Chapter 241

1981 REPLACEMENT PART

Civil Service for County Employes

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APPLICATION OF ORS 241.020 to 241.990

241.002 Creating or changing county civil service by election; definitions. (1) If the majority of voters of any county voting at a regular general election pursuant to ORS 241.006 approve a proposal to establish, substitute or amend a system of civil service under which county employes shall be employed, the system or amendments to an existing system of civil service approved by the voters shall apply to such county.

(2) If ORS 241.020 to 241.990 become applicable in a county, "board of county commissioners" as used in ORS 241.020 to 241.990 means the county court of a county which does not have a board of county commissioners.

(3) If ORS 242.702 to 242.824 become applicable in a county, "governing body" as used in ORS 242.702 to 242.824 means the board of county commissioners or county court of a county, as the case may be. [1959 c.315 §2]

241.004 ORS 241.002 to 241.012 not exclusive method for approval of system. ORS 241.002 to 241.012 and 241.020 shall not be construed to be an exclusive method by which counties may approve a system of civil service for county employes. [1959 c 315 §6]

241.005 [Amended by 1953 c.696 §5; 1959 c 315 §1; renumbered 241.020]

241.006 Initiative or referendum proposals relating to county civil service. At any regular general election, if a county does not have in operation a system of civil service for all county employes or if an existing system of civil service for all county employes is to be amended or substituted for by another system, the board of county commissioners or county court may refer, or by the exercise of the initiative there may be submitted, to the electors of the county a proposal:

(1) To make ORS 241.020 to 241.990 and any subsequent amendments thereto, providing a system of civil service under which county employes shall be employed, applicable to such county;

(2) To make ORS 242.702 to 242.824 and any subsequent amendments thereto, providing a system of civil service under which certain political subdivisions shall employ firemen, applicable to such county for all county employes;

(3) That provides a system of civil service which substantially accomplishes the general purposes of ORS 241.020 to 241.990 or 242.702 to 242.824, including methods of recruitment and promotion of county employes by competitive examinations and provisions for job tenure for county employes; or

(4) That amends an existing system of civil service previously approved by the voters under subsection (3) of this section. [1959 c 315 §3]

241.008 Procedure for submitting initiative proposal to voters. (1) In all counties where it is desired to submit a proposal under ORS 241.006 through the initiative procedure, the manner of exercising the initiative shall follow ORS 250.155 to 250.235.

(2) The printing and binding of the proposal and arguments for a proposal under ORS 241.006 shall be paid for by the county in like manner as payment is provided for by the state as to state legislation by ORS 255.410 to 255.450. The printing shall be done in the same manner as other county printing. Not later than the eighth day before the election at which the proposal is to be voted upon, the county clerk shall cause copies of the voters' pamphlets to be distributed in such a manner that a copy is available to each elector in the county.

(3) Arguments supporting or opposing a proposal under ORS 241.006 shall be filed with the county clerk not later than the 30th day before the election at which the proposal is to be voted upon. [1959 c 315 §4, 1979 c 190 §409]

241.010 [Amended by 1953 c 696 §5, 1959 c 252 §44, renumbered 241 025]

241.012 Procedure for referring proposal to voters. In the event a proposal under ORS 241.006 is referred to the electors of the county by the board of county commissioners or the county court, as the case may be, the board of county commissioners or county court shall place the proposal on the ballot. Notice of the proposal shall be published in a daily newspaper of general circulation throughout the county at least twice a week for a period of three consecutive weeks before the election. In case there is no daily newspaper with wide circulation in the county, then publication shall be made in a weekly newspaper for four consecutive weeks before the election. [1959 c 315 §5]

241.015 [1953 c 696 §4, renumbered 241 030]

241.020 Counties subject to ORS 241.020 to 241.990. Except as provided in ORS 241.002 the provisions of ORS 241.020 to 241.990 apply to all counties of this state having a population of 300,000 persons or more. [Formerly 241.005]

241.025 Positions subject to civil service; exceptions. All appointees to positions in the public service of the county are subject to civil service, except the following:

(1) Any officer chosen by popular election, or appointed to fill a vacancy caused by the death, resignation or removal of any officer chosen by popular election.

(2) Any official reporter, bailiff or crier, subject to appointment by any court or judge or justice thereof.

(3) Any person employed to perform manual labor, skilled or unskilled, in the construction, maintenance and repair of county property; provided, that electrical workers, members of road and bridge crews and laborers permanently employed shall be subject to civil service unless otherwise provided in ORS 241.020 to 241.990.

