

Initiative Measure No. 23 to the Legislature

OFFICIAL BALLOT TITLE

CIVIL SERVICE FOR SHERIFF'S EMPLOYEES

AN ACT providing civil service status for certain employees of the various county sheriffs; creating civil service commissions to administer the act; and setting forth their powers and duties; excepting certain employees therefrom; listing grounds for dismissal, censure or disciplining of employees within the act; forbidding sheriff's employees to engage in any political activity or to contribute to political funds; making county commissioners responsible for funds to administer the act; and providing penalties for violations thereof.

Be it enacted by the Legislature of the State of Washington:

SECTION 1. The general purpose of this act is to establish a merit system of employment for county deputy sheriffs and other employees of the office of county sheriff, thereby raising the standards and efficiency of such offices and law enforcement in general.

SEC. 2. Definition of terms:

- (1) "Commission" means the civil service commission, or combined county civil service commission, herein created, and "commissioner" means any one of the three members of any such commission;
- (2) "Appointing power" means the county sheriff who is invested by law with power and authority to select, appoint, or employ any deputy, deputies or other necessary employees subject to civil service;
- (3) "Appointment" includes all means of selecting, appointing, or employing any person to any office, place, position, or employment subject to civil service;
- (4) "County" means any county of the state, or any counties combined pursuant to Section 4 for the purpose of carrying out the provisions of this act;

- (5) "Deputy sheriff or other members of the office of county sheriff" means all persons regularly employed in the office of county sheriff either on a part-time or full-time basis.

SEC. 3. There is created in each county and in each combination of counties, combined pursuant to Section 4 to carry out the provisions of this act, a civil service commission which shall be composed of three persons. The commission members shall be appointed by the board of county commissioners, or boards of county commissioners of each combination of counties, within sixty days after the effective date of this act. No person shall be appointed to the commission who is not a citizen of the United States, a resident of the county, or one of the counties combined, for at least two years immediately preceding his appointment, and an elector of the county wherein he resides. The term of office of the commissioners shall be six years, except that the first three members of the commission shall be appointed for different terms, as follows: One to serve for a period of two years, one to serve for a period of four years, and one to serve for a period of six years. Any member of the commission may be removed from office for incompetency, incompatibility, or dereliction of duty, or

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malfesance in office, or other good cause: *Provided*, That no member of the commission shall be removed until charges have been preferred, in writing, due notice, and a full hearing had. Any vacancy in the commission shall be filled by the county commissioners for the unexpired term. Two members of the commission shall constitute a quorum and the votes of any two members concurring shall be sufficient for the decision of all matters and the transaction of all business to be decided or transacted by the commission. Confirmation of the appointment of commissioners by any legislative body shall not be required. At the time of appointment not more than two commissioners shall be adherents of the same political party. No member after appointment shall hold any salaried public office or engage in county employment, other than his commission duties. The members of the commission shall serve without compensation.

SEC. 4. Any counties of the fourth class or of lesser classifications, whether contiguous or not, are authorized to establish and operate a combined civil service system to serve all counties so combined. The combination of any such counties shall be effective whenever each board of county commissioners of the counties involved adopts a resolution declaring intention to participate in the operation of a combined county civil service system in accordance with agreements made between any such counties. Any such combined county civil service commission shall serve the employees of each county sheriff's office impartially and according to need.

All matters affecting the combined civil service commission, including the selection of commissioners, shall be decided by majority vote of all the county commissioners of the counties involved.

All the provisions of this act shall apply equally to any such combined civil service system.

SEC. 5. Immediately after appointment the commission shall organize by electing one of its members chairman and shall hold regular meetings at least once a month, and such additional meet-

ings as may be required for the proper discharge of its duties.

It shall appoint a chief examiner who shall also serve as secretary of the commission and such assistants as may be necessary. The chief examiner shall keep the records for the commission, preserve all reports made to it, superintend and keep a record of all examinations held under its direction, and perform such other duties as the commission may prescribe.

