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7 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
8 IN AND FOR THURSTON COUNTY

9 BRIAN SONNTAG, a Pierce County voter
10 and former County official; JEFF JOSEPH, a
11 Pierce County voter and Republican Precinct
12 Committeeperson; and HOLLIE ROGGE, a
13 Pierce County voter and a former Pierce
County Charter Commissioner;

14 Petitioners,

15 vs.

16 PIERCE COUNTY, a local charter
17 governmental entity,

18 Respondent.

No.

**PETITION TO VOID PIERCE COUNTY
PROPOSED CHARTER AMENDMENT
53 APPOINTED SHERIFF AND
PROHIBIT PIERCE COUNTY FROM
PLACING AMENDMENT 53 ON THE
BALLOT**

19 Petitioners, BRIAN SONNTAG, JEFF JOSEPH, and HOLLIE ROGGE, state the
20 following Petition against Respondent Pierce County:

21 **I. INTRODUCTION**

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23 This action presents two threshold questions: whether Washington law permits a home rule
24 charter county to abolish election of the county sheriff, and whether a charter amendment may
25 terminate the incumbent sheriff's fixed term before January 1, 2029. Because Amendment 53
26 would do both effective January 1, 2027, Petitioners seek an order voiding the measure and
27 enjoining its placement on the November 2026 ballot.
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29 **II. PARTIES**

2.1 **Petitioners.** Petitioner Brian Sonntag is a Pierce County resident, elector, and former Pierce County official. Petitioner Jeff Joseph is a Pierce County Resident, elector, and a Pierce County Republican Precinct Committeeperson. Petitioner Hollie Rogge is a Pierce County resident, elector, and an immediate past Pierce County Charter Commissioner.

2.2 **Respondent.** Respondent is Pierce County a home rule local governmental entity since May 1, 1981.

III. JURISDICTION

3.1 The Court has jurisdiction over the parties and subject matter to these proceedings.

3.2 Venue is proper in Thurston County pursuant to RCW 36.01.050.

IV. FACTS

4.1 Pierce County was established on December 22, 1852, thirty-seven years before Washington became a State.

4.2 Based on historical records, from 1852 to 1980 voters directly elected the Pierce County Sheriff. The office belonged to the people. The office of Sheriff originated under appointed authority in England, a practice Colonists intentionally rejected to safeguard themselves against centralized control and to ensure law enforcement authority answered directly to the people.

4.3 Following the racketeering scandals in the late seventies, Pierce County convened a Charter Commission and formed a home rule County effective May 1, 1981.

4.4 In its initial Charter, Pierce County like King County included charter provisions for an appointed rather than elected Sheriff.

4.5 King County had an appointed Sheriff until 1996 then amended the Charter to elect a Sheriff. In 2020 in the wake of Black Lives Matter protests, 55% of King County voters

approved amending its Charter back to an appointed Sheriff purportedly to reduce or amend the duties of the Sheriff that its Charter otherwise prohibited. The elected Sheriff served her remaining term of elective office prior to appointing the next Sheriff.

4.6 In Pierce County, Lyle Smith was elected Sheriff in 1979 serving until 1988. Chuck Robbins was then appointed and served from 1988 to 1992. John Shields served from 1992 to 1996. Mark French served from 1997 to 2000. Paul Pastor served from 2001 to 2008 in an appointed capacity.

4.7 In 2006, Pierce County voted 66 percent in favor of a charter amendment to return the Sheriff to an elected County official.

4.8 Pierce County Sheriff elections have been non-partisan elections for four-year terms.

4.9 Paul Pastor ran for election and served as Pierce County's elected Sheriff until 2020.

4.10 In 2020 after 14 years, Pierce County had its first contested election for Sheriff.

4.11 Edward Troyer won the 2020 election and served from 2021-2024.

4.12 Keith Swank won the 2024 election for Sheriff to serve until January 1, 2029.

4.13 Sheriff Swank attempted to run a Sheriff's Office that aligned with the public safety objectives he promised the voters. His viewpoints did not align with Pierce County Executive, Pierce County Council majority, or Pierce County's Prosecuting Attorney.

4.14 Sheriff Swank actively communicated via social media, in the press, and in public forums about his public service and the differences in viewpoints he had with the Executive, Council, and Prosecutor.

4.15 Certain Pierce County officials and their supporters have disrupted his service and are attempting to prevent Swank from fulfilling his term of office.

