

CERTIFICATION OF ENROLLMENT

SENATE BILL 5112

53rd Legislature
1993 Regular Session

Passed by the Senate February 17, 1993
YEAS 46 NAYS 0

President of the Senate

Passed by the House April 8, 1993
YEAS 95 NAYS 0

**Speaker of the
House of Representatives**

Approved

Governor of the State of Washington

CERTIFICATE

I, Marty Brown, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 5112** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

FILED

**Secretary of State
State of Washington**

SENATE BILL 5112

Passed Legislature - 1993 Regular Session

State of Washington 53rd Legislature 1993 Regular Session

By Senators Drew and von Reichbauer

Read first time 01/13/93. Referred to Committee on Government Operations.

1 AN ACT Relating to hiring procedures by cities and towns; and
2 amending RCW 35.24.020, 35.27.070, 35.27.130, 41.08.040, and 41.12.040.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 35.24.020 and 1987 c 3 s 9 are each amended to read as
5 follows:

6 The government of a third class city shall be vested in a mayor, a
7 city council of seven members, a city attorney, a clerk, a treasurer,
8 all elective; and a chief of police, municipal judge, city engineer,
9 street superintendent, health officer and such other appointive
10 officers as may be provided for by statute or ordinance: PROVIDED,
11 That the council may enact an ordinance providing for the appointment
12 of the city clerk, city attorney, and treasurer by the mayor, which
13 appointment shall be subject to confirmation by a majority vote of the
14 city council. Such ordinance shall be enacted and become effective not
15 later than thirty days prior to the first day allowed for filing
16 declarations of candidacy for such offices when such offices are
17 subject to an approaching city primary election. Elective incumbent
18 city clerks, city attorneys, and city treasurers shall serve for the
19 remainder of their unexpired term notwithstanding any appointment made

1 pursuant to RCW 35.24.020 and 35.24.050. If a free public library and
2 reading room is established, five library trustees shall be appointed.
3 The city council by ordinance shall prescribe the duties and fix the
4 compensation of all officers and employees: PROVIDED, That the
5 provisions of any such ordinance shall not be inconsistent with any
6 statute: PROVIDED FURTHER, That where the city council finds that the
7 appointment of a full time city engineer is unnecessary, it may in lieu
8 of such appointment, by resolution provide for the performance of
9 necessary engineering services on either a part time, temporary or
10 periodic basis by a qualified engineering firm, pursuant to any
11 reasonable contract.

12 The mayor shall appoint and at his or her pleasure may remove all
13 appointive officers except as otherwise provided herein: PROVIDED,
14 That municipal judges shall be removed only upon conviction of
15 misconduct or malfeasance in office, or because of physical or mental
16 disability rendering ((him)) the judge incapable of performing the
17 duties of his or her office. Every appointment or removal must be in
18 writing signed by the mayor and filed with the city clerk.

19 **Sec. 2.** RCW 35.27.070 and 1987 c 3 s 12 are each amended to read
20 as follows:

21 The government of a town shall be vested in a mayor and a council
22 consisting of five members and a treasurer, all elective; the mayor
23 shall appoint a clerk and a marshal; and may appoint a town attorney,
24 pound master, street superintendent, a civil engineer, and such police
25 and other subordinate officers and employees as may be provided for by
26 ordinance. All appointive officers and employees shall hold office at
27 the pleasure of the mayor and shall not be subject to confirmation by
28 the town council.

29 **Sec. 3.** RCW 35.27.130 and 1990 c 212 s 2 are each amended to read
30 as follows:

31 The mayor and members of the town council may be reimbursed for
32 actual expenses incurred in the discharge of their official duties upon
33 presentation of a claim therefor and its allowance and approval by
34 resolution of the town council. The mayor and members of the council
35 may also receive such salary as the council may fix by ordinance.

36 The treasurer and treasurer-clerk shall severally receive at stated
37 times a compensation to be fixed by ordinance.

1 The compensation of all other officers and employees shall be fixed
2 from time to time by the council.

3 Any town that provides a pension for any of its employees under a
4 plan not administered by the state must notify the state auditor of the
5 existence of the plan at the time of an audit of the town by the
6 auditor. No town may establish a pension plan for its employees that
7 is not administered by the state, except that any defined contribution
8 plan in existence as of January 1, 1990, is deemed to have been
9 authorized. No town that provides a defined contribution plan for its
10 employees as authorized by this section may make any material changes
11 in the terms or conditions of the plan after June 7, 1990.

12 **Sec. 4.** RCW 41.08.040 and 1973 1st ex.s. c 154 s 60 are each
13 amended to read as follows:

14 Immediately after appointment the commission shall organize by
15 electing one of its members ((~~chairman~~)) chair and hold regular
16 meetings at least once a month, and such additional meetings as may be
17 required for the proper discharge of their duties.

18 They shall appoint a secretary and chief examiner, who shall keep
19 the records of the commission, preserve all reports made to it,
20 superintend and keep a record of all examinations held under its
21 direction, and perform such other duties as the commission may
22 prescribe.