The chief examiner shall be appointed as a result of competitive examination which examination may be either original and open to all properly qualified citizens of the county, or promotional and limited to persons already in the service of the county sheriff's office. The chief examiner may be subject to suspension, reduction, or discharge in the same manner and subject to the same limitations as are provided in the case of members of the classified service.

SEC. 6. It shall be the duty of the civil service commission:

(1) To make suitable rules and regulations not inconsistent with the provisions hereof. Such rules and regulations shall provide in detail the manner in which examinations may be held, and appointments, promotions, transfers, reinstatements, demotions, suspensions, and discharges shall be made, and may also provide for any other matters connected with the general subject of personnel administration, and which may be considered desirable to further carry out the general purposes of this act, or which may be found to be in the interest of good personnel administration. The rules and regulations and any amendments thereof shall be printed, mimeographed, or multigraphed for free public distribution. Such rules and regulations may be changed from time to time.

(2) To give practical tests which shall consist only of subjects which will fairly determine the capacity of persons examined to perform duties of the position to which appointment is to be made. Such tests may include tests of physical fitness or manual skill or both.

(3) To make investigations concerning and report upon all matters touching the enforcement and effect of the pro-

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visions of this act, and the rules and regulations prescribed hereunder; to inspect all departments, offices, places, positions, and employments affected by this act, and ascertain whether this act and all such rules and regulations are being obeyed. Such investigations may be made by the commission or by any commissioner designated by the commission for that purpose. Not only must these investigations be made by the commission as aforesaid, but the commission must make like investigation on petition of a citizen, duly verified, stating that irregularities or abuses exist, or setting forth in concise language, in writing, the necessity for such investigation. In the course of such investigation the commission or designated commissioner, or chief examiner, may administer oaths, subpoena and require the attendance of witnesses and the production by them of books, papers, documents, and accounts appertaining to the investigation and also cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the superior court; and the oaths administered and the subpoenas issued hereunder shall have the same force and effect as the oaths administered and subpoenas issued by a superior court judge in his judicial capacity; and the failure of any person so subpoenaed to comply with the provisions of this section shall be deemed a violation of this act, and punishable as such.

(4) To conduct hearings and investigations in accordance with this act and by the rules of practice and procedure adopted by the commission, and in the conduct thereof neither the commission, nor designated commissioner shall be bound by technical rules of evidence. No informality in any proceedings or hearing, or in the manner of taking testimony before the commission or designated commissioner, shall invalidate any order, decision, rule, or regulation made, approved, or confirmed by the commission: *Provided*, That no order, decision, rule, or regulation made by any designated commissioner conducting any hearing or investigation alone shall be of any force

or effect whatsoever unless and until concurred in by at least one of the other two members.

(5) To hear and determine appeals or complaints respecting the allocation of positions, the rejection of an examinee, and such other matters as may be referred to the commission.

(6) To provide for, formulate, and hold competitive tests to determine the relative qualifications of persons who seek employment in any class or position and as a result thereof establish eligible lists for the various classes of positions, and provide that persons laid off because of curtailment of expenditures, reduction in force, and for like causes, head the list in the order of their seniority, to the end that they shall be the first to be reemployed.

(7) To certify to the appointing authority, when a vacant position is to be filled, on written request, the name of the person highest on the eligible list for the class. If there is no such list, to authorize a provisional or temporary appointment list for such class. Such temporary provisional appointment shall not continue for a period longer than four months; nor shall any person receive more than one provisional appointment or serve more than four months as provisional appointee in any one fiscal year.

(8) To keep such records as may be necessary for the proper administration of this act.

SEC. 7. The classified civil service and provisions of this act shall include all deputy sheriffs and other employees of the office of sheriff in each county except the following positions which are hereby designated the unclassified service:

(1) The county sheriff in every county;

(2) In each class A and class AA county; the positions of undersheriff, inspector, chief criminal deputy, chief civil deputy, jail superintendent, and one private secretary;

(3) In each county of the first class, second class, and third class; three principal positions comparable to undersheriff, a chief criminal deputy, and a chief civil deputy;

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(4) In each of all other counties; one position to be appointed by the sheriff.