4.16 Pierce County voters in 2025 elected a 21-member Charter Review Commission.

4.17 In 2026, Pierce County convened Charter review by the Charter Review Commission to fulfill the Charter mandate to review the Charter every ten years.

4.18 Pierce County Charter Review Commissioner Jake Hunter initially proposed an appointed Sheriff amendment designated as proposal C-1 on February 18, 2026. He summarized C-1 as follows:

“This proposal amends the Pierce County Charter to change from an elected sheriff to an appointed sheriff and establishes minimum professional qualifications for the Sheriff, including law enforcement certification and supervisory experience, to ensure that the individual serving as Sheriff possesses the credentials, training, and leadership experience necessary to perform the duties of the office.”

Commissioner Hunter’s rationale for the Amendment was as follows:

“The Sheriff exercises significant authority over law enforcement, corrections, and public safety operations within Pierce County. Establishing minimum professional qualifications for this office promotes professionalism, accountability, and public trust, and ensures alignment with standards applied to appointed law enforcement leadership positions elsewhere in Washington.”

4.19 On June 15, 2026, Commissioner Leighton proposed amending C-1 to make it effective before the elected Sheriff’s term ended. The Commission rejected, by an 11–10 vote, a proposal to delay the effective date until the end of Sheriff Swank’s term.

4.20 Commissioner Kelly commented in favor of amending C-1 with the January 1, 2027 effective date as follows:

“Thank you. I appreciate that. Uh Commissioner R Kelly, District 4. Um I'm going to keep my comments on this brief too, although I might make some uh additional comments uh on the underlying amendment. Uh I really appreciated uh Commissioner Hetherington a couple times throughout this process has spoken to the importance of simplicity when moving things to the ballot and clarity. Uh I've come to really really appreciate that and think about what will resonate most with voters and I think that uh the the initial amendment by uh Commissioner Leighton provides clarity um and that this amendment uh I think extending out the deadline uh removes some of that clarity and also creates a lot of ambiguity about the role of the current sheriff who um I think unfortunately um has indicated some bad faith behavior around some of these things and I don't fully trust that we had a few years um in this situation that it would be effective governance and leadership of that department. And if we really care about community safety, we really care about the

1 role of the people that we need to allow uh both for people to vote um and for those votes
2 to matter and then to have uh the biggest community safety department in in in the county
3 uh be ran effectively by people that uh are doing their job, are committed to their job um
4 and uh you know want to do the best they can. So I will be uh uh opposed to the amendment
5 to the amendment and supporting the underlying amendment.”

6 Commissioner Hetherington also spoke in favor of C1 as amended and opposed the later
7 effective date at the end of Sheriff Swank’s four year term:

8 “Thank you, Chair. Uh, Commissioner Heatherington, District 2. Um, while I appreciate
9 the Commissioner Heimlich's amendment, I'm a little concerned that,
10 you know, our typical election process when somebody's elected in November, they're
11 essentially done and we replace that person. kind of lame up for a month
12 or two at the most. Um, if this passes as amended, you would essentially have a lame
13 sheriff in office for two full plus years. And I worry about the constituents of Pierce
14 County if that does happen. Um, while I understand the the vote of the people to vote him
15 in for four years, I I get that. And if this is passed as 27, there's many different things that
16 will go into this charter amendment when it's put if it is put on the ballot. And that is part
17 of it. Do you believe that this current sheriff should serve out his full term? And so that
18 could be part way into part of your vote. Um, with all the public comment that has been
19 given here over the last five months, I also don't want to hear it past 29 hear about this
20 conversation for two plus more years in the community. Right. It's kind of one of those
21 things where you just you as a voter or whatever and you rip the band-aid off or you
22 don't. Right. And um I'm getting gray hair over this thing after 5 months now. I mean it's
23 just a little gray little gray. Um so um I won't be voting for uh the amendment uh to the
24 amendment.”

25 4.21 The Commission then amended C-1 to take effect on January 1, 2027, and forwarded the
26 measure to the Pierce County Elections Division for placement on the November 2026
27 ballot.

28 4.22 The vote on C-1 as amended was not unanimous. Nine Charter Commissioners voted
29 against C-1 as amended. The final vote count was 12 in favor and 9 opposed. Petitioner
30 Rogge voted against.

31 4.23 The measure is now known as Charter Amendment 53.