(4) Any special deputy sheriff or deputy constable appointed to act without compensation from the county.

(5) Any member of the county civil service commission.

(6) Any deputy district attorney.

(7) Any doctor, nurse, intern or superintendent or other executive officer, employed by, in or at the county hospital, county poor farm, or any home maintained by the county for the detention or care of juveniles.

(8) The roadmaster of the county.

(9) Any temporary, part-time or seasonal employe.

(10) Any person holding a position subject to the jurisdiction of the commission created by ORS 242.706.

(11) Any chief examiner appointed under ORS 242.716.

(12) Any assistants to a board of county commissioners.

(13) Any undersheriff, deputy undersheriff or administrative aide to a sheriff. [Formerly 241.010; 1961 c 135 §1; 1963 c.331 §9, 1981 c.48 §6]

241.030 Effect on incumbent when position first becomes subject to civil service. (1) All persons holding positions subject to civil service under ORS 241.020 to 241.990 at the time such position first becomes subject to civil service and who have been employed in the public service of the county continuously for a period of at least two years next preceding the date when that position became subject to civil service and who are citizens of the United States are automatically inducted permanently into civil service into the positions then held, respectively, as if such persons had been permanently appointed thereto under civil service after examination and investigation.

(2) All persons holding positions subject to civil service under ORS 241.020 to 241.990 at the time such position first becomes subject to civil service and who are not eligible for permanent induction into civil service as provided in subsection (1) of this section but who have been employed in the public service of the county continuously for a period of at least four months next preceding the date when that position became subject to civil service and who are citizens of the United States are automatically inducted on probation into civil service into the positions then held, respectively, as if such persons had been appointed thereto on probation under civil service after examination and investigation. Every person so inducted into civil service on probation shall be on probation for a period of one year from the date of induction and shall be subject to discharge as provided in ORS 241.020 to 241.990 for other applicants on probation. However, no such person so inducted into civil service on probation and discharged as aforesaid shall be entitled to be placed on the eligible list of the classified civil service, but the status of such person shall, from the date of such discharge, be the same as that of any other person who has not qualified by examination or otherwise for appointment under civil service.

(3) All persons holding positions subject to civil service under ORS 241.020 to 241.990 in any county at the time such position first becomes subject to civil service, who are not eligible for induction into civil service as provided for in subsections (1) and (2) of this section shall continue to hold their respective positions until replaced by persons appointed thereto under civil service.

(4) Within 10 days after a position first becomes subject to civil service under ORS 241.020 to 241.990, the appointing authority for that position shall file with the county auditor a statement giving the name, resi-

dence, occupation, length of continuous service and compensation of the person holding that position, declaring whether that person is or is not eligible for induction into civil service as provided in subsections (1) and (2) of this section and certifying as to the citizenship of each such person.

(5) Within 60 days after any position first becomes subject to civil service under ORS 241.020 to 241.990, the commission shall classify such position. Within 90 days after a position first becomes subject to civil service, the commission shall hold an examination to fill such position if it is not filled by a person inducted into civil service as provided in subsections (1) and (2) of this section. As soon as such examination has been held and the eligible candidates have been ascertained, the commission shall certify to the appointing authority the names and addresses of the available eligible candidates. The appointing authority shall make the appointment from the list so certified except as to temporary, part-time and seasonal employes. The provisions of ORS 241.260 to 241.275 govern the manner of certifying and appointing such candidates. [Formerly 241.015; 1961 c.135 §2]

GENERAL PROVISIONS

241.055 Construction of ORS 241.020 to 241.990. ORS 241.020 to 241.990 shall be liberally construed so that its intent and purposes may be given effect.

241.060 Definitions for ORS 241.020 to 241.990. As used in ORS 241.020 to 241.990, unless the context requires otherwise:

(1) "Appointing power" includes every person or group of persons who, acting singly or as a board or commission, are vested by law with authority to select, appoint or employ any person to hold any position subject to civil service.

(2) "Appointment" includes all means of selecting or employing any person to hold any position subject to civil service.

(3) "Commission" means a civil service commission created under ORS 241.020 to 241.990.

(4) "Commissioner" means a member of the civil service commission created under ORS 241.020 to 241.990.

(5) "Position" includes any office, place or employment.

241.065 County civil service commission; members; compensation. There is created in each county subject to ORS 241.020 to 241.990 a civil service commission composed of three members appointed by the board of county commissioners, who shall serve without compensation and shall devote due time and attention to their duties.

241.070 Qualifications of commissioners. No person shall be appointed a member of the commission who is not a citizen of the United States, a resident of the county for at least three years immediately preceding the appointment and an elector of the county. None of the commissioners shall hold any other public or official position.