23 The secretary and chief examiner shall be appointed as a result of
24 competitive examination which examination may be either original and
25 open to all properly qualified citizens of the city, town or
26 municipality, or promotional and limited to persons already in the
27 service of the fire department or of the fire department and other
28 departments of said city, town or municipality, as the commission may
29 decide. The secretary and chief examiner may be subject to suspension,
30 reduction or discharge in the same manner and subject to the same
31 limitations as are provided in the case of members of the fire
32 department. It shall be the duty of the civil service commission:

33 (1) To make suitable rules and regulations not inconsistent with
34 the provisions of this chapter. Such rules and regulations shall
35 provide in detail the manner in which examinations may be held, and
36 appointments, promotions, transfers, reinstatements, demotions,
37 suspensions and discharges shall be made, and may also provide for any
38 other matters connected with the general subject of personnel

1 administration, and which may be considered desirable to further carry
2 out the general purposes of this chapter, or which may be found to be
3 in the interest of good personnel administration. Such rules and
4 regulations may be changed from time to time. The rules and
5 regulations and any amendments thereof shall be printed, mimeographed
6 or multigraphed for free public distribution. Such rules and
7 regulations may be changed from time to time.

8 (2) All tests shall be practical, and shall consist only of
9 subjects which will fairly determine the capacity of persons examined
10 to perform duties of the position to which appointment is to be made,
11 and may include tests of physical fitness and/or of manual skill.

12 (3) The rules and regulations adopted by the commission shall
13 provide for a credit (~~of ten percent~~) in accordance with RCW
14 41.04.010 in favor of all applicants for appointment under civil
15 service, who, in time of war, or in any expedition of the armed forces
16 of the United States, have served in and been honorably discharged from
17 the armed forces of the United States, including the army, navy, and
18 marine corps and the American Red Cross. These credits apply to
19 entrance examinations only.

20 (4) The commission shall make investigations concerning and report
21 upon all matters touching the enforcement and effect of the provisions
22 of this chapter, and the rules and regulations prescribed hereunder;
23 inspect all institutions, departments, offices, places, positions and
24 employments affected by this chapter, and ascertain whether this
25 chapter and all such rules and regulations are being obeyed. Such
26 investigations may be made by the commission or by any commissioner
27 designated by the commission for that purpose. Not only must these
28 investigations be made by the commission as aforesaid, but the
29 commission must make like investigation on petition of a citizen, duly
30 verified, stating that irregularities or abuses exist, or setting forth
31 in concise language, in writing, the necessity for such investigation.
32 In the course of such investigation the commission or designated
33 commissioner, or chief examiner, shall have the power to administer
34 oaths, subpoena and require the attendance of witnesses and the
35 production by them of books, papers, documents and accounts
36 appertaining to the investigation and also to cause the deposition of
37 witnesses residing within or without the state to be taken in the
38 manner prescribed by law for like depositions in civil actions in the
39 superior court; and the oaths administered hereunder and the subpoenas

1 issued hereunder shall have the same force and effect as the oaths
2 administered by a superior court judge in his or her judicial capacity;
3 and the failure upon the part of any person so subpoenaed to comply
4 with the provisions of this section shall be deemed a violation of this
5 chapter, and punishable as such.

6 (5) All hearings and investigations before the commission, or
7 designated commissioner, or chief examiner, shall be governed by this
8 chapter and by rules of practice and procedure to be adopted by the
9 commission, and in the conduct thereof neither the commission, nor
10 designated commissioner shall be bound by the technical rules of
11 evidence. No informality in any proceedings or hearing, or in the
12 manner of taking testimony before the commission or designated
13 commissioner, shall invalidate any order, decision, rule or regulation
14 made, approved or confirmed by the commission: PROVIDED, HOWEVER, That
15 no order, decision, rule or regulation made by any designated
16 commissioner conducting any hearing or investigation alone shall be of
17 any force or effect whatsoever unless and until concurred in by at
18 least one of the other two members.

19 (6) To hear and determine appeals or complaints respecting the
20 administrative work of the personnel department; appeals upon the
21 allocation of positions; the rejection of an examination, and such
22 other matters as may be referred to the commission.

23 (7) Establish and maintain in card or other suitable form a roster
24 of officers and employees.

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

32 (9) When a vacant position is to be filled, to certify to the
33 appointing authority, on written request, the name of the person
34 highest on the eligible list for the class. If there are no such
35 lists, to authorize provisional or temporary appointment list of such
36 class. Such temporary or provisional appointment shall not continue
37 for a period longer than four months; nor shall any person receive more
38 than one provisional appointment or serve more than four months as a
39 provisional appointee in any one fiscal year.

1 (10) Keep such records as may be necessary for the proper
2 administration of this chapter.