32 4.24 Charter Amendment 53 reads as follows:

33 **Section 3.70 --Sheriff**

1 There is hereby created the executive department of Sheriff. ~~The Sheriff shall be~~
2 ~~a nonpartisan position, elected by the voters of the County and shall serve full time.~~
3 Effective January 1, 2027, the Sheriff shall cease to be an elective office, and the
4 current term of office shall terminate. The Sheriff shall be appointed by the
5 Executive and confirmed by a majority of the Council.
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7 **Section 4.90 -- Limitation on Terms of Office**
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9 No person shall be allowed to serve in County elective office for more than two
10 consecutive 4-year terms in the same position as a Councilmember or Executive.

11 No person shall be allowed to serve in County elective office for more than three
12 consecutive 4-year terms in the same position as Sheriff, Assessor-Treasurer or
13 Auditor.
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15 Service as the Assessor-Treasurer or Auditor prior to January 1, 2009, shall be
16 counted as part of such consecutive terms. Establishment of residency in an
17 alternate district will not circumvent this restriction.
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19 4.25 Charter Amendment 53 proposes to amend two sections of Pierce County's Charter, 3.70
20 and 4.90.
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22 4.26 Charter Amendment 53 creates internal inconsistencies within Pierce County Charter.
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24 4.27 Section 3.30 restricts the Executive's appointment authority to positions not filled by
25 election. Pierce County already elected its Sheriff through to January 1, 2029. Per the
26 County Charter, the Executive has no appointment authority for the Sheriff. Any effort to
27 ouster the Sheriff prior to 2029 usurps the office of the Sheriff in contravention to Section
28 3.30.
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1 4.28 Section 3.45(2) provides “All departments shall have the powers and duties provided by
2 ordinance.” Pierce County Code 2.06.020(D) provides “Sheriff. This department shall be
3 headed by the elected Sheriff” and specifies enumerated duties 1-4. The elected Sheriff
4 must fill his enumerated duties through 2028.

6 4.29 Charter Amendment 53 did not amend Section 4.10 that sets the election requirements for
7 Sheriff: “The nominating primaries and elections of the ...Sheriff...shall be conducted in
8 accordance with general law governing the election of partisan officers...” Section
9 10.30(5) compels elections every four years for elected county officials. Pierce County
10 electors, including petitioners elected a Sheriff to fill a four-year term expiring January 1,
11 2029.

14 4.30 Charter Section 4.70 describes vacancies in office and does not recognize vacating an
15 elective office by charter amendment.

17 4.31 Charter Section 4.80 specifies that the term of office for each elected official and
18 department head shall be for four years. There is no provision for expiring the term of an
19 elected official within the four-year term post-election.

21 4.32 Section 10.55 protects the rights of the elected Sheriff to fill his elected term. When
22 converting the office to an elected Sheriff in 2006, the appointed Sheriff was permitted to
23 remain in office until his successor was elected and commenced service, Section 10.55 (5).
24 Charter Amendment 53 failed to include transition terms consistent with the rights of
25 elective office to a four-year term as set forth in the Charter.

28 4.33 Pierce County passed a two-year budget funding the elected Sheriff through 2027.

29 4.34 Pierce County and King County have both transitioned between appointed and elected
30 sheriffs. King County’s most recent transition preserved the incumbent elected Sheriff’s
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remaining term, while Amendment 53 would terminate the Pierce County Sheriff's current term before its scheduled expiration.

4.35 No one has previously sought judicial review to point out that charter counties act in excess of their authority when changing the office of sheriff to an appointed position.

4.36 The State may not appoint County Sheriffs because by constitution and statute Sheriff's shall be elected. It is a constitutional office controlled by the people. A County Sheriff is unique among law enforcement with an ancient history grounded in elected status.

4.37 Seven out of thirty-nine counties are home rule charter counties. King County is the only county with an appointed Sheriff.

4.38 Washington Constitution Article 11 Section 4 provides that the legislature shall establish a system of county government, which shall be uniform throughout the state except as provided in Section 4.

4.39 Section 4 recognizes a County may frame a "Home Rule" charter for its own government subject to the Constitution and laws of Washington. A home rule charter county "shall continue to have all the rights powers, privileges and benefits then possessed or thereafter conferred by general law."