241.075 Term of office and removal of commissioners. (1) The term of office of each commissioner is six years with the term of one commissioner expiring every two years.

(2) Any commissioner may be removed from office by the board of county commissioners for incompetency, incompatibility or dereliction of duty, or other good cause.

241.080 Quorum. Two members of the commission shall constitute a quorum and, except in matters requiring the unanimous consent of the commission, as provided in ORS 241.020 to 241.990, the votes of any two commissioners concurring shall be sufficient for decision in all matters and transactions pursuant to ORS 241.020 to 241.990.

241.085 Secretary of commission. The commission shall appoint a secretary, who shall keep records of its proceedings, preserve all reports made to it, superintend and keep a record of all examinations and investigations held or made under its direction, and perform such other duties as it may prescribe. The secretary shall hold office during the pleasure of the commission and shall receive such salary as the board of county commissioners may fix.

241.090 Offices and clerical help for commission. The board of county commissioners shall provide the commission with suitable and convenient rooms and accommodations at the county courthouse, and cause the same to be furnished, heated, lighted and supplied with all office supplies and equipment necessary to carry on the business of the commission. The board shall also provide the commission with such clerical assistance as may be necessary.

241.095 Officers and employes to assist commission. All county officers and employes of the county shall aid in all proper ways in carrying out the provisions of ORS 241.020 to 241.990, and such regulations as may, from time to time, be prescribed by the commission thereunder, and to afford the commission, its members and employes all reasonable facilities and assistance to inspect all 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 to produce such books, papers, documents and accounts, and attend and testify, whenever required so to do by the commission, or any commissioner.

241.100 Legal representation of commission. The district attorney of the county shall be the legal adviser of the commission and shall prosecute all violations of ORS 241.020 to 241.990. However, the board of county commissioners may employ special counsel for that purpose and may also employ special counsel to represent county elective officials in hearings before the commission. [Amended by 1957 c 197 §1]

241.105 Preservation and destruction of records and examinations; public records. (1) The commission shall keep on file all examination papers and their markings and all other papers, documents and communications received by it. All such reports and files of the commission shall be public records and accessible at convenient times in like manner as other public records.

(2) The commission may destroy any reports and files of the commission which are:

(a) Not less than four years old.

(b) Less than four years old, provided they have been recorded by means of photography, microphotography, photocopying or filming and the commission determines that they have no further evidential value. [Amended by 1961 c.135 §3]

241.110 Rules of the commission; notice. (1) The commission shall make suitable regulations, not inconsistent with ORS 241.020 to 241.990, to carry out the provisions of ORS 241.020 to 241.990. The regulations shall provide in detail the manner in which examinations shall be held, and appointments, promotions, transfers, reinstatements, suspensions and discharges shall be made. The regulations may be changed, from time to time, and the same, together with all changes, shall forthwith be printed for distribution.

(2) The commission shall, not less than 10 days prior to the time when the regulations shall take effect, give notice, in a newspaper printed and published in the county and having a general circulation therein, of the place where printed copies of the regulations and changes therein may be obtained.

241.115 Notice by publication. All publications required to be made pursuant to ORS 241.110 and elsewhere in ORS 241.020 to 241.990 shall be made in a newspaper which is printed and published not less than once a day for at least six days of each week.

241.120 Investigation and inspection by commission. The commission shall make investigations concerning, and report upon all matters touching, the enforcement and effect of the provisions of ORS 241.020 to 241.990, and the regulations prescribed thereunder; inspect all county institutions, departments, offices and positions affected by ORS 241.020 to 241.990, and ascertain whether ORS 241.020 to 241.990 and the regulations are being obeyed. An investigation may be made by the commission, or by any commissioner designated by the commission for that purpose.

241.125 Compelling attendance of witnesses and production of documents. (1) In the course of an investigation, the commission, or designated commissioner, may administer oaths, subpena and require the attendance of witnesses and the production by them of books, papers, documents and accounts appertaining to the investigation. Attendance of witnesses, either with or without books, papers, documents or accounts may not be compelled, unless such witnesses are personally served with subpena within the county wherein the commission has jurisdiction.

(2) The circuit court in the county may compel the attendance of witnesses, the giving of testimony, and the production of books, papers, accounts and documents, as required by any subpena duly issued by the commission, or designated commissioner, under this section, and may punish the disobedience of such witnesses as a contempt.

