

November 10, 2008

No. 8287

This opinion is issued in response to a question from the director of the Department of Public Safety Standards and Training (DPSST) as to the statutory qualifications for county sheriffs and the constitutional power of home rule counties to prescribe qualifications for county officers. This inquiry in part arises from a recent request by a person appointed to complete the term of the former sheriff of Multnomah County for a waiver of the basic academy training required by DPSST in order to obtain state certification as a police officer.

A 1980 Attorney General's opinion, 40 Op Atty Gen 464 (1980), concludes that the sheriff of a constitutional home rule county need not meet the statutory qualifications for sheriff, unless the county charter also adopts those requirements. The director of DPSST asks us to reconsider that opinion in light of another constitutional provision not addressed in that opinion and subsequent appellate cases that address the method to interpret constitutional amendments approved by the people.

QUESTION PRESENTED

Must the sheriff or a candidate for sheriff of Multnomah County meet the requirements for a sheriff set by ORS 206.015, including the requirement to be, or to become, certified as a police officer by the DPSST?

SHORT ANSWER

Yes.

DISCUSSION

I. Pertinent Constitutional, Statutory, and Charter Provisions

Article VI, section 10 (section 10), of the Oregon Constitution was the principal focus of the 1980 Attorney General's opinion. Among other items, section 10 provides that a home rule county charter may provide for a county's exercise of authority over matters of county concern and shall provide the qualifications for county officers the county deems necessary:

The Legislative Assembly shall provide by law a method whereby the legal voters of any county, by majority vote of such voters voting thereon at any legally called election, may adopt, amend, revise or repeal a county charter. ***A county charter may provide for the exercise by the county of authority over matters of county concern.*** Local improvements shall be financed only by taxes, assessments or charges imposed on benefited property, unless otherwise provided by law or charter. ***A county charter shall prescribe the organization of the county government and shall provide directly, or by its authority, for the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the county deems necessary.*** Such officers shall among them exercise all the powers and perform all the duties, as distributed by the county charter or by its authority, now or hereafter, by the Constitution or laws of this state, granted to or imposed upon any county officer. Except as expressly provided by general law, a county charter shall not affect the selection, tenure, compensation, powers or duties prescribed by law for judges in their judicial capacity, for justices of the peace or for district attorneys. * * * [Provisions related to referred measures and initiatives omitted.]

(Emphasis added).

By contrast, Article VI, section 8 (section 8), of the Oregon Constitution expressly provides that a county sheriff must possess “other qualifications as may be prescribed by law”:

Every county officer shall be an elector of the county, and the county assessor, ***county sheriff***, county coroner and county surveyor ***shall possess such other qualifications as may be prescribed by law.*** All county and city officers shall keep their respective offices at such places therein, and perform such duties, as may be prescribed by law.

(Emphasis added.)

The legislature has prescribed qualifications for a candidate for election or appointment as county sheriff in ORS 206.015. Among other requirements, this statute establishes that a sheriff must be or become certified by DPSST:

- (1) A person is not eligible to be a candidate for election or appointment to the office of sheriff unless:
 - (a) The person is 21 years of age or older;
 - (b) The person has at least four years’ experience as a full-time law enforcement officer or at least two years’ experience as a full-time law enforcement officer with at least two years’ post-high-school education; and
 - (c) The person has not been convicted of a felony or of any other crime that would prevent the person from being certified as a police officer under ORS 181.610 to 181.712.

* * *

(3) If the person is not certified as a police officer by the Department of Public Safety Standards and Training at the time of accepting appointment or filing as a candidate, a person elected or appointed to the office of sheriff must obtain the certification not later than one year after taking office. A copy of the certification shall be filed with the county clerk or the county official in charge of elections. The county governing body shall declare the office of sheriff vacant when the person serving as sheriff is not certified as a police officer within one year after taking office. * * *.

ORS 206.015.

Multnomah County is a constitutional home rule county. Its charter describes the office of sheriff as follows:

The people of Multnomah County shall elect:

- (1) A county sheriff for the function of said office as prescribed by state law and he or she shall have sole administration of all county jails and correctional institutions located in Multnomah County.
- (2) Notwithstanding any other charter provision to the contrary, the salary for the sheriff shall be fixed by the board of county commissioners in an amount which is not less than that for any member of the sheriff's office.