4.40 Section 4 further provides as follows:

"Any home rule charter proposed as herein provided, may provide for such county officers as may be deemed necessary to carry out and perform all county functions as provided by charter or by general law, and for their compensation, but shall not affect the election of the prosecuting attorney, the county superintendent of schools, the judges of the superior court, and the justices of the peace or the jurisdiction of the courts."...

1 “The terms of all elective officers, except the prosecuting attorney, the county
2 superintendent of schools, the judges of the superior court, and the justices of the
3 peace, who are in office at the time of the adoption of a Home Rule Charter shall
4 terminate as provided in the charter. All appointive officers in office at the time the
5 charter goes into effect, whose positions are not abolished thereby, shall continue
6 until their successors shall have qualified.”...

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9 “ All the powers, authority and duties granted to and imposed on county officers by
10 general law, except the prosecuting attorney, the county superintendent of
11 schools, the judges of the superior court and the justices of the peace, shall be
12 vested in the legislative authority of the county unless expressly vested in specific
13 officers by the charter. The legislative authority may by resolution delegate any of
14 its executive or administrative powers, authority or duties not expressly vested in
15 specific officers by the charter, to any county officer or officers or county employee
16 or employees.”

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19 4.41 Washington Constitution article 11 Section 5 provides “The legislature, by general and
20 uniform laws, shall provide for the election in the several counties of boards of
21 county commissioners, sheriffs, county clerks, treasurers, prosecuting attorneys
22 and other county township or precinct and district officers, as public convenience
23 may require...” Section 4 makes Section 5 inapplicable to home rule charter counties.
24 Section 4 does not plainly state that Sheriffs may be appointed. Sheriff elections may be
25 affected by home rule charter, but not abolished.

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29 4.42 Washington Constitution has no express provision for appointed sheriffs, like other states
30 such as Colorado’s article 20 Section 2: “The officers of the city and county of Denver
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shall be such as by appointment or election may be provided for by the charter...”
or Arizona’s article 12 section 8: “A county charter may provide for the election or
appointment of county officers established under Section 2 of Article 12 (which
includes the sheriff), as well as additional officers.”, or California’s art. 11 Section 4(c):
“An elected sheriff, an elected district attorney, an elected assessor, other officers,
their election or appointment, compensation, terms and removal.” Idaho has a
provision mandating the legislature provide for the election of County Sheriffs, but the
Legislature adopted statutes expressly permitting appointed sheriffs, see IC Section 31-
5212, 5310, 5407, 5509, and 5609. Hawaii has no constitutional mandate on election of
Sheriffs, but has a state statute that the sheriff may be appointed. Same in Montana. In
Oregon, Sheriffs are elected with limited temporary appointments for vacancies for
example.

4.43 There is no constitutional office of the County executive.

4.44 Washington’s Legislature has not by statute authorized appointment of Sheriffs.
Washington’s Legislature has mandated county elections of county sheriff, RCW
36.16.030 provides as follows: “Except as provided elsewhere in this section, in
every county there shall be elected from among the qualified votes of the
county...a county sheriff...” RCW 36.28.010 places the Sheriff in the chief executive
role: “A Sheriff is the chief executive officer and conservator of the peace of the
county.”

4.43 Petitioners seek a legal determination of their rights under the Constitution, County
Charter, state statute, and County ordinances.