241.130 Depositions of witnesses. The commission, or designated commissioner, may, in any investigation or hearing, 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 circuit court. To that end, the commission may compel the attendance of witnesses and the production of books, papers, documents and accounts.

241.135 Conduct of hearings and investigations. All hearings and investigations before the commission, or designated commissioner, shall be governed by ORS 241.020 to 241.990 and by rules of practice and procedure to be adopted by the commission. In the conduct thereof neither the commission, nor designated commissioner, shall be bound by the technical rules of evidence.

241.140 Conclusiveness of orders; necessity for unanimity. No informality in any proceeding 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. However, 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 the other two members of the commission.

241.145 Witness fees. Any person served with a subpena requiring his attendance before the commission, or any commissioner, shall be entitled to the same fees and mileage as are allowed by law to witnesses in civil cases in courts of record, except that no person shall be entitled to any fees or mileage for such attendance who is employed in the public service of the county in which he is called as such witness. The fees and mileage allowed by this section need not be prepaid, but the county clerk shall draw his warrant for the payment thereof when it is certified by the commission.

241.150 Reports of appointments and separations. Each appointing power shall:

(1) Report to the commission forthwith upon each appointment the name of the appointee, the title or character of the position to which the appointment is made, the date of the commencement of service, and the salary or compensation therefor.

(2) Report from time to time, and upon the date of official action in, or knowledge of, each case, any separation of any person from any position, or other changes.

(3) Furnish such other information as the commission may require in order to keep the roster mentioned in ORS 241.155.

241.155 Official roster. The commission shall keep in its office an official roster of all persons holding positions under the provisions of ORS 241.020 to 241.990, and shall enter therein all appointments, promotions, demotions, transfers, reinstatements, resignations, suspensions, leaves of absence, removals and discharges, setting forth in each instance the date of commencement or termination of service, or other change, the nature of the duties performed, and the salary or compensation therefor, together with sufficient information to show why and how such appointments, or other changes, were made. The roster shall be kept so as to disclose readily to any one desiring to inspect the same all such matters in connection with each position in each department of the county government, subject to civil service, and in connection with each person employed therein.

241.160 Certification to county auditor. The commission shall certify to the county auditor the name of each person appointed or employed in the classified civil service, stating in each case the title or character of the position held by such person, the salary or compensation paid, and the date of the commencement of service, and also, as far as practicable, the name of each person employed in violation of ORS 241.020 to 241.990, or the regulations established thereunder, and forthwith certify to the county auditor in like manner every change occurring in any position held by any person in the classified civil service.

241.165 Certification as prerequisite to payment of salary. (1) No officer or employe of the county, so far as it concerns employes subject to civil service, shall draw, sign, countersign, issue, authorize or honor any warrant or order for the payment of, or pay, any salary or compensation to any person in the classified civil service who is not certified by the commission to the county auditor as provided in ORS 241.160. Any person entitled to be certified may maintain a proceeding by mandamus to compel the issuance of such certificate.

(2) Any sums paid contrary to the provisions of this section may be recovered in an action in the name of the county from any officer or employe of the county paying the

same, or from any officer signing, countersigning, drawing or issuing, or authorizing the drawing, signing, countersigning or issuing of any warrant or order for the payment thereof, and from the sureties on his official bond. All moneys recovered in such action must, when collected, after paying all expenses of such action, be paid into the county treasury.

CLASSIFICATION AND COMPENSATION PLAN; SELECTION AND PROMOTION OF EMPLOYES

241.205 Basis of appointment and promotion generally. Except as otherwise expressly provided in ORS 241.020 to 241.990, the appointment and promotion of all persons to or in all positions subject to the provisions of ORS 241.020 to 241.990 shall be made solely upon merit, efficiency and fitness, which shall be ascertained by open competitive examination and impartial investigation.

241.210 Board of county commissioners to control creation of positions and fixing of compensation. All positions subject to civil service in the county shall be created by the board of county commissioners and the board is authorized to fix the compensation of all employes employed therein. In the creation of each position subject to civil service, and in determining the amount of compensation thereof, the board shall give due consideration to the recommendation of the civil service commission and the appointing power of the department under which the position is created.

241.215 Classification and compensation. (1) The commission shall classify, with reference to the examinations provided for in ORS 241.020 to 241.990, all positions in the public service of the county to which ORS 241.020 to 241.990 applies. The classifications shall be based upon the respective functions of the positions and the compensation attached thereto, and shall be arranged so as to permit the grading of positions of like character in groups and subdivisions, to the end that like compensation shall be paid for like duties.

(2) The commission shall establish maximum and minimum salary limits for each grade in its classification, and shall provide by rule for advancement or promotion from grade to grade on the basis of efficiency and length of service.