Multnomah County Charter, § 6.50.

As noted above, the 1980 Attorney General's opinion indicates that "the county charter and ordinances adopted under it govern the qualifications of the sheriff or equivalent officer of the home rule county. [ORS 206.015] do[es] not apply." 40 Op Atty Gen at 465. But the 1980 opinion does not analyze the interplay between sections 8 and 10, which potentially conflict with one another. To determine whether the provisions actually do conflict and, if so, which provision controls, we must interpret these two people-approved constitutional provisions.

II. Analytical Framework

In interpreting a constitutional provision approved by the people, our aim is to give effect to the intent of the people. *Flavorland Foods v. Washington County Assessor*, 334 Or 562, 567, 54 P3d 582 (2002). The best evidence of the people's intent is the text of the provision itself, viewed in context. *Li v. State of Oregon*, 338 Or 376, 388, 110 P3d 91 (2005). Words of common usage are given their plain, natural, and ordinary meaning. Context includes other relevant constitutional provisions, case law from the Oregon Supreme Court, and any relevant statutory framework in effect when the voters adopted the provision. *Flavorland Foods*, 334 Or at 567-69; *Li*, 338 Or at 388-89. In interpreting the text and context of a voter-adopted constitutional provision, we also consider maxims of construction that bear directly on how to construe text and context, such as the familiar maxim that a later or more particular amendment prevails over an earlier or more general constitutional provision. *Li*, 338 Or at 390 (later or more particular constitutional provision controls); *In re Fadeley*, 310 Or 548, 560, 801 P2d 31 (1990)

(later constitutional provision modifies earlier one); *Hoag v. Washington-Oregon Corp.*, 75 Or 588, 613-14 (1914), 144 P 574, 147 P 756 (1915) (same).^{1/}

If the text and context of the constitutional provision are clear, no further analysis is required. We are cautious about ending the analysis at the text and context level, however, because “the text and context of a constitutional provision [do not usually] reflect the intent of the voters so clearly that no alternative reading of the provision is possible.” *Coultas v. City of Sutherlin*, 318 Or 584, 590, 871 P2d 465 (1994). If the text and context permit alternative readings, we look at the enactment history of a referred measure and consider relevant materials contained in the Voters’ Pamphlet, such as the ballot title and the explanatory statement. *Flavorland Foods*, 334 Or at 575.

In the absence of a state constitutional limit or a limit set by federal law, the legislature has authority to adopt a statute setting qualifications for county sheriffs. See *Kellas v. Dept of Corrections*, 341 Or 471, 478, 145 P3d 139 (2006) (discussing plenary lawmaking authority of the Oregon legislature); *State ex rel Powers v. Welch*, 198 Or 670, 672, 259 P2d 112 (1953). The question, then, becomes whether section 10 amounts to a limit on the legislature’s power under section 8 to establish minimum qualifications for the sheriff of a constitutional home rule county.

III. Analysis

Following the methodology described above, we begin with the text of the pertinent constitutional provisions. We then proceed to examine the context surrounding those provisions. Finally, we examine historical materials dating to the adoption of the pertinent constitutional provisions.

A. Text

The text of section 8, standing alone, is not ambiguous. It requires a county sheriff to meet qualifications “prescribed by law.” ORS 206.015 contains various qualifications prescribed by law for sheriffs. In the absence of any contrary provision, section 8 would require the Multnomah County sheriff to meet those requirements, including certification by the Department of Public Safety Standards and Training. ORS 206.015(3). Neither is section 10 ambiguous when considered in isolation. In part, that section provides that a home rule county “shall provide, directly or by its authority, * * * for the * * * qualifications * * * of such officers as the county deems necessary.”

Although section 8 and section 10 are clear when considered alone, they arguably give conflicting authority either to the legislature or to a home rule county to set the qualifications for sheriffs. We see at least three ways in which the sections potentially may interact. First, section 8 may permit the legislature to establish qualifications that apply to all county sheriffs while section 10 allows a home rule county to establish additional qualifications. Second, section 8 may remove the office of county sheriff from the set of county officers for which home rule counties are authorized to establish qualifications. Finally, section 10 may allow a home rule county to establish the exclusive qualifications for its county sheriff and in effect exempt such a sheriff from the operation of section 8. While the Attorney General’s 1980 opinion adopted this

last interpretation, it did so without any disclosed analysis. By contrast, we now believe that each of the foregoing three alternative interpretations is plausible.