4.44 Petitioners seek the relief set forth below to preclude further impairment of their rights.

1 V. CAUSES OF ACTION

2 First Cause of Action

3 **Direct Cause of Action: Article 11 Section 4 & 5**

- 4
- 5 5.1 Washington Constitution does not authorize appointment of County Sheriffs.
- 6 5.2 Washington Constitution article 11 Section 5 compels the Legislature to provide for the
- 7 election of Sheriffs and pursuant to Section 4 authorizes the Legislative body of home rule
- 8 Charter counties to provide for the election of Sheriffs.
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- 10 5.3 Washington mandates election of county sheriffs in statute, RCW 36.16.030. While the
- 11 statute excepts other officers like the coroner – no such exception exists for the Sheriff. A
- 12 Sheriff is the chief executive officer and conservator of the peace in the county, RCW
- 13 36.28.010.
- 14
- 15 5.4 Home Rule Charter Counties hold the same legislative powers as the state, but do not have
- 16 more power than the state and must act in accordance with state constitution and state law.
- 17 Where the State may not appoint Sheriffs, neither then may counties. Counties may affect
- 18 the election of Sheriffs, but may not eliminate Sheriff elections.
- 19
- 20 5.5 In *State v. Gormley*, 53 Wash. 543, 102 P. 435 (1909), the court declared: "The people have
- 21 the first and highest right to have officers of their own choosing; and no other method of
- 22 placing incumbents in an elective public office, such as by appointment, can be tolerated
- 23 under such a system without doing violence to the plain spirit of our Constitution, save
- 24 only in cases of vacancy, which cannot occur as long as one in the office holding under
- 25 election by the people is eligible, duly qualified, and his successor has not been elected and
- 26 qualified in the same manner."
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1 5.6 County government shall be uniform throughout the state under article 11 section 4, subject
2 to home rule counties carrying out legislative duties at the local level. Counties lack
3 constitutionally required uniformity where King and potentially Pierce County appoint a
4 Sheriff who is then controlled by a partisan Executive. Pursuant to Supreme Court
5 authority like the *Snaza* decision, County Sheriffs are constitutional officers whose
6 authority may not be usurped by legislative bodies or other officials. Pierce County's
7 Prosecutor claims Sheriff Swank is not a constitutional officer and must act subordinate to
8 other officials despite his election. Robnett's advice that the Sheriff is not an officer of the
9 people is further advanced by eliminating the Sheriff's election and having the Executive
10 appoint the Sheriff. Amendment 53 violates constitutional uniformity where Washington's
11 two largest counties with spectacularly high crime rates suppose their Sheriffs are
12 subordinate officers without independence while every other County may be protected by
13 Sheriffs with full and exclusive authority to make them safe. The state lacks uniformity
14 where some counties the office belongs to the people, and in others the sheriff belongs to
15 the Executive.

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21 5.7 Article 11 section 4 expressly authorizes termination of incumbent elected officers' terms
22 only upon initial charter adoption, not upon charter amendment. A charter amendment is
23 not a constitutionally sound procedure for removal of an elected official midterm. Pierce
24 County's own Charter sets the term of office at four years. Amendment 53 did not change
25 that term. Substituting an elected sheriff with an appointed sheriff midterm not only
26 violates the Constitution and local Charter, but it violates RCW 36.16.030 that mandates
27 that an elected sheriff be elected in every county, which Pierce County did. Pierce
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County's Charter Commission had no authority to send to Pierce County electors a Charter Amendment that violates the Constitution, its own Charter, and state statute.

5.8 Local home rule counties may affect the election of county Sheriffs, but may not eliminate them. Counties may choose to elect partisan Sheriffs, but may not take away the electors' non-partisan Sheriff mid-term. Counties may set two, four, or six year terms of office for Sheriff, but may not reduce a four-year term to two post-election.

5.9 The court should void Charter Amendment 53 and enjoin Pierce County from placing the amendment on the ballot. Sheriff Swank was elected during a presidential election when voter turnout was at its highest. Amendment 53 will be on the ballot where far fewer voters will decide the outcome.

5.10 Pierce County should be enjoined from further violations of the Constitution and impairment of petitioners' rights. Petitioners have suffered immediate and concrete harm. The investment Rogge and Joseph made in Sheriff Swank's election has been devalued. Their votes for Sheriff Swank undermined and the value of is success depreciated. All Petitioners have been forced to invest time and resources opposing a measure that is not constitutionally sound and inconsistent with Pierce County Charter. The public is harmed having the status quo impaired and having their Sheriff distracted having to form a political action committee and invest time and resources in a campaign midterm when his time and focus should be on public safety and serving his constituents. The Sheriff has lost the value of his success in an election.

5.11 Pierce County should be ordered to pay the attorney's fees and costs petitioners incurred in obtaining relief from violation of petitioner's constitutional rights.

Second Cause of Action

Direct Cause of Action: Article 1 Section 1 and Section 19 and Article 11 Section 8.

5.12 The people of Pierce County control the office of Sheriff. Article I Section 1 reserves all political power for the people: “All political power is inherent in the people, and governments derive their just powers from the consent of the governed, and are established to protect and maintain individual rights.” Pierce County Charter Amendment contains a provision to ouster Pierce County’s Sheriff from office mid-term on January 1, 2027 and take the people’s Sheriff and his office away from them.

5.13 Pierce County elected Sheriff Swank in 2024. The expiration of his four-year term is January 1, 2029, which was the duration of service under which the voters elected him.