SEC. 8. All appointments to and promotions to positions in the classified civil service of the office of county sheriff shall be made solely on merit, efficiency, and fitness, which shall be ascertained by open competitive examination and impartial investigation. No person in the classified civil service shall be reinstated in or transferred, suspended, or discharged from any such place, position, or employment contrary to the provisions of this act.

SEC. 9. For the benefit of the public service and to prevent delay, injury, or interruption therein by reason of the enactment hereof, all persons holding a position which is deemed classified by Section 7 for a continuous period of six months prior to the effective date of this act, are eligible for permanent appointment under civil service to the offices, places, positions, or employments which they then held without examination or other act on their part, and not on probation; and every such person is automatically adopted and inducted permanently into civil service, into the office, place, position, or employment which he then held as completely and effectually to all intents and purposes as if such person had been permanently appointed thereto under civil service after examination and investigation.

SEC. 10. An applicant for a position of any kind under civil service, must be a citizen of the United States and an elector of the county in which he resides, who can read and write the English language, and must have been a resident of the state for at least one year.

SEC. 11. The tenure of every person holding an office, place, position, or employment under the provisions of this act shall be only during good behavior, and any such person may be removed or discharged, suspended without pay, demoted, or reduced in rank, or deprived of vacation privileges or other special privileges for any of the following reasons:

- (1) Incompetency, inefficiency, or inattention to, or dereliction of duty;
- (2) Dishonesty, intemperance, im-

moral conduct, insubordination, discourteous treatment of the public, or a fellow employee, or any other act of omission or commission tending to injure the public service; or any other wilful failure on the part of the employee to properly conduct himself; or any wilful violation of the provisions of this act or the rules and regulations to be adopted hereunder;

(3) Mental or physical unfitness for the position which the employee holds;

(4) Dishonest, disgraceful, or prejudicial conduct;

(5) Drunkenness or use of intoxicating liquors, narcotics, or any other habit forming drug, liquid, or preparation to such extent that the use thereof interferes with the efficiency or mental or physical fitness of the employee, or which precludes the employee from properly performing the function and duties of any position under civil service;

(6) Conviction of a felony, or a misdemeanor involving moral turpitude;

(7) Any other act or failure to act which in the judgment of the civil service commission is sufficient to show the offender to be an unsuitable and unfit person to be employed in the public service.

SEC. 12. No person in the classified civil service who has been permanently appointed or inducted into civil service under provisions of this act, shall be removed, suspended, or demoted except for cause, and only upon written accusation of the appointing power or any citizen or taxpayer; a written statement of which accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission. Any person so removed, suspended, or demoted may within ten days from the time of his removal, suspension, or demotion, file with the commission a written demand for an investigation, whereupon the commission shall conduct such investigation. The investigation shall be confined to the determination of the question of whether the removal, suspension, or demotion was made in good faith for cause. After such investigation the commission may affirm the removal, or if it finds that removal, suspension, or demotion was not made in good faith for

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cause, shall order the immediate reinstatement or reemployment of such person in the office, place, position, or employment from which he was removed, suspended, or demoted, which reinstatement shall, if the commission so provides, be retroactive, and entitle such person to pay or compensation from the time of the removal, suspension, or demotion. The commission upon such investigation, in lieu of affirming a removal, may modify the order by directing a suspension without pay, for a given period, and subsequent restoration to duty, or demotion in classification, grade, or pay. The findings of the commission shall be certified, in writing to the appointing power, and shall be forthwith enforced by such officer.