“The question, then, becomes whether or to what extent those constitutional provisions are reconcilable with each other.” *State ex rel Adams v. Powell*, 171 Or App 81, 89, 15 P3d 54 (2000), *rev dismissed by* 334 Or 693, 56 P3d 405 (2002). Accordingly, we attempt to harmonize the two provisions. *In re Fadeley*, 310 Or at 560.

Section 8 and section 10 can be reconciled by reading them to give both the legislature and home rule counties authority to establish qualifications for sheriffs. As the Oregon Supreme Court has recognized, authorizing both entities to establish qualifications does not by itself create a conflict. “It is entirely possible to grant certain powers to local governments to act on their own initiative without at the same time limiting the powers of the state legislature.” *LaGrande/Astoria v. PERB*, 284 Or 173, 176, 856 P2d 765 (1978). To similar effect, the Oregon Supreme Court concluded in *In re Fadeley*, 310 Or at 558, that the constitutional authority of the legislative branch to “regulate elections and to provide penalties for violations of election rules” did not “establish[] that the judicial branch may not itself regulate election activities of its members and potential members” despite the claim that the enactments of the Legislative Assembly were incompatible with the canons of judicial conduct that formed the basis of the action against a justice accused of misconduct.

Although it is possible that the actual qualifications for sheriff set by state law and by a county charter could irreconcilably conflict in a particular case, we believe such a conflict is unlikely. For example, if state law were to require two years of post-high school education while a home rule charter required four years and a degree, there would be no direct conflict between the requirements. Because an individual could meet both requirements by meeting the more stringent of the two, a policy determination that an officer should possess *at least* specified qualifications does not seem to us inconsistent with another policy determination that the officer should at least possess another set of qualifications.

We think it is unlikely that the state and county would adopt incompatible qualifications for the office of sheriff – that is, qualifications that would be mutually exclusive.^{2/} More to the point, even such a conflict between sub-constitutional qualifications would not necessarily create an unavoidable conflict between the constitutional provisions themselves. It may be possible to interpret the provisions in such a way that one section would take priority over the other without rendering the other inoperative. We need not resolve that question here, however, because Multnomah County has not adopted qualifications for the office of sheriff that contravene the requirements of ORS 206.015. In other words, the requirements imposed by the state under authority of section 8 and those imposed by the county under authority of section 10 do not conflict.

Other interpretations of the interplay between sections 8 and 10 would not foster harmony. Instead, they would require reading one or the other constitutional provision to effectively override the other. For example, interpreting section 8 to mean that home rule counties may not impose requirements supplemental to those imposed by state law would be inconsistent with the full scope of a county’s obligation to provide for the officer’s qualifications. Conversely, interpreting section 10 to allow sheriffs of home rule counties to avoid “qualifications as may be prescribed by law” would ignore the fact that section 8 explicitly

applies to “[e]very county officer” and allows state law to establish qualifications for the county sheriff.

In short, based on the text of Article VI, sections 8 and 10, we do not perceive any unavoidable conflict between the two provisions as they apply to the Multnomah County sheriff. Section 8 requires county sheriffs to meet qualifications imposed by law, and section 10 requires counties to provide for the qualifications of its officers. These provisions can be harmonized by understanding them to authorize both the legislature and the county charter to establish qualifications that the sheriff must possess.

B. Context

The evolution of the relevant provisions provides strong contextual support for our efforts to harmonize them. History of this type is regarded as context under the interpretive method of the Oregon Supreme Court, and is considered at the first level of that method’s analysis. *See George v. Courtney*, 344 Or 76, 84, 176 P3d 1265 (2008) (context “includes related constitutional provisions that were in place when the provision in question was adopted”); *Kerr v. Bradbury*, 193 Or App 304, 312, 89 P3d 1227 (2004), *rev dismissed by* 340 Or 241, 131 P3d 737 (2006) (“Part of the relevant context is changes to the wording of the provision itself.”)