(3) The classifications and grades may, from time to time, be amended, added to, consolidated or abolished by the commission, but no person holding any position under any established classification or grade shall be affected by any such change so as to deprive him of any of the benefits attached to the classification or grade applicable to the position then held by him.

(4) The positions so classified and graded shall constitute the classified civil service of the county.

241.220 Examinations; notice. (1) The commission shall, from time to time, hold public competitive examinations to ascertain the fitness of applicants for all positions in the classified service.

(2) Notice of the time, place and general scope of every examination shall be given by the commission by publication in a newspaper of general circulation and printed and published in the county, once each week for two consecutive weeks. Notices shall also be posted in three public places in the county, one of which shall be the office of the commission, for not less than two weeks prior to the examination.

241.225 Qualification for examination. Examinations shall be confined to citizens of the United States who can read and write the English language and who also possess such qualifications as to fitness, habits and moral character as are prescribed by rules of the commission. [Amended by 1959 c 689 §7, 1961 c 135 §4]

241.230 Character of examinations. (1) All examinations shall be practical in character and shall relate only to those matters which fairly test the relative fitness of persons examined to discharge the duties of the positions for which they are applicants. Examinations shall include, when appropriate, tests of health and physical qualification, and of manual, clerical or professional skill.

(2) No question in any examination shall relate to political or religious preference, affiliation, opinion or services.

241.235 Civil service examiners. The commission shall control all examinations and shall designate the persons who shall act as examiners at any examination. When a person in the official service of the county is designated as examiner, he shall act as such with-

out extra compensation. Any commissioner may act as examiner.

241.240 Credits to experienced applicants. The regulations of the commission shall provide for a credit on original entrance examinations, in a percentage to be determined by the commission, for experience in work similar to that for which examinations are held. [Amended by 1959 c 84 §1; 1977 c 854 §2]

241.245 Examinations for promotions. (1) Examinations for promotions shall be among the members of the lower classifications or grades established for each department who desire to offer themselves for such examination. The regulations adopted for examination of applicants for promotion shall, as near as may be, follow the regulations governing the examination of applicants for original appointment.

(2) The commission shall by its regulations prescribe the weight to be given to the recommendation of the appointing power touching the qualifications of the candidate for promotion, and where a record of fidelity and efficiency is regularly kept in good faith in any department the commission shall give it at least equal value with the record of examination for promotion.

241.250 Register of eligibles; relative rank; striking of names. The commission shall prepare and keep a register for each grade and classification in the classified civil service of all persons whose general average standing upon examination for such grade or classification is not less than the minimum fixed by the rules of the commission, and who are otherwise eligible. Such persons shall take rank upon such register, as candidates, in the order of their relative excellence, as determined by examination and investigation. Candidates of equal standing shall take rank upon the register according to the order in which their applications are filed. The commission may, by rule, provide for striking candidates from the list after they have remained thereon for a specified time, and may limit the number of times the same candidate shall be certified to the appointing power.

241.255 Vacancies filled by promotion if practicable. The commission shall by regulations provide that wherever practicable vacancies shall be filled by promotion.

241.260 Certification of candidates for vacancies. Whenever there is a vacancy in any position in the classified civil service, the appointing power shall immediately notify the commission thereof. The commission shall thereupon certify to the appointing power the names and addresses of the three eligible candidates standing highest upon the register for the classification or grade to which such position belongs. If there are less than three the commission shall certify all candidates upon the register. When vacancies exist in two or more positions of the same classification in the same department at the same time, the commission shall certify not less than two candidates for each position but those certified must be the eligible candidates standing highest upon the register. The appointing power may require the candidates so certified to come before him and he may inspect their examination papers. The regulations for certification of applicants for promotion shall, as near as may be, follow the regulations governing the certification of applicants for original appointment.

241.265 Probationary appointments; discharge during probation; effect of failure of promoted candidate to qualify. (1) The appointing power shall appoint to each vacant position one of the candidates certified. The person so appointed shall be on probation for a period to be fixed by the regulations of the commission, not to exceed one year if the position is in the police department of the office of the sheriff, otherwise not to exceed six months. During probation the appointing power may discharge the probationer, and in like manner appoint another of such candidates, and so continue until all candidates have been appointed. The reasons, in each instance, for such discharge, shall be filed in writing with the commission. If the reasons are deemed insufficient by the commission, the discharged candidate shall, notwithstanding such discharge, retain his rank upon the eligible list.