5.14 Pierce County has not recalled the Sheriff. No one has charged the Sheriff criminally.

5.15 Petitioners as electors of Pierce County have the constitutional right to choose Pierce County Sheriff, which is a sovereign right that cannot be circumvented by an intervening appointment.

5.16 Article I Section 19 prohibits interference with the free exercise of the right of suffrage: “All Elections shall be free and equal, and no power, civil or military, shall at any time interfere to prevent the free exercise of the right of suffrage.” Principal County offices are to be of the people’s choosing, and appointment may not be substituted for election except in genuine vacancy situations. Amendment 53 interferes with the 2024 election of Sheriff Swank by proposing to cut short the term of his office and by eliminating the election of Sheriff altogether.

5.17 The Constitution allows for recall, article I Section 33, not mid-term usurpation of the an elected office.

1 5.18 Pierce County through charter amendment may not interfere with the voters' free exercise
2 of their voting rights under article I Section 19.

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4 5.19 Article XI Section 8 provides that "The salary of any county...officer shall not
5 be...diminished after his election, or during his term of office; nor shall the term of
6 any such officer be extended beyond the period for which he is elected or
7 appointed." Amendment 53 proposes to ouster Sheriff Swank mid-term, which would
8 diminish his salary or amount to a gross waste or improper gifting of funds if paid out once
9 removed in violation of article XI Section 8.

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11 5.20 This provision also expressly addresses *extension* of terms, which reflects the broader
12 constitutional principle that the term of an elected officer is fixed and protected.
13 Amendment 53 impairs the fixed term of the Sheriff's service in violation of Article XI
14 Section 8 by reducing the term.

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16 4.21 The court should void Charter Amendment 53 and enjoin Pierce County from placing the
17 amendment on the ballot.

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19 5.22 Pierce County should be enjoined from further violations of the Constitution.

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21 5.23 Pierce County should be ordered to pay the attorney's fees and costs petitioners incurred
22 in obtaining relief from violation of petitioners' constitutional rights.

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24 **Third Cause of Action**

25 **Uniform Declaratory Judgments Act – RCW 7.24**

26 5.24 Petitioners seek a judicial determination of their rights under Pierce County Charter, state
27 statutes, and Washington Constitution.

1 5.25 Petitioners seek a declaratory order that the Sheriff's Office is an elected office that Pierce
2 County has occupied by electing a County Sheriff and such occupancy by the elector's
3 choice may not be prematurely terminated by Charter Amendment.
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5 5.26 Pierce County Sheriff is an elected office.

6 5.27 Washington Constitution art. 11 Section 5 obligates the Legislature to provide for the
7 election of a Sheriff. Washington statute mandates election of county sheriffs. RCW
8 36.16.030.
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10 5.28 Washington Supreme Court has confirmed that the office of the Sheriff is a constitutional
11 office and art. 11 Section 5 protects the people's right to elect their county officers. *Snaza*
12 *v. State*, 2 Wn. 3d 128, 534 P.3d 1181 (2023). Legislative interferences with the sheriff's
13 core functions by appointing someone to carry out those functions would
14 unconstitutionally deny the electorate's right to choose who provides the services of an
15 elected office.
16