A prior version of section 8 appeared in the original 1859 Oregon Constitution. That original version did not require any county officers to meet requirements set by statute, but did require that officers be electors of the county.^{3/} In 1953, the Oregon Supreme Court decided that the legislature could not add to this constitutional requirement. *State ex rel Powers v. Welch*, 198 Or at 672-673 (because section 8 expressly required the county surveyor to be an elector of the county, the legislature had no authority to add to the constitutional qualifications).

During the next legislative session in 1955, the legislature referred a proposed amendment to section 8 to the people that added a requirement for the county coroner and county surveyor to possess “such other qualifications as may be prescribed by law.” HJR 7 (1955). This amendment was approved by the people on November 6, 1956. In 1971, the legislature referred a further amendment to section 8 to include the county sheriff among those required to possess qualifications prescribed by law. HJR 42 (1971). The latter amendment was approved by the people on November 7, 1972.

Section 10, the home rule provision, was referred by the legislature to the people in 1957. HJR 22 (1957). It was approved at the November 4, 1958 general election. Although section 10 subsequently has been amended, the language concerning the qualifications of county officers remains unchanged since its initial adoption.

We derive two salient points from this chronology. First, the home rule provisions were adopted in the context of a constitution that authorized the legislature to establish qualifications for certain county officers in every county. Second, the sheriff was added to the list of county officers for whom state law may set qualifications after the adoption of the home rule provisions. This chronology by itself suggests to us that we have correctly understood the interplay between section 8 and section 10. The adoption of a constitutional amendment requiring sheriffs to meet qualifications imposed by law after the approval of the county home rule provision suggests that

authority under the home rule provision to provide for officers' qualifications does not override the state's authority to set qualifications for sheriffs.

C. History

Although the text and context suggest this harmonious understanding of the interplay between sections 8 and 10, the Oregon Supreme Court has admonished that constitutional provisions are rarely so clear that analysis should stop at the first level. *Coultas v. City of Sutherlin*, 318 Or at 590. We cannot conclude that the interplay between sections 8 and 10 is free from any ambiguity, and it certainly is not so clear as to permit us to dismiss the court's instruction. We therefore examine the historical materials that accompanied the adoption of the relevant provisions. Those materials comport with our understanding of the text and context of the constitutional provisions.

We begin with the historical materials pertaining to section 10. As we previously indicated, that section was adopted on November 4, 1958. The associated materials provide significant guidance with respect to determining whether section 10 gives home rule counties exclusive authority to determine the qualifications of the sheriff.

The Explanation that accompanied section 10 in the Voters' Pamphlet for 1958 included a description of the interplay between state and county authority should the measure pass:

A county charter could not supersede any provision of the constitution or general state law as to matters of state concern, and a county which adopted a charter would have to fulfill all duties and requirements imposed upon it by the constitution and laws. However, the voters of any county could settle questions of county organization, functions, powers and procedures which are of concern only within a county by adopting, amending or repealing a local charter, instead of by seeking state legislation.

Official Voters' Pamphlet, General Election November 4, 1958, at 43. This statement is consistent with the rule that the state generally may legislate as to matters that affect home rule entities where the legislation pertains to the general welfare of the state and not strictly local matters.

At the time section 10 was adopted in 1958, that rule was established with respect to home rule municipalities. See *Schmidt v. Cornelius*, 211 Or 505, 529, 316 P2d 511 (1957) ("It is in consonance with our whole scheme of government that the legislature or the people of the whole state may enact a general law governing the exercise of municipal authority in matters not strictly local or municipal, but pertaining in part to the general welfare of the state, or the exercise of sovereign authority") (quoting *In re Boalt*, 123 Or 1, 17, 260 P 1004 (1927)). The rule now applies to home rule counties as well. See, for example, *Multnomah Kennel Club v. Dept of Rev.*, 295 Or 279, 286, 666 P2d 1327 (1983); *Seto v. Tri-County Metro Transportation Dist.*, 311 Or 456, 814 P2d 1060 (1991) (treating home rule counties and other local governments identically for purposes of the rule). In *LaGrande Astoria v. PERB*, 281 Or 137, 149, 156, 576 P2d 1204, *adhered to on rehearing* 284 Or 173 (1978), the Court described the general principle:

When a statute is addressed to a concern of the state with the structure and procedures of local agencies, the statute impinges on the powers reserved by the amendments to the citizens of local communities. Such a state concern must be justified by a need to safeguard the interests of persons or entities affected by the procedures of local government.