(2) When any person who has taken a promotional examination, and who has been appointed to a position in a higher classification or grade on probation, fails to qualify for the position in the higher classification or grade within the probationary period, he shall not lose his seniority in the lower classification or grade from which such promotion was made but shall return to employment and be reinstated in the position held by him in such

lower classification or grade. [Amended by 1965 c.186 §1]

241.270 Waiver of appointment. Any person on the eligible list may waive any appointment and in such event shall retain his rank on the eligible list.

241.275 Permanent appointments. The appointing power must make permanent appointments from the list of candidates certified, unless, for reasons assigned in writing by him, the commission consents to and certifies a new list of candidates. If any probationer is not discharged during the period of probation, his appointment shall be deemed permanent.

241.280 Temporary appointments. When there is no eligible list from which a position may be filled, the appointing power may, with the consent of the commission, fill such position by temporary appointment. A temporary appointment shall not continue for a longer period than three months, nor shall successive temporary appointments be made to the same position under this section without the previous consent of the commission. In no case shall any person hold a position under a temporary appointment for a period longer than six months without the unanimous consent of the commission. All temporary appointments caused by leaves of absence shall be made from the eligible list of the classified service.

241.285 Emergency appointments. The commission shall establish rules and regulations under which emergency appointments may be made when those on the eligible list are not immediately available, and fix the time for which such emergency appointments shall be valid; provided, nothing contained in ORS 241.020 to 241.990 shall be construed to change, alter or impair the power of any officer, as provided by law, to command the assistance of the inhabitants of his county in serving or executing, or overcoming resistance to the service or execution of, any process, order or paper delivered to him for execution or service.

241.290 Efficiency records. (1) Records of individual efficiency of holders of positions under civil service shall be established and kept in all departments of the county government. The records shall be made by the appointing power, unless otherwise directed by the commission, and in accordance with such regulations as the commission may prescribe. Copies of the records shall be filed with the commission from time to time, as it may require.

(2) The commission shall investigate all efficiency records and may make its own records, and shall rate upon such records the item of ascertained merit in examinations for promotion. The commission shall establish and enforce regulations under which records of unsatisfactory service may lead to reduction in grade and compensation and provide for the manner in which persons falling below the standards of efficiency fixed by its regulations may be removed, discharged or reduced in grade or compensation.

241.295 Appointments and promotions to be made only as provided in ORS 241.020 to 241.990. No appointment or promotion to any position in the classified civil service of the county shall be made except in the manner provided in ORS 241.020 to 241.990.

241.300 Appointment of undersheriff and administrative aide; reinstatement. (1) Notwithstanding any other provision of ORS 241.020 to 241.990, any person under a civil service system employed in the office of the sheriff or registered on the eligible list is eligible for appointment as an undersheriff, deputy undersheriff or administrative aide to the sheriff. If the deputy sheriffs in the county are under civil service, only a deputy sheriff serving in the law enforcement department of the office of the sheriff is eligible for appointment as a deputy undersheriff.

(2) Any person appointed undersheriff, deputy undersheriff or administrative aide to the sheriff, upon termination of such appointment, shall be reinstated in the person's previous rank on the eligible list or in the person's last held position at the salary rates prevailing for such positions on the date of resumption of duty, without loss of seniority or other employment rights and with service credit for the time served as undersheriff or deputy undersheriff. [1963 c 331 §11, 1981 c 48 §7]

LEAVES; TRANSFERS; REINSTATEMENT; SUSPENSION; DISMISSAL

241.405 Leaves of absence. (1) Leave of absence for not more than 30 days, without pay, and without the consent of the commission, may be granted by any appointing power

to any person under civil service subject to his authority. The appointing power shall give immediate notice of such leave to the commission. Leaves of absence for longer periods shall not be granted except by express permission of the commission.

(2) Leaves of absence without pay for at least two years shall be granted automatically to all regular employes who serve in the Peace Corps as volunteers. Upon expiration of the leave the employe shall have the right to be reinstated to the position held before the leave was granted and at the salary rates prevailing for such positions on the date of resumption of duty, without loss of seniority or other employment rights. Failure of the employe to report within 90 days after termination of his service shall be cause for dismissal. [Amended by 1963 c 199 §4]

241.410 Prohibition of transfer, reinstatement, suspension or dismissal contrary to ORS 241.020 to 241.990. No person shall be reinstated in, or transferred, suspended or discharged from any position contrary to the provisions of ORS 241.020 to 241.990.