All investigations made by the commission pursuant to this section shall be by public hearing, after reasonable notice to the accused of the time and place thereof, at which hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. If order of removal, suspension, or demotion is concurred in by the commission or a majority thereof, the accused may appeal therefrom to the superior court of the county wherein he resides. Such appeal shall be taken by serving the commission, within thirty days after the entry of its order, a written notice of appeal, stating the grounds thereof, and demanding that a certified transcript of the record and of all papers on file in the office of the commission affecting or relating to its order, be filed by the commission with the court. The commission shall, within ten days after the filing of the notice, make, certify, and file such transcript with the court. The court shall thereupon proceed to hear and determine the appeal in a summary manner. Such hearing shall be confined to the determination of whether the order of removal, suspension, or demotion made by the commission, was or was not made in good faith for cause, and no appeal shall be taken except upon such ground or grounds. The decision of the superior court may be appealed to the supreme court.

SEC. 13. Whenever a position in the classified service becomes vacant, the

appointing power, if it desires to fill the vacancy, shall requisition the commission for the name and address of a person eligible for appointment thereto. The commission shall certify the name of the person highest on the eligible list for the class to which the vacant position has been allocated, who is willing to accept employment. If there is no appropriate eligible list for the class, the commission shall certify the name of the person standing highest on the list held appropriate for such class. If more than one vacancy is to be filled an additional name shall be certified for each additional vacancy. The appointing power shall forthwith appoint such person to the vacant position.

To enable the appointing power to exercise a choice in the filling of positions, no appointment, employment, or promotion in any position in the classified service shall be deemed complete until after the expiration of a period of one year's probationary service, as may be provided in the rules of the civil service commission, during which the appointing power may terminate the employment of the person certified to him, if during the performance test thus afforded, upon observation or consideration of the performance of duty, the appointing power deems him unfit or unsatisfactory for service in the office of county sheriff. Thereupon the appointing power shall designate the person certified as standing next highest on any such list and such person shall likewise enter upon said duties for the probationary period, until some person is found who is deemed fit for appointment, employment, or promotion whereupon the appointment, employment, or promotion shall be deemed complete.

SEC. 14. All offices, places, positions, and employments coming within the purview of this act, shall be filled by the appointing power with the consent of the board of county commissioners, and nothing herein contained shall infringe upon such authority that an appointing power may have to fix the salaries and compensation of all employees employed hereunder.

SEC. 15. No treasurer, auditor or other officer, or employee of any county subject to this chapter shall approve the

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payment of or be in any manner concerned in paying, auditing, or approving any salary, wage, or other compensation for services, to any person subject to the jurisdiction and scope of this act, unless a payroll, estimate, or account for such salary, wage, or other compensation, containing the names of the persons to be paid, the amount to be paid to each such person, the services on account of which same is paid, and any other information which, in the judgment of the civil service commission, should be furnished on such payroll, bears the certificate of the civil service commission, or of its chief examiner or other duly authorized agent, that the persons named therein have been appointed or employed in compliance with the terms of this act and the rules of the commission, and that the payroll, estimate, or account is, insofar as known to the commission, a true and accurate statement. The commission shall refuse to certify the pay of any public officer or employee whom it finds to be illegally or improperly appointed, and may further refuse to certify the pay of any public officer or employee who wilfully or through culpable negligence, violates or fails to comply with this act or with the rules of the commission.

SEC. 16. Leave of absence, without pay, may be granted by any appointing power to any person under civil service: *Provided*, That such appointing power gives notice of the leave to the commission. All temporary employment caused by leaves of absence shall be made from the eligible list of the classified civil service.

SEC. 17. The commission shall begin and conduct all civil suits which may be necessary for the proper enforcement of this act and rules of the commission. The commission shall be represented in such suits by the prosecuting attorney of the county. In the case of combined counties any one or more of the prosecuting attorneys of each county so combined may be selected by the commission to represent it.

SEC. 18. No commissioner or any other person, shall, by himself or in cooperation with others, defeat, deceive, or obstruct any person in respect of his right of examination or registration ac-

ording to the rules and regulations, or falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined, registered, or certified pursuant to this act, or aid in so doing, or make any false representation concerning the same, or concerning the person examined, or furnish any person any special or secret information for the purpose of improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered, or certified or persuade any other person, or permit or aid in any manner any other person to personate him, in connection with any examination or registration of application or request to be examined or registered.