Conversely, a general law addressed primarily to substantive social, economic, or other regulatory objectives of the state prevails over contrary policies preferred by some local governments if it is clearly intended to do so, unless the law is shown to be irreconcilable with the local community's freedom to choose its own political form. In that case, such a state law must yield in those particulars necessary to preserve that freedom of local organization.

LaGrande/Astoria, 281 Or at 156 (footnote omitted).

We believe that this explanation is fully consistent with our understanding of the interplay between sections 8 and 10. In our view, the qualifications of a county sheriff are a matter of state concern. We reach that conclusion for a number of reasons. Most significantly, the constitutional provision requiring county sheriffs to possess qualifications required by law conclusively demonstrates that assuring the minimum qualifications of the sheriff is a matter of state concern.^{4/} The statute establishing those qualifications similarly indicates that this is an issue of state concern. And the legislature has clearly indicated that the training and certification of law enforcement officers is generally a matter of state concern. *See* ORS 183.639 and 183.640.

These legal pronouncements are consistent with the practical realities of the office of sheriff. The county sheriff is an important law enforcement officer in the county, responsible for enforcing state criminal laws as well as county ordinances. As such, the sheriff and deputies under the sheriff's command must be familiar with state criminal statutes and with state and federal requirements related to search and seizure, interrogation, invocation of a right to counsel, use of force, the rights of jail inmates, and other important aspects of criminal law and process. The sheriff must understand chain of custody issues, criminal investigatory techniques, and the Motor Vehicle Code. *See State v. Holmes*, 311 Or 400, 404-05, 813 P2d 28 (1991) (describing duties of sheriff as law enforcement officer); *LaGrande/Astoria*, 281 Or at 154-55 (acknowledging state's interest in competency of local police and firefighters).

In light of the above, permitting the legislature to set qualifications required of the county sheriff supports the state's legitimate policy goals of professionalizing law enforcement, ensuring lawful enforcement of state criminal laws, and protecting the constitutional rights of individuals. Moreover, the legislature's authority to set qualifications for county sheriff does not implicate the structure and procedures of home rule counties; it does not impinge upon a county's authority to "settle questions of county organization, functions, powers and procedures which are of concern only within a county." Official Voters' Pamphlet, General Election November 4, 1958, at 43. Home rule counties remain free to create offices to administer matters of county concern. Indeed, they also remain free to add to the qualifications set by state law for their county sheriffs. We do not see how requiring that sheriffs be capable of fulfilling their important duties with respect to state law would diminish the county's ability to insist that the sheriff also be capable of fulfilling duties to the county.

In sum, the explanatory statement indicating that charters under proposed section 10 “could not supersede any provision of the constitution or general state law as to matters of state concern” suggests that section 10 should not be interpreted to eliminate the state’s authority under section 8 to establish qualifications required of a county sheriff.

We turn next to the Voters’ Pamphlet materials related to the addition of the sheriff to the list of officers for which the law may provide qualifications. The Explanation in the Official Voters’ Pamphlet explained that the proposed amendment to section 8 was designed to give the legislature power to set qualifications for sheriff:

Under the Oregon Revised Statute, prior to the Legislative session of 1971, a person is not eligible to hold the office of Sheriff unless he is a citizen of the United States, a qualified elector under the Constitution, and a resident of the county in which he is elected for a period of one year next preceeding [*sic*] his election.

The Oregon Legislature of 1971 passed an act, Chapter 299, that set qualifications for the office of Sheriff.

The Sheriff shall: Section 1 – Be not less than 21 years of age, be certified or eligible for certification by the Board on Police Standards and Training, and have at least four (4) years experience in law enforcement or two years post-high school education or any combination of experience and education for at least four years.

Section 2 of [*sic*] this act does not apply to any sheriff in office on the operative date of this act.

Section 3 – This act shall not be operative unless the Constitution of the State of Oregon is amended by a vote of the people as proposed by enrolled House Joint Resolution 42 in the 1971 regular session.

If the amendment [to section 8] is passed, it would allow Chapter 299 (as above) to go into effect where persons running for office of Sheriff must qualify within the meaning of the statute.

Oregon law sets many duties for the Sheriff and he must have certain training and education to carry out those functions. It would appear to ensure the qualifications of education and training and that he must meet those qualifications before he is elected rather than afterwards.