241.415 Transfers and reinstatement. (1) The commission may authorize the transfer of any person legally holding one position to a similar position in the same classification or grade. The commission may provide for the reinstatement within one year of persons separated from positions in the civil service without fault or delinquency on their part, if within that time there is need for their services.

(2) No transfer or reinstatement shall be made from a position in one classification or grade to a position in another classification or grade, nor shall a person be transferred to or reinstated in a position for entrance to which there is required by ORS 241.020 to 241.990 or the regulations adopted pursuant thereto, an examination involving essential tests or qualifications different from or higher than those required for original appointment to the position held by such person.

241.420 Suspensions. Any appointing power may, without hearing or trial, preemptorily suspend any subordinate for cause for a reasonable period, not exceeding 30 days, with loss of salary or other compensation. No suspension shall be made except upon written charges served upon the accused and filed with the commission, with the privilege to the accused of serving upon the appointing power a written answer and explanation of such charges, and filing a copy of the same with the commission. No suspension made by any appointing power pursuant to this section shall be subject to review by the commission or any other tribunal. No appointing power may suspend the same subordinate more than twice, or for a total of more than 45 days, during any one year.

241.425 Tenure; causes for dismissal. The tenure of a person holding a position under the provisions of ORS 241.020 to 241.990 shall continue only during good behavior. Any person may be dismissed for any of the following causes:

(1) Incompetency, inefficiency or inattention to or dereliction of duty.

(2) Dishonesty, intemperance, immoral conduct, insubordination or discourteous treatment of the public or of fellow employes.

(3) Any other wilful failure of good conduct tending to injure the public service.

(4) Any wilful violation of the provisions of ORS 241.020 to 241.990 or the rules or regulations adopted pursuant thereto.

241.430 Dismissal only for cause; written accusation. No person in the classified civil service who has been permanently appointed under ORS 241.020 to 241.990 shall be dismissed except for cause, and only upon the written accusation of the appointing power or the commission. A written statement of the accusation, in general terms, shall be served upon the accused, and a duplicate filed with the commission.

241.435 Necessity of a hearing prior to dismissal. Employes may be dismissed without a previous hearing except that persons who have been employed in the county public service continuously for five or more years shall be dismissed only after a hearing before the accusing authority.

241.440 Investigation of dismissal. A dismissed employe may, within 10 days from the time of his dismissal, file with the commission a written demand for an investigation. If the demand alleges, or if it otherwise appears to the commission, that the dismissal was made for political or religious reasons, or because of reasons of age as described in ORS chapter 659, or was not made in good faith for cause, the commission shall conduct an investigation. The investigation shall be confined to the determination of the question of wheth-

er the dismissal was or was not made for political or religious reasons or because of reasons of age as described in ORS chapter 659 and was or was not made in good faith for cause. The burden of proof shall be upon the dismissed person. [Amended by 1959 c 689 §8, 1977 c 770 §7]

241.445 Right of employe to public hearing and representation; limitations. All investigations pursuant to ORS 241.440 shall be by public hearing, after reasonable notice to the accused of the time and place of such hearing. At the hearing the accused shall be afforded an opportunity of appearing in person and by counsel, and presenting his defense. However, the right of the accused to a public hearing and to representation by counsel shall not apply to any preliminary trial or hearing before the accusing authority.

241.450 Orders of commission on review of investigation. After an investigation, the commission may affirm the dismissal or if it finds that the dismissal was made for political or religious reasons, or because of reasons of age as described in ORS chapter 659, or was not made in good faith for cause, shall order the immediate reinstatement and reemployment of the employe in the position from which he was dismissed. Reinstatement shall be retroactive and entitle the dismissed employe to pay or compensation from the time of dismissal. The commission, upon investigation, in lieu of affirming the dismissal, may modify the order of dismissal, by directing a suspension without pay for a given period, and a subsequent restoration to duty, or a demotion in classification, grade or pay. The findings of the commission shall be certified in writing to the appointing power and forthwith enforced by him. Reinstatement or settlement agreements entered into pursuant to ORS 241.405 to 241.460 shall be subject to the provisions of ORS 657.315 (3). [Amended by 1959 c 689 §9, 1977 c 400 §2; 1977 c 770 §8]

241.455 Order is final if unanimous. No final judgment or order of removal, discharge, suspension or demotion made with the unanimous consent of the commission pursuant to ORS 241.450 shall be subject to review by any tribunal.

241.460 Orders appealable when not unanimous; issues on appeal limited. (1) If the judgment or order made pursuant to ORS 241.450 is concurred in by only two members of the commission, the accused may appeal to the circuit court of the county.