17 5.29 While Section 5 does not apply to charter counties per Article 11 Sec. 4, charter counties
18 are not more powerful than the state, and must operate within the Constitution and laws of
19 the state. The Supreme Court has interpreted the Section 4 amendments for home rule to
20 mean charter counties hold those powers conferred upon the legislature under Article 11
21 Section 5. *State Ex. Rel. Carroll v. King Cnty.*, 78 Wn. 2d 452, 474 P.2d 877 (1970).
22 Charter counties have as broad of legislative powers as the state, but counties may not
23 contravene any constitutional provision or statute. *King County v. Pub. Disclosure*
24 *Comm'n.*, 93 Wn. 2d 559, 611 P.2d 1227 (1980). Thus, in Pierce County where it has a
25 home rule charter, Pierce County's legislative body must fulfill the constitutional mandate
26 of Section 5 and provide for the election of a Sheriff.
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- 1 5.30 Article II Sec. 4 has a uniformity clause that precludes a disparity in power among counties.
2 Here, all but one Washington county has elected sheriffs with constitutional authority that
3 may not be controlled legislatively. State statute clearly mandates election, not
4 appointment, of County Sheriff, RCW 36.16.030. In home rule counties then, the Sheriff
5 must also be elected. The election may be affected locally, but may not be eliminated.
6 Uniformity requires all Sheriffs in Washington have powers grounded in the constitutional
7 office free from usurpation by other officials. All County Sheriffs are required to serve the
8 people, not a partisan executive who is not a constitutional officer of equal authority.
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11 5.31 Other states expressly authorize appointed sheriffs in statute and their constitution.
12 Washington does not recognize Sheriff's office appointment in the Constitution.
13 Washington's Legislature has mandated election, not appointment, of County Sheriffs.
14 RCW 36.16.030. In 2026 the Legislature passed statutory amendments on Sheriff's
15 qualifications, SB 5974, but never amended RCW 36.16.030 to allow for appointed
16 Sheriffs. The Sheriff's Association filed suit to void 5974, presently pending in Thurston
17 County Superior Court.
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21 5.32 Pierce County Sheriff must be elected. Pierce County by Charter may affect the election,
22 but may not convert the office to an appointed office to eliminate election all together.
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24 5.33 Whether Pierce County has an elected Sheriff and the term of service once elected are
25 matters of public importance. Statewide media have been covering Charter Amendment
26 53 and its ramifications on the continued service of the Pierce County Sheriff.
27
28 5.34 Petitioners and Sheriff Swank have genuine and opposing legal interests to Pierce County.
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1 5.35 The interests of Petitioner and Pierce County are direct and substantial and of immediate
2 interest in resolution prior to the measure appearing before the voters on the November
3 ballot.
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5 5.36 A judicial declaration will effectively and finally terminate the controversy or uncertainty.

6 5.37 The constitutionality of Charter Amendment 53 is justiciable.
7

8 5.38 Whether Charter Amendment 53 violates Pierce County Charter and state statute is
9 justiciable.

10 5.39 Pierce County electors will have before them in the November election Charter
11 Amendment 53 absent Court intervention.
12

13 5.40 Charter Amendment 53 would create an appointed sheriff effective January 1, 2027,
14 terminate the incumbent Sheriff's elected term before January 1, 2029, and leave
15 unchanged other Charter provisions governing election, vacancy, and four-year terms.
16 Petitioners allege that these conflicts render the amendment unlawful under the
17 Washington Constitution, RCW 36.16.030, and the Pierce County Charter.
18

19 5.41 Pierce County's Charter Amendment 53 contains verbiage irreconcilable with Pierce
20 County Charter and state statute. This includes disregard of the four-year term of Office
21 for the Sheriff and when the office may be deemed vacant or the term ended. This also
22 includes the mandate for county elected sheriffs.
23

24 5.42 Pierce County's Charter Amendment 53 violates Constitutional and state law obligations
25 to provide for the election of a Sheriff, and that vest power with the people and their rights
26 as the electorate to the candidate of their choosing subject only to removal from office via
27 recall or abandonment, Article 1 Sections 1, 33, and 34.
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29 5.43 Pierce County may not put Pierce County Charter Amendment 53 before the voters.
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1 5.44 The Court should void Pierce County Charter Amendment 53.

2 5.45 Petitioner has incurred costs and attorney's fees seeking a legal determination of
3 petitioner's rights. The Court should order Pierce County to pay Petitioner's attorney's
4 fees and costs.
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6 **Fourth Cause of Action**

7 **Unconstitutional Bill of Attainder – Art. 1 Sec. 23**

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9 5.46 Washington Constitution prohibits bills of attainder: "No bill of attainder, ex post facto
10 law, or law impairing the obligations of contracts shall ever be passed."

11 5.47 Amendment 53 is an unlawful bill of attainder. A charter amendment is a "bill" because
12 elected county Charter Commissioners have recommended the governing charter of Pierce
13 County be amended and approved by the voters.
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15 5.48 Amendment 53 is specific to Sheriff Swank, the sole and only elected Sheriff to serve as
16 the elected Pierce County Sheriff whose term may be prematurely expired by Amendment
17 53. He is the easily ascertainable target of Amendment 53.
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19 5.49 Amendment 53 proposes to terminate Sheriff Swank's term of office before he has served
20 his full four-year term. The purpose of the Amendment was to disqualify him and any
21 deter against future prospective Sheriffs who exercise protected speech and association
22 disfavored by the Executive. The Sheriff's supporters and electors lose their elected Sheriff
23 and, in the process, lose their power over Pierce County government that the Constitution
24 art. 1 Section 1 promised to them. The judgment of the electorate is substituted and
25 replaced with the judgment of the Executive. The Sheriff's duties of loyalties shift away
26 from the people and into the political and partisan office of the Executive. The people
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1 elected a non-partisan Sheriff whose power would be prematurely revoked and put in the
2 hands of the partisan elected Executive and partisan elected Council.