To set certain qualifications for any position would appear to further the professionalization of that position, the best qualified man in any position is most likely to do a better job.

Should the vote carry the constitutional amendment, it would:

Place into effect Chapter 299 which was the qualifications set by the Legislature in the 1971 session. That particular act did set a required combination of experience and training.

Official Voters' Pamphlet, General Election November 7, 1972, at 8 (emphasis added). The legislative committee presented an argument in favor of the amendment, stating that "under the present constitutional provision, it is impossible to require any special qualifications of a person seeking the office [of sheriff]." *Id.* at 9.

At the time of this amendment, the home rule provisions of section 10 had been in effect for over a dozen years. And yet, neither the explanatory statement, nor any of the arguments for or against the amendment suggested that sheriffs of home rule counties would be exempt from the requirement that county sheriffs possess qualifications required by law. Similarly, Oregon Laws 1971, chapter 299, which the constitutional amendment carried into effect, contained no exception for sheriffs of home rule counties. The absence of any suggestion that sheriffs of home rule counties would be exempt from this requirement suggests that section 8 was intended to authorize the legislature to establish required qualifications for the sheriffs of home rule counties, notwithstanding section 10.

CONCLUSION

For the reasons above, we conclude that the Multnomah County sheriff must possess the qualifications required by state law, including the requirement that any sheriff not certified as a police officer must become certified within one year of taking office. ORS 206.015(3). In our view, there is no irreconcilable conflict between sections 8 and 10 of Article VI of the Oregon Constitution. Instead, we think that those two provisions are reconciled by the understanding that sheriffs are required to possess qualifications imposed by state law, along with possessing any qualifications required by the home rule county. Although we acknowledge some possibility that those qualifications could theoretically be incompatible, that is not the case with respect to the sheriff of Multnomah County. We decline to infer from a hypothetical conflict between subconstitutional qualification requirements an unavoidable conflict between the relevant constitutional provisions. In our view, the text, context, and history of the relevant constitutional provisions all favor this understanding. Moreover, this understanding is consistent with the rule that constitutional provisions should be harmonized, and conflict between them should be avoided, where it is possible to do so. To the extent that 40 Op Atty Gen 464 (1980) is to the contrary, we overrule that opinion.

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^{1/} The explanation of how this maxim applies is specifically articulated in the Oregon Supreme Court's cases on statutory construction. See *PGE v. Bureau of Labor and Industries*, 317 Or 606, 611, 859 P2d 1143 (1993). While we have not found a case that explains its application in the interpretation of

constitutional provisions, in practice, the court applies the maxim at the first level in cases involving the constitution. *Li v. State of Oregon*, 338 Or at 390. This practical treatment is consistent with the application of the maxim in the statutory context, which is in turn consistent with the fact that the court’s statutory and constitutional interpretive methods are essentially identical. See *State v. Lanig*, 154 Or App 665, 670, 963 P2d 58 (1998) (so noting).

^{2/} Article VI, section 10, requires counties to provide for “the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the county deems necessary.” We note that qualifications may be the only item from this list that can be set differently by two sources of authority without inevitable conflict. That is, if state law provided that a county shall have four officers, but a county were to deem only three officers necessary, conflict would ensue; the choice between election and appointment is a choice between two mutually incompatible options; tenure governs the length of time in office and different rules would create vacancies at different times; compensation is generally fixed at a certain dollar amount and two different dollar amounts cannot simultaneously be paid. With respect to “powers and duties,” the sentence immediately following this list explicitly permits counties to redistribute powers and duties as it deems prudent. Our opinion should not be understood to impinge on a home rule county’s authority with respect to any of these other areas. Instead, we deal specifically with the question of required qualifications of sheriffs, which not only are susceptible to multiple overlapping authorities, but also are specifically addressed by section 8 of Article VI.

^{3/} The 1859 Constitution, Article VI, section 8, provided, “No person shall be elected, or appointed to a county office, who shall not be an elector of the County; and all county township, precinct, and City officers shall keep their respective offices at such places therein, and perform such duties as may be prescribed by law.”

^{4/} The materials presented to the voters who approved adding the sheriff to the list of officers required to meet qualifications set by law confirm that the constitutional amendment reflects that the qualifications of sheriffs are a matter of statewide concern. That history is discussed later in this opinion.