The right of any person to an appointment or promotion to any position in a sheriff's office shall not be withheld because of his race, color, creed, national origin, political affiliation or belief, nor shall any person be dismissed, demoted, or reduced in grade for such reason.

SEC. 19. No person holding any office, place, position, or employment subject to civil service, shall contribute to any political fund or render any political service to any person or party whatsoever, and no person shall be removed, reduced in grade or salary, or otherwise prejudiced for refusing so to do. No public officer, whether elected or appointed, shall discharge, promote, demote, or in any manner change the official rank, employment, or compensation of any person under civil service or promise or threaten so to do for giving or withholding, or neglecting to make any contribution of money, or service, or any other valuable thing, for any political purpose.

SEC. 20. All officers and employees of each county shall aid in all proper ways in carrying out the provisions of this act, and such rules and regulations as may, from time to time, be prescribed by the commission and afford the commission, its members, and employees, all reasonable facilities and assistance in the inspection of books, papers, documents, and accounts applying or in any way appertaining to any and all offices, places, positions, and employments, subject to civil service, and also shall produce such

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books, papers, documents, and accounts, and attend and testify, whenever required so to do by the commission or any commissioner.

SEC. 21. The board of county commissioners of each county may provide in the county budget for each fiscal year a sum equal to one-half of one percent of the preceding year's total payroll of those included under the jurisdiction and scope of this act. The funds so provided shall be used for the support of the commission. Any part of the funds so provided and not expended for the support of the commission during the fiscal year shall be placed in the general fund of the county, or counties according to the ratio of contribution, on the first day

of January following the close of such fiscal year.

SEC. 22. Any person who wilfully violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars and by imprisonment in the county jail for not longer than thirty days or by both such fine and imprisonment. The superior court shall have jurisdiction of all such offenses.

SEC. 23. If any section, sentence, clause, or phrase of this act should be held to be invalid or unconstitutional, the validity or constitutionality thereof shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this act.

STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State August 7, 1956.

VICTOR A. MEYERS, *Secretary of State.*

Argument *FOR* Initiative Measure No. 23



DON'T KICK YOUR TAX DOLLAR AROUND!

WHAT IS INITIATIVE NO. 23?

It will give Deputy Sheriffs the same job protection that City Police, City Firemen and State Patrolmen now have.

HOW CAN YOU HELP?

Vote **FOR** Initiative No. 23 and tell your friends to do the same.

WHAT WILL INITIATIVE NO. 23 DO?

It will do away with the political spoils system in Sheriffs' offices.

WILL IT INSURE AN INCOMPETENT OFFICER AGAINST DISMISSAL?

No, positively not.

IS INITIATIVE NO. 23 FOR ALL COUNTIES?

Yes, it will apply to all Sheriffs' offices throughout the entire State.

WILL INITIATIVE NO. 23 PROHIBIT THE SHERIFF-ELECT FROM APPOINTING MEN TO KEY POSITIONS?

Absolutely not. The Sheriff will still appoint the Undersheriff, Chief Civil Deputy, Chief Criminal Deputy, Chief Jailer and Secretary.

WHAT DOES PASSAGE OF INITIATIVE NO. 23 MEAN TO YOU AS A CITIZEN AND A TAXPAYER?

It means that county law enforcement will be raised to a higher level through the retention of trained and experienced officers who have chosen law enforcement as a career.

It will insure qualified employees in the future through competitive examinations for appointment.

Don't gamble where the stakes are the protection of your life and property.

Vote FOR Initiative Measure No. 23

WASHINGTON STATE DEPUTY SHERIFF'S ASSN.

Ray G. Wartman, President, 614 Division St., Port Orchard

STATE OF WASHINGTON—ss.

Filed in the office of the Secretary of State June 16, 1958.

VICTOR A. MEYERS, *Secretary of State.*