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4 5.50 Animosity towards Sheriff Swank precipitated Amendment 53, and setting the date of
5 implementation during his term to remove him from office prematurely. Executive Mello
6 will not appoint Swank and the majority of the Council would not approve him were Swank
7 Mello's choice, which he is not. Mello has publicly stated he is ready to appoint and it will
8 not be Swank. Mello is seeking to convert elected offices to appointed offices to centralize
9 control of County government in his office.
10

11
12 5.51 Amendment 53 punishes Sheriff Swank and his electors and supporters. Amendment 53
13 punishes the people of Pierce County who participated in the 2024 elections. The electors
14 voted for an Executive who had no appointing authority over the Sheriff. The electors did
15 not pick an Executive to control the Sheriff. The electors selected their County officials
16 expecting them to fulfill the terms of their office without substitution. The electors voted
17 for and selected a non-partisan Sheriff. They did not empower a Democrat to appoint a
18 Democrat Sheriff whose duties of loyalty would be partisan.
19
20

21 5.52 Sheriff Swank is a highly visible Sheriff whose social media, media interviews, and other
22 expressions and associations of public interest do not align with the political or personal
23 viewpoints of other Pierce County Officials and their supporters. The Charter review
24 public discussions on the topic of Amendment 53 were critical of Sheriff Swank.
25

26 5.53 Certain Pierce County Officials have sought to suppress Sheriff Swank's voice and have
27 suppressed his voice, denying him right to counsel of his choosing, even at his own
28 expense, and restricting his rights of association and redress.
29
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31

1 5.54 Amendment 53 effectively silences Sheriff Swank and his supporters by removing him
2 from office by way of Charter Amendment, which is not a recognized process for cutting
3 short the term of an elected official.
4

5 5.55 Amendment 53 bypasses all due process for the electorate and Sheriff Swank wherein there
6 is no judicial trial afforded.
7

8 5.56 Petitioners voted in the Sheriff's race. Rogge and Joseph voted for him. None of the
9 petitioners want the Sheriff removed using a Charter Amendment to undermine the will of
10 the people. All of the petitioners oppose removal of an elected official midterm absent
11 recall or other findings in a court of law that he has engaged in criminal misconduct that
12 compels forfeiture of his office. There has been no certified recall, although petitions have
13 circulated petitions, and Sheriff Swank has not been charged with any criminal
14 wrongdoing.
15
16

17 5.57 Amendment 53 substitutes the will of the Executive and Council with the will of the people
18 including petitioners who voted in the Sheriff's election to decide who would be Sheriff
19 until January 1, 2029.
20

21 5.58 The Court should void Amendment 53 as an unconstitutional bill of attainder and bar its
22 inclusion on the ballot.
23

24 VI. PRAYER FOR RELIEF

25 6.1 An order voiding 2026 Proposed Charter Amendment 53 Appointed Sheriff void in
26 contravention to Washington Constitution;
27

28 6.2 An order enjoining Pierce County Auditor and the Election's Division from placing 2026
29 Proposed Charter Amendment 53 Appointed Sheriff on the ballot;
30
31

- 1 6.3 An order barring Pierce County from future violations of Washington's Constitution on the
2 same or similar grounds;
3
4 6.4 An order awarding reasonable attorney's fees and costs to petitioner to be paid by Pierce
5 County;
6
7 6.5 For such other and further relief as the Court deems just and equitable.

8 Dated this 21st day of August, 2026.

9 III Branches Law, PLLC

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Joan K. Mell, WSBA #21319
Attorney for Petitioners

I, Brian Sonntag, have read the above stated Petition and believe that facts to be true to the best of my abilities.

Brian Sonntag August 21, 2026
Brian Sonntag

I, Hollie Rogge, have read the above stated Petition and believe the facts to be true to the best of my abilities.

Hollie Rogge August 21, 2026
Hollie Rogge

I, Jeff Joseph, have read the above stated Petition and believe the facts to be true to the best of my abilities.

Jeff Joseph August 21, 2026
Jeff Joseph