(2) The appeal shall be taken by serving upon the commission, within 30 days after the date of the entry of such judgment or 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 such judgment or order be filed by the commission with the court. The commission shall, within 10 days after the filing of such notice, make, certify and file such transcript with the court.

(3) The circuit court shall thereupon proceed to hear and determine such appeal in a summary manner, and its decision shall be final. The hearing shall be confined to the determination of whether the judgment or order of removal, discharge, demotion or suspension, made by the commission, was or was not made for political or religious reasons, or because of reasons of age as described in ORS chapter 659, and was or was not made in good faith for cause. No appeal to such court shall be taken except upon such grounds. [Amended by 1959 c 689 §10, 1977 c.770 §9]

PROHIBITED CONDUCT AND ACTIVITIES

241.505 Prohibited conduct generally. No person shall:

(1) By himself or in cooperation with one or more persons, defeat, deceive or obstruct any person in respect of his right of examination or registration according to the regulations prescribed by the commission pursuant to ORS 241.020 to 241.990.

(2) Falsely mark, grade, estimate or report upon the examination or proper standing of any person examined, registered or certified pursuant to ORS 241.020 to 241.990, or aid in so doing, or make any false representation concerning the same, or concerning the person examined.

(3) Furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, registered or certified, or to be examined, registered or certified.

(4) Impersonate any other person, or permit or aid in any manner any other person to impersonate him, in connection with any examination or registrations, or application or request to be examined or registered.

241.510 [Repealed by 1967 c 630 §5]

241.515 [Repealed by 1967 c.630 §5]

241.520 [Repealed by 1967 c.630 §5]

241.525 Corrupt practices prohibited. No public officer and no person who is nominated or seeks nomination or appointment for public office shall use, or promise to use, directly or indirectly, any official authority or influence, whether then possessed or merely anticipated, in the way of conferring upon any person, or in order to secure or aid any person to secure, any office or appointment in the public service, or any nomination, confirmation or promotion, or increase of salary, on consideration that the vote, political influence or action of the last named person or any other shall be given or used in behalf of any candidate, officer or political party or association, or upon any other corrupt condition or consideration. No public officer or employe, or person having or claiming to have any authority or influence for or affecting the nomination, public employment, confirmation, promotion, removal or increase or decrease of salary of any public officer or employe, shall corruptly use, or promise or threaten to use, any such authority or influence, directly or indirectly, in order to coerce or persuade the political vote or action of any citizen, or the removal, discharge or promotion of any public officer or public employe, or upon any corrupt consideration. As used in this section, the phrase "public officer" includes all public officials within the county, whether paid directly or indirectly from the public treasury of the United States, the state or any civil division thereof, including counties and cities, and whether by fees or otherwise; and the phrase "public employe" includes every person not being an officer who is paid from any such treasury.

241.530 Limitations on recommendations of applicants; political or religious opinions not to affect recommendation, appointment or removal. (1) No recommendation, other than those allowed by the rules of the commission, in favor of any person who applies for any position under civil service, or for examination or registration under ORS 241.020 to 241.990, except as to residence, character, and, in case of former employes, as to ability, when a recommendation as to character or ability is specifically required by the rules, shall be given to or considered by any person concerned in making any examination, registration, appointment or promotion under ORS 241.020 to 241.990.

(2) No recommendation under ORS 241.020 to 241.990 shall relate to the religious or political opinions, affiliations or services of any person. No appointment, change in or removal from, any position under ORS 241.020 to 241.990 shall be affected or influenced in any way by such opinions, affiliations or services.

PENALTIES

241.990 Penalties; jurisdiction. (1) Except as otherwise provided in this section, wilful violation of any of the provisions of ORS 241.020 to 241.990 is a misdemeanor and, upon conviction, is punishable by a fine of not less than $25 nor more than $1,000, or by imprisonment in the county jail for not longer than one year, or both.

(2) Wilful false swearing in any hearing or investigation before the commission, or designated commissioner, is perjury and punishable as such.

(3) Violation of ORS 241.520 (1965 Replacement Part) results in forfeiture by the offender of all rights to the position he then holds under civil service, or may have on the eligible list, all right to remain on the eligible list of the classified civil service and all right to the public office for which he is a candidate.

(4) Violation of ORS 241.525 is punishable, upon conviction, by a fine of not less than $50 nor more than $1,000 or imprisonment of not less than 10 days nor more than two years, or both. In addition, if the person convicted is a public officer of the state or any civil division thereof, including counties and cities, he shall be deprived of his office.

(5) The circuit court shall have jurisdiction of all offenses defined by ORS 241.020 to 241.990.