3 **Sec. 5.** RCW 41.12.040 and 1937 c 13 s 5 are each amended to read
4 as follows:

5 Immediately after appointment the commission shall organize by
6 electing one of its members (~~(chairman)~~) chair and hold regular
7 meetings at least once a month, and such additional meetings as may be
8 required for the proper discharge of their duties.

9 They shall appoint a secretary and chief examiner, who shall keep
10 the records for the commission, preserve all reports made to it,
11 superintend and keep a record of all examinations held under its
12 direction, and perform such other duties as the commission may
13 prescribe.

14 The secretary and chief examiner shall be appointed as a result of
15 competitive examination which examination may be either original and
16 open to all properly qualified citizens of the city, town, or
17 municipality, or promotional and limited to persons already in the
18 service of the police department or of the police department and other
19 departments of (~~(said)~~) the city, town, or municipality, as the
20 commission may decide. The secretary and chief examiner may be subject
21 to suspension, reduction, or discharge in the same manner and subject
22 to the same limitations as are provided in the case of members of the
23 police department. It shall be the duty of the civil service
24 commission:

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

1 (2) All tests shall be practical, and shall consist only of
2 subjects which will fairly determine the capacity of persons examined
3 to perform duties of the position to which appointment is to be made,
4 and may include tests of physical fitness and/or of manual skill;

5 (3) The rules and regulations adopted by the commission shall
6 provide for a credit (~~(of ten percent)~~) in accordance with RCW
7 41.04.010 in favor of all applicants for appointment under civil
8 service, who, in time of war, or in any expedition of the armed forces
9 of the United States, have served in and been honorably discharged from
10 the armed forces of the United States, including the army, navy, and
11 marine corps and the American Red Cross. These credits apply to
12 entrance examinations only;

13 (4) The commission shall make investigations concerning and report
14 upon all matters touching the enforcement and effect of the provisions
15 of this chapter, and the rules and regulations prescribed hereunder;
16 inspect all institutions, departments, offices, places, positions, and
17 employments affected by this chapter, and ascertain whether this
18 chapter and all such rules and regulations are being obeyed. Such
19 investigations may be made by the commission or by any commissioner
20 designated by the commission for that purpose. Not only must these
21 investigations be made by the commission (~~(as aforesaid)~~), but the
22 commission must make like investigation on petition of a citizen, duly
23 verified, stating that irregularities or abuses exist, or setting forth
24 in concise language, in writing, the necessity for such investigation.
25 In the course of such investigation the commission or designated
26 commissioner, or chief examiner, shall have the power to administer
27 oaths, subpoena and require the attendance of witnesses and the
28 production by them of books, papers, documents, and accounts
29 appertaining to the investigation, and also to cause the deposition of
30 witnesses residing within or without the state to be taken in the
31 manner prescribed by law for like depositions in civil actions in the
32 superior court; and the oaths administered hereunder and the subpoenas
33 issued hereunder shall have the same force and effect as the oaths
34 administered by a superior court judge in his or her judicial capacity;
35 and the failure upon the part of any person so subpoenaed to comply
36 with the provisions of this section shall be deemed a violation of this
37 chapter, and punishable as such;

38 (5) Hearings and Investigations: How conducted. All hearings and
39 investigations before the commission, or designated commissioner, or

1 chief examiner, shall be governed by this chapter and by rules of
2 practice and procedure to be adopted by the commission, and in the
3 conduct thereof neither the commission, nor designated commissioner
4 shall be bound by the technical rules of evidence. No informality in
5 any proceedings or hearing, or in the manner of taking testimony before
6 the commission or designated commissioner, shall invalidate any order,
7 decision, rule or regulation made, approved or confirmed by the
8 commission: PROVIDED, HOWEVER, That no order, decision, rule or
9 regulation made by any designated commissioner conducting any hearing
10 or investigation alone shall be of any force or effect whatsoever
11 unless and until concurred in by at least one of the other two members;

12 (6) To hear and determine appeals or complaints respecting the
13 administrative work of the personnel department; appeals upon the
14 allocation of positions; the rejection of an examination, and such
15 other matters as may be referred to the commission;

16 (7) Establish and maintain in card or other suitable form a roster
17 of officers and employees;

18 (8) Provide for, formulate and hold competitive tests to determine
19 the relative qualifications of persons who seek employment in any class
20 or position and as a result thereof establish eligible lists for the
21 various classes of positions, and to provide that (~~men~~) persons laid
22 off because of curtailment of expenditures, reduction in force, and for
23 like causes, head the list in the order of their seniority, to the end
24 that they shall be the first to be reemployed;

25 (9) When a vacant position is to be filled, to certify to the
26 appointing authority, on written request, the name of the person
27 highest on the eligible list for the class. If there are no such
28 lists, to authorize provisional or temporary appointment list of such
29 class. Such temporary or provisional appointment shall not continue
30 for a period longer than four months; nor shall any person receive more
31 than one provisional appointment or serve more than four months as
32 provisional appointee in any one fiscal year;

33 (10) Keep such records as may be necessary for the proper
34 administration of this chapter.

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