, Municipal Research and Services Center of Washington (MRSC), 2002

▼Governance

"Paperless Council Packets" (computer file), City of Arvada, Colorado, 2002

The Business of Government: Strategy, Implementation & Results, by Thomas G. Kessler and Patricia Kelley, 2000

▼Personnel

A Public Employee's Guide to Retirement Planning, Kathleen Jenks Harm, 2002

▼Planning and Land Use

Place Making: Developing Town Centers, Main Streets, and Urban Villages, by Charles C. Bohl, 2002

The Basics of Takings Law: A Guide to Regulatory Takings for Public Officials, by Andrew Schwartz, 2002

Solving Sprawl: Models of Smart Growth in Communities Across America, by F. Kaid Benfield, Jutka Terris, and Nancy Vorsanger, 2001

▼Utilities

America's Water and Wastewater Industries: Competition and Privatization, edited by Paul Seidenstat, Michael Nadol, and Simon Hakim, 2000

The Watershed Project Management Guide, by Thomas E. Davenport, 2002

Resource Sharing

The *Information Partnership Program* seeks and collects current materials from Washington local governments. The materials received provide answers and support to the challenges faced by cities and counties every day. You may order the materials below by contacting the MRSC library at (206) 625-1300 or 1-800-933-6772 or e-mail us at mrsc@mrsc.org. Due to space limitations, the list below may not be complete. A comprehensive list of IP materials received may be requested from the library or viewed on our Web site at www.mrsc.org/library/rshare.htm.

▼New Intergovernmental Contracts

Anacortes Interlocal agreement with Skagit County regarding adoption and implementation of the city's urban growth area, 8 p., 2/3/03 (PL 8.6210); Interlocal agreement with Skagit County, Burlington, Mount Vernon, Sedro Wooley, and La Conner regarding coordinated planning, urban services, and countywide planning policies, 7 p., 2/3/03 (PE 8.6230); Bellevue Agreement between Department of Licensing and Bellevue transportation department to provide public records information under RCW 42.17 and 46.12 and WAC 308-10 and 308-93-087 and 308-93-088, 11 p., 1/10/03 (G 5.9500); Grand Coulee Resolution No. 02-07 establishing an agreement for fire protection between the city and Lincoln County Fire Protection District No. 9, 1 p., 11/19/02 (PS 3.7000); Interlocal agreement with Grant County for administration and enforcement of the city's building code, 3 p., 8/14/02 (C 1.4000); Port Angeles Interlocal agreement with Clallam County for acquisition of institutional network services, 42 p., 8/13/02 (IS 1.32000); Interlocal joint purchasing agreement with town of Granger, 2 p., 10/02 (F 8.9100) Poulsbo Cooperative purchasing agreement with Kitsap County

WEB TALK

News and information about www.mrsc.org

for police records management system, 6 p., 11/04/02 (IS 3.2000); Agreement for use of jail facilities with Benton County, 10 p., 11/7/02 (PS 7.5100).

▼Boards and Commissions

Gig Harbor Ordinance 736 establishing a design review board, 5 p., 8/26/96 (PL 2.6000); Grand Coulee Ordinance No. 908 establishing a civil service commission, 1 p., 12/17/02 (PE 5.1000).

▼Developer Extension Agreements

Gig Harbor Water utility extension contract, 7p, 2002 (UW 4.4000); Sewer utility extension contract, 7 p., 2002 (US 3.4000).

▼Sick Leave Policy

Anacortes Sick leave policy, 6 p., 8/27/02 (PE 6.8300).▶

What's New?

Receive Topical Update Notices via E-mail - Would you like to receive an e-mail notice when we update content on the MRSC site that is of interest to you? If so, click on the "Subscribe to Page" link now located near the top of many of our pages. This service targets topical areas (such as growth management) and complements our comprehensive monthly site update notice.

Site Spotlight - Discover the wide variety of information on the MRSC Web site through the "Site Spotlight" on our home page. Each week, we feature a different area of the site that you may not have previously explored.

Information Partnership - MRSC considers all of you our partners in providing information to the local governments in the state. By pooling information resources through MRSC, you are able to assist one another in preparing ordinances, policies, and plans. Each month, we highlight on our home page the type of document we are seeking.

How Do I?

City and County Profiles - MRSC maintains a gateway to information about the 281 cities and towns and 39 counties in the state. From our site navigation bar, click on "Research Tools" and then select either "City Profiles" or "County Profiles." For each jurisdiction, you will find contact information, meeting times, population, form and class of government, and a list of officials. When available, you will also find links to budgets, ordinances, business license forms, city and county codes, and comprehensive plans.

What's Coming?

Over the coming months, MRSC will be trying out a new online library catalog search system. The catalog will make it easier for you to determine if the MRSC library has a particular document or book, and will allow you to browse the library holdings by subject. You will also be able to check out items from within the system.▶



ANNOUNCEMENTS

New MRSC Publication

Our new *Research Brief* on "Hiring Employees" explores a municipality's ability to hire employees, including who has the authority to hire and procedures for protecting the municipality's and the applicant's interests. This publication may be viewed at <http://www.mrsc.org/focuspub/0301hiring.pdf>. Copies may also be obtained by calling our receptionist here at MRSC.

Court Upholds Authority to Revoke Preliminary Plat

On January 23, 2003, the state supreme court in *HJS Development, Inc. v. Pierce County* upheld the authority of cities and counties under state subdivision laws to revoke preliminary plat approvals if a local ordinance provides that authority. The court noted that "[w]hen conditions of approval of a preliminary plat cannot be satisfied or are deliberately violated, remedial action, such as revocation, may be the only remedy." MRSC recommends that cities and counties that have not provided in their platting ordinances for revocation of a preliminary plat where appropriate should consider doing so.

Free copies of the 2000 Revised Code of Washington

We have four remaining sets of the 2000 RCWs, including the 2001 update volume, available to any city, town, or county for the cost of the shipping. If you would like a set, please contact Amy Harper in the MRSC